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Results

Contract/Blankets #	Bid #	Description	Vendor Name	Type Code	Begin Date	End Date
ADSPO13-046426	ADSPO13-00002850	Fencing Materials - Statewide	WESTERN FENCE COMPANY	SW	05/09/2013	11/08/2016
ADSPO13-046427	ADSPO13-00002850	Fencing Materials - Statewide	AMERICAN FENCE AND SECURITY CO INC	SW	05/09/2013	11/08/2016

Exit

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	Contract Change Order Summary	State of Arizona State Procurement Office 100 N. 15TH Avenue, Suite 201 Phoenix, AZ 85007
	Contract No.: ADSPO13-046426	
	Change Order No.: 04 / Date: February 9, 2015	

The above mentioned contract is hereby amended as follows;

A. In accordance with Special Terms and Conditions Section 2 Contract Extension, the contract is hereby extended through May 8, 2016.

B. Special Terms and Conditions Section 6, Eligible Agencies, is hereby modified and shall read as follows;

6. ELIGIBLE AGENCIES (STATEWIDE)

This Contract shall be for the use of all State of Arizona departments, agencies, commissions and boards. In addition, eligible State Purchasing Cooperative members may participate at their discretion. In order to participate in this contract, a cooperative member shall have entered into a Cooperative Purchasing Agreement with the Department of Administration, State Procurement Office as required by Arizona Revised Statues § 41-2632.

Membership in the State Purchasing Cooperative is available to all Arizona political subdivisions including cities, counties, school districts, and special districts. Membership is also available to all non-profit organizations, as well as State governments, the US Federal Government and Tribal Nations. Non-profit organizations are defined in A.R.S. § 41-2631(4) as any nonprofit corporation as designated by the internal revenue service under section 501(c)(3) through 501(c)(6).

ALL OTHER REQUIREMENTS, SPECIFICATIONS, TERMS AND CONDITIONS REMAIN UNCHANGED

ACKNOWLEDGEMENT AND AUTHORIZATION

This change order shall be fully executed upon the approval electronically in ProcureAZ by an authorized representative of the Contractor and applied to the contract in ProcureAZ by the Procurement Officer or delegate.

	Contract Change Order Summary		State of Arizona State Procurement Office 100 N. 15TH Avenue, Suite 201 Phoenix, AZ 85007
	Contract No.: ADSPO13-046427		
	Change Order No.: 03	Date: February 09, 2015	

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Notice of Invitation for Bid

In accordance with A.R.S. § 41-2533, competitive sealed bids for the materials or services specified, will be received by the State Procurement Office **online** through the State's e-Procurement system, ProcureAZ (https://procure.az.gov) at the date and time posted in ProcureAZ. Bids received by the correct time and date will be opened and the name of each bidder and amount of each bid will be publically available. **Bids must be in the actual possession of the State on or prior to the time and date indicated in the Notice. Late bids will not be considered.**

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the appropriate Procurement Agency. Requests should be made as early as possible to allow time to arrange the accommodation. A person requiring special accommodations may contact the solicitation contact person responsible for this procurement as identified above.

OFFERORS ARE STRONGLY ENCOURAGED TO CAREFULLY READ THE ENTIRE SOLICITATION.

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"All pricing must be entered in Line Items on ProcureAZ"

Offer and Acceptance

Solicitation No: ADSPO13-00002850

Description: Fencing Materials

State of Arizona
State Procurement Office
100 N.15th Ave., Suite 201
Phoenix, AZ 85007

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.

Arizona Transaction (Sales) Privilege Tax License No.:

_____

Federal Employer Identification No.:

_____ _____ _____

E-mail: _____

Phone: _____

Fax: _____

_____
Company Name

_____
Signature of Person Authorized to Sign Offer

_____
Address

_____
Printed Name

_____
City State Zip

_____
Title

By signature in the Offer section above, the Offeror certifies:

1. The submission of the Offer did not involve collusion or other anticompetitive practices.
2. The Offeror shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, State Executive Order 2009-09 or A.R.S. §§ 41−1461 through 1465.
3. The Offeror 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 Offeror certifies that the above referenced organization ____**IS/** ___**IS NOT** a small business with less than 100 employees or has gross revenues of $4 million or less.
5. In accordance with A.R.S. §35−393, the offeror hereby certifies that the Offeror does not have scrutinized business operations in Iran.
6. In accordance with A.R.S. §35−391, the offeror hereby certifies that the Offeror does not have scrutinized business operations in Sudan.

ACCEPTANCE OF OFFER

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. _____. 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.

