

FLORIDA --- POLYTECHNIC UNIVERSITY

15-004 INVITATION TO NEGOTIATE FOR WORKDAY IMPLEMENTATION PARTNER

ISSUED 05/22/2015

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1.0 INTRODUCTION AND SCOPE OF SERVICES

1.1 Introduction

The Florida Polytechnic University (“University”) is implementing an ERP system, Workday, Inc. and is seeking proposals (“Proposals”) from Workday certified implementation partners (“Proposers”) specializing in the higher education market to perform the configuration, integration, implementation, delivery assurance, training, support and data conversion assistance, for the Workday platform at the University.

1.2 University Environment

The University is the newest institution in the State University System. (It started as a university of engineering and technology, is designed to be different so that graduates possess the talent and job-ready skills to stand out from the crowd.) Top engineering universities have centers of innovation, the University was established on April 20, 2012, as a wholly innovative university dedicated to the principle that innovation occurs when research and creativity are applied to real-world challenges. Florida’s only public university for engineering and technology dedicated to science, technology, engineering and mathematics (STEM) was created to be both a rigorous academic institution and a powerful resource for high-tec industries.

The University opened its doors to an inaugural class of 554 students on August 25, 2014.

The University’s mission is to prepare 21st century learners in advanced fields of science, technology, engineering and mathematics (STEM) to become innovative problem-solvers

and high-tech professionals through interdisciplinary teaching, leading edge research, and collaborative local, regional and global partnerships.

The University aspires to be a nationally and internationally recognized institution of higher learning, serving the State of Florida by preparing students to lead Florida's high-tech industries. The student learning experience will focus on practical and applied research, internships with industry partners, and hands-on leadership opportunities delivered by distinguished faculty who excel in their fields. The University's initial curriculum consists of two colleges offering six degrees.

The University campus is strategically located along the I-4 corridor. The University was constructed over the last three years. An Admissions Center opened in November 2013 and houses the University's admissions and financial aid staff. The main education building, the Innovation, Science, and Technology Building and cafe opened in July 2014. Also opened in August 2014 was the Wellness Center – Phase 1 (cafeteria, bookstore, exercise facility, and clinic), as well as a 5 story, 219 bedroom residence hall.

For more information about the University, please visit its website at www.floridapolytechnic.org

1.3 Scope of Services

The Proposer must be a Workday certified implementation partner specializing in the higher education market.

The scope of services will include, but not be limited to, configuration, integration, implementation, delivery assurance, training, support and data conversion assistance. The project will include introduction of required critical functionality, included in the Workday Suite of Applications.

The items listed below and any other services prescribed by the established Workday methodologies should be included in the Proposers Proposal. Each Proposer will be solely responsible for contacting Workday regarding the inclusion of these methodologies into their Proposal. Contact the Workday Business Development Manager, Mr. Patrick Oakey, at Patrick.Oakey@workday.com or via phone, 443.668.9644.

The anticipated project start is June 22, 2015 and the anticipated project 'Go Live' date is July 1, 2016.

Services prescribed include:

- Human Capital Management
- Cloud Connect for Benefits
- Payroll for United States
- Time Tracking
- Expenses
- Procurement

- Core Financials
- Grants Management
- Recruiting

1.3.1. Data Migration from Current ERP, Transformation/Mapping, and Load into Workday

The Proposer will provide guidance on the best practice regarding historical finance and human resource data. Guidance should include when to use summary vs. detailed information as well as historical reporting requirements.

The University will be responsible for cleansing and extracting data to be converted to Workday. This includes responsibility for the quality of conversion data.

Assistance will be required on mapping the data. Conversion data shall include:

- Organizations
- Translation of existing financial hierarchy elements to Workday worktags
- Active employee data (including student workers and adjunct faculty)
- Termination data for current year and prior year
- Active contingent worker data
- Leave balances
- Beginning balance for financial accounts
- Assets in place as of current year
- Grants (life to date activities)

1.3.2. Integrations with University Third Parties

The University will share this responsibility on the integration from or to external systems.

1.3.3. Reporting

The University staff will require training and guidance for business report developers, including best practices. The University will also require customizations to Workday Reports to meet University business requirements.

2.0 METHOD OF AWARD

2.1 Award and Term

The University anticipates awarding to a qualified Proposer, specializing in higher education that can provide the best value and best solution on the basis of cost, capabilities and references. The award shall be made to the responsive and responsible Proposer whose Proposal is determined to be the most advantageous to the University. Pricing may also be a criterion. However, the University is under no obligation whatsoever to select as most responsive the Proposal that demonstrates the lowest pricing. The resulting agreement with the awarded Proposer will consist of this ITN, the Proposer's Proposal with any and all

revisions, award letter, purchase order, and the signed agreement between the parties, as stated in that agreement.

The initial term will be from the date of selection until project completion. The University reserves the right to continue training and support services for a period up to five (5) years after project completion; at the same terms, conditions, and pricing upon written mutual agreement.

2.2 ITN Schedule

The University anticipates the following schedule for this ITN process. The University reserves the right at its sole discretion to revise the schedule and other aspects of the ITN by issuing addenda to the ITN at any time.

Release of ITN	May 22, 2015
Deadline for Proposer questions (Inquiry Deadline Date)	June 3, 2015
Addendum posted with answers	June 5, 2015
ITN Proposals due (Response Due Date)	June 9, 2015
Evaluation and short list meeting	TBD
Negotiations with short listed Proposers	TBD
Best and Final Offer ("BAFO") responses due	TBD
BAFO evaluation meeting	TBD

3.0 PROCESS

3.1 Authorized University Representative/Submission of Proposal

The "Authorized University Representative" for this ITN is:

Ms. Kari L. Kennedy, CPPB
Purchasing Specialist
Florida Polytechnic University
c/o Wellness Center Mail Room
4700 Research Way
Lakeland, Florida 33805-8531

Phone: (863) 874-8403
Email: Kkennedy@FLPoly.org

University communications regarding this opportunity will be made via email. The Proposer must submit its Proposal to the attention of the Authorized University Representative at the address stated immediately above. Only those communications that are in writing from the Authorized University Representative shall be considered as duly authorized expressions on behalf of the University.

If the Proposer has any questions regarding this ITN, the Proposer must submit such inquiries and requests for clarification via email only to the Authorized University Representative at Kkennedy@FLPoly.org.

The University will consider only those communications and/or inquiries submitted via email and received by the Authorized University Representative on or before June 3, 2015 at 4:00 PM EST (the "Inquiry Deadline Date"). The University will consider the Proposer's failure to communicate inquiries, or request clarifications by the Inquiry Deadline Date to constitute the Proposer's acceptance of all of the conditions and requirements as stated in this ITN and any amendments thereto.

