



Special Instructions to Offerors

Solicitation No. BPM007201 Multi-State Alternate Assessment (MSAA)

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

ADDENDUM INCORPORATED

The following addendum is incorporated by reference and made part of this Solicitation and Contract:

- Addendum to the Special and Standard Instructions to Offerors – Data Security

1. Pre-proposal Conference

A Pre-Offer Proposal Conference will not be held at this time.

2. ADE Representative

The ADE Representative is Sophia Clavery, Senior Procurement Specialist.

Note: All questions should be in writing referencing the RFP #BPM007201 via the **Arizona Procurement Portal Discussion Forum** at <https://appstate.az.gov>.

3. Solicitation Inquiries

3.1 Submission of Inquires

Except for technical inquiries about navigating and/or submitting proposals in the State's eProcurement system, the State is not responsible for responding to any inquiries submitted less than three (3) business days before the Bid/Offer due date and time.

3.2 Timeliness

Any inquiry or exception to the solicitation shall be submitted as soon as possible and should be submitted at least seven (7) days before the Bid/Offer due date and time for review and determination by the State. Failure to do so may result in the inquiry not being considered for a Solicitation Amendment.

4. Offer Preparation

Use of AI in Offer Preparation: if an Offeror uses AI in the preparation of their Offer, then they shall indicate those specific portions of their offer **by written response in the questionnaire and highlighted**. Any Offeror who fails to indicate any section in which AI was used in preparing their offer may be determined not-susceptible for award.

5. Submission of Offer Required in Arizona Procurement Portal

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

To submit an Offer, Offerors shall register in the Arizona Procurement Portal system. Offerors requiring assistance in the registration process or in navigating the Arizona Procurement Portal system may call the Help Desk at 602-542-7600. ****Suppliers are required to enter a nominal value of \$0.01 or \$1.00 in the Unit Price**



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(V) and Amount (V) field boxes. Do not leave the Item (F) blank. Pricing shall be submitted on the ATTACHMENT III – PRICE SHEET.

6. Confidential Information

If a person believes that any portion of a proposal, bid, offer, specification, protest or correspondence contains information that should be withheld, then the Procurement Officer shall be so advised in writing or through use of the Confidentiality feature within Arizona Procurement Portal (Price is not confidential and will not be withheld). Such material shall be identified as confidential wherever it appears. The State, pursuant to A.A.C. R2-7-103, shall review all requests for confidentiality and provide a written determination. If the confidential request is denied, such information shall be disclosed as public information, unless the person utilizes the 'Protest' provision as noted in A.R.S. §§ 41-2611 through 41-2616.

All proposals will be made available for public inspection after the award is made; except to the extent that, pursuant to the provisions of the Arizona School ADE Procurements Rules A.A.C. Rules R2-7-2001, et seq., the Offeror has designated certain information to remain confidential and the State Agency concurs that the information should remain confidential.

If an Offeror believes that data contained in their proposal contains trade secrets or other proprietary information, and should remain confidential and not be disclosed, a statement advising the State Agency of this fact shall accompany the respective document or documents, and such information shall be specifically identified wherever it appears.

NOTE: PROPOSALS SUBMITTED REQUESTING THAT THE ENTIRE PROPOSAL BE HELD CONFIDENTIAL SHALL BE REJECTED AS NON-RESPONSIVE.

7. Offerors Responsibility

The Offeror is cautioned that it is the Offerors sole responsibility to submit information related to the evaluation categories and that ADE is under no obligation to solicit such information if it is not included with the Offerors proposal. Failure by the Offeror to submit such information may cause an adverse impact on the evaluation of the Offerors proposal.

8. Authorized Signature

Any document that requires the Offeror's signature, the signature provided must be that of the Owner, Partner, or Corporate Officer duly authorized to sign contractual agreements. Additionally, if requested by the ADE, disclosure of ownership information shall be submitted.

- Private Owned- The Owner must sign this contract.
- Partnership- A Partner must sign this contract.
- Corporation- A Corporate Officer must sign this contract.

If an employee other than these specified individuals signs this Agreement, a Power of Attorney indicating employee's authority must accompany this Agreement. All addenda to this Agreement shall be signed by the authorized individual who signed this Agreement.



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9. Evaluation Schedule

The Proposals will be initially evaluated for conforming to the requirements of the RFP. Then a technical score will be given. The Proposals with the highest scores may be selected for Oral Presentations to determine the best interests of the ADE.

Exceptions to the Terms and Conditions, as stated in the Uniform Instructions Section C.3, will impact an Offeror's susceptibility for award.