State of Arizona
Awarded this _____ **day of** _____ **20** _____

_____
Procurement Officer

1. Introduction

The State of Arizona, its Agencies, Boards and Commissions (State) as well as Participating Members of the State Purchasing Cooperative (Cooperative), have an ongoing requirement for fencing materials as described herein. The purpose of this solicitation is to conduct a competitive process, in accordance with Arizona Revised Statutes (ARS) 41-2501 et seq., to create a contract(s) from which the State and its Cooperative Members may acquire these products and services.

2. Background and Capacity

2.1 The State desires to establish a Contract or Contract Set to supply and deliver the herein specified Fencing Materials, F.O.B Destination Freight Prepaid. Contract(s) resulting from this solicitation will be used by multiple eligible agencies with delivery locations throughout the State. No guarantee of the actual quantities is implied or expressed by this solicitation. Requirements shall be based on actual need.

2.2 The Contractor shall have certain capacities and support mechanisms in place for the successful performance of this contract. The Contractor shall have the ability to ensure acceptable performance under a statewide contract. This includes the ability to create and manage numerous individual accounts for order placement, billing and reporting purposes. The contractor shall also be able to combine accounts of smaller agencies for an aggregate total on same day orders to meet minimum order requirements.

2.3 Products must be available for ordering at the time of contract award and throughout the life of the contract. Changes to products that are available under any resultant contract cannot be made without prior written approval from the State.

3. Statewide Delivery

3.1 The Contractor shall have inventory and transportation capacities sufficient to meet statewide customer demand and contract delivery requirements as stated in this solicitation.

3.2 The Contractor shall provide inside delivery to a specific location at no extra charge, upon customer request. Inside delivery shall be defined as delivery of the product inside the customer's business, building or outer property grounds.

3.3 Contractor shall clearly describe their policies that are in place for delivery completion time frame and minimum delivery commitment to any statewide location. (See attachment III)

4. General Fencing Requirements

4.1 All fencing materials shall meet or exceed American Society for Testing and Materials (ASTM) standards for various materials specified herein.

4.2 **Commercial Chain Link** specification A392-96 for zinc-coated or A491-96 aluminum-coated steel to be provided for a safe and secure work environment with economical options to secure perimeters and/or to enclose hazardous areas from the public.

4.2.1 Fence specifications are based on the height of the fence and desired strength for the application: light, medium or heavy-duty construction. The gauge, wall thickness and the mesh fabric specifications are critical to the strength, long term durability and quality of chain-link fence. Mesh size is the distance between two parallel wires in the fabric. Common mesh sizes are approximately two inches and smaller sizes shall be used for added safety and security.

4.2.2 Chain-link fabric gauge size is measured by the diameter of the wire with common sizes as follows:

- 6 gauge = .192 inches
- 9 gauge = .148 inches
- 11 gauge = .120 inches
- 12 gauge = .106 inches

4.2.3 Chain link shall be available in a variety of heights from three feet to twelve feet. The Top Rail supports fence fabric between line posts and corner posts. Line post is generally on 10 foot centers to support the top rail.

4.3 **Barbed Wire Fencing** shall include gates, posts, braces and fittings and shall have a minimum of four wires from structures in accordance with Conservation Practice Standards.

4.3.1 Each line wire shall consist of two twisted strands of 12 ½ gauge wire or high tensile strength wire of 15 ½ gauge. Wires should be attached to the side of the post on corners or in curves. Posts with braces shall be spaced 12' to 16' apart unless stays are used between posts the spacing shall not exceed 30 feet.

4.3.2 Wood line posts must have a minimum of 3" top diameter and a length of 6' and be driven a minimum depth of 24". Steel posts shall be driven minimum 18" deep using standard "T" or "U" shaped steel posts minimum of 5.5' long.

4.4 **Woven Wire Fencing** shall conform to requirements ASTMA 116 and is designated by gauge number and the diameter shall be as defined for U.S. Steel Wire Gauge Woven wire Class 3 zinc coated, unless otherwise specified. High-tensile wire shall have Type I zinc coating, unless otherwise specified. Tension wires shall have a strength not less than 58,000 lbs per square inch. Stays, fasteners and tension wire shall have Class 3 zinc coating as specified in ATNMA 641.

4.5 **Snow Fencing** high density polyethylene orange, tensile strength 370 lbs per foot, with vertical holes nominal mesh opening 1 ¼" x 1 ¼", temperature range 60 degrees to 180 degrees Fahrenheit, Resinet SF50 with standard weight 40 lbs for a 4' x 100' roll. Materials should maintain a nominal mesh opening of 55% to insure optimum snow control with an extended service life for heavy duty service and greater wind loading.

4.6 **Commercial Wrought Iron Fencing** styles include flat top, extended picket, staggered extended picket, pressed spear, staggered pressed spear and curved top and include the following sizes:

2-Rail	3-Rail
34"	34"
46"	46"
58"	58"
70"	70"
	82"
	94"

Construction is G90 galvanized steel with zirconium oxide treatment and black premium powder coat with 680 lb mid-span load per rail. Components to include 18 gauge G90 slide lock rail, 24" x 8' adjustable panels and pickets.