3.2 Proposer Communications and / or Inquiries

The Proposer shall review this ITN in its entirety to determine whether the University's objective, scope of services, conditions and requirements are clearly stated. If the Proposer has any questions regarding this ITN, the Proposer must submit such inquiries and requests for clarification via email only to the Authorized University Representative at Kkennedy@FLPoly.org. These inquiries or requests for clarification must provide the questions along with the relevant Section(s), Subsection(s), Paragraph(s), and page number(s) of the ITN being questioned by the Proposer.

3.3 Restricted Proposer Communications

Proposers are required to conduct the preparation of their Proposals with professional integrity and free of lobbying activities. From the date of issuance of this ITN until the University takes final agency action, the Proposer must not communicate with, directly or indirectly, about this ITN with any employee, officer, director, or trustee of the University, or any University advisors or agents, except as provided herein or as expressly requested by the Authorized University Representative. Violation of this restriction may result in rejection of the Proposer's Proposal.

3.4 Addenda

The Authorized University Representative or designee will distribute any addenda via email.

The Proposer's authorized representative must sign and date the cover page of each addendum, if any, and include the cover page of each addendum in the Proposer's Proposal in Tab 9.

3.5 Delivery and Labeling of Sealed Proposals

The Proposer's Proposal to this ITN shall be prepared in accordance with Section 4 "Proposal Information and Evaluation Criteria". The Proposer's sealed Proposal must be received by the Authorized University Representative on or before Tuesday, June 9, 2015 at 2:00 PM EST (the "Response Due Date") according to the time clock at the University. A Proposer may not submit a proposal, or amendments to its Proposal via telephone,

facsimile, electronic mail, or telegraph.

If the Proposer elects to mail in its Proposal, the Proposer must allow sufficient time to ensure the Authorized University Representative's receipt of the Proposal by the Response Due Date. Regardless of the form of delivery, it is the Proposer's responsibility to ensure that the Proposal arrives at the Authorized University Representative's address (see below) no later than 2:00 p.m. on the Response Due Date. The Proposer may not include more than one Proposal (along with the copies) per sealed envelope. The mailing address is

Ms. Kari L. Kennedy, CPPB
Purchasing Specialist
Florida Polytechnic University
Wellness Center Mail Room
4700 Research Way
Lakeland, Florida 33805-8531

The University will accept Proposals up to, and no Proposal may be withdrawn after, the Response Due Date. Proposals must be delivered in sealed envelopes with the following information clearly provided on the front of the envelope: The Authorized University Representative's name and address as provided above. The Proposals must be submitted with one (1) original and nine (9) copies. The document containing the original signature must be marked "ORIGINAL." In addition, the Proposer is asked to submit one (1) courtesy copy of the Proposal on CD or flash drive, preferably in .pdf format.

3.6 Economy of Presentation

The Proposer must use sections and tabs that are clearly identified and also must number and label all parts, pages, figures, and tables in its Proposal. The Proposer should prepare its Proposal simply and economically, providing a straightforward, concise description of the Proposer's capability to satisfy the conditions and requirements of this ITN. (Fancy bindings, colored displays, and promotional material are not desired). The Proposer's emphasis should be on completeness and clarity of content. To expedite the University's evaluation of the Proposal, it is mandatory that the Proposer follow the instructions contained herein. The University is not liable for any costs incurred by the Proposer in responding to this ITN including, without limitation, costs for any oral presentations requested by the University.

3.7 Proposals Must be in Ink or Typed

The Proposer's Proposal must be typed or printed in permanent ink.

3.8 Proposer's Signature

Where the Proposer's signature is required, the Proposer's Proposal must contain the Proposer's authorized representative's manual signature, in permanent ink, in the space provided. In addition, the Proposer's authorized representative must initial all of the Proposer's handwritten corrections (additions or deletions) in its Proposal.

3.9 Complete Proposals Required

The Proposer must complete and execute this ITN document, including any addenda, appendices, exhibits, attachments, requested information and Proposal forms and submit them with and as a part of the Proposer's Proposal.

3.10 Use of Forms

If this ITN includes forms for the submission of information, the Proposer must submit the requested information on the forms, attaching additional pages if necessary, or the University may reject the Proposer's Proposal.

3.11 Proposal Validity Period

The Proposer's Proposal shall, in its entirety, remain valid for 180 calendar days after the Response Due Date.

3.12 Proposal Opening

The Proposals shall be delivered no later than 2:00 p.m. EST on Tuesday, June 9, 2015, to the Authorized University Representative at the address stated in Section 3.5. At that time the University will open all timely submitted Proposals for the sole purpose of recording the names of the Proposers submitting Proposals. If special accommodations are needed in order to attend a proposal opening, contact the Authorized University Representative in Section 3.5 three (3) business days prior to the Response Due Date.

3.13 Government in the Sunshine

The University is not requesting, and does not require, confidential proprietary information or trade secrets to be included as part of the Proposals. Accordingly, except as provided below, Proposers should not label Proposals as confidential or proprietary or trade secret protected. Any Proposer that determines that it must divulge such information as part of its Proposal must provide one electronic redacted version of its Proposal, which removes only the confidential proprietary information and trade secrets, for required public disclosure purposes.

The Proposal will be a public document subject to release under the Government in the Sunshine laws unless an exemption from disclosure exists and is properly asserted and preserved by the Proposer. Proposers should prepare the Proposal with the understanding that it may become available to the public at some time.

ANY CLAIM OF EXEMPTION FROM DISCLOSURE MUST BE MADE EXPRESSLY AND CONSPICUOUSLY IN THE PROPOSAL, and cite the statutory basis of the claimed exemption. Failure to claim exemption will result in waiver of any exemption that may have existed. See, e.g., *Seapro Corp. v. Fla. Dep't of Env'tl. Protection*, 839 So.2d 781 (Fla. 1st DCA 2003).

Negotiation strategy sessions and negotiations with Proposers will not be public but will be recorded pursuant to section 286.0113, Florida Statutes (2012).

4.0 PROPOSAL INFORMATION AND EVALUATION CRITERIA

Proposals will be evaluated based upon the Proposer's ability to meet the University's needs. Evaluation of the Proposer's information will be based on the Proposer's submitted Proposal to the information requested below.

The evaluation will be based on the information provided in the ITN, any additional information requested by the University, information obtained from references and independent sources, technical and financial data, and oral presentations, if requested.

4.1 Required Proposal Format

To facilitate the University's analysis of the Proposer's Proposal, the Proposer must prepare its Proposal in accordance with the instructions provided in this ITN. If the Proposer's Proposal deviates from these instructions, such Proposal may, at the University's discretion, be rejected.

Proposals must be prepared in at least 12-point font size on 8.5" x 11" white paper, with pages sequentially numbered.

The University may presume that any Proposal is a best-and-final offer.

