



April 03, 2008

**REQUEST FOR PROPOSAL**

**ON-SITE DINING AND CATERING SERVICES  
FOR THE UNIVERSITY CLUB AT ARIZONA STATE UNIVERSITY**

**RFP NO. 080808**

**DUE: 3:00 P.M., M.S.T., 05/01/08**

|                                              |                             |
|----------------------------------------------|-----------------------------|
| Meeting and Site Tour at the University Club | 3:00 P.M., M.S.T., 04/09/08 |
| Deadline for Inquiries                       | 5:00 P.M., M.S.T., 04/24/08 |
| Time and Date Set for Closing                | 3:00 P.M., M.S.T., 05/01/08 |

## **TABLE OF CONTENTS**

| <b>TITLE</b>                                                    | <b>PAGE</b> |
|-----------------------------------------------------------------|-------------|
| <hr/>                                                           |             |
| <b>SECTION I – REQUEST FOR PROPOSAL .....</b>                   | <b>3</b>    |
| <b>SECTION II - PURPOSE OF THE RFP .....</b>                    | <b>4</b>    |
| <b>SECTION III – INSTRUCTIONS TO PROPOSERS .....</b>            | <b>6</b>    |
| <b>SECTION IV – SCOPE OF WORK .....</b>                         | <b>13</b>   |
| <b>SECTION V – PROPOSER QUALIFICATIONS .....</b>                | <b>23</b>   |
| <b>SECTION VI – PRE-PROPOSAL CONFERENCE .....</b>               | <b>24</b>   |
| <b>SECTION VII – EVALUATION CRITERIA.....</b>                   | <b>25</b>   |
| <b>SECTION VIII – PRICING SCHEDULE .....</b>                    | <b>26</b>   |
| <b>SECTION IX – FORM OF PROPOSAL/SPECIAL INSTRUCTIONS .....</b> | <b>27</b>   |
| <b>SECTION X – PROPOSER INQUIRY FORM .....</b>                  | <b>28</b>   |
| <b>SECTION XI – CERTIFICATIONS &amp; SUBSTITUTE W-9 .....</b>   | <b>29</b>   |
| <b>SECTION XII – TERMS &amp; CONDITIONS .....</b>               | <b>37</b>   |

## SECTION I – REQUEST FOR PROPOSAL

### RFP NO. 080808

Arizona State University is requesting sealed proposals from qualified firms or individuals for On-site Dining & Catering Services for the University Club at Arizona State University.

Proposals are to be addressed and delivered to the receptionist area, first floor, University Services Building, Purchasing and Business Services, Arizona State University, 1551 S Rural Road, (located on the east side of Rural Road between Apache Road & Broadway Road) Tempe, Arizona 85281 on or before **Thursday, May 1, 2008, 3:00 P.M., MST**, at which time a representative of Purchasing and Business Services will announce publicly the names of those firms or individuals submitting proposals. No other public disclosure will be made until after award of the contract.

Arizona State University's Overnight Delivery (FedEx, Airborne, and UPS. etc.) address is:

Purchasing and Business Services  
University Services Building  
Arizona State University  
1551 S. Rural Rd  
Tempe, AZ 85281

Arizona State University's U.S. Postal Service Mail address is:

Purchasing and Business Services  
Arizona State University  
P.O. Box 875212  
Tempe, AZ 85287-5212

ARIZONA STATE UNIVERSITY

*Liz Chandler*  
Liz Chandler  
Buyer Senior

EC/yr

## **SECTION II - PURPOSE OF THE RFP**

### **1. INTENT**

ASU is requesting proposals from qualified firms to provide On-site Dining & Catering Services at the University Club on the Tempe campus, with the intent to provide the University community a diverse selection of menus and food options in an exciting upscale atmosphere for the University and local community. This is a private club open to members only.

### **2. BACKGROUND**

The University Club has been in operation since 1987 and has a membership of approximately 950, who are faculty, staff, alumni, retirees, corporate and community members. The volume of sales at the University Club for the Bistro has fluctuated between \$150,000 and \$300,000 per year and catering has fluctuated between \$600,000 and \$700,000 per year. Commitments for any volume are not implied in this RFP.

Functions in the University Club consists of a daily lunch service, evening functions, special events, high tea, and social hours as well themed events during holidays. Daily lunch service has averaged approximately 40 persons per day over the past year. We are open to suggestions for other events, to include breakfast. It is the desire of the University to contract with a provider with a vision to grow the University Club into an on campus venue to be better utilized by its membership, to entice new faculty and staff memberships and corporate clients. The University Club management will work with the contractor to promote the food service program and expand the membership.

The services being sought under this Request for Proposal are for the University Club only. Other venues on campus that serve food are presently under contract with other food service providers and therefore not part of this solicitation. There would be opportunities for the contractor to do catering for other University functions outside of the University Club if on ASU's Approved Catering List. Call the Memorial Union Event & Meeting Services, 480-965-3406, for details of this program.

This document contains instructions and requirements, including the recommended format that proposals are to be submitted. The resulting contract from this solicitation shall be administered by Auxiliary Business Services, a division of Administration and Finance.

### **3. TERM**

The start up for services is to be July 1, 2008 for catering services and lunch service to commence two weeks later, by July 15, 2008. The initial term will be for three years,

through June 30, 2011 and may be renewed for up to two additional one (1) year terms, based upon mutual agreement of both parties, for a total not to exceed a five (5) year term.

## SECTION III – INSTRUCTIONS TO PROPOSERS

1. You must address and deliver your proposal to the receptionist area, first floor, University Services Building, Purchasing and Business Services, Arizona State University, 1551 S Rural Road, Tempe, Arizona 85281, on or before the time and date set for closing. The University Services Building is located on the east side of Rural Road between Apache Road & Broadway Road. Our delivery address is Purchasing and Business Services, University Services Building, Arizona State University, 1551 S Rural Road, Tempe, Arizona 85281. Proposals should be in a sealed envelope marked:

Name of Proposer

Title of Proposal

RFP Number

Date and Time Proposal is Due

No telephone, electronic or facsimile proposals will be considered. Proposals received after the time and date for closing will be returned to the proposer unopened.

2. **DIRECTIONS TO USB VISITOR PARKING.** Purchasing and Business Services is in the University Services Building (USB) 1551 S. Rural Road, Tempe AZ, 85281 (located on the east side of Rural between Broadway Ave and Apache Boulevard). Visitors may park in the USB Lot 45, located directly behind the building, using the Pay by Space machine, which has a cost of **\$2.00 per two hour** or any portion thereof. The meter will be located near the main entry to USB, to allow visitors to park their vehicles and easily access the machine on their way into the building.

All visitors to USB are to obtain a visitor's badge from the USB Reception Desk to wear while in the building, please check in at the USB Reception Desk. The receptionist will call to have you escorted to your meeting.

3. Proposals should be submitted as a document set, containing one clearly marked original and six (6) additional copies.
4. You may withdraw your proposal at any time prior to the time and date set for closing.
5. No department, school, or office at the University has the authority to solicit or receive official proposals other than Purchasing and Business Services. All solicitation is performed under the direct supervision of the Director of Purchasing and Business Services and in complete accordance with University policies and procedures.
6. The University reserves the right to conduct discussions with proposers, and to accept revisions of proposals, and to negotiate price changes. During this discussion period, the University will not disclose any information derived from proposals submitted, or from discussions with other proposers. Once an award is made, the solicitation file, and the proposals contained therein, are in the public record and will be disclosed upon request.

7. Proposers submitting proposals which meet the selection criteria and which are deemed to be the most advantageous to the University may be requested to give an oral presentation to a selection committee. Purchasing and Business Services will do scheduling of these oral presentations.
8. The award shall be made to the responsible proposer whose proposal is determined to be the most advantageous to the University based on the evaluation factors set forth in this Request for Proposal. Price, although a consideration, will not be the sole determining factor.
9. If you are submitting any information you consider to be proprietary, you must place it in a separate envelope and mark it "Proprietary Information". If the Director of Purchasing and Business Services concurs, this information will not be considered public information. The Director of Purchasing and Business Services is the final authority as to the extent of material, which is considered proprietary or confidential. Pricing information cannot be considered proprietary.
10. The University is committed to the development of Small Business and Small Disadvantaged Business (SB & SDB) suppliers. If subcontracting is necessary, the successful proposer will make every effort to use SB & SDB in the performance of any contract resulting from this Request for Proposal. A report may be required at each annual anniversary date and at the completion of the contract indicating the extent of SB & SDB participation. A description of the proposer's expected efforts to solicit SB & SDB participation should be enclosed with your proposal.
11. Your proposal should be submitted in the format shown in Section IX. Proposals in any other format will be considered informal and may be rejected. Conditional proposals will not be considered. An individual authorized to extend a formal proposal must sign all proposals. Proposals that are not signed may be rejected.

12. Financial Statements:

Option A. Proposers who have audited financial statements provide the following:

Audited financial statements for the two most recent available years. If the financial statements are intended to be confidential, please submit one copy in a separate sealed envelope and mark as follows:

Firm's Name  
Confidential – Financial Statements

Option B. Proposers who might not have audited financial statements provide the following:

It is preferred that audited financial statements for the two most recent available years be submitted. However, if not available, provide a copy of firm's two most recent tax returns or compiled financial statements by an independent CPA. If the financial statements or tax returns are intended to be confidential, please submit one copy in a separate sealed envelope and mark as follows:

13. The University reserves the right to reject any or all proposals or any part thereof, or to accept any proposal, or any part thereof, or to withhold the award and to waive or decline to waive irregularities in any proposal when it determines that it is in its best interest to do so. The University also reserves the right to hold all proposals for a period of 60 days after the opening date and the right to accept a proposal not withdrawn before the scheduled proposal opening date.
14. The successful proposer is expected to enter into a standard form of agreement approved by the Arizona Board of Regents. The Arizona State University contract terms and conditions are included in this Request for Proposal in Section XII. These terms and conditions are intended to be incorporated into the agreement between the University and the successful proposer. **Proposals that are contingent upon any changes to these mandatory contract terms and conditions may be deemed nonresponsive and may be rejected.** Special terms and conditions address subjects that are important to the University. Proposers may suggest alternatives to these special terms and conditions. **However, proposals that are contingent upon any changes to these special terms and conditions will be at a competitive disadvantage in the proposal evaluation process.**
15. Unless specifically stated to the contrary, any manufacturer's names, trade names, brand names or catalog numbers used in the specifications of this Request for Proposal are for the purpose of describing and/or establishing the quality, design and performance required. Any such reference is not intended to limit or restrict an offer by any proposer and is included in order to advise the potential proposer of the requirements for the University. Any offer, which proposes like quality, design or performance, will be considered.
16. May: Indicates something that is not mandatory but permissible/ desirable.  
  
