

SERIAL 07144 IGA INDUSTRIAL GASES

DATE OF LAST REVISION: January 23, 2009 CONTRACT END DATE: December 31, 2009

**CONTRACT PERIOD BEGINNING OCTOBER 19, 2007
ENDING ~~DECEMBER 31, 2007~~ JANUARY 14
DECEMBER 31, ~~2008~~ 2009**

TO: All Departments

FROM: Department of Materials Management

SUBJECT: Contract for INDUSTRIAL GASES

Attached to this letter is a listing of vendors available to Maricopa County Agencies utilizing the Arizona Contract #SCC070009. The using agency and other interested parties may access and electronic version of this contract from the Materials Management Web site at:
http://www.maricopa.gov/materials/Awarded_Contracts/search.asp.

Please note: Price Agreement Purchase Orders (PG documents) may be generated using the information from this list. Use NIGP CODE 4309202.

All purchases of product(s) listed on the attached pages of this letter are to be obtained from the listed contractor(s).

Contract

Solicitation # SCC070009-A2

Document Information

Type:	Supplier	Amendment:	Yes	Amend #:	1
Requisition #:	ADSM-6SXPMP	Solicitation #:	SCC070009-A2	Contract #:	SCC070009-1-A1
PO Assigned:	Elizabeth Casteel/ADSM-6A4SXZ	Date Completed:	04/19/2007		
PM Assigned:	Karen Boswell/ADSM-6A4SXZ	PA Assigned:	Karen Boswell/ADSM-6A4SXZ		
Supplier Name:	Matheson Tri-Gas	Proposal #:	ADSM-6V72KD-1		
Gov't Entity:	Strategic Contracting Centers	Type:	Statewide		
Process Status:	Complete	Status:	Complete		
Total/Not to Exceed	0	External Contract:			
Cost:					

Contract Information

NOTE: As a State Agency, you are only allowed to use contracts that are either Statewide Contracts or contracts that are assigned to your Agency. You are not allowed to use other Agency Contracts.

Start Date:	1/1/07	End Date:	12/31/07
Term:	1 Year(s)	FOB:	
Payment Terms:	Net thirty(30) days	Delivery:	1 A.R.O. Days
Contract Extension Allowed		Max Extension:	5 Year(s)

Amendment Information

1. Remove John Crano as Matheson-Trigas contact person and replace with:

Chris Perella, 602-616-3876, cperella@Matheson-Trigas.com

2. As per response to Questionnaire, Section III., Emergency Deliveries, the following individuals shall be available as emergency contacts:

David Peters – Regional Vice President – 602-616-3875

Mike Johnson – Operations Manager – 602-616-3895

Jeff Davies – Store Manager – 602-616-3842

All other provisions shall remain unchanged.

Contract Reassignment

N/A

Contractor Amendment Approval

Contract Amendment approved by John Crano/000007401 (4/18/07 14:40:27)

Solicitation Information

Title:	Compressed Gases	Type:	RFP
Description:	Medical Gases, Industrial Gases, Specialty Gases, Hydrostatic testing		

Contract

Solicitation # SCC070009-A2

Special Instructions

Attachment Formats

All attachments shall be submitted in a format acceptable to the State. Acceptable formats include .doc (Microsoft Word document), .xls (Microsoft Excel spreadsheet), and .pdf (Adobe Acrobat portable document format). Prospective offerors that wish to submit attachments in other formats shall submit an inquiry to the Procurement Officer.

Attachment(s) to be Submitted

Offerors shall complete and include the required Price Sheet, catalogs serving as the base for proposed discount prices, and Questionnaire with their proposal.

Best and Final Offers

If discussions are conducted, the Arizona Department of Health Services shall issue a written request for best and final offers. The request shall set forth the date, time and place for the submission of best and final offers. Best and final offers shall be requested only once, unless the Arizona Department of Health Services makes a determination that it is advantageous to conduct further discussions or change the solicitation requirements.

Clarifications

Upon receipt and opening of proposals submitted in response to this solicitation, the State may request oral or written clarifications, including demonstrations or questions and answers, for the sole purpose of information gathering or of eliminating minor informalities or correcting nonjudgmental mistakes in proposals. Clarifications shall not otherwise afford the offerors the opportunity to alter or change its proposal.

Confidential Information

If an Offeror believes that any portion of a proposal, bid, offer, specification, protest or correspondence contains information that should be withheld, then the Procurement Officer shall be so advised in writing (Price is not confidential and will not be withheld). Such material shall be identified as confidential wherever it appears. The State, pursuant to A.A.C. R2-7-103, shall review all requests for confidentiality and provide a written determination. If the confidential request is denied, such information shall be disclosed as public information, unless the person utilizes the 'Protest' provision as noted in §41-2611 through §41-2616.

Evaluation

In accordance with the Arizona Procurement Code 41-2534, Competitive Sealed Proposals, awards shall be made to the responsible Offeror whose proposal is determined in writing to be the most advantageous to the State based upon the evaluation criteria indicated. The evaluation factors are listed in their relative order of importance.

1. Ability to meet Scope of Work, Specifications, and Questionnaire
2. Methodology and Approach
3. Conformity to all Terms, Conditions and Instructions
4. Cost

Exceptions

Offerors shall indicate any exceptions they have taken to the instructions, terms, conditions or other requirements of the solicitation.

Federal Immigration and Nationality Act

By signing the Offer the Offeror warrants that it and all proposed subcontractors are in compliance with the Federal Immigration and Nationality Act (FINA) and all other Federal immigration laws and regulations related to the immigration status of its employees. The Offeror shall obtain statements from all proposed subcontractors certifying compliance with this requirement and shall furnish the statements to the Procurement Officer upon request.

IT 508 Compliance

Any electronic or information technology offered to the State of Arizona under this solicitation shall comply with A.R.S. 41-2531 and 2532 and Section 508 of the Rehabilitation Act of 1973, which requires that employees and members of the public shall have access to and use of information technology that is comparable to the access and use by employees and members of the public who are not individuals with disabilities. Any exceptions shall be declared in writing in the offer.

Offer Submission, Due Date and Time

In accordance with the Uniform Instructions 3.1, offers in response to this solicitation shall be submitted within the State's eProcurement system, SPIRIT (www.spirit.az.gov). Offers shall be received before the date/time listed in the solicitation's 'Date To Close' field. Offers submitted outside SPIRIT, or those that are received on or after the date/time stated in the 'Date To Close' field, shall be rejected. Questions in this regard shall be directed to the Procurement Officer or to the SPIRIT Help Desk (spirit@azdoa.gov or 602-542-7600).

Offerors Responsibility

The Offeror is cautioned that it is the Offeror's sole responsibility to submit information related to the evaluation categories and that the State of Arizona is under no obligation to solicit such information if it is not included with the Offeror's proposal. Failure by the Offeror to submit such information may cause an adverse impact on the evaluation of the Offeror's proposal.

Offshore Performance of Work

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 the State of Arizona or its clients and may involve access to secure or sensitive data or personal client data or development or modification of software for the State 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. Offerors shall declare all anticipated offshore services in the proposal.

PRE-OFFER CONFERENCE

A Pre-Offer Conference will be held at the time and place indicated in the solicitation; attendance is not required. The purpose of the conference will be to clarify the contents of the solicitation. Any doubt as to the requirements of the solicitation or any apparent omission or discrepancy should be presented to the State at the conference. The State of Arizona will then determine the appropriate action necessary, if any, and issue a written amendment to the solicitation if required. Oral statements or instructions will not constitute an amendment to the solicitation.

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, or this document in an alternative format, by contacting the Arizona Department of Health Services, Procurement Office. Requests should be made as early as possible to allow sufficient time to arrange for accommodation.

Pricing

Contractors shall give pricing for those gases listed specifically on the Price Sheet for those Regions they wish to offer service to. Prices shall be per cubic foot of gas, unless otherwise stated.

The State has many diverse needs regarding Compressed Gases including those that cannot be foreseen at this time. As such, for gases not specifically listed on the Price Sheet, discount percentages to be deducted from the catalog price for all State orders shall be indicated on the Price Sheet.

Subcontractors

Supplemental to the Subcontractor provision in the Uniform Instructions, Offerors shall include with their list of proposed Subcontractors, their contact information, certifications required of them and their Minority and Women Owned Enterprise status (cite any certifications use in determining such status).

Offerors are informed that Subcontractors will be required to provide to the State insurance certificates reflective of the insurance required of Contractors in this solicitation prior to commencement of any work.

Contract

Solicitation # SCC070009-A2

Special Terms and Conditions

Amendments

Any change in the contract including the Scope of Work described herein, whether by modification or supplementation, must be accomplished by a formal contract amendment signed and approved by and between the duly authorized representatives of the Contractor and the Procurement Office of the State of Arizona. Any such amendment shall specify any increases or decreases in the amount of the Contractors' compensation if applicable, be entitled as an 'Amendment' and signed by said parties. The Contractor expressly and explicitly understands and agrees that no other method and/or no other document, including correspondence, acts, and oral communications by or from any person, shall be used or construed as an amendment or modification or supplementation to the contract.

Billing

All billing notices shall include delivery date, contractual payment terms, purchase order number, contract number, contract line item number, description, unit price, and extension. Containers are to be identified by the serial number or any number unique to the item delivered, as well as type of container (i.e. regular or specialty). Taxes and delivery charges shall be individual line items.

It shall be the responsibility of the Contractor to provide the following:

1. Document/track each cylinder/Dewar and rental charges for each pickup/delivery.
2. Obtain agency personnel's signature confirming each delivery/pickup.
3. To substantiate any claims for unreturned cylinders, Dewars, or unpaid rental charges by providing documentation with agency personnel signatures confirming pick-up and deliveries.

Any documentation not reflecting both the Contractor and agency personnel's signatures may not be used to substantiate any fees for unreturned cylinders/Dewars, or unpaid rental charges.

Invoices shall be billed according to unit of measure and unit price as indicated in the contract. Deviations/substitutions will not be permitted.

