

**SERIAL 11022 RFP HOSTED PUBLIC INFORMATION CRISIS MANAGEMENT
COMMUNICATION SOLUTION**

DATE OF LAST REVISION: July 21, 2011

CONTRACT END DATE: June 30, 2016

CONTRACT PERIOD THROUGH JUNE 30, 2016

TO: All Departments

FROM: Department of Materials Management

SUBJECT: Contract for: **HOSTED PUBLIC INFORMATION CRISIS MANAGEMENT
COMMUNICATION SOLUTION**

Attached to this letter is published an effective purchasing contract for products and/or services to be supplied to Maricopa County activities as awarded by Maricopa County on **June 23, 2011**.

All purchases of products and/or services listed on the attached pages of this letter are to be obtained from the vendor holding the contract. Individuals are responsible to the vendor for purchases made outside of contracts. The contract period is indicated above.

Wes Baysinger, Chief Procurement Officer
Materials Management

BW/mm
Attach

Copy to: Materials Management
Jeanene Fowler-DeRepentigny, Public Health Department



CONTRACT PURSUANT TO RFP

SERIAL 11022-RFP

This Contract is entered into this 23rd day of June, 2011 by and between Maricopa County ("County"), a political subdivision of the State of Arizona, and O'Brien's Response Management Inc., a Louisiana corporation ("Contractor") for the purchase of a Hosted Public Information Crisis Management Communication Solution.

1.0 CONTRACT TERM:

- 1.1 This Contract is for a term of Five (5) years, beginning on the 23rd day of June, 2011 and ending the 30th day of June, 2016.
- 1.2 The County may, at its option and with the agreement of the Contractor, renew the term of this Contract for additional terms up to a maximum of Five (5) years, (or at the County's sole discretion, extend the contract on a month-to-month basis for a maximum of six (6) months after expiration). The County shall notify the Contractor in writing of its intent to extend the Contract term at least thirty (30) calendar days prior to the expiration of the original contract term, or any additional term thereafter.

2.0 FEE ADJUSTMENTS:

Any request for a fee adjustment must be submitted sixty (60) days prior to the current Contract expiration date. Requests for adjustment in cost of labor and/or materials must be supported by appropriate documentation. If County agrees to the adjusted fee, County shall issue written approval of the change. The reasonableness of the request will be determined by comparing the request with the (Consumer Price Index) or by performing a market survey.

3.0 ACCEPTANCE:

For Customer's initial purchase of each equipment and software product. Licensor shall provide an acceptance test period (the "Test Period") that commences upon Installation. Installation shall be defined as: a.) the site has been launched and provisioning / setup initiated. During the Test Period, Customer shall determine whether the Equipment and Software meet the Licensor published electronic documentation, ("Specifications"). The Test Period shall be for 90 days. If Customer has not given Licensor a written deficiency statement specifying how the equipment or software fails to meet the Specification ("Deficiency Statement") within the Test Period, the Equipment and Software shall be deemed accepted. If Customer provides a Deficiency Statement within the Test Period, Licensor shall have 30 days to correct the deficiency, and the Customer shall have an additional 60 days to evaluate the equipment and software. If the equipment or software does not meet the Specifications at the end of the second 30 day period, either Customer or Licensor may terminate this Contract. Upon any such termination, Customer shall return all equipment and software to Licensor, and Licensor shall refund any monies paid by Customer to Licensor therefore. Neither party shall then have any further liability to the other for the products that were the subject of the acceptance test.

4.0 PAYMENTS:

- 4.1 As consideration for performance of the duties described herein, County shall pay Contractor the sum(s) stated in Exhibit "A."

Effective 07/21/11

4.1.1 ~~Payment for the hosted solution shall be paid upon acceptance of the individual system thirty (30) days after 'go live'. Implementation services shall be paid based on agreed deliverables and final acceptance of the system per section 3.0.~~

Respondent shall invoice for the hosted solution upon Installation, as defined in Section 3.0. Payment will be made thirty (30) days after invoice is received.

4.1.2 The Respondent shall submit two (2) legible copies of their detailed invoice before payment(s) can be made. At a minimum, the invoice must provide the following information:

- Company name, address and contact
- County bill-to name and contact information
- Contract Serial Number
- County purchase order number
- Invoice number and date
- Payment terms
- Date of services
- Contract Item number(s)
- Description of Purchase (services)
- Pricing per unit of service
- Extended price
- Total Amount Due

4.1.3 Problems regarding billing or invoicing shall be directed to the County as listed on the purchase order.

4.1.4 Payment shall be made to the Contractor by Accounts Payable through the Maricopa County Vendor Express Payment Program. This is an Electronic Funds Transfer (EFT) process. After award the Contractor shall fill out an EFT Enrollment form located on the County Department of Finance Website as a fillable PDF document (www.maricopa.gov/finance/)

4.1.5 EFT payments to the routing and account numbers designated by the Contractor will include the details on the specific invoices that the payment covers. The Contractor is required to discuss remittance delivery capabilities with their designated financial institution for access to those details.

5.0 AVAILABILITY OF FUNDS:

5.1 The provisions of this Contract relating to payment for services shall become effective when funds assigned for the purpose of compensating the Contractor as herein provided are actually available to County for disbursement. The County shall be the sole judge and authority in determining the availability of funds under this Contract. County shall keep the Contractor fully informed as to the availability of funds.

5.2 If any action is taken by any state agency, Federal department or any other agency or instrumentality to suspend, decrease, or terminate its fiscal obligations under, or in connection with, this Contract, County may amend, suspend, decrease, or terminate its obligations under, or in connection with, this Contract. In the event of termination, County shall be liable for payment only for services rendered prior to the effective date of the termination, provided that such services are performed in accordance with the provisions of this Contract. County shall give written notice of the effective date of any suspension, amendment, or termination under this Section, at least ten (10) days in advance.