Shall, Must, Will: Indicates mandatory requirement. Failure to meet these mandatory requirements will result in rejection of your proposal as non-responsive.  
  
Should: Indicates something that is recommended but not mandatory. If the proposer fails to provide recommended information, the University may, at its sole option, ask the proposer to provide the information or evaluate the proposal without the information.
17. Any person, firm, corporation or association submitting a proposal shall be deemed to have read and understood all the terms, conditions and requirements in the specifications/scope of work.
18. All responses and accompanying documentation will become the property of the University at the time the proposals are opened.

19. The University of Arizona, Northern Arizona University, and Arizona State University are all state universities governed by the Arizona Board of Regents. **Unless reasonable objection is made in writing as part of your response to this solicitation, the Board or either of the other two Universities may purchase goods and/or services from any agreement resulting from this solicitation.**
20. The University has entered into Cooperative Purchasing Agreements with The Maricopa County Community College District and with Maricopa County, in accordance with A.R.S. Sections 11-952 and 41-2632. Under these Cooperative Purchasing Agreements, and with the concurrence of the successful proposer, the Community College District and/or Maricopa County may access an Agreement resulting from a solicitation done by the University. If you **do not** want to grant such access to the Maricopa County Community College District and or Maricopa County, **please so state** in your proposal. In the absence of a statement to the contrary, the University will assume that you do wish to grant access to any Agreement that may result from this Request for Proposal.
21. Arizona State University is also a member of the Strategic Alliance for Volume Expenditures (\$AVE) cooperative purchasing group. \$AVE includes the State of Arizona, many Phoenix metropolitan area municipalities, and many K-12 unified school districts. Under the \$AVE Cooperative Purchasing Agreement, and with the concurrence of the successful contractor under this solicitation, a member of \$AVE may access an Agreement resulting from a solicitation done by the University. If you **do not** want to grant such access to a member of \$AVE, **please so state** in your proposal. In the absence of a statement to the contrary, the University will assume that you do wish to grant access to any Agreement that may result from this Request for Proposal.
22. All formal inquiries or requests for significant or material clarification or interpretation, or notification to the University of errors or omissions relating to this Request for Proposal must be directed, in writing or by facsimile, to:

Liz Chandler  
Purchasing and Business Services  
University Services Building  
Arizona State University  
PO Box 875212  
Tempe, AZ 85287-5212

Tel: 480-965-0578  
Fax: 480-965-0586

Requests must be submitted on a copy of the Proposer Inquiry Form included in Section X of this Request for Proposal. All formal inquiries must be submitted at least seven (7) calendar days before the time and date set for closing this Request for Proposal. Failure to submit inquiries by this deadline may result in the inquiry not being answered.

Note that the University will answer informal questions orally. The University makes no warranty of any kind as to the correctness of any oral answers and uses this process solely to provide minor clarifications rapidly. Oral statements or instructions shall not constitute an amendment to this Request for Proposal. Proposers shall not rely on any

verbal responses from the University. If you have formal questions about any part of this Request for Proposal, which could result in a material issue or a formal amendment to this Request for Proposal, submit your questions on a Proposer Inquiry Form from Section X of this Request for Proposal.

23. The University shall not reimburse any proposer the cost of responding to a Request for Proposal.
24. In accordance with an executive order titled "Air Pollution Emergency Proclamation" modified by the Governor of Arizona on July 16, 1996, the University formally requests that all products used in the performance of any contract that results from this solicitation be of low- or no-content of reactive organic compounds, to the maximum extent possible.
25. Arizona requires that we purchase ENERGY STAR® products or those certified by the Federal Energy Management Program as energy efficient in all categories available. If this solicitation is for a product in a category for which ENERGY STAR® or certified products are available, please submit evidence of the ENERGY STAR® status or certification for the products you are bidding. Please note that if you fail to submit this information but a competitor does, we will select your competitor's product as meeting specifications and deem your product as not meeting specifications. See A.R.S. §34-451.
26. To the extent applicable to any agreement resulting from this solicitation, the proposer shall comply with the Standards for Privacy of Individually Identifiable Information under the Health Insurance Portability and Accountability Act of 1996 contained in 45 CFR Parts 160 and 164 (the "HIPAA Privacy Standards") as of the effective date of the HIPAA Privacy Standards on April 14, 2003 or as later determined. Proposer will use all security and privacy safeguards necessary to protect Protected Health Information (PHI), as defined by HIPPA, and shall immediately report to University all improper use or disclosure of PHI of which it becomes aware. Proposer agrees to ensure that its agents and subcontractors agree to and abide by these requirements. Proposer agrees to indemnify the State of Arizona, the Arizona Board of Regents, Arizona State University and their regents, employees and agents against all harm or damage caused or contributed to by Proposer's breach of its obligations under this paragraph.
27. The University believes that it can best maintain its reputation for treating suppliers in a fair, honest, and consistent manner by conducting solicitations in good faith and by granting competitors an equal opportunity to win an award. If you feel that we have fallen short of these goals, you may submit a protest pursuant to the Arizona Board of Regents procurement procedures, section 3-809, in particular section 3-809C. This paragraph does not include all of the provisions of the Regents procedures, but it does tell you what you have to do to initiate a protest. First, you have to be an "interested party." An "interested party" is an actual or prospective proposer whose direct economic interest may be affected by the issuance of a solicitation, the award of a contract, or by the failure to award a contract. Whether an actual prospective bidder or offeror has a *direct* economic interest will depend upon the circumstances in each case. At a minimum, the interest must be substantial and must be tangibly affected by the administrative action or proposed action concerned in the case. For instance, a bidder or proposer who is fourth in line for award does not have a sufficient economic interest to protest the proposed

award of a contract to the low bidder. Second, you must submit the protest in a timely manner. In procurements inviting bids, protests based upon alleged errors, irregularities or, improprieties in a solicitation that are apparent before the bid opening shall be filed before the bid opening. In procurements requesting proposals, protests based upon alleged errors, irregularities or improprieties in a solicitation that are apparent before the closing date for receipt of initial proposals shall be filed before the closing date for receipt of initial proposals. Protests concerning improprieties that do not exist in the initial solicitation, but that are subsequently incorporated into the solicitation, shall be filed by the next closing date for receipt of proposals following the incorporation. In cases other than those just covered, protests shall be filed no later than ten days after a contract is awarded in connection with the procurement action. Failure to timely protest shall be deemed a waiver of all rights. Third, and finally, your protest shall be in writing and shall include the following information: (1) The name, address, telephone number, and fax number of the protestor; (2) The signature of the protestor or its representative; (3) Identification of the solicitation or contract number; (4) A detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and (5) The form of relief requested.

Protests should be directed to:

John F. Riley, C.P.M.  
Director of Purchasing and Business Services  
Arizona State University  
PO Box 875212  
Tempe AZ 85287-5212  
Fax: (480) 965-2234

Please note that as the University takes protests very seriously, we expect you to do so as well. Frivolous protests will not result in gain for your firm.

28. Other opportunities with Arizona State University not related to this solicitation.

### **The ASU Alumni Advantage**

Connect your business with an affluent, educated audience through a business partnership with the ASU Alumni Association. The Association is the touchstone for ASU's 300,000 alumni and provides valuable connections between them and a wide variety of businesses. By doing business with ASU, the largest university in the United States, your company can stand above the competition.

ASU alumni represent a responsive target market for your product or service.

- Alumni live worldwide.
- 70 percent of alumni reside in Arizona.
- More than 160,000 alumni live in Maricopa County.
- 11 percent of alumni reside in California.
- 75% of ASU alumni are under the age of 45.
- More than 64% of ASU alums graduated since 1984.
- More than one-third hold post-graduate degrees.
- More than 70 percent of ASU alumni are actively employed.
- 30 percent of alumni earn between \$60,000 and \$90,000 annually.

- 25 percent of ASU alumni earn more than \$90,000 annually.

Specific partnership opportunities exist in a variety of areas.

- Advertise in the quarterly ASU Magazine, mailed to more than 260,000 homes around the world. ASU Magazine is the largest circulation magazine in the Southwest. Our [rate card](http://www.asu.edu/alumni/magazine/images/asumag_rates.pdf) is available for download at [http://www.asu.edu/alumni/magazine/images/asumag\\_rates.pdf](http://www.asu.edu/alumni/magazine/images/asumag_rates.pdf)
- Sponsor one of the Association's many programs and events and receive recognition and access to targeted audiences. Events include: Founder's Day in March, Senior Send off in April, Homecoming in the Fall, Travel shows, Career Fairs and many more! Costs from \$500 to \$2500.
- Create a unique partnership with us to suit your needs.
- Establish benefits for ASU alumni by offering targeted discounts and services.
- Advertise on our web site, on our 55 Chapter/Club websites or in our electronic newsletters, sent out to more than 80,000 people monthly. Cost is \$1000 per month, per each advertising venue.

Your business partnership contact is **Rhonda McClintock**. Contact her today at (480)965-5051 to start doing business with the Sun Devil nation.