4.7 **Temporary Fencing** for Construction or other Industrial or Safety use, typical size 60" x 50', to be rented and returned at end of project unless otherwise specified at the time of order by eligible agencies.

4.8 **Wood Fencing** types constructed of Pine, Cedar, Redwood or related materials to F537-01 Standard Specification.

4.8.1 Related materials include C5: Fence Post, C9: Plywood, F11222: Hardware for Wood Fencing M4: Care of pressure treated wood projects, PS1-74: Softwood Plywood, PS20-70: Softwood Lumber and TT-W-572B: Wood Preservative water repellent.

4.8.2 Ordering specifications to include grade of lumber, size of post, depth posts to be set (all post should be set at 1/3 of their total length buried into the ground depending on fence style and surrounding climate). Posts can be set in concrete for a long lasting durability, extending the lifespan of a wood fence.

4.8.3 A six foot fence should use three back rails and a four-five foot fence should use minimum of two back rails.

4.84 Finishing details include Post caps and finials to provide architectural support to fencing projects.

4.9 **Gates** for crossroads, large sliding gates for property entrances 25' – 38'6"and other gates of various materials and sizes as required for eligible agencies.

4.9.1 Fence Gates of steel, wood, wrought iron or other materials and size as required

4.9.2 Javalina gates 48" x 60" Iron and wood composition

4.9.3 Livestock gates 12 ' - 14' – 16', Steel ranch gates

4.9.4 Road entry gates including concrete padwork as required

4.9.4 Other materials as requested and required for quote by eligible agencies

5. Fencing and Gate Installation

5.1 Installation shall be allowed under this Statewide Solicitation rate to be quoted and determined at the labor rates entered as pricing line items in ProcureAZ. Installation rates to be quoted and negotiated by the eligible agency prior to start of the project. No work may begin until a Purchase Order is issued for agreed upon rates and services. Likewise, components and any additional construction materials and gates to be quoted prior to commencement of work and must be part of a firm purchase order to be paid at the end of the job.

5.2 The Contractor will have the opportunity to indicate their availability and prepare a proposal, inclusive of all costs for the Project in accordance with the following guidelines:

- Name, Address and location of the Project(s)
- Tasks/milestones, estimated key personnel, number of hours and estimated deadline
- Deliverables, assumptions and variables
- Sub-Contracts, if applicable
- Reporting requirements
- Fixed prices and pricing schedules
- Quoted pricing to include installation of fencing materials, parts (including all hardware, strain posts, t-posts, weights, concrete, gates, hinges and latches), labor, removal and disposal of existing fence in accordance with IFB requirements and specifications.

5.3 The Eligible Agency shall assume the following responsibility:

- Prepare and finalize the Project Quotation prior to commencing work
- Issue purchasing documents prior to commending work
- Prepare and present available pertinent documents and information for Project Manager
- Provide Contractor with Onsite Agency Representative contact information for the duration of the Project.

5.4 All freight shall be included in price proposals submitted by the Contractor(s).

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1. TERM OF CONTRACT

The contract shall begin upon the date of Contract award and shall continue for a term of one (1) year, unless terminated or extended in accordance to the terms of this contract.

2. CONTRACT EXTENSION

The initial contract term is subject to additional successive extensions up to 48 months with a maximum aggregate contract term including all extensions not to exceed five (5) years.

3. CONTRACT TYPE

The contract shall be firm fixed and percentage off catalog/list price.

4. NON-EXCLUSIVE CONTRACT

This contract has been 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 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.

5. PANDEMIC CONTRACTUAL PERFORMANCE

The Contractor shall have a plan that illustrates how the contractor shall perform up to contractual standards in the event of a pandemic. The state may require a copy of the plan at anytime prior or post award of a contract. At a minimum, the pandemic performance plan shall include: (i) Key succession and performance planning if there is a sudden significant decrease in contractor's workforce; (ii) Alternative methods to ensure there are products in the supply chain; and (iii) An up to date list of company contacts and organizational chart.

In the event of a pandemic, as declared by the Governor of Arizona, U.S. Government or the World Health Organization, which makes performance of any term under this contract impossible or impracticable, the State shall have the following rights: (i) After the official declaration of a pandemic, the State may temporarily void the contract(s) in whole or specific sections if the contractor cannot perform to the standards agreed upon in the initial terms; (ii) The State shall not incur any liability if a pandemic is declared and emergency procurements are authorized by the director as per § 41-2537 of the Arizona Procurement Code; and (iii) Once the pandemic is officially declared over and/or the contractor can demonstrate the ability to perform, the State, at its sole discretion may reinstate the temporarily voided contract(s).

