



**CITY OF PHOENIX
HUMAN SERVICES DEPARTMENT**

**INVITATION FOR BID (IFB)
IFB-22-EDU-74**

PREVENTATIVE HEALTH MEDICAL EQUIPMENT AND SUPPLIES

DEADLINE FOR RECEIVING BIDS

Friday, April 7, 2023, by 3:00PM Phoenix local time
email to hsdprocurement@phoenix.gov

PROCUREMENT OFFICER

Pamela M. Smith
hsdprocurement@phoenix.gov

Date Posted on website (issue date): February 10, 2023



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SECTION I – INSTRUCTIONS

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Please read before continuing to the offer document. This list may not include every requirement; the purpose is to assist offerors, but offerors are expected to read and comply with the entire solicitation.

SOLICITATION RESPONSE CHECK LIST

Check off each of the following as the necessary action is completed.

- ☐ Followed submittal format as stated in Section IV – Submittals.
- ☐ A response was provided for Tabs 1-2, in Section IV – Submittals.
- ☐ Attachments A – H have been completed, and/or signed and included with your Offer.
- ☐ Reviewed the Insurance Requirements, if any, to assure compliance.
- ☐ Reviewed Section III – Draft Agreement for terms and conditions.
- ☐ Included with Offer Tab 4, signed Solicitation Addenda, if applicable.

Email your response timely – City must receive offers no later than the date and time indicated in the Schedule of Events or addenda.



SECTION I – INSTRUCTIONS

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1. DESCRIPTION – STATEMENT OF NEED

- 1.1. The City of Phoenix Human Services Department (HSD) invites sealed offers for preventative health medical equipment and supplies on an as-needed basis for a five-year period commencing on or about June 1, 2023. The City of Phoenix Fire Department will also be using these services.
- 1.2. The Head Start Birth to Five Program has an ongoing need to provide medical screenings to children enrolled in our program to meet the “Child Health Status and Care” Performance Standards outlined by the Office of Head Start.

The Phoenix Fire Department Health & Wellness Center performs annual hearing tests on public safety firefighters and police officers as part of their National Fire Protection Agency and OSHA required physical exams. This testing requires calibration, maintenance & repair of audiometer testing equipment to ensure equipment is working properly and safely.

- 1.3. This solicitation is available through Arizona Relay Service 7-1-1. Please call TTY 800-367-8939 for assistance.
- 1.4. Notwithstanding the foregoing, this Agreement will terminate upon the earliest occurrence of any of the following: by reaching the end of the term including any extensions exercised, or termination pursuant to the provisions of this Agreement.

2. SCHEDULE OF EVENTS

ACTIVITY (All times are local Phoenix time)	DATE
Submittal of Written Questions by 3:00 p.m.	Thursday, March 23, 2023 Inquiries shall be submitted electronically via email to hsdprocurement@phoenix.gov .
Responses to Written Questions	Tuesday, March 28, 2023
Submittal Due Date by 3:00 p.m.	Friday, April 7, 2023 Bids shall be submitted electronically via email to hsdprocurement@phoenix.gov . Enter the solicitation number on the subject line of the email when submitting your Bid.
Award Recommendation	May 31, 2023

The City reserves the right to change dates and/or locations as necessary, and the City of Phoenix does not always hold a Pre-Offer Conference or Site visit.



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3. CITY'S VENDOR SELF-REGISTRATION AND NOTIFICATION

Offerors must be registered in the City's procurePHX Self-Registration System at <https://www.phoenix.gov/procure> to respond to solicitations and access procurement information. The City may, at its sole discretion, reject any offer from an Offeror who has not registered. **DO NOT CONTACT THE PROCUREMENT OFFICER REGARDING VENDOR PROFILE ISSUES, REGISTRATION QUESTIONS OR TO REMOVE YOU FROM THE VENDOR NOTIFICATION LIST.**

4. TERM AND CONTRACTUAL RELATIONSHIP

Offerors are responsible for reading the Draft Agreement and submitting any questions about it in accordance with the process listed in this solicitation. By submitting an offer, each Offeror agrees it will be bound by the terms of the Agreement. The City intends to maintain this Agreement through May 31, 2028. However, there is no guarantee that an Offeror awarded an agreement will be hired during the term of the Agreement.

5. PRE-OFFER MEETING

A Pre-Offer Meeting will not be held. Offerors are encouraged to submit questions in writing to the Procurement Officer prior to the Written Inquiries Due Date stated in the Schedule of Events.

6. PREPARATION OF OFFER

6.1. Offers must be received by email at hsdprocurement@phoenix.gov no later than 3:00 PM on Friday, April 7, 2023.

6.2. All forms provided in the Submittal Section must be completed and submitted with the offer. The signed and completed Solicitation Disclosure form must be included or your offer may be deemed non-responsive.

6.3. It is permissible to copy Submittal forms if necessary. Erasures, interlineations, or other modifications of the Offer must be initialed in original ink by the authorized person signing the Offer. No Offer will be altered, amended or withdrawn after the specified Offer due date and time. The City is not responsible for Offeror errors or omissions.

6.4. All time periods stated as a number of days will be calendar days.

6.5. It is the responsibility of all Offerors to examine the entire document and seek clarification of any requirement that may not be clear and to check all responses for accuracy before submitting an Offer. Negligence in preparing an offer confers

no right of withdrawal after due date and time. Offerors are strongly encouraged to:



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- 6.5.1.** Consider applicable laws and/or economic conditions that may affect cost, progress, performance, or furnishing of the products or services.
- 6.5.2.** Study and carefully correlate Offeror's knowledge and observations with the solicitation and other related data.
- 6.5.3.** Promptly notify the City of all conflicts, errors, ambiguities, or discrepancies that Offeror has discovered in or between the solicitation and other related documents.
- 6.5.4.** Offerors are reminded that the specifications stated in the solicitation are the minimum level required and that Offers submitted must be for products or services that meet or exceed the minimum level of all features specifically listed in this solicitation. Offers with less than any minimum specifications or criteria specified are not responsive and should not be submitted.
- 6.5.5.** Offer responses submitted for products considered by the seller to be acceptable alternates to the brand names or manufacturer's catalog references specified herein must be submitted with technical literature and/or detailed product brochures for the City's use to evaluate the products quoted. Offers submitted without this product information may be considered as non-responsive and rejected. The City will be the sole judge as to the acceptability of alternate products.
- 6.5.6.** Prices will be submitted on a per unit basis by line item, when applicable. In the event of a disparity between the unit price and extended price, the unit price will prevail unless obviously in error.
- 6.5.7.** The City does not reimburse the cost of developing, presenting or providing any response to this solicitation. Offers submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner. The Offeror is responsible for all costs incurred in responding to this solicitation. All materials and documents submitted in response to this solicitation become the property of the City and will not be returned.

7. SUBMISSION OF OFFER

- 7.1.** Electronic Offers must be in possession of the Department on or prior to the exact time and date indicated in the Schedule of Events. Late Offers will not be considered. The prevailing clock will be the email arrival time.

- 7.2.** If you plan to respond to this solicitation, please submit your Offer electronically



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via email to hsdprocurement@phoenix.gov. The date and time on the email will provide proof of submission and verification if the Offer was received on or prior to the Due Date and Time. Please enter the solicitation number on the subject line of the email when submitting your Offer. Indicate in the body of the email that you are submitting a response to the solicitation.

7.3. Offers must be submitted electronically via email. The following information should be noted on the subject line:

- IFB-22-EDU-74
- Preventative Health Medical Equipment and Supplies

7.4. Indicate in the body of the email that you are submitting in response to the identified solicitation. Once submitted, the submission will be deemed a complete submission.

All Offers must be completed in ink or typewritten. Include the number of copies that are required as indicated in the Submittal section. The City will respond to confirm its receipt of submission.

8. NO EXCEPTIONS

Offeror must not take any exceptions to any terms, conditions or material requirements of this solicitation. Offers submitted with exceptions may be deemed non-responsive and disqualified from further consideration in the City's sole discretion. Offerors must conform to all the requirements specified in the solicitation. The City encourages Offerors to send inquiries to the procurement officer rather than including exceptions in their Offer as explained in Section 9. Inquiries.

9. INQUIRIES

All questions that arise relating to this solicitation should be directed via email to the Procurement Officer and must be received by the due date indicated in the Schedule of Events. The City will not consider questions received after the deadline.

No informal contact initiated by Offerors on the proposed service will be allowed with members of City's staff from date of distribution of this solicitation until after the closing date and time for the submission of Offers. **All questions concerning or issues related to this solicitation must be presented in writing.** The Procurement Officer will answer written inquiries in an addendum and publish any addenda on the Procurement Website.

10. OBTAINING A COPY OF THE SOLICITATION AND ADDENDA

Interested Offerors may download the complete solicitation and addenda from <https://solicitations.phoenix.gov/>. Internet access is available at all public libraries. It is



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the Offeror's responsibility to check the website throughout the entire solicitation period up to City Council Award, read the entire solicitation, and verify all required information is submitted with its Offer.

11. **ADDENDA**

The City will not be responsible for any oral instructions made by any employees or officers of the City regarding this solicitation. Any changes will be in the form of an addendum. The Offeror must acknowledge receipt of any/all addendum by signing and returning the document with the Offer submittal, or the Offer may be considered non-responsive.

12. **BUSINESS IN ARIZONA**

The City will not enter into contracts with Offerors (or any company(ies)) not granted authority to transact business, or not in good standing, in the state of Arizona by the Arizona Corporation Commission, unless the offeror asserts a statutory exception prior to entering into a contract with the City.

13. **LICENSES**

If required by law for the operation of the business or work related to this Offer, Offeror must possess all valid certifications and/or licenses as required by federal, state or local laws at the time of submittal.

14. **CERTIFICATION**

By signature in Attachment A – Offer Form, Offeror certifies:

- The submission of the Offer did not involve collusion or other anti-competitive practices.
- The Offeror must not discriminate against any employee, or applicant for employment in violation of Federal or State Law.
- The 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, or service to a public servant in connection with the submitted Offer.

15. **WITHDRAWAL OF OFFER**

At any time prior to the solicitation due date and time, an Offeror (or designated representative) may withdraw the Offer by submitting a request in writing and signed by a duly authorized representative.

16. **OFFER RESULTS**

Offers will be opened on the Offer due date and time indicated in the Schedule of



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Events, at which time the name of each Offeror, and the prices may be read. Offers and other information received in response to the solicitation will be shown only to authorized City personnel having a legitimate interest in them or persons assisting the City in the evaluation. Offers are not available for public inspection until after the City has posted the award recommendation on the City's website.

The City will post a preliminary offer tabulation on the City's website, <https://solicitations.phoenix.gov/Awards> within five calendar days of the offer opening. The City will post the information on the preliminary tabulation as it was read during the Offer opening. The City makes no guarantee as to the accuracy of any information on the preliminary tabulation. Once the City has evaluated the Offers, the City will post an award recommendation on the website. By signing and submitting its Offer, each Offeror agrees that this posting of the award recommendation to the City's website effectively serves as the Offeror's receipt of that notice of award recommendation. The City has no obligation to provide any further notification to unsuccessful Offerors.

17. PRE-AWARD QUALIFICATION CRITERIA

17.1. Offeror must have been in operation a minimum of five years. Offeror's normal business activity during the past five years will have been providing the goods or services in this solicitation.

17.2. Upon notification of an award, the Offeror will have ten calendar days to submit a complete certificate of insurance in the minimum amounts and the coverages as required in the Insurance Requirements of this Contract. Insurance requirements are non-negotiable.

18. AWARD OF CONTRACT

Unless otherwise indicated, award(s) will be made to the most responsive, responsible Offeror(s) who are regularly established in the service, or providing the goods, contained in this solicitation and who have demonstrated the ability to perform in an acceptable manner.

18.1. Technical capability of the Offeror to accomplish the scope of work required in the Solicitation. This includes performance history on past and current government or industrial contracts; and,

18.2. Demonstrated availability of the necessary manpower (both supervisory and operational personnel) and necessary equipment to accomplish the scope of work in the Solicitation; and,

18.3. Safety record, including complaints and investigations; and



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- 18.4.** Offeror history of performance and termination for convenience or cause, litigation or lawsuits.

Notwithstanding any other provision of this solicitation, the City reserves the right to: (1) waive any immaterial defect or informality; or (2) reject any or all offers or portions thereof; or (3) reissue a solicitation.