4.2 Proposal Requirements

Each Proposal contents shall be separated by sequentially numbered tabs as follows (and the supplied electronic copy shall be indexed similarly).

Each Proposer shall organize its Proposal to provide the following information in order to assist the University in the selection, evaluation and award process.

- Tab 1** Provide a detailed project plan for the configuration, integration, implementation, delivery assurance, training, support and data conversion assistance for the Workday platform at the University. This project plan must include everything necessary to fully deploy the Workday solution described in Section 1.3, Scope of Services.
- The plan must comply with the prescribed Workday methodology.
 - Include recommendations around change management and end user training.
 - Include a list of implementation consultants roles; identify dependencies, if any, with 3rd party companies or software product vendors.
 - Include any innovative approaches to providing these services, and any additional information not directly cited in the scope of services.

<u>Tab 2</u>	<p>Provide a project timeline for each phase of the Workday methodology (Plan, Architect, Configure & Prototype, Testing, and Deployment).</p> <ul style="list-style-type: none"> • Include milestones and post production support as part of the timeline. • The timeline must reflect the project completion within ten (10) months.
<u>Tab 3</u>	<p>Define the responsibilities of (i) the University; (ii) Workday; and (iii) the implementation partner (Proposer) and how the Proposer will report progress, updates, changes, problems, etc. and the related solution responsibility.</p>
<u>Tab 4</u>	<p>Provide a short narrative describing the Proposer's partnership with Workday and experience supporting the higher education community.</p> <ul style="list-style-type: none"> • Include a project management organizational structure of the Proposer's team highlighting the key individuals who will manage this project. • The key personnel presented shall be the personnel utilized on this project. Identify the day-to-day personnel assigned to work with the University and provide a brief resume which describes their relevant experience. Include similar information for other key members of the Proposer's team to be assigned to work with the University.
<u>Tab 5</u>	<p>Part of the integration will include migration of the existing data to the new Workday system. Provide a narrative describing the security protocols for securing the University data during data migration activities, methodologies, toolsets, and the timetable required for this migration during the deployment.</p>
<u>Tab 6</u>	<p>Provide detailed pricing for everything necessary to deploy the Workday solution described in Section 1.3, Scope of Services, which includes but not limited to configuration, integration, implementation, delivery assurance, training, support, and data conversion assistance.</p>
<u>Tab 7</u>	<p>Past Performance on Similar Projects: Provide a detailed description of three (3) projects from three (3) public universities of similar size or similar project experience which the Proposer has either ongoing or completed projects within the past three (3) years. For each project, the Proposer shall provide a detailed description of the project. Proposer must include relevant details such as what challenges were faced, how they were overcome, within what time period and any lessons learned. Proposer shall also include a contact name, phone number and email address for each project.</p>
<u>Tab 8</u>	<p>Provide a sample agreement for services.</p>
<u>Tab 9</u>	<p>Provide the following Exhibits and Documents:</p> <ul style="list-style-type: none"> • Completed and signed Proposal Submittal Form (Exhibit A), this will be completed by the individual responsible for the Proposal and any negotiation during this process.

- Completed and signed Certificate of Non-Segregated Facilities (Exhibit B) and Non-Collusion Affidavit (Exhibit C).
- Completed and signed addendum cover pages.

4.3 Pricing and/or Revenue Proposal

The University may presume and hold as the Proposer's final offer all pricing and/or revenue offerings, whether stated as amounts or percentages, and/or whether or not offered on an all-or-none basis, if not specified by the Proposer. The University may accept or reject in part or entirely the Proposer's pricing and/or revenue offerings when such offerings are not on an all-or-none basis. The University prohibits the changing of pricing and/or revenue proposals after the ITN closing date and time. Unless otherwise specifically proposed by the Proposer, the University reserves the right to hold such pricing and/or revenue proposal as effective for the entire intended contract term. The University may prescribe the manner and method by which pricing and/or revenue offerings shall be communicated in the Proposer's Proposal. The University may reject any Proposal in which the pricing and/or revenue offering does not conform to such prescribed manner and method.

4.4 Attention to Terms and Conditions

Proposers are cautioned to thoroughly understand and comply with all matters covered under the Terms and Conditions section of this ITN. The awarded Proposer is expected to enter into a form of agreement. The University agreement terms and conditions included in this ITN are intended to be incorporated into this agreement. Proposals that are contingent upon any changes to these terms and conditions may be deemed to be non-responsive and may be rejected.

5.0 NEGOTIATIONS

Although the University reserves the right to negotiate with any Proposers to arrive at its final decision and/or to request additional information or clarification on any matter included in the Proposal, it also reserves the right to select the most responsive of Proposers without further discussion, negotiation, or prior notice. Discussions may result in changes to the ITN and the implementation partners' Proposal as deemed necessary and in the best interests of the University. The University may presume that any Proposal is a best-and-final offer.

6.0 EVALUATION COMMITTEE, SELECTION PROCESS AND EVALUATION OF PROPOSALS

6.1 Responsiveness and Responsibility

The University will initially review each Proposal for: (a) minor informalities, irregularities, and apparent clerical mistakes which are unrelated to the substantive content; and (b) conformance to the ITN instructions regarding organization and format. Proposals that are deemed non-responsive to this ITN will be excluded from any further consideration. The University reserves the right to waive any minor non-conformance.

Proposals may be excluded from further consideration and the Proposer will be so advised.

The University may, in its sole discretion, also exclude from consideration any Proposer whose Proposal contains a material misrepresentation. The University may, in its sole discretion, request clarifications of the information submitted, and may also rely upon any information obtained from any source that pertains to the issue of a Proposer's integrity and capability to perform.

6.2 Selection Process

The University will conduct the following selection process:

- The University establishes an Evaluation Committee.
- The Evaluation Committee reviews and evaluates the Proposals according to the evaluation criteria contained in Section 6.3 and develops a short list of Proposers.
- A negotiation team may negotiate with the short listed Proposers. After negotiations have been completed to the satisfaction of the negotiation team, or if no negotiations are held following the initial evaluations, the short listed Proposers will be given a deadline for submission of a Best and Final Offer ("BAFO").
- The Evaluation Committee reviews and evaluates the BAFO's and recommend award to the responsive and responsible Proposer whose Proposal is determined to be the most advantageous to the University.

6.3 Evaluation Criteria

Proposals will be evaluated in accordance with this section and all applicable Florida Polytechnic University Purchasing Policies and Regulations.

For those Proposals selected for evaluation, the Evaluation Committee will apply the following high-level measures:

	<u>Points</u>
• Experience of Key Personnel	45
• Project Plan/Ability to Meet Project Requirements	30
• Past Performance on Similar Projects	15
• Business Terms	10
	<hr/> 100

The Evaluation Committee will use the following evaluation criteria and ratings under the four high-level measures:

- Experience of Key Personnel:
 - ✓ The Evaluation Committee will evaluate Proposals for evidence of demonstrated resources and key personnel experienced in higher education.

