



**STATE OF ARIZONA**  
**ARIZONA DEPARTMENT OF TRANSPORTATION**  
**ADMINISTRATIVE SERVICES DIVISION**  
**PROCUREMENT GROUP**



**NOTICE OF REQUEST FOR PROPOSALS**  
**SOLICITATION NUMBER: ADOT12-00001210**

**BID OPENING DATE :** February 9, 2012 **BY 3:00 P.M. MST**  
**DESCRIPTION:** TRAFFIC SURVIVAL SCHOOLS (TSS) PRIVATIZATION

**PRE-OFFER CONFERENCE:** A Pre-Offer Conference will be held January 25, 2012 at 10:00 A.M. MST at the Arizona Department of Transportation, Auditorium, 206 South 17<sup>th</sup> Avenue, Phoenix, Arizona 85007.

Bid Opening and Submittal Location: State of Arizona e-Procurement System - ProcureAZ  
<https://procure.az.gov/bsa/login.jsp>

**PROPOSALS WILL NOT BE ACCEPTED AT THE ADOT PROCUREMENT OFFICE. THEY ARE REQUIRED TO BE SUBMITTED ON-LINE AT PROCURE.AZ.GOV.**

In accordance with A.R.S. §41-2534, Competitive Sealed Proposals, offers for the materials or services specified will be received by the Arizona Department of Transportation Procurement Group at the above specified submittal location until the time and date cited. Offers received by the correct time and date will be publicly posted on the State of Arizona e-Procurement System – ProcureAZ.

Requests for submittals after the specified date and time to the State of Arizona e-Procurement System will not be considered.

Additional instructions for preparing a response are provided in the Uniform and Special Instructions to Offerors as contained within this solicitation.

**OFFERORS ARE STRONGLY ENCOURAGED TO CAREFULLY READ THE ENTIRE SOLICITATION.**

Designated Agency: Arizona Department of Transportation

Type of Contract: Term with Justifiable Price Adjustment Allowed – Indefinite Quantity

Term of Contract: Three years with option to extend thirty-six (36) months

Phone: (602) 712-8505  
 Email: dimiller@azdot.gov

  
 Diane Miller, Procurement Officer

“An Equal Employment Opportunity Agency”

The Arizona Department of Transportation is committed to the principles of Equal Employment Opportunity. To ensure dissemination of the Equal Opportunity program throughout all levels of the department, the ADOT Civil Rights Deputy Administrator serves as the Equal Opportunity Administrator for the Arizona Department of Transportation.

The Arizona Department of Transportation, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C 200d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

# SECTION 1 SCOPE OF WORK

## ARIZONA DEPARTMENT OF TRANSPORTATION

### Procurement

1739 West Jackson Street, Suite A, MD 100P

Phoenix, Arizona 85007-3276

Phone: (602) 712-7211

## SOLICITATION NO. ADOT12-00001210

### 1. STATEMENT OF NEED

Pursuant to the Arizona Procurement Code, A.R.S. §§ 41-2501 et seq., the Arizona Department of Transportation (ADOT), hereinafter referred to as the Department, is seeking the services of a qualified firm or individual, hereinafter referred to as Contractor, to provide services to manage the licensure and administration of Traffic Survival Schools (TSS) in Arizona. Under A.R.S. § 32-2352, as amended by Laws 2010 Chapter 202, § 6 (SB1137), Contractor cannot provide TSS courses.

### 2. OVERVIEW

In accordance with SB1137, this contract will result in privatization of Arizona Traffic Survival School licensure and administration.

The TSS Program consists of 75 authorized schools, 163 instructors, and 90 school applicants are on a TSS waitlist. During 2010 the Department mailed 113,056 TSS corrective action notices; issued 52,199 certificates of completion (COC).

### 3. SCOPE STATEMENT

#### A. General

The Contractor:

1. May charge a reasonable fee per TSS enrollee which shall be disclosed to the Department upon submission of this proposal;
2. Shall not increase the enrollee fee by more than 10% over the term of the contract;
3. Shall have an established business location in Arizona, maintain records according to established standards (accessible to the Department) and have a designated contact person;
4. Shall conform to the Department Infrastructure Protection requirements pertaining to all Information Technology (IT) rules ([http://www.azgita.gov/policies\\_standards/](http://www.azgita.gov/policies_standards/));
5. Shall not suspend or revoke a TSS school or instructor license for any reason;
6. Shall comply with all applicable TSS school and instruction licensing requirements prescribed in Arizona Administrative Code (AAC) R17-5-302 and R17-4-404 (<http://www.azsos.gov>) and A.R.S. Title 32 Chapter 23 (<http://www.azleg.gov/ArizonaRevisedStatutes.asp?Title=32>);
7. Shall understand the manner in which Motor Vehicle Division (MVD) may release information from the records contained in its database and the manner in which the Contractor may access and/or utilize such information as regulated by the Federal Driver's Privacy Protection Act (DPPA), 18 U.S.C. §§ 2721-2725 (<http://www.accessreports.com/statutes/DPPA1.htm>), as well as A.R.S. Title 28, Chapter 2, Article 5 (<http://www.azleg.state.az.us/ars/28/00455.htm>).
8. Shall not sub-contract the mailing of the TSS corrective action notices.

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9. Shall provide the Department's authorized employees with access to all of its TSS related materials and website(s) developed under this contract.

### **B. Administrative**

The Contractor shall be responsible for:

1. Licensing eligible TSS schools and instructors to include processing initial applications, issuing applicable credentials and producing data files to enable the update of Department records.
2. Providing necessary training to licensees.
3. Completing license renewal for schools and instructors as indicated in this Scope of Work paragraph 3, Subsection C Technical.
4. Developing and maintaining a TSS curriculum designed to educate drivers to prevent future violations, while promoting public safety. Possible resources may include: American Association of Motor Vehicle Administrators ([www.aamva.org/](http://www.aamva.org/)), or National Highway Traffic Safety Administration ([www.nhtsa.gov/](http://www.nhtsa.gov/)).
5. Maintaining the historical and informational files on existing Traffic Survival Schools which will be transferred to it by the Department.
6. Performing regularly scheduled audits of schools and instructors to include the monitoring of TSS courses to ensure that schools are using licensed instructors and teaching Contractor-approved curriculum.
7. Monitoring and investigating schools and instructors to ensure compliance with applicable statutes, rules and policies, and report any potential non-compliance issues to the Department.
8. Informing the Department of action(s) by a school and/or instructor that would make the school and/or instructor ineligible for a TSS license.
9. Processing the weekly corrective action notice file within 2 business days from the file date.
10. Notifying the Department within 2 business days when the Contractor has problems reading the corrective action notice file and/or mailing the corrective action notices.
11. Shredding and disposing of any corrective action notices that are not mailed in required timeframe and requesting a new file.
12. Requiring the reprint of a TSS corrective action notice to verify TSS is required, when a person registering does not have their notice with them.
13. Assessing a \$3 fee for each TSS corrective action notice reprinted.
14. The costs of printing and mailing all TSS corrective action notices; reprinting corrective action notices; printing TSS certificates of completion (COC) and court-ordered TSS completion letters.
15. Requiring instructors to submit course completion data to the Contractor's database.
16. Collecting and depositing in the Department's designated concentration account all school and instructor license fees prescribed in A.R.S. Title 32 Chapter 23

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(<http://www.azleg.gov/ArizonaRevisedStatutes.asp?Title=32>) and \$3 for every reprinted corrective action notice.

### C. Technical

1. The Contractor shall be responsible for the design, construction, testing and implementation of a secure electronic system to support the outlined TSS responsibilities.
2. All data files required by the Contractor or Department for processing shall be stored on and retrieved from an ADOT Secured File Transfer Protocol (SFTP) Directory.
3. Issue school and instructor licenses. The Contractor shall:
  - a. Maintain a secured database of school and instructor licenses.
  - b. Receive an initial file of the authorized schools and instructors.
  - c. Submit a daily file of new or renewed school and instructor licenses.
  - d. Receive a license confirmation file to:
    - i. Update the license records to indicate MVD record synchronization; and
    - ii. Resolve reported exceptions.
  - e. Receive a daily file of schools and instructors deemed ineligible for a license.
  - f. Submit a confirmation file of the processed ineligible schools and instructors licenses.
4. TSS Corrective Action Notifications. The Contractor shall:
  - a. Receive fill-able Portable Document Format (PDF) templates for TSS requirement and driver license suspension notifications.
  - b. Receive a weekly file of drivers required to attend TSS and drivers whose driver license will be suspended for failure to complete the TSS requirement.
  - c. Use PDF merge software to print the TSS corrective action notices for the weekly file of drivers.
  - d. Submit a confirmation file of the notifications received, printed and mailed.
5. TSS Corrective Action Notice Reprints. The Contractor shall:
  - a. Develop a front-end application to enable authorized instructors to request the reprint of TSS requirement notices.
  - b. Verify the requesting instructors have an active/eligible status before completing the reprint process.
  - c. Submit a reprint file to indicate the number of reprints generated.
6. Certificates of Completion (COC). The Contractor shall:
  - a. Develop a front-end application to enable authorized instructors to print COC's and court ordered TSS completion letters with designated student, school, instructor and course data.
  - b. Generate a unique tracking number on all COC's.
  - c. Submit completed course files for Department TSS requirements with designated student, school, instructor and course data.
  - d. Receive a confirmation file for each completed course file to:
    - i. Update the records to indicate COC process complete; and
    - ii. Resolve reported exceptions.

