

SERIAL 08072 IGA FENCING MATERIAL, AZ STATE #SCC080002

DATE OF LAST REVISION: December 23, 2008 CONTRACT END DATE: November 08, 2009

**CONTRACT PERIOD BEGINNING JUNE 05, 2008
ENDING NOVEMBER 08, 2009**

TO: All Departments

FROM: Department of Materials Management

SUBJECT: Contract for FENCING MATERIAL, AZ STATE #SCC080002

Attached to this letter is a listing of vendors available to Maricopa County Agencies utilizing the Arizona State Contract #SCC080002. The using agency and other interested parties may access and electronic version of this contract from the Materials Management Web site at:
http://www.maricopa.gov/materials/Awarded_Contracts/search.asp.

Please note: Price Agreement Purchase Orders (PG documents) may be generated using the information from this list. Use NIGP CODE 3301302.

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



SCOPE OF WORK

The Arizona Department of Corrections (ADOC), on behalf of the State of Arizona (hereinafter referred to as the State), is seeking to establish a comprehensive statewide term contract for **Statewide Fencing Materials and Job Task Assignments**, for use by **all** State of Arizona agencies, Commissions and Boards and participating political subdivisions (a.k.a. eligible agencies) including, but not limited to; Department of Corrections, Department of Administration, Department of Transportation, Arizona State Land, Arizona Game and Fish, Arizona State Parks, etc. Prospective Offerors shall demonstrate the capabilities of the areas contained within the Additional Special Terms and Conditions for use by multiple eligible agencies having delivery locations throughout the State (Statewide Contract Requirement).

The estimated dollar volume of products and services purchased under the proposed contract has not been determined. The state makes no guarantee as to actual dollars spent under any resultant contract.

This IFB is intended to achieve the following objectives:

To provide Catalog/Pricing (Discount From List).

To provide an Electronic Ordering System.

To provide a Spend Management Program.

To utilize the State of Arizona Purchasing Card (P-Card) Program.

To provide a Women-Owned/Small Minority-Owned Business Enterprise Subcontract Program.

To provide Contractor Support.

TECHNICAL SPECIFICATIONS:

Catalog/Pricing: The Contractor shall provide a comprehensive selection of products and pricing through established catalog/brochures. Pricing for these items shall be based on a single fixed discount percent (%) from the Offerors most current price list. The price list shall be available in either or both electronic (web-based) and/or hardcopy formats.

Electronic (web-based) catalog/brochure/price list are those which:

- Are internet versions available as a Universal Resource Locator (URL) link, or;
- Are Portable Document Format (PDF) versions available as attachments;
- Contain prices that are the basis for those discounts percent(s) (%) from the price list being offered.
- Contain part numbers and descriptions (photos required) of all products or groups of products being offered under a specified group.
- Clearly mark or delete all non-contracted items.



Hardcopy Catalogs are those which:

- Are made available to all eligible agencies upon request.
- Contain prices that are the basis for those discounts percent (“%”) from list price being offered.
- Contain part numbers and descriptions (photos required) of all products or groups of products being offered under a respective group.
- Upon award, shall not be altered, modified or updated without prior written approval from the State.

All electronic and hardcopy catalog/brochure/price lists shall contain the same information and pricing. All costs associated with creation, distribution, management, set up, interface, and delivery of all catalog/brochure/price lists shall be borne by the Contractor.

Electronic Ordering System: It is the intent of the State to award a contract that employs this type of system. Therefore, Offerors are encouraged to offer electronic ordering systems to all eligible agencies. These are systems that provide electronic commerce assistance for the electronic submission of purchase orders, purchase order tracking and reporting available through a Contractor’s Electronic Data Interchange (EDI) system or secured internet/web portal. Such systems shall not allow for purchase orders to be placed for non-contract or excluded items.

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

Additionally, knowing that the implementation and management of electronic ordering systems result in lower administrative costs for both the Contractor and the State. It is also requested that the Offerors submit any additional discount percent (%) from list price for those eligible agencies who may implement this system.

Spend Management Program (SMP): It is the intent of the State to award a contract that employs this type of program. Therefore, the Offerors should be capable of assisting individual eligible agencies in the administration and management of customized (tailored to an individual eligible agency) spend management programs that at a minimum, should consist of:

The providing of agency level technical assistance and program administration in the form of defining those lower cost or best value products, such as generic, house brand equivalent products or national brand products that reduces an agency spend dollars.

Upon establishment, the SMP should be capable of modifying, by blocking out or not allowing for transactions of those products not identified/approved under the SMP at order point within the agency, at order point at the Contractors facility or in an electronic or web based environment.



For tracking and monitoring purposes, the Contractor should administer, manage and submit agency level spend management usage reports detailing program use and achieved savings. These reports shall be submitted to the requesting agency on a quarterly basis.

Women Owned/Small Minority Owned Business Enterprise Subcontract Program: It is the intent of the State to award a contract that employs the use of this type of program. Therefore, Offerors are encouraged to set aside a percentage of their business as subcontracts that will be performed by either small women owned and/or small minority owned business enterprise. This could include subcontracts for percentage of deliveries made in specific geographic areas of the State, product-packaging services, billing or customer service/ordering services.

REQUIREMENTS

Local Representative: The contract shall assign a company representative(s) to the State to act as a liaison between the end users and the Offerors company. The representative(s) may be assigned by geographic region. Additionally, a back-up person is required in the event the company's primary representative is unavailable. The representative will be the main point of contact for the using entities.

Item Customization and Artwork Handling: For items requiring customization, Offerors must have the capability to do both design artwork as required and receive pre-designed artwork from State Agencies via email, ftp or other delivery method in a variety of electronic formats such as .jpg, .gif, .cdr, .ai, etc. All artwork shall remain the property of the State Agency.

Ability to Provide Products/Services: If the successful Contractor is unable to provide a requested product and/or service, the Contractor may reject the order without recourse or penalty by the State with proper notification to ordering entity.

GEOGRAPHIC LOCATION

IT IS PREFERRED BUT NOT MANDATORY TO BE ABLE TO SERVICE ALL AREAS OF ARIZONA. Please fill out the attached Arizona County Map and return with your bid.

CONTRACTOR RESPONSIBILITIES

Express Responsibilities of the Contractor(s) for the Fencing Materials and Services

The Contractor shall provide products at the discount price offered in response to the IFB and shall perform in accordance with the contract requirements, terms and conditions contained in this document. Pricing offered shall be based upon a discount off a referenced Published Price List.

The Contractor shall offer a full satisfaction guarantee. Any item that is received in error or in a defective or damaged condition shall be replaced within thirty (30) days at no cost to the Agency/Political Subdivision. Invoices shall be itemized to clearly show products sent, services provided and any exceptions noted.



TASK ASSIGNMENT

Task Assignments for fencing installations and/or repairs is requested as part of this Contract.

The State makes no guarantee as to the amount of work to be assigned to the Contractor(s). The State is under no financial obligation to any selected Contractor(s) unless the State issues a Purchase Order for the specific Task Assignment.

In performance of the services specified herein, any work consistent with the Scope of Work in this Contract shall be initiated by a Task Assignment. The Contractor shall not begin performance of any work under this Contract without first receiving a Purchase Order issued by the requesting Agency. In addition, the Contractor understands and agrees that the Task Assignment shall be performed on behalf of the requesting Agency, which shall be the responsible party for the oversight and approval of the completed work.

The Agency will communicate the Scope of Work to Contractor(s) on the Task Assignment form. Depending on the Agency's facility requirement and protocols for related services, the Task Assignment should include at a minimum, the requested service, location and expected timeframe for completion.

The Contractor will have the opportunity to indicate their availability and prepare a proposal, inclusive of all costs for the Task Assignment in accordance with the following guidelines. The task proposal should, at a minimum, describe the following:

- Name and location information of the site(s)
- Tasks/milestones; number of key personnel, number of hours, associated deadlines
- Deliverables
- Assumptions and Variables
- Sub Contractors, if appropriate
- Reporting requirements
- Fixed price and pricing schedules
- Any additional percent of discount off
- Per Linear Footage pricing to include the installation of fence material, 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.



- Other significant information to the Task Assignment such as hard digging, trip charge in excess of 50 miles and accessibility

The Contractor(s) is required to carefully examine the Task Assignment requirements and to satisfy themselves as to the man-hours and conditions to be encountered in performing the Task Assignment. Upon submittal of the Task Assignment by the Agency to the Contractor, the Agency shall schedule an on-site inspection for the purpose of having a visual inspection and evaluation to become familiar with the site(s). The Contractor shall identify the number of days to respond to the Task Assignment request after scheduled on-site date by the Agency, _____ number of days to respond. If access to a locked site is desired, the Contractor(s) must coordinate with the Onsite Representative or Agency Representative or designee.

Submission of a written task proposal is evidence that the Contractor(s) has examined the site(s) as per the Task Assignment Scope of Work, understands all work and contract requirements and is aware of all of the conditions that might impact work performance.

Agency Responsibilities

- Prepare and finalize the Task Assignment prior to commencing work
- Issue purchasing document prior to commencing work
- Make available all pertinent documents and information
- Provide Contractor with Onsite Representative or Agency Representative contact information.



TASK ASSIGNMENT

State Contract SCC080002

_____ Date

Task Assignment Project Request Date:

Agency Name:

Contact Person:

Contractor Name:

Contractor Contact Name:

Project Location:

Project Description: Supply Fencing Materials Statewide for use by all State of Arizona agencies, Commissions, Boards and participating political subdivisions.

Contract

Solicitation # SCC080002

Document Information

| | | | | | |
|---------------------|-------------------------------|--------------------|----------------------------|-------------|-------------|
| Type: | Supplier | Amendment: | No | Amend #: | 0 |
| Requisition #: | ADSM-76WP2G | Solicitation #: | SCC080002 | Contract #: | SCC080002-1 |
| PO Assigned: | Bernadette Hill/ADSM-6A4SXZ | Date Completed: | 11/09/2007 | | |
| PM Assigned: | Kristine Yaw/ADSM-6A4SXZ | PA Assigned: | Lu Himmelstein/ADSM-6A4SXZ | | |
| Supplier Name: | American Fence Company | Proposal #: | ADSM-77DRJM | | |
| Gov't Entity: | Strategic Contracting Centers | Type: | Statewide | | |
| Process Status: | Complete | Status: | Complete | | |
| Total/Not to Exceed | 0 | External Contract: | | | |
| Cost: | | | | | |

Contract Information

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

| | | | |
|--------------------------------|-----------|----------------|--------------|
| Start Date: | 11/9/07 | End Date: | 11/8/08 |
| Term: | 1 Year(s) | FOB: | |
| Payment Terms: | net 30 | Delivery: | 5A.R.O. Days |
| Contract Extension Not Allowed | | Max Extension: | 1 Year(s) |

Solicitation Information

| | | | |
|--------|-------------------|-------|-----|
| Title: | Fencing Materials | Type: | IFB |
|--------|-------------------|-------|-----|

Description:
Fencing: Chain link, Wrought Iron, Wire Woven, Barbed Wire, Snow Fencing, etc. For questions relating to the solicitation or procurement process, please contact Bernadette Hill at (602) 542-1172 or via email at bhill@azcorrections.gov. For questions relating to the State's Automated eProcurement System, please contact the ADOA/SPO/Spirit Support Desk at (602) 542-7600.

Contract

Solicitation # SCC080002

Special Instructions

Additional Special Instructions

Offerors shall see the Attachments within the Solicitation for Additional Special Instructions associated with this Solicitation.

Attachment Formats

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

Attachment(s) to be Submitted

Offerors shall complete and include all attachments with their proposal.

Brand Name

Any manufacturer's names, trade names, brand names or catalog numbers used in the specifications are for the purpose of describing and/or establishing the quality, design and performance required. Any such reference is not intended to limit or restrict an offer by any supplier but is only enumerated in order to advise potential offerors of the requirements of the state. Any offer which proposes like quality, design or performance will be considered.

Catalog/Price List Discounts

The offeror is to provide prices based on a percent of discount off of a referenced manufacturer's price list. A copy of the referenced price list and the applicable catalog(s) shall be enclosed with the offer. Failure to include either the manufacturer's price list or the applicable catalog(s) shall be grounds for determining the proposal as non-responsive.

Contract Award

The State intends to award a firm-fixed price contract or contracts, unless otherwise indicated, resulting from this solicitation to the responsible offeror(s) whose proposal represents the best value after evaluation in accordance with the factors and subfactors identified in the solicitation. The State may reject any or all proposals if such action is in the State's best interest. The State may waive informalities and minor irregularities on proposals received. The offeror's initial proposal should contain the offeror's best terms from a price or cost and technical standpoint. The State reserves the right to conduct discussions (negotiations) if the procurement officer determines them to be necessary. If the procurement officer determines that the number of proposals that would otherwise be in the competitive range exceeds the number at which an efficient competition can be conducted, the procurement officer may limit the number of proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals. The State reserves the right to make an award on any item for any quantity less than the quantity offered, at unit costs or prices offered, unless the offeror specifies otherwise in the proposal. The State reserves the right to make multiple awards if, after considering the additional administrative costs, it is in the State's best interest to do so. Any exchanges with offerors after receipt of a proposal does not constitute a rejection of counteroffer by the State.

Contract Payment Terms:

Offerors must indicate the prompt payment terms that they will offer to the State (for example: 2/10 Net 30; Net 30, etc.)

Definition

'May' denotes the permissive, 'Shall' denotes the imperative, 'Must' denotes the imperative.

Delivery (Offeror Response)

Delivery is an important consideration and will be a factor in the determination of an award. Therefore, delivery time after receipt of an order must be stated in definite terms. Should there be any variations in delivery time by item, offers must be clear in regard to those variations. This field is for ARO days(After Receipt of Order) and is strictly a numeric field.

Discounts

A primary objective of this solicitation is to aggregate the leveraged buying power of the state with local governments and others authorized by law to use state contracts. Offerors shall consider this objective in the development of pricing offered.

Offerors shall offer volume discounts. Volume discounts may be applied per purchase order, cumulatively per customer agency, and cumulatively statewide. The offeror shall indicate the basis for applying the volume discount (s) on the bid document form. Volume discounts shall be defined and applied as follows: Purchase order volume discounts shall be an additional discount applied to an individual purchase order over a dollar amount determined by the bidder. Cumulative agency volume discounts shall be additional discounts applied to all future orders made by an individual agency once an established volume has been met by that agency. Cumulative statewide volume discounts shall be additional discounts applied to all future orders once an established volume has been met under this contract for all state and non-state orders.

Offerors are encouraged to offer any and all types of discounts, rebates, special pricing, etc., that will result in reduced pricing to contract users. Additional discounts are encouraged and offered discounts may be considered in determining award.

Offerors shall offer discounts based on the multiple order of a single title or mixed title books to one location. Bidder shall determine volume price breaks.

Offerors may also offer discounts for electronic access ordering, for prepayment plans, deposit accounts, and approval plans for agencies legally empowered to use them.

Discussions

As provided by A.A.C. R2-7-331, discussions may be conducted with offerors who submit offers determined to be reasonably susceptible of being selected for award. If discussions are conducted pursuant to R2 7 331, the State shall issue a written request for best and final offers. Award may be made without discussions, therefore, offers shall be submitted complete and on most favorable terms.

Electronic Documents

This 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 Uniform Instructions to Offerors, offerors are responsible for clearly identifying any and all changes or modifications to any solicitations document upon submission to the State.

Electronic Ordering Systems Option

Offeror(s) are encouraged to offer electronic ordering systems to all eligible agencies. These are systems that provide electronic commerce assistance for the electronic submission of purchase orders, purchase order tracking and reporting available through a contractor's Electronic Data Interchange (EDI) system or secured internet/web portal. Such systems shall not allow for purchase orders to be placed for non-contract or excluded items. Use of such systems shall be at the sole discretion of the eligible agency and all cost associated with set-up, maintenance and support shall be borne by the contractor.

Those electing to offer an electronic ordering system to the State shall affirm by entering Yes in the appropriate solicitation questionnaire section entitled Electronic Ordering Systems Option.

Additionally, knowing that the implementation and management of electronic ordering systems result in lower administrative costs for both the supplier as well as the state we also request that the bidder(s) offer any additional discount (percent %) from list price for those eligible agencies who may implement this option. Those offering the additional discount (percent %) from list price shall do so by completing the solicitation questionnaire section entitled Electronic Ordering Systems Option. Participation is optional, therefore will not be used in the State's bid evaluation process.

Eligible Agencies (Statewide)

Any contract resulting from this solicitation 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 any resultant contract, a university, political subdivision, or nonprofit educational or public health institution must have entered into a cooperative purchasing agreement with the State Procurement Office as required by Arizona Revised Statutes 41-2632.

Estimated Quantities (Considerable)

The state anticipates considerable activity under contract(s) 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 the contractor. The quantities reflected on the solicitation price sheet areas are annual estimates only.

Evaluation

In accordance with the Arizona Procurement Code 41-2533, competitive sealed bidding, awards shall be made to the lowest responsible and responsive bidder whose bid conforms in all material respects to the requirements and criteria set forth in the solicitation.

Federal Immigration and Nationality Act

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

Federal Immigration and Nationality Act 2

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.

Financial Stability

The Offeror must be financially stable and able to substantiate the financial stability of its company. If requested, current financial statements or other financial information deemed appropriate documenting past sales history must be provided within five (5) business days or request. The State reserves the right to request additional documentation from the Offeror and to request reports on financial stability from independent financial rating services. The State reserves the right to reject any offeror who does not demonstrate financial stability sufficient for the scope of this contract award.

Geographic Coverage

This solicitation is issued for the purpose of providing fencing materials and/or installation services to cover all geographic areas of the State. Offerors may submit offers for more than one location if they are capable of providing these services in the accordance with all specifications and terms and conditions for the entire term of the resultant contract.

Inclusive Offeror(s)

Offeror(s) are encouraged to make every effort to utilize subcontractors that are small, women-owned and/or minority owned business enterprises. This could include subcontracts for a percentage of deliveries made under any subsequent contract. Offerors who are committing a portion of their work to such subcontractors shall do so by identifying the type of service and work to be performed by providing detail concerning your organization's utilization of small, women-owned and/or minority business enterprises. Emphasis should be placed on specific areas that are subcontracted and percentage of contract utilization and how this effort will be administered and managed, including reporting requirements.

IT 508 Compliance

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

IT 508 Compliance 2

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

Manufacturer's Representative

Dealers who submit an offer as a manufacturer's representative must supplement the offer with a letter from each manufacturer involved certifying that; 1) the supplier is a bona fide dealer for the specific equipment presented; 2) that the supplier is authorized to submit an offer on such equipment, and; 3) guarantees contract performance should the dealer fail to satisfactorily fulfill any obligations established as a result of the anticipated contract awards.

Multiple Awards

The equipment best responding to the requirements of the RFP will be identified, and multiple awards made where in the best interests of the State. This will be done in order to provide a broad range of types and quality equipment, with adequate contractor support. Evaluations will generally not include accessory items.

Offer Submission, Due Date and Time

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

Offshore Performance of Work

Due to security and identity protection concerns, direct services under this contract shall be performed within the borders of the United States. Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and may involve access to secure or sensitive data or personal client data or development or modification of software for the State shall be performed within the borders of the United States. Unless specifically stated otherwise in the specifications, this definition does not apply to indirect or 'overhead' services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers. Offerors shall declare all anticipated offshore services in the proposal.

Purpose

Pursuant to provisions of the Arizona Procurement Code, ARS 41-2501 et seq., the State of Arizona, State Procurement Office intends to establish a contract for the materials or services as listed herein.

Quality

All products shall be of number one quality.

QUESTIONS

Questions relating to this solicitation shall be directed to the attention of Procurement Officer, Bernadette Hill, Department of Corrections, telephone (602) 542-1172. Offerors are encouraged to fax questions, no less than seven days prior to the solicitation due date and time, to (602) 364-3790.

SPIRIT Offer Submission, Due Date and Time

This clause supersedes 'Proposals: SPIRIT Submission Requirements'.

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

State of Arizona Purchasing Card (P Card) Program Option

The State of Arizona has implemented a purchasing card program. Participating contractors may receive payments from State agencies via this purchasing card program in the same manner as other credit card type purchases. Offeror(s) should consult with their servicing bank to discuss this program and all applicable fees.

Those electing to participate in the State of Arizona purchasing card program shall affirm by entering Yes in the appropriate solicitation questionnaire section entitled State of Arizona Purchasing Card (P Card) Program.

Additionally, knowing that the utilization of the purchasing card program should result in lower administrative costs for both the supplier as well as the state we also request that the bidder(s) offer any additional discount (percent %) from list price for those eligible agencies who may implement this option. Those offering the additional discount (percent %) from list price shall do so by completing the solicitation questionnaire section entitled State of Arizona Purchasing Card (P Card) Program. Participation is optional, therefore will not be used in the State bid evaluation process.

Telephone Ordering Support

Offeror(s) are to provide and maintain a toll-free telephone number for customer ordering support. Offeror(s) are to enter their toll-free telephone number in the solicitation questionnaire section entitled Telephone Ordering Support. Failure to provide this information with the bid and/or failure to maintain this service may be cause for rejection of the bid and/or cancellation of any subsequent contract.

Value In Procurement

Through the Governor's Efficiency Review initiative, the State Procurement Office has established the Value in Procurement (VIP) Committee. A major initiative of the VIP Committee is to aggregate specific procurements to increase efficiency and cut costs. The VIP Committee has designated the XXagencyXX as a Strategic Contracting Center for XXgoods/serviceXX. Any contract resulting from this RFP shall become a statewide contract for use by all State agencies, and optional for cities, counties and school districts and other political subdivisions. State agencies that currently have individual contracts in place will be phased in under this contract when their contracts expire. The current schedule of some of these agencies specific contracts are:

XXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXX

Contract

Solicitation # SCC080002

Special Terms and Conditions

Amendments

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

Appropriation of funds

Every payment obligation of the Agency under this Contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Contract, this Contract may be terminated by the Agency at the end of the period for which funds are available. No liability shall accrue to the Agency or the State of Arizona in the event this provision is exercised, and neither the Agency nor the State shall be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

Assignment

The contractor agrees and understands that the contract shall constitute an assignment by the contractor to the State of Arizona of all rights, title and interest in and to all causes of action that the contractor may be under the antitrust laws of the United States or the State of Arizona for which causes of action have accrued or will accrue as the result of or in relation to the goods or services purchases or procured by the contractor in the fulfillment of the contract with the State of Arizona.

The contractor represents that it is an independent contractor offering such services to the general public and shall not present himself or his employees as an employee of the State of Arizona. Therefore, the contractor shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workmen s compensation, employee insurance, minimum wage requirements, overtime and agree to indemnify, save, and hold the state of Arizona, its officers, agents, and employees, harmless from and against, any and all loss; cost (including attorney fees); and damage of any kind related to such matters.

