



## **PROCUREMENT SERVICES**

### **Invitation to Negotiate for**

Communications Services Consultants

Please mark all proposal submission envelopes with the following information:

ITN19NH-128

Opening 05/30/2019 3:00PM

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## 1.0 STATEMENT AND SCOPE OF WORK

### 1.1 Summary

The University of Florida (UF) is seeking proposals from strategic communications firms to provide consultative services to evaluate current practices and make recommendations to enhance the University's public relations and issues management strategies.

The Office of Strategic Communications and Marketing is responsible for protecting and elevating the reputation of the University of Florida on a daily basis and ensuring communications across the decentralized campus are aligned. Strategic Communications and Marketing leads communications planning response efforts on behalf of the University to ensure integrated processes in the dissemination of accurate and timely information to all stakeholders and key audiences.

### 1.2 Scope of Work

The University intends to select one agency to evaluate and, recommend a strategic framework that places the University at the forefront of the digital evolution in terms of proactive preparation and timely response to critical issues.

The firm working as a strategic partner with the University of Florida Strategic Communications and Marketing, will develop and support implementation of a communications strategic plan that builds on the efforts currently underway.

The successful firm will have proven prior successful experience working with organizations similar to the size and complexity of UF, and will have a demonstrated understanding of the unique environment that faces a public university specifically in the areas of:

- Public relations
- Crisis and issues management
- Digital and social messaging and understanding
- Evaluation and measurement
- Regulatory framework

Scope of Work shall include, but not necessarily be limited to:

- Assess the current state of UF's issues and emergency communications plan procedures related to performance management, digital and social understanding, and crisis preparedness capabilities, and identify operational and reputational opportunities in terms of organizational structure, processes and technologies;
- Benchmark best practices as they pertain to large, complex public research universities. Identify opportunities for UF to enhance its communications management.
- Determine strategic and tactical communications to create a system that will anticipate and respond to issues in a timely and transparent manner during critical events;
- Identify key influencers as they pertain to the University's marketing and communications strategic goals, as identified in the opportunities assessment;
- Serve as an advisor to recommend the structure and operationalization of communications center, including, technical set-up and configuration;
- Create a measurement framework, including recommended metrics and reports;
- Create a repository for digital content assets, statements and other communications materials in preparation for contingencies.

### 1.3 Term of Agreement

The term of this Agreement will be for an initial period of one year, with an option to renew based on satisfactory performance and the written approval of both parties for up to two additional one-year periods. It is anticipated that the initial scope of work will be completed within a six-month period, however the additional renewal periods would be necessary if any additional work is identified.

#### **1.4 Coverage and Participation**

The intended coverage of this ITN and any Agreement resulting from this solicitation shall be for the use of all Departments and Units at the University of Florida. With the consent and agreement of the Successful Vendor, the other state universities, community colleges, district school boards, other educational institutions, and other governmental agencies, may assess and access an Agreement resulting from this solicitation issued and administered by the University of Florida.

The University reserves the right to add and/or delete elements, or to change any element of the coverage and participation at any time without prior notification and without any liability of any kind or amount.

#### **1.5 University Demographics**

The University of Florida is a public land-grant, sea-grant and space-grant research university. The state's oldest, largest, and most comprehensive university, UF is ranked number eight in public universities by U.S. News & World Report in 2019. Classified as a "Research University with Very High Research" by the Carnegie Foundation, UF is one of 62 elected member institutions of the Association of American Universities. Fall 2018 enrollment stood at 56,079. UF research spending reached a record \$837.6 million in fiscal year 2018 and has helped launch more than 190 start-ups based on researchers' technologies in the past 15 years. The University contributes more than \$12.5 billion through its research and other activities to Florida's economy each year and realized a 3.14 return on investment in research funding for every state dollar used to hire faculty in preeminent focus areas such as neuroscience, cybersecurity and food security.

The University has a 2,000-acre campus and more than 1,000 buildings (including 170 with classrooms and laboratories). The northeast corner of campus is listed as a historic district on the National Register of Historic Places.

For any additional information about the University of Florida, please visit the University's website at [www.ufl.edu](http://www.ufl.edu).

## **2.0 EVALUATION PROCESS AND METHOD OF AWARD**

### **2.1 Method of Award**

The evaluation of each response to this ITN will be based on its overall competence, compliance, format, and organization. The Award shall be made to the responsive and responsible vendor whose proposal is determined to be the most advantageous to the University of Florida, taking into consideration the following evaluation criteria listed below. Pricing may be a criterion. However, the University is under no obligation whatsoever to select as most responsive the proposal that demonstrates the lowest pricing.

The contract will consist of the University's ITN, the proposal with any and all revisions, award letter, purchase order, and the signed agreement between the parties, as stated in that agreement.

Firms whose proposals are not accepted will be notified after a final selection has been made by public posting of the selected proposer(s). This public posting functions as the rejection of all other proposals. This posting will be made to <https://procurement.ufl.edu/vendors/schedule-of-bids/>

## Evaluation Criteria

Vendor proposals will be evaluated based upon how well each vendor's plans meet the University's needs. Specific consideration will be given to the following factors in no particular order or weighting:

- Demonstrated experience and ability to provide communications consulting services for higher education institutions similar to UF;
- Demonstrated knowledge and experience in developing and successfully implementing strategic public relations, issues management or crisis communications strategic plans;
- Demonstrated experience and ability to produce communications materials including planning documents, messaging strategy and content
- Demonstrated ability to advise on the creation of a communications command center, including technical design and configuration
- Demonstrated understanding of higher education dynamics and regulatory framework and their applicability to communications strategy;
- References from past clients and proven customer satisfaction;
- Demonstrated integrity and maintenance of client confidentiality;
- Financial offering – pricing model/cost for services, including efficient, transparent and fully disclosed cost structure;
- Additional “value add” services, i.e., services proposed by the vendor in addition to the services required by the University that will enhance the process and/or the final outcome(s).

### 2.2 Selection, Negotiation, Additional Information

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

The University also reserves the right to award to the next highest evaluated, responsive and responsible bidder for any and all groups, subgroups, or items in the event of vendor default, non-performance, non-compliance or similar issues affecting the University's ability to obtain services at any time throughout the contract period.

### 2.3 Pre-Award Presentations

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

### 2.4 Pre-Award Negotiations

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

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

## **2.5 Vendor Protest Procedure; Notice of Proposal Protest Bonding Requirement**

Any vendor protest to a University decision or intended decision with regard to this ITN is subject to Florida Board of Governors' (BOG) Regulations 18.002 and 18.003. Any vendor who files an action protesting a decision or intended decision shall post at the time of the filing the formal written protest, a bond, payable to the University of Florida, in an amount equal to the lesser of 10% of the estimated value of the protestor's proposal or 10% of the University's estimated expenditure during the contract term, or \$10,000. The bond shall be conditioned upon the payment of all costs which may be adjudged against the vendor. In lieu of a bond, the University will accept a cashier's check or money order in the amount of the bond.

