Competitive Solicitation
Required Documents Checklist

NOTE: IT IS THE SOLE RESPONSIBILITY OF THE VENDOR TO INCLUDE ALL APPROPRIATE DOCUMENTS ALONG WITH THEIR RESPONSE. FAILURE TO SUBMIT ALL REQUIRED DOCUMENTS WILL RESULT IN SOLICITATION RESPONSE BEING DEEMED AS NON-RESPONSIVE.

LISTED BELOW ARE THE MOST COMMON AREAS OF MISTAKES MADE BY VENDORS. PLEASE CHECK YOUR RESPONSE CLOSELY PRIOR TO SUBMITTAL BY UTILIZING THIS SELF-CHECKLIST FORM.

Please check all that apply:

☐ Completed and signed applicable competitive solicitation form:
  • Invitation to Negotiate (Form PS001C)

☐ Check FIU Purchasing Website for Addenda(um) at http://finance.fiu.edu/purchasing/ prior to submission of Response

☐ Sign and attach all Addenda(um), to your response, prior to submission of Response

☐ Cost/Price Sheet, if applicable

☐ Appendix I, if applicable

☐ Appendix II, if applicable

☐ Exhibit A, if applicable

☐ Exhibit B, if applicable

☐ Requested references

☐ Statement of insurance capability from your insurance carrier on their letterhead
SUBMIT TO:
FLORIDA INTERNATIONAL UNIVERSITY
PURCHASING SERVICES
CAMPUS SUPPORT COMPLEX – CSC 414
MODESTO A. MAIDIQUE CAMPUS
MIAMI, FL 33199
(305) 348-2161
Web Address: http://finance.fiu.edu/purchasing/

PROPOSALS WILL BE OPENED: July 08, 2010 at 2:00 PM E.S.T.

TITLE: THE WOLFSONIAN-FIU MUSEUM CAFÉ OPERATIONS AND CATERING SERVICES

Purchasing Coordinator: Chandra Nix

VENDOR NAME (Vendor also referred to as “Contractor” herein)
REASON FOR NOT SUBMITTING:
CERTIFIED OR CASHIER’S CHECK IS ATTACHED,
WHEN REQUIRED, IN THE AMOUNT OF $

VENDOR MAILING ADDRESS

POSTING OF BID TABULATIONS
Bid tabulations with recommended awards will be posted for review by interested parties at the Florida International University Bid Board and website- http://finance.fiu.edu/purchasing/ and will remain posted for a period of 72 hours. Failure to file a protest within the time prescribed in Section 120.57(3), Florida Statutes or failure to post the bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under Chapter 120, Florida Statutes.

GENERAL CONDITIONS
SEALED PROPOSALS: All proposal sheets and this ACKNOWLEDGMENT form must be executed and submitted in a sealed envelope to University. (University also referred to as “Purchaser” herein). (DO NOT INCLUDE MORE THAN ONE PROPOSAL PER ENVELOPE.) The face of the envelope shall contain, in addition to the above University address, the date and time of the proposal opening and the proposal number. Proposal prices not submitted on attached proposal price sheets when required shall be rejected. All proposals are subject to the conditions specified herein. Those proposals that do not comply with these conditions are subject to rejection.

1. PROPOSAL must contain a manual signature of authorized representative in the space provided above. Proposal must be typed or printed in ink. Use of erasable ink is not permitted. All corrections made by proposer to his proposal price must be initialed. The company name and vendor number shall appear on each page of the bid as required. Complete ordering instructions must be submitted with the bid.

2. NO PROPOSAL SUBMITTED: If not submitting a proposal, respond by returning only this proposal acknowledgement form, marking it “NO PROPOSAL” and explain the reason in the space provided above. Failure to respond to a procurement solicitation without giving justifiable reason for such failure, non-conformance to contract conditions, or other pertinent factors deemed reasonable and valid shall be cause for removal of the supplier’s name from the proposal mailing list. Note: To qualify as a respondent, proposer must submit a “NO PROPOSAL”, and it must be received no later than the stated proposal opening date and hour.

3. PROPOSAL OPENING: NOTE: Proposal tabulations will be furnished upon written request with an enclosed, self-addressed, stamped envelope and payment of a predetermined fee. Proposal files may be examined during normal working hours by appointment. Proposal tabulations will not be provided by telephone.

4. MISTAKES: Producers are expected to examine the conditions, scope of work, proposal prices, extensions and all instructions pertaining to the services involved. Failure to do so will be at proposer’s risk. In case of mistake in extensions the unit price will govern.

5. CONFLICT OF INTEREST: The award hereunder is subject to the provisions of Chapter 112, F.S. Producers must disclose with their proposal the name of any officer, director, or agent who is also an employee of the State of Florida or any of its agencies. Further, all proposers must disclose the name of any State employee who owns, directly or indirectly, an interest of five (5%) or more in the proposer’s firm or any of its branches.

6. AWARDS: As the best interest of the State may require, the right is reserved to reject any and all proposals or waive any minor irregularity or technicality in proposals received. Producers are cautioned to make no assumptions unless their proposal has been evaluated as being responsive. All awards made as a result of this proposal shall conform to applicable Florida Statutes.

7. GOVERNMENTAL RESTRICTIONS: In the event any governmental restrictions may be imposed which would necessitate alteration of the material quality, workmanship, or performance of the items offered on this proposal prior to their delivery, it shall be the responsibility of the successful proposer to notify Florida International University at once, indicating in his letter the specific regulation that required an alteration. Florida International University reserves the right to accept any such alteration, including any price adjustments occasioned thereby, or to cancel the contract at no further expense to the University.

8. LEGAL REQUIREMENTS: Applicable provision of all Federal, State, county and local laws, and of all ordinances, rules, and regulations shall govern development, submittal and evaluation of all proposals received in response hereto and shall govern any and all claims and disputes which may arise between person(s) submitting a proposal response hereto and Florida International University, by and through its officers, employees and authorized representatives, or any other person, natural or otherwise; and lack of knowledge by any proposer shall not constitute a cognizable defense against the legal effect of any proof.

9. ADVERTISING: In submitting a proposal, proposer agrees not to use the results therefrom as a part of any commercial advertising.

10. ASSIGNMENT: Any Purchase Order issued pursuant to this request for proposal and the monies which may become due hereunder are not assignable except with the prior written approval of the purchaser.

11. LIABILITY: On any contract resulting from this proposal, the proposer shall hold and save Florida International University, its officers, agents and employees harmless against claims by third parties resulting from the supplier’s breach of this contract or the contractor’s negligence. This requirement does not apply to contracts between governmental agencies.

12. CANCELLATION: The State shall have the right of unilateral cancellation for refusal by the contractor to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, F.S. and made or received by the contractor in conjunction with the contract.

13. PATENTS AND ROYALTIES: The bidder, without exception, shall indemnify and save harmless the purchaser and its employees from liability of any nature or kind, including cost and expenses for or on account of any copyrighted, patented, or unpatented invention, process or article manufactured or supplied by the bidder. The bidder has no liability when such claim is solely and exclusively due to the combination, operation or use of any article supplied hereunder with equipment or data not supplied by contractor or is based solely and exclusively upon Florida International University’s alteration of the article. The purchaser will provide prompt written notification of a claim of copyright or patent infringement and will afford the bidder full opportunity to defend the action and control the defense. Further, if such a claim is made or is pending, the contractor may, at its option and expense procure for the purchaser the right to continue use of, replace or modify the article to render it non-infringing. (If none of the alternatives are reasonably available, the State agrees to return the article on request to the contractor and receive reimbursement. If, any, as may be determined by a court of competent jurisdiction.) If the bidder uses any design, device or materials covered by letters, patent or copyright, it is mutually agreed and understood without exception that the bid prices shall include all royalties or costs arising from the use of such design, device, or materials in any way involved in the work.

14. GENERAL DUTY CLAUSE: The University requires that each contractor/vendor/supplier comply with the occupational safety and health standards and all rules, regulations, and orders issued pursuant to the Occupational Safety and Health Act of 1970 while on University premises.

15. SMALL BUSINESS MINORITY ENTERPRISE (SBME) REPORTING: Vendors are encouraged to use the small, minority and disadvantaged business community and to have a business diversity program in place. Successful Vendor may be required to provide a report to FIU listing the small, minority and disadvantaged businesses used during the course of the contract.
GENERAL CONDITIONS

1. CONTRACTUAL SERVICE PROVISIONS:
   Bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper preaudit and postaudit thereof. The State of Florida's performance and obligation to pay under this contract is contingent upon an annual appropriation by the Legislature. The terms under which the cost may change are as determined in the Competitive Solicitation. Renewals shall be contingent upon satisfactory performance evaluations by FIU and subject to the availability of funds.

2. EQUAL OPPORTUNITY STATEMENT:
   The State University System believes in equal opportunity practices which conform to both the spirit and the letter of all laws against discrimination and is committed to the non-discrimination because of race, disability, color, sex, age, national origin, or religion. To be considered for inclusion as a contractor, the bidder commits to the following:

   The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, marital status, age and disability.

3. IDENTICAL TIE RESPONSE:
   When multiple responses to a competitive solicitation that are equal in all respects are received, the University will give preference to responses that include commodities manufactured in the State, Florida businesses, business with a drug-free workplace program, or foreign manufacturers located in the state, to determine the contract award, or if those conditions exist or are equivalent between two or more responses, will use toss of coin to determine.

4. TRAVEL:
   No travel expense may be paid to any individual in excess of the amount permitted by Section 112.061, Florida Statutes and then only when substantiated by receipts and submitted on the proper State form.