Any purchase order issued by the requesting agency shall refer to the contract number and line item number(s).

Cancellation For Possession Of Weapons On State Property

This contract may be cancelled if Contractor or any Subcontractors or others in the employ or under the supervision of the Contractor or Subcontractors is found to be in possession of weapons.

Possession of weapons (firearms, explosive device, knife or blade of more than three inches, or any other instrument designed for lethal or disabling use) is prohibited on ADOC property pursuant to ADOC Policy, PER 6.04, 'Weapons in the Workplace.' Such property includes ADOC owned or leased office building, yards, parking lots, construction sites or State owned vehicles.

Further, if the Contractor or any Subcontractors or others in the employ or under the supervision of the Contractors or Subcontractors are asked by an ADOC official to leave the ADOC property, they are advised that failure to comply with such a request shall result in cancellation of the contract and anyone who refuses, whether armed or not, is subject to prosecution under A.R.S. § 13-1502, Criminal trespass in the third degree; classification.

Contraband

Any person who takes into or out of, or attempts to take into or out of a correctional facility or the grounds belonging to adjacent to a correctional facility, any item not specifically authorized by the correctional facility shall be prosecuted under the provisions of the Arizona Revised Statutes. All persons, including employees and visitors, entering upon these confines are subject to routine searches of their person, vehicles, property of packages.

DEFINITION – A.R.S. § 13-2501

Contraband means any dangerous drug, narcotic drug, intoxication liquor of any kind, deadly weapon, dangerous instrument, explosive or any other article whose use or possession would endanger the safety, security, or preservation of order in a correctional institution or any person therein. (Any other article includes any substance which could cause abnormal behavior, i.e. marijuana, non-prescription medication, etc.)

PROMOTING PRISON CONTRABAND – A.R.S. § 13-2505

1. A person, not otherwise authorized by law, commits promoting prison contraband:

A. By knowingly taking contraband into a correctional facility or the grounds of such a facility; or

- B. By knowingly conveying contraband to any person confined in a correctional facility; or
- C. By knowingly making, obtaining or possessing contraband while being confined in a correctional facility.

2. Promoting prison contraband is a Class 5 felony.

Contract Administration

Following award, the Contractor shall contact the Arizona Department of Health Services (ADHS), Procurement Group for guidance or direction in matters of contract interpretation or problems regarding the terms, conditions or scope of the contract. Only the Contract Officer or his/her authorized designee is authorized to change or amend the specific terms, conditions or provisions of the agreement.

Contract Extension

The contract term is for a one (1) year period subject to additional successive periods of a maximum twelve months per extension with a maximum aggregate including all extensions not to exceed five (5) years.

Contract Implementation Meetings

Upon award, the Contractor may be required to participate in meetings for the successful implementation of the contract. The meetings will be at the discretion of the agency. The Contractor will be notified in advance of the meeting(s) time, frequency, and locations to ensure all appropriate contract staff and representatives attend. The State reserves the right to decline conference call attendance or participation.

Contract Renewal

The contract shall not bind nor purport to bind, the State for any contractual commitment in excess of the original contract period. The State shall have the right, at its sole option, to renew the contract for four (4) one-year periods or a portion thereof. If the State exercises such rights, all terms, conditions and provisions of the original contract shall remain the same and apply during the renewal period with the exception of price. See Special Terms and Conditions, Price Adjustment.

Contract Reports

1. The Contractor shall be required to furnish the following reports to the State Procurement Office against this contract on a quarterly basis at no additional cost to the state:

- A. Total contract usage reports: Identifying all eligible using agencies and total dollar volumes purchased by each eligible using agency during the reporting period. Although not required under this reporting activity, the Contractor shall provide itemized usage reports detailing all acquisitions against this contract upon request.
- 2. Reports shall be due at the end of each 3-month contract period to be furnished to the contract officer of record no later than 15 days after the end of each 3-month contract period.
- 3. The Reports shall include the name and contact information of the preparer.
- 4. The information contained in these contract reports and the accurate and timely submission thereof are critical components used by the State. Failure by the Contractor to submit accurate and timely contract reports against this contract may be cause for cancellation of the contract.
- 5. Contract usage reports shall include a key for all codes utilized in the report and shall include the city of each delivery point.

CONTRACT TERM

The term of any resultant contract will commence on January 1, 2007 and will continue for one year unless cancelled, terminated or extended as otherwise provided herein.

Contract Type (Firm)

The resulting contract shall be firm fixed price indefinite quantity.

Defective Products

All defective products shall be replaced and exchanged by the Contractor. The cost of transportation, unpacking, inspection, repacking, reshipping or other like expenses shall be paid by the vendor.

The State shall notify the Contractor of defective products immediately. If the Contractor is unable to provide replacements for defective products, the Contractor shall notify the State in writing within one (1) day of the State's initial notification. If the Contractor is unable or refuses to correct such goods within a time deemed reasonable by the State, the State shall then have the right to cancel the order in whole or in part and obtain those supplies from any other vendor or source. Nothing in this paragraph will adversely affect the State's rights including the rights and remedies associated with revocation of acceptance under the Uniform Terms and Conditions.

Such an obtainment of supplies by a vendor or source other than the Contractor shall not constitute a breach of this contract.

Delivery and Pick-up

All deliveries shall be FOB destination freight pre-paid. Delivery requirements shall apply to all locations, statewide.

1. Unless otherwise agreed to by the State, deliveries of dewars shall be within one (1) business day after receipt of order, deliveries of cylinders shall be made within two (2) business days after receipt of order and all deliveries to State's locations shall be made between 9 a.m. and 2 p.m. on the delivery day.
2. Contractor/Subcontractor shall unload the products and allow the State to inspect for damage, fitness, and proper labeling. So long as all defects are readily apparent and all labels are true and correct, then title to products and risk of loss or damage to products or cylinders shall pass to the State upon delivery. In the event a defect is not readily apparent but discovered later, then title and risk of loss or damage shall be considered to remain with the Contractor.
3. A packing slip, or similar document, containing all information indicated in Scope of Work, section 2.2, shall be signed by both the Contractor and the State. A legible copy shall be left with the State contact.
4. If the Contractor is unable to fill any one entire order to the State for any reason, then the Contractor shall notify the State in writing within one (1) day of the State's order of supplies. If the Contractor is unable or refuses to complete the order within a time deemed reasonable by the State, the State may use remedies provided in the Uniform Terms and Conditions and fulfill the order via other sources.
5. Any portion of an order unfulfilled shall be completed by the Contractor within a time deemed reasonable by the State. Any portion of an order originally to be shipped without delivery charges that is back ordered, or re-ordered due to unfulfillment of the original order, will be shipped without charge.
6. Any containers ready to be returned, but not picked-up shall not be eligible for rental charges.

Eligible Agencies (Statewide)

This contract shall be for the use of all State of Arizona departments, agencies, commissions and boards. In addition, eligible universities, political subdivisions and nonprofit educational or public health institutions may participate at their discretion. In order to participate in this contract, a university, political subdivision, or nonprofit educational or public health institution shall have entered into a Cooperative Purchasing Agreement with the Department of Administration, Enterprise Procurement Services as required by Arizona Revised Statutes 41-2632.

Emergency Orders

Emergency deliveries shall be F.O.B. destination freight pre-paid and delivered within 24 hours (includes weekends) after order by State. An additional charge will be allowed for this service.

Contractor MUST provide a contact name and phone number that can be reached on a 24 hour basis in the event an emergency order is needed.

Note: The number of emergency deliveries shall be held to a minimum.

Estimated Quantities (General)

This solicitation references quantities as a general indication of the needs of the State. The State anticipates that the annual aggregate activity of all contracts awarded shall be approximately \$270,000; estimates are broken out as follows:

Coconino County – \$5,000
Cochise County – \$500
Gila County – \$4,500
Maricopa County – \$200,000
Mohave County – \$2,000
Navajo County – \$2,000
Pima County – \$17,000
Pinal County – \$28,000
Yavapai County – \$8,000
Yuma County – \$3,000

However, the quantities shown are estimates only and the State reserves the right to increase or decrease any quantities actually acquired. No commitment of any kind is made concerning quantities and that fact should be taken into consideration by each potential Contractor.

Federal Immigration and Nationality Act

By entering into the Contract, the Contractor warrants compliance with the Federal Immigration and Nationality Act (FINA) and all other Federal immigration laws and regulations related to the immigration status of its employees. The Contractor shall obtain statements from its subcontractors certifying compliance and shall furnish the statements to the Procurement Officer upon request. These warranties shall remain in effect through the term of the Contract. The Contractor and its subcontractors shall also maintain Employment Eligibility Verification forms (I-9) as required by the U.S. Department of Labor's Immigration and Control Act, for all employees performing work under the Contract. I-9 forms are available for download at USCIS.GOV.

The State may request verification of compliance for any Contractor or subcontractor performing work under the Contract.

Should the State suspect or find that the Contractor or any of its subcontractors are not in compliance, the State may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the Contract for default, and suspension and/or debarment of the Contractor. All costs necessary to verify compliance are the responsibility of the Contractor.

HIPAA

The Contractor warrants that it is familiar with the requirements of HIPAA and HIPAA's accompanying regulations and will comply with all applicable HIPAA requirements in the course of this contract. Contractor warrants that it will cooperate with the Arizona Department of Health Services (ADHS) in the course of performance of the contract so that both the ADHS and Contractor will be in compliance with HIPAA, including cooperation and coordination with the ADHS Privacy Officer and other compliance officials required by HIPAA and its regulations. Contractor will sign any documents that are reasonably necessary to keep the ADHS and Contractor in compliance with HIPAA, including, but not limited to, Business Associate agreements.

