



ARIZONA DEPARTMENT OF EDUCATION

NOTICE OF REQUEST FOR PROPOSAL

Solicitation Number: BPM007630 – Lot 1, Round 1.
Solicitation Due Date / Time: July 14, 2026, Time (Local Time): 3:00 p.m. Arizona time
Submittal Location: <https://appstate.az.gov>
Description of Procurement: Farm to School
Pre-Offer Conference Date: None

In accordance with A.R.S. § 41-2534, the Arizona Department of Education is soliciting competitive sealed proposals pursuant to this Request for Proposal (RFP) for the materials or services specified herein. Respondents will submit their Offers to the State Procurement Office online through the State's e-Procurement system. Arizona Procurement Portal (A.P.P.) at <https://app.az.gov>, at the date and time posted in A.P.P. Proposals received by the correct time and date will be opened and the name of each Offeror will be publicly available. **Proposals shall be in actual possession of the State prior to the time and date and at the location indicated in the Notice. Late proposals will not be considered.**

The Offer shall be submitted in an acceptable format, as described herein, using the State's online e-Procurement application Arizona Procurement Portal at <https://appstate.az.gov>. Submission of offers by means other than the Arizona Procurement Portal system will not be accepted. Prospective Offerors with questions in this regard shall contact the Procurement Officer prior to the Solicitation's due date and time

To submit an Offer, Offerors shall register at A.P.P. Offerors requiring assistance in the registration process or in navigating A.P.P. may call the Help Desk at 602-542-7600.

OFFERORS ARE STRONGLY ENCOURAGED TO CAREFULLY READ THE ENTIRE SOLICITATION. Please enter a nominal amount in the items/bid tab for award consideration.

Karla Varela	06/12/2026
_____ Procurement Officer	_____ Date
Braulio Garcia	06/12/2026
_____ Chief Procurement Officer	_____ Date



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Farm to School**

Arizona Department of Education
1535 W. Jefferson Street
Phoenix, AZ 85007

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Scope of Work

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1. **MISSION STATEMENT**

The Arizona Department of Education is a service organization committed to raising academic outcomes and empowering parents.

2. **BACKGROUND**

As the state agency responsible for state-level administration of the United States Department of Agriculture (USDA)'s Child Nutrition Programs (CNPs) in Arizona and the state implementing agency for farm to school and farm to early care and education (ECE), The Arizona Department of Education (ADE) Health and Nutrition Services (HNS) seeks to expand access to farm to school and farm to ECE activities statewide for CNP recipients. To achieve this goal, ADE-HNS supports a range of projects that require the expertise of organizations with demonstrated experience in building capacity among schools and ECE centers in the areas of local food procurement, nutrition education and school and community gardens.

3. **PURPOSE**

- 3.1. The purpose of this Request for Proposal (RFP) is to establish a pool of qualified contractors with demonstrated knowledge and expertise to provide assistance and services that will support the expansion of farm to school and farm to ECE in Arizona. Contractors selected through this RFP will be prequalified to provide the services established herein and as needs are identified by ADE-HNS.
- 3.2. Selection as a qualified Contractor under this RFP does not guarantee the award of work or the issuance of a Contract task or engagement. ADE-HNS makes no commitment to utilizing the services of any Contractor selected through this process. Services may be requested on an as-needed basis, and ADE-HNS reserves the right to engage one, multiple, or none of the qualified Contractors for any given need.
- 3.3. Pricing is not requested and will not be evaluated as part of this RFP. When services are required, ADE-HNS may request quotes or pricing proposals from one or more Contractors within the qualified vendor pool based on the specific scope, requirements, and availability of funds at that time.

4. **REQUIREMENTS**

The Contractor shall:

- 4.1. Coordinate and communicate.
 - 4.1.1. Attend regularly scheduled meetings with ADE-HNS staff to support planning, implementation, and progress updates related to farm to school and farm to ECE activities.
 - 4.1.2. Participate in ad hoc meetings, as requested by ADE, to address emerging needs, challenges, or opportunities.
 - 4.1.3. Designate a primary point of contact responsible for coordinating all activities under this scope of work.
- 4.2. Have experience as a capacity builder and/or convenor and/or connector for groups or individuals for one or more of the three pillars of farm to school and farm to ECE:
 - 4.2.1. Local food procurement.
 - 4.2.2. Nutrition education.



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- 4.2.3. School and community gardens.
- 4.3. Demonstrate the ability to tailor services to meet the needs of participants at varying levels of farm to school and farm to ECE readiness.
- 4.4. Possess organizational knowledge and expertise in farm to school and farm to ECE and applicable state and federal laws and regulations concerning USDA Child Nutrition Programs. The organization's mission and values must align with farm to school and farm to ECE and ADE-HNS.
- 4.5. Prioritize access and participation.
 - 4.5.1. Prioritize support for communities with lowest participation in farm to school and farm to ECE consistent with ADE-HNS priorities.
 - 4.5.2. Incorporate inclusive practices into program design, technical assistance, and resource development to ensure broad participation by diverse school and childcare populations.
 - 4.5.3. Implement strategies that promote broad participation across diverse geographic and demographic populations.
- 4.6. Collect data, report and evaluate.
 - 4.6.1. Have an established process for collecting and maintaining data related to participation, activities, and outcomes as required by ADE-HNS.
 - 4.6.2. Have the ability to submit regular progress reports in a format and cadence determined by ADE-HNS, which could include:
 - 4.6.2.1. Summary of activities conducted.
 - 4.6.2.2. Number and type of participants served.
 - 4.6.2.3. Challenges, successes and lessons learned.
 - 4.6.3. Be able to contribute data or narrate information needed for state or federal reporting, as requested.
 - 4.6.4. Ensure ADE-HNS has access to and the right to use any materials developed under this contract.

