



Notice of Request for Proposal

SOLICITATION # YH19-0004

External Quality Review Organization

Procurement Officer:

Jennifer Roberts, CPPB
Senior Procurement Specialist
AHCCCS
701 E. Jefferson, MD5700
Phoenix, Arizona 85034

Telephone: 602-417-4629
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Issue Date: September 7, 2018

LOCATION: ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION (AHCCCS)
Procurement Office (First Floor)
701 E. Jefferson, MD 5700
Phoenix, AZ 85034

DESCRIPTION:

External Quality Review Organization (EQRO)

PROPOSAL DUE DATE:

OCTOBER 5, 2018

AT 3:00 P.M.
ARIZONA TIME

Pre-Proposal Conference:

A Pre-Proposal Conference has **NOT** been scheduled.

QUESTIONS CONCERNING THIS SOLICITATION SHALL BE SUBMITTED TO THE PROCUREMENT OFFICER NAMED ABOVE, IN WRITING, VIA E-MAIL BY **SEPTEMBER 14, 2018 5:00 PM** ARIZONA TIME ON THE QUESTIONS AND ANSWERS FORM PROVIDED WITH THIS RFP. ANSWERS TO ALL QUESTIONS WILL BE POSTED IN THE AHCCCS WEBSITE IN THE FORM OF A SOLICITATION AMENDMENT FOR THE BENEFIT OF ALL POTENTIAL OFFERORS.

In accordance with A.R.S. § 36-2906, which is incorporated herein by reference, competitive sealed proposals will be received at the above specified location, until the time and date cited. Proposals received by the correct time and date will be opened and the name of each Offeror will be publicly read.

Proposals must be in the actual possession of AHCCCS on or prior to the time and date and at the location indicated above.

Late proposals shall not be considered.

Proposals must be submitted in a sealed envelope or package with the Solicitation Number and the Offeror’s name and address clearly indicated on the envelope or package. All proposals must be typewritten. Additional instructions for preparing a proposal are included in this solicitation document.

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the person named above. Requests should be made as early as possible to allow time to arrange the accommodation.

OFFERORS ARE STRONGLY ENCOURAGED TO CAREFULLY READ THE ENTIRE SOLICITATION.

TABLE OF CONTENTS

1.	Offer and Acceptance document	Page 3
2.	Scope of Work	Page 4
3.	Definition of Terms	Page 13
4.	Uniform Instructions to Offerors	Page 16
5.	Special Instructions to Offerors	Page 20
6.	Uniform Terms and Conditions	Page 24
7.	Special Terms and Conditions	Page 32
8.	Special Terms and Conditions Insurance Requirements	Page 40
9.	HIPAA Business Associates Addendum	Page 44
10.	Attachment A: Pricing Schedule	Page 48
11.	Attachment B: Certification of Boycott of Israel	Page 49
12.	Attachment C: EQRO Experience of the Firm	Page 50
13.	Attachment D: Offeror's Checklist	Page 52
	<i>End of Solicitation</i>	<i>Page 53</i>

OFFER AND ACCEPTANCE

OFFER

The undersigned Offeror hereby agrees to provide all services in accordance with the terms and requirements stated herein, including all exhibits, amendments, and final proposal revisions (if any). Signature also certifies Small Business Status.

Arizona Transaction (Sales) Privilege Tax License No.:

For clarification of this offer, contact:

Name: _____

Federal Employer Identification No.:

Title: _____

E-Mail Address: _____

Phone: _____

Company Name

Signature of Person Authorized to Sign Offer

Address

Printed Name

City

AHCCCS/Med-QUEST

Zip

Title

CERTIFICATION

By signature in the Offer section above, the Offeror certifies:

1. The submission of the offer did not involve collusion or other anti-competitive practices.
2. The Offeror shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, AHCCCS/Med-QUEST Executive Order 2009-09 or A.R.S. §§ 41-1461 through 1465.
3. 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. Failure to provide a valid signature affirming the stipulations required by this clause shall result in rejection of the offer. Signing the offer with a false statement shall void the offer, any resulting contract and may be subject to legal remedies provided by law.
4. The Offeror _____ is / _____ is **not** a small business with less than 100 employees or has gross revenues of \$4 million or less.
5. The Offeror is in compliance with A.R.S. sec 18-132 when offering electronics or information technology products, services, or maintenance; and
6. The Offeror certifies that it is not debarred from, or otherwise prohibited from participating in any contract awarded by federal, AHCCCS/Med-QUEST, or local government.

ACCEPTANCE OF OFFER (to be completed by AHCCCS)

Your offer, including all exhibits, amendments and final proposal revisions (if any), contained herein, is accepted. The Contractor is now bound to provide all services listed by the attached contract and based upon the solicitation, including all terms, conditions, specifications, amendments, etc., and the Contractor's Offer as accepted by AHCCCS.

The Contractor is cautioned not to commence any billable work or to provide any material or service under this contract until Contractor receives purchase order, contact release document or written notice to proceed.

This contract shall henceforth be referred to as

Contract No. _____.

CONTRACT SERVICE START DATE: _____.

AWARD DATE: _____.

MEGGAN HARLEY, CPPO, MSW, AHCCCS Chief Procurement Officer

SCOPE OF WORK

1. AHCCCS OVERVIEW

Arizona Healthcare Cost Containment System (AHCCCS) is the single state agency for State of Arizona. In that capacity it is responsible for operating the Title XIX and Title XXI programs through the State's 1115 Research and Demonstration Waiver, which was granted by the Centers for Medicare and Medicaid Services (CMS), U.S. Department of Health and Human Services. As of June 1, 2017, AHCCCS provides coverage to approximately 1.9 million members in Arizona.