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. Should Contractor not desire to retain the audit documentation in its entirety for a period of five (5) years from the date of the audit report, they shall be given to the Auditor General for safekeeping.

Availability of Funds for the Next Fiscal Year

Funds are not presently available for performance under this contract beyond the current fiscal year. The State's obligation for performance of this contract beyond this fiscal year is contingent upon the availability of funds from which payment for contract purposes can be made. No legal liability on the part of the State for any payment may arise for performance under this contract beyond the current fiscal year until funds are made available for performance of this contract.

BID EVALUATION

In accordance with the Arizona Procurement Code 41-2533, Competitive Sealed Bidding, awards will be made to the lowest responsible and responsive bidder whose bid conforms in all material respects to the requirements and criteria set forth in the Invitation For Bid.

Billing – Commodities

1. 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.

- 1.1. Name and address of the contractor;
- 1.2. Both the contract number and contract release/purchase order number;
- 1.3. The contractors federal tax identification number;
- 1.4. The contractor's remittance address;
- 1.5. A description of the goods or services provided;
- 1.6. Quantity and delivery/service timeframe;
- 1.7. Itemized (if applicable) and total invoice pricing.

Cancellation

The State reserves the right to cancel the whole or any part of the contract due to failure of the Contractor to carry out any term, promise, or condition of the contract. The State will issue a written ten (10) day notice of default to the Contractor for acting or failing to act as in any of the following:

The Contractor provides personnel that do not meet the requirements of the contract.

The Contractor fails to perform adequately the services required in the contract.

The Contractor attempts to impose on the State, personnel, which are of an unacceptable quality.

The Contractor fails to furnish the required product within the time stipulated in the contract.

The Contractor fails to make progress in the performance of the requirements of the contract and/or gives the State a positive indication that the Contractor will not or cannot perform to the requirements of the contract.

If the Contractor does not correct the above problem(s) within ten (10) days after receiving the notice of default, the State may cancel the contract. If the State cancels the contract pursuant to this clause, the State reserves all rights or claims to damage for breach of contract.

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.

Cancellation For Possession Of Weapons On State Property

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

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

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

Catalogs/Contract Price Listing

As applicable, the contractor(s) shall be required to furnish to all requesting agencies and eligible political sub-divisions, catalogs at no cost which will outline contract prices.

Catalog/Price list, Maintenance (electronic/hard copy)

1. The contractor shall provide and maintain electronic and hard copy versions of all contracted catalog/price lists during the contract term. Electronic versions shall be in either of the following formats. No alterations, amendments or updates shall be allowed without prior approval by the State. This is covered in more detail in paragraph 4.

1.1. Internet versions available through a Universal Resource Locator (URL) link, or;

1.2. Portable Document Format (pdf) versions attached to the contract.

2. All versions shall list all products the contractor is authorized to sell under the contract along with clearly indicating, at a minimum the following:

2.1. The contract number;

2.2. Part numbers and descriptions (photos optional) of all contracted products or groups of products. Non-contracted products or groups of products shall either be deleted or clearly marked through as EXCLUDED FROM CONTRACT.

2.3. Pricing information;

2.4. The discount (percent %) from list price for each product;

2.5. Ordering information, Key Personnel; and

2.6. Service/Distribution points organized geographically by city or county (subcontractors).

3. The State Procurement Office, at its sole discretion, may maintain the contractor's electronic catalog/price list data or provide electronic links to it through our SPIRIT web-site. Regardless of the number and types of links to the contractor's

electronic catalog/price list, the contractor shall ensure that all eligible agencies are able to access one, and only one, version of contracted catalog/price list.

4. Upon award and during the term of the contract the contractor shall not alter, modify or update either the electronic or hard copy versions of the catalog/price list without prior approval by the State (see revised replacement catalog price/list provision for additional requirements). Hard copy versions shall be made available to all requesting agencies. All associated cost shall be borne by the contractor.

Code of Conduct

The contractor shall avoid any action that might create or result in the appearance of a) inappropriate use or divulging of information gathered or discovered pursuant to the performance of its duties under the contract; b) acted on behalf of the State without appropriate authorization; c) provided favorable or unfavorable treatment to anyone; d) made a decision on behalf of the State that exceeded its authority, could result in impartiality, or have a political consequence for the State; e) misrepresent or otherwise impeded the efficiency, authority, actions, policies, or adversely affect the confidence of the public or integrity of the State; or, f) loss of impartiality when advising the State.

Conflict of Interest

No person preparing or assisting in the preparation of specifications, plans or scopes of work shall receive any direct benefit from the utilization of those specifications, plans or scopes of work.

Contraband

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

DEFINITION – A.R.S. § 13-2501

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

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

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

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

B. By knowingly conveying contraband to any person confined in a correctional facility; or

C. By knowingly making, obtaining or possessing contraband while being confined in a correctional facility.

2. Promoting prison contraband is a Class 5 felony.

Contract Administration

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

Contract Assignment

Contractor may not assign, transfer or convey any of its rights or obligations under this Contract without the written permission of the Agency.

Contract Extension

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

Contract Implementation Meetings

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

Contract Problems or Changes

If at anytime during the course of the contract the Department makes the supplier aware of any problems with their products, the supplier shall take immediate action to investigate the cause and to develop a solution. Non-response or an untimely response can be grounds for non-use, contract suspension, or contract cancellation

No change to this contract or any item supplied under this contract is allowed without the expressed written authorization of

the Department Procurement Contract Management Specialist. The Department will be the sole authority as to how the proposed change, modification or substitutions is evaluated and whether it is turned down, accepted or accepted conditionally.

The supplier shall use the quarterly customer service visits to help prevent problems before they occur.

Contract Renewal

The contract shall not bind nor purport to bind, the State for any contractual commitment in excess of the original contract period. The State shall have the right, at its sole option, to renew the contract for four (4) one-year periods or a portion thereof. If the State exercises such rights, all terms, conditions and provisions of the original contract shall remain the same and apply during the renewal period with the exception of price. The Contractor shall agree that the prices stated in the original contract shall not be increased in excess of the maximum percentage of increase stated on the Pricing Schedule attached to this document.

Contract Reports

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

1.1. Total contract usage reports: Identifying all eligible using agencies and total dollar volumes purchased by each eligible using agency during the reporting period. Although not required under this reporting activity, the contractor shall provide itemized usage reports detailing all acquisitions against this contract upon request.

2. Reports shall be due at the end of each 3-month contract period to be furnished to the contract officer of record no later than 15 days after the end of each 3-month contract period.

3. The information contained in these contract reports and the accurate and timely submission thereof are critical components used by the State. Failure by the contractor to submit accurate and timely contract reports against this contract may be cause for cancellation of the contract.

CONTRACT TERM

The term of any resultant contract will commence on the date of award and will continue for one year unless canceled, terminated or extended as otherwise provided herein.

Contract Termination

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.

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.

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.

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

Termination for Default. 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.

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.

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.

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.

Customer Support

At no additional cost to the State, the contractor shall provide telephone-based customer support service for applications, equipment operation, and troubleshooting for a period of one year from the date of acceptance by the State.

Defective Products

All defective products shall be replaced and exchanged by the contractor. The cost of transportation, unpacking, inspection, repacking, reshipping or other like expenses shall be paid by the vendor. All replacement products must be received by the state within seven (7) days of initial notification.

Delivery and Pick-up

1. All deliveries shall be FOB destination, statewide freight prepaid and included in the contract price. In the event of a discrepancy between the requirements contained in this section any those contained in other areas of the contract, the requirements contained in this section shall prevail. Delivery requirements shall apply to all locations, statewide. As mutually agreed upon by the ordering eligible agency and the contractor.

Delivery Location(s)

To provide adequate coverage for various State agencies and political subdivision(s), the State of Arizona reserves the right to add and or delete locations whichever is deemed most advantageous to the State of Arizona.

Discount Rates

1. The contractor(s) shall disclose and honor all applicable discount rates contained herein (i.e. discount from list price, electronic ordering systems, annual volume discount program, Single bulk purchase, State of Arizona purchasing card 'P-Card' Program, special educational and prompt payment discounts). Disclosure shall, at a minimum be done using the following methods:

- 1.1. Prominently displayed on electronic media supplied by the contractor and approved by the State;
- 1.2. Prominently displayed on all written price communications, order conformations and invoice activities;
- 1.3. Disclosed during all verbal correspondence with an eligible ordering agency.

Failure to disclose and honor all applicable discount rates to eligible ordering agencies may result in contract cancellation or any other remedy available by law, inclusive of the issuing of credits or refunds to all affected agencies.

Electronic Ordering Systems

1. Systems that provide electronic commerce assistance for the electronic submission of purchase orders, purchase order tracking and reporting available through a contractor's Electronic Data Interchange (EDI) system or secured internet/web portal. This provision shall only apply to those contractors who have such systems available under the contract. The contractor's system, at a minimum shall:

- 1.1. Be made available to all eligible agencies. Utilization shall be the sole discretion of the eligible agency;
- 1.2. Be implemented with a training program to the agency on how to use the system;
- 1.3. Be maintained by the contractor;
- 1.4. Be a secure connection;
- 1.5. Not allow for purchase orders to be placed for non-contract or excluded items.
- 1.6. Provide multiple or individual access to the system (agency elect);

2. Eligible agencies may elect, at their own discretion to utilize the contractor's electronic ordering system. Should an eligible agency elect to use the system they shall do so by formal request to the contractor.

2.1. Upon receipt of the request the contractor shall have the system fully installed and functioning within 30 day from receipt of the request, or as mutually agreed upon between the agency and the contractor.

2.2. Initial training shall either be performed upon completion of the installation or as mutually agreed upon between the agency and the contractor.

3. Upon contract termination or at the request of an agency the contractor shall uninstall all features of the system within 30 days.

4. Contractors not having electronic ordering systems at time of award but who may wish to offer such, may do so at any time during the contract period by providing a written request to the contract specialist of record. Systems offered shall meet all criteria established above. Incorporation of the offered system shall be in the form of a contract amendment.

5. All cost associated with installation, training, maintenance, support and removal of such systems shall be borne by the contractor

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.

Estimated Quantities (General)

This solicitation references quantities as a general indication of the needs of the state. The state anticipates considerable activity resulting from contracts that will be awarded as a result of his solicitation; however, the quantities shown are estimates only and the state reserves the right to increase or decrease any quantities actually acquired. No commitment of any kind is made concerning quantities and that fact should be taken into consideration by each potential contractor.

Estimated Quantities (Considerable)

The state anticipates considerable activity resulting from contracts 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.

Federal Excise Tax Exemption Certificate

It is understood that the exemption from tax in the case of sales of articles to state agencies or political subdivisions thereof is limited to articles purchased for use in the exercise of essential government functions, and it is agreed that where articles purchased tax-free under this exemption certificate are used for purposes other than in the exercise of essential functions, or are sold to employees or others, the agency will report such facts to the vendor.

Federal Immigration and Nationality Act

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

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

INCLUSIVE OFFEROR

Offeror(s) are encouraged to make every effort to utilize subcontractors that are small, women-owned and/or minority owned business enterprises. This could include subcontracts for a percentage of Administrative or Billing needs. Offerors who are committing a portion of their work to such subcontractors shall do so by identifying the type of service and work to be performed by providing detail concerning your organization's utilization of small, women-owned and/or minority business enterprises. Emphasis should be placed on specific areas that are subcontracted and percentage of contract utilization and how this effort will be administered and managed, including reporting requirements.

INDEMNITY

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.

If the Contractor is the State of Arizona, its departments, agencies, boards and commissions, then the above shall not apply.

Insurance – Standard Service Contract

INDEMNIFICATION CLAUSE:

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.

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 injury and broad form contractual liability coverage.

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

- a. The policy shall be endorsed to include the following additional insured language: 'The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor'.
- b. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

2. Automobile Liability

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

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

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

3. Worker's Compensation and Employers' Liability

Workers' Compensation – Statutory

Employers' Liability

- Each Accident – \$500,000
- Disease Each Employee – \$500,000
- Disease Policy Limit – \$1,000,000

- a. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.
- b. This requirement shall not apply to: Separately, EACH contractor or subcontractor exempt under A.R.S. 23-901, and

when such contractor or subcontractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.

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

1. The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees wherever additional insured status is required such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Contract.
2. The Contractor's insurance coverage shall be primary insurance with respect to all other available sources.
3. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.

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

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

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

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

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

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

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

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

Inventory

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

INVOICING

All invoices will contain the contract number, contract name, project number, purchase order number, equipment utilized, labor hours, labor rate, materials supplied, Contractor's name and address, a copy of Work Order authorizing work and the name of the Contractor's representative to contact concerning billing questions. If the project is invoiced once for the total amount of the project, the Contractor will be paid in arrears generally within 30 days of receipt of the invoice. Should the invoice be for partial payment, the invoice must specify what the Contractor is being paid for according to the invoice method specified by the Work Order (i.e. Percentage Completion, Task Specific, 100% Completion, Unit Completion, etc.):

Percentage Completion: Contractors may invoice when the percentages completion required on the Work Order have been mutually agreed upon in writing by the Contractor and the Project Manager as in fact having been completed. Task Specific: Contractors may invoice when tasks specified on the Work Order as a requirement for payment have been mutually agreed upon in writing by the Contractor and the Project Manager as in fact having been completed. =====Default===== The Contractor will invoice the State for all projects according to the manner assigned for the type of project in this solicitation (See Price Sheet Pages 43 thru 64 of 85). All invoices will contain the contract number, contract name, project number, purchase order number, equipment utilized, labor hours, labor rate, materials supplied, Contractor's name and address, a copy of Work Order authorizing work and the name of the Contractor's representative to contact concerning billing questions. Should the trees to be cut constitute merchantable timber, the Contractor shall reduce the amount due from the State by the market value of the trees cut. If the project is invoiced once for the total amount of the project, the Contractor will be paid in arrears generally within 30 days of receipt of the invoice. Should the invoice be for partial payment, the invoice must specify what the Contractor is being paid for according to the invoice method specified by the Work Order (i.e. Percentage Completion, Task Specific, 100% Completion, Unit Completion, etc.):

Percentage Completion: Contractors may invoice when the percentages completion required on the Work Order have been mutually agreed upon in writing by the Contractor and the Project Manager as in fact having been completed. Task Specific: Contractors may invoice when tasks specified on the Work Order as a requirement for payment have been mutually agreed upon in writing by the Contractor and the Project Manager as in fact having been completed.

IT 508 Compliance

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

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. Once assigned to work under the contract, key personnel shall not be removed or replaced without the prior written approval of the issuing agency and a copy to the procurement office of record.

Licenses

Contractor shall maintain in current status all Federal, State and Local licenses and permits required for the operation of a business conducted by the contractor.

Multiple Award

The state has a large number and variety of potential using agencies at locations throughout Arizona. In order to assure that any ensuing contracts will allow the state to fulfill current and further requirements, the state reserves the right to award contracts to multiple companies. The actual utilization of any contract will be at the sole discretion of the state. The fact that the state may make multiple awards should be taken into consideration by each potential contractor.

Multiple Eligible Agencies

Any resultant contract shall be for use by the agencies identified as primary users in the solicitation and by other State agencies identified through out the contract term. Following contract award, participation by a State agency not originally identified shall be based upon approval of the contractor.

New Equipment

All equipment, materials, parts and other components incorporated in the work or an item covered by this contract shall be new, of the latest model and of the most suitable grade for the purpose intended. Any and all work under this contract shall be performed in a skilled and workmanlike manner.

New Products

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

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

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

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

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

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

Non-Collusion

Not withstanding Uniform Instructions clause 4.4

By signing the bid, the bidder certifies that the bid submitted has been arrived at independently and has been submitted without collusion with, and without any agreement, understanding or planned common course of action with, any other vendor of materials, supplies, equipment or services described in the invitation to bid, designed to limit independent bidding or competition.

Non-Discrimination

The Contractor shall comply with Executive Order 99-4, which mandates that all persons, regardless of race, color, religion, sex, age, national origin or political affiliation, shall have equal access to employment opportunities and all other applicable State and Federal employment laws, rules, and regulations, including the Americans with Disabilities Act. The Contractor shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, national origin or disability.

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 either the agency (within an agencies delegated authority) or by the State Procurement Office. Approvals shall be at the exclusive discretion of the State and shall be final. Off-contract procurement shall be consistent with the Arizona Procurement Code.

NOTICES

All notices, requests, demands, consents, approvals, and other communications which may or are required to be served or given hereunder (for the purposes of this provisions collectively called 'Notices'), shall be in writing and shall be sent by registered or certified United States mail, return receipt requested, postage prepaid, addressed to the party or parties to receive such notice as follows: a. If intended for the State, to: Arizona Department of Corrections Procurement Services 1601 West Jefferson, Mail Code 55303 Phoenix, Arizona 85007

Offshore Performance of Work Prohibited

Due to security and identity protection concerns, direct services under this contract shall be performed within the borders of the United States. Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and may involve access to secure or sensitive data or personal client data or development or modification of software for the State shall be performed within the borders of the United States. Unless specifically stated otherwise in the specifications, this definition does not apply to indirect or 'overhead' services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers.

ON-SITE SUPERVISION

The Contractor shall have supervisory personnel present during work operations for the purpose of observing work progress, inspection of completed work, meeting with State personnel to perform random work site inspections and coordinate operational requirements. The supervisor shall also possess a copy of this contract, any amendments thereto and accepted traffic control plans when performing work under any resultant contract.

The supervisory personnel shall possess a means of communications with the State in advance of and while performing any work under this contract. This form of communication may be cellular telephone or mobile radio. The Contractor shall provide the State with the names and telephone numbers of all on-site supervisory personnel.

The Contractor's on-site supervisor and additional personnel, as deemed necessary by the State, must be literate and fluent in the English language. This is not meant to require that all Contractor personnel speak, read and write English. Some tasks may require only the on-site supervisor, crew leader or a crewmember to speak, read and write English. Other activities that involve contact and interaction with the public will require that more workers speak English, for example flaggers, etc. This requirement is necessary due to the following reasons, which include but are not limited to:

- Warnings of emergencies and hazards.
- Preparation of reports.
- Communication with State personnel.
- Response to travelers' inquiries.
- Response to law enforcement authorities, ambulance, etc.

Due to the significance of the above listed reasons, the English requirement is being made with the intent that communications between the Contractor's employees, State personnel and the public will be understood.

If for any reason the Contractor changes any of the personnel described in the proposal, the Contractor shall notify the Agency Project Manager in writing of the proposed or actual substitution as soon as possible, and present the qualifications of the replacement personnel. Any replacement personnel must be acceptable to the Agency Project Manager, and shall possess at least the same level of qualifications as the personnel being replaced.

Order Acceptance

Contractor shall acknowledge acceptance of all Orders. Contractor shall notify the Customer, in writing or electronically, within five (5) days of Order receipt. Orders that are not accepted or not specifically rejected by the Contractor within the five (5) days shall be considered accepted. Customers may accept verbal Order acceptance when time and circumstances require. Order acceptance shall include the reservation of all elements necessary to deploy the Ordered and accepted products and services.

Upon receipt of Products and Services, and/or commencement of continual Services, the Customer shall determine whether all delivered Products and Services meet the applicable Product and Services specifications and quality requirements established herein.

Products and Services shall be considered accepted at the time of Order Delivery.

If agreed upon in the Order between the Customer and the Contractor, the Customer shall, within seven (7) days from the date of Order Delivery, issue a written notice of acceptance, partial acceptance or rejection of the Products and Services. If such a notice is not issued in the given timeframe, such Product and Service shall be deemed accepted.

No payment shall be made for any Products and Services until the Customer has accepted the Products and Services ordered.

Order Acknowledgement

Contractor shall acknowledge receipt of all Orders. Contractor shall notify the Customer, in writing or electronically, within two (2) days of Order receipt. Customers may accept verbal Order acknowledgment when time and circumstances require.

Order Modification or Cancellation

Customer may, at any time prior to Order acceptance, modify or cancel the Order, in whole, or in part. Customer shall have no liability for making such modifications or cancellations.

Ordering

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

Ordering Process

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

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

1.2. Electronically transmitted through facsimile equipment;

1.3. Electronically transmitted as an e-mail attachment;

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

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

1.4.2. Use of such systems shall be at the sole at the sole discretion of the eligible agency and all cost associated with set-up, maintenance and support shall be borne by the contractor.

1.5. Electronically through State's or eligible agencies p-card program.

2. This contract was awarded in accordance with the Arizona Procurement Code and all transactions and procedures required by the code for competitive source selection have been met. A contract release order/purchase order, initiated in accordance with the requirements contained herein, that cites the correct Arizona contract number is the only document required for the agency to order and the contractor to deliver the material and /or service.

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

Price Adjustment

1. Discount (percents %) From List Price: Discount (percents %) from list price shall remain the same for the contract term. The State Procurement Office may review a fully documented request for a price increase only (change in discount) only on the anniversary or renewal date of the contract. The requested increases shall be based upon a cost increase to the contractor that was clearly unpredictable at the time of the offer and is directly correlated the price of the product/service

contractually covered.

1.1. The request shall be submitted from 90 to 120 days prior to the anniversary or contract renewal date of the contract and shall be a factor in the extension review process.

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

2. The State, at its sole option shall determine whether the requested price adjustment or an alternate option is in the best interest of the State. Approval shall be in the form of a contract amendment, and shall become effective on the date specified in the amendment. Upon approval by the State, the contractor shall make available all electronic and hard copy catalog/price list updates to all eligible using agencies at no additional cost to the State.

Pricing

Bid and contract pricing shall be in an all inclusive monthly rate.

Product Discontinuance

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

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

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

1.3. Documentation from the manufacturer that names the replacement product(s).

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

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

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

Product Return

Any agency utilizing any resulting contract may return any or all unused product(s), in there original container or package, to the contractor for exchange or credit at the current contract price during the term of this contract with no restocking fee. All product(s) will be returned in a timely manner during the period of the contract. Proof of purchase will be attempted but shall not be required. A full refund shall be issued for all unused product(s) returned to the supplier up to ninety (90) days after contract expiration. A credit may be issued only if there is an existing sale pending. Credit to any Agency account will not be accepted after contract expiration. The supplier will issue a check for full reimbursement to the Agency.

Special order items may be returned with a restocking fee.

Reference to Uniform Terms and Conditions

The State of Arizona Uniform Terms and Conditions are incorporated herein by reference (Go to the Arizona Department of Administration website <http://www.azspo.az.gov> Procurement Documents, Uniform Terms and Conditions).

Revised or Replacement Catalog/Price lists

1. The State may review a fully documented request to incorporate a revised or replacement catalog/price list (i.e. manufacturer's price list) only on the anniversary or renewal date of the contract. The request shall be submitted from 90 to 120 days prior to the anniversary or contract renewal date and shall be supplemented with the following information. Failure to submit the request within the stated timeframe and/or failure to supply any of the following information with the request may result in the state not considering the request.