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7. Fee Processing. The Contractor shall receive a daily money due file for the previous business day's license fees and TSS corrective action notice reprint fees.
8. Reports. The Contractor shall:
  - a. Develop the reports outlined below using date range parameters.
    - i. TSS Corrective Action Notice Mailing Report
    - ii. TSS Corrective Action Notice Exception Report
    - iii. TSS Corrective Action Notice Reprint Report
    - iv. Money Due Reconciliation Report
    - v. Other reports as needed.
  - b. Develop a website and post the reports for authorized MVD personnel to review them.

### D. Security

#### 1. USER PROVISIONING

The Contractor shall implement user provisioning in accordance with Department standards and procedures:

- User IDs shall be unique and traceable to a specific user
- Passwords shall be made up of a minimum of 8 characters consisting of a combination of uppercase, lowercase, number and symbol
- Passwords cannot be re-used for 720 days
- Passwords must be changed every 30 days
- Passwords must be encrypted

#### 2. ENCRYPTION

The Contractor shall implement encryption technologies to protect Department data while at rest and in transit (during transmission). Data encrypted at rest shall use, at a minimum, Advanced Encryption Standard, 128-bit key encryption. Data transmissions shall use Secure Sockets Layer (SSL) and/or IP Security (IPsec) encryption. Backups to tape or other media for storage on-site and/or off-site shall be encrypted to protect against accidental or intentional disclosure. Encryption keys shall be kept separate from backups they encrypt. Full disk encryption shall be applied to servers hosting program applications and/or data.

#### 3. RETENTION SCHEDULE REQUIREMENTS

- The Contractor shall comply with the Department's Motor Vehicle Division's (MVD) retention schedule as follows:

Record Series	Time in Office (yrs)	Time in Records Center (yrs)	Total Retention (yrs)	Cut-off
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Contractor Records	1	5	6	After contract is cancelled, expired or revoked
School Records	6 months	2 yrs 6 months	3	After school leaves program or after license cancelled, expired or revoked
Driver Education program Certificates or Completion	6 months	2 yrs 6 months	3	After issued

- The Contractor shall shred and dispose of all Corrective Action Notices that are not mailed on time, within (2) two business days when the Contractor has problems mailing the Corrective Action Notices or with reading the data file.

#### 4. **SCHEDULE OF WORK AND TASKS**

Contractor shall contact the Department to develop an implementation schedule and shall be able to meet all required deadlines as determined by the Department.

#### 5. **CONTRACTOR RESPONSIBILITIES**

The Contractor shall be responsible for:

- All TSS administrative and licensing responsibilities
- Developing and maintaining a secure electronic system
- Transmitting monies to the Department
- Timely transmission of required data.
- Provide quality, accurate and timely information as required by the Department.
- Participate in review meetings with the Department, as required.

#### 6. **DEPARTMENT RESPONSIBILITIES**

- Provide access to the Department's personnel and information as required for administration of TSS.
- Provide required statutes, Administrative Rule, policies, procedures, organization charts and records related to the Department's desired options.
- Review and approve Contractor's documents and reports.
- Review and approve Contractor's daily reconciliation documents.
- Investigate complaints and pursue corrective actions as applicable.
- The Department's Executive Hearing Office will continue to hear TSS-related cases.
- Provide the Contractor with PDF templates for the TSS corrective active notices.
- Develop automated programs to:

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- Provide the Contractor with current school, instructor and driver information from the Department's DataLink application and Driver License System.
- Update the TSS corrective actions on the Department's driver license records.
- Update the school and instructor records on the Department's DataLink application.
- Account for licensing and reprinting fees and deposits on the Automated Revenue Management and Inventory (ARMANI) System.

# UNIFORM TERMS AND CONDITIONS

## Version 8

### 1. Definition of Terms

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

- 1.1. *"Attachment"* means any item the Solicitation requires the Offeror to submit as part of the Offer.
- 1.2. *"Contract"* means the combination of the Solicitation, including the Uniform and Special Instructions to Offerors, the Uniform and Special Terms and Conditions, and the Specifications and Statement or Scope of Work; the Offer and any Best and Final Offers; and any Solicitation Amendments or Contract Amendments.
- 1.3. *"Contract Amendment"* means a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.
- 1.4. *"Contractor"* means any person who has a Contract with the State.
- 1.5. *"Days"* means calendar days unless otherwise specified.
- 1.6. *"Exhibit"* means any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.
- 1.7. *"Gratuity"* means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.
- 1.8. *"Materials"* means all property, including equipment, supplies, printing, insurance and leases of property but does not include land, a permanent interest in land or real property or leasing space.
- 1.9. *"Procurement Officer"* means the person, or his or her designee, duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.
- 1.10. *"Services"* means the furnishing of labor, time or effort by a contractor or subcontractor which does not involve the delivery of a specific end product other than required reports and performance, but does not include employment agreements or collective bargaining agreements.
- 1.11. *"Subcontract"* means any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.
- 1.12. *"State"* means the State of Arizona and Department or Agency of the State that executes the Contract.
- 1.13. *"State Fiscal Year"* means the period beginning with July 1 and ending June 30.

### 2. Contract Interpretation

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



- 2.2. Implied Contract Terms. Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.
- 2.3. Contract Order of Precedence. In the event of a conflict in the provisions of the Contract, as accepted by the State and as they may be amended, the following shall prevail in the order set forth below:
  - 2.3.1. Special Terms and Conditions;
  - 2.3.2. Uniform Terms and Conditions;
  - 2.3.3. Statement or Scope of Work;
  - 2.3.4. Specifications;
  - 2.3.5. Attachments;
  - 2.3.6. Exhibits;
  - 2.3.7. Documents referenced or included in the Solicitation.
- 2.4. Relationship of Parties. The Contractor under this Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.
- 2.5. Severability. The provisions of this Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.
- 2.6. No Parole Evidence. This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.
- 2.7. No Waiver. Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

### **3. Contract Administration and Operation**

- 3.1. Records. Under A.R.S. § 35-214 and § 35-215, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.
- 3.2. Non-Discrimination. The Contractor shall comply with State Executive Order No. 2009-09 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.
- 3.3. Audit. Pursuant to ARS § 35-214, at any time during the term of this Contract and five (5) years thereafter, the Contractor's or any subcontractor's books and records shall be subject to audit by the State and, where applicable, the Federal Government, to the extent that the books and records relate to the performance of the Contract or Subcontract.
- 3.4. Facilities Inspection and Materials Testing. The Contractor agrees to permit access to its facilities, subcontractor facilities and the Contractor's processes or services, at reasonable times for inspection of the facilities or materials covered under this Contract.

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

- 3.5. Notices. Notices to the Contractor required by this Contract shall be made by the State to the person indicated on the Offer and Acceptance form submitted by the Contractor unless otherwise stated in the Contract. Notices to the State required by the Contract shall be made by the Contractor to the Solicitation Contact Person indicated on the Solicitation cover sheet, unless otherwise stated in the Contract. An authorized Procurement Officer and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice to the other and an amendment to the Contract shall not be necessary.
- 3.6. Advertising, Publishing and Promotion of Contract. The Contractor shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the Procurement Officer.
- 3.7. Property of the State. Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of the State. The Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. The Contractor shall not use or release these materials without the prior written consent of the State.
- 3.8. Ownership of Intellectual Property. Any and all intellectual property, including but not limited to copyright, invention, trademark, trade name, service mark, and/or trade secrets created or conceived pursuant to or as a result of this contract and any related subcontract ("Intellectual Property"), shall be work made for hire and the State shall be considered the creator of such Intellectual Property. The agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract shall own (for and on behalf of the State) the entire right, title and interest to the Intellectual Property throughout the world. Contractor shall notify the State, within thirty (30) days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor(s), agrees to execute any and all document(s) necessary to assure ownership of the Intellectual Property vests in the State and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the State. The Intellectual Property shall not be disclosed by contractor or its subcontractor(s) to any entity not the State without the express written authorization of the agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract.
- 3.9. Federal Immigration and Nationality Act. The contractor shall comply with all federal, state and local immigration laws and regulations relating to the immigration status of their employees during the term of the contract. Further, the contractor shall flow down this requirement to all subcontractors utilized during the term of the contract. The State shall retain the right to perform random audits of contractor and subcontractor records or to inspect papers of any employee thereof to ensure compliance. Should the State determine that the contractor and/or any subcontractors be found noncompliant, the State may pursue all remedies allowed by law, including, but not limited to; suspension of work, termination of the contract for default and suspension and/or debarment of the contractor.
- 3.10. E-Verify Requirements. In accordance with A.R.S. § 41-4401, Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A.
- 3.11. Scrutinized Businesses. In accordance with A.R.S. § 35-391 and A.R.S. § 35-393, Contractor certifies that the Contractor does not have scrutinized business operations in Sudan or Iran.