If requested by the ADHS, Contractor agrees to sign the Arizona Department of Health Services Pledge To Protect Confidential Information and to abide by the statements addressing the creation, use and disclosure of confidential information, including information designated as protected health information and all other confidential or sensitive information as defined in policy. In addition, if requested, Contractor agrees to attend or participate in HIPAA training offered by the ADHS or to provide written verification that the Contractor has attended or participated in job related HIPAA training that is: (1) intended to make the Contractor proficient in HIPAA for purposes of performing the services required and (2) presented by a HIPAA Privacy Officer or other person or program knowledgeable and experienced in HIPAA and who has been approved by the ADHS HIPAA Compliance Officer.

INDEMNITY

The Contractor shall indemnify, defend, save and hold harmless the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees (hereinafter referred to as 'Indemnitee') from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as 'Claims') for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the Contractor or any of its owners, officers, directors, agents, employees or Subcontractors. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such Contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by the Contractor from and against any and all claims. It is agreed that the Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the State of Arizona, its officers, officials, agents and employees for losses arising from the work performed by the Contractor for the State of Arizona.

This indemnity shall not apply if the Contractor or Sub-contractor(s) is/are an agency, board, commission or university of the State of Arizona.

Insurance – Standard Service Contract

Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract, are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this contract by the Contractor, its agents, representatives, employees or subcontractors, and Contractor is free to purchase additional insurance.

A. MINIMUM SCOPE AND LIMITS OF INSURANCE: Contractor shall provide coverage with limits of liability not less than those stated below.

1. Commercial General Liability – Occurrence Form

Policy shall include bodily injury, property damage, personal injury and broad form contractual liability coverage.

- General Aggregate – \$2,000,000
- Products Completed Operations Aggregate – \$1,000,000
- Personal and Advertising Injury – \$1,000,000
- Blanket Contractual Liability Written and Oral – \$1,000,000
- Fire Legal Liability – \$50,000
- Each Occurrence – \$1,000,000

a. The policy shall be endorsed to include the following additional insured language: 'The State of Arizona, its departments,

agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor'.

b. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

2. Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Contract.

– Combined Single Limit (CSL) – \$1,000,000

a. The policy shall be endorsed to include the following additional insured language: 'The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor, involving automobiles owned, leased, hired or borrowed by the Contractor'.

3. Worker's Compensation and Employers' Liability

Workers' Compensation – Statutory

Employers' Liability

– Each Accident – \$500,000

– Disease Each Employee – \$500,000

– Disease Policy Limit – \$1,000,000

a. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

b. This requirement shall not apply to: Separately, EACH contractor or subcontractor exempt under A.R.S. 23-901, and when such contractor or subcontractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.

B. ADDITIONAL INSURANCE REQUIREMENTS: The policies shall include, or be endorsed to include, the following provisions:

1. The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees wherever additional insured status is required such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Contract.

2. The Contractor's insurance coverage shall be primary insurance with respect to all other available sources.

3. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.

C. NOTICE OF CANCELLATION: Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days prior written notice has been given to the State of Arizona. Such notice shall be sent directly to (State of Arizona Department of Health Services, 1740 W. Adams Ave., Phoenix, 85007) and shall be sent by certified mail, return receipt requested.

D. ACCEPTABILITY OF INSURERS: Insurance is to be placed with duly licensed or approved non-admitted insurers in the state of Arizona with an 'A.M. Best' rating of not less than A- VII. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

E. VERIFICATION OF COVERAGE: Contractor shall furnish the State of Arizona with certificates of insurance (ACORD form or equivalent approved by the State of Arizona) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and endorsements are to be received and approved by the State of Arizona before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

All certificates required by this Contract shall be sent directly to (State of Arizona Department of Health Services, 1740 W. Adams Ave., Phoenix, 85007). The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. The State of Arizona reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE STATE OF ARIZONA'S RISK MANAGEMENT SECTION.**

F. SUBCONTRACTORS: Contractors' certificate(s) shall include all subcontractors as insureds under its policies or Contractor shall furnish to the State of Arizona separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.

G. APPROVAL: Any modification or variation from the insurance requirements in this Contract shall be made by the Department of Administration, Risk Management Section, whose decision shall be final. Such action will not require a formal Contract amendment, but may be made by administrative action.

H. EXCEPTIONS: In the event the Contractor or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of Self-insurance. If the contractor or sub-contractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.

Inventory

The State of Arizona has an ongoing requirement for the material indicated in this solicitation. It is an express condition of any award that a Contractor shall maintain a reasonable stock on hand for delivery to the State. Failure to maintain such a stock may result in contract cancellation.

IT 508 Compliance

Unless specifically authorized in the Contract, any electronic or information technology offered to the State of Arizona under this solicitation shall comply with A.R.S. 41-2531 and 2532 and Section 508 of the Rehabilitation Act of 1973, which requires that employees and members of the public shall have access to and use of information technology that is comparable to the access and use by employees and members of the public who are not individuals with disabilities.

Licenses

The Contractor shall maintain in current status all federal, state and local licenses and permits required for the operation of a business conducted by the Contractor.

Multiple Awards

The State has a large variety of potential users at locations throughout Arizona. The State intends to award by County. In order to assure that any ensuing contracts will allow the State to fulfill current and future requirements, the State reserves the right to award contracts to multiple companies. The actual utilization of any contract will be at the sole discretion of the State. Each potential Contractor should take into consideration the possibility of multiple awards.

New Methods

Should the State acquire the capability of receiving and/or storing compressed gases using methods other than its current capability, including, but not limited to microbulking, the Contract Officer shall have the right to terminate the contract and re-solicit or negotiate the price to accommodate such capabilities new to the State.

New Products

1. The State, at its sole discretion, may allow new products announced by manufacturers represented on the contract to be incorporated. The request may be submitted at any time during the contract period and shall be supplemented with the following information. Failure to supply any of the following information with the request shall result in the State not considering the request.

1.1. A formal announcement from the manufacturer stating that the product(s) are new and were not available at the time of contract award.

1.2. Documentation from the manufacturer that cites the affected products by item number and description.

1.3. Documentation that provides clear evidence that the new products are those that are within an established contract group. NO OTHER PRODUCTS SHALL BE ALLOWED.

1.4. Documentation that states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the materials or services involved and that will be sold at the existing discount (percents %) from list price as existing products.

2. Approval shall be in the form of a contract amendment and shall become effective on the date specified in the amendment. Upon approval by the State, the Contractor shall make available all electronic and hard catalog/price list updates to all eligible agencies at no additional cost to the State.

Non-Collusion

Notwithstanding Uniform Instructions section 4.4, by signing the Offer and Acceptance, the Offeror certifies that the proposal submitted has been arrived at independently and has been submitted without collusion with, and without any agreement, understanding or planned common course of action with, any other vendor of materials, supplies, equipment or services described in the Request For Proposal, designed to limit competition.

Non-Exclusive Contract

This contract will be awarded with the understanding and agreement that it is for the sole convenience of the State of Arizona. The State reserves the right to obtain like goods or services from another source when necessary. Off-contract purchase authorization(s) may be approved by either the State (within the State's delegated authority) or by the State Procurement Office. Approvals shall be at the exclusive discretion of the State and shall be final. Off-contract procurement shall be consistent with the Arizona Procurement Code.

NOTICES

All notices, requests, demands, consents, approvals, and other communications which may or are required to be served or given hereunder (for the purposes of this provisions collectively called 'Notices'), shall be in writing and shall be sent by registered or certified United States mail, return receipt requested, postage prepaid, addressed to the party or parties to receive such notice as follows:

If intended for the State, to:

Arizona Department of Health Services
Attention: Contracting Officer
1740 W. Adams Avenue
Phoenix, Arizona 85007

And:

Contracting State Agency

b. If intended for the Contractor, to:

The Contractor Company Name
Attention: Contractor Contact
Address
City, State, Zip

Or to such other address as either party may from time to time furnish in writing to the other by notice hereunder. Any notice so mailed shall be deemed to have been given as of the date such notice is received as shown on the return receipt. Furthermore, such notice may be given by delivering personally such notice, if intended for the State, to the Arizona Department of Health Services, Chief Procurement Officer and, if intended for the Contractor, to the person named on the Offer & Contract Award of this contract, or to such other person as either party may from time to time furnish in writing to the other by notice hereunder. Any notice so delivered shall be deemed to have been given as of the date such notice is personally delivered to the other party.

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 the State of Arizona or its clients and may involve access to secure or sensitive data or personal client data or development or modification of software for the State 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.

Ordering Process

1. For the purposes of this contract, purchase orders are those that are issued by an eligible agency in any of the following forms:

A. Hard copy, one time only or blanket (term type) type;

B. Electronically transmitted through facsimile equipment;

C. Electronically transmitted as an e-mail attachment;

D. Electronically transmitted through a Contractor's Electronic Data Interchange (EDI) system or secured internet/web portal, i.e. those that provide electronic commerce assistance for the electronic submission of purchase orders, purchase order tracking and reporting.

i. Such systems shall not allow for purchase orders to be placed for non-contract or excluded items.

ii. Use of such systems shall be at the sole discretion of the State and all cost associated with set-up, maintenance and support shall be borne by the Contractor.

E. Electronically through State's p-card program.

2. A purchase order, initiated in accordance with the requirements contained herein, that cites the correct Arizona contract number is the only document required for the State to order and the Contractor to deliver the material and /or service.

3. Any attempt to represent any material and/or service not specifically awarded, as being under contract with the State of Arizona is a violation of the contract and the Arizona Procurement Code. Any such action is subject to the legal and contractual remedies available to the State inclusive of, but not limited to, contract cancellation, suspension and/or debarment of the Contractor.

4. If the Contractor is unable to fill any one entire order to the State for any reason, then the Contractor shall notify the State in writing within one (1) day of the State's order of supplies.

5. Upon receipt of order of specialty gases, the Contractor shall provide the State with a written expected time of arrival for such gases.

Price Adjustment

The Contractor shall offer the State a price reduction on the contract product(s) concurrent with a published price reduction made by the Contractor/manufacturer to other customers or improved company logistical capability (i.e. new fill plant locations, etc.).