5. WORKERS’ COMPENSATION COVERAGE:
   The Contractor shall take and maintain during the life of this agreement, Workers’ Compensation Insurance for all of his employees connected with the work of this Project. In the event any work related to this agreement is sublet or subcontracted, the Contractor shall require the subcontractor similarly to provide Workers’ Compensation Insurance for all of the latter’s employees unless such employees are covered by the protection afforded by
the Contractor. Such insurance shall comply fully with the Florida Workers’ Compensation law. In case any class of employees engaged in hazardous work under this contract at the site of the project is not protected under Workers’ Compensation Statute, the Contractor shall provide, and cause each subcontractor to provide, adequate insurance for the protection of such employees.

6. **INDEMNIFICATION:**
   The Contractor agrees to indemnify and hold harmless, assume liability for and defend, the State of Florida, the Florida Board of Governors, the Florida International University Board of Trustees and their officers, employees, and agents, from and against any and all actions, claims, liabilities, assertions of liability, losses, costs and expenses, which in any manner arise or are alleged to have arisen, from the acts, omissions or wrongful conduct of Contractor or Contractor’s officers, employees, agents, guests, patrons, licenses, invites or subcontractors in connection with related to their operations, activities, occupancy or use of the premises.

7. **USE OF AGREEMENT BY OTHER GOVERNMENT AGENCIES:**
   At the option of the contractor, the use of the Agreement(s) resulting from this solicitation may be extended to other governmental agencies, including the State of Florida, it agencies, political subdivisions, counties, and cities.

   Each governmental agency allowed by the contractor to use this Agreement shall do so independent of any other governmental entity. Each agency shall be responsible for its own purchases and shall be liable only for services ordered, received and accepted.

8. **COMPETITIVE SOLICITATION INTERPRETATION:**
   Interpretation of the wording of this solicitation document will be the responsibility of the University, and that interpretation will be final and binding. Any requests for interpretations shall be provided in writing by the University.

9. **AWARD OPTION:**

   Florida International University reserves the right to award the commodity specified or service detailed in this competitive solicitation either in its entirety or in any part thereof all to the advantage of the Florida International University.

10. **INSURABILITY:**
    Should this competitive solicitation, see attached specification documents, require the successful vendor to supply proof of insurance, vendor responding
to this solicitation must submit with their formal response a letter from the vendor’s insurance carrier stating that should the vendor be awarded this competitive solicitation the insurance carrier will be able to supply all insurance requirements as stated herein.

Should any vendor take exception to the stated insurance requirements, such will be grounds for disqualifying that vendor’s response to this competitive solicitation.

11. **GENERAL DUTY CLAUSE:**
In accordance with the requirements of the Occupational Safety and Health Act of 1970 (OSH ACT), Florida International University seeks to furnish its students and employees with a place of work and study that is free from recognized hazards that are causing or are likely to cause death or serious physical harm, and one which complies with occupational health and safety standards promulgated under this Act. Therefore, the University requires that each contractor/vendor/supplier comply with the occupational safety and health standards and all rules, regulations, and orders issued pursuant to the OSH ACT, while on University premises.

12. **SMALL BUSINESS MINORITY ENTERPRISE (SBME) REPORTING:**
It is the policy of Florida International University (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. It is the intent of the program to reach out to the small, minority, and disadvantaged business community and to give responsive and responsible suppliers an opportunity to compete for University business.

Vendors are encouraged to use the small, minority and disadvantaged business community and to have a business diversity program in place. Successful vendor may be required to provide a report to FIU listing the small, minority and disadvantaged businesses used during the course of the awarded competitive solicitation.

13. **GROUND FOR DISQUALIFICATION:**
Failure to complete and return all required documents of the competitive solicitation will be grounds for disqualification of any vendor’s response.
14. **EVALUATION OR SELECTION COMMITTEE:**

Any person with a conflict of interest shall not be appointed to any procurement evaluation or selection committee, or shall be removed from the committee if the conflict arises after appointment to the committee. A conflict of interest is defined as any circumstance in which the personal interest of a committee member in a matter before him or her in his or her official capacity may prevent or appear to prevent him or her from making an unbiased decision with respect to the matter.

The Attestation of No Conflict form shall be signed by all individuals selected to the evaluation committee before the evaluation process begins. This document shall become part of the competitive solicitation document folder.
If Vendor is not submitting a solicitation response, Vendor should respond by returning this solicitation document and marking it "NO RESPONSE".

June 10, 2010
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1.0 OVERVIEW

1.1 Statement of Objective

This is a competitive solicitation for the operations of The Wolfsonian-FIU museum’s café operations and catering services to enable the Florida International University Board of Trustees (FIU) to enter into an agreement with a vendor to provide an exploring innovative, creative, and intellectually challenging vision for creating a café and menu that complement our collection of industrial design and propaganda arts. We are looking for a vendor to provide food services for the café at 1001 Washington Avenue and catering services for museum events and facility rentals at the discretion of the museum. Food services in the café will physically cohabitate with the museum’s retail shop. The café operations can include the sidewalk in front of the museum and the museum lobby. The initial term of the agreement will be for five (5) years, and the University will have the option to renew for an additional one (1), three (3) year terms upon mutual agreement by parties involved. Renewals are not automatic. Successful Vendor(s) performance is expected to begin on August 25, 2010.

1.1.1 Mission and History of The Wolfsonian-FIU

1.1.1.1 Mission

The Wolfsonian-Florida International University uses objects to illustrate the persuasive power of art and design, to explore what it means to be modern, and to tell the story of social, historical, and technological changes that have transformed our world. It encourages people to see the world in new ways, and to learn from the past as they shape the present and influence the future. The museum's extraordinary collection of North American and European decorative, propaganda, and fine arts of the 1885-1945 period was donated in 1997 to Florida International University by Mitchell Wolfson, Jr. Through exhibitions, publications, and academic and public programs, The Wolfsonian-FIU serves local, national, and international audiences.

1.1.1.2 History

The Wolfsonian-Florida International University opened as a public museum and research center a little more than eleven years ago. It has received wide recognition for its unrivaled collection of modern material culture and its multidisciplinary approach to using objects to examine the past and understand the present. The Wolfsonian-FIU has developed and disseminated critically acclaimed exhibitions, publications, and educational programs that highlight the impact of design in shaping the modern world. Its vast patrimony of primary source materials provides unparalleled opportunities for scholarship and appreciation, making it a unique resource for local, national, and international audiences.

In 1997, The Wolfsonian-FIU became a department of Florida International University (FIU), reporting directly to the university’s provost. A young, urban, public research university located in South Florida, FIU is committed to academic excellence and the cultivation of knowledge, and plays a significant role in the cultural, intellectual, and
Located off campus in the heart of Miami Beach’s historic architectural district, The Wolfsonian-FIU is a source of energy and inspiration in the life of the city. It serves as a civic landmark and meeting place, providing both formal and informal opportunities to study, learn from, and appreciate the rise of modernity made visible in the museum’s surroundings. The Wolfsonian-FIU helps anchor a community developed in and defined by the twentieth century, and influences how we look at the impact of design on daily life, including mass communication and transportation, architecture and urban planning, politics, and community. As it continues to attract cultural assets and attention, it can help position Miami as an intellectual and cultural destination, while expanding the role of museums in both academic and urban contexts.

The museum explores through its exhibitions and special programs the critically important role of design at the height of the industrial age (1885-1945) in the context of social, political, and technological issues. The museum presents an array of public and academic programs intended to reach an audience as broad and varied as its collection, designed to provide the public with opportunities to identify and contemplate the historical significance of collection themes and their relevance to the world today. Public programming is extensive and includes school activities, family events, lectures, films, symposia, and collaborative performing-arts activities.

### 1.2 Calendar of Events

Unless otherwise revised by an Addendum to this competitive solicitation, the dates and times by which stated actions will be taken or completed are listed below. If FIU determines, in its sole discretion, that it is necessary to change any of these dates and times, it will issue an Addendum to this competitive solicitation which will be posted on the Website. All times listed are Eastern Standard Time (EST).

<table>
<thead>
<tr>
<th>Date/Time</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>06/10/2010</td>
<td>Competitive solicitation advertised and released.</td>
</tr>
<tr>
<td>06/17/2010</td>
<td>Mandatory Pre-proposal Conference to be held at the following place and time:</td>
</tr>
<tr>
<td></td>
<td><strong>Address:</strong> Wolfsonian-FIU</td>
</tr>
<tr>
<td></td>
<td>1001 Washington Avenue</td>
</tr>
<tr>
<td></td>
<td>Miami Beach, FL 33139</td>
</tr>
<tr>
<td></td>
<td><strong>Location:</strong> Wolfsonian Auditorium on the First Floor at 10:00 am E.S.T.</td>
</tr>
<tr>
<td></td>
<td>*Please use the back door entrance.</td>
</tr>
<tr>
<td>Date</td>
<td>Event Description</td>
</tr>
<tr>
<td>------------</td>
<td>---------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>06/21/2010</td>
<td>Last Day for FIU to receive communications and/or inquiries from Vendors regarding the competitive solicitation via email to Authorized FIU Representative at <a href="mailto:nixc@fiu.edu">nixc@fiu.edu</a> @ 2:00 p.m. EST. (“Inquiry Deadline Date”).</td>
</tr>
<tr>
<td>06/24/2010</td>
<td>FIU will respond to inquiries and requests for clarifications by posting an Addendum on the Website.</td>
</tr>
<tr>
<td>07/08/2010</td>
<td>Deadline for FIU to receive solicitation responses from Vendors at 2:00 p.m. EST. (“Solicitation Response Due Date”) and solicitation response opening at 2:00 p.m. EST. (Note: Any solicitation responses received after the Solicitation Response Due Date and time shall be deemed non-responsive.)</td>
</tr>
</tbody>
</table>

The Purchasing Department will post notice of changes to any of the above dates, and will provide advance notice of any pre-proposal meetings and evaluation committee meetings related to this competitive solicitation by posting the information on the FIU Purchasing Services Department’s Website at [http://finance.fiu.edu/purchasing (“the Website”)]. Vendor is solely responsible for checking the Website periodically in order to verify whether any changes have been made to the Calendar or whether any meetings are scheduled to take place. FIU reserves the sole discretion over the conduct of any meetings and the extent, if any, that those attending may participate in such meetings.