Over 82.43 % of the AHCCCS program's expenditures in SFY 2017 were through managed care programs. AHCCCS contracts with Managed Care Organizations (MCOs) that are responsible for providing Acute, Long Term Care, and Behavioral Health Services. A list of contracted plans can be found here:

<https://azweb.statemedicaid.us/HealthPlanLinksNet/HPLinks.aspx>

The program has a total fund budget for SFY 2018 of approximately \$13.5 billion. AHCCCS has over 70,000 active providers in Arizona, such as individual medical and behavioral health practitioners, therapy disciplines, institutions, durable medical equipment companies and transportation entities. Additional information may be found on the AHCCCS website reporting page:

<https://www.azahcccs.gov/Resources/Reports/federal.html>

2. PROJECT OR SERVICE OBJECTIVES

Federal regulations at 42 CFR 438, Subpart E, requires that the State Medicaid agencies shall contract with qualified outside entities, External Quality Review Organizations (EQROs), to conduct the analysis and evaluation of the data and information collected in specified mandatory activities and may also utilize the EQROs for optional activities.

The Contractor shall perform the tasks set forth in this RFP. This listing of tasks and activities is not all-inclusive, and other elements of work may be added by task order and/or addressed within the Offeror's proposal, if deemed appropriate.

Information concerning the AHCCCS program can be found on the AHCCCS website: www.azahcccs.gov

AHCCCS has prepared this RFP with present knowledge of the expectations of the Centers for Medicare and Medicaid Services (CMS) External Quality Review Organization (EQRO) requirements. If CMS issues new requirements or expectations of EQRO, the Contractor will be expected to conform. If new requirements cause material changes in pricing, the parties agree to discuss adjustments as necessary.

3. PURPOSE OF THE RFP

This Request for Proposal (RFP) seeks qualified organizations that are able to perform EQRO functions, as outlined in the Federal Regulations at 42 CFR 438, Subpart E.

<https://www.gpo.gov/fdsys/pkg/CFR-2017-title42-vol4/xml/CFR-2017-title42-vol4-part438.xml>

3.1 The Contractor shall, at a minimum, perform the analysis and evaluation of the following mandatory activities in accordance with 42 CFR 438, Subpart E :

- 3.1.1 The Agency's validation of performance improvement projects conducted by the Managed Care Organizations (MCOs);
- 3.1.2 The Agency's validation of performance measures calculated for the MCOs;
- 3.1.3 The Agency's review of MCO compliance with structural and operational standards;
- 3.1.4 The Agency's validation of network adequacy; and

SCOPE OF WORK

3.1.5 An annual Consumer Assessment of Healthcare Providers and Systems (CAHPS) Survey for the KidsCare (Tile XXI) population, as long as there is sufficient membership for meaningful analysis

3.2 In addition, AHCCCS shall have the option of utilizing the Contractor for:

- 3.2.1 Validation of client level data such as claims and encounters
- 3.2.2 Administration or validation of member or provider surveys
- 3.2.3 Calculation of performance measures
- 3.2.4 Conducting performance improvement projects
- 3.2.5 Conducting focused studies of quality of care
- 3.2.6 Development and/or maintenance of a quality rating system

4. LEGAL AUTHORITY

This solicitation and any resultant contract is being entered into pursuant to A.R.S. § 36-2906, and any rules adopted thereunder.

5. CONTRACTOR RESPONSIBILITIES:

5.1 STANDARDS/CONTRACT REQUIREMENTS: The Contractor shall:

- 5.1.1 Maintain in current status all Federal, State and local licenses and permits required for the operation of the business conducted by the Contractor as applicable to this Contract.
- 5.1.2 Ensure that the Contractor and its subcontractors do not deliver any **health care services** to Medicaid beneficiaries.
- 5.1.3 Ensure that the Contractor and its subcontractors do not conduct, on the state's behalf, ongoing Medicaid managed care program operations related to oversight of the quality of MCO, PIHP, PAHP, or PCCM entity services, except for EQR-related activities.
- 5.1.4 Ensure that the Contractor is accountable for, and must oversee, all subcontractor functions.
- 5.1.5 Ensure ability to provide and receive applicable data to be used for the EQRO annual reports for the MCOs' performance in complying with the Medicaid managed care regulations and respective AHCCCS contract requirements through the AHCCCS FTP Server utilizing login IDs and passwords to access and retrieve the data. As necessary, AHCCCS will also use other mechanisms to transmit data and/or to communicate with the vendor.
- 5.1.6 Ensure data obtained from the mandatory and optional EQR-related activities is used for the annual EQR.
- 5.1.7 Ensure data obtained from the mandatory and optional EQR-related activities must include, at a minimum: the objectives; technical methods of data collection and analysis; description of data obtained, including validated performance measurement data for each activity conducted in accordance with §438.358(b)(1)(i) and (ii); and conclusions drawn from the data.
- 5.1.8 Ensure that sufficient staff is available in number and qualifications to perform the contract services.