The State may review a fully documented request for a price increase only after the contract has been in effect for 180 days. The request shall be submitted not earlier than 60 days after award/extension or at least 30 days prior to the anniversary or contract renewal date of the contract.

Requests for price increase(s) shall include substantiated information to support the proposed increase (e.g., manufacturer's price list, significant changes in published market indicators for the industry, certified raw material cost data, and any other substantiating information as requested by the State). In no event will price increases be accepted with retroactive effective dates.

Failure to submit the request within the stated timeframe and/or failure to supply adequate information with the request may result in the state not considering the request.

The request shall be a factor in the extension review process. The State, at its sole option shall determine whether the requested price adjustment or an alternate option is in the best interest of the State.

Approval shall be in the form of a contract amendment, and shall become effective on the date specified in the amendment. Upon approval by the State, the Contractor shall make available all electronic and hard copy price list updates to all eligible using agencies at no additional cost to the State.

Pricing

Proposal and contract pricing shall be all inclusive, excluding only applicable taxes and delivery charges.

The unit price for gases listed specifically and catalog percentages off indicated on the Price Sheet includes the furnishing by the Contractor, at no additional cost to the State, of all services which are required at each and every filling of a cylinder to comply with applicable regulations, specifications and normal good practices.

Product Discontinuance

1. In the event that a product or groups of products are discontinued by a Contractor, the State at its sole discretion may allow the Contractor to provide substitutes for the discontinued product(s) or allow the deletion of such products from the contract. The request may be submitted at any time during the contract period and shall be supplemented with the following information. Failure to supply any of the following information with the request may result in the state not considering the request.

A. A formal announcement from the Contractor stating that the product(s) have been discontinued.

B. Documentation from the Contractor that cites the affected products by item number and description.

C. Documentation from the Contractor that names the replacement product(s).

D. Documentation that provides clear evidence that the replacement product(s) meets or exceeds the specifications of the discontinued product(s) while remaining in the same product group(s) as the discontinued item, and;

E. Documentation confirming that the price for the replacement product(s) is the same as or less than the discontinued item.

2. Approval shall be in the form of a contract amendment and shall become effective on the date specified in the amendment. Upon approval by the State, and upon request by all eligible users of this contract, the Contractor shall make available all electronic and hard price list updates at no additional cost to the State.

Quality Control

The Contractor shall have a viable quality control program that ensures all containers and products are maintained and supplied properly. The program shall be consistent with what is typically used in the industry.

The Contractor shall utilize regular customer service contacts with the State of Arizona as an integral part of their quality control program.

Quality control records shall be made available to the State upon request.

The Contractor's quality control plan shall be explained in detail in the appropriate section of the solicitation Questionnaire.

Safety Standards

All items supplied on this contract must comply with the current applicable occupational safety and health standards of the State of Arizona Industrial Commission, The National Electric Code and The National Fire Protection Association Standards. All medical gases supplies on this contract shall also comply with United States Pharmacopeia regulations and shall be manufactured at an FDA registered facility.

The Contractor will provide one (1) copy of the Material Safety Data Sheet with the proposal, and five (5) copies to users of each item ordered.

Subcontractors

Supplemental to the Subcontractor term in the Uniform Terms and Conditions, the Contractor shall not enter into any subcontract under this contract, for the provision of products or performance of services under this contract, without the advance written approval of the State. When requesting the State's approval, the Contractor shall list all new Subcontractors, their contact information, certifications required of them (including insurance), their Minority and Women Owned Enterprise status (cite any certifications use in determining such status) as well as the Subcontractor's proposed responsibilities under the contract. With the request, the Contractor shall certify that all subcontracts incorporate by reference the terms and conditions of this contract.

Subcontractors are subject to all requirements imposed on and liabilities delegated to the Contractors in this document.

Suspension or Debarment Certification

By signing the offer section of the Offer and Acceptance page, prospective Contractors certify that the firm, business or person submitting the bid or offer has not been debarred, suspended or otherwise lawfully precluded from participating in any public procurement activity with any federal, state or local Government. Signing the offer section without disclosing all pertinent information about a debarment or suspension shall result in rejection of the bid or offer or cancellation of a contract. The State also may exercise any other remedy available by law.

Taxes

1. Applicable Taxes: The State will pay applicable taxes in any resulting contract.

2. Taxes must be listed as a separate item on all invoices.

3. IRS W9 Form: In order to receive payment under any resulting contract, contractor must have a current I.R.S. W9 Form on file with the State of Arizona, Department of Administration, General Accounting Office.

Contract

Solicitation # SCC070009-A2

Uniform Instructions

1 Definition of Terms

As used in these Instructions, the terms listed below are defined as follows:

1.2 Contract

the combination of the Solicitation, including the Uniform and Special Instructions to Offerors, the Uniform and Special Terms and Conditions, and the Specifications and Statement of Scope of Work; the Offer and any Best and Final Offers, and any Solicitation Amendments or Contract Amendments and any terms applied by law.

1.3 Contract Amendment

a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.

1.4 Contractor

any person who has a Contract with the State

1.5 Days

calendar days unless otherwise specified.

1.6 Exhibit

any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation

1.7 Offer

bid, proposal or quotation.

1.8 Offeror

a vendor who responds to a Solicitation.

1.9 Procurement Officer

the person, or his or her designee, duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.

1.10 Solicitation

an Invitation for Bids ('IFB'), a Request for Proposals ('RFP'), or a Request for Quotations ('RFQ').

1.11 Solicitation Amendment

a written document that is signed by the Procurement Officer and issued for the purpose of making changes to the Solicitation.

1.12 Subcontract

means any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.

1.13 State

the State of Arizona and Department or Agency of the State that executes the Contract.

2 Inquiries

Inquiries

2.1 Duty to Examine

It is the responsibility of each Offeror to examine the entire Solicitation, seek clarification in writing (inquiries), and examine its Offer for accuracy before submitting the Offer. Lack of care in preparing an Offer shall not be grounds for modifying or withdrawing the Offer after the Offer due date and time, nor shall it give rise to any Contract claim.

2.2 Solicitation Contact Person

Any inquiry related to a Solicitation, including any requests for or inquiries regarding standards referenced in the Solicitation, shall be directed solely to the Solicitation contact person. The Offeror shall not contact or direct inquiries concerning this Solicitation to any other State employee unless the Solicitation specifically identifies a person other than the Solicitation contact person as a contact.

2.3 Submission of Inquiries

The Procurement Officer or the person identified in the Solicitation as the contact for inquiries may except at the Pre-Offer Conference, require that an inquiry be submitted in writing. Any inquiry related to a Solicitation shall refer to the appropriate Solicitation number, page and paragraph. Do not place the Solicitation number on the outside of the envelope containing that inquiry, since it may then be identified as an Offer and not be opened until after the Offer due date and time. The State shall consider the relevancy of the inquiry but is not required to respond in writing.

2.4 Timeliness

Any inquiry or exception to the solicitation shall be submitted as soon as possible and should be submitted at least seven days before the Offer due date and time for review and determination by the State. Failure to do so may result in the inquiry not being considered for a Solicitation Amendment.

2.5 No Right to Rely on Verbal Responses

An offeror shall not rely on verbal responses to inquiries. A verbal reply to an inquiry does not constitute a modification of the

solicitation.

2.6 Solicitation Amendments

The Solicitation shall only be modified by a Solicitation Amendment.

2.7 Pre-Offer Conference

If a pre-Offer conference has been scheduled under this Solicitation, the date, time and location shall appear on the Solicitation cover sheet or elsewhere in the Solicitation. Offerors should raise any questions about the Solicitation or the procurement at that time. An Offeror may not rely on any verbal responses to questions at the conference. Material issues raised at the conference that result in changes to the Solicitation shall be answered solely through a written Solicitation Amendment.

2.8 Persons With Disabilities

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Solicitation contact person. Requests shall be made as early as possible to allow time to arrange the accommodation.

3 Offer Preparation

Offer Preparation

3.1 Forms: No Facsimile, Telegraphic or Electronic Mail Offers

Telegraphic or Electronic Mail Offers. An Offer shall be submitted either on the forms provided in this Solicitation or their substantial equivalent. Any substitute document for the forms provided in this Solicitation must be legible and contain the same information requested on the forms, unless the solicitation indicates otherwise. A facsimile, telegraphic, mailgram or electronic mail Offer shall be rejected if submitted in response to requests for proposals or invitations for bids, unless the solicitation indicates otherwise.

3.2 Typed or Ink; Corrections

The Offer shall be typed or in ink. Erasures, interlineations or other modifications in the Offer shall be initialed in ink by the person signing the Offer. Modifications shall not be permitted after Offers have been opened except as otherwise provided under applicable law.

3.3 Evidence of Intent to be Bound

The Offer and Acceptance form within the Solicitation shall be submitted with the Offer and shall include a signature (or acknowledgement for electronic submissions, when authorized) by a person authorized to sign the Offer. The signature shall signify the Offeror's intent to be bound by the Offer and the terms of the Solicitation and that the information provided is true, accurate and complete. Failure to submit verifiable evidence of an intent to be bound, such as an original signature, shall result in rejection of the Offer.

3.4 Exceptions to Terms and Conditions

All exceptions included with the Offer shall be submitted in a clearly identified separate section of the Offer in which the Offeror clearly identifies the specific paragraphs of the Solicitation where the exceptions occur. Any exceptions not included in such a section shall be without force and effect in any resulting Contract unless such exception is specifically accepted by the Procurement Officer in a written statement. The Offeror's preprinted or standard terms will not be considered by the State as a part of any resulting Contract.

i. Invitation for Bids. An Offer that takes exception to a material requirement of any part of the Solicitation, including terms and conditions, shall be rejected. [ALL]

ii. Request for Proposals. All exceptions that are contained in the Offer may negatively affect the State's proposal evaluation based on the evaluation criteria stated in the Solicitation or result in rejection of the Offer. An offer that takes exception to any material requirement of the solicitation may be rejected.

