



Francis Marion University Request for Proposal

Solicitation Number	RFP-2411
Date Issued	05/04/2023
Purchasing Officer	Paul MacDonald
Phone	(843) 661-1134
E-Mail Address	Pmacdonald@fmarion.edu

DESCRIPTION: **Provide Beverage & Snack Vending Services for Francis Marion University**

The Term "Offer" Means Your "Bid" or "Proposal".

SUBMIT OFFER BY (Opening Date/Time): **06/08/2023 at 2:00 PM EST** See "Deadline for Submission of Offer" provision

QUESTIONS MUST BE RECEIVED BY: **05/18/2023 at 2:00 PM EST** See "Questions from Offerors" provision

NUMBER OF COPIES TO BE SUBMITTED: **One (1) original in hard copy, one (1) electronic copy, three (3) copies in hard copy clearly marked "COPY", one (1) redacted copy in hard copy and one (1) redacted electronic copy. Financial Considerations must be submitted in one separate, sealed envelope and included as a separate file on the electronic media (USB drive).**

SUBMIT YOUR OFFER TO ONE OF THE FOLLOWING ADDRESSES IN A SEALED PACKAGE.

MAILING ADDRESS:
**Francis Marion University
Purchasing Office
P.O. Box 100547
Florence, SC 29502-0547**

EXPRESS SHIPPING ADDRESS:
**Francis Marion University
Central Receiving
4822 E. Palmetto Street
Florence, SC 29506**

HAND-DELIVERY:
**Francis Marion University
Purchasing Office (Room 102)
Stokes Administration Building
4822 E. Palmetto Street
Florence, SC 29506**

CONFERENCE TYPE: **A Highly Recommended Site Visit**
DATE & TIME: **05/16/2023, 2:00 pm**
As appropriate, see "Conferences - Pre-Bid/Proposal" & "Site Visit" provisions

LOCATION: **Stokes Administration Building – Provost's Conference Room**

AWARD & AMENDMENTS

A **Notice of Intent to Award** will be posted at the Physical Address stated above on **06/14/2023**. The award, this solicitation, and any amendments will be posted at the following web address:
<http://www.fmarion.edu/procurement/solicitationsawards/>

You must submit a signed copy of this form with Your Offer. By submitting a bid or proposal, You agree to be bound by the terms of the Solicitation. You agree to hold Your Offer open for a minimum of thirty (30) calendar days after the Opening Date.

NAME OF OFFEROR (Full legal name of business submitting the offer)

OFFEROR'S TYPE OF ENTITY:
(Check one)

AUTHORIZED SIGNATURE

(Person signing must be authorized to submit binding offer to enter contract on behalf of Offeror named above.)

TITLE (Business title of person signing above)

- ☐ Sole Proprietorship
- ☐ Partnership
- ☐ Corporation (tax-exempt)
- ☐ Corporate entity (not tax-exempt)
- ☐ Government entity (federal, state, or local)
- ☐ Other_

PRINTED NAME (Printed name of person signing above)

DATE SIGNED

(See "Signing Your Offer" provision.)

Instructions regarding Offeror's name: Any award issued will be issued to, and the contract will be formed with, the entity identified as the offeror above. An offer may be submitted by only one legal entity. The entity named as the offeror must be a single and distinct legal entity. Do not use the name of a branch office or a division of a larger entity if the branch or division is not a separate legal entity, i.e., a separate corporation, partnership, sole proprietorship, etc.

STATE OF INCORPORATION

(If Offeror is a corporation, identify the state of Incorporation.)

TAXPAYER IDENTIFICATION NO.

(See "Taxpayer Identification Number" provision)

PAGE TWO

(Return Page Two with Your Offer)

HOME OFFICE ADDRESS (Address for offeror's home office / principal place of business)	NOTICE ADDRESS (Address to which all procurement and contract related notices should be sent.) (See "Notice" clause)	

	Address	
	Area Code - Number - Extension	Facsimile
E-mail Address		

PAYMENT ADDRESS (Address to which payments will be sent.) (See "Payment" clause)	ORDER ADDRESS (Address to which purchase orders will be sent) (See "Purchase Orders and "Contract Documents" clauses)
_____ Payment Address same as Home Office Address	_____ Order Address same as Home Office Address
_____ Payment Address same as Notice Address (check only one)	_____ Order Address same as Notice Address (check only one)

ACKNOWLEDGMENT OF AMENDMENTS							
Offerors acknowledges receipt of amendments by indicating amendment number and its date of issue. (See "Amendments to Solicitation" Provision)							
Amendment No.	Amendment Issue Date	Amendment No.	Amendment Issue Date	Amendment No.	Amendment Issue Date	Amendment No.	Amendment Issue Date

DISCOUNT FOR PROMPT PAYMENT (See "Discount for Prompt Payment" clause)	10 Calendar Days (%)	20 Calendar Days (%)	30 Calendar Days (%)	_____ Calendar Days (%)
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<p>PREFERENCES - A NOTICE TO VENDORS: On June 16, 2009, the South Carolina General Assembly rewrote the law governing preferences available to in-state vendors, vendors using in-state subcontractors, and vendors selling in-state or US end products. This law appears in Section 11-35-1524 of the South Carolina Code of Laws. A summary of the new preferences is available at www.procurement.sc.gov/preferences.</p> <p>PREFERENCES DO NOT APPLY WITH THIS SOLICITATION: Per Section 11-35-1524(E)(5) preferences do not apply to to procurements conducted pursuant to Section 11-35-1530 of the South Carolina Consolidated Procurement Code.</p>

<p>PREFERENCES - ADDRESS AND PHONE OF IN-STATE OFFICE:</p> <p>PREFERENCES DO NOT APPLY WITH THIS SOLICITATION: Per Section 11-35-1524(E)(5) preferences do not apply to to procurements conducted pursuant to Section 11-35-1530 of the South Carolina Consolidated Procurement Code.</p>

Solicitation Outline

- I. Scope of Solicitation**
- II. Instructions to Offerors**
 - A. General Instructions
 - B. Special Instructions
- III. Scope of Work / Specifications**
- IV. Information for Offerors to Submit**
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- VII. Terms and Conditions**
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I. Scope of Solicitation

INTRODUCTION

It is the intent of Francis Marion University ("FMU" or the "University") to solicit proposals for a Contractor to furnish, install, maintain and stock vending equipment for the sale of snack and beverages for FMU in accordance with all requirements stated herein. It will also be the responsibility of the Offeror to provide accurate records and the remittance of the percentage of sales to FMU in accordance with the requirements herein. This award will be to one vendor.

ACQUIRE SERVICES & SUPPLIES / EQUIPMENT (JAN 2006)

The purpose of this solicitation is to acquire services and supplies or equipment complying with the enclosed description and/or specifications and conditions. [01-1005-1]

The contract term may not exceed five (5) years. The initial term is one (1) year with four (4) one year renewal options.

MAXIMUM CONTRACT PERIOD - ESTIMATED (Jan 2006)

Start date: [07/27/2023](#) End date: [07/26/2028](#).

Dates provided are estimates only. Any resulting contract will begin on the date specified in the notice of award. See clause entitled "Term of Contract - Effective Date/Initial Contract Period". [01-1040-1]

CONTRACT TERM

Equipment shall be installed between [July 27, 2023](#) and [August 13, 2023](#) as mutually agreed upon by the contractor and the University and ready for use on [August 14, 2023](#).

Questions:

Deadline for receipt of questions regarding this Solicitation: (see cover page for date & time)

To submit questions or request additional information, send your written question/request to be received in Francis Marion University's Purchasing Office no later than the date and time shown above.

Send Questions to:

Mail:

**Francis Marion University
Contractual Services Office – SAB 116C
PO Box 100547
Florence, SC 29502-0547
Attn: Paul MacDonald**

Email: **PMacdonald@fmarion.edu**

Mark Envelopes, faxes or emails: Questions: **RFP - 2411 Beverage & Snack Vending Services**

The preferred method of receiving questions is via e-mail. All questions should be received no later than the date and time specified on the cover page.

Note Regarding Bids:

FRANCIS MARION UNIVERSITY WILL NOT ACCEPT E-MAILED OR FAXED BIDS IN RESPONSE TO THIS SOLICITATION. SEALED BIDS REQUIRED.

II. INSTRUCTIONS TO OFFERORS -- A. GENERAL

INSTRUCTIONS DEFINITIONS, CAPITALIZATION, AND HEADINGS FEB 2015)

CLAUSE HEADINGS USED IN THIS SOLICITATION ARE FOR CONVENIENCE ONLY AND SHALL NOT BE USED TO CONSTRUE MEANING OR INTENT. EVEN IF NOT CAPITALIZED, THE FOLLOWING DEFINITIONS ARE APPLICABLE TO ALL PARTS OF THE SOLICITATION, UNLESS EXPRESSLY PROVIDED OTHERWISE.

AMENDMENT means a document issued to supplement the original solicitation document.

BOARD means the South Carolina Budget & Control Board or its successor in interest.

BUSINESS means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture,

or any other legal entity. [11-35-310(3)]

CHANGE ORDER means any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual agreement of the parties to the contract. [11-35-310(4)] CONTRACT See clause entitled Contract Documents & Order of Precedence.

CONTRACT MODIFICATION means a written order signed by the procurement officer, directing the contractor to make changes which the clause of the contract titled "Changes," if included herein, authorizes the Procurement Officer to order without the consent of the contractor. [11-35-310(9)]

CONTRACTOR means the Offeror receiving an award as a result of this solicitation.

COVER PAGE means the top page of the original solicitation on which the solicitation is identified by number.

Offerors are cautioned that Amendments may modify information provided on the Cover Page.

OFFER means the bid or proposal submitted in response this solicitation. The terms Bid and Proposal are used interchangeably with the term Offer.

OFFEROR means the single legal entity submitting the offer. The term Bidder is used interchangeably with the term Offeror. See bidding provisions entitled Signing Your Offer and Bid/Proposal As Offer To Contract.

PAGE TWO means the second page of the original solicitation, which is labeled Page Two.

PROCUREMENT OFFICER means the person, or his successor, identified as such on either the Cover Page, an amendment, or an award notice.

YOU and YOUR means Offeror.

SOLICITATION means this document, including all its parts, attachments, and any Amendments.

STATE means the Using Governmental Unit(s) identified on the Cover Page.

SUBCONTRACTOR means any person you contract with to perform or provide any part of the work.

US or WE means the using governmental unit.

USING GOVERNMENTAL UNIT means the unit(s) of government identified as such on the Cover Page. If the Cover Page identifies the Using Governmental Unit as "Statewide Term Contract," the phrase "Using Governmental Unit" means any South Carolina Public Procurement Unit [11-35-4610(5)] that has submitted a Purchase Order to you pursuant to the contract resulting from this solicitation. Reference the clauses titled "Purchase Orders" and "Statewide Term Contract."

WORK means all labor, materials, equipment, services, or property of any type, provided or to be provided by the Contractor to fulfill the Contractor's obligations under the Contract.

AMENDMENTS TO SOLICITATION (JAN 2006)

(a) The Solicitation may be amended at any time prior to opening. All actual and prospective Offerors should monitor the following web site for the issuance of amendments:

<http://www.fmarion.edu/procurement/solicitationsawards/>

(b) Offerors shall acknowledge receipt of any amendment to this solicitation (1) by signing and returning the amendment, (2) by identifying the amendment number and date in the space provided for this purpose on Page Two, (3) by letter, or (4) by submitting a bid that indicates in some way that the bidder received the amendment.

(c) If this solicitation is amended, then all terms and conditions which are not modified remain unchanged.

AUTHORIZED AGENT (FEB 2015)

All authority regarding this procurement is vested solely with the responsible Procurement Officer. Unless specifically delegated in writing, the Procurement Officer is the only government official authorized to bind the government with regard to this procurement or the resulting contract.

AWARD NOTIFICATION (FEB 2015)

Notice regarding any award, cancellation of award, or extension of award will be posted at the location and on the date specified on the Cover Page or, if applicable, any notice of extension of award. Should the contract resulting from this Solicitation have a total or potential value of one hundred thousand dollars or more, such notice will be sent to all Offerors responding to the Solicitation and any award will not be effective until the eleventh day after such notice is given.

BID/PROPOSAL AS OFFER TO CONTRACT (JAN 2004)

By submitting Your Bid or Proposal, You are offering to enter into a contract with the Using Governmental Unit(s). Without further action by either party, a binding contract shall result upon final award. Any award issued will be issued to, and the contract will be formed with, the entity identified as the Offeror on the Cover Page. An Offer may be submitted by only one legal entity; "joint bids" are not allowed.

BID ACCEPTANCE PERIOD (JAN 2004)

In order to withdraw Your Offer after the minimum period specified on the Cover Page, You must notify the Procurement Officer in writing.

BID IN ENGLISH and DOLLARS (JAN 2004)

Offers submitted in response to this solicitation shall be in the English language and in US dollars, unless otherwise permitted by the Solicitation.

CERTIFICATE OF INDEPENDENT PRICE DETERMINATION (MAY 2008)

GIVING FALSE, MISLEADING, OR INCOMPLETE INFORMATION ON THIS CERTIFICATION MAY RENDER YOU SUBJECT TO PROSECUTION UNDER SECTION 16-9-10 OF THE SOUTH CAROLINA CODE OF LAWS AND OTHER APPLICABLE LAWS.

(a) By submitting an offer, the offeror certifies that

(1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to

(i) Those prices;

(ii) The intention to submit an offer; or

(iii) The methods or factors used to calculate the prices offered.

(2) The prices in this offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory

(1) Is the person in the offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this certification; or (2)(i) Has been authorized, in writing, to act as agent for the offeror's principals in certifying that those principals have not participated, and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this certification [As used in this subdivision (b)(2)(i), the term "principals" means the person(s) in the offeror's organization responsible for determining the prices offered in this bid or proposal];

(ii) As an authorized agent, does certify that the principals referenced in subdivision (b)(2)(i) of this certification have not participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this certification; and

(iii) As an agent, has not personally participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this certification.

(c) If the offeror deletes or modifies paragraph (a)(2) of this certification, the offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

CERTIFICATION REGARDING DEBARMENT AND OTHER RESPONSIBILITY MATTERS (JAN 2004)

(a) (1) By submitting an Offer, Offeror certifies, to the best of its knowledge and belief, that

(i) Offeror and/or any of its Principals

(A) Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any state or federal agency;

(B) Have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and

(C) Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision.

(ii) Offeror has not, within a three-year period preceding this offer, had one or more contracts terminated for default by any public (Federal, state, or local) entity.

(2) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

(b) Offeror shall provide immediate written notice to the Procurement Officer if, at any time prior to contract award, Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) If Offeror is unable to certify the representations stated in paragraphs (a)(1), Offer must submit a written explanation regarding its inability to make the certification. The certification will be considered in connection with a review of the Offeror's responsibility. Failure of the Offeror to furnish additional information as requested by the Procurement Officer may render the Offeror nonresponsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly or in bad faith rendered an erroneous certification, in addition to other remedies available to the State, the Procurement Officer may terminate the contract resulting from this solicitation for default.

CODE OF LAWS AVAILABLE (JAN 2006)

The South Carolina Code of Laws, including the Consolidated Procurement Code, is available at:
<http://www.scstatehouse.gov/code/statmast.php>

The South Carolina Regulations are available at:
<http://www.scstatehouse.gov/coderegs/statmast.php>

COMPLETION OF FORMS / CORRECTION OF ERRORS (JAN 2006)

All prices and notations should be printed in ink or typewritten. Errors should be crossed out, corrections entered and initialed by the person signing the bid. Do not modify the solicitation document itself (including bid schedule). (Applicable only to offers submitted on paper.)

