



**CITY OF TUCSON**  
REQUEST FOR PROPOSAL

240025

INFORMATION TECHNOLOGY PRODUCTS, SOLUTIONS, AND  
SERVICES

Due Date: Thursday, September 28, 2023

City of Tucson  
255 W Alameda St  
Tucson, AZ 85701

Procurement portal

<https://secure.procorenow.com/portal/tucson-az>

Public Portal <https://secure.procorenow.com/portal/tucson-az/projects/54769>

PUBLISH DATE: August 17, 2023

**Attachments:**

A - AXIA Cooperative Solicitation Attachments Technology Solutions

G - COT ARPA Terms and Conditions 7.26.23

H - OFFER AND ACCEPTANCE

I - Tucson Items Price Sheet

J - Price Page IT RFP240025

## A. NOTICE

### A.1. CITY OF TUCSON

NOTICE OF REQUEST FOR PROPOSAL NO 240025

TITLE: Information Technology Products, Solutions, and Services

SUBMITTAL DUE DATE: Thursday, September 28, 2023 AT 2:00 P.M. LOCAL AZ TIME

PRE-SUBMITTAL CONFERENCE DATE: Monday, August 28, 2023

TIME: 1:30 pm LOCAL AZ TIME

LOCATION: [MICROSOFT TEAMS VIRTUAL MEETING](#)

Or call in (audio only)

[+1 213-293-2303,,523047414#](#) United States, Los Angeles

Phone Conference ID: 523 047 414#

[Find a local number](#) | [Reset PIN](#)

QUESTIONS SHALL BE DIRECTED TO: Tracy Garcia  
(520) 837-4114  
tracy.garcia@tucsonaz.gov

Posted Date: Thursday, August 17, 2023

Competitive sealed offers for the material or service specified in this solicitation must be submitted through the City's online bidding system. No late submitted offer will be accepted or considered. Responses submitted in physical form or by facsimile or email will not be considered. Offerors are cautioned to commence the submittal process sufficiently ahead of time to allow for unanticipated delays resulting from things like a slow internet connection, internet outage, difficulty uploading large documents, differing system requirements, etc.

Questions about this solicitation must be addressed to the responsible Contract Officer listed herein.

## **B. INTRODUCTION**

### **B.1. Summary**

The City of Tucson (the "City") is requesting proposals from firms qualified to provide Information Technology Products, Solutions, and Services, to be delivered F.O.B. destination to various locations throughout the City of Tucson.

This RFP and contract award process is a solutions-based solicitation; meaning that the City of Tucson is seeking equipment, products, or services that meet the general requirements of the scope of this RFP and that are commonly desired or are required by law or industry standards.

Requirements and qualifications are defined in detail in the Scope of Work and Technical Requirements Section of this Request for Proposal (RFP).

### **B.2. Background**

#### **NATIONAL CONTRACT REQUIREMENTS**

The City of Tucson, as the Lead Procurement Agency, as defined in Attachment A, has partnered with Axia Coop LLC ("Axia Cooperative") to make the resultant contract ("Master Agreement") from this solicitation available to other public agencies nationally, including state and local governmental entities; public and private primary, secondary and higher education entities; non-profit entities; and agencies for the public benefit ("Public Agencies"), through Axia Cooperative's cooperative purchasing program. The City of Tucson is acting as the contracting agency for any other Public Agency that elects to utilize the resulting Master Agreement. Use of the Master Agreement by any Public Agency is preceded by their registration with Axia Cooperative as a Participating Public Agency in Axia Cooperative's cooperative purchasing program. Attachment A contains additional information on Axia Cooperative and the cooperative purchasing agreement.

Axia Cooperative provides shared services and supply chain optimization to state, local, education, and other governmental entities. Axia Cooperative leverages the spend of public agencies nationwide to command the best prices on products and services. With executive support from the supplier along with pricing and sales commitments, Axia Cooperative provides marketing and administrative support for the Supplier that directly promotes the Supplier's products and services to Participating Public Agencies through multiple channels, each designed to promote specific products and services to Public Agencies on a national basis. Public Agencies benefit from pricing based on aggregate spend and the convenience of a contract that has already been advertised and competed. The Supplier benefits from a contract that allows Participating Public agencies to directly purchase goods and services without the Supplier's need to respond to additional competitive solicitations. As such, the Supplier must be able to accommodate a nationwide demand for services and to fulfill obligations as a nationwide Supplier and respond to the Axia Cooperative documents (attachment A).

The City of Tucson anticipates spending approximately \$5,000,000.00 over the full potential Master Agreement term for Informational Technology Products, Solutions, and Services. While no minimum volume is guaranteed to the Supplier, the estimated annual volume of Informational Technology Products, Solutions, and Services purchased under the Master Agreement through AXIA Cooperative is approximately \$100,000,000.00. This projection is based on the current annual volumes among the Lead Procurement Agency, other Participating Public Agencies that are anticipated to utilize the resulting Master Agreement to be made available to them through AXIA Cooperative, and volume growth into other Public Agencies through a coordinated marketing approach between the Supplier and AXIA Cooperative.

### **B.3. Contact Information**

**Tracy Garcia**

Principal Contract Officer

Email: [tracy.garcia@tucsonaz.gov](mailto:tracy.garcia@tucsonaz.gov)

Phone: [\(520\) 837-4114](tel:(520)837-4114)

**Department:**

Business Services

### **B.4. Timeline**

<b>Release Project Date</b>	August 17, 2023
<b>Pre-Proposal Meeting (Non-Mandatory)</b>	August 28, 2023, 1:30pm MICROSOFT TEAMS VIRTUAL MEETING
<b>Question Submission Deadline</b>	September 14, 2023, 2:00pm
<b>Proposal Submission Deadline</b>	September 28, 2023, 2:00pm

## **C. SCOPE OF WORK**

### **C.1. QUALIFIED VENDORS**

Offerors should meet the minimum qualifications:

- A. A full range of Information Technology Products, Solutions, and Services to meet varying requirements of governmental agencies.
- B. Have a strong national presence as a computer solutions provider.
- C. Have a distribution model capable of delivering products, free of charge, in a timely manner on a nationwide basis.
- D. Have a demonstrated sales presence.
- E. Ability to provide a toll-free telephone and state of the art electronic ordering and billing capabilities.

**Be able to meet the minimum requirements of the cooperative purchasing program detailed herein.**

### **C.2. REQUESTED EQUIPMENT, PRODUCTS, OR SERVICES**

It is expected that Offerors offer a wide array of equipment, products, or services at lower prices and with better value than what they would ordinarily offer to a single government entity, a school district, or a regional cooperative.

1. The City of Tucson is seeking proposals for Information Technology Products, Solutions, and Services, to include a complete electronic catalog system permitting the City of Tucson and Participating Public Agencies to make web-based purchases, and receive delivery of:
  - a. Computer hardware, including desktops, laptops, tablets, and related devices;
  - b. Networking, server, and data storage equipment, including servers, server appliances, racks and cabinets, data storage or data protection devices, and switching technology;
  - c. Peripherals, accessories, components, and options, including printers, scanners, monitors, AV equipment, unified communication hardware, mobility hardware, cabling, modems, routers, switches, power management, and supplies;
  - d. Software related to the purchase of the equipment described in subparts a – c above; and,
  - e. Tech support or assessment services related to the purchase of the equipment or software described in subparts a – d above.

The catalog must be designed to populate with the City of Tucson and Participating Public Agencies pricing offered by Offeror. To the extent that Offeror has retail store locations, the system must be capable of providing City of Tucson and Participating Public Agencies pricing for purchases at Offeror's retail store locations.

The primary focus of this solicitation is on the offering of a technology catalog, but alternate forms of transaction (e.g., PO and invoice transactions) are a permissible ancillary service method.

2. Offerors may include related equipment, accessories, and services to the extent that these solutions are complementary to the equipment, products, or services being proposed.

Generally, the solutions for the City of Tucson and Participating Public Agencies are turn-key solutions, providing a combination of equipment, products and services, delivery, and installation to a properly operating status. However, equipment or products only solutions may be appropriate for situations where City of Tucson and Participating Public Agencies possess the ability, either in-house or through local third-party contractors, to properly install and bring to operation those equipment/products being proposed.