## **SECTION IV – SCOPE OF WORK**

### **4.1 ON-SITE DINING & CATERING SERVICE REQUIREMENTS**

- 4.1.1** ASU grants to Operator the exclusive right during the hours of operation to be determined, within such portions of the Club as the parties may from time to time agree, and as initially described as the “Bistro” and offer catered food and beverage service (“Catering Services”). Operator may place tables and chairs and associated items for use by customers of the Club in the areas set forth on established floor plans, and space identified as the “Outdoor Space” provided, however, such use of the Outdoor Space by Operator shall be conducted with the oversight and approval of ASU.
- 4.1.2** Operator shall have access to the Space as needed (following appropriate and reasonable security measures imposed by ASU) to prepare food for service on the ASU premises for the Club, and any Catering Services that take place during the hours of operation. During the term of this Agreement, Operator may use the Space for storage, preparation, and service of the food, beverages and other services to be provided in the Club. ASU has the right of access to the Space at all times without notice. Notwithstanding anything else stated herein to the contrary.
- 4.1.3** The Contractor shall provide daily (Monday through Friday) lunch service in the University Club for members and guests only. Lunch shall be in the first floor dining area (The Bistro). We are open to recommendations, and would suggest the following: the Bistro area would be a casual lunch service with price points between \$6 and \$15 not including beverages. Specific menus and price points will be negotiated with the contractor after award. Monday through Thursday patrons will have the opportunity to order from a specific menu including a ‘daily special’ with the ‘daily special’ being a separate entrée not on the menu and will be different each day. Friday’s shall be a chef’s choice buffet. The Contractor shall provide a sufficient number of qualified and trained staff to service the daily lunch service in the Bistro. The contractor shall have access to the other rooms in the club for catered events and meetings.
- 4.1.4** The Contractor shall provide high tea at cost to the University Club once per month, to include finger sandwiches, scones with Devonshire cream, lemon curd, jam and desserts, along with wait staff.
- 4.1.5** The contractor shall provide iced water, iced tea and coffee once a month for the University Club bridge meeting.
- 4.1.6** Complimentary coffee along with the essential condiments will be provided by the contractor at no cost Monday through Friday from 7AM to 10AM.
- 4.1.7** The Contractor shall be alert to and take initiative to implement new and creative food service trends and changing diet patterns as recognized by the Professional Food industry.

- 4.1.8** The Contractor shall comply with any requirements of the University's Office of Health and Safety, as well as local, state and industry standard food code regulations.
- 4.1.9** The Contractor shall furnish all food, beverages, supplies, and all management and labor necessary for this requested food service operation.
- 4.1.10** The University Club shall supply smallwares to include but not limited to, china, glassware, flatware, trays, and utensils for the Bistro that the contractor deems necessary for the operation of the facility. Contractor shall replace smallwares as necessary. The University Club shall supply a level count of 250 smallwares to include but not limited to china, glassware, flatware, trays, and utensils for the catering services. The contractor shall supply smallwares over and above the 250 level when needed at the contractor expense. Contractor shall replace smallwares provided by the University Club as needed.
- 4.1.11** Any equipment needed for off premise catering and/or a chef's table presentation will be provided by the contractor.
- 4.1.12** The Contractor shall pay all salaries, wages, and employee benefits payable to or on behalf of its own employees. Contractor employees will not be in any way compensated or recognized as, University employees.
- 4.1.13** The contractor shall be responsible for all sales and use tax associated with the sales of meals and catered events.
- 4.1.14** The Contractor shall pay all costs of repair or replacement from loss or damage to facilities and furnishings and other items furnished by the University caused by Contractor's negligence or willful misconduct.
- 4.1.15** The Contractor shall clean food preparation and service areas, tables, chairs and floors after each event and after lunch service is completed each day.
- 4.1.16** The University Club shall provide to contractor, at no cost, five (5) parking spaces in the University club parking lot along with the loading dock area. Contractor service vehicles will be clearly marked and identifiable. This provision is subject to change within the contract term. Contractor and contractor's employee vehicles will be insured while on ASU property.
- 4.1.17** The Contractor shall hold the University harmless, in the event any sales or use tax is assessed with respect to the sale of meals under this Contract, against any liability with respect to any such assessments and against all costs and related expenses.
- 4.1.18** The Contractor shall not sell or furnish intoxicating liquors upon the University premises, without approval of the University. Liquor sales for the University Club shall be limited to the Club's physical location only. The contractor shall comply with all Arizona liquor laws in accordance with the liquor license for the University

Club. The contractor shall have all on-site managers to attend and receive a certificate of attendance for the Liquor License Training Certification Program that is sponsored by the State of Arizona Liquor License Department. Copies of certificates earned will be provided to the Executive Director of Auxiliary Business Services. This requirement shall remain in effect for the life of the contract and will be reviewed annually.

- 4.1.19** The Contractor shall obtain the necessary licenses to provide all the services as required for this contract including a Food Establishment Permit.
- 4.1.20** ASU will pay all electric, light, power, heat, air conditioning, hot and cold water, and telephone lines that, in the opinion of ASU (after consultation with Operator), are deemed necessary for the operation of the Club. ASU will call to Operator's attention any excessive use of the utilities. If Operator is unable to reduce the excessive use of utilities in ASU's reasonable discretion, ASU may institute a reasonable charge for any excess use of utilities. ASU will provide telephone service including one line for office telephone use, one line for a credit card terminal and one line for fax and data transmission for Operator for use in connection with the operation of the Club. Operator will pay for all long distance calls made by Operator from the Club upon receipt of an invoice from ASU for such calls.
- 4.1.21** Operator will clean and maintain, to ASU's reasonable satisfaction and minimum health department standards, the kitchen equipment and floors, loading dock, kitchen hoods and ducts, grease traps, storage areas, serving equipment, and adjacent dining room floors, tables and chairs on a daily basis. The University Club management will review/inspect at least twice a year. Carpet, upholstery, window treatments and upholstered chairs to be cleaned at the contractor expense at least twice per year or on an as needed basis excluding the club room and administrative offices. The University Club shall clean the building windows inside and out at least two times per year or as needed. The contractor will maintain the inside windows between professional cleanings.
- 4.1.22** The University Club shall supply to operator two laptop compatible projectors and two wireless microphones for use during catered events along with three full-size screens. The University Club shall supply to operator a lock box for projectors for safekeeping. Operator shall implement safekeeping procedures and replace projectors and microphones if lost or stolen.
- 4.1.23** Contractor to hold two major/tasting events per academic year, excluding alcohol, for the University Club membership as dictated by the Advisory Board at the caterer's expense.
- 4.1.24** Contractor will provide a "hostess" for the club from the hours of 9 a.m. to 2:00 p.m. Monday through Friday. The hostess will greet people entering the club, take reservations, seat patrons for the bistro and monitor events underway at the club.
- 4.1.25** Contractor shall provide food and beverages, excluding alcohol, for Advisory Board meetings at no cost to the University Club

**4.1.26** Contractor shall provide no less than 10 lunch certificates per year to University Club management to disperse as management feels necessary in order to promote the Club.

## **4.2 FOOD REQUIREMENTS**

**4.2.1** The Contractor shall utilize the following requirements as minimums in the preparation of On-site Dining and Catering Services called for under the terms of the Contract(s) for Arizona State University.

1. No trans fats.
2. Beef and veal, USDA grade choice; pork, lamb, and poultry, USDA grade A (#1); only beef patties may contain texture vegetable protein (soy flour). All other ground beef shall have no more than a 22% fat content.
3. USDA grade A; frozen.
4. USDA grade A; fresh product No. 1 quality.
5. Dairy products, cheese - USDA grade A. Grade levels shall be certified by the USDA either on the label or by separate certificate.
6. All processed lunchmeats, specifically bologna, salami, and hot dogs shall be a quality "all beef" product.

**4.2.2** Sustainability – To the extent possible, Contractor shall procure and utilize goods and services produced in environmentally friendly and socially responsible ways.

1. Contractor shall support and procure food products that meet sustainability standards, equivalent to the Food Alliance, in the areas of pesticide reduction, soil and water conservation, wildlife habitat conservation, care for livestock, non-GMO products, and safe and fair working conditions to the maximum extent feasible during the performance of this contract.
2. Contractor shall develop meaningful partnerships with local growers and producers whenever possible.
3. Contractor shall strive to meet standards equivalent to the Food Alliance in regards to food procurement, labeling, and marketing of all locally grown and organic foods.
4. Contractor to provide quarterly and annual reports to University Club management documenting the actual percent of cost of sales that are local.
5. Contractor to provide quarterly and annual reports to University Club management documenting the actual percent of cost of sales that are organic.

6. Contractor shall utilize sustainable, “green” cleaning products to the maximum extent feasible during the performance of this contract, with an emphasis on using products that are: biodegradable, less toxic, with minimal use of unnecessary dyes and fragrances.
7. Contractor will have the opportunity to participate in future campus based education efforts to promote awareness and understanding of sustainable agriculture, benefits of local foods, organics, and of “green” products and systems (i.e. recycling and composting).

**4.2.3** The following service standards shall be followed for food preparation, serving and cleaning:

1. All food shall be garnished for attractive presentation.
2. All hot foods must reach the patron 140° and above hot, and all cold foods 41° and below cold.
3. All Contractor employees shall obtain and maintain a current State of Arizona Food Handler Card.
4. Contractor employees shall assist University personnel in the diplomatic enforcement of University regulations when required.
5. Appropriate wrappings for foods are to be used as needed. Wrappings shall be both attractive and serviceable.
6. Display and serving areas shall be clean, sanitary, orderly and attractive at all times; cold food iced; hot food on chafing dishes. Specifically, the quality and appearance of food shall be observed by the Contractor prior to the start of each event.
7. Any spillage or soil spots shall be removed promptly from counters, steam table pans, general servicing and dining areas, and floors.
8. Salads and other pre-dished items shall be frequently replenished or regrouped so as not to convey a sparse or disheveled appearance.
9. Partially used, broken or spilled items shall be removed from the area promptly.
10. Tables are to be bussed promptly and trash receptacles emptied as required to provide for an attractive and clean facility after each event when requested.
11. Service problems shall be anticipated and resolved immediately when possible.