6.0 DUTIES:

6.1 The Contractor shall perform all duties stated in Exhibit "B", or as otherwise directed in writing by the Procurement Officer.

- 6.2 During the Contract term, County shall provide Contractor's personnel with adequate workspace for consultants and such other related facilities as may be required by Contractor to carry out its contractual obligations.

7.0 TERMS and CONDITIONS:

7.1 INDEMNIFICATION:

- 7.1.1 To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless County, its agents, representatives, officers, directors, officials, and employees from and against all claims, damages, losses and expenses, including, but not limited to, attorney fees, court costs, expert witness fees, and the cost of appellate proceedings, relating to, arising out of, or alleged to have resulted from the negligent acts, errors, omissions, mistakes or malfeasance relating to the performance of this Contract. Contractor's duty to defend, indemnify and hold harmless County, its agents, representatives, officers, directors, officials, and employees shall arise in connection with any claim, damage, loss or expense that is caused by any negligent acts, errors, omissions or mistakes in the performance of this Contract by the Contractor, as well as any person or entity for whose acts, errors, omissions, mistakes or malfeasance Contractor may be legally liable.
- 7.1.2 The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.
- 7.1.3 The scope of this indemnification does not extend to the sole negligence of County.

7.2 LIMITS OF LIABILITY:

- 7.2.1 Neither party shall be liable to the other party, and each party expressly releases the other party and its subcontractors from, any punitive, indirect, special, exemplary or consequential damages of any kind, including without limitation, lost profits or loss of use, regardless of the cause and legal theory of recovery.
- 7.2.2 Contractor's liability for any and all claims arising out of, or in connection with this Contract shall not exceed, in the aggregate, the fees paid by Contractor to County under this Contract in the 12 month period before the occurrence of the event giving rise to the claim.

7.3 INSURANCE REQUIREMENTS:

- 7.3.1 Contractor, at Contractor's own expense, shall purchase and maintain the herein stipulated minimum insurance from a company or companies duly licensed by the State of Arizona and possessing a current A.M. Best, Inc. rating of A-, VII or higher. In lieu of State of Arizona licensing, the stipulated insurance may be purchased from a company or companies, which are authorized to do business in the State of Arizona, provided that said insurance companies meet the approval of County. The form of any insurance policies and forms must be acceptable to County.
- 7.3.2 All insurance required herein shall be maintained in full force and effect until all work or service required to be performed under the terms of the Contract is satisfactorily completed and formally accepted. Failure to do so may, at the sole discretion of County, constitute a material breach of this Contract.
- 7.3.3 Contractor's insurance shall be primary insurance as respects County, and any insurance or self-insurance maintained by County shall not contribute to it.
- 7.3.4 Any failure to comply with the claim reporting provisions of the insurance policies or any breach of an insurance policy warranty shall not affect the County's right to coverage afforded under the insurance policies.

- 7.3.5 The insurance policies may provide coverage that contains deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall not be applicable with respect to the coverage provided to County under such policies. Contactor shall be solely responsible for the deductible and/or self-insured retention.
- 7.3.6 County reserves the right to request and to receive, within 10 working days, certified copies of any or all of the herein required insurance certificates. County shall not be obligated to review policies and/or endorsements or to advise Contractor of any deficiencies in such policies and endorsements, and such receipt shall not relieve Contractor from, or be deemed a waiver of County's right to insist on strict fulfillment of Contractor's obligations under this Contract.
- 7.3.7 The insurance policies required by this Contract, except Workers' Compensation, and Errors and Omissions, shall name County, its agents, representatives, officers, directors, officials and employees as Additional Insureds.
- 7.3.8 The policies required hereunder, except Workers' Compensation, and Errors and Omissions, shall contain a waiver of transfer of rights of recovery (subrogation) against County, its agents, representatives, officers, directors, officials and employees for any claims arising out of Contractor's work or service.
- 7.3.9 Commercial General Liability.
- Commercial General Liability insurance and, if necessary, Commercial Umbrella insurance with a limit of not less than \$1,000,000 for each occurrence, \$2,000,000 Products/Completed Operations Aggregate, and \$2,000,000 General Aggregate Limit. The policy shall include coverage for bodily injury, broad form property damage, personal injury, products and completed operations and blanket contractual coverage, and shall not contain any provision which would serve to limit third party action over claims. There shall be no endorsement or modification of the CGL limiting the scope of coverage for liability arising from explosion, collapse, or underground property damage.
- 7.3.10 Automobile Liability.
- Commercial/Business Automobile Liability insurance and, if necessary, Commercial Umbrella insurance with a combined single limit for bodily injury and property damage of not less than \$1,000,000 each occurrence with respect to any of the Contractor's owned, hired, and non-owned vehicles assigned to or used in performance of the Contractor's work or services under this Contract.
- 7.3.11 Workers' Compensation.
- 7.3.11.1 Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Contractor's employees engaged in the performance of the work or services under this Contract; and Employer's Liability insurance of not less than \$1,000,000 for each accident, \$1,000,000 disease for each employee, and \$5,000,000 disease policy limit.
- 7.3.11.2 Contractor waives all rights against County and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the Workers' Compensation and Employer's Liability or commercial umbrella liability insurance obtained by Contractor pursuant to this Contract.
- 7.3.12 Certificates of Insurance.
- 7.3.12.1 Prior to commencing work or services under this Contract, Contractor shall furnish the County with certificates of insurance, or formal endorsements as required by the Contract in the form provided by the County, issued by Contractor's insurer(s), as evidence that policies providing the required

coverage, conditions and limits required by this Contract are in full force and effect. Such certificates shall identify this contract number and title.

7.3.12.1.1 In the event any insurance policy (ies) required by this Contract is (are) written on a "claims made" basis, coverage shall extend for two (2) years past completion and acceptance of Contractor's work or services and as evidenced by annual Certificates of Insurance.