City of Tucson and Participating Public Agencies prefer vendors that provide a sole source of responsibility for the products and services provided under a resulting contract. If Offeror requires the use of dealers, resellers, or subcontractors to provide the products or services, the Proposal should address how the products or services will be provided to City of Tucson and Participating Public Agencies and describe the network of dealers, resellers, and/or subcontractors that will be available to serve City of Tucson and Participating Public Agencies under a resulting contract.

City of Tucson and Participating Public Agencies desire the broadest possible selection of products/equipment and services being proposed over the largest possible geographic area and to the largest possible cross-section of City of Tucson and Participating Public Agencies.

### C.3. REQUIREMENTS

It is expected that Offerors have knowledge of all applicable industry standards, laws, and regulations and possess an ability to market and distribute the equipment, products, or services to Participating Public Agencies.

1. Safety Requirements. All items proposed must comply with current applicable safety or regulatory standards or codes.
2. Deviation from Industry Standard. Deviations from industry standards must be identified with an explanation of how the equipment, products, and services will provide equivalent function, coverage, performance, and/or related services.
3. New Equipment and Products. Proposed equipment and products must be for new, current model; however, Proposer may offer certain close-out equipment or products if it is specifically noted in the Pricing proposal.
4. Delivered and operational. Unless clearly noted in the Proposal, equipment and products must be delivered to the Member as operational.
5. Warranty. All equipment, products, supplies, and services must be covered by a warranty that is the industry standard or better.

### C.4. PRICING

Proposers shall utilize **Attachment J** to provide a price in the format of a minimum percentage discount off of a verifiable price index for the products or services. Individualized percentage discounts can be



applied to any number of defined product groupings. Proposers may submit discounts for various manufacturers. Price discounts will be evaluated by applying the Supplier's discount to the prices listed on the verifiable price index. It is the supplier's responsibility to provide the City with an up-to-date price list for the duration of the contract.

At the time of purchase, suppliers may offer deeper discounts beyond the discounted price list, based on volume or other factors, as applicable. Minimum discounts will remain firm during the entirety of the initial term of the Contract, unless the Supplier requests to increase its discount percentage, and will include all charges that may be incurred in fulfilling requirement(s).

The "technology marketplace" is one of rapid change, with new products and revisions coming into the marketplace on a regular basis. Supplier may decrease prices for the balance of the Contract term due to a change in market conditions. Also, Supplier may conduct sales promotions involving price reductions for a specified lesser period.

In the event a product is discontinued, Supplier will provide a product of the same or greater functionality, utilizing the proposed discount structure.

All pricing discounts shall be firm for the Term of this agreement and all extensions or renewals of the Term of this agreement and will include all costs of the Supplier providing the materials/service including transportation, insurance, and warranty costs. No fuel surcharges will be accepted unless allowed in this Agreement. The City shall not be invoiced at prices higher than those stated in the Agreement. No price modifications will be accepted without proper request by the Supplier and response by the City's Purchasing Division.

Any requests for reasonable price adjustments must be submitted in writing to the City of Tucson. Requests for adjustment in cost of labor and/or materials must be supported by appropriate documentation. There is no guarantee the City will accept a price adjustment therefore Supplier should be prepared for the Pricing to be firm over the Term of the Agreement. The City is only willing to entertain price adjustments based on an increase to Supplier's actual expenses or other reasonable adjustment in providing the services/materials under the Agreement. If the City agrees to the adjusted price terms, the City shall issue written approval of the change.

Offerors shall utilize **Attachment I** (Tucson Items List) to provide pricing for specified items. For each item listed in **Attachment I**, Offerors shall provide MSRP price (or list price from a verifiable price index), discount percentage proposed (utilizing the product group discounts proposed in **Attachment J**), and the discounted Tucson price.

## **C.5. AWARD**

It is the City's intent to award to a single offeror. To provide adequate contract coverage, at the City's sole discretion, multiple awards may be made.

## **C.6. DEFECTIVE PRODUCT**

All defective products shall be replaced and exchanged by the Contractor. The cost of transportation, unpacking, inspection, re-packing, re-shipping or other like expenses shall be paid by the Contractor. All replacement products must be received by the City of Tucson or Participating Public Agencies within seven (7) days of initial notification.

## D. INSTRUCTIONS TO OFFERORS

### D.1. DEFINITION OF KEY WORDS USED IN THE SOLICITATION

For purposes of this solicitation and any subsequent contract, the following terms have the meanings set forth below:

**City:** The City of Tucson, Arizona

**Contract:** The legal agreement(s) executed between City and the Successful Offeror(s). The Contract will be deemed to include all the conditions and requirements set forth in this solicitation and any Addenda to the solicitation, all the Special Terms and Conditions and Standard Terms and Conditions, and all the terms of the Offer submitted by Offeror as finally negotiated and accepted by the City.

**Contractor/Consultant:** A Successful Offeror that enters into a Contract with the City.

**Contract Representative:** The City employee or employees who have been designated to act as the City contact for this solicitation process and who are responsible for monitoring and overseeing the Contractor's performance under the Contract.

**Business Services Director:** The contracting authority for the City, authorized to sign contracts and addenda thereto on behalf of the City.

**May:** Indicates something that is not mandatory but permissible.

**May not:** The indicated party is prohibited from taking the action.

**Must:** The action or condition is required.

**Offer:** Any proposal, statement of qualifications, bid, or other submission provided by an Offeror in response to this Solicitation.

**Offeror:** Each individual or entity that submits an Offer in response to this solicitation.

**Successful Offeror:** An Offeror who received a Notice of Award or a Notice of Intent to Award from the City.

**Will:** The indicated party is promising to take the action or abide by the condition.

### D.2. PRE-SUBMITTAL MEETING

A Pre-Submittal Meeting will be held at the date and time stated on the cover page of this solicitation, if such a date and time is provided. Attendance at this meeting is not mandatory, but written minutes and/or notes regarding the meeting will NOT be provided, so attendance is encouraged. The purpose of this meeting will be to clarify the contents of this solicitation in order to prevent any misunderstanding of the City's position.

### D.3. INQUIRIES

Any questions about this solicitation or the proposed Contract must be presented at the Pre-Submittal Meeting, if there is one (see above), or submitted in writing, via email, or through the online bidding system, to the Contract Officer by the Question Submission Deadline. The email must refer to the solicitation number and the paragraph number of the provision that the question concerns. The Contract

Officer may respond by email or may, if they deem it appropriate, address the question in a solicitation addendum or response through the question and answer portal in the online bidding system. Offeror may not rely on oral interpretations or clarifications about the solicitation; only questions answered in an email by the Contract Officer, posted through the online bidding system, or posted as a formal solicitation addendum will be binding.

#### **D.4. ADDENDUM OF SOLICITATION**

Solicitation Addenda will be posted on the City's link to the online bidding website. Offeror is responsible for checking the webpage regularly for new solicitation addenda and must acknowledge each addendum to this solicitation in its submittal. Please note that vendors who have registered with the Business Services Department at <https://procurement.opengov.com/portalucson-az> and follow the City of Tucson will receive email notifications of solicitation addenda.

#### **D.5. UNDERSTANDING SCOPE OF WORK**

Before submitting an Offer to this solicitation, Offeror must familiarize itself with the Scope of Work, laws, regulations, physical conditions, and other factors affecting the obligations – including the expense and difficulty of fulfilling those obligations – that Offeror will have under the Contract if awarded to Offeror. No adjustment to the financial or other terms of the Contract will be justified by Offeror's failure to fully understand or appreciate the Contract requirements or other factors affecting Contract performance.

#### **D.6. PREPARATION OF OFFER**

- A. Form and Organization. If Offer forms are included in this Solicitation, Offeror's Submittal must be on those forms. Supporting documentation must be arranged in a manner that follows and clearly refers to corresponding sections of the solicitation. Offeror may copy the submittal forms in order to complete them electronically but may not alter or rearrange them or change any paragraph designations.
- B. Confidential Information. Any information in its submittal that Offeror wishes to be treated as confidential must be clearly marked "CONFIDENTIAL."
- C. Offer Contents. Offeror's submittal must contain responses to all sections of this solicitation, any Offer forms provided must be completed and any requested supporting documentation must be attached.
- D. Signatures. Offeror must include in their submittal signed copies of the Offer and Acceptance page. Any cover letter accompanying the proposal documents must be signed. Offeror must initial each erasure, interlineation or other modification in the submittal. The person signing and initialing on behalf of Offeror must be a person authorized to legally bind Offeror.
- E. Prices. Where a unit price is provided it will govern over any erroneous extension of the price.
- F. Time Periods. Periods of time, stated as a number of days, will be calendar days unless specifically stated otherwise.
- G. Accuracy. Mistakes in preparation of its submittal confers on Offeror no right to modify or withdraw its submittal after the Submittal Deadline.