The State, at any time, may request to see a copy of the written plan from the contractor. The contactor shall produce the written plan within 72 hours of the request.

6. 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, State Procurement Office as required by Arizona Revised Statutes § 41-2632.

7. ESTIMATED QUANTITIES (CONSIDERABLE)

The State anticipates considerable activity resulting from contract(s) that will be awarded as a result of this solicitation; however, no commitment of any kind is made concerning quantities actually acquired and that fact should be taken into consideration by each potential Contractor.

8. AMENDMENTS

Any change in the Contract, including but not limited to the Statement of Work described herein, whether by modification or supplementation, must be accomplished by a formal contract amendment approved by and between the duly authorized representatives of the Contractor and the Arizona State Procurement Office. 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 to the contract.

9. KEY PERSONNEL

It is essential that the contractor provide an adequate staff of experienced personnel, capable of and devoted to the successful accomplishment of work to be performed under this contract. The contractor must assign specific individuals to the key positions.

10. VOLUME SALES REPORT

The contractor shall furnish the State an annual report delineating the acquisition activity under the contract. This report shall be submitted electronically and in a format approved by the State. At a minimum, it shall disclose all purchased items, unit cost, and quantity, as well as, individual purchasing Agency, for all sales transacted within the year. The volume sales report shall be submitted annually 30 days before the end of the contract term.

11. ADMINISTRATIVE FEE / USAGE REPORTS

11.1 Contractor shall assess an administrative fee in the amount of one (1%) against all contract sales to members of the State Purchasing Cooperative – including cities, counties, school districts and other qualified members. The administrative fee is calculated against all sales under this contract minus any taxes or regulatory fees, minus any returns or credits, and minus any shipping charges not already included in the unit prices. An updated list of State Purchasing Cooperative members may be found at http://spo.az.gov/Cooperative_Procurement/SPC/default.asp. At its option, the State may expand or narrow the applicability of this fee. The State shall provide thirty (30) written notice prior to exercising or changing this option.

11.2 Contractors shall submit a Quarterly Usage Report documenting all contract sales. For more information on the Quarterly Usage Report or the Administrative Fee, its calculation, submission or use, and the proper Usage Report Forms see the State Procurement Office's web siteat http://spo.az.gov/Contractor_Resources/Admin_Fee/default.asp. Any alternate Quarterly Usage Report format shall be approved by the Procurement Officer. Any usage report that is submitted to the State for the purpose of satisfying this requirement shall be deemed public record and all information contained in such report shall not be considered confidential, including any supplemental information contained in the submitted report beyond that which is requested in the Sample Forms located at the State Procurement Office Web Site.

11.3 The Administrative Fee shall be submitted, along with a Quarterly Usage Report to the State Procurement Office within thirty (30) days following the end of each calendar quarter. Administrative Fees shall be submitted to the following address:

Arizona Department of Administration
State Procurement Office
Attention: Statewide Contract Administrative Fee
100 N. 15th Avenue, Suite 201
Phoenix, AZ 85007.

11.4 The submission schedule for Administrative Fees and Usage reports shall be as follows:

FY Q1, July through September	Due October 31
FY Q2, October through December	Due January 31
FY Q3, January through March	Due by April 30
FY Q4, April through June	Due by July 31

11.5 The Administrative Fee shall be a part of the Contractor's unit prices and is not to be charged directly to the customer in the form of a separate line item. Statewide contracts shall not have separate prices for State Agency customers and State Purchasing Cooperative customers.

11.6 Contractor's failure to remit administrative fees in a timely manner consistent with the contract's requirements may result in the State exercising any recourse available under the contract or as provided for by law.

12. CATALOGS / PUBLISHED PRICE LISTS

The Contractor shall be responsible for ensuring the most current Manufacturer's Published Price Lists are available to using entities and shall keep updated any on-line catalogs as well as the documentation posted through the State's e-Procurement system.

13. ESTIMATED QUANTITIES

The State anticipates considerable activity resulting from this contract; however, no commitment of any kind is made concerning the quantity or monetary value of activity actually initiated and completed.

14. ORDERING PROCESS

The award of a Contract shall be in accordance with the Arizona Procurement Code. Any attempt to represent any material and/or service not specifically awarded as being under contract with the State 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.

Any commodities to be furnished under this contract shall be ordered by issuance of purchase orders by the Agency. Such orders may be issued from effective date of contract award. All purchase orders are subject to the terms and conditions of this contract. In the event of conflict between a purchase order and this contract, the contract shall control. All purchase orders shall cite the contact number.

16. SHIPPING TERMS

All Fencing Materials are to be shipped F.O.B. Destination and shall include all freight, delivery and unloading at the destination. Under no circumstances will an ordering Customer assist with unloading trucks.