DEADLINE FOR SUBMISSION OF OFFER (JAN 2004)

Any offer received after the Procurement Officer of the governmental body or his designee has declared that the time set for opening has arrived, shall be rejected unless the offer has been delivered to the designated purchasing office or the governmental body's mail room which services that purchasing office prior to the opening. [R.19-445.2070(G)]

DISCLOSURE OF CONFLICTS OF INTEREST OR UNFAIR COMPETITIVE ADVANTAGE (FEB 2015)

You warrant and represent that your offer identifies and explains any unfair competitive advantage you may have in competing for the proposed contract and any actual or potential conflicts of interest that may arise from your participation in this competition or your receipt of an award. The two underlying principles are (a) preventing the existence of conflicting roles that might bias a contractor's judgment, and (b) preventing an unfair competitive advantage. If you have an unfair competitive advantage or a conflict of interest, the state may withhold award. Before withholding award on these grounds, an offeror will be notified of the concerns and provided a reasonable opportunity to respond. Efforts to avoid or mitigate such concerns, including restrictions on future activities, may be considered. Without limiting the foregoing, you represent that your offer identifies any services that relate to either this solicitation or the work and that has already been performed by you, a proposed subcontractor, or an affiliated business of either.

DRUG FREE WORK PLACE CERTIFICATION (JAN 2004)

By submitting an Offer, Contractor certifies that, if awarded a contract, Contractor will comply with all applicable provisions of The Drug-free Workplace Act, Title 44, Chapter 107 of the South Carolina Code of Laws, as amended.

DUTY TO INQUIRE (FEB 2015)

Offeror, by submitting an Offer, represents that it has read and understands the Solicitation and that its Offer is made in compliance with the Solicitation. Offerors are expected to examine the Solicitation thoroughly and should request an explanation of any ambiguities, discrepancies, errors, omissions, or conflicting statements in the Solicitation. Failure to do so will be at the Offeror's risk. All ambiguities, discrepancies, errors, omissions, or conflicting statements in the Solicitation shall be interpreted to require the better quality or greater quantity of work and/or materials, unless otherwise directed by amendment. Offeror assumes responsibility for any patent ambiguity in the Solicitation that Offeror does not bring to the State's attention. See clause entitled "Questions from Offerors."

ETHICS CERTIFICATE (MAY 2008)

By submitting an offer, the offeror certifies that the offeror has and will comply with, and has not, and will not, induce a person to violate Title 8, Chapter 13 of the South Carolina Code of Laws, as amended (ethics act). The following statutes require special attention: Section 8-13-700, regarding use of official position for financial gain; Section 8-13-705, regarding gifts to influence action of public official; Section 8-13-720, regarding offering money for advice or assistance of public official; Sections 8-13-755 and 8-13-760, regarding restrictions on employment by former public official; Section 8-13-775, prohibiting public official with economic interests from acting on contracts; Section 8-13-790, regarding recovery of kickbacks; Section 8-13-1150, regarding statements to be filed by consultants; and Section 8-13-1342, regarding restrictions on contributions by contractor to candidate who participated in awarding of contract. The state may rescind any contract and recover all amounts expended as a result of any action taken in violation of this provision. If contractor participates, directly or indirectly, in the evaluation or award of public contracts, including without limitation, change orders or task orders regarding a public contract, contractor shall, if required by law to file such a statement, provide the statement required by Section 8-13-1150 to the procurement officer at the same time the law requires the statement to be filed.

OMIT TAXES FROM PRICE (JAN 2004)

Do not include any sales or use taxes in Your price that the State may be required to pay. [02-2A080-1]

OPEN TRADE REPRESENTATION (JUN 2015)

By submitting an Offer, Offeror represents that Offeror is not currently engaged in the boycott of a person or an entity based in or doing business with a jurisdiction with whom South Carolina can enjoy open trade, as defined in SC Code Section 1135-5300.

PROHIBITED COMMUNICATIONS AND DONATIONS (FEB 2015)

Violation of these restrictions may result in disqualification of your offer, suspension or debarment, and may constitute a violation of law.

(a) During the period between publication of the solicitation and final award, ***you must not communicate, directly or indirectly, with the Using Governmental Unit or its employees, agents or officials regarding any aspect of this procurement activity, unless otherwise approved in writing by the Procurement Officer.*** All communications must be solely with the Procurement Officer. [R. 19-445.2010]

(b) You are advised to familiarize yourself with Regulation 19-445.2165, which restricts donations to a governmental entity with whom you have or seek to have a contract. ***You represent that your offer discloses any gifts made, directly or through an intermediary, by you or your named subcontractors to or for the benefit of the Using Governmental Unit during the period beginning eighteen months prior to the Opening Date.*** [R. 19-445.2165] [02-2A087-1]

PROTESTS (MAY 2019):

If you are aggrieved in connection with the solicitation or award of the contract, you may be entitled to protest, but only as provided in Section 11-35-4210. To protest a solicitation, you must submit a protest within fifteen days of the date the applicable solicitation document is issued. To protest an award, you must (i) submit notice of your intent to protest within seven business days of the date the award notice is posted, and (ii) submit your actual protest within fifteen days of the date the award notice is posted. Days are calculated as provided in Section 11-35-310(13). Both protests and notices of intent to protest must be in writing and must be received by the appropriate Chief Procurement Officer within the time provided. See clause entitled "Protest-CPO". The grounds of the protest and the relief requested must be set forth with enough particularity to give notice of the issues to be decided. [02-2A085-2]

PUBLIC OPENING (JAN 2004):

Offers will be publicly opened at the date/time and at the location identified on the Cover Page, or last Amendment, whichever is applicable.

QUESTIONS FROM OFFERORS (FEB 2015)

Any prospective offeror desiring an explanation or interpretation of the solicitation, drawings,

specifications, etc., must request it in writing. Questions regarding the original solicitation or any amendment must be received by the Procurement Officer no later than five (5) days prior to opening unless an earlier date is stated on the Cover Page. Label any communication regarding your questions with the name of the procurement officer, and the solicitation's title and number. Oral explanations or instructions will not be binding. [See R. 19-445.2042(B)] Any information given a prospective offeror concerning a solicitation will be furnished promptly to all other prospective offerors as an Amendment to the solicitation, if that information is necessary for submitting offers or if the lack of it would be prejudicial to other prospective offerors. See clause entitled "Duty to Inquire." **We will not identify you in our answer to your question.** (b) The State seeks to permit maximum practicable competition. Offerors are urged to advise the Procurement Officer --as soon as possible --regarding any aspect of this procurement, including any aspect of the Solicitation that unnecessarily or inappropriately limits full and open competition. [See R. 19-445.2140]

REJECTION/CANCELLATION (JAN 2004)

The State may cancel this solicitation in whole or in part. The State may reject any or all proposals in whole or in part. [SC Code Section 11-35-1710 & R.19-445.2065]

RESPONSIVENESS/IMPROPER OFFERS (JUN 2015)

(a) Bid as Specified. Offers for supplies or services other than those specified will not be considered unless authorized by the Solicitation.

(b) Multiple Offers. Offerors may submit more than one Offer, provided that each Offer has significant differences other than price. Each separate Offer must satisfy all Solicitation requirements. If this solicitation is an Invitation for Bids, each separate offer must be submitted as a separate document. If this solicitation is a Request for Proposals, multiple offers may be submitted as one document, provided that you clearly differentiate between each offer and you submit a separate cost proposal for each offer, if applicable.

(c) Responsiveness. Any Offer which fails to conform to the material requirements of the Solicitation may be rejected as nonresponsive. Offers which impose conditions that modify material requirements of the Solicitation may be rejected. If a fixed price is required, an Offer will be rejected if the total possible cost to the State cannot be determined. Offerors will not be given an opportunity to correct any material nonconformity. Any deficiency resulting from a minor informality may be cured or waived at the sole discretion of the Procurement Officer. [R.19-445.2070 and Section 11-35-1520(13)]

(d) Price Reasonableness: Any offer may be rejected if the Procurement Officer determines in writing that it is unreasonable as to price. [R. 19-445.2070].

(e) Unbalanced Bidding. The State may reject an Offer as nonresponsive if the prices bid are materially unbalanced between line items or subline items. A bid is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated in relation to cost for other work, and if there is a reasonable doubt that the bid will result in the lowest overall cost to the State even though it may be the low evaluated bid, or if it is so unbalanced as to be tantamount to allowing an advance payment.

(f) **Do not submit bid samples or descriptive literature unless expressly requested.** Unsolicited bid samples or descriptive literature will not be examined or tested, will not be used to determine responsiveness, and will not be deemed to vary any of the provisions of the solicitation. S.C. Code Ann. Reg. 19-445.2077(D).

SIGNING YOUR OFFER (JAN 2004)

Every Offer must be signed by an individual with actual authority to bind the Offeror. (a) If the Offeror is an individual, the Offer must be signed by that individual. If the Offeror is an individual doing business as a firm, the Offer must be submitted in the firm name, signed by the individual, and state that the individual is doing business as a firm. (b) If the Offeror is a partnership, the Offer must be submitted in the partnership name, followed by the words by its Partner, and signed by a general partner. (c) If the Offeror is a corporation, the Offer must be submitted in the corporate name, followed by the signature and title of

the person authorized to sign. (d) An Offer may be submitted by a joint venturer involving any combination of individuals, partnerships, or corporations. If the Offeror is a joint venture, the Offer must be submitted in the name of the Joint Venture and signed by every participant in the joint venture in the manner prescribed in paragraphs (a) through (c) above for each type of participant. (e) If an Offer is signed by an agent, other than as stated in subparagraphs (a) through (d) above, the Offer must state that it has been signed by an Agent. Upon request, Offeror must provide proof of the agent's authorization to bind the principal.

STATE OFFICE CLOSINGS (FMU 2017)

If an emergency or unanticipated event interrupts normal government processes so that offers cannot be received at the government office designated for receipt of bids by the exact time specified in the solicitation, the time specified for receipt of offers will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal government processes resume. In lieu of an automatic extension, an Amendment may be issued to reschedule bid opening. If state offices are closed at the time a pre-bid or pre-proposal conference is scheduled, an Amendment will be issued to reschedule the conference. Useful information may be available at:

<http://www.scemd.org/planandprepare/disasters/severe-winter-weather> and at <http://www.fmarion.edu/>

SUBMITTING CONFIDENTIAL INFORMATION (FEB 2015)

(An overview is available at www.procurement.sc.gov) For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the word "CONFIDENTIAL" every page, or portion thereof, that Offeror contends contains information that is exempt from public disclosure because it is either (a) a trade secret as defined in Section 30-4-40(a)(1), or (b) privileged and confidential, as that phrase is used in Section 11-35-410. For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the words "TRADE SECRET" every page, or portion thereof, that Offeror contends contains a trade secret as that term is defined by Section 39-8-20 of the Trade Secrets Act. For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the word "PROTECTED" every page, or portion thereof, that Offeror contends is protected by Section 11-35-1810. All markings must be conspicuous; use color, bold, underlining, or some other method in order to conspicuously distinguish the mark from the other text. Do not mark your entire response (bid, proposal, quote, etc.) as confidential, trade secret, or protected. If your response, or any part thereof, is improperly marked as confidential or trade secret or protected, the State may, in its sole discretion, determine it nonresponsive. If only portions of a page are subject to some protection, do not mark the entire page. By submitting a response to this solicitation or request, Offeror (1) agrees to the public disclosure of every page of every document regarding this solicitation or request that was submitted at any time prior to entering into a contract (including, but not limited to, documents contained in a response, documents submitted to clarify a response, and documents submitted during negotiations), unless the page is conspicuously marked "TRADE SECRET" or "CONFIDENTIAL" or "PROTECTED", (2) agrees that any information not marked, as required by these bidding instructions, as a "Trade Secret" is not a trade secret as defined by the Trade Secrets Act, and (3) agrees that, notwithstanding any claims or markings otherwise, any prices, commissions, discounts, or other financial figures used to determine the award, as well as the final contract amount, are subject to public disclosure. In determining whether to release documents, the State will detrimentally rely on Offeror's marking of documents, as required by these bidding instructions, as being either "Confidential" or "Trade Secret" or "PROTECTED". By submitting a response, Offeror agrees to defend, indemnify and hold harmless the State of South Carolina, its agencies, officers and employees, from every claim, demand, loss, expense, cost, damage or injury, including attorney's fees, arising out of or resulting from withholding information by the State of South Carolina or any of its agencies, that Offeror marked as "confidential" or "trade secret" or "PROTECTED". (All references to S.C. Code of Laws.)

SUBMITTING A PAPER OFFER OR MODIFICATION (MODIFIED)

Paper offers are required. (a) All prices and notations should be printed in ink or typewritten. Errors should be crossed out, corrections entered and initialed by the person signing the bid. Do not modify the solicitation document itself (including bid schedule). (b) (1) All copies of the offer or modification, and any other documents required to be submitted with the offer shall be enclosed in a sealed, opaque envelope or package. (2) Submit your offer or modification to the address on the Cover Page. (3) The envelope or package must show the time and date specified for opening, the solicitation number, and the name and address of the bidder. If the offer or modification is sent by mail or special delivery service (UPS, Federal Express, etc.), the outermost envelope or wrapper must be labeled "OFFER ENCLOSED" on the face thereof. (c) If you are responding to more than one solicitation, submit each offer in a separate envelope or package. (d) Submit the number of copies indicated on the Cover Page. (e) Facsimile or e-mail offers, modifications, or withdrawals, will not be considered unless authorized by the Solicitation.

TAX CREDIT FOR SUBCONTRACTING WITH DISADVANTAGED SMALL BUSINESSES (JAN 2008)

Pursuant to Section 12-6-3350, a taxpayer having a contract with this State who subcontracts with a socially and economically disadvantaged small business is eligible for an income tax credit equal to four percent of the payments to that subcontractor for work pursuant to the contract. The subcontractor must be certified as a socially and economically disadvantaged small business as defined in Section 11-35-5010 and regulations pursuant to it. The credit is limited to a maximum of fifty thousand dollars annually. A taxpayer is eligible to claim the credit for ten consecutive taxable years beginning with the taxable year in which the first payment is made to the subcontractor that qualifies for the credit. After the above ten consecutive taxable years, the taxpayer is no longer eligible for the credit. A taxpayer claiming the credit shall maintain evidence of work performed for the contract by the subcontractor. The credit may be claimed on Form TC-2, "Minority Business Credit." A copy of the subcontractor's certificate from the Governor's Office of Small and Minority Business (OSMBA) is to be attached to the contractor's income tax return. Questions regarding the tax credit and how to file are to be referred to: SC Department of Revenue, Research and Review, Phone: (803) 898-5786, Fax: (803) 898-5888. Questions regarding subcontractor certification are to be referred to: Governor's Office of Small and Minority Business Assistance, Phone: (803) 734-0657, Fax: (803) 734-2498.

WITHDRAWAL OR CORRECTION OF OFFER (JAN 2004)

Offers may be withdrawn by written notice received at any time before the exact time set for opening. If the Solicitation authorizes facsimile offers, offers may be withdrawn via facsimile received at any time before the exact time set for opening. A bid may be withdrawn in person by a bidder or its authorized representative if, before the exact time set for opening, the identity of the person requesting withdrawal is established and the person signs a receipt for the bid. The withdrawal and correction of Offers is governed by S.C. Code Section 11-35-1520 and Regulation 19-445.2085.