- H. Cost of Preparation. The City will not reimburse Offeror for the cost of developing, presenting, submitting or providing any response to this solicitation.
- I. Subcontractors. Offeror must, in their submittal, list any subcontractors that it will utilize in the performance of the Contract if they are awarded the Contract and must describe their qualifications in detail.
- J. Incomplete Information. Failure to include all requested information may have a negative impact on the evaluation of Offeror's submittal.

## **D.7. PAYMENT DISCOUNTS**

Payment discount periods shall be computed from the date of receipt of the material/service or correct invoice, whichever is later, to the date City's payment warrant is mailed. Unless freight and other charges are itemized, any discount provided shall be taken on full amount of invoice. Payment discounts of twenty-one calendar days or more shall be deducted from the proposed price in determining the price points. However, the City shall be entitled to take advantage of any payment discount offered by a vendor provided payment is made within the discount period. The payment discount shall apply to all purchases and to all payment methods.

## **D.8. TAXES**

The City is exempt from federal excise tax, including the federal transportation tax, but is not exempt from any other taxes, including state and local sales and excise taxes.

## **D.9. EXCEPTIONS TO CONTRACT PROVISIONS**

By submitting an offer in response to this solicitation, Offeror is offering to enter into the Contract with the City. If Offeror wishes to modify any Contract terms and conditions, Offeror must, in its Offer, clearly identify the changes it is requesting. No requested modification will be deemed accepted by the City unless and until the City's Business Services Director or their designee expressly accepts it in writing.

## **D.10. PUBLIC RECORD**

Any documents submitted by Offeror in response to this solicitation will become the property of the City. Except as set forth below with respect to Confidential Information, the Submittal will be deemed to be a public record available for review by the public after the award notification.

## **D.11. CONFIDENTIAL INFORMATION**

The City is obligated to abide by the Arizona Public Records Law, A.R.S. §§ 39-101 through 39-161. If Offeror believes that any portion of its Offer, specification, protest or correspondence contains information that is confidential and subject to being withheld from disclosure in the event that the City receives a public records request to which the record is responsive, Offeror must, when the record is submitted, provide the Contract Officer written notification of that fact. The records or portions of records that Offeror wishes to be treated as confidential must also be clearly marked "CONFIDENTIAL" on their face. Pricing will not be treated as confidential.

If the City, after award notification, receives a public-records request the scope of which includes a document submitted by Offeror and marked "CONFIDENTIAL", the Contract Officer will make a written determination regarding whether the document will be provided to the requestor. If the Contract Officer determines that the document should be released, City will notify Offeror in writing. Unless Offeror, within 10 days after the date of that notice, obtains and provides to City an order from a court of competent jurisdiction prohibiting the City from releasing the documents, the City may release the documents without any liability to Offeror.

## **D.12. WHEN AND HOW TO SUBMIT OFFERS**

In order to be considered, Offeror must, no later than the Offer Submittal Deadline, submit its Offer electronically through the City's online bidding system: <https://procurement.opengov.com/portalcucson-az>.

NOTE: THE ENTIRE OFFER MUST BE IN "SUBMITTED" STATUS IN THE CITY'S ONLINE BIDDING SYSTEM IN ORDER TO BE CONSIDERED. RESPONSES THAT HAVE BEEN CREATED IN THE SYSTEM, BUT THAT ARE NOT IN "SUBMITTED" STATUS BY THE OFFER SUBMITTAL DEADLINE WILL NOT BE CONSIDERED.

## **D.13. CERTIFICATION OF NONCOLLUSION; CONFLICTS OF INTEREST**

Offeror will not communicate, orally or in writing, with any member of the Mayor and Council, or with any City staff outside the Procurement Division of the Business Services Department, regarding this Solicitation. By submitting an Offer, Offeror warrants that:

- A. Preparation and submission of the submittal did not involve collusion or other anti-competitive practices.
- B. Offeror has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, meal or service to a public servant in connection with this solicitation.
- C. No person has been employed or retained to solicit or secure a Contract under this solicitation upon a promise of a commission, percentage, brokerage, or contingent fee.
- D. No employee of the City involved in this Solicitation process, or any family member of such an employee, has any substantial financial interest in Offeror's firm. No member of the City of Tucson Mayor and Council who has, or whose family member has, any substantial financial interest in Offeror's firm will participate in any action taken by the Mayor and Council with respect to this Contract. The terms "relative" and "substantial interest" have the meanings assigned in A.R.S. § 38-502

The City may disqualify Offeror from further participation in the solicitation process if the City determines that any City employee or official involved in this Solicitation process has an actual or apparent conflict of interest or if Offeror has engaged in any collusion or anti-competitive practices.

#### **D.14. WITHDRAWAL OF OFFER; BINDING OFFER**

By submitting an Offer in response to this Solicitation, Offeror is offering to enter into the Contract with the City. Offeror may withdraw a submitted Offer at any time prior to the Offer Submittal Deadline. Telephonic or oral withdrawals are not effective.

Offeror cannot withdraw an Offer that is in “submitted” status as of the Offer Submittal Deadline unless the Director of the Business Services Department consents in writing to the withdrawal. The Offer will be irrevocable for 90 days after the Offer Submittal Deadline.

#### **D.15. DISCUSSIONS**

The City may, at its discretion, conduct discussions with Offeror for the purpose of eliminating minor irregularities, informalities, or apparent clerical mistakes in Offeror’s submittal in order to clarify the offer and assure full understanding of, and responsiveness to, solicitation requirements.

#### **D.16. VENDOR REGISTRATION; BUSINESS LICENSE**

In order to be eligible for award of a Contract, Offeror must:

- A. Register with the City’s Business Services Department. Registration can be completed at <https://procurement.opengov.com/portalcucson-az>.
- B. Obtain a City of Tucson Business License or a written determination from the City's Business License Section that a license is not required. For questions contact the City's Business License Section at (520) 791-4566 or email at [license@tucsonaz.gov](mailto:license@tucsonaz.gov)

## **E. OFFER EVALUATION AND CONTRACT AWARD**

### **E.1. PROPOSAL EVALUATION CRITERIA – (listed in relative order of importance)**

- A. Method of Approach
- B. Price Proposal
- C. Qualifications & Experience
- D. Technology

### **E.2. INTERVIEWS**

The City may interview some or all of the offerors at any point during the evaluation process. If interviews are conducted, information provided during the interview process will be taken into consideration in the evaluation process. The City will not reimburse the Offeror for any costs Offeror incurs during its participation in the interview process.

### **E.3. ADDITIONAL INVESTIGATIONS**

The City may undertake any additional investigations it deems appropriate to evaluate the competence and financial stability of any offeror.

### **E.4. OTHER INFORMATION**

Information that evaluation committee members have about an offeror beyond what is provided in the offeror's Offer may be taken into consideration during the evaluation process.

### **E.5. PRICE**

- A. **Tax Offset Policy.** If applicable under Section 28-18(6) or Section 28-17(7)(d) of the Tucson Procurement Code, the City will include the amount of all business privilege taxes other than the City's in evaluating the pricing component of each Offer.
- B. **Payment Discounts.** Any discounts offered by Offeror for payments made within 21 calendar days or more will be deducted from the proposed price in evaluating an offeror's pricing. However, the City may take advantage of any early- or timely-payment discounts offered by a vendor. Any proposed payment discount will apply to all purchases and to all payment methods

### **E.6. CITY'S RIGHT TO WAIVE DEFECTS OR REJECT OFFERS**

Notwithstanding any other provision of this solicitation, the City may:

- A. Waive any immaterial defect or informality; or
- B. Reject any or all submittals, or portions thereof; or

C. Reissue the solicitation.

## **E.7. CONTRACT NEGOTIATIONS**

At the City's discretion, it may negotiate with one or more responsible offerors to agree upon the final conditions, terms and price of the Contract. In doing so, the City will treat offerors fairly and will not disclose to any offeror information from responses submitted by other offerors. Exclusive or concurrent negotiations do not constitute a contract award and do not confer any rights to the offerors participating in such negotiations. In the event the City deems that negotiations are not progressing, the City may formally terminate these negotiations and may enter into concurrent or exclusive negotiations with the next most qualified firm(s).