A response to a solicitation is an offer to contract with the City based upon the terms, conditions, and specifications contained in the City's solicitation. Offers do not become contracts until they are executed by the Human Services Department Director. A contract has its inception in the award, which may eliminate a formal signing of a separate contract.

19. CITY'S RIGHT TO DISQUALIFY FOR CONFLICT OF INTEREST

The City reserves the right to disqualify any Offeror on the basis of any real or apparent conflict of interest that is disclosed by the Offer submitted or any other data available to the City. This disqualification is at the sole discretion of the City. Any Offeror submitting an Offer herein waives any right to object now or at any future time, before anybody or agency, including but not limited to, the City Council of the City of Phoenix or any court.

20. SOLICITATION TRANSPARENCY POLICY

20.1. Commencing on the date and time a solicitation is published, potential or actual Offerors or respondents (including their representatives) shall only discuss matters associated with the solicitation with the Mayor, any members of City Council, the City Manager, any Deputy City Manager, or any department director directly associated with the solicitation (including in each case their assigned staff, except for the designated procurement officer) at a public meeting, posted under Arizona Statutes, until the resulting contract(s) are awarded to all Offers or responses are rejected and the solicitation is cancelled without any notification by the Procurement Officer of the City's intent to reissue the same or similar solicitation.

20.2. As long as the solicitation is not discussed, Offerors may continue to conduct business with the City and discuss business that is unrelated to the solicitation.

20.3. Offerors may discuss their Offer or the solicitation with the Mayor or one or more members of the Phoenix City Council, provided such meetings are scheduled through the Procurement Officer, and are posted as open meetings with the City Clerk at least 24 hours prior to the scheduled meetings. The City Clerk will be responsible for posting the meetings. The posted notice shall identify the participants and the subject matter, as well as invite the public to participate.



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- 20.4.** With respect to the selection of the successful Offerors, the City Manager and City Manager's Office will continue the past practice of exerting no undue influence on the process.
- 20.5.** This policy is intended to create a level playing field for all Offerors, assure that contracts are awarded in public, and protect the integrity of the selection process. **OFFERORS THAT VIOLATE THIS POLICY SHALL BE DISQUALIFIED.** After official Notice is received by the City for disqualification, the Offeror may follow the Protest process, unless the Solicitation is cancelled without notice of intent to re-issue.
- 20.6.** "To discuss" means any contact by the Offeror, regardless of whether the City responds to the contact. Offerors that violate this policy will be disqualified until the resulting contract(s) are awarded, or all offers, or responses are rejected, and the solicitation is cancelled without any announcement by the Procurement Officer of the City's intent to reissue the same or a similar solicitation. The City interprets the policy as continuing through a cancellation of a solicitation until Council award of the contract, as long as the City cancels with a statement that the City will rebid the solicitation.

21. PROTEST PROCESS

- 21.1.** Offeror may protest the contents of a solicitation no later than seven days before the solicitation deadline when the protest is based on an apparent alleged mistake, impropriety or defect in the solicitation. Protests filed regarding the solicitation may be addressed by an amendment to the solicitation or denied by the City. If denied, the opening and award will proceed unless the City determines that it is in the City's best interests to set new deadlines, amend the solicitation, cancel or re-bid.
- 21.2.** Therefore, unless otherwise notified by a formal amendment, the Protester must adhere to all solicitation dates and deadlines, including timely filing of an offer, regardless of filing a protest.
- 21.3.** Offeror may protest an adverse determination issued by the City regarding responsibility and responsiveness, within seven days of the date the Offeror was notified of the adverse determination.
- 21.4.** Offeror may protest an award recommendation if the Offeror can establish that it had a substantial chance of being awarded the contract and will be harmed by the recommended award. The City will post recommendations on the City's website to award the contract(s) to an Offeror(s). Offeror must submit award protests within seven days after the posting of the award recommendation, with exceptions only for good cause shown, within the City's full and final discretion.



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21.5. All protests will be in writing, filed with the Procurement Officer identified in the solicitation and include the following:

- 21.5.1.** Identification of the solicitation number;
- 21.5.2.** The name, address and telephone number of the protester;
- 21.5.3.** A detailed statement describing the legal and factual grounds for the protest, including copies of relevant documents;
- 21.5.4.** The form of relief requested; and
- 21.5.5.** The signature of the protester or its authorized representative.

21.6. The Procurement Officer will render a written decision within a reasonable period after the protest is filed. The City will not request City Council authorization to award the contract until the protest process is complete. All protests and appeals must be submitted in accordance with the City's Procurement Code, (Phoenix City Code, Ch. 43) and any protests or appeals not submitted within the time requirements will not be considered. Protests must be filed with the Procurement Officer.

22. PUBLIC RECORD

All Offers submitted in response to this solicitation will become the property of the City and become a matter of public record available for review pursuant to Arizona State law. If an Offeror believes that a specific section of its Offer response is confidential, the Offeror will isolate the pages marked confidential in a specific and clearly labeled section of its Offer response. An Offeror may request specific information contained within its Offer is treated by the Procurement Officer as confidential provided the Offeror clearly labels the information "confidential." To the extent necessary for the evaluation process, information marked as "confidential" will not be treated as confidential. Once the procurement file becomes available for public inspection, the Procurement Officer will not make any information identified by the Offerors as "confidential" available to the public unless necessary to support the evaluation process or if specifically requested in accordance with applicable public records law. When a public records request for such information is received, the Procurement Officer will notify the Offeror in writing of any request to view any portion of its Offer marked "confidential." The Offeror will have the time set forth in the notice to obtain a court order enjoining such disclosure. If the Offeror does not provide the Procurement Officer with a court order enjoining release of the information during the designated time, the Procurement Officer will make the information requested available for inspection.

23. LATE OFFERS

Late Offers must be rejected, except for good cause, at the City's sole and final discretion. If a late Offer is submitted, the Department will document the date and time of the submittal of the late Offer, keep the Offer and notify the Offeror that its Offer



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was disqualified for being late.

24. RIGHT TO DISQUALIFY

The City reserves the right to disqualify any Offeror who fails to provide information or data requested or who provides materially inaccurate or misleading information or data. The City further reserves the right to disqualify any Offeror on the basis of any real or apparent conflict of interest that is disclosed by the Offeror submitted or any other data or information available to the City. This disqualification is at the sole and final discretion of the City. By submission of a solicitation response, the Offeror waives any right to object now or at any future time, before any agency or body including, but not limited to, the City Council of the City or any court as to the exercise by the City of such right to disqualify or as to any disqualification by reason of real or apparent conflict of interest determined by the City. The City reserves the right to replace the disqualified Offeror.

25. CONTRACT AWARD

In accordance with the City of Phoenix Code, Chapter 43, Section 43-12, Competitive Sealed Bidding, award(s) shall be made to the lowest responsible and responsive offeror(s) whose offer conforms in all material respects to the requirements set forth in this solicitation. The City reserves the right to award a contract by individual line items, by group, all or none, or any other combination most advantageous to the City. The City reserves the right to multiple awards.

26. DETERMINING RESPONSIVENESS AND RESPONSIBILITY

26.1. Offers will be reviewed for documentation of qualifications, completeness, and compliance with the Solicitation requirements. The City reserves sole discretion to determine responsiveness and responsibility.

26.2. Responsiveness: Nonresponsive Offers will not be considered in the evaluation process. The solicitation states criteria that determine responsiveness, and the solicitation includes terms and conditions that if included or excluded from Offers (as the case may be) will render an Offer nonresponsive.

26.3. Exceptions, conditions, reservations, or understandings are presumed to be unacceptable, and an Offer that includes unacceptable exceptions, conditions, reservations, or understandings may be rejected as nonresponsive. Alternatively, the City in its sole discretion may instruct in writing that any Offeror remove the conditions, exceptions, reservations or understandings. If the Offeror fails to do so in writing, the City may determine the Offer to be nonresponsive.

26.4. Responsibility: To obtain true economy, the City must conduct solicitations to minimize the possibility of a subsequent default by the contractor, late



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deliveries, or other unsatisfactory performance that may result in additional administrative costs. It is important that the Offeror be a responsible contractor. Responsibility includes the Offeror's integrity, skill, capacity, experience, financial ability, and facilities for conducting the work to be performed.

26.5. The Procurement Officer will review each Offer to determine if the Offeror is responsible and responsive. The City's determination as to whether an Offeror is responsible will be based on all information furnished by the Offeror, interviews (if any), and information received from Offeror's references, including information about Offeror's history, terminations for convenience or cause, contract breach lawsuits or notices of claim and any other sources the City deems appropriate. Award of the Contract resulting from the solicitation will not be made until any necessary investigation, which each Offeror agrees to permit by submitting its Offer, is made by the City as it deems necessary. A review of responsibility may occur up to contract award.

26.6. The Offeror's unreasonable failure to promptly supply information about an inquiry with respect to responsibility may be grounds for a determination of non-responsibility with respect to such Offeror.

27. EQUAL LOW OFFER

Contract award will be made by putting the names of the tied Offerors in a cup for a blind drawing limited to those bidders with tied Offers. If time permits, the Offerors involved will be given an opportunity to attend the drawing. The drawing will be witnessed by at least three persons, and the contract file will contain the names and addresses of the witnesses.



SECTION II – SCOPE OF WORK

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1. OBJECTIVE

The City of Phoenix (City) is seeking contracts for Preventative Health Medical Equipment and Supplies and on an as-needed basis.

2. BACKGROUND

The Head Start Birth to Five Program has an ongoing need to provide medical screenings to children enrolled in our program to meet the “Child Health Status and Care” Performance Standards outlined by the Office of Head Start. The program also has the need, in the Early Head Start component, to have diapers and baby formula available should the families need them. Head Start Staff must meet Performance Standard 1302.42 Child Health Status and Care which states the following:

1302.42 (b)(i)

Obtain determinations from health care and oral health care professionals as to whether or not the child is up-to-date on a schedule of age appropriate preventive and primary medical and oral health care, based on the well-child visits and dental periodicity schedules as prescribed by the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program of the Medicaid agency of the state in which they operate, immunization recommendations issued by the Centers for Disease Control and Prevention, and any additional recommendations from the local Health Services Advisory Committee that are based on prevalent community health problems.

1302.42 (b)(2)

Within 45 calendar days after the child first attends the program or, for the home-based program option, receives a home visit, a program must either obtain or perform evidence-based vision and hearing screenings.

1302.42(e)(1)

Use of Funds states a program must use program funds for the provision of diapers and formula for enrolled children during the program day.

The Phoenix Fire Department Health & Wellness Center performs annual hearing tests on public safety firefighters and police officers as part of their National Fire Protection Agency and OSHA required physical exams. This testing requires calibration, maintenance & repair of audiometer testing equipment to ensure equipment is working properly and safely.

3. HEARING CALIBRATION AND REPAIR SERVICES

For the Head Start Program, hearing screening calibration will be performed in accordance with the Arizona Administrative Code, Title 9, Chapter 13, Article 1, Hearing Screenings, Section R9-13-108. Equipment Standards. Hearing machine calibration services are typically scheduled annually during the months of June and



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July. Machines are calibrated at the Human Services Department, Education Division, 200 W. Washington Street, 17th Floor, Phoenix, Arizona 85003-1611.

For the Phoenix Fire Department, hearing machine calibration services are typically scheduled annually in May. Machines are calibrated at the Administration Building, Health & Wellness Center, 150 S. 12th Street, Phoenix, AZ 85034-2301. Minor repairs and parts replacement will be performed at various Head Start locations and the Phoenix Fire Department Health & Wellness Center as needed. If major repairs are necessary, the City will allow the equipment to be repaired off-site, however, Contractor would be required to pick-up and return the equipment to the 200 W. Washington Street location, or the Phoenix Fire Department Health & Wellness Center if that is the location of the removed equipment for repair.

4. SUBSTITUTIONS OF SPECIFIED ITEMS

Whenever in the specifications any item or process is requested or specified by manufacturer name, proprietary name or patent, such specifications shall be used for the purpose of facilitating descriptions of the item or process and shall be followed by the words “or equal.” Contractor may offer any item or process that is equal in every respect, however, if the item or process delivered is not, in the opinion of the City of Phoenix, equal in every respect to the specifications, then Contractor must furnish the item or material with one that in, the opinion of the City of Phoenix, is equal.