II. INSTRUCTIONS TO OFFERORS -- B. SPECIAL INSTRUCTIONS

CLARIFICATION (NOV 2007)

Pursuant to Section 11-35-1520(8), the Procurement Officer may elect to communicate with you after opening for the purpose of clarifying either your offer or the requirements of the solicitation. Such communications may be conducted only with offerors who have submitted an offer which obviously conforms in all material aspects to the solicitation. Clarification of an offer must be documented in writing and included with the offer. Clarifications may not be used to revise an offer or the solicitation. [Section 11-35-1520(8); R.19-445.2080] [02-2B055-1]

CONTENTS OF OFFER (RFP) (FEB 2015)

(a) Offers should be complete and carefully worded and should convey all of the information requested.

(b) Offers should be prepared simply and economically, providing a straightforward, concise description of offeror's capabilities to satisfy the requirements of the RFP. Emphasis should be on completeness and clarity of content.

(c) The contents of your offer must be divided into two parts, the technical proposal and the business proposal. Each part should be bound in a single volume.

(d) If your offer includes any comment over and above the specific information requested in the solicitation, you are to include this information as a separate appendix to your offer. Offers which include either modifications to any of the solicitation's contractual requirements or an offeror's standard terms and conditions may be deemed non-responsive and not considered for award.

[02-2B040-2]

DESCRIPTIVE LITERATURE – LABELING (JAN 2006)

Include offeror's name on the cover of any specifications or descriptive literature submitted with your offer.

MAIL PICKUP (FMU)

Francis Marion University picks up all mail from The US Postal Service once daily around 8:30 a.m. (excluding weekends and holidays). See provision entitled Deadline for Submission of Offer. [02-2B080-1]

OPENING PROPOSALS -- INFORMATION NOT DIVULGED (FEB 2015)

In competitive sealed proposals, neither the number or identity of offerors nor prices will be divulged at opening. [Section 11-35-1530 & R. 19-445.2095(C)(1)]

PROTEST - CPO - MMO ADDRESS (JUNE 2006)

Any protest must be addressed to the Chief Procurement Officer, Materials Management Office, and submitted in writing

(a) by email to protest-mmo@mmo.state.sc.us

(b) by facsimile at 803-737-0639, or

(c) by post or delivery to 1201 Main Street, Suite 600, Columbia, SC 29201. [02-2B122-1]

SAMPLES OR DESCRIPTIVE LITERATURE

Samples or descriptive literature should not be submitted unless expressly requested and regardless of any attempt by an offeror to condition its offer, unsolicited bid samples or descriptive literature which are submitted at offeror's risk will not be examined or tested, and will not be deemed to vary any of the provisions of the Request for Proposals.

HIGHLY RECOMMENDED SITE VISIT - BY APPOINTMENT (JAN 2006): Appointment for a site visit may be made by contacting:

Paul MacDonald
Francis Marion University
Work phone: (843) 661-1134
Email: pmacdonald@fmarion.edu

Note Regarding Site Visit:

SITE VISIT (JAN 2006): A site visit will be held at the following date, time and location [see cover page of this document for details]. Your failure to attend will not relieve the Contractor from responsibility for estimating properly the difficulty and cost of successfully performing the work, or for proceeding to successfully perform the work without additional expense to the State. The State assumes no responsibility for any conclusions or interpretations made by the Contractor based on the information made available at the conference. Nor does the State assume

responsibility for any understanding reached or representation made concerning conditions which can affect the work by any of its officers or agents before the execution of this contract, unless that understanding or representation is expressly stated in this contract.

Site Visit Date & Start Time: (Non-mandatory – But **highly recommended** – **See Cover Page for Date, Time, & Location**). A highly recommended site visit will be held to assure a complete understanding of the project. This visit is scheduled to begin promptly at the time and place described on the cover page of this document. Please visit our website at www.fmarion.edu for directions or call the Buyer at (843) 661-1134 for additional information.

UNIT PRICES REQUIRED (JAN 2006)

Unit price to be shown for each item.

III. SCOPE OF WORK/SPECIFICATIONS

SPECIFICATIONS / STATEMENT OF WORK

It is the intent of Francis Marion University ("FMU" or the "University") to solicit proposals for a Contractor to furnish, install, maintain, stock, and operate vending equipment for the sale of snack and beverages for FMU in accordance with all requirements stated herein. This award will be to one vendor.

REQUIREMENTS

Francis Marion University is seeking a Contractor to furnish, install, maintain and operate, at Contractor's expense automatic vending equipment for the sale of snack and beverages. The Contractor shall have exclusive rights to sell, dispense, or otherwise provide these items in campus vending operations. An exception to the exclusive rights is Campus Dining Services (currently Aramark Dining Services) and the University bookstore operator (currently Barnes and Noble) who may offer prepackaged snacks and/or bottled water, soft drinks, and other juices at their locations. "Pouring rights" including the supply of beverage syrup for campus dining services and athletic concessions are not included in this contract.

BACKGROUND

Francis Marion University is a dynamic, public comprehensive liberal arts institution located in Florence, South Carolina. Additional information regarding the University including student enrollment can be found at:

University student demographics are listed as Exhibit C: University Demographics

The following represents minimum requirements imposed by the University and these requirements, in no way, restrict offerors from proposing additional or increased services.

UNIVERSITY'S CONTRACT ADMINISTRATOR

The University's Contract Administrator for this contract is as follows:

Paul MacDonald - Assistant Vice President for Contractual Services

843-661-1134, pmacdonald@fmarion.edu

HISTORICAL INFORMATION

The University currently has been in an exclusive contract for the purchase of beverages and snacks between July 2011 and July 2018, and July 2018 to present with the University receiving a commission based upon monthly gross sales.

Beverage and snack vending sales for the past two calendar years are as follows:

	Drinks			Snacks			
2021	Sales	Tax	Commissions	Sales	Tax	Commissions	Total Comm
January	\$3,987.45	\$295.36	\$1,255.33	\$2,261.70	\$167.54	\$712.01	\$1,967.34
February	\$5,374.50	\$398.10	\$1,691.98	\$3,233.65	\$239.53	\$1,018.00	\$2,709.98
March	\$9,358.70	\$693.21	\$2,946.28	\$4,877.450	\$361.300	\$1,535.480	\$4,481.76
April	\$8,223.650	\$609.150	\$2,588.930	\$4,441.00	\$328.96	\$1,398.11	\$3,987.04
May	\$2,239.350	\$165.880	\$704.980	\$1,261.50	\$93.44	\$397.14	\$1,102.12
June	\$1,534.20	\$113.64	\$483.00	\$1,433.950	\$106.220	\$451.420	\$934.42
July	\$1,479.600	\$109.590	\$465.830	\$1,257.850	\$93.170	\$395.990	\$861.82
August	\$5,644.15	\$418.08	\$1,776.89	\$2,723.400	\$201.720	\$857.380	\$2,634.27
September	\$12,146.50	\$899.73	\$3,823.89	\$6,356.90	\$470.88	\$2,001.24	\$5,825.13
October	\$10,046.40	\$744.15	\$3,162.75	\$6,114.70	\$452.94	\$1,925.00	\$5,087.75
November	\$10,502.30	\$777.96	\$3,306.25	\$6,826.75	\$505.70	\$2,149.15	\$5,455.40
December	\$4,654.80	\$344.80	\$1,465.40	\$3,457.55	\$256.10	\$1,088.49	\$2,553.89
Total	\$75,191.60	\$5,569.65	\$23,671.51	\$44,246.40	\$3,277.50	\$13,929.41	\$37,600.92
2022	Sales	Tax	Commissions	Sales	Tax	Commissions	Total Comm
January	\$6,398.95	\$473.97	\$2,014.48	\$4,009.70	\$297.02	\$1,262.31	\$3,276.79
February	\$11,296.40	\$836.76	\$3,556.27	\$6,557.90	\$485.75	\$2,064.55	\$5,620.82
March	\$13,688.25	\$1,013.91	\$4,309.28	\$8,482.60	\$628.34	\$2,670.44	\$6,979.72
April	\$8,627.40	\$639.06	\$2,716.05	\$5,441.35	\$403.06	\$1,712.99	\$4,429.04
May	\$2,230.15	\$165.20	\$702.09	\$1,379.15	\$102.16	\$434.17	\$1,136.26
June	\$3,583.00	\$265.41	\$1,127.99	\$1,945.55	\$144.10	\$612.49	\$1,740.48
July	\$1,514.65	\$112.20	\$476.83	\$1,174.30	\$86.99	\$369.69	\$846.52
August	\$10,410.80	\$771.14	\$3,277.47	\$5,733.90	\$424.74	\$1,805.13	\$5,082.60
September	\$19,119.35	\$1,416.23	\$6,019.06	\$10,164.05	\$752.90	\$3,199.79	\$9,218.85
October	\$16,020.55	\$1,186.70	\$5,043.50	\$10,346.75	\$766.42	\$3,257.30	\$8,300.80
November	\$13,240.75	\$980.80	\$4,168.42	\$8,942.75	\$662.42	\$2,815.31	\$6,983.73
December	\$7,092.30	\$525.36	\$2,232.76	\$4,980.45	\$368.90	\$1,567.91	\$3,800.67
Total	\$113,222.55	\$8,386.74	\$35,644.20	\$69,158.45	\$5,122.80	\$21,772.08	\$57,416.28

SCOPE OF WORK

OBJECTIVE

To provide vended snacks and drinks to the University community as specified in this Request for Proposal (RFP). Responses to this Request for Proposal must address each of the following tasks and requirements. Incomplete proposals will not be eligible for contract award.

SUPPLIES

Food sold through vending machines and offered to patrons shall be sound and free from spoilage, filth or other contamination and shall be safe for human consumption. The food shall be obtained from sources that comply with all laws relating to food and food labeling. The use of food in hermetically sealed containers that was not prepared in a food processing establishment is prohibited.

All products shall be attractively packaged, clearly labeled and priced. All snacks must be packaged, coded, and replaced with fresh products or sell by dates using an inventory rotation system developed by the Contractor and pre-approved by the University.

Machines shall be stocked with adequate merchandise with due consideration to rotation and variety of items. If there is a problem with the variety of snacks or beverages the Contractor will be responsible for changing as specified by the University.

Instructions for receiving funds for unsatisfactory machine performance or product quality will be posted at each vending location. Contractor agrees to handle all calls regarding refills for any vending item outage within two (2) business days.

Drinks and Snacks shall not remain in vending machines longer than the expiration date shown. All expired products will be removed promptly.

Labeling on all items, must comply with all U.S.D.A. and FDA regulations or qualification, and institution policy regarding packaging, labeling, ingredient listing, and standards.

EXCEPTION TO PRODUCT VENDING

Ordering per case of product is to be allowed by individual University departments which have received approval from the Executive Vice President of the University. A list of currently approved departments includes: the President's Office, University Athletics, and FMU Dining Services.

EQUIPMENT

Contractor shall have exclusive rights to furnish, install, operate, supply and service automatic vending equipment for the sale of beverages and snack items normally sold in vending machines on the University's premises.

Contractor must furnish, install, maintain, stock and operate all machines at Contractor's cost and expense. The current quantity and types of vending machines located on campus are included in **Exhibit A**.

Vending machines must be brand new or like new and the latest in state-of-the-art technology. Acceptable like new machines will be less than five (5) years old and any proposed use of these machines must be approved by the University prior to installation. New and updated equipment shall be listed as certified by the Automatic Merchandising Industry Health Code. Vendors shall comply with the Americans with Disability Act (ADA) in regard to access to and use of vending machines. Any machines deemed by the University to be inadequate or unacceptable must be replaced by the contractor immediately upon request.

The Contractor with consent of the University's Contract Administrator may mutually agree to increase or decrease the number of machines during the contract based on changes in the student/staff population.

Contractor must provide personnel, delivery service, and repair of vending machines. The ownership of the vending machines remains with the Contractor.

Contractor must service merchandise and maintain equipment in a clean, sanitary, and good mechanical condition at Contractor's sole cost and expense. All machines must be clean and undamaged, both inside and outside.

Contractor shall operate in compliance with all regulations regarding food service and vending as applicable. Contractor shall remain abreast of all related regulations and adhere to the most updated regulations regarding food service and vending as applicable to provided service.

If, in the opinion of the University, at any time during the contract period, circumstances warrant changes to the quantity, types and/or specifications of the vending machines, the contractor shall make the changes required by the University including the removal of, addition of, or other changes to vending machines. This shall include providing additional vending machines which may be required due to the expansion of the University into additional or new facilities and/or the expansion or renovation of existing facilities. The Contractor shall only make such changes upon the approval of the University.

All machines will be located in positions approved by this University. No machine(s) will be moved or re-located in any manner without Francis Marion approval. The contractor shall not move or otherwise tamper with any other vendor(s) equipment. Non-compliance with this requirement will result in immediate cancellation of the contract. Any changes to vending machines (addition, relocation, replacement, removal) must be coordinated with the University's Contract Administrator.

All vending machines must accept cash for payment. Contractor must also include alternate payment methods **for proposed machines.** These machines should accept major credit and debit cards to

include Visa, Mastercard, Discover, and American Express and securely communicate this information with financial organizations during cashless transactions.

Contractor will conspicuously display at each vending location information for the customer as to where refunds are made. All information including appropriate permits, licenses, price regulations and tax notices shall be displayed in an appropriate place on or near the equipment.

HOUSEKEEPING

To facilitate housekeeping, all vending machines shall be located so that space around and under the machines can be easily cleaned and maintained, and so that insect and rodent harborage is not created. When mounted on legs, a minimum of six (6) inches of unobstructed space shall be provided beneath the unit. The Contractor agrees to maintain high standards of sanitation with respect to the vending services provided.

REPAIR SERVICE

Contractor shall provide prompt service and repair to all equipment and no single machine shall be out-of-service for more than three (3) business days. Replacement machines must be provided when determined by the University to be necessary. This includes those with significant interior and/or exterior deterioration.

UNIVERSITY PROVIDED SPACE AND UTILITIES

The University agrees to provide adequate space, utilities, including the ready connection for such, at the location of all equipment.

EXTERMINATING SERVICES

The University shall provide general exterminating services in the vending machine areas. The Contractor and the University's Contract Administrator shall coordinate exterminating services, with the University retaining the final control as to areas to be exterminated. The University shall not be held responsible for any damage of any nature as a result of exterminating service being provided.

PURCHASE OF GOODS

The University will not be responsible for any goods purchased by the Contractor or for any other obligations of liabilities assumed or created by the Contractor in performing this contract. The Contractor shall not set or hold him/herself out to be an agent for the University and nothing herein shall be construed as creating the relationship of partners, joint ventures or agency.

PRODUCT PRICES

Prices of vended foods shall remain at reasonable levels, shall be fixed and determined jointly by the University and the Contractor. Prices shall be established prior to commencement of a contract and shall be firm for the initial twelve months of the contract.

Contractor may submit once per year, at least ninety (90) days prior to contract commencement anniversary, a written request for a change in vended beverage prices. The University will use the Consumer Price Index Urban (CPI-U) "Other Goods and Services" and local competitive product pricing as guides to determine the appropriateness of price changes. Prices shall not be changed unless approved in writing by the FMU Purchasing Office.

