



RFP as Amended

State of Arizona
State Procurement Office
100 North 15th Avenue, Suite 201
Phoenix, AZ 85007

Contract No: **ADSPO16-00005819**
Description: **Network Equipment and Services**

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Scope of Work

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1. Introduction

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

2. Background

Currently the State of Arizona has 35 statewide Network Equipment and Services contracts which provide a variety of Data, Voice, and Multimedia Network-based, Network-embedded Products and Services to include all converged and traditional-separate voice, data, and video network products and services. Equipment is primarily designed, and defined by applicable industry standards, for transporting/receiving data (data, voice, and multimedia) between connection points, destinations or endpoints, rather than product-specific technology requirements, allowing for some flexibility to accommodate open-standards-based products, new technologies, and next generation networks.

The objective of the current Contract Set was to contract with a variety of network equipment and security related equipment vendors to provide a full range of equipment, maintenance, training and services. This has occurred within the parameters of the current contract set requirements. Per Contractor Usage reports, "spend" for the period of May 2012 through September 2015 has been approximately \$129 million dollars.

3. Availability of Technology

Rapidly changing advances and refinements of Network Equipment and Services and their application, at any one point in time, have not always been able to be made available to State Agency and Cooperative customers by current Contractors due to current contractual restraints.

4. Purpose

It is the purpose of this solicitation to:

- a. Make available Network equipment and services which address the current known needs of State Agencies and Cooperative Members, yet allow for new or refined/updated Network equipment and services which may become available during the course of the contract at the best price possible.
- b. Acknowledge the need to cost effectively and efficiently use limited resources of the State and its Cooperative Members to administer and appropriately use awarded contracts.
- c. Acknowledge that one Contract Set may not meet the many possible needs of all State Agencies and its Cooperative Members regarding Network Equipment and Services.

5. Scope of Services

The Scope for Data, Voice, and Multimedia Network-based, Network-embedded Products and Services under this Contract includes all converged and traditional-separate voice, data, and video network products and services primarily designed, and defined by applicable industry standards, for transporting/receiving data (data, voice, and multimedia) between connection points, destinations or endpoints.

5.1 This Scope does allow Data, Voice, and Multimedia Network based Network-embedded Products and Services including:

- 5.1.1 All labor, materials, transportation, equipment and other activities for, and reasonably incidental to: installation, integration, implementation, engineering analysis, design and configuration, of the manufacturer's product or service.
- 5.1.2 Software and/or hardware maintenance and support of the manufacturer's product or service; and
- 5.1.3 Ancillary services in conjunction with the implementation, or installation of a manufacturer's product.



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5.2 This Scope allows for:

- 5.2.1 Networking products and services, such as routers, gateways, switches, modems, CSU/DSU, access devices, concentrators, network-embedded security solutions, caching and content management devices;
 - 5.2.1.1 Network firewalls, filtering software, and security solutions;
 - 5.2.1.2 Network Management Products such as management, monitoring, testing, analyzing, and traffic simulating equipment;
 - 5.2.1.3 Wireless Products for applications such as:
 - 5.2.1.3.1 IEEE802.11X (Wireless Local Area Network - WLAN);
 - 5.2.1.3.2 IEEE 802.15 (Wireless Personal Area Network – WPAN);
 - 5.2.1.3.3 IEEE 802.16 (Wireless Metropolitan Area Network – WMAN); and,
 - 5.2.1.3.4 Fixed Wireless Equipment and related services, such as, access points, transfer points, and controllers

5.2.2 Telephony to include:

- 5.2.2.1 Telephony products and services, such as IP Telephony systems, PBX and key systems, voice mail and unified messaging systems, teleconferencing, call management systems including Automatic Call Distribution (ACD), Interactive Voice Response (IVR), Computer Telephony Integration (CTI), call account, and the associated end-user telephone devices (other than two-way radios)
- 5.2.2.2 Telephony management, monitoring, testing, analyzing, and traffic-simulating equipment

5.2.3 Services used in conjunction with the design, analysis, configuration, implementation, installation, training, maintenance, and support of Data, Voice, and Multimedia Network-based, Network-embedded products and services.

5.2.4 State Agencies, boards and commissions must receive approval from ASET-EIC prior to any purchases under Items 5.2.2 and 5.2.3 of the Scope of Work.

5.2.5 Training:

- 5.2.5.1 Initial Training on specific equipment that has been purchased.
- 5.2.5.2 "As needed" Training on specific equipment that has been purchased (e.g. New Hires, etc.).
- 5.2.5.3 Annual Training for up to fifty (50) participants.

5.3 This Scope requires that the Contractor shall:

- 5.3.1 Provide a Maintenance Program. Contractor shall have a maintenance program for those Customers who choose or require these services. Maintenance programs shall be comprehensive enough to provide service to any Customer within the State of Arizona.
- 5.3.2 Provide Technical Support:



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5.3.2.1 On-Line Support. Provide and maintain a toll-free technical support telephone line, website, or other communication mechanism(s), for the purpose of providing competent technical assistance to Customers who contact the Contractor regarding the operation of Products supplied by the Contractor. Support shall be accessible to all customers who wish to obtain competent technical.

5.3.2.2 On-Site Support. If requested by the Customer, the Contractor shall also provide on-site installation and troubleshooting and assistance services. These services shall be in addition to the Maintenance Program provided under 3.3.1 above.

5.4 This Scope does not allow:

5.4.1 The single purchase of products and services primarily designed to store or process (compute) data, such as midrange or mainframe computer systems, or consumer electronic hardware, component parts and accessories;

5.4.2 Video and Audio conferencing equipment and products; such as:

5.4.2.1 Audio and visual presentation and composing equipment;

5.4.2.2 Cameras;

5.4.2.3 Monitors;

5.4.2.4 VCRs; and

5.4.2.5 Consumer electronics.

5.4.3 Building Wiring Systems (BWS) and structured cabling systems;

5.4.4 Microcomputer Hardware, PC Software and related Services including desktop PC-based firewall and virtual private network (VPN) client-only products and services;

5.4.5 Fixed Wireless Systems and Related Services such as point-to-point and multi-point radios, cabling antennas, towers, power, frequency coordination, licensing, designed to receive/transmit data;

5.4.6 General purpose UNIX Workstations & Servers;

5.4.7 Disaster Recovery Services;

5.4.8 Value-Added Software not specifically designed to support and secure the transport of data (as defined above);

5.4.9 Radio related Products and Services, including Public Safety communication Equipment, 2-way radios, 900MHz Digital Radio Systems, and Digital Microwave Radio Equipment;

5.4.10 Disk Data Storage Hardware, including Network Attached Storage and Storage Area Network;

5.4.11 Carrier Services, both regulated and unregulated; and,

5.4.12 General Information Technology Research & Advisory Service and IT Consultant.

5.5 Pricing



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For the purpose of complying with this requirement, "list price" means:

The price of an article as shown in a list issued by the manufacturer or by the general body of manufacturers of the particular class of goods. Merriam-Webster

5.5.1 Percent Reduction (Discount) of Price off the List Price. The Contractor shall make available a complete product line at a specified percentage reduction (discount) off the list price.

Example: \$100.00 List Price minus 60% = \$40.00 Reduced (Discounted) Price.

5.5.2 Maintenance Discount Percent off the List Price. The Contractor shall make available a specified percentage discount off the list price for maintenance for a product line.

5.5.3 Service Discount Percent off the List Price. The Contractor shall make available a specified percentage discount off the list price for services for a product line.

5.5.3.1 Any services shall include coverage to all geographic regions within the State of Arizona. Service areas are divided into two sections: Urban and Rural.