1.3 Scope of Work and Deliverables

1.3.1 Museum Café and Catering Services

The Wolfsonian-FIU invites experienced restaurant professionals and caterers to submit proposals for operating the museum’s café and providing catering services. Catering will be for Wolfsonian events and facility rentals as requested by the museum. With a stunning interior that integrates into the museum’s overall aesthetic and huge windows that visually open the space up to the street, the space is a key element to expanding our visitor base and engaging the public. The space is used for parties, programs, events – with the right creative partner, we look forward to a dynamic, unique experience that will be a destination in and of itself in time.

1.3.2 What we are seeking…

Food services in the cafe will physically cohabitate with the museum’s retail shop. Operator may elect to obtain permits from the City of Miami Beach for additional seating on the sidewalk. We are willing to consider the possibility of food service provided from
the café area to flow into the lobby area of 1001 Washington Avenue, subject to negotiation and agreement. Lobby area food service may be seasonal or intermittent.

All food and services will be of high quality and reflect the image of the Wolfsonian. Our goal is to create a unique, high-quality destination museum store and café. Food may tie thematically and evocatively to the collection, exhibits, countries represented in exhibitions or other creative educational or programmatic relations to food and food culture.

We encourage an imaginative approach related to the themes of the museum, food and events that nourish the mind and body. Sumptuous, exciting, charming – a place that is a gem in its own right and the kind of surprise that makes people tell their friends as well as return again and again to visit the museum and linger over a late afternoon lunch. The menu – particularly in the café -- need not be extensive but should change with seasons, holidays, exhibits... **We must have the very BEST coffee and espresso sublimely served!**

The café and food services will help to define and reflect the Wolfsonian-FIU ‘brand’ – catering will be chic, hip. The caterer will have a demonstrated understanding and sensibility of the unique spirit of South Beach. **This invitation to negotiate is extended to prospective contractors to define the terms, conditions, and specifications for an exclusive relationship for food services in our café/retail space and catering services.** *Catering services are not exclusive with the successful vendor.*

### 1.3.3 Summary of Desired Food & Beverage Services: Café/Retail Space

#### 1.3.3.1 Location & Seating:

Seating and serving located in the café/retail space; seating capacity is ~47 with additional seating space in the lobby and 50 linear feet of sidewalk space in front of the museum.

The storefront to the public sidewalk outside the café/retail space runs approximately 50 linear feet.

#### 1.3.3.2 Square Footage (estimate):

Total square footage (including retail) is about 1,800 (a portion of which is to be used for café serving and seating). The food preparation area is approximately 525 square feet (approximately 525 sq ft. of open area; with some storage and walk-in refrigeration). **See Drawings and Physical Specifications for available specifications attached as Appendix IV.**

#### 1.3.3.3 Operating Hours:

1. **1.3.3.3.1 Normal Museum Hours (galleries open to the public):**
12-6 pm Monday, Tuesday, Thursday, Saturday, Sunday
12-9 Friday

Closed Wednesday and the following holidays: Thanksgiving Day, Christmas, New Year's Day, and July Fourth. We anticipate that the museum shop/café will be closed on these holidays.

Hours of operation may change based on demand, such as Art Basel week and Christmas week.

1.3.3.3.2 **Summer hours (from ~May 1 – ~Sept 15):**

Regular hours Thursday, Friday, Saturday, and Sunday

Galleries closed to the public:

Monday, Tuesday, and Wednesday

1.3.3.3 We will work with the Operator to determine optimal hours for food service including late-night hours and holidays. This is an area for discussion, and we are interested in a schedule that will maximize revenue and access. Additional hours may be negotiated based on demand.

1.3.3.4 At a minimum, the café/retail space is open all hours that the Museum is open to the public and is expected to be open year-around. We are willing to explore later hours or other arrangements.

1.3.3.4 Location:

The café/retail space is a public, “non-fee/admission” space allowing direct public access for dining. ‘Possibility’ exists for sidewalk seating on Washington Avenue. Operator responsible for obtaining permit.

There is a prep area; no full kitchen. The Wolfsonian is open to discuss a plan to add cooking equipment and exhaust at the operator’s expense.

The Wolfsonian-FIU will provide service area, general storage and refrigeration, operating space, food prep and small office areas.

1.3.3.5 Concept:

Casual, self-service, or table service or a combination thereof. Wolfsonian-FIU will set general ambience for the retail/café space;
negotiable as to which party provides tables, chairs, and related capital items. Signage will be mutually agreed upon. The parties will mutually agree on written guidelines regarding acceptable décor, use of premises, security and clearances.

The Wolfsonian-FIU will consider a conservative approach (high quality sandwiches, salads, bakery products, hot and cold beverages and snacks in a self-service environment) as well as any other menu, style of service and customer delivery that will make the café a year-round financially viable business opportunity.

1.3.3.6 Menu & Pricing:

1.3.3.6.1 CAFÉ: High Quality sandwiches, salads, soup, beverages, desserts and snack items consistent with overall concept. Hot entrees, specialty items, etc will be strictly optional and based on Operator proposal. A selection of Beer & Wine should be offered. Pricing should be reasonable and consistent and comparable with similar cultural institutions, such as cafes and restaurants in the Miami Beach area.

1.3.3.6.2 CATERING SERVICE: The menu for catered events will vary depending on the occasion.

1.3.3.7 Café:

The Wolfsonian-FIU café includes furniture, fixtures and equipment (“FF&E”).

1.3.3.8 Café Operator Equipment:

While this item is negotiable, the Wolfsonian-FIU prefers that the Operator provide all required Loss Equipment, including, but not necessarily limited to pots, pans, utensils, glassware, mugs, table ware, point of sale system, menu boards, office equipment, safe, etc. Regardless of which party provides/pays for such items, selection of items to be used in public areas for customers i.e., cups, plates, utensils, etc. will be subject to the design approval of The Wolfsonian-FIU. This area is subject to negotiation, and the Wolfsonian-FIU may opt to acquire certain items directly for use by the Operator.

1.3.3.9 Contract & Financial Terms:

The Wolfsonian-FIU will consider a contract under which it has no financial responsibility or liability for the day-to-day café operations. The parties will negotiate a revenue sharing arrangement as either a percentage of gross or a monthly fee plus a percentage of gross.
1.3.3.10 Facility Design:

The food service facility design has been completed. A set of drawings is included with this document as APPENDIX IV. If Operator requires or requests any changes to the food preparation equipment, such changes and equipment shall be at Operator’s cost and expense based on mutually agreeable terms and conditions.

Some general assumptions about desired services:

1.3.3.10.1 The Wolfsonian-FIU would like the successful food service operator to:

1.3.3.10.1.1 Provide all marketing, staff, coordination, with point person on premises.

1.3.3.10.1.2 Operate from separate kitchen. There is no kitchen on the Wolfsonian-FIU’s premises.

1.3.3.10.1.3 Promote and book to maximize revenue potential within programmatic, mission, and scheduling parameters appropriate to a museum and agreed on by the parties.

1.3.3.10.1.4 Have a close relationship with the Wolfsonian-FIU’s business and marketing teams and a primary contact point for approvals to ensure smooth coordination.

1.3.3.10.1.5 Provide all alcoholic beverages – caterer will have all appropriate licenses before commencing contract. (Note: Alcohol donated for museum events will be served at cost.)

1.3.3.10.1.6 Have range of mutually agreed on price points to allow for different constituents to be able to reasonably afford nutritious snacks, meals such as box lunches for tour groups. We want community groups to be able to have some affordable options.

1.3.3.10.1.7 Coordinate and provide food, décor, tables, chairs, etc., for all catered facility rental-type events. The Wolfsonian-FIU will serve as an agent for space rental. The Wolfsonian-FIU will set fees for different areas in consultation with the caterer.
1.3.3.10.1.8 Parties will negotiate as to who will provide all ‘loss items’ unless otherwise agreed. No disposable utensils, cups, mugs, dishware, etc. The design and presentation of all such items is to be mutually agreed on.

1.3.3.10.1.9 Provide and direct all staffing, register, software. Staff may be subject to dress code and must recognize they fill an important interface with the public in representing the museum.

1.3.3.10.1.10 Maintain a clean and sanitary operation consistent with health code and all legal requirements and as needed to maintain the safety of the historic building, the museum collections, and safety of staff and patrons.

1.3.3.11 Other information

1.3.3.11.1 Museum Attendance:

Ending June 30, 2009, the Wolfsonian-FIU’s attendance was approximately 35,000.

1.3.3.11.2 Facility Rentals:

Approximately 10-12 rentals per year.

1.3.3.11.3 Internal Events/Business:

1.3.3.11.3.1 For an idea of some of our internal museum-related patterns:

1.3.3.11.3.2 The Wolfsonian-FIU typically does 3 openings a year and 4 - 6 member receptions or events. Food is often served (wine and cheese – modest platters) at educational programs. We do 2 or 3 buffet dinners yearly, often following opening geared towards board members, donors, and potential donors. Approximately 3 to 4 board meetings per year at which either informal breakfast or lunch is served.

1.3.3.12 Special Event Spaces, Catering Services & Facility Rentals
1.3.3.12.1 There are several possible special event spaces, including but not necessarily limited to the café/retail space, Lobby, Education Room, Auditorium that may be available for facility (outside groups and organizations) and internal events. All are subject to scheduling in coordination with the Wolfsonian-FIU’s internal programs which will take precedence as a scheduling matter.