Please see the following clauses located in Section VII Terms & Conditions B. Special:

1) PRICE ADJUSTMENTS

2) PRICE ADJUSTMENT - LIMITED - AFTER INITIAL TERM ONLY

3) PRICE ADJUSTMENTS -- LIMITED BY CPI "OTHER GOODS and SERVICES"

PRODUCT LIST/BRANDS

All items sold must be nationally known brand products. Examples of national beverage brand products are Canada Dry, Coca-Cola, Gatorade, Pepsi, etc. A listing of the products to be used must be provided in advance and is subject to approval by the University's Contract Administrator. The University requests to continue providing products for health conscious individuals.

CONTRACT COORDINATOR

- A.** Contractor shall provide one Contract Coordinator to review and inspect operations and Contractor performance monthly (at a minimum).
- B.** Contract Coordinator shall update the University's Contract Administrator on current and future service programs offered.
- C.** Contract Coordinator shall have full authority to act on behalf of the awarded Contractor in all matters pertaining to the specifications of any resulting contract.

PERSONNEL

The Contractor agrees to employ and supervise all labor and management necessary for the efficient and effective operation of all vending machine services.

The Contractor agrees to comply with applicable University policies. Francis Marion University is a tobacco-free campus.

All service personnel shall be well groomed and uniformed. They shall comply with the rules and regulations with respect to personal hygiene and conditions of work as established or promulgated by the State Department of Health & Environmental Control, Food and Drug Administration and any other governmental agency. Proper conduct of all personnel shall be maintained.

If the University determines it is necessary and requests, the Contractor will conduct a criminal history background check for Contractor personnel working under this contract and provide the University with the documentation prior to the Contractor personnel start date. The scope will be nationwide and, at a minimum, must include federal, state, and county records for all states where the Contractor's personnel has resided in the past seven years and a sex offender registry check.

If the University determines it is necessary and requests, the Contractor will conduct a drug screening and confirm a negative drug screen to the University's Contract Administrator. For any driver requiring a screening, the minimum drug screening requirement is the US Department of Health & Human Services 5-panel DOT screening.

The Contractor personnel shall strictly adhere to campus regulations regarding personnel behavior and safety. The Contractor personnel shall maintain proper conduct while performing services under the resulting contract and the Contractor shall enforce proper conduct of its personnel.

The University reserves the right to request the replacement of any Contractor management personnel due to operating difficulties determined to be result of inferior on-site management practices/performance. The University will furnish a thirty (30) day notice.

The Contractor shall comply with the Fair Labor Standard Act as amended and any other applicable statutes which may relate to pay.

The Contractor shall not involve the University and/or the state in any labor dispute in connection with the contractor and its personnel.

The Contractor shall be responsible for the safety and health of all its workers on the job and shall comply with all applicable provisions of the Occupational Safety and Health Act.

The Contractor shall not discriminate against any employee or applicant for employment because of race, color, creed, sex, or national origin.

OFFENSIVE SITUATIONS

- A. The vending equipment locations are high traffic, co-ed student areas. Contractor personnel are cautioned against creating interruptions, noise or offensive situations that may interfere with the learning process or could be construed as sexual harassment.
- B. In the event that the University receives a complaint regarding the behavior of an employee, the University's Contract Administrator shall notify the Contractor in writing.
- C. Upon receipt of such notification, Contractor shall promptly remove such employee or employees from the University's premises and take immediate steps to insure that its performance under this contract will not be reduced.

BUILDING ACCESS

- A. The University Contract Administrator will provide Contractor representatives with building access cards as necessary to complete work.
- B. Contractor shall be responsible for maintaining security of access card and for immediate notification to the University of any lost access card. Contractor will be responsible for replacement of lost cards.
- C. The University shall conduct a periodic review of access card usage and control.
- D. Contractor shall immediately report any security concerns to the University Contract Administrator

LIABILITY

- A. Contractor is responsible for all damage done to any University property during the installation, operation, maintenance and/or removal of equipment.
- B. Contractor is responsible for damage to University facilities by equipment that does not perform as intended or malfunctions even if exact cause of malfunction cannot be determined.
- C. Clean up and repair of all damage shall be accomplished at Contractor's expense in a manner satisfactory to the University.

DAMAGE TO CONTRACTOR OWNED EQUIPMENT

The University shall be responsible for providing adequate security for the Contractor's personnel, equipment, inventory and cash while on University premises; however, the University does not warrant the prevention of any loss to the Contractor due to vandalism, riot, or forcible entry and will not be responsible for the loss of cash, inventory, cost of repairs or replacement of inventory.

Likewise, the University shall not be liable for any damage or injury to the goods or property of the Contractor done or occasioned by or from electrical wiring, plumbing, water, gas, steam, or other pipes, or sewerage or the breaking of any electric wire, the bursting, leaking or running of water from any source, or for any damage occasioned by fire, explosion, falling plaster, electricity, smoke, or for the loss, theft or damage of any property of the Contractor of his/her employees or other damage, delay, inconvenience, or annoyance to the Contractor arising from or because of strikes, lockouts, or other labor difficulties, or for any other reason whatsoever. The Contractor waives any and all rights of recovery from the University for property damage, loss of use or compensation thereof, however occurring.

ENERGY CONSERVATION

To reduce vending energy consumption, the University desires that machines have the capability of powering down the lights and/or compressors during hours of no customer activity, and contain sensors to allow products to be maintained at the proper sale temperatures.

REGULATORY REQUIREMENTS

Contractor must maintain all furnished and installed vending machines in accordance with and as applicable with the minimum practices established by the following regulatory agencies, terms of which

are incorporated herein by reference:

1. United States Department of Health and Human Services
United States Food and Drug Administration
Food Code 2022

<http://www.fda.gov/Food/GuidanceRegulation/RetailFoodProtection/FoodCode/ucm374275.htm>

2. South Carolina Department of Health and Environmental Control
Regulation 61-25 Retail Food Establishments

<http://www.scdhec.gov/administration/library/CR-001214.pdf>

Contractor shall remain abreast of all related regulations including those listed above, and adhere to the most updated regulations regarding food service and vending as applicable to provided service.

INSPECTIONS & PREVENTATIVE MAINTENANCE

The University reserves the right to inspect and approve the equipment offered under the specifications of this solicitation. The University shall periodically, and without advance notification, inspect vending equipment.

A Contractor representative shall on an ongoing basis conduct inspections of equipment, equipment maintenance, sanitation standards and performance.

A preventive maintenance program, which shall include the regular replacement of worn, damaged, and malfunctioning equipment, shall be instituted at no cost to the University.

Each machine installed shall receive monthly preventive maintenance performed by the Contractor. This monthly maintenance will include, but is not limited to, service, testing, inspection. Repair, and/or cleaning of motors/compressors, electronics, wiring, lighting, doors, gaskets, plumbing, sanitation, locks, temperature and overall appearance, etc.

FISCAL MATTERS

In consideration of granting exclusive rights to the Contractor to provide vending services, the University will require the following:

Contractor shall pay to the University a percentage of gross sales, less applicable sales taxes, covering all beverage and/or snack products.

Gross Sales is defined as the total collections from all vending services before payment of any expense (i.e. taxes, license fees, or any other expenses associated with the revenue).

Vendor's control of reported sales for route employees shall be used as a basis to compute commissions payable to the University. Collections should be bagged and counted by machine, reconciled to reported inventory sales, and not co-mingled prior to count/reconciliation.

Payment of royalties on gross sales will be made to Francis Marion on a monthly basis by check accompanied by a breakdown of all sales (including volume by sales in case lots), location of machine and the amount of royalty to be paid to Francis Marion. Breakdown of sales shall be provided in MS Excel format in a form that does not require a password to access.

Payment on commissions must be paid in twelve (12) monthly installments. Within fifteen (15) days following the close of each month, the Contractor shall submit to the University a financial statement, in a University approved format, with full disclosure of all vending sales and pertinent financial data. All payments and statements will be sent directly to:

Francis Marion University
Cashier's Office
PO Box 100547
Florence, SC 29502-0547

The University, through its duly authorized representative, shall at all reasonable times have the right to examine books and records of the Contractor.

Contractor shall pay all federal, state and local taxes, license fees and other charges.

Annual Statement

- The University requires that the Contractor provide an annual summary reconciliation including "Vend prices" covering all operations. This statement must include a recap of gross sales and royalties paid for the year.
- Contractor will certify in the annual statement, for the period ending June 30th of each year that the revenues paid to the University were correct.
- Contractor shall submit the annual statement to the University's Contract Administrator by email no later than August 15th of the same year.

The University reserves the right to audit at its own expense the records of the contractor, which relate to this agreement. At the request of the University, the contractor must provide copies of the SC Department of Revenue Sales Tax Reports showing reported sales at the University locations.

REFUNDS

Contractor must furnish a "no-charge" phone number that can be used to contact the Contractor when problems are detected with equipment. A representative will be available to handle on-call service calls.

Each machine must be clearly identified with a number on its front so that reports of malfunctions can refer to a particular machine.

When machines malfunction with a loss of funds involved, the Contractor, in a process approved by the University, will reimburse customers. Contractor will conspicuously display at each vending location information for the customer as to where refunds are made. Display must include direction for reimbursement for both cash reimbursement (University administered), and non cash reimbursement (Contractor administered).

The University agrees to administer refunds on behalf of the Contractor for patron loss of cash funds and will cooperate to establish controls to ensure the appropriateness of refunds.

Contractor shall administer refunds on behalf of patron loss of non cash funds, e.g., credit card charges, directly with the patron.

DELIVERY/PERFORMANCE LOCATION -- SPECIFIED (JAN 2006)

After award, all deliveries shall be made and all services provided to the following addresses, unless otherwise specified (additional locations may be added during the life of the contract):

Francis Marion University

Main Campus
4822 E. Palmetto Street
Florence, SC 29506

Carter Center for Health Sciences

200 West Evans Street
Florence, SC 29501

Leatherman Medical Education Complex

201 West Evans Street
Florence, SC 29501

Locations may be requested at a later date for existing facilities not presently equipped with beverage and or snack vending service machines, and also facilities that have yet to be erected including but not limited to:

School of Business / School of Education**Pee Dee Medical Education Building (old Circle Park Behavioral Health)****Engineering Building****DELIVERY DATE – SPECIFIED**

Delivery shall be made no later than August 13, 2023, pending award of contract. Contractor may request approval to deliver items prior to the delivery date.

INSTALLATION (FMU April 2023) Contractor shall install all items acquired pursuant to this contract as follows: A list of the addresses for the University locations is provided above. The installation of all machines will be in place no later than August 13, 2023 pending award of contract. The Contractor is responsible for all requirements to completely install, set up, and furnish the vending machines.

- A.** Contractor shall field verify all existing conditions including room dimensions prior to ordering equipment.
- B.** Contractor shall anchor and secure all equipment such that students cannot pull equipment away from the wall.
- C.** Equipment shall be installed no later than August 13, 2023 as mutually agreed upon and ready for use on August 14, 2023.
- D.** Contractor shall provide a proposed schedule of equipment installation for University approval.

IV. INFORMATION FOR OFFERORS TO SUBMIT

Number of Proposal Copies to be submitted: **[See cover page]**

Financial Considerations must be submitted in one **separate, sealed envelope**.

INFORMATION FOR OFFERORS TO SUBMIT -- GENERAL (JAN 2006)

Offeror shall submit a signed Cover Page and Page Two. Offeror should submit all other information and documents requested in this part and in parts II.B. Special Instructions; III. Scope of Work; V. Qualifications; VIII. Bidding Schedule/Price Proposal; and any appropriate attachments addressed in section IX. Attachments to Solicitations. [04-4010-1]

You should submit a summary of all insurance policies you have or plan to acquire to comply with the insurance requirements stated herein, if any, including policy types; coverage types; limits, sub-limits, and deductibles for each policy and coverage type; the carrier's A.M. Best rating; and whether the policy is written on an occurrence or claims-made basis.

INFORMATION FOR OFFERORS TO SUBMIT -- EVALUATION (JAN 2006)

In addition to information requested elsewhere in this solicitation, offerors should submit the following information for purposes of evaluation:

PROPOSAL CONTENTS

To be considered for award, all proposals must include, as a minimum, the following information. **All information should be presented in the listed order with each section titled using the appropriate heading:**

A. Cover Letter

B. Required Pages: Completed and signed version of PAGE 1 of this solicitation and signed receipt pages of any addenda released in conjunction with this RFP.

C. Plan:

- Proposal addressing in detail each item by number in SECTION III. "SCOPE OF WORK."
- Describe your capabilities and capacity to provide the services and resources required to efficiently handle a vending operation of this size and scope.
- Submit procedures and methods to operate the facility and to maintain at least current levels of service provided at Francis Marion University.
- Describe the product offerings that you will provide. Include the scope and quality of the products that will be offered. Describe the national brands of beverages and snacks that you plan to provide.
- Describe healthy food options that your company would market and plan to deploy on campus.
- Describe how your company will on an ongoing basis conduct inspections of equipment, equipment maintenance, sanitation standards and performance. Discuss your monthly

preventative maintenance program. Describe your procedures for ensuring that snacks and drinks beyond their expiration date will not remain in machines for purchase.

- Provide information about the types of machines that you plan to deploy on campus and the capabilities of those machines.
- Provide an overview of the number of machines that you plan to provide and locations for those machines.
- What is your timeline for installation of equipment?
- Describe or provide an example of the type of management/financial reports the University would receive.
- Submit procedures regarding communication of key information to students including instructions on the cost and operation of equipment.
- Submit procedures to report inoperable machines, repair/servicing schedules, response time to service calls and procedures for providing replacement equipment when units cannot be repaired on site.
- Describe how your company would establish and support payment methods that are alternative to cash. In addition to machines being required to accept cash, these machines should accept major credit and debit cards to include Visa, Mastercard, Discover, and American Express. Explain how these machines will securely communicate with financial organizations during cashless transactions.
- Submit procedures to establish refund ensuring timely collections and auditing, addressing accuracy, timeliness and ease of operation.
- Describe how you will implement energy conservation techniques and equipment.
- Include any additional marketing strategies intended to enhance services to the campus community or maximize revenues. What vending innovations (i.e. alternative equipment) exceeding current services might you offer to increase revenues and/or customer services?
- Describe any ideas to design, build, and place decorative additions on or around any vending machines areas such as the University Center canteen area or the Founders Hall Breezeway. The University is requesting your review of these areas based on your expertise and requesting any recommendations for improvements. Please note the University will take this as information only and that the University would fund any renovations/enhancements that University leadership chose to pursue.

D. Qualifications:

- Address in writing items as required in Section V. of this document – clause entitled: **“QUALIFICATIONS – REQUIRED INFORMATION (MAR 2015)”**
- Provide a brief history and description of your company to include size, number of years in vending business, number of employees, and proof of financial stability.

- Detail experience providing services as indicated in this RFP with public and/or private sector clients with similar or greater size and complexity to Francis Marion University. Contractor must complete Attachment A “References”
- Provide a brief profile of proposed company personnel (including the local contract supervisor and service representative) who would plan, design, manage, and maintain the equipment and facilities covered under this contract including name, qualifications, experience and distance from the FMU campus.
- Describe the steps your company would take to ensure that only individuals of the highest quality are employed to provide services for the University.

E. Pricing and For Information Purposes Only:

- The original hard copy Price Proposal **shall be sealed in a separate envelope** labeled “Price Proposal” and shall include Page 1 of this solicitation and **Section VIII. BIDDING SCHEDULE / PRICE-BUSINESS PROPOSAL**, of this solicitation document.
- The original hard copy For Information Purposes Only proposal shall be included in the separate envelope containing Section III. Bidding Schedule / Price Business Proposal.
- A digital version (duplicate copy) of the Price Proposal and For Information Purposes Only shall be submitted on the same USB device as the Technical proposal in separate files.