### **4.3 GENERAL PERFORMANCE STANDARDS**

- 4.3.1** The University shall provide, as mutually agreed, serving space required by Contractor for the efficient operation of its services.
- 4.3.2** The University shall work closely with the contractor to market and promote the University Club to the campus and local community.
- 4.3.3** Menu Pricing - Food and beverage items should be reasonably priced to ensure quality of production and profit for Contractor while not excessive for consumers. Pricing and menu selections must be negotiable during the term of this agreement to ensure consumer satisfaction. Final pricing and menus for both lunch service and event functions shall be subject to approval by Auxiliary Business Services. The menu for the Bistro shall be revised at the beginning of each semester.
- 4.3.4** On-Site Supervision & Employee Conduct - Contractor is to provide daily on-site supervision of the Club by personnel reasonably acceptable to ASU. Contractor shall ensure that its employees engage in appropriate conduct while working at the Premises.
- 4.3.5** Compliance with Laws - The Contractor shall at all times during the term of the Contract, and with respect to all phases of the performance of its obligations hereunder, comply with all applicable ordinances, laws, rules and regulations of the United States of America, the State of Arizona, and of any political subdivision or agency, authority or commission thereof, which may have jurisdiction to pass laws, ordinances or make and enforce rules or regulations. The Contractor shall also obtain and keep current all licenses and permits (whether Municipal, State or Federal) required to conduct its operation at the University, and pay promptly when due, all fees therefore.
- 4.3.6** Copies of any inspection reports, notices, etc., from any municipal, state or federal agency shall be forwarded to the University within two days following such inspections. In the event Operator is cited for a violation, or is not in compliance with any such laws, regulations or ordinances, Operator will provide ASU a written description of such non-compliance and a copy of any correspondence from the respective governmental agency, and provide a plan detailing Operator's contemplated action to cure and remedy the violation within 48 hours. For each day Operator is unable to operate the Club, Operator will pay ASU a penalty of \$100 per day.
- 4.3.7** Customer Complaints - Contractor shall immediately resolve, without expense to or intervention of the University, all customer complaints received by Contractor with respect to the operation of the restaurant. Any disagreement which cannot be resolved between Contractor and a customer shall be referred to the designated Auxiliary Business Services representative. The contractor will provide Bistro and catering customers satisfaction surveys no less than four times each year. The surveys will be returned to the University Club management and a report of the results will be provided to the contractor.

- 4.3.8** Reports and Commission to ASU. - **Contractor shall pay a percentage of gross sales (to include price of food, service charge, rental charges, etc.) for all events serviced and for daily Bistro sales as a commission to the University to defer the cost of utilities, trash removal and other administrative maintenance.** Minimal acceptable commission rates on sales to be paid to ASU by Contractor are 20% for Bistro sales and on-premise catered events, and either 8% or a minimum guarantee of \$1,500 monthly (\$18,000 annually) for off-premise ASU affiliated events. Contractor shall provide to Auxiliary Business Services/University Club a monthly statement and commission check, of all events serviced and daily Bistro sales for the University Club for that month. Statement to reflect gross events sales, date of event, invoice number and corresponding commission due as well as daily Bistro sales with corresponding commission due and be delivered to the University Club within ten (10) days of the new month at 425 E. University Drive, Tempe, AZ 85281 **or** mailed to Auxiliary Business Services/University Club, P.O. Box. 873602, Tempe, AZ 85287-3602, Attn: Debi Smith, Program Coordinator Senior, within 10 business days of the new month.
- 4.3.9** Bistro Sales must be verifiable by providing acceptable daily/monthly POS reports to the University that tie to the submitted monthly statements. All catered events must be accounted for by the use of pre-numbered catering contracts/invoices.

#### **4.4 BEST VALUE SUPPLIER**

- 4.4.1** ASU is looking for a supplier who can differentiate itself based upon the ability to identify, prioritize and minimize risks, add differential value and show a high level of past performance on behalf of other clients.
- 4.4.2** ASU is looking for a supplier who is proactive and accountable. Risk identification and minimization plans put in place by the contractor are critical to the success of this contract both for ASU and the successful proposer. Proposers shall itemize what risks it does not control and propose a plan on how those risks shall be minimized. Risks would be anything that would impact dollars, time or customer satisfaction.
- 4.4.3** Past performance shall be measured by the Performance Evaluation form found in Section XI. Each proposer is responsible for preparing a list of past clients and sending performance evaluations to those clients. The surveys shall be returned directly to ASU from the past clients. Proposers shall submit no more than ten (10) Performance Evaluations.

## 4.5 EQUIPMENT LIST

| Item                                      | Location           |
|-------------------------------------------|--------------------|
| <b>Downstairs Kitchen</b>                 |                    |
| 2 compartment S/S sink prep 8 x 3         | downstairs kitchen |
| 4 x 2 S/S counter (qty: 2)                | downstairs kitchen |
| 4 x 3 S/S table                           | downstairs kitchen |
| Broiler open grill                        | downstairs kitchen |
| Cornelius Xtreme Ice Machine              | downstairs kitchen |
| Deli style reach-in refrigerator          | downstairs kitchen |
| Flat grill/oven                           | downstairs kitchen |
| Imperial 4 burner oven                    | downstairs kitchen |
| Imperial deep fryer                       | downstairs kitchen |
| Imperial grill/oven                       | downstairs kitchen |
| Raetone AR47-S6HD refrigerator            | downstairs kitchen |
| Sandwich unit refrigerator                | downstairs kitchen |
| Sharp microwave                           | downstairs kitchen |
| Small reach-in refrigerator               | downstairs kitchen |
| Walk-in cooler/freezer                    | downstairs kitchen |
| Wood top prep table 8 foot                | downstairs kitchen |
| <b>Upstairs Kitchen</b>                   |                    |
| 4 well steam table                        | upstairs kitchen   |
| ADS 5 AG low temp. double rack dishwasher | upstairs kitchen   |
| Counter S/S w/sink 6 foot                 | upstairs kitchen   |
| Imperial 8 burner stove                   | upstairs kitchen   |
| Imperial convection oven (qty: 2)         | upstairs kitchen   |
| Imperial Frymaster Fryer                  | upstairs kitchen   |
| Imperial open grill                       | upstairs kitchen   |
| Imperial overhead broiler                 | upstairs kitchen   |
| Larkin R130 PC reach-in refrigerator      | upstairs kitchen   |
| Triple sink S/s w/hot sink 8 foot         | upstairs kitchen   |
| True refrigerator Model #T-49             | upstairs kitchen   |

## **Green Purchasing Requirements**

In order to reduce the adverse environmental impact of our purchasing decisions we are committed to buying goods and services from manufacturers and suppliers who share our environmental concern and commitment. Green purchasing is the method wherein environmental and social considerations are taken with equal weight to the price, availability and performance criteria that we use to make purchasing decisions.

ASU would like to foster a more sustainable food service program that economically supports environmentally sustainable food systems as a way of contributing to the economic vitality, environmental sustainability, and quality of life in the region. Our unique population desires a provider who can deliver a variety of high quality, sustainably produced and procured, foods on a daily basis thus creating strong customer satisfaction.

The Green Profile Questionnaire must be completed and returned with your Proposal.

## **GREEN PROFILE QUESTIONNAIRE**

- 1.** Specifically state how your company addresses sustainability issues in food service for maximum environmental, social and economic impact.
- 2.** Does your company have an environmental policy statement? If so, please provide it.
- 3.** What are your policies on organic and locally sourced foods?
- 4.** What percentage of your current buying is local? What percentage is organic?
- 5.** Please name 2 of the local producers/farms you've used most frequently.
- 6.** Provide examples of spring, summer, fall and winter seasonal menus that would incorporate locally sourced foods.
- 7.** How will you help the University Club minimize waste and maximize waste diversion? Do you have a composting program in place?
- 8.** What non-toxic, biodegradable (earth friendly) cleaning products do you use?
- 9.** If selected pursuant to this solicitation, what are your plans for continuing your operations and services to ASU if there is a major and/or catastrophic pandemic influenza outbreak? Describe in reasonable detail your contingency plans for such a situation.

## SECTION V – PROPOSER QUALIFICATIONS

The University is soliciting proposals from firms, which are in the business of providing services as listed in this Request for Proposal. Your proposal shall include, at a minimum, the following information. Failure to include these items may be grounds for rejection of your proposal.

1. The proposer shall present evidence that the firm or its officers have been engaged for at least the past three (3) years in providing services as listed in this Request for Proposal.
2. Three (3) references must be included stating the name, position, telephone number, fax number, and the E-Mail address of the primary contact person. These are to be for professional food service accounts currently under contract or being serviced, and be of similar size and quality specified in this proposal. Include references of ASU clients for recent functions performed by your company.
3. Contractor to include copies of current business license, tax permit, health/food certificates, and Food Establishment Permit held to do business in the State of Arizona, Maricopa County, for the services as requested.
4. Contractor is to state what claims if any have been filed against them while in business, any pending claims now under review, or any judgments made against them while in the food service business.

## SECTION VI – PRE-PROPOSAL CONFERENCE

☐ No pre-proposal conference will be held.

☒ A pre-proposal conference will be held at 3:00 P.M., April 9, 2008 at University Club.

A pre-proposal conference will be held at the University Club, located at 425 E. University Drive in Tempe. Note that the entrance to the parking area is just west of the large (grey) Arizona State University pedestrian overpass on University Drive, and east of the light at University and College.

**Please RSVP to Debi Smith, at 480-965-0701 or by email to [debi.smith@asu.edu](mailto:debi.smith@asu.edu) to ensure parking arrangements in the lot adjacent to the University Club**

The purpose of this conference will be to clarify the contents of this Request for Proposal in order to prevent any misunderstanding of the University's intention and desires, and/or to give prospective suppliers an opportunity to review the site of the work. Any doubt as to the requirements of this Request for Proposal, or any apparent omission or discrepancy should be presented to the University representative at this conference. The University representative will then determine the appropriate action. If necessary, the University representative will issue a written amendment to the Request for Proposal. Oral statements or instructions shall not constitute an amendment to this Request for Proposal.