1.3.3.12.2 Caterer will provide tables, chairs and other materials required for special events.

1.3.3.12.3 Caterer will be responsible for all room set-ups (tables, chairs, audio visual, etc.).

1.3.3.12.4 Wolfsonian-FIU anticipates that its building and facilities are a very popular special event venue for Wolfsonian-FIU sponsored internal events as well as outside groups and organizations (external customers) seeking a unique venue for their special event. The Wolfsonian-FIU will provide a key staff liaison to work with Operator to support of optimizing facility rentals to approved outside groups and organizations.

1.3.3.12.5 Wolfsonian-FIU will maintain and control the reservation book for all spaces.

1.3.3.12.6 Consistent with Wolfsonian-FIU’s goals to make all aspects of its food services -- particularly external facility rentals -- a very popular and profitable activity for the Wolfsonian-FIU, it is the Wolfsonian-FIU’s intention to provide whatever reasonable support and resources are necessary to optimize short-term and long-term opportunities in this regard.

1.3.3.12.7 It is important that the caterer be able to provide a variety of services, menus, and pricing in order to meet the needs of both internal and external customers. The ideal prospective Caterer will be able to demonstrate the ability to meet a large constituency of clients and needs, from the most simple and inexpensive to very fancy, intricate and expensive. For example, this may include simple,
low budget meetings requiring cookies, bagels, or chips and dips, box lunches for tour groups, or possibly specific ethnic catering such as strictly Kosher, Indian or other cuisine.

1.3.3.12.8 The Wolfsonian-FIU intends to use the caterer’s food services for its internal events but reserves the right to directly purchase and serve food at staff meetings, similar working situations, or at the discretion of museum.

1.3.3.12.9 The Wolfsonian-FIU reserves the right to receive donated catering (beverages) for Internal Events and/or its own programs. The caterer will provide service and set-up for donated beverages based on its actual cost of providing the service.

1.3.3.12.10 The Wolfsonian-FIU will handle the booking of all events at the Wolfsonian-FIU, both “Internal” (Wolfsonian-FIU sponsored and/or paid for events) and “External” (outside groups and organizations) and will have sole and absolute approval of the types and sizes of events and outside groups and organizations that may book events at the Wolfsonian-FIU. As compared to many similar museums, the Wolfsonian-FIU has a liberal policy in this regard.

1.3.3.12.11 Outside groups and organizations will pay a facility rental fee (and possibly other related charges) directly to the Wolfsonian-FIU.

1.3.13 Alcoholic Beverage Service

1.3.13.1 The Operator will own and maintain the alcoholic beverage license covering the services at the Wolfsonian-FIU. The Operator will be responsible for all operating costs and expenses as it relates to alcoholic beverage services including beverages, staff related, and supplies.

1.3.13.2 The Wolfsonian-FIU reserves the right to receive and use donated alcoholic beverages at and for Wolfsonian-FIU sponsored events. In the case of donated products the Wolfsonian-FIU may engage the services of the Operator for set-up and service
of these donated products at actual cost to Operator for providing the services.

1.3.3.14 Carts

Carts are not contemplated at this time. However, there may be an opportunity to add this service(s) in future years.

1.3.3.15 Tour Groups

Historically and currently the Wolfsonian-FIU does not market box lunches to these groups. However, the museum store/café space and/or Lobby should have sufficient lunchtime seating capacity to increase the level of activity in this regard. The Wolfsonian-FIU will work with its foodservice operator and the tour operators to try increase this service and revenue for the foodservice operator and the Wolfsonian-FIU.

1.3.3.16 Exclusive Pouring Rights

Operator will be subject to the exclusive pouring rights arrangements made by Florida International University. Café operator will use products subject to FIU contract. For instance, café operator must serve Pepsi products.

1.3.3.17 List of Equipment:

1.3.3.17.1 Walk in cooler
1.3.3.17.2 Condensing unit for cooler
1.3.3.17.3 Evaporator for cooler
1.3.3.17.4 Three compartment sink with overhead shelving
1.3.3.17.5 Hand sink
1.3.3.17.6 Ice machine with ice bin
1.3.3.17.7 Work table with overhead shelving
1.3.3.17.8 Two door refrigeration with glass front
1.3.3.17.9 Under counter freezer
1.3.3.17.10 Coffee machine
1.3.3.17.11 Dishwasher

1.4 Solicitation Response

Each Vendor shall organize its solicitation response to provide the following information in order to assist FIU in the selection, evaluation and award process.

Tab 1 - Appendix I Conditions and Requirements, completed and signed, along with Vendor’s and any specific requests for changes to terms and conditions, if any.
The Vendor must initial the designated items, in **APPENDIX I**, indicating that the Vendor understands and agrees to the terms and conditions as provided in this competitive solicitation. If the Vendor wants to request additional language or specific changes to the terms and conditions, Vendor must specifically do so in Vendor’s solicitation response and include such requests with **APPENDIX I**. Please be advised that FIU, as a State university, must adhere to applicable laws and regulations and therefore certain terms and conditions may not be altered.

**Tab 2 - CONCEPT**

Please describe how food and beverage offerings might relate to the museum substantively
Please describe intellectual content – food/culture ideas
Please provide a mock menu with prices.
Please provide a proposed operating hours and staffing.
Please provide a description of local market for café offerings and event catering.
Please provide your company’s market strategies for the potential to make the café become a destination restaurant.
Please describe museum environment/insurance issues (background checks will be required for café employees)
Demonstrate your company’s ability and experience in a museum environment.
Demonstrate your company’s understanding of The Wolfsonian-FIU concept for food services/creativity of approach.
**For catering services - Please demonstrate your company’s flexibility and ability to deliver a wide range of events.**
Provide any information regarding your concept that you feel is important.

**Tab 3 - FINANCIAL PLAN**

Provide statement of company financial stability.

Describe possible financial arrangement might include payment to the Wolfsonian-FIU a minimum annual payment plus a percentage of gross revenue -- or simply percentage of gross revenue.

Please outline in detail a financial plan which includes all the financial information and incentives to successfully perform this contract.

**Tab 4 - STATEMENT OF EXPERIENCE AND BUSINESS HISTORY**
Please describe in detail your company’s history, how many years you have been in business and the resumes of your company’s officers and the management team that will be taking care of the day to day operations. Demonstrate your company’s ability to staff key personnel; experience in staffing and personnel management. Please provide the resumes of the key personnel that will the Wolfsonian-FIU will be working with directly and indirectly. Please include a list of their duties as well.

FOR Catering Please describe events that you have catered and list of references.

Tab 5 - NATIONAL MARKETING PLAN

Please describe proposed national marketing plan. This is desired but not required.

Tab 6 - The completed competitive solicitation document, along with completed Addenda Acknowledgement Forms, if any. The Vendor shall complete, sign and date the document, but shall not alter the language provided in this competitive solicitation document or the Addenda in any way; any such alterations are void.

Tab 7 - Information regarding alternate brands or equivalent products being offered by Vendor, if any.

Tab 8 - Information regarding subcontractors (list of subcontractors with services to be provided by each and amount Vendor will pay to each; Vendor’s certification that subcontractors are appropriately licensed and registered with the State of Florida).

Tab 9 - Appendix II, completed, signed and dated.

Tab 10 - Insurance - letter or certificate from Vendor’s insurer.

Tab 11 - Vendor’s Services and Warranties, if applicable.

Tab 12 - Disclosures regarding: (a) Vendor employees having employment relationship with FIU, State of Florida or any Florida State Agencies AND/OR (b) any FIU or State employee(s) owning an interest of 5% or more of Vendor’s company or its affiliates or branches.

Tab 13 - Additional information requested in the competitive solicitation and/or addenda, if applicable.

Tab 14 - Additional pertinent information Vendor would like to provide.
1.5 Evaluation Points

The evaluation criteria and points are provided below.

Table A –

<table>
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<th>Criteria</th>
<th>Max Points</th>
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<tbody>
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<td>FINANCIAL PLAN</td>
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<td>35</td>
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<tr>
<td>Evaluation of Solicitation Responses Point Total</td>
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</tr>
</tbody>
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1.5.1 Evaluation Criteria

1.5.1.1 Concept
A general statement about your thoughts on overall concept. Areas that will be considered in this criteria include but are not limited to:

1.5.1.1.1 How the menu offerings might complement the collection or the concept of the museum.
1.5.1.1.2 How food and beverage offerings might relate to the museum substantively.
1.5.1.1.3 Intellectual content – food/culture ideas
1.5.1.1.4 A mock menu with prices.
1.5.1.1.5 A proposed operating hours and staffing.
1.5.1.1.6 A description of local market for café offerings and event catering.
1.5.1.1.7 Demonstrate how your company’s market strategies for the potential to make the café become a destination restaurant.
1.5.1.1.8 Demonstrate your company’s ability to operate in a museum environment and handle any insurance issues. (background checks are required for café employees)
1.5.1.1.9 Demonstrate your company’s ability and experience in a museum environment.
1.5.1.1.10 Demonstrate your company’s understanding of The Wolfsonian-FIU concept for food services/creativity of approach.
1.5.1.11 Demonstrate your company’s flexibility and ability to deliver a wide range of events.

1.5.1.2 Financial Plan
This portion may be notional as it will be worked out in negotiation. We do seek a revenue stream and provide an important amenity for visitors. We are open to discussing the specific financial arrangements when we negotiate the details. We do expect the successful party to be able to cover all expenses of the food service activity including but not limited to any capital investment, labor, food, permits, and insurance. We ask that general assumptions and projections be presented in your response. A possible arrangement might include payment to the Wolfsonian-FIU a minimum annual payment plus a percentage of gross revenue -- or simply percentage of gross revenue. Please outline in detail a financial plan which includes all the financial information and incentives to successfully perform this contract.