1.1. A declaration that affirms that the proposed catalog/price lists (i.e. manufacturer's price list) is one that:

1.1.1. Is a replacement or revision to the original, containing the same item groups as originally awarded.

1.1.2. Is regularly maintained by a manufacturer, distributor or contractor.

1.1.3. Is either published or otherwise available for inspection by customers.

1.1.4. Is one that states prices at which sales are currently or were last made to a significant number of any category of

buyers or buyers constituting the general buying public for the materials or services involved.

1.2. Pricing information, existing versus proposed, electronic and hardcopy formats that:

1.2.1. Identifies all products, by part number, SKU number, description and manufacturer that will experience increases from existing prices.

1.2.2. Displays a side by side comparison of pricing, existing vs. proposed increases.

1.2.3. Details the factors that were clearly unpredictable at the time of the original bid and that have a direct affect on the proposed increase. Newly published or revised catalog/price lists submitted without supplemental information may not be considered.

1.2.4. Identifies all products, by part number, SKU number, description and manufacturer that will experience decreases from existing prices.

1.2.5. Displays a side by side comparison of pricing, existing vs. proposed decreases.

1.2.5.1. The contractor shall also obligated to pursue price decreases in accordance with the price decrease provision contained herein.

1.3. Product Information (Deletions/Additions) existing versus proposed, electronic and hardcopy formats that:

1.3.1. Identifies all discontinued products, by part number, SKU number, description and manufacturer that are either no longer being manufacturer or are no longer available to the contractor.

1.3.2. Identifies all proposed product additions, by part number, SKU number, description and manufacturer

1.3.2.1. When pursuing product deletions or additions the contractor shall also supplement the request as required under product discontinuance new product provisions contained herein.

1.4. The State reserves the right to approve and entire catalog/price list (i.e. manufacturer's price list), portions thereof or to exercise an alternate option, whichever is deemed in the best interest of the state.

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

Safety Standards

All items supplied on this contract must comply with the current applicable occupational safety and health standards of the State of Arizona Industrial Commission, The National Electric Code, and The National Fire Protection Association Standards.

Secure Location Deliveries

The Contractor will be responsible for contacting the secure location (such as Arizona Department of Corrections) for security clearance, hours of operation, dress code, and other related rule when scheduling a delivery or service call. Lack of familiarity with the locations or policies will not relieve a contractor of their responsibilities in fulfillment of the delivery, installation, maintenance/service agreement, and contract requirements.

Serial Numbers

The contract is for equipment on which the original manufacturers' serial number has not been altered in any way.

Throughout the contract term, the state reserves the right to reject any altered equipment.

Shipping F.O.B Statewide

Prices shall be F.O.B. Destination to any delivery location in the State of Arizona, delivered to the specified receiving point as required by the customer agency at the time of order. Contractor shall retain title and control of all goods until they are delivered, received and contract of coverage has been completed. All risk of transportation and all related charges shall be the responsibility of the contractor. All claims for visible and concealed damage shall be filed by the contractor. The State will notify the contractor promptly of any damaged goods and shall assist the contractor in arranging for inspection.

Suspension or Debarment Status

If the firm, business or person submitting this bid or offer has been debarred, suspended or otherwise lawfully precluded from participating in any public procurement activity with any Federal, State or Local Government, the bidder or offeror must include a letter with its bid or offer setting forth the name and address of the governmental unit, the effective date of the suspension or debarment, the duration of the suspension or debarment, and the relevant circumstances relating to the suspension or debarment. Failure to supply the letter or to disclose in the letter all pertinent information regarding a suspension or debarment shall result in rejection of the bid or offer or cancellation of a contract. The State also may exercise any other remedy available by law.

Taxes

1. Applicable Taxes: The State will pay only the rate and/or amount of taxes identified in the offer and in any resulting contract.

2. 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, penalties 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.

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

Telephone Ordering Support

Contractor(s) shall accept collect telephone calls and/or provide and maintain a toll-free number for eligible agency use. Failure to maintain this service may be cause for cancellation of the contract.

Termination for Convenience

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

Termination for Default

The State reserves the right to terminate the whole or any part of the contract due to failure of the Contractor to carry out any term, promise, or condition of the contract. The State will issue a written ten (10) day notice of default to the Contractor for failure to adequately perform, or there is reason for the State to believe that the Contractor cannot or will not adequately perform the requirements of the contract.

Terms and Conditions Specific to the Dept of Corrections

Type here

Waiver and Rejection of Rights

Notwithstanding any other provision of the solicitation, the State reserves the right to waive any immaterial defect or informality; Reject any and all offers or portions thereof; or Cancel a solicitation. The chief procurement officer shall file a written determination specifying the reasons for the decision.

Will Call/Ordering Support

The contractor(s) shall provide and maintain applicable toll-free telephone numbers and facsimile numbers for eligible agency use. Failure to maintain this service may be cause for cancellation of the contract.

Contract

Solicitation # SCC080002

Uniform Instructions

1 Definition of Terms

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

1.2 Contract

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

1.3 Contract Amendment

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

1.4 Contractor

any person who has a Contract with the State

1.5 Days

calendar days unless otherwise specified.

1.6 Exhibit

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

1.7 Offer

bid, proposal or quotation.

1.8 Offeror

a vendor who responds to a Solicitation.

1.9 Procurement Officer

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

1.10 Solicitation

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

1.11 Solicitation Amendment

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

1.12 Subcontract

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

1.13 State

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

2 Inquiries

Inquiries

2.1 Duty to Examine

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

2.2 Solicitation Contact Person

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

2.3 Submission of Inquiries

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

2.4 Timeliness

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

2.5 No Right to Rely on Verbal Responses

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

solicitation.

2.6 Solicitation Amendments

The Solicitation shall only be modified by a Solicitation Amendment.

2.7 Pre-Offer Conference

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

2.8 Persons With Disabilities

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

3 Offer Preparation

Offer Preparation

3.1 Forms: No Facsimile, Telegraphic or Electronic Mail Offers

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

3.2 Typed or Ink; Corrections

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

3.3 Evidence of Intent to be Bound

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

3.4 Exceptions to Terms and Conditions

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

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

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

3.5 Subcontracts

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

3.6 Cost of Offer Preparation

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

3.7 Solicitation Amendments

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

3.8 Federal Excise Tax

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

3.9 Provision of Tax Identification Numbers

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

3.10 Employee Identification

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

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

3.11 Identification of Taxes in Offer

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

3.12 Disclosure

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

3.13 Solicitation Order of Precedence

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

3.13.1 Special Terms and Conditions;

3.13.2 Uniform Terms and Conditions;

3.13.3 Statement or Scope of Work;

3.13.4 Specifications;

3.13.5 Attachments;

3.13.6 Exhibits;

3.13.7 Special Instructions to Offerors;

3.13.8 Uniform Instructions to Offerors. 3.13.9 Other documents referenced or included in the Solicitation.

3.14 Delivery

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

4 Submission of Offer

Submission of Offer

4.1 Sealed Envelope or Package

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

4.2 Offer Amendment or Withdrawal

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

4.3 Public Record

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

4.4 Non-collusion, Employment, and Services

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

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

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

5 Evaluation

Evaluation

5.1 Unit Price Prevails

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

5.2 Taxes

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

5.3 Late Offers

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

5.4 Disqualification

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

5.5 Offer Acceptance Period

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

5.6 Waiver and Rejection Rights

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

5.6.1 Waive any minor informality;

5.6.2 Reject any and all Offers or portions thereof; or

5.6.3 Cancel the Solicitation.

6 Award

Award

6.1 Number or Types of Awards

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

6.2 Contract Inception

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

6.3 Effective Date

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

7 Protests

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

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

7.2 The signature of the protester or its representative;

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

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

7.5 The form of relief requested.

8 Comments Welcome

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

Contract

Solicitation # SCC080002

Uniform Terms and Conditions

1 Definition of Terms

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

1.1 Attachment

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

1.2 Contract

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

1.3 Contract Amendment

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

1.4 Contractor

any person who has a Contract with the State.

1.5 Days

calendar days unless otherwise specified

1.6 Exhibit

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

1.7 Gratuity

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

1.8 Materials

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

1.9 Procurement Officer

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

1.10 Services

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

1.11 Subcontract

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

1.12 State

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

1.13 State Fiscal Year

the period beginning with July 1 and ending June 30,

2 Contract Interpretation

Contract Interpretation

2.1 Arizona Law

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

2.2 Implied Contract Terms

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

2.3 Contract Order of Precedence

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

2.3.1 Special Terms and Conditions;

2.3.2 Uniform Terms and Conditions;

2.3.3 Statement or Scope of Work;

2.3.4 Specifications;

2.3.5 Attachments;

2.3.6 Exhibits;

2.3.7 Documents referenced or included in the Solicitation.

2.4 Relationship of Parties

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

2.5 Severability

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

2.6 No Parol Evidence

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

2.7 No Waiver

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

3 Contract Administration and Operation

Contract Administration and Operation.

3.1 Records

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

3.2 Non-Discrimination

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

3.3 Audit

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

3.4 Facilities Inspection and Materials Testing

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

3.5 Notices

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

3.6 Advertising, Publishing and Promotion of Contract

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

3.7 Property of the State

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

3.8 Ownership of Intellectual Property

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

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

4 Costs and Payments

Costs and Payments

4.1 Payments

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

4.2 Delivery

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

4.3 Applicable Taxes

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

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

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

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

4.4 Availability of Funds for the Next State Fiscal Year

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

4.5 Availability of Funds for the Current State Fiscal Year

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

4.5.1 Accept a decrease in price offered by the contractor;

4.5.2 Cancel the Contract

4.5.3 Cancel the contract and re-solicit the requirements.

5 Contract Changes

Contract Changes

5.1 Amendments

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

5.2 Subcontracts

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

5.3 Assignment and Delegation

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

6 Risk and Liability

Risk and Liability

6.1 Risk of Loss

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

6.2 Indemnification

6.2.1 Contractor/Vendor Indemnification (Not Public Agency) The parties to this contract agree that the State of Arizona, its' departments, agencies, boards and commissions shall be indemnified and held harmless by the contractor for the vicarious liability of the State as a result of entering into this contract. However, the parties further agree that the State of Arizona, its' departments, agencies, boards and commissions shall be responsible for its' own negligence. Each party to this contract is responsible for its' own negligence.

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

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

6.3 Indemnification – Patent and Copyright

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

6.4 Force Majeure

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

6.4.2 Force Majeure shall not include the following occurrences:

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

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

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

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

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

6.5 Third Party Antitrust Violations

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

7 Warranties

Warranties

7.1 Liens

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

7.2 Quality

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

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

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

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

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

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

7.3 Fitness

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

7.4 Inspection/Testing

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

7.5 Year 2000

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

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

7.6 Compliance With Applicable Laws

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

7.7 Survival of Rights and Obligations after Contract Expiration or Termination

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

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

8 State's Contractual Remedies

State's Contractual Remedies

8.1 Right to Assurance

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

8.2 Stop Work Order

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

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

8.3 Non-exclusive Remedies

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

8.4 Nonconforming Tender

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

remedy available to it.

8.5 Right of Offset

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

9 Contract Termination

Contract Termination

9.1 Cancellation for Conflict of Interest

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

9.2 Gratuities

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

9.3 Suspension or Debarment

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

9.4 Termination for Convenience

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

9.5 Termination for Default

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

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

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

9.6 Continuation of Performance Through Termination

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

10 Contract Claims

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

11 Arbitration

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

Contract
Solicitation # SCC080002

Offer

TO THE STATE OF ARIZONA:

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

Tax Information

Arizona Transaction (Sales) Privilege Tax License No. 07-030948
Federal Employer Identification No. XXXXXXXXXX

Location Information

Supplier Number: 4579
Company Name: American Fence Company
Address: 2502 N. 27th Ave
Phoenix, AZ 85009

Signature

Name: Bill Hennessy Date: 10/5/07 10:37:24
Title: National Sales Manager
Signature:

Status: Accepted

Certification

By Accepting below, the bidder certifies:

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

Acceptance

The Offer is hereby accepted.

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

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

Award Date TBD

Contract
Solicitation # SCC080002

| Line Items | | | | | | | | |
|------------|-----------------------------|--|--------------|---------|-----|----|------------|-----------|
| LI # | CM Code # CM Code Item # | Commodity Code Description Commodity Code Item Description | Manufacturer | Pricing | Qty | % | Unit Price | Ext Price |
| 1 | 0330-0013 0330-0013-0003 | Fencing, Chain Link (Including Fabric, Gates, Panels, Posts and Fittings) 1.2OZ CHAINLINK FENCE: Fabric, Galvanized, 11 Gauge, 2" Mesh Knuckle/Barb, Type I, 36" | | DLP | 1 | 12 | \$40.71 | \$40.71 |
| 2 | 0330-0013 0330-0013-0004 | Fencing, Chain Link (Including Fabric, Gates, Panels, Posts and Fittings) 1.2OZ CHAINLINK FENCE: Fabric, Galvanized, 11 Gauge, 2" Mesh Knuckle/Barb, Type I, 48" | | DLP | 1 | 12 | \$58.13 | \$58.13 |
| 3 | 0330-0013 0330-0013-0005 | Fencing, Chain Link (Including Fabric, Gates, Panels, Posts and Fittings) 1.2OZ CHAINLINK FENCE: Fabric, Galvanized, 11 Gauge, 2" Mesh Knuckle/Barb, Type I, 60" | | DLP | 1 | 12 | \$71.88 | \$71.88 |
| 4 | 0330-0013 0330-0013-0006 | Fencing, Chain Link (Including Fabric, Gates, Panels, Posts and Fittings) 1.2OZ CHAINLINK FENCE: Fabric, Galvanized, 11 Gauge, 2" Mesh Knuckle/Barb, Type I, 72" | | DLP | 1 | 12 | \$84.37 | \$84.37 |
| 5 | 0330-0013 0330-0013-0007 | Fencing, Chain Link (Including Fabric, Gates, Panels, Posts and Fittings) 1.2OZ CHAINLINK FENCE: Fabric, Galvanized, 11 Gauge, 2" Mesh Knuckle/Barb, Type I, 84" | | DLP | 1 | 12 | \$94.37 | \$94.37 |
| 6 | 0330-0013 0330-0013-0008 | Fencing, Chain Link (Including Fabric, Gates, Panels, Posts and Fittings) 1.2OZ CHAINLINK FENCE: Fabric, Galvanized, 11 Gauge, 2" Mesh Knuckle/Barb, Type II, 72" | | DLP | 1 | 12 | \$84.37 | \$84.37 |
| 8 | 0330-0065 0330-0065-0003 | Wire, Barbed 12-1/2 gauge, class #1 galvanized, domestic, barb spacing 5" o.c. - 2 Point | | DLP | 1 | 2 | \$53.00 | \$53.00 |
| 9 | 0330-0065 0330-0065-0004 | Wire, Barbed 12-1/2 gauge, class #1 galvanized, domestic, barb spacing 5" o.c. - 4 Point | | DLP | 1 | 2 | \$73.00 | \$73.00 |
| 10 | 0330-0065 0330-0065-0005 | Wire, Barbed 12-1/2 gauge, class #1 galvanized, domestic, barb spacing 5" o.c. - Type I barb wire fence | | DLP | 1 | 2 | \$53.00 | \$53.00 |
| 11 | 0330-0065 0330-0065-0006 | Wire, Barbed 12-1/2 gauge, class #1 galvanized, domestic, barb spacing 5" o.c. - Type II barb wire fence | | DLP | 1 | 2 | \$73.00 | \$73.00 |
| 12 | 0330-0065 0330-0065-0007 | Wire, Barbed 12-1/2 gauge, class #1 galvanized, domestic, barb spacing 5" o.c. - Barbless wire | | DLP | 1 | 2 | \$47.00 | \$47.00 |
| 13 | 0330-0065 0330-0065-0008 | Wire, Barbed 12-1/2 gauge, class #1 galvanized, domestic, barb spacing 5" o.c. - Barbed wire 2 prong | | DLP | 1 | 2 | \$53.00 | \$53.00 |
| 14 | 0330-0091 0330-0091-0003 | Wire, Woven 330 ft. rolls, 78 3/8" tall, high tensile, 12 1/2 gauge | | DLP | 1 | 0 | \$294.00 | \$294.00 |
| 15 | 0330-0091 0330-0091-0005 | Wire, Woven Corner braces, metal 7 ft. | | DLP | 1 | 41 | \$17.50 | \$17.50 |
| 16 | 0330-0091 0330-0091-0004 | Wire, Woven Corner posts, metal 7 ft. | | DLP | 1 | 32 | \$25.00 | \$25.00 |
| 19 | 0330-0013 0330-0013-0010 | Fencing, Chain Link (Including Fabric, Gates, Panels, Posts and Fittings) Fence post: round, 20 weight (1 7/8" x 60") | | DLP | 1 | 15 | \$8.25 | \$8.25 |
| 20 | 0330-0013 0330-0013-0011 | Fencing, Chain Link (Including Fabric, Gates, Panels, Posts and Fittings) Fence post: round, 20 weight (2 7/8" x 60") | | DLP | 1 | 15 | \$11.00 | \$11.00 |
| 21 | 0330-0013 0330-0013-0012 | Fencing, Chain Link (Including Fabric, Gates, Panels, Posts and Fittings) POST, FENCE, 'T': ASTM-A702 2200 studded, 1.33, with 5 clips 60" | | DLP | 1 | 2 | \$3.76 | \$3.76 |

| | | | | | | | | |
|----|-----------------------------|--|--|-----|---|----|---------|---------|
| 22 | 0330-0013 0330-0013-0013 | Fencing, Chain Link (Including Fabric, Gates, Panels, Posts and Fittings) POST, FENCE, "T": ASTM-A702 2200 studded, 1.33, with 5 clips 72" | | DLP | 1 | 2 | \$4.06 | \$4.06 |
| 23 | 0330-0013 0330-0013-0014 | Fencing, Chain Link (Including Fabric, Gates, Panels, Posts and Fittings) Hardware:(Fence Stay 48" 100/bundle)-Wood | | DLP | 1 | 0 | \$3.60 | \$3.60 |
| 24 | 0330-0013 0330-0013-0015 | Fencing, Chain Link (Including Fabric, Gates, Panels, Posts and Fittings) Hardware:(Fence Stay 48" 100/bundle)-Metal | | DLP | 1 | 30 | \$0.52 | \$0.52 |
| 25 | 0330-0013 0330-0013-0016 | Fencing, Chain Link (Including Fabric, Gates, Panels, Posts and Fittings) Hardware: Angle Iron Post, 2 1/2 x 2 1/2 x 7' x 1 1/4" | | DLP | 1 | 32 | \$25.00 | \$25.00 |
| 26 | 0330-0013 0330-0013-0017 | Fencing, Chain Link (Including Fabric, Gates, Panels, Posts and Fittings) Hardware: Angle Iron Brace, 2" x 2" x 7' x 1 1/4" | | DLP | 1 | 41 | \$17.50 | \$17.50 |
| 27 | 0330-0013 0330-0013-0018 | Fencing, Chain Link (Including Fabric, Gates, Panels, Posts and Fittings) Hardware: Pre Mixed, 60lb. Bag Post Mix | | DLP | 1 | 0 | \$3.05 | \$3.05 |
| 29 | 0330-0013 0330-0013-0020 | Fencing, Chain Link (Including Fabric, Gates, Panels, Posts and Fittings) Hardware: Strain Sets (including hardware) | | DLP | 1 | 36 | \$60.00 | \$60.00 |
| 30 | 0330-0013 0330-0013-0021 | Fencing, Chain Link (Including Fabric, Gates, Panels, Posts and Fittings) Hardware: Latches | | DLP | 1 | 30 | \$1.00 | \$1.00 |
| 31 | 0330-0013 0330-0013-0022 | Fencing, Chain Link (Including Fabric, Gates, Panels, Posts and Fittings) Hardware: T-Post Sets 6'(including clips) | | DLP | 1 | 2 | \$4.06 | \$4.06 |
| 33 | 0330-0013 0330-0013-0024 | Fencing, Chain Link (Including Fabric, Gates, Panels, Posts and Fittings) Hardware: Metal Stay (48", 9 gauge) | | DLP | 1 | 30 | \$0.52 | \$0.52 |
| 34 | 0330-0046 0330-0046-0003 | Fencing, Snow High-density polyethylene orange, holes-vertical when roll is on end approximately 1 1/2" wide x 2 1/2" tall, porosity 40-50%, weight minimum of 35 pounds per roll - 4' x 100' | | DLP | 1 | 5 | \$27.55 | \$27.55 |
| 35 | 0330-0055 0330-0055-0003 | Fencing, Temporary (For Construction and Other Industrial or Safety Uses) 60" x 50' | | DLP | 1 | 8 | \$42.00 | \$42.00 |
| 37 | 0330-0059 0330-0059-0003 | Fencing, Wood (Including Components) Posts | | DLP | 1 | 5 | \$13.00 | \$13.00 |
| 39 | 0330-0059 0330-0059-0005 | Fencing, Wood (Including Components) Fasteners | | DLP | 1 | 5 | \$1.50 | \$1.50 |

Contract

Solicitation # SCC080002

Document Information

| | | | | | |
|---------------------|-------------------------------|--------------------|----------------------------|-------------|-------------|
| Type: | Supplier | Amendment: | No | Amend #: | 0 |
| Requisition #: | ADSM-76WP2G | Solicitation #: | SCC080002 | Contract #: | SCC080002-2 |
| PO Assigned: | Bernadette Hill/ADSM-6A4SXZ | Date Completed: | 11/09/2007 | | |
| PM Assigned: | Kristine Yaw/ADSM-6A4SXZ | PA Assigned: | Lu Himmelstein/ADSM-6A4SXZ | | |
| Supplier Name: | Western Fence Company, Inc. | Proposal #: | ADSM-78FNVH | | |
| Gov't Entity: | Strategic Contracting Centers | Type: | Statewide | | |
| Process Status: | Complete | Status: | Complete | | |
| Total/Not to Exceed | 0 | External Contract: | | | |
| Cost: | | | | | |

Contract Information

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

| | | | |
|--------------------------------|-------------|----------------|--------------|
| Start Date: | 11/9/07 | End Date: | 11/8/08 |
| Term: | 1 Year(s) | FOB: | |
| Payment Terms: | 2% 10/net30 | Delivery: | 1A.R.O. Days |
| Contract Extension Not Allowed | | Max Extension: | 1 Year(s) |

Solicitation Information

Title: Fencing Materials Type: IFB

Description:

Fencing: Chain link, Wrought Iron, Wire Woven, Barbed Wire, Snow Fencing, etc. For questions relating to the solicitation or procurement process, please contact Bernadette Hill at (602) 542-1172 or via email at bhill@azcorrections.gov. For questions relating to the State's Automated eProcurement System, please contact the ADOA/SPO/Spirit Support Desk at (602) 542-7600.