7.3.12.1.2 If a policy does expire during the life of the Contract, a renewal certificate must be sent to County fifteen (15) days prior to the expiration date.

7.3.13 Cancellation and Expiration Notice.

Insurance required herein shall not be permitted to expire, be canceled, or materially changed without thirty (30) days prior written notice to the County.

7.4 WARRANTY OF SERVICES:

7.4.1 The Contractor warrants that all services provided hereunder will conform to the requirements of the Contract, including all descriptions, specifications and attachments made a part of this Contract. County's acceptance of services or goods provided by the Contractor shall not relieve the Contractor from its obligations under this warranty.

7.4.2 In addition to other remedies provided herein, County may, at the Contractor's expense, require prompt correction of any services failing to meet the Contractor's warranty herein. Services corrected by the Contractor shall be subject to all the provisions of this Contract in the manner and to the same extent as services originally furnished hereunder.

7.4.3 EXCEPT FOR THE REPRESENTATIONS IN THIS CONTRACT, CONTRACTOR, DOES NOT MAKE ANY OTHER REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO ANY ERROR, DEFECT, OR DEFICIENCY RELATING TO THE GOODS AND SERVICES OR OTHER ITEMS FURNISHED BY OR ON BEHALF OF CONTRACTOR UNDER THIS CONTRACT (INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR USE AND TITLE OR NONINFRINGEMENT). CONTRACTOR DOES NOT WARRANT THAT THE GOODS AND SERVICES WILL BE ERROR-FREE, ALWAYS AVAILABLE, OR BE COMPLETELY SECURE.

7.5 INSPECTION OF SERVICES:

7.5.1 The Contractor shall provide and maintain an inspection system acceptable to County covering the services under this Contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to County during contract performance and for as long afterwards as the Contract requires.

7.5.2 County has the right to inspect and test all services called for by the Contract, to the extent practicable at all times and places during the term of the Contract. County shall perform inspections and tests in a manner that will not unduly delay the work.

7.5.3 If any of the services do not conform with Contract requirements, County may require the Contractor to perform the services again in conformity with Contract requirements, or increase in Contract amount. When the defects in services cannot be corrected by re-performance, County may:

7.5.3.1 Require the Contractor to take necessary action to ensure that future performance conforms to Contract requirements; and

7.5.3.2 Reduce the Contract price to reflect the reduced value of the services performed.

7.5.4 If the Contractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with Contract requirements, County may:

7.5.4.1 By Contract or otherwise, perform the services and charge to the Contractor any cost incurred by County that is directly related to the performance of such service; or

7.5.4.2 Terminate the Contract for default.

7.6 NOTICES:

All notices given pursuant to the terms of this Contract shall be addressed to:

For County:

Maricopa County
Department of Materials Management
Attn: Director of Purchasing
320 West Lincoln Street
Phoenix, Arizona 85003-2494

For Contractor:

O'Brien's Response Management Inc.
Attn: Keith Forster, CFO 2929 East Imperial Highway,
Suite 290 Brea, California 92821

7.7 REQUIREMENTS CONTRACT:

Contractor signifies its understanding and agreement by signing this document that this Contract is a requirements contract. This Contract does not guarantee any purchases will be made (minimum or maximum). Orders will only be placed when County issues a purchase order or a written notice to proceed.

7.8 TERMINATION FOR CONVENIENCE:

The County reserves the right to terminate the Contract, in whole or in part at any time, when in the best interests of the County without penalty or recourse. Upon receipt of the written notice, the Contractor shall immediately stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the County. 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 County upon demand, except as otherwise provided for in this Contract. 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.

7.9 TERMINATION FOR DEFAULT:

7.9.1 In addition to the rights reserved in the Contract, the County 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.

7.9.2 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 County on demand, except as otherwise provided in this Contract.

7.9.3 The County 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.

7.9.4 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.

7.10 STATUTORY RIGHT OF CANCELLATION FOR CONFLICT OF INTEREST:

Notice is given that pursuant to A.R.S. §38-511 the County may cancel this Contract without penalty or further obligation within three years after execution of the contract, if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the County is at any time while the Contract or any extension of the Contract is in effect, an employee or agent of any other party to the Contract in any capacity or consultant to any other party of the Contract with respect to the subject matter of the Contract. Additionally, pursuant to A.R.S §38-511 the County may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the County from any other party to the contract arising as the result of the Contract.

7.11 OFFSET FOR DAMAGES:

In addition to all other remedies at law or equity, the County may offset from any money due to the Contractor any amounts Contractor owes to the County for damages resulting from breach or deficiencies in performance under this contract.

7.12 ADDITIONS/DELETIONS OF SERVICE:

The County reserves the right to add and/or delete products and/or services provided under this Contract. If a requirement is deleted, payment to the Contractor will be reduced proportionately to the amount of service reduced in accordance with the proposal price. If additional services and/or products are required from this Contract, prices for such additions will be negotiated between the Contractor and the County.

7.13 RELATIONSHIPS:

In the performance of the services described herein, the Contractor shall act solely as an independent contractor, and nothing herein or implied herein shall at any time be construed as to create the relationship of employer and employee, partnership, principal and agent, or joint venture between the County and the Contractor.

7.14 SUBCONTRACTING:

The Contractor may not assign this Contract or subcontract to another party for performance of the terms and conditions hereof without the written consent of the County, which shall not be unreasonably withheld. All correspondence authorizing subcontracting must reference the Proposal Serial Number and identify the job project.

7.15 AMENDMENTS:

All amendments to this Contract shall be in writing and approved/signed by both parties. Maricopa County Materials Management shall be responsible for approving all amendments for Maricopa County.

7.16 RETENTION OF RECORDS:

7.16.1 The Contractor agrees to retain all financial books, records, and other documents relevant to this Contract for six (6) years after final payment or until after the resolution of any audit questions which could be more than six (6) years, whichever is longer. The County,

Federal or State auditors and any other persons duly authorized by the Department shall have full access to, and the right to examine, copy and make use of, any and all said materials.