1.5.1.3 Statement of Experience and Business History
1.5.1.3.1 The following areas will be considered in evaluations. The criteria includes: your company’s history, how many years you have been in business and the resumes of your company’s officers and the management team that will be taking care of the day to day operations.

1.5.1.3.2 Ability to staff key personnel; experience in staffing and personnel management. The resumes of key personnel staff.

1.6 Definitions
“Authorized FIU Representative” means the FIU Purchasing representative assigned to handle all Vendor communications related to this competitive solicitation. (See Section 2.1)

“Contract” means the formal bilateral agreement signed by the representatives of FIU and the Successful Vendor which will incorporate this competitive solicitation, including those terms and conditions in Appendix III, and the Vendor’s solicitation response.

“Successful Vendor” means a firm or individual who is awarded a contract under this competitive solicitation.

“Vendor” means a proposer who submits a timely solicitation response to this competitive solicitation.

“Website” means the FIU Purchasing Services Department’s website at http://finance.fiu.edu/purchasing.
The words “shall”, “must”, or “will” are equivalent and indicate mandatory requirements or conditions. FIU will not waive Vendor’s material deviation from any of the mandatory requirements.

The words “should” or “may” are equivalent and indicate very desirable conditions or requirements. Vendor’s deviation from any such desirable conditions or requirements may result in Vendor’s solicitation response being considered as not being in FIU’s best interest.

1.7 FIU Environment

Florida International University, a part of the State University System of Florida, operates two campuses in Miami-Dade County and two educational sites in Broward County. The main campus, Modesto A. Maidique Campus, is located in West Dade and has approximately 38,000 students, almost 1,000 full-time faculty and over 130,000 alumni, making it the largest university in South Florida. The Modesto A. Maidique Campus occupies 342 acres of land which contributes to the pleasant collegiate atmosphere encompassing an environmental preserve, library, residence halls, sports arena and other wonderful attributes. Biscayne Bay Campus is the hub for FIU’s community outreach efforts. It serves as the host campus to The Elders Institute, The Institute of Government, The Institute for Public Opinion Research, The Roz and Cal Kovens Conference Center, and The Southeast Florida Center on Aging. The Biscayne Bay Campus is located on 200 acres on Biscayne Bay and has approximately 8,000 students. The Broward Campus is served cooperatively by FIU and FAU with locations on the campus of Broward Community College in Davie and the University Tower in downtown Ft. Lauderdale. Additionally, FIU has a Center for Engineering and Applied Science, a 38-acre urban research and training complex located on the corner of N.W. 107th Avenue and Flagler Street in West Dade. The building consists of 180,000 usable square feet, housing approximately 500 employees and numerous classes and research labs.

Florida International University offers over 200 academic programs at the bachelor’s, master’s and doctorate degree levels in 17 colleges and schools. It is an urban institution with a rich and diverse, multi-cultural population of faculty, staff and students.

1.7.1 General Description of Facilities of The Wolfsonian-FIU

This description of our Facilities is provided for your information. Catering services will not be required and/or permitted in all of these locations. **Locations that we anticipate being available for catering operations are marked with an asterisk (****).**

The Wolfsonian’s public activities are housed in a restored 1927 Mediterranean Revival building, which in 1992 was renovated and enlarged for the new museum—a seven-story, 56,000-square-foot, state-of-the-art facility. Located at 1001 Washington Avenue, Miami Beach, this facility houses The Wolfsonian's auditorium and museum shop (first floor), administrative offices (second and fourth floors), library (third floor), small objects and paintings (fourth floor), and exhibition galleries (fifth through seventh floors).
*The Wolfsonian’s entrance lobby (first floor) features high-vaulted ceilings, ornamental stonework, and an elegant Art Deco fountain. It serves as an appropriate setting for receptions (up to 150 people), ceremonies, or private dinners (up to 70 people).

*The Wolfsonian’s auditorium serves as a lecture hall or screening facility (10.5’ x 10.5’ screen). It is a graded space with seating for an audience of 110. Two slide projectors, an audio system, Internet access, and lectern with remote controls are available. Additional up-to-date AV amenities were recently added, significantly improving the quality of sound and projection capability. The space is illuminated by five spectacular Art Deco chandeliers.

*The second-floor lobby features furniture, which was originally designed for the Stazione Centrale di Milano (1913-30) first-class waiting room, by Ulisse Stacchini (Italian, 1871-1947), can also accommodate small receptions and private dinners. The adjacent conference room (33’ x 15’) is distinguished by a set of brilliantly colored Art Deco stained-glass panels originally from the Norris Theater, in Norristown, Pennsylvania. The sleek conference table comfortably seats 20 people. Also available are a slide projector and screen, television, VCR, microphone, and Internet access. There is an adjacent kitchen with full accommodations to enable food service.

*The museum café/shop is highly visible along the heavily trafficked Washington Avenue. The space of approximately 2,400 square feet will front one of the busiest commercial streets on Miami Beach. With café seating for approximately 47 and a preparation area, the shop combines retail and culinary offerings. Additional sidewalk seating could be added by permit from the city of Miami Beach for year-round or seasonal sidewalk service. Drawings are provided for reference in APPENDIX IV.

Additionally, the Wolfsonian's remaining object collections are housed in The Annex, a 28,000-square-foot, historic warehouse, also located in South Beach.

2.0 PROCESS

2.1 Authorized FIU Representative/Vendor’s Submission of Solicitation Response

The Authorized FIU Representative for this competitive solicitation is:

**CHANDRA NIX**  
FLORIDA INTERNATIONAL UNIVERSITY  
MODESTO A. MAIDIQUE CAMPUS  
PURCHASING SERVICES DEPARTMENT  
CAMPUS SUPPORT COMPLEX – CSC 411  
11200 S.W. 8th Street  
MIAMI, FLORIDA 33199  
EMAIL: NIXC@FIU.EDU
Vendor must submit its sealed solicitation response to the Authorized FIU Representative at the address stated immediately above.

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

2.2 Vendor Communications and/or Inquiries

The Vendor shall review this competitive solicitation in its entirety to determine whether FIU’s objective, scope of services, conditions and requirements are clearly stated. If Vendor has any questions regarding this competitive solicitation, Vendor must submit such inquiries and requests for clarification via email only to the Authorized FIU Representative at NIXC@FIU.EDU. The Vendor’s 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 competitive solicitation being questioned by the Vendor.

FIU will consider only those communications and/or inquiries submitted via email and received by the Authorized FIU Representative on or before the Inquiry Deadline Date specified in Section 1.2, “Calendar of Events”. Unless the Authorized FIU Representative specifically requests Vendor to provide additional communications, FIU will not accept or consider any of Vendor’s written or other communications and/or inquiries (except solicitation response) received between the Inquiry Deadline Date and the posting of an award, if any, under this competitive solicitation.

To the extent FIU determines, in its sole discretion, to respond to any communications, inquiries or requests for clarification, FIU’s response will be made in an addendum to this competitive solicitation and posted on the Website.

FIU will consider the Vendor’s failure to communicate inquiries, or request clarifications by the Inquiry Deadline Date to constitute the Vendor’s acceptance of all of the conditions and requirements as stated in the competitive solicitation documents.

2.3 Restricted Vendor Communications

From the date of issuance of this competitive solicitation until FIU takes final agency action, the Vendor must not communicate with any FIU employees, Evaluation Committee members or FIU representatives regarding this competitive solicitation or Vendor’s solicitation response except as provided herein or as expressly requested by the Authorized FIU Representative. Violation of this restriction may result in rejection of the Vendor’s solicitation response.

2.4 Addenda

Purchasing Services will post any Addenda to this competitive solicitation along with Addenda Acknowledgment Forms on the Website. The Vendor’s authorized representative must sign and date the Addenda Acknowledgment Form(s), if any, and include the form(s) in the Vendor’s solicitation response. All vendors, including known interested vendors, are solely responsible
for checking the Website periodically to verify whether any such Addenda and forms were issued.

2.5 Protests

Any Vendor/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 shall file a protest in compliance the Florida Board of Governors’ regulations. Failure to file a protest in accordance with Florida Board of Governors’ regulation 18.002, or failure to post the bond or other security as required in BOG regulations 18.002 and 18.003 shall constitute a waiver of protest proceedings.

2.6 Delivery and Labeling of Sealed Solicitation Response

Vendor’s solicitation response to this competitive solicitation shall be prepared in accordance with Section 1.4, “Solicitation Response”. Vendor’s sealed solicitation response must be received by the Authorized FIU Representative on or before the Solicitation Response Due Date and time specified in Section 1.2, “Calendar of Events” at Florida International University, Modesto A. Maidique Campus, Purchasing Services Department, Campus Support Complex, CSC 411, 11200 S.W. 8th Street, Miami, Florida 33199 according to the time clock in FIU’s Purchasing Services Department. Vendor may not submit its solicitation response, or amendments to its solicitation response via telephone, facsimile, electronic mail, or telegraph.

If the Vendor elects to mail in its solicitation response package, the Vendor must allow sufficient time to ensure the Authorized FIU Representative’s receipt of the solicitation response package by the Solicitation Response Due Date and time. Regardless of the form of delivery, it is the Vendor’s responsibility to ensure that the solicitation response package arrives at the Authorized FIU Representative’s mailing address (See Section 2.1) no later than 2:00 p.m. on the Solicitation Response Due Date. Vendor may not include more than one solicitation response (along with the copies) per sealed envelope.