- ✓ The Evaluation Committee will apply the following ratings:

Exceptional. The Proposer has the resources and ability to dedicate experienced personnel, including key personnel with extensive higher education experience, to work toward the project's success. The Proposer presented key personnel in such a manner that exhibited an exceptional and superior degree of skill and competency in the higher education market. The Proposal demonstrates the Proposer's key personnel ability to perform and deliver far beyond expectation.

Very Good. The Proposer has the resources and ability to dedicate experienced personnel, including key personnel with ample higher education experience, to work toward the project's success. The Proposer presented key personnel in such a manner that exhibited a high degree of skill and competency in the higher education market. The Proposal demonstrates the Proposer's key personnel ability to perform and deliver beyond expectation.

Satisfactory. The Proposer has the resources and ability to dedicate experienced personnel, including key personnel with sufficient higher education experience, to work toward the project's success. The Proposer presented key personnel in such a manner that exhibited an adequate degree of skill and competency in the higher education market. The Proposal demonstrates the Proposer's key personnel ability to perform and deliver at an expected level.

Marginal. The Proposer plans to dedicate experienced personnel, including key personnel with minimal higher education experience, to work toward the project's success. The Proposer presented key personnel in such a manner that exhibited a minimal degree of skill and competency in the higher education market. The Proposal demonstrates the Proposer's key personnel ability to perform and deliver at an inferior level.

Unsatisfactory. The Proposer plans to dedicate personnel with no higher education experience to work towards the project's success.

- Project Plan/Ability to Meet Project Requirements:

- ✓ The Evaluation Committee will evaluate Proposals for evidence of demonstrated understanding of implementing a successful project plan and ability to meet the projects requirements (as described in the Scope of Services).

- ✓ The Evaluation Committee will apply the following ratings:

Exceptional. The Proposer has the demonstrated ability to meet all, and exceed many, of the project requirements. The Proposer understands and

subscribes to the project requirements and would be skilled and effective in advancing them. The project plan is well-thought out and presented and demonstrates deep understanding of what it will take for the project to succeed. The Proposal reveals understanding of challenges and sets forth high-level strategies and detailed tactics for mitigating and overcoming them. There is no doubt that the Proposer is well-prepared to advance the project's objective and successfully perform the required effort.

Very Good. The Proposer has the demonstrated ability to meet all, and exceed some, of the project requirements. The Proposer understands and subscribes to the project requirements and would be skilled and effective in advancing them. The project plan is well-thought out and presented and demonstrates an understanding of what it will take for the project to succeed. The Proposal reveals understanding of challenges and sets forth some strategies and tactics for mitigating and overcoming them. Little doubt exists that the Proposer will successfully perform the required effort.

Satisfactory. The Proposer has the demonstrated ability to meet all of the project requirements. The Proposer understands the project requirements and would be successful in advancing them. The project plan is professionally presented, and demonstrates familiarity with what it will take for the project to succeed. It appears that the Proposer is prepared to advance the project's objectives. The Proposal discusses likely challenges, as well as plans for mitigating and overcoming them. Some doubt exists that the Proposer will successfully perform the required effort.

Marginal. The Proposer lacks the demonstrated ability to meet some of the project requirements. The Proposer addresses the project requirements and may be successful in advancing them. The project plan relates to what it will take for the project to succeed. It appears doubtful the Proposer is prepared to advance the project's objectives. The Proposer likely will struggle to overcome challenges. Substantial doubt exists that the Proposer can and will successfully perform the required effort.

Unsatisfactory. The Proposer lacks the demonstrated ability to meet most of the project requirements. The Proposer addresses the project requirements and the project plan in an inadequate manner. The Proposal simply reiterated a requirement, lacked adequate information, or was of inferior quality. Extreme doubt exists that the Proposer can and will successfully perform the required effort.

- Past Performance on Similar Projects:
 - ✓ The Evaluation Committee will evaluate Proposals for evidence of demonstrated experience in successfully delivering and operating projects with similar requirements (as described in the Scope of Services). In this evaluation, the University will contact the references provided by the

Proposer.

- ✓ The Evaluation Committee will apply the following ratings:

Exceptional. On past projects with similar requirements, the Proposer provided detailed information that described specifically what was accomplished in such a manner that exhibited an exceptional and superior degree of understanding, skill, competency, and reliability. The Proposer experienced no problems, or it experienced only minor problems which it quickly resolved with highly effective corrective actions. The descriptions of the past projects demonstrate the Proposer's ability to perform and deliver far beyond expectation.

Very good. On past projects with similar requirements, the Proposer provided detailed information that described specifically what was accomplished in such a manner that exhibited a very high degree of understanding, skill, competency, and reliability. The Proposer experienced no problems, or it experienced only minor problems which it quickly resolved with effective corrective actions. The descriptions of the past projects demonstrate the Proposer's ability to perform and deliver beyond expectation.

Satisfactory. On past projects with similar requirements, the Proposer provided some detailed information that described specifically what was accomplished in such a manner that exhibited an average degree of understanding, skill, competency, and reliability. The Proposer experienced problems which it resolved with corrective actions. The descriptions of the past projects demonstrate the Proposer's ability to perform and deliver at an expected level.

Marginal. On past projects with similar requirements, the Proposer provided minimal information that described what was accomplished in such a manner that exhibited a marginal degree of understanding, skill, competency, and reliability. The Proposer experienced numerous problems which it resolved with corrective actions. The descriptions of the past projects demonstrate the Proposer's ability to perform and deliver at a level below expectation.

Unsatisfactory. On past projects with similar requirements, the Proposer provided information that did not satisfy the requirements and described in an inadequate manner what was accomplished. The descriptions of the past projects demonstrate the Proposer's ability to perform and deliver at a substandard and inferior level.

- Business Terms:

- ✓ The Evaluation Committee will evaluate Proposals for the reasonableness of the business terms.

- ✓ The Evaluation Committee will apply the following ratings:

Reasonable. The Proposal includes concrete and detailed discussion of agreement terms, which evidence understanding of contracting with a public university and a high likelihood of a speedy and successful negotiation if the Proposer advances to that stage of the process.

Acceptable. The Proposal includes general discussion of agreement terms, which evidence likelihood of a successful negotiation if the Proposer advances to that stage of the process.

Marginal. The Proposal fails to address basic business issues, or address them in an unattractive ways, either of which evidences low likelihood of successful negotiation if the Proposer advances to that stage of the process.