5. DAMAGED PRODUCT

If deliveries are received in unsatisfactory condition due to improper or damaged packaging, or other reasonable cause, the product may be rejected, and Contractor shall be required to replace damaged product within 7 days of rejection.

6. CATEGORIES

- a. Hearing Screening Equipment
- b. Hearing Screening Equipment Calibration and Repair
- c. Hearing Screening Equipment Software Support and upgrades, if applicable.
- d. Hearing Sound Booth Certification
- e. Vision Screening Equipment
- f. Blood Pressure Equipment
- g. Weight and Height Measurement Equipment
- h. Blood Lead Screening Supplies

7. PREVENTATIVE HEALTH MEDICAL EQUIPMENT AND SUPPLIES

Contractor shall provide specific pricing for one or more of the items identified below:



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Hearing Screening Equipment

Product Requirements: Contractor shall supply one or more of the brand and model specified herein and/or equipment that is equivalent. Contractor will provide literature to substantiate alternative brand compatibility.

Item No.	Description
1.	<i>Hearing Screening Audiometers:</i> Micro Audiometrics Earscan® 3 Screening Audiometer Model ES3S or equivalent Bio Acoustic Simulator Benson BAS200, Sound Room IAC 400A, Audiometer Benson CCA200
2.	<i>Micro Audiometrics Earscan® 3 Model ES3S Accessories or Equivalent:</i> Earphone Headphone Cushion Covers Other Parts and Accessories – % discount off <i>Bio Acoustic Simulator Benson BAS200 & Audiometer Benson CCA200 Accessories or Equivalent:</i> Headsets Headset Cables Earphones Headphone Cushion Covers Other Parts and Accessories - % discount off
3.	<i>Otoacoustic Emissions (OAE) Hearing Screener with Case or Equivalent:</i> MAICO Ero-Scan® DPOAE Bio-logic AuDX® Welch Allyn Model 39500 Series
4.	<i>OAE Disposable Ear Tips for Bio-logic AuDX OAE Machine or Equivalent:</i> Bio-logic 6.0 mm Blue Tip Bio-logic Preemie Tree Tip 3.60 mm Bio-logic Pediatric Foam Tip 9.50 mm Bio-logic Tree Tip 6.0 mm Other sizes as needed – % discount off
5.	<i>OAE Disposable Ear Tips for MAICO Diagnostics and Welch Allyn or Equivalent:</i> Size 5.0 mm Size 6.0 mm Size 7.0 mm Size 8 mm Size 9 mm Size 10 mm Size 11 mm



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	Size 12 mm Size 13 mm Other sizes as needed – % discount off
6.	<i>OAE Probe Tips/Cones:</i> Bio-logic AuDX Probe Tip or equivalent MAICO Eroscan Diagnostic Probe Cones or equivalent Welch Allyn or equivalent

Hearing Screening Equipment Calibration and Repair

At a minimum, Contractor must be able to provide calibration/certification and software support and upgrades if applicable for the hearing test equipment the City currently uses as described in Item No. 7.

7.	Micro Audiometrics Earscan® 3 Model ES3S MAICO Ero-Scan® DPOAE Bio-logic AuDX® Welch Allyn OAE Model 39500 Series Bio Acoustic Simulator Benson BAS200 Sound Room IAC 400A Certification Audiometer Benson CCA200 Benson CCA-200mini computer controller software support & upgrades Annual Service Rate Service Calls – Hourly Rate Replacement Parts – % discount off
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Vision Screening Equipment

Product Requirements: Contractor shall supply one or more of the brand and model specified herein and/or equipment that is equivalent. Contractor will provide literature to substantiate alternative brand compatibility.

Item No.	Description
8.	<i>Equipment for Instrument-Based Pediatric Vision Screening:</i> iScreen Vision Model 3000 or equivalent PlusOptix Mobile Vision Screener S12C or equivalent Welch Allyn SPOT Vision Screener Model VS100 or equivalent LEA Vision Test or equivalent Distance LEA Symbols Sets or equivalent Accessories and Replacement Parts as needed – % discount off.



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Blood Pressure Equipment

Item No.	Description
9.	<i>Blood Pressure Monitors. <u>Must be compatible with child-size cuffs.</u></i> Automatic inflation with digital readout: Welch Allyn Connex Pro BP 3400 Digital Blood Pressure or equivalent Accessories and Replacements Parts as needed – % discount off.
10.	<i>Blood Pressure Cuffs:</i> Child (Size 8) Child (Size 9) Adult (Size Large) Adult (Size X-Large)

Height and Weight Measurement Equipment

Item No.	Description
11.	<i>Bathroom Scale:</i> Digital Bathroom Scale, Wide Platform, Step-on Technology, up to 440 lbs. Baby Scale
12.	<i>Portable Stadiometer and Carrying Case.</i>

Blood Lead Screening Supplies

Item No.	Description
13.	<i>Hazardous Sharps Container:</i> 1 Quart Size 2 Quart Size 3 Quart Size 4 Quart Size
14.	<i>Medical-Grade Gloves:</i> Latex-free, Non-Powdered, Nitrile Size X-Small Size Small Size Medium Size Large Size X-Large
15.	<i>Alcohol Swabs.</i>



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**CITY OF PHOENIX, ARIZONA
HUMAN SERVICES DEPARTMENT**

ENTER CONTRACTOR NAME

PREVENTATIVE HEALTH MEDICAL EQUIPMENT AND SUPPLIES

AGREEMENT NO. _____

Procurement Officer Name, Procurement Officer
Human Services Department
200 W. Washington Street, 18th Floor
Phoenix, AZ 85003-1611
Enter email address



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[To be inserted prior to contract execution]

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**PREVENTATIVE HEALTH MEDICAL EQUIPMENT AND SUPPLIES
BETWEEN
THE CITY OF PHOENIX
AND
ENTER CONTRACTOR NAME**

This AGREEMENT is hereby entered into by and between the City of Phoenix, Arizona, a municipal corporation of the State of Arizona (hereinafter referred to as “City”) and **Contractor Legal Name**, an **Entity Type** (hereinafter referred to as “Contractor”). It is agreed by and between the parties as follows:

RECITALS

1. The City Manager of the City of Phoenix, Arizona, is authorized by the provisions of the City Charter to execute agreements for professional services.
2. The City desires to obtain the services that are specifically set forth in this Agreement.
3. The City procured these professional services in accordance with the Phoenix City Code and Administrative Regulation 3.10.
4. Contractor possesses the skills and expertise necessary to provide such services as desired by the City.
5. This Agreement is authorized by the City Council Ordinance S-XXXXXX enacted May X, 2023.

NOW, THEREFORE, it is agreed by and between the parties as follows:

1. TERM OF AGREEMENT

- 1.1. This Agreement begins on the Enter Start Date, and upon approval by the City, for a five-year term with no renewal options.
- 1.2. This Agreement will terminate upon the earliest occurrence of any of the following:
 - 1.2.1. reaching the end of the term exercised as set forth in 1.1;
 - 1.2.2. completing the services set forth in the Scope of Work attached as **Exhibit A – Scope of Work** (the “Services”);



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1.2.3. payment of the maximum compensation under Paragraph 2 of this Agreement; or

1.2.4. termination pursuant to the provisions of this Agreement.

2. COSTS AND PAYMENTS

2.1. City shall pay Contractor for all Services satisfactorily performed under this Agreement at the rate(s) specified in **Exhibit B - Fee Schedule**, including reasonable and necessary travel expenses, if approved in advance by the City and included in the **Exhibit B – Fee Schedule** and that comply with the requirements for Reimbursable Expenses with no additional charges for overhead, benefits, local travel, or administrative support.

2.2. General

Any prompt payment terms offered must be clearly noted by Contractor on all invoices submitted to the City for the payment of goods or services received. City will make every effort to process payment for the purchase of material or services within forty-five calendar days after receipt of a correct invoice, unless a good faith dispute exists to any obligation to pay all or a portion of the account. Payment terms are specified in the Offer.

2.3. Payment Deduction Offset Provision

Contractor acknowledges that the City Charter requires that no payment be made to any Contractor as long as there is an outstanding obligation due to the City. Contractor agrees that any obligation it owes to the City will be offset against any payment due to the Contractor from the City.

2.4. Late Submission of Claim By Contractor

City will not honor any invoices or claims which are tendered one year after the last item of the account accrued.

2.5. Discounts

Payment discounts will be computed from the date of receiving acceptable products, materials and/or services or correct invoice, whichever is later to the date payment is mailed.

2.6. No Advance Payments

Advance payments are not authorized. Payment will be made only for actual services or commodities that have been received, unless addressed specifically in the Scope of work for subscription services.



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2.7. Fund Appropriation Contingency

Contractor recognizes that any agreement entered into will commence upon the day first provided and continue in full force and effect until termination in accordance with its provisions. Contractor and the City herein recognize that the continuation of any contract after the close of any given fiscal year of the City, which ends on June 30th of each year, will be subject to the approval of the budget of the City providing for or covering such contract item as an expenditure therein. City does not represent that said budget item will be actually adopted, said determination being the determination of the City Council at the time of the adoption of the budget.

2.8. Maximum Prices

City will not be invoiced at prices higher than those stated in any contract resulting from this Offer. Contractor certifies, by signing this Offer that the prices offered are no higher than the lowest price Contractor charges other buyers for similar quantities under similar conditions, as applicable and shown by quotes for like services and goods. Contractor further agrees that any reductions in the price of the goods or services covered by this Offer and occurring after award will apply to the undelivered balance. Contractor will promptly notify City of such price

2.9. All prices are to be quoted F.O.B. destination, unless specified elsewhere in this solicitation.

2.10. Invoices shall be submitted via email to City's assigned point of contact for each Department.

3. SCOPE OF WORK AND SPECIAL TERMS AND CONDITIONS

Contractor will provide preventative health medical equipment and supplies that will be in accordance with the **Scope of Work** as set forth in **Exhibit A**, which may be supplemented with additional detail from time to time during the term of the Agreement, and that are satisfactory to City. In performing these services, Contractor will also specifically comply with the applicable **Special Terms and Conditions** that are set forth in **Exhibit E**.

4. DEFENSE & INDEMNIFICATION AND INSURANCE REQUIREMENTS – SEE EXHIBIT C.

5. INDEPENDENT CONTRACTOR STATUS; EMPLOYMENT DISCLAIMER

5.1. The parties agree that Contractor is providing the Services under this Agreement on a part-time and/or temporary basis and that the relationship created by this Agreement is that of independent Contractors. Neither Contractor nor any of Contractor's agents, employees or helpers will be



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deemed to be the employee, agent, or servant of the City. The City is only interested in the results obtained under this Agreement; the manner, means and mode of completing the same are under the sole control of Contractor.

- 5.2.** This Agreement is not intended to constitute, create, give rise to, or otherwise recognize a joint venture, partnership or formal business association or organization of any kind, and the rights and obligations of the parties will be only those expressly set forth in this Agreement. The parties agree that no individual performing under this Agreement on behalf of Contractor will be considered a City employee, and that no rights of City Civil Service, City retirement or City personnel rules will accrue to such individual. Contractor will have total responsibility for all salaries, wages, bonuses, retirement, withholdings, worker's compensation, other employee benefits, and all taxes and premiums appurtenant thereto concerning such individuals and will save and hold harmless the City with respect thereto.

6. LEGAL WORKER REQUIREMENTS

- 6.1.** The City is prohibited by Arizona Revised Statutes § 41-4401 from awarding an agreement to any Contractor who fails, or whose subcontractors fail, to comply with Arizona Revised Statutes § 23-214(A). Therefore, agrees that:
- Contractor and each subcontractor it uses warrants their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with Arizona Revised Statutes § 23-214, subsection A.
 - A breach of warranty herein will be deemed a material breach of the Agreement and is subject to penalties up to and including termination of the Agreement.
 - The City retains the legal right to inspect the papers of the Contractor or subcontractor employee(s) who work(s) on this Agreement to ensure that Contractor or subcontractor is complying with the warranty herein.