F. Provide Certificate of Insurance which meets requirements outlined in SECTION VII. “TERMS AND CONDITIONS - B. SPECIAL” under the heading “CONTRACTOR'S LIABILITY INSURANCE.”

G. Completed Attachment C “Certification of Financial Condition.”

H. Complete Other Attachments as Required

I. Complete Minority Participation Information below:

MINORITY PARTICIPATION (DEC 2015)

Is the bidder a South Carolina Certified Minority Business? ☐ Yes ☐ No

Is the bidder a Minority Business certified by another governmental entity? ☐ Yes ☐ No

If so, please list the certifying governmental entity: _____

Will any of the work under this contract be performed by a SC certified Minority Business as a subcontractor? ☐ Yes ☐ No

If so, what percentage of the total value of the contract will be performed by a SC certified Minority Business as a subcontractor? _____

Will any of the work under this contract be performed by a minority business certified by another governmental entity as a subcontractor? ☐ Yes ☐ No

If so, what percentage of the total value of the contract will be performed by a minority business certified by another governmental entity as a subcontractor? _____

If a certified Minority Business is participating in this contract, please indicate all categories for which the Business is certified:

☐ Traditional minority ☐ Traditional minority, but female ☐ Women (Caucasian females) ☐ Hispanic minorities ☐ DOT referral (Traditional minority) ☐ DOT referral (Caucasian female) ☐ Temporary certification ☐ SBA 8 (a) certification referral ☐ Other minorities (Native American, Asian, etc.)

(If more than one minority Contractor will be utilized in the performance of this contract, please provide the information above for each minority business.)

The Department of Administration, Division of Small and Minority Business Contracting and Certification, publishes a list of certified minority firms. The Minority Business Directory is available at the following URL:

<http://osmba.sc.gov/directory.html>

SUBMITTING REDACTED OFFERS (FEB 2007):

You are required to mark the original copy of your offer to identify any information that is exempt from public disclosure. You must do so in accordance with the clause entitled "Submitting Confidential Information." In addition, you must also submit one complete copy of your offer from which you have removed any information that you marked as exempt, i.e., a redacted copy. The information redacted should mirror in every detail the information marked as exempt from public disclosure. The redacted copy should (i) reflect the same pagination as the original, (ii) show the empty space from which information was redacted, and (iii) be submitted on magnetic media. (See clause entitled "Magnetic Media Required Format.") Except for the redacted information, the CD must be identical to the original hard copy. Portable Document Format (.pdf) is preferred. [04-030-1]

V. QUALIFICATIONS

QUALIFICATIONS OF OFFEROR (MAR 2015)

(1) To be eligible for award, you must have the capability in all respects to perform fully the contract requirements and the integrity and reliability which will assure good faith performance. We may also consider a documented commitment from a satisfactory source that will provide you with a capability. We may consider information from any source at any time prior to award. We may elect to consider (i) key personnel, any predecessor business, and any key personnel of any predecessor business, including any facts arising prior to the date a business was established, and/or (ii) any subcontractor you identify.

(2) You must promptly furnish satisfactory evidence of responsibility upon request. Unreasonable failure to supply requested information is grounds for rejection. (3) **Corporate subsidiaries are cautioned that the financial capability of an affiliated or parent company will not be considered in determining financial capability;** however, we may elect to consider any security, e.g., letter of credit, performance bond, parent-company corporate guaranty, that you offer to provide. Instructions and forms to help assure acceptability are posted on procurement.sc.gov, link to "Standard Clauses & Provisions."

QUALIFICATIONS – REQUIRED INFORMATION (MAR 2015)

Submit the following information or documentation for you and for any subcontractor (at any tier level) that you identify pursuant to the clause titled Subcontractor – Identification. Err on the side of inclusion. You represent that the information provided is complete.

- (a) The general history and experience of the business in providing work of similar size and scope.
- (b) A detailed, narrative statement listing the three most recent, comparable contracts (including contact information) which have been performed. For each contract, describe how the supplies or services provided are similar to those requested by this solicitation, and how they differ.
- (c) A list of every business for which supplies or services substantially similar to those sought with this solicitation have been provided, at any time during the past three years.
- (d) A list of every South Carolina public body for which supplies or services have been provided at any time during the past three years, if any.
- (e) List of failed projects, suspensions, debarments, and significant litigation.

QUALIFICATIONS - MANDATORY MINIMUM (JAN 2006):

(a) In order to be qualified to receive award, you must meet the following mandatory minimum qualifications:

1. Offeror must be currently providing vending machine services, and have done so for a minimum of three years.
2. The service facility of the Offeror intended to support service to the University must be within one hundred (100) miles of the University.
3. Offeror is currently performing a similar or larger scale scope of work.

(b) The Procurement Officer may, in his discretion, consider (1) the experience of a predecessor firm or of a firm's key personnel which was obtained prior to the date offeror was established, and/or (2) any subcontractor proposed by offeror.

(c) Provide a detailed, narrative statement providing adequate information to establish that you meet all the requirements stated in subparagraph (a) above. Include all appropriate documentation

SUBCONTRACTOR --IDENTIFICATION (FEB 2015)

If you intend to subcontract, at any tier level, with another business for any portion of the work and that portion either (1) exceeds 10% of your cost, (2) involves access to any "government information," as defined in the clause entitled "Information Security -Definitions," if included, or (3) otherwise involves services critical to your performance of the work (err on the side of inclusion), your offer must identify that business and the work which they are to perform. Identify potential subcontractors by providing the business name, address, phone, taxpayer identification number, **and point of contact**. In determining your responsibility, the state may contact and evaluate your proposed subcontractors.

VI. AWARD CRITERIA

AWARD CRITERIA -- PROPOSALS (JAN 2006)

Award will be made to the highest ranked, responsive and responsible offeror whose offer is determined to be the most advantageous to the State. [06-6030-1]

AWARD TO ONE OFFEROR (JAN 2006)

Award will be made to one Offeror.

COMPETITION FROM PUBLIC ENTITIES (JAN 2006)

If a South Carolina governmental entity submits an offer, the Procurement Officer will, when determining the lowest offer, add to the price provided in any offers submitted by non-governmental entities a percentage equivalent to any applicable sales or use tax. S.C. Code Ann. Regs 117-304.1 (Supp. 2004).

DISCUSSIONS AND NEGOTIATIONS – OPTIONAL (FEB 2015)

Submit your best terms from both a price and a technical standpoint. Your proposal may be evaluated and your offer accepted without any discussions, negotiations, or prior notice. Ordinarily, nonresponsive proposals will be rejected outright without prior notice. Nevertheless, the State may elect to conduct discussions, including the possibility of limited proposal revisions, but only for those proposals reasonably susceptible of being selected for award. [11-35-1530(6); R.19-445.2095(I)] If improper revisions are submitted during discussions, the State may elect to consider only your unrevised initial proposal, provided your initial offer is responsive. The State may also elect to conduct negotiations, beginning with the highest ranked offeror, or seek best and final offers, as provided in Section 11-35-1530(8). Negotiations may involve both price and matters affecting the scope of the contract, so long as changes are within the general scope of the request for proposals. If negotiations are conducted, the State may elect to disregard the negotiations and accept your original proposal.

EVALUATION FACTORS -- PROPOSALS (JAN 2006)

Offers will be evaluated using only the factors stated below. Evaluation factors are stated in the relative order of importance, with the first factor being the most important. Once evaluation is complete, all responsive offerors will be ranked from most advantageous to least advantageous.

1. **Plan:** Points shall be awarded based on Vendor's demonstrated plan to assist the University in meeting/exceeding its needs for vending services – see **Section IV. "Information for Offerors to Submit" - Section C. "Plan"** for details.
2. **Business Proposal (Commision):** Proposal shall contain (in a separate, sealed envelope) the Vendor's response to **Section VIII. BIDDING SCHEDULE / PRICE-BUSINESS PROPOSAL**.
3. **Qualifications:** Points shall be awarded based on Vendor's experience and qualifications in providing vending services similar in nature and scope to those outlined herein – see **Section IV. "Information for Offerors to Submit" - Section D. "Qualifications"** and University follow

up to information provided in **Attachment A “References”**.

COMPETITION FROM PUBLIC ENTITIES (JAN 2006): If a South Carolina governmental entity submits an offer, the Procurement Officer will, when determining the lowest offer, add to the price provided in any offers submitted by nongovernmental entities a percentage equivalent to any applicable sales or use tax. S.C. Code Ann. Regs 117-304.1 (Supp. 2004).

UNIT PRICE GOVERNS (JAN 2006): In determining award, unit prices will govern over extended prices unless otherwise stated.

VII. TERMS AND CONDITIONS -- A. GENERAL

ASSIGNMENT, NOVATION, AND CHANGE OF NAME, IDENTITY, OR STRUCTURE (FEB 2015)

(a) Contractor shall not assign this contract, or its rights, obligations, or any other interest arising from this contract, or delegate any of its performance obligations, without the express written consent of the responsible procurement officer. The foregoing restriction does not apply to a transfer that occurs by operation of law (e.g., bankruptcy; corporate reorganizations and consolidations, but not including partial asset sales). Notwithstanding the foregoing, Contractor may assign monies receivable under the contract provided that the state shall have no obligation to make payment to an assignee until thirty days after Contractor (not the assignee) has provided the responsible procurement officer with (i) proof of the assignment, (ii) the identity (by contract number) of the specific state contract to which the assignment applies, and (iii) the name of the assignee and the exact address or account information to which assigned payments should be made. (b) If Contractor amends, modifies, or otherwise changes its name, its identity (including its trade name), or its corporate, partnership or other structure, or its FEIN, Contractor shall provide the procurement officer prompt written notice of such change. (c) Any name change, transfer, assignment, or novation is subject to the conditions and approval required by Regulation 19-445.2180, which does not restrict transfers by operation of law.

BANKRUPTCY -GENERAL (FEB 2015)

(a) Notice. In the event the Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish written notification of the bankruptcy to the Using Governmental Unit. This notification shall be furnished within two (2) days of the initiation of the proceedings relating to the bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of all State contracts against which final payment has not been made. This obligation remains in effect until final payment under this Contract. (b) Termination. This contract is voidable and subject to immediate termination by the State upon the Contractor's insolvency, including the filing of proceedings in bankruptcy.

CHOICE-OF-LAW (JAN 2006)

The Agreement, any dispute, claim, or controversy relating to the Agreement, and all the rights and obligations of the parties shall, in all respects, be interpreted, construed, enforced and governed by and under the laws of the State of South Carolina, except its choice of law rules. As used in this paragraph, the term "Agreement" means any transaction or agreement arising out of, relating to, or contemplated by the solicitation.

CONTRACT DOCUMENTS and ORDER OF PRECEDENCE (FEB 2015)

(a) Any contract resulting from this solicitation shall consist of the following documents: (1) a Record of Negotiations, if any, executed by you and the Procurement Officer, (2) the solicitation, as amended, (3) documentation of clarifications [11-351520(8)] or discussions [11-35-1530(6)] of an offer, if applicable, (4) your offer, (5) any statement reflecting the state's final acceptance (a/k/a "award"), and (6) purchase orders. These documents shall be read to be consistent and complimentary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above. (b) The terms and conditions of documents (1) through (5) above shall apply notwithstanding any additional or different terms and conditions in any other document, including without limitation, (i) a purchase order or other instrument submitted by the State, (ii) any invoice or other document submitted by Contractor, or (iii) any privacy policy, terms of use, or end user agreement. Except as otherwise allowed herein, the terms and conditions of all such documents shall be void and of no effect.

(c) No contract, license, or other agreement containing contractual terms and conditions will be signed by any Using Governmental Unit. Any document signed or otherwise agreed to by persons other than the Procurement Officer shall be void and of no effect.

DISCOUNT FOR PROMPT PAYMENT (JAN 2006)

(a) Discounts for prompt payment will not be considered in the evaluation of offers. However, any offered discount will form a part of the award, and will be taken if payment is made within the discount period indicated in the offer by the offeror. As an alternative to offering a discount for prompt payment in conjunction with the offer, offerors awarded contracts may include discounts for prompt payment on

individual invoices.

(b) In connection with any discount offered for prompt payment, time shall be computed from the date of the invoice. If the Contractor has not placed a date on the invoice, the due date shall be calculated from the date the designated billing office receives a proper invoice, provided the state annotates such invoice with the date of receipt at the time of receipt. For the purpose of computing the discount earned, payment shall be considered to have been made on the date that appears on the payment check or, for an electronic funds transfer, the specified payment date. When the discount date falls on a Saturday, Sunday, or legal holiday when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day.

DISPUTES (JAN 2006)

(1) Choice-of-Forum. All disputes, claims, or controversies relating to the Agreement shall be resolved exclusively by the appropriate Chief Procurement Officer in accordance with Title 11, Chapter 35, Article 17 of the South Carolina Code of Laws, or in the absence of jurisdiction, only in the Court of Common Pleas for, or a federal court located in, Richland County, State of South Carolina. Contractor agrees that any act by the Government regarding the Agreement is not a waiver of either the Government's sovereign immunity or the Government's immunity under the Eleventh Amendment of the United States Constitution. As used in this paragraph, the term "Agreement" means any transaction or agreement arising out of, relating to, or contemplated by the solicitation. (2) Service of Process. Contractor consents that any papers, notices, or process necessary or proper for the initiation or continuation of any disputes, claims, or controversies relating to the Agreement; for any court action in connection therewith; or for the entry of judgment on any award made, may be served on Contractor by certified mail (return receipt requested) addressed to Contractor at the address provided as the Notice Address on Page Two or by personal service or by any other manner that is permitted by law, in or outside South Carolina. Notice by certified mail is deemed duly given upon deposit in the United States mail.

EQUAL OPPORTUNITY (JAN 2006)

Contractor is referred to and shall comply with all applicable provisions, if any, of Title 41, Part 60 of the Code of Federal Regulations, including but not limited to Sections 60-1.4, 60-4.2, 60-4.3, 60-250.5(a), and 60-741.5(a), which are hereby incorporated by reference.

FALSE CLAIMS (JAN 2006)

According to the S.C. Code of Laws Section 16-13-240, "a person who by false pretense or representation obtains the signature of a person to a written instrument or obtains from another person any chattel, money, valuable security, or other property, real or personal, with intent to cheat and defraud a person of that property is guilty" of a crime.

FIXED PRICING REQUIRED (JAN 2006)

Any pricing provided by Contractor shall include all costs for performing the work associated with that price. Except as otherwise provided in this solicitation, Contractor's price shall be fixed for the duration of this contract, including option terms. This clause does not prohibit Contractor from offering lower pricing after award.

NO INDEMNITY OR DEFENSE (FEB 2015)

Any term or condition is void to the extent it requires the State to indemnify, defend, or pay attorney's fees to anyone for any reason.

NOTICE (JAN 2006)

(A) After award, any notices shall be in writing and shall be deemed duly given (1) upon actual delivery, if delivery is by hand, (2) upon receipt by the transmitting party of automated confirmation or answer back from the recipient's device if delivery is by telex, telegram, facsimile, or electronic mail, or (3) upon deposit into the United States mail, if postage is prepaid, a return receipt is requested, and either registered or certified mail is used. (B) Notice to Contractor shall be to the address identified as the Notice Address on Page Two. Notice to the state shall be to the Procurement Officer's address on the Cover Page. Either party may designate a different address for notice by giving notice in accordance with this paragraph.