5.5.3.2 The Contractor may establish a single price for "Rural" areas.

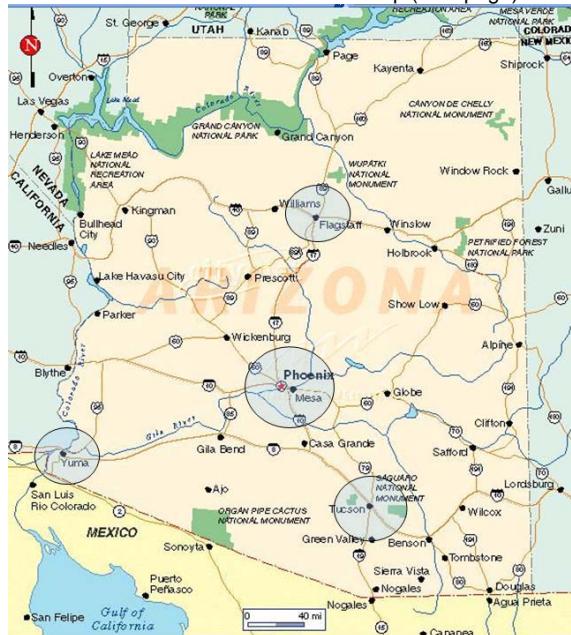
All cities specified as "Rural" shall encompass the legal jurisdictional boundaries of the city.

5.5.3.3 The Contractor may establish a single price for "Urban" areas.

The four areas designated as "Urban" are:

- A. Flagstaff within a 20 mile radius from City Center
- B. Phoenix within a 30 mile radius from City Center
- C. Tucson within a 30 mile radius from City Center
- D. Yuma within a 20 mile radius from City Center

Illustration I: Service Area Map (next page)





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- 5.5.4 The Contractor may offer promotional or volume discounts below the specified percentage discount off the list price stated in the Contract at any time during the life of the Contract.
- 5.5.5 **Most-Favored Customer Pricing.** Throughout the life of the contract, the Contractor shall always offer the State the most-favored customer or Highest Tier Customer price discount rate on contracted product(s) concurrent with a published price discount rate made to other Customers (both Private and Public sectors). The Contractor shall extend to the State that most-favored customer or Highest Tier Customer price discount on all new product lines during the life of the contract.

5.6 Online Catalog

The Contractor shall make available an online catalog.

- 5.6.1 Restricted to only those items that may be purchased under this Contract by being identified as core items or are within the general product categories established by this Contract.
- 5.6.2 Shall not include any items that are specifically excluded from this Contract.
- 5.6.3 The website will include:
 - 5.6.3.1 Product information/catalog which reflects most recent Arizona approved price catalog;
 - 5.6.3.2 Primary contact information: Name(s), phone number(s), Email address (es); and,
 - 5.6.3.3 Quote and ordering information.
- 5.6.4 Website shall be available 24 x 7, except for scheduled maintenance.
- 5.6.5 No costs or expenses associated with providing this information shall be charged to the Users.
- 5.6.6 Universal Resource Locator (URL) for the website must be supplied to the Procurement Officer within thirty (30) days of an award.



Special Terms and Conditions

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A. Purpose

Pursuant to provisions of the Arizona Procurement Code, A.R.S. 41-2501 Et Seq., the State of Arizona intends to establish a Contract (Participating Addendum, PA) for the materials or services as listed herein in service to the State.

B. Term of Contract

The term of any resultant Contract shall commence on date of execution and shall be for an initial period of one (1) years, unless terminated, canceled or extended as otherwise provided herein.

C. Contract Extensions five (5) Year Maximum

The Contract term is for the stated period subject to additional successive periods of twelve (12) months per extension with a maximum aggregate including all extensions not to exceed five (5) years.

D. Contract Type – Fixed Price

E. ELIGIBLE AGENCIES (STATEWIDE)

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

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

F. Licenses

The Contractor shall maintain in current status, all federal, state and local licenses and permits required for the operation of the business conducted by the Contractor.

G. Volume of Work

The State does not guarantee a specific amount of work either for the life of the Contract or on an annual basis.

H. Key Personnel

It is essential that the Contractor provide adequate experienced personnel, capable of and devoted to the successful accomplishment of work to be performed under this Contract. The Contractor must agree to assign specific individuals to the key positions if required.

1. The Contractor agrees that, once assigned to work under this Contract, key personnel shall not be removed or replaced without written notice to the State.
2. Key personnel who are not available for work under this Contract for a continuous period exceeding thirty (30) calendar days, or are expected to devote substantially less effort to the work than initially anticipated, the Contractor shall immediately notify the State, and shall, subject to the concurrence of the State, replace such personnel with personnel of substantially equal ability and qualifications.



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I. Changes

The State may at any time make changes within the general scope of this Contract. The Contractor shall respond to the Change Order with a proposal. If any such change causes an adjustment in the cost of, or the time required for the performance of any part of the work under this Contract, whether changed or not changed by the Change Order, the Procurement Officer shall modify the Contract in writing via a bilateral Contract Amendment.

J. Price Adjustment

Throughout the life of the Contract, the State reserves the right to pursue negotiations with the Contractor to secure price reductions. Any negotiated price changes for this Contract shall be documented via a bilateral Contract Amendment.

K. Payment Procedures

The State will not make payments to any Entity, Group or individual other than the Contractor or Authorized Representative(s). Authorized Representative meaning a Distributor or Reseller authorized by the Contractor and approved by the State's Procurement Officer. The Contractor and the authorized and approved Distributor(s) and/or Reseller(s) shall be registered in the State of Arizona's eProcurement system. Contractor invoices requesting payment to any Entity, Group or individual other than the contractually specified Contractor or Authorized Representative shall be returned to the Contractor for correction.

The Contractor or Authorized Representative shall review and insure that the invoices for services provided show the correct Contractor or Authorized Representative's name and the correct Contract number prior to sending them for payment.

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

1. Invoicing

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

- a) The contract number, as applicable the Task Order number, and the contract release/purchase order number;
- b) Name and address of the contractor;
- c) The Contractor's remittance address;
- d) Contractor's representative to contact concerning billing questions;
- e) Contractual payment terms;
- f) Applicable taxes; and,
- g) Description of work products delivered.

2. Order Process

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



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L. Information Disclosure

The Contractor shall establish and maintain procedures and controls that are acceptable to the State for the purpose of assuring that no information contained in its records or obtained from the state or from others in carrying out its functions under the contract shall be used or disclosed by it, its agents, officers, or employees, except as required to efficiently perform duties under the Contract. Persons requesting such information should be referred to the State. The Contractor also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of the Contractor as needed for the performance of duties under the Contract, unless otherwise agreed to in writing by the State.

M. Employees of the Contractor

All employees of the Contractor employed in the performance of work under the Contract shall be considered employees of the Contractor at all times, and not employees of the State. The Contractor shall comply with the Social Security Act, Workman's Compensation laws and Unemployment laws of the State of Arizona and all State, local and Federal legislation relevant to the Contractor's business.

N. Warranty

Hardware – All hardware supplied under this Contract shall be fully guaranteed by the Contractor for a minimum period of one (1) year from the date of acceptance by the State. Any defects of design, workmanship, or delivered materials that would result in non-compliance shall be fully corrected by the Contractor without cost to the State.

Services - All services supplied under this Contract shall be fully guaranteed by the Contractor for a minimum period of ninety (90) days from the date of acceptance by the State. Any defects of design, workmanship, or delivered materials that would result in non-compliance shall be fully corrected by the Contractor without cost to the State.