- 7.16.2 If the Contractor's books, records and other documents relevant to this Contract are not sufficient to support and document that requested services were provided, the Contractor shall reimburse Maricopa County for the services not so adequately supported and documented.

7.17 **AUDIT DISALLOWANCES:**

If at any time, County determines that a cost for which payment has been made is a disallowed cost, such as overpayment, County shall notify the Contractor in writing of the disallowance. County shall also state the means of correction, which may be but shall not be limited to adjustment of any future claim submitted by the Contractor by the amount of the disallowance, or to require repayment of the disallowed amount by the Contractor.

7.18 **ALTERNATIVE DISPUTE RESOLUTION:**

- 7.18.1 After the exhaustion of the administrative remedies provided in the Maricopa County Procurement Code, any contract dispute in this matter is subject to compulsory arbitration. Provided the parties participate in the arbitration in good faith, such arbitration is not binding and the parties are entitled to pursue the matter in state or federal court sitting in Maricopa County for a de novo determination on the law and facts. If the parties cannot agree on an arbitrator, each party will designate an arbitrator and those two arbitrators will agree on a third arbitrator. The three arbitrators will then serve as a panel to consider the arbitration. The parties will be equally responsible for the compensation for the arbitrator(s). The hearing, evidence, and procedure will be in accordance with Rule 74 of the Arizona Rules of Civil Procedure. Within ten (10) days of the completion of the hearing the arbitrator(s) shall:

7.18.1.1 Render a decision;

7.18.1.2 Notify the parties that the exhibits are available for retrieval; and

7.18.1.3 Notify the parties of the decision in writing (a letter to the parties or their counsel shall suffice).

- 7.18.2 Within ten (10) days of the notice of decision, either party may submit to the arbitrator(s) a proposed form of award or other final disposition, including any form of award for attorneys' fees and costs. Within five (5) days of receipt of the foregoing, the opposing party may file objections. Within ten (10) days of receipt of any objections, the arbitrator(s) shall pass upon the objections and prepare a signed award or other final disposition and mail copies to all parties or their counsel.

- 7.18.3 Any party which has appeared and participated in good faith in the arbitration proceedings may appeal from the award or other final disposition by filing an action in the state or federal court sitting in Maricopa County within twenty (20) days after date of the award or other final disposition. Unless such action is dismissed for failure to prosecute, such action will make the award or other final disposition of the arbitrator(s) a nullity.

7.19 **OWNERSHIP:**

- 7.19.1 Contractor retains ownership of all right, title and interest (including all proprietary rights) in PIER, excluding the data content provided by the County ("Data Content"). Contractor will also own all software and other technology developed by Contractor under this Contract.

- 7.19.2 County agrees not to authorize or encourage anyone to (a) reverse engineer, decompile or disassemble any source code or otherwise attempt to discover any source code or trade

secrets related to the PIER, (b) modify or create derivative works based on the PIER, or (c) access or use the PIER except as expressly permitted hereunder.

7.19.3 County will not use any of Contractor's trademarks without Contractor's prior written approval. If Contractor approves, County will use Contractor's trademarks solely to identify County as a user of the PIER and in accordance with our trademark use guidelines. Contractor may terminate any right to use any trademark if County violates this Contract or if County's use is detrimental to Contract.

7.19.4 County will retain ownership of all right, title and interest in the Data Content. County grants Contractor a license to use, display, publish, transmit and otherwise use the Data Content to perform Contractor's obligations under this Contract.

7.20 SEVERABILITY:

The invalidity, in whole or in part, of any provision of this Contract shall not void or affect the validity of any other provision of this Contract.

7.21 RIGHTS IN DATA:

The County shall own have the use of all data and reports resulting from this Contract without additional cost or other restriction except as provided by law. Each party shall supply to the other party, upon request, any available information that is relevant to this Contract and to the performance hereunder.

7.22 INTEGRATION:

This Contract represents the entire and integrated agreement between the parties and supersedes all prior negotiations, proposals, communications, understandings, representations, or agreements, whether oral or written, express or implied.

7.23 VERIFICATION REGARDING COMPLIANCE WITH ARIZONA REVISED STATUTES §41-4401 AND FEDERAL IMMIGRATION LAWS AND REGULATIONS:

7.23.1 By entering into the Contract, the Contractor warrants compliance with the Immigration and Nationality Act (INA using e-verify) and all other federal immigration laws and regulations related to the immigration status of its employees and A.R.S. §23-214(A). 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 Immigration Reform and Control Act of 1986, as amended from time to time, for all employees performing work under the Contract and verify employee compliance using the E-verify system and shall keep a record of the verification for the duration of the employee's employment or at least three years, whichever is longer. I-9 forms are available for download at [USCIS.GOV](https://uscis.gov).

7.23.2 The County retains the legal right to inspect contractor and subcontractor employee documents performing work under this Contract to verify compliance with paragraph 7.23.1 of this Section. Contractor and subcontractor shall be given reasonable notice of the County's intent to inspect and shall make the documents available at the time and date specified. Should the County suspect or find that the Contractor or any of its subcontractors are not in compliance, the County will consider this a material breach of the contract and 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.