- 3.12 Offshore Performance of Work Prohibited. Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and involve access to secure or sensitive data or personal client data shall be performed within the defined territories of the United States. Unless specifically stated otherwise in the specifications, this paragraph does not apply to indirect or 'overhead' services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers.

#### **4. Costs and Payments**

- 4.1. Payments. Payments shall comply with the requirements of A.R.S. Titles 35 and 41, Net 30 days. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate invoice for payment from the State within thirty (30) days.
- 4.2. Delivery. Unless stated otherwise in the Contract, all prices shall be F.O.B. Destination and shall include all freight delivery and unloading at the destination.
- 4.3. Applicable Taxes.
- 4.3.1. Payment of Taxes. The Contractor shall be responsible for paying all applicable taxes.
- 4.3.2. State and Local Transaction Privilege Taxes. The State of Arizona is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect such taxes from the buyer does not relieve the seller from its obligation to remit taxes.
- 4.3.3. Tax Indemnification. Contractor and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require all subcontractors to hold the State harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.
- 4.3.4. IRS W9 Form. In order to receive payment the Contractor shall have a current I.R.S. W9 Form on file with the State of Arizona, unless not required by law.
- 4.4. Availability of Funds for the Next State fiscal year. Funds may not presently be available for performance under this Contract beyond the current state fiscal year. No legal liability on the part of the State for any payment may arise under this Contract beyond the current state fiscal year until funds are made available for performance of this Contract.
- 4.5. Availability of Funds for the current State fiscal year. Should the State Legislature enter back into session and reduce the appropriations or for any reason and these goods or services are not funded, the State may take any of the following actions:
- 4.5.1. Accept a decrease in price offered by the contractor;
- 4.5.2. Cancel the Contract; or
- 4.5.3. Cancel the contract and re-solicit the requirements.

#### **5. Contract Changes**

- 5.1. Amendments. This Contract is issued under the authority of the Procurement Officer who signed this Contract. The Contract may be modified only through a Contract Amendment

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

- 5.2. Subcontracts. The Contractor shall not enter into any Subcontract under this Contract for the performance of this contract without the advance written approval of the Procurement Officer. The Contractor shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities. The Subcontract shall incorporate by reference the terms and conditions of this Contract.
- 5.3. Assignment and Delegation. The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Procurement Officer. The State shall not unreasonably withhold approval.

## 6. Risk and Liability

- 6.1. Risk of Loss: The Contractor shall bear all loss of conforming material covered under this Contract until received by authorized personnel at the location designated in the purchase order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.
- 6.2. Indemnification
  - 6.2.1. Contractor/Vendor Indemnification (Not Public Agency) The parties to this contract agree that the State of Arizona, its departments, agencies, boards and commissions shall be indemnified and held harmless by the contractor for the vicarious liability of the State as a result of entering into this contract. However, the parties further agree that the State of Arizona, its departments, agencies, boards and commissions shall be responsible for its own negligence. Each party to this contract is responsible for its own negligence.
  - 6.2.2. Public Agency Language Only Each party (as 'indemnitor') agrees to indemnify, defend, and hold harmless the other party (as 'indemnitee') from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as 'claims') arising out of bodily injury of any person (including death) or property damage but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees, or volunteers."
- 6.3. Indemnification - Patent and Copyright. The Contractor shall indemnify and hold harmless the State against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of Contract performance or use by the State of materials furnished or work performed under this Contract. The State shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph. If the contractor is insured pursuant to A.R.S. § 41-621 and § 35-154, this section shall not apply.
- 6.4. Force Majeure.
  - 6.4.1 Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing,

force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions-intervention-acts; or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.

6.4.2. Force Majeure shall not include the following occurrences:

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

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

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

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

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

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

## **7. Warranties**

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

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

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

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

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

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

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

- 7.3. Fitness. The Contractor warrants that any material supplied to the State shall fully conform to all requirements of the Contract and all representations of the Contractor, and shall be fit for all purposes and uses required by the Contract.
- 7.4. Inspection/Testing. The warranties set forth in subparagraphs 7.1 through 7.3 of this paragraph are not affected by inspection or testing of or payment for the materials by the State.
- 7.5. Compliance With Applicable Laws. The materials and services supplied under this Contract shall comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable license and permit requirements.
- 7.6. Survival of Rights and Obligations after Contract Expiration or Termination.
- 7.6.1. Contractor's Representations and Warranties. All representations and warranties made by the Contractor under this Contract shall survive the expiration or termination hereof. In addition, the parties hereto acknowledge that pursuant to A.R.S. § 12-510, except as provided in A.R.S. § 12-529, the State is not subject to or barred by any limitations of actions prescribed in A.R.S., Title 12, Chapter 5.
- 7.6.2. Purchase Orders. The Contractor shall, in accordance with all terms and conditions of the Contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Procurement Officer, including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

## **8. State's Contractual Remedies**

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

under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or remedy available to it.

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

## **9. Contract Termination**

- 9.1. Cancellation for Conflict of Interest. Pursuant to A.R.S. § 38-511, the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is or becomes at any time while the Contract or an extension of the Contract is in effect an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. § 38-511.
- 9.2. Gratuities. The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State for the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about contract performance. The State, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the Contractor.
- 9.3. Suspension or Debarment. The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the contractor is not currently suspended or debarred. If the contractor becomes suspended or debarred, the contractor shall immediately notify the State.
- 9.4. Termination for Convenience. The State reserves the right to terminate the Contract, in whole or in part at any time when in the best interest of the State, without penalty or recourse. Upon receipt of the written notice, the Contractor shall stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the State. In the event of termination under this paragraph, all documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State upon demand. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination. The cost principles and procedures provided in A.A.C. R2-7-701 shall apply.
- 9.5. Termination for Default.
- 9.5.1. In addition to the rights reserved in the contract, the State may terminate the Contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. The Procurement Officer shall provide written notice of the termination and the reasons for it to the Contractor.

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

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

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

10. **Contract Claims**

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

11. **Arbitration**

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

12. **Comments Welcome**

The State Procurement Office periodically reviews the Uniform Terms and Conditions and welcomes any comments you may have. Please submit your comments to: State Procurement Administrator, State Procurement Office, 100 North 15<sup>th</sup> Avenue, Suite 201, Phoenix, Arizona, 85007.



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**Procurement**

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Phone: (602) 712-7211

**SOLICITATION NO. ADOT12-00001210**

**1. CONTRACT TERM**

The term of any resultant contract shall commence on the effective date of award and shall continue for a period of thirty-six (36) months thereafter, unless terminated, cancelled or extended as otherwise provided herein.

**2. CONTRACT EXTENSION**

By mutual written contract amendment, any resultant contract may be extended for supplemental periods of up to a maximum of thirty-six (36) months.

**3. CONTRACT CHANGES**

The Department reserves the right to revise significant changes in the scope, character, and/or complexity of the work and may be negotiated if it is mutually agreed that such changes are desirable and necessary. Contract changes defining and limiting the work must be documented in a written Contract Amendment, as defined by A.R.S. §41-2503, R-2-7-101(15) and signed by the Procurement Officer. Enrollee fee shall not increase by more than 10% during the term of the contract.

**4. ELIGIBLE AGENCIES**

Any contract resulting from this solicitation shall be for the exclusive use of the agency designated on the cover sheet of this document.

**5. 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 Department. The Department reserves the right to obtain like goods or services from another source when necessary. Off-Contract Purchase Authorizations may only be approved by the Department Chief Procurement Officer. Approval shall be at the discretion of the Chief Procurement Officer and shall be conclusive, however, approval shall be granted only after a proper review and when deemed appropriate. Off-contract procurement shall be consistent with the Arizona Procurement Code.