5. **DELIVERABLES**

- 5.1. Financial and Administrative Deliverables.
 - 5.1.1. The Contractor shall submit a Final Expenditure Report within thirty (30) business days of contract end date.
- 5.2. Planning and Implementation Deliverables.
 - 5.2.1. The Contractor shall submit an Annual or Project Specific Work Plan within thirty (30) business days upon ADE-HNS' request. The requested Work Plan may include project scope, objectives, deliverables, timelines, and a quote that details the costs.



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5.2.2. The Contractor shall submit an updated Work Plan upon ADE-HNS' request. If applicable, it shall reflect changes approved to activities, timelines or deliverables.

5.3. Progress and Performance Reporting.

5.3.1. The Contractor shall submit progress reports, summarizing activities conducted, participants served, progress toward outcomes, challenges, and planned next steps.

5.3.2. The Contractor shall submit a Final Summary Report, due within thirty (30) business days of contract completion, documenting overall accomplishments, lessons learned, and recommendations for future farm to school and farm to ECE efforts.

5.4. Training and Technical Assistance Deliverables (if applicable).

5.4.1. The Contractor shall submit Training Agendas and Materials (e.g., slide decks, handouts, recordings), to ADE-HNS following each ADE-HNS-approved training or workshop.

5.4.2. The Contractor shall submit Technical Assistance Summary Logs, documenting the type of assistance provided, audiences served, and farm to school and farm to ECE pillars addressed at a cadence determined by ADE-HNS.

5.5. Resource and Content Development (if applicable).

5.5.1. The Contractor shall submit for review Resources or Tools developed under the contract (e.g., guidance documents, templates, toolkits) in an accessible electronic format to be approved by ADE-HNS prior to dissemination.

5.5.2. The Contractor shall submit revisions or adaptations of existing resources, if applicable, incorporating ADE-HNS feedback.

5.6. Events and Convenings (if applicable).

5.6.1. The Contractor shall submit Event or Convening Summary Reports within thirty (30) business days of ADE-HNS-supported events, outlining objectives, participation, and outcomes.

5.7. Data and Documentation.

5.7.1. The Contractor shall submit Participation and Activity Data in a format specified by ADE-HNS to support state and federal reporting requirements.

5.7.2. The Contractor shall submit Close-Out Documentation, including final versions of all deliverables and materials developed under the contract.

6. APPROVALS

ADE will:

6.1. Request a Project Specific Work Plan and quote from one (1) or more Contractors selected as part of the qualified Contractor pool to address a specific need or project. ADE will review proposed work plans and quotes to ensure alignment with program objectives, statewide initiatives, and available funding. ADE and the Contractor may negotiate scope, pricing, or other terms as necessary prior to approval.

6.2. Review and approve the Work Plan and quote to ensure alignment with statewide initiatives.



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6.2.1. Services shall not be performed, and the Contractor shall not incur costs, until the work plan and quote have been approved in writing by ADE and a Purchase Order (PO) has been issued.

6.3. Review and approve all invoices to verify that billed services are consistent with the requirements set forth of the approved Work Plan and issued PO.

The Contractor shall request prior approval from ADE-HNS of:

6.4. Branding and Marketing Materials.

6.4.1. Any use of ADE-HNS or Arizona Department of Education branding, including logos, program names, or identifiers, in materials developed under this contract.

6.4.2. All marketing, outreach, or public-facing materials (e.g., brochures, flyers, toolkits, presentations, websites, social media content, newsletters, videos, or press materials) developed using contract funds prior to dissemination or publication.

6.5. Work Plan and Scope Changes

6.5.1. Any substantive changes to the approved work plan, including modifications to activities, timelines, or deliverables.

6.5.2. Addition of new activities or elimination of previously approved activities.

6.6. Budget and Financial Adjustments.

6.6.1. Transfers of funds between approved budget line items that exceed thresholds established by ADE-HNS or that materially change the scope of work.

6.6.2. Any unbudgeted expenditure not reflected in the approved budget.

6.7. Subcontractors and Partnerships.

6.7.1. Engagement of subcontractors, consultants, or partners not identified in the original contract or approved work plan.

6.7.2. Any changes to approved subcontractor roles or responsibilities.

6.8. Data Collection and Reporting Tools.

6.8.1. Development or use of data collection instruments, surveys, or reporting tools intended for statewide distribution or required participation, prior to implementation.

6.9. Public Communications.

6.9.1. Public statements, presentations, or publications that reference ADE, ADE-HNS, or this contract, include conference presentations or externally published reports, when ADE-HNS is identified as a funder or partner.



Special Terms and Conditions

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1. Glossary Terms

- 1.1. “*ADE*” means the Arizona Department of Education.
- 1.2. “*Department*” means the Arizona Department of Education.
- 1.3. “*HNS*” means Health and Nutrition Services.
- 1.4. “*USDA*” means United States Department of Agriculture.
- 1.5. “*CNP*” means Child Nutrition Programs.
- 1.6. “*ECE*” means Early Care and Education
- 1.7. “*AI*” means the science and engineering of making machines capable of performing tasks that are typically associated with human intelligence, such as learning and problem-solving, and includes without limitation: AI systems, classic AI, external AI, generative AI, and large language model (LLM) AI.

2. Purpose

Pursuant to provisions of the Arizona Procurement Code, A.R.S. § 41-2501 et seq., the State of Arizona, through the ADE, intends to establish a pool of qualified Contractors to provide services as listed herein on behalf of the HNS.