17. DELIVERY

12.1 Contractor(s) shall be able to deliver all materials to all State Agencies and Purchasing Cooperative Members throughout the entire State of Arizona;

12.2 Deliveries shall be accomplished between the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday only, except holidays;

12.3 Delivery shall be in accordance with the terms of the Purchase Order issued by the Agency for all orders unless stated otherwise at time of quote.

12.4 Delivery area is to be defined by the Agency and the Contractor at any statewide location as negotiated by the Purchase order. All freight charges shall be included in the Contract price.

18. BACKORDERS

Backorders shall not be permitted within this contract.

19. RETURNS / DAMAGED CARTONS / LATENT DEFECTS

Any materials delivered in poor condition (damaged or unusable), in excess of the amount authorized by the Purchase Order, or not included on the Purchase Order may, at the discretion of the contract user, be returned to the Contractor at the Contractor's expense within 30 days. If latent defects should be discovered within 30 days after the material has been accepted, the contractor shall be required to replace the defective material without cost to the Customer. Return Authorizations must be credited immediately once the Contractor receives the returned goods. The Contractor shall not be responsible for incorrect product being ordered by an Agency without the guidance of the Contractor and can only be returned at the discretion of the Contractor.

20. PRICING – ALL INCLUSIVE

Pricing is all-inclusive, including any ancillary fees and costs required to accomplish the Statement of Work and all aspects of the Contractor's offer as accepted by the State. Details of service not explicitly stated in the Statement of Work or in the Contractor's Offer, but necessarily a part of, are deemed to be understood by the Contractor and included herein. All administrative, reporting or other requirements, all overhead costs and profit and any other costs towards the accomplishment of the requirements in this Contract are included in the pricing provided.

21. ADDITIONAL CHARGES

Any charges not delineated in this contract, including but not limited to restocking fees, minimum order fees, use of forklifts, and fuel escalation surcharges, shall not be added to materials purchased under this contract without written consent of the State of Arizona Procurement Office (via a Contract Amendment) and Customer Agency. Additional charges will not be accepted or considered within this contract.

22. INVOICING

All billing notices or invoices shall be sent to the eligible using agency whose address appears on the contract release order/purchase order as the 'bill to address' and should contain, at a minimum, the following information.

- Both the contract number and contract release/purchase order number;
- Name and address of the contractor;
- The contractor's remittance address;
- Contractor's representative to contact concerning billing questions
- Delivery date and time
- Contractual payment terms
- Applicable taxes

23. PAYMENT PROCEDURES

The State will not make payments to any Entity, Group or individual other than the Contractor with the Federal Employer Identification (FEI) Number identified in the Contract. Contractor invoices requesting payment to any Entity, Group or individual other than the contractually specified Contractor shall be returned to the Contractor for correction.

The Contractor shall review and insure that the invoices for services provided show the correct Contractor name prior to sending them for payment.

If the Contractor Name and FEI Number change, the Contractor must complete an "Assignment and Agreement" form transferring contract rights and responsibilities to the new Contractor. The State must indicate consent on the form. A written Contract Amendment must be signed by both parties and a new W-9 form must be submitted by the new Contractor and entered into the system prior to any payments being made to the new Contractor.

24. PROCUREMENT CARDS

Contractor(s) shall accept Procurement Cards (P-Cards) as a form of payment.

25. PRICE INCREASE

The State may review a fully documented request for a price increase only at the time of contract extension. All written requests for price adjustments made by the Contractor shall be submitted 60 to 90 days prior to the anniversary or contract renewal date. All price adjustments will be implemented by a formal contract amendment. The State shall determine whether the requested price increase or an alternate option is in the best interest of the State. The price increase adjustment, if approved, will be effective upon the effective date of the resultant amendment.

The manufacturers published price lists are subject to change at any time; however; price escalations are only permitted at the end of each contract term period effective annually at the time of renewal, and only where verified to the satisfaction of the State. Contract release order/purchase orders placed before a price increase is authorized shall be delivered at the purchase order price. However, if the price should decrease between receipt of the order, and shipment of the order, the Contractor shall invoice at the new lowest discounted price. The awarded contract price shall remain the same throughout the term of the contract, to include all renewals.

26. PRICE REDUCTION

Price reductions may be submitted in writing to the State for consideration at any time during the contract period. The Contractor shall offer the State a price reduction on the contract product(s) concurrent with a published price reduction made to other Customers. The State at its own discretion may accept a price reduction.

Any price reductions requests that are accepted by the State will be acknowledged by the issuance and acceptance of a fully executed bilateral contract amendment. Any accepted price reduction shall be available to all customers who may utilize this contract.

27. 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.