SCOPE OF WORK

- 5.1.9 Maintain all confidential materials in a secure area during the term of the contract and for a period of (5) five years following the expiration or termination of the Contract.
- 5.1.10 Meet with AHCCCS personnel on a regular basis (no less than two (2) times per year; additional frequency determined on mutual need). Formal agendas shall be established prior to meetings and may include, but are not limited to, the following:
 - 5.1.10.1 Discussion of problems that require immediate attention
 - 5.1.10.2 Provision of informal evaluations of trends and patterns, and
 - 5.1.10.3 Sharing of information collected from Managed Care Organizations (MCOs)/Program Contractors.
- 5.1.11 Designate a qualified individual to serve as the Contractor's liaison with AHCCCS who will, among other duties:
 - 5.1.11.1 Interact with AHCCCS as the Contractor's authorized representative on matters that include, but are not limited to, the performance of work and assignment of Contractor personnel
 - 5.1.11.2 Participate in meetings with AHCCCS to ensure prompt resolution of issues
- 5.1.12 Submit any subcontracts to be used in the performance of this contract for prior approval at least 30 days prior to the start of the subcontract.
- 5.1.13 Ensure that it is in and maintains compliance with CMS EQRO requirements.
- 5.2 MANDATORY ACTIVITIES: For each of these mandatory activities, individual work plans shall be submitted to AHCCCS for review and approval prior to implementation. Mandatory EQR-related activities will be conducted using protocols or methods consistent with the protocols established by the Secretary in accordance with §438.352.
 - 5.2.1 The Analysis and Evaluation of the Agency's Validation of Performance Improvement Projects (PIPs): The analysis and evaluation of the Agency's validation of Performance Improvement Projects (PIPs) required by the state to comply with requirements set forth in 42 CFR.438.330 et. seq that were underway during the preceding 12 months. The Contractor shall:
 - 5.2.1.1 Work with AHCCCS to annually review and validate the methodology to be utilized for MCO PIPs meeting the contractual performance standards.
 - 5.2.1.2 Work with AHCCCS to annually validate the procedure of the MCO meeting the mandatory PIP definition including the provision of both a qualitative and quantitative analysis, as well as adherence to overall PIP methodology and related requirements.
 - 5.2.1.3 Work with AHCCCS to annually validate the results of the MCO PIPs.
 - 5.2.1.4 Utilize appropriate protocols to validate the PIP methodologies, protocols, and rate results.
 - 5.2.1.5 Validate all components of each PIP in accordance with federal requirements.
 - 5.2.1.6 Provide feedback to AHCCCS on strengths, as well as opportunities for improvement, at both the MCO and AHCCCS levels.
 - 5.2.2 The Analysis and Evaluation of the Agency's Validation of MCO Performance Measures: The analysis and evaluation of the Agency's validation of MCO self-reported performance measures (if required by

SCOPE OF WORK

the state) or MCO performance measures calculated by the state during the preceding 12 months to comply with the requirements set forth in 42 CFR.438.330 et. seq. The Contractor shall:

- 5.2.2.1 Work with AHCCCS to annually review and validate the methodology to be utilized for measuring MCO performance measures.
 - 5.2.2.2 Work with AHCCCS to annually validate the procedure utilized by the MCO to evaluate mandatory performance measures, if applicable.
 - 5.2.2.3 Work with AHCCCS to annually validate the results of state-calculated MCO performance measures.
 - 5.2.2.4 Utilize appropriate protocols to validate the performance measurement methodologies, protocols, and rate results.
 - 5.2.2.5 Validate performance measures in accordance with federal requirements
 - 5.2.2.6 Provide feedback to AHCCCS on strengths, as well as opportunities for improvement, at both the MCO and AHCCCS levels
- 5.2.3 The Analysis and Evaluation of the Agency's Validation of MCO's Compliance with Standards (i.e., Operational Reviews): The analysis and evaluation of the Agency's review, conducted within the previous three-year period, to determine the MCO's compliance with Federal and state-selected standards. 42 CFR 438.330 et. seq. The Contractor shall:
- 5.2.3.1 Work with AHCCCS to annually review and validate the methodology and evaluation tools utilized to ensure MCO's compliance with standards.
 - 5.2.3.2 Work with AHCCCS to annually validate the procedure of the MCO to ensure compliance with Federal and state-selected standards.
 - 5.2.3.3 Work with AHCCCS to annually validate the results of the process utilized to ensure the MCO's compliance with standards included within 42 CFR 438, Subpart E.
 - 5.2.3.4 Follow standard methodology practices in validating the methodologies and results of processes and tools utilized to determine MCO's compliance with standards.
 - 5.2.3.5 Validate Compliance with Standards in accordance with federal requirements.
 - 5.2.3.6 Provide feedback to AHCCCS on strengths, as well as opportunities for improvement, at both the MCO and AHCCCS levels.
- 5.2.4 The Analysis and Evaluation of the Agency's Validation of MCO's Compliance with Network Adequacy Standards: The analysis and evaluation of the Agency's development, publication, and enforcement of network adequacy standards 42 CFR 438.68 et. seq. The Contractor shall:
- 5.2.4.1 Work with AHCCCS to annually review and validate the methodology and evaluation tools utilized to ensure MCO's compliance with standards.
 - 5.2.4.2 Work with AHCCCS to annually validate the procedure of the MCO to ensure compliance with Federal and state-selected standards.
 - 5.2.4.3 Work with AHCCCS to annually validate the results of the process utilized to ensure the MCO's compliance with standards included within 42 CFR 438.68.
 - 5.2.4.4 Follow standard methodology practices in validating the methodologies and results of
 - 5.2.4.4.1 Processes and tools utilized to determine MCO's compliance with standards.
 - 5.2.4.4.2 Validate Compliance with Standards in accordance with federal requirements.
 - 5.2.4.4.3 Provide feedback to AHCCCS on strengths, as well as opportunities for improvement, at both the MCO and AHCCCS levels.