3. Term of Contract

- 3.1. The term of the contract shall commence upon award and shall remain in effect for one (1) year, unless terminated, canceled or extended as otherwise provided herein.
- 3.2. Pursuant to Arizona law, while the Contract is effective upon award, no work is authorized under this Contract until a valid purchase order is issued by ADE. Work performed prior to the issuance of a valid purchase order may not be compensated.

4. Contract Extensions

- 4.1. This Contract may be extended for additional successive periods, not to exceed twelve (12) months per extension, upon signature of an amendment by both parties. The total term of the Contract, including all extensions, shall not exceed five (5) years.

5. Price Adjustments

- 5.1. Pricing shall be established on an “as-needed” basis through written and approved work plan and quotes submitted by the Contractor and approved by ADE prior to issuance of a Purchase Order.
- 5.2. Contractor-awarded prices shall remain in effect for a minimum of one (1) year. The Contractor may request a price increase; but ADE will not review or approve a price increase until the Contract has been in effect for one (1) year. ADE will review any requested price increase and determine whether the request is reasonable and in the best interest of the State. Any price increase adjustment, if approved, will be effective upon the effective date of the execution of a Contract Amendment.
 - 5.2.1. The request shall be submitted at least sixty (60) days prior to the contract renewal date and shall be a factor in the extension review process.
 - 5.2.2. The Contractor shall provide written justification for any price adjustment requested, including information contained in the Consumer Price Index or similar official cost analysis to support any requested price increase.



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5.2.3. 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.

5.3. 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.

5.4. The Contractor shall offer the State a price adjustment reduction concurrent with reduced costs from their suppliers. Price reductions will become effective upon execution of a Contract amendment.

6. Transitions

6.1. During commencement, Contractor shall attend transition meetings with any outgoing suppliers to coordinate and ease the transition so that the impact on State's operations is kept to a minimum. State may elect to have outgoing suppliers complete some or all of their Work or Orders in progress, even if that Work could be covered under the incoming supplier's Contract. Conversely, the State may have a continued need for the same Materials and Services upon expiration or earlier termination of the Contract. Accordingly, the Contractor shall work closely with any incoming supplier and State to ensure as smooth and complete a transition transfer as is practicable.

6.2. Eligible Agency or State's representative will coordinate all transition activities and facilitate joint development of a comprehensive transition plan by both Contractor and the incoming supplier. As with the incoming transition, State may permit Contractor, when Contractor is outgoing, to complete work or orders in progress to ease the transition as is safest and most efficient in each instance.

7. Contract Type

Indefinite quantity Contract, pricing for services shall be established on a firm-fixed price, "as-needed" basis through approved statements of work and quotes.

8. Multiple Award

ADE reserves the right to make a multiple award to more than one Offeror.

9. Estimated Usage

The Contract shall be on an as needed, if needed basis. The State makes no guarantee as to the amount of usage that may occur under a resultant contract. All eligible procurement units, as defined in the Arizona Procurement Code, are eligible to use this Arizona state contract.

10. Non-Exclusive Contract

Any Contract resulting from this solicitation shall be awarded with the understanding and agreement that it is for the sole convenience of the State of Arizona. The State reserves the right to obtain like goods or services from another source, when necessary, or when determined to be in the best interest of the State.

11. Click-Through Terms and Conditions

If either party uses a web-based ordering system, an electronic purchase order system, an electronic order acknowledgement, a form of an electronic acceptance, or any software based ordering system with respect to the Contract (each an "Electronic Ordering System"), the parties acknowledge and agree that an Electronic Ordering System is for ease of administration only, and Contractor is hereby given notice that the persons using Electronic Ordering Systems on behalf of State do not have any actual or apparent authority to create legally binding obligations that vary from the terms and conditions of the Contract. Accordingly, where an authorized State user is required to "click through" or otherwise accept or be made subject to any terms and conditions in using an Electronic Ordering System, any such terms and conditions are deemed void upon presentation. Additionally, where an authorized State user is required to accept or be made subject to any



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terms and conditions in accessing or employing any Materials or Services, those terms and conditions will also be void.

12. 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.

13. Order Process

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

14. Changes

ADE reserves the right to revise the delivery schedule and make other changes within the Scope of Work as may be deemed necessary to best serve the interest of ADE. All changes shall be documented by formal amendments to the Contract. Changes made without benefit of a formal amendment will not be valid.

15. Purchase Orders

Pursuant to Arizona law, while the Contract is effective upon award, no work is authorized under this Contract until a valid purchase order is issued by the Arizona Department of Education. Work performed prior to the issuance of a valid purchase order may not be compensated.

16. Payment

16.1. Payment will be made in accordance with the quote, as requested in Scope of Work, section 5.2.1, and approved by ADE.

16.2. ADE may pay invoices for some or all orders through Automated Clearing House (ACH). To receive payment in this manner, the Contractor must complete the ACH Vendor Authorization Form (from GAO-618) within thirty (30) days after the effect date of the Contract. The form is available at: <https://gao.az.gov/publications/forms>.

16.2.1. The ACH Vendor Authorization Form shall be emailed to: vendor.payautomation@azdoa.gov.

17. Payment/Invoices & Mailing of Payments

The Contractor shall submit invoices to accountspay@azed.gov ensuring the invoices include:

17.1. Company Name

17.2. Complete Address

17.3. Telephone Number

17.4. Contact Person

17.5. Itemized services, description, quantity, unit of measure, unit price, and extended price of supplies delivered (including dates services were performed)



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- 17.6. Purchase Order Number
- 17.7. Invoice Date
- 17.8. Contract Number
- 17.9. Invoice Number
- 17.10. Shipping and Payment Terms

18. Acceptance

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

19. 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-owned 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.