Contract

Solicitation # SCC080002

Special Instructions

Additional Special Instructions

Offerors shall see the Attachments within the Solicitation for Additional Special Instructions associated with this Solicitation.

Attachment Formats

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

Attachment(s) to be Submitted

Offerors shall complete and include all attachments with their proposal.

Brand Name

Any manufacturer's names, trade names, brand names or catalog numbers used in the specifications are for the purpose of describing and/or establishing the quality, design and performance required. Any such reference is not intended to limit or restrict an offer by any supplier but is only enumerated in order to advise potential offerors of the requirements of the state. Any offer which proposes like quality, design or performance will be considered.

Catalog/Price List Discounts

The offeror is to provide prices based on a percent of discount off of a referenced manufacturer's price list. A copy of the referenced price list and the applicable catalog(s) shall be enclosed with the offer. Failure to include either the manufacturer's price list or the applicable catalog(s) shall be grounds for determining the proposal as non-responsive.

Contract Award

The State intends to award a firm-fixed price contract or contracts, unless otherwise indicated, resulting from this solicitation to the responsible offeror(s) whose proposal represents the best value after evaluation in accordance with the factors and subfactors identified in the solicitation. The State may reject any or all proposals if such action is in the State's best interest. The State may waive informalities and minor irregularities on proposals received. The offeror's initial proposal should contain the offeror's best terms from a price or cost and technical standpoint. The State reserves the right to conduct discussions (negotiations) if the procurement officer determines them to be necessary. If the procurement officer determines that the number of proposals that would otherwise be in the competitive range exceeds the number at which an efficient competition can be conducted, the procurement officer may limit the number of proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals. The State reserves the right to make an award on any item for any quantity less than the quantity offered, at unit costs or prices offered, unless the offeror specifies otherwise in the proposal. The State reserves the right to make multiple awards if, after considering the additional administrative costs, it is in the State's best interest to do so. Any exchanges with offerors after receipt of a proposal does not constitute a rejection of counteroffer by the State.

Contract Payment Terms:

Offerors must indicate the prompt payment terms that they will offer to the State (for example: 2/10 Net 30; Net 30, etc.)

Definition

'May' denotes the permissive, 'Shall' denotes the imperative, 'Must' denotes the imperative.

Delivery (Offeror Response)

Delivery is an important consideration and will be a factor in the determination of an award. Therefore, delivery time after receipt of an order must be stated in definite terms. Should there be any variations in delivery time by item, offers must be clear in regard to those variations. This field is for ARO days(After Receipt of Order) and is strictly a numeric field.

Discounts

A primary objective of this solicitation is to aggregate the leveraged buying power of the state with local governments and others authorized by law to use state contracts. Offerors shall consider this objective in the development of pricing offered.

Offerors shall offer volume discounts. Volume discounts may be applied per purchase order, cumulatively per customer agency, and cumulatively statewide. The offeror shall indicate the basis for applying the volume discount (s) on the bid document form. Volume discounts shall be defined and applied as follows: Purchase order volume discounts shall be an additional discount applied to an individual purchase order over a dollar amount determined by the bidder. Cumulative agency volume discounts shall be additional discounts applied to all future orders made by an individual agency once an established volume has been met by that agency. Cumulative statewide volume discounts shall be additional discounts applied to all future orders once an established volume has been met under this contract for all state and non-state orders.

Offerors are encouraged to offer any and all types of discounts, rebates, special pricing, etc., that will result in reduced pricing to contract users. Additional discounts are encouraged and offered discounts may be considered in determining award.

Offerors shall offer discounts based on the multiple order of a single title or mixed title books to one location. Bidder shall determine volume price breaks.

Offerors may also offer discounts for electronic access ordering, for prepayment plans, deposit accounts, and approval plans for agencies legally empowered to use them.

Discussions

As provided by A.A.C. R2-7-331, discussions may be conducted with offerors who submit offers determined to be reasonably susceptible of being selected for award. If discussions are conducted pursuant to R2 7 331, the State shall issue a written request for best and final offers. Award may be made without discussions, therefore, offers shall be submitted complete and on most favorable terms.

Electronic Documents

This 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 Uniform Instructions to Offerors, offerors are responsible for clearly identifying any and all changes or modifications to any solicitations document upon submission to the State.

Electronic Ordering Systems Option

Offeror(s) are encouraged to offer electronic ordering systems to all eligible agencies. These are systems that provide electronic commerce assistance for the electronic submission of purchase orders, purchase order tracking and reporting available through a contractor's Electronic Data Interchange (EDI) system or secured internet/web portal. Such systems shall not allow for purchase orders to be placed for non-contract or excluded items. Use of such systems shall be at the sole discretion of the eligible agency and all cost associated with set-up, maintenance and support shall be borne by the contractor.

Those electing to offer an electronic ordering system to the State shall affirm by entering Yes in the appropriate solicitation questionnaire section entitled Electronic Ordering Systems Option.

Additionally, knowing that the implementation and management of electronic ordering systems result in lower administrative costs for both the supplier as well as the state we also request that the bidder(s) offer any additional discount (percent %) from list price for those eligible agencies who may implement this option. Those offering the additional discount (percent %) from list price shall do so by completing the solicitation questionnaire section entitled Electronic Ordering Systems Option. Participation is optional, therefore will not be used in the State's bid evaluation process.

Eligible Agencies (Statewide)

Any contract resulting from this solicitation 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 any resultant contract, a university, political subdivision, or nonprofit educational or public health institution must have entered into a cooperative purchasing agreement with the State Procurement Office as required by Arizona Revised Statutes 41-2632.

Estimated Quantities (Considerable)

The state anticipates considerable activity under contract(s) 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 the contractor. The quantities reflected on the solicitation price sheet areas are annual estimates only.

Evaluation

In accordance with the Arizona Procurement Code 41-2533, competitive sealed bidding, awards shall be made to the lowest responsible and responsive bidder whose bid conforms in all material respects to the requirements and criteria set forth in the solicitation.

Federal Immigration and Nationality Act

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

Federal Immigration and Nationality Act 2

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.

Financial Stability

The Offeror must be financially stable and able to substantiate the financial stability of its company. If requested, current financial statements or other financial information deemed appropriate documenting past sales history must be provided within five (5) business days or request. The State reserves the right to request additional documentation from the Offeror and to request reports on financial stability from independent financial rating services. The State reserves the right to reject any offeror who does not demonstrate financial stability sufficient for the scope of this contract award.

Geographic Coverage

This solicitation is issued for the purpose of providing fencing materials and/or installation services to cover all geographic areas of the State. Offerors may submit offers for more than one location if they are capable of providing these services in the accordance with all specifications and terms and conditions for the entire term of the resultant contract.

Inclusive Offeror(s)

Offeror(s) are encouraged to make every effort to utilize subcontractors that are small, women-owned and/or minority owned business enterprises. This could include subcontracts for a percentage of deliveries made under any subsequent contract. Offerors who are committing a portion of their work to such subcontractors shall do so by identifying the type of service and work to be performed by providing detail concerning your organization's utilization of small, women-owned and/or minority business enterprises. Emphasis should be placed on specific areas that are subcontracted and percentage of contract utilization and how this effort will be administered and managed, including reporting requirements.

IT 508 Compliance

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

IT 508 Compliance 2

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

Manufacturer's Representative

Dealers who submit an offer as a manufacturer's representative must supplement the offer with a letter from each manufacturer involved certifying that; 1) the supplier is a bona fide dealer for the specific equipment presented; 2) that the supplier is authorized to submit an offer on such equipment, and; 3) guarantees contract performance should the dealer fail to satisfactorily fulfill any obligations established as a result of the anticipated contract awards.

Multiple Awards

The equipment best responding to the requirements of the RFP will be identified, and multiple awards made where in the best interests of the State. This will be done in order to provide a broad range of types and quality equipment, with adequate contractor support. Evaluations will generally not include accessory items.

Offer Submission, Due Date and Time

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

Offshore Performance of Work

Due to security and identity protection concerns, direct services under this contract shall be performed within the borders of the United States. Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and may involve access to secure or sensitive data or personal client data or development or modification of software for the State shall be performed within the borders of the United States. Unless specifically stated otherwise in the specifications, this definition does not apply to indirect or 'overhead' services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers. Offerors shall declare all anticipated offshore services in the proposal.

Purpose

Pursuant to provisions of the Arizona Procurement Code, ARS 41-2501 et seq., the State of Arizona, State Procurement Office intends to establish a contract for the materials or services as listed herein.

Quality

All products shall be of number one quality.

QUESTIONS

Questions relating to this solicitation shall be directed to the attention of Procurement Officer, Bernadette Hill, Department of Corrections, telephone (602) 542-1172. Offerors are encouraged to fax questions, no less than seven days prior to the solicitation due date and time, to (602) 364-3790.

SPIRIT Offer Submission, Due Date and Time

This clause supersedes 'Proposals: SPIRIT Submission Requirements'.

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

State of Arizona Purchasing Card (P Card) Program Option

The State of Arizona has implemented a purchasing card program. Participating contractors may receive payments from State agencies via this purchasing card program in the same manner as other credit card type purchases. Offeror(s) should consult with their servicing bank to discuss this program and all applicable fees.

Those electing to participate in the State of Arizona purchasing card program shall affirm by entering Yes in the appropriate solicitation questionnaire section entitled State of Arizona Purchasing Card (P Card) Program.

Additionally, knowing that the utilization of the purchasing card program should result in lower administrative costs for both the supplier as well as the state we also request that the bidder(s) offer any additional discount (percent %) from list price for those eligible agencies who may implement this option. Those offering the additional discount (percent %) from list price shall do so by completing the solicitation questionnaire section entitled State of Arizona Purchasing Card (P Card) Program. Participation is optional, therefore will not be used in the State bid evaluation process.

Telephone Ordering Support

Offeror(s) are to provide and maintain a toll-free telephone number for customer ordering support. Offeror(s) are to enter their toll-free telephone number in the solicitation questionnaire section entitled Telephone Ordering Support. Failure to provide this information with the bid and/or failure to maintain this service may be cause for rejection of the bid and/or cancellation of any subsequent contract.

Value In Procurement

Through the Governor's Efficiency Review initiative, the State Procurement Office has established the Value in Procurement (VIP) Committee. A major initiative of the VIP Committee is to aggregate specific procurements to increase efficiency and cut costs. The VIP Committee has designated the XXagencyXX as a Strategic Contracting Center for XXgoods/serviceXX. Any contract resulting from this RFP shall become a statewide contract for use by all State agencies, and optional for cities, counties and school districts and other political subdivisions. State agencies that currently have individual contracts in place will be phased in under this contract when their contracts expire. The current schedule of some of these agencies specific contracts are:

XXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXX

Contract

Solicitation # SCC080002

Special Terms and Conditions

Amendments

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

Appropriation of funds

Every payment obligation of the Agency under this Contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Contract, this Contract may be terminated by the Agency at the end of the period for which funds are available. No liability shall accrue to the Agency or the State of Arizona in the event this provision is exercised, and neither the Agency nor the State shall be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

Assignment

The contractor agrees and understands that the contract shall constitute an assignment by the contractor to the State of Arizona of all rights, title and interest in and to all causes of action that the contractor may be under the antitrust laws of the United States or the State of Arizona for which causes of action have accrued or will accrue as the result of or in relation to the goods or services purchases or procured by the contractor in the fulfillment of the contract with the State of Arizona.

The contractor represents that it is an independent contractor offering such services to the general public and shall not present himself or his employees as an employee of the State of Arizona. Therefore, the contractor shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workmen s compensation, employee insurance, minimum wage requirements, overtime and agree to indemnify, save, and hold the state of Arizona, its officers, agents, and employees, harmless from and against, any and all loss; cost (including attorney fees); and damage of any kind related to such matters.

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. Should Contractor not desire to retain the audit documentation in its entirety for a period of five (5) years from the date of the audit report, they shall be given to the Auditor General for safekeeping.

Availability of Funds for the Next Fiscal Year

Funds are not presently available for performance under this contract beyond the current fiscal year. The State's obligation for performance of this contract beyond this fiscal year is contingent upon the availability of funds from which payment for contract purposes can be made. No legal liability on the part of the State for any payment may arise for performance under this contract beyond the current fiscal year until funds are made available for performance of this contract.

BID EVALUATION

In accordance with the Arizona Procurement Code 41-2533, Competitive Sealed Bidding, awards will be made to the lowest responsible and responsive bidder whose bid conforms in all material respects to the requirements and criteria set forth in the Invitation For Bid.

Billing – Commodities

1. 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.

- 1.1. Name and address of the contractor;
- 1.2. Both the contract number and contract release/purchase order number;
- 1.3. The contractors federal tax identification number;
- 1.4. The contractor's remittance address;
- 1.5. A description of the goods or services provided;
- 1.6. Quantity and delivery/service timeframe;
- 1.7. Itemized (if applicable) and total invoice pricing.

Cancellation

The State reserves the right to cancel the whole or any part of the contract due to failure of the Contractor to carry out any term, promise, or condition of the contract. The State will issue a written ten (10) day notice of default to the Contractor for acting or failing to act as in any of the following:

The Contractor provides personnel that do not meet the requirements of the contract.

The Contractor fails to perform adequately the services required in the contract.

The Contractor attempts to impose on the State, personnel, which are of an unacceptable quality.

The Contractor fails to furnish the required product within the time stipulated in the contract.

The Contractor fails to make progress in the performance of the requirements of the contract and/or gives the State a positive indication that the Contractor will not or cannot perform to the requirements of the contract.

If the Contractor does not correct the above problem(s) within ten (10) days after receiving the notice of default, the State may cancel the contract. If the State cancels the contract pursuant to this clause, the State reserves all rights or claims to damage for breach of contract.

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.

Cancellation For Possession Of Weapons On State Property

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

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

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

Catalogs/Contract Price Listing

As applicable, the contractor(s) shall be required to furnish to all requesting agencies and eligible political sub-divisions, catalogs at no cost which will outline contract prices.

Catalog/Price list, Maintenance (electronic/hard copy)

1. The contractor shall provide and maintain electronic and hard copy versions of all contracted catalog/price lists during the contract term. Electronic versions shall be in either of the following formats. No alterations, amendments or updates shall be allowed without prior approval by the State. This is covered in more detail in paragraph 4.

1.1. Internet versions available through a Universal Resource Locator (URL) link, or;

1.2. Portable Document Format (pdf) versions attached to the contract.

2. All versions shall list all products the contractor is authorized to sell under the contract along with clearly indicating, at a minimum the following:

2.1. The contract number;

2.2. Part numbers and descriptions (photos optional) of all contracted products or groups of products. Non-contracted products or groups of products shall either be deleted or clearly marked through as EXCLUDED FROM CONTRACT.

2.3. Pricing information;

2.4. The discount (percent %) from list price for each product;

2.5. Ordering information, Key Personnel; and

2.6. Service/Distribution points organized geographically by city or county (subcontractors).

3. The State Procurement Office, at its sole discretion, may maintain the contractor's electronic catalog/price list data or provide electronic links to it through our SPIRIT web-site. Regardless of the number and types of links to the contractor's

electronic catalog/price list, the contractor shall ensure that all eligible agencies are able to access one, and only one, version of contracted catalog/price list.

4. Upon award and during the term of the contract the contractor shall not alter, modify or update either the electronic or hard copy versions of the catalog/price list without prior approval by the State (see revised replacement catalog price/list provision for additional requirements). Hard copy versions shall be made available to all requesting agencies. All associated cost shall be borne by the contractor.

Code of Conduct

The contractor shall avoid any action that might create or result in the appearance of a) inappropriate use or divulging of information gathered or discovered pursuant to the performance of its duties under the contract; b) acted on behalf of the State without appropriate authorization; c) provided favorable or unfavorable treatment to anyone; d) made a decision on behalf of the State that exceeded its authority, could result in impartiality, or have a political consequence for the State; e) misrepresent or otherwise impeded the efficiency, authority, actions, policies, or adversely affect the confidence of the public or integrity of the State; or, f) loss of impartiality when advising the State.

Conflict of Interest

No person preparing or assisting in the preparation of specifications, plans or scopes of work shall receive any direct benefit from the utilization of those specifications, plans or scopes of work.

Contraband

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

DEFINITION – A.R.S. § 13-2501

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

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

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

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

B. By knowingly conveying contraband to any person confined in a correctional facility; or

C. By knowingly making, obtaining or possessing contraband while being confined in a correctional facility.

2. Promoting prison contraband is a Class 5 felony.

Contract Administration

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

Contract Assignment

Contractor may not assign, transfer or convey any of its rights or obligations under this Contract without the written permission of the Agency.

Contract Extension

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

Contract Implementation Meetings

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

Contract Problems or Changes

If at anytime during the course of the contract the Department makes the supplier aware of any problems with their products, the supplier shall take immediate action to investigate the cause and to develop a solution. Non-response or an untimely response can be grounds for non-use, contract suspension, or contract cancellation

No change to this contract or any item supplied under this contract is allowed without the expressed written authorization of

the Department Procurement Contract Management Specialist. The Department will be the sole authority as to how the proposed change, modification or substitutions is evaluated and whether it is turned down, accepted or accepted conditionally.

The supplier shall use the quarterly customer service visits to help prevent problems before they occur.

Contract Renewal

The contract shall not bind nor purport to bind, the State for any contractual commitment in excess of the original contract period. The State shall have the right, at its sole option, to renew the contract for four (4) one-year periods or a portion thereof. If the State exercises such rights, all terms, conditions and provisions of the original contract shall remain the same and apply during the renewal period with the exception of price. The Contractor shall agree that the prices stated in the original contract shall not be increased in excess of the maximum percentage of increase stated on the Pricing Schedule attached to this document.

Contract Reports

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

1.1. Total contract usage reports: Identifying all eligible using agencies and total dollar volumes purchased by each eligible using agency during the reporting period. Although not required under this reporting activity, the contractor shall provide itemized usage reports detailing all acquisitions against this contract upon request.

2. Reports shall be due at the end of each 3-month contract period to be furnished to the contract officer of record no later than 15 days after the end of each 3-month contract period.

3. The information contained in these contract reports and the accurate and timely submission thereof are critical components used by the State. Failure by the contractor to submit accurate and timely contract reports against this contract may be cause for cancellation of the contract.

CONTRACT TERM

The term of any resultant contract will commence on the date of award and will continue for one year unless canceled, terminated or extended as otherwise provided herein.

Contract Termination

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.

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.

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.

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

Termination for Default. 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.

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.

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.

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.

Customer Support

At no additional cost to the State, the contractor shall provide telephone-based customer support service for applications, equipment operation, and troubleshooting for a period of one year from the date of acceptance by the State.

Defective Products

All defective products shall be replaced and exchanged by the contractor. The cost of transportation, unpacking, inspection, repacking, reshipping or other like expenses shall be paid by the vendor. All replacement products must be received by the state within seven (7) days of initial notification.

Delivery and Pick-up

1. All deliveries shall be FOB destination, statewide freight prepaid and included in the contract price. In the event of a discrepancy between the requirements contained in this section any those contained in other areas of the contract, the requirements contained in this section shall prevail. Delivery requirements shall apply to all locations, statewide. As mutually agreed upon by the ordering eligible agency and the contractor.

Delivery Location(s)

To provide adequate coverage for various State agencies and political subdivision(s), the State of Arizona reserves the right to add and or delete locations whichever is deemed most advantageous to the State of Arizona.

Discount Rates

1. The contractor(s) shall disclose and honor all applicable discount rates contained herein (i.e. discount from list price, electronic ordering systems, annual volume discount program, Single bulk purchase, State of Arizona purchasing card 'P-Card' Program, special educational and prompt payment discounts). Disclosure shall, at a minimum be done using the following methods:

- 1.1. Prominently displayed on electronic media supplied by the contractor and approved by the State;
- 1.2. Prominently displayed on all written price communications, order conformations and invoice activities;
- 1.3. Disclosed during all verbal correspondence with an eligible ordering agency.

Failure to disclose and honor all applicable discount rates to eligible ordering agencies may result in contract cancellation or any other remedy available by law, inclusive of the issuing of credits or refunds to all affected agencies.

Electronic Ordering Systems

1. Systems that provide electronic commerce assistance for the electronic submission of purchase orders, purchase order tracking and reporting available through a contractor's Electronic Data Interchange (EDI) system or secured internet/web portal. This provision shall only apply to those contractors who have such systems available under the contract. The contractor's system, at a minimum shall:

- 1.1. Be made available to all eligible agencies. Utilization shall be the sole discretion of the eligible agency;
- 1.2. Be implemented with a training program to the agency on how to use the system;
- 1.3. Be maintained by the contractor;
- 1.4. Be a secure connection;
- 1.5. Not allow for purchase orders to be placed for non-contract or excluded items.
- 1.6. Provide multiple or individual access to the system (agency elect);

2. Eligible agencies may elect, at their own discretion to utilize the contractor's electronic ordering system. Should an eligible agency elect to use the system they shall do so by formal request to the contractor.

2.1. Upon receipt of the request the contractor shall have the system fully installed and functioning within 30 day from receipt of the request, or as mutually agreed upon between the agency and the contractor.

2.2. Initial training shall either be performed upon completion of the installation or as mutually agreed upon between the agency and the contractor.

3. Upon contract termination or at the request of an agency the contractor shall uninstall all features of the system within 30 days.

4. Contractors not having electronic ordering systems at time of award but who may wish to offer such, may do so at any time during the contract period by providing a written request to the contract specialist of record. Systems offered shall meet all criteria established above. Incorporation of the offered system shall be in the form of a contract amendment.

5. All cost associated with installation, training, maintenance, support and removal of such systems shall be borne by the contractor

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.

Estimated Quantities (General)

This solicitation references quantities as a general indication of the needs of the state. The state anticipates considerable activity resulting from contracts that will be awarded as a result of his solicitation; however, the quantities shown are estimates only and the state reserves the right to increase or decrease any quantities actually acquired. No commitment of any kind is made concerning quantities and that fact should be taken into consideration by each potential contractor.

Estimated Quantities (Considerable)

The state anticipates considerable activity resulting from contracts 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.

Federal Excise Tax Exemption Certificate

It is understood that the exemption from tax in the case of sales of articles to state agencies or political subdivisions thereof is limited to articles purchased for use in the exercise of essential government functions, and it is agreed that where articles purchased tax-free under this exemption certificate are used for purposes other than in the exercise of essential functions, or are sold to employees or others, the agency will report such facts to the vendor.

Federal Immigration and Nationality Act

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

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

INCLUSIVE OFFEROR

Offeror(s) are encouraged to make every effort to utilize subcontractors that are small, women-owned and/or minority owned business enterprises. This could include subcontracts for a percentage of Administrative or Billing needs. Offerors who are committing a portion of their work to such subcontractors shall do so by identifying the type of service and work to be performed by providing detail concerning your organization's utilization of small, women-owned and/or minority business enterprises. Emphasis should be placed on specific areas that are subcontracted and percentage of contract utilization and how this effort will be administered and managed, including reporting requirements.