6.4 Tie Proposals

When multiple proposals are equal in all respects, the University will give preference to the Proposals in the following order: Proposals from Proposers that include commodities manufactured in Florida, then from Proposers that are Florida businesses, then Proposers who have a drug-free workplace program, and then Proposers who are foreign manufacturers located in Florida, in determining the award, or if those conditions do not exist or are equivalent between two or more proposals, the award will be determined by the toss of a coin.

6.5 Award of Agreement

The University intends to award an agreement(s) resulting from this ITN to the Proposer(s) whose Proposal represents the best value to the University. The University is not obligated to make an award(s) under or as a result of this ITN.

6.6 Notification of Intent to Award

The intent to award an agreements(s) to a Proposer, if any, will be emailed to each Proposer.

6.7 Selection, Negotiation, Additional Information

Although the University reserves the right to negotiate with any Proposers to arrive at its final decision and/or to request additional information or clarification on any matter included in the Proposal, it also reserves the right to select the most responsive of Proposers without further discussion, negotiation, or prior notice. The University may presume that any Proposal is a best-and-final offer.

6.8 Pre-Award Negotiations

The University reserves the right to negotiate prior to award with the Proposers for purpose of addressing the matters set forth in the following list, which may not be exhaustive.

- Resolving minor difference and typographical errors
- Terms and conditions
- Clarifying necessary details and responsibilities
- Emphasizing important issues and points
- Receiving assurances from qualified Proposers
- Obtaining the lowest and best pricing and/or agreement

6.9 Pre-Award Presentations

The University reserves the right to require presentations from any and all Proposers, in which they may be asked to provide or they may provide information in addition to that provided in their Proposals.

6.10 Price Adjustments

Prices will be locked for the term of the initial contract. In the event the University elects to utilize any of the possible renewals, price change requests shall be in writing, submitted at least sixty (60) days prior to the end of the current agreement period, and shall be supported by written evidence of increased costs to the awarded Proposer. The University will not approve unsupported price increases that will merely increase the gross profitability of the awarded Proposer at the expense of the University. Price change requests shall be a factor in the agreement extension review process. The University shall, in its sole opinion, determine whether the requested price increase or an alternate option is in the best interest of the University.

7.0 UNIVERSITY RESERVED RIGHTS

In connection with this ITN, the University reserves to itself all rights (which rights shall be exercisable by the University in its sole discretion) available to it under applicable law, including without limitation, with or without cause and with or without notice, the right to:

- (a) Develop the scope of work in any manner that it, in its sole discretion, deems necessary.
- (b) Cancel this ITN in whole or in part at any time prior to the execution by the University of an agreement, without incurring any cost obligations or liabilities.
- (c) Reject any and all Proposals received at any time.
- (d) Modify all dates set or projected in this ITN.
- (e) At any time terminate consideration of Proposals received.
- (f) Issue addenda, supplements, and modifications to this ITN.
- (g) Seek the assistance of outside technical experts and consultants in the

- procurement process and scope of services.
- (h) Require confirmation of information furnished by a Proposer; require additional information from a Proposer concerning its Proposal; and require additional evidence of qualifications to perform the work described in this ITN.
 - (i) Seek or obtain data from any source that has the potential to improve the understanding and of the Proposals to this ITN.
 - (j) Add or delete Proposer responsibilities from the information contained in this ITN.
 - (k) Waive administrative and otherwise immaterial deficiencies in a proposal, accept and review a non-conforming proposal, or permit clarifications or supplements to a proposal.
 - (l) Disqualify any Proposer who changes its Proposal without University approval.
 - (m) Exercise any other right reserved or afforded to the University under this ITN or an applicable law.

This ITN does not commit the University to enter into an agreement, or to proceed with the ITN process described herein.

In no event shall the University be bound by, or liable for, any obligations with respect to the scope of services until such time (if at all) as an agreement, in form and substance satisfactory to the University, has been authorized and executed by the University, and, then, only to the extent set forth therein.

8.0 LEGAL AUTHORITY

The University is part of the State of Florida's State University System, established by Article IX, Section 7, of the Florida Constitution and governed generally by the Florida K-20 Education Code, Chapters 1000 through 1013, Florida Statutes. The proposed structure of the engagement is authorized by Section 1013.171(1), Florida Statutes, which authorizes the University "to negotiate and enter into agreements to lease land...for the purpose of erecting thereon facilities and accommodations necessary and desirable to serve the needs and purposes of the university."

9.0 GENERAL TERMS

The following are the Terms and Conditions that will become part of any agreement consummated between the University and the awarded Proposer. In the event of a conflict between any provisions contained in any of the documents governing this transaction, the following shall be the order of precedence: Agreement; Invitation to Negotiate; Proposal.

9.1 Actions of Awarded Proposer

The University is under no obligation whatsoever to be bound by the actions of any awarded Proposer with respect to third parties. The awarded Proposer is not a division or agent of

the University.

9.2 Americans with Disabilities Act

The awarded Proposer shall comply with all applicable provisions of the Americans with Disabilities Act and applicable federal regulations under the act.

9.3 Discrimination

Any entity or affiliate who has been placed on the discriminatory list may not submit a bid/proposal on a contract to provide goods or services to a public entity, may not submit a bid/proposal with a public entity for the construction or repair of a public building or public work, may not submit proposals on leases of real property to a public entity, may not award or perform work as a vendor, supplier, subcontractor or consultant under contract with any public entity, and may not transact business with any public entity.

9.4 Payment Terms

The University's obligation is payable only and solely from funds appropriated for the purpose of the agreement. Unless otherwise stated herein or in the agreement, the payment terms for the agreement are Net 30 days. VENDOR OMBUDSMAN: The University's vendor ombudsman whose duties include acting as an advocate for vendors may be experiencing problems in obtaining payment(s) from the University may be contacted at 863.583.9050.

9.5 No Replacement of Defective Tender

Every tender of goods must fully comply with all provisions of the agreement as to time of delivery, quantity, and the like. If a tender is made which does not fully conform, this shall constitute a breach and the awarded Proposer shall not have the right to substitute a conforming tender.

9.6 Referencing of Orders

For each order issued against an agreement resulting hereunder, the University intends in good faith to reference this ITN for pricing, terms and conditions, delivery location, and other particulars. However, in the event the University fails to do so, the University's right to such terms and conditions, and particulars shall not be affected, and no liability of any kind or amount shall accrue to the University.

9.7 Right of Inspection

The University shall have the right to inspect the facility before accepting it.

9.8 Right of Offset

The University shall be entitled to offset against any sums due the awarded Proposer, any

expenses or costs incurred by the University, or damages assessed by the University concerning the awarded Proposers non-conforming performance or failure to perform the agreement, or any other debt owing the University, including expenses, costs and damages described in the termination provisions contained herein.

9.9 Insurance

Insurance obligations may be specified in the agreement.