## **E.8. AWARD OF CONTRACT**

A Contract is created when, and only when, it is formally awarded, which occurs when the Business Services Director and the City Attorney sign the Offer and Acceptance page of the Successful Offeror's submittal. When a Contract is awarded, the City will send the Contractor a Notice of Award.

The City may first issue a Notice of Intent to Award to the Successful Offeror(s). Offeror, if it receives a Notice of Intent to Award from the City, must sign and file with the City, within ten (10) days after receipt of the Notice, all documents necessary for execution of the Contract. A Notice of Intent to Award does not create a contract. Only a subsequent formal award, as described above, creates a Contract.

## **E.9. MULTIPLE AWARDS**

It is the City's intent to award to a single offeror. To provide adequate contract coverage, at the City's sole discretion, multiple awards may be made.

## **E.10. SOLICITATION RESULTS**

After the City issues a Notice of Award, the City will post the name(s) of the Successful Offeror(s) on the Business Services Department's Internet site at <https://secure.procurenow.com/portalucson-az>.

## **E.11. PROTESTS**

Any interested party, may, in accordance with Article IX of the Tucson Procurement Code, protest either this solicitation or the award of a Contract under this solicitation. A protest based on alleged improprieties in this solicitation must be filed no later than five (5) working days before the Proposal Submittal Deadline. A protest of a proposed or actual award must be filed no later than ten (10) calendar days after the City issues a Notice of Intent to Award or, if no Notice of Intent to Award is issued, after the City issues a Notice of Award.

A protest must be made in writing and filed with the Contract Officer. It must include:

- A. The name, address, and telephone number of the protestant;
- B. The signature of the protestant or its representative;
- C. The solicitation or Contract number;



- D. A detailed statement of the legal and factual grounds for the protest along with copies of all relevant documents; and
- E. The form of relief requested.

## F. EVALUATION PHASES

No.	Evaluation Criteria	Scoring Method	Weight (Points)
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<p>1.</p>	<p><b>Method of Approach</b></p> <p>1. Provide a response to the Axia Cooperative Solicitation Attachment A.</p> <p style="padding-left: 20px;">a. Include the following detailed response to Attachment A, Exhibit A:</p> <p style="padding-left: 40px;">i. Acknowledge section 2.0-2.3 by initialing this section.</p> <p style="padding-left: 40px;">ii. Provide a written response to Section 3.0 through 3.3, Axia Cooperative Response for National Cooperative Contract.</p> <p style="padding-left: 40px;">iii. Responses should highlight experience, demonstrate national presence, describe how offeror will educate its national sales force about the contract, describe how products and services will be distributed nationwide, include a plan for marketing the products and services nationwide, and describe how volume will be tracked and reported to Axia Cooperative.</p> <p style="padding-left: 20px;">b. The successful offeror will be required to sign (in Attachment A), Exhibit B, Axia Cooperative Administration Agreement. a. Offerors should review exhibit B and should include any proposed exceptions to the Axia Cooperative Administration Agreement with their response.</p> <p style="padding-left: 20px;">c. The successful offeror is required to complete and sign (in Attachment A) Exhibit G – Federal Funds Certification.</p> <p style="padding-left: 20px;">d. Include a response to Exhibit H – New Jersey Business Compliance if you intend to utilize the resulting cooperative award to do business with agencies in New Jersey.</p> <p>2. Provide a description of the product lines that can be provided by your firm.</p> <p>3. Provide a description of the services that can be provided by your firm.</p> <p>4. Describe how your firm proposes to distribute the products/services nationwide.</p> <p>5. Identify all other companies that will be involved in processing, handling or shipping the products/service to the Participating Public Agencies. Include any subsidiaries that may include product or service under the Contract.</p>	<p>N/A</p>	<p>N/A</p>
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<p>6. Provide the number, size and location of your firm's distribution facilities, warehouses and retail network as applicable.</p> <p>7. State any return and restocking policy, and any fees, if applicable associated with returns.</p> <p>8. Describe your invoicing process. Is electronic invoicing available? Is summary invoicing available? Are there other options on how an agency receives an invoice?</p> <p>9. Describe your delivery commitment:</p> <ul style="list-style-type: none"><li>a. What is your fill rate guarantee?</li><li>b. What are your delivery days?</li><li>c. Do you offer next day delivery?</li><li>d. How do you facilitate emergency orders?</li><li>e. Are shipping charges exempt for ALL who use this contract?</li><li>f. Describe how problems (such as a customer ordering a wrong product or a customer receiving a defective product; etc.) are resolved.</li></ul> <p>10. Describe the types of customer service available to agencies that use this contract:</p> <ul style="list-style-type: none"><li>a. Is online support available?</li><li>b. Is phone support available?</li><li>c. Can agencies request a dedicated service representative and/or a dedicated service team? If a dedicated customer service representative and/or team are assigned, what types of services does the representative/team provide? How do you help the customer manage our account?</li><li>d. How are problems resolved?</li><li>e. What are the location and hours of your call centers?</li><li>f. What response time is guaranteed when a customer service request is made?</li><li>g. Do you measure/track the success of your customer service program? If so, how do you do this, and what are your findings?</li></ul> <p>11. Describe the warranty period of products. Submit information on your warranty program.</p>		
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<p>12. Describe how your firm will notify customers of new products.</p> <p>13. Describe how your firm notifies customers of discontinued products?</p> <p>14. Describe if technical support questions are handled the same way as a customer service request? If not, describe the type(s) of technical support available, the location of technical support, and the hours of technical support.</p> <p>15. Describe the proposed verifiable pricing formula or guaranteed discount matrix for new products introduced.</p> <p>16. Describe what other services you offer that would be applicable to this contract (e.g., leasing/financing, services, maintenance, implementation, design, analysis, training, repair, etc.)</p>		
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<p>2.</p>	<p><b>Price Proposal</b>                  Proposers shall utilize <b>Attachment J</b> to provide a price in the format of a minimum percentage discount off of a verifiable price index for the products or services. Individualized percentage discounts can be applied to any number of defined product groupings. Proposers may submit discounts for various manufacturers. Price discounts will be evaluated by applying the Supplier's discount to the prices listed on the verifiable price index. It is the supplier's responsibility to provide the City with an up-to-date price list for the duration of the contract.</p> <p>At the time of purchase, suppliers may offer deeper discounts beyond the discounted price list, based on volume or other factors, as applicable. Minimum discounts will remain firm during the entirety of the initial term of the Contract, unless the Supplier requests to increase its discount percentage, and will include all charges that may be incurred in fulfilling requirement(s).</p> <p>The "technology marketplace" is one of rapid change, with new products and revisions coming into the marketplace on a regular basis. Supplier may decrease prices for the balance of the Contract term due to a change in market conditions. Also, Supplier may conduct sales promotions involving price reductions for a specified lesser period.</p> <p>In the event a product is discontinued, Supplier will provide a product of the same or greater functionality, utilizing the proposed discount structure.</p> <p>All pricing discounts shall be firm for the Term of this agreement and all extensions or renewals of the Term of this agreement and will include all costs of the Supplier providing the materials/service including transportation, insurance, and warranty costs. No fuel surcharges will be accepted unless allowed in this Agreement. The City shall not be invoiced at prices higher than those stated in the Agreement. No price modifications will be accepted without proper request by the Supplier and response by the City's Purchasing Division.</p> <p>Any requests for reasonable price adjustments must be submitted in writing to the City of Tucson. Requests for adjustment in cost of labor and/or materials must be supported by appropriate documentation. There is no guarantee the City will accept a price adjustment therefore Supplier should be prepared for the Pricing to be firm over the Term of the Agreement. The City is only</p>	<p>N/A</p>	<p>N/A</p>
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	<p>willing to entertain price adjustments based on an increase to Supplier's actual expenses or other reasonable adjustment in providing the services/materials under the Agreement. If the City agrees to the adjusted price terms, the City shall issue written approval of the change.</p> <p>Offerors shall utilize <b>Attachment I</b> (Tucson Items List) to provide pricing for specified items. For each item listed in <b>Attachment I</b>, Offerors shall provide MSRP price (or list price from a verifiable price index), discount percentage proposed (utilizing the product group discounts proposed in <b>Attachment J</b>), and the discounted Tucson price.</p>		
<p>3.</p>	<p><b>Qualifications &amp; Experience</b></p> <ol style="list-style-type: none"> <li>1. Provide a brief history and description of your firm. Discuss firm's national presence in the IT solutions industry.</li> <li>2. Provide the total number and location of sales persons employed by your firm.</li> <li>3. Provide the number and location of support centers (if applicable).</li> <li>4. Provide a summarization of your experience in performing work similar to that outlined in this solicitations. Provide a minimum of three references for which your firm has provided the same solution (please include company name, address, contact person, phone number, email address and dates of service). References from other public agencies, particularly municipal governments, are preferred.</li> <li>5. Provide resumes and three references (preferably from the public sector) for the primary customer service representative(s). Resume(s) shall include their title within the organization, a description of the type of work they would perform, the individuals' credentials, background, years of experience and relevant experience, etc. References shall include the contact's name, phone number, email, position, organization, and the work which the Offeror performed for the reference.</li> <li>6. Provide information regarding if your organization ever failed to complete any work awarded.</li> <li>7. Provide information regarding if your firm, either presently or in the past, has been involved in any litigation, bankruptcy, or reorganization.</li> </ol>	<p>N/A</p>	<p>N/A</p>