20. Confidentiality of Records

The Contractor shall establish and maintain procedures and controls acceptable to the State for the purpose of assuring that information or data in its possession is not mishandled, misused, released, disclosed, or used in an inappropriate manner by it, its agents, officers, or employees. This includes information contained in its records obtained from the State or others, necessary for contract performance. The contractor shall take all reasonable steps and precautions to safeguard this information and data and shall not divulge the information or data to parties other than those needed for the performance of duties under the contract.

21. Disabilities Act

The Contractor shall comply with the Americans with Disabilities Act of 1990 (Public Law 101-336) and the Arizona Disability Act of 1992 (A.R.S. §§ 41-1492 et. seq.), which prohibits discrimination on the basis of physical or mental disabilities in delivering contract services or in the employment, or advancement in employment of qualified individuals.

22. Non-Discrimination

ADE is an Equal Employment Opportunity Agency. The Contractor shall comply with any and all applicable Federal and State laws regarding discrimination in employment and the provision of services.

23. Family Education Rights and Privacy Act of 1974 (FERPA)

If applicable, both parties agree to comply with the federal Family Educational Rights and Privacy Act of 1974. This applies to all provisions of this Agreement which involves identifiable individual student data.

24. 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 possess



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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 purchased or procured by the contractor in the fulfillment of the contract with the State of Arizona.

25. Compliance Requirements for A.R.S. § 41-4401, Government Procurement; E-Verify Requirement

The Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A. (That subsection reads: "After December 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the E-Verify program."). A breach of a warranty regarding compliance with immigration laws and regulations shall be deemed a material breach of the contract and the Contractor may be subject to penalties up to and including termination of the contract. Failure to comply with a State audit process to randomly verify the employment records of contractors and subcontractors shall be deemed a material breach of the contract and the Contractor may be subject to penalties up to and including termination of the contract. The ADE retains the legal right to inspect the papers of any employee who works on the contract to ensure that the Contractor or subcontractor is complying with the warranty.

26. Warranty of Services

- 26.1. The Contractor warrants that all services provided hereunder will conform to the requirements of the Contract, including all descriptions, specifications, attachments, and exhibits made a part of this Contract. The ADE's acceptance of services or goods provided by the Contractor shall not relieve the Contractor of its obligations under this warranty.
- 26.2. In addition to its other remedies, the ADE may, at the Contractor's expense, require prompt correction of any services failing to meet the Contractor's warranty herein. Services corrected by the Contractor shall be subject to all the provisions of this Contract in the manner and to the same extent as services originally furnished hereunder.

27. Participation in Boycott of Israel

Contractor warrants it is not engaged in a boycott of Israel as defined by A.R.S. § 35-393.01.

28. Participation in Forced Labor of Ethnic Uyghurs Ban

Contractor warrants that it is in compliance with the A.R.S. § 35-394.

29. Indemnification Clause

- 29.1. To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless the State of Arizona, and its departments, agencies, boards, commissions, universities, 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



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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.

- 29.2. 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.

30. Insurance Requirements

- 30.1. Contractor and subcontractors shall procure and maintain, until all of their obligations have been discharged, including any warranty periods under this Contract, insurance against claims for injury to persons or damage to property arising from, or in connection with, the performance of the work hereunder by the Contractor, its agents, representatives, employees or subcontractors.
- 30.2. 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 arise out of the performance of the work under this Contract by the Contractor, its agents, representatives, employees or subcontractors, and the Contractor is free to purchase additional insurance.

30.3. Minimum Scope of Limits of Insurance

Contractor shall provide coverage with limits of liability not less than those stated below.

30.3.1. **Commercial General Liability (CGL) – Occurrence Form**

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

30.3.1.1. General Aggregate \$2,000,000

30.3.1.2. Products – Completed Operations Aggregate \$1,000,000

30.3.1.3. Personal and Advertising Injury \$1,000,000

30.3.1.4. Damage to Rented Premises \$ 50,000

30.3.1.5. Each Occurrence \$1,000,000

30.3.1.6. The policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor.

30.3.1.7. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

30.3.2. **Business Automobile Liability**



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

30.3.2.1. Combined Single Limit (CSL) \$1,000.000

30.3.2.1.1. Policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by, or on behalf of, the Contractor involving automobiles owned, hired and/or non-owned by the Contractor.

30.3.2.1.2. Policy shall contain a waiver of subrogation endorsement as required by this written agreement in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

30.3.3. **Workers' Compensation and Employer's Liability**

30.3.3.1. Workers' compensation Statutory

30.3.3.2. Employers' Liability

30.3.3.2.1. Each Accident \$1,000,000

30.3.3.2.2. Disease – Each Employee \$1,000,000

30.3.3.2.3. Disease – Policy Limit \$1,000,000

30.3.3.2.4. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

30.3.3.2.5. This requirement shall not apply to each Contractor or subcontractor that is exempt under A.R.S. § 23-901, and when such Contractor or subcontractor executes the appropriate waiver form (Sole Proprietor or Independent Contractor).

30.3.4. **Additional Insurance Requirements**

The policies shall include, or be endorsed to include, as required by this written agreement, the following provisions:

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



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30.3.4.2. Insurance provided by the Contractor shall not limit the Contractor's liability assumed under the indemnification provisions of this Contract.

30.4. **Notice of Cancellation**

Applicable to all insurance policies required within the Insurance Requirements of this Contract, Contractor's insurance shall not be permitted to expire, be suspended, be canceled, or be materially changed for any reason without thirty (30) days prior written notice to the State of Arizona. Within two (2) business days of receipt, Contractor must provide notice to the State of Arizona if they receive notice of a policy that has been or will be suspended, canceled, materially changed for any reason, has expired, or will be expiring. Such notices shall be sent directly to the Department and shall be mailed, emailed, hand delivered or sent by facsimile transmission to (State Representative's Name, Address & Fax Number).