O. Leasing and Rental Options

Leasing and rental options are allowable for the acquisition of the awarded equipment, if the Contractor provides this option. A Master Lease or Master Rental Agreement will not be negotiated by the State. Each Eligible Agency or Ordering Entity who chooses to pursue either method, shall be responsible for the review, possible negotiations, and signature on any leasing or rental documents. Additionally, it shall be clear that the Eligible Agency or Ordering Entity has the final financial responsibility. All cooperative members shall seek guidance from their internal Finance Department for guidance on requirements. The following shall apply to all State agencies, boards and commissions:

1. Capital and operating lease agreements, as well as straight rental agreements, between the Contractor and any Eligible Agency or Ordering Entity are allowable under this Contract.
 - a. Capital leases are those agreements which transfer title or ownership of the leased property at the end of the lease or contain a provision for a bargain purchase option. State Agencies must use the State's Master third party Agreement for Leasing; and,
 - b. Operating leases are those agreements where agencies do not obtain title to or ownership of, only the temporary possession and use of, the leased property. State Agencies, boards and commissions must receive approval from the State General Accounting Office (GAO) prior to entering into an Operating Lease to ensure compliance with Federal requirements.
2. In the event of a conflict between the provisions of a lease agreement and Contract terms and conditions, the Contract terms and conditions shall prevail.
3. Any State entity entering into a lease agreement as allowed herein shall follow the policies outlined in the State of Arizona Accounting Manual. Any questions as to the State's policy should be directed to the ADOA General Accounting Office. Inquiries can be sent via email to gaopolicy@azdoa.gov.



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4. To ensure compliance with Article 9, Section 5 of the State of Arizona Constitution, installment purchase agreements, or those agreements where title to the property is transferred to the lessee at the inception of the agreement, shall be prohibited under this contract.

P. Master License Agreements and/or Master Service Agreements

Master License Agreements and/or Master Service Agreements will not be negotiated by the State. Each Eligible Agency or Ordering Entity who chooses to pursue either method, shall be responsible for the review, possible negotiations, and signature on any Master License and/or Master Service Agreement. Additionally, it shall be clear that the Eligible Agency or Ordering Entity has the final financial responsibility. All cooperative members shall seek guidance from their internal Finance Department or other internal designated authority for guidance on requirements. The following shall apply to all State agencies, boards and commissions: In the event of a conflict between the provisions of a Master License and/or Master Service Agreement and Contract terms and conditions, the Contract terms and conditions shall prevail

Q. 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.

Contractor represents and warrants to the State that Contractor has the skill and knowledge possessed by members of its trade or profession and Contractor will apply that skill and knowledge with care and diligence so Contractor and Contractor's employees and any authorized subcontractors shall perform the Services described in this Contract in accordance with the Statement of Work.

Contractor represents and warrants that the Materials provided through this Contract and Statement of Work shall be free of viruses, backdoors, worms, spyware, malware and other malicious code that will hamper performance of the Materials, collect unlawful personally identifiable information on users or prevent the Materials from performing as required under the terms and conditions of this Contract.

R. Non-Exclusive Contract

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

S. Administrative Fee/Usage Reports

1. In accordance with ARS § 41-2633 the Department of Administration, State Procurement Office includes an Administrative Fee, in the majority of its Statewide contracts – multiple agency, multiple government, cooperative contracts. The Administrative Fee is used by the State to defray the additional costs associated with soliciting, awarding and administering statewide contracts.

In addition to the State agencies, boards and commissions, statewide contracts are available to members of the State Purchasing Cooperative including cities, counties, school districts, special districts, other state governments, agencies of the federal government, tribal nations, schools, medical institutions, and nonprofit organizations.

The Administrative Fee is the responsibility of the contractor. Further, Statewide contracts maintain one set of pricing for all customers and not separate prices for State agency customers and State Purchasing Cooperative customers.

2. Statewide Contracts Administrative Fee Amount:

Unless defined differently within the contract, the Statewide Contracts Administrative Fee shall be one percent (1.0%) of quarterly sales receipts under an active Statewide contract, transacted by only the members of the State Purchasing Cooperative, minus any taxes or regulatory fees, minus any returns or credits, and minus any shipping charges not already included in the unit prices. The Administrative Fee



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percentage is only applicable to amounts actually received by the contractor during the quarter and is not applicable to amounts ordered by customers but not yet paid for. The administrative fee is not paid on transactions with state agency customers.

3. Method of Assessment

At the completion of each quarter, the contractor reviews all sales under their contract in preparation for submission of their Usage Report. The contractor identifies all sales receipts transacted by members of the State Purchasing Cooperative and assesses one percent (1.0%) of this amount in their Usage Report. An updated list of State Purchasing Cooperative members may be found at: <https://spo.az.gov/state-purchasing-cooperative>. At its option, the State may expand or narrow the applicability of this fee. The

4. Submission of Reports and Fees

Within thirty (30) days following the end of the quarter, the contractor submits their Usage Report and if applicable, a check in the amount of one percent (1%) of their sales receipts from members of the State Purchasing Cooperative, to the Department of Administration, State Procurement Office. Contractors are required to use the State's current report templates unless you have authorization from your contract officer to use a different format. You need to complete Form 799, which is a cover letter that gives the totals of your transactions; and Form 801, which is an Excel spreadsheet that details your transactions. Sales to state agencies and the cooperative members are to be totaled separately. The most current forms can be downloaded at <https://spo.az.gov/statewide-contracts-administrative-fee>.

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

- *State Fiscal Quarter 1 (Jul 1 - Sept 30): Due by Oct 30*
- *State Fiscal Quarter 2 (Oct 1 - Dec 31): Due by Jan 30*
- *State Fiscal Quarter 3 (Jan 1 - Mar 31): Due by Apr 30*
- *State Fiscal Quarter 4 (Apr 1 - Jun 30): Due by Jul 30*

4.2 Usage Reports and any questions are to be submitted by email to the state's designated usage report email address: usage@azdoa.gov

4.3 Administrative Fees shall be made out to the "State Procurement Office" and mailed to:

*Department of Administration
Controller's Office
ATTN: "Statewide Contracts Administrative Fee"
100 N. 15th Avenue, Suite 202
Phoenix, AZ 85007*

*It is important that you indicate on the check stub or an attached document your contract number and the quarter for which you are paying. If paying for multiple contracts or quarters, please break down the amount to show how it is to be applied*Department of Administration

5. The Administrative Fee shall be a part of the Contractor's unit prices and is not to be charged directly to the customer in the form of a separate line item. Statewide contracts shall not have separate prices for State Agency customers and State Purchasing Cooperative customers.
6. Contractor's failure to remit administrative fees in a timely manner consistent with the contract's requirements may result in the State exercising any recourse available under the contract or as provided for by law.
7. For more information on the Quarterly Usage Report or the Administrative Fee, its calculation, submission or use, see the State Procurement Office's web site at <https://spo.az.gov/>, select Vendor Resources.



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T. Acceptance

Determination of the acceptability of services shall be made by the sole judgment of the State. Acceptance shall be in writing, verbal acceptance will not be allowed. Services shall be completed in accordance with the Scope of Work, agreed to and accepted schedules, plans, and agreed to performance standards. Acceptance shall be one hundred percent (100%) functionality, which will be determined by the State. Acceptance criteria shall include, but not be limited to conformity to the scope of work, quality of workmanship and successfully performing all required Tasks. Nonconformance to any of the stated acceptance and performance criteria of both services and or products as required shall result in a delay for payment. Payment shall not be made until nonconformance to the criteria is corrected as determined by the State.

U. Performance

Contractor agrees that, from and after the date that the applicable services commence, its performance of the Scope of Services will meet or exceed industry best practices subject to the limitations and in accordance with the provisions set forth in this Contract. If the Services provided pursuant to this Contract are changed, modified or enhanced (whether by Change Order or through the provision of new Services), The State and the Contractor will review the current performance experience and will in good faith determine whether such experience should be adjusted and whether additional services should be implemented or whether services be removed. The following requirements shall also apply:

1. Failure to Perform

If Contractor fails to complete any deliverable, then Contractor shall:

- 1.1 Promptly perform a root-cause analysis to identify the cause of such failure;
- 1.2 Use commercially reasonable efforts to correct such failure and to begin meeting the requirements as promptly as practicable;
- 1.3 Provide the State with a report detailing the cause of, and procedure for correcting, such failure; and
- 1.4 If appropriate under the circumstances, take action to avoid such failure in the future.