<p>4.</p>	<p><b>Technology</b></p> <p>1. Describe your website and the ease-of-use for customers to perform the following types of tasks:</p> <ul style="list-style-type: none"> <li>a. to search for products</li> <li>b. to find alternate products (if a certain product is not available)</li> <li>c. to perform side-by-side price comparison of products</li> <li>d. to order products</li> <li>e. to order products in advance (i.e., how far in advance of required delivery date can an order be placed?)</li> <li>f. to track order status, to include backordered items</li> <li>g. to determine when an item was received and who received it</li> <li>h. to restrict/block the ordering of certain line items and to restrict/block the ordering of groups</li> <li>i. to create approval paths/levels for orders, to include creating an approval path for restricted items</li> <li>j. to create a "favorites" list or other personalized list of frequently ordered items</li> <li>k. to create a "shared" list for an agency to use</li> <li>l. to obtain online customer service</li> <li>m. to receive online training</li> <li>n. to accept credit card payment (and describe the level of data offered; also describe your security measures for credit card orders)</li> <li>o. to track their budget for purchases</li> <li>p. to generate reports</li> </ul> <p>2. Describe additional functionality offered by your website. Provide screen shots, a demo URL, a manual, etc., or any other format that will aid the City in our evaluation of your website.</p> <p>3. Describe any national awards and/or other recognition that your website has received.</p> <p>4. Describe the hours your website is available? What are your hours of</p>	<p>N/A</p>	<p>N/A</p>
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<p>downtime, such as for system maintenance?</p> <p>5. Does your website offer real time product availability?</p> <p>6. Does your website offer order size incentives? For example, if an order reaches a certain amount, is there a discount that is offered and, if so, how is that conveyed to the customer?</p> <p>7. Describe the types of email confirmations that your website generates. What events trigger an email going to the customer?</p> <p>8. Describe the registration process to set up new customers for your online ordering process. Is self-registration available? If an agency does not want self-registration, are you available to assist in the registration process?</p> <p>9. Describe if your website can be customized for an agency's specific needs, such as placing our logo on your website, associating an agency blanket purchase order number on all orders, creating a bulletin board or other place to display customized messages, displaying approved configurations, naming certain fields (i.e., user defined fields), etc.</p> <p>10. Describe the types of online reporting that are available. Is customized reporting available?</p> <p>11. Describe your online return process (if available).</p> <p>12. Describe any third-party integration that you have successfully implemented. For example, is your website integrated with any third-party procurement, financial, or purchasing/credit card systems?</p> <p>13. Describe your strategic vision for your website – i.e., Is new functionality expected to be added? If so, describe the functionality and the timeline for implementation. How often is the web redesigned? As technology evolves (for example, new search engines are more robust), does your website evolve, too? Etc.</p>		
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## **G. SPECIAL TERMS AND CONDITIONS**

### **G.1. AVAILABILITY OF FUNDS FOR THE NEXT FISCAL YEAR**

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

### **G.2. COOPERATIVE PURCHASING**

Any Contract resulting from this solicitation shall be for the use of the City of Tucson. In addition, public and nonprofit agencies that have registered with Axia Cooperative or entered into a Cooperative Purchasing Agreement with the City of Tucson's Department of Procurement are eligible to participate in any subsequent Contract. See [http://www.tucsonprocurement.com/coop\\_partners.aspx](http://www.tucsonprocurement.com/coop_partners.aspx) and click on Cooperatives for a list of the public and nonprofit agencies that have currently entered into Cooperative Purchasing Agreements with the City of Tucson. Additionally, this contract is eligible for use by the Strategic Alliance for Volume Expenditures (SAVE) cooperative. See <http://www.mesaaz.gov/home/showdocument?id=23638> for a listing of participating agencies. The parties agree that these lists are subject to change. Any orders placed to, or services required from, the successful Contractor(s) will be requested by each participating agency. Payment for purchases made under this agreement will be the sole responsibility of each participating agency. The Contractor may negotiate additional expenses incurred as a result of participating agencies' usage of this contract (i.e., freight charges, travel related expenses, etc.). The City shall not be responsible for any disputes arising out of transactions made by others. The Contractor(s) will provide an electronic copy of the complete Contract to the City of Tucson Department of Procurement upon receipt of the Notice of Intent to Award. At the City's request, the successful Contractor(s) may also be requested to provide an electronic copy of the complete Contract to a participating agency.

### **G.3. FOB DESTINATION FREIGHT PREPAID**

Prices shall be FOB Destination Freight Prepaid to the delivery location designated. Contractor shall retain title and control of all goods until they are delivered and the Contract of coverage has been completed. All risk of transportation and all related charges shall be the responsibility of the Contractor. All claims for visible or concealed damage shall be filed by the Contractor. The City will assist the Contractor in arranging for inspection.

### **G.4. LIVING WAGE REQUIREMENTS**

Contractor will comply with all applicable provisions of the City's Living Wage Ordinance (Article XIV of the Tucson Procurement Code). Contractor will, upon request, affirm in writing that Contractor is in compliance and will provide City with information and documentation demonstrating that compliance. The City's Living Wage ordinance can be found at the following link: [https://tucsonprocurement.com/bidders\\_livingwage.aspx](https://tucsonprocurement.com/bidders_livingwage.aspx).

## **G.5. PRICE ADJUSTMENT**

At least 90 days before the date that the Contract is eligible for extension, Contractor may submit to the Contract Officer a request for price adjustments based on documented increased Contractor costs and the City may, at its discretion, make price adjustments, which will apply during the extension term.

## **G.6. TERM AND RENEWAL**

The term of the Contract will commence when awarded to Contractor and remain in effect for a period of three (3) years, unless terminated, canceled or extended as otherwise provided herein. The City may, at its sole option, extend the Contract's term for up to two (2) additional **one-year periods** or portions thereof.

## **H. INSURANCE REQUIREMENTS**

### **H.1. Required Insurance Policies**

Contractor will obtain and maintain during the entire term of this Contract and for 2 years after the Contract term ends, the following insurance coverage from insurers that have an "A.M. Best" rating of not less than A-VII:

### **H.2. Commercial General Liability**

Policy must include Bodily Injury, Property Damage, Personal Injury and Broad Form Contractual Liability with coverage limits no lower than:

- A. Each Occurrence: \$1,000,000
- B. General Aggregate: \$2,000,000
- C. Products & Completed Operations Aggregate: \$2,000,000
- D. Personal and Advertising Injury: \$1,000,000
- E. Blanket Contractual Liability: \$1,000,000

### **H.3. Commercial Automobile Liability**

Policy must include bodily injury and property damage, for any owned, hired, and/or non-owned vehicles used in performance of work under this Contract, with a Combined Single Limit no lower than \$1,000,000.