10. Evaluation Criteria

In accordance with the Arizona Procurement Code § 41-2534, awards shall be made to the responsible Offeror(s) whose proposal is determined in writing to be the most advantageous to the State based upon the evaluation factors listed below. The evaluation factors for the solicitation are listed in their relative order of importance:

- A. Method of Approach
- B. Experience, Capability and Reliability
- C. Cost (will be evaluated based on each Offeror's total extended cost across all contract years (Years 1 – 7), calculated as the sum of each year's "Total Extended Cost").

11. Clarifications

Upon receipt and opening of proposals submitted in response to this solicitation, the State may request oral or written clarifications, including demonstrations or questions and answers, for the sole purpose of information gathering or for eliminating minor informalities or correcting nonjudgmental mistakes in proposals. Clarifications shall not otherwise afford Offerors the opportunity to alter or change their proposal.

12. Questionnaire Section

Offeror(s) should complete the entire **Attachment I - Questionnaire** section of the Request for Proposal. The Offerors responses should be in the form of a brief written narrative demonstrating the Offerors ability to satisfy the Scope of Work. The narrative should describe a logical progression of tasks and efforts starting with the initial steps or tasks to be accomplished and continuing until all proposed tasks are fully described. The language of the narrative should be straightforward and limited to facts, solutions to problems, and plans of proposed action. The use of technical language should be minimized and used only to describe a technical process.

13. Discussions (Negotiations)

In accordance with A.R.S. § 41-2534, after the initial receipt of offers, ADE reserves the option to conduct discussions with those Offerors who submit offers determined by ADE to be reasonably susceptible of being selected for award.

14. Best and Final Offer

A new round is created in APP for the submission of the Best and Final Offer (BAFO). The BAFO must contain all of the Attachments indicated in the applicable Procurement Officer request for a Submitted Offer. Make revisions in response to the negotiations / discussions and Procurement Officer's Request for BAFO in all



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applicable documents and Attachment "Pricing" or the pricing grid in the State's eProcurement system. Offeror shall follow any additional instructions from Procurement Officer regarding requirements for BAFO responses.

- 13.1 The new round must be acknowledged and an updated Solicitation Attachment "Offer and Acceptance Form" with the required signature and date must be uploaded.
- 13.2 The Offeror is required to complete the APP Items (F) tab OR input \$1.00 for the line item in the Items (F) tab in APP for the original offer and for the BAFO submission.

15. Certificate of Insurance Form

ADE recommends that the Offeror consider using the sample Certificate of Insurance included in this Solicitation. If the Offeror wishes, it may submit a substantially similar Certificate of Insurance. If the Offeror so elects, the proposed Certificate of Insurance shall be submitted to ADE for review and approval.

16. Contract Award

An agency chief procurement officer shall award the contract to the responsible Offeror whose offer is determined to be most advantageous to the State based on the evaluation factors set forth in the solicitation.

17. Public Record

All Proposals submitted in response to this Request for Proposal shall become the property of the State and shall become a matter of Public Record available for review, subsequent to the award notification, as provided for by the Arizona Procurement Code.

18. Offer Acceptance Period

Proposals are an irrevocable offer for **180 days** after the opening time and to allow the ADE sufficient time to evaluate the responses.

19. Rights Reserved

The right is reserved to reject any or all proposals, or to waive any informality in any proposal received or to accept all or any part of any proposal considered advantageous to the State Agency.

20. Clarification of Solicitation Requirements

It is the responsibility of all Offerors to examine the Solicitation and seek clarification of any item or requirement that may be unclear to them and to check all offers for accuracy before submittal to ADE. Any questions regarding this solicitation can be answered by submitting a request through the Arizona Procurement Portal website. The Chief Procurement Officer is the only authorized person to give information as to the requirements of the solicitation in addition to that contained in the written documents.

- Questions should be submitted through the Arizona Procurement Portal website and received by the Chief Procurement Officer no less than 7 days prior to the RFP due date. All questions must reference the page and item that is to be addressed.
- A Solicitation Amendment must be acknowledged by submitting a signed copy of the Amendment with your Solicitation Response.
- No verbal or written information, which is obtained other than by information in this document or by an Amendment to this solicitation, will be binding on the Arizona Department of Education.



Standard Instructions to Offerors

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Revision No. 6

1. Definition of Terms

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

- 1.1. "AI" means the science and engineering of making machines capable of performing tasks that are typically associated with human intelligence, such as learning and problem-solving, and includes without limitation: AI systems, classic AI, external AI, generative AI, and large language model (LLM) AI.
- 1.2. "Arizona Department of Homeland Security (AZDOHS) Information Security Program" refers to the policies, procedures, and standards established by AZDOHS to assess and mitigate risks associated with storing, processing, and transmitting State Data. The AZDOHS Information Security Program is based on industry standards and NIST SP 800-53 Revision 5 guidance published by the National Institute of Standards and Technology (NIST).