**6. PAYMENT TO THE DEPARTMENT**

The contractor is responsible for submitting statutorily required fees to the Department on a daily basis. The Contractor must also ensure all transactions and fees reconcile.

**7. PRICE REDUCTION**

The Contractor may allow for a price reduction in the enrollee fee at any time during the term of the contract. Any reduction in fee must be reported to the Department.

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**8. VENDOR REGISTRATION**

The contractor shall have a completed State of Arizona Substitute W-9 Form on file with the Department's Procurement Group. No payments shall be made until the form is on file. For questions regarding this form you may contact Bonnie Hartley at (602) 712-8520.

**9. PROJECT ADMINISTRATION**

A Department Project Manager shall be designated at the time of a project assignment. The Project Manager will provide general direction as necessary and be responsible for decisions pertaining to work under this contract.

**10. CONTRACT ADMINISTRATION**

For information regarding the Uniform and Special Terms and Conditions, and Specifications referenced herein contact:

Diane Miller

Procurement Officer

(602) 712-8505

E-Mail Address: [dimiller@azdot.gov](mailto:dimiller@azdot.gov)

The Contractor shall contact the Procurement Group for guidance or direction in matters of contract interpretation or questions regarding the terms, conditions or scope of the contract. Only the Procurement Officer or authorized designee is authorized to change or amend the specific terms, conditions or provisions of the contract.

**11. NOTICES**

All notices, requests demands, consents, approvals, and other communications which may or are required to be served or given hereunder (for the purpose of these 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 to the State, to:

Arizona Department of Transportation, Procurement Group

1739 West Jackson Street, Ste. A, MD 100P

Phoenix, Arizona 85007-3276

Attention: Diane Miller – Procurement Officer

b. If intended for the Contractor, to:

The Contractor Name

Address

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City, State, Zip Code  
Attention:

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

**12. CONFIDENTIALITY OF RECORDS**

The Contractor shall establish and maintain procedures and controls acceptable to the Department 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 Department 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.

**13. NON-DISCLOSURE**

The Contractor shall meet the requirements of all applicable [State of Arizona](#) and Department policies, standards and procedures for securing, managing and handling information. As such, the Contractor shall:

- Only access information and files for which it has been given specific authority.
- Not discuss, divulge, copy, release, sell or loan any Departmental information unless authorized by the Department.
- Not misuse or carelessly handle Departmental information.
- Not release or disclose Departmental information to unauthorized personnel.
- Store, send, and dispose of system and written information in a secure manner with proper regard for privacy and confidentiality and in accordance with applicable policies, standards and procedures.
- Not disclose any personal information contained in any system of record except as authorized.
- Safeguard all user password(s) and any other security mechanism(s) granted by the Department and used to access Departmental information.
- Protect all Departmental information in accordance with applicable state and

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federal laws.

- Report any security system breach, computer infection or theft of information immediately to the Department.

The Contractor shall secure paper-based, program data by locking it in secure containers and applying user-privilege restriction mechanisms. The Contractor shall be responsible and accountable for all actions undertaken on a Department information technology resource (e.g., computer system, or application system, etc.). The Contractor shall not utilize its network connections with the Department for any purpose other than the purpose specified herein.

#### 14. **CONFIDENTIALITY (END-USERS)**

Notwithstanding aggregate usage statistics used for reporting purposes, the Contractor shall keep confidential and secure all information concerning individual end-users. The Contractor shall not, under any conditions, resell, transfer or convey information about end-users to any third party. Contractor shall not retain or reuse information about the end-users in their own operations.

#### 15. **CONTRACTOR'S OBLIGATION REGARDING CONFIDENTIALITY**

Due to the sensitive nature of the information maintained by the Department, the Contractor acknowledges that all information disclosed to it concerning the Department's operations during performance of the contract and after the full term of the contract shall not be disclosed without the Department's prior written consent.

All proprietary information and all copies thereof shall be returned to the Department upon completion of the work for which they were obtained or developed.

#### 16. **ACCESS CONSTRAINTS AND AUTHORIZATION REQUIREMENTS**

Contractor access to the Department's information technology environment and resources shall be properly authorized, based on business need and shall be restricted to least possible privilege. Upon approval of access privileges, the Contractor shall maintain strict adherence to all prescribed security policies, standards and procedures.

Failure of the Contractor, its agents or subcontractors to comply with prescribed security policies, standards and procedures including any person who commits an unlawful breach of computer security or harmful access shall be subject to prosecution under appropriate state and / or federal law. Any and all recovery or reconstruction costs or other liabilities associated with an unlawful breach of computer security or harmful access shall be paid by the Contractor.

#### 17. **PERSONNEL SECURITY**

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The Contractor's current and subsequent personnel, as well as those of their duly recognized subcontractors' shall comply with all applicable statutes, administrative regulation, policies, practices and procedures while providing supplies and or services under the contract. Notwithstanding any security requirements in the Scope of Work, as deemed necessary by the Department, certain personnel with access to sensitive information and/or infrastructure may be subject to background checks.

**18. STATE IT ARCHITECTURE AND STANDARDS**

To support standardized, interoperable IT environments, the state developed enterprise architecture (EA). The EA and subsequent standards can be accessed through the Government Information Technology Agency's web page at <http://www.gita.state.az.us/>. Technical solutions developed by the Contractor shall conform to Department standards and to GITA EA standards.

**19. REMOVAL OF CONTRACTOR'S EMPLOYEES**

The Contractor agrees to utilize only experienced, responsible and capable employees in the performance of the work. The Department may require that the Contractor remove from the job, by this contract, employees who endanger person or property or whose continued employment under this contract is, in the opinion of the Department, not justified due to unacceptable performance of duties, or is inconsistent with the interests of the Department. Additionally, those individuals determined by the Department to be key personnel to the success of this contract shall not be removed from this contract without sufficient notice to the Department. Notice shall also include identification of personnel who will be considered replacements. The Department reserves the right to approve all proposed replacements.

**20. SECURE COMPUTER FACILITIES**

Contractor information systems (web servers, database servers, storage devices, etc.) and related communication wiring and network devices shall be located in secure facilities that are locked and restricted to access by authorized personnel. The Contractor's computer facilities shall:

- Maintain monitoring that establishes the identity of the person entering/exiting as well as the date and time of the access (e.g., recording badge information, videotaping) and provides data for auditing of physical access
- House emergency exits that allow re-entry of only authorized personnel
- Utilize badge-reading systems to log and store all entry and exit activities for one year

Physical access security measures employed for back-up systems/facilities shall be equivalent to those of the primary facilities. Primary computer facilities shall be protected against loss or malfunction of environmental equipment or services necessary for the operation of the facility. Appropriate fire suppression and prevention devices

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shall be installed and functioning according to manufacturer's specifications. Environmental (A/C) systems shall be routinely maintained. Uninterruptible Power Systems (UPS) and backup generators shall provide a safeguard against loss of electrical power.

#### 21. **VULNERABILITY ASSESSMENT**

The Contractor shall contract with a Qualified Security Assessor (QSA) company to conduct annual vulnerability assessments. Assessments shall be performed to identify and correct technical program flaws within configuration items such as firewalls, routers, web servers, operating systems, applications, databases, etc. An annual assessment report outlining the following must be submitted to the Department:

- Details of the methodology used to conduct the security vulnerability assessment
- Detailed documentation of the security flaws
- Remediation recommendations
- Corrective action implementation dates

High risk findings shall be remediated within 30 calendar days of the assessment report being submitted. Medium risk findings shall be remediated within 90 calendar days of the assessment report being submitted.

#### 22. **CODE REVIEW**

The Contractor shall conduct annual code reviews of each application developed within the program; and confirm in writing to the Department that programming errors have been mitigated in accordance with the SANS top 25 (<http://www.sans.org/top25-programming-errors/>) and the OWASP Top 10 ([https://www.owasp.org/index.php/Category:OWASP\\_Top\\_Ten\\_Project](https://www.owasp.org/index.php/Category:OWASP_Top_Ten_Project)).

An annual assessment report outlining the following must be submitted to the Department:

- Details of the methodology used to conduct the code review
- Detailed documentation of the flaws in code
- Remediation recommendations
- Corrective action implementation dates

#### 23. **ENDPOINT SECURITY**

The Contractor shall protect all program PCs and servers by keeping software (including operating system software) up to date with the most recent security updates. The Contractor shall also apply anti-malware scanning software to all PCs and servers used by the program and ensure that remote PCs and servers, given access to internal networks, are equally protected. Anti-malware software shall be configured to

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automatically apply the most current inoculants and patches to the Contractor's information systems.