3.5 Subcontracts

Offeror shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities in the Offer.

3.6 Cost of Offer Preparation

The State will not reimburse any Offeror the cost of responding to a Solicitation.

3.7 Solicitation Amendments

Each Solicitation Amendment shall be signed with an original signature by the person signing the Offer, and shall be submitted no later than the Offer due date and time. Failure to return a signed (or acknowledgment for electronic submission, when authorized) copy of a Solicitation Amendment may result in rejection of the Offer.

3.8 Federal Excise Tax

The State of Arizona is exempt from certain Federal Excise Tax on manufactured goods. Exemption Certificates will be provided by the State.

3.9 Provision of Tax Identification Numbers

Offerors are required to provide their Arizona Transaction Privilege Tax Number and/or Federal Tax Identification number in the space provided on the Offer and Acceptance Form.

3.10 Employee Identification

Offeror agrees to provide an employee identification number or social security number to the State for the purposes of reporting to appropriate taxing authorities, monies paid by the State under this contract. If the federal identifier of the offeror is a social security number, this number is being requested solely for tax reporting purposes and will be shared only with

appropriate state and federal officials. This submission is mandatory under 26 U.S.C. § 6041A.

3.11 Identification of Taxes in Offer

The State of Arizona is subject to all applicable state and local transaction privilege taxes. All applicable taxes shall be identified as a separate item offered in the solicitation when applicable, the tax rate and amount shall be identified on the price sheet. At all times, payment of taxes and the determination of applicable taxes are the sole responsibility of the contractor.

3.12 Disclosure

If the firm, business or person submitting this Offer has been debarred, suspended or otherwise lawfully precluded from participating in any public procurement activity, including being disapproved as a subcontractor with any Federal, state or local government, or if any such preclusion from participation from any public procurement activity is currently pending, the Offeror shall fully explain the circumstances relating to the preclusion or proposed preclusion in the Offer. The Offeror shall include a letter with its Offer setting forth the name and address of the governmental unit, the effective date of this suspension or debarment, the duration of the suspension or debarment, and the relevant circumstances relating to the suspension or debarment. If suspension or debarment is currently pending, a detailed description of all relevant circumstances including the details enumerated above shall be provided.

3.13 Solicitation Order of Precedence

In the event of a conflict in the provisions of this Solicitation, the following shall prevail in the order set forth below:

- 3.13.1 Special Terms and Conditions;
- 3.13.2 Uniform Terms and Conditions;
- 3.1.3 Statement or Scope of Work;
- 3.13.4 Specifications;
- 3.13.5 Attachments;
- 3.13.6 Exhibits;
- 3.13.7 Special Instructions to Offerors;
- 3.13.8 Uniform Instructions to Offerors.3.13.9 Other documents referenced or included in the Solicitation.

3.14 Delivery

Unless stated otherwise in the Solicitation, all prices shall be F.O.B. Destination and shall include all freight, delivery and unloading at the destination(s).

4 Submission of Offer

Submission of Offer

4.1 Sealed Envelope or Package

Except for electronic submissions, when authorized, each Offer shall be submitted to the submittal location identified in this Solicitation. Offers should be submitted in a sealed envelope or container. The envelope or container should be clearly identified with name of the Offeror and Solicitation number. The State may open envelopes or containers to identify contents if the envelope or container is not clearly identified.

4.2 Offer Amendment or Withdrawal

An Offer may not be amended or withdrawn after the Offer due date and time except as otherwise provided under applicable law.

4.3 Public Record

All Offers submitted and opened are public records and must be retained by the State. Offers shall be open to public inspection after Contract award, except for such Offers deemed to be confidential by the State. If an Offeror believes that information in its Offer should remain confidential, it shall indicate as confidential the specific information and submit a statement with its Offer detailing the reasons that the information should not be disclosed. Such reasons shall include the specific harm or prejudice which may arise. The State shall determine whether the identified information is confidential pursuant to the Arizona Procurement Code.

4.4 Non-collusion, Employment, and Services

By signing the Offer and Acceptance Form or other official contract form, the Offeror certifies that:

4.4.1 i. The Offeror did not engage in collusion or other anti-competitive practices in connection with the preparation or submission of its Offer; and

4.4.2 ii. The Offeror does not discriminate against any employee or applicant for employment or person to whom it provides services because of race, color, religion, sex, national origin, or disability, and that it complies with all applicable Federal, state and local laws and executive orders regarding employment.

5 Evaluation

Evaluation

- 1. Ability to meet Scope of Work, Specifications, and Questionnaire
- 2. Methodology and Approach
- 3. Conformity to all Terms, Conditions and Instructions
- 4. Cost

5.1 Unit Price Prevails

In the case of discrepancy between the unit price or rate and the extension of that unit price or rate, the unit price or rate shall govern.

5.2 Taxes

Arizona transaction privilege and use taxes shall not be considered for evaluation.

5.3 Late Offers

An Offer submitted after the exact Offer due date and time shall be rejected.

5.4 Disqualification

An Offeror (including any of its' principals) who is currently debarred, suspended or otherwise lawfully prohibited from any public procurement activity shall have its offer rejected.

5.5 Offer Acceptance Period

An Offeror submitting an Offer under this Solicitation shall hold its Offer open for the number of days from the Offer due date that is stated in the Solicitation. If the Solicitation does not specifically state a number of days for Offer acceptance, the number of days shall be one hundred–twenty (120). If a Best and Final Offer is requested pursuant to a Request for Proposals, an Offeror shall hold its Offer open for one hundred–twenty (120) days from the Best and Final Offer due date.

5.6 Waiver and Rejection Rights

Notwithstanding any other provision of the Solicitation, the State reserves the right to:

5.6.1 Waive any minor informality;

5.6.2 Reject any and all Offers or portions thereof; or

5.6.3 Cancel the Solicitation.

6 Award

Award

6.1 Number or Types of Awards

The State reserves the right to make multiple awards or to award a Contract by individual line items or alternatives, by group of line items or alternatives, or to make an aggregate award, or regional awards, whichever is most advantageous to the State. If the Procurement Officer determines that an aggregate award to one Offeror is not in the State's best interest, 'all or none' Offers shall be rejected.

6.2 Contract Inception

An Offer does not constitute a Contract nor does it confer any rights on the Offeror to the award of a Contract. A Contract is not created until the Offer is accepted in writing by the Procurement Officer's signature on the Offer and Acceptance Form. A notice of award or of the intent to award shall not constitute acceptance of the Offer.

6.3 Effective Date

The effective date of this Contract shall be the date that the Procurement Officer signs the Offer and Acceptance form or other official contract form, unless another date is specifically stated in the Contract.

7 Protests

A protest shall comply with and be resolved according to Arizona Revised Statutes Title 41, Chapter 23, Article 9 and rules adopted thereunder. Protests shall be in writing and be filed with both the Procurement Officer of the purchasing agency and with the State Procurement Administrator. A protest of a Solicitation shall be received by the Procurement Officer before the Offer due date. A protest of a proposed award or of an award shall be filed within ten (10) days after the protester knows or should have known the basis of the protest. A protest shall include:

7.1 The name, address and telephone number of the protester;

7.2 The signature of the protester or its representative;

7.3 Identification of the purchasing agency and the Solicitation or Contract number;

7.4 A detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and

7.5 The form of relief requested.

8 Comments Welcome

The State Procurement Office periodically reviews the Uniform Instructions to Offerors and welcomes any comments you may have. Please submit your comments to: State Procurement Administrator, State Procurement Office, 100 North 15th Avenue, Suite 104, Phoenix, Arizona, 85007.

Contract

Solicitation # SCC070009-A2

Uniform Terms and Conditions

1 Definition of Terms

As used in this Solicitation and any resulting Contract, the terms listed below are defined as follows:

1.1 Attachment

any item the Solicitation requires the Offeror to submit as part of the Offer.

1.2 Contract

the combination of the Solicitation, including the Uniform and Special Instructions to Offerors, the Uniform and Special Terms and Conditions, and the Specifications and Statement or Scope of Work; the Offer and any Best and Final Offers; and any Solicitation Amendments or Contract Amendments.

1.3 Contract Amendment

a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.

1.4 Contractor

any person who has a Contract with the State.

1.5 Days

calendar days unless otherwise specified

1.6 Exhibit

any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.

1.7 Gratuity

a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.

1.8 Materials

all property, including equipment, supplies, printing, insurance and leases of property but does not include land, a permanent interest in land or real property or leasing space.

1.9 Procurement Officer

the person, or his or her designee, duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.

1.10 Services

the furnishing of labor, time or effort by a contractor or subcontractor which does not involve the delivery of a specific end product other than required reports and performance, but does not include employment agreements or collective bargaining agreements.

1.11 Subcontract

any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.

1.12 State

the State of Arizona and Department or Agency of the State that executes the Contract.

1.13 State Fiscal Year

the period beginning with July 1 and ending June 30,

2 Contract Interpretation

Contract Interpretation

2.1 Arizona Law

The Arizona law applies to this Contract including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona and the Arizona Procurement Code, Arizona Revised Statutes (A.R.S.) Title 41, Chapter 23, and its implementing rules, Arizona Administrative Code (A.A.C.) Title 2, Chapter 7.

2.2 Implied Contract Terms

Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.

2.3 Contract Order of Precedence

In the event of a conflict in the provisions of the Contract, as accepted by the State and as they may be amended, the following shall prevail in the order set forth below:

2.3.1 Special Terms and Conditions;

2.3.2 Uniform Terms and Conditions;

2.3.3 Statement or Scope of Work;

2.3.4 Specifications;

2.3.5 Attachments;

2.3.6 Exhibits;

2.3.7 Documents referenced or included in the Solicitation.

2.4 Relationship of Parties

The Contractor under this Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.

2.5 Severability

The provisions of this Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.

2.6 No Parol Evidence

This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.

2.7 No Waiver

Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

3 Contract Administration and Operation

Contract Administration and Operation.