INDEMNITY

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.

If the Contractor is the State of Arizona, its departments, agencies, boards and commissions, then the above shall not apply.

Insurance – Standard Service Contract

INDEMNIFICATION CLAUSE:

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.

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 injury and broad form contractual liability coverage.

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

- a. The policy shall be endorsed to include the following additional insured language: 'The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor'.
- b. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

2. Automobile Liability

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

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

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

3. Worker's Compensation and Employers' Liability

Workers' Compensation – Statutory

Employers' Liability

- Each Accident – \$500,000
- Disease Each Employee – \$500,000
- Disease Policy Limit – \$1,000,000

- a. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.
- b. This requirement shall not apply to: Separately, EACH contractor or subcontractor exempt under A.R.S. 23-901, and

when such contractor or subcontractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.

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

1. The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees wherever additional insured status is required such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Contract.
2. The Contractor's insurance coverage shall be primary insurance with respect to all other available sources.
3. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.

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

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

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

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

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

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

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

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

Inventory

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

INVOICING

All invoices will contain the contract number, contract name, project number, purchase order number, equipment utilized, labor hours, labor rate, materials supplied, Contractor's name and address, a copy of Work Order authorizing work and the name of the Contractor's representative to contact concerning billing questions. If the project is invoiced once for the total amount of the project, the Contractor will be paid in arrears generally within 30 days of receipt of the invoice. Should the invoice be for partial payment, the invoice must specify what the Contractor is being paid for according to the invoice method specified by the Work Order (i.e. Percentage Completion, Task Specific, 100% Completion, Unit Completion, etc.):

Percentage Completion: Contractors may invoice when the percentages completion required on the Work Order have been mutually agreed upon in writing by the Contractor and the Project Manager as in fact having been completed. Task Specific: Contractors may invoice when tasks specified on the Work Order as a requirement for payment have been mutually agreed upon in writing by the Contractor and the Project Manager as in fact having been completed. =====Default===== The Contractor will invoice the State for all projects according to the manner assigned for the type of project in this solicitation (See Price Sheet Pages 43 thru 64 of 85). All invoices will contain the contract number, contract name, project number, purchase order number, equipment utilized, labor hours, labor rate, materials supplied, Contractor's name and address, a copy of Work Order authorizing work and the name of the Contractor's representative to contact concerning billing questions. Should the trees to be cut constitute merchantable timber, the Contractor shall reduce the amount due from the State by the market value of the trees cut. If the project is invoiced once for the total amount of the project, the Contractor will be paid in arrears generally within 30 days of receipt of the invoice. Should the invoice be for partial payment, the invoice must specify what the Contractor is being paid for according to the invoice method specified by the Work Order (i.e. Percentage Completion, Task Specific, 100% Completion, Unit Completion, etc.):

Percentage Completion: Contractors may invoice when the percentages completion required on the Work Order have been mutually agreed upon in writing by the Contractor and the Project Manager as in fact having been completed. Task Specific: Contractors may invoice when tasks specified on the Work Order as a requirement for payment have been mutually agreed upon in writing by the Contractor and the Project Manager as in fact having been completed.

IT 508 Compliance

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

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. Once assigned to work under the contract, key personnel shall not be removed or replaced without the prior written approval of the issuing agency and a copy to the procurement office of record.

Licenses

Contractor shall maintain in current status all Federal, State and Local licenses and permits required for the operation of a business conducted by the contractor.

Multiple Award

The state has a large number and variety of potential using agencies at locations throughout Arizona. In order to assure that any ensuing contracts will allow the state to fulfill current and further requirements, the state reserves the right to award contracts to multiple companies. The actual utilization of any contract will be at the sole discretion of the state. The fact that the state may make multiple awards should be taken into consideration by each potential contractor.

Multiple Eligible Agencies

Any resultant contract shall be for use by the agencies identified as primary users in the solicitation and by other State agencies identified through out the contract term. Following contract award, participation by a State agency not originally identified shall be based upon approval of the contractor.

New Equipment

All equipment, materials, parts and other components incorporated in the work or an item covered by this contract shall be new, of the latest model and of the most suitable grade for the purpose intended. Any and all work under this contract shall be performed in a skilled and workmanlike manner.

New Products

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

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

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

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

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

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

Non-Collusion

Notwithstanding Uniform Instructions clause 4.4

By signing the bid, the bidder certifies that the bid submitted has been arrived at independently and has been submitted without collusion with, and without any agreement, understanding or planned common course of action with, any other vendor of materials, supplies, equipment or services described in the invitation to bid, designed to limit independent bidding or competition.

Non-Discrimination

The Contractor shall comply with Executive Order 99-4, which mandates that all persons, regardless of race, color, religion, sex, age, national origin or political affiliation, shall have equal access to employment opportunities and all other applicable State and Federal employment laws, rules, and regulations, including the Americans with Disabilities Act. The Contractor shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, national origin or disability.

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 either the agency (within an agencies delegated authority) or by the State Procurement Office. Approvals shall be at the exclusive discretion of the State and shall be final. Off-contract procurement shall be consistent with the Arizona Procurement Code.

NOTICES

All notices, requests, demands, consents, approvals, and other communications which may or are required to be served or given hereunder (for the purposes of this provisions collectively called 'Notices'), shall be in writing and shall be sent by registered or certified United States mail, return receipt requested, postage prepaid, addressed to the party or parties to receive such notice as follows: a. If intended for the State, to: Arizona Department of Corrections Procurement Services 1601 West Jefferson, Mail Code 55303 Phoenix, Arizona 85007

Offshore Performance of Work Prohibited

Due to security and identity protection concerns, direct services under this contract shall be performed within the borders of the United States. Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and may involve access to secure or sensitive data or personal client data or development or modification of software for the State shall be performed within the borders of the United States. Unless specifically stated otherwise in the specifications, this definition does not apply to indirect or 'overhead' services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers.

ON-SITE SUPERVISION

The Contractor shall have supervisory personnel present during work operations for the purpose of observing work progress, inspection of completed work, meeting with State personnel to perform random work site inspections and coordinate operational requirements. The supervisor shall also possess a copy of this contract, any amendments thereto and accepted traffic control plans when performing work under any resultant contract.

The supervisory personnel shall possess a means of communications with the State in advance of and while performing any work under this contract. This form of communication may be cellular telephone or mobile radio. The Contractor shall provide the State with the names and telephone numbers of all on-site supervisory personnel.

The Contractor's on-site supervisor and additional personnel, as deemed necessary by the State, must be literate and fluent in the English language. This is not meant to require that all Contractor personnel speak, read and write English. Some tasks may require only the on-site supervisor, crew leader or a crewmember to speak, read and write English. Other activities that involve contact and interaction with the public will require that more workers speak English, for example flaggers, etc. This requirement is necessary due to the following reasons, which include but are not limited to:

- Warnings of emergencies and hazards.
- Preparation of reports.
- Communication with State personnel.
- Response to travelers' inquiries.
- Response to law enforcement authorities, ambulance, etc.

Due to the significance of the above listed reasons, the English requirement is being made with the intent that communications between the Contractor's employees, State personnel and the public will be understood.

If for any reason the Contractor changes any of the personnel described in the proposal, the Contractor shall notify the Agency Project Manager in writing of the proposed or actual substitution as soon as possible, and present the qualifications of the replacement personnel. Any replacement personnel must be acceptable to the Agency Project Manager, and shall possess at least the same level of qualifications as the personnel being replaced.

Order Acceptance

Contractor shall acknowledge acceptance of all Orders. Contractor shall notify the Customer, in writing or electronically, within five (5) days of Order receipt. Orders that are not accepted or not specifically rejected by the Contractor within the five (5) days shall be considered accepted. Customers may accept verbal Order acceptance when time and circumstances require. Order acceptance shall include the reservation of all elements necessary to deploy the Ordered and accepted products and services.

Upon receipt of Products and Services, and/or commencement of continual Services, the Customer shall determine whether all delivered Products and Services meet the applicable Product and Services specifications and quality requirements established herein.

Products and Services shall be considered accepted at the time of Order Delivery.

If agreed upon in the Order between the Customer and the Contractor, the Customer shall, within seven (7) days from the date of Order Delivery, issue a written notice of acceptance, partial acceptance or rejection of the Products and Services. If such a notice is not issued in the given timeframe, such Product and Service shall be deemed accepted.

No payment shall be made for any Products and Services until the Customer has accepted the Products and Services ordered.

Order Acknowledgement

Contractor shall acknowledge receipt of all Orders. Contractor shall notify the Customer, in writing or electronically, within two (2) days of Order receipt. Customers may accept verbal Order acknowledgment when time and circumstances require.

Order Modification or Cancellation

Customer may, at any time prior to Order acceptance, modify or cancel the Order, in whole, or in part. Customer shall have no liability for making such modifications or cancellations.

Ordering

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

Ordering Process

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

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

1.2. Electronically transmitted through facsimile equipment;

1.3. Electronically transmitted as an e-mail attachment;

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

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

1.4.2. Use of such systems shall be at the sole at the sole discretion of the eligible agency and all cost associated with set-up, maintenance and support shall be borne by the contractor.

1.5. Electronically through State's or eligible agencies p-card program.

2. This contract was awarded in accordance with the Arizona Procurement Code and all transactions and procedures required by the code for competitive source selection have been met. A contract release order/purchase order, initiated in accordance with the requirements contained herein, that cites the correct Arizona contract number is the only document required for the agency to order and the contractor to deliver the material and /or service.

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

Price Adjustment

1. Discount (percents %) From List Price: Discount (percents %) from list price shall remain the same for the contract term. The State Procurement Office may review a fully documented request for a price increase only (change in discount) only on the anniversary or renewal date of the contract. The requested increases shall be based upon a cost increase to the contractor that was clearly unpredictable at the time of the offer and is directly correlated the price of the product/service

contractually covered.

1.1. The request shall be submitted from 90 to 120 days prior to the anniversary or contract renewal date of the contract and shall be a factor in the extension review process.

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

2. The State, at its sole option shall determine whether the requested price adjustment or an alternate option is in the best interest of the State. Approval shall be in the form of a contract amendment, and shall become effective on the date specified in the amendment. Upon approval by the State, the contractor shall make available all electronic and hard copy catalog/price list updates to all eligible using agencies at no additional cost to the State.

Pricing

Bid and contract pricing shall be in an all inclusive monthly rate.

Product Discontinuance

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

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

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

1.3. Documentation from the manufacturer that names the replacement product(s).

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

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

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

Product Return

Any agency utilizing any resulting contract may return any or all unused product(s), in there original container or package, to the contractor for exchange or credit at the current contract price during the term of this contract with no restocking fee. All product(s) will be returned in a timely manner during the period of the contract. Proof of purchase will be attempted but shall not be required. A full refund shall be issued for all unused product(s) returned to the supplier up to ninety (90) days after contract expiration. A credit may be issued only if there is an existing sale pending. Credit to any Agency account will not be accepted after contract expiration. The supplier will issue a check for full reimbursement to the Agency.

Special order items may be returned with a restocking fee.

Reference to Uniform Terms and Conditions

The State of Arizona Uniform Terms and Conditions are incorporated herein by reference (Go to the Arizona Department of Administration website <http://www.azspo.az.gov> Procurement Documents, Uniform Terms and Conditions).

Revised or Replacement Catalog/Price lists

1. The State may review a fully documented request to incorporate a revised or replacement catalog/price list (i.e. manufacturer's price list) only on the anniversary or renewal date of the contract. The request shall be submitted from 90 to 120 days prior to the anniversary or contract renewal date and shall be supplemented with the following information. Failure to submit the request within the stated timeframe and/or failure to supply any of the following information with the request may result in the state not considering the request.

1.1. A declaration that affirms that the proposed catalog/price lists (i.e. manufacturer's price list) is one that:

1.1.1. Is a replacement or revision to the original, containing the same item groups as originally awarded.

1.1.2. Is regularly maintained by a manufacturer, distributor or contractor.

1.1.3. Is either published or otherwise available for inspection by customers.

1.1.4. Is one that states prices at which sales are currently or were last made to a significant number of any category of

buyers or buyers constituting the general buying public for the materials or services involved.

1.2. Pricing information, existing versus proposed, electronic and hardcopy formats that:

1.2.1. Identifies all products, by part number, SKU number, description and manufacturer that will experience increases from existing prices.

1.2.2. Displays a side by side comparison of pricing, existing vs. proposed increases.

1.2.3. Details the factors that were clearly unpredictable at the time of the original bid and that have a direct affect on the proposed increase. Newly published or revised catalog/price lists submitted without supplemental information may not be considered.

1.2.4. Identifies all products, by part number, SKU number, description and manufacturer that will experience decreases from existing prices.

1.2.5. Displays a side by side comparison of pricing, existing vs. proposed decreases.

1.2.5.1. The contractor shall also obligated to pursue price decreases in accordance with the price decrease provision contained herein.

1.3. Product Information (Deletions/Additions) existing versus proposed, electronic and hardcopy formats that:

1.3.1. Identifies all discontinued products, by part number, SKU number, description and manufacturer that are either no longer being manufacturer or are no longer available to the contractor.

1.3.2. Identifies all proposed product additions, by part number, SKU number, description and manufacturer

1.3.2.1. When pursuing product deletions or additions the contractor shall also supplement the request as required under product discontinuance new product provisions contained herein.

1.4. The State reserves the right to approve and entire catalog/price list (i.e. manufacturer's price list), portions thereof or to exercise an alternate option, whichever is deemed in the best interest of the state.

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

Safety Standards

All items supplied on this contract must comply with the current applicable occupational safety and health standards of the State of Arizona Industrial Commission, The National Electric Code, and The National Fire Protection Association Standards.

Secure Location Deliveries

The Contractor will be responsible for contacting the secure location (such as Arizona Department of Corrections) for security clearance, hours of operation, dress code, and other related rule when scheduling a delivery or service call. Lack of familiarity with the locations or policies will not relieve a contractor of their responsibilities in fulfillment of the delivery, installation, maintenance/service agreement, and contract requirements.

Serial Numbers

The contract is for equipment on which the original manufacturers' serial number has not been altered in any way.

Throughout the contract term, the state reserves the right to reject any altered equipment.

Shipping F.O.B Statewide

Prices shall be F.O.B. Destination to any delivery location in the State of Arizona, delivered to the specified receiving point as required by the customer agency at the time of order. Contractor shall retain title and control of all goods until they are delivered, received and contract of coverage has been completed. All risk of transportation and all related charges shall be the responsibility of the contractor. All claims for visible and concealed damage shall be filed by the contractor. The State will notify the contractor promptly of any damaged goods and shall assist the contractor in arranging for inspection.

Suspension or Debarment Status

If the firm, business or person submitting this bid or offer has been debarred, suspended or otherwise lawfully precluded from participating in any public procurement activity with any Federal, State or Local Government, the bidder or offeror must include a letter with its bid or offer setting forth the name and address of the governmental unit, the effective date of the suspension or debarment, the duration of the suspension or debarment, and the relevant circumstances relating to the suspension or debarment. Failure to supply the letter or to disclose in the letter all pertinent information regarding a suspension or debarment shall result in rejection of the bid or offer or cancellation of a contract. The State also may exercise any other remedy available by law.

Taxes

1. Applicable Taxes: The State will pay only the rate and/or amount of taxes identified in the offer and in any resulting contract.

2. 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, penalties 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.

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

Telephone Ordering Support

Contractor(s) shall accept collect telephone calls and/or provide and maintain a toll-free number for eligible agency use. Failure to maintain this service may be cause for cancellation of the contract.

Termination for Convenience

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

Termination for Default

The State reserves the right to terminate the whole or any part of the contract due to failure of the Contractor to carry out any term, promise, or condition of the contract. The State will issue a written ten (10) day notice of default to the Contractor for failure to adequately perform, or there is reason for the State to believe that the Contractor cannot or will not adequately perform the requirements of the contract.

Terms and Conditions Specific to the Dept of Corrections

Type here

Waiver and Rejection of Rights

Notwithstanding any other provision of the solicitation, the State reserves the right to waive any immaterial defect or informality; Reject any and all offers or portions thereof; or Cancel a solicitation. The chief procurement officer shall file a written determination specifying the reasons for the decision.

Will Call/Ordering Support

The contractor(s) shall provide and maintain applicable toll-free telephone numbers and facsimile numbers for eligible agency use. Failure to maintain this service may be cause for cancellation of the contract.

Contract

Solicitation # SCC080002

Uniform Instructions

1 Definition of Terms

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

1.2 Contract

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

1.3 Contract Amendment

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

1.4 Contractor

any person who has a Contract with the State

1.5 Days

calendar days unless otherwise specified.

1.6 Exhibit

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

1.7 Offer

bid, proposal or quotation.

1.8 Offeror

a vendor who responds to a Solicitation.

1.9 Procurement Officer

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

1.10 Solicitation

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

1.11 Solicitation Amendment

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

1.12 Subcontract

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

1.13 State

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

2 Inquiries

Inquiries

2.1 Duty to Examine

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

2.2 Solicitation Contact Person

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

2.3 Submission of Inquiries

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

2.4 Timeliness

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

2.5 No Right to Rely on Verbal Responses

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

solicitation.

2.6 Solicitation Amendments

The Solicitation shall only be modified by a Solicitation Amendment.

2.7 Pre-Offer Conference

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

2.8 Persons With Disabilities

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

3 Offer Preparation

Offer Preparation

3.1 Forms: No Facsimile, Telegraphic or Electronic Mail Offers

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

3.2 Typed or Ink; Corrections

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

3.3 Evidence of Intent to be Bound

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

3.4 Exceptions to Terms and Conditions

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

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

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

3.5 Subcontracts

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

3.6 Cost of Offer Preparation

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

3.7 Solicitation Amendments

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

3.8 Federal Excise Tax

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

3.9 Provision of Tax Identification Numbers

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

3.10 Employee Identification

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

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

3.11 Identification of Taxes in Offer

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

3.12 Disclosure

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

3.13 Solicitation Order of Precedence

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

3.13.1 Special Terms and Conditions;

3.13.2 Uniform Terms and Conditions;

3.13.3 Statement or Scope of Work;

3.13.4 Specifications;

3.13.5 Attachments;

3.13.6 Exhibits;

3.13.7 Special Instructions to Offerors;

3.13.8 Uniform Instructions to Offerors. 3.13.9 Other documents referenced or included in the Solicitation.

3.14 Delivery

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

4 Submission of Offer

Submission of Offer

4.1 Sealed Envelope or Package

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

4.2 Offer Amendment or Withdrawal

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

4.3 Public Record

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

4.4 Non-collusion, Employment, and Services

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

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

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

5 Evaluation

Evaluation

5.1 Unit Price Prevails

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

5.2 Taxes

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

5.3 Late Offers

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

5.4 Disqualification

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

5.5 Offer Acceptance Period

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

5.6 Waiver and Rejection Rights

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

5.6.1 Waive any minor informality;

5.6.2 Reject any and all Offers or portions thereof; or

5.6.3 Cancel the Solicitation.

6 Award

Award

6.1 Number or Types of Awards

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

6.2 Contract Inception

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

6.3 Effective Date

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

7 Protests

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

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

7.2 The signature of the protester or its representative;

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

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

7.5 The form of relief requested.

8 Comments Welcome

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

Contract

Solicitation # SCC080002

Uniform Terms and Conditions

1 Definition of Terms

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

1.1 Attachment

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

1.2 Contract

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

1.3 Contract Amendment

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

1.4 Contractor

any person who has a Contract with the State.

1.5 Days

calendar days unless otherwise specified

1.6 Exhibit

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

1.7 Gratuity

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

1.8 Materials

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

1.9 Procurement Officer

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

1.10 Services

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

1.11 Subcontract

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

1.12 State

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

1.13 State Fiscal Year

the period beginning with July 1 and ending June 30,

2 Contract Interpretation

Contract Interpretation

2.1 Arizona Law

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

2.2 Implied Contract Terms

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

2.3 Contract Order of Precedence

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

2.3.1 Special Terms and Conditions;

2.3.2 Uniform Terms and Conditions;

2.3.3 Statement or Scope of Work;

2.3.4 Specifications;

2.3.5 Attachments;

2.3.6 Exhibits;

2.3.7 Documents referenced or included in the Solicitation.

2.4 Relationship of Parties

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

2.5 Severability

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

2.6 No Parol Evidence

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

2.7 No Waiver

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

3 Contract Administration and Operation

Contract Administration and Operation.

3.1 Records

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

3.2 Non-Discrimination

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

3.3 Audit

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

3.4 Facilities Inspection and Materials Testing

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

3.5 Notices

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

3.6 Advertising, Publishing and Promotion of Contract

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

3.7 Property of the State

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

3.8 Ownership of Intellectual Property

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

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

4 Costs and Payments

Costs and Payments

4.1 Payments

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

4.2 Delivery

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

4.3 Applicable Taxes

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

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

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

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

4.4 Availability of Funds for the Next State Fiscal Year

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

4.5 Availability of Funds for the Current State Fiscal Year

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

4.5.1 Accept a decrease in price offered by the contractor;

4.5.2 Cancel the Contract

4.5.3 Cancel the contract and re-solicit the requirements.

5 Contract Changes

Contract Changes

5.1 Amendments

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

5.2 Subcontracts

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

5.3 Assignment and Delegation

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

6 Risk and Liability

Risk and Liability

6.1 Risk of Loss

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

6.2 Indemnification

6.2.1 Contractor/Vendor Indemnification (Not Public Agency) The parties to this contract agree that the State of Arizona, its' departments, agencies, boards and commissions shall be indemnified and held harmless by the contractor for the vicarious liability of the State as a result of entering into this contract. However, the parties further agree that the State of Arizona, its' departments, agencies, boards and commissions shall be responsible for its' own negligence. Each party to this contract is responsible for its' own negligence.

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

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

6.3 Indemnification – Patent and Copyright

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

6.4 Force Majeure

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

6.4.2 Force Majeure shall not include the following occurrences:

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

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

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

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

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

6.5 Third Party Antitrust Violations

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

7 Warranties

Warranties

7.1 Liens

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

7.2 Quality

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

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

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

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

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

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

7.3 Fitness

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

7.4 Inspection/Testing

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

7.5 Year 2000

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

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

7.6 Compliance With Applicable Laws

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

7.7 Survival of Rights and Obligations after Contract Expiration or Termination

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

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

8 State's Contractual Remedies

State's Contractual Remedies

8.1 Right to Assurance

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

8.2 Stop Work Order

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

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

8.3 Non-exclusive Remedies

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

8.4 Nonconforming Tender

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

remedy available to it.