SCOPE OF WORK

- 5.2.5 The evaluation of member satisfaction for the AHCCCS KidsCare (Title XXI, CHIP) population in accordance with the Children’s Health Insurance Reauthorization Act of 2009: To be conducted annually as long as there is a sufficient population for valid, statistically significant analysis, using the NCQA Consumer Assessment of Healthcare Providers and Systems (CAHPS) Survey.
- 5.2.5.1 Work with AHCCCS to obtain a population file
 - 5.2.5.2 Complete sampling for the Survey in accordance to NCQA requirements
 - 5.2.5.3 Conduct the survey in accordance to NCQA requirements
 - 5.2.5.4 Provide a report that summarizes findings (at statewide and MCO-specific levels) and compares to historically rates as well as analyzes strengths and opportunities for improvement
 - 5.2.5.5 Annual report is due to AHCCCS by November 15 of each year
- 5.3 OPTIONAL ACTIVITIES: AHCCCS, at its option, may choose to utilize the EQRO to conduct or validate 42 CFR 438, Subpart E Optional Activities. The following section includes activities that AHCCCS may elect to utilize an EQRO to either conduct or validate methodologies, procedures/processes and/or results. Individual work plans shall be submitted to AHCCCS for review and approval prior to implementation. Optional EQR-related activities will be conducted using protocols or methods consistent with the protocols established by the Secretary in accordance with §438.352.
- 5.3.1 Validation of Encounter Data Reported by an MCO: Validation of encounter data reported by an MCO required by the state to comply with requirements set forth in 42 CFR 438.818 et. seq. If requested, the Contractor shall:
- 5.3.1.1 Work with AHCCCS to review and validate the encounter data reported by an MCO.
 - 5.3.1.2 Work with AHCCCS to validate the MCO encounter data reporting process/procedure.
 - 5.3.1.3 Work with AHCCCS to validate the MCO encounter data reporting results.
 - 5.3.1.3 Follow standard research methodology practices in validating the MCO encounter data reporting activities.
 - 5.3.1.4 Validate encounter data in accordance with federal requirements
 - 5.3.1.5 Provide feedback to AHCCCS on strengths, as well as opportunities for improvement, at the MCO level.
- 5.3.2 Administration of Validation of Consumer or Provider Surveys: Administration of validation of consumer or provider surveys of quality of care required by the state to comply with requirements set forth in 42 CFR 438.66 et. seq. If requested, the Contractor shall:
- 5.3.2.1 Work with AHCCCS to administer or validate consumer or provider survey tool(s).
 - 5.3.2.2 Work with AHCCCS to administer or validate consumer or provider survey process/procedure.
 - 5.3.2.3 Work with AHCCCS to administer or validate consumer or provider survey results.
 - 5.3.2.4 Follow standard research methodology practices in administering or validating consumer or provider surveys including, but not limited to, the following:
 - 5.3.2.4.1 Developing a work plan for the duration of the validation process
 - 5.3.2.4.2 Conducting any necessary background research
 - 5.3.2.4.3 Calculating population/sample selection criteria
 - 5.3.2.4.4 Developing data collection methods and tools
 - 5.3.2.4.5 Conducting any relevant data verification and validation
 - 5.3.2.4.6 Completing data analysis and interpretation process, including tables and graphics

SCOPE OF WORK

- 5.3.2.4.7 Developing results/final reports, according to standard research reporting guidelines and executive summary
 - 5.3.2.4.8 Ensuring validation process is in compliance with 42 CFR 438, Subpart E.
- 5.3.3 Calculation of Performance Measures: Calculation of performance measures in addition to those reported by an MCO or PIHP as required by the state to comply with requirements set forth in 42 CFR 438.330 et. seq. If requested, the Contractor shall:
- 5.3.3.1 Work with AHCCCS in the development of tools for the calculation of performance measures in addition to those reported by an MCO.
 - 5.3.3.2 Work with AHCCCS to develop processes/procedures for the calculation of performance measures in addition to those reported by an MCO).
 - 5.3.3.3 Work with AHCCCS to calculate and report the results of performance measures in addition to those reported by an MCO).
 - 5.3.3.4 Follow standard research methodology in calculating the performance measures in addition to those reported by an MCO including but not limited to:
 - 5.3.3.4.1 Developing a work plan for the duration of the validation process
 - 5.3.3.4.2 Conducting any necessary background research
 - 5.3.3.4.3 Calculating population/sample selection criteria
 - 5.3.3.4.4 Developing data collection methods and tools
 - 5.3.3.4.5 Conducting any relevant data verification and validation
 - 5.3.3.4.6 Completing data analysis and interpretation process, including tables and graphics
 - 5.3.3.4.7 Developing results/final reports, according to standard research reporting guidelines and executive summary
 - 5.3.3.4.8 Ensuring validation process is in compliance with 42 CFR 438, Subpart E.
- 5.3.4 Performance Improvement Projects: Conduct performance improvement projects required by the state to comply with requirements set forth in 42 CFR 438.330 et. seq. and that were underway during the preceding 12 months. If requested, the Contractor shall:
- 5.3.4.1 Work with AHCCCS to develop the methodology to be utilized for performance improvement projects that meet the requirements of 42 CFR 438.330.
 - 5.3.4.2 Work with AHCCCS to develop the procedure for the performance improvement projects.
 - 5.3.4.3 Work with AHCCCS to calculate and report results of the performance improvement projects.
 - 5.3.4.4 Follow standard research methodology practices in developing and conducting the performance improvement methodologies and results including, but not limited to:
 - 5.3.4.4.1 Developing a work plan for the duration of the validation process
 - 5.3.4.4.2 Any necessary background research
 - 5.3.4.4.3 Identifying population/sample selection criteria
 - 5.3.4.4.4 Developing data collection methods and tools
 - 5.3.4.4.5 Completing any relevant data verification and validation
 - 5.3.4.4.6 Conducting data analysis and interpretation process, including tables and graphics
 - 5.3.4.4.7 Developing results/final reports and executive summary, according to standard research reporting guidelines
 - 5.3.4.4.8 Ensuring process is in compliance with 42 CFR 438, Subpart E