30.5. **Acceptability of Insurers**

Contractor's insurance shall be placed with companies licensed in the State of Arizona or hold approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers. Insurers shall have an "A.M. Best" rating of not less than A- VII. 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.

30.6. **Verification of Coverage**

Contractor shall furnish the State of Arizona with certificates of insurance (valid ACORD form or equivalent approved by the State of Arizona) evidencing that Contractor has the insurance as required by this Contract. An authorized representative of the insurer shall sign the certificates.

30.6.1. All such certificates of insurance and policy endorsements must be received by the State before work commences. The State's receipt of any certificates of insurance or policy endorsements that do not comply with this written agreement shall not waive or otherwise affect the requirements of this agreement.

30.6.2. Each insurance policy required by this Contract must be in effect at, or prior to, commencement of work under this Contract. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

30.6.3. All certificates required by this Contract shall be sent directly to the Department. The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. The State of Arizona reserves the right to require complete copies of all insurance policies required by this Contract at any time.

30.7. **Subcontractors**

Contractor's certificate(s) shall include all subcontractors as insureds under its policies or Contractor shall be responsible for ensuring and/or verifying that all subcontractors have valid and collectable insurance as evidenced by the certificates of insurance and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum Insurance Requirements identified above. The Department reserves the right to require, at any time throughout the life of this contract, proof from the Contractor that its subcontractors have the required coverage.

30.8. **Approval and Modifications**



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The Contracting Agency, in consultation with State Risk, reserves the right to review or make modifications to the insurance limits, required coverage, or endorsements throughout the life of this contract, as deemed necessary. Such action will not require a formal Contract amendment but may be made by administrative action.

30.9. **Exceptions**

In the event the Contractor or subcontractor(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 subcontractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.



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Version 10.5

1. **Definition of Terms.** As used in this solicitation and any resulting Contract, the terms listed below are defined as follows:
 - 1.1. "AI" means the science and engineering of making machines capable of performing tasks that are typically associated with human intelligence, such as learning and problem-solving, and includes without limitation: AI systems, classic AI, external AI, generative AI, and large language model (LLM) AI.
 - 1.2. "Attachment" means any item the Solicitation which requires the Offeror to submit as part of the Offer.
 - 1.3. "Contract" means the combination of the Solicitation, including the 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.
 - 1.4. "Contract Amendment" means a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.
 - 1.5. "Contractor" means any person who has a Contract with the State.
 - 1.6. "Data" means recorded information, regardless of form or the media on which it may be recorded. The term may include technical Data and computer software. The term does not include information incidental to contract administration, such as financial, administrative, cost or pricing, or management information.
 - 1.7. "Days" means calendar days unless otherwise specified.
 - 1.8. "Exhibit" means any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation generally containing maps, schematics, examples of reports, or other documents that will be used to perform the requirements of the Scope of Work after contract award.
 - 1.9. "Gratuity" means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.
 - 1.10. "Materials" means all property, including equipment, supplies, printing, insurance and leases of property but does not include land, a permanent interest in land or real property or leasing space.
 - 1.11. "Procurement Officer" means the person, or his or her designee, duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.
 - 1.12. "Services" means the furnishing of labor, time or effort by a Contractor or Subcontractor which does not involve the delivery of a specific end product other than required reports and performance but does not include employment agreements or collective bargaining agreements.
 - 1.13. "State" means any department, commission, council, board, bureau, committee, institution, agency, government corporation or other establishment or official of the executive branch or corporation commission of the State of Arizona that executes the Contract.
 - 1.14. "State Fiscal Year" means the period beginning with July 1 and ending June 30.



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- 1.15. "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 Materials or any Services required for the performance of the Contract.
- 1.16. "Subcontractor" means a person who contracts to perform work or render Services to a Contractor or to another Subcontractor as a part of a Contract with the State.

2. Contract Interpretation

- 2.1. Arizona Law. The Arizona law applies to this Contract including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona and the Arizona Procurement Code, Arizona Revised Statutes (A.R.S.) Title 41, Chapter 23, and its implementing rules, Arizona Administrative Code (A.A.C.) Title 2, Chapter 7.
- 2.2. Implied Contract Terms. Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.
- 2.3. Contract Order of Precedence. In the event of a conflict in the provisions of the Contract, as accepted by the State and as they may be amended, the following shall prevail in the order set forth below:
 - 2.3.1. Special Terms and Conditions;
 - 2.3.2. Uniform Terms and Conditions;
 - 2.3.3. Statement or Scope of Work;
 - 2.3.4. Specifications;
 - 2.3.5. Attachments;
 - 2.3.6. Exhibits; then
 - 2.3.7. Any other documents referenced or included in the Solicitation including, but not limited to, any Bid or Offer documents provided by the Contractor that do not fall into one of the above categories.
- 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.