7. CONFIDENTIALITY

"Confidential Information" means all non-public, confidential, sensitive, or proprietary information disclosed or made available by City to Contractor or its affiliates, employees, Contractors, partners, or agents (collectively "Recipient"), whether disclosed before or after the Effective Date, whether disclosed orally, in writing, or via permitted electronic access, and whether or not marked, designated, or otherwise identified as confidential. Confidential Information includes, but is not limited to user contents, electronic data, meta data, employment data, network configurations, information security practices, business



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operations, strategic plans, financial accounts, personally identifiable information, protected health information, protected criminal justice information, and any other information that by the nature and circumstance of the disclosure should be deemed confidential. Confidential Information does not include this document or information that: (a) is now or subsequently becomes generally available to the public through no wrongful act or omission of Recipient; (b) Recipient can demonstrate by its written records to lawfully have had in its possession prior to receiving such information from the City; (c) Recipient can demonstrate by its written records to have been independently developed by Recipient without direct or indirect use of any Confidential Information; (d) Recipient lawfully obtains from a third party who has the right to transfer or disclose it; or (e) the City has approved in writing for disclosure.

Upon the City's written request or expiration of this Agreement, whichever is earlier, Recipient shall, at no additional costs to the City, promptly return or destroy all Confidential Information belonging to the City that Recipient has in its possession or control. After return or destruction of the Confidential Information, Recipient shall certify in writing as to its compliance with this paragraph.

If applicable, Contractor agrees to comply with all City information technology policies and security standards, as may be updated from time to time, when accessing City networks and computerized systems whether onsite or remotely.

In addition to, and not in lieu of, all other rights and remedies available to the City, Contractor will defend, indemnify, and hold the City harmless against all losses, claims, costs, attorneys' fees, damages or proceedings arising out of Contractor's breach of this Section (Confidentiality). Contractor's obligations pursuant to this Section (Confidentiality) shall not be subject to any limits of liability or exclusions as may be stated elsewhere in the Agreement.

A violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may at the City's discretion result in immediate termination of this Agreement without notice. The obligations of Contractor under this Section shall survive the termination of this Agreement.

The obligations of Contractor under this Section will survive the termination of this Agreement.

8. DATA PROTECTION

The parties agree this Section shall apply to the City's Confidential Information and all categories of legally protected personally identifiable information (collectively "PII") that Contractor processes pursuant to the Agreement.



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“Personally identifiable information” is defined as in the Federal Privacy Council’s Glossary available at: <https://www.fpc.gov/resources/glossary/>.

As between the parties, the City is the data controller and owner of PII and Contractor is a data processor. In this Section, the term “process,” “processing,” or its other variants shall mean: an operation or set of operations which is performed on PII, whether or not by automated means, including without limitation: collection, recording, copying, analyzing, caching, organizing, structuring, storage, adaptation, alteration, retrieval, transmission, dissemination, alignment, combination, restriction, erasure, or destruction.

- 8.1.** When Contractor processes PII pursuant to the Agreement, Contractor shall, at no additional cost to the City:
- 8.1.1.** process PII only within the United States and only in accordance with the Agreement and not for Contractor’s own purposes, including product research, product development, marketing, or commercial data mining, even if the City’s data has been aggregated, anonymized, or pseudonymized;
 - 8.1.2.** implement and maintain appropriate technical and organizational measures to protect PII against unauthorized or unlawful processing and against accidental loss, destruction, damage, theft, alteration or disclosure, including at a minimum, and as applicable, those measures specified by the National Institute of Standards and Technology (NIST) SP800-53; A.R.S. § 18-552 (Notification of Security System Breaches); A.R.S. § 44-7601 (Discard and Disposal of Personal Identifying Information Records); Health Information Technology for Economic and Clinical Health (HITECH) Act; Payment Card Industry Data Security Standards; and good industry practice; (When considering what measures are appropriate and in line with good industry practice, Contractor shall keep abreast of current regulatory trends in data security and the state of technological development to ensure a level of security appropriate to the nature of the data to be protected and the harm that might result from such unauthorized or unlawful processing or accidental loss, destruction, damage, theft, alteration or disclosure. At minimum, Contractor will timely remediate any vulnerabilities found within its network that are rated medium or more critical by the Common Vulnerability Scoring System (CVSS); however, Contractor must remediate vulnerabilities that are rated critical within 14 days and vulnerabilities that are rated high within 30 days. If requested by the



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City, Contractor shall promptly provide a written description of the technical and organizational methods it employs for processing PII.)

- 8.1.3.** not subcontract any processing of PII to any third party (including affiliates, group companies or subcontractors) without the prior written consent of the City; and Contractor shall remain fully liable to the City for any processing of PII conducted by a sub-processor appointed by Contractor;
- 8.1.4.** as applicable, implement and maintain appropriate policies and procedures to manage payment card service providers with whom Contractor shares sensitive financial information or cardholder data; and provide the City with a Qualified Security Assessor Attestation of Compliance for Payment Card Industry Data Security Standards on an annual basis, but no later than within 30 days of attestation report completion;
- 8.1.5.** take reasonable steps to ensure the competence and reliability of Contractor's personnel or sub-processor who have access to the PII, including verifications and background checks appropriate to the security level required for such data access;
- 8.1.6.** maintain written records of all information reasonably necessary to demonstrate Contractor's compliance with this Agreement and applicable laws;
- 8.1.7.** allow the City or its authorized agents to conduct audit inspection during the term of the Agreement, but no more than once per year, which may include providing access to the premises, documents, resources, personnel Contractor or Contractor's subcontractors use in connection with the Services; provided however, the City may at its sole discretion accept a qualified and industry recognized independent third-party assessment report or certification (such as SSAE 18 SOC 2 or ISO/IEC 27001) provided by Contractor at no cost to the City in lieu of the audit inspection rights of this Section;
- 8.2.** If Contractor becomes aware of any actual or potential data breach (each an "Incident") arising from Contractor's processing obligations pursuant to the Agreement, Contractor shall notify the City at SOC@phoenix.gov without undue delay within 48 hours; and:
 - 8.2.1.** provide the City with a detailed description of the Incident, the type of data that was the subject of the Incident, and the identity of each



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affected person as soon as such information can be collected or otherwise becomes available;

- 8.2.2.** take action immediately, at Contractor's own expense, to investigate the Incident and to identify, prevent, and mitigate the effects of the Incident and to carry out any recovery or other action necessary to remedy the Incident;
- 8.2.3.** cooperate with the City in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable laws or as otherwise required by the City; and
- 8.2.4.** not directly contact any individuals who may be impacted by the Incident or release or publish any filing, communication, notice, press release, or report concerning the Incident without the City's prior written approval (except where required to do so by applicable laws).

In addition to, and not in lieu of, all other rights and remedies available to the City, Contractor will defend, indemnify, and hold the City harmless against all losses, claims, costs, attorneys' fees, damages or proceedings arising out of Contractor's breach of this Section (Data Protection). Contractor's obligations pursuant to this Section (Data Protection) shall not be subject to any limits of liability or exclusions as may be stated elsewhere in the Agreement.

A violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may at the City's discretion result in immediate termination of this Agreement without notice. The obligations of Contractor under this Section shall survive the termination of this Agreement.

9. CONTACTS WITH THIRD PARTIES

- 9.1.** Contractor or its subcontractors will not contact third parties to provide any information in connection to the Services provided under this Agreement without the prior written consent of the City. Should Contractor or its subcontractors be contacted by any person requesting information or requiring testimony relative to the Services provided under this Agreement or any other prior or existing Agreement with the City, Contractor or its subcontractors will promptly inform the City giving the particulars of the information sought and will not disclose such information or give such testimony without the written consent of the City or court order. The obligations of Contractor and its subcontractors under this Section will survive the termination of this Agreement.



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9.2. Contractor agrees that the requirements of this Section will be incorporated into all subcontractors' agreements entered into by the Contractor. It is further agreed that a violation of this Section will be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may result in immediate termination of this Agreement without notice.

10. SBE/DBE UTILIZATION

The City extends to each individual, firm, vendor, supplier, Contractor and subcontractor an equal economic opportunity to compete for City business and strongly encourages voluntary utilization of small and/or disadvantaged businesses to reflect both the industry and community ethnic composition. The use of such businesses is encouraged whenever practical.

11. AUDIT/RECORDS

11.1. The City reserves the right, at reasonable times, to audit Contractor's books and records relative to the performance of service under this Agreement. All records pertaining to this Agreement will be kept on a generally accepted accounting basis for a period of five years following termination of the Agreement.

11.2. If, following an audit of this Agreement, the audit discloses the Contractor has provided false, misleading, or inaccurate cost and pricing data, and the cost discrepancies exceed 1% of the total Agreement billings, the Contractor will be liable for reimbursement of the reasonable, actual cost of the audit.

12. COMPLIANCE WITH LAWS

Contractor will comply with all existing and subsequently enacted federal, state and local laws, ordinances, codes, and regulations that are, or become applicable to this Agreement. If a subsequently enacted law imposes substantial additional costs on Contractor, a request for an amendment may be submitted pursuant to this Agreement.

13. AMENDMENTS

Contracts will be modified only by a written contract amendment signed by persons duly authorized to enter into contracts on behalf of Contractor. No verbal agreement or conversation with any officer, agent, or employee of City either before or after execution of Contract, will affect or modify any of the terms or obligations contained or to be contained in the Contract. Any such verbal agreements or conversation shall be considered as unofficial information and in no way binding upon City or Contractor. All agreements shall be in writing and Contract changes shall be by written amendment signed by both parties.



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14. NO ORAL ALTERATIONS

No alteration or variation of the terms of this Agreement will be binding on the parties herein unless such alteration or variation is in writing and signed by each of the parties to this Agreement. No oral understanding or agreement not incorporated in this Agreement will be binding on any of the parties herein.

15. NOTICES

15.1. Any notice, consent or other communication (“Notice”) required or permitted under this Agreement will be in writing and either: (1) delivered in person; (2) sent via e-mail, return receipt requested; (3) sent via facsimile transmission; (4) deposited with any commercial air courier or express delivery service; or (5) deposited in the United States mail, postage prepaid.

If to Contractor:

Contractor Point of Contact and Title
Organization Name
Address
City, State, Zip Code
Phone:
Email:

If to City of Phoenix Human Services Department:

City Point of Contact - TBD
City of Phoenix Human Services Department
Education Division
200 W. Washington Street, 17th Floor
Phoenix, AZ 85003-1611
Phone:
Email:

If to City of Phoenix Fire Department:

Carissa L. Kelsen
City of Phoenix Fire Department Administration
Firefighter Health & Wellness Center
Address: 150 S. 12th Street
Phoenix, AZ 85034-2301
Phone: 602-534-3941
Email: carissa.l.kelsen@phoenix.gov



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15.2. Notice will be deemed received: (1) at the time it is personally served; (2) on the day it is sent via e-mail; (3) on the day it is sent by facsimile transmission; (4) on the second day after its deposit with any commercial air courier or express delivery service; or (5) five business days after the Notice is deposited in the United States mail as above provided. Any time period stated in a Notice will be computed from the time the Notice is deemed received.

15.3. Notices sent by e-mail and facsimile transmission will also be sent by regular mail to the recipient at the above address. This requirement for duplicate Notice is not intended to change the effective date of the Notice sent by e-mail or facsimile transmission.

16. NON-EXCLUSIVE AGREEMENT

Any agreement resulting from this solicitation will be awarded with the understanding and agreement that it is for the sole convenience of the Invitation For Bid #IFB 22-EDU-74, Preventative Health Medical Equipment and Supplies. City reserves the right to obtain like goods or services from another source when necessary.

17. INTEGRATION

This Agreement constitutes and embodies the full and complete understanding and agreement of the parties hereto and supersedes all prior understandings, agreements, discussions, offers, bids, negotiations, communications, and correspondence, whether oral or written. No representation, promise, inducement, or statement of intention has been made by any party hereto which is not embodied in this Agreement, and no party will be bound by or liable for any statement of intention not so set forth.

18. GOVERNING LAW: FORUM; VENUE

This Agreement is executed and delivered in the State of Arizona, and the substantive laws of the State of Arizona (without reference to choice of law principles) will govern their interpretation and enforcement. Any action brought to interpret or enforce any provision of this Agreement that cannot be administratively resolved, or otherwise related to or arising from this Agreement, will be commenced and maintained in the state or federal courts of the State of Arizona, Maricopa County, and each of the parties, to the extent permitted by law, consents to jurisdiction and venue in such courts for such purposes.

19. FISCAL YEAR CLAUSE

The City's fiscal year begins July 1st and ends June 30th each calendar year. The City may make payment for services rendered or costs encumbered only during a fiscal year and for a period of 60 days immediately following the close of the fiscal



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year, under the provisions of Arizona Revised Statutes §42-17108. Therefore, or must submit billings for services performed or costs incurred prior to the close of a fiscal year within ample time to allow payment within this 60-day period.