SCOPE OF WORK

5.3.5 Studies on Quality: Conduct studies on quality that focus on a particular aspect of clinical or non-clinical services at a point in time. If requested, the Contractor shall:

5.3.5.1 Work with AHCCCS to identify which clinical or non-clinical service topic area will be selected for the study.

5.3.5.2 Follow standard research methodology practices in conducting the studies, including, but not limited to:

5.3.5.2.1 Developing a work plan for the duration of the study

5.3.5.2.2 Conducting any necessary background research

5.3.5.2.3 Reviewing population/sample selection criteria

5.3.5.2.4 Devising data collection methods and tools

5.3.5.2.5 Performing any relevant data verification and validation

5.3.5.2.6 Performing appropriate data analysis and interpretation, including provision of tables and graphics

5.3.5.2.7 Preparing final report, following standard research reporting guidelines and including executive summary and any needed presentation materials.

5.3.6 Quality ratings of MCOs: Assist with quality ratings of MCOs required by the state to comply with requirements set forth in 42 CFR 438.66 and 42 CFR 438.334. If requested, the Contractor shall:

5.3.6.1 Work with AHCCCS to develop and implement a quality rating system for MCOs, in alignment with CMS and AHCCCS expectations and goals.

5.3.6.2 Follow standard development, statistical method, and reporting practices in:

5.3.6.2.1 Developing a work plan for the quality rating system

5.3.6.2.2 Conducting any necessary background research

5.3.6.2.3 Reviewing population/sample selection criteria

5.3.6.2.4 Devising data collection methods and tools

5.3.6.2.5 Performing any relevant data verification and validation

5.3.6.2.6 Performing appropriate data analysis and interpretation, including provision of tables and graphics

5.3.6.2.7 Preparing final product, in accordance with AHCCCS expectations that can be posted on the AHCCCS website and utilized interactively by the user.

6. REPORTING REQUIREMENTS:

6.1 The Contractor shall produce an annual report (deliverable) that formally outlines that Contractor's processes and findings reflective of all mandatory activities listed in section 5.2, as well as any agreed optional activities listed in section 5.3 for the applicable Contract Year. The Contractor shall produce an annual detailed technical report for each line of business that:

6.1.1 Summarizes findings on access and quality of care and describes how the data from all EQR-related activities conducted in accordance with §438.358 were aggregated and analyzed, and conclusions were drawn as to the quality, timeliness, and access to the care furnished by the MCO, PIHP, PAHP, or PCCM entity.

6.1.2 Describes the objectives for each EQR-related activity conducted.

6.1.3 Describes the technical methods of data collection and analysis for each EQR-related activity conducted.

SCOPE OF WORK

- 6.1.4 Describes the data obtained for each activity conducted including validated performance measurement data for each EQR-related activity conducted in accordance with §438.358(b)(1)(i) and (ii).
- 6.1.5 Includes conclusions drawn from the data for each EQR-related activity conducted.
- 6.1.6 Includes an assessment of each MCO's, PIHP's, PAHP's, or PCCM entity's strengths and weaknesses for the quality, timeliness, and access to health care services furnished to Medicaid recipients.
- 6.1.7 Includes recommendations for improving the quality of health care services furnished by each MCO, PIHP, PAHP, or PCCM entity.
- 6.1.8 Includes recommendations for how the State can target goals and objectives in the quality strategy, under §438.340, to better support improvement in the quality, timeliness, and access to health care services furnished to Medicaid beneficiaries.
- 6.1.9 Includes methodologically appropriate, comparative information about all MCOs, PIHPs, PAHPs, and PCCM entities, consistent with guidance included in the EQR protocols issued in accordance with §438.352(e).
- 6.1.10 Includes an assessment of the degree to which each MCO, PIHP, PAHP, or PCCM entity has addressed effectively the recommendations for quality improvement made by the EQRO during the previous year's EQR.

7. ESTIMATED ANNUAL DELIVERABLE PROJECT MILESTONES FOR EQR REPORT:

- September 1 Annual Deliverable Kick Off Meeting and Introductions
- October 31 Electronic documentation (OR and PIP) submitted to EQRO
- November 1-January 30 Completion of Mandatory Activities included in Section 5.2, as well as any agreed optional activities listed in section 5.3 for the applicable Contract Year
- January 31 EQRO draft reports due to AHCCCS for review/comments
- February 28 AHCCCS comments returned to EQRO
- March 14 Final EQRO reports submitted to AHCCCS
- March 31 EQRO report submitted to CMS by AHCCCS

8. ESTIMATED ANNUAL DELIVERABLE PROJECT MILESTONES FOR THE CAHPS SURVEY

- March 31 Member detail from AHCCCS ready for sample selection
- August 15 Draft CAHPS Survey Report due to AHCCCS for review/comments
- August 30 AHCCCS comments due back to vendor
- September 15 Final CAHPS Survey Report submitted to AHCCCS

9. ACCEPTANCE OF WORK:

All services, materials, and deliverables are subject to inspection, review, evaluation and acceptance by AHCCCS. Any work performed by the Contractor that AHCCCS does not accept shall not be compensated by AHCCCS. At AHCCCS's option, the Contractor may be required to re-accomplish substandard work to bring it into conformance with acceptable standards.