You do not have to send a representative to this pre-proposal conference. However, if you decide to not send a representative, then we may not know of your intent to participate in this solicitation, and so may not send you any written amendments to this Request for Proposal. Further, we will assume that your failure to attend the pre-proposal conference is an indication that you expect us to review your proposal as if you had taken advantage of the pre-proposal conference.

## **SECTION VII – EVALUATION CRITERIA**

Proposals will be evaluated on the following criteria, listed in order of their relative priority with most important listed first:

1. Demonstrated ability to provide high quality, professional food services as outlined in Specifications/Scope of Work.
2. Quality of references, including submitted Performance Evaluations.
3. Quality of the menus offered.
4. Addressing and satisfying all requirements as listed under Proposer Qualifications.
5. Addressing and satisfying all requirements as listed under Scope of Work, to include sustainability requirements.
6. Cost Proposal, to include minimum commission offered to Auxiliary Business Services, and pricing of menu items.
7. Additional value or benefit to be realized by the University, as a result of contracting with your company.
8. Overall creativity of service proposed to promote the University Club as a premiere, upscale venue for members.
9. Acceptance of University terms and conditions.
10. Any pending or prior claims and/or judgments made against company while in the food service business.

## **SECTION VIII – PRICING SCHEDULE**

Information to be provided as requested under Specifications/Scope of Work, to include at a minimum, commissions to be paid to Auxiliary Business Services and menu pricing to customers.

## **SECTION IX – FORM OF PROPOSAL/SPECIAL INSTRUCTIONS**

To facilitate direct comparisons, your proposal shall be submitted in the following format, listed in order, and index tabbed to match. If proposer fails to provide any of the following information, with the exception of the mandatory proposal certification, the University may, at its' sole option, ask the proposer to provide the missing information or evaluate the proposal without the missing information.

1. Mandatory certifications and Substitute W-9 as per Section XI.
2. Address all requirements listed under Proposer Qualifications.
3. Address all requirements of Scope of Work, including sustainability requirements. Maximum of 5 pages.
4. Sample menus and options for catered events, themed events, to include range of items offered, (linens, etc)
5. Cost Proposal to include minimum commission offered to Auxiliary Business Services, menu pricing, and a price list for all other items/options (labor, rentals)
6. Additional value or benefit to be realized by the University, as a result of contracting with your company. Maximum of 2 pages.
7. Creative ideas offered to promote the University Club as a premiere upscale venue for its members. Maximum of 2 pages.
8. Acceptance of University terms and conditions.
9. Disclosure of any pending or prior claims and/or judgments made against your company or parent company while in the food service business. Include information on how situation was resolved if not still pending.

**SECTION X – PROPOSER INQUIRY FORM**

(Pre-Proposal Questions, General Clarifications, etc.)

**PROJECT NAME:** On-Site Dining & Catering Services for the University Club

**PROPOSAL NUMBER:** 080808

**INQUIRY DEADLINE:** 5:00 P.M., M.S.T., April 24, 2008

**QUESTIONS ON:** ORIGINAL PROPOSAL or ADDENDUM NO.

**SECTION NUMBER:**

**WRITER:**

**FAX NO.**  **PHONE NO.**

**COMPANY:**

**COMPANY E-MAIL ADDRESS:**

**DATE:**

**QUESTIONS:**

---

---

---

---

---

---

---

---

---

---

## SECTION XI – CERTIFICATIONS & SUBSTITUTE W-9

### CONFLICT OF INTEREST CERTIFICATION

\_\_\_\_\_  
(date)

Purchasing and Business Services  
Arizona State University  
PO Box 875212  
Tempe, AZ 85287-5212

The undersigned certifies that to the best of his/her knowledge: **(check only one)**

- ( ) There is no officer or employee of Arizona State University who has, or whose relative has, a substantial interest in any contract resulting from this request.
- ( ) The names of any and all public officers or employees of Arizona State University who have, or whose relative has, a substantial interest in any contract resulting from this request, and the nature of the substantial interest, are included below or as an attachment to this certification.

\_\_\_\_\_  
(firm)

\_\_\_\_\_  
(address)

\_\_\_\_\_  
(signature required)

\_\_\_\_\_  
(Phone)

\_\_\_\_\_  
(print name)

\_\_\_\_\_  
(fax)

\_\_\_\_\_  
(print title)

\_\_\_\_\_  
(Federal Taxpayer ID Number)

(Purchasing 01-31-2007. Previous editions are obsolete and cannot be used.)

## FEDERAL DEBARRED LIST CERTIFICATION

### **Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters (Dec 2001)**

\_\_\_\_\_  
(date)

Purchasing and Business Services  
Arizona State University  
PO Box 875212  
Tempe, AZ 85287-5212

In accordance with the Federal Acquisition Regulation, 52.209-5:

(a) (1) The Offeror certifies, to the best of its knowledge and belief, that—

(i) The Offeror and/or any of its Principals—

(A) (check one) **Are** ( ☐ ) or **are not** ( ☐ ) presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency; (The debarred list (List of Parties Excluded from Federal Procurement and Nonprocurement Programs) is at <http://epls.arnet.gov> on the Web.)

(B) (check one) **Have** ( ☐ ) or **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) (check one) **Are** ( ☐ ) or **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) The Offeror (check one) **has** ( ☐ ) or **has not** ( ☐ ), within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

(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).

This Certification Concerns a Matter Within the Jurisdiction of an Agency of the United States and the Making of a False, Fictitious, or Fraudulent Certification May Render the Maker Subject to Prosecution Under Section 1001, Title 18, United States Code.

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

(c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the Contracting 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 rendered an erroneous certification, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation for default.

---

(firm)

---

(address)

---

(signature required)

---

(Phone)

---

(print name)

---

(fax)

---

(print title)

---

(Federal Taxpayer ID Number)

(Purchasing 01-31-2007)

## **ANTI-LOBBYING CERTIFICATION**

### **Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (Sept 2005)**

\_\_\_\_\_  
(date)

Purchasing and Business Services  
Arizona State University  
PO Box 875212  
Tempe, AZ 85287-5212

In accordance with the Federal Acquisition Regulation, 52.203-11:

(a) The definitions and prohibitions contained in the clause, at FAR 52.203-12, Limitation on Payments to Influence Certain Federal Transactions, included in this solicitation, are hereby incorporated by reference in paragraph (b) of this certification.

(b) The offeror, by signing its offer, hereby certifies to the best of his or her knowledge and belief that on or after December 23, 1989—

(1) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of this contract;

(2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the offeror shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, to the Contracting Officer; and

(3) He or she will include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.

(c) Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by section 1352, Title 31, United States Code. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

(Signature page follows)

\_\_\_\_\_  
(firm)

\_\_\_\_\_  
(address)

\_\_\_\_\_  
(signature required)

\_\_\_\_\_  
(Phone)

\_\_\_\_\_  
(print name)

\_\_\_\_\_  
(fax)

\_\_\_\_\_  
(print title)

\_\_\_\_\_  
(Federal Taxpayer ID Number)

(Purchasing 01-31-2007)

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                       |                                                                                                                                                                                                                                                                    |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>RETURN TO ASU</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <b>ASU</b><br>SUBSTITUTE W-9 & VENDOR AUTHORIZATION FORM                                                              | <b>DO NOT SEND TO IRS</b>                                                                                                                                                                                                                                          |
| <b>Foreign persons who are non-residents for US Tax purposes do not complete the ASU Substitute W-9 form. Instead, complete IRS Form W-8 BEN available at <a href="http://www.irs.gov/pub/irs-pdf/fw8ben.pdf">http://www.irs.gov/pub/irs-pdf/fw8ben.pdf</a></b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                       |                                                                                                                                                                                                                                                                    |
| <b>► Taxpayer Identification Number (TIN)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <input type="checkbox"/> Employer ID Number (EIN)<br><input type="checkbox"/> Social Security Number (SSN)            |                                                                                                                                                                                                                                                                    |
| <b>► LEGAL NAME:</b><br><small>(must match TIN above)</small>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                       |                                                                                                                                                                                                                                                                    |
| Are you doing business in Arizona for purposes of sales/use tax collection and remittance? <input type="checkbox"/> Yes <input type="checkbox"/> No<br><br>If "Yes" please provide Arizona License # _____ and sales/use tax rate charged _____ % DUNS# _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                       |                                                                                                                                                                                                                                                                    |
| <b>► LEGAL MAILING ADDRESS:</b> <small>(Where tax information and general correspondence is to be sent)</small>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                       |                                                                                                                                                                                                                                                                    |
| DBA/Branch/Location:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                       |                                                                                                                                                                                                                                                                    |
| ADDRESS:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                       |                                                                                                                                                                                                                                                                    |
| ADDRESS LINE 2:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                       |                                                                                                                                                                                                                                                                    |
| CITY:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | ST:                                                                                                                   | ZIP:                                                                                                                                                                                                                                                               |
| <b>► REMIT TO ADDRESS:</b> <input type="checkbox"/> Same as Legal Mailing Address                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                       |                                                                                                                                                                                                                                                                    |
| DBA/Branch/Location:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                       |                                                                                                                                                                                                                                                                    |
| ADDRESS:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                       |                                                                                                                                                                                                                                                                    |
| ADDRESS LINE 2:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                       |                                                                                                                                                                                                                                                                    |
| CITY:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | ST:                                                                                                                   | ZIP:                                                                                                                                                                                                                                                               |
| <b>► ENTITY TYPE</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                       |                                                                                                                                                                                                                                                                    |
| <input type="checkbox"/> Individual (not a business)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <input type="checkbox"/> Sole proprietor (individually owned business)                                                | <input type="checkbox"/> Corporation (NOT providing health care, medical or legal services)<br><input type="checkbox"/> Corporation (providing health care, medical or legal services)                                                                             |
| <input type="checkbox"/> The US or any of its political subdivisions or instrumentalities                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | <input type="checkbox"/> A state, a possession of the US, or any of their political subdivisions or instrumentalities | <input type="checkbox"/> Tax-exempt organizations under IRC §501<br><input type="checkbox"/> An international organization or any of its agencies or instrumentalities<br><input type="checkbox"/> PLLC, LLC<br><input type="checkbox"/> State of Arizona Employee |
| <b>► CERTIFICATION</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                       |                                                                                                                                                                                                                                                                    |
| Under penalties of perjury, I certify that:<br>1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me),<br>2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me I am no longer subject to backup withholding,<br>3. I am a U.S. person (including a resident alien).<br>Certification instructions: You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return.<br><b>The Internal Revenue Service does not require your consent to any provision of this document other than the certification required to avoid backup withholding</b> |                                                                                                                       |                                                                                                                                                                                                                                                                    |
| Signature of U.S. Individual                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                       | Date:                                                                                                                                                                                                                                                              |