- 7.24 VERIFICATION REGARDING COMPLIANCE WITH ARIZONA REVISED STATUTES §§35-391.06 AND 35-393.06 BUSINESS RELATIONS WITH SUDAN AND IRAN:
- 7.24.1 By entering into the Contract, the Contractor certifies it does not have scrutinized business operations in Sudan or Iran. 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.
- 7.24.2 The County may request verification of compliance for any contractor or subcontractor performing work under the Contract. Should the County suspect or find that the Contractor or any of its subcontractors are not in compliance, the County 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.
- 7.25 CONTRACTOR LICENSE REQUIREMENT:
- 7.25.1 The Contractor shall procure all permits, insurance, licenses and pay the charges and fees necessary and incidental to the lawful conduct of his/her business, and as necessary complete any required certification requirements, required by any and all governmental or non-governmental entities as mandated to maintain compliance with and in good standing for all permits and/or licenses. The Contractor shall keep fully informed of existing and future trade or industry requirements, Federal, State and Local laws, ordinances, and regulations which in any manner affect the fulfillment of a Contract and shall comply with the same. Contractor shall immediately notify both Materials Management and the using agency of any and all changes concerning permits, insurance or licenses.
- 7.25.2 Contractor's furnishing finished products, materials or articles of merchandise that will require installation or attachment as part of the Contract, shall possess any licenses required. A Contractor is not relieved of its obligation to possess the required licenses by subcontracting of the labor portion of the Contract. Respondents are advised to contact the Arizona Registrar of Contractors, Chief of Licensing, at (602) 542-1525 to ascertain licensing requirements for a particular contract. Respondents shall identify which license(s), if any, the Registrar of Contractors requires for performance of the Contract.
- 7.26 CERTIFICATION REGARDING DEBARMENT AND SUSPENSION
- 7.26.1 The undersigned (authorized official signing for the Contractor) certifies to the best of his or her knowledge and belief, that the Contractor, defined as the primary participant in accordance with 45 CFR Part 76, and its principals:
- 7.26.1.1 are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;
- 7.26.1.2 have not within 3-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- 7.26.1.3 are not presently indicted or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
- 7.26.1.4 have not within a 3-year period preceding this Contract had one or more public transaction (Federal, State or local) terminated for cause of default.

7.26.2 Should the Contractor not be able to provide this certification, an explanation as to why should be attached to the Contact.

7.26.3 The Contractor agrees to include, without modification, this clause in all lower tier covered transactions (i.e. transactions with subcontractors) and in all solicitations for lower tier covered transactions related to this Contract.

7.27 PRICES:

Contractor warrants that prices extended to County under this Contract are no higher than those paid by any other customer for these or similar services.

7.28 GOVERNING LAW:

This Contract shall be governed by the laws of the state of Arizona. Venue for any actions or lawsuits involving this Contract will be in Maricopa County Superior Court or in the United States District Court for the District of Arizona, sitting in Phoenix, Arizona

7.29 ORDER OF PRECEDENCE:

In the event of a conflict in the provisions of this Contract and Contractor's license agreement, if applicable, the terms of this Contract shall prevail.

7.30 INCORPORATION OF DOCUMENTS:

The following are to be attached to and made part of this Contract:

7.30.1 Exhibit A, Pricing;

7.30.2 Exhibit B, Scope of Work;

7.30.3 Exhibit C, Materials Management Contractor Travel and Per Diem Policy

IN WITNESS WHEREOF, this Contract is executed on the date set forth above.

CONTRACTOR:

K. Tim Perkins
AUTHORIZED SIGNATURE

K. TIM PERKINS, CEO
PRINTED NAME AND TITLE
2929 E. IMPERIAL HWY., STE #290
BREA, CA 92821
ADDRESS

6/30/11
DATE

MARICOPA COUNTY:

[Signature]
CHIEF PROCUREMENT OFFICER

6/24/11
DATE

APPROVED AS TO FORM:

[Signature]
LEGAL COUNSEL

June 23 2011
DATE

**EXHIBIT A
PRICING**

SERIAL 11022-RFP NIGP CODE: 92003

| | |
|-----------------------------------------|--------------------------------|
| RESPONDENT'S NAME: | O'Brien's Response Management |
| COUNTY VENDOR NUMBER : | 2011000871 |
| ADDRESS: | 6620 Cypresswood Dr. Suite 200 |
| | Spring, TX 77379 |
| P.O. ADDRESS: | |
| TELEPHONE NUMBER: | 480-619-6003 |
| FACSIMILE NUMBER: | |
| WEB SITE: | www.obriensrm.com |
| CONTACT (REPRESENTATIVE): | Charles Mancini |
| REPRESENTATIVE'S E-MAIL ADDRESS: | charles.mancini@obriensrm.com |

WILL ALLOW OTHER GOVERNMENTAL ENTITIES TO PURCHASE FROM THIS CONTRACT YES NO

WILL ACCEPT PROCUREMENT CARD FOR PAYMENT

WILL OFFER REBATE (CASH OR CREDIT) FOR UTILIZING PROCUREMENT CARD (Payment shall be made within 48 hours of utilizing the Purchasing Card)

RESPONDENT IS REQUIRED TO PICK ONE OF THE FOLLOWING PAYMENT TERMS FAILURE TO INDICATE PAYMENT TERMS WILL RESULT IN A DEFAULT TO NET 30 DAYS RESPONDENT MUST INITIAL THEIR SELECTION BELOW

NET 30 DAYS 2% 10 DAYS NET 30 DAYS 5% 30 DAYS NET 31 DAYS

| | <u>YEAR 1</u> | <u>YEAR 2</u> | <u>YEAR 3</u> | <u>YEAR 4</u> | <u>YEAR 5</u> |
|----------------------------------------------------------------|-----------------|-----------------|-----------------|-----------------|-----------------|
| 1.0 INITIAL INSTALLATION AND SETUP AS PROPOSED | | | | | |
| Includes: Integration support, training & technical assistance | \$7,500 | \$- | \$- | \$- | \$- |
| 2.0 HOSTING FEE | | | | | |
| Includes: Annual support, training and technical assistance | \$14,667 | \$13,200 | \$12,906 | \$12,467 | \$12,026 |
| 3.0 ADDITIONAL COSTS (LIST AS NEEDED) PIER | | | | | |
| Media Tools | \$15,600 | \$15,600 | \$15,600 | \$15,600 | \$15,600 |
| WebEOC-PIER System Connector | \$5,000 | \$- | \$- | \$- | \$- |
| TOTAL | \$42,767 | \$28,800 | \$28,506 | \$28,067 | \$27,626 |