28. INDEMNIFICATION

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 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 Contractor from and against any and all claims. It is agreed that 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

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29. INSURANCE REQUIREMENTS

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 and advertising 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

1. 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."*** 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. Policy shall contain a waiver of subrogation endorsement in favor of 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. Business 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."*** 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.

b. Policy shall contain a waiver of subrogation endorsement in favor of 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.

c. Policy shall contain a severability of interest provision.

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 endorsement in favor of 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.

A. <u>ADDITIONAL INSURANCE REQUIREMENTS</u>: The policies shall include, or be endorsed to include, the following provisions:

1. The Contractor's policies shall stipulate that the insurance afforded the Contractor shall be primary insurance and that any insurance carried by the Department, its agents, officials, employees or the State of Arizona shall be excess and not contributory insurance, as provided by A.R.S. § 41-621 (E).

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

B. **NOTICE OF CANCELLATION**: With the exception of (10) day notice of cancellation for non-payment of premium, any changes material to compliance with this contract in the insurance policies above shall require (30) days written notice to the State of Arizona. Such notice shall be sent directly to **Cindy Tucker, 100 North 15th Ave, Suite 201, Phoenix AZ 85007** and shall be sent by certified mail, return receipt requested.

C. **ACCEPTABILITY OF INSURERS**: Contractors insurance shall be placed with companies duly licensed in the State of Arizona or hold approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers. Insurers shall have an "A.M. Best" rating of not less than A- VII or duly authorized to transact Workers' Compensation insurance in the State of Arizona. 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.

D. **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 an authorized representative.

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 **Cindy Tucker, 100 North 15th Ave, Suite 201, Phoenix AZ 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 copies of all insurance policies required by this Contract at any time.

E. **SUBCONTRACTORS**: Contractors' certificate(s) shall include all subcontractors as insured 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.

F. **APPROVAL**: Any modification or variation from the *insurance requirements* in this Contract shall be made by the contracting agency in consultation with the Department of Administration, Risk Management Division. Such action will not require a formal Contract amendment, but may be made by administrative action.

G. **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.

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

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

1.4. *"Contractor"* means any person who has a Contract with the State.

1.5. *"Days"* means calendar days unless otherwise specified.

1.6. *"Exhibit"* means any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.

1.7. *"Gratuity"* means 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"* means 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"* means 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"* means 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"* 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.

1.12. *"State"* means the State of Arizona and Department or Agency of the State that executes the Contract.

1.13. *"State Fiscal Year"* means the period beginning with July 1 and ending June 30.

2. 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 Parole 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

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. 2009-09 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, trade name, 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.

3.9. Federal Immigration and Nationality Act. The contractor shall comply with all federal, state and local immigration laws and regulations relating to the immigration status of their employees during the term of the contract. Further, the contractor shall flow down this requirement to all subcontractors utilized during the term of the contract. The State shall retain the right to perform random audits of contractor and subcontractor records or to inspect papers of any employee thereof to ensure compliance. Should the State determine that the contractor and/or any subcontractors be found noncompliant, the State may pursue 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.

3.10 E-Verify Requirements. In accordance with A.R.S. § 41-4401, Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A.

3.11 Scrutinized Businesses. In accordance with A.R.S. § 35-391 and A.R.S. § 35-393, Contractor certifies that the Contractor does not have scrutinized business operations in Sudan or Iran.

3.12 Offshore Performance of Work Prohibited.
Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and involve access to secure or sensitive data or personal client data shall be performed within the defined territories of the United States. Unless specifically stated otherwise in the specifications, this paragraph 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.

4. 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; or

4.5.3. Cancel the contract and re-solicit the requirements.

5. 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**

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

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. 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.

7.6. Survival of Rights and Obligations after Contract Expiration or Termination.

7.6.1. 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.

7.6.2. 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

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

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 interest 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).

Comments Welcome

The State Procurement Office periodically reviews the Uniform Terms and Conditions and welcomes any comments you may have. Please submit your comments to: State Procurement Administrator, State Procurement Office, 100 North 15th Avenue, Phoenix, AZ 85007 or procure@azdoa.gov.

1. PRE-BID CONFERENCE

1.1 A Pre-Bid Conference will be held at the time and place indicated in the solicitation's 'Pre-Bid Conference' field as found within the State's e-Procurement system, ProcureAZ (https://procure.az.gov). Attendance is not mandatory.

1.2 The purpose of the conference will be to clarify the contents of the solicitation in order to prevent any misunderstanding of the State of Arizona's position. 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.

1.3 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 State Procurement Office. Requests should be made as early as possible to allow sufficient time to arrange for accommodation.

2. INQUIRIES

Any question related to this Invitation for Bid shall be submitted utilizing the "Q&A" tab within ProcureAZ. The Offeror shall not contact or ask questions of the department for which the requirement is being procured.