2. Root-Cause Analysis

In the event of the Contractor's failure to perform required services or meet agreed upon service levels or other Contractor service standards as required by the State under this Contract, the Contractor shall perform an analysis of the cause of the service level problem and implement remediation steps as appropriate. The State shall have the right to review the analysis and approve the remediation steps prior to or subsequent to their implementation, as deemed appropriate by the State, if the remediation steps impact State assets or operational processes.

V. Compensation

Should the Contractor fail to provide all required services or deliver work products, as agreed upon by State and the Contractor, the State shall be entitled to invoke applicable remedies, including but not limited to, withholding payment to the Contractor and declaring the Contractor in material breach of the Contract. If the Contractor is in any manner in default of any obligation or the Contractor's work or performance is determined by the State to be defective, sub-standard, or if audit exceptions are identified, the State may, in addition to other available remedies, either adjust the amount of payment or withhold payment until satisfactory resolution of the default, defect, exception or sub-standard performance. The Contractor shall reimburse the State on demand, or the State may deduct from future payments, any amounts paid for work products or performance which are determined to be an audit exception, defective or sub-standard performance. The Contractor shall correct its mistakes or errors without additional cost to the State. The State shall be the sole determiner as to defective or sub-standard performance.

The Contractor shall fulfill their contractual requirements including the Deliverables identified in the Statement of Work and fulfill the roles and responsibilities described in the Statement of Work for a firm fixed price, inclusive of travel and travel-related expenses. The fixed amount shall be inclusive of any fees for the use of any third party products or services required for use in the performance of this Contract.



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W. Contractor Performance Reports

Program management shall document Contractor performance, both exemplary and needing improvements where corrective action is needed or desired. Copies of corrective action reports will be forwarded to the Procurement Officer for review and any necessary follow-up. The Procurement Office may contact the Contractor upon receipt of the report and may request corrective action.

X. Offshore Performance of Work Prohibited

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

Y. Indemnification

1. Indemnification Clause

To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless the State of Arizona, and its departments, agencies, boards, commissions, universities, and any jurisdiction or agency issuing permits for any work included in the project, and their respective directors, officers, officials, agents and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, costs, losses, or expenses, (including reasonable attorney's fees), (hereinafter collectively referred to as "Claims") arising out of actual or alleged bodily injury or personal injury of any person (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 Contractor's directors, officers, agents, employees, volunteers or subcontractors. This indemnity includes any claim or amount arising or recovered under the Workers' Compensation Law or arising out of the failure of 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. This indemnification will survive the termination of the above listed contract with the Contractor.

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

2. Insurance Requirements

- 2.1 Contractor and subcontractors shall procure and maintain, until all of their obligations have been discharged, including any warranty periods under this Contract, insurance against claims for injury to persons or damage to property arising from, or in connection with, the performance of the work hereunder by the Contractor, its agents, representatives, employees or subcontractors.
- 2.2 The Insurance Requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that arise out of the performance of the work under this Contract by the Contractor, its agents, representatives, employees or subcontractors, and the Contractor is free to purchase additional insurance.

3. Minimum Scope and Limits of Insurance

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

3.1 Commercial General Liability (CGL) – Occurrence Form



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

• General Aggregate	\$2,000,000
• Products – Completed Operations Aggregate	\$1,000,000
• Personal and Advertising Injury	\$1,000,000
• Damage to Rented Premises	\$50,000
• Each Occurrence	\$1,000,000

- a. The policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor.
- b. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

3.2 Business Automobile Liability

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

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

- a. Policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by, or on behalf of, the Contractor involving automobiles owned, hired and/or non-owned by the Contractor.
- b. Policy shall contain a waiver of subrogation endorsement as required by this written agreement in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

3.3 Workers' Compensation and Employers' Liability

• Workers' Compensation	Statutory
• Employers' Liability	
o Each Accident	\$1,000,000
o Disease – Each Employee	\$1,000,000
o Disease – Policy Limit	\$1,000,000

- a. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.
- b. This requirement shall not apply to each Contractor or subcontractor that is exempt under A.R.S. § 23-901, and when such Contractor or subcontractor executes the appropriate waiver form (Sole Proprietor or Independent Contractor).



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3.4 Network Security (Cyber) and Privacy Liability

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

- a. Such insurance shall include, but not be limited to, coverage for third party claims and losses with respect to network risks (such as data breaches, unauthorized access or use, ID theft, theft of data) and invasion of privacy regardless of the type of media involved in the loss of private information, crisis management and identity theft response costs. This should also include breach notification costs, credit remediation and credit monitoring, defense and claims expenses, regulatory defense costs plus fines and penalties, cyber extortion, computer program and electronic data restoration expenses coverage (data asset protection), network business interruption, computer fraud coverage, and funds transfer loss.
- b. In the event that the Network Security and Privacy 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, 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.
- c. The policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor.
- d. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

4. Additional Insurance Requirements

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

- 4.1 The Contractor's policies, as applicable, shall stipulate that the insurance afforded the Contractor shall be primary and that any insurance carried by the Department, its agents, officials, employees or the State of Arizona shall be excess and not contributory insurance, as provided by A.R.S. § 41-621 (E).
- 4.2 Insurance provided by the Contractor shall not limit the Contractor's liability assumed under the indemnification provisions of this Contract.

5. Notice of Cancellation

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

6. Acceptability of Insurers

Contractor's insurance shall be placed with companies licensed in the State of Arizona or hold approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers. Insurers shall have an "A.M. Best" rating of not less than A- VII. The State of Arizona in no way warrants



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that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

7. Verification of Coverage

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

7.1 All certificates and endorsements, as required by this written agreement, 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. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

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

8. Subcontractors

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

9. Approval and Modifications

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

10. Exceptions

In the event the Contractor or subcontractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a certificate of self-insurance. If the Contractor or subcontractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.

Z. Data Privacy and Security

Contractor shall treat all information obtained through performance of the contract, as confidential or sensitive information consistent with State and federal law and State Policy. Contractor or its agents shall not use any data obtained in the performance of the contract in any manner except as necessary for the proper discharge of its obligations and protection of its rights related to this agreement. Contractor shall establish and maintain procedures and controls acceptable to the State for the purpose of assuring that data in its or its agents' possession is not mishandled, misused, released, disclosed, or used in an inappropriate manner in performance of the contract. This includes data contained in Contractor's records obtained from the State or others, necessary for contract performance. Contractor and its agents 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.

AA. Data Privacy/Security Incident Management

Contractor and its agents shall cooperate and collaborate with appropriate State personnel to identify and respond to an information security or data privacy incident, including a security breach.



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1. Threat of Security Breach

Contractor(s) agrees to notify the State Chief Information Officer (CIO), the State Chief Information Security Officer (CISO) and other key personnel as identified by the State of any perceived threats placing the supported infrastructure and/or applications in danger of breach of security. The speed of notice shall be at least commensurate with the level of threat, as perceived by the Contractor(s). The State agrees to provide contact information for the State CIO, CISO and key personnel to the Contractor(s).

2. Discovery of Security Breach

Contractor agrees to immediately notify the State CIO, the CISO and key personnel as identified by the State of a discovered breach of security. The State agrees to provide contact information for the State CIO, the CISO and key personnel.

BB. Security Requirements for Contractor Personnel

Each individual proposed to provide services through this contract agrees to security clearance and background check procedures, including fingerprinting, as defined by the Arizona Department of Administration in accordance with Arizona Revised Statutes §41-710. The results of the individual's background check procedures must meet all HIPAA and law enforcement requirements. Contractor is responsible for all costs to obtain security clearance for their consultants providing services through this contract. Contractor personnel, agents or sub-contractors that have administrative access to the State's networks may be subject to any additional security requirements of the State as may be required for the performance of the contract. The Contractor, its agents and sub-contractors shall provide documentation to the State confirming compliance with all such additional security requirements for performance of the contract. Additional security requirements include but are not limited to the following:

1. Identity and Address Verification – that verifies the individual is who he or she claims to be including verification of the candidate's present and previous addresses;
2. UNAX/confidentiality Training;
3. HIPAA Privacy and Security Training; and
4. Information Security Training.