FIU will accept solicitation responses up to, and no solicitation responses may be withdrawn after, the Solicitation Response Due Date and time. Solicitation responses must be delivered in sealed envelopes with the following information clearly provided on the front of the envelope: The Authorized FIU Representative’s name and address as provided in Section 2.1 and ITN90-009 The Wolfsonian-FIU Museum Café Operations and Catering Services and the date and time of the Solicitation Response Due Date. The solicitation response must be submitted in one (1) original and SIX (6) copies. The document containing the original signature must be marked “ORIGINAL.” In addition, Vendor is asked to submit one (1) courtesy copy of the solicitation response on CD or PC compatible disk, preferably in .pdf format.

2.7 Required Solicitation Response Format

To facilitate FIU’s analysis of Vendor’s solicitation response, the Vendor must prepare its solicitation response in accordance with the instructions provided in this competitive solicitation.
If Vendor’s solicitation response deviates from these instructions, such solicitation response may, in FIU’s sole discretion, be rejected.

2.8 Economy of Presentation

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

2.9 Solicitation Responses Must be in Ink or Typed

Vendor’s solicitation response must be typed or printed in permanent ink.

2.10 Vendor’s Signature

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

2.11 Complete Responses Required

Vendor must complete and execute this competitive solicitation document, including any addenda, appendices, exhibits, attachments, requested information and response forms and submit them with and as a part of Vendor’s sealed solicitation response.

2.12 Use of Forms

If this competitive solicitation includes forms for the submission of information, the Vendor must submit the requested information on the forms, attaching additional pages if necessary, or FIU may reject the Vendor’s solicitation response.

2.13 Errors or Omissions

Vendor should examine its solicitation response carefully for any errors prior to submission. The Vendor is solely responsible for the accuracy and completeness of its solicitation response. The Vendor’s errors or omissions, if any, are solely at the risk of the Vendor and may be grounds for FIU’s finding that the Vendor’s solicitation response is non-responsive. In case of Vendor’s errors in extensions, the unit price will prevail.
2.14 Solicitation Response Validity Period

Vendor’s solicitation response, shall in its entirety, remain valid for 180 calendar days after the Solicitation Response Due Date.

2.15 Solicitation Response Opening

At 2:00 p.m. on the Solicitation Response Due Date, FIU will open all timely submitted solicitation responses for the sole purpose of recording the names of the Vendors submitting solicitation responses.

3.0 SELECTION PROCESS, EVALUATION PROCESS AND CRITERIA

3.1 Selection process

FIU will conduct the following selection process:

3.1.1 Proposals will be evaluated by an ITN Evaluation Committee (“Committee”) to determine a short list of Vendors who’s written Proposals best address the University’s priorities, as previously stated in the Section titled “Evaluation Criteria”. The Committee members may consist of University Faculty, Staff, Students, and designated experts. Those Vendors selected for the short list will continue in the evaluation process, which may involve site visits, Vendor presentations, Vendor management team interviews, negotiations, and evaluation of the Vendor’s best and final offer.

3.1.2 The determination of the Vendors selected for the short list with which negotiations may be held will be based on evaluation of the Vendors’ Proposals. There will be no opportunity for presentations at this stage. Proposals must provide complete, accurate, and detailed information in response to the instructions in the competitive solicitation.

3.1.3 The short listed Vendors may be required to submit a listing of other similar accounts which the Committee may contact for reference. The Evaluation Committee may also meet with the Vendors individually to discuss their capabilities and plan for servicing FIU. The Negotiation Team will negotiate with the short-listed Vendors. After negotiations have been completed to the satisfaction of the Negotiation Team, the short listed companies will be given a deadline for submission of a “best and final” offer. The negotiation process will stop upon submission of the “best and final” offers. Vendors will not be allowed to make further adjustments to their offer or communicate further with the University, except to respond to requests for clarification from the Evaluation Committee. The final recommendation of the Evaluation Committee will be based upon the initial written Proposal, site visits, references, discussions, interviews,
3.1.4 The University reserves the right to award to the next highest evaluated, responsive and responsible Vendor in the event of the Successful Vendor’s default, non-performance, non-compliance or similar issues affecting the University’s ability to obtain services at any time throughout the Contract period.

3.1.5 Award will not be based solely on price, but rather an evaluation of all aspects of the Vendor’s proposal to determine which Proposal is most advantageous to FIU. FIU reserves the right to select the proposal(s) deemed to be in the best interests of the University.

3.1.6 The selection of a Vendor for an award is approved by the Provost & Executive Vice President and subsequently the Director of Purchasing.

3.2 Cash Discounts

The Evaluation Committee will not consider cash discounts for prompt payment when determining the lowest net cost for solicitation response evaluation purposes.

3.3 Tie Responses

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

3.4 Contract Award

FIU intends to award a Contract or Contracts resulting from this competitive solicitation to the Successful Vendor(s) whose solicitation response(s) represent the best value to FIU. The Contract will include this competitive solicitation document, and the Successful Vendor’s solicitation response, and all the terms and conditions found on the Sample Contract. (The Sample Contract is attached as APPENDIX III.) The Contract will also incorporate any clarifications, and if negotiations are conducted, any additional terms and conditions that are negotiated.

3.4.1 FIU reserves the right to award a Contract without negotiations with the Vendor; therefore, the Vendor’s solicitation response should contain the Vendor’s best terms from a cost or price and technical standpoint.
3.4.2 FIU reserves the right to make an award on any item or service for a quantity less than the quantity offered, at the unit cost or unit prices offered, unless the Vendor specifies otherwise in the Vendor’s solicitation response.

3.4.3 Unless otherwise provided in this competitive solicitation, FIU reserves the right to make multiple awards if, after considering the additional administrative costs, it is in FIU’s best interest to do so.

3.4.4 FIU reserves the right to award the commodity specified and/or the services detailed in this competitive solicitation either in their entirety or in any part thereof, all to the advantage of FIU.

3.4.5 FIU may reject all solicitation responses if such action is in FIU’s best interest.

3.4.6 FIU reserves the right and sole discretion to reject any solicitation response at any time on grounds that include, but are not limited to, Vendor’s solicitation response being found to be nonresponsive, incomplete, or irregular in any way; or when Vendor’s solicitation response is not in FIU’s best interest. FIU may waive formalities and minor irregularities in solicitation responses.

FIU is not obligated to make an award under or as a result of this competitive solicitation. FIU reserves the right to award a contract, to the Vendor(s) submitting a solicitation response that FIU, in its sole discretion, determines is in FIU’s best interest.

3.5 Posting of Intent to Award/Protest

The Intent to Award to a Vendor, if any, will be posted on the Website for review by interested parties, and will remain posted for a period of seventy-two (72) hours; excluding weekends, federal holidays, and FIU holidays.

Failure to file a notice of protest or the written petition in accordance with the Florida Board of Governors’ Regulation 18.002, or Vendor’s failure to post the Solicitation Protest Bond or other security as required in the Board of Governor’s Regulations 18.002 and 18.003, shall constitute a waiver of the right to protest proceedings.

3.6 Commencement of Work

Vendor/Successful Vendor will not provide any commodities or services or take any action, even if such is as a result of any discussions with any FIU employee, prior to the Contract being signed by both parties. If Vendor/Successful Vendor provides services or commodities or takes any action prior to the Contract being signed by both parties, the Vendor/Successful Vendor does so at Vendor/Successful Vendor’s sole risk and expense.

3.7 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
Vendor may offer any brand for which Vendor is an authorized representative, where such brand meets or exceeds the specifications for any item. Likewise, customary measurements appearing in the competitive solicitation are not intended to preclude solicitation responses for commodities with equivalent metric measurements. All items provided by Vendor will be new items.

If Vendor’s solicitation response is based on an alternate brand or equivalent product, Vendor must indicate the manufacturer’s name and product number on the Vendor’s solicitation response for such alternate brand or equivalent product. Vendor shall submit cuts sketches and descriptive literature, and/or complete specifications of the alternate brand or equivalent product with the solicitation response. Vendor may not reference information or literature submitted with a previous solicitation response. The Vendor shall also explain in detail the reasons why the proposed equivalent will meet the specifications and why it should not be considered an exception thereto. The University reserves the right to approve or reject an item as an approved alternate brand or equivalent product.

If Vendor’s solicitation response lacks any written indication of intent to propose an alternate brand or equivalent product, Vendor’s solicitation response will be received and considered by FIU to be for items that are in absolute compliance (including as to brand and measurement) with the specifications as written in the competitive solicitation.

4.0 SPECIFIC TERMS

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5.0 GENERAL TERMS

5.1 Insurance

The Successful Vendor shall provide and keep in full force and effect during the term of Contract, at the Successful Vendor’s own cost and expense, the following insurance policies for the joint benefit of the Successful Vendor and FIU, with an insurer reasonably acceptable to FIU:

- Commercial General Liability $2,000,000 Aggregate (minimum)
- (a) Bodily Injury & Property Damage $2,000,000 Each Occurrence (minimum)
- (b) Products/Completed Operations $1,000,000
- (c) Advertising & Personal Injury $Optional
- (d) Contractual Liability $1,000,000
- (e) Medical Payments $Optional

Automobile Liability $300,000 (minimum) (owned/non-owned/leased)

Additional Insurance:
- Workers’ Compensation Statutory Limits
In order for Vendor to show that it can satisfy this requirement, the Vendor must include in its solicitation response one of the following:

a. A letter from Vendor’s insurer stating that the Vendor meets the currently specified insurance requirements, or

b. A commitment letter from an insurer that if awarded a contract, Successful Vendor will have access to such coverage.

The Successful Vendor shall deliver to: FIU Purchasing Services Department, Campus Support Complex, CSC 411, 11200 S.W. 8th Street, Miami, Florida 33199, true and correct copies of certificates of such insurance within ten (10) business days of notice of formal award.