3. PREPERATION OF THE BID

A responsive, responsible Offeror shall submit the following:

3.1 Offer and Acceptance. Offers shall include a signed Offer and Acceptance form. The Offer and Acceptance Form shall be signed with an original signature by the person signing the Offer, and shall be submitted electronically with the submitted bid no later than the Offer due date and time. Failure to return an Offer and Acceptance Form may result in rejection of the Offer.

3.2 Acknowledgement of Solicitation Amendments. All Solicitation Amendments shall be acknowledged electronically, through ProcureAZ, prior to the Offer due date and time. Failure to acknowledge all Solicitation Amendments may result in rejection of the Offer.

3.3 Contract Payment Terms. Offerors must indicate the prompt payment terms that they will offer to the State in Attachment III (for example: 2/10 Net 30; 2/15 Net 30, etc.) At a minimum, Offeror's payment terms shall comply with the requirements of A.R.S. Titles 35 and 41, Net 30 days.

4. SUBMISSION OF OFFER

Paragraph 4.1 of Uniform Instructions to Offerors shall not apply.

4.1 ProcureAZ Offer Submission, Due Date and Time. Offers in response to this solicitation shall be submitted within the State's eProcurement system, PROCUREAZ (https://procure.az.gov). Please be advised that utilizing ProcureAZ requires a certain level of technical competency that should be considered when selecting staff to work in the system. The successful submission of your offer in ProcureAZ is critical in order for the State to receive and evaluate your offer. Therefore, particular focus should be placed on the selection of staff given the responsibility for submitting your offer in ProcureAZ. Offers shall be received before the date/time listed in the solicitation's 'Bid Opening Date' field. Offers submitted outside PROCUREAZ, or those that are received after the date/time stated in the 'Bid Opening Date' field, shall be rejected. Questions in this regard shall be directed to the Procurement Officer or to the PROCUREAZ Help Desk (procure@azdoa.gov or 602-542-7600).

4.2 Electronic Documents. The Solicitation document is provided in an electronic format. Any unidentified alteration or modification to any Solicitation documents, to any attachments, exhibits, forms, charts or illustrations contained herein shall be null and void. In those instances where modifications are identified, the original document published by the State shall take precedence. As provided in the Solicitation Instructions, Offerors are responsible for clearly identifying any and all changes or modifications to any Solicitation documents upon submission to the State.

4.3 Acceptable Formats. Offer electronic files shall be submitted in a format acceptable to the State. Acceptable formats include .DOC and .DOCX (Microsoft Word), .XLS and .XLSX (Microsoft Excel), .PPT and .PPTX (Microsoft PowerPoint) and .PDF (Adobe Acrobat). Other file formats may also be acceptable, including .ZIP, .MDB, .MDBX, .MPP, MPPX, .VSD, .JPG, .GIF, and .BMP. Offerors wishing to submit files in these or other formats shall submit an inquiry to the Procurement Officer.

4.4 Confidential Information. If a person 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.C.R.R. R2-7-104, 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.

5. CONTRACT AWARD

In accordance with the Arizona Procurement Code R2-7-B314, award(s) shall be made to the lowest responsible and responsive offeror(s) whose offer conforms in all material specifications and criteria set forth in the solicitation.

5.1 Contract Document Consolidation. At its sole option, following any contract award(s) the State may consolidate the resulting contract documents. Examples of such consolidation would include (i) reorganizing solicitation documents and those components of the Contractor's Offer not pertaining to the Contract's operation; or (ii) excluding any components of the Contractor's Offer that were not awarded. Contract document consolidation shall not materially change the Contract.

5.2 Notice to Proceed. Contractors shall commence with the performance of the Contract upon receipt of a Notice to Proceed issued by the Procurement Officer or other authorized representatives as set forth in the Contract. Prior to receiving this notice, Contractors shall not commence any billable activities in the performance of the Contract.

6. PRICING REQUIREMENTS

6.1 Instructions: The basis for pricing shall be fixed discount(s) off published price list(s) or catalog(s). The discount for each manufacturer and/or product line offered shall include the manufacturer's name in the alternate description field within the procureAZ line item.

6.2 **General Category Pricing**: The Offeror shall provide a single discount (percent %) from Manufacturer Published List for all items within an established category. Prices entered in the State's e-Procurement system, ProcureAZ (https://procure.az.gov) shall be computed using the single discount (percent %) from list price offered for that group. **Failure to compute and enter pricing in this manner may result in the proposal being considered not susceptible for award**. Offeror shall populate the following fields' items tab of ProcureAZ (https://procure.az.gov).