Optional Items:

| | |
|------------------------------------------|----------------|
| Text to Voice calling (US only) | \$.24/minute |
| SMS Text messaging (Inbound or Outbound) | \$.04/message |

EXHIBIT B SCOPE OF WORK

1.0 INTENT:

The Maricopa County Department of Public Health, Office of Preparedness and Response (OPR) intend to purchase a web-based communication management system for handling media/stakeholder relations in a crisis event. Target groups include local media, hospitals, governmental partners and other stakeholders. This system will be completely compatible with Maricopa County's existing Incident Management System (WebEOC) **Note: This is only for Public Information/Communication's piece of the system, not for a complete Incident Management System.**

2.0 SCOPE OF WORK:

The solution shall have a publishing system for establishing and operating crisis versions of internet web pages. This shall include creating, editing, approval and publishing of content. The software system shall fully support the development and management of all National Incident Management System (NIMS) and Incident Command System (ICS) forms, shall provide full automatic documentation capability, shall not require custom modification to meet OPR's needs for ICS-based response, shall not require in-house IT or system development and should provide data integration with WebEOC, its existing Web-enabled emergency management communications system.

The proposed solution must include all services required to successfully implement and manage the project including setup services such as training and integration support, and ongoing services such as application hosting and upgrades, training, and 24X7 technical support.

CONTRACTOR RESPONSE:

The PIER solution has a publishing system for establishing and operating crisis versions of internet web pages. This includes creating, editing, approving and publishing content. Our software system fully supports the development and management of all National Incident Management System (NIMS) and Incident Command System (ICS) forms. This provides full automatic documentation capability and does not require custom modification to meet your needs for ICS-based response. The PIER system does not require any in-house IT or system development support.

PIER includes all services required to successfully implement and manage the project including setup services such as training, data integration support and ongoing services. These ongoing services include hosting the PIER application, upgrades, training and 24/7 technical support. The pricing structure provided is straightforward and contains no hidden or variable cost (please reference attachment A).

2.1 SYSTEM REQUIREMENTS:

- 2.1.1 Solution is a commercial off-the-shelf (COTS) product and requires no custom programming or redesign to meet OPR requirements.

PIER is a COTS solution designed to meet OPR requirements without custom programming or redesign.

- 2.1.2 Contractor must demonstrate the ability to launch the application within five (5) days of contract award with full implementations completed within thirty (30) days of contract award.

The PIER system easily complies with this defined issue provided the scope of this requirement does not change.

- 2.1.3 Integration of all major Joint Information System (JIS) functions including information gathering, document production, multi-mode distribution, inquiry management, Web

content management, media monitoring, community monitoring and management reporting.

Our system conforms to requirements of the National Response Team JIC Model, the FEMA PIO Guidance Manual and ESF15 for Joint Information Systems and Joint Information Center operations.

- 2.1.4 Ability to create press releases to be posted at dedicated sites, distributed to journalists via multiple channels, and to dark pages in case of an emergency. Dark pages shall be unsearchable and untraceable after the incident is over.

PIER provides the ability to create press releases to be posted at dedicated sites, distributed to journalists via multiple channels, and to dark pages in case of an emergency.

- 2.1.5 Ability to control approval processes to help insure information is released via website, email, text, and other means only after it has been approved by authorized approvers.

Documents can be accessed by users with appropriate permissions for review, editing, commenting and approval. This system does not allow publishing content to a website or distribution list of contacts without approval by designated personnel.

- 2.1.6 Ability to generate pre-approved content for immediately delivery to those submitting queries.

PIER allows for an unlimited list of pre-approved content or "Answers" logged as approved responses for frequently asked questions.

- 2.1.7 All site content can be fully managed by authorized users without IT or vendor support.

PIER does not require IT or vendor support.

- 2.1.8 Data integration between the incident command management functions (WebEOC) and public communication functions to provide real-time incident information in draft form for potential public release.

PIER can easily be integrated with incident management systems such as WebEOC.

- 2.1.9 Ability to create journalist lists to push local stories out potentially in every market.

Through the PIER media tools function, fully maintained media lists created from a database of over 300,000 journalists can be added to contact groups for release distribution.

- 2.1.10 Ability to have all correspondence with every journalist in the system to ensure consistent messaging to the individual.

PIER offers this capability through our documents and inquiry management functions.

- 2.1.11 Ability to track health related issues from blogs, news sites and twitter.

PIER provides integrated searching of blogs, Web news sites, social media sites, network news and print media.

- 2.1.12 Ability to post messages to audiences in case of an emergency through Short Message Service/Texting voicemail, email, web and Twitter by a push of a button.

PIER has the ability to send notifications to employees via SMS text message, automated voice message (text-to-voice), email, fax, RSS feeds and social networks including Twitter, Facebook and LinkedIn.

2.1.13 Ability to post important information like flu precautionary measures or provider alerts.

PIER is able to publish messages via SMS, Text to Voice, email, web and RSS feed which can feed social media. Direct 2-way social media connectivity will be released in June, 2011.

2.1.14 Minimum of 10 GB of storage space.

Each PIER site comes with 10GB of storage space. Additional space runs \$5.00/GB per month.

2.1.15 SSL (Secure Sockets Layer) Certificates

PIER utilizes Thawte SSL Certificates

2.1.16 Backup Methodology and Backup Maintenance Timeframe

Nightly full backups are performed at both the primary and failover locations. Real time replication also runs between sites.

2.1.17 Physical Location of Server and the disaster recovery (DR) Plan for the location – Fail Over Solution

PIER's primary servers are located in Ashburn, VA (USA) with fail over servers located in Bellingham, WA (USA).