## **2.6 Contractual Intent/Right to Terminate and Recommence ITN Process**

The University intends to contract with one or more vendors whose proposal(s) are considered to be in the best interests of the University. However, the University may terminate this ITN process at any time up to notice of award, without prior notice, and without liability of any kind or amount. Further, the University reserves the right to commence one or more subsequent ITN processes seeking the same or similar products or services covered hereunder. In the event of cancellation or termination, the University reserves the right to award the contract to another Offeror, cancel in its entirety, or to request new proposals, whichever is in the best interest of University of Florida.

## **2.7 Effective Period of Proposals**

Under this ITN, the University shall hold that vendors' responses to this ITN shall remain in effect for a period of ninety (90) days following the closing date, in order to allow time for evaluation, approval, and award of the contract. Any vendor who does not agree to this condition shall specifically communicate in its proposal such disagreement to the University, along with any proposed alternatives. The University may accept or reject such proposed alternatives without further notification or explanation.

## **2.8 Proposal Acceptance/Rejection**

The University reserves the right to reject any or all proposals. Such rejection may be without prior notice and shall be without any liability of any kind or amount to the University. The University shall not accept any proposal that the University deems not to be in its best interests. The University shall reject proposals submitted after the closing date and time.

## **2.9 Errors and Omissions in Vendors Proposals**

The University may accept or reject any vendor's proposal, in part or in its entirety, if such proposal contains errors, omissions, or other problematic information. The University may decide upon the materiality of such errors, omissions, or other problematic information.

## **2.10 Determination of and Information Concerning Vendor's Qualifications**

The University reserves the right to determine whether a vendor has the ability, capacity, and resources necessary to perform in full any contract resulting from this ITN. The University may request from vendors information it deems necessary to evaluate such vendors' qualifications and capacities to deliver the products and/or services sought hereunder. The University may reject any vendor's proposal for which such information has been requested but which the vendor has not provided. Such information may include but is not limited to:

- Financial resources
- Personnel resources



- Physical resources
- Internal financial, operating, quality assurance, and other similar controls and policies
- Resumes of key executives, officers, and other personnel pertinent to the requirements of the ITN
- Customer references
- Disclosures of complaints or pending actions, legal or otherwise, against the vendor
- The University reserves the right to check references with current customers as provided by the vendor and with any customers the University identifies

### **2.11 Apparently Conflicting Information Obtained by Vendor**

The University is under no obligation whatsoever to honor or observe any information that may apparently conflict with any provision herein, regardless of whether such information is obtained from any office, agent, or employee of the University. Such information shall not affect the vendor's risks or obligations under a contract resulting from this ITN.

### **2.12 Rejection of Vendor Counter-offers, Stipulations and Other Exceptions**

Any vendor exception, stipulation, counter-offer, requirement, and/or other alternative term or condition shall be considered rejected unless specifically accepted in writing by the University and thereafter incorporated into any contract resulting from this ITN.

### **2.13 Vendor's Need to Use Proprietary Rights of the University**

All information proprietary to the University and disclosed by the University to any vendor shall be held in confidence by the vendor and shall be used only for purposes of the vendor's performance under any contract resulting from this ITN.

### **2.14 Public Record**

On the earlier of (i) the time the University provides notice of a decision or intended decision, or (ii) 30 days after the final competitive sealed proposals are all opened, whichever occurs earlier, vendor proposals may be disclosed as public record.

## **3.0 SCHEDULE OF EVENTS**

The following is the tentative schedule that will apply to this ITN, but may change in accordance with the University's needs.

04/25/2019	Issuance of ITN
05/10/2019 –5:00 PM ET	Technical Questions/Inquiries Due
05/15/2019	Addendum for Questions/Inquiries Posts
05/30/2019 –3:00 PM ET	ITN Closes/Opening of Proposals

### **3.1 Pre-Proposal Conference – N/A**

### **3.2 Site Visit – Not Applicable**

### **3.3 Special Accommodations**

If special accommodations are needed in order to attend a pre-proposal meeting or a proposal opening, contact Procurement Services at [procurement@ufl.edu](mailto:procurement@ufl.edu) three (3) business days prior to proposal opening or negotiations. Include ITN19NH-128 in the subject of the email.

## **4.0 PROPOSAL RESPONSE AND PREPARATION INSTRUCTIONS**

Proposals must be delivered sealed to:  
 University of Florida  
 Procurement Services  
 971 Elmore Drive  
 Gainesville, FL 32611-5250  
 on or prior to **05/30/2019 3:00 PM ET**  
 ITN19NH-128

**The above address is a valid campus address for any courier service.**

It is the vendor's responsibility to assure that the proposal is delivered at the proper time and place of the proposal opening. Proposals which for any reason are not so delivered will not be considered. The University shall not accept proposals received by facsimile or email. The University shall, at the specified closing date and time, open all proposals that are otherwise in order. The University will allow interested parties to attend such opening for purposes of identifying which vendors have responded. The University will make no immediate decision at such time, and there will be no disclosure of any information contained in any proposal until the earlier of (i) the time University provides notice of a decision or intended decision, or (ii) 30 days after the final competitive sealed proposals are all opened, whichever occurs earlier, at which time the vendor proposals become public record. When multiple solicitations have been scheduled to open at the same date and time, the University will open solicitations that have interested individuals present in sequential order by solicitation number. The University will hold unopened any proposals received after the closing date and time, and will not consider such proposals. The University reserves the right to retain or dispose of such proposals at its discretion; however, the University may return such proposals to their related vendors, but only at such vendor's request and at no cost or expense whatsoever to the University.

If only one proposal is received, Procurement may delay the opening in order to determine why other vendors did not respond and to encourage other vendors to respond.

#### **4.1 Proposal Format Organization**

Original proposal and all copies must be on 8-½ x11 text weight paper, double-sided, using binding tabs that will facilitate the distribution and evaluation of the proposals. Proposals must be formatted with one (1)-inch margins and twelve (12)-point font throughout.

Proposals should be printed when possible on paper containing a high level of post-consumer recycle content. Proposals should conform to the tabbed format below as well as the requirements of sections 4.1.2, 4.1.3 and 4.1.4.

##### **4.1.1 Response Format**

- Submit one (1) copy of the initial response on PC compatible media (CD/DVD or USB flash drive), preferably in Word® and/or Excel®. The original response must contain the original manual signature of the authorized person signing the proposal, and the electronic copy of the proposal;
- The outer carton of the response must display clearly and conspicuously the following identifying information, The ITN number, name and due date and is sealed; submit one (1) original and four (4) copies of the vendor's proposal in hard copy form;
- The offeror's response must include the information and required submittals described, tabbed and numbered as shown below, with all information appearing in the Tab in which it was requested;
- Questions and requests for information may not be rearranged, regrouped, or divided in any way;
- All information and required submittals requested **MUST BE** in hardcopy and included in your written response.