For more information on AZDOHS Information Security Program, see <https://azdohs.gov/information-security-policies-standards-and-procedures>

For more information on NIST, see <https://www.nist.gov/>

- 1.3. "Arizona Procurement Code" means, collectively, Title 41 Chapter 23, et. sequitur, in the Arizona Revised Statutes (abbreviated "A.R.S.") and administrative rules R2-7-101 et. sequitur in the Arizona Administrative Code (abbreviated "A.A.C.").

NOTE: There are frequent references to the Arizona Procurement Code throughout the Solicitation Documents, therefore, you will need to be familiar with its provisions to be able to understand the Solicitation Documents fully.

The Arizona Department of Administration State Procurement Office provides a reference compilation of the Arizona Procurement Code on its website:

<https://spointra.az.gov/resources/procurement-regulations>

The Arizona State Legislature provides the official A.R.S. online at:

<https://www.azleg.gov/arstitle/>

The Office of the Arizona Secretary of State provides the official A.A.C. online at:

<http://www.azsos.gov/rules/arizona-administrative-code>

- 1.4. "Attachment" means any item the Solicitation requires the Offeror to submit as part of the Offer.
- 1.5. "Best and Final Offer" (BAFO) means a revision to an Offer submitted after negotiations are completed that contains the Offeror's most favorable terms for price, service, and products to be delivered.
- 1.6. "Clarifications" means, per A.A.C. R2-7-C313, communications between Procurement Officer and Offeror for the purpose of providing a greater mutual understanding of the Offer. Clarifications may include demonstrations, questions and answers, or elaborations on previously-submitted information. All clarifications shall be confirmed in a written offer.
- 1.7. "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 of Scope



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of Work; the Offer and any Best and Final Offers; and any Solicitation Amendments or Contract Amendments.

- 1.8. "Contract Amendment" means a written document signed by Procurement Officer issued for the purpose of making changes in the Contract.
- 1.9. "Contractor" means any person who has a Contract with the State.
- 1.10. "Days" means calendar days unless otherwise specified.
- 1.11. "eProcurement (Electronic Procurement)" means, per A.A.C. R2-7-101, the State's official electronic procurement system as authorized by the state procurement administrator under R2-7-201.
- 1.12. "Evaluation" means, per A.A.C. R2-7-316, the process whereby Procurement Officer will determine which responsive offers and best and final offers based on the evaluation criteria contained in the request for proposals are the most advantageous to State.
- 1.13. "Exhibit" means any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation generally containing maps, schematics, examples of reports, or other documents that will be used to perform the requirements of the Scope of Work after contract award.
- 1.14. "Interviews" means an agreed-upon time and place for a structured conversation between Procurement Officer/Evaluation Committee and Offeror(s) where an established set of questions are asked to each Offeror and answered.
- 1.15. "Narrative Response" means a written essay, process, or story detailing Offeror's experience, expertise, opinion, or methodology relating to the question being asked. The quality of the written response in areas such as grammar, readability, ease of understanding, may be taken into consideration on how well Offeror is able to express themselves and describe their process.
- 1.16. "Negotiation" means, per A.A.C. R2-7-101(32), an exchange or series of exchanges between State and an offeror for the purposes set forth in A.A.C. R2-7-C314.
- 1.17. "Not Susceptible for Award" means, per A.A.C. R2-7-C311, that the relevant offer has been determined by Procurement Officer to fail one or more of the tests and comparisons set forth therein. NOTE: A determination of Not Susceptible for Award and a determination of Responsive are mutually exclusive.
- 1.18. "Offer" means a response to a solicitation.
 - 1.18.1. "Initial Offer" means, Offeror's proposal submitted to State in response to the Solicitation, as initially submitted.
 - 1.18.2. "Revised Offer" means any revised versions of the Initial Offer that Offeror has submitted to State at State's request as permitted under A.A.C. R2-7-C314 and R2-7-C315.
 - 1.18.3. "BAFO," as defined above.
 - 1.18.4. Reference to "an Offer, "the Offer," or "your Offer" means any of the Initial Offer, a Revised Offer, or the Best and Final Offer.
- 1.19. "Offeror" means a person who responds to a Solicitation.