2.1.18 Survey function to solicit feedback from stakeholders

PIER allows users to create custom integrated web surveys. Online survey responses are automatically forwarded to pre-set email address. Survey results may also be exported to Excel.

2.1.19 All work shall be NIMS compliant.

PIER supports NIMS as it is accessible to participants from different agencies and organizations facilitating use as a Joint Information Center platform.

2.2 SYSTEM FUNCTIONALITY:

2.2.1 Compatible with mobile uploads and applications (Blackberry/iPhone/Android).

The external web presence of PIER is accessible from most internet enabled devices such as a laptop, mobile phone, PDA or Smartphone such Blackberry.

2.2.2 System shall receive messages from SMS/Text

System accepts multiple check-in options including email and SMS text messages.

2.2.3 Integrated PDF printing functionality

PDF printing capabilities

- 2.2.4 Compatible with Microsoft office. Lists shall be exportable to Excel.
Files in PIER are easily exported into Excel's compatible CSV (Comma Separated Variable) format.
- 2.2.5 Document creation, editing, approvals
Documents are easily created and accessed by internal personnel. Users with set permissions are able to review, edit, comment and approve content.
- 2.2.6 Inquiry Management. All incoming inquires and outgoing responses shall be logged
PIER logs all inquiry communication
- 2.2.7 Multi channel distribution
PIER can send distributions via web, email, SMS,RSS,fax and text-to- voice.
- 2.2.8 The system shall have alert capabilities on SMS, e-mail and voice mail
Alerts in PIER are sent via SMS,email and text-to-voice.
- 2.2.9 The system should allow for real time editing with all users. The system shall support the ability to draft, vet, and obtain multiple approvals.
Document drafts are edited in real-time by any one user with given permissions. These documents stay in a draft stage and are easily forwarded, by email, to individuals or groups for review, editing and approval.
- 2.2.10 The system should have the ability to integrate with social media like Facebook and Twitter. Multiple social media accounts are preferred.
PIER can currently update Twitter and Facebook via RSS feeds. Direct API integration that allows for 2-way communication between Twitter, Facebook and PIER will be available August2011.

2.3 MAINTENANCE AND SUPPORT:

- 2.3.1 Support organization. Contractor shall have an organization which is able to receive, record and respond to all queries from OPR during normal working hours of 8 to 5, M-F (AZ time), except county holidays. In the case of a crisis the Contractor shall have 24/7 support. When errors occur which prevent any further operation of the Software or parts thereof, Contractor shall have qualified staff available for correcting the error according to the service level specified in article.
PIER Staff is currently available from 8-5 Pacific Time (GMT-8) after hours support is included and support staff is available for response 24/7.
- 2.3.2 If Contractor offers electronic access to Contractor's systems/databases for recording and following up errors, OPR may at his own expense establish a network connection with Contractor. However, Contractor shall seek to facilitate any such access.
Not Available at this time
- 2.3.3 Error correction. When errors occur which prevent further operation of the Software, the Contractor shall have qualified staff available who will be able to start correcting the error without undue delay and no later than in the course of the next workday. The

Contractor shall provide customer with feedback on the nature of error(s) and timeline for its resolution. Other errors shall be corrected and included in the periodically released software versions.

Contractor will provide updates, fixes and patches available to correct errors which arise with the Software. When errors occur preventing any further operation of the software or parts thereof, the contractor will have qualified staff available whom are able to start correcting the error without undue delay. This process will take no later than the course of the next business day. The contractor will provide the required resources to ensure that the error is corrected as soon as possible. The availability of qualified personnel applies even when the contractor decides to perform the correction work at company's premises. Until the errors have been corrected, the contractor shall continuously provide company with feedback concerning the status of the correction work.

- 2.3.4 Software enhancements. Contractor shall work actively to correct and improve the mode of operation, as well as to modify and implement new Software functionalities. These activities shall result in new software versions. Updates and improvements shall be part of the Software.

PIER Systems at its discretion, may offer modules such as GIS, social media or others, as a feature add-on to the base product. These modules mayor may not carry an additional cost.

- 2.3.5 Documentation. Contractor shall keep the documentation for the Software updated at all times. Updates must be forwarded to Customer immediately after changes have been implemented/errors have been corrected, and always together with new software versions.

PIER systems may or may not update the documentation if the new software versions do not change the user interface.

- 2.3.6 Updates for new versions of the operating system. Contractor shall adjust the Software so that it is compatible with new versions of the operating system under which OPR runs the Software. Such adjustments shall be delivered to Customer within 6 months after the new version of the operating system has been made available in the market.

PIER supports the most recent two versions of Internet Explorer and Firefox.

- 2.3.7 During Crisis Situation, the Contractor shall have a dedicated team available on standby to fix any issues that might arise in the system.

Fee based crisis event and after hours support and support staff is available for response 24/7.

2.4 REPORTING REQUIREMENTS:

2.4.1 Application availability

PIER is a SaaS application and as such, maintenance occurs for all customers at the same time. Maintenance windows are typically scheduled on Tuesday evenings from 7-10pm. PT (GMT-8). The majority of maintenance windows do not result in the application being unavailable. For maintenance windows where the application will be unavailable, a minimum of two weeks notice is provided. Over the past 12 months, only 4-minutes and 30-seconds of unscheduled downtime were recorded. This equates to a total of 99.9899% uptime.

2.4.2 Incidents resolved with mean elapsed time

PIER will provide this information on a quarterly basis.

2.4.3 Bugs identified and measures to fix it

PIER will provide this information on a quarterly basis.

2.4.4 Confirmation of communications delivered from system

PIER has reporting capabilities that report which users have been delivered notifications and more specifically, what users have opened the distribution.