3.1 Records

Under A.R.S. § 35–214 and § 35–215, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other 'records' relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.

3.2 Non-Discrimination

The Contractor shall comply with State Executive Order No. 99–4 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.

3.3 Audit

Pursuant to ARS § 35–214, at any time during the term of this Contract and five (5) years thereafter, the Contractor's or any subcontractor's books and records shall be subject to audit by the State and, where applicable, the Federal Government, to the extent that the books and records relate to the performance of the Contract or Subcontract.

3.4 Facilities Inspection and Materials Testing

The Contractor agrees to permit access to its facilities, subcontractor facilities and the Contractor's processes or services, at reasonable times for inspection of the facilities or materials covered under this Contract. The State shall also have the right to test, at its own cost, the materials to be supplied under this Contract. Neither inspection of the Contractor's facilities nor materials testing shall constitute final acceptance of the materials or services. If the State determines non-compliance of the materials, the Contractor shall be responsible for the payment of all costs incurred by the State for testing and inspection.

3.5 Notices

Notices to the Contractor required by this Contract shall be made by the State to the person indicated on the Offer and Acceptance form submitted by the Contractor unless otherwise stated in the Contract. Notices to the State required by the Contract shall be made by the Contractor to the Solicitation Contact Person indicated on the Solicitation cover sheet, unless otherwise stated in the Contract. An authorized Procurement Officer and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice to the other and an amendment to the Contract shall not be necessary.

3.6 Advertising, Publishing and Promotion of Contract

The Contractor shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the Procurement Officer.

3.7 Property of the State

Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of the State. The Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. The Contractor shall not use or release these materials without the prior written consent of the State.

3.8 Ownership of Intellectual Property

Any and all intellectual property, including but not limited to copyright, invention, trademark, tradename, service mark, and/or trade secrets created or conceived pursuant to or as a result of this contract and any related subcontract ('Intellectual Property'), shall be work made for hire and the State shall be considered the creator of such Intellectual Property. The agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract shall own (for and on behalf of the State) the entire right, title and interest to the Intellectual Property throughout the world. Contractor shall notify the State, within thirty (30) days, of the creation of any Intellectual Property by it or its subcontractor(s).

Contractor, on behalf of itself and any subcontractor (s), agrees to execute any and all document(s) necessary to assure ownership of the Intellectual Property vests in the State and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the State. The Intellectual Property shall not be disclosed by contractor or its subcontractor(s) to any entity not the State without the express written authorization of the agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract.

4 Costs and Payments

Costs and Payments

4.1 Payments

Payments shall comply with the requirements of A.R.S. Titles 35 and 41, Net 30 days. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate invoice for payment from the State within thirty (30) days.

4.2 Delivery

Unless stated otherwise in the Contract, all prices shall be F.O.B. Destination and shall include all freight delivery and unloading at the destination.

4.3 Applicable Taxes

4.3.1 Payment of Taxes. The Contractor shall be responsible for paying all applicable taxes.

4.3.2 State and Local Transaction Privilege Taxes. The State of Arizona is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect such taxes from the buyer does not relieve the seller from its obligation to remit taxes.

4.3.3 Tax Indemnification. Contractor and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require all subcontractors to hold the State harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

4.3.4 IRS W9 Form. In order to receive payment the Contractor shall have a current I.R.S. W9 Form on file with the State of Arizona, unless not required by law.

4.4 Availability of Funds for the Next State Fiscal Year

Funds may not presently be available for performance under this Contract beyond the current state fiscal year. No legal liability on the part of the State for any payment may arise under this Contract beyond the current state fiscal year until funds are made available for performance of this Contract.

4.5 Availability of Funds for the Current State Fiscal Year

Should the State Legislature enter back into session and reduce the appropriations or for any reason and these goods or services are not funded, the State may take any of the following actions:

4.5.1 Accept a decrease in price offered by the contractor;

4.5.2 Cancel the Contract

4.5.3 Cancel the contract and re-solicit the requirements.

5 Contract Changes

Contract Changes

5.1 Amendments

This Contract is issued under the authority of the Procurement Officer who signed this Contract. The Contract may be modified only through a Contract Amendment within the scope of the Contract. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the procurement officer in writing or made unilaterally by the Contractor are violations of the Contract and of applicable law. Such changes, including unauthorized written Contract Amendments shall be void and without effect, and the Contractor shall not be entitled to any claim under this Contract based on those changes.

5.2 Subcontracts

The Contractor shall not enter into any Subcontract under this Contract for the performance of this contract without the advance written approval of the Procurement Officer. The Contractor shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities. The Subcontract shall incorporate by reference the terms and conditions of this Contract.

5.3 Assignment and Delegation

The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Procurement Officer. The State shall not unreasonably withhold approval.

6 Risk and Liability

Risk and Liability

6.1 Risk of Loss

The Contractor shall bear all loss of conforming material covered under this Contract until received by authorized personnel at the location designated in the purchase order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.

6.2 Indemnification

6.2.1 Contractor/Vendor Indemnification (Not Public Agency) 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 contractor 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.

6.2.2 Public Agency Language Only Each party (as 'indemnitor') agrees to indemnify, defend, and hold harmless the other party (as 'indemnitee') from and against any and all claims, losses, liability, costs, or expenses (including reasonable

attorney's fees) (hereinafter collectively referred to as 'claims') arising out of bodily injury of any person (including death) or property damage but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its' officers, officials, agents, employees, or volunteers.'

6.3 Indemnification – Patent and Copyright

The Contractor shall indemnify and hold harmless the State against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of Contract performance or use by the State of materials furnished or work performed under this Contract. The State shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph. If the contractor is insured pursuant to A.R.S. § 41–621 and § 35–154, this section shall not apply.

6.4 Force Majeure

6.4.1 Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term 'force majeure' means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions–intervention–acts; or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.

6.4.2 Force Majeure shall not include the following occurrences:

6.4.2.1 Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market;

6.4.2.2 Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition; or

6.4.2.3 Inability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.

6.4.3 If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified–return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

6.4.4 Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure.

6.5 Third Party Antitrust Violations

The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of this Contract.

7 Warranties

Warranties

7.1 Liens

The Contractor warrants that the materials supplied under this Contract are free of liens and shall remain free of liens.

7.2 Quality

Unless otherwise modified elsewhere in these terms and conditions, the Contractor warrants that, for one year after acceptance by the State of the materials, they shall be:

7.2.1 Of a quality to pass without objection in the trade under the Contract description;

7.2.2 Fit for the intended purposes for which the materials are used;

7.2.3 Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units;

7.2.4 Adequately contained, packaged and marked as the Contract may require; and

7.2.5 Conform to the written promises or affirmations of fact made by the Contractor.

7.3 Fitness

The Contractor warrants that any material supplied to the State shall fully conform to all requirements of the Contract and all representations of the Contractor, and shall be fit for all purposes and uses required by the Contract.

7.4 Inspection/Testing

The warranties set forth in subparagraphs 7.1 through 7.3 of this paragraph are not affected by inspection or testing of or payment for the materials by the State.

7.5 Year 2000

7.5.1 Notwithstanding any other warranty or disclaimer of warranty in this Contract, the Contractor warrants that all products delivered and all services rendered under this Contract shall comply in all respects to performance and delivery requirements of the specifications and shall not be adversely affected by any date-related data Year 2000 issues. This warranty shall survive the expiration or termination of this Contract. In addition, the defense of force majeure shall not apply to the Contractor's failure to perform specification requirements as a result of any date-related data Year 2000 issues.

7.5.2 Additionally, notwithstanding any other warranty or disclaimer of warranty in this Contract, the Contractor warrants that each hardware, software, and firmware product delivered under this Contract shall be able to accurately process date/time data (including but not limited to calculation, comparing, and sequencing) from, into, and between the twentieth and twenty-first centuries, and the years 1999 and 2000 and leap year calculations, to the extent that other information technology utilized by the State in combination with the information technology being acquired under this Contract properly exchanges date-time data with it. If this Contract requires that the information technology products being acquired perform as a system, or that the information technology products being acquired perform as a system in combination with other State information technology, then this warranty shall apply to the acquired products as a system. The remedies available to the State for breach of this warranty shall include, but shall not be limited to, repair and replacement of the information technology products delivered under this Contract. In addition, the defense of force majeure shall not apply to the failure of the Contractor to perform any specification requirements as a result of any date-related data Year 2000 issues.

7.6 Compliance With Applicable Laws

The materials and services supplied under this Contract shall comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable license and permit requirements.

7.7 Survival of Rights and Obligations after Contract Expiration or Termination

7.7.1 Contractor's Representations and Warranties. All representations and warranties made by the Contractor under this Contract shall survive the expiration or termination hereof. In addition, the parties hereto acknowledge that pursuant to A.R.S. § 12-510, except as provided in A.R.S. § 12-529, the State is not subject to or barred by any limitations of actions prescribed in A.R.S., Title 12, Chapter 5.

7.7.2 Purchase Orders. The Contractor shall, in accordance with all terms and conditions of the Contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Procurement Officer, including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

8 State's Contractual Remedies

State's Contractual Remedies

8.1 Right to Assurance

If the State in good faith has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this Contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days specified in the demand may, at the State's option, be the basis for terminating the Contract under the Uniform Terms and Conditions or other rights and remedies available by law or provided by the contract.

8.2 Stop Work Order

8.2.1 The State may, at any time, by written order to the Contractor, require the Contractor to stop all or any part, of the work called for by this Contract for period(s) of days indicated by the State after the order is delivered to the Contractor. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

8.2.2 If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Procurement Officer shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.

8.3 Non-exclusive Remedies

The rights and the remedies of the State under this Contract are not exclusive.

8.4 Nonconforming Tender

Materials or services supplied under this Contract shall fully comply with the Contract. The delivery of materials or services or a portion of the materials or services that do not fully comply constitutes a breach of contract. On delivery of nonconforming materials or services, the State may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or

remedy available to it.