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- 1.20. "Oral/Product Presentations" means a tailored presentation based on the requirements specified in the Scope of Work or based upon an established agenda provided by Procurement Officer ahead of time. The presentation shall include company overview, product overview, functionalities, and reporting as applicable to the Scope of Work. If the presentation is not product-related, ensure other questions are answered based on the agenda or as asked by the committee members.
- 1.21. "Person" means any corporation, business, individual, union, committee, club, or other organization or group of individuals.
- 1.22. "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.
- 1.23. "Small Business" means a for-profit or not-for-profit organization, including its affiliates, with fewer than 100 full-time employees or gross annual receipts of less than \$4 million for the last complete fiscal year.
- 1.24. "Solicitation" means an Invitation for Bids ("IFB"), a Request for Technical Offers, a Request for Proposals ("RFP"), a Request for Quotations ("RFQ"), or any other invitation or request issued by the purchasing agency to invite a person to submit an offer.
- 1.25. "Solicitation Amendment" means a change to the Solicitation issued by Procurement Officer.
- 1.26. "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.
- 1.27. "State" means any department, commission, council, board, bureau, committee, institution, agency, government corporation or other establishment or official of the executive branch or corporation commission of the State of Arizona that executes the Contract.

2. Inquiries

- 2.1. Duty to Examine. It is the responsibility of each Offeror to examine the entire Solicitation, seek clarification in writing (inquiries), and examine its Offer for accuracy before submitting an Offer. Lack of care in preparing an Offer shall not be grounds for modifying or withdrawing the Offer after the Offer due date and time.
- 2.2. Solicitation Contact Person. Direct all inquiries related to the Solicitation to Procurement Officer, including requests for or inquiries regarding standards referenced in the Solicitation. Apart from the State's eProcurement System Help Desk, do not contact any State personnel other than Procurement Officer concerning the Solicitation while it is in progress, through and including award.
- 2.3. Submission of Inquiries. Submit all inquiries related to the Solicitation in the State's eProcurement System. Procurement Officer will not respond to inquiries received in any other manner.
 - 2.3.1. Submit technical inquiries about navigating and/or submitting proposals in the State's eProcurement System to the State's eProcurement System Help Desk by phone at (602) 542-7600, option 2; or by email to app@azdoa.gov.
 - 2.3.2. Submit all other inquiries about the Solicitation using the "Discussions with Buyer" tab in the State's eProcurement System. Always refer to the appropriate Solicitation document by page and paragraph number.



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- 2.3.3. Check the Special Instructions to Offerors for the cut-off time for inquiries to Procurement Officer regarding this Solicitation.
- 2.4. **Timeliness.** Any inquiry or exception to the Solicitation shall be submitted as soon as possible and should be submitted at least seven days before the Offer due date and time for review and determination by the State. Failure to do so may result in the inquiry not being considered for a Solicitation Amendment.
- 2.5. **No Right to Rely on Verbal or Electronic Mail Responses.** An Offeror shall not rely on verbal or electronic mail responses to inquiries. A verbal or electronic mail reply to an inquiry does not constitute a modification of the solicitation.
- 2.6. **Solicitation Amendments.** The Solicitation shall only be modified by a Solicitation Amendment made through the State's eProcurement System.
- 2.7. **Pre-Offer Conference.** If a pre-offer conference has been scheduled under the Solicitation, the date, time and location shall appear in the State's eProcurement system. Offerors should raise any questions about the Solicitation at that time. An Offeror may not rely on any verbal responses to questions at the conference. Material issues raised at the conference that result in changes to the Solicitation shall be answered solely through a Solicitation Amendment.
- 2.8. **Persons With Disabilities.** Persons with a disability may request reasonable accommodation, such as a sign language interpreter, by contacting Procurement Officer. Requests shall be made as early as possible to allow time to arrange the accommodation.
- 2.9. **Instructions Order of Precedence:** In case of any inconsistency, conflict, or ambiguity among the Solicitation Instructions to Offerors, they are to prevail in the following order, descending from most dominate to most subordinate, provided that, among categories of documents or provisions having the same rank, the document or provision with the latest date prevails. Information being identified in one document, but not in another, is not to be considered a conflict or inconsistency:
- 2.9.1 Special Instructions to Offerors; and then
- 2.9.2 Standard Instructions to Offerors (RFP)

3. Offer Preparation

- 3.1. **Electronic Documents.**
- 3.1.1. The Solicitation is provided in an electronic format; State will not provide any printed copies or distribute the Solicitation in any other format.
- 3.1.2. **Offerors are responsible for clearly identifying any and all changes or modifications to any Solicitation documents upon submission to the State's eProcurement system. Any unidentified alteration or modification to any Solicitation, attachments, exhibits, forms, charts or illustrations contained herein shall be null and void. Offeror's electronic files shall be submitted in a format acceptable to the State. Acceptable formats include .doc and .docx (Microsoft Word), .xls and .xlsx (Microsoft Excel), .ppt and .pptx (Microsoft PowerPoint) and .pdf (Adobe Acrobat). Obtain advance approval from the State's eProcurement Help Desk before submitting files in any other format. The maximum file size allowed is 25mbp.**
- 3.1.3. SUPPLIER REFERENCE GUIDES are available at: <https://spo.az.gov/app/supplier/QRG>.



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3.1.4. Upload all Solicitation Attachments as required, within the APP.