9.10 Software Warranty and Back Up

If a Proposer is providing software to the University, the Proposer warrants that: (1) the media on which the product software is distributed is free from defects in materials and workmanship, and (2) the product performs the functions described in the documentation for the product. In addition, the University may create and retain a copy of the software and related documentation for back up and disaster recovery purposes and for archival purposes. This provision shall survive termination or expiration of the agreement.

9.11 Safety

The University seeks to furnish its students and employees with a place of study and work that is free from recognized hazards that are causing or are likely to cause death or serious physical harm, and one that complies with occupational health and safety standards promulgated under Occupational Safety and Health Act of 1970 (OSH ACT). Therefore, the Proposer is required to comply with the occupational safety and health standards and all rules, regulations, and orders issued pursuant to the OSH ACT while on the University's premises.

9.12 Compliance with Laws and Regulations

The Proposer shall use its best efforts to assure that the Proposer and its employees, agents and subcontractors comply with all applicable laws and the University's site regulations while performing the agreement.

9.13 Parking

The Proposer shall ensure that all of its 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 Services Department properly displayed. The Proposer, and the Proposer's employees, agents and subcontractors shall observe all parking regulations. The failure to purchase parking permits, properly display them, and otherwise comply with all the University's parking regulations could result in the ticketing and/or the towing of the Proposer's and/or the Proposer's employees', agents', and subcontractors' vehicles. For additional parking information, contact the University's Department of Parking and Transportation.

9.14 Public Entity Crimes

In accordance with Florida Statutes §287.133(2)(a), a vendor who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a proposal; 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 solicitation response, the proposer is certifying that the proposer is not on the convicted vendor list maintained by the Florida Department of Management Services, and the vendor is also certifying that any subcontractor listed in the vendor's solicitation response is not on the convicted vendor list.

9.15 Waiver of Rights and Breaches

No right conferred on the University by this ITN or resulting agreement, if any, shall be deemed waived and no breach of any such 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 breach shall not constitute a waiver or excuse of any other right or breach.

9.16 Conflict of Interest

The award(s) of this ITN is subject to the provisions of Florida Statutes Chapter 112. The Proposer must disclose in its Proposal the name of any officer, director, or agent of the Proposer who is also an employee of the University, or of the State of Florida or of any of its agencies.

Further, the Proposer must disclose in its Proposal the name of any University or State employee who owns, directly or indirectly, an interest of five (5%) or more of the Proposer's company or any of its affiliates or branches.

In addition, in accordance with Section 112.3185, Florida Statutes, by submitting a response, the Proposer certifies that, to the best of its knowledge and belief, no individual employed by the Proposer or subcontracted by the Proposer has an immediate relationship to any University employee who was or is directly or indirectly involved in any way in the drafting, evaluating, or awarding of this ITN.

Failure to disclose the required information or violation of Section 112.3185, Florida Statutes, shall be grounds for rejection of the Proposer's Proposal, cancellation of an intent to award, and/or cancellation of any agreement with the Proposer.

9.17 Covenant Against Commissions, or Brokerage and Contingent Fees

By submitting a Proposal, the Proposer warrants that the Proposer has not employed or retained any person or entity, other than a bona fide employee working solely for the Proposer, to solicit or secure any award or agreement resulting from this ITN or to solicit or secure any other advantage related to this ITN. By signing an agreement with the University, the Proposer warrants that the Proposer has not paid or agreed to pay any

person, company, corporation, individual, or firm, other than a bona fide employee working solely for the Proposer, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of the agreement. In the event of the Proposer's breach or violation of this warranty, the University has the right to annul any agreement with such Proposer resulting from this competitive solicitation, without liability, and to deduct from any amounts otherwise payable to the Proposer under such agreement the full amount of such fee, commission, percentage, gift, or other consideration, and to pursue any other remedy available to the University under such agreement, at law or in equity.

9.18 Disposition of Proposals

All Proposals become the property of the University, and the University shall have the right to use all ideas, and/or adaptations of those ideas, contained in any Proposal received in response to this ITN. Any parts of the Proposals, and any other material(s) submitted to the University with the Proposals that are copyrighted or expressly marked as "confidential", "proprietary", or "trade secret", will be exempt from the public records disclosure requirements of Chapter 119, Florida Statutes, only to the extent expressly authorized by Florida law. The University's selection or rejection of a proposal will not affect this exemption.

9.19 Licensing Requirements

To the extent applicable, the Proposer shall have all appropriate licenses to conduct business in the State of Florida and Polk County at or prior to award of an agreement resulting from this ITN, and must provide proof of such to the University as a condition of award of an agreement.

9.20 Subcontractors

If the Proposer contemplates the use of subcontractors, as a further condition of award of an agreement, the Proposer must certify in writing that all of its subcontractors will be appropriately licensed and are registered with the State of Florida in accordance with Florida Statutes Chapters 607 or 620, and such statement will include any subcontractors' corporate charter numbers. For additional information on registering, the Proposer should contact the Florida Secretary of State's Office.

The Proposer is fully responsible for all work performed under the agreement resulting from this ITN. No subcontract which the Proposer enters into related to the agreement shall in any way relieve the Proposer of any responsibility for performance of its duties under the agreement.

9.21 Small Business Program

The University is an equal opportunity institution and, as such, encourages the use of small businesses, including women and minority-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 Proposer base is available. The Proposer shall use good faith efforts to ensure opportunities are available to small businesses, including women and minority-owned businesses.

9.22 Equal Opportunity Statement

The State universities have established equal opportunity practices which conform to both the spirit and the letter of all laws against discrimination and prohibit discrimination based on race, creed, color, sex, age, national origin, marital status or religion. To be considered for inclusion as a Proposer under this agreement, the Proposer commits to the following:

- A. The provisions of Executive Order 11246, September 24, 1966, and the rules, regulations, and relevant orders of the Secretary of Labor are applicable to each order placed against this agreement regardless of value.
- B. If the Proposer expects to receive \$10,000 in orders during the first 12 months of this agreement, a completed Certificate of Non-Segregated Facilities, attached as Exhibit B, must be submitted in the Proposer's Proposal with Tab 9.
- C. If the Proposer expects to receive \$50,000 in orders during the first 12 months of this agreement and employs more than 50 people, standard form 100 (EEO-1) must be filed prior to March 1 of each year.

9.23 Proposer'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 Proposer knowingly employs unauthorized aliens, such violation shall be cause for the University's unilateral cancellation of the agreement.

9.24 Collusion Prohibited

In connection with this ITN, Proposer collusion with other Proposers or employees thereof, or with any employee of the University, is prohibited. Any attempt by a Proposer, whether awarded or not, to subvert or skirt the principles of open and fair competition, may result in the Proposer disqualification and/or cancellation of award. Such disqualification and/or cancellation shall be at no fault or liability whatsoever to the University. The Non Collusion Affidavit, attached as Exhibit C, must be submitted in the Proposer's Proposal with Tab 9.