**24. SERVICE LEVEL AND DATA EXCHANGE AGREEMENTS**

The Contractor shall enter into a Service Level Agreement with the Department for the purpose of outlining Contractor and Department responsibilities for the administration of the electronic TSS system and file processes. The Contractor shall also enter into a Data Exchange Agreement in compliance with GITA Statewide Standard P740-S741, Standard 4.7.3 which states "All Budget Units shall establish a written Data Exchange Agreement with exchange entities/organizations. The agreement shall convey the purpose of the exchange, usage and non-disclosure of personal information, the classification and degree of sensitivity of the data, the application system, data-set name, frequency, media, data-elements, security schemes, and final repository, as well as contact information."

**25. INCIDENT NOTIFICATION**

The Contractor agrees to notify the Department immediately when the Contractor system that may access, process, or store Department data is subject to unintended access. Unintended access includes compromise by a computer worm, search engine web crawler, password compromise or access by an individual or automated program due to a failure to secure a system or adhere to established security procedures.

The Contractor agrees to notify the Department immediately if there is a threat to the Contractor's program or product as it pertains to the use, disclosure, and security of Department data. If an unauthorized use or disclosure of any personal information occurs, the Contractor shall provide written notice within one (1) business day after Contractor's discovery of such use or disclosure and all information ADOT requests concerning such unauthorized use or disclosure.

**26. DATA DESTRUCTION**

Upon termination, cancellation, expiration or other conclusion of the Contract, the Contractor shall return the data to the Department unless the Department requests that such data be destroyed. This provision shall also apply to data that is in the possession of subcontractors or agents of Contractor. The Contractor shall complete such return or destruction not less than thirty (30) days after the conclusion of this Contract. Within such thirty (30) day period, the Contractor shall certify in writing to the Department that such return or destruction has been completed.

All subcontractors utilized to perform the activities authorized by this Contract must abide by the same security and access requirements as the Contractor. The Contractor must disclose and obtain Department approval of any existing and/or contemplated strategic alliances, partnerships, Intergovernmental Agreements or subcontracting

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agreements the Contractor has or will enter into which involve the processing and/or use of Department data acquired pursuant to this Contract.

**27. 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 Department.

**28. SUBCONTRACTORS**

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 any resultant contract. The Contractor agrees that no substitution of such specified individuals and/or personnel cannot be made without prior written approval by the Department. The Contractor shall bear all expenses incurred for any costs associated with subcontractors performing work under this contract.

**29. RELATIONSHIP WITH OTHERS**

The Contractor shall cooperate fully with the Department, the Arizona counties, municipalities and local government officials, and all others such as (contractors and subcontractors) may be required in the performance of this Contract. This shall include attendance at meetings, discussion, and hearings, as may be required; presentation of data, as may be requested from time to time by the Department to effect such cooperation; and compliance with all directives issued by the Department.

**30. REVIEW OF CONTRACTOR'S WORK**

Work performed by the Contractor shall be subject to periodic reviews. The Department reserves the right to make such reviews and pass upon the acceptability of the Contractor's work. The Contractor is responsible to correct, without charge to the Department, any errors in the work on this contract.

**31. ACCURACY OF WORK**

The Contractor shall be responsible for the accuracy of the work and shall promptly make all the necessary revisions or corrections resulting from errors and omissions on the part of the Contractor without additional compensation. Acceptance of the work by the Department will not relieve the Contractor of the responsibility for subsequent correction of any such errors and clarification of ambiguities.

**32. CONFLICT OF INTEREST**



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It should be noted that offerors are hereby advised of the Conflict of Interest Statutes, A.R.S. § 38-501, et seq. Any purchase order for services offered by the Department which may lead to a real or apparent conflict of interest, under the Arizona Revised Statutes, with regard to future State contracts or solicitations, may be refused by the offeror by notifying the Procurement Group in writing within five (5) days of receipt of the purchase order. If such a purchase order is refused, the offeror may be precluded from award of such future contract or solicitation if a real or apparent conflict of interest exists, as determined by the Department.

**33. SCRUTINIZED BUSINESS OPERATIONS**

Pursuant to A.R.S. §§ 35-391.06 and 35-393.06, the DEPARTMENT (or private contractor) certifies that it does not have a scrutinized business operation in Sudan or Iran. For purposes of this contract, the term "scrutinized business operations" shall have the meanings set forth in A.R.S. § 35-391 and/or § 35-393, as applicable. If ADOT/MVD determines that the DEPARTMENT (or private contractor) submitted a false certification, ADOT may impose remedies as provided by law, including the cancellation or termination of this Agreement.

**34. CANCELLATION FOR POSSESSION OF WEAPONS ON ADOT 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 ADOT property pursuant to ADOT Policy, MGT 6.04, "Weapons in the Workplace." Such property includes ADOT 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 ADOT official to leave the ADOT 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."

**35. SECTION 508 OF THE REHABILITATION ACT OF 1973**

Unless specifically authorized in the contract, any electronic or information technology offered to the State of Arizona under this contract shall comply with A.R.S. § 41-2531 and § 41-2532 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

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technology that is comparable to the access and use by employees and members of the public who are not individuals with disabilities.

**36. INDEMNIFICATION**

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

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

**37. INSURANCE REQUIREMENTS**

The Contractor shall furnish certificate(s) similar to **Certificate of Insurance, Exhibit 1**, inclusive of the following requirements to the Department. Certificate(s) shall be received **within ten (10) calendar days of notification of tentative award** by the Procurement Officer and prior to contract execution.

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

**SECTION 3  
SPECIAL TERMS AND CONDITIONS**

ARIZONA DEPARTMENT OF TRANSPORTATION

Procurement

1739 West Jackson Street, Suite A, MD 100P

Phoenix, Arizona 85007-3276

Phone: (602) 712-7211

**SOLICITATION NO. ADOT12-00001210**

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.

- 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. Business Automobile Liability**

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

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

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

**3. Worker's Compensation and Employers' Liability**

Workers' Compensation Statutory

Employers' Liability  
Each Accident \$ 500,000

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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 exempts under A.R.S. 23-901, AND when such contractor or subcontractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.

**4. Professional Liability**

Each Claim	\$1,000,000
Annual Aggregate	\$2,000,000

- a. In the event that the professional liability insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.
- b. The policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Work of this contract.

**5. Technology Errors and Omissions Insurance**

Each Claim	\$1,000,000
Annual Aggregate	\$1,000,000

Coverage to include:

- Systems analysis;
- Software design;
- Systems programming;
- Data processing;
- Systems integration;
- Outsourcing including outsourcing development and design;
- Systems design, consulting, development and modification;
- Training services relating to computer software or hardware;
- Management, repair and maintenance of computer products, networks and systems;
- Marketing, selling, servicing, distributing, installing and maintaining computer hardware or software; and

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- Data entry, modification, verification, maintenance, storage, retrieval or preparation of data output.
  - a. In the event that the professional liability insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.
  - b. The policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Work of this contract.
- 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:** With the exception of (10) day notice of cancellation for non-payment of premium, any changes material to compliance with this contract in the insurance policies above shall require (30) days written notice to the State of Arizona. Such notice shall be sent directly to, Arizona Department of Transportation, Procurement Group, 1739 West Jackson Street, Suite A, Phoenix, AZ 85007, **ATTN: Diane Miller**, 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) similar to **Certificate of Insurance, Exhibit 1**, 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.

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**SOLICITATION NO. ADOT12-00001210**

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 Arizona Department of Transportation, **Procurement Group, 1739 West Jackson Street, Suite A, Phoenix, AZ 85007, ATTN: Diane Miller.** 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 contracting agency in consultation with the Department of Administration, Risk Management Division. Such action will not require a formal Contract amendment, but may be made by administrative action.
- 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.

## UNIFORM INSTRUCTIONS TO OFFERORS

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

1. "*Attachment*" means any item the Solicitation requires an Offeror to submit as part of the Offer.
2. "*Contract*" means the combination of the Solicitation, including the Uniform and Special Instructions to Offerors, the Uniform and Special Terms and Conditions, and the Specifications and Statement or Scope of Work; the Offer and any Best and Final Offers; and any Solicitation Amendments or Contract Amendments.
3. "*Contract Amendment*" means a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.
4. "Contractor" means any person who has a Contract with the State.
5. "*Days*" means calendar days unless otherwise specified.
6. "*Exhibit*" means any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.
7. "*Offer*" means bid, proposal or quotation.
8. "*Offeror*" means a vendor who responds to a Solicitation.
9. "Procurement *Officer*" means the person, or his or her designee, duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.
10. "*Solicitation*" means an Invitation for Bids ("IFB"), a Request for Proposals ("RFP"), or a Request for Quotations ("RFQ").
11. "*Solicitation Amendment*" means a written document that is signed by the Procurement Officer and issued for the purpose of making changes to the Solicitation.
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.
13. "*State*" means the State of Arizona and Department or Agency of the State that executes the Contract.