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3. Contract Administration and Operation

- 3.1. Records. Under A.R.S. § 35-214 and § 35-215, the Contractor shall retain and shall contractually require each Subcontractor to retain any and all Data and other "records" relating to the acquisition and performance of the Contract for a period of five (5) 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 Nos. 2023-09, 2023-01, 2009-09, and any and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act. Contractor shall include these provisions in contracts with Subcontractors when required by Federal or State law.
- 3.3. Audit. Pursuant to A.R.S. § 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 as required under A.R.S. § 41-2547. 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, stated in the Contract, or listed on the State's eProcurement system. 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. Continuous Improvement. Contractor shall recommend continuous improvements on an on-going basis in relation to any Materials and Services offered under the Contract, with a view to reducing State costs and improving the quality and efficiency of the provision of Materials or Services. State may require Contractor to engage in continuous improvements throughout the term of the Contract.
- 3.8. Other Contractors. State may undertake on its own or award other contracts to the same or other suppliers for additional or related work. In such cases, the Contractor shall cooperate fully with State employees and such other suppliers and carefully coordinate, fit, connect, accommodate, adjust, or sequence its work to the related work by others. Where the Contract requires handing-off Contractor's work to others, Contractor shall cooperate as State instructs regarding the necessary transfer of its work product, Materials, Services, or records to State or the other suppliers. Contractor shall not commit or permit any act that interferes with the State's or other suppliers' performance of their work, provided that, State shall enforce the foregoing section equitably among all its suppliers so as not impose an unreasonable burden on any one of them.



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3.9. Ownership of Intellectual Property

- 3.9.1. Rights in Work Product. All intellectual property originated or prepared by Contractor pursuant to the Contract, including but not limited to, inventions, discoveries, intellectual copyrights, trademarks, trade names, trade secrets, technical communications, records reports, computer programs and other documentation or improvements thereto, including Contractor's administrative communications and records relating to the Contract, are considered work product and Contractor's property, provided that, State has Government Purpose Rights to that work product as and when it was delivered to State.
- 3.9.2. "Government Purpose Rights" are:
- 3.9.2.1. the unlimited, perpetual, irrevocable, royalty free, non-exclusive, worldwide right to use, modify, reproduce, release, perform, display, sublicense, disclose and create derivatives from that work product without restriction for any activity in which State is a party;
 - 3.9.2.2. the right to release or disclose that work product to third parties for any State government purpose; and
 - 3.9.2.3. the right to authorize those to whom it rightfully releases or discloses that work product to use, modify, release, create derivative works from the work product for any State government purpose; such recipients being understood to include the federal government, the governments of other states, and various local governments.
- 3.9.3. "Government Purpose Rights" do not include any right to use, modify, reproduce, perform, release, display, create derivative works from or disclose that work product for any commercial purpose, or to authorize others to do so.
- 3.9.4. Joint Developments. The Contractor and State may each use equally any ideas, concepts, know-how, or techniques developed jointly during the course of the Contract, and may do so at their respective discretion, without obligation of notice or accounting to the other party.
- 3.9.5. Pre-existing Material. All pre-existing software and other Materials developed or otherwise obtained by or for Contractor or its affiliates independently of the Contract or applicable Purchase Orders are not part of the work product to which rights are granted State under subparagraph 3.9.1 above, and will remain the exclusive property of Contractor, provided that:
- 3.9.5.1. any derivative works of such pre-existing Materials or elements thereof that are created pursuant to the Contract are part of that work product;
 - 3.9.5.2. any elements of derivative work of such pre-existing Materials that were not created pursuant to the Contract are not part of that work product; and
 - 3.9.5.3. except as expressly stated otherwise, nothing in the Contract is to be construed to interfere or diminish Contractor's or its affiliates' ownership of such pre-existing Materials.



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- 3.9.6. Developments Outside of Contract. Unless expressly stated otherwise in the Contract, this Section does not preclude Contractor from developing competing Materials outside the Contract, irrespective of any similarity to Materials delivered or to be delivered to State hereunder.
- 3.10. Property of the State. If there are any materials that are not covered by Section 3.9 above created under this Contract, including but not limited to, reports and other deliverables, these materials 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.
- 3.11. Federal Immigration and Nationality Act. Contractors shall comply with all federal, state and local immigration laws and regulations relating to the immigration status of their employees during the term of the contract. Further, Contractor shall flow down this requirement to all Subcontractors utilized during the term of the contract. The State shall retain the right to perform random audits of Contractor and Subcontractor records or to inspect papers of any employee thereof to ensure compliance. Should the State determine that the Contractor or any Subcontractors be found noncompliant, the State may pursue all remedies allowed by law, including, but not limited to: suspension of work, termination of the contract for default and suspension or debarment of the contractor.
- 3.12. E-Verify Requirements. In accordance with A.R.S. § 41-4401, Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23- 214, Subsection A.
- 3.13. Offshore Performance of Work Involving Data is Prohibited. Any Services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and involve access to Data shall be performed within the defined territories of the United States.
- 3.14. Protection of State Cybersecurity Interests. The Contractor shall comply with State Executive Order No. 2023-10, which includes, but is not limited to, a prohibition against (a) downloading and installing of TikTok on all State-owned and State-leased information technology; and (b) accessing TikTok through State information technology.
- 3.15. Artificial Intelligence (AI) Prohibitions. Consistent with State policy, if Contractor supplies AI Services or Materials (either directly or through Subcontractors or the sale of licenses), such as research, development, training, implementation, deployment, maintenance, provision, or sale of AI systems, then Contractor is prohibited from using State of Arizona Materials or Data in generative AI queries or for building or training proprietary generative AI programs unless explicitly approved in advance by the State in writing.
- 3.15.1. Contractor shall also disclose the utilization of generative AI before producing works owned by the State and/or integrating generative AI into Materials or Services used by the State.
- 3.15.2. Contractor shall perform due diligence to ensure proper licensure of model training data for all generative AI services throughout the life of the Contract.



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3.16. Certifications Required by State Law

- 3.16.1. If Contractor is a Company as defined in A.R.S. § 35-393, Contractor certifies that it is not currently engaged in a boycott of Israel as described in A.R.S. §§ 35-393 et seq. and will refrain from any such boycott for the duration of this Contract.
- 3.16.2. Contractor further certifies that it shall comply with A.R.S. § 35-394, regarding use of the forced labor of ethnic Uyghurs, as applicable.