Rev: 2/3/2007

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                              |                                      |                                                 |                                             |                                                                 |                                        |                                              |                                         |                                          |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------|-------------------------------------------------|---------------------------------------------|-----------------------------------------------------------------|----------------------------------------|----------------------------------------------|-----------------------------------------|------------------------------------------|
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                              |                                      |                                                 |                                             |                                                                 |                                        |                                              |                                         |                                          |
| <b>► Legal Name:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                              |                                      |                                                 |                                             | <b>TIN:</b>                                                     |                                        |                                              |                                         |                                          |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                              |                                      |                                                 |                                             |                                                                 |                                        |                                              |                                         |                                          |
| <b>BUSINESS CLASSIFICATION:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | For Profit<br><input type="checkbox"/>                                                                                                                       | Retailer<br><input type="checkbox"/> | Manufacture<br><input type="checkbox"/>         | Wholesaler<br><input type="checkbox"/>      | Professional<br><input type="checkbox"/>                        | Non-Profit<br><input type="checkbox"/> | Contractor<br><input type="checkbox"/>       | Distributor<br><input type="checkbox"/> | Service Firm<br><input type="checkbox"/> |
| <b>FEDERAL SUPPLIER TYPE:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | If your business meets the Federal (S.B.A.) Small Business definition (FAR 19.001) and size standards FAR 19.102), Please check <b>ONE</b> of the following: |                                      |                                                 |                                             |                                                                 |                                        |                                              |                                         |                                          |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Large Business (LB)<br><input type="checkbox"/>                                                                                                              |                                      | Small Business (SB)<br><input type="checkbox"/> |                                             | Small Disadvantaged (SD)<br><input type="checkbox"/>            |                                        | Women Owned (WO)<br><input type="checkbox"/> |                                         |                                          |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Women Disadvantaged (WD)<br><input type="checkbox"/>                                                                                                         |                                      | Veteran Owned (VO)<br><input type="checkbox"/>  |                                             | Service Disabled Veteran Owned (VD)<br><input type="checkbox"/> |                                        | HUB Zone (HZ)<br><input type="checkbox"/>    |                                         |                                          |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Minority Institution (M)<br><input type="checkbox"/>                                                                                                         |                                      |                                                 | Non Profit (NP)<br><input type="checkbox"/> |                                                                 |                                        | Exempt (EX)<br><input type="checkbox"/>      |                                         |                                          |
| If you are certified by a recognized entity please describe:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                              |                                      |                                                 |                                             |                                                                 |                                        |                                              |                                         |                                          |
| If you are self-certified by any recognized entity please describe:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                              |                                      |                                                 |                                             |                                                                 |                                        |                                              |                                         |                                          |
| <b>Are you self-certified according to this definition?</b><br><i>"100 full-time employees or less OR \$4 million in volume or less in the last fiscal year"</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                              |                                      |                                                 |                                             |                                                                 | YES <input type="checkbox"/>           |                                              | NO <input type="checkbox"/>             |                                          |
| <small>Per FAR 52.219-1 and under 15 U.S.C. 645(d), any person who misrepresents a firm's status as a small, HUBZone small, small disadvantaged, or women-owned small business concern in order to obtain a contract to be awarded under the preference programs established pursuant to section 8(a), 8(d), 9, or 15 of the Small Business Act or any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility, shall be punished by imposition of fine, imprisonment, or both; be subject to administrative remedies, including suspension and debarment; and be ineligible for participation in programs conducted under the authority of the Act.</small> |                                                                                                                                                              |                                      |                                                 |                                             |                                                                 |                                        |                                              |                                         |                                          |
| Print Name                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                              |                                      |                                                 |                                             |                                                                 |                                        |                                              |                                         |                                          |
| Signature                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                              |                                      |                                                 |                                             |                                                                 |                                        |                                              |                                         |                                          |
| Phone:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                              | Fax:                                 |                                                 |                                             |                                                                 |                                        |                                              |                                         |                                          |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                              |                                      |                                                 |                                             |                                                                 |                                        |                                              |                                         |                                          |
| <b>VENDOR – LIST PRODUCT or SERVICE PROVIDED</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                              |                                      |                                                 |                                             |                                                                 |                                        |                                              |                                         |                                          |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                              |                                      |                                                 |                                             |                                                                 |                                        |                                              |                                         |                                          |
| <b>IF BUYER NAME IS LISTED PLEASE RETURN TO BUYER</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                              | Buyer:                               |                                                 |                                             | Phone:                                                          |                                        |                                              | Fax:                                    |                                          |

Rev: 2/3/2007

**Performance Evaluation**  
Arizona State University  
On-Site Dining and Catering Services  
for the University Club at Arizona State University

---

To: \_\_\_\_\_  
(Name of person completing survey)

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Subject: Past Performance Survey of: \_\_\_\_\_  
(Name of Company)

---

Arizona State University (ASU) is implementing a process that collects past performance information on firms and their key personnel. The information will be used to assist ASU in the selection of a firm to perform dining and catering services. The firm/individual listed above has listed you as a prior client. We would appreciate your taking the time to complete this survey.

Rate each of the criteria on a scale of 1 to 10, with 10 representing that you were very satisfied (and would hire the firm/individual again) and 1 representing that you were very unsatisfied (and would never hire the firm/individual again). Please rate each of the criteria to the best of your knowledge. If you do not have sufficient knowledge of past performance in a particular area, leave it blank.

Client Name: \_\_\_\_\_  
Project Name: \_\_\_\_\_

| NO | CRITERIA                                                                    | UNIT   |  |
|----|-----------------------------------------------------------------------------|--------|--|
| 1  | Ability to meet customer expectations                                       | (1-10) |  |
| 2  | Ability to manage costs                                                     | (1-10) |  |
| 3  | Ability to provide and keep an effective schedule                           | (1-10) |  |
| 4  | Ability to increase value                                                   | (1-10) |  |
| 5  | Ability to consistently provide high quality presentation                   | (1-10) |  |
| 6  | Ability to consistently provide high quality food                           | (1-10) |  |
| 7  | Ability to consistently provide high quality customer service               | (1-10) |  |
| 8  | Ability to provide professionally trained and knowledgeable staff           | (1-10) |  |
| 9  | Ability to identify and minimize the users risk                             | (1-10) |  |
| 10 | Leadership ability (minimize the need of owner/client direction)            | (1-10) |  |
| 11 | Your comfort level in hiring the firm/individual again based on performance | (1-10) |  |

**Please fax or email the completed survey, no later than May 1, 2008 by 3:00pm MST, to Liz Chandler at 480-965-0578 or [liz.chandler@asu.edu](mailto:liz.chandler@asu.edu).** Again, thank you for your time and effort in assisting the ASU in this important endeavor.

## SECTION XII – TERMS & CONDITIONS

1. **PAYMENT.** Payment shall be subject to the provisions of Title 35 of Arizona Revised Statutes relating to time and manner of submission of claims. The University's obligation is payable only and solely from funds appropriated for the purpose of this Agreement. The payment terms for this Agreement are Net 30 days. An invoice shall be submitted directly to the University's Payables and Reimbursements Department, unless otherwise directed. Any delays in payment are usually attributable to one of the following: failure of the supplier to submit an invoice to Payables and Reimbursements, dissatisfaction of the requesting department with the order delivered by the supplier, and a variance of the dollar amounts on the purchase order, the receiver, and the invoice. The interest rate on overdue payments is eighteen (18) percent APR. Such interest will begin accruing on the thirty-first (31st) day after the latest date of: the date of a valid purchase order, the date a correct supplier invoice is received at Payables and Reimbursements, and the date of delivery of an order that is satisfactory to the requesting department. Any claims for interest must be substantiated by copies of documents that show the date of the valid purchase order, the date a correct invoice was delivered to Payables and Reimbursements, and the date an order was delivered to the requesting department. The University may adjust the interest period, or deny the interest claim, based upon their documentation that there was no valid purchase order, that an incorrect invoice was submitted, that the order delivered was not satisfactory, or that the dates of any event were other than as claimed.
2. **REMEDIES AND APPLICABLE LAW.** This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona. The University and Proposer shall have all remedies afforded each by said law.
3. **FORCE MAJEURE.** Neither party shall be held responsible for any losses resulting if the fulfillment of any terms or provisions of this Agreement are delayed or prevented by any cause not within the control of the party whose performance is interfered with, and which by the exercise of reasonable diligence, said party is unable to prevent.
4. **ANTI-KICKBACK.** In compliance with FAR 52.203-7, the University has in place and follows procedures designed to prevent and detect violations of the Anti-Kickback Act of 1986 in its operations and direct business relationships.
5. **GRATUITIES.** The University may, by written notice to the Proposer, cancel this Agreement if it is found by the University that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Proposer, or any agent or representative of the Proposer, to any officer or employee of the State of Arizona with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing of such contract. In the event this Agreement is canceled by University pursuant to this provision, the University shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by Proposer in providing such gratuities.