8.5 Right of Offset

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

9 Contract Termination

Contract Termination

9.1 Cancellation for Conflict of Interest

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

9.2 Gratuities

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

9.3 Suspension or Debarment

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

9.4 Termination for Convenience

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

9.5 Termination for Default

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

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

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

9.6 Continuation of Performance Through Termination

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

10 Contract Claims

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

11 Arbitration

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

Contract
Solicitation # SCC080002

Offer

TO THE STATE OF ARIZONA:

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

Tax Information

Arizona Transaction (Sales) Privilege Tax License No. 07025233Y
Federal Employer Identification No. XXXXXXXXXX

Location Information

Supplier Number: 4122
Company Name: Western Fence Company, Inc.
Address: 224 S. 23rd st
Phoenix, AZ 85034

Signature

Name: James Reid Date: 10/29/07 13:22:42
Title: president
Signature: _____

Status: Accepted

Certification

By Accepting below, the bidder certifies:

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

Acceptance

The Offer is hereby accepted.

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

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

Award Date TBD

Contract
Solicitation # SCC080002

| Line Items | | | | | | | | |
|------------|-----------------------------|---|--------------|---------|-----|---|------------|-----------|
| LI # | CM Code # CM Code Item # | Commodity Code Description Commodity Code Item Description | Manufacturer | Pricing | Qty | % | Unit Price | Ext Price |
| 7 | 0330-0013 0330-0013-0009 | Fencing, Chain Link (Including Fabric, Gates, Panels, Posts and Fittings) Chainlink Gates, 11GA | | DLP | 1 | 0 | \$3.00 | \$3.00 |
| 17 | 0330-0091 0330-0091-0006 | Wire, Woven Gate 12'(including hardware) | | DLP | 1 | 0 | \$137.00 | \$137.00 |
| 18 | 0330-0091 0330-0091-0007 | Wire, Woven Gate 16'(including hardware) | | DLP | 1 | 0 | \$153.00 | \$153.00 |
| 28 | 0330-0013 0330-0013-0019 | Fencing, Chain Link (Including Fabric, Gates, Panels, Posts and Fittings) Hardware: Heavy Tension Band, 2 7/8" | | DLP | 1 | 0 | \$0.91 | \$0.91 |
| 32 | 0330-0013 0330-0013-0023 | Fencing, Chain Link (Including Fabric, Gates, Panels, Posts and Fittings) Hardware: T-Post Wire Ties | | DLP | 1 | 0 | \$0.03 | \$0.03 |
| 36 | 0330-0032 0330-0032-0003 | Fencing, Wrought Iron (Including Components) Tubing Frame, 1"x1", 5/8"x 5/8" pickets | | DLP | 1 | 0 | \$20.15 | \$20.15 |
| 38 | 0330-0059 0330-0059-0004 | Fencing, Wood (Including Components) Stringers | | DLP | 1 | 0 | \$1.91 | \$1.91 |

Fencing Materials

Solicitation # SCC080002

Contact Information

| | | | |
|----------------------|-------------------------------|-----------------|--|
| Agency: | Strategic Contracting Centers | Agency Address: | 100 N 15th Avenue Suite 104 Phoenix AZ 85007 |
| Agency Phone: | (602)542-5511 | Agency Fax: | (602)542-5508 |
| Procurement Officer: | Bernadette Hill/ADSM-6A4SXZ | | |
| PO Phone: | (602)542-1172 | PO Fax: | ()- |

Solicitation Information

| | | | |
|---------------------|------------------|-------------------|-------------------|
| Published Date: | 9/18/07 11:06:54 | Close Date: | 10/31/07 15:00:00 |
| Contract Type | Statewide | Solicitation Type | IFB |
| Conference Location | | | |
| Conference Date: | | | |

Description

Fencing: Chain link, Wrought Iron, Wire Woven, Barbed Wire, Snow Fencing, etc. For questions relating to the solicitation or procurement process, please contact Bernadette Hill at (602) 542-1172 or via email at bhill@azcorrections.gov. For questions relating to the State's Automated eProcurement System, please contact the ADOA/SPO/Spirit Support Desk at (602) 542-7600.

Fencing Materials

Solicitation # SCC080002

Special Instructions

Additional Special Instructions

Offerors shall see the Attachments within the Solicitation for Additional Special Instructions associated with this Solicitation.

Attachment Formats

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

Attachment(s) to be Submitted

Offerors shall complete and include all attachments with their proposal.

Brand Name

Any manufacturer's names, trade names, brand names or catalog numbers used in the specifications are for the purpose of describing and/or establishing the quality, design and performance required. Any such reference is not intended to limit or restrict an offer by any supplier but is only enumerated in order to advise potential offerors of the requirements of the state. Any offer which proposes like quality, design or performance will be considered.

Catalog/Price List Discounts

The offeror is to provide prices based on a percent of discount off of a referenced manufacturer's price list. A copy of the referenced price list and the applicable catalog(s) shall be enclosed with the offer. Failure to include either the manufacturer's price list or the applicable catalog(s) shall be grounds for determining the proposal as non-responsive.

Contract Award

The State intends to award a firm-fixed price contract or contracts, unless otherwise indicated, resulting from this solicitation to the responsible offeror(s) whose proposal represents the best value after evaluation in accordance with the factors and subfactors identified in the solicitation. The State may reject any or all proposals if such action is in the State's best interest. The State may waive informalities and minor irregularities on proposals received. The offeror's initial proposal should contain the offeror's best terms from a price or cost and technical standpoint. The State reserves the right to conduct discussions (negotiations) if the procurement officer determines them to be necessary. If the procurement officer determines that the number of proposals that would otherwise be in the competitive range exceeds the number at which an efficient competition can be conducted, the procurement officer may limit the number of proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals. The State reserves the right to make an award on any item for any quantity less than the quantity offered, at unit costs or prices offered, unless the offeror specifies otherwise in the proposal. The State reserves the right to make multiple awards if, after considering the additional administrative costs, it is in the State's best interest to do so. Any exchanges with offerors after receipt of a proposal does not constitute a rejection of counteroffer by the State.

Contract Payment Terms:

Offerors must indicate the prompt payment terms that they will offer to the State (for example: 2/10 Net 30; Net 30, etc.)

Definition

'May' denotes the permissive, 'Shall' denotes the imperative, 'Must' denotes the imperative.

Delivery (Offeror Response)

Delivery is an important consideration and will be a factor in the determination of an award. Therefore, delivery time after receipt of an order must be stated in definite terms. Should there be any variations in delivery time by item, offers must be clear in regard to those variations. This field is for ARO days(After Receipt of Order) and is strictly a numeric field.

Discounts

A primary objective of this solicitation is to aggregate the leveraged buying power of the state with local governments and others authorized by law to use state contracts. Offerors shall consider this objective in the development of pricing offered.

Offerors shall offer volume discounts. Volume discounts may be applied per purchase order, cumulatively per customer agency, and cumulatively statewide. The offeror shall indicate the basis for applying the volume discount (s) on the bid document form. Volume discounts shall be defined and applied as follows: Purchase order volume discounts shall be an additional discount applied to an individual purchase order over a dollar amount determined by the bidder. Cumulative agency volume discounts shall be additional discounts applied to all future orders made by an individual agency once an established volume has been met by that agency. Cumulative statewide volume discounts shall be additional discounts applied to all future orders once an established volume has been met under this contract for all state and non-state orders.

Offerors are encouraged to offer any and all types of discounts, rebates, special pricing, etc., that will result in reduced pricing to contract users. Additional discounts are encouraged and offered discounts may be considered in determining award.

Offerors shall offer discounts based on the multiple order of a single title or mixed title books to one location. Bidder shall determine volume price breaks.

Offerors may also offer discounts for electronic access ordering, for prepayment plans, deposit accounts, and approval plans for agencies legally empowered to use them.

Discussions

As provided by A.A.C. R2-7-331, discussions may be conducted with offerors who submit offers determined to be reasonably susceptible of being selected for award. If discussions are conducted pursuant to R2 7 331, the State shall issue a written request for best and final offers. Award may be made without discussions, therefore, offers shall be submitted complete and on most favorable terms.

Electronic Documents

This 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 Uniform Instructions to Offerors, offerors are responsible for clearly identifying any and all changes or modifications to any solicitations document upon submission to the State.

Electronic Ordering Systems Option

Offeror(s) are encouraged to offer electronic ordering systems to all eligible agencies. These are systems that provide electronic commerce assistance for the electronic submission of purchase orders, purchase order tracking and reporting available through a contractor's Electronic Data Interchange (EDI) system or secured internet/web portal. Such systems shall not allow for purchase orders to be placed for non-contract or excluded items. Use of such systems shall be at the sole discretion of the eligible agency and all cost associated with set-up, maintenance and support shall be borne by the contractor.

Those electing to offer an electronic ordering system to the State shall affirm by entering Yes in the appropriate solicitation questionnaire section entitled Electronic Ordering Systems Option.

Additionally, knowing that the implementation and management of electronic ordering systems result in lower administrative costs for both the supplier as well as the state we also request that the bidder(s) offer any additional discount (percent %) from list price for those eligible agencies who may implement this option. Those offering the additional discount (percent %) from list price shall do so by completing the solicitation questionnaire section entitled Electronic Ordering Systems Option. Participation is optional, therefore will not be used in the State's bid evaluation process.

Eligible Agencies (Statewide)

Any contract resulting from this solicitation 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 any resultant contract, a university, political subdivision, or nonprofit educational or public health institution must have entered into a cooperative purchasing agreement with the State Procurement Office as required by Arizona Revised Statutes 41-2632.

Estimated Quantities (Considerable)

The state anticipates considerable activity under contract(s) 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 the contractor. The quantities reflected on the solicitation price sheet areas are annual estimates only.

Evaluation

In accordance with the Arizona Procurement Code 41-2533, competitive sealed bidding, awards shall be made to the lowest responsible and responsive bidder whose bid conforms in all material respects to the requirements and criteria set forth in the solicitation.

Federal Immigration and Nationality Act

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

Federal Immigration and Nationality Act 2

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.

Financial Stability

The Offeror must be financially stable and able to substantiate the financial stability of its company. If requested, current financial statements or other financial information deemed appropriate documenting past sales history must be provided within five (5) business days or request. The State reserves the right to request additional documentation from the Offeror and to request reports on financial stability from independent financial rating services. The State reserves the right to reject any offeror who does not demonstrate financial stability sufficient for the scope of this contract award.

Geographic Coverage

This solicitation is issued for the purpose of providing fencing materials and/or installation services to cover all geographic areas of the State. Offerors may submit offers for more than one location if they are capable of providing these services in the accordance with all specifications and terms and conditions for the entire term of the resultant contract.

Inclusive Offeror(s)

Offeror(s) are encouraged to make every effort to utilize subcontractors that are small, women-owned and/or minority owned business enterprises. This could include subcontracts for a percentage of deliveries made under any subsequent contract. Offerors who are committing a portion of their work to such subcontractors shall do so by identifying the type of service and work to be performed by providing detail concerning your organization's utilization of small, women-owned and/or minority business enterprises. Emphasis should be placed on specific areas that are subcontracted and percentage of contract utilization and how this effort will be administered and managed, including reporting requirements.

IT 508 Compliance

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

IT 508 Compliance 2

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

Manufacturer's Representative

Dealers who submit an offer as a manufacturer's representative must supplement the offer with a letter from each manufacturer involved certifying that; 1) the supplier is a bona fide dealer for the specific equipment presented; 2) that the supplier is authorized to submit an offer on such equipment, and; 3) guarantees contract performance should the dealer fail to satisfactorily fulfill any obligations established as a result of the anticipated contract awards.

Multiple Awards

The equipment best responding to the requirements of the RFP will be identified, and multiple awards made where in the best interests of the State. This will be done in order to provide a broad range of types and quality equipment, with adequate contractor support. Evaluations will generally not include accessory items.

Offer Submission, Due Date and Time

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

Offshore Performance of Work

Due to security and identity protection concerns, direct services under this contract shall be performed within the borders of the United States. Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and may involve access to secure or sensitive data or personal client data or development or modification of software for the State shall be performed within the borders of the United States. Unless specifically stated otherwise in the specifications, this definition does not apply to indirect or 'overhead' services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers. Offerors shall declare all anticipated offshore services in the proposal.

Purpose

Pursuant to provisions of the Arizona Procurement Code, ARS 41-2501 et seq., the State of Arizona, State Procurement Office intends to establish a contract for the materials or services as listed herein.

Quality

All products shall be of number one quality.

QUESTIONS

Questions relating to this solicitation shall be directed to the attention of Procurement Officer, Bernadette Hill, Department of Corrections, telephone (602) 542-1172. Offerors are encouraged to fax questions, no less than seven days prior to the solicitation due date and time, to (602) 364-3790.

SPIRIT Offer Submission, Due Date and Time

This clause supersedes 'Proposals: SPIRIT Submission Requirements'.

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

State of Arizona Purchasing Card (P Card) Program Option

The State of Arizona has implemented a purchasing card program. Participating contractors may receive payments from State agencies via this purchasing card program in the same manner as other credit card type purchases. Offeror(s) should consult with their servicing bank to discuss this program and all applicable fees.

Those electing to participate in the State of Arizona purchasing card program shall affirm by entering Yes in the appropriate solicitation questionnaire section entitled State of Arizona Purchasing Card (P Card) Program.

Additionally, knowing that the utilization of the purchasing card program should result in lower administrative costs for both the supplier as well as the state we also request that the bidder(s) offer any additional discount (percent %) from list price for those eligible agencies who may implement this option. Those offering the additional discount (percent %) from list price shall do so by completing the solicitation questionnaire section entitled State of Arizona Purchasing Card (P Card) Program. Participation is optional, therefore will not be used in the State bid evaluation process.

Telephone Ordering Support

Offeror(s) are to provide and maintain a toll-free telephone number for customer ordering support. Offeror(s) are to enter their toll-free telephone number in the solicitation questionnaire section entitled Telephone Ordering Support. Failure to provide this information with the bid and/or failure to maintain this service may be cause for rejection of the bid and/or cancellation of any subsequent contract.

Value In Procurement

Through the Governor's Efficiency Review initiative, the State Procurement Office has established the Value in Procurement (VIP) Committee. A major initiative of the VIP Committee is to aggregate specific procurements to increase efficiency and cut costs. The VIP Committee has designated the XXagencyXX as a Strategic Contracting Center for XXgoods/serviceXX. Any contract resulting from this RFP shall become a statewide contract for use by all State agencies, and optional for cities, counties and school districts and other political subdivisions. State agencies that currently have individual contracts in place will be phased in under this contract when their contracts expire. The current schedule of some of these agencies specific contracts are:

XXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXX

Fencing Materials

Solicitation # SCC080002

Special Terms and Conditions

Amendments

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

Appropriation of funds

Every payment obligation of the Agency under this Contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Contract, this Contract may be terminated by the Agency at the end of the period for which funds are available. No liability shall accrue to the Agency or the State of Arizona in the event this provision is exercised, and neither the Agency nor the State shall be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

Assignment

The contractor agrees and understands that the contract shall constitute an assignment by the contractor to the State of Arizona of all rights, title and interest in and to all causes of action that the contractor may be under the antitrust laws of the United States or the State of Arizona for which causes of action have accrued or will accrue as the result of or in relation to the goods or services purchases or procured by the contractor in the fulfillment of the contract with the State of Arizona.

The contractor represents that it is an independent contractor offering such services to the general public and shall not present himself or his employees as an employee of the State of Arizona. Therefore, the contractor shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workmen's compensation, employee insurance, minimum wage requirements, overtime and agree to indemnify, save, and hold the state of Arizona, its officers, agents, and employees, harmless from and against, any and all loss; cost (including attorney fees); and damage of any kind related to such matters.

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. Should Contractor not desire to retain the audit documentation in its entirety for a period of five (5) years from the date of the audit report, they shall be given to the Auditor General for safekeeping.

Availability of Funds for the Next Fiscal Year

Funds are not presently available for performance under this contract beyond the current fiscal year. The State's obligation for performance of this contract beyond this fiscal year is contingent upon the availability of funds from which payment for contract purposes can be made. No legal liability on the part of the State for any payment may arise for performance under this contract beyond the current fiscal year until funds are made available for performance of this contract.

BID EVALUATION

In accordance with the Arizona Procurement Code 41-2533, Competitive Sealed Bidding, awards will be made to the lowest responsible and responsive bidder whose bid conforms in all material respects to the requirements and criteria set forth in the Invitation For Bid.

Billing – Commodities

1. 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.

- 1.1. Name and address of the contractor;
- 1.2. Both the contract number and contract release/purchase order number;
- 1.3. The contractor's federal tax identification number;
- 1.4. The contractor's remittance address;
- 1.5. A description of the goods or services provided;
- 1.6. Quantity and delivery/service timeframe;
- 1.7. Itemized (if applicable) and total invoice pricing.

Cancellation

The State reserves the right to cancel the whole or any part of the contract due to failure of the Contractor to carry out any term, promise, or condition of the contract. The State will issue a written ten (10) day notice of default to the Contractor for acting or failing to act as in any of the following:

The Contractor provides personnel that do not meet the requirements of the contract.

The Contractor fails to perform adequately the services required in the contract.

The Contractor attempts to impose on the State, personnel, which are of an unacceptable quality.

The Contractor fails to furnish the required product within the time stipulated in the contract.

The Contractor fails to make progress in the performance of the requirements of the contract and/or gives the State a positive indication that the Contractor will not or cannot perform to the requirements of the contract.

If the Contractor does not correct the above problem(s) within ten (10) days after receiving the notice of default, the State may cancel the contract. If the State cancels the contract pursuant to this clause, the State reserves all rights or claims to damage for breach of contract.

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.

Cancellation For Possession Of Weapons On State Property

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

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

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

Catalogs/Contract Price Listing

As applicable, the contractor(s) shall be required to furnish to all requesting agencies and eligible political sub-divisions, catalogs at no cost which will outline contract prices.

Catalog/Price list, Maintenance (electronic/hard copy)

1. The contractor shall provide and maintain electronic and hard copy versions of all contracted catalog/price lists during the contract term. Electronic versions shall be in either of the following formats. No alterations, amendments or updates shall be allowed without prior approval by the State. This is covered in more detail in paragraph 4.

1.1. Internet versions available through a Universal Resource Locator (URL) link, or;

1.2. Portable Document Format (pdf) versions attached to the contract.

2. All versions shall list all products the contractor is authorized to sell under the contract along with clearly indicating, at a minimum the following:

2.1. The contract number;

2.2. Part numbers and descriptions (photos optional) of all contracted products or groups of products. Non-contracted products or groups of products shall either be deleted or clearly marked through as EXCLUDED FROM CONTRACT.

2.3. Pricing information;

2.4. The discount (percent %) from list price for each product;

2.5. Ordering information, Key Personnel; and

2.6. Service/Distribution points organized geographically by city or county (subcontractors).

3. The State Procurement Office, at its sole discretion, may maintain the contractor's electronic catalog/price list data or provide electronic links to it through our SPIRIT web-site. Regardless of the number and types of links to the contractor's

electronic catalog/price list, the contractor shall ensure that all eligible agencies are able to access one, and only one, version of contracted catalog/price list.

4. Upon award and during the term of the contract the contractor shall not alter, modify or update either the electronic or hard copy versions of the catalog/price list without prior approval by the State (see revised replacement catalog price/list provision for additional requirements). Hard copy versions shall be made available to all requesting agencies. All associated cost shall be borne by the contractor.

Code of Conduct

The contractor shall avoid any action that might create or result in the appearance of a) inappropriate use or divulging of information gathered or discovered pursuant to the performance of its duties under the contract; b) acted on behalf of the State without appropriate authorization; c) provided favorable or unfavorable treatment to anyone; d) made a decision on behalf of the State that exceeded its authority, could result in impartiality, or have a political consequence for the State; e) misrepresent or otherwise impeded the efficiency, authority, actions, policies, or adversely affect the confidence of the public or integrity of the State; or, f) loss of impartiality when advising the State.

Conflict of Interest

No person preparing or assisting in the preparation of specifications, plans or scopes of work shall receive any direct benefit from the utilization of those specifications, plans or scopes of work.

Contraband

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

DEFINITION – A.R.S. § 13-2501

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

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

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

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

B. By knowingly conveying contraband to any person confined in a correctional facility; or

C. By knowingly making, obtaining or possessing contraband while being confined in a correctional facility.

2. Promoting prison contraband is a Class 5 felony.

Contract Administration

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

Contract Assignment

Contractor may not assign, transfer or convey any of its rights or obligations under this Contract without the written permission of the Agency.

Contract Extension

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

Contract Implementation Meetings

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

Contract Problems or Changes

If at anytime during the course of the contract the Department makes the supplier aware of any problems with their products, the supplier shall take immediate action to investigate the cause and to develop a solution. Non-response or an untimely response can be grounds for non-use, contract suspension, or contract cancellation

No change to this contract or any item supplied under this contract is allowed without the expressed written authorization of

the Department Procurement Contract Management Specialist. The Department will be the sole authority as to how the proposed change, modification or substitutions is evaluated and whether it is turned down, accepted or accepted conditionally.

The supplier shall use the quarterly customer service visits to help prevent problems before they occur.

Contract Renewal

The contract shall not bind nor purport to bind, the State for any contractual commitment in excess of the original contract period. The State shall have the right, at its sole option, to renew the contract for four (4) one-year periods or a portion thereof. If the State exercises such rights, all terms, conditions and provisions of the original contract shall remain the same and apply during the renewal period with the exception of price. The Contractor shall agree that the prices stated in the original contract shall not be increased in excess of the maximum percentage of increase stated on the Pricing Schedule attached to this document.

Contract Reports

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

1.1. Total contract usage reports: Identifying all eligible using agencies and total dollar volumes purchased by each eligible using agency during the reporting period. Although not required under this reporting activity, the contractor shall provide itemized usage reports detailing all acquisitions against this contract upon request.

2. Reports shall be due at the end of each 3-month contract period to be furnished to the contract officer of record no later than 15 days after the end of each 3-month contract period.

3. The information contained in these contract reports and the accurate and timely submission thereof are critical components used by the State. Failure by the contractor to submit accurate and timely contract reports against this contract may be cause for cancellation of the contract.

CONTRACT TERM

The term of any resultant contract will commence on the date of award and will continue for one year unless canceled, terminated or extended as otherwise provided herein.

Contract Termination

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.

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.

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.

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

Termination for Default. 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.

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.

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.

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.

Customer Support

At no additional cost to the State, the contractor shall provide telephone-based customer support service for applications, equipment operation, and troubleshooting for a period of one year from the date of acceptance by the State.

Defective Products

All defective products shall be replaced and exchanged by the contractor. The cost of transportation, unpacking, inspection, repacking, reshipping or other like expenses shall be paid by the vendor. All replacement products must be received by the state within seven (7) days of initial notification.

Delivery and Pick-up

1. All deliveries shall be FOB destination, statewide freight prepaid and included in the contract price. In the event of a discrepancy between the requirements contained in this section any those contained in other areas of the contract, the requirements contained in this section shall prevail. Delivery requirements shall apply to all locations, statewide. As mutually agreed upon by the ordering eligible agency and the contractor.