3.1.5. Prepare and submit your confidential information following the instructions in section 4.4 Confidential Information.

3.2. Deviations in Offer. When submitting an Offer, clearly indicate in writing any deviations from the Specifications or other Solicitation technical requirements documents. Any deviation not explicitly identified will be deemed void upon submission.

NOTE: Deviations are technical exceptions of a significant but not material nature, typically having to do with part/model numbers, details of attachments, mountings, clearances, internal configurations, etc., and are not to be confused with material exceptions.

3.3. Evidence of Intent to be Bound. The Offer and Acceptance form within the Solicitation shall be submitted with the Offer in the State's eProcurement system and shall include a signature by a person authorized to sign the Offer, such as your duly authorized officer, executive, principal, or agent. The signature shall signify the Offeror's intent to be bound by the Offer and the terms of the Solicitation and that the information provided is true, accurate and complete. Failure to submit verifiable evidence of an intent to be bound, such as a signature, shall result in rejection of the Offer.

3.4. Exceptions to Terms and Conditions.

3.4.1. All exceptions that are contained in the Offer may negatively impact an Offeror's susceptibility for award. An Offer that takes exception to any material requirement of the Solicitation may be rejected.

3.4.2. If you are submitting an Offer conditioned on exceptions to the Solicitation Documents, indicate "NO" on Solicitation Attachment "Conformance Statement" and provide the required justification. Any exceptions taken elsewhere in an Offer or any of your preprinted or standard terms will be void in that Offer and without force or effect in any resulting contract.

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

3.5. Insurance Waivers

3.5.1. Workers Compensation waivers for sole proprietors or independent contractors can be requested if the Offeror meets the waiver requirements found on the ADOA State Risk website: <https://staterisk.az.gov/insurance/click-links-below-submit-coiicasole-proprietor-waiverexception-request>

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

3.7. Cost of Offer Preparation. State will not reimburse Offeror or any of Offeror's prospective subcontractors, suppliers, or consultants any costs associated with responding to the Solicitation.



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- 3.8. Federal Excise Tax. The State is exempt from certain Federal Excise Tax on manufactured goods. Exemption Certificates will be provided by the State.
- 3.9. Identification of Taxes in Offer. The State is subject to all applicable state and local transaction privilege taxes. All applicable taxes shall be identified as a separate item offered in the Solicitation. When applicable, the tax rate and amount shall be identified on the price sheet.
- 3.10. Disclosure. If the person submitting this Offer has been debarred, suspended or otherwise lawfully precluded from participating in any public procurement activity, including being disapproved as a subcontractor with any federal, state or local government, or if any such preclusion from participation from any public procurement activity is currently pending, the Offeror shall fully explain the circumstances relating to the preclusion or proposed preclusion in the Offer. The Offeror shall set forth the name and address of the governmental unit, the effective date of the suspension or debarment, the duration of the suspension or debarment, and the relevant circumstances relating to the suspension or debarment. If suspension or debarment is currently pending, a detailed description of all relevant circumstances including the details enumerated above shall be provided.

4. Submission of Offer: Required Offer Content

- 4.1. Offer Submission, Due Date and Time. Offerors responding to a Solicitation must submit the Offer electronically through the State's eProcurement system.

- 4.1.1. Submit each Offer online in the State's eProcurement System before the "Bid Opening Date" indicated for the "Solicitation No." State will not consider a proposal submitted by any other method other than the State's eProcurement System, and it will be deemed void upon submission. By A.A.C. R2-7-C307, State will not consider later offers. State will give no extension or grace period for delays or incomplete proposals caused by internet connectivity problems, file uploading difficulties, or misunderstanding of the requirements or procedures for online submission in The State's eProcurement System. If your proposal is not submitted correctly, completely, and in conformance to these Instructions herein, then Procurement Officer may determine it Not Susceptible for Award.

NOTE: Using the State's eProcurement System requires a certain level of technical competency; select your staff to submit proposals and handle other Solicitation general matters in the State's eProcurement System carefully, since the State's eProcurement System Help Desk cannot do any of the required actions for you.

- 4.1.2. **Offers shall be received before the due date and time stated in the solicitation. Offers submitted outside of the State's eProcurement system or those that are received after the due date and time shall be rejected.**
- 4.2. Offer and Acceptance. Offers shall include a signed Offer and Acceptance form. The Offer and Acceptance form shall be signed with a signature by the person authorized to sign the Offer, and shall be submitted in the State's eProcurement system with the Offer no later than the Solicitation due date and time. **Failure to return an Offer and Acceptance form shall result in rejection of the Offer.**
- 4.3. Solicitation Amendments.
- 4.3.1. As required under A.A.C. R2-7-C303(C), it is the offeror's responsibility to acknowledge every Solicitation Amendment issued as of the due date and time. Failure to acknowledge all solicitation amendments may impact your susceptibility for award.