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

- Information submitted that is not requested by the University may be considered to be supplemental, not subject to evaluation by the committee members.
- If there is any information or required submittals which due to size or binding cannot be incorporated following the proper tab, the vendor must provide information following the numbered tab, telling the evaluator where the information can be found in the response.
- **Tabular / Paginated Format:**
  - **Tab 1 Certification of Proposal and Vendor Background:** Completed and signed Certification of Proposal form, and/or signed and completed acknowledgement forms for any addenda issued. Include the name of the company, company address, name and contact information of the individual(s) responsible for the company's proposal and negotiation during this ITN process. Disclose any conflicts of interest or limitations that may exist should the company be selected to provide services to the University;
  - **Tab 2 Executive Summary:** A one-page summary of the vendor's understanding of the work and the key points of the proposal;
  - **Tab 3 Company Overview and References:** A brief history and description of the company's organization and its experience in developing and successfully implementing strategic public relations and issues management plans. Include the location of the offices and the total number of executives and professional personnel in the company. Include a discussion of the specific expertise and services that distinguish your company. Include a listing of at least three (3) company projects/customers similar in size and scope to the services described in the ITN, both current and past customers. This list must include the name, address, telephone, and email address of the client contract administrator. If applicable, please list examples of services rendered to institutions of higher learning;
  - **Tab 4 Personnel:** Information about the number, names and titles, and a brief bio including relevant experience of executive and professional personnel, project manager, team members, etc. who will be assigned to this contract. Indicate the responsibilities each will have in this project and how long each has been with the company. Illustrate where these personnel will be physically located during the time they are engaged in the work. Identify any subcontractors the company intends to use and the services they will perform;
  - **Tab 5 Relevant Experience and Work Samples:** Narrative of experience in developing and successfully implementing comprehensive public relations, issues management or crisis communications strategic plans for clients highlighting any higher education clients. Creative/effective work samples should accompany the response, including but not limited to public/media relations materials such as communications planning documents, message points, FAQs, scripts, news releases, social media campaigns, etc. Experience shown should be work done by individuals who will be assigned to this project as well as that of your company. If applicable, please list examples of services rendered in the State of Florida, particularly within institutions of higher learning. Include a statement regarding any other specialized public relations services the company may offer;
  - **Tab 6 Approach:** A description of the proposed approach/methodology that the company will follow in development and successful implementation of public relations plans. The anticipated timeline for the project should be include and highlight UF responsibilities;
  - **Tab 7 Pricing/Financial Offering:** Cost proposal to complete the scope of work under this ITN. If not already included in the cost proposal, please list specifically hourly rates for

additional staff/services related to the communications services plan that may be requested by University after the final report has been delivered. Please describe any additional financial considerations and flexibility of the vendor;

- **Tab 8 Additional Best Value/Creative Ideas:** Other ideas of ways to provide “best value” for University. Possible ideas include creative approaches to providing the services, use of small business & diverse businesses (see section 6.17), sustainable or “green” initiatives, and other ideas. If no additional ideas are being proposed, indicate here.

#### **4.1.2 Number of Proposal Copies to be Furnished**

Vendors are to submit one (1) original, of the initial response on PC compatible media (CD/DVD or USB flash drive), preferably in Word® and or / Excel® marked “Original”, and four (4) copies, each marked “Copy”.

#### **4.1.3 Bindings and Marking**

Vendors shall ensure that the original and each copy are individually bound. When submitting more than one (1) proposal, vendors shall ensure that units are clearly marked; for example, as “Original of Proposal One”, “Copy One of Proposal One”, “Original of Proposal Two”, “Copy One of Proposal Two”, and so on.

#### **4.1.4 Marking of Envelopes**

Vendors shall ensure that the outer carton of the response must display clearly and conspicuously the following identifying information:

ITN19NH-128  
Opening date and time: 05/30/2019 3:00PM

#### **4.1.5 Proposal Costs**

The University is not liable in any manner or to any extent for any cost or expense incurred by any vendor in the preparation, submission, presentation, or any other action connected with proposing or otherwise responding to this ITN. Such exemption from liability applies whether such costs are incurred directly by the vendor or indirectly through the vendor’s agents, employees, assigns or others, whether related or not to the vendor.

#### **4.1.6 Faxes or Emails Not Accepted**

The University shall not accept proposals received by fax or email.

### **4.2 Requirements of Proposer for Response**

#### **4.2.1 Original ITN Document**

Procurement Services shall retain the ITN, and all related terms and conditions, exhibits and other attachments, in original form in an archival copy. Any modification of these, in the vendor’s submission, is grounds for immediate disqualification.

#### **4.2.2 Vendor’s Understanding of the ITN**

In responding to this ITN, the vendor accepts the responsibility fully to understand the ITN in its entirety, and in detail, including making any inquiries to the University as necessary to gain such understanding. The University reserves the right to disqualify any vendor who demonstrates less than such understanding. Further, the University reserves the right to determine, at its sole

discretion, whether the vendor has demonstrated such understanding. Related to this, the University's right extends to cancellation of award if award has been made. Such disqualification and/or cancellation shall be at no fault, cost or liability whatsoever to the University.

#### **4.2.3 University Provides Information in Good Faith without Liability**

All information provided by the University in this ITN is offered in good faith. Individual items are subject to change at any time. The University makes no certification that any item is without error. The University is not responsible or liable for any use of the information, or for any claims attempted to be asserted there from.

#### **4.2.4 Verbal versus Written Communication**

Verbal communication shall not be effective unless formally confirmed in writing by the specified University Procurement staff in charge of managing this ITN's process. In no case shall verbal communication override written communication.

#### **4.2.5 Questions, Communications and Inquires between the University and Vendors**

Vendor inquiries, questions and requests for clarification related to this ITN are to be directed, in writing, to:

University of Florida  
Procurement Services  
971 Elmore Drive  
Gainesville, FL 32611-5250

Attn: Nicola Heredia  
Telephone: (352) 294-1155  
E-mail address: nheredia@ufl.edu

Applicable terms and conditions herein shall govern communications and inquiries between the University and vendors, as they relate to this ITN.

**Informal communications** shall include, but are not limited to, requests from/to vendors or vendors' representatives of any kind or capacity, to/from any University employee or representative of any kind or capacity, with the exception of Procurement Services, for information, comments, speculation, etc. Inquiries for clarifications and information that will not require addenda may be submitted verbally to the Procurement Staff named, above, at any time.