Delivery Location(s)

To provide adequate coverage for various State agencies and political subdivision(s), the State of Arizona reserves the right to add and or delete locations whichever is deemed most advantageous to the State of Arizona.

Discount Rates

1. The contractor(s) shall disclose and honor all applicable discount rates contained herein (i.e. discount from list price, electronic ordering systems, annual volume discount program, Single bulk purchase, State of Arizona purchasing card 'P-Card' Program, special educational and prompt payment discounts). Disclosure shall, at a minimum be done using the following methods:

- 1.1. Prominently displayed on electronic media supplied by the contractor and approved by the State;
- 1.2. Prominently displayed on all written price communications, order conformations and invoice activities;
- 1.3. Disclosed during all verbal correspondence with an eligible ordering agency.

Failure to disclose and honor all applicable discount rates to eligible ordering agencies may result in contract cancellation or any other remedy available by law, inclusive of the issuing of credits or refunds to all affected agencies.

Electronic Ordering Systems

1. Systems that provide electronic commerce assistance for the electronic submission of purchase orders, purchase order tracking and reporting available through a contractor's Electronic Data Interchange (EDI) system or secured internet/web portal. This provision shall only apply to those contractors who have such systems available under the contract. The contractor's system, at a minimum shall:

- 1.1. Be made available to all eligible agencies. Utilization shall be the sole discretion of the eligible agency;
- 1.2. Be implemented with a training program to the agency on how to use the system;
- 1.3. Be maintained by the contractor;
- 1.4. Be a secure connection;
- 1.5. Not allow for purchase orders to be placed for non-contract or excluded items.
- 1.6. Provide multiple or individual access to the system (agency elect);

2. Eligible agencies may elect, at their own discretion to utilize the contractor's electronic ordering system. Should an eligible agency elect to use the system they shall do so by formal request to the contractor.

2.1. Upon receipt of the request the contractor shall have the system fully installed and functioning within 30 day from receipt of the request, or as mutually agreed upon between the agency and the contractor.

2.2. Initial training shall either be performed upon completion of the installation or as mutually agreed upon between the agency and the contractor.

3. Upon contract termination or at the request of an agency the contractor shall uninstall all features of the system within 30 days.

4. Contractors not having electronic ordering systems at time of award but who may wish to offer such, may do so at any time during the contract period by providing a written request to the contract specialist of record. Systems offered shall meet all criteria established above. Incorporation of the offered system shall be in the form of a contract amendment.

5. All cost associated with installation, training, maintenance, support and removal of such systems shall be borne by the contractor

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.

Estimated Quantities (General)

This solicitation references quantities as a general indication of the needs of the state. The state anticipates considerable activity resulting from contracts that will be awarded as a result of his solicitation; however, the quantities shown are estimates only and the state reserves the right to increase or decrease any quantities actually acquired. No commitment of any kind is made concerning quantities and that fact should be taken into consideration by each potential contractor.

Estimated Quantities (Considerable)

The state anticipates considerable activity resulting from contracts 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.

Federal Excise Tax Exemption Certificate

It is understood that the exemption from tax in the case of sales of articles to state agencies or political subdivisions thereof is limited to articles purchased for use in the exercise of essential government functions, and it is agreed that where articles purchased tax-free under this exemption certificate are used for purposes other than in the exercise of essential functions, or are sold to employees or others, the agency will report such facts to the vendor.

Federal Immigration and Nationality Act

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

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

INCLUSIVE OFFEROR

Offeror(s) are encouraged to make every effort to utilize subcontractors that are small, women-owned and/or minority owned business enterprises. This could include subcontracts for a percentage of Administrative or Billing needs. Offerors who are committing a portion of their work to such subcontractors shall do so by identifying the type of service and work to be performed by providing detail concerning your organization's utilization of small, women-owned and/or minority business enterprises. Emphasis should be placed on specific areas that are subcontracted and percentage of contract utilization and how this effort will be administered and managed, including reporting requirements.

INDEMNITY

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.

If the Contractor is the State of Arizona, its departments, agencies, boards and commissions, then the above shall not apply.

Insurance – Standard Service Contract

INDEMNIFICATION CLAUSE:

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.

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 injury and broad form contractual liability coverage.

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

- a. The policy shall be endorsed to include the following additional insured language: 'The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor'.
- b. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

2. Automobile Liability

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

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

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

3. Worker's Compensation and Employers' Liability

Workers' Compensation – Statutory

Employers' Liability

- Each Accident – \$500,000
- Disease Each Employee – \$500,000
- Disease Policy Limit – \$1,000,000

- a. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.
- b. This requirement shall not apply to: Separately, EACH contractor or subcontractor exempt under A.R.S. 23-901, and

when such contractor or subcontractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.

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

1. The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees wherever additional insured status is required such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Contract.
2. The Contractor's insurance coverage shall be primary insurance with respect to all other available sources.
3. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.

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

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

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

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

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

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

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

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

Inventory

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

INVOICING

All invoices will contain the contract number, contract name, project number, purchase order number, equipment utilized, labor hours, labor rate, materials supplied, Contractor's name and address, a copy of Work Order authorizing work and the name of the Contractor's representative to contact concerning billing questions. If the project is invoiced once for the total amount of the project, the Contractor will be paid in arrears generally within 30 days of receipt of the invoice. Should the invoice be for partial payment, the invoice must specify what the Contractor is being paid for according to the invoice method specified by the Work Order (i.e. Percentage Completion, Task Specific, 100% Completion, Unit Completion, etc.):

Percentage Completion: Contractors may invoice when the percentages completion required on the Work Order have been mutually agreed upon in writing by the Contractor and the Project Manager as in fact having been completed. Task Specific: Contractors may invoice when tasks specified on the Work Order as a requirement for payment have been mutually agreed upon in writing by the Contractor and the Project Manager as in fact having been completed. =====Default===== The Contractor will invoice the State for all projects according to the manner assigned for the type of project in this solicitation (See Price Sheet Pages 43 thru 64 of 85). All invoices will contain the contract number, contract name, project number, purchase order number, equipment utilized, labor hours, labor rate, materials supplied, Contractor's name and address, a copy of Work Order authorizing work and the name of the Contractor's representative to contact concerning billing questions. Should the trees to be cut constitute merchantable timber, the Contractor shall reduce the amount due from the State by the market value of the trees cut. If the project is invoiced once for the total amount of the project, the Contractor will be paid in arrears generally within 30 days of receipt of the invoice. Should the invoice be for partial payment, the invoice must specify what the Contractor is being paid for according to the invoice method specified by the Work Order (i.e. Percentage Completion, Task Specific, 100% Completion, Unit Completion, etc.): Percentage Completion: Contractors may invoice when the percentages completion required on the Work Order have been mutually agreed upon in writing by the Contractor and the Project Manager as in fact having been completed. Task Specific: Contractors may invoice when tasks specified on the Work Order as a requirement for payment have been mutually agreed upon in writing by the Contractor and the Project Manager as in fact having been completed.

IT 508 Compliance

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

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. Once assigned to work under the contract, key personnel shall not be removed or replaced without the prior written approval of the issuing agency and a copy to the procurement office of record.

Licenses

Contractor shall maintain in current status all Federal, State and Local licenses and permits required for the operation of a business conducted by the contractor.

Multiple Award

The state has a large number and variety of potential using agencies at locations throughout Arizona. In order to assure that any ensuing contracts will allow the state to fulfill current and further requirements, the state reserves the right to award contracts to multiple companies. The actual utilization of any contract will be at the sole discretion of the state. The fact that the state may make multiple awards should be taken into consideration by each potential contractor.

Multiple Eligible Agencies

Any resultant contract shall be for use by the agencies identified as primary users in the solicitation and by other State agencies identified through out the contract term. Following contract award, participation by a State agency not originally identified shall be based upon approval of the contractor.

New Equipment

All equipment, materials, parts and other components incorporated in the work or an item covered by this contract shall be new, of the latest model and of the most suitable grade for the purpose intended. Any and all work under this contract shall be performed in a skilled and workmanlike manner.

New Products

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

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

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

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

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

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

Non-Collusion

Not withstanding Uniform Instructions clause 4.4

By signing the bid, the bidder certifies that the bid submitted has been arrived at independently and has been submitted without collusion with, and without any agreement, understanding or planned common course of action with, any other vendor of materials, supplies, equipment or services described in the invitation to bid, designed to limit independent bidding or competition.

Non-Discrimination

The Contractor shall comply with Executive Order 99-4, which mandates that all persons, regardless of race, color, religion, sex, age, national origin or political affiliation, shall have equal access to employment opportunities and all other applicable State and Federal employment laws, rules, and regulations, including the Americans with Disabilities Act. The Contractor shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, national origin or disability.

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 either the agency (within an agencies delegated authority) or by the State Procurement Office. Approvals shall be at the exclusive discretion of the State and shall be final. Off-contract procurement shall be consistent with the Arizona Procurement Code.

NOTICES

All notices, requests, demands, consents, approvals, and other communications which may or are required to be served or given hereunder (for the purposes of this provisions collectively called 'Notices'), shall be in writing and shall be sent by registered or certified United States mail, return receipt requested, postage prepaid, addressed to the party or parties to receive such notice as follows: a. If intended for the State, to: Arizona Department of Corrections Procurement Services 1601 West Jefferson, Mail Code 55303 Phoenix, Arizona 85007

Offshore Performance of Work Prohibited

Due to security and identity protection concerns, direct services under this contract shall be performed within the borders of the United States. Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and may involve access to secure or sensitive data or personal client data or development or modification of software for the State shall be performed within the borders of the United States. Unless specifically stated otherwise in the specifications, this definition does not apply to indirect or 'overhead' services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers.

ON-SITE SUPERVISION

The Contractor shall have supervisory personnel present during work operations for the purpose of observing work progress, inspection of completed work, meeting with State personnel to perform random work site inspections and coordinate operational requirements. The supervisor shall also possess a copy of this contract, any amendments thereto and accepted traffic control plans when performing work under any resultant contract.

The supervisory personnel shall possess a means of communications with the State in advance of and while performing any work under this contract. This form of communication may be cellular telephone or mobile radio. The Contractor shall provide the State with the names and telephone numbers of all on-site supervisory personnel.

The Contractor's on-site supervisor and additional personnel, as deemed necessary by the State, must be literate and fluent in the English language. This is not meant to require that all Contractor personnel speak, read and write English. Some tasks may require only the on-site supervisor, crew leader or a crewmember to speak, read and write English. Other activities that involve contact and interaction with the public will require that more workers speak English, for example flaggers, etc. This requirement is necessary due to the following reasons, which include but are not limited to:

- Warnings of emergencies and hazards.
- Preparation of reports.
- Communication with State personnel.
- Response to travelers' inquiries.
- Response to law enforcement authorities, ambulance, etc.

Due to the significance of the above listed reasons, the English requirement is being made with the intent that communications between the Contractor's employees, State personnel and the public will be understood.

If for any reason the Contractor changes any of the personnel described in the proposal, the Contractor shall notify the Agency Project Manager in writing of the proposed or actual substitution as soon as possible, and present the qualifications of the replacement personnel. Any replacement personnel must be acceptable to the Agency Project Manager, and shall possess at least the same level of qualifications as the personnel being replaced.

Order Acceptance

Contractor shall acknowledge acceptance of all Orders. Contractor shall notify the Customer, in writing or electronically, within five (5) days of Order receipt. Orders that are not accepted or not specifically rejected by the Contractor within the five (5) days shall be considered accepted. Customers may accept verbal Order acceptance when time and circumstances require. Order acceptance shall include the reservation of all elements necessary to deploy the Ordered and accepted products and services.

Upon receipt of Products and Services, and/or commencement of continual Services, the Customer shall determine whether all delivered Products and Services meet the applicable Product and Services specifications and quality requirements established herein.

Products and Services shall be considered accepted at the time of Order Delivery.

If agreed upon in the Order between the Customer and the Contractor, the Customer shall, within seven (7) days from the date of Order Delivery, issue a written notice of acceptance, partial acceptance or rejection of the Products and Services. If such a notice is not issued in the given timeframe, such Product and Service shall be deemed accepted.

No payment shall be made for any Products and Services until the Customer has accepted the Products and Services ordered.

Order Acknowledgement

Contractor shall acknowledge receipt of all Orders. Contractor shall notify the Customer, in writing or electronically, within two (2) days of Order receipt. Customers may accept verbal Order acknowledgment when time and circumstances require.

Order Modification or Cancellation

Customer may, at any time prior to Order acceptance, modify or cancel the Order, in whole, or in part. Customer shall have no liability for making such modifications or cancellations.

Ordering

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

Ordering Process

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

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

1.2. Electronically transmitted through facsimile equipment;

1.3. Electronically transmitted as an e-mail attachment;

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

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

1.4.2. Use of such systems shall be at the sole at the sole discretion of the eligible agency and all cost associated with set-up, maintenance and support shall be borne by the contractor.

1.5. Electronically through State's or eligible agencies p-card program.

2. This contract was awarded in accordance with the Arizona Procurement Code and all transactions and procedures required by the code for competitive source selection have been met. A contract release order/purchase order, initiated in accordance with the requirements contained herein, that cites the correct Arizona contract number is the only document required for the agency to order and the contractor to deliver the material and /or service.

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

Price Adjustment

1. Discount (percents %) From List Price: Discount (percents %) from list price shall remain the same for the contract term. The State Procurement Office may review a fully documented request for a price increase only (change in discount) only on the anniversary or renewal date of the contract. The requested increases shall be based upon a cost increase to the contractor that was clearly unpredictable at the time of the offer and is directly correlated the price of the product/service

contractually covered.

1.1. The request shall be submitted from 90 to 120 days prior to the anniversary or contract renewal date of the contract and shall be a factor in the extension review process.

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

2. The State, at its sole option shall determine whether the requested price adjustment or an alternate option is in the best interest of the State. Approval shall be in the form of a contract amendment, and shall become effective on the date specified in the amendment. Upon approval by the State, the contractor shall make available all electronic and hard copy catalog/price list updates to all eligible using agencies at no additional cost to the State.

Pricing

Bid and contract pricing shall be in an all inclusive monthly rate.

Product Discontinuance

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

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

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

1.3. Documentation from the manufacturer that names the replacement product(s).

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

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

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

Product Return

Any agency utilizing any resulting contract may return any or all unused product(s), in there original container or package, to the contractor for exchange or credit at the current contract price during the term of this contract with no restocking fee. All product(s) will be returned in a timely manner during the period of the contract. Proof of purchase will be attempted but shall not be required. A full refund shall be issued for all unused product(s) returned to the supplier up to ninety (90) days after contract expiration. A credit may be issued only if there is an existing sale pending. Credit to any Agency account will not be accepted after contract expiration. The supplier will issue a check for full reimbursement to the Agency.

Special order items may be returned with a restocking fee.

Reference to Uniform Terms and Conditions

The State of Arizona Uniform Terms and Conditions are incorporated herein by reference (Go to the Arizona Department of Administration website <http://www.azspo.az.gov> Procurement Documents, Uniform Terms and Conditions).

Revised or Replacement Catalog/Price lists

1. The State may review a fully documented request to incorporate a revised or replacement catalog/price list (i.e. manufacturer's price list) only on the anniversary or renewal date of the contract. The request shall be submitted from 90 to 120 days prior to the anniversary or contract renewal date and shall be supplemented with the following information. Failure to submit the request within the stated timeframe and/or failure to supply any of the following information with the request may result in the state not considering the request.

1.1. A declaration that affirms that the proposed catalog/price lists (i.e. manufacturer's price list) is one that:

1.1.1. Is a replacement or revision to the original, containing the same item groups as originally awarded.

1.1.2. Is regularly maintained by a manufacturer, distributor or contractor.

1.1.3. Is either published or otherwise available for inspection by customers.

1.1.4. Is one that states prices at which sales are currently or were last made to a significant number of any category of

buyers or buyers constituting the general buying public for the materials or services involved.

1.2. Pricing information, existing versus proposed, electronic and hardcopy formats that:

1.2.1. Identifies all products, by part number, SKU number, description and manufacturer that will experience increases from existing prices.

1.2.2. Displays a side by side comparison of pricing, existing vs. proposed increases.

1.2.3. Details the factors that were clearly unpredictable at the time of the original bid and that have a direct affect on the proposed increase. Newly published or revised catalog/price lists submitted without supplemental information may not be considered.

1.2.4. Identifies all products, by part number, SKU number, description and manufacturer that will experience decreases from existing prices.

1.2.5. Displays a side by side comparison of pricing, existing vs. proposed decreases.

1.2.5.1. The contractor shall also obligated to pursue price decreases in accordance with the price decrease provision contained herein.

1.3. Product Information (Deletions/Additions) existing versus proposed, electronic and hardcopy formats that:

1.3.1. Identifies all discontinued products, by part number, SKU number, description and manufacturer that are either no longer being manufacturer or are no longer available to the contractor.

1.3.2. Identifies all proposed product additions, by part number, SKU number, description and manufacturer

1.3.2.1. When pursuing product deletions or additions the contractor shall also supplement the request as required under product discontinuance new product provisions contained herein.

1.4. The State reserves the right to approve and entire catalog/price list (i.e. manufacturer's price list), portions thereof or to exercise an alternate option, whichever is deemed in the best interest of the state.

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

Safety Standards

All items supplied on this contract must comply with the current applicable occupational safety and health standards of the State of Arizona Industrial Commission, The National Electric Code, and The National Fire Protection Association Standards.

Secure Location Deliveries

The Contractor will be responsible for contacting the secure location (such as Arizona Department of Corrections) for security clearance, hours of operation, dress code, and other related rule when scheduling a delivery or service call. Lack of familiarity with the locations or policies will not relieve a contractor of their responsibilities in fulfillment of the delivery, installation, maintenance/service agreement, and contract requirements.

Serial Numbers

The contract is for equipment on which the original manufacturers' serial number has not been altered in any way.

Throughout the contract term, the state reserves the right to reject any altered equipment.

Shipping F.O.B Statewide

Prices shall be F.O.B. Destination to any delivery location in the State of Arizona, delivered to the specified receiving point as required by the customer agency at the time of order. Contractor shall retain title and control of all goods until they are delivered, received and contract of coverage has been completed. All risk of transportation and all related charges shall be the responsibility of the contractor. All claims for visible and concealed damage shall be filed by the contractor. The State will notify the contractor promptly of any damaged goods and shall assist the contractor in arranging for inspection.

Suspension or Debarment Status

If the firm, business or person submitting this bid or offer has been debarred, suspended or otherwise lawfully precluded from participating in any public procurement activity with any Federal, State or Local Government, the bidder or offeror must include a letter with its bid or offer setting forth the name and address of the governmental unit, the effective date of the suspension or debarment, the duration of the suspension or debarment, and the relevant circumstances relating to the suspension or debarment. Failure to supply the letter or to disclose in the letter all pertinent information regarding a suspension or debarment shall result in rejection of the bid or offer or cancellation of a contract. The State also may exercise any other remedy available by law.

Taxes

1. Applicable Taxes: The State will pay only the rate and/or amount of taxes identified in the offer and in any resulting contract.

2. 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, penalties 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.

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

Telephone Ordering Support

Contractor(s) shall accept collect telephone calls and/or provide and maintain a toll-free number for eligible agency use. Failure to maintain this service may be cause for cancellation of the contract.

Termination for Convenience

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

Termination for Default

The State reserves the right to terminate the whole or any part of the contract due to failure of the Contractor to carry out any term, promise, or condition of the contract. The State will issue a written ten (10) day notice of default to the Contractor for failure to adequately perform, or there is reason for the State to believe that the Contractor cannot or will not adequately perform the requirements of the contract.

Terms and Conditions Specific to the Dept of Corrections

Type here

Waiver and Rejection of Rights

Notwithstanding any other provision of the solicitation, the State reserves the right to waive any immaterial defect or informality; Reject any and all offers or portions thereof; or Cancel a solicitation. The chief procurement officer shall file a written determination specifying the reasons for the decision.

Will Call/Ordering Support

The contractor(s) shall provide and maintain applicable toll-free telephone numbers and facsimile numbers for eligible agency use. Failure to maintain this service may be cause for cancellation of the contract.

Fencing Materials

Solicitation # SCC080002

Uniform Instructions

1 Definition of Terms

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

1.2 Contract

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

1.3 Contract Amendment

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

1.4 Contractor

any person who has a Contract with the State

1.5 Days

calendar days unless otherwise specified.

1.6 Exhibit

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

1.7 Offer

bid, proposal or quotation.

1.8 Offeror

a vendor who responds to a Solicitation.

1.9 Procurement Officer

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

1.10 Solicitation

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

1.11 Solicitation Amendment

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

1.12 Subcontract

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

1.13 State

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

2 Inquiries

Inquiries

2.1 Duty to Examine

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

2.2 Solicitation Contact Person

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

2.3 Submission of Inquiries

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

2.4 Timeliness

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

2.5 No Right to Rely on Verbal Responses

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

2.6 Solicitation Amendments

The Solicitation shall only be modified by a Solicitation Amendment.

2.7 Pre-Offer Conference

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

2.8 Persons With Disabilities

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

3 Offer Preparation

Offer Preparation

3.1 Forms: No Facsimile, Telegraphic or Electronic Mail Offers

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

3.2 Typed or Ink; Corrections

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

3.3 Evidence of Intent to be Bound

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

3.4 Exceptions to Terms and Conditions

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

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

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

3.5 Subcontracts

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

3.6 Cost of Offer Preparation

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

3.7 Solicitation Amendments

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

3.8 Federal Excise Tax

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

3.9 Provision of Tax Identification Numbers

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

3.10 Employee Identification

Offeror agrees to provide an employee identification number or social security number to the State for the purposes of reporting to appropriate taxing authorities, monies paid by the State under this contract. If the federal identifier of the offeror

is a social security number, this number is being requested solely for tax reporting purposes and will be shared only with appropriate state and federal officials. This submission is mandatory under 26 U.S.C. § 6041A.

3.11 Identification of Taxes in Offer

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

3.12 Disclosure

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

3.13 Solicitation Order of Precedence

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

3.13.1 Special Terms and Conditions;

3.13.2 Uniform Terms and Conditions;

3.13.3 Statement or Scope of Work;

3.13.4 Specifications;

3.13.5 Attachments;

3.13.6 Exhibits;

3.13.7 Special Instructions to Offerors;

3.13.8 Uniform Instructions to Offerors. 3.13.9 Other documents referenced or included in the Solicitation.

3.14 Delivery

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

4 Submission of Offer

Submission of Offer

4.1 Sealed Envelope or Package

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

4.2 Offer Amendment or Withdrawal

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

4.3 Public Record

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

4.4 Non-collusion, Employment, and Services

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

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

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

5 Evaluation

Evaluation

5.1 Unit Price Prevails

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

5.2 Taxes

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

5.3 Late Offers

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

5.4 Disqualification

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

5.5 Offer Acceptance Period

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

5.6 Waiver and Rejection Rights

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

5.6.1 Waive any minor informality;

5.6.2 Reject any and all Offers or portions thereof; or

5.6.3 Cancel the Solicitation.

6 Award

Award

6.1 Number or Types of Awards

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

6.2 Contract Inception

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

6.3 Effective Date

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

7 Protests

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

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

7.2 The signature of the protester or its representative;

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

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

7.5 The form of relief requested.

8 Comments Welcome

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

Fencing Materials

Solicitation # SCC080002

Uniform Terms and Conditions

1 Definition of Terms

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

1.1 Attachment

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

1.2 Contract

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

1.3 Contract Amendment

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

1.4 Contractor

any person who has a Contract with the State.