### **H.4. Worker's Compensation**

Policy must have coverage limits no lower than:

- A. Per Occurrence: Statutory
- B. Employer's Liability: \$1,000,000
- C. Disease Each Employee: \$1,000,000
- D. Disease Policy Limit: \$1,000,000
- E. [If Contractor is a Sole Proprietor, include this waiver provision under A.R.S. § 23-961(M). To determine whether the Contractor is a Sole Proprietor, please request the Sole Proprietor/Independent Contractor form from the Contract Officer listed in the solicitation.] I am a sole proprietor, and I am doing business as [name of sole proprietor business]. I am performing work as an independent contractor for the City of Tucson. I am not the employee of the City of Tucson for workers' compensation purposes, and, therefore, I am not entitled to workers' compensation benefits from the City. I understand that if I have any employees working for me, I must maintain workers' compensation insurance on them.

## **H.5. Professional Liability - Technology Errors & Omissions**

**Policy must have coverage limits no lower than:**

- A. Each Claim: \$1,000,000
- B. General Aggregate: \$2,000,000

## **H.6. Network Security (Cyber) and Privacy Liability**

**Policy must have coverage limits no lower than:**

- A. Each Claim: \$1,000,000
- B. Annual Aggregate: \$2,000,000

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 loss of use, 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.

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.

## **H.7. Policy Change Notice**

Contractor will give the City 30 days advance written notice before any of the above policies are changed in any manner that is inconsistent with the requirements of this Contract. The notice must be sent directly to the Procurement Division of the Business Services Department.

## **H.8. Additional Insured**

The Commercial General Liability, Commercial Automobile Liability and umbrella policies where applicable will include the City as an additional insured with respect to liability arising out of the performance of this contract. The City must be covered to the full policy limits, even if those limits of liability are in excess of those required by this Contract. The coverage must be primary and any insurance carried by City is excess and not contributing.

## **H.9. Claims-Made Coverage**

If any or part of the required insurance is written on a claims-made basis, any policy retroactive date must precede the date of the contract and the Contractor must maintain such coverage for a period not less than three (3) years following contract expiration, termination or cancellation.

## **H.10. Additional Requirements**

Each insurance policy required by this Contract, excluding Professional Liability (Errors & Omissions), must include or be endorsed to include to provide the following:

- A. A waiver of subrogation endorsement in favor of the City, for losses arising from work performed by or on behalf of the Contractor (Including Worker's Compensation).
- B. The policy is primary and any insurance carried by the City is excess and not contributing.
- C. The coverage provided by the policy is not limited to the liability assumed under the indemnification provisions of this Contract.
- D. The insurer will provide written notice to the City at least ten (10) calendar days before the policy is terminated or cancelled or the coverage is reduced.

## **H.11. Verification of Coverage**

- A. Contractor will give the City certificates of insurance (ACORD form or equivalent approved by the City), signed by an authorized representative of the insurer, showing that the Contractor has all the insurance required by this Contract.
- B. Contractor must deliver the certificates directly to the Procurement Division of the City's Business Services Department before the Contractor commences work under this Contract.
- C. The certificates must contain the City project/contract number and project description.
- D. The City reserves the right to require complete copies of all insurance policies required by this Contract at any time.

## **H.12. Subcontractors**

Contractors' insurance certificate(s) must include all subcontractors as insureds under its policies or Contractor must give the City separate certificates and endorsements for each subcontractor showing that each subcontractor has the insurance coverage described above.

## **H.13. Public Entities**

If Contractor or any sub-contractor is a public entity that self-insures as permitted by law, **then** the insurance requirements in this Section 8 will not apply to that entity and that entity must instead provide a Certificate of Self- Insurance.

## **H.14. Sufficiency of Coverage**

The City in no way warrants that the required minimum insurer rating in this Contract is sufficient to protect the Contractor from potential insurer insolvency, nor that the required liability limits are sufficient to protect Contractor.

## **I. STANDARD TERMS AND CONDITIONS**

### **I.1. ADVERTISING**

Contractor will not advertise or publish information concerning this Contract without prior written consent of the City's Business Services Director.

### **I.2. COMPLIANCE WITH LAWS**

The parties will comply with all federal, state and local laws, rules, regulations, standards and Executive Orders including, without limitation, the following:

- A. Americans with Disabilities Act. Contractor will comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101 -- 12213) and applicable Federal regulations under the Act, including 28 CFR Parts 35 and 36.
- B. Workers' Rights Laws. Contractor will comply with all applicable provisions of Federal and State Child Labor and Workers' Rights laws and agrees if called upon to affirm in writing that they and any subcontractors working under this Contract are in compliance.
- C. Affirmative Action. Contractor will comply with Chapter 28, Article XII of the Tucson City Code Chapter 28.

### **I.3. GOVERNING LAW AND VENUE**

This Contract is governed by the laws of the State of Arizona and the City and Contractor will have all remedies afforded to each by the Tucson Procurement Code and the laws of the State of Arizona. Any lawsuits regarding this Contract must be brought in a court of competent jurisdiction in Pima County, Arizona.

### **I.4. ARBITRATION**

Notwithstanding any other provision in this Contract, no agreement by the City to arbitrate a dispute is binding unless given expressly and in writing after execution of this Contract. However, if both parties agree, disputes may be resolved through arbitration following the process in A.R.S. § 12-1501, et seq. Contractor must continue to perform under this Contract without interruption, notwithstanding the provisions of this section.

### **I.5. ASSIGNMENT**

Contractor may not assign its rights or obligations under this Contract without the prior written permission of the City's Business Services Director. The City will not unreasonably withhold approval for a requested assignment.

### **I.6. SUBCONTRACTS**

Contractor may not enter into any subcontracts for work under this Contract without the advance written approval of the City's Business Services Director. All subcontracts will incorporate all the terms and

conditions of this Contract. Contractor is responsible for contract compliance and quality of work of any subcontractors used.

## **I.7. PROTECTION OF CITY PROPERTY**

If this Contract requires Contractor to perform any work on City-owned property, Contractor will use reasonable care to avoid damaging existing buildings, equipment, and vegetation (such as trees, shrubs, and grass) on the property. Contractor will replace or repair any damage caused by Contractor or any employee, agent, or subcontractor of Contractor, at no expense to the City. If Contractor fails or refuses to make such repair or replacement, the City will estimate the cost of repair and, upon receiving an invoice from the City for that estimated cost, Contractor will pay the City the invoiced amount. City may, at its discretion, instead deduct the amount from any payments due Contractor under this or any other City contract.

Contractor will, during the course of its work on City property, keep the work area, including any storage areas used by the Contractor, free from accumulation of waste material or rubbish. Upon completion of the work, Contractor will leave the work area in a clean and neat condition, free of any debris, and will remove any non-City-owned materials or equipment or other personal property that it has caused to be located on the City property.

## **I.8. COMMENCEMENT OF WORK**

Contractor will not commence any billable work or provide any material or service under this Contract until Contractor receives a purchase order or is otherwise directed to do so, in writing, by the City.

## **I.9. CONFIDENTIALITY OF RECORDS**

Contractor will establish and maintain procedures to ensure that no information contained in its records or obtained from the City or from others in carrying out its functions under this Contract is used or disclosed by it, its agents, officers, or employees, except as required to efficiently perform its duties under the Contract, and will take appropriate measures to protect any personal identifying information of any individuals.

## **I.10. CONTRACT ADDENDA; ADDITIONAL WORK**

This Contract may only be amended by a written agreement signed by the parties. The City's Business Services Director or their designee may, on behalf of the City (1) approve and execute any addenda, change orders, or supplemental written agreements; and (2) grant time extensions or contract renewals. Except in the case of a documented emergency, Contractor will not perform any work under this Contract that exceeds the scope of work or contract amount unless a formal addendum or change order has first been approved and executed by the City.