The certificates shall indicate that the policy carries an endorsement (no more restrictive than CG 20 10) which names The Florida International University Board of Trustees, Florida International University, the State of Florida, The Florida Board of Governors, and their respective trustees, directors, officers, employees and agents, are additional insureds. The Successful Vendor’s policy shall be primary and that any insurance carried by FIU shall be noncontributing with respect thereto.

The policies shall provide for thirty (30) days prior written notice to FIU in the event of cancellation or reduction in coverage or amount. If the Successful Vendor fails to secure and maintain insurance policies complying with the provisions of this agreement, FIU may terminate the Contract. Successful Vendor shall do nothing that will adversely affect FIU, in any way, including increasing risks, insurance premiums or liability.

In addition to the insurance required to be obtained and maintained by the Successful Vendor, if the Successful Vendor assigns any portion of the duties under the Contract in accordance with the terms thereof, each subcontractor or assignee is required to purchase and maintain the same insurance coverage required herein.

The Successful Vendor shall immediately notify FIU if the Successful Vendor's Commercial General Liability insurance contains any restrictive endorsements other than those restrictive endorsements normally included on standard ISO Commercial General Liability occurrence or claims made forms.

FIU reserves the right to cancel any award made or cancel the Contract if Successful Vendor fails to supply and/or maintain the required coverage.

Should Vendor take exception to the stated insurance requirements in its solicitation response, such will be grounds for disqualifying Vendor’s solicitation response.

The absence of a demand for any type of insurance certificates or policy or insurance condition, or for higher coverage limits shall not be construed as a waiver of the Successful Vendor’s obligations to carry and maintain the appropriate types of insurances at limits that are appropriate to the liability exposure associated with this Agreement. FIU does not represent that coverage
and the limits specified herein will necessarily be adequate to cover Successful Vendor’s liability.

Successful Vendor’s procuring of the required insurance shall not relieve the Vendor of any obligation or liability assumed under the Contract, including specifically the indemnity obligations. The Successful Vendor may carry, at his own expense, such additional insurance, as Vendor deems necessary. FIU recommends that the Successful Vendor obtain and maintain a policy of business interruption insurance. The Successful Vendor shall assist and cooperate in every manner possible in connection with the adjustment of all claims arising out of Vendor’s operations within the scope provided for under the Contract, and shall cooperate in all litigated claims and demands, arising from said operations, which its insurance carrier or carriers are requested to respond.

5.2 Workers’ Compensation

The Successful Vendor shall have and maintain during the life of the Contract, Workers’ Compensation Insurance for all of its employees connected with the work related to the competitive solicitation. In the event any work related to the competitive solicitation is sublet or subcontracted, the Vendor shall require the subcontractor similarly to provide Workers’ Compensation Insurance for all of the latter’s employees unless such employees are covered by the protection afforded by the Vendor. Such insurance shall comply fully with the Florida Workers’ Compensation law. In case any class of employees engaged in hazardous work under the Contract at the site of the project is not protected under Workers’ Compensation, the Vendor shall provide, and cause each subcontractor to provide, adequate insurance for the protection of such employees.

5.3 Software Warranty and Back up

If Successful Vendor is providing software to FIU, Vendor 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, FIU 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 Contract.

5.4 Services and Warranty

If Vendor will be providing services and warranties on the commodities and services that will be in addition to the services and warranties that are required in this competitive solicitation, then Vendor shall define and describe in its solicitation response such additional services and warranties, including replacement of items, that Vendor will provide.

The Successful Vendor will supply FIU with a complete and accurate W-9 and Vendor Application, available on the Website; if Vendor fails to supply the University with a complete and accurate W-9 and Vendor Application, the invoice will be deemed insufficient for payment until such information has been provided.
5.5 Safety

FIU seeks to furnish its students and employees with a place of work and study 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 Successful Vendor 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.

5.6 Compliance With Laws and Regulations

The Successful Vendor shall use its best efforts to assure that Vendor and its employees, agents and subcontractors comply with all applicable laws and FIU’s site regulations while performing the Contract and/or while on the University’s premises.

5.7 Parking

The Successful Vendor(s) will be responsible for obtaining parking for employees. The parking behind the building is available for preparation of events as needed.

5.8 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 FIU; and may not transact business with FIU 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, Vendor is certifying that Vendor is not on the convicted vendor list maintained by the Florida Department of Management Services, and Vendor is also certifying that any subcontractor listed in Vendor’s solicitation response is not on the convicted vendor list.

5.9 Waiver of Rights and Breaches

No right conferred on FIU by this competitive solicitation or resulting Contract, if any, shall be deemed waived and no breach of any such Contract excused, unless such waiver of right or excuse of breach is in writing and signed by FIU. FIU’s waiver of a right or breach shall not constitute a waiver or excuse of any other right or breach.

5.10 Conflict of Interest

The award of this competitive solicitation is subject to the provisions of Florida Statutes Chapter 112. Vendor must disclose in its solicitation response the name of any officer, director, or agent of the Vendor who is also an employee of FIU, or of the State of Florida or of any of its agencies.
Further, Vendor must disclose in its solicitation response the name of any FIU or State employee who owns, directly or indirectly, an interest of five (5%) or more of the Vendor’s company or any of its affiliates or branches.

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

Failure to disclose the required information or violation of Section 112.3185, Florida Statutes, shall be grounds for rejection of Vendor’s solicitation response, cancellation of an intent to award, and/or cancellation of any Contract with the Vendor.

5.11 Covenant Against Commissions, or Brokerage and Contingent Fees

By submitting a solicitation response, the Vendor warrants that Vendor has not employed or retained any person or entity, other than a bona fide employee working solely for the Vendor, to solicit or secure any award or Contract resulting from this competitive solicitation or to solicit or secure any other advantage related to this competitive solicitation. By signing a Contract with FIU, Successful Vendor warrants that the Successful Vendor has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the Successful Vendor, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of the Contract. In the event Successful Vendor’s breach or violation of this warranty, FIU has the right to annul any Contract with such Successful Vendor resulting from this competitive solicitation, without liability, and to deduct from any amounts otherwise payable to Vendor under such Contract the full amount of such fee, commission, percentage, gift, or other consideration, and to pursue any other remedy available to FIU under such Contract, at law or in equity.

5.12 Use of Agreement by Other Governmental Agencies

At the option of the Vendor, the use of any agreement resulting from this competitive solicitation may be extended to other governmental entities, including the State of Florida, it agencies, political subdivisions, counties, and cities, and any university in the State University System. Each such entity using such agreement shall do so independently of FIU and shall be solely responsible for its own purchases.

5.13 Disposition of Solicitation Responses

All solicitation responses become the property of FIU, and FIU shall have the right to use all ideas, and/or adaptations of those ideas, contained in any solicitation response received in response to this competitive solicitation. Any parts of the solicitation response, and any other material(s) submitted to FIU with the solicitation response 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. FIU’s selection or rejection of a solicitation response will not affect this exemption.

### 5.14 Licensing Requirements

To the extent applicable, Vendor shall have all appropriate licenses to conduct business in the State of Florida and Miami-Dade County at or prior to award of a contract resulting from this competitive solicitation; Vendor must provide proof of such to FIU as a condition of award of a contract.

### 5.15 Subcontractors

If Vendor contemplates the use of subcontractors, as a further condition of award of a contract, the Vendor must certify in writing that all of its subcontractors are 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, Vendors should contact the Florida Secretary of State’s Office.

The Successful Vendor is fully responsible for all work performed under the Contract resulting from this competitive solicitation. The Successful Vendor may, with the prior written consent of FIU, enter into written subcontract(s) for performance of certain of its functions under such Contract. The subcontractors and the amount of the subcontracts shall be identified in the Vendor's solicitation response. Vendor’s subcontractors shall not be implemented or effective until and unless approved in writing by FIU. No subcontract which the Vendor enters into related to the Contract shall in any way relieve the Vendor of any responsibility for performance of its duties under the Contract. Vendor will fully notify any subcontractors of Vendor’s responsibilities pursuant to the FIU Contract in Vendor’s subcontract(s) with a subcontractor(s) for work related to this competitive solicitation. Vendor is solely responsible for all payments to its subcontractors.

### 5.16 Small Business Minority Enterprise (SMBE) Reporting

It is the FIU’s policy (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.

Vendors are likewise encouraged to use the small, minority and disadvantaged business enterprises and to have a business diversity program in place. The Successful Vendor shall report all minority subcontractors, identifying the Name, Address, Type of Certification and Dollar Amount to FIU with each invoice submitted for payment.

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.

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June 10, 2010
5.17 Equal Opportunity Statement

FIU believes in equal opportunity practices which conform to both the spirit and the letter of all laws against discrimination, and FIU is committed to non-discrimination based on race, color, religion, sex, national origin, Veteran status, marital status, age or disability. The Successful Vendor 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. Successful

The Successful Vendor 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.

The Successful Vendor will comply with the Americans with Disabilities Act (ADA) of 1990, as revised.

If the Vendor anticipates receiving $10,000 in orders during the first 12 months of the Contract, Vendor’s authorized representative must complete, sign and date a Certificate of Non-Segregated Facilities form and include the form in its solicitation response. The certificate is attached as APPENDIX II.

If the Successful Vendor anticipates receiving $50,000 in orders during the first 12 months of the Contract, and employs more than 50 people, the Successful Vendor 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 FIU’s request.

5.18 Vendor’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 Successful Vendor knowingly employs unauthorized aliens, such violation shall be cause for FIU’s unilateral cancellation of the Contract.
APPENDIX I
CONDITIONS AND REQUIREMENTS
SUPPLEMENTAL SOLICITATION RESPONSE SHEET

Those items in the following Sections of this competitive solicitation and the Sections of the Appendix III (Sample Contract) must each be initialed under either YES to indicate that the Vendor understands and agrees to the entire Section or NO to indicate that the Vendor does not agree to the entire Section. Failure to complete and return this document with your solicitation response could result in rejection of your solicitation response. Vendors shall not check items as YES (understood and agreed to) for purposes of submitting a solicitation response with the hopes of later negotiating a change of those conditions and requirements. If a Vendor does not understand or agree with any of the conditions or requirements, the Vendor should attempt to resolve the issue by communicating appropriately with the Authorized FIU Representative prior to the Solicitation Response Due Date. Vendor’s failure to accept said conditions and requirements is grounds for FIU’s rejection of Vendor’s solicitation response.