10. NOTICES SECTION

For all notices of breach or HIPAA security incidences, report to:

SCOPE OF WORK

Privacy Officer
AHCCCS Office of Administrative Legal Services (OALS)
801 E Jefferson Street, MD 6200
Phoenix, AZ 85034
(602) 417-4076 Privacy@azahcccs.gov

For Programmatic notices to AHCCCS, report to:

Jamie Robin, Quality Improvement Manager
AHCCCS
701 E Jefferson Street, MD 6700
Phoenix, AZ 85034
(602) 417-4717

For Contractual and or Legal Notices, report to Procurement Office:

Jennifer Roberts, Senior Procurement Specialist
AHCCCS
701 E. Jefferson Street, MD 5700
Phoenix, AZ 85034
(602) 417-4629
procurement@azahcccs.gov

11. PRICING

The Contractor must complete the Price Schedules provided in **Attachment A**. Offerors shall propose a firm fixed price for each of the fields contained on the pricing schedules. These schedules serve as the representation of Offeror's price. Offeror should include additional information as necessary to explain the Offeror's price.

12. INVOICES

The Contractor shall submit a monthly invoice to the address listed below for fees associated with this contract.

Each invoice shall provide the following information, as applicable:

- AHCCCS' assigned contract number
- Description of services performed for each fee
- Name of AHCCCS contact person (or program person) for this contract
- Date(s) services were performed
- Signature and title of authorized representative

Each invoice shall have adequate supporting documentation attached.

Unless otherwise described in this contract, all invoices shall be submitted to:

AHCCCS
Accounts Payable, MD 5400
701 E. Jefferson Street
Phoenix, AZ 85034
AHCCCSDBFAdminPayables@azahcccs.gov

DEFINITIONS

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

1. **AAC:** Arizona Administrative Code.
2. **AHCCCS:** The Arizona Health Care Cost Containment System: a managed health care program which pertains to health care services provided pursuant to A.R.S. 36-2903 et seq., and is also the name of AHCCCS agency.
3. **AHCCCS COVERED SERVICES:** Those services set forth in A.R.S. § § 36-2907 and 36-2939, A.A.C. Title 9 Chapter 22, Articles 2 and 12 and, Chapter 28, Articles 2 and 11.
4. **ALTCS:** The Arizona Long Term Care System, a program under AHCCCS that delivers long term, acute and behavioral health care services to members, as authorized by ARS § 36-2932, et seq.
5. **ATTACHMENT:** Any item the Solicitation requires an Offeror to submit as part of the Offer.
6. **BEST AND FINAL OFFER:** A revision to an Offer submitted after negotiations are completed that contains the Offeror's most favorable terms for price, service and products to be delivered. Sometimes referred to as a Final Proposal Revision.
7. **CMS:** Centers for Medicare and Medicaid Services, an organization within the U.S. AHCCCS/Med-QUEST of Health and Human Services, which administers the Medicare and Medicaid programs and AHCCCS/Med-QUEST Children's Health Insurance Program.
8. **CONSUMER ASSESSMENT OF HEALTHCARE PROVIDER AND SYSTEMS (CAHPS) SURVEY:** A patient survey that rates experience of health care services and related experiences.
9. **CONTRACT:** The combination of the Solicitation, including the Instructions to Offerors, Contract Terms and Conditions, and Scope of Work; the Offer; any Best and Final Offers; any Solicitation Amendments or Contract Amendments; and any terms applied by law.
10. **CONTRACT AMENDMENT:** A written document signed by the Procurement officer that is issued for the purpose of making changes in the contract.
11. **CONTRACTOR:** A person or company who has a contract with AHCCCS.
12. **DAYS:** Calendar days unless otherwise specified.
13. **EQRO:** External Quality Review Organization; an entity that meets the requirements established in 42 CFR 438.354.
14. **EXHIBIT:** Any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.
15. **GRATUITY:** A payment, loan, subscription, advance, and deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.
16. **HEALTH PLAN:** A prepaid health plan contracted with AHCCCSA to provide covered medical services.

DEFINITIONS

17. **MANAGED CARE:** The systems that integrate the financing and delivery of health care services to covered individuals by means of arrangements with selected providers to furnish comprehensive services to members; explicit criteria for the selection of health care providers; significant incentives for members to use providers and procedures associated with the plan, and formal programs for quality assurance and utilization review.
18. **MATERIAL OMISSION:** A fact, data or other information excluded from a report, contract, etc. the absence of which could lead to erroneous conclusions following reasonable review of such report, contract, etc.
19. **MATERIALS:** All property, including equipment, supplies, printing, insurance and leases of property but does not include land, a permanent interest in land or real property or leasing space.
20. **MAY:** Indicates something that is not mandatory but permissible.
21. **NATIONAL ASSOCIATION OF HEALTHCARE QUALITY (NCQA):** a private, not-for-profit organization dedicated to improving health care quality by evaluating and reporting on the quality of managed care and other health care organizations in the United States¹
22. **NATIONAL PROVIDER NUMBER:** This single, unique ID is used for billing purposes by the provider to all third party payers, including billing for reimbursement under the DSC Program. All typical health care providers must have a 10-digit National Provider Identifier (NPI).
23. **OFFER:** A response to a solicitation.
24. **OFFEROR:** A Contractor or person who responds to a Solicitation.
25. **PERSON:** Any corporation, business, individual, union, committee, club or other organization or group of individuals.
26. **PMMIS:** Prepaid Medicaid Management Information System, the management information system used by AHCCCS.
27. **PROCUREMENT OFFICER:** The person, or his or her designee, duly authorized by AHCCCS/Med-QUEST and AHCCCS to enter into and administer Contracts and made written determinations with respect to the Contract.
28. **RELATED PARTY:** A party that has, or may have, the ability to control or significantly influence a Contractor, or a party that is, or may be, controlled or significantly influenced by a Contractor. "Related parties" include, but are not limited to, agents, managing employees, persons with an ownership or controlling interest in the disclosing entity, and their immediate families, subContractors, wholly-owned subsidiaries or suppliers, parent companies, sister companies, holding companies, and other entities controlled or managed by any such entities or persons.
29. **RFP:** Request For Proposal; document prepared by AHCCCS which describes the services required and which instructs a prospective Offeror how to prepare a response (proposal).
30. **SCOPE OF WORK:** Those provisions of this solicitation which specify the work and/or results to be achieved by the Contractor.