### B. Inquiries

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. 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.

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

### **C. Offer Preparation**

1. Forms: No Facsimile, Telegraphic or Electronic Mail Offers. An Offer shall be submitted either on the forms provided in this Solicitation or their substantial equivalent. Any substitute document for the forms provided in this Solicitation must be legible and contain the same information requested on the forms, unless the solicitation indicates otherwise. A facsimile, telegraphic, mailgram or electronic mail Offer shall be rejected if submitted in response to requests for proposals or invitations for bids.
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. 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.



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.
  - 4.1. Invitation for Bids. An Offer that takes exception to a material requirement of any part of the Solicitation, including terms and conditions, shall be rejected.
  - 4.2. Request for Proposals. All exceptions that are contained in the Offer may negatively affect the State's proposal evaluation based on the evaluation criteria stated in the Solicitation or result in rejection of the Offer. An offer that takes exception to any material requirement of the solicitation may be rejected.
5. Subcontracts. Offeror shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities in the Offer.
6. Cost of Offer Preparation. The State will not reimburse any Offeror the cost of responding to a Solicitation.
7. Solicitation Amendments. Each Solicitation Amendment shall be signed with an original signature by the person signing the Offer, and shall be submitted no later than the Offer due date and time. Failure to return a signed (or acknowledgement for electronic submission, when authorized) copy of a Solicitation Amendment may result in rejection of the Offer.
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.
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.
  - 9.1 Employee Identification. Offeror agrees to provide an employee identification number or social security number to the Department for the purposes of reporting to appropriate taxing authorities, monies paid by the Department under this contract. If the federal identifier of the offeror is a social security number, this number is being requested solely for tax reporting purposes and will be shared only with appropriate state and federal officials. This submission is mandatory under 26 U.S.C. § 6041A.
10. Identification of Taxes in Offer. The State of Arizona is subject to all applicable state and local transaction privilege taxes. All applicable taxes shall be identified as a separate item offered in the solicitation. When applicable, the tax rate and amount shall be identified on the price sheet. At all times, payment of taxes and the determination of applicable taxes are the sole responsibility of the contractor.
11. Disclosure. If the firm, business or person submitting this Offer has been debarred, suspended or otherwise lawfully precluded from participating in any public procurement activity, including being disapproved as a subcontractor with any Federal, state or local government, or if any such preclusion from participation from any public procurement activity is currently pending, the Offeror shall fully explain the circumstances relating to the preclusion or proposed preclusion in the Offer. The Offeror shall include a letter with its Offer setting forth the name and address of the governmental unit, the effective date of this suspension or debarment, the duration of the suspension or debarment, and the

relevant circumstances relating to the suspension or debarment. If suspension or debarment is currently pending, a detailed description of all relevant circumstances including the details enumerated above shall be provided.

12. Solicitation Order of Precedence. In the event of a conflict in the provisions of this Solicitation, the following shall prevail in the order set forth below:
  - 12.1 Special Terms and Conditions;
  - 12.2 Uniform Terms and Conditions;
  - 12.3 Statement or Scope of Work;
  - 12.4 Specifications;
  - 12.5 Attachments;
  - 12.6 Exhibits;
  - 12.7 Special Instructions to Offerors;
  - 12.8 Uniform Instructions to Offerors; and
  - 12.9 Other documents referenced or included in the Solicitation.
13. Delivery. Unless stated otherwise in the Solicitation, all prices shall be F.O.B. Destination and shall include all freight, delivery and unloading at the destination(s).
14. Federal Immigration and Nationality Act. By signing of the Offer, the Offeror warrants that both it and all proposed subcontractors are in compliance with federal immigration laws and regulations (FINA) relating to the immigration status of their employees. The State may, at its sole discretion require evidence of compliance during the evaluation process. Should the State request evidence of compliance, the Offeror shall have 5 days from receipt of the request to supply adequate information. Failure to comply with this instruction or failure to supply requested information within the timeframe specified shall result in the offer not being considered for contract award.
15. Offshore Performance of Work Prohibited  
Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and involve access to secure or sensitive data or personal client data shall be performed within the defined territories of the United States. Unless specifically stated otherwise in the specifications, this paragraph does not apply to indirect or 'overhead' services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers. Offerors shall declare all anticipated offshore services in the proposal.

#### **D. Submission of Offer**

1. Sealed Envelope or Package. Each Offer shall be submitted to the submittal location identified in this Solicitation. Offers should be submitted in a sealed envelope or container. The envelope or container should be clearly identified with name of the Offeror and Solicitation number. The State may open envelopes or containers to identify contents if the envelope or container is not clearly identified.

2. ProcureAZ Offer Submission, Due Date and Time. Offerors responding to a solicitation in ProcureAZ must submit their offers electronically through ProcureAZ. Offers shall be received before the due date and time stated in the solicitation. Offers submitted outside of ProcureAZ or those that are received after the due date and time shall be rejected.
3. Offer Amendment or Withdrawal. An Offer may not be amended or withdrawn after the Offer due date and time except as otherwise provided under applicable law.
4. 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.
5. Non-collusion, Employment, and Services. By signing the Offer and Acceptance Form or other official contract form, the Offeror certifies that:
  - 5.1. The Offeror did not engage in collusion or other anti-competitive practices in connection with the preparation or submission of its Offer; and
  - 5.2. The Offeror does not discriminate against any employee or applicant for employment or person to whom it provides services because of race, color, religion, sex, national origin, or disability, and that it complies with an applicable Federal, state and local laws and executive orders regarding employment.

## **E. Evaluation**

1. Unit Price Prevails. In the case of discrepancy between the unit price or rate and the extension o that unit price or rate, the unit price or rate shall govern.
2. Taxes. If the products and/or services specified require transaction privilege or use taxes, they shall be described and itemized separately on the offer. Arizona transaction privilege and use taxes shall not be considered for evaluation.
3. Prompt Payment Discount. Prompt payment discounts of thirty (30) days or more set forth in an Offer shall be deducted from the offer for the purpose of evaluating that price.
4. Late Offers. An Offer submitted after the exact Offer due date and time shall be rejected.
5. Disqualifications. An Offeror (including each of its principals) who is currently debarred, suspended or otherwise lawfully prohibited from any public procurement activity shall have its offer rejected.
6. Offer Acceptance Period. An Offeror submitting an Offer under this Solicitation shall hold its Offer open for the number of days from the Offer due 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.
7. Waiver and Rejection Rights. Notwithstanding any other provision of the Solicitation, the State reserves the right to:
  - 7.1 Waive any minor informality;

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

7.3 Cancel the Solicitation.

#### **F. Award**

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

#### **G. 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:

1. The name, address and telephone number of the protester;
2. The signature of the protester or its representative;
3. Identification of the purchasing agency and the Solicitation or Contract number;
4. A detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and
5. The form of relief requested.

#### **H. Comments Welcome**

The State Procurement Office periodically reviews the Uniform Instructions to Offerors and welcomes any comments you may have. Please submit your comments to: State Procurement Administrator, State Procurement Office, 100 North 15th Avenue, Suite 201, Phoenix, Arizona, 85007.

# SECTION 5 SPECIAL INSTRUCTIONS TO OFFERORS

ARIZONA DEPARTMENT OF TRANSPORTATION  
Procurement  
1739 West Jackson Street, Suite A, MD 100P  
Phoenix, Arizona 85007-3276  
Phone: (602) 712-7211

## SOLICITATION NO. ADOT12-00001210

### 1. OFFER SUBMISSION, DUE DATE AND TIME

Offers in response to this solicitation shall be submitted within the State's e-Procurement system, ProcureAZ (<https://procure.az.gov>). Offers shall be received before the date/time listed in the "solicitation's 'Bid Opening Date' field. Offers submitted outside ProcureAZ, or those that are received on or after the date/time stated in the "Bid Opening Date" field, shall be rejected. Questions in this regard shall be directed to the Procurement Officer or to the ProcureAZ Help Desk (procure@azdoa.gov or 602-542-7600).

With regards to Section 4 Uniform Instructions, Item D, "Submission of Offer", "Sealed Envelope or Package"; offers in response to this solicitation shall be submitted within the State's e-Procurement system, ProcureAZ (<https://procure.az.gov>) as specified above.

#### A. Electronic Copy

One electronic copy of the bid shall be submitted in the ProcureAZ e-procurement system on the forms and in the acceptable format specified in the solicitation. Acceptable formats include .doc document (Microsoft Word XP or 2003), xls spreadsheet (Microsoft Excel XP or 2003) and .pdf (Adobe Acrobat portable documents format, preferred).