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VENDOR COMPANY NAME ________________________________________

AUTHORIZED SIGNATURE ________________________________________

TITLE ______________________________________________________

DATE ______________________________________________________

June 10, 2010
APPENDIX II
CERTIFICATE OF NON-SEGREGATED FACILITIES

We, ________________________________, certify to the Florida International 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.
APPENDIX II

CERTIFICATE OF NON-SEGREGATED FACILITIES

SUBPART - VENDOR'S AGREEMENTS

During the performance of this Contract, 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.

VENDOR COMPANY NAME _______________________________________________________

AUTHORIZED SIGNATURE _______________________________________________________

TITLE ________________________________________________________________

DATE ____________________________
APPENDIX III
SAMPLE CONTRACT

THIS CONTRACT is entered into on the date fully executed below between ___________ (“Contractor”) and The Florida International University Board of Trustees, (“FIU”), in award of Competitive Solicitation ___No.____ (“Competitive Solicitation”), for __________________.

W I T N E S S E T H:

WHEREAS, FIU has requested solicitation responses to provide ______ goods and/or services (“services”), pursuant to the Competitive Solicitation, and

WHEREAS, Contractor submitted a solicitation response (“Contractor’s Response”) for the provision of the services, which was accepted by FIU.

NOW, THEREFORE, in consideration of the mutual covenants contained herein the parties agree as follows:

1. **Term.** This Contract commences on _______________ and will continue until ______________ for the initial term.

2. **Contract.** The Contractor will provide the services per the terms and conditions described in the Competitive Solicitation, attached and incorporated as Exhibit I, and Contractor’s Solicitation Response, attached and incorporated as Exhibit II. (Note, Contractor is also referred to as “Vendor” and “Successful Vendor” in Exhibits I and II.) In the event of conflict between or among terms and conditions in documents pertaining to the Services, such documents shall govern in the following order of precedence: First, this document; Second, the Competitive Solicitation; and Third, the Contractor’s Solicitation Response.

3. **Payment.** The Contractor shall submit invoices for fees or other compensation for services or expenses in detail sufficient for a proper pre-audit and post-audit. FIU will make payment in accordance with Florida International University Regulation FIU-2202, which states the Contractor’s rights as a vendor and FIU’s responsibilities concerning interest penalties and time limits for payment of invoices. Upon receipt, the University has five (5) business days to inspect and approve the goods or services. If payment is not issued within 40 days of receipt of a proper invoice and receipt and inspection and approval of the goods and services, FIU 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 Statues, provided the interest penalty is in excess of one dollar ($1.00). A Vendor Ombudsman has been established within the Office of Business and Finance. The duties of this individual include acting as an advocate for vendors who may be experiencing problems in obtaining timely payment from FIU. The Vendor Ombudsman may be contacted at (305) 348-2101.

The Successful Vendor will cooperate with FIU and provide specific records and/or access to all of the Vendor’s records related to the Contract for purposes of conducting an audit or
investigation. FIU will provide Vendor with reasonable notice of the need for such records or access.

4. **Assignment/Modification of Contract.** The Contract may not be assigned or modified by either party except as agreed to in writing and signed by the parties. The Contract shall be binding upon the parties’ successors and assigns.

5. **Sovereign Immunity.** Nothing in the Contract shall be construed as an indemnification of the Contractor by FIU or as a waiver of sovereign immunity beyond that provided in Florida Statutes Section 768.28.

6. **Governing Law.** The Contract is governed by the laws of the State of Florida and venue of any actions arising out of the Contract shall be in the courts in Miami-Dade County, Florida.

7. **Relationship of the Parties.** The Contractor is an independent contractor, and neither Contractor nor Contractor’s employees, agents, or other representatives shall be considered University employees or agents. Contractor shall not use the University’s name, trademarks, logos, or marks without the University’s prior written approval.

8. **Contractor’s Hiring of FIU Employees.** The Contractor shall not, without FIU’s prior written consent, knowingly recruit for engagement, or employ on a full time, part time, or other basis, any individuals who are or have been FIU employees at any time during the Contract term, except for FIU’s regularly retired employees, or any adversely affected State employees. This requirement shall survive termination or expiration of the Contract for a period of one year.

9. **Public Records Law.** FIU is subject to the Public Records Law; therefore, confidential information shall not include information that is a public record pursuant to Florida law (Florida Statutes Chapter 119), and FIU will respond to public records requests without any duty to give Contractor prior notice. This provision shall survive termination or expiration of the Contract. FIU may unilaterally cancel this Agreement for Contractor’s refusal to allow public access to all public records that were made or received in conjunction with this Contract.

10. **Annual Appropriations.** FIU’s performance and obligation to pay under the Contract is subject to and contingent upon the availability of funds appropriated by the Florida Legislature or otherwise lawfully expendable for the purposes of such Contract for the current and future periods. FIU will give notice to the Contractor of the non-availability of funds when FIU has knowledge thereof. Upon receipt of such notice by Contractor, Contractor is entitled to payment only for those services performed and accepted by FIU prior to the date such notice is received.

11. **Taxes.** The University is a tax immune sovereign and exempt from the payment of sales, use or excise taxes. The Contractor shall pay all personal property taxes on leased equipment and all taxes based upon net income.
12. **Travel Expenses.** Contractor shall not charge FIU for any travel expenses, meals, and lodging unless otherwise provided in the Contract, and FIU's prior written approval of the expenses has been obtained. Under such circumstances, Contractor is authorized to incur the agreed to travel expenses which will be payable by FIU, but only to the extent permitted in Florida Statutes § 112.061 and the FIU Policy 1110.060 Travel: University Travel Expense Policy, which is available at <http://policies.fiu.edu/record_profile.php?id=548&s=travel>. Contractor is responsible for any expenses in excess of the prescribed amounts.

13. **Force Majeure.** No default, delay or failure to perform on the part of the either party shall be considered a default, delay or failure to perform otherwise chargeable, hereunder, if such default, delay or failure to perform is due to causes beyond either party’s reasonable control including, but not limited to, strikes, lockouts or inactions of governmental authorities; epidemics; acts of terrorism; war; embargoes; fire; earthquakes; hurricanes; acts of God; or default of common carrier. In the event of such default, delay or failure to perform, any date or times by which either party is otherwise scheduled to perform shall be extended automatically for a period of time equal in duration to the time lost by reason of the excused default, delay or failure to perform.

14. **Indemnification.** The Contractor is responsible for its performance under the Contract. The Contractor will indemnify and hold harmless, assume liability for and defend, the State of Florida, the Florida Board of Governors, the Florida International University Board of Trustees and their officers, employees, and agents, from and against any and all actions, claims, liabilities, assertions of liability, losses, costs and expenses, which in any manner arise or are alleged to have arisen, from the acts, omissions or wrongful conduct of Contractor or Contractor’s officers, employees, agents, guests, patrons, licenses, invites or subcontractors in connection with or related to their operations, activities, and/or occupancy or use of the University premises in performance of the Contract. This provision shall survive termination or expiration of the Contract.

15. **Trademark or Copyright Infringement.** Contractor will, at its expense, defend any suit brought against FIU and/or the University and will indemnify FIU against an award of damages and costs made against FIU and/or 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 FIU 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. FIU will provide reasonable cooperation in the defense of the suit at Contractor’s expense. Such defense and indemnity shall survive termination or expiration of the Contract.

16. **Confidentiality of Information.** If Contractor is exposed to any of FIU’s confidential information as a result of providing goods and/or services under the Contract, Contractor agrees to act in accordance with any guidelines and applicable laws regarding such confidential information. Such laws include the Florida Public Records Law, 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 other applicable
federal and state statutes and regulations that govern the use/safe keeping of personally
identifiable information. This provision shall survive termination or expiration of the Contract.

17. **Lobbying.** The expenditure of funds disbursed from Florida State appropriated
grants and aids for the purpose of lobbying the Legislature or a State agency is prohibited.

18. **Termination for Cause.** Either party may terminate this Contract for cause by
giving the other party thirty (30) days written notice setting forth with specificity the basis for the
termination of the Contract for cause. For purposes of this Contract “cause” is defined as the
other party’s failure to provide the goods or perform the services within the time specified or the
other party’s failure to adhere to any terms of this Contract.

19. **Notice.** Any notices required under this Contract shall be sent via U.S. Mail, return receipt requested, to the parties at the following addresses:

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<tr>
<th>Notices to Contractor:</th>
<th>Notices to FIU:</th>
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<tr>
<td>______________________</td>
<td>Purchasing Director</td>
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<td>______________________</td>
<td>FIU Purchasing Services Department</td>
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<td>______________________</td>
<td>Campus Support Complex, CSC 411</td>
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<tr>
<td>______________________</td>
<td>11200 S.W. 8th Street</td>
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<tr>
<td>______________________</td>
<td>Miami, Florida 33199</td>
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With a copy to:

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| ______________________ |

20. **Clarifications/negotiated points (if any) are:**

**CONTRACTOR:**

By: ______________________

Title: ______________________

Date: ______________________

**THE FLORIDA INTERNATIONAL UNIVERSITY BOARD OF TRUSTEES**

By: ______________________

Title: ______________________

Date: ______________________

Approved as to form and legality:

FIU ATTORNEY ______________________ Date: ______________________

June 10, 2010