**Formal communications** shall include but are not limited to the following.

- Questions concerning this ITN must be submitted in writing, and be received prior to 05/10/2019 3:00 PM/ET.
- Errors and omissions in this ITN and enhancements. Vendors shall bring to the University's attention any discrepancies, errors, or omissions that may exist within this ITN. Vendors shall recommend to the University any enhancements in respect to this ITN, which might be in the University's best interests. These must be submitted in writing and be received prior to 05/10/2019 3:00 PM/ET.
- Inquiries about technical interpretations must be submitted in writing, and be received prior to 05/10/2019 3:00 PM ET.
- Inquiries for clarifications/information that will not require addenda may be submitted verbally to the Procurement Staff named above at any time during this process.

- Verbal and/or written presentations and pre-award proposals under this ITN.
- Addenda to this ITN.

Informal communications shall cease on the date of distribution of this ITN and formal communications shall commence. On the date that the University completes the award process for this ITN and executes the resulting contract with the successful Vendor, informal communications may resume and formal communications must cease.

#### **4.2.6 Addenda and the University's Response to Communications from Vendor**

The University will make a good-faith effort to provide a written response to each question or request for clarification that requires addenda within five (5) University business days.

**All addenda will be posted to the Procurement website only:**

<https://procurement.ufl.edu/vendors/schedule-of-bids/>

- **Vendors who want the addenda supplied to them in another form must notify the Procurement Staff listed in Section 4.2.5 above of that request. Otherwise, it will be the vendor's responsibility to check the web site for any additional information and addenda concerning this ITN.**

The University will not respond to any questions/requests for clarification that require addenda, if received by the University after **05/10/2019 3:00 PM ET**.

#### **4.2.7 Pricing**

Vendors shall indicate pricing offers in the appropriate spaces and/or areas provided in this ITN. Vendors shall ensure that any departure from this condition results in an offer that is clearly cross-referenced to the applicable sections within this ITN. For any material departure from this condition, vendors shall provide clear and unambiguous explanations how the departure relates in detail to the applicable sections within this ITN. If the vendor responds with an "All or None" proposal, it shall be clearly and unambiguously marked as such.

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

#### **4.2.8 Revisions to the ITN**

The University may revise any part of this ITN for any reason by issuing addenda. The University will communicate additional information and addenda to this ITN by posting them on the Procurement website.

<https://procurement.ufl.edu/vendors/schedule-of-bids/>

- **Vendors that want the revisions supplied to them in another way must notify the Procurement Staff listed in this document of that request. Otherwise, it will be the vendor's responsibility to check the web site for any additional information and addenda concerning this ITN.**

Vendors are responsible for the information contained in such addenda, whether or not they acknowledge receipt. The University is under no obligation to communicate such addenda to vendors who notify the University that they will not be responding this ITN. The University may determine whether an addendum will be considered as part of this ITN and/or as part of any contract resulting there from. The University shall reject vendors' responses to addenda if such responses are received after the ITN closing date and time.

#### **4.2.9 Attention to Terms and Conditions**

Vendors are cautioned to thoroughly understand and comply with all matters covered under the Terms and Conditions section of this ITN. The successful Vendor is expected to enter into a form of agreement. The University agreement terms and conditions included in this ITN are intended to be incorporated into this agreement. PROPOSALS THAT ARE CONTINGENT UPON ANY CHANGES TO THESE TERMS AND CONDITIONS MAY BE DEEMED TO BE NON-RESPONSIVE AND MAY BE REJECTED (within the University's sole discretion).

#### **4.2.10 Required Signature**

The University may reject any vendors' response if it is not signed as indicated and/or required by the areas, spaces, or forms provided within this ITN.

#### **4.2.11 Authority to Negotiate**

Representatives of the vendor(s) selected to participate in oral negotiation(s) shall be first required to submit written authorization from the company CEO or CFO attesting to the fact that the company's lead negotiator is authorized to bind the company to the terms and conditions agreed to during negotiations and as contained in the vendor's best and final offer. The provision of such authorization shall be a prerequisite to continuation in the ITN process. The University shall not enter into extensive contract negotiations with the selected vendor(s) after the negotiation process has been completed. If the University determines that a company awarded a contract based on this ITN does not honor all aspects of the agreement reached during the negotiations in the best and final offer, the University reserves the right to immediately cancel the award, and to place the company on the University's suspended vendor list.

Company negotiators must enter the negotiations prepared to speak on behalf of the vendor's company. The University reserves the right to immediately terminate negotiations with any company whose representatives are not empowered to, or who will not, make decisions during the negotiation session. Vendors are reminded that the University may elect not to solicit a best and final offer from any company whose representative(s) have been unable or unwilling to commit to decisions reached during the verbal negotiation process.

#### **4.2.12 Collusion Prohibited**

In connection with this ITN, vendor collusion with other vendors or employees thereof, or with any employee of the University, is prohibited and may result in vendor disqualification and/or cancellation of award. Any attempt by the vendor, whether successful or not, to subvert or skirt the principles of open and fair competition may result in vendor disqualification and/or cancellation of award. Such disqualification and/or cancellation shall be at no fault or liability whatsoever to the University.

#### **4.2.13 Improper Business Relationships/Conflict of Interest Prohibited**

In connection with this ITN, each vendor shall ensure that no improper, unethical, or illegal relationships or conflict of interest exists between or among the vendor, the University, and any other party to this ITN. The University reserves the right to determine the materiality of such relationships, when discovered or disclosed, whether intended or not; and to decide whether or not vendor disqualification and/or cancellation of award shall result. Such disqualification and/or cancellation shall be at no fault or liability whatsoever to the University.

#### **4.2.14 Corrections, Changes, and Providing Information on Forms within the ITN**

Vendors shall ensure that an authorized individual initials each correction using pen and ink. Vendors shall use pen and ink or typewriter in providing information directly on pages, or copies thereof, contained within this ITN.

#### **4.2.15 Intentionally Omitted**

#### **4.2.16 Anti-Kickback**

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

#### **4.2.17 Withdrawal of ITN**

Vendors may withdraw their proposals any time prior to the ITN closing date. Vendors may request to withdraw their proposals after the ITN closing date and time prior to selection and notice of award. The University shall have sole authority to grant or deny such a request. In the event the University grants such a request, it may withhold issuing future ITN's to such vendors.

#### **4.2.18 University's Right to Use Vendor's Ideas/Proprietary Information**

**If the vendor needs to submit proprietary information with the proposal, the vendor shall ensure that it is enclosed in a separate envelope from the proposal and that it is clearly designated and conspicuously labeled as such.** Vendors who submit responses with information noted as proprietary may be asked to substantiate why the information is proprietary or is otherwise exempt from a public records request under Florida Law.