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- 4.3.2. Amendments to the Solicitation create new rounds in APP. Check for APP alerts that notify if an amendment has been issued. You must acknowledge each round created by an amendment for your Offer in order for your Offer to be Responsive.
- 4.3.3. In the event you have submitted an offer prior to a Solicitation amendment, you must acknowledge and upload your offer documents to the new round.
- 4.4. Confidential Information. If an Offeror believes that any portion of an Offer, protest, or correspondence contains a trade secret or other proprietary information, the Offeror shall:
- 4.4.1. Indicate on the Solicitation Attachment "Designation of Confidential Information" that your proposal contains such claimed confidential information; and,
- 4.4.2. Separate the documents you claim to be confidential from the offer documents and upload them separately. Prepare to upload each confidential document as a separate confidential document in your response following the instructions in the Arizona Department of Administration Procurement page under Arizona Procurement Portal (APP) Suppliers Tab. Under the [Quick Reference Guides / Solicitations, review the Adding Confidential Documents to an Offer/ Response](#).
- 4.4.3. Upload each document you claim to be confidential separate from each other and follow the naming convention: Confidential - Supplement - Offeror File Name.
- 4.4.4. **Simply indicating that the proposal contains confidential information is not sufficient to claim the protections under A.A.C. R2-7-103. The "Confidential Information Designation" Attachment must be accompanied by a detailed explanation as to why each item or category of items in the proposal should be designated confidential information.**
- 4.4.5. Submit Confidential Information/Documentation as a Supplement(s) to Section 8, follow the naming convention: Confidential - Supplement - Offeror File Name. **DO NOT** incorporate information you are requesting to be determined as Confidential in any other section of your response.
- 4.4.6. Procurement Officer shall review your claim of confidentiality and provide a written determination; until a written determination has been made, Procurement Officer shall not disclose the claimed information to anyone who does not have a legitimate State interest.
- 4.4.6.1. If the designated information is determined to be confidential, Procurement Officer may request redacted documents.
- 4.4.6.2. If Procurement Officer denies the claim of confidentiality, you may appeal the determination to the State Procurement Administrator within the time specified in the determination.

NOTE: Contract terms and conditions, pricing, and information generally available to the public are not and will not be designated confidential information.



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4.5. Attachment Forms

- 4.5.1. Downloading and Uploading Attachments: APP will not save information entered directly on an Attachment. For all attachments found in the Questionnaire, Offerors must download, save, complete and re-attach the modified Attachments to APP.
- 4.5.2. If an Attachment indicates that a "Form" is being provided for an Attachment, then the Solicitation includes the required form and format for submitting the Attachment. No other form or format will be accepted, and your Offer may be deemed Not Susceptible for Award if you submit an unofficial form.
- 4.5.3. If, however, the Solicitation Documents indicate that you are allowed to attach additional documents regarding a particular question or line item, then doing so will be acceptable so long as the filled-out Attachment clearly states "See Attachment Name Supplement (#1 of 2)", etc., and the additional document is clearly marked as "Attachment Name Supplement (#1 of 2)," etc.
 - 4.5.3.1 Each Form has a blank space to list your Attachment Supplements.
 - 4.5.3.2 Offeror shall upload each such "additional" document as an individual file and name the file to match the document title.
 - 4.5.3.3 Do not include non-specific marketing materials in an Offer. If something is not specifically called for, then including it will not be helpful during Evaluation, and might in fact be grounds for down-grading if it does not address your experience and capacity to carry out the work for this Solicitation

- 4.6. Public Record. All Offers submitted and opened are public records and must be retained by the State for six (6) years. Offers shall be open and available to public inspection through the State's eProcurement system after Contract award, except for any portions of such Offers deemed to be confidential by the State. Procurement Officer shall make the names of Persons who submitted offers available in the State's eProcurement System promptly after the opening date.

5. Responsibility, Responsiveness, and Susceptibility

- 5.1. Responsibility. In accordance with A.R.S. § 41-2534(G), A.A.C. R27-C312 and R2-7-C316, the State shall consider the following in determining Offeror's responsibility, as well as the responsiveness and acceptability of their proposals. The State will consider, but is not limited to, the following in determining an Offeror's responsibility as well as susceptibility to Contract Award:
 - 5.1.1. Whether the Offeror has had a contract within the last five (5) years that was terminated for cause due to breach or similar failure to comply with the terms of the contract;
 - 5.1.2. Whether the Offeror's record of performance includes factual evidence of failure to satisfy the terms of the Offeror's agreements with any party to a contract. Factual evidence may consist of documented vendor performance reports, customer complaints and/or negative references;
 - 5.1.3. Whether the Offeror is legally qualified to contract with the State and the Offeror's financial, business, personnel, or other resources, including subcontractors;
 - 5.1.4. Legally qualified includes if the vendor or if key personnel have been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but



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not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body.