#### B. Electronic Documents

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

### 2. QUESTIONS

With regards to Section 4 Uniform Instructions, Item B, "Inquiries", "Submission of Inquiries", questions relating to this solicitation shall be posted on ProcureAZ in the Q&A tab of the Bid utilizing "Add New Question". **Questions will be answered via ProcureAZ (<https://procure.az.gov>) and are due no less than ten (10) calendar days prior to the solicitation due date and time.**

### 3. EXCEPTIONS TO TERMS AND CONDITIONS

Any exceptions shall be submitted no less than ten (10) calendar days prior to the solicitation due date and time. Exceptions shall be submitted directly to Diane Miller, Procurement Officer via email @ [dimiller@azdot.gov](mailto:dimiller@azdot.gov). The Offeror's preprinted or standard terms will not be considered by the State as a part of any resulting contract.

### 4. CONFIDENTIAL INFORMATION

**SECTION 5  
SPECIAL INSTRUCTIONS TO OFFERORS**

ARIZONA DEPARTMENT OF TRANSPORTATION  
Procurement  
1739 West Jackson Street, Suite A, MD 100P  
Phoenix, Arizona 85007-3276  
Phone: (602) 712-7211

**SOLICITATION NO. ADOT12-00001210**

If the Offeror believes a portion of the proposal contains information that should be withheld from public review, the Offeror shall identify **in ProcureAZ the document as confidential by clicking on the Confidential Box after the document is added as an Attachment**. The information identified as confidential shall not be disclosed until the Department's Procurement Administrator makes a written determination. Historically, only information which is patented, copyright protected, or proprietary has been deemed as confidential. Cost will not be considered as confidential. Refer to Uniforms Instructions to Offerors D. Submission of Offer 3. Public Record.

**5. PROCUREAZ SUPPORT**

To assist Vendors in the submission of a quote/offer, ProcureAZ offers a Help Desk with email ([procure@azdoa.gov](mailto:procure@azdoa.gov)) and telephone support (602) 542-7600, and a Quick Reference Guide – Responding to Solicitations, <http://www.spo.az.gov/ProcureAZ/Vendors/default.asp>. Vendors are encouraged to submit any requests for assistance in a timely manner in order to meet the bid due date and time identified on the Notice Page.

**6. PREPARATION OF BID PACKAGE**

Only the following items shall be returned with the bid package. Failure to provide all of the items and the information requested may result in a bid being rejected.

The Offeror is cautioned that it is the Offeror's sole responsibility to submit the required information which relates to the evaluation categories and that the Department is under no obligation to solicit such information if it is not included with the offer. Failure to include and complete, as prescribed, the below information may cause a negative impact on the evaluation of the offer.

**Completing and Submitting Required Attachments**

If any of the Attachments are required to be completed, use the following instructions:

- A. Open and save the Attachment(s) to your own computer.
- B. Complete the required information; save and re-attach the completed Attachments to ProcureAZ, adding "Offeror" before the word "Attachment".

**NOTE: ProcureAZ will not save information entered directly on an Attachment.**

**ProcureAZ Pricing**

To be considered responsive, please complete the Line Item for ProcureAZ processing. **Offeror shall provide TSS Enrollee Fee – Do not "No Bid" or leave the Item blank.**

**7. REQUIRED INFORMATION**

The offer shall include the following and should be presented in the order in which they appear.

**SECTION 5  
SPECIAL INSTRUCTIONS TO OFFERORS**

ARIZONA DEPARTMENT OF TRANSPORTATION  
Procurement  
1739 West Jackson Street, Suite A, MD 100P  
Phoenix, Arizona 85007-3276  
Phone: (602) 712-7211

**SOLICITATION NO. ADOT12-00001210**

FAILURE TO PROVIDE ALL OF THE REQUIRED INFORMATION MAY RESULT IN REJECTION OF THE PROPOSAL.

**7.1 Solicitation Amendments**

Acknowledge all Solicitation Amendments issued via the e-Procurement system, ProcureAZ (<http://procure.az.gov>). Offeror shall include and submit with the offer, as instructed in paragraph 1, the signature page of the actual solicitation amendment, if applicable. Failure to respond to the amendment may result in rejection of the offer.

**7.2 Attachments**

Complete and submit the following attachments with offer as per instruction in paragraph 1:

**Attachment 1**, Offer and Contract Award

Complete and submit all information requested on **Attachment 1**.

**Attachment 2**, References

Complete and submit all information requested on **Attachment 2**. Include a description of recent experience in providing services similar to those proposed herein. (Additional sheets may be submitted for the (3) references, if needed). **DO NOT SUBMIT THE DEPARTMENT, DEPARTMENT CONTRACTS OR DEPARTMENT PERSONNEL AS REFERENCES.**

**Attachment 3**, Non- Collusion Affidavit

Complete, **notarize** and submit all information requested on **Attachment 3**.

**7.3 Proposed Work Approach**

Provide a narrative outlining your overall approach to completing the work required by this solicitation including your ability to administer a large program and interact with diverse stakeholders and constituents. This narrative shall illustrate your understanding of the project and detail the proposed approach for each of the following:

- General
- Administrative
- Technical

as delineated in Section 1, Subsection 3 Scope Statement.

**7.4 Proposed Personnel**

Provide resumes for key personnel (who will be performing requested services). Include relevant experience and expertise related to the scope of this solicitation, showing

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**SOLICITATION NO. ADOT12-00001210**

technical education and training. Include any special experience, certifications, licenses and memberships in professional associations.

**7.5 Experience and Expertise of the Firm**

List and describe Offeror's prior experience including length of time spent on relevant projects, Offeror's organizational capabilities, background qualifications and experience and how they relate to this project.

**7.6 Additional Relevant Information**

Any additional data, which may be useful to the Department in evaluating the proposal, may be included, but is not a requirement.

**8. OFFER EVALUATION**

A committee will evaluate and rank the offers, based on the following criteria:

- Experience and expertise of the firm in providing similar services and that have demonstrated experience and expertise in performing work of a similar or related nature.
- Proposed Work Approach
- Enrollee Fee

As part of its final selection from among the highest ranked firms, the Department reserves the right to:

- Contact a reasonable number of references from among those provided by Offeror as requested in Attachment 2 – References.
- Request oral presentations with no less than 72 hours notice. Presenters from the firms must include key members who will serve as the contact person(s).

**9. INCLUSIVE OFFERORS**

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 printing or courier services. 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.

**10. NEGOTIATIONS**



**SECTION 5  
SPECIAL INSTRUCTIONS TO OFFERORS**

**ARIZONA DEPARTMENT OF TRANSPORTATION  
Procurement  
1739 West Jackson Street, Suite A, MD 100P  
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**SOLICITATION NO. ADOT12-00001210**

As provided by A.A.C. R2-7-C314, negotiations may be conducted with Offerors who submit offers determined to be reasonably susceptible of being selected for award. If negotiations are conducted pursuant to R2-7-C15, the Procurement Officer shall issue a written request for final proposal revisions. Award may be made without negotiations, therefore, offers shall be submitted complete and on most favorable terms.

**11. DECISION**

A recommendation for award will be made by the evaluation committee to the Procurement Officer; whose decision will be final. If circumstances prevent full execution of the contract, the Offeror submitting the next ranked offer will be called. An award will be made to the responsive and responsible Offeror whose proposal receives the highest score under the method of scoring in the request for proposals. No other factor or criteria may be used in the evaluation.



# ATTACHMENT 1 OFFER AND CONTRACT AWARD



ARIZONA DEPARTMENT OF TRANSPORTATION  
Procurement Group  
1739 West Jackson Street, Suite A, MD 100P  
Phoenix, Arizona 85007-3276  
Phone: (602) 712-7211



**SOLICITATION NO. ADOT12-00001210**

**Submit this form with an original signature to the Department**

## OFFER

TO THE STATE OF ARIZONA:

The bidder hereby offers and agrees to perform in compliance with all terms, conditions, specifications and amendments of this solicitation and any written exceptions in the offer. Signature also acknowledges receipt of all pages indicated in the Table of Contents.

Arizona State Transaction Privilege Tax License Number

No.: \_\_\_\_\_

Federal Employer Identification

For clarification of this offer, contact:

No.: \_\_\_\_\_

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Offeror's (Company) Name

\_\_\_\_\_  
Email Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
Company Email Address

\_\_\_\_\_  
City State Zip

\_\_\_\_\_  
Signature of Person Authorized to Sign Offer

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Facsimile

\_\_\_\_\_  
Title

In accordance with A.R.S. § 35-397, the Offeror hereby certifies that the Offeror does not have scrutinized business operations in Iran and/or Sudan.