Selection or rejection of the proposal shall not affect the University's right of use. Provided, however, that the University will, in good faith, honor any vendor information that is clearly designated and conspicuously labeled as proprietary when the University concurs that the information is proprietary, and that trade secrets or other proprietary data contained in the proposal documents shall be maintained as confidential in accordance with procedures promulgated by the Procurement Staff and subject to limitations in Florida or Federal law. Pricing information cannot be considered proprietary. The University shall not be liable in any manner or in any amount for disclosing proprietary information if such information is not clearly so designated and conspicuously so labeled. The University shall likewise not be liable if it did not know or could not have reasonably known that such information was proprietary.

Should a request be made of the University for access to the information designated confidential or trade secret by the bidder and, on the basis of that designation, the University denies the request, the bidder may be responsible for all legal costs necessary to defend such action if the denial is challenged in a court of law.



## **5.0 DEFINITIONS**

### **5.1 Agreement/Contract**

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

### **5.2 Customer**

Unless otherwise implied by the context of the specific provision within this ITN, "Customer" means a customer of the vendor, other than the University.

### **5.3 May, Should**

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

### **5.4 Must, Shall, Will**

Indicates a mandatory requirement. Failure to meet these mandatory requirements may result in rejection of your proposal as non-responsive.

### **5.5 Proposal**

The entirety of the vendor's responses to each point of this ITN, including any and all supplemental offers or information not explicitly requested within this ITN.

### **5.6 Proprietary Information**

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

### **5.7 Provider**

Any entity responding to this ITN, or, if selected, the vendor entering into a contract with University.

### **5.8 Invitation to Negotiate (ITN)**

A competitive negotiation process. It is not to be confused with an Invitation to Bid (ITB), in which goods or services are precisely specified and price is substantially the only competitive factor. This ITN provides the University the flexibility to negotiate to arrive at a mutually agreeable relationship. Price will be considered, but will not be the only factor of evaluation.

### **5.9 Respondent**

Any entity responding to this ITN, or, if selected, the vendor entering into a contract with University.

### **5.10 Response**

Same as Proposal

### **5.11 Successful Vendor**

Any entity responding to this ITN, or, if selected, the vendor entering into a contract with University.

#### **5.12 Supplement Agreement**

Any supplement terms and conditions agreed to by the parties in writing taking precedence over all other documents governing the transaction.

#### **5.13 Supplier**

Any entity responding to this ITN, or, if selected, the vendor entering into a contract with University.

#### **5.14 University of Florida, UF or University**

Same as The University of Florida Board of Trustees, a public body corporate of the State of Florida; throughout the document the term UF, University and University of Florida is used interchangeably.

#### **5.15 Vendor**

Any entity responding to this ITN, or, if selected, the vendor entering into a contract with University.

#### **5.16 Vendor's Proposal**

Same as Proposal

#### **5.17 Vendor's Response**

Same as Proposal

### **6.0 AGREEMENT TERMS AND CONDITIONS**

The following are the Terms and Conditions that will become part of any Agreement consummated between the University and the Successful Vendor and are not subject to negotiation or alteration by the Successful Vendor. Therefore, the Successful Vendor will be expected to execute an Agreement containing the provisions set forth in this section, or substantially similar provisions as University deems prudent or necessary. This list of provisions is not exhaustive or indicative of every provision that will be contained in the Agreement, but rather identifies particular terms and conditions of which the vendor should be aware. In the event of a conflict between any provisions contained in any of the documents governing this transaction, the following shall be the order of precedence: Agreement; Invitation to Negotiate; Proposal.

#### **6.1 Actions of Successful Vendor**

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

#### **6.2 Advertising**

The Successful Vendor shall not advertise or publish information concerning the Agreement without prior written consent of the University. The University shall not unreasonably withhold permission.

#### **6.3 Americans with Disabilities Act**

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

#### **6.4 Certification**

By signature on the "Proposal Certification" form included under Section 7.0, the Vendor certifies that the submission on the proposal did not involve collusion or other anti-competitive practices. The Vendor has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted proposal. In addition, Vendor certifies whether or not an employee of the University has, or whose relative has, a substantial interest in any Agreement subsequent to this ITN. Vendor also certifies their status with regard to debarment, or suspension by any federal entity.

Failure to provide a valid signature affirming the stipulations required by this clause shall result in the rejection of the submitted proposal and, if applicable, any resulting Agreement. Signing the certification with a false statement shall void the proposal and, if applicable, any resulting Agreement. Any resulting Agreement may be subject to legal remedies provided by law. Vendor agrees to promote and offer to the University only those services and/or materials as stated in and allowed for under resulting Agreement(s).

#### **6.5 Conflict of Interest**

The award hereunder is subject to the provisions of Chapter 112, F.S. Vendors must disclose with the proposal the name of any officer, director, or agent who is also an employee of the University of Florida. Further, all Vendors must disclose the name of any University employee who owns, directly or indirectly, an interest of five percent (5%) or more in the Vendor's firm or any of its branches.

#### **6.6 Discrimination**

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

#### **6.7 Drug Free Workplace**

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

#### **6.8 Equal Opportunity Statement**

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

A. The provisions of Executive Order 11246, September 24, 1966, and the rules, regulations, and relevant orders of the Secretary of Labor are applicable to each order placed against this agreement regardless of value.

B. If the vendor expects to receive \$10,000 in orders during the first 12 months of this agreement, a complete certificate of non-segregated facilities shall be attached to the proposal response.

C. If the vendor expects to receive \$50,000 in orders during the first 12 months of this agreement and employs more than 50 people, standard form 100 (EEO-1) must be filed prior to March 1 of each year.

D. If the vendor expects to receive \$50,000 in orders during the first 12 months and employs more than 50 people, a written program for affirmative action compliance must be maintained by the vendor, subject to review upon request by the user agencies of this agreement.

If you have already complied with the above, please indicate \_\_\_\_\_

### **6.9 Federal, State, and Local Laws and Regulations**

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

### **6.10 Inspection, Audit and Reporting**

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

Reporting Requirements: The successful vendor(s) agrees to furnish to the University a summary of total sales made under this contract as requested but at least twice a year.

All reporting will be in Electronic Format provided to Procurement Services either prior to business review meetings or as requested.

Reports will include, but are not limited to the following:

- Detailed invoice level purchase history usage with at minimum the following fields:
  - PO Number
  - Delivery Date of Service
  - Description of Services
  - Net Price
- Other Organizations: Total dollar value of purchases and total of orders through University agreement to other institutions
- Savings to University through vendor discounting - special offers such as volume discounting (if applicable)

Vendor and University will work together to create reports as University deems necessary and compatible with vendor systems.

### **6.11 Liens**

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

### **6.12 Modifications**

The Agreement can be modified or rescinded only by a writing signed by both parties or their duly authorized agents.

### **6.13 Non-Discrimination**

The parties agree to be bound by applicable state and federal rules governing Equal Employment Opportunity and Non-Discrimination.