## **I.11. ENTIRE CONTRACT; INTERPRETATION**

This Contract, which includes all the conditions and requirements set forth in the Solicitation and all addenda to the Solicitation, all the Special Terms and Conditions and Standard Terms and Conditions, and all the terms of the Offer submitted by Contractor as finally negotiated and accepted by the City,



constitutes the entire agreement of the parties regarding the services described in the Scope of Work and will prevail over any and all previous agreements, contracts, proposals, negotiations, purchase orders, or master agreements in any form.

No course of prior dealings between the parties and no usage of the trade will be deemed to supplement or explain any term used in the Contract.

## **I.12. SEVERABILITY**

The provisions of this Contract are severable. If any provision or application of a provision of this Contract is held to be invalid, that will not affect the validity of any other provision or application of a provision that can remain meaningfully effective without the invalidated provision or application.

## **I.13. DUPLEXED/RECYCLED PAPER**

Whenever practicable, all printed materials produced by Contractor in the performance of this Contract will be duplexed (two-sided copies), printed on recycled paper, and labeled as such.

## **I.14. 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 term of this Contract, Contractor will not discriminate against any employee, client, or any other individual in any way because of race, color, religion, ancestry, sex, age, disability, national origin, sexual orientation, gender identity, familial status, and/or marital status.

## **I.15. DELIVERABLES PROPERTY OF CITY; NO LIENS**

All services, information, computer program elements, reports and other deliverables created under this Contract are the sole property of the City and may not be used or released by Contractor except with the City's prior written permission.

All deliverables supplied to the City under this Contract will be free of all liens and encumbrances.

## **I.16. FEDERAL IMMIGRATION LAWS AND REGULATIONS**

Contractor warrants and will require each subcontractor performing work on this Contract to warrant that it will comply with all federal immigration laws and regulations that relate to its employees and with the requirements of A.R.S. § 23-214(A). A breach of this warranty will be deemed a material breach of this Contract that is subject to penalties up to and including termination of this Contract. City may inspect the records of any employee of Contractor or any subcontractor performing work on this Contract to monitor Contractor's and its subcontractors' compliance with this warranty.

## **I.17. FORCE MAJEURE**

Except for payment of sums due, neither party will 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. Force Majeure does not include late performance by a subcontractor unless the delay arises out of a Force Majeure occurrence.

If either party is delayed at any time in the progress of the work by Force Majeure, the delayed party must notify the other party in writing of the delay as soon as practical, including when the delay commenced and its cause. The notice must make a specific reference to this article to fall within its protection. The delayed party must resume performance as soon as practicable and must notify the other party in writing when it has done so. The parties will modify the Contract to agree upon the period of time by which the excused delay extends any completion dates.

### **I.18. GRATUITIES**

The City may, by written notice to the Contractor, terminate this Contract if it finds that gratuities, in the form of entertainment, gifts, meals or otherwise, were offered or given by Contractor or any agent or representative of Contractor, to any officer or employee of the City to influence the award of this Contract or any determinations with respect to the performance of this Contract. In the event this Contract is terminated by the City pursuant to this provision, the City will be entitled, in addition to any other rights and remedies, to recover or withhold from Contractor the amount of the gratuity.

### **I.19. CONFLICTS OF INTEREST**

The City may terminate this Contract without penalty or further obligation pursuant to A.R.S. § 38-511 if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Contract on behalf of the City is or becomes, at any time while the Contract or any extension of the Contract is in effect, an employee of, or a contractor to, Contractor with respect to the subject matter of this Contract. Termination will be effective when written notice from the City's Business Services Director is received by Contractor, unless the notice specifies a later time.

### **I.20. INDEMNIFICATION**

To the fullest extent permitted by law, Contractor, its successors, assigns and guarantors, will indemnify, defend, and hold harmless the City and its officials, employees, volunteers, and agents, from and against all allegations, demands, proceedings, suits, actions, claims (including but not limited to claims of patent, trademark, or copyright infringement), liability, damages, losses, expenses (including but not limited to attorney fees and court costs, including the cost of appellate proceedings, and all claim-adjusting-and-handling expenses) or disbursements of any kind or nature, that may be asserted against, imposed on, or incurred by any of them, in any way relating to or arising from any actions, errors, mistakes or omissions of Contractor or any subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable relating to work, services and/or products provided under this Contract.

Contractor is responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. Contractor agrees to waive all rights of subrogation against the City, its agents, officials, employees, and volunteers for losses arising from the work performed by Contractor under this Contract.

## **I.21. INTELLECTUAL PROPERTY**

If manufacture, sale, or use of any method, process, machine, technique, design, living thing, genetic material, or composition of matter, or any part thereof ("**Product**") by Contractor in performing its duties under this Contract is determined to constitute infringement and if further manufacture, sale, or use of said Product is enjoined, Contractor will, at its own expense, either procure for the City the right to continue manufacture, sale, or use of that Product, replace it with an alternative non-infringing Product, or modify it so it becomes non-infringing.

If requested by City, Contractor will provide the City with satisfactory evidence of patent licenses or patent releases covering City-specified proprietary materials, equipment, devices or processes.

## **I.22. INDEPENDENT CONTRACTOR**

Neither party is the agent, employee, partner, joint venturer, or associate of the other. No employee or agent of one party will be deemed or construed to be the employee or agent of the other party for any purpose. Neither party will be liable for any debts, accounts, obligations or other liabilities whatsoever of the other, including (without limitation) the other party's obligation to withhold Social Security and income taxes for itself or any of its employees.

## **I.23. INSPECTION AND ACCEPTANCE**

All materials and services provided to the City under this Contract are subject to final inspection and acceptance by the City. Any materials or services failing to conform to the specifications of this Contract must be promptly replaced or redone at Contractor's cost. Nonconforming goods or services may be deemed a default and result in Contract termination.

## **I.24. ISRAEL BOYCOTT DIVESTMENT**

If this Contract has a value of \$100,000 or more, Contractor certifies that it is not currently engaged in, and will not during the term of this Contract engage in, a boycott of goods or services from Israel as defined in A.R.S. § 35-393.

## **I.25. LICENSES**

Contractor will maintain in current status all Federal, State, and local licenses and permits required for the operation of the business conducted by the Contractor as applicable to this Contract. Contractor will, at the request of the City at any time during the term of this Contract, give the City a valid copy of its business license or, if it is exempt, a written determination from the City Business License Section that a business license is not required.

## **I.26. NON-EXCLUSIVE CONTRACT**

This Contract is for the sole convenience of the City, which may obtain like goods or services from other sources.

## **I.27. OVERCHARGES BY ANTITRUST VIOLATIONS**

To the extent permitted by law, Contractor hereby assigns to the City any and all claims that Contractor has for overcharges by any subcontractor or supplier of goods or services used by Contractor to fulfill this Contract that relate to antitrust violations.

## **I.28. PAYMENT**

- A. Form of Payment. The City's preferred method of payment is via credit card, either at the time of ordering or based on an invoice delivered with the goods and services. Unless otherwise specified elsewhere in this Contract, the City is permitted to make payments to Contractor using any lawful method of payment, including check/warrant, credit card, or electronic funds transfer.
- B. Invoices. Unless City pays by credit card at time of order or point of sale, Contractor will issue to the City a separate invoice for each shipment of materials or provision of services under this Contract, and City will issue no payment prior to receipt of the goods or services and the related invoice. The invoice may not be dated prior to the receipt of goods or completion of services.
- C. Timing of Payments. The City will make commercially reasonable efforts to process payments due under this Contract within 21 calendar days after receipt of materials or services and a correct invoice.
- D. Payment Discounts. Any early- or timely-payment discounts included in Contractor's Offer will apply to all payments under this Contract. The payment period for purposes of determining whether the discount applies to a particular payment will begin on the date the City receives the materials/service or a correct invoice for the materials/service, whichever is later, and will end on the date City's payment is issued. Unless taxes and transportation-related charges are itemized, the discount will be calculated using the full invoice amount.

## **I.29. PROVISIONS REQUIRED BY LAW**

This Contract will be deemed to include every provision required by law to be included. If through mistake or otherwise any such provision is not included, or is included incorrectly, then upon request by either party the parties will amend the Contract to insert or correct the required provision.