1.5 Days

calendar days unless otherwise specified

1.6 Exhibit

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

1.7 Gratuity

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

1.8 Materials

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

1.9 Procurement Officer

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

1.10 Services

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

1.11 Subcontract

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

1.12 State

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

1.13 State Fiscal Year

the period beginning with July 1 and ending June 30,

2 Contract Interpretation

Contract Interpretation

2.1 Arizona Law

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

2.2 Implied Contract Terms

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

2.3 Contract Order of Precedence

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

2.3.1 Special Terms and Conditions;

2.3.2 Uniform Terms and Conditions;

2.3.3 Statement or Scope of Work;

2.3.4 Specifications;

2.3.5 Attachments;

2.3.6 Exhibits;

2.3.7 Documents referenced or included in the Solicitation.

2.4 Relationship of Parties

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

2.5 Severability

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

2.6 No Parol Evidence

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

2.7 No Waiver

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

3 Contract Administration and Operation

Contract Administration and Operation.

3.1 Records

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

3.2 Non-Discrimination

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

3.3 Audit

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

3.4 Facilities Inspection and Materials Testing

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

3.5 Notices

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

3.6 Advertising, Publishing and Promotion of Contract

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

3.7 Property of the State

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

3.8 Ownership of Intellectual Property

Any and all intellectual property, including but not limited to copyright, invention, trademark, tradename, service mark, and/or trade secrets created or conceived pursuant to or as a result of this contract and any related subcontract ('Intellectual Property'), shall be work made for hire and the State shall be considered the creator of such Intellectual Property. The agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract shall own (for and on behalf of the State) the entire right, title and interest to the Intellectual Property throughout the world. Contractor shall notify the State, within thirty (30) days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor (s), agrees to execute any and all document(s) necessary to assure ownership of the Intellectual Property vests in the State and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the State. The Intellectual Property shall not be disclosed by contractor or its subcontractor(s) to any entity not the State without the express written authorization of the agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract.

4 Costs and Payments

Costs and Payments

4.1 Payments

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

4.2 Delivery

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

4.3 Applicable Taxes

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

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

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

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

4.4 Availability of Funds for the Next State Fiscal Year

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

4.5 Availability of Funds for the Current State Fiscal Year

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

4.5.1 Accept a decrease in price offered by the contractor;

4.5.2 Cancel the Contract

4.5.3 Cancel the contract and re-solicit the requirements.

5 Contract Changes

Contract Changes

5.1 Amendments

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

5.2 Subcontracts

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

5.3 Assignment and Delegation

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

6 Risk and Liability

Risk and Liability

6.1 Risk of Loss

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

6.2 Indemnification

6.2.1 Contractor/Vendor Indemnification (Not Public Agency) The parties to this contract agree that the State of Arizona, its' departments, agencies, boards and commissions shall be indemnified and held harmless by the contractor for the vicarious liability of the State as a result of entering into this contract. However, the parties further agree that the State of Arizona, its' departments, agencies, boards and commissions shall be responsible for its' own negligence. Each party to this contract is responsible for its' own negligence.

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

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

6.3 Indemnification – Patent and Copyright

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

6.4 Force Majeure

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

6.4.2 Force Majeure shall not include the following occurrences:

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

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

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

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

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

6.5 Third Party Antitrust Violations

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

7 Warranties

Warranties

7.1 Liens

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

7.2 Quality

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

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

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

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

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

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

7.3 Fitness

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

7.4 Inspection/Testing

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

7.5 Year 2000

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

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

7.6 Compliance With Applicable Laws

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

7.7 Survival of Rights and Obligations after Contract Expiration or Termination

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

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

8 State's Contractual Remedies

State's Contractual Remedies

8.1 Right to Assurance

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

8.2 Stop Work Order

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

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

8.3 Non-exclusive Remedies

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

8.4 Nonconforming Tender

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

remedy available to it.

8.5 Right of Offset

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

9 Contract Termination

Contract Termination

9.1 Cancellation for Conflict of Interest

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

9.2 Gratuities

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

9.3 Suspension or Debarment

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

9.4 Termination for Convenience

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

9.5 Termination for Default

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

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

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

9.6 Continuation of Performance Through Termination

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

10 Contract Claims

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

11 Arbitration

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

Fencing Materials

Solicitation # SCC080002

Price Sheet

Instructions

Offerors complete both the SPIRIT line items and in addition, the attached Price Schedule. Pricing shall include the percent of discount off Manufacturers' Suggested Retail Price and be based on the manufacturers' most current price catalog at time of award. Pricing shall include all hardware and parts delivery freight and or mileage charges, emergency fees and any fuel surcharges. Vendors are requested to indicate the promised delivery schedule, prompt payment terms and applicable local sales tax percentage.

| LI # | CM Code # CM Code Item # | Commodity Code Description Commodity Code Item Description | Pricing | Qty | UOM |
|------|-----------------------------|--|---------|-----|------|
| 1 | 0330-0013 0330-0013-0003 | Fencing, Chain Link (Including Fabric, Gates, Panels, Posts and Fittings) 1.2OZ CHAINLINK FENCE: Fabric, Galvanized, 11 Gauge, 2" Mesh Knuckle/Barb, Type I, 36" | DLP | 1 | Roll |
| 2 | 0330-0013 0330-0013-0004 | Fencing, Chain Link (Including Fabric, Gates, Panels, Posts and Fittings) 1.2OZ CHAINLINK FENCE: Fabric, Galvanized, 11 Gauge, 2" Mesh Knuckle/Barb, Type I, 48" | DLP | 1 | Roll |
| 3 | 0330-0013 0330-0013-0005 | Fencing, Chain Link (Including Fabric, Gates, Panels, Posts and Fittings) 1.2OZ CHAINLINK FENCE: Fabric, Galvanized, 11 Gauge, 2" Mesh Knuckle/Barb, Type I, 60" | DLP | 1 | Roll |
| 4 | 0330-0013 0330-0013-0006 | Fencing, Chain Link (Including Fabric, Gates, Panels, Posts and Fittings) 1.2OZ CHAINLINK FENCE: Fabric, Galvanized, 11 Gauge, 2" Mesh Knuckle/Barb, Type I, 72" | DLP | 1 | Roll |
| 5 | 0330-0013 0330-0013-0007 | Fencing, Chain Link (Including Fabric, Gates, Panels, Posts and Fittings) 1.2OZ CHAINLINK FENCE: Fabric, Galvanized, 11 Gauge, 2" Mesh Knuckle/Barb, Type I, 84" | DLP | 1 | Roll |
| 6 | 0330-0013 0330-0013-0008 | Fencing, Chain Link (Including Fabric, Gates, Panels, Posts and Fittings) 1.2OZ CHAINLINK FENCE: Fabric, Galvanized, 11 Gauge, 2" Mesh Knuckle/Barb, Type II, 72" | DLP | 1 | Roll |
| 7 | 0330-0013 0330-0013-0009 | Fencing, Chain Link (Including Fabric, Gates, Panels, Posts and Fittings) Chainlink Gates, 11GA | DLP | 1 | Foot |
| 8 | 0330-0065 0330-0065-0003 | Wire, Barbed 12-1/2 gauge, class #1 galvanized, domestic, barb spacing 5" o.c. - 2 Point | DLP | 1 | Roll |
| 9 | 0330-0065 0330-0065-0004 | Wire, Barbed 12-1/2 gauge, class #1 galvanized, domestic, barb spacing 5" o.c. - 4 Point | DLP | 1 | Roll |
| 10 | 0330-0065 0330-0065-0005 | Wire, Barbed 12-1/2 gauge, class #1 galvanized, domestic, barb spacing 5" o.c. - Type I barb wire fence | DLP | 1 | Roll |
| 11 | 0330-0065 0330-0065-0006 | Wire, Barbed 12-1/2 gauge, class #1 galvanized, domestic, barb spacing 5" o.c. - Type II barb wire fence | DLP | 1 | Roll |
| 12 | 0330-0065 0330-0065-0007 | Wire, Barbed 12-1/2 gauge, class #1 galvanized, domestic, barb spacing 5" o.c. - Barbless wire | DLP | 1 | Roll |
| 13 | 0330-0065 0330-0065-0008 | Wire, Barbed 12-1/2 gauge, class #1 galvanized, domestic, barb spacing 5" o.c. - Barbed wire 2 prong | DLP | 1 | Roll |
| 14 | 0330-0091 0330-0091-0003 | Wire, Woven 330 ft. rolls, 78 3/8" tall, high tensile, 12 1/2 gauge | DLP | 1 | Roll |
| 15 | 0330-0091 0330-0091-0005 | Wire, Woven Corner braces, metal 7 ft. | DLP | 1 | Each |
| 16 | 0330-0091 0330-0091-0004 | Wire, Woven Corner posts, metal 7 ft. | DLP | 1 | Each |

| | | | | | |
|----|-----------------------------|--|-----|---|------|
| 17 | 0330-0091 0330-0091-0006 | Wire, Woven Gate 12'(including hardware) | DLP | 1 | Each |
| 18 | 0330-0091 0330-0091-0007 | Wire, Woven Gate 16'(including hardware) | DLP | 1 | Each |
| 19 | 0330-0013 0330-0013-0010 | Fencing, Chain Link (Including Fabric, Gates, Panels, Posts and Fittings) Fence post: round, 20 weight (1 7/8" x 60") | DLP | 1 | Each |
| 20 | 0330-0013 0330-0013-0011 | Fencing, Chain Link (Including Fabric, Gates, Panels, Posts and Fittings) Fence post: round, 20 weight (2 7/8" x 60") | DLP | 1 | Each |
| 21 | 0330-0013 0330-0013-0012 | Fencing, Chain Link (Including Fabric, Gates, Panels, Posts and Fittings) POST, FENCE, 'T': ASTM-A702 2200 studded, 1.33, with 5 clips 60" | DLP | 1 | Each |
| 22 | 0330-0013 0330-0013-0013 | Fencing, Chain Link (Including Fabric, Gates, Panels, Posts and Fittings) POST, FENCE, 'T': ASTM-A702 2200 studded, 1.33, with 5 clips 72" | DLP | 1 | Each |
| 23 | 0330-0013 0330-0013-0014 | Fencing, Chain Link (Including Fabric, Gates, Panels, Posts and Fittings) Hardware:(Fence Stay 48" 100/bundle)-Wood | DLP | 1 | Each |
| 24 | 0330-0013 0330-0013-0015 | Fencing, Chain Link (Including Fabric, Gates, Panels, Posts and Fittings) Hardware:(Fence Stay 48" 100/bundle)-Metal | DLP | 1 | Each |
| 25 | 0330-0013 0330-0013-0016 | Fencing, Chain Link (Including Fabric, Gates, Panels, Posts and Fittings) Hardware: Angle Iron Post, 2 1/2 x 2 1/2 x 7' x 1 1/4" | DLP | 1 | Each |
| 26 | 0330-0013 0330-0013-0017 | Fencing, Chain Link (Including Fabric, Gates, Panels, Posts and Fittings) Hardware: Angle Iron Brace, 2" x 2" x 7' x 1 1/4" | DLP | 1 | Each |
| 27 | 0330-0013 0330-0013-0018 | Fencing, Chain Link (Including Fabric, Gates, Panels, Posts and Fittings) Hardware: Pre Mixed, 60lb. Bag Post Mix | DLP | 1 | Each |
| 28 | 0330-0013 0330-0013-0019 | Fencing, Chain Link (Including Fabric, Gates, Panels, Posts and Fittings) Hardware: Heavy Tension Band, 2 7/8" | DLP | 1 | Each |
| 29 | 0330-0013 0330-0013-0020 | Fencing, Chain Link (Including Fabric, Gates, Panels, Posts and Fittings) Hardware: Strain Sets (including hardware) | DLP | 1 | Each |
| 30 | 0330-0013 0330-0013-0021 | Fencing, Chain Link (Including Fabric, Gates, Panels, Posts and Fittings) Hardware: Latches | DLP | 1 | Each |
| 31 | 0330-0013 0330-0013-0022 | Fencing, Chain Link (Including Fabric, Gates, Panels, Posts and Fittings) Hardware: T-Post Sets 6'(including clips) | DLP | 1 | Each |
| 32 | 0330-0013 0330-0013-0023 | Fencing, Chain Link (Including Fabric, Gates, Panels, Posts and Fittings) Hardware: T-Post Wire Ties | DLP | 1 | Each |
| 33 | 0330-0013 0330-0013-0024 | Fencing, Chain Link (Including Fabric, Gates, Panels, Posts and Fittings) Hardware: Metal Stay (48", 9 gauge) | DLP | 1 | Each |
| 34 | 0330-0046 0330-0046-0003 | Fencing, Snow High-density polyethylene orange, holes-vertical when roll is on end approximately 1 1/2" wide x 2 1/2" tall, porosity 40-50%, weight minimum of 35 pounds per roll - 4' x 100' | DLP | 1 | Roll |
| 35 | 0330-0055 0330-0055-0003 | Fencing, Temporary (For Construction and Other Industrial or Safety Uses) 60" x 50' | DLP | 1 | Roll |
| 36 | 0330-0032 0330-0032-0003 | Fencing, Wrought Iron (Including Components) Tubing Frame, 1"x1", 5/8"x 5/8" pickets | DLP | 1 | Roll |
| 37 | 0330-0059 0330-0059-0003 | Fencing, Wood (Including Components) Posts | DLP | 1 | Each |
| 38 | 0330-0059 0330-0059-0004 | Fencing, Wood (Including Components) Stringers | DLP | 1 | Each |
| 39 | 0330-0059 0330-0059-0005 | Fencing, Wood (Including Components) Fasteners | DLP | 1 | Each |

Fencing Materials

Solicitation # SCC080002

Offer

TO THE STATE OF ARIZONA:

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

Tax Information

Arizona Transaction (Sales) Privilege Tax License No. _____

Federal Employer Identification No. _____

Location Information

Company Name: _____

Address: _____

Signature

Name: _____

Date: _____

Title: _____

Signature: _____

Certification

By Accepting below, the bidder certifies:

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

Acceptance

The Offer is hereby accepted.

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

This contract shall henceforth be referred to as Contract No. _____. 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, contract release document or written notice to proceed.

State of Arizona Awarded This _____ day of _____ .
Procurement Officer: _____

Contract**Solicitation #SCC080002**

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Document Information 

| | | | | | |
|---------------------------|-------------------------------|--------------------|-----------------------------|-------------|----------------|
| Type: | Supplier | Amendment: | Yes | Amend. #: | 1 |
| Requisition #: | ADSM-76WP2G | Solicitation #: | SCC080002 | Contract #: | SCC080002-1-A1 |
| Created By: | Notes Administrator/az.gov | Date Created: | 05/14/2008 | | |
| PO Assigned: | Bernadette Hill/ADSM-6A4SXZ | Date Completed: | 10/22/2008 | | |
| PM Assigned: | Kristine Yaw/ADSM-6A4SXZ | PA Assigned: | Denel Pickering/ADSM-6A4SXZ | | |
| Supplier Name: | <u>American Fence Company</u> | Proposal #: | <u>ADSM-77DRJM</u> | | |
| Gov't Entity: | Strategic Contracting Centers | Type: | Statewide | | |
| Process Status: | Complete | Status: | Complete | | |
| Total/Not to Exceed Cost: | 0.00 | External Contract: | | | |

Contract Information 

| | | | |
|--------------------------------|------------|----------------|---------------|
| Start Date: | 11/09/2008 | End Date: | 11/08/2009 |
| Term: | 1 Year(s) | FOB: | |
| Payment Terms: | net 30 | Delivery: | 5 A.R.O. Days |
| Contract Extension Not Allowed | | Max Extension: | 1 Year(s) |

Amendment Information

Per Special Terms and Conditions, Contract Extension, this contract is hereby extended through 11/08/2009.

The Max Extension field has been modified to reflect the contract extension clause.

All other contract provisions shall remain in its entirety.

Contract Reassignment

N/A

Contractor Amendment Approval

Contract Amendment approved by Bill Hennessy/000004579 on 10/22/2008 at 08:34:24 AM

Solicitation Information 

Title: Fencing Materials Type: IFB

Description:

Fencing: Chain link, Wrought Iron, Wire Woven, Barbed Wire, Snow Fencing, etc. For questions relating to the solicitation or procurement process, please contact Bernadette Hill at (602) 542-1172 or via email at bhill@azcorrections.gov.

For questions relating to the State's Automated eProcurement System, please contact the ADOA/SPO/Spirit Support Desk at (602) 542-7600.

Clauses**Sections - Clauses**

Special Instructions

Special Terms and Conditions

Uniform Instructions

Uniform Terms and Conditions

Other Data

* Offer & Acceptance

* Price Sheet

Attachments 

ADOA Contacts.xls

[CATALOG.xls](#)
[P-cARDS.doc](#)
[SCC080002-1-A1_CON.pdf](#)
[SCC080002-1_CON.pdf](#)
[SCC080002 Additional Special Terms and Conditions.doc](#)
[SCC080002 Arizona County Map.doc](#)
[SCC080002 Arizona County Map.doc](#)
[SCC080002 Fencing Materials Supplemental Price Sheet.xls](#)
[SCC080002 Price Schedule.doc](#)
[SCC080002 Price Schedule.doc](#)
[SCC080002 Scope of Work.doc](#)
[SCC080002 Telephone Ordering Support.doc](#)
[SCC080002 Telephone Ordering Support.doc](#)
[SCC080002_SOL.pdf](#)
[Signature page.pdf](#)

All Contracts

| Contract # | Supplier | Title | Status | Start Date | End Date | A | A# |
|--------------------------------|-----------------------------|-------------------|----------|------------|------------|-----|----|
| SCC080002-0 | Main | Fencing Materials | Closed | 11/09/2007 | 11/08/2008 | No | 0 |
| SCC080002-1 | American Fence Company | Fencing Materials | Closed | 11/09/2007 | 11/08/2008 | No | 0 |
| SCC080002-1-A1 | American Fence Company | Fencing Materials | Complete | 11/09/2008 | 11/08/2009 | Yes | 1 |
| SCC080002-2 | Western Fence Company, Inc. | Fencing Materials | Closed | 11/09/2007 | 11/08/2008 | No | 0 |
| SCC080002-2-A1 | Western Fence Company, Inc. | Fencing Materials | Complete | 11/09/2008 | 11/08/2009 | Yes | 1 |

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Contract**Solicitation #SCC080002**

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Document Information

| | | | | | |
|---------------------------|------------------------------------|--------------------|-----------------------------|-------------|----------------|
| Type: | Supplier | Amendment: | Yes | Amend. #: | 1 |
| Requisition #: | ADSM-76WP2G | Solicitation #: | <u>SCC080002</u> | Contract #: | SCC080002-2-A1 |
| Created By: | Notes Administrator/az.gov | Date Created: | 05/14/2008 | | |
| PO Assigned: | Bernadette Hill/ADSM-6A4SXZ | Date Completed: | 10/22/2008 | | |
| PM Assigned: | Kristine Yaw/ADSM-6A4SXZ | PA Assigned: | Denel Pickering/ADSM-6A4SXZ | | |
| Supplier Name: | <u>Western Fence Company, Inc.</u> | Proposal #: | <u>ADSM-78FNVH</u> | | |
| Gov't Entity: | Strategic Contracting Centers | Type: | Statewide | | |
| Process Status: | Complete | Status: | Complete | | |
| Total/Not to Exceed Cost: | 0.00 | External Contract: | | | |

**Contract Information**

| | | | |
|--------------------------------|-------------|----------------|---------------|
| Start Date: | 11/09/2008 | End Date: | 11/08/2009 |
| Term: | 1 Year(s) | FOB: | |
| Payment Terms: | 2% 10/net30 | Delivery: | 1 A.R.O. Days |
| Contract Extension Not Allowed | | Max Extension: | 1 Year(s) |

**Amendment Information**

Per Special Terms and Conditions, Contract Extension, this contract is hereby extended through 11/08/2009.

The Max Extension field has been modified to reflect the contract extension clause.

All other contract provisions shall remain in its entirety.

Contract Reassignment

N/A

Contractor Amendment Approval

Contract Amendment approved by James Reid/000004122 on 05/15/2008 at 11:13:32 AM

Solicitation Information

Title: Fencing Materials Type: IFB

Description:

Fencing: Chain link, Wrought Iron, Wire Woven, Barbed Wire, Snow Fencing, etc. For questions relating to the solicitation or procurement process, please contact Bernadette Hill at (602) 542-1172 or via email at bhill@azcorrections.gov.

For questions relating to the State's Automated eProcurement System, please contact the ADOA/SPO/Spirit Support Desk at (602) 542-7600.

**Clauses****Sections - Clauses**

[Special Instructions](#)

[Special Terms and Conditions](#)

[Uniform Instructions](#)

[Uniform Terms and Conditions](#)

Other Data

* [Offer & Acceptance](#)

* [Price Sheet](#)

Attachments

[SCC080002-2-A1_CON.pdf](#)



[SCC080002-2_CON.pdf](#)
[SCC080002 Additional Special Terms and Conditions.doc](#)
[SCC080002 Arizona County Map.doc](#)
[SCC080002 Fencing Materials Supplemental Price Sheet.xls](#)
[SCC080002 Price Schedule.doc](#)
[SCC080002 Scope of Work.doc](#)
[SCC080002 Telephone Ordering Support.doc](#)
[SCC080002_SOL.pdf](#)
[spirit bid.pdf](#)

All Contracts

| Contract # | Supplier | Title | Status | Start Date | End Date | A | A# |
|--------------------------------|-----------------------------|-------------------|----------|------------|------------|-----|----|
| SCC080002-0 | Main | Fencing Materials | Closed | 11/09/2007 | 11/08/2008 | No | 0 |
| SCC080002-1 | American Fence Company | Fencing Materials | Closed | 11/09/2007 | 11/08/2008 | No | 0 |
| SCC080002-1-A1 | American Fence Company | Fencing Materials | Complete | 11/09/2008 | 11/08/2009 | Yes | 1 |
| SCC080002-2 | Western Fence Company, Inc. | Fencing Materials | Closed | 11/09/2007 | 11/08/2008 | No | 0 |
| SCC080002-2-A1 | Western Fence Company, Inc. | Fencing Materials | Complete | 11/09/2008 | 11/08/2009 | Yes | 1 |

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