20. TERMINATION OR SUSPENSION OF SERVICES

20.1. City's Right to Terminate: The City reserves the right to terminate this Agreement without cause, or to abandon the Services, or any part of the Services not then completed, by notifying Contractor in writing. Immediately upon receiving a written notice to terminate or suspend Services, Contractor will:

- Discontinue advancing the work in progress, or such part that is described in the notice.
- Deliver to the City all collected raw data, draft reports, preliminary reports, working papers, estimates and forecasts entirely or partially completed, together with all unused materials supplied by the City.
- Appraise the work it has completed and submit its appraisal to the City for evaluation.
- Be paid in full the pro rata value for services performed to the date of its receipt of the Notice of Termination, including reimbursement for all reasonable costs and expenses incurred by Contractor in terminating the work, including demobilization of field service. No payment will be made for loss of anticipated profits or unperformed services.

21. FINAL PAYMENT

21.1. PAYMENT: The City will make final payment for all Services performed and accepted within 60 days after Contractor has delivered to the City any final progress reports, documentation, materials and evidence of costs and disbursement as required under this Agreement. Any use by the City of preliminary reports, raw data or other incomplete material returned by Contractor will be at the City's sole risk for such use.

21.2. TEMPORARY SUSPENSION: The City may, by written notice, direct Contractor to suspend performance on all or any part of the Services for such period of time as may be determined by the City to be necessary or desirable for its convenience. If such suspension causes additional expense to Contractor in performance, and not due to fault or negligence of Contractor, the payment will be adjusted on the basis of actual costs resulting directly from the suspension, and the period for performance of the Services will be extended by mutual agreement. Any claim by Contractor for a price adjustment must be supported by appropriate documentation asserted promptly after Contractor has been notified to suspend performance.



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22. PROFESSIONAL COMPETENCY

22.1. QUALIFICATIONS: Contractor represents that it is familiar with the nature and extent of this Agreement, the Services, and any conditions that may affect its performance under this Agreement. Contractor further represents that it is fully experienced and properly qualified, is in compliance with all applicable license requirements, and is equipped, organized, and financed to perform such Services.

22.2. LEVEL OF CARE AND SKILL: Services provided by Contractor will be performed in a manner consistent with that level of care and skill ordinarily exercised by members of Contractor's profession currently practicing in the same industry under similar conditions. Acceptance or approval by the City of Contractor's work will in no way relieve Contractor of liability to the City for damages suffered or incurred arising from the failure of Contractor to adhere to the aforesaid standard of professional competence.

23. SPECIFIC PERFORMANCE

Contractor agrees that in the event of a breach by Contractor of any material provision of this Agreement, the City will, upon proper action instituted by it, be entitled to a decree of specific performance thereof according to the terms of this Agreement. In the event the City will elect to treat any such breach on the part of Contractor as a discharge of the Agreement, the City may nevertheless maintain an action to recover damages arising out of such breach. This paragraph is not intended as a limitation of such other remedies as may be available to the City under law or equity.

24. FORCE MAJEURE

Contractor will not be responsible or liable for, or deemed in breach hereof because of any delay in the performance of its obligations hereunder to the extent caused by circumstances beyond its control, without its fault or negligence, and that could not have been prevented by the exercise of due diligence, including but not limited to fires, natural disasters, riots, wars, unavoidable and unforeseeable site conditions, failure of the City to provide data within the City's possession or to make necessary decisions or provide necessary comments in connection with any required reports prepared by Contractor in connection with the Services and the unforeseeable inability to obtain necessary site access, authorization, permits, licenses, certifications and approvals (such causes hereafter referred to as "Force Majeure").

25. DOCUMENTATION

25.1. DISSEMINATION AND RETENTION: There will be no dissemination or publication of any information gathered, or documents prepared in the course of the performance of the Services without the prior written consent of



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the City. Should the City, upon advice of counsel, deem it necessary, due to existing or anticipated litigation, to assert a legal privilege of protection and non-disclosure with regard to the subject matter of this Agreement, then, and in that event, upon written demand, Contractor will relinquish to the possession and control of the City its entire file related to this Agreement and only those portions of said file deemed by the City to be not privileged will be returned to Contractor pending the resolution of the existing or anticipated litigation.

25.2. FORMAT AND QUALITY: All documents prepared by Contractor will be prepared in a format and at a quality approved by the City.

25.3. DOCUMENT REVIEW: Contractor will review all documents provided by the City related to the performance of the Services and will promptly notify the City of any defects or deficiencies discovered in such review.

25.4. SUBMITTALS: Contractor will provide timely and periodic submittals of all documents required of Contractor, including subagreements, if any, as such become available to the City for review.

26. RELEASE OF INFORMATION

Contractor will not publish, release, disclose or announce to any member of the public, press, official body, or any other third party: (1) any information concerning this Agreement, the Services, or any part thereof; or (2) any documentation or the contents thereof, without the prior written consent of the City, except as required by law. The name of any site on which Services are performed will not be used in any advertising or other promotional context by Contractor without the prior written consent of the City.

27. CONFLICT OF INTEREST

27.1. Contractor acknowledges that, to the best of its knowledge, information and belief, no person has been employed or retained to solicit or secure this Agreement upon a promise of a commission, percentage, brokerage, or contingent fee, and that no member of the Phoenix City Council or any employee of the City has any financial interest in the consulting firm. For breach of violation of this warranty, the City will have the right to annul this Agreement without liability, including any such commission, percentage, brokerage or contingent fee.

27.2. The City reserves the right to immediately terminate the agreement in the event that the City determines that Contractor has an actual or apparent conflict of interest.



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27.3. Upon a finding by the City that gratuities in the form of entertainment, gifts or inducements were offered or given by Contractor, or any agent or representative of Contractor, to any officer or employee of the City for the purpose of securing this Agreement, or securing favorable treatment with respect to the awarding, amending, or making of any determination with respect to the performance of this Agreement, the City may, by one calendar day written notice to Contractor, terminate the right of Contractor to proceed under this Agreement, provided that the existence of the facts upon which the City made such finding will be an issue and may be litigated in an Arizona court of competent jurisdiction. In the event of such termination, the City will be entitled to the same remedies against Contractor as could be pursued in the event of default by Contractor.

27.4. This Agreement is subject to the requirements of Arizona Revised Statutes §38-511.

28. PUBLIC RECORDS

28.1. Notwithstanding any provisions of this Agreement regarding confidentiality, secrets, or protected rights, the Contractor acknowledges that all documents provided to the City may be subject to disclosure by laws related to open public records. Consequently, the Contractor understands that disclosure of some or all of the items subject to this Agreement may be required by law.

28.2. In the event City receives a request for disclosure that is reasonably calculated to incorporate information that might be considered confidential by Contractor, the City agrees to provide the Contractor with notice of that request, which shall be deemed given when deposited by the City with the USPS for regular delivery to the address of the Contractor specified in their offer. Within ten days of City notice by the City, the Contractor will inform the City in writing of any objection by the Contractor to the disclosure of the requested information. Failure by the Contractor to object timely shall be deemed to waive any objection and any remedy against the City for disclosure.

28.3. In the event the Contractor objects to disclosure within the time specified, the Contractor agrees to handle all aspects related to request, including properly communicating with the requestor and timely responding with information the disclosure of which the Contractor does not object thereto. Furthermore, the Contractor agrees to indemnify and hold harmless the City from any claims, actions, lawsuits, or any other controversy or remedy, in whatever form, that arises from the failure to comply with the request for information and the laws pertaining to public records, including defending the City in any legal action



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and payment of any penalties or judgments. This provision shall survive the termination of this Agreement.

29. CLAIMS OR DEMANDS AGAINST THE CITY

29.1. Contractor acknowledges and accepts the provisions of Chapter 18, Section 14 of the Charter of the City of Phoenix, pertaining to claims or demands against the City, including provisions therein for set-off of indebtedness to the City against demands on the City, and Contractor agrees to adhere to the prescribed procedure for presentation of claims and demands. Nothing in Chapter 18, Section 14 of the Charter of the City of Phoenix alters, amends or modifies the supplemental and complementary requirements of the State of Arizona Notice of Claim statutes, Arizona Revised Statutes §§ 12-821 and 12-821.01, pertaining to claims or demands against the City. If for any reason it is determined that the City Charter and state law conflict, then state law will control.

29.2. Moreover, nothing in this Agreement will constitute a dispute resolution process, an administrative claims process, or contractual term as used in Arizona Revised Statutes § 12-821.01(C), sufficient to affect the date on which the cause of action accrues within Arizona Revised Statutes § 12-821.01(A) and (B).

30. WAIVER OF CLAIMS FOR ANTICIPATED PROFITS

Contractor waives any claims against the City and its officers, officials, agents and employees for loss of anticipated profits caused by any suit or proceeding, directly or indirectly, involving any part of this Agreement.

31. CONTINUATION DURING DISPUTES

31.1. Contractor agrees as a condition of this Agreement that in the event of any dispute between the parties, provided no Notice of Termination has been given by the City, and if it is feasible under the terms of this Agreement each party will continue to perform the obligations not related to the dispute required of it during the resolution of such dispute, unless enjoined or prohibited by a court of competent jurisdiction.

31.2. Failure or delay by either party to exercise any right, power or privilege specified in or appurtenant to this Agreement will not be deemed a waiver.

32. THIRD PARTY BENEFICIARY CLAUSE

The parties expressly agree that this Agreement is not intended by any of its provisions to create any right of the public or any member thereof as a third-party beneficiary nor to authorize anyone not a party to this Agreement to maintain a suit



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for personal injuries or property damage pursuant to the terms or provisions of this Agreement.

33. **LAWFUL PRESENCE REQUIREMENT**

Pursuant to A.R.S. §§ 1-501 and -502, the City of Phoenix is prohibited from awarding a contract to any natural person who cannot establish that he or she is lawfully present in the United States. In order to establish lawful presence, this person must produce qualifying identification and sign a City-provided affidavit affirming that the identification provided is genuine. This requirement will be imposed at the time of contract award. In the event the prevailing responder is unable to satisfy this requirement, the City will offer the award to the next-highest scoring responder. The law does not apply to fictitious entities such as corporations, partnerships and limited liability companies.

34. **NO ISRAEL BOYCOTT**

By entering into this Agreement, the Contractor certifies that they are not currently engaged in and agrees for the duration of the agreement to not engage in, a boycott of goods or services from Israel.

35. **EQUAL EMPLOYMENT OPPORTUNITY AND PAY**

35.1. In order to do business with the city, Contractor must comply with Phoenix City Code, 1969, chapter 18, Article V, as amended, equal employment opportunity requirements. Contractor will direct any questions in regard to these requirements to the Equal Opportunity Department, (602) 262-6790.

35.2. For a Contractor with 35 employees or fewer. Contractor in performing under this agreement shall not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age, or disability, nor otherwise commit an unfair employment practice. Contractor will ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, national origin, age, or disability. Such action shall include but not be limited to the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training; including apprenticeship. Contractor further agrees that this clause will be incorporated in all subagreements related to this agreement that involve furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this agreement. Contractor further agrees that this clause will be incorporated in all subagreements, Contractor agreements or subleases of this agreement entered into by supplier/lessee.



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35.3. For a Contractor with more than 35 employees. Contractor in performing under this agreement shall not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age, or disability, nor otherwise commit an unfair employment practice. Contractor will ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, national origin, age, or disability, and shall adhere to a policy to pay equal compensation to men and women who perform jobs that require substantially equal skill, effort, and responsibility, and that are performed within the same establishment under similar working conditions. Such action shall include but not be limited to the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training; including apprenticeship. Contractor further agrees that this clause will be incorporated in all subagreements with all labor organizations furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this Agreement. Contractor further agrees that this clause will be incorporated in all subagreements, job-Contractor agreements or subleases of this agreement entered into by supplier/lessee. Contractor further agrees not to discriminate against any worker, employee or applicant, or any member of the public, because of sexual orientation or gender identity or expression and shall ensure that applicants are employed, and employees are dealt with during employment without regard to their sexual orientation or gender identity or expression.

35.4. DOCUMENTATION: Suppliers and lessees may be required to provide additional documentation to the equal opportunity department affirming that a nondiscriminatory policy is being utilized.