8.5 Right of Offset

The State shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by the State, or damages assessed by the State concerning the Contractor's non-conforming performance or failure to perform the Contract, including expenses, costs and damages described in the Uniform Terms and Conditions.

9 Contract Termination

Contract Termination

9.1 Cancellation for Conflict of Interest

Pursuant to A.R.S. § 38-511, the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is or becomes at any time while the Contract or an extension of the Contract is in effect an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. § 38-511.

9.2 Gratuities

The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State for the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about contract performance. The State, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the Contractor.

9.3 Suspension or Debarment

The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the contractor is not currently suspended or debarred. If the contractor becomes suspended or debarred, the contractor shall immediately notify the State.

9.4 Termination for Convenience

The State reserves the right to terminate the Contract, in whole or in part at any time, when in the best interests of the State without penalty or recourse. Upon receipt of the written notice, the Contractor shall stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the State. In the event of termination under this paragraph, all documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State upon demand. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination. The cost principles and procedures provided in A.A.C. R2-7-701 shall apply.

9.5 Termination for Default

9.5.1 In addition to the rights reserved in the contract, the State may terminate the Contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. The Procurement Officer shall provide written notice of the termination and the reasons for it to the Contractor.

9.5.2 Upon termination under this paragraph, all goods, materials, documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State on demand.

9.5.3 The State may, upon termination of this Contract, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Contract. The Contractor shall be liable to the State for any excess costs incurred by the State in procuring materials or services in substitution for those due from the Contractor.

9.6 Continuation of Performance Through Termination

The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

10 Contract Claims

All contract claims or controversies under this Contract shall be resolved according to A.R.S. Title 41, Chapter 23, Article 9, and rules adopted thereunder.

11 Arbitration

The parties to this Contract agree to resolve all disputes arising out of or relating to this contract through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12-1518, except as may be required by other applicable statutes (Title 41).

Contract

Solicitation # SCC070009-A2

Offer

TO THE STATE OF ARIZONA:

The Undersigned hereby offers and agrees to furnish the material, service or construction in compliance with all terms, conditions, specifications and amendments in the Solicitation and any written exceptions in the offer. Signature also certifies Small Business status.

Tax Information

Arizona Transaction (Sales) Privilege Tax License No. 07545545E
Federal Employer Identification No. 742460354

Location Information

Supplier Number: 7401
Company Name: Matheson Tri-Gas
Address: 1545 W. Watkins Street
Phoenix, AZ 83007

Clarification Information

Name: John Crano
Phone: (602) 616-3880 Fax: (602) 495-9026

Signature

Name: John Crano Date: 12/15/06 11:56:50
Title: Sales Manager
Signature:

Status: Accepted

Certification

By Accepting below, the bidder certifies:

1. The submission of the offer did not involve collusion or other anti-competitive practices.
2. The bidder shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, State Executive Order 75.5 or A.R.S. §§ 41-1461 through 1465.
3. The bidder has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer. Failure to provide a valid signature affirming the stipulations required by this clause shall result in rejection of the offer. Signing the offer with a false statement shall void the offer, any resulting contract and may be subject to legal remedies provided by law.
4. The bidder certifies that the above referenced organization [is not] a small business with less than 100 employees or has gross revenues of \$4 million or less.

Acceptance

The Offer is hereby accepted.

The Contractor is now bound to sell the materials or services listed by the attached contract and based upon the solicitation, including all terms, conditions, specifications, amendments, etc., and the Contractor's Offer as accepted by the State.

This contract shall henceforth be referred to as Contract No. Entry not found in index. The Contractor has been cautioned not to commence any billable work or to provide any material or service under this contract until Contractor receives purchase order, contact release document or written notice to proceed.

Award Date TBD

Contract

Solicitation # SCC070009-A2

Line Items

LI #	CM Code # CM Code Item #	Commodity Code Description Commodity Code Item Description	Manufacturer	Pricing	Qty	%	Unit Price	Ext Price
1	0430-0033 0430-0033-0001	Gas Mixtures, Special Purpose Gas mixtures to include UHP Argon, UHP Methane, Helium, Carbon Dioxide.		FP	1		\$0.00	\$0.00
2	0430-0042 0430-0042-0001	Laboratory Gases: Argon, Carbon Dioxide, Helium, Hydrogen, Nitrogen, etc. Lab gases to include: Acetylene, Argon, Helium, Hydrogen, Nitrogen and Oxygen.		FP	1		\$0.00	\$0.00
3	0430-0048 0430-0048-0002	Medical Gases (For Anesthesia and Respiration Therapy): Carbon Dioxide, Cyclopropane, Nitrous Oxide, (Pure) Oxygen, etc. Medical gases to include: Acetylene and Oxygen.		FP	1		\$0.00	\$0.00

Contract**Solicitation #SCC070009-A2**

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Document Information

Type:	Supplier	Amendment:	Yes	Amend. #:	4
Requisition #:	ADSM-6SXMP	Solicitation #:	<u>SCC070009-A2</u>	Contract #:	SCC070009-1-A4
Created By:	Notes Administrator/az.gov	Date Created:	01/14/2008		
PO Assigned:	Elizabeth Casteel/ADSM-6A4SXZ	Date Completed:	01/14/2008		
PM Assigned:	Karen Boswell/ADSM-6A4SXZ	PA Assigned:	Karen Boswell/ADSM-6A4SXZ		
Supplier Name:	<u>Matheson Tri-Gas</u>	Proposal #:	<u>ADSM-6V72KD-1</u>		
Gov't Entity:	Strategic Contracting Centers	Type:	Statewide		
Process Status:	Complete	Status:	Complete		
Total/Not to Exceed Cost:	0.00	External Contract:			

Contract Information

Start Date:	01/01/2008	End Date:	12/31/2008
Term:	12 Month(s)	FOB:	
Payment Terms:	Net thirty(30) days	Delivery:	1 A.R.O. Days
Contract Extension Allowed		Max Extension:	5 Year(s)

Amendment Information

1) In accordance with Special Terms and Conditions, Contract Extension, the contract is hereby extended through December 31, 2008.

2) In accordance with Special Terms and Conditions, Price Adjustment, the Contractor has submitted a fully documented request for price increases. The documentation has been reviewed and the price increases granted, as determined in the best interest of the State. The Price Sheet attachment has been revised to reflect the increases and is effective as of January 15, 2008.

Contract Reassignment

N/A

Contractor Amendment Approval

N/A

Solicitation Information

Title:	Compressed Gases	Type:	RFP
Description:	Medical Gases, Industrial Gases, Specialty Gases, Hydrostatic testing		

Clauses**Sections - Clauses**

Special Instructions
Special Terms and Conditions
Uniform Instructions
Uniform Terms and Conditions

Other Data

* Offer & Acceptance
* Price Sheet
* BAFO

Attachments

Price Sheet, Amend 4.xls
Questionnaire.doc
SCC070009-1-A1_CON.pdf
SCC070009-1-A2_CON.pdf
SCC070009-1-A3_CON.pdf

[SCC070009-1-A4_CON.pdf](#)[SCC070009-1_CON.pdf](#)[SCC070009-A2_SOL.pdf](#)[Scope of Work.doc](#)**All Contracts**

Contract #	Supplier	Title	Status	Start Date	End Date	A	A#
SCC070009-0	Main	Compressed Gases	Complete	01/01/2007	12/31/2007	No	0
SCC070009-1	Matheson Tri-Gas	Compressed Gases	Complete (Cancelled)	01/01/2007	12/31/2007	No	0
SCC070009-1-A1	Matheson Tri-Gas	Compressed Gases	Complete (Cancelled)	01/01/2007	12/31/2007	Yes	1
SCC070009-1-A2	Matheson Tri-Gas	Compressed Gases	Complete (Cancelled)	01/01/2007	12/31/2007	Yes	2
SCC070009-1-A3	Matheson Tri-Gas	Compressed Gases	Complete (Cancelled)	12/15/2007	01/14/2008	Yes	3
SCC070009-1-A4	Matheson Tri-Gas	Compressed Gases	Complete	01/01/2008	12/31/2008	Yes	4

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PRICE SHEET
SOLICITATION NO: SCC070009

See Special Terms and Conditions, Pricing.

I. Purchase Orders

A. Mailing Address for State Purcha Matheson Tri-Gas 1545 W. Watkins, Phoenix, AZ., 85007
 B. Attention: Chris Perella
 C. Telephone Number: 602-495-9000
 D. Fax Number: 602-495-9026

II. If payment is made within 30 calendar days after acceptance of goods and/or services,
 the above quoted price, excluding sales tax, 0 %.

III. Minimum order required to avoid delivery charge 200.

IV. Surcharge for emergency deliveries: \$ 100.00 Reg.

V. Rent Charges

A. Rent charge on all cylinder sizes, 3.75 per cy.
 B. Rent charge on all Dewar sizes, 46.50 per c.

Region I: Gila, Maricopa, Pinal counties
 Region II: Coconino and Yavapai counties
 Region III: Pima and Santa Cruz counties
 Region IV: Graham, Greenlee & Cochise counties
 Region V: Yuma and La Paz counties
 Region VI: Mohave county
 Region VII: Navajo and Apache counties

VI. Hydrostatic testing of State-owned cylinders: 15.00 per c.

VII. Catalog discount on all non-specified gases: 55 DLP %.

VIII.