9.25 Anti-Kickback

In compliance with FAR 52.203-7, the University has in place and follows procedures designed to prevent and detect violations of the Anti-Kickback Act of 1986 in its operations and direct business relationships

9.26 Actions of Proposer

The University is under no obligation whatsoever to be bound by the actions of any Proposer with respect to third parties. The Proposer is not a division or agent of the University.

9.27 Advertising

The Proposer shall not advertise or publish information concerning the ITN or agreement without prior written consent of the University. The University shall not unreasonably withhold permission.

9.28 Drug Free Workplace

The Proposer agrees that in the performance of the agreement, neither the Proposer nor any employee of the Proposer shall engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity covered by the agreement. The University reserves the right to request a copy of the Proposer's Drug Free Workplace Policy. The Proposer further agrees to insert a provision similar to this statement in all subcontracts for services required.

9.29 Background Check

All workers of the Proposer and their employees who enter the University campus or premises must have passed an employer background check and must not be listed on the Florida or National Sex Offenders Registry.

9.30 Federal, State, and Local Laws and Regulation

The Proposer is solely responsible for complying with all laws, ordinances, and regulations including but not limited to, those relating to taxes, licenses and permits, as they may apply to any matter under this ITN. The Proposer must demonstrate that they are duly licensed by applicable regulatory bodies during the performance of the agreement. Prior to the commencement of agreement, the Proposer shall be prepared to provide evidence of such licensing as may be requested by the University. The Proposer shall, at no expense to the University, procure and keep in force during the entire period of the agreement all such permits and licenses.

9.31 Inspection and Audit

All books, accounts, reports, files and other records relating to the agreement shall be subject at all reasonable times to inspection and audit by Florida Polytechnic University.

9.32 Liens

The Proposer shall keep the University free and clear from all liens asserted by any person or entity for any reason arising out of the furnishing of services or materials by or to the Proposer.

9.33 Modifications

The ITN can be modified or rescinded only by a writing signed by both parties or their duly authorized agents, unless otherwise provided in this ITN.

9.34 Ownership of Documents

All drawings, maps, sketches, documents, records, programs, data base, reports and other data developed or purchased, under this ITN shall be and remain the University's property, without restriction, reservation or qualifications. The Proposers may retain copies necessary for recordkeeping documentation and all such other business purposes related to the ITN.

9.35 Sales and Use Tax

The Proposer agrees to comply with and to require all of its subcontractors to comply with all the provisions of applicable law. The Proposer further agrees to indemnify and hold harmless the University from any and all claims and demands made against it by virtue of the failure of the Proposer or any subcontractors to comply with the provisions of any and all said laws. The University is exempt from state sales and use tax.

9.36 Sexual Harassment

Federal law and the policies of the University prohibit sexual harassment of University employees or students. Sexual harassment includes any unwelcome sexual advance toward a University employee or student, any request for a sexual favor from a University 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 University employees, or a hostile or an offensive academic environment for University students. Proposers, subcontractors and suppliers for this ITN are required to exercise control over their employees so as to prohibit acts of sexual harassment of University employees and students. The Proposer's employees or agents or any person who the University, 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 University premises and to take such other action as may be reasonably necessary to cause the sexual harassment to cease.

9.37 Smoking on Campus Policy

Florida Polytechnic University campus only allows smoking in designated areas. The Proposer is expected to respect this policy and fully comply with it.

9.38 Sustainability Preferences

The University's purchasing directives support the purchase of products that will minimize any negative environmental impacts of our work. In order to facilitate a healthy market in sustainable products, all parties involved in the procurement and utilization of materials

must engage in both waste recycling and the initial purchase of products containing recycled content. It is in the interest of public health, safety and welfare and the conservation of energy and natural resources to use and promote environmentally responsible products, as well as energy efficient fixtures, appliances and mechanical equipment used in new construction.

9.39 Assignment-Delegation

No right or interest in the agreement shall be assigned or delegation of any obligation made by the Proposer without written permission of the University. Any attempted assignment or delegation by the Proposer shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph.

9.40 Assignment of Anti-Trust Overcharge Claims

The parties recognize that in actual economic practice overcharges resulting from anti-trust violations are in fact borne by the ultimate purchaser; therefore, the Proposer hereby assigns to the University any and all claims for such overcharges.

9.41 Force Majeure

In the event compliance with any obligation under this ITN is impractical or impossible due to any Event of Force Majeure, then the time for performance of such obligation shall be extended for a period equivalent to the duration of the Event of Force Majeure. The provisions of this section shall not operate to 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.

9.42 Indemnification/Hold Harmless

The Proposer shall indemnify, defend, and hold harmless the Board of Trustees, Florida Polytechnic University, the State of Florida and the Florida Board of Governors, and their officers, agents, and employees from any and all claims, demands, suits, actions, proceedings, loss, cost, and damages of every kind and description, including attorneys' fees and/or litigation expenses, which may be brought or made against or incurred on account of loss of or damage to any property or for injuries to or death of any person, caused by, arising out of, or contributed to, in whole or in part, by reasons of any act, omission, professional error, fault, mistake, or negligence of Proposer, its employees, agents, representatives, or subcontractors, their employees, agents, or representatives in connection with or incident to the performance of the Agreement. The Proposer's obligation under this provision shall not extend to any liability caused by the sole negligence of the Florida Polytechnic University, or its officers, agents, and employees. Such indemnification shall specifically include infringement claims made against any and all intellectual property supplied by the Proposer and third party infringement under the Agreement.

9.43 Protection of Property

The Proposer shall at all times guard against damage or loss to the property of the University or of others and shall be held responsible for replacing or repairing any such loss or damage. The University may bill the Proposer or make such deductions as deemed necessary to insure reimbursement or replacement for loss or damage to property through negligence of the Proposer or their agents. The Proposer shall provide all barricades and take all necessary precautions to protect University buildings, University premises, students, personnel, and visitors.

9.44 Labor Disputes

A Proposer shall give prompt notice to the University of any actual or potential labor dispute which delays or may delay performance of the agreement.

9.45 Laws and Regulations

The Proposer is solely responsible for keeping themselves fully informed of and faithfully observing all laws, ordinances, and regulations and shall protect and indemnify the University, its officers and agents against any claims of liability arising from or based on any violation thereof.

9.46 No Waiver of Right by the University

No waiver by the University of any breach of the provisions of the agreement by the Proposer shall in any way be construed to be a waiver of any future breach or bar the University's right to insist on strict performance of the provisions of the agreement.