- 5.1.5. Whether the Offeror promptly supplied all requested information concerning its responsibility;
- 5.1.6. Whether the Offer was sufficient to permit evaluation by the State, in accordance with the evaluation criteria identified in this Solicitation or other necessary offer components. Necessary offer components include: attachments, documents or forms to be submitted with the offer, an indication of the intent to be bound, reasonable or acceptable approach to perform the Scope of Work, signed Solicitation Amendments, references to include experience verification, adequacy of financial/business/personal or other resources to include a performance bond and stability including subcontractors and any other data specifically requested in the Solicitation;
- 5.1.7. Whether the Offer was in conformance with the requirements contained in the Scope of Work, Terms and Conditions, and Instructions for the Solicitation and its Amendments, including the documents incorporated by reference;
- 5.1.8. Whether the Offer limits the rights of the State;
- 5.1.9. Whether the Offer includes or is subject to unreasonable conditions, to include conditions upon the State or necessary for successful Contract performance. The State shall be the sole determiner as to the reasonableness of a condition;
- 5.1.10. Whether the Offer materially changes the contents set forth in the Solicitation, which includes the Scope of Work, Terms and Conditions, or Instructions; and,
- 5.1.11. Whether the Offeror provides misleading or inaccurate information.
- 5.2. Responsiveness and Susceptibility. Proposals shall contain sufficient information for the State to evaluate the proposal in accordance with the factors identified in the solicitation. Necessary components may include an indication of the Offeror's intent to be bound, price proposal, Solicitation amendments, bond and reference data as required.
 - 5.2.1. Proposal Content. The Offeror shall make a firm commitment to provide Materials and/or Services as required and proposed. The information contained in the Offer shall be: relevant to the service requirements stated in the solicitation; submitted in a sequence that reflects the scope of work section of this document; and include information relevant to the designated evaluation criteria.
 - 5.2.2. Failure to include the requested information may have a negative impact on the evaluation of the Offeror's proposal.
- 5.3. Eligibility for Evaluation and Negotiation. Procurement Officer shall hold Negotiations with all offerors reasonably susceptible for award per A.A.C. R2-7-C314(C), unless explicitly stated otherwise in the Solicitation. Upon request, Offerors may revise offers based on Negotiations, provided that any revision is confirmed in writing. No changes to the Offer shall be accepted unless provided in writing.
- 5.4. If Procurement Officer determines subsequently that your Revised Offer is Not Susceptible for Award by virtue of comparison to other revised offers per A.A.C. R2-7-C311(A)(3), then he or she will not include you in any further Negotiation. For clarity of intent, the foregoing means that Procurement Officer may reduce the number of offers that are "susceptible for award" with each successive round of Negotiation, since the purpose of Negotiation is to achieve best value for State.



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6. Evaluation of Offers

- 6.1. Unit Price Prevails. In the case of discrepancy between the unit price or rate and the extension of that unit price or rate, the unit price or rate shall govern.
- 6.2. Taxes. If the products and/or services specified require transaction privilege or use taxes, they shall be described and itemized separately on the Offer. Arizona transaction privilege and use taxes shall not be considered for evaluation.
- 6.3. Prompt Payment Discount. Prompt payment discounts of thirty (30) days or more set forth in an Offer shall be deducted from the Offer for the purpose of evaluating that price.
- 6.4. Offer Acceptance Period. By submitting an Offer, you agree to hold it open for one hundred and eighty (180) days. The offer acceptance period (whichever applies) re-starts upon submission of each Revised Offer or a Best and Final Offer.
- 6.5. Clarifications. Upon receipt and opening of proposals submitted in response to this solicitation, the State may request clarifications, including demonstrations or questions and answers, for the sole purpose of information gathering or for eliminating minor informalities or correcting nonjudgmental mistakes in proposals. All oral clarifications shall be confirmed in writing.
- 6.6. Oral Presentations. The State may request oral presentations. If requested, the Offeror shall be available for oral presentations with no more than ten (10) business days advance notice. Participants in the oral presentations should include the Offeror's key persons. Such oral presentations shall not otherwise afford an Offeror the opportunity to alter or change its Offer.
- 6.7. Interviews. State may request interviews with key personnel as part of the evaluation process. If State chooses to conduct the interview, Offeror will be provided limited timeslots to choose from. The requested Offeror or key personnel of Offeror should be prepared to answer questions on any part of the offer. Note that nothing said during the interview should be construed as a change to the written requirements in the Solicitation materials. Upon request by Procurement Officer, Offeror shall submit a summary of their interview responses in writing after the interviews are completed.
- 6.8. Cost or Pricing Data. Offerors shall promptly submit any cost or pricing data that Procurement Officer requests under A.R.S § 41-2543 per A.A.C. R2-7-702(B)(2). Procurement Officer may determine any of the following:
 - 6.8.1. Offer is rejected for failure to submit requested pricing data within the designated time frame under A.A.C. R2-7-704;
 - 6.8.2. Submitted cost or pricing data demonstrates that pricing is fair and reasonable under A.A.C. R2-7-702(A); or,
 - 6.8.3. Cost or pricing data is not defective under A.A.C. R2-7-705.
- 6.9. BAFOs. In accordance with A.R.S. § 41-2534, after the initial receipt of proposals, Procurement Officer may conduct discussions with those Offerors who submit proposals determined by the State to be reasonably susceptible of being selected for award. Procurement Officer will request a BAFO from any offerors with whom Negotiation has been conducted.
- 6.10. Financial Stability. You must be able to substantiate your financial stability to State's satisfaction as a precondition of any contract award. Procurement Officer may require documentation such as current and