CC. Access Constraints and Requirements

Contractor access to State facilities and resources shall be properly authorized by State personnel, based on business need and will be restricted to least possible privilege. Upon approval of access privileges, the Contractor shall maintain strict adherence to all policies, standards, and procedures. Policies / Standards, ADOA/ASET Policies / Procedures, and Arizona Revised Statutes (ARS) 28-447, 28-449, 28-450, 38-421, 13-2408, 13-2316, 41-770.

Failure of the Contractor, its agents or subcontractors to comply with policies, standards, and procedures including any person who commits an unlawful breach or harmful access (physical or virtual) will be subject to prosecution under all applicable state and / or federal laws.

Any and all recovery or reconstruction costs or other liabilities associated with an unlawful breach or harmful access shall be paid by the Contractor.

DD. Section 508 Compliance

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. § 41-3531 and § 41-3532 and Section 508 of the Rehabilitation Act of 1973, which requires that employees and members of the public shall have access to and



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

EE. Health Insurance Portability and Accountability Act of 1996

The Contractor warrants that it is familiar with the requirements of HIPAA, as amended by the Health Information Technology for Economic and Clinical Health Act (HITECH Act) of 2009, and accompanying regulations and will comply with all applicable HIPAA requirements in the course of this Contract. Contractor warrants that it will cooperate with the State in the course of performance of the Contract so that both the State and the Contractor will be in compliance with HIPAA, including cooperation and coordination with the Arizona Strategic Enterprise Technology (ASET) Group, Statewide Information Security and Privacy Office (SISPO), Chief Privacy Officer and HIPAA Coordinator and other compliance officials required by HIPAA and its regulations. Contractor will sign any documents that are reasonably necessary to keep the State and Contractor in compliance with HIPAA, including but not limited to, business associate agreements.

If requested, the Contractor agrees to sign a "Pledge to Protect Confidential Information" and to abide by the statements addressing the creation, use and disclosure of confidential information, including information designated as protected health information and all other confidential or sensitive information as defined in policy. In addition, if requested, Contractor agrees to attend or participate in job related HIPAA training that is:

- (1) intended to make the Contractor proficient in HIPAA for purposes of performing the services required; and
- (2) presented by a HIPAA Privacy Officer or other person or program knowledgeable and experienced in HIPAA and who has been approved by the ASET/SISPO Chief Privacy Officer and HIPAA Coordinator.

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

1. The Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A. (That subsection reads: "After December 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the E-Verify program.)
2. A breach of a warranty regarding compliance with immigration laws and regulations shall be deemed a material breach of the Contract and the Contractor may be subject to penalties up to and including termination of the Contract.
3. Failure to comply with a State audit process to randomly verify the employment records of Contractors and subcontractors shall be deemed a material breach of the Contract and the Contractor may be subject to penalties up to and including termination of the Contract.
4. The State Agency retains the legal right to inspect the papers of any employee who works on the Contract to ensure that the Contractor or subcontractor is complying with the warranty under paragraph One (1).

GG. Addition of New Manufacturers

1. During the life of an awarded Contract a new Manufacturer may be added to provide a new product line if:
 - 1.1 The Manufacturer and the product line is not covered under another Contract/Contractor;
 - 1.2 The Contractor provides documentation that they are providing their Most-Favored Customer Pricing (highest discount off list price);
 - 1.3 Resellers providing the product line shall provide to the Procurement Officer proof of authorization from the Manufacturer that they are authorized to provide the product line.

HH. Catalog Updates

Throughout the life of the Contract it is understood that Manufacturer Catalogs will be periodically updated. Contractor shall submit updated catalogs to the State for approval prior to updating the online catalog. Catalog updates shall be accepted at the sole option of the State and approved via a Bilateral Contract Amendment.



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Catalog Updates shall be submitted as follows:

1. Catalog updates shall not be submitted more frequently than quarterly.
2. Updates shall clearly identify items that are being:
 - a. Added
 - b. Discontinued
3. Pricing changes shall be identified and shall be in compliance with Section J, Price Adjustments, within the Special Terms and Conditions.
4. The State reserves the right to audit the catalog in its entirety or by specific line item to verify product applicability to the contract.

II. Statewide Sales Report

As requested throughout the life of the contract, the State may request a sales report delineating the acquisition activity within this Contract. The report shall include the following information and be made available within one weeks notice:

Customers Name
Purchase Order Number
Manufacturer
Product Description and Product # / SKU
Contract Category
Where delivered/Installed
Date of delivery or installation
Cost of Equipment/Service

The reports shall be formulated exclusively for the State of Arizona. The State reserves the right to request changes or add addition information to the report, including format.

JJ. Most-Favored Customer Pricing

Throughout the life of the contract, the Contractor shall always offer the State the most-favored customer or Highest Tier Customer price discount rate on contracted product(s) concurrent with a published price discount rate made to other Customers (both Private and Public sectors). The Contractor shall extend to the State that most-favored customer or Highest Tier Customer price discount on all new product lines during the life of the contract.



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UNIFORM TERMS AND CONDITIONS

1. Definition of Terms

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

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

2. Contract Interpretation

- 2.1 **Arizona Law.** The Arizona law applies to this Contract including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona and the Arizona Procurement Code, Arizona Revised Statutes (A.R.S.) Title 41, Chapter 23, and its implementing rules, Arizona Administrative Code (A.A.C.) Title 2, Chapter 7.
- 2.2 **Implied Contract Terms.** Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.
- 2.3 **Contract Order of Precedence.** In the event of a conflict in the provisions of the Contract, as accepted by



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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



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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 **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.



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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



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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



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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



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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.



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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 15th Avenue, Suite 201, Phoenix, Arizona, 85007.

Exhibit B- Pricing

	Routing Devices	Switching Devices	Wireless Ethernet	Security Equipment & Solu	Monitoring & Management Solu	Other Network Centric Solu	Telephony	Multi-Function Solu
Aerohive Networks *	35.00%	35.00%	35.00%	35.00%	35.00%			
Aruba	37.00%	37.00%	37.00%		37.00%	37.00%		37.00%
Brocade	51.00%	51.00%		51.00%	51.00%	51.00%		51.00%
CA **				20.00%	20.00%			
Check Point	25.00%	25.00%		25.00%	25.00%			25.00%
Cisco	40.25%	40.25%	40.25%	40.25%	40.25%	40.25%	40.25%	40.25%
Dell	14.00%	43.00%	31.00%	23.00%	8.00%	8.00%	3.00%	3.00%
HP Enterprise	44.00%	44.00%	44.00%	44.00%	44.00%	44.00%	44.00%	44.00%
Juniper Networks	50.00%	50.00%	50.00%	50.00%	50.00%	50.00%		50.00%
NetApp	1.00%	1.00%		15.00%	15.00%	8.00%		8.00%
Nutanix					10.00%	10.00%		10.00%
Palo Alto				30.00%				
Polycom						15.00%	15.00%	

* Insight Public Sector is offering 32% off for Aerohive software.

** Insight Public Sector is offering 10% off for Aerohive software and SaaS.

	Hourly Rate (Urban)	Hourly Rate (Rural)
Engineer 1 - Basic rack and stack experience with limited field experience	\$ 44.00	\$ 55.00
Engineer 2 - Working Engineer with field experience but limited unsupervised.	\$ 73.50	\$ 98.75
Engineer 3 - Working Engineer with good field experience. Can do most tasks without supervision.	\$ 109.00	\$ 136.25

*These services are not restricted to maintenance.