OPEN TRADE (JUN 2015)

During the contract term, including any renewals or extensions, Contractor will not engage in the boycott of a person or an entity based in or doing business with a jurisdiction with whom South Carolina can enjoy open trade, as defined in SC Code Section 11-35-5300.

PAYMENT & INTEREST (FEB 2015)

(a) The State shall pay the Contractor, after the submission of proper invoices or vouchers, the prices stipulated in this contract for supplies delivered and accepted or services rendered and accepted, less any deductions provided in this contract. Unless otherwise specified herein, including the purchase order, payment shall not be made on partial deliveries accepted by the Government. (b) Unless otherwise provided herein, including the purchase order, payment will be made by check mailed to the payment address on "Page Two." (c) Notwithstanding any other provision, payment shall be made in accordance with

S.C. Code Section 11-35-45, or Chapter 6 of Title 29 (real property improvements) when applicable, which provides the Contractor's exclusive means of recovering any type of interest from the Owner. Contractor waives imposition of an interest penalty unless the invoice submitted specifies that the late penalty is applicable. Except as set forth in this paragraph, the State shall not be liable for the payment of interest on any debt or claim arising out of or related to this contract for any reason.

(d) Amounts due to the State shall bear interest at the rate of interest established by the South Carolina Comptroller General pursuant to Section 11-35-45 ("an amount not to exceed fifteen percent each year"), as amended, unless otherwise required by Section 29-6-30. (e) Any other basis for interest, including but not limited to general (pre-and post-judgment) or specific interest statutes, including S.C. Code Ann. Section 34-31-20, are expressly waived by both parties. If a court, despite this agreement and waiver, requires that interest be paid on any debt by either party other than as provided by items (c) and (d) above, the parties further agree that the applicable interest rate for any given calendar year shall be the lowest prime rate as listed in the first edition of the Wall Street Journal published for each year, applied as simple interest without compounding.

(f) The State shall have all of its common law, equitable and statutory rights of set-off.

PUBLICITY (JAN 2006)

Contractor shall not publish any comments or quotes by State employees, or include the State in either news releases or a published list of customers, without the prior written approval of the Procurement Officer.

PURCHASE ORDERS (JAN 2006)

Contractor shall not perform any work prior to the receipt of a purchase order from the using governmental unit. The using governmental unit shall order any supplies or services to be furnished under this contract by issuing a purchase order. Purchase orders may be used to elect any options available under this contract, e.g., quantity, item, delivery date, payment method, but are subject to all terms and conditions of this contract. Purchase orders may be electronic. No particular form is required. An order placed pursuant to the purchasing card provision qualifies as a purchase order.

SURVIVAL OF OBLIGATIONS (JAN 2006)

The Parties' rights and obligations which, by their nature, would continue beyond the termination, cancellation, rejection, or expiration of this contract shall survive such termination, cancellation, rejection, or expiration, including, but not limited to, the rights and obligations created by the following clauses: Indemnification -Third Party Claims, Intellectual Property Indemnification, and any provisions regarding warranty or audit.

TAXES (JAN 2006)

Any tax the Contractor may be required to collect or pay upon the sale, use or delivery of the products shall be paid by the State, and such sums shall be due and payable to the Contractor upon acceptance. Any personal property taxes levied after delivery shall be paid by the State. It shall be solely the State's obligation, after payment to Contractor, to challenge the applicability of any tax by negotiation with, or action against, the taxing authority. Contractor agrees to refund any tax collected, which is subsequently determined not to be proper and for which a refund has been paid to Contractor by the taxing authority. In

the event that the Contractor fails to pay, or delays in paying, to any taxing authorities, sums paid by the State to Contractor, Contractor shall be liable to the State for any loss (such as the assessment of additional interest) caused by virtue of this failure or delay. Taxes based on Contractor's net income or assets shall be the sole responsibility of the Contractor.

TERMINATION DUE TO UNAVAILABILITY OF FUNDS (JAN 2006)

Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds therefor. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be canceled. In the event of a cancellation pursuant to this paragraph, Contractor will be reimbursed the resulting unamortized, reasonably incurred, nonrecurring costs. Contractor will not be reimbursed any costs amortized beyond the initial contract term.

THIRD PARTY BENEFICIARY (JAN 2006)

This Contract is made solely and specifically among and for the benefit of the parties hereto, and their respective successors and assigns, and no other person will have any rights, interest, or claims hereunder or be entitled to any benefits under or on account of this Contract as a third party beneficiary or otherwise.

WAIVER (JAN 2006)

The State does not waive any prior or subsequent breach of the terms of the Contract by making payments on the Contract, by failing to terminate the Contract for lack of performance, or by failing to strictly or promptly insist upon any term of the Contract. Only the Procurement Officer has actual authority to waive any of the State's rights under this Contract. Any waiver must be in writing.

VII. TERMS AND CONDITIONS -- B. SPECIAL

CHANGES (JAN 2006)

(1) Contract Modification. By a written order, at any time, and without notice to any surety, the Procurement Officer may, subject to all appropriate adjustments, make changes within the general scope of this contract in any one or more of the following:

(a) drawings, designs, or specifications, if the supplies to be furnished are to be specially manufactured for the [State] in accordance therewith;

(b) method of shipment or packing;

(c) place of delivery;

(d) description of services to be performed;

(e) time of performance (i.e., hours of the day, days of the week, etc.); or,

(f) place of performance of the services. Subparagraphs (a) to (c) apply only if supplies are furnished under this contract. Subparagraphs (d) to (f) apply only if services are performed under this contract.

(2) Adjustments of Price or Time for Performance. If any such change increases or decreases the Contractor's cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, an adjustment shall be made in the contract price, the delivery schedule, or both, and the contract modified in writing accordingly. Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment Clause of this contract. Failure of the parties to agree to an adjustment shall not excuse the Contractor from proceeding with the contract as changed, provided that the State promptly and duly make such provisional adjustments in payment or time for performance as may be reasonable. By proceeding with the work, the Contractor shall not be deemed to have prejudiced any claim for additional compensation, or an extension of time for completion.

(3) Time Period for Claim. Within 30 days after receipt of a written contract modification under Paragraph

(1) of this clause, unless such period is extended by the Procurement Officer in writing, the Contractor shall file notice of intent to assert a claim for an adjustment. Later notification shall not bar the Contractor's claim unless the State is prejudiced by the delay in notification.

(4) Claim Barred After Final Payment. No claim by the Contractor for an adjustment hereunder shall be allowed if notice is not given prior to final payment under this contract.

COMPLIANCE WITH LAWS (JAN 2006)

During the term of the contract, Contractor shall comply with all applicable provisions of laws, codes, ordinances, rules, regulations, and tariffs.

CONFERENCE – PRE-PERFORMANCE (FMU September 2017)

Unless waived by the Procurement Officer, a pre-performance conference between the Contractor, state and Procurement Officer shall be held at a location selected by the University within fifteen (15) days after final award, and prior to commencement of work under the contract. The responsibilities of all parties involved will be discussed to assure a meeting of the minds of all concerned. The successful Contractor or his duly authorized representative shall be required to attend at Contractor's expense.

[07-7B040-1]

CONTRACT LIMITATIONS (JAN 2006)

No sales may be made pursuant to this contract for any item or service that is not expressly listed. No sales may be made pursuant to this contract after expiration of this contract. Violation of this provision may result in termination of this contract and may subject Contractor to suspension or debarment.

CONTRACTOR'S LIABILITY INSURANCE -GENERAL (FEB 2015)

(a) Without limiting any of the obligations or liabilities of Contractor, Contractor shall procure from a company or companies lawfully authorized to do business in South Carolina and with a current A.M. Best rating of no less than A: VII, and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work and the results of that work by the Contractor, his agents, representatives, employees or subcontractors.

(b) Coverage shall be at least as broad as:

(1) Commercial General Liability (CGL): Insurance Services Office (ISO) Form CG 00 01 12 07 covering CGL on an "occurrence" basis, including products-completed operations, personal and advertising injury, with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, the general aggregate limit shall be twice the required occurrence limit. This contract shall be considered to be an "insured contract" as defined in the policy.

(2) Auto Liability: ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limits no less than \$1,000,000 per accident for bodily injury and property damage.

(3) Worker's Compensation: As required by the State of South Carolina, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

(c) Every applicable Using Governmental Unit, and the officers, officials, employees and volunteers of any of them, must be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used.

The endorsement must contain the following language:

“Francis Marion University, including its current and former trustees, officers, directors, employees, volunteer workers, agents, assigns and students, is added to this policy as additional insured.”

(d) For any claims related to this contract, the Contractor's insurance coverage shall be primary insurance as respects the State, every applicable Using Governmental Unit, and the officers, officials, employees and volunteers of any of them. Any insurance or self-insurance maintained by the State, every applicable Using Governmental Unit, or the officers, officials, employees and volunteers of any of them, shall be excess of the Contractor's insurance and shall not contribute with it.

(e) Prior to commencement of the work, the Contractor shall furnish the State with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this section. All certificates are to be received and approved by the State before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The State reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by this section, at any time.

(f) Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions. In addition, the Contractor shall notify the State immediately upon receiving any information that any of the coverages required by this section are or will be changed, cancelled, or replaced.

(g) Contractor hereby grants to the State and every applicable Using Governmental Unit a waiver of any right to subrogation which any insurer of said Contractor may acquire against the State or applicable Using Governmental Unit by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the State or Using Governmental Unit has received a waiver of subrogation endorsement from the insurer.

(h) Any deductibles or self-insured retentions must be declared to and approved by the State. The State may require the Contractor to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

(i) The State reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

CONTRACTOR PERSONNEL (JAN 2006)

The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

CONTRACTOR'S OBLIGATION --GENERAL (JAN 2006)

The Contractor shall provide and pay for all materials, tools, equipment, labor and professional and non-professional services, and shall perform all other acts and supply all other things necessary, to fully and properly perform and complete the work. The Contractor must act as the prime Contractor and assume full responsibility for any subcontractor's performance. The Contractor will be considered the sole point of contact with regard to all situations, including payment of all charges and the meeting of all other requirements.

CONTRACTOR'S USE OF STATE PROPERTY (JAN 2006)

Upon termination of the contract for any reason, the State shall have the right, upon demand, to obtain access to, and possession of, all State properties, including, but not limited to, current copies of all State application programs and necessary documentation, all data, files, intermediate materials and supplies held by the Contractor. Contractor shall not use, reproduce, distribute, display, or sell any data, material,

or documentation owned exclusively by the State without the State's written consent, except to the extent necessary to carry out the work.

DEFAULT (JAN 2006)

(a) (1) The State may, subject to paragraphs (c) and (d) of this clause, by written notice of default to the Contractor, terminate this contract in whole or in part if the Contractor fails to:

(i) Deliver the supplies or to perform the services within the time specified in this contract or any extension;

(ii) Make progress, so as to endanger performance of this contract (but see paragraph (a)(2) of this clause); or

(iii) Perform any of the other material provisions of this contract (but see paragraph (a)(2) of this clause).

(2) The State's right to terminate this contract under subdivisions (a)(1)(ii) and (1)(iii) of this clause, may be exercised if the Contractor does not cure such failure within 10 days (or more if authorized in writing by the Procurement Officer) after receipt of the notice from the Procurement Officer specifying the failure.

(b) If the State terminates this contract in whole or in part, it may acquire, under the terms and in the manner the Procurement Officer considers appropriate, supplies or services similar to those terminated, and the Contractor will be liable to the State for any excess costs for those supplies or services. However, the Contractor shall continue the work not terminated.

(c) Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include (1) acts of God or of the public enemy, (2) acts of the State in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance the failure to perform must be beyond the control and without the fault or negligence of the Contractor.

(d) If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted supplies or services were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule.

(e) If this contract is terminated for default, the State may require the Contractor to transfer title and deliver to the State, as directed by the Procurement Officer, any (1) completed supplies, and (2) partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (collectively referred to as "manufacturing materials" in this clause) that the Contractor has specifically produced or acquired for the terminated portion of this contract. Upon direction of the Procurement Officer, the Contractor shall also protect and preserve property in its possession in which the State has an interest.

(f) The State shall pay contract price for completed supplies delivered and accepted. The Contractor and Procurement Officer shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property; if the parties fail to agree, the Procurement Officer shall set an amount subject to the Contractor's rights under the Disputes clause. Failure to agree will be a dispute under the Disputes clause. The State may withhold from these amounts any sum the Procurement Officer determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders.

(g) If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of the State, be the same as if the termination had been issued for the convenience of the State. If, in the foregoing circumstances, this contract does not contain a clause providing for termination for convenience of the State, the contract shall be adjusted to compensate for such termination and the contract modified accordingly subject to the Contractor's rights under the Disputes clause.

(h) The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or under this contract.

DISPOSAL OF PACKAGING (JAN 2006)

Contractor shall dispose of all wrappings, crating, and other disposable materials pertaining to this contract at the end of each working day and upon completion of installation. [07-7B085-1]

ILLEGAL IMMIGRATION (NOV 2008)

(An overview is available at www.procurement.sc.gov) By signing your offer, you certify that you will comply with the applicable requirements of Title 8, Chapter 14 of the South Carolina Code of Laws and agree to provide to the State upon request any documentation required to establish either: (a) that Title 8, Chapter 14 is inapplicable to you and your subcontractors or sub-subcontractors; or (b) that you and your subcontractors or sub-subcontractors are in compliance with Title 8, Chapter 14. Pursuant to Section 8-14-60, "A person who knowingly makes or files any false, fictitious, or fraudulent document, statement, or report pursuant to this chapter is guilty of a felony, and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years, or both." You agree to include in any contracts with your subcontractors language requiring your subcontractors to (a) comply with the applicable requirements of Title 8, Chapter 14, and (b) include in their contracts with the sub-subcontractors language requiring the sub-subcontractors to comply with the applicable requirements of Title 8, Chapter 14.

INDEMNIFICATION-THIRD PARTY CLAIMS -GENERAL (NOV 2011)

Notwithstanding any limitation in this agreement, and to the fullest extent permitted by law, Contractor shall defend and hold harmless Indemnitees for and against any and all suits or claims of any character (and all related damages, settlement payments, attorneys' fees, costs, expenses, losses or liabilities) by a third party which are attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property arising out of or in connection with the goods or services acquired hereunder or caused in whole or in part by any act or omission of Contractor, its subcontractors, their employees, workmen, servants, agents, or anyone directly or indirectly employed by them or anyone for whose acts any of them may be liable, regardless of whether or not caused in part by an Indemnitee, and whether or not such claims are made by a third party or an Indemnitee; however, if an Indemnitee's negligent act or omission is subsequently determined to be the sole proximate cause of a suit or claim, the Indemnitee shall not be entitled to indemnification hereunder. Contractor shall be given timely written notice of any suit or claim. Contractor's obligations hereunder are in no way limited by any protection afforded under workers' compensation acts, disability benefits acts, or other employee benefit acts. This clause shall not negate, abridge, or reduce any other rights or obligations of indemnity which would otherwise exist. The obligations of this paragraph shall survive termination, cancelation, or expiration of the parties' agreement. This provision shall be construed fairly and reasonably, neither strongly for nor against either party, and without regard to any clause regarding insurance. As used in this clause, "Indemnitees" means the State of South Carolina, its instrumentalities, agencies, departments, boards, political subdivisions and all their respective officers, agents and employees.