¹ Taken from <https://www.ahrq.gov/professionals/quality-patient-safety/talkingquality/resources/initiatives/ncqa.html>

DEFINITIONS

31. **SHALL:** Indicates a mandatory requirement. Failure to meet these mandatory requirements may result in the rejection of a proposal as non-responsive.
32. **SOLICITATION:** An Invitation for Bids (“IFB”), a Request for Proposals (“RFP”), or a Request for Quotations (“RFQ”).
33. **SOLICITATION AMENDMENT:** A written document that is authorized by the Procurement officer and issued for the purpose of making changes to the Solicitation.
34. **STATE FISCAL YEAR:** The period beginning with July 1 and ending June 30.
35. **SUBCONTRACT:** Any Contract, express or implied, between the Contractor and another party or between a subContractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.
36. **TITLE XIX:** Title XIX of the Social Security Act means Medicaid as defined in 42 U.S.C. 7.19.
37. **VALIDATION:** When used in this document as an EQRO task, means the process whereby the EQRO analyzes and evaluates (1)The methodology utilized by AHCCCS/others to develop tools and processes, and (2) The Agency's results and plans of action in meeting the Federal mandatory and/or optional requirements for external quality reviews.

UNIFORM INSTRUCTIONS TO OFFERORS

1 **Definitions** – all definitions listed in the definition of terms.

2 **Inquiries:**

- 2.1 **Duty to Examine:** It is the responsibility of each Offeror to examine the entire Solicitation, seek clarification in writing (inquiries), and examine its Offer for accuracy before submitting an Offer. Lack of care in preparing an Offer shall not be grounds for modifying or withdrawing the Offer after the Offer due date and time.
- 2.2 **Solicitation Contact Person:** Any inquiry related to a Solicitation, including any requests for or inquiries regarding standards referenced in the Solicitation shall be directed solely to the Procurement Officer.
- 2.3 **Submission of Inquiries:** All inquiries related to the Solicitation are required to be submitted via email to the Procurement Officer listed on the front page of this solicitation and on the AHCCCS Q and A form. All responses to inquiries will be answered in the form of a solicitation amendment. Any inquiry related to a Solicitation shall refer to the appropriate Solicitation number, page and paragraph. Offerors are prohibited from contacting any AHCCCS employee other than the Procurement Officer concerning the procurement while the solicitation and evaluation are in process.
- 2.4 **Timeliness:** Any inquiry or exception to the Solicitation shall be submitted as soon as possible and should be submitted no later than the date and time indicated on the Notice of Request for Proposal (RFP front page) for review and determination by AHCCCS. Failure to do so may result in the inquiry not being considered for a Solicitation Amendment.
- 2.5 **No Right to Rely on Verbal Responses:** Any inquiry that results in changes to the Solicitation shall be answered solely through a written Solicitation Amendment. An Offeror may not rely on verbal responses to its inquiries.
- 2.6 **Solicitation Amendments:** The Solicitation shall only be modified by a Solicitation Amendment.
- 2.7 **Pre-Offer Conference:** If a Pre-Offer Conference has been scheduled under this Solicitation, the date, time and location shall appear on the Solicitation cover sheet. Offerors should raise any questions they may have about the Solicitation at that time. An Offeror may not rely on any verbal responses to questions at the conference. Material issues raised at the conference that result in changes to the Solicitation shall be answered solely through a written Solicitation Amendment.
- 2.8 **Persons with Disabilities:** Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Solicitation Contact Person. Requests shall be made as early as possible to allow time to arrange the accommodation.

3 **Offer Preparation:**

- 3.1 **Electronic Documents:** The Solicitation is provided in an electronic format. Offerors are responsible for clearly identifying any and all changes or modifications to any Solicitation documents upon submission. Any unidentified alteration or modification to any Solicitation, attachments, exhibits, forms, charts or illustrations contained herein shall be null and void. Offeror's electronic files shall be submitted in a format acceptable to AHCCCS. Acceptable formats include .doc and .docx (Microsoft Word), .xls and .xlsx (Microsoft Excel), .ppt and .pptx (Microsoft PowerPoint) and .pdf (Adobe Acrobat). Offerors wishing to submit files in any other format shall submit an inquiry to the Procurement Officer.
- 3.2 **Evidence of Intent to be Bound:** The Offer and Acceptance form within the Solicitation shall be submitted with the Offer and shall include a signature by a person authorized to sign the Offer. The signature shall signify the Offeror's intent to be bound by the Offer and the terms of the Solicitation and that the information provided is true, accurate and complete. Failure to submit verifiable evidence of an intent to be bound, such as an original signature, may result in rejection of the Offer.