Commodity	Price						
	Region I	Region II	Region III	Region IV	Region V	Region VI	Region VII
Acetylene, Gas, Grade AA, 10cf cylinder	14.30 cyl	14.30 cyl	15.02 cyl				
Acetylene, Gas, 99.995%, 10cf cylinder	7.15 cyl	7.15 cyl	7.51 cyl				
Acetylene, Gas, 99.995%, 40 cf cylinder	10.27 cyl	10.27 cyl	10.79 cyl				
Acetylene, Gas, 99.995%, 60 cf cylinder	17.26 cyl	17.26 cyl	18.13 cyl				
Acetylene, 99.995%, 135cf cylinder (approx.), certified	28.80 cyl	28.80 cyl	30.24 cyl				
Acetylene, Gas, 99.995%, 210 cf cylinder (approx.)	44.79 cyl	44.79 cyl	47.04 cyl				
Acetylene, Gas, 99.995%, 330 cf cylinder (approx.)	70.39 cyl	70.39 cyl	73.91 cyl				
0 Air, Compress, Gas Breathing Quality, Pure, Dry, 212 cf cylinder	19.92 cyl	19.92 cyl	20.92 cyl				
0 Air, Gas, Pure, Dry, >238 cf cylinder	26.29 cyl	26.29 cyl	27.60 cyl				
Argon, Liquid, 99.995% Pure, 230 li, high pressure, Dewar	281.52 cyl	281.52 cyl	295.60 cyl				
Argon, Gas, 99.995% Pure, cf	.057 cf	.057 cf	.060 cf				
Argon, Gas, 99.999% Pure, cf	.155 cf	.155 cf	.164 cf				
Argon, Gas, (p-5) Mixture of 5% +/-1% methane, and 95% Argon, Certified, cf	.178 cf	.178 cf	.187 cf				
Argon, Gas, (p-10) Mixture of 10% +/- 0.5% Methane (gas purity 99.92%) and balance Argon (gas purity 99.9995%) Certified, cf	.181 cf	.181 cf	.190 cf				
Argon/Helium, Gas, Welding, Certified +/- 1%; Argon: 75%, Helium 25%, cf	.120 cf	.120 cf	.127 cf				
Commodity	Price						

(Cont'd)

	Region I	Region II	Region III	Region IV	Region V	Region VI	Region VII
Argon-CO2, Gas Welding, Certified +/- 1%; Argon: 98%, CO2: 2%, cf	.091 cf	.091 cf	.095 cf	.095 cf	.095 cf	.095 cf	.095 cf
Argon-CO2, Gas Welding, Certified +/- 1%; Argon: 75%, CO2: 25%, cf	.054 cf	.054 cf	.057 cf	.057 cf	.057 cf	.057 cf	.057 cf
Argon-CO2-O2, Gas, Weld, Certified +/- 1%; Argon: 91%, CO2: 5%, O2: 4%, cf	.089 cf	.089 cf	.093 cf	.093 cf	.093 cf	.093 cf	.093 cf
Argon 95% Hydrogen 5% Mixture cf	.096 cf	.096 cf	.101 cf	.101 cf	.101 cf	.101 cf	.101 cf
Argon Tri-Mix, 7.5% Argon, 2.5% CO2, 90% Helium	.243 cf	.243 cf	.255 cf	.255 cf	.255 cf	.255 cf	.255 cf
CO2 Medical Grade (CDMH) cf	.500 lb	.500 lb	.525 lb	.525 lb	.525 lb	.525 lb	.525 lb
Carbon Dioxide, 99.5% Hi Press, 20 lb cylinder, Liquid Carbon Dioxide, CO2, cf	.240 lb	.240 lb	.252 lb	.252 lb	.252 lb	.252 lb	.252 lb
Carbon Dioxide, 99.5% Hi Press, 50 lb cylinder, Liquid Carbon Dioxide, CO2, cf	.132 lb	.132 lb	.139 lb	.139 lb	.139 lb	.139 lb	.139 lb
Carbon Dioxide, 99.5% Hi Press, 50 lb cylinder, Liquid Carbon Dioxide, CO2 (siphon), lb	.132 lb	.132 lb	.139 lb	.139 lb	.139 lb	.139 lb	.139 lb
Helium, Gas, 99.999% cf	.365 cf	.365 cf	.383 cf	.383 cf	.383 cf	.383 cf	.383 cf
Helium, Gas, 98% cf	.243 cf	.243 cf	.255cf	.255cf	.255cf	.255cf	.255cf
Hydrogen, Gas, Tech, 98% cf	.048 cf	.048 cf	.050 cf	.050 cf	.050 cf	.050 cf	.050 cf
Hydrogen, Gas, Tech, 99.995% cf	.119 cf	.119 cf	.125 cf	.125 cf	.125 cf	.125 cf	.125 cf
Hydrogen, Gas, Tech, 99.999% cf	.175 cf	.175 cf	.184 cf	.184 cf	.184 cf	.184 cf	.184 cf
Nitrogen, Gas, 99.995%, cf	.035 cf	.035 cf	.037 cf	.037 cf	.037 cf	.037 cf	.037 cf
Nitrogen, Gas, 99.999% cf	.090 cf	.090 cf	.095 cf	.095 cf	.095 cf	.095 cf	.095 cf
Nitrogen, Liquid, 99.5%, 160 li; Technical Nitrogen, Dewar Cylinder, 160 li with 3/4" special fittings for DPS	49.74 cyl	49.74 cyl	52.23 cyl	52.23 cyl	52.23 cyl	52.23 cyl	52.23 cyl
Nitrogen, Liquid, 99.5%, 160 li; Technical Nitrogen, Dewar Cylinder, 160 li with 3/4" special fittings for DPS	49.74 cyl	49.74 cyl	52.23 cyl	52.23 cyl	52.23 cyl	52.23 cyl	52.23 cyl
Nitrogen, Liquid, 99.995%, 230 li; Technical Nitrogen, High pressure, Dewar	71.51 cyl	71.51 cyl	75.09 cyl	75.09 cyl	75.09 cyl	75.09 cyl	75.09 cyl
Nitrogen, Gas, 99.998%, cf	.082 cf	.082 cf	.086 cf	.086 cf	.086 cf	.086 cf	.086 cf
Nitrous Oxide E, cf	4.34 lb	4.34 lb	4.55 lb	4.55 lb	4.55 lb	4.55 lb	4.55 lb
Oxygen, Aviators Breathing	.091 cf	.091 cf	.095 cf	.095 cf	.095 cf	.095 cf	.095 cf
Oxygen, 99.999%, cf	.165 cf	.165 cf	.173 cf	.173 cf	.173 cf	.173 cf	.173 cf
Oxygen, Gas (95%) CO2, Lab Usage, cf	.220 cf	.220 cf	.232 cf	.232 cf	.232 cf	.232 cf	.232 cf
Oxygen, 95%, CO2-5%, 22cf cylinder, cf	.932 cf	.932 cf	.978 cf	.978 cf	.978 cf	.978 cf	.978 cf
Oxygen, Gas, 99.6%, 46 cf	3.71 cyl	3.71 cyl	3.891 cyl	3.891 cyl	3.891 cyl	3.891 cyl	3.891 cyl
Oxygen, Gas, 99.6%, 58 cf	5.27 cyl	5.27 cyl	5.53 cyl	5.53 cyl	5.53 cyl	5.53 cyl	5.53 cyl
Oxygen, Gas, 99.6%	6.73 cyl	6.73 cyl	7.07 cyl	7.07 cyl	7.07 cyl	7.07 cyl	7.07 cyl
Oxygen, Gas, Technical, 99.6%, 80 cf	5.64 cyl	5.64 cyl	5.93 cyl	5.93 cyl	5.93 cyl	5.93 cyl	5.93 cyl
Oxygen, Gas, Medical, Breathing, to 150 cf	.036 cf	.036 cf	.038 cf	.038 cf	.038 cf	.038 cf	.038 cf
Oxygen, Gas, Medical, U.S.P., cf	.027 cf	.027 cf	.028 cf	.028 cf	.028 cf	.028 cf	.028 cf

Oxygen, Gas, 99.6%, cf	.027 cf	.027 cf	.028 cf				
Oxygen, Mini Pal, 600 li	no bid						
Oxygen, H cylinder	.027 cf	.027 cf	.028 cf				
Oxygen, E cylinder with EX-OX	2.85 cyl	2.85 cyl	2.99 cyl				

Contract**Solicitation #SCC070009-A2**

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Document Information

Type:	Supplier	Amendment:	Yes	Amend. #:	5
Requisition #:	ADSM-6SXMP	Solicitation #:	<u>SCC070009-A2</u>	Contract #:	SCC070009-1-A5
Created By:	Notes Administrator/az.gov	Date Created:	01/08/2009		
PO Assigned:	Jamie Alton/ADSM-6A4SXZ	Date Completed:	01/08/2009		
PM Assigned:	Christine Ruth/ADSM-6A4SXZ	PA Assigned:	Ann Froio/ADSM-6A4SXZ		
Supplier Name:	<u>Matheson Tri-Gas</u>	Proposal #:	<u>ADSM-6V72KD-1</u>		
Gov't Entity:	Strategic Contracting Centers	Type:	Statewide		
Process Status:	Complete	Status:	Complete		
Total/Not to Exceed Cost:	0.00	External Contract:			

Contract Information

Start Date:	01/01/2009	End Date:	12/31/2009
Term:	12 Month(s)	FOB:	
Payment Terms:	Net thirty(30) days	Delivery:	1 A.R.O. Days
Contract Extension Allowed		Max Extension:	5 Year(s)

Amendment Information

Extend Contract for one year.

Contract Reassignment

N/A

Contractor Amendment Approval

Contract Amendment approved by Chris Perella/000007401 on 01/08/2009 at 01:47:16 PM

Solicitation Information

Title:	Compressed Gases	Type:	RFP
Description:	Medical Gases, Industrial Gases, Specialty Gases, Hydrostatic testing		

Clauses**Sections - Clauses**

Special Instructions
Special Terms and Conditions
Uniform Instructions
Uniform Terms and Conditions

Other Data

* Offer & Acceptance
* Price Sheet
* BAFO

Attachments

Price Sheet, Amend 4.xls
Questionnaire.doc
SCC070009-1-A1_CON.pdf
SCC070009-1-A2_CON.pdf
SCC070009-1-A3_CON.pdf
SCC070009-1-A4_CON.pdf
SCC070009-1-A5_CON.pdf
SCC070009-1_CON.pdf
SCC070009-A2_SOL.pdf
Scope of Work.doc

All Contracts