INDEMNIFICATION -THIRD PARTY CLAIMS – DISCLOSURE OF INFORMATION (FEB 2015)

(a) Without limitation, Contractor shall defend and hold harmless Indemnitees from and against any and all suits, claims, investigations, or fines (hereinafter "action") of any character (and all related damages, settlement payments, attorneys' fees, costs, expenses, losses or liabilities) by a third party which arise out of or in connection with a disclosure of government information (as defined in the clause titled Information Security -Definitions) caused in whole or in part by any act or omission of Contractor, its subcontractors at any tier, their employees, workmen, servants, agents, or anyone directly or indirectly employed by them or anyone for whose acts any of them may be liable, regardless of whether or not caused in part by an Indemnitee, and whether or not such action is brought by a third party or an Indemnitee, but only if the act or omission constituted a failure to perform some obligation imposed by the contract or the law.

(b) Indemnitee must notify Contractor in writing within a reasonable period of time after Indemnitee first receives written notice of any action. Indemnitee's failure to provide or delay in providing such notice will relieve Contractor of its obligations under this clause only if and to the extent that such delay or failure materially prejudices Contractor's ability to defend such action. Indemnitee must reasonably cooperate with Contractor's defense of such actions (such cooperation does not require and is without waiver of an Indemnitee's attorney/client, work product, or other privilege) and, subject to Title 1, Chapter 7 of the South Carolina Code of Laws, allow Contractor sole control of the defense, so long as the defense is diligently and capably prosecuted. Indemnitee may participate in Contractor's defense of any action at its own expense. Contractor may not, without Indemnitee's prior written consent, settle, compromise, or consent to the entry of any judgment in any such commenced or threatened action unless such

settlement, compromise or consent (i) includes an unconditional release of Indemnatee from all liability related to such commenced or threatened action, and (ii) is solely monetary in nature and does not include a statement as to, or an admission of fault, culpability or failure to act by or on behalf of, an Indemnatee or otherwise adversely affect an Indemnatee. Indemnatee's consent is necessary for any settlement that requires Indemnatee to part with any right or make any payment or subjects Indemnatee to any injunction.

(c) Notwithstanding any other provision, Contractor's obligations pursuant to this clause are without any limitation whatsoever. Contractor's obligations under this clause shall survive the termination, cancellation, rejection, or expiration of the contract. This provision shall be construed fairly and reasonably, neither strongly for nor against either party, and without regard to any clause regarding insurance.

(d) "Indemnatee" means the State of South Carolina, its instrumentalities, agencies, departments, boards, political subdivisions and all their respective officers, agents and employees.

LICENSES AND PERMITS (JAN 2006)

During the term of the contract, the Contractor shall be responsible for obtaining, and maintaining in good standing, all licenses (including professional licenses, if any), permits, inspections and related fees for each or any such licenses, permits and /or inspections required by the State, county, city or other government entity or unit to accomplish the work specified in this solicitation and the contract.

MATERIAL AND WORKMANSHIP (JAN 2006)

Unless otherwise specifically provided in this contract, all equipment, material, and articles incorporated in the work covered by this contract are to be new and of the most suitable grade for the purpose intended.

OWNERSHIP OF DATA & MATERIALS (JAN 2006)

All data, material and documentation prepared for the state pursuant to this contract shall belong exclusively to the State. [07-7B125-1]

PRICE ADJUSTMENTS (JAN 2006)

(1) Method of Adjustment. Any adjustment in the contract price made pursuant to a clause in this contract shall be consistent with this Contract and shall be arrived at through whichever one of the following ways is the most valid approximation of the actual cost to the Contractor (including profit, if otherwise allowed):

(a) by agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;

(b) by unit prices specified in the Contract or subsequently agreed upon;

(c) by the costs attributable to the event or situation covered by the relevant clause, including profit if otherwise allowed, all as specified in the Contract; or subsequently agreed upon;

(d) in such other manner as the parties may mutually agree; or,

(e) in the absence of agreement by the parties, through a unilateral initial written determination by the Procurement Officer of the costs attributable to the event or situation covered by the clause, including profit if otherwise allowed, all as computed by the Procurement Officer in accordance with generally accepted accounting principles, subject to the provisions of Title 11, Chapter 35, Article 17 of the S.C. Code of Laws.

(2) Submission of Price or Cost Data. Upon request of the Procurement Officer, the Contractor shall provide reasonably available factual information to substantiate that the price or cost offered, for any price adjustments is reasonable, consistent with the provisions of Section 11-35-1830.

PRICE ADJUSTMENT - LIMITED - AFTER INITIAL TERM ONLY (JAN 2006): Upon approval of the Procurement Officer, prices may be adjusted for any renewal term. Prices shall not be increased during the initial term. Any request for a price increase must be received by the Procurement Officer at least ninety (90) days prior to the expiration of the applicable term and must be accompanied by sufficient documentation to justify the increase. If approved, a price increase becomes effective starting with the term beginning after approval. A price increase must be executed as a change order. Contractor may terminate this contract at the

end of the then current term if a price increase request is denied. Notice of termination pursuant to this paragraph must be received by the Procurement Officer no later than fifteen (15) days after the Procurement Officer sends Contractor notice rejecting the requested price increase.

PRICE ADJUSTMENTS -- LIMITED BY CPI "OTHER GOODS and SERVICES" (JAN 2006)

Upon request and adequate justification, the Procurement Officer may grant a price increase up to, but not to exceed, the unadjusted percent change for the most recent 12 months for which data is available, that is not subject to revision, in the Consumer Price Index (CPI) for all urban consumers (CPI-U), "Other Goods & Services" for services, as determined by the Procurement Officer. The Bureau of Labor and Statistics publishes this information on the web at www.bls.gov [07-7B175-1]

PRICING DATA --AUDIT --INSPECTION (JAN 2006)

[Clause Included Pursuant to Section 11-35-1830, -2210, & -2220] (a) Cost or Pricing Data. Upon Procurement Officer's request, you shall submit cost or pricing data, as defined by 48 C.F.R. Section 2.101 (2004), prior to either (1) any award to Contractor pursuant to 11-35-1530 or 11-35-1560, if the total contract price exceeds \$500,000, or (2) execution of a change order or contract modification with Contractor which exceeds \$100,000. Your price, including profit or fee, shall be adjusted to exclude any significant sums by which the state finds that such price was increased because you furnished cost or pricing data that was inaccurate, incomplete, or not current as of the date agreed upon between parties. (b) Records Retention. You shall maintain your records for three years from the date of final payment, or longer if requested by the chief Procurement Officer. The state may audit your records at reasonable times and places. As used in this subparagraph (b), the term "records" means any books or records that relate to cost or pricing data submitted pursuant to this clause. In addition to the obligation stated in this subparagraph (b), you shall retain all records and allow any audits provided for by 11-35-2220(2). (c) Inspection. At reasonable times, the state may inspect any part of your place of business which is related to performance of the work. (d) Instructions Certification. When you submit data pursuant to subparagraph (a), you shall (1) do so in accordance with the instructions appearing in Table 15-2 of 48 C.F.R. Section 15.408 (2004) (adapted as necessary for the state context), and (2) submit a Certificate of Current Cost or Pricing Data, as prescribed by 48 CFR Section 15.406-2(a) (adapted as necessary for the state context). (e) Subcontracts. You shall include the above text of this clause in all of your subcontracts. (f) Nothing in this clause limits any other rights of the state.

RELATIONSHIP OF THE PARTIES (JAN 2006)

Neither party is an employee, agent, partner, or joint venturer of the other. Neither party has the right or ability to bind the other to any agreement with a third party or to incur any obligation or liability on behalf of the other party.

RESTRICTIONS ON PRESENTING TERMS OF USE OR OFFERING ADDITIONAL SERVICES (FEB 2015)

(a) Citizens, as well as public employees (acting in their individual capacity), should not be unnecessarily required to agree to or provide consent to policies or contractual terms in order to access services acquired by the government pursuant to this contract (hereinafter "applicable services") or, in the case of public employees, to perform their job duties; accordingly, in performing the work, Contractor shall not require or invite any citizen or public employee to agree to or provide consent to any end user contract, privacy policy, or other terms of use (hereinafter "terms of use") not previously approved in writing by the procurement officer. Contractor agrees that any terms of use regarding applicable services are void and of no effect.

(b) Unless expressly provided in the solicitation, public contracts are not intended to provide Contractors an opportunity to market additional products and services; accordingly, in performing the work, Contractor shall not – for itself or on behalf of any third party – offer citizens or public employees (other than the procurement officer) any additional products or services not required by the contract.

(c) Any reference to Contractor in items (a) or (b) also includes any subcontractor at any tier. Contractor is responsible for compliance with these obligations by any person or entity that Contractor authorizes to take any action related to the work.

(d) Any violation of this clause is a material breach of contract. The parties acknowledge the difficulties inherent in determining the damage from any breach of these restrictions. Contractor shall pay the state liquidated damages of \$1,000 for each contact with a citizen or end user that violates this restriction.

STORAGE OF MATERIALS (JAN 2006): Absent approval of the using governmental unit, Contractor shall not store items on the premises of the using governmental unit prior to the time set for installation.

TERM OF CONTRACT – EFFECTIVE DATE / INITIAL CONTRACT PERIOD (JANUARY 2006): The effective date of this contract is the first day of the Maximum Contract Period as specified on the final statement of award. The initial term of this agreement is one (1) year from the effective date on the final statement of award. Regardless, this contract expires no later than the last date stated on the final statement of award.

TERM OF CONTRACT – OPTION TO RENEW (JANUARY 2006): At the end of the initial term, and at the end of each renewal term, this contract shall automatically renew for a period of one year, unless Contractor receives notice that the State elects not to renew the contract at least thirty (30) days prior to the date of renewal. Regardless, this contract expires no later than the last date stated on the final statement of award.

TERM OF CONTRACT --TERMINATION BY CONTRACTOR (JAN 2006)

Contractor may terminate this contract at the end of the initial term, or any renewal term, by providing the Procurement Officer notice of its election to terminate under this clause **at least 120 days prior to the expiration of the then current term.**

TERMINATION FOR CONVENIENCE (JAN 2006)

(1) Termination. The Procurement Officer may terminate this contract in whole or in part, for the convenience of the State. The Procurement Officer shall give written notice of the termination to the Contractor specifying the part of the contract terminated and **when termination becomes effective.**

(2) Contractor's Obligations. The Contractor shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination the Contractor will stop work to the extent specified. The Contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work. The Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The Procurement Officer may direct the Contractor to assign the Contractor's right, title, and interest under terminated orders or subcontracts to the State. The Contractor must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.

(3) Right to Supplies. The Procurement Officer may require the Contractor to transfer title and deliver to the State in the manner and to the extent directed by the Procurement Officer: (a) any completed supplies; and (b) such partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "manufacturing material") as the Contractor has specifically produced or specially acquired for the performance of the terminated part of this contract. The Contractor shall, upon direction of the Procurement Officer, protect and preserve property in the possession of the Contractor in which the State has an interest. If the Procurement Officer does not exercise this right, the Contractor shall use best efforts to sell such supplies and manufacturing materials in accordance with the standards of Uniform Commercial Code Section 2-706. Utilization of this Section in no way implies that the State has breached the contract by exercise of the Termination for Convenience Clause.

(4) Compensation. (a) The Contractor shall submit a termination claim specifying the amounts due because of the termination for convenience together with cost or pricing data required by Section 11-35-1830 bearing on such claim. If the Contractor fails to file a termination claim within one year from the effective date of termination, the Procurement Officer may pay the Contractor, if at all, an amount set in accordance with Subparagraph (c) of this Paragraph.

(b) The Procurement Officer and the Contractor may agree to a settlement and that the settlement does not exceed the total contract price plus settlement costs reduced by payments previously made by the State, the proceeds of any sales of supplies and manufacturing materials under Paragraph (3) of this clause, and the contract price of the work not terminated;

(c) Absent complete agreement under Subparagraph (b) of this Paragraph, the Procurement Officer shall pay the Contractor the following amounts, provided payments agreed to under Subparagraph (b) shall not duplicate payments under this Subparagraph:

(i) contract prices for supplies or services accepted under the contract;

(ii) costs reasonably incurred in performing the terminated portion of the work less amounts paid or to be paid for accepted supplies or services;

(iii) reasonable costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to Paragraph (2) of this clause. These costs must not include costs paid in accordance with Subparagraph (c)(ii) of this paragraph;

(iv) any other reasonable costs that have resulted from the termination. The total sum to be paid the Contractor under this Subparagraph shall not exceed the total contract price plus the reasonable settlement costs of the Contractor reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under Subparagraph

(b) of this Paragraph, and the contract price of work not terminated.

(d) Contractor must demonstrate any costs claimed, agreed to, or established under Subparagraphs (b) and (c) of this Paragraph using its standard record keeping system, provided such system is consistent with any applicable Generally Accepted Accounting Principles.

(5) Contractor's failure to include an appropriate termination for convenience clause in any subcontract shall not (i) affect the state's right to require the termination of a subcontract, or (ii) increase the obligation of the state beyond what it would have been if the subcontract had contained an appropriate clause.

WARRANTY – STANDARD (JAN 2006): Contractor must provide the manufacturer's standard written warranty upon delivery of product. Contractor warrants that manufacturer will honor the standard written warranty provided.

VIII. BIDDING SCHEDULE / PRICE-BUSINESS PROPOSAL

Notwithstanding any other instructions herein, you shall submit the following price information as a separate document: [08-8015-1]

Proposal price shall constitute the total cost to Francis Marion University for complete performance in accordance with the requirements and specifications herein. Contractor shall not invoice for any amounts not specifically allowed for in this Request for Proposal.

Vendor shall provide all equipment, maintenance and services described in this Request for Proposal. The University reserves the right to award to other than the maximum commission rate proposed as determined by the evaluation criteria.

Item	Quantity	Unit of Measure	Commission Rate
1	1	Percentage	_____ %
Item Description: Beverage and Snack vending for Francis Marion University			
Tendering Text: A commission percentage of gross sales, less applicable sales taxes, that will be remitted to the University.			

NOTE:

Francis Marion University will make cost comparisons by the following method:

Percentage (%) commission rate X current annual gross sales less tax of \$168,872 =
\$_____ /year

Annual Total \$_____ x 5 years = Grand Total \$_____.

Note: Grand Total will be used for comparison purposes.

Delivery, installation, and all equipment operational shall be complete no later than [August 14, 2023](#).
Indicate you will meet this requirement by initialing here: _____

For informational purposes only – information provided by offeror in this section will not be used for proposal or price evaluations

Offeror shall include this information with the Bidding Schedule / Price Proposal

Provide detailed solutions that meet the following needs. The University may consider the proposed information at a later date

1. Athletics Fueling Station

The University is considering the addition of various vended offerings available to University student athletes. Beginning in Fall 2023, the University will have approximately 350 student athletes in 15 sports. More detail regarding Francis Marion University athletics can be found at <https://fmupatriots.com/>. The University is considering between one and five vending machines for this purpose.

The University is considering that these machines are either dedicated to athlete access only, or available in an athletics friendly location that are available for access by athletes and non athletes alike. The machines will be located in the University Center, and the University may wish to also locate machines at the Griffin Athletics Complex. All locations for machines would be mutually agreed upon between the contractor and the University. Please provide a detailed solution that includes but is not limited to the following detail:

- Variety of recommended snack and drink offerings for athlete replenishment, i.e. Muscle Milk, Clif Bar, etc.
- Detailed explanation of the efficacy of the recommended snack and drink offerings as they relate to effective athletic replenishment.
- Method for student athletes to be allotted a specific dollar amount or quantity of purchases per day, week, month, academic semester, academic year, or other specified period at the discretion of the Director of Athletics. The University prefers a method that can be cancelled for an individual athlete(s) or added for a new student athlete(s) at any given time.
- Proposed machines should also accept major credit and debit cards to include Visa, Mastercard, Discover, and American Express and securely communicate this information with financial organizations during cashless transactions.
- Proposed Commission to the University for the proposed Athletics Fueling Station program.