35.5. MONITORING: The Equal Opportunity Department shall monitor the employment policies and practices of suppliers and lessees subject to this article as deemed necessary. The Equal Opportunity Department is authorized to conduct on-site compliance reviews of selected firms, which may include an audit of personnel and payroll records, if necessary.

36. NO FORCED LABOR OF ETHNIC UYGHURS

If this Agreement requires Contractor (a company engaging in for-profit activity and having ten or more full-time employees) to acquire or dispose of services, supplies, information technology, goods, or construction, then pursuant to Title 35, Chapter 2, Article 10 of the Arizona Revised Statutes, Contractor must certify and agree that it and any contractors, subcontractors, or suppliers it utilizes do not and will not use the forced labor of ethnic Uyghurs in the People's Republic of China or any goods or services produced by such forced labor. Provided these statutory



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requirements are applicable, Contractor, by entering this Agreement, now certifies it is not currently engaged in, and agrees for the duration of the Agreement to not engage in, (a) the use of forced labor of ethnic Uyghurs in the People's Republic of China; (b) the use of any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China; or (c) the use of 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.

37. ON TIME DELIVERY

Because the City is providing services which involve health, safety and welfare of the general public, delivery time is of the essence. Delivery must be made in accordance with the delivery schedule promised by the Contractor.

38. COST JUSTIFICATION

In the event only one response is received, the City may require that Contractor submit a cost proposal in sufficient detail for the City to perform a cost/price analysis to determine if the Offer price is fair and reasonable.

39. WORK PRODUCT, EQUIPMENT AND MATERIALS

All work product, equipment, or materials created or purchased under this Agreement belongs to the City and must be delivered to the City at City's request upon termination of this Agreement. Contractor agrees to assign to City all rights and interests Contractor may have in materials prepared under this Agreement that are "works for hire" within the meaning of the copyright laws of the United States, including any right to derivative use of the material.

40. STATE AND LOCAL TRANSACTION PRIVILEGE TAXES

In accordance with applicable state and local law, transaction privilege taxes may be applicable to this transaction. The state and local transaction privilege (sales) tax burden and legal liability to remit taxes are on Contractor that is conducting business in Arizona and City of Phoenix. Any failure by Contractor to collect applicable taxes from City will not relieve Contractor from its obligation to remit taxes. It is the responsibility of the prospective bidder to determine any applicable taxes. City will look at the price or offer submitted and will not deduct, add or alter pricing based on speculation or application of any taxes, nor will City provide advice or guidance. If you have questions regarding your tax liability, please seek advice from a tax professional prior to submitting your Offer. You may also find information at <https://www.phoenix.gov/finance/plt> or <https://www.azdor.gov/Business.aspx>.

Once your Offer is submitted, the Offer is valid for the time specified in this Solicitation, regardless of mistake or omission of tax liability. If the City finds over payment of a project due to tax consideration that was not due, Contractor will be



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liable to City for that amount, and by contracting with City, Contractor agrees to remit any overpayments back to City for miscalculations on taxes included in an offer price.

41. TAX INDEMNIFICATION

Contractor will pay all federal, state and local taxes applicable to its operation and any persons employed by the Contractor and require the same of all subcontractors. Contractor will hold the City harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation, and require the same of all subcontractors.

42. TAX RESPONSIBILITY QUALIFICATION

Contractor may be required to establish, to the satisfaction of City, that any and all fees and taxes due to City or the State of Arizona for any License or Transaction Privilege taxes, Use Taxes or similar excise taxes, are currently paid (except for matters under legal protest). Contractor agrees to a waiver of the confidentiality provisions contained in the City Finance Code and any similar confidentiality provisions contained in Arizona statutes relative to State Transaction Privilege Taxes or Use Taxes. Contractor agrees to provide written authorization to the City Finance Department and to the Arizona State Department of Revenue to release tax information relative to Arizona Transaction Privilege Taxes or Arizona Use Taxes in order to assist the Department in evaluating Contractor's qualifications for and compliance with contract for duration of the term of Agreement.

43. PRICE

All prices submitted shall be firm and fixed for the initial first year of the agreement. Thereafter, price increases will be considered annually provided the adjustments are submitted in writing with 60 days' notice to the Procurement Officer. Price increase requests shall be accompanied with written documentation to support the increase, such as a letter from the manufacturer, published price index, applicable change in law, etc. Price decrease requests do not require supporting documentation and are allowed at any time during the contract term. City will be the sole judge in determining the allowable increase amount. Price increases agreed to by any staff other than the Procurement Officer are invalid. Contractor acknowledges and agrees to repay all monies paid because of a requested price increase unless the increase was specifically approved, in writing, by the Procurement Officer.



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44. SUPPLIER PROFILE CHANGES

It is the responsibility of the Contractor to promptly update their profile in [procurePHX at https://www.phoenix.gov/procure](https://www.phoenix.gov/procure). If Contractor's legal identity has changed, the Procurement Officer must be notified immediately. Failure to do so may result in non-payment of invoices and contract termination.

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CITY OF PHOENIX

IN WITNESS WHEREOF, the parties herein have caused this Agreement to be executed.

CITY OF PHOENIX, an Arizona municipal corporation
JEFFREY J. BARTON, City Manager

By: _____
Marchelle F. Franklin
Human Services Director

ATTEST:

City Clerk

Date:

APPROVED AS TO FORM:
Julie M. Kriegh, City Attorney

Paul M. Li
Assistant Chief Counsel

NAME OF CONTRACTOR

By: _____
Authorized Signatory
Title



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**EXHIBIT A – SCOPE OF WORK
PREVENTATIVE HEALTH MEDICAL EQUIPMENT AND SUPPLIES**

[Will be inserted prior to contract execution]

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EXHIBIT B – FEE SCHEDULE

[Will be inserted prior to contract execution]

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EXHIBIT C INDEMNIFICATION AND INSURANCE REQUIREMENTS

1. DEFENSE AND INDEMNIFICATION

Contractor (“Indemnitor”) must defend, indemnify, and hold harmless the City of Phoenix and its officers, officials (elected or appointed), agents, and employees (“Indemnitee”) from and against any and all claims, actions, liabilities, damages, losses or expenses (including but not limited to court costs, attorney fees, expert fees, and costs of claim processing, investigation and litigation) of any nature or kind whatsoever (“Losses”) caused, or alleged to be caused, in whole or in part, by the wrongful, negligent or willful acts, or errors or omissions of Indemnitor or any of its owners, officers, directors, members, managers, agents, employees or subcontractors (“Indemnitor’s Agents”) arising out of or in connection with this Agreement. This defense and indemnity obligation includes holding Indemnitee harmless for any Losses arising out of or recovered under any state’s Workers’ Compensation Law or arising out of the failure of Indemnitor or Indemnitor’s Agents to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. Indemnitor’s duty to defend Indemnitee accrues immediately at the time a claim is threatened or a claim is made against Indemnitee, whichever is first. Indemnitor’s duty to defend exists regardless of whether Indemnitor is ultimately found liable. Indemnitor must indemnify Indemnitee from and against any and all Losses, except where it is proven that those Losses are solely a result of Indemnitee’s own negligent or willful acts or omissions. Indemnitor will be responsible for primary loss investigation, defense and judgment costs where this indemnification applies. In consideration of the award of this Agreement, Indemnitor waives all rights of subrogation against Indemnitee for losses arising from the work performed by Indemnitor or Indemnitor’s Agents for the City of Phoenix. The obligations of Indemnitor under this provision survive the termination or expiration of this Agreement.

2. CONTRACTOR’S INSURANCE

Contractor and subcontractors must procure insurance against claims that may arise from or relate to performance of the work hereunder by Contractor and its agents, representatives, employees and subcontractors. Contractor and subcontractors must maintain that insurance until all their obligations have been discharged, including any warranty periods under this Agreement.

The City in no way warrants that the limits stated in this section are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this Agreement by the Contractor, its agents, representatives, employees or subcontractors and Contractor may purchase additional insurance as they determine necessary.



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3. SCOPE AND LIMITS OF INSURANCE

Contractor must provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the liability limits provided that (1) the coverage is written on a “following form” basis, and (2) all terms under each line of coverage below are met.

3.1. Commercial General Liability – Occurrence Form

General Aggregate	\$2,000,000
Products – Completed Operations Aggregate	\$1,000,000
Personal and Advertising Injury	\$1,000,000
Each Occurrence	\$1,000,000

- The policy must name the City of Phoenix as an additional insured with respect to liability for bodily injury, property damage and personal and advertising injury with respect to premises, ongoing operations, products and completed operations and liability assumed under an insured contract arising out of the activities performed by, or on behalf of the Contractor related to this Agreement.
- There shall be no endorsement or modification which limits the scope of coverage or the policy limits available to the City of Phoenix as an additional insured.
- City of Phoenix is an additional insured to the full limits of liability purchased by the Contractor.
- The Contractor's insurance coverage must be primary and non-contributory with respect to any insurance or self-insurance carried by the City.

3.2. Worker's Compensation and Employers' Liability

Workers' Compensation	Statutory
Employers' Liability:	
Each Accident	\$100,000
Disease – Each Employee	\$100,000
Disease – Policy Limit	\$500,000

- Policy must contain a waiver of subrogation against the City of Phoenix.
- This requirement does not apply when a contractor or subcontractor is exempt under A.R.S. §23-902(E), **AND** when



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such contractor or subcontractor executes the appropriate sole proprietor waiver form.

- This requirement does not apply as long as contractor has no employee within the meaning of A.R.S. Title 23, Chapter 6. If, during the term, contractor hires an employee or an owner is found to have or obtains the right to workers' compensation coverage under Arizona law, contractor shall immediately notify the City and obtain a worker's compensation insurance policy consistent with this section.

4. NOTICE OF CANCELLATION

For each insurance policy required by the insurance provisions of this Agreement, the Contractor must provide to the City, within 5 business days of receipt, a notice if a policy is suspended, voided or cancelled for any reason. Such notice must be emailed to ***hdsprocurement@phoenix.gov***.

5. ACCEPTABILITY OF INSURERS

Insurance is to be placed with insurers duly licensed or authorized to do business in the state of Arizona and with an "A.M. Best" rating of not less than B+ VI. The City in no way warrants that the required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

6. VERIFICATION OF COVERAGE

Contractor must furnish the City with certificates of insurance (ACORD form or equivalent approved by the City) as required by this Agreement. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and any required endorsements are to be received and approved by the City before work commences. Each insurance policy required by this must be in effect at or prior to commencement of work under this Agreement and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Agreement or to provide evidence of renewal is a material breach of agreement.

All certificates required by this Agreement must be sent directly to ***hdsprocurement@phoenix.gov***. The City project description **Preventative Health Medical Equipment and Supplies** must be noted on the certificate of insurance. The City reserves the right to review complete copies of all insurance policies required by this Agreement at any time. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE CITY'S RISK MANAGEMENT DIVISION.**



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7. SUBCONTRACTORS

Contractor's certificates shall include all subcontractors as additional insureds under its policies **OR** Contractor shall be responsible for ensuring and verifying that all subcontractors have valid and collectable insurance. At any time throughout the life of the Agreement, the City of Phoenix reserves the right to require proof from the Contractor that its subcontractors have insurance coverage. All subcontractors providing services included under this Agreement's Scope of Services are subject to the insurance coverages identified above and must include the City of Phoenix as an additional insured. In certain circumstances, the Contractor may, on behalf of its subcontractors, waive a specific type of coverage or limit of liability where appropriate to the type of work being performed under the subcontract. Contractor assumes liability for all subcontractors with respect to this Agreement.

8. APPROVAL

Any modification or variation from the insurance coverages and conditions in this must be documented by an executed contract amendment.



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**EXHIBIT D
CONTRACTOR'S CERTIFICATE OF INSURANCE**

[Will be inserted prior to contract execution]

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SECTION III – DRAFT AGREEMENT

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EXHIBIT E SPECIAL TERMS AND CONDITIONS

1. METHOD OF ORDERING

Contractor shall deliver services only upon receipt of a written purchase order. All Contractor invoices must include the City of Phoenix purchase order number.

2. INVOICING

Contractor shall submit a monthly itemized invoice to the City. Invoice shall include, but not be limited to:

- City purchase order number or shopping cart number
- Contract number
- Items listed individually by the written description
- Unit price extended and totaled
- Quantity ordered, back ordered and shipped
- Applicable tax
- Invoice number and date
- Delivery address
- Payment terms
- FOB terms
- Remit to Address

Invoices shall be emailed to the point of contact for the Department.