Maintenance Pricing	Yearly Cost
Maintenance and Support - Year 1	\$ -
Maintenance and Support - Year 2	\$ -
Maintenance and Support - Year 3	\$ -
Maintenance and Support - Year 4	\$ -
Maintenance and Support - Year 5	\$ -

Insight Public Sector is offering sku-based maintenance and support based on a discount off manufacturer MSRP as follows:

Maintenance	Aerohive	Aruba	Brocade	CA	Check Point	Dell	Hewlett Packard Enterprise	Juniper	NetApp	Nutanix	Palo Alto	Polycom
Maintenance and Support - Year 1	32%	7%	27.50%	10%	1%	8%	22%	49%	8%	10%	2%	10%
Maintenance and Support - Year 2	32%	7%	27.50%	10%	1%	8%	22%	49%	8%	10%	2%	10%
Maintenance and Support - Year 3	32%	7%	27.50%	10%	1%	8%	22%	49%	8%	10%	2%	10%
Maintenance and Support - Year 4	32%	7%	27.50%	10%	1%	8%	22%	49%	8%	10%	2%	10%
Maintenance and Support - Year 5	32%	7%	27.50%	10%	1%	8%	22%	49%	8%	10%	2%	10%

Maintenance	Cisco: Government - Incumbent	Cisco: Government - Non-Incumbent	Cisco: Education
Maintenance and Support - Year 1	20%	12%	32%
Maintenance and Support - Year 2	23%	19%	34%
Maintenance and Support - Year 3	25%	22%	36%
Maintenance and Support - Year 4	24%	12%	36%
Maintenance and Support - Year 5	23%	12%	38%

Training (Hourly Rates)	1 - 10 Participants	11- 50 Participants
Initial Training on specific equipment that has been purchased.	Value Add - No Cost	Value Add - No Cost
"As needed" Training on specific equipment that has been purchased (e.g. New Hires, etc.)	\$ -	\$ -
Annual Training for up to fifty (50) participants	\$ -	\$ -

Insight Public Sector is offering sku-based training based on a discount off Global Knowledge's MSRP. The discount offered is 5%.

Pima County Procurement Department
Administering Department: Information Technology

Project: Cisco and F5 Networking Equipment

Contractor: World Wide Technology, LLC

1 World Wide Way St. Louis, MO 63146 – GHQ Address
PO Box 957653, St. Louis, MO 63195 - Remit to Address
Angela Grenda
602-472-7307
angela.grenda@wwt.com

Amount: \$4,000,000.00

Contract No.: MA-PO-20-106

Funding: ITD-ISF Capital Projects

COOPERATIVE PROCUREMENT AGREEMENT

1. Parties, Background and Purpose.

- 1.1. **Parties.** This Contract is between Pima County, a political subdivision of the State of Arizona ("County"), and World Wide Technology, LLC ("Contractor")
- 1.2. **Authority.** Pima County is authorized by Pima County Code § 11.24.010 and A.R.S. § 41-2632 to enter into cooperative purchasing arrangements. Pima County has entered into such an agreement with State of Arizona.
- 1.3. **Contract.**
 - 1.3.1. State of Arizona entered into a contract (Contract No. ADSPO16-137345) for specified goods and services with CDW Government, LLC, Custom Storage, Inc. dba CStor, Insight Public Sector, Inc., Escape Velocity Holdings, Inc. dba Trace3, and World Wide Technology, LLC, which are leading providers of Technology Solutions ("Contractors"), which is currently in effect (the "State of Arizona Contract"). The State of Arizona Contract is attached to this Contract as Exhibit A (29 pages).
 - 1.3.2. Section E of the Special Terms and Conditions section of the State of Arizona Contract provides that another governmental entity with which State of Arizona has a cooperative purchasing agreement may, with Contractor's approval, purchase products and services at the same prices and under the same terms as in the State of Arizona Contract.
- 1.4. **Purpose.** The Pima County Information Technology Department is seeking to purchase networking infrastructure equipment to support ever-increasing application workloads and enhanced security requirements. New equipment is required to support lifecycle management and replacement of end of support equipment, along with increasing the number of users and devices connecting to the network.

2. **Term.**

- 2.1. **Original Term.** This Contract is effective for a one-year period commencing on 03/03/20 (the "Initial Term"). "Term," when used in this Contract, means the Initial Term plus any exercised Extension Options.
- 2.2. **Extension Options.** County may renew this Contract for up to four (4) additional periods of up to 1 year each (each an Extension Option).
3. **Scope of Services.** Contractor agrees to furnish Pima County the goods and/or services ("Goods & Services") described on Exhibit A: State of Arizona Contract (29 pages) to this Contract and at the prices set forth in Exhibit B: Network Equipment and Services Pricing (8 pages) and Exhibit C: Pricing WWT (6 pages), under the terms and conditions of the State of Arizona Contract as modified by this Contract. The one percent (1.0%) Statewide Contracts Administrative Fee is not included in this Contract. The terms and conditions set forth in this Contract control over any inconsistent provisions in the State of Arizona Contract.
4. **Not-to-Exceed Amount.** Purchases under this Contract by the County may not exceed \$4,000,000.00 (the "NTE Amount"), which will be shared annually by multiple vendors.
5. **Indemnification Clause.** To the fullest extent permitted by law, Contractor will defend, indemnify, and hold harmless Pima County and any related taxing district, and the officials and employees of each of them (collectively, "Indemnitee") from and against any and all claims, actions, liabilities, losses, and expenses (including reasonable attorney fees) (collectively, "Claims") arising out of actual or alleged injury of any person (including death) or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by any act or omission of Contractor or any of Contractor's directors, officers, agents, employees, volunteers, or subcontractors. This indemnity includes any claim or amount arising or recovered under the Workers' Compensation Law or arising out of the failure of Contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. The Indemnitee will, in all instances, except for Claims arising solely from the acts or omissions of the Indemnitee, be indemnified by Contractor from and against any and all Claims. Contractor is responsible for primary loss investigation, defense and judgment costs for any Claim to which this indemnity applies. This indemnity will survive the expiration or termination of this Contract.
6. **Insurance Requirements.** The Insurance Requirements herein are minimum requirements for this Contract and in no way limit, the indemnity covenants contained in this Contract. Contractor's insurance shall be placed with companies licensed in the State of Arizona and the insureds shall have an "A.M. Best" rating of not less than A- VII. Pima County in no way warrants that the minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.
- 6.1. **Minimum Scope and Limits of Insurance:** Contractor shall procure and maintain, until all contractual obligations have been discharged, the insurance coverage with limits of liability not less than stated below. Pima County in no way warrants that the minimum insurance limits contained herein are sufficient to protect the Contractor from liabilities that arise out of the performance of the work under this Contract. The Contractor is free to purchase additional insurance that required by the County. If necessary, Contractor may obtain commercial umbrella or excess insurance to satisfy the County's Insurance Requirements.