### **6.14 Ownership of Documents**

All drawings, maps, sketches, documents, records, programs, data base, reports and other data developed or purchased, under this Agreement for or at the University's expense shall be and remain the University's property, without restriction, reservation or qualifications. The Successful Vendor may retain copies necessary for recordkeeping documentation and all such other business purposes related to the Agreement. All materials and products produced shall be provided to the University upon expiration of this Agreement.

### **6.15 Sales and Use Tax**

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

### **6.16 Sexual Harassment**

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

### **6.17 Small Business Program**

University is an equal opportunity institution and, as such, encourages the use of small businesses, including women and minority-owned small businesses in the provision of goods and services. Small businesses should have a fair and equal opportunity to compete for dollars spent by the University. Competition ensures that prices are competitive and a broad vendor base is available. **Vendors are encouraged to get certified by the State of Florida** if they are minority-owned, woman-owned or veteran-owned:

[http://www.dms.myflorida.com/agency\\_administration/office\\_of\\_supplier\\_diversity\\_osd/get\\_certified](http://www.dms.myflorida.com/agency_administration/office_of_supplier_diversity_osd/get_certified)

Vendor shall use good faith efforts to ensure opportunities are available to small businesses, including women and minority-owned businesses. For questions about the University's Small Business Program contact Director of Small Business and Vendor Diversity, 352-392-0380, <https://sbvdr.admin.ufl.edu/>

### **6.18 Tobacco Free Campus Policy**

The University of Florida campus is a tobacco-free campus. This policy was effective as of July 1, 2010. The use of cigarettes or other tobacco products in UF buildings, parking lots, or in vehicles in these areas is prohibited. The successful vendor is expected to respect this smoke free policy and fully comply with it.

### **6.19 Sustainability Preferences**

The University's Procurement directives support the purchase of products that will minimize any negative environmental impacts of our work. In order to facilitate a healthy market in sustainable products, all parties involved in the procurement and utilization of materials must engage in both waste recycling and the initial purchase of products containing recycled content. It is in the interest of public health, safety and welfare and the conservation of energy and natural resources to use and promote environmentally responsible products, as well as energy efficient fixtures, appliances and mechanical equipment used in new construction and retrofit of University facilities.

### **6.20 Assignment-Delegation**

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

### **6.21 Assignment of Anti-Trust Overcharge Claims**

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

### **6.22 Date for Reckoning Prompt-Payment Discount**

For purposes of determining whether a prompt-payment discount, if applicable, may be taken by the University, the starting date of such reckoning period shall be the later of the date of a properly executed invoice or the date of completion of service and/or delivery of product.

### **6.23 Force Majeure**

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

### **6.24 Intentionally Omitted**

### **6.25 Indemnification/Hold Harmless; Liability**

The Successful Vendor shall indemnify, defend, and hold harmless the University of Florida Board of Trustees, the University of Florida, the State of Florida and the Florida Board of Governors, and their respective officers, agents, and employees, against and from any and all claims, demands, suits,

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

The University, as a public entity, is protected by sovereign immunity from tort liability, subject to a limited statutory waiver. The University will not agree to (i) indemnify or hold harmless any vendor; (ii) be liable for vendor's attorneys' fees under any circumstances; or (iii) binding arbitration. The Agreement shall not be construed or interpreted as (i) denying to either party any remedy or defense available to such party under the laws of the State of Florida; (ii) the consent of University or the State of Florida or their agents and agencies to be sued; or (iii) a waiver of either University's or the State of Florida's sovereign immunity beyond the limited waiver provided in section 768.28, Florida Statutes.

## **6.26 Insurance Requirements**

The Successful Vendor shall purchase from and maintain with a company or companies, lawfully authorized to do business in Florida and acceptable to the University, such insurance as will protect the Successful Vendor from claims arising out of or resulting from the Successful Vendor's operations under the Agreement and for which the Successful Vendor may be legally liable, whether such operations be by the Successful Vendor or by their subcontractors or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. All insurance policies shall be issued and countersigned by representatives of such companies duly authorized for the State of Florida and shall be written on ISO standard forms or their equivalents. The Successful Vendor shall file with the University Certificates of Insurance prior to the commencement of this Agreement and shall file Certificates of Insurance evidencing the renewal of such policies at least thirty (30) days prior to the date that each applicable insurance policy is scheduled to expire. **Please note that the University of Florida must be named "additional insured" on automobile and general liability policies.**

General Liability Insurance – The Successful Vendor shall provide the ISO Commercial General Liability policy for general liability coverage's for limits of not less than of \$1,000,000 per occurrence. Coverage shall be maintained without interruption from date of commencement of work until date of final payment.

Worker's Compensation - The Successful Vendor shall secure and maintain for the life of this Agreement, valid Worker's Compensation Insurance as required by Chapter 440, Florida Statutes (if applicable.)

Automobile Liability - The Successful Vendor shall secure and maintain, during the life of this Agreement, Automobile Liability insurance on all vehicles against bodily injury and property damage in at least the amount of \$100,000.00 per person, \$500,000.00 per occurrence.

## **6.27 Protection of Property**

The Successful Vendor shall at all times guard against damage or loss to the property of the University or of others or vendors and shall be held responsible for replacing or repairing any such loss or damage. The University may withhold payment or make such deductions as deemed

necessary to insure reimbursement or replacement for loss or damage to property through negligence of the Successful Vendor or their agents. The Successful Vendor shall provide all barricades and take all necessary precautions to protect buildings and personnel.

#### Intellectual Property

- A. All works that are created pursuant to this contract (“Works”) are works made for hire, and all rights and privileges attendant to the Works belong exclusively to the University. If a court of competent jurisdiction determines that any Work does not constitute a work made for hire, the Contractor hereby assigns to the University for no additional consideration all rights and privileges the Contractor has in the works, including all intellectual property rights, specifically those under copyright law.
- B. Paragraph A does not apply to Works that are not created through performance under this Contract (“Pre-existing works”). With respect to Pre-existing works used by the Contractor in performance of this Contract, the Contractor shall obtain for the University at no additional charge a license to use Pre-existing works for the uses intended under this Contract, including the right to make derivative works. Paragraph A does apply, however, to any Works that are derivative of Pre-existing works.
- C. The Contractor warrants that it has full power and authority to transfer the rights granted by this Contract to the University and that use of the works by the University does not constitute an infringement or other violation of any copyright, trade secret, trademark, patent, non-disclosure, or other rights of any third party.
- D. Title and all rights and privileges to all graphics and material provided to the Contractor by the University in connection with this Contract remain the exclusive property of the University of Florida. The Contractor does not receive any title, rights, or privileges in those graphics or materials. The University grants to the Contractor a limited license in those graphics or materials only for the purpose of carrying out the Contractor’s obligations under this Contract.