3. METHOD OF PAYMENT

The City agrees to pay Contractor upon completion of services and within (45) days after receipt of the invoice.

4. FUNDING

In addition to General Funds, the HSD utilizes multiple funding sources. Some of the funding sources include the United States Department of Health and Human Services (DHHS) funding to support the Head Start Birth to Five Program.

DHHS regulations can be found at: <https://www.acf.hhs.gov/ohs/about/head-start>.

Contractors shall be solely responsible for understanding and complying with all applicable regulations and requirements throughout this Agreement period.

5. AVAILABILITY OF FUNDS

Funding may not be available for performance under this Agreement beyond the current fiscal year of the City. No legal liability on the part of the City for any payment



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may arise under this Agreement beyond the current fiscal year.

The City may reduce payments or terminate this Agreement without further recourse, obligation, or penalty in the event that insufficient funds are appropriated. The City shall have the sole and unfettered discretion in determining the availability of funds.

6. NON-ASSIGNABILITY

This Agreement is in the nature of a personal services agreement and Contractor shall have no power to assign its rights and obligations under this Agreement without the prior written consent of the City. Any attempt to assign without such prior written consent shall be void.

7. MANDATORY DISCLOSURES

Contractor must disclose, in a timely manner, in writing to City all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Head Start award. If Contractor receives Federal funds in excess of \$10,000,000 for any period during the performance of this Agreement it is required to report certain civil, criminal, or administrative proceedings to the System for Award Management (SAM). (See Appendix XII to 45 CFR Part 75). Failure to make required disclosures can result in any of the remedies described in 45 CFR § 75.371, including suspension or debarment. (See also 2 CFR parts 180 and 376, and 31 U.S.C. 3321).

8. DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689)

In accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension," Contractor agrees that neither it, nor its principals is presently debarred, suspended proposed for debarment, declared ineligible, or voluntarily excluded from participation in the transaction evidenced by this Agreement by any federal department, and agrees to comply with the requirements of 2 CFR Part 180 and 2 CFR Part 376.

9. CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

Applicable to all agreements in excess of \$150,000. Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 USC 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 USC 1251-1387). Violations must be reported to the City, the Department of Health and Human Services, and the San Francisco Regional Office of the Environmental Protection Agency (EPA).

10. LOBBYING

The Contractor agrees to comply with the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). This certification is a requirement for contracting. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or



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organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier-to-tier up to the non-Federal award.

11. POLITICAL ACTIVITY

Contractor shall comply with the requirements of the Hatch Act which restricts political activity of individuals employed by recipient or subrecipients whose principal employment is in connection with an activity that is financed in whole or in part by grants made by the Federal agency.

12. COMPETITIVE BIDDING

If the purchase of supplies and equipment has been authorized in this Agreement, the Contractor shall procure all such items at the lowest practicable cost and shall purchase all non-expendable items costing \$1,000 or more and having a useful life of more than one year, through a generally accepted and reasonable competitive bidding process. Any procurement in violation of this provision shall be considered a financial audit exception. The Contractor shall expend City funds in a manner that would serve the public interest and honor the public trust.

13. ACCOUNTING

Contractor's accounting practices shall be in conformance with Generally Accepted Accounting Principles (GAAP) as issued by the Governmental Accounting Standards Board (GASB) for state and local governmental entities or by the Financial Accounting Standards Board (FASB) for non-governmental entities. Contractor shall maintain separate accounts for City funds awarded under this Agreement.

14. ALLOWABLE COSTS

Contractor shall comply with the following Cost Principles as applicable to determine the allowability of incurred costs for the purpose of reimbursing costs under the Agreement terms and conditions. Contractor certifies that funds received under this Contract will be expended to achieve the purposes of this Agreement and to meet costs defined as allowable by the federal funding agency or the following federal guidelines:

- 45 CFR Part 75, Subpart E – Cost Principles
- 2 CFR Part 200, Subpart E – Cost Principles

15. SUBSTANTIAL INTEREST DISCLOSURE

15.1. Contractor shall not make any payments, either directly or indirectly, to any person, partnership, corporation, trust, or any other organization which has a



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substantial interest in Contractor's organization or with which Contractor (or one of its directors, officers, owners, trust certificate holders or a relative thereof) has a substantial interest, unless Contractor has made a full written disclosure of the proposed payments, including amounts, to the City.

15.2. Lease agreements, rental agreements, or purchase of real property covered by Paragraph A of this section shall be in writing and accompanied by an independent commercial appraisal of fair market rental, lease, or purchase value, as appropriate.

15.3. For the purpose of this Section, "relative" shall have the same meaning as in City's Administrative Regulation 2.91 (2) Definition.

16. COST OR PRICING DATA CERTIFICATION

By signing this Agreement, any amendment thereto, or other official form, Contractor certifies, to the best of Contractor's knowledge and belief, any cost or pricing data submitted is accurate, complete, and current as of the date submitted or other mutually agreed upon date. Furthermore, if the City finds that the price was increased because the cost or pricing data furnished by Contractor was inaccurate, incomplete, or not current as of the date of certification, the City will readjust the price to exclude any significant amount. Such adjustment by the City may include overhead, profit, or fees. When the Agreement rates are set by law or regulation, the certifying of cost or pricing data does not apply.

17. BACKGROUND SCREENING

The current risk level and background screening required is **STANDARD RISK**.

Contractor agrees that all Contractor and subcontractors' workers (collectively "Contract Worker(s)") pursuant to this Agreement will be subject to background and security checks and screening (collectively "Background Screening") at Contractor's sole cost and expense, unless otherwise provided for in the scope of work. Contractor's background screening will comply with all applicable laws, rules and regulations. Contractor further agrees that the background screening is necessary to preserve and protect the public health, safety and welfare. The City requires a completed Contract Worker Badge/Key/Intrusion Detection Responsibilities Agreement for each Contract Worker who requires a badge or key.

17.1. Background Screening Risk Level: The City has established two levels of risk: Standard and Maximum risk. If the scope of work changes, the City may amend the level of risk, which could require the Contractor to incur additional contract costs to obtain background screens or badges.



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17.2. Standard Risk Level: A standard risk background check will be conducted for the agreement term or 5 years, whichever is shorter when the contract worker's work assignment will result in any of the following:

- Require a badge or key for access to City facilities; or
- Allow any access to sensitive, confidential records, personal identifying information, or restricted City information; or
- Allow unescorted access to City facilities during normal and non-business hours.

17.3. Requirements: The background screening for this standard risk level will include a background check for real identity/legal name and will include felony and misdemeanor records from any county in the United States, the state of Arizona, plus any other jurisdiction where the Contractor worker has lived at any time in the preceding seven years from the Contract Worker's proposed date of hire.

17.4. Contractor Certification; City Approval of Standard Risk Background Screening: Unless otherwise provided for in the Scope of Work, Contractor will be responsible for:

- (a) Determining whether Contract Worker(s) are disqualified from performing work for the City;
- (b) Reviewing the results of the background check every five years, and,
- (c) Engaging in whatever due diligence is necessary to make the decision on whether to disqualify a Contract Worker; and,
- (d) Submitting the list of qualified Contract Workers to the Human Services Department; and,
- (e) For sole proprietors, the Contractor must comply with the background check for himself and any business partners, or members or employees who will assist on the agreement and for whom the requirements of the Agreement apply.
- (f) By executing this Agreement, Contractor certifies and warrants that Contractor has read the background screening requirements and criteria in this section, and that all background screening information furnished to the City is accurate and current.



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- (g) The City final documented decision will be an “approve” or “deny” for identified Contract Workers.
- (h) The City will not keep records related to background checks once they are confirmed. Information to verify the results will be returned to the Contractor, or any contracted agency that assists with review, after the City’s completed review.
- (i) By executing this Agreement, Contractor further certifies and warrants that Contractor has satisfied all such background screening requirements for the standard risk background screening, and verified legal worker status, as required.

17.5. Terms of This Section Applicable to all Contractor’s Contracts and Subcontracts: Contractor will include terms of this section for Contract Worker background screening in all agreements and subagreements for services furnished under this Agreement.

17.6. Materiality of Background Screening Requirements; Indemnity: The background screening requirements are material to City’s entry into this Agreement and any breach of these provisions will be deemed a material breach of this Agreement. In addition to the indemnity provisions set forth in this Agreement, Contractor will defend, indemnify, and hold harmless the City for all claims arising out of this background screening section including, but not limited to, the disqualifications of a Contract Worker by Contractor. The background screening requirements are the minimum requirements for the Agreement. The City in no way warrants that these minimum requirements are sufficient to protect Contractor from any liabilities that may arise out of the Contractor’s services under this Agreement or Contractor’s failure to comply with this section. Therefore, Contractor and its Contract Workers will take any reasonable, prudent, and necessary measures to preserve and protect public health, safety and welfare when providing services under this Agreement.

17.7. Continuing Duty; Audit: Contractor’s obligations and requirements that Contract Workers satisfy this background screening section will continue throughout the entire term of this Agreement. Contractor will notify the City immediately of any change to a background screening of a Contract Worker previously approved by the City. Contractor will maintain all records and documents related to all background screenings and the City reserves the right to audit Contractor’s compliance with this section.



SECTION IV – SUBMITTALS

CITY OF PHOENIX

1. COPIES

- 1.1. Please submit one (1) original of the Submittal Section (Tabs 1-4) and all other required documentation via email. **Offers not submitted as instructed will be deemed non-responsive.**
- 1.2. **Please submit only those documents outlined in the Submittal Section, do not submit a copy of the entire solicitation document.** This offer will remain in effect for a period of 180 calendar days from the opening date and is irrevocable unless it is in the City's best interest to release offer(s).
- 1.3. **Documents shall be submitted in Portable Document Format (PDF). Multiple email submissions with documents following the initial email will not be accepted. The submission should be contained in one email.** Contact the Procurement Officer listed on the cover page if your PDF attachments exceed the mail server's size limit, and your email cannot be sent.

2. HOW TO SUBMIT ELECTRONICALLY

- Step 1:** Put together your offer documents in PDF format. Submit each tabbed section in PDF file(s) as outlined in Section 3 below.
- Step 2:** Enter hsdprocurement@phoenix.gov in the "To" field.
- Step 3:** Enter the Solicitation Title and Number and your company name in the "Subject" field
- Step 4:** Include in the body of the email that you are submitting in response to the identified solicitation.
- Step 5:** Attach all applicable documents for your submission.
- Step 6:** Click "Send." Once submitted, the submission will be deemed a complete submission.

3. OFFER SUBMITTAL FORMAT

The written Offer should be:

- Typewritten for ease of evaluation.
- Signed by an authorized representative of the Offeror.
- Submitted with contact information for the individual(s) authorized to negotiate with the City.
- Submitted with a table of contents with the following major sections:



SECTION IV – SUBMITTALS

CITY OF PHOENIX

Tab 1 Cover Letter

Tab 2 Fee Schedule

Tab 3 Other Required Submittals (Attachments A-H)

Tab 4 Signed Addenda, if applicable

4. CONTENT OF OFFER

The Offer should be clear, concise and demonstrate your ability to provide the services. The Offer must include the following and be submitted according to the sequence below

Tab 1 – Cover Letter

Provide a narrative response which introduces your company. Include the following:

- Full company name, address, phone number, and the name and email address of the contact person for the Offer.
- A brief description of the company and size of the organization.
- How long your organization has been in business.

Tab 2 – Fee Schedule

Complete Attachment H – Fee Schedule, based on one or more categories listed in Section 6 of the Scope of Work.

Tab 3 – Other Required Submittals

In this Section, Offeror shall complete and submit the following documents:

Attachment A – Offer Form

Attachment B – Cost and Payment Terms and Options

Attachment C – Certification Regarding Debarment, Suspension, and Other Ineligibility and Voluntary Exclusions

Attachment D – Solicitation Conflict and Transparency Disclosure Form

Attachment E – References

Attachment F – Confidential Information

Attachment G – Assurances

Attachment H – Fee Schedule



SECTION IV – SUBMITTALS

CITY OF PHOENIX

Tab 4 – Signed Addenda

In this Section, Offeror must acknowledge receipt of all solicitation addenda, if applicable, by signing and submitting the entire addenda with their Offer.