6. **MODIFICATIONS.** This Agreement can be modified or rescinded only by a writing signed by both parties or their duly authorized agents.
7. **ASSIGNMENT-DELEGATION.** No right or interest in this Agreement shall be assigned, or any obligation delegated, by Proposer without the written permission of the University. Any attempted assignment or delegation by Proposer shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph.
8. **INTERPRETATION-PAROL EVIDENCE.** This writing is intended by the parties as a final expression of their Agreement and is intended also as a complete and exclusive statement of the terms of their Agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this Agreement. Acceptance or acquiescence in a course of performance rendered under this Agreement shall not be relevant to determine the meaning of this Agreement even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity for objection. Whenever a term defined by the Uniform Commercial Code is used in this Agreement, the definition contained in the Code is to control.
9. **EQUAL OPPORTUNITY CLAUSE.** The Provisions of Section 202 of Executive Order 11246.41, C.F.R. §60-1.4.41, C.F.R. §60-250.4 and 41, and C.F.R. §60-741.4 are incorporated herein by reference and shall be applicable to this Agreement unless this Agreement is exempted under the rules, regulations or orders of the Secretary of Labor.
10. **TERMINATION FOR DEFAULT.** In the event that the Proposer shall fail to maintain or keep in force any of the terms and conditions of this Agreement, the University may notify the Proposer in writing of such failure and demand that the same be remedied within 10 days. Should the Proposer fail to remedy the same within said period, the University shall then have the right to terminate this Agreement.
11. **NO WAIVER.** No waiver by University of any breach of the provisions of this Agreement by the Proposer shall in any way be construed to be a waiver of any future breach or bar the University's right to insist on strict performance of the provisions of the Agreement.
12. **TERMINATION.** The University may by written notice, stating the extent and effective date terminate this order for convenience in whole or in part, at any time. University shall pay the Proposer as full compensation for performance until such termination: (1) the unit or pro rata order price for the delivered and accepted portion; and (2) a reasonable amount, not otherwise recoverable from other sources by the Proposer as approved by the University, with respect to the undelivered or unacceptable portion of this order, provided compensation hereunder shall in no event exceed the total order price.
13. **CANCELLATION OF STATE CONTRACT.** In accordance with A.R.S. §38-511, this Agreement may be canceled without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Agreement on behalf of the University is, at anytime while the Agreement or any

extension of the Agreement is in effect, an employee of any other party to the Agreement in any capacity or a consultant to any other party of the Agreement with respect to the subject matter of the Agreement.

14. **LABOR DISPUTES.** Proposer shall give prompt notice to the University of any actual or potential labor dispute which delays or may delay performance under this Agreement.
15. **CONTRACT CLAIMS AND CONTROVERSIES.** All contract claims and controversies arising under this Agreement shall be resolved pursuant to the Arizona Board of Regents procurement procedures, section 3-809, in particular section 3-809C.
16. **CANCELLATION FOR LACK OF FUNDING.** This Agreement may be canceled without any further obligation on the part of the Arizona Board of Regents and Arizona State University in the event that sufficient appropriated funding is unavailable to assure full performance of its terms. The Proposer shall be notified in writing of such non-appropriation at the earliest opportunity.
17. **ASSIGNMENT OF ANTI-TRUST OVERCHARGE CLAIMS.** The parties recognize that in actual economic practice overcharges resulting from anti-trust violations are in fact borne by the ultimate purchaser; therefore, the Proposer hereby assigns to the Arizona Board of Regents for and on behalf of the University any and all claims for such overcharges.
18. **INSPECTION AND AUDIT.** All books, accounts, reports, files and other records relating to this Agreement shall be subject at all reasonable times to inspection and audit by the Arizona Board of Regents, Arizona State University or the Auditor General of the State of Arizona, or their agents for five (5) years after completion of this Agreement. Such records shall be produced at Arizona State University, or such other location as designated by Arizona State University, upon reasonable notice to the Proposer.
19. **INSOLVENCY.** The University shall have the right to terminate this Agreement at any time in the event Proposer files a petition in bankruptcy, or is adjudicated bankrupt; or if a petition in bankruptcy is filed against Proposer and not discharged within thirty (30) days; or if Proposer becomes insolvent or makes an assignment for the benefit of its creditors or an arrangement pursuant to any bankruptcy law; or if a receiver is appointed for Proposer or its business.
20. **ADVERTISING.** Proposer agrees that it will not use Arizona State University or any of its names or trademarks in any Proposer advertising.
21. **INDEMNIFICATION.** The parties to this contract agree that the State of Arizona, its departments, agencies, boards and commissions shall be indemnified and held harmless by the Proposer for the vicarious liability of the State as a result of entering into this contract. However, the parties further agree that the State of Arizona, its departments, agencies, boards and commissions shall be responsible for its own negligence. Each party to this contract is responsible for its own negligence.

22. **PARKING.** The Proposer shall obtain all parking permits and/or decals required while performing work on University premises. The Proposer should contact the Parking and Transit Department, Administration Division at 480-965-6407.
23. **OFFSHORE PERFORMANCE OF WORK PROHIBITED:** Due to security and identity protection concerns, direct services under this contract shall be performed within the borders of the United States. Any services that are described in the specifications or scope of work that directly serve Arizona State University and may involve access to secure or sensitive data or personal client data or development or modification of software for the University shall be performed within the borders of the United States. Unless specifically stated otherwise in the specifications, this definition does not apply to indirect or "overhead" services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by Subcontractors at all tiers.
24. **NON-DISCRIMINATION:** The successful contractor or supplier shall comply with all applicable state and federal statutes and regulations governing Equal Employment Opportunity, Non – Discrimination, and Immigration.
25. **UNIVERSITY WEAPONS POLICY:** The University prohibits the use, possession, display or storage of any weapon, explosive device or fireworks on all land and buildings owned, leased, or under the control of the University or its affiliated or related entities, in all University residential facilities (whether managed by the University or another entity), in all University vehicles, and at all University or University affiliate sponsored events and activities. Notification by Proposer to all persons or entities who are employees, officers, subcontractors, consultants, agents, guests, invitees or licensees of Proposer ("Proposer Parties") of this policy is a condition and requirement of this Contract. Proposer further agrees to enforce this contractual requirement against all Proposer Parties. The University's policy may be accessed through the following webpage: <http://www.asu.edu/aad/manuals/dps/dps201-05.html>.
26. **SUSTAINABILITY REQUIRMENTS:** **Arizona State University is dedicated to acquiring products and services that meet Sustainability requirements.** Indicate any business practices or technology that meets the following criteria.
- For the purpose of judging Sustainability the following description applies: A process of current or developing business practices and technologies that restore and enhance the environment by supplying products and services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. This comparison may consider raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance or disposal of the product or service.
27. **PAYMENT CARD INDUSTRY DATA SECURITY STANDARD:** For ecommerce business and/or credit card transactions, Proposer agrees to be bound by the requirements and terms of the Rules of all applicable Card Associations, as amended from time to time, and be solely responsible for security and maintaining confidentiality of Card transactions processed by means of electronic commerce up to the point of receipt of such transactions by Bank.

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

28. **BYRD ANTI-LOBBYING AMENDMENT (31 U.S.C. 1352).** Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining and Federal award. Such disclosures are forwarded from tier to tier up to the recipient.
29. **DEBARMENT AND SUSPENSION.** Recipients shall fully comply with the requirements stipulated in Subpart C of 45 CFR 620, entitled "Responsibilities of Participants Regarding Transactions". The recipient is responsible for ensuring that any lower tier covered transaction, as described in Subpart B of 45 CFR 620, entitled "Covered Transactions", includes a term or condition requiring compliance with Subpart C. The recipient also is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transaction. The recipient acknowledges that failing to disclose the information required under 45 CFR 620.335 may result in the termination of the award, or pursuance of other available remedies, including suspension and debarment. Recipients may access the Excluded Parties List System at <http://epls.arnet.gov>.
30. **RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT.** Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.
31. **INSURANCE REQUIREMENTS.** Without limiting any liabilities or any other obligation of the Proposer, the Proposer shall purchase and maintain (and cause its subcontractors to purchase and maintain), in a company or companies lawfully authorized to do business in the State of Arizona, and rated at least A- VII in the current A.M. Best's, the minimum insurance coverage below:
  - A. **Commercial General Liability,** with minimum limits of \$2,000,000 per occurrence, and an unimpaired products and completed operations aggregate limit and general aggregate minimum limit of \$2,000,000. Coverage shall be at least as broad as the Insurance Service Office, Inc. Form CG00010196, issued on an Occurrence basis, and endorsed to add the State of Arizona, its departments, agencies, boards and commissions as an Additional Insured with reference to this contract. The policy shall include coverage for:

Bodily Injury;  
Broad Form Property Damage (including completed operations); **(THIS AMOUNT IS PART OF THE \$1,000,000)**  
Independent Contractors Coverage;  
Personal Injury;  
Blanket Contractual Liability;  
Products and Completed Operations, and this coverage shall extend for one year past acceptance, cancellation or termination of the services or work defined in this contract; and  
Fire Legal Liability.

- B. **Business Automobile Liability**, with minimum limits of \$1,000,000 per occurrence combined single limit, with Insurance Service Office Inc. Declarations to include Symbol One (Any Auto) applicable to claims arising from bodily injury, death or property damage arising out of the ownership, maintenance or use of any auto. The policy shall be endorsed to add the State of Arizona, its departments, agencies, boards and commissions as an Additional Insured with reference to this contract.

- C. **Workers Compensation and Employers Liability** insurance as required by the State of Arizona Workers Compensation statutes, as follows:

|                                    |                                  |
|------------------------------------|----------------------------------|
| Workers Compensation (Coverage A): | Statutory Arizona benefits       |
| Employers Liability (Coverage B):  | \$500,000 each accident          |
|                                    | \$500,000 each employee/disease  |
|                                    | \$1,000,000 policy limit/disease |

Policy shall include endorsement for All State coverage for state of hire.