2.4.5 Maintenance/Updates Schedules

PIER is a SaaS application. This means maintenance occurs for all customers at the same time. Maintenance windows are typically scheduled on Tuesday evenings from 7-10pm. PT(GMT-8). The majority of maintenance windows do not result in the application being unavailable. For maintenance windows where the application will be unavailable, a minimum of two weeks notice will be provided.

2.5 HOSTING, SECURITY, AND DATA PRIVACY REQUIREMENTS:

2.5.1 Provide a turnkey solution that includes hosting of the application in an environment that supports all other requirements.

PIER is a turnkey web based communication management platform.

2.5.2 Host the application in a Tier Three Data Center environment with redundant connectivity and appropriate physical and electronic back-up systems.

Primary servers are located at Rackspace in Ashburn, VA (USA); this is a Tier III facility. Fail over servers are located in Bellingham, WA (USA). Each night, full backups are performed at both the primary and fail over locations. Real time replication also runs between sites.

2.5.3 Demonstrate application hosting up time of greater than 99% over a minimum of a three-year period.

For the past 12 months, PIER logged a total of 4-minutes and 30-seconds of unscheduled downtime. That works out to 99.9899% uptime for our application. Over the past three years only 22 minutes of total downtime were unscheduled.

2.5.4 Does not require the County to purchase or install software/hardware.

PIER is a SaaS based solution. The County does not need to purchase or install server based software or hardware.

2.5.5 Firewall Restrictions to access the application from County's Network.

PIER is supported on the latest two versions of Internet Explorer as well as the latest two versions (N-1) of Firefox. Standard ports 80 and 443 must be available for successful access to the application.

- 2.5.6 Ensure that the County maintains ownership of all data stored in the application. The Contractor is allowed to maintain the information for purposes of providing the service; the County would have full access to the data at anytime.

The PIER contract explicitly states that all data added by the customer is the sole property of that customer. PIER does not monitor, access or share your data. Additionally, PIER employees will only access your site for initial setup purposes or to provide technical support.

- 2.5.7 Provide detailed description as to the security of the system and any certification that ensures secure communications with its environment.

Encrypted transfer of passwords, user names and other sensitive data are used. We will make commercially reasonable efforts to protect program and data access through utilization of SSL certificates, which allows encrypted transmission of sensitive data, along with assurance that the data is being sent to the correct destination. PIER utilizes Thawte SSL certificates the PIER data center has comprehensive physical security systems and back-up servers are in a geographically different location.

PIER offers a NIST 800-53 certified version of the platform.

EXHIBIT C**Contractor Travel and Per Diem Policy**

- 1.0 All contract-related travel plans and arrangements shall be prior-approved by the County Contract Administrator.
- 2.0 Lodging, per diem and incidental expenses incurred in performance of Maricopa County/Special District (County) contracts shall be reimbursed based on current U.S. General Services Administration (GSA) domestic per diem rates for Phoenix, Arizona. Contractors must access the following internet site to determine rates (no exceptions): www.gsa.gov
 - 2.1 Additional incidental expenses (i.e., telephone, fax, internet and copying charges) shall not be reimbursed. They should be included in the contractor's hourly rate as an overhead charge.
 - 2.2 The County will not (under no circumstances) reimburse for Contractor guest lodging, per diem or incidentals.
- 3.0 Commercial air travel shall be reimbursed as follows:
 - 3.1 Coach airfare will be reimbursed by the County. Business class airfare may be allowed only when preapproved in writing by the County Contract Administrator as a result of the business need of the County when there is no lower fare available.
 - 3.2 The lowest direct flight airfare rate from the Contractors assigned duty post (pre-defined at the time of contract signing) will be reimbursed. Under no circumstances will the County reimburse for airfares related to transportation to or from an alternate site.
 - 3.3 The County will not (under no circumstances) reimburse for Contractor guest commercial air travel.
- 4.0 Rental vehicles may only be used if such use would result in an overall reduction in the total cost of the trip, not for the personal convenience of the traveler. Multiple vehicles for the same set of travelers for the same travel period will not be permitted without prior written approval by the County Contract Administrator.
 - 4.1 Purchase of comprehensive and collision liability insurance shall be at the expense of the contractor. The County will not reimburse contractor if the contractor chooses to purchase these coverage.
 - 4.2 Rental vehicles are restricted to sub-compact, compact or mid-size sedans unless a larger vehicle is necessary for cost efficiency due to the number of travelers. (NOTE: contractors shall obtain pre-approval in writing from the County Contract Administrator prior to rental of a larger vehicle.)
 - 4.3 County will reimburse for parking expenses if free, public parking is not available within a reasonable distance of the place of County business. All opportunities must be exhausted prior to securing parking that incurs costs for the County. Opportunities to be reviewed are the DASH; shuttles, etc. that can transport the contractor to and from County buildings with minimal costs.
 - 4.4 County will reimburse for the lowest rate, long-term uncovered (e.g. covered or enclosed parking will not be reimbursed) airport parking only if it is less expensive than shuttle service to and from the airport.
 - 4.5 The County will not (under no circumstances) reimburse the Contractor for guest vehicle rental(s) or other any transportation costs.
- 5.0 Contractor is responsible for all costs not directly related to the travel except those that have been pre-approved by the County Contract Administrator. These costs include (but not limited to) the following: in-room movies, valet service, valet parking, laundry service, costs associated with storing luggage at a hotel, fuel costs associated with non-County activities, tips that exceed the per diem allowance, health club fees,

and entertainment costs. Claims for unauthorized travel expenses will not be honored and are not reimbursable.

- 6.0 Travel and per diem expenses shall be capped at 15% of project price unless otherwise specified in individual contracts.

O'BRIEN'S RESPONSE MANAGEMENT, 6620 CYPRESSWOOD DR. SUITE 200, SPRING, TX 77379

PRICING SHEET: NIGP CODE 9200301

Vendor Number: 2011000871 0

Certificates of Insurance Required

Contract Period: To cover the period ending **June 30, 2016.**