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audited financial statements, including income and balance sheets, directly from you or may obtain reports from independent financial rating services. Not providing the evidence will be grounds for Procurement Officer determining your Offer is Not Susceptible for Award. Upon request, financial documents may be held confidential under A.R.S. § 41-2540(B).

- 6.11. Consideration of Exceptions. Procurement Officer may determine that your Offer is Not Susceptible for Award, if the Offer is conditioned on an exception to a material aspect of the Solicitation. Even if an exception is not material, your Offer may receive lower scores during Evaluation if the exception is found to be significant by Procurement Officer.
- 6.12. Consideration of Cost. Regardless of the relative order assigned to cost in the Solicitation Summary, cost is an essential consideration in every award State makes; State's intent is always to obtain the best pricing available and it strives to make its evaluations be a straightforward comparison of best value between the responsible and responsive proposals as far as possible to the extent permissible under the Arizona Procurement Code.
 - 6.12.1. In the unusual – but possible – case that Offers receive equal scores for all other evaluation criteria, Offerors are on notice that cost may end up being the factor that determines which Offeror is awarded a contract.
 - 6.12.2. Offerors are also on notice that, per A.R.S. § 35-154, it is against the law for the Procurement Officer to sign a contract that obligates the State for an amount that exceeds allocated and appropriated funds for the Contract.
- 6.13. Waiver and Rejection Rights. Notwithstanding any other provision of the Solicitation, the State reserves the right to:
 - 6.13.1. Waive any minor informality;
 - 6.13.2. Reject any and all Offers or portions thereof; or
 - 6.13.3. Cancel the Solicitation.

7. Contract Award

- 7.1. Most Advantageous to the State. Under A.A.C. R2-7-C317, contracts will be awarded to the responsible offeror(s) whose offer(s) is/are determined to be most advantageous to the State based on the stated evaluation factors set forth in the solicitation.
- 7.2. Number of Awards. The State reserves the right to make multiple awards or to award a Contract by individual line items, by group of line items, or to make an aggregate award, or regional awards, whichever is most advantageous to the State.
- 7.3. Contract Formation. An Offer does not constitute a Contract nor does it confer any rights on the Offeror to the award of a Contract. A Contract is not created until the Offer is accepted in writing by Procurement Officer's signature on the Offer and Acceptance form. A notice of award or of the intent to award shall not constitute acceptance of the Offer.
- 7.4. Effective Date. The effective date of the Contract shall be the date designated on the Offer and Acceptance form or other official contract form as the start of the contract.



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7.5. Contract Document Consolidation. State may, at its option, consolidate the resulting contract documents after contract award. Examples of such consolidation are reorganizing Solicitation Documents and those components of the Accepted Offer not pertaining to the contract's operation and excluding any components of the Accepted Offer that were not awarded. Contract document consolidation will not, however, include or be construed to include any material change to the Solicitation or the Contract.

7.6. Viewing Awarded Contracts. To view awarded Contracts:

- Go to app.az.gov
- Select: State Contracts (Blue tab)
- Search using "Keywords:" enter name of solicitation Label and click on "Search". A listing of Contracts with the description (name of Contract Set) will appear below.
- To view a Contract, click on the pencil icon next to the Contract number.
- Contact Help Desk at 602-542-7600 for assistance.

8. Protests

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

- 8.1. The name, address, email address and telephone number of the interested party;
- 8.2. The signature of the interested party or its representative;
- 8.3. Identification of the purchasing agency and the Solicitation or Contract number;
- 8.4. A detailed statement of the legal and factual grounds of the protest including copies of relevant documents;
and
- 8.5. The form of relief requested.