- 6.1.1. Commercial General Liability (CGL) – Occurrence Form with limits of \$2,000,000 Each Occurrence and \$2,000,000 General Aggregate. Policy shall include bodily injury, property damage, personal/advertising injury and products - completed operations.
- 6.1.2. Business Automobile Liability – Bodily Injury and Property Damage for any owned, hired, and/or non-owned automobiles used in the performance of this Contract with a Combined Single Limit (CSL) of \$1,000,000 each accident.
- 6.1.3. Workers' Compensation (WC) and Employers' Liability – Arizona Statutory requirements and Employers Liability coverage with policy limits of \$1,000,000 and each accident and each person – disease.
- 6.1.4. Professional Liability (Errors and Omissions) Insurance – The insurance is required by Pima County when Professional Liability or any other E&O coverage is excluded from the Contractor's CGL policy. The E&O policy limits shall be not less than \$2,000,000 Each Claim and \$2,000,000 Annual Aggregate. The insurance policy shall cover professional misconduct or negligent acts of anyone performing any services under this contract.
- 6.1.5. Network Security (Cyber)/Privacy Insurance – Coverage shall have minimum limits not less than \$2,000,000 Each Claim with a \$2,000,000 Annual Aggregate. The insurance shall include, but not be limited to, coverage for third party claims and losses with respect to network risks (such as data breaches, unauthorized access or use, ID theft, theft of data) and invasion of privacy regardless of the type of media involved in the loss of private information, crisis management and identity theft response costs. This should also include breach notification costs, credit remediation and credit monitoring, defense and claims expenses, regulatory defense costs plus fines and penalties, cyber extortion, computer program and electronic data restoration expenses coverage (data asset protection), network business interruption, computer fraud coverage, and funds transfer loss.
- 6.1.6. Claims-Made Insurance Coverage – If any part of the Required Insurance is written on a claims-made basis, any policy retroactive date must precede the effective date of this Contract, and Contractor must maintain such coverage for a period of not less than three (3) years following Contract expiration, termination or cancellation.

- 6.2. Additional Coverage Requirements: The policies shall include, or be endorsed to include, as required by this written agreement, the following provisions:
 - 6.2.1. Additional Insured – The General Liability and Business Automobile Liability Policies shall each be endorsed to include Pima County, its departments, districts, boards, commissions, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor.
 - 6.2.2. Subrogation – The General Liability and Business Automobile Liability and Workers' Compensation policies shall each contain a waiver of subrogation endorsement in favor of Pima County, and its departments, districts, boards, commissions, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

- 6.2.3. **Primary Insurance** – The Contractor's policies shall stipulate that the insurance afforded the Contractor shall be primary and that any insurance carried by Pima County, its agents, officials, or employees shall be excess and not contributory insurance. Insurance provided by the Contractor shall not limit the Contractor's liability assumed under the indemnification provisions of this Contract.
- 6.2.4. **Notice of Cancellation** – Each Required Insurance policy must provide, and certificates specify, that County will receive not less than thirty- (30) days, advance written notice of any policy cancellation, except 10-days, prior notice is sufficient when the cancellation is for non-payment of a premium.

6.3. Verification of Coverage:

- 6.3.1. Contractor shall furnish Pima County with certificates of insurance as required by this Contract. An authorized representative of the insurer shall sign the certificates.
- 6.3.2. All certificates and endorsements, as required by this written agreement, are to be received and approved by Pima County before work commences. Each insurance policy required by this Contract must be in effect at, or prior to, commencement of work under this Contract. Failure to maintain the insurance coverages or policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.
- 6.3.3. All certificates required by this Contract shall be sent directly to the appropriate County Department. The Certificate of Insurance shall include the Pima County project or contract number and project description on the certificate. Pima County reserves the right to require complete copies of all insurance policies required by this Contract at any time.
- 6.3.4. Neither the County's failure to obtain a required insurance certificate or endorsement, the County's failure to object to a non-complying insurance certificate or endorsement, or the County's receipt of any other information from the Contractor, its insurance broker(s) and/or insurer(s), constitutes a waiver of any of the Insurance Requirements.

6.4. **Approval and Modifications:** The Pima County Risk Manager may approve a modification of the Insurance Requirements without the necessity of a formal Contract amendment, but the approval must be in writing.

7. **Cancellation for Conflict of Interest.** This Contract is subject to cancellation for conflict of interest pursuant to A.R.S. § 38-511, the pertinent provisions of which are incorporated into this Contract by reference.

8. **Compliance with Laws.** Contractor will comply with all applicable federal, state, and local laws, rules, regulations, standards and Executive Orders. Contractor warrants that it is appropriately licensed to provide the services under this Contract and that any subcontractors will be appropriately licensed. The laws and regulations of the State of Arizona govern the rights and obligations of the parties under this Contract. Any action relating to this Contract must be filed and maintained in the appropriate court of the State of Arizona in Pima County.

9. **Non-Discrimination.** Contractor will comply with all provisions and requirements of Arizona Executive Order 2009-09, which is hereby incorporated into this Contract, including flow-down of all provisions and requirements to any subcontractors. During the performance of this Contract, Contractor will not discriminate against any employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin.
10. **Non-Appropriation of Funds.** Notwithstanding any other provision in this Contract, County may terminate this Contract if for any reason there are not sufficient appropriated and available monies for the purpose of maintaining County or other public entity obligations under this Contract. In the event of such termination, County will have no further obligation to Contractor, other than to pay for services rendered prior to termination.
11. **Public Information.** Pursuant to A.R.S. § 39-121 et seq. all documents submitted to County by Contractor, including but not limited to pricing schedules, product specifications, work plans, and any supporting documents, are public records. As such, those documents are subject to release and/or review by the general public upon request, including competitors. If Contractor reasonably believes that, some of those records contain proprietary, trade secret or otherwise-confidential information, Contractor must prominently mark those records "CONFIDENTIAL." In the event a public-records request is submitted to County for records marked CONFIDENTIAL, County will notify Contractor of the request as soon as reasonably possible. County will release the records 10 business days after the date of that notice, unless Contractor has, within that period, secured an appropriate order from a court of competent jurisdiction, enjoining the release of the records. County will not, under any circumstances, be responsible for securing such an order, nor will County be in any way financially responsible for any costs associated with securing such an order.
12. **Legal Arizona Workers Act Compliance.**
 - 12.1. **Compliance with Immigration Laws.** Contractor hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to its employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). Contractor will further ensure that each subcontractor who performs any work for Contractor under this Contract likewise complies with the State and Federal Immigration Laws.
 - 12.2. **Books & Records.** County has the right at any time to inspect the books and records of Contractor and any subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws.
 - 12.3. **Remedies for Breach of Warranty.** Any breach of Contractor's or any subcontractor's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, is a material breach of this Contract subjecting Contractor to penalties up to and including suspension or termination of this Contract. If the breach is by a subcontractor, and the subcontract is suspended or terminated as a result, Contractor will be required to take such steps as may be necessary to either self-perform the services that would have been provided under the subcontract or retain a replacement subcontractor, as soon as possible so as not to delay project completion. Any additional costs attributable directly or indirectly to such remedial action are the responsibility of Contractor.

12.4. **Subcontractors.** Contractor will advise each subcontractor of County's rights, and the subcontractor's obligations, under this Section 24 by including a provision in each subcontract substantially in the following form:

"Subcontractor hereby warrants that it will at all times during the term of this contract comply with all federal immigration laws applicable to Subcontractor's employees, and with the requirements of A.R.S. § 23-214 (A). Subcontractor further agrees that County may inspect the Subcontractor's books and records to insure that Subcontractor is in compliance with these requirements. Any breach of this paragraph by Subcontractor is a material breach of this contract subjecting Subcontractor to penalties up to and including suspension or termination of this contract." CONTRACTOR hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to CONTRACTOR's employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). CONTRACTOR will further ensure that each subcontractor who performs any work for CONTRACTOR under this contract likewise complies with the State and Federal Immigration Laws.

13. **Written Orders.** County will order products or services under this Contract by issuing a Delivery Order (DO) document. Order documents will be furnished to Contractor via e-mail or telephone. If an order is given verbally, the County Department that issued the order will transmit a confirming order document to Contractor within five workdays of the date the verbal order is given.

Contractor must not supply materials or services pursuant to the contract that are not documented or authorized by a Delivery Order (DO) at the time of provision. County accepts no responsibility for control of or payment for materials or services not documented by a County Delivery Order (DO).

Contractor will establish, monitor, and manage an effective contract administration process that assures compliance with all requirements of this Contract. In particular, Contractor will not provide goods or services other than those described in this Contract, in excess of the NTE Amount, or after the Term of the Contract has ended, without a Contract amendment properly executed and issued by County, as provided below. Any items provided in excess of that stated in this Contract are at Contractor's own risk.