## **I.30. FINANCIAL RECORDS AND AUDITS**

- A. Financial Controls and Accounting Records. Contractor will exercise internal controls over all financial transactions related to this Contract in accordance with sound fiscal policies. Contractor will maintain books, records, documents, and other evidence directly pertinent to the performance this Contract in accordance with generally accepted accounting principles and practices consistently applied, and other local, state or federal regulations.
- B. Retention Period. Contractor will maintain those records, together with related or supporting documents and information, at all times during the term of this Contract and for a period of 3 years after its expiration or termination.

- C. Audits. Upon written notice from City, Contractor will obtain and provide to City a contract-specific or general financial audit. The notice from City will specify the period to be covered by the audit, the type of audit and the deadline for completion and submission of the audit results to City. The audit must be performed by a qualified, independent accounting firm and include Contractor's responses, if any, to any audit findings.
- D. Access to Books and Records. The City and its authorized representatives may, with advance written notice to Contractor, during the term of this Contract or thereafter during the above retention period, inspect and audit Contractor's books and records that relate to its operations under this Contract as well as those kept by or under the control of its agents, assigns, successors and subcontractors. The Contractor will, at its expense, make such books and records available for such inspection and audit during normal business hours at Contractor's office, place of business, or other agreed-upon location, or will provide copies by mail or electronically. The City may, as part of its examination, make copies of, or extracts from, all such books and records (in whatever form they may be kept, whether written, electronic, or other).
- E. Result of Audit. If, as a result of such audit, Contractor is liable to the City for the payment of any sum, Contractor will pay such sum to the City together with interest thereon at the rate of one percent (1%) per month from the date such sums should have been paid, or the date of any overpayment by City, within 90 days after presentation of City's findings to Contractor. If the audit results in findings of fraud, misrepresentation, or non-performance, Contractor will pay the City's costs of conducting the audit. The City's audit rights will survive the expiration or termination of this Contract.
- F. Subcontractors and Assigns. Contractor will include these requirements in every agreement with any agent, assign, successor, and subcontractor who provides construction, professional design services, or other goods or services under this Contract.

### **I.31. RIGHT TO ASSURANCE**

If a party to this Contract has reason to question, in good faith, the other party's intent to perform, the former party may demand that the other party give a written assurance of their intent to perform. In the event that a demand is made and no written assurance is given within 5 business days, the demanding party may treat this failure as a default.

### **I.32. RIGHT TO INSPECT**

The City may from time to time during normal business hours, at the City's expense, inspect the Contractor's or any subcontractor's place of business at which work under this Contract is being performed.

### **I.33. NO WAIVER**

No provision in this Contract acts expressly or by implication as a waiver by either party of any existing or future right and/or remedy available at law in the event of any default or breach of contract. If either party fails to insist upon the other's strict performance of any duty or condition under this Contract or fails to exercise or delays in exercising any right or remedy provided in this Contract or by law, or

accepts nonconforming materials or services, that party will not be deemed to have waived its right to insist thereafter upon the strict performance of the Contract.

### **I.34. SUSPENSION OF WORK**

The City may order Contractor to suspend, delay, or interrupt all or any part of the work under this Contract for the period of time that the City determines appropriate for the convenience of the City. The order must be in writing and signed by the City's Business Services Director.

### **I.35. TERMINATION OF CONTRACT**

- A. For Convenience. The City may terminate this Contract at any time, with or without cause, with 30 days' advance written notice to Contractor. If the City terminates the Contract, it will be liable only for payment for services rendered and accepted before the effective date of the termination.
- B. For Cause. The City may terminate this Contract if any Contractor representation or warranty is found to have been inaccurate when made or is no longer accurate, or if Contractor fails to carry out or abide by any term or condition of the Contract and fails to remedy the problem within 10 days after receipt of notice of default from the City for monetary defaults, or within 30 days after notice if the default is non-monetary.
- C. Non-Appropriation. Each payment obligation of the City created by this Contract is conditioned upon the availability of funds that are appropriated or allocated for the payment of such obligation. If funds are not appropriated by the City and available for the continued purchase of the services and/or materials provided under this Contract, this Contract may be terminated by the City at the end of the period for which funds are available. The City will endeavor to notify Contractor if continued service will or may be affected by non-appropriation. No penalty will accrue to the City in the event this provision is exercised, and the City will not be liable for any future payments due or for any damages resulting from termination under this paragraph.

### **I.36. TITLE AND RISK OF LOSS**

The title and risk of loss of any goods provided under this Contract will not pass to the City until the City actually receives the goods at the point of delivery and thereafter accepts them. No tender of a bill of lading will operate as a delivery of the materials.

### **I.37. ACCEPTANCE**

Mere physical receipt and inspection of goods or services by the City does not alter or affect the obligations of Contractor to provide goods and services that conform to all specifications of this Contract and the City may reject goods or services that are later found to be nonconforming.

### **I.38. WAGE COMPLIANCE**

Contractor shall pay their eligible employees the highest of:

- A. the City of Tucson minimum wage

- B. the State of Arizona minimum wage
- C. if applicable, the Tucson Living Wage

Contractor shall cooperate with all efforts of the City of Tucson's Labor Standards Unit (LSU) to monitor and ensure compliance with applicable labor standards to include, but not be limited to, the following:

- Providing copies of pertinent documentation upon request
- Cooperating with audits and interviews
- Abiding by deadlines and adhering to due dates for determinations and appeals filings

Contractor agrees to educate their employees on the applicable wage(s) that law requires them to minimally be paid.

All timely complaints that are received by the LSU will be evaluated in accordance with the procedures posted on the LSU's webpage: [www.tucsonaz.gov/minimumwage](http://www.tucsonaz.gov/minimumwage)

### **I.39. WRITTEN CERTIFICATION PURSUANT TO A.R.S. §35-394**

If Contractor engages in for-profit activities and has at least ten full time employees, Contractor certifies that Contractor does not currently, and agrees for the duration of the contract that it will not, use: 1) the forced labor of ethnic Uyghurs in the People's Republic of China; 2) any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China; and 3) any contractors, subcontractors or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China. If Contractor becomes aware during the term of the contract that it is not in compliance with the written certification, it must notify the City within five business days after becoming aware of the noncompliance. This Contract will be automatically terminated 180 days after the date of the notice unless Contractor has, before the end of that period, notified the City that the noncompliance has been remedied.

## **J. VENDOR QUESTIONNAIRE**

### **J.1. Discounts**

As stated in the Instructions to Offerors. Discounts, the price(s) herein can be discounted by \_\_\_\_\_%, if payment is made within \_\_\_\_\_ days. These payment terms shall apply to all purchases and to all payment methods.

### **J.2. City of Tucson Business License**

Does your firm have a City of Tucson Business License?

If yes, please provide a copy of your City of Tucson Business license in the next question.

#### **City of Tucson Business License**

If yes on the above question please upload your business license.

### **J.3. Forms to be filled out**

Please ensure that all required information is included with your offer.

- A. Technical Proposal
- B. Pricing Proposal
- C. Offer and Acceptance Form

#### **Technical Proposal**

Please upload your Vendor Response to Evaluation Criteria.

#### **Pricing Proposal**

Please upload your Pricing Proposal (if applicable).

#### **Offer and Acceptance Form\***

Please upload the signed Offer and Acceptance Form.

\*Response required



## OFFER AND ACCEPTANCE

### OFFER

**TO THE CITY OF TUCSON:**

The Undersigned hereby offers and shall furnish the material or service in compliance with all terms, scope of work, conditions, specifications, and amendments in the Request for Proposal which is incorporated by reference as if fully set forth herein.

For clarification of this offer, contact:

\_\_\_\_\_  
Company Name

Name: \_\_\_\_\_

\_\_\_\_\_  
Address

Title: \_\_\_\_\_

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

Phone: \_\_\_\_\_

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

Fax: \_\_\_\_\_

Printed Name

E-mail: \_\_\_\_\_

\_\_\_\_\_  
Title

### ACCEPTANCE OF OFFER

The Offer is hereby accepted. The Contractor is now bound to sell the materials or services specified in the Contract. This Contract shall be referred to as Contract No. \_\_\_\_\_.

**CITY OF TUCSON**, a municipal corporation

Approved as to form:

Awarded:

This \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

This \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

\_\_\_\_\_  
As Tucson City Attorney and not personally  
personally

\_\_\_\_\_  
As Director of Business Services and not