4. Costs and Payments

- 4.1. Payments. Payments shall comply with the requirements of A.R.S. Titles 35 and 41, Net 30 days. Upon receipt and acceptance of Materials 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, per A.R.S. § 47-2319, all prices shall be F.O.B. ("free on board") Destination and shall include all freight delivery and unloading at the destination.
- 4.3. Firm, Fixed Price. Unless stated otherwise in the Special Terms and Conditions of the Contract, all prices shall be firm fixed prices.
- 4.4. Applicable Taxes
 - 4.4.1. Payment of Taxes. The Contractor shall be responsible for paying all applicable taxes.
 - 4.4.2. 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.
 - 4.4.3. 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. Contractors 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.
 - 4.4.4. 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.
- 4.5. 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.
- 4.6. 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 Materials or Services are not funded, the State may take any of the following actions:
 - 4.6.1. Accept a decrease in price offered by the Contractor;
 - 4.6.2. Cancel the Contract; or



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4.6.3. Cancel the Contract and re-solicit the requirements.

5. Contract Changes

- 5.1. Amendments. This Contract is issued under the authority of the Procurement Officer who signed this Contract. The Contract may be modified only through a Contract Amendment within the scope of the Contract. Changes to the Contract, including the addition of Services or Materials, the revision of payment terms, or the substitution of Services 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 as described in Arizona State Procurement Office Standard Procedure 002. The Contractor shall clearly list any proposed Subcontractors and the Subcontractor's proposed responsibilities. The Subcontract shall incorporate by reference the terms and conditions of this Contract.
- 5.3. Assignment and Delegation. The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Procurement Officer. The State shall not unreasonably withhold approval.

6. Risk and Liability

- 6.1. Risk of Loss. The Contractor shall bear all loss of conforming Materials 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). To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless the State of Arizona, and its departments, agencies, boards, commissions, universities, 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



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

- 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 paragraph shall not apply.
- 6.4. Force Majeure
- 6.4.1. Except for payment of sums due, neither the Contractor nor State 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, 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, Materials, or Services 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 the Contractor or State 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 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



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to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

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

6.5. Third Party Antitrust Violations. The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern Materials or Services supplied by third parties to the Contractor, toward fulfillment of this Contract.

7. Warranties

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

7.2. Quality. Unless otherwise modified elsewhere in the Special Terms and Conditions, the Contractor warrants that, for one (1) 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. Conformity to Requirements

7.3.1. Contractor warrants that, unless expressly provided otherwise elsewhere in the Contract, the Materials and Services will for one (1) year after acceptance and in each instance:

7.3.1.1. Conform to the requirements of the Contract, which by way of reminder include without limitation all descriptions, specifications, and drawings identified in the Scope of Work and any and all Contractor affirmations included as part of the Contract;

7.3.1.2. Be free from defects of material and workmanship;

7.3.1.3. Conform to or perform in a manner consistent with current industry standards; and

7.3.1.4. Be fit for the intended purpose or use described in the Contract.

7.3.2. Mere delivery or performance does not substitute for express acceptance by the State. Were inspection, testing, or other acceptance assessment of Materials or Services cannot be done until after installation or invoicing, the forgoing warranty will not begin until State's explicit acceptance of the Materials or Services.



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- 7.4. Inspection/Testing. The warranties set forth in this Section 7 [Warranties] are not affected by inspection or testing of or payment for the Materials or Services by the State.
- 7.5. Contractor Personnel. Contractor warrants that its personnel will perform their duties under the Contract in a professional manner, applying the requisite skills and knowledge, consistent with industry standards, and in accordance with the requirements of the Contract. Contractor further warrants that its key personnel will maintain any and all certifications relevant to their work, and Contractor shall provide individual evidence of certification to State's authorized representatives upon request.
- 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 policies (including, but not limited to, information technology policies, standards, and procedures available on the State's website and/or the website of any department, commission, council, board, bureau, committee, institution, agency, government corporation or other establishment or official of the executive branch or corporation commission of the State of Arizona). Federal requirements may be incorporated into this Contract, if required, pursuant to A.R.S. § 41-2637. Contractor shall maintain any and all applicable license and permit requirements. This requirement includes, but is not limited to, any and all Arizona state statutes that impact state contracts, regardless of whether those statutory references have been removed during the course of contract negotiations; this is notice to Contractors that the State does not have the authority to modify Arizona state law by contract.
- 7.7. Intellectual Property. Contractor warrants that the Materials and Services do not and will not infringe or violate any patent, trademark, copyright, trade secret, or other intellectual property rights or laws, except only to the extent the Specifications do not permit use of any other product and Contractor is not and cannot reasonably be expected to be aware of the infringement or violation.
- 7.8. Licenses and Permits. Contractor warrants that it will maintain all licenses required to fully perform its duties under the Contract and all required permits valid and in force.
- 7.9. Operational Continuity. Contractor warrants that it will perform without relief notwithstanding being sold or acquired; no such event will operate to mitigate or alter any of Contractor's duties hereunder absent a consented delegation under paragraph 5.3 [Assignment and Delegation] that expressly recognizes the event.
- 7.10. Performance in Public Health Emergency. Contractor warrants that it will:
- 7.10.1. Have in effect, promptly after commencement, a plan for continuing performance in the event of a declared public health emergency that addresses, at a minimum:
 - 7.10.1.1. Identification of response personnel by name;
 - 7.10.1.2. Key succession and performance responses in the event of sudden and significant decrease in workforce; and
 - 7.10.1.3. Alternative avenues to keep sufficient product on hand or in the supply chain.
 - 7.10.2. Provide a copy of its current plan to State within three (3) business days after State's written request. If Contractor claims relief under paragraph 6.4 [Force Majeure] for an occurrence of force majeure that is a declared public health emergency, then that relief will be conditioned on Contractor having first implemented its plan and exhausted all reasonable opportunity for that plan implementation to overcome the effects of that



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occurrence or mitigate those effects to the extent that overcoming entirely is not practicable.