- **Unit Cost as $1.00 so that ProcureAZ recognizes the bid, the $1.00 bid is only submission purposes.**
- **Discount % shall be entered as whole number**
- **Use "alternate description" field to list manufacturer name and "no bid" for unused line items**

tem #	Prin t Seq .	Question s Exist	Description								
			Quant ity	UO M	**Unit Cost**	**Discou nt%**	Tax Rate	Freig ht	Extende d Amount	No Bid	No Charg e
1	1.0	No	Item description								
			1.0	Mo	**1.00**	**% Disco unt**		0.00	0.00	☐	☐

6.3 Offerors shall complete Pricing Schedule Attachment indicating manufacturer name, % Off, Website or Link to electronic catalong.

7. OFFER DOCUMENTS

The following documents shall be included with the Offer:
Failure to submit all required documents may result in rejection of the offer.

- Signed Offer and Acceptance Form
- Fencing Material Price Schedule
- Attachment I Offeror's Proposed Subcontractor(s)
- Attachment II Organizational Profile & References
- Attachment III Customer Service Information

UNIFORM INSTRUCTIONS TO OFFERORS

1. Definition of Terms. As used in these Instructions, the terms listed below are defined as follows:

"*Attachment*" means any item the Solicitation requires an Offeror to submit as part of the Offer.

"*Contract*" means 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.

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

"Contractor" means any person who has a Contract with the State.

"*Days*" means calendar days unless otherwise specified.

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

"*Offer*" means bid, proposal or quotation.

"*Offeror*" means a vendor who responds to a Solicitation.

"Procurement *Officer*" means 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.

"*Solicitation*" means an Invitation for Bids ("IFB"), a Request for Proposals ("RFP"), or a Request for Quotations ("RFQ").

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

"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.

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

2. 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 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

3.1. Forms: No Facsimile, 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.

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 Offer or'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 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.

3.4.1. 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.

3.4.2. 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 acknowledgement 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.

3.9.1. 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.

3.9.2. Employee Identification. Offeror agrees to provide an employee identification number or social security number to the Department for the purposes of reporting to appropriate taxing authorities, monies paid by the Department 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.

3.10. 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.

3.11. 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.

3.12. 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:

3.12.1 Special Terms and Conditions;

3.12.2 Uniform Terms and Conditions;

3.12.3 Statement or Scope of Work;

3.12.4 Specifications;

3.12.5 Attachments;

3.12.6 Exhibits;

3.12.7 Special Instructions to Offerors;

3.12.8 Uniform Instructions to Offerors; and

3.12.9 Other documents referenced or included in the Solicitation.

3.13. 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).

3.14. Federal Immigration and Nationality Act. By signing of the Offer, the Offeror warrants that both it and all proposed subcontractors are in compliance with federal immigration laws and regulations (FINA) relating to the immigration status of their employees. The State may, at its sole discretion require evidence of compliance during the evaluation process. Should the State request evidence of compliance, the Offeror shall have 5 days from receipt of the request to supply adequate information. Failure to comply with this instruction or failure to supply requested information within the timeframe specified shall result in the offer not being considered for contract award.

3.15. Offshore Performance of Work Prohibited
Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and involve access to secure or sensitive data or personal client data shall be performed within the defined territories of the United States. Unless specifically stated otherwise in the specifications, this paragraph 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.

4. Submission of Offer

4.1. Sealed Envelope or Package. 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. ProcureAZ Offer Submission, Due Date and Time. Offerors responding to a solicitation in ProcureAZ must submit their offers electronically through ProcureAZ. Offers shall be received before the due date and time stated in the solicitation. Offers submitted outside of ProcureAZ or those that are received after the due date and time shall be rejected.

4.3. 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.

4.4. 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.

4.5. Non-collusion, Employment, and Services. By signing the Offer and Acceptance Form or other official contract form, the Offeror certifies that:

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

4.5.2. 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 an applicable Federal, state and local laws and executive orders regarding employment.

5. Evaluation

5.1. Unit Price Prevails. In the case of discrepancy between the unit price or rate and the extension o that unit price or rate, the unit price or rate shall govern.

5.2. Taxes. If the products and/or services specified require transaction privilege or use taxes, they shall be described and itemized separately on the offer. Arizona transaction privilege and use taxes shall not be considered for evaluation.

5.3. Prompt Payment Discount. Prompt payment discounts of thirty (30) days or more set forth in an Offer shall be deducted from the offer for the purpose of evaluating that price.

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

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

5.6. 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 dates 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.

5.7. Waiver and Rejection Rights. Notwithstanding any other provision of the Solicitation, the State reserves the right to:

5.7.1 Waive any minor informality;

5.7.2. Reject any and all Offers or portions thereof; or

5.7.3 Cancel the Solicitation.

6. Award

6.1. Number of 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 there under. 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;

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 201, Phoenix, Arizona, 85007.