- D. **Fidelity Bond**, shall provide coverage for all officers, directors, employees and agents of the Contractor who are responsible for receiving, depositing, or transferring funds into program accounts, or issuing financial documents, checks or other instruments of payment for program costs.
- The bond or policy shall be issued with minimum limits of \$100,000.
  - The bond or policy shall include coverage for all directors, officers, agents and employees of the Contractor.
  - The bond or policy shall **include coverage for third party fidelity.**
  - The bond or policy shall **include coverage for theft and mysterious disappearance.**
  - The bond or policy shall **contain no requirement for arrest and conviction.**
  - The bond or policy shall cover loss outside the premises of the **Named Insured.**

The State of Arizona, its departments, agencies, boards and commissions shall be named as an Additional Insured as their interests may appear.

The policy shall contain an Extended Claim Reporting Provision of not less than one year following termination of the policy.

- E. The State of Arizona, its departments, agencies, boards and commissions reserves the right to request and receive certified copies of all policies and endorsements within ten calendar days of contract signature.
- F. Certificates of Insurance acceptable to the State of Arizona, its departments, agencies, boards and commissions shall be issued and delivered prior to the commencement of the work defined in this contract, and shall identify this contract and include certified copies of endorsements naming the State of Arizona, its departments, agencies, boards and commissions as Additional Insured for liability coverages. The certificates, insurance policies and endorsements required by this paragraph shall contain a provision that coverages afforded will not be cancelled until at least thirty (30) days prior written notice has been given to the State of Arizona, its departments, agencies, boards and commissions. All coverages, conditions, limits and endorsements shall remain in full force and effect as required in this contract.
- G. Failure on the part of the Proposer to meet these requirements shall constitute a material breach of contract, upon which the State of Arizona, its departments, agencies, boards and commissions may immediately terminate this agreement or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, and all monies so paid by the State of Arizona, its departments, agencies, boards and commissions shall be repaid by the Proposer upon demand, or the State of Arizona, its departments, agencies, boards and commissions may offset the cost of the premiums against any monies due to the Proposer. Costs for coverages broader than those required or for limits in excess of those required shall not be charged to the State of Arizona, its departments, agencies, boards and commissions. Proposer and its insurer(s) providing the required coverages shall waive their rights of recovery against the State of Arizona, its departments, agencies, boards, commissions, employees and officers.

### **SPECIAL TERMS AND CONDITIONS**

32. **\_\_\_\_ E-COMMERCE** Arizona State University has adopted a Visa Card from JP Morgan Chase Bank as its Purchasing Card. The University is very interested in adopting electronic methods of ordering from suppliers and in making associated payments with its Purchasing Card. If your firm has an electronic method of ordering, please describe it. These electronic methods of ordering could range from your firm distributing a paper catalog and accepting fax orders, to your firm has a Web site in which users can configure and order products. Please also advise if your firm can accept payment with a Visa Card.

33. **PROPOSER TO PACKAGE GOODS.** Proposer will package goods in accordance with good commercial practice. Each shipping container shall be clearly and permanently marked with the following: (a) Proposer's name and address; (b) University department's name, address and purchase order number; (c) Container number and total number of containers, e.g. box 1 of 4 boxes and (d) the number of the container bearing the packing slip. Proposer shall bear cost of packaging unless specifically otherwise provided.
34. **SHIPMENT UNDER RESERVATION PROHIBITED.** Proposer is not authorized to ship the goods under reservation and no tender of a bill of lading will operate as a tender of the goods.
35. **TITLE AND RISK OF LOSS.** The title and risk of loss of the goods shall not pass to the University until the University actually receives the goods at the point or points of delivery.
36. **RIGHT OF INSPECTION.** The University shall have the right to inspect the goods at delivery before accepting them.
37. **NO REPLACEMENT OF DEFECTIVE TENDER.** Every tender of goods must fully comply with all provisions of this Agreement as to time of delivery, quantity, quality, and the like. If a tender is made which does not fully conform, this shall constitute a breach and Proposer shall not have the right to substitute a conforming tender.
38. **WARRANTIES.** In addition to any implied warranties, Proposer warrants that the goods furnished will conform to the specifications, drawings, and descriptions listed herein, and to the sample or samples, if any, furnished by the Proposer. In the event of a conflict between the specifications, drawings, and descriptions, the specifications shall govern.
39. **COPYRIGHT OWNERSHIP.** Proposer's work under this agreement is "work for hire" for purposes of the copyright laws of the United States and any foreign countries, and title to any subject copyright will vest with the University.

If for any reason the Work would not be considered a work made for hire under applicable law, Proposer sells, assigns, and transfers to University all rights and title to the copyright in the Work, related registrations and copyright applications, and any related renewals and extensions. This grant of rights and assignment extends to all works based upon, derived from, or incorporating the Work, to all income, royalties, damages, claims and payments payable now or later, to all causes of action, either in law or in equity for past, present, or future infringement based on the copyrights, and to all corresponding rights throughout the world.

If the Work is one to which the provisions of 17 U.S.C. 106A apply, the Author waives and appoints University to assert on the Proposer's behalf the Proposer's moral rights or any equivalent rights regarding the form or extent of any alteration to the Work (including removal or destruction) or the making of any derivative works based on the Work, including photographs, drawings or other visual reproductions of the Work, in any medium, for university purposes.

Proposer agrees to execute all papers and to perform other proper acts as University may deem necessary to secure these rights for University or its designee.

40.      **PERFORMANCE AND PAYMENT BONDS.** The Proposer shall provide and pay for performance and payment bonds. Bonds shall cover the faithful performance (100%) of this Agreement and the payment of all obligations (100%) rising thereunder, in such form as the University may prescribe and with approved sureties. The successful Proposer shall deliver the required bonds to the University not later than the date of executing this Agreement. The Proposer shall require the attorney in fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of his power of attorney indicating the monetary limit of such power. Surety shall be a company licensed to do business in the State of Arizona and shall be acceptable to the University. The bond amount shall be increased to include any change order added to this Agreement to one hundred percent (100%) of the total value amount of each change order.
41.   X   **SALES AND USE TAX.** The Proposer agrees to comply with and to require all of his subcontractors to comply with all the provisions of applicable state sales excise tax law and compensation use tax law and all amendments to same. The Proposer further agrees to indemnify and save harmless the University, of and from any and all claims and demands made against it by virtue of the failure of the Proposer or any subcontractor to comply with the provisions of any or all said laws and amendments. The University is not exempt from state sales excise tax and compensation use tax, except for equipment purchased for research or development under the provisions of A.R.S. §42-5159 (B) (14). Any equipment ordered as tax exempt shall be invoiced separately from taxable systems, even if purchased on the same purchase order from the University.
42.   X   **PERSONNEL.** Employees of the Proposer assigned to the project and identified by name in the proposal shall remain dedicated to this project. Personnel changes shall be permitted only with prior notification and approval of the University.
43.      **LIQUIDATED DAMAGES.** The University and the Proposer agree that in the event that the Proposer fails to perform under this Agreement, the University will be damaged. The extent of the damage is very difficult to calculate. Therefore, the Proposer agrees to pay the University liquidated damages if the agreed upon delivery and installation dates are not met. These liquidated damages shall be \_\_\_\_% of the total Agreement price per day after the agreed on completion date, not to exceed a total of \_\_\_\_% of the total Agreement price.
44.      **INSTALLMENT PAYMENT AGREEMENT.** The University is precluded from entering into an installment payment agreement unless such agreement can be canceled for non-allocation of funds at the end of any fiscal year, at no penalty to the University. If funds are not allocated for this Agreement for periodic payment in any future annual fiscal period, following the University's formal request for funds, the University is not obligated to pay the net remainder of agreed to consecutive periodic payments remaining unpaid beyond the end of the then current fiscal year. The University agrees to notify the Proposer of such non-allocation at the earliest possible

time. No penalty shall accrue to the University in the event this provision shall be exercised. This provision shall not be construed so as to permit the University to terminate this Agreement in order to acquire similar equipment from another party.

45. **\_\_\_PRICE ADJUSTMENT.** Price changes will normally only be considered at the end of one Agreement period and the beginning of another. Price change requests shall be supported by evidence of increased costs to the Proposer. The University will not approve price increases that will merely increase the gross profitability of the Proposer at the expense of the University. Price change requests shall be a factor in the Agreement extension review process. The University shall determine whether the requested price increase or an alternate option is in the best interest of the University. Similarly, Proposer agrees that the costs of any maintenance agreements beyond the warranty period will increase a maximum of \_\_\_ percent per year and a total of \_\_\_ percent over a \_\_\_ year period.
46. **\_\_\_FURNISH AND INSTALL.** The items in this proposal will be provided on a Proposer furnish and install basis. The successful Proposer shall have complete responsibility for the items or system until it is in place and working. Any special installation preparation and requirements must be submitted to the University. All transportation and coordination arrangements will be the responsibility of the successful Proposer. Delivery of equipment will be coordinated so that items will be delivered direct to the installation site. This will minimize risk of damage and avoid double handling.
47. **\_\_\_THE ARIZONA STATE UNIVERSITY CONFIDENTIAL FINANCIAL INFORMATION AGREEMENT IS REQUIRED.** This agreement is necessary to comply with the requirements of the Gramm Leach Bliley Act” dealing with the confidentiality of customer information and the Safeguarding Rule.
48. **\_\_\_The University and Contractor recognize that student educational records are protected by the federal Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. 1232g).** FERPA permits disclosure of student record information to “other school officials” who have a legitimate educational interest in the information. The federal Family Compliance Office has recognized that institutions can designate other entities, including vendors and consultants, as “other school officials”. Designated representatives of Contractor will be designated as “other school officials” for purposes of this Agreement. No designated representative of the Contractor shall disclose information it receives under this agreement to any third party, except with the consent of the student or as required by law. Any disclosures made by the Contractor should comply with the University’s definition of legitimate educational purpose. If any designated representative discloses or misuses any educational record, the University will take appropriate action against the designated representative that is similar to action ASU would take against one of its employees who disclosed or misused the educational records of its students.