**ATTACHMENT A
OFFER FORM**

CITY OF PHOENIX

TO THE CITY OF PHOENIX - The Undersigned hereby offers and agrees to furnish the material and or service(s) in compliance with all terms, conditions, specifications, and addenda issued as a result of solicitation and any written exceptions in the offer.

Arizona Sales Tax No. _____

Use Tax No. for Out-of-State Suppliers _____

City of Phoenix Sales Tax No. _____

Arizona Corporation Commission File No. _____

Taxpayer's Federal Identification No.: If recommended for contract award, Bidder agrees to provide its federal taxpayer identification number or as applicable its social security number to the City of Phoenix for the purposes of reporting to appropriate taxing authorities, monies paid by the City of Phoenix under the awarded contract. If the Bidder provides its social security number, the City will only share this number with appropriate state and federal officials. This submission is mandatory under 26 U.S.C. § 6041A.

Enter City's Registration System ID Number
Located at City's eProcurement website (see SECTION I
– INSTRUCTIONS - CITY'S REGISTRATION)

Offeror has read, understands, and will fully and faithfully comply with this solicitation, its attachments and any referenced documents. Offeror certifies that the prices offered were independently developed without consultation with any other Offeror or potential Offerors.

Authorized Signature

Date

(LLC, Inc. Sole Proprietor)

Printed Name and Title
(Member, Manager, President)

Address _____

City, State and Zip Code _____

Telephone Number _____

Company's Fax Number _____

Company's Toll Free # _____

Email Address _____



**ATTACHMENT B
COST AND PAYMENT TERMS & OPTIONS**

CITY OF PHOENIX

PAYMENT TERMS & OPTIONS: Vendors must choose an option, if a box is not checked, the City will **default to 0% - net 45 days:**

- ☐ Contractor offers a prompt payment discount of either _____% - 30 days or 0% – 45 days - to apply after receipt of invoice or final acceptance of the products (invoice approval), whichever date is later, starts the 30 days. If no prompt payment discount is offered, the default is 0%, net 45 days; effective after receipt of invoice or final acceptance of the products, whichever is later. **Payment terms offering a discount will not be considered in the price evaluation of your offer.**

- ☐ Contractor may be paid immediately upon invoice approval, if enrollment is made to the Single Use Account (SUA) Program, administered by the City's servicing bank ("Bank"). By checking this box, the vendor accepts transaction costs charged by their merchant bank and agrees not to transfer to the City those extra charges. The City will not pay an increase in our services for the SUA charges; if an audit uncovers an upcharge for the SUA charges the vendor will owe the City all costs. The vendor may opt-out of the SUA program once, but then may not rejoin during the same contract term.



**ATTACHMENT C
CERTIFICATION REGARDING DEBARMENT,
SUSPENSION, AND OTHER INELIGIBILITY AND
VOLUNTARY EXCLUSIONS**

CITY OF PHOENIX

The prospective participant (Contractor for a federally funded project) certifies, by submission of this solicitation and certification, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by **any** federal department or agency.

Where the prospective participant is unable to certify to any of the statements in this certification, such participant **shall** attach an explanation to this solicitation.

THE PARTICIPANT (Contractor for a federally funded project), CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C. 3801 ET SEQ. ARE APPLICABLE THERETO.

Authorized Official:

Title of Authorized Official:

Date:



**ATTACHMENT D
SOLICITATION CONFLICT & TRANSPARENCY
DISCLOSURE FORM**

CITY OF PHOENIX

This form must be signed and submitted to the City and all questions must be answered or your submittal may be considered non-responsive.

1. Name of person submitting this disclosure form.			
First	MI	Last	Suffix
2. Contract Information			
Solicitation # or Name: IFB-22-EDU-74, Preventative Health Medical Equipment and Supplies			
3. Name of individual(s) or entity(ies) seeking a contract with the City (i.e. parties to the Contract)			
4. List any individuals(s) or entity(ies) that are owners, partners, parent, sublessees, joint venture, or subsidiaries of the individual or entity listed in Question 3. Please include all Board members, executive committee members and officers for each entry. If not applicable, indicate N/A.			
5. List any individuals or entities that will be subconsultants on this contract or indicate N/A.			
<div style="margin-left: 20px;"><input type="checkbox"/> Subconsultants may be retained, but not known as of the time of this submission. <input type="checkbox"/> List of subcontracts, including the name of the owner(s) and business name:</div>			
6. List any attorney, lobbyist, or consultant retained by any individuals listed in Questions 3, 4, or 5 to assist in the proposal or seeking the resulting contract. If none, indicate N/A.			

7. Disclosure of conflict of interest:

Are you aware of any fact(s) with regard to this solicitation or resulting contract that would raise a “conflict of interest” issue under City Code Section 43-34?

“An elected City official or a City employee shall not represent any person or business for compensation before the City regarding any part of a procurement, including any resulting contract, if during the time the elected official is or was in office or the employee is or was employed by the City such elected official or employee played a material or significant role in the development of the solicitation, any other part of the procurement, or the contract award.”

- ☐ I am not aware of any conflict(s) of interest under City Code Section 43-34.
- ☐ I am aware of the following potential or actual conflict(s) of interest:

8. Notice Regarding Prohibited Interest in Contracts

State law and the Phoenix City Charter and Code prohibit public officers or employees, their close relatives, and any businesses they, or their relatives, own from (1) representing before the City any person or business for compensation, (2) doing business with the City by any means other than through a formal procurement, and (3) doing business with the City without disclosing that the person has an interest in the contract. This prohibition extends to subcontracts on City contracts and also applies to parent, subsidiary, or partner businesses owned by a public officer or employee. See A.R.S. Sections 38-501 through 38-511, for more information (City Charter, Chapter 11, applies the state conflict-of-interest law to City employees).

Please note that any contract in place at the time a person becomes a public officer or employee may remain in effect. But the contract may not be amended, extended, modified, or changed in any manner during the officer’s or employee’s city service without following city administrative regulations.

Are you aware of any fact(s) with regard to this contract that would raise a “conflict of interest” issue under A.R.S. Sections 38-501 through 38-511 (See Arizona Revised Statutes regarding conflict of interest at www.azleg.gov).

- ☐ I am not aware of any conflict(s) of interest under Arizona Revised Statutes Sections 38-501 through 38-511.
- ☐ I am aware of the following conflict(s) of interest:

9. Acknowledgements

Solicitation Transparency Policy – No Contact with City Officials or Staff During Evaluation

- ☐ I understand that a person or entity who seeks or applies for a city contract, or any other person acting on behalf of that person or entity, is prohibited from contacting city officials and employees regarding the contract after a solicitation has been posted.
- ☐ This “no-contact” provision only concludes when the contract is awarded at a City Council meeting. If contact is required with City official or employees, the contact will take place in accordance with procedures by the City. Violation of this prohibited contacts provision set out in City Code Sections 2-190.4 and 43-36, by respondents, or their agents, will lead to **disqualification**.

10. Fraud Prevention and Reporting Policy

- ☐ I acknowledge that the City has a fraud prevention and reporting policy and takes fraud seriously. I will report fraud, suspicion of fraud, or any other inappropriate action to 602-261-8999 or 602-534-5500 (TDD); or aud.integrity.line@phoenix.gov.

The purpose of the fraud policy is to maintain the City's high ethical standards. The policy includes a way for our business partners to report wrongdoing or bad behavior. Suspected fraud should be reported immediately to the Phoenix Integrity Line. The City has adopted a zero-tolerance policy regarding fraud.

I affirm that the statements contained in this form, including any attachments, to the best of my knowledge and belief are true, correct, and complete.

Should any of the answers to the above questions change during the course of the contract, particularly as it relates to any changes in ownership, applicant agrees to update this form with the new information within 30 days of such changes. Failure to do so may be deemed a breach of contract.

PRINT NAME

TITLE

SIGNATURE

DATE

COMPANY (CORPORATION, LLC, ETC.) NAME and DBA



ATTACHMENT E REFERENCES

CITY OF PHOENIX

Provide three (3) references you have provided similar services for in the past three (3) years. Include name, contact information, type of service(s) and dates of service. Do not use the City of Phoenix as a reference.

REFERENCE 1

Organization:

Address:

City:

State:

ZIP Code:

Contact:

Contact Title:

Contact Phone Number:

Contact Email Address:

Brief Description of Services Provided:

Dates of Service:

REFERENCE 2

Organization:

Address:

City:

State:

ZIP Code:

Contact:

Contact Title:

Contact Phone Number:

Contact Email Address:

Brief Description of Services Provided:

Dates of Service:

REFERENCE 3		
Organization:		
Address:		
City:	State:	ZIP Code:
Contact:	Contact Title:	
Contact Phone Number:	Contact Email Address:	
Brief Description of Services Provided:		
Dates of Service:		



**ATTACHMENT F
CONFIDENTIAL INFORMATION**

CITY OF PHOENIX

- ☐ By checking this box, the Offeror acknowledges that they are not providing any information they declare to be confidential or proprietary.

If Offeror has submitted any information, they declare to be confidential or proprietary, please describe below.

Page Title	Confidentiality and Proprietary Information

Note: use additional pages as necessary.

ATTACHMENT G - ASSURANCES
DRUG-FREE WORKPLACE REQUIREMENTS
GRANTEES OTHER THAN INDIVIDUALS

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR, Part 76, Subpart F. The regulations published in the January 31, 1989 Federal Register, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when HHS determines to award the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or government-wide suspension or debarment.

Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

Workplace identifications must include the actual address of buildings (or parts of building) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g. all vehicles of a mass transit authority of State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios).

If the workplace identified to HHS changes during the performance of the grant, the grantee shall inform the agency of the change(s), it previously identified the workplaces in question (see above).

Definitions of terms in the Non-Procurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 USC 812) and as further defined by regulations (21 CFR, 1308.11 through 1308.15). "Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes; "Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing use, or possession of any controlled substance; "Employee" means the employee of a grantee

directly engaged in the performance of work under a grant including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact of involvement is insignificant to the performance of the grant; and (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of sub-recipients or subcontractors in covered workplaces).

The grantee certifies that it will provide a drug-free workplace by:

- a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- b) Establishing a drug-free awareness program to inform employees about:
 - (1) The dangers of drug abuse in the workplace;

- (2) The grantee's policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation, employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
- d) Notifying the employee in the statement required by paragraph (a) that as a condition of employment under the grant, the employee will:
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;
- e) Notifying the agency in writing within ten days after receiving notice under subparagraph (d)(2), from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
- f) Taking one of the following actions within 30 days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:
 - (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.
- g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a) through (f).

Contractor shall insert in the space below, the site(s) for the performance of work done in connection with the specific contract:

PLACE OF PERFORMANCE: (Street Address, City, County, State, Zip Code)

CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE

Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by Federal program either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such Federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable Federal funds in Medicare or Medicaid; or facilities where WIC coupons are redeemed. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible entity.

By signing this certification, the offeror/contractor (for acquisitions) or applicant/grantee (for grants) certifies that the submitting organization will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act.

The submitting organization agrees that it will require that the language of this certification be included in any sub-awards which sub-recipients shall certify accordingly.

CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER
RESPONSIBILITY MATTERS - PRIMARY COVERED TRANSACTIONS

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR Part 76 certifies to the best of his or her knowledge and believe that it and its principals:

- (a) are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transaction by any Federal Department or agency;
- (b) have not within a 3-year period preceding this proposal been convicted or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction: violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statement, or receiving stolen property;
- (c) are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1) (b) of this certification; and
- (d) have not within a 3-year period preceding this application/proposal had one or more public transaction (Federal, State or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The Department of Health and Human Services' (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," provided below without modification in all lower tier covered transactions.

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY
AND VOLUNTARY EXCLUSION - LOWER TIER COVERED TRANSACTIONS
(TO BE SUPPLIED TO LOWER TIER PARTICIPANTS)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR, Part 76, certifies to the best of its knowledge and belief that it and its principals:

- (a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (b) where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

CERTIFICATION REGARDING LOBBYING
FOR CONTRACTS, GRANTS, LOANS
AND COOPERATIVE AGREEMENTS

The undersigned certifies to the best of his or her knowledge and belief, that:

- (1) No Federal appropriate funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of congress, an officer or employee of congress, or an employee of a member of congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee or an agency, a member of congress, an officer or employee of congress, or an employee of a member of congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

I hereby agree to the above certifications and assurances.

Signature of Certifying Official

Title

Applicant Organization

Date _____