2. Micro-market

The University is considering implementation of micro market style vending area(s) available to faculty and staff. The intent of this program is to provide a wider array of drink and snack offerings in an environment that allows for ease of checkout by individual consumers. The University is uncertain of particular locations to be considered for the micro-market – the University would work with the

contractor to determine the ideal location(s) for these markets at a later date. Please provide a detailed solution that includes but is not limited to the following detail:

- Variety of recommended snack and drink offerings for faculty and staff at a proposed micro-market.
- Recommended methods of surveillance
- Point of Sale system provided by offeror and the requirements of the University to support that POS. POS should be compatible with commonly utilized credit and debit cards.
- Proposed machines should accept major credit and debit cards to include Visa, Mastercard, Discover, and American Express and securely communicate this information with financial organizations during cashless transactions.
- Proposed Commission to the University for the proposed Micro-market program.

IX. ATTACHMENTS TO SOLICITATION

LIST OF ATTACHMENTS

ATTACHMENTS LIST [09-9002-1]

The following documents are attached to this solicitation:

EXHIBIT A: **Locations and Quantities of Vending Machines**

EXHIBIT B: **“Campus Maps”**

EXHIBIT C: **University Demographics**

ATTACHMENT A: **References**

ATTACHMENT B: **Certification of Minority Participation and/or Offshore Contracting**
(if applicable)

ATTACHMENT C: **Nonresident Taxpayer Registration Affidavit**

ATTACHMENT D: **Open Trade Representation**

ATTACHMENT E: **Offeror(s) Checklist**

EXHIBIT A - Locations and Quantities of Vending Machines

Note: Contractor shall field verify all existing conditions prior to ordering equipment.

Locations of vending equipment currently used at the University are shown below. Francis Marion University does not own the existing vending machines. (Beverages are 20-oz. bottle machines):

Location	Building # (SEE EXHIBIT B)	Bottle/Can	Snack	Glass Front
Allston Housing Complex	19	2	1	
Campus Police/Facilities Management	10	1	1	
Carter Center for Health Sciences	35	1	1	1 (includes juice and sports drinks)
Central Receiving/Warehouse	(not numbered on map)	1	1	
Ervin Dining (Main Laundry)	21	1	1	1
Forest Villas Apartments	23	1	1	1
Founders Hall & Founders Hall Breezeway	4	5 (1 machine is RedBull, 1 machine is water)	3	2 (Starbucks product, Gatorade)
Leatherman Medical Education Center	36	1	1	
Leatherman Science Facility	7	1	1	1
Lee Nursing	5	1	1	1
McNair Science	6	2	2	1
Richardson Center for the Child	25	1		
Rogers Library	9		1	1
Smith University Center	8	2 (1 machine includes juice and sports drinks)	2	1
Stokes Administration	1	1	1	1
Village Apartments	18	1	1	1
TOTAL		22	19	12

EXHIBIT B Campus Maps



Francis Marion University Campus Map

FMU Main Campus

1. Stokes Administration Building
2. University Honors Center
3. Cauthen Educational Media Center
4. Founders Hall
5. Lee Nursing Building
6. McNair Science Building
7. Leatherman Science Facility
8. Smith University Center
9. Rogers Library
10. Campus Police
11. Hyman Fine Arts Center
12. The Grille
13. Outdoor Pool
14. Print Shop
15. Stanton Computer Center
16. The Cottage
17. Wallace House
18. The Village Apartments
19. Allston Housing Office
20. Marion State, Palmetto,
& Swamp Fox Residence Halls
21. Ervin Dining Hall
22. Belle Isle, Snow Island,
& Ellen C. Watson Residence Halls
23. Forest Villas Apartments
24. Observatory
25. Richardson Center for the Child
26. Pee Dee Education Center
27. Kassab Tennis Courts

- Griffin Athletic Complex
28. Baptist Collegiate Ministry
 29. Softball Field
 30. Sparrow Stadium
 31. Field House
 32. Hartzler Soccer Field

- FMU Downtown
33. Performing Arts Center
 34. University Place
 35. Carter Center for Health Sciences
 36. Leatherman Medical Complex
 37. Recording Studio



Exhibit C University Demographics

Francis Marion University Demographics 2022					
Number of Students			Number of Male Students		
Undergraduates	3,635		Undergradua	1,255	
Graduates	410		Graduates	84	
Total	4,045		Total	1,339	
Number of Female Students					
Undergraduates			Undergraduates	2,373	
Graduates			Graduates	325	
Total			Total	2,698	
White, non-Hispanic			Black, non-Hispanic		
Undergraduates	1,887	51.9%	Undergraduates	1,241	34.1%
<i>Males</i>	719	19.8%	<i>Males</i>	338	9.3%
<i>Females</i>	1,164	32.0%	<i>Females</i>	901	24.8%
<i>Unknown</i>	4	0.1%	<i>Unknown</i>	2	0.1%
Graduates	258	62.9%	Graduates	89	21.7%
<i>Males</i>	41	10.0%	<i>Males</i>	19	4.6%
<i>Females</i>	217	52.9%	<i>Females</i>	70	17.1%
Total	2,145	53.0%	Total	1,330	32.9%
Hispanic			Two or More Races		
Undergraduates	154	4.2%	Undergraduates	132	3.6%
Graduates	23	5.6%	Graduates	8	2.0%
Total	177	4.4%	Total	140	3.5%
Asian			American Indian/Alaskan Native		
Undergraduates	65	1.8%	Undergraduates	17	0.5%
Graduates	6	1.5%	Graduates	4	1.0%
Total	71	1.8%	Total	21	0.5%
Native Hawaiian/ Other Pacific Islander					
Undergraduates	1	0.0%			
Graduates	0	0.0%			
Total	1	0.0%			
U.S. Nonresident			Unknown		
Undergraduates	69	1.9%	Undergraduates	69	1.9%
Graduates	12	2.9%	Graduates	10	2.4%
Total	81	2.0%	Total	79	2.0%
Undergraduate students by age			Graduate students by age		
17 & Under	851	23.4%	17 & Under	0	0.0%
18 - 22	2295	63.1%	18 - 22	47	11.5%
23 - 29	317	8.7%	23 - 29	164	40.0%
30 - 39	75	2.1%	30 - 39	88	21.5%
40 - 59	56	1.5%	40 - 59	106	25.9%
60 & Older	41	1.1%	60 & Older	5	1.2%
Unknown	0	0.0%	Unknown	0	0.0%
TOTAL	3,635	100.0%	TOTAL	410	100.0%

ATTACHMENT A: References

Reference 1

Name of Organization _____

Point of Contact _____

Telephone _____

E-mail _____

Reference 2

Name of Organization _____

Point of Contact _____

Telephone _____

E-mail _____

Reference 3

Name of Organization _____

Point of Contact _____

Telephone _____

E-mail _____

Reference 4

Name of Organization _____

Point of Contact _____

Telephone _____

E-mail _____

Reference 5

Name of Organization _____

Point of Contact _____

Telephone _____

E-mail _____

ATTACHMENT B: CERTIFICATION OF MINORITY PARTICIPATION AND/OR OFFSHORE CONTRACTING (if applicable)

MINORITY PARTICIPATION (JAN 2006):

Is the bidder a South Carolina Certified Minority Business? ☐ Yes ☐ No

Is the bidder a Minority Business certified by another governmental entity? ☐ Yes ☐ No

If so, please list the certifying governmental entity:

Will any of the work under this contract be performed by a SC certified Minority Business as a subcontractor?

☐ Yes ☐ No If so, what percentage of the total value of the contract will be performed by a SC certified Minority Business as a subcontractor?

Will any of the work under this contract be performed by a minority business certified by another governmental entity as a subcontractor? ☐ Yes ☐ No If so, what percentage of the total value of the contract will be performed by a minority business certified by another governmental entity as a subcontractor?

If a certified Minority Business is participating in this contract, please indicate all categories for which the Business is certified:

- ☐ Traditional minority
- ☐ Traditional minority, but female
- ☐ Women (Caucasian females)
- ☐ Hispanic minorities
- ☐ DOT referral (Traditional minority)
- ☐ DOT referral (Caucasian female)
- ☐ Temporary certification
- ☐ SBA 8 (a) certification referral
- ☐ Other minorities (Native American, Asian, etc.)

(If more than one minority Contractor will be utilized in the performance of this contract, please provide the information above for each minority business.)

OFFSHORE CONTRACTING (JAN 2006):

Work that will be performed offshore by the Offeror and/or its

subcontractors must be identified in the Offeror's response. For the purpose of this solicitation, offshore is defined as outside the 50 States and US territories. Offeror is to include an explanation for the following:

(a) What type of work is being contracted offshore?

(b) What percentage (%) of the total work is being contracted offshore?

(c) What percentage (%) of the total value of the contract is being contracted offshore?

(d) Provide a Service Level Agreement (SLA) demonstrating the arrangement between the off-shore contractor and the Offeror. Attach Service Level Agreement to this document or paste here. Data provided by the Offeror in regards to this clause is for information only and will not be used in the evaluation and determination of an award.

ATTACHMENT C: Nonresident Taxpayer Registration Affidavit Income Tax Withholding

IMPORTANT TAX NOTICE - NONRESIDENTS ONLY

Withholding Requirements for Payments to Nonresidents: Section 12-8-550 of the South Carolina Code of Laws requires persons hiring or contracting with a nonresident conducting a business or performing personal services of a temporary nature within South Carolina to withhold 2% of each payment made to the nonresident. The withholding requirement does not apply to (1) payments on purchase orders for tangible personal property when the payments are not accompanied by services to be performed in South Carolina, (2) nonresidents who are not conducting business in South Carolina, (3) nonresidents for contracts that do not exceed \$10,000 in a calendar year, or (4) payments to a nonresident who (a) registers with either the S.C. Department of Revenue or the S.C. Secretary of State and (b) submits a Nonresident Taxpayer Registration Affidavit - Income Tax Withholding, Form I-312 to the person letting the contract.

The withholding requirement applies to every governmental entity that uses a contract ("Using Entity"). Nonresidents should submit a separate copy of the Nonresident Taxpayer Registration Affidavit - Income Tax Withholding, Form I-312 to every Using Entity that makes payment to the nonresident pursuant to this solicitation. Once submitted, an affidavit is valid for all contracts between the nonresident and the Using Entity, unless the Using Entity receives notice from the Department of Revenue that the exemption from withholding has been revoked.

Section 12-8-540 requires persons making payment to a nonresident taxpayer of rentals or royalties at a rate of \$1,200.00 or more a year for the use of or for the privilege of using property in South Carolina to withhold 7% of the total of each payment made to a nonresident taxpayer who is not a corporation and 5% if the payment is made to a corporation. Contact the Department of Revenue for any applicable exceptions.

For information about other withholding requirements (e.g., employee withholding), contact the Withholding Section at the South Carolina Department of Revenue at 803-898-5383 or visit the Department's website at: www.sctax.org

This notice is for informational purposes only. This agency does not administer and has no authority over tax issues. All registration questions should be directed to the License and Registration Section at 803-898-5872 or to the South Carolina Department of Revenue, Registration Unit, Columbia, S.C. 29214-0140. All withholding questions should be directed to the Withholding Section at 803-896-1420.

PLEASE SEE THE "NONRESIDENT TAXPAYER REGISTRATION AFFIDAVIT INCOME TAX WITHHOLDING" FORM (FORM NUMBER I-312) LOCATED AT:
<http://www.sctax.org/forms/withholding/i-312-form> [09-9005-2]

ATTACHMENT D: Open Trade Representation

(S.C. Code Ann. §§ 11-35-5300)

The following representation, which is required by Section 11-35-5300(A), is a material inducement for the State to award a contract to you.

I, the official named below, certify I am duly authorized to execute this certification on behalf of the vendor identified below, and, as of the date of my signature, the vendor identified below is not currently engaged in the boycott of a person or an entity based in or doing business with a jurisdiction with whom South Carolina can enjoy open trade, as defined in SC Code Section 11-35-5300.

Vendor Name (Printed)	State Vendor No.
By (Authorized Signature)	Date Executed
Printed Name and Title of Person Signing	[Not used]

ATTACHMENT E: Offeror's Checklist

AVOID COMMON MISTAKES

Review this checklist prior to submitting your proposal, provided to you as a point of reference.

If you fail to follow this checklist, you risk having your proposal rejected; however, the evaluation of Responsiveness will be based on the solicitation, not this checklist. Please DO NOT return this page with your offer.

- ✓ COMPLETED AND SIGNED ALL REQUIRED DOCUMENTS.
- ✓ DO NOT INCLUDE ANY OF YOUR STANDARD CONTRACT FORMS!
- ✓ UNLESS EXPRESSLY REQUIRED, DO NOT INCLUDE ANY ADDITIONAL BOILERPLATE CONTRACT CLAUSES.
- ✓ REREAD YOUR ENTIRE PROPOSAL TO MAKE SURE YOUR PROPOSAL DOES NOT TAKE EXCEPTION TO ANY OF THE SOLICITATION'S MANDATORY REQUIREMENTS.
- ✓ MAKE SURE YOU HAVE PROPERLY MARKED ALL PROTECTED, CONFIDENTIAL, OR TRADE SECRET INFORMATION IN ACCORDANCE WITH THE HEADING ENTITLED: FOIA BIDDING INSTRUCTIONS, SUBMITTING CONFIDENTIAL INFORMATION. **DO NOT MARK YOUR ENTIRE BID AS CONFIDENTIAL, TRADE SECRET, OR PROTECTED! DO NOT INCLUDE A LEGEND ON THE COVER STATING THAT YOUR ENTIRE RESPONSE IS NOT TO BE RELEASED!**
- ✓ HAVE YOU PROPERLY ACKNOWLEDGED ALL AMENDMENTS? INSTRUCTIONS REGARDING HOW TO ACKNOWLEDGE AN AMENDMENT SHOULD APPEAR IN ALL AMENDMENTS ISSUED.
- ✓ MAKE SURE YOUR PROPOSAL INCLUDES A COPY OF THE SOLICITATION COVER PAGE. MAKE SURE THE COVER PAGE IS SIGNED BY A PERSON THAT IS AUTHORIZED TO CONTRACTUALLY BIND YOUR BUSINESS.
- ✓ MAKE SURE YOUR PROPOSAL INCLUDES THE NUMBER OF COPIES REQUESTED.
- ✓ CHECK TO ENSURE YOUR PROPOSAL INCLUDES EVERYTHING REQUESTED!
- ✓ IF YOU HAVE CONCERNS ABOUT THE SOLICITATION, DO NOT RAISE THOSE CONCERNS IN YOUR RESPONSE! **AFTER OPENING, IT IS TOO LATE! IF THIS SOLICITATION INCLUDES A PRE-PROPOSAL CONFERENCE OR A QUESTION & ANSWER PERIOD, RAISE YOUR QUESTIONS AS A PART OF THAT PROCESS!** PLEASE SEE BIDDING INSTRUCTIONS AND ANY PROVISIONS REGARDING PRE-BID CONFERENCES.

[09-9010-1]