- 7.10.3. A request from the State related to this paragraph 7.10 does not necessarily indicate that there has been an occurrence of force majeure, and the Contractor will not be entitled to any additional compensation or extension of time by virtue of having to implement a plan.
- 7.10.4. Failure to have or implement an appropriate plan will be a material breach of contract.
- 7.11. Lobbying
- 7.11.1. Prohibition. Contractor warrants that it will not engage in lobbying activities, as defined in 40 Code of Federal Regulations (CFR) part 34 and A.R.S. § 41-1231, et seq., using monies awarded under the Contract, provided that, the foregoing does not intend to constrain Contractor's use of its own monies or property, including without limitation any net proceeds duly realized under the Contract or any value thereafter derived from those proceeds; and upon award of the Contract, it will disclose all lobbying activities to State to the extent they are an actual or potential conflict of interest or where such activities could create an appearance of impropriety. Contractor shall implement and maintain adequate controls to assure compliance with above. Contractor shall obtain an equivalent warranty from all Subcontractors and shall include an equivalent no-lobbying provision in all Subcontracts.
- 7.11.2. Exception. This paragraph 7.11 does not apply to the extent that the Services are defined in the Contract as being lobbying for State's benefit or on State's behalf.
- 7.12. Covered Telecommunications or Services. Contractor warrants that the Materials and Services rendered under this Agreement will not require Contractor to use for the State, or provide to the State to use, "covered telecommunications equipment or Services" as a substantial or essential component of any system, or as critical technology as part of any system, within the meaning of Federal Acquisition Regulation ("FAR") Section 52.204-25.
- 7.13. Debarment, Suspension, U.S. Government Restricted Party Lists. Contractor warrants that it is not, and its Subcontractors are not, on the U.S. government's Denied Parties List, the Unverified List, the Entities List, the Specially Designated Nationals and Blocked Parties List, and neither the Contractor nor any Subcontractors are presently debarred, suspended, proposed for debarment or otherwise declared ineligible for award of federal contracts or participation in federal assistance programs or activities.
- 7.14. False Statements. Contractor represents and warrants that all statements and information Contractor prepared and submitted in response to the Solicitation or as part of the Contract documents are current, complete, true, and accurate. If the Procurement Officer determines that Contractor submitted an Offer or Bid with a false statement or makes material misrepresentations during the performance of the Contract, the Procurement Officer may determine that Contractor has materially breached the Contract and may void the submitted Offer or Bid and any resulting Contract.
- 7.15. Survival of Rights and Obligations after Contract Expiration or Termination
- 7.15.1. Survival of Warranty. All representations and warranties made by Contractor under the Contract will survive the expiration or earlier termination of the Contract.



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- 7.15.2. 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.
- 7.15.3. Purchase Orders. The Contractor shall, in accordance with all terms and conditions of the Contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Procurement Officer, including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

8. State's Contractual Remedies

- 8.1. Right to Assurance. If the State in good faith has reason to believe that the Contractor does not intend to or is unable to perform or continue performing under this Contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days specified in the demand may, at the State's option, be the basis for terminating the Contract under the Uniform Terms and Conditions or other rights and remedies available by law or provided by the contract.
- 8.2. Stop Work Order
- 8.2.1. The State may, at any time, by written order to the Contractor, require the Contractor to stop all or any part of the work called for by this Contract for period(s) of days indicated by the State after the order is delivered to the Contractor. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.
- 8.2.2. If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Procurement Officer shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.
- 8.3. Non-exclusive Remedies. The rights and the remedies of the State under this Contract are not exclusive.
- 8.4. Nonconforming Tender. Materials or Services supplied under this Contract shall fully comply with the Contract. The delivery of Materials or Services or a portion of the Materials or Services that do not fully comply constitutes a breach of contract. On delivery of nonconforming Materials or Services, the State may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code or pursue any other right or remedy available to it.
- 8.5. Right of Offset. The State shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by the State, or damages assessed by the State concerning the Contractor's non-conforming performance or failure to perform the Contract, including expenses, costs and damages described in the Uniform Terms and Conditions.



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9. Contract Termination

- 9.1. Cancellation for Conflict of Interest. Pursuant to A.R.S. § 38-511, the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is or becomes at any time while the Contract or an extension of the Contract is in effect an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. § 38-511.
- 9.2. Gratuities. The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State with 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 (3) times the value of the Gratuity offered by the Contractor.
- 9.3. Suspension or Debarment. The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a Subcontractor of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the Contractor is not currently suspended or debarred. If the Contractor becomes suspended or debarred, the Contractor shall immediately notify the State.
- 9.4. Termination for Convenience. The State reserves the right to terminate the Contract, in whole or in part at any time when in the best interest of the State, without penalty or recourse. Upon receipt of the written notice, the Contractor shall stop all work, as directed in the notice, notify all Subcontractors of the effective date of the termination and minimize all further costs to the State. In the event of termination under this paragraph, all documents, Data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State upon demand. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed, and Materials or Services accepted before the effective date of the termination. The cost principles and procedures provided in A.R.S. § 41-2543 and A.A.C. Title 2, Chapter 7, Article 7, 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.



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- 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.

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 (A.R.S. Title 41).