14. **Amendments.** The County may extend or revise this Contract by notifying Contractor in writing of the change, which notice will be in the form of a revised "Master Agreement." If Contractor does not object in writing to the proposed changes within ten (10) calendar days after receipt of the notice, Contractor will be deemed to have accepted the changes, and the revision will be binding on the parties, effective as of the date the notice was issued. If Contractor objects to one or more of the changes, then the proposed changes will be deemed to be ineffective.

15. **Israel Boycott Certification.** Pursuant to A.R.S. § 35-393.01, if Contractor engages in for-profit activity and has 10 or more employees, and if this Contract has a value of \$100,000.00 or more, Contractor certifies it is not currently engaged in, and agrees for the duration of this Contract to not engage in, a boycott of goods or services from Israel. This certification does not apply to a boycott prohibited by 50 U.S.C. § 4842 or a regulation issued pursuant to 50 U.S.C. § 4842.

16. **Invoice Submittal.** Invoices are to be sent to:

Pima County Finance & Risk Management- Accounts Payable
P.O. Box 791
Tucson AZ, 85701

17. Notices. Notices regarding this Agreement should be addressed to:

Pima County:

Mary Jo Furphy, Procurement Director
Pima County Procurement, 130 W. Congress, 3rd Floor, Tucson, AZ 85701
520-724-8161, Maryjo.furphy@pima.gov

Dawn Dargan, Program Manager
Pima County Information Technology Department, 33 N. Stone, 14th Floor, Tucson, AZ
85701
520-724-7590, Dawn.dargan@pima.gov

World Wide Technology, LLC:

1 World Wide Way St. Louis, MO 63146 - GHQ
PO Box 957653, St. Louis, MO 63195 – Remit to

Carol Harting – Contract
314-995-6103
carol.harting@wwt.com

Angela Grenda – Purchase Orders
602-472-7307
angela.grenda@wwt.com

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IN WITNESS WHEREOF, the parties have approved this Cooperative Procurement Agreement and agree to be bound by the terms and conditions of the Contract on the dates written below.

APPROVED:

World Wide Technology, LLC:



Chairman, Board of Supervisors

Authorized Officer Signature

Date: _____

Bryan Thomas, Sr. VP

Printed Name and Title

Date: 1/29/2020

ATTEST:

Clerk of the Board

Date: _____

APPROVED AS TO FORM:



Stacey Roseberry, Deputy County Attorney

2/6/2020

Date

STATE OF ARIZONA
PURCHASE ORDER TERMS AND CONDITIONS

- 1. Modification.** No modification of the purchase order shall bind Buyer unless Buyer agrees to the modification in writing.
- 2. Packing and Shipping.** Seller shall be responsible for industry standard packing which conform to requirements of carriers' tariffs and ICC regulations. Containers must be clearly marked as to lot number, destination address and purchase order number.
- 3. Title and Risk of Loss.** The title and risk of loss of the goods shall not pass to Buyer until Buyer actually received the goods at the point of delivery.
- 4. Invoice and Payment.** A separate invoice shall be issued for each shipment. No invoice shall be issued prior to shipment of goods and no payment will be made prior to receipt of goods and correct invoice. Payment due dates, including discount periods, will be computed from date of receipt of goods or date of receipt of correct invoice (whichever is later) to date Buyer's warrant is mailed. Unless freight and other charges are itemized, any discount provided will be taken on full amount of invoice. Payment shall be subject to the provisions of Title 35 of Arizona Revised Statutes. The Buyer's obligation is payable solely from funds appropriated for the purpose of acquiring the goods or services referred to in this Purchase Order.
- 5. Inspection.** All goods are subject to final inspection and acceptance by Buyer. Material failing to meet the requirements of this Purchase Order will be held at Seller's risk and may be returned to Seller. If so returned, the cost of transportation, unpacking, inspection, repacking, reshipping or other like expenses are the responsibility of the Seller.
- 6. No Replacement of Defective Tender.** Every tender of goods must fully comply with all provisions of Purchase Order as the time of delivery, quantity, quality and the like. If a tender is made which does not fully conform, it shall constitute a breach and Seller shall not have the right to substitute a conforming tender.
- 7. Force Majeure.** Neither party shall be held responsible for any losses resulting if the fulfillment of any terms or conditions of the Purchase Order are delayed or prevented by any cause not within the control of the party whose performance is interfered with and which, by the exercise of reasonable diligence, that party is unable to prevent.
- 8. Gratuities.** The Buyer may, by written notice to the Seller, cancel this Purchase Order if it is found by Buyer that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Seller, or any agent or representative of the Seller, to any officer or employee of the State of Arizona with a view toward securing an order or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with the respect to the performing, of such order. In the event this Purchase Order is cancelled by Buyer pursuant to this provision, Buyer shall be entitled in addition to any other rights and remedies to recover or withhold from the Seller the amount of the gratuity.
- 9. Warranties.** Seller warrants that all goods delivered under this Purchase Order will conform to the requirements of this Purchase Order (including all applicable descriptions, specifications, drawings and samples) will be free from defects in material and workmanship and will be free from defects in design and fill for the intended purposes. Any inspection or acceptance of the goods by Buyer shall not alter or affect the obligations of Seller or the right of Buyer under the foregoing warranties.
- 10. Assignment – Delegation.** No right or interest in this Purchase Order shall be assigned by Seller without the written permission of Buyer, and no delegation of any duty of Seller shall be made without permission of Buyer.
- 11. Interpretation – Parole Evidence.** This Purchase Order is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of their agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this Purchase Order. Acceptance or acquiescence in a course of performance rendered under this Purchase Order shall not be relevant to determine the meaning of this Purchase Order even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity for objection. Whenever a term defined by the Uniform Commercial Code is used in the Purchase Order the definition contained in the Code is to control.
- 12. Non-Discrimination.** Seller agrees not to discriminate against any employee or applicant for employment in violation of the terms of Federal Executive Order 11246, State Executive Order No. 2009-09 and A.R.S. Section 41-1461 et seq.
- 13. Indemnity.** Seller agrees to indemnify and save the Buyer harmless from any loss, damage or expense whatsoever resulting to the Buyer from any and all claims and demands on account of infringement or alleged infringement of any patent in connection with the manufacture or use of any product included in this Purchase Order and upon written request Seller will defend at its own cost the expense any legal action or suit against the Buyer involving any such alleged patent infringement, and will pay and satisfy any and all judgments or decrees rendered in any against such legal actions or suits. Seller will indemnify Buyer against all claims for damages to person or property resulting from defects in materials or workmanship.
- 14. Liens.** All goods delivered and labor performed under this Purchase Order shall be free of all liens, and if Buyer requests, a formal release of all liens will be delivered to Buyer.
- 15. Contract Number.** If an Arizona contract number appears on the face of this Purchase Order, the terms of that contract are incorporated herein by this reference.
- 16. Taxes.** The State of Arizona is exempt from Federal Excise Tax.
- 17. Conflict of Interest.** Pursuant of A.R.S. Section 38-511 this Purchase Order is subject to cancellation by the Buyer if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the state is, at any time while the contract is in effect, an employee of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract.
- 18. Remedies and Applicable Law.** This Purchase Order shall be governed by, and Buyer and Seller shall have all remedies afforded each by, the Uniform Commercial Code as adopted in the State of Arizona except as otherwise provided in this Purchase Order or in statutes pertaining specifically to the State. This Purchase Order shall be governed by the law of the State of Arizona, and suits pertaining to this Purchase Order may be brought only in the courts of the State of Arizona.
- 19. Arbitration.** The parties must use arbitration as required by A.R.S. Section 12-1518.



RFP as Amended

Contract No: **ADSPO16-00005819**
Description: **Network Equipment and Services**

State of Arizona
State Procurement Office
100 North 15th Avenue, Suite 201
Phoenix, AZ 85007

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