#### **6.28 Labor Disputes**

Successful Vendor shall give prompt notice to the University of any actual or potential labor dispute which delays or may delay performance of the Agreement.

#### **6.29 Laws and Regulations**

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

#### **6.30 Intentionally Omitted**

#### **6.31 No Waiver of Right by the University**

No waiver by University of any breach of the provisions of the Agreement by the Successful Vendor shall in any way be construed to be a waiver of any future breach or bar the University’s right to insist on strict performance of the provisions of the Agreement.

#### **6.32 Notice to Vendors of Asbestos-Containing Materials in University Buildings**

Asbestos containing materials (ACM) can be found in almost any building in the United States more than 10 years old. The University of Florida is no exception. The types of asbestos most commonly



found are pipe and boiler insulation, fireproofing, hard panels known as "Transite", floor tile, and spray or trowel-applied ceiling finishes. ACM is generally not hazardous if left undisturbed.

The University has implemented an Asbestos Program to assure safe management and removal of ACM. Vendors, consultants, and other's providing service to the University may encounter ACM and must, therefore, comply with the following instructions:

- A. Avoid disturbing suspected ACM. Exercise caution and watch for possible ACM.
- B. If it is necessary to disturb ACM, first notify the appropriate Division Asbestos Representative listed in this notice, or the University of Florida Asbestos Coordinator, before proceeding with your work. You shall take whatever precautions are necessary to protect humans' health and the environment, and comply with all applicable Federal, State, and Local laws pertaining to asbestos.
- C. If you require additional information on possible locations of ACM in a particular building, contact the Asbestos Representative from the Division for which you are working.

<u>Division</u>	<u>Asbestos Representative</u>	<u>Telephone</u>
Facilities Services	Assoc. Dir. Physical Plant	(352) 392-7793
Housing	Housing Maintenance Superintendent	(352) 392-2161
Reitz Union	Maintenance Superintendent	(352) 392-1614
IFAS	Engineer	(352) 392-6488

### **6.33 Parking and Identification Badges.**

The Successful Vendor shall obtain all parking permits and/or decals that may be required while performing project work on University premises. The Successful Vendor should review Contractor and Vendor Parking information from Transportation and Parking Services located at the following link: <http://www.parking.ufl.edu/pages/contractorvendordecal.asp>

### **6.34 Payment Terms**

The University's obligation is payable only and solely from funds appropriated for the purpose of the Agreement. Unless otherwise stated herein, the payment terms for the Agreement are Net 30 days. VENDOR OMBUDSMAN: The University's vendor ombudsman whose duties include acting as an advocate for vendors may be experiencing problems in obtaining payment(s) from the University may be contacted at 352-392-1241.

### **6.35 Price Adjustment**

Price changes will only be considered at the end of one Agreement period and the beginning of each optional one (1) year renewal period(s). Price change requests shall be in writing, submitted at least sixty (60) days prior to the end of the current Agreement period, and shall be supported by written evidence of increased costs to the Successful Vendor. The University will not approve unsupported price increases that will merely increase the gross profitability of the Successful Vendor at the expense of the University. Price change requests shall be a factor in the Agreement extension review process. The University shall, in its sole opinion, determine whether the requested price increase or an alternate option is in the best interest of the University.

### **6.36 Prior Course of Dealings**

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

**6.37 Intentionally Omitted****6.38 Public Entity Crime**

A person or affiliate who has been placed on the convicted list by the Department of Management Services, State of Florida, may not submit a proposal on a contract to provide any goods or services, including construction, repairs, or leases and may not be awarded or perform work as a Vendor, supplier, subcontractor, or consultant for the University of Florida for a period of 36 months from the date of being placed on the convicted list, a "person" or "affiliate" includes any natural person or any entity, including predecessor or successor entities or any entity under the control of any natural person who is active in its management and who has been convicted of a public entity crime (Rule 6C1-3.020 FAC).

**6.39 Public Records**

All proposal information submitted and opened becomes subject to the Public Records Law set forth in Chapter 119 F.S.

**IF THE VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE VENDOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (352) 846-3903, email: [PR-Request@ufl.edu](mailto:PR-Request@ufl.edu), PO Box 113156, Gainesville, FL 32611-3156**

Any resulting Agreement may be unilaterally canceled for refusal by the vendor to allow public access to all documents, papers, letters, or other materials made or received by the Successful Vendor in conjunction with the Agreement and subject to the provisions of Chapter 119. F.S.

**6.40 Referencing of Orders**

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

**6.41 Remedies and Applicable Law**

The Agreement shall be governed by and construed in accordance with the laws of the State of Florida (without regard to principles of conflict of laws) and the rules and regulations of the Florida Board of Governors and the University. University and Successful Vendor shall have available all remedies afforded each by said law. The venue in any action or litigation commenced to enforce the Agreement shall lie in a court of competent jurisdiction located in Gainesville, Florida.

**6.42 Intentionally Omitted****6.43 Right of Offset**

The University shall be entitled to offset against any sums due the Successful Vendor, any expenses or costs incurred by the University, or damages assessed by the University concerning the Successful Vendor's non-conforming performance or failure to perform the Agreement, or any other

debt owing the University, including expenses, costs and damages described in the termination provisions contained herein.

#### **6.44 Intentionally Omitted**

#### **6.45 Specifications: Brand Name or Acceptable Alternate**

Where in these specifications reference is made to services, materials, trade names, catalog numbers or articles of certain manufacture, it is done for the sole purpose of establishing a basis of a comparable standard of quality, performance, characteristics desired and is not intended to limit or restrict competition. It shall be understood that such method of specification description is not intended to exclude other processes, similar designs, or kinds of materials, but is intended solely as a means of establishing a standard of comparison to be utilized for solicitation evaluation purposes. Other material or product may be used, if in the sole opinion of the University, they are equal in durability, quality and of a design in harmony with the intent of these specifications. Such other material or product which is substantially equivalent to those specific brand(s) specified shall qualify for solicitation evaluation and award consideration by the University. The University reserves the right to reject any substitute material or product which, in its opinion, does not meet the standard of quality established by reference in these specifications and is not considered an acceptable alternate for the intended use and purpose. The burden of proof as to meeting the requirements of these specifications shall be the responsibility of the submitting vendor. Such proposer(s) who is offering any material or product other than the item(s) specified herein must submit with their solicitation response catalog cuts and detailed specifications which will completely describe the item(s) on which they are offering for an acceptable alternate determination by the University. Where the proposer proposes to substitute a material or product which is not known to the University, he/she shall be prepared to submit samples on request for the University's inspection and evaluation. The cost of transportation, both ways, of such samples shall be borne by the submitting proposer.