9.47 Prior Course of Dealings

No trade usage, prior course of dealings, or course of performance under other agreements shall be a part of any agreement resulting from this ITN; nor shall such trade usage, prior course of dealing, or course of performance be used in the interpretation or construction of such resulting agreement.

9.48 Public Records

Except as provided in Section 3, all Proposal information submitted and opened becomes subject to the Public Records Law set forth in Chapter 119 F.S.

Any resulting agreement may be unilaterally canceled for refusal by the Proposer 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 Proposer in conjunction with the agreement.

9.49 Remedies and Applicable Law

The agreement shall be governed by and construed in accordance with the laws of the State of Florida and the rule and regulations of the Florida BOG and the University. The University and the Proposer shall have all remedies afforded each by said law. The venue in any action or litigation commenced to enforce the Agreement shall be instituted in Lakeland, Florida.

9.50 Termination

9.50.1 Convenience

The University reserves the right to terminate the agreement in whole or part at any time when in the best interests of the University without penalty or cause. Upon receipt of the written notice, the awarded Proposer shall immediately stop all work as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the University. In the event of termination under this provision, all documents, data and reports prepared by the awarded Proposer under the agreement shall become the property of and delivered to the University. The awarded Proposer shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of termination. Such compensation shall be the awarded Proposer's sole remedy against the University in the event of termination under this provision.

9.50.2 Default

The University reserves the right to terminate the agreement in whole or in part due to the failure of the awarded Proposer to comply with any term or condition of the agreement, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the agreement. The University shall provide written notice of the termination and the reasons for it to the awarded Proposer. Upon termination under this provision, all goods, materials, documents, data and reports prepared by the awarded Proposer under the agreement shall become the property of and be delivered to the University on demand. The University may, upon termination of the agreement, procure, on terms and in the manner that it deems appropriate, materials, or services to replace those under the agreement. The awarded Proposer shall be liable to the University for any excess costs incurred by the University in re-procuring the materials or services.

9.50.3 Gratuities

The University may, by written notice to the awarded Proposer, cancel the agreement if it is discovered by the University that gratuities, in the form of entertainment, gifts or other, were offered or given by the awarded Proposer, or any agent or representative of the awarded Proposer, to any officer or employee of the University with a view toward securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing of such agreement. In the event the agreement is canceled by the University pursuant to this provision, University shall be

entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by awarded Proposer in providing such gratuities.

9.50.4 Insolvency

The University shall have the right to terminate the agreement at any time in the event awarded Proposer files a petition in bankruptcy; or is adjudicated bankrupt; or if a petition in bankruptcy is filed against awarded Proposer and not discharged within thirty (30) days; or if awarded Proposer becomes insolvent or makes an assignment for the benefit of its creditors or an arrangement pursuant to any bankruptcy law; or if a receiver is appointed for awarded Proposer or its business.

9.50.5 Suspension or Debarment

The University may by written notice to the awarded Proposer immediately terminate the agreement if the University determines that the awarded Proposer has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor vendor of any public procurement unit or other governmental body.

9.51 Lack of Funds

The agreement may be canceled without further obligation on the part of the Florida Polytechnic University in the event that sufficient appropriated funding is unavailable to assure full performance of the terms. The awarded Proposer shall be notified in writing of such non-appropriation as soon as reasonably possible. No penalty shall accrue to the University in the event this cancellation provision is exercised. This cancellation provision shall not be construed so as to permit the University to terminate the agreement in order to acquire similar equipment, material, supplies or services from another party.

9.52 Continuation of Performance through Termination

The awarded Proposer shall continue to perform, in accordance with the requirements of agreement, up to the date of termination, as directed in the termination notice.

9.53 Payment Card Industry Data Security Standard

For e-commerce business and/or credit card transactions, the Proposer agrees to be bound by the requirements and terms of the rules of all applicable payment card associations, as amended from time to time, and be solely responsible for security and maintaining confidentiality of the payment card transactions processed by means of electronic commerce up to the point of receipt of such transactions by the bank. The Proposer is required to be in compliance with the requisites of the SAS 70 and/or payment card industry data security standard and provide written attestation of compliance annually.

9.54 Warranties

In addition to any implied warranties, the awarded Proposer warrants that the goods furnished will conform to the specs, drawings and descriptions listed herein and to the sample or samples furnished by the awarded Proposer.

EXHIBIT A

PROPOSAL SUBMITTAL FORM

I have completed and submitted all applicable Proposal forms and I am authorized to sign this Proposal for the Proposer.

PROPOSER NAME

AUTHORIZED SIGNATURE (MANUAL)

MAILING ADDRESS

NAME (TYPED OR PRINTED)

CITY, STATE AND ZIP CODE

TITLE (TYPED OR PRINTED)

(AREA CODE) TELEPHONE NUMBER

EMAIL ADDRESS

____ (Initial here) There is no officer or employee of Florida Polytechnic University who has, or whose relative has, a substantial interest in any agreement award subsequent to this Proposal.

EXHIBIT B

CERTIFICATE 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.**

EXHIBIT B

CERTIFICATE OF NON-SEGREGATED FACILITIES SUBPART -

VENDOR'S AGREEMENTS

During the performance of this Agreement, the Vendor agrees as follows:

- (1) The Vendor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Vendor 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 shall include, 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 Vendor 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 Vendor will, in all solicitations or advertisements for employees placed by or on behalf of the Vendor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- (3) The Vendor will send to each labor union or representative of workers with which the Vendor 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 Vendor's 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 Vendor 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 Vendor 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 his 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 Vendor's noncompliance with the nondiscrimination clauses of this Contract or with any of such rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the Vendor 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 Vendor 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 subVendor or Vendor. The Vendor 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 Vendor becomes involved in, or is threatened with, litigation with a subVendor or Vendor as a result of such direction by the contracting agency, the Vendor 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 Vendor 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.

PROPOSER COMPANY NAME _____

AUTHORIZED SIGNATURE _____

TITLE _____

DATE _____

EXHIBIT C

NON-COLLUSION AFFIDAVIT OF VENDOR

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

1. They are _____ of _____,
the vendor that has submitted the attached proposal;
2. They are fully informed respecting the preparation and contents of the attached proposal and of all pertinent circumstance respecting such proposal;
3. Such proposal is genuine and is not a collusive or sham proposal;
4. Neither the said vendor nor any of their officers, partners, owners, agents, representatives, employees, or parties in interest, including this affiant, has in any way colluded, conspired, connived, or agreed, directly or indirectly with any other vendor, firm or person to submit a collusive or sham proposal in connection with such agreement or has in any manner, directly or indirectly, sought by agreement or collusion of communication or conference with any other vendor, firm, or person to fix the price or prices, if any, in the attached proposal of any other vendor, or to fix any overhead, profit or cost element of any price, if any, of any other vendor, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against Florida Polytechnic University or any person interested in the resulting agreement.

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)