## ACCEPTANCE OF OFFER AND CONTRACT AWARD (FOR STATE OF ARIZONA USE ONLY)

Your bid is hereby accepted.

The contractor is now bound to perform based upon the solicitation, including all terms, conditions, specifications, amendments, etc., and the contractor's bid as accepted by the state.

This contract shall henceforth be referred to as Contract No. \_\_\_\_\_.

### Traffic Survival Schools (TSS) Privatization

The contractor is hereby cautioned not to commence any billable work or provide any material, service or construction under this contract until contractor receives a purchase order document.

State of Arizona

Effective this \_\_\_\_\_ day of \_\_\_\_\_ 2012

\_\_\_\_\_  
Diane Miller

\_\_\_\_\_  
Awarded Date

As Procurement Officer and not personally

**ATTACHMENT 2  
REFERENCES**

ARIZONA DEPARTMENT OF TRANSPORTATION  
Procurement Group  
1739 West Jackson Street, Suite A, Mail Drop 100P  
Phoenix, Arizona 85007-3276  
Phone: (602) 712-7211

**SOLICITATION NO. ADOT12-00001210**

PLEASE LIST THE NAME, ADDRESS, CONTACT NAME, AND TELEPHONE NUMBER FOR THREE (3) ORGANIZATIONS FOR WHOM YOUR COMPANY HAS PROVIDED SERVICES OF A SIMILAR SIZE AND SCOPE WITHIN THE PAST 36 MONTHS. These references will be checked, so please make sure all information is accurate and current.

**DO NOT SUBMIT THE DEPARTMENT, DEPARTMENT CONTRACTS OR DEPARTMENT PERSONNEL AS REFERENCES.**

- A. ORGANIZATION: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
CITY/STATE/ZIP CODE: \_\_\_\_\_  
CONTACT: \_\_\_\_\_  
TELEPHONE NUMBER: \_\_\_\_\_  
FAX NUMBER: \_\_\_\_\_  
E-MAIL ADDRESS: \_\_\_\_\_  
DATE OF CONTRACT INITIATION: \_\_\_\_\_  
TYPE OF SERVICES PROVIDED: \_\_\_\_\_
- B. ORGANIZATION: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
CITY/STATE/ZIP CODE: \_\_\_\_\_  
CONTACT: \_\_\_\_\_  
TELEPHONE NUMBER: \_\_\_\_\_  
FAX NUMBER: \_\_\_\_\_  
E-MAIL ADDRESS: \_\_\_\_\_  
DATE OF CONTRACT INITIATION: \_\_\_\_\_  
TYPE OF SERVICES PROVIDED: \_\_\_\_\_
- C. ORGANIZATION: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
CITY/STATE/ZIP CODE: \_\_\_\_\_  
CONTACT: \_\_\_\_\_  
TELEPHONE NUMBER: \_\_\_\_\_  
FAX NUMBER: \_\_\_\_\_  
E-MAIL ADDRESS: \_\_\_\_\_  
DATE OF CONTRACT INITIATION: \_\_\_\_\_  
TYPE OF SERVICES PROVIDED: \_\_\_\_\_

ATTACHMENT 3  
NON-COLLUSION AFFIDAVIT

**SOLICITATION NO. ADOT12-00001210**

**NON-COLLUSION AFFIDAVIT**

State of Arizona     )  
                                  ) ss  
County of            )

\_\_\_\_\_

*(Affiant)*

the \_\_\_\_\_

*(Title)*

of \_\_\_\_\_

*(Contractor)*

the persons, corporation, or company who makes the accompanying Proposal, having first been duly sworn, deposes and says:

That such Proposal is genuine and not sham or collusive, nor made in the interest or behalf of any person not herein named, and that the Bidder has not directly or indirectly induced or solicited any other Bidder to put in a sham bid, or any other person, firm, or corporation to refrain from bidding, and that the Bidder has not in any manner sought by collusion to secure for itself an advantage over any other Bidder.

\_\_\_\_\_

*(Signature)*

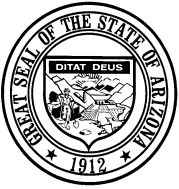
\_\_\_\_\_

*(Title)*

Subscribed and sworn to before me this  
\_\_\_\_\_ Day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Signature of Notary Public in and for  
the County of \_\_\_\_\_  
State of \_\_\_\_\_

# EXHIBIT 1



## STATE OF ARIZONA CERTIFICATE OF INSURANCE

**STATE AGENCY/DEPT.: ARIZONA DEPARTMENT OF TRANSPORTATION**  
**PROJECT TITLE: Traffic Survival Schools (TSS) Privatization**  
**CONTRACT NUMBER: ADOT12-00001210**

{PRIVATE }PRODUCER	COMPANIES AFFORDING COVERAGE	CURRENT A.M. BEST RATING
INSURED	A	
	B	
	C	
	D	

{PRIVATE }THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED.

{PRIV ATE }CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS (,000)										
	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> OCCURRENCE <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OWNER'S & CONTRACTOR'S PROT. <input type="checkbox"/> PER PROJECT PRODUCT/COMPLETED OPERATIONS				GENERAL AGGREGATE PRODUCTS-COMP/OP AGG. PERSONAL & ADV. INJURY EACH OCCURRENCE FIRE DAMAGE(ANY ONE FIRE) MED.EXPENSE(ANY ONE PERSON) <table style="float: right; margin-left: 10px;"> <tr><td>\$</td><td>_____</td></tr> <tr><td>\$</td><td>_____</td></tr> <tr><td>\$</td><td>_____</td></tr> <tr><td>\$</td><td>_____</td></tr> <tr><td>\$</td><td>_____</td></tr> </table>	\$	_____	\$	_____	\$	_____	\$	_____	\$	_____
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\$	_____														
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS <input type="checkbox"/> GARAGE LIABILITY <input type="checkbox"/>				COMBINED SINGLE LIMIT  BODILY INJURY (PER PERSON) <span style="float: right;">\$ _____</span> BODILY INJURY (PER ACCIDENT) <span style="float: right;">\$ _____</span> PROPERTY DAMAGE <span style="float: right;">\$ _____</span>										
	PROFESSIONAL LIABILITY <input type="checkbox"/> TYPE _____ <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCURRENCE				EACH OCCURRENCE <span style="float: right;">\$ _____</span> AGGREGATE <span style="float: right;">\$ _____</span>										
	EXCESS LIABILITY <input type="checkbox"/> UMBRELLA FORM <input type="checkbox"/> OTHER THAN UMBRELLA FORM				EACH OCCURRENCE <span style="float: right;">\$ _____</span> AGGREGATE <span style="float: right;">\$ _____</span>										
	WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY				STATUTORY LIMITS EACH ACCIDENT <span style="float: right;">\$ _____</span> DISEASE-POLICY LIMIT <span style="float: right;">\$ _____</span> DISEASE-EACH EMPLOYEE <span style="float: right;">\$ _____</span>										
	BUILDERS RISK														
	OTHER:														

{PRIVATE }DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / SPECIAL ITEMS:

STATE OF ARIZONA AND THE STATE AGENCY NAMED BELOW ARE ADDED AS ADDITIONAL INSURED. IT IS AGREED THAT COVERAGES AFFORDED UNDER THE POLICIES CERTIFIED IN THIS CERTIFICATE SHALL BE PRIMARY AND ANY INSURANCE OR SELF-INSURANCE PROGRAM CARRIED BY THE STATE OR ANY OF ITS AGENCIES, BOARDS, DEPARTMENTS OR COMMISSIONS SHALL BE EXCESS AND NOT CONTRIBUTORY INSURANCE TO THAT PROVIDED BY THE NAMED INSURED.

IT IS FURTHER AGREED THAT NO POLICY SHALL EXPIRE, BE CANCELED OR MATERIALLY CHANGED TO AFFECT THE COVERAGE AVAILABLE TO THE STATE WITHOUT THIRTY (30) DAYS WRITTEN NOTICE TO THE STATE. THIS CERTIFICATE IS NOT VALID UNLESS COUNTERSIGNED BY AN AUTHORIZED REPRESENTATIVE OF THE INSURANCE COMPANY.

{PRIVATE }CERTIFICATE HOLDER/ADDITIONAL INSURED  <b>State of Arizona</b> <b>Arizona Department of Transportation</b> <b>1739 W. Jackson St., Suite A, MD 100P</b> <b>Phoenix, AZ 85007-3276</b>  <b>ATTN: Diane Miller</b>	AUTHORIZED REPRESENTATIVE OF THE INSURANCE COMPANY  SIGNATURE _____  DATE: _____
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