#### **6.46 Intentionally Omitted**

#### **6.47 Termination**

##### **6.47.1 Convenience**

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

##### **6.47.2 Default**

The University reserves the right to terminate the Agreement in whole or in part due to the failure of the Successful Vendor to comply with any term or condition of the Agreement, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Agreement. The University shall provide written notice of the termination and the reasons for it to the Successful Vendor. Upon termination under this provision, all goods, materials, documents, data and reports prepared by the Successful Vendor under the Agreement shall become the property of and be delivered to the University on demand. The University may, upon termination of the Agreement, procure, on terms and in the manner that

it deems appropriate, materials, or services to replace those under the Agreement. The Successful Vendor shall be liable to the University for any excess costs incurred by the University in re-procuring the materials or services.

#### **6.47.3 Gratuities**

The University may, by written notice to the Successful Vendor, cancel the Agreement if it is discovered by the University that gratuities, in the form of entertainment, gifts or other, were offered or given by the Successful Vendor, or any agent or representative of the Successful Vendor, to any officer or employee of the University with a view toward securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing of such Agreement. In the event the Agreement is canceled by the University pursuant to this provision, University shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by Successful Vendor in providing such gratuities.

#### **6.47.4 Insolvency**

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

#### **6.47.5 Lack of Funds**

The State of Florida's and UF's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Florida State Legislature. The Agreement may be canceled without further obligation on the part of the University of Florida in the event that sufficient appropriated funding is unavailable to assure full performance of the terms. The Successful Vendor shall be notified in writing of such non-appropriation as soon as reasonably possible. No penalty shall accrue to the University in the event this cancellation provision is exercised. This cancellation provision shall not be construed so as to permit the University to terminate the Agreement in order to acquire similar equipment, material, supplies or services from another party.

#### **6.47.6 Stop Work Order**

The University may at any time, by written order to the Successful vendor, require the Successful Vendor to stop all or any part of the work called for by the Agreement for a period of ninety (90) days after the order is delivered to the Successful Vendor, and for any further period to which the parties may agree. The order shall be specifically identified as a Stop Work Order issued under this provision. Upon receipt of the order, the Successful Vendor shall immediately comply with its terms and take all reasonable steps to minimize the incidence of costs allocable to the work covered by the order during the period of work stoppage. If a Stop Work Order issued under this provision is canceled or the period of the order or any extension expires, the Successful Vendor shall resume work. The University shall make an equitable adjustment in the delivery schedule or Agreement price, or both, and the Agreement shall be amended in writing accordingly.

#### **6.47.7 Suspension or Debarment**

The University may by written notice to the Successful Vendor immediately terminate the Agreement if the University determines that the Successful Vendor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity,

including but limited to, being disapproved as a subcontractor Vendor of any public procurement unit or other governmental body.

#### **6.47.8 Continuation of Performance Through Termination**

The Successful Vendor shall continue to perform, in accordance with the requirements of Agreement, up to the date of termination, as directed in the termination notice.

#### **6.48 Intentionally Omitted**

#### **6.49 Intentionally Omitted**

#### **6.50 Payment Card Industry Data Security Standard.**

For e-commerce business and/or credit card transactions, Proposer agrees to be bound by the requirements and terms of the Rules of all applicable Card Associations, as amended from time to time, and be solely responsible for security and maintaining confidentiality of Card transactions processed by means of electronic commerce up to the point of receipt of such transactions by Bank.

Proposer is required to be in compliance with the requisites of the SAS 70 and/or Payment card Industry Data Security Standard and provide written attestation of compliance annually.

#### **6.51 Payment and Invoice Information**

All invoices will need to contain either a **UF purchase order number** or the **8-digit department ID number** of the department with which you are doing business. All invoices for payment should be submitted to the University of Florida via:

Email: email a .pdf or .tif file to [ufl@invoices.corcentric.com](mailto:ufl@invoices.corcentric.com). The file must be attached to the email and not embedded within the email. There can be multiple files per email but each file should only contain one invoice.

or

Mail to: UF – Accounts Payable  
PO Box 115350  
971 Elmore Drive  
Gainesville, FL 32611-5350

**7.0 Certifications and Forms**

**7.1 Certification of Proposal**

Explanation: This certification attests to the vendor's awareness of and agreement to the content of this ITN and all accompanying provisions contained herein.

Action: Vendor is to ensure that the following certificate is duly completed and correctly executed by an authorized officer of your company.

This proposal is submitted in response to Invitation to Negotiate ITN19NH-128 issued by the University of Florida. The undersigned, as a duly authorized officer, hereby certifies that

\_\_\_\_\_  
(Vendor Name)

agrees to be bound by the content of this proposal and agrees to comply with the terms, conditions and provisions of the referenced Invitation to Negotiate (ITN) and any addenda thereto in the event of an award. Exceptions are to be noted as stated in the ITN. The proposal shall remain in effect for a period of ninety (90) calendar days as of the Due Date for responses to the ITN.

The undersigned certifies that to the best of his/her knowledge: (check one of the below and provide information if required)

\_\_\_ There is no trustee or employee of the University of Florida who has or whose Relative has an Interest in the entity or entities making this proposal or who is a natural person making this proposal.

\_\_\_ There are trustee(s) and/or employee(s) of the University of Florida who have, and/or whose Relative(s) have, an Interest in the entity or entities making this proposal or who is a natural person making this proposal. Describe the nature of the interest held by each trustee, employee, or Relative of the trustee or employee (for example, grandson of Employee X owns the company or spouse of Employee Y is a director of the company).

“Interest” for purposes of this disclosure includes the following: director, trustee, officer, or employee of an entity, any contract with an entity (including consulting), or any partner, proprietor, stock, equity, or other ownership interest in an entity.

“Relative” for the purpose of this disclosure is an individual who is related to the trustee or employee as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, grandparent, great grandparent, grandchild, great grandchild, step grandparent, step great grandparent, step grandchild, step great grandchild, person who is engaged to be married to the trustee or employee or who otherwise holds himself or herself out as or is generally known as the person whom the trustee or employee intends to marry or with whom the trustee or employee intends to form a household, or any other natural person having the same legal residence as the trustee or employee”

The undersigned further certifies that their firm (check one) \_\_\_ **IS** or \_\_\_ **IS NOT** currently debarred, suspended, or proposed for debarment by any federal entity. The undersigned agrees to notify the University of any change in this status, should one occur, until such time as an award has been made under this procurement action.

Person(s) authorized to negotiate in good faith on behalf of this firm for purposes of this Invitation to Negotiate are:

Name: \_\_\_\_\_ Title: \_\_\_\_\_

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

Email: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

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

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

Signature of Authorized Officer

\_\_\_\_\_

Printed Name

Email: \_\_\_\_\_

**ITN #: ITN19NH-128**

**Closing Date: 05/30/2019**

**Closing Time: 3:00 PM/ET**