UNIFORM INSTRUCTIONS TO OFFERORS

- 3.3 Subcontracts: Offeror shall clearly list any proposed subContractors and the subContractor's proposed responsibilities in the Offer.
- 3.4 Cost of Offer Preparation: AHCCCS will not reimburse any Offeror the cost of responding to a Solicitation.
- 3.5 Federal Excise Tax: AHCCCS is exempt from certain Federal Excise Tax on manufactured goods. Exemption Certificates will be provided by AHCCCS.
- 3.6 Provision of Tax Identification Numbers: Offerors are required to provide their Arizona Transaction Privilege Tax Number and/or Federal Tax Identification number, if applicable, in the space provided on the Offer and Acceptance Form.
- 3.6.1 Employee Identification: Offeror agrees to provide an employee identification number or social security number to AHCCCS for the purposes of reporting to appropriate taxing authorities, monies paid by the AHCCCS under this contract. If the federal identifier of the Offeror is a social security number, this number is being requested solely for tax reporting purposes and will be shared with only appropriate AHCCCS and federal officials. This submission is mandatory under 26 U.S.C. § 6041A.
- 3.7 Identification of Taxes in Offer. AHCCCS is subject to all applicable AHCCCS and local transaction privilege taxes. All applicable taxes shall be identified as a separate item offered in the solicitation. When applicable, the tax rate and amount shall be identified on the price sheet.
- 3.8 Disclosure: If the firm, business or person submitting this Offer has been debarred, suspended or otherwise lawfully precluded from participating in any public procurement activity, including being disapproved as a subContractor with any federal, AHCCCS or local government, or if any such preclusion from participation from any public procurement activity is currently pending, the Offeror shall fully explain the circumstances relating to the preclusion or proposed preclusion in the Offer. The Offeror shall include a letter with its Offer setting forth the name and address of the governmental unit, the effective date of this suspension or debarment, the duration of the suspension or debarment, and the relevant circumstances relating to the suspension or debarment. If suspension or debarment is currently pending, a detailed description of all relevant circumstances including the details enumerated above shall be provided.
- 3.9 Delivery: Unless otherwise stated in the Contract, all prices shall be F.O.B. Destination and shall include all delivery and unloading at the destination.
- 3.10 Federal Immigration and Nationality Act: By signing of the Offer, the Offeror warrants that both it and all proposed subContractors are in compliance with federal immigration laws and regulations (FINA) relating to the immigration status of their employees. AHCCCS may, at its sole discretion, require evidence of compliance during the evaluation process. Should AHCCCS request evidence of compliance, the Offeror shall have 5 days from receipt of the request to supply the adequate information. Failure to comply with this instruction or failure to supply requested information within the timeframe specified shall result in the offer not being considered for contract award.
- 3.11 Offshore Performance of Work Prohibited: Any service that are described in the specifications or scope of work that directly serve AHCCCS or its clients involve access to secure or sensitive data or personal client data shall be performed within the defined territories of the United States. Unless specifically stated otherwise in the specifications, this paragraph does not apply to indirect or "overhead" services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subContractors at all tiers. Offerors shall declare all anticipated offshore services in the Offer.

4 Submission of Offer:

- 4.1 Sealed Envelope or Package: Each Offer shall be submitted to the submittal location identified in this Solicitation. Offers should be submitted in a sealed envelope or container. The envelope or container should be

UNIFORM INSTRUCTIONS TO OFFERORS

clearly identified with name of the Offeror and Solicitation number. AHCCCS may open envelopes or containers to identify contents if the envelope or container is not clearly identified.

- 4.2 Offer and Acceptance: Offers shall include a signed Offer and Acceptance form. The Offer and Acceptance form shall be signed with a signature by the person authorized to sign the Offer, and shall be submitted no later than the Solicitation due date and time. Failure to return an Offer and Acceptance form may result in rejection of the Offer.
- 4.3 Solicitation Amendments: Each Solicitation Amendment shall be signed with an original signature by the person signing the Offer, and shall be submitted no later than the Offer due date and time. Failure to return a signed copy of a material Solicitation Amendment may result in rejection of the Offer.
- 4.4 Offer Amendment or Withdrawal: An Offer may not be amended or withdrawn after the Offer due date and time except as otherwise provided under applicable law.
- 4.5 (reserved)
- 4.6 Public Record: All Offers submitted and opened are public records and must be retained by AHCCCS for six (6) years. Offers shall be open and available to public inspection after Contract award, except for such Offers deemed to be confidential by AHCCCS.
- 4.7 Non-collusion, Employment, and Services: By signing the Offer and Acceptance Form or other official contract form, the Offeror certifies that:
- 4.7.1 The Offeror did not engage in collusion or other anti-competitive practices in connection with the preparation or submission of its Offer; and
- 4.7.2 The Offeror does not discriminate against any employee or applicant for employment or person to whom it provides services because of race, color, religion, sex, national origin, or disability, and that it complies with all applicable federal, AHCCCS and local laws and executive orders regarding employment.

5 Evaluation:

- 5.1 Unit Price Prevails: Where applicable, in the case of discrepancy between the unit price or rate and the extension of that unit price or rate, the unit price or rate shall govern.
- 5.2 Taxes: If the products and/or services specified require transaction privilege or use taxes, they shall be described and itemized separately on the offer. Arizona transaction privilege and use taxes shall not be considered for evaluation.
- 5.3 Late Offers: An Offer submitted after the exact Offer due date and time shall be rejected.
- 5.4 Disqualifications: An Offeror (including each of its principals) who is currently debarred, suspended or otherwise lawfully prohibited from any public procurement activity shall have its offer rejected.
- 5.5 Offer Acceptance Period: An Offeror submitting an Offer under this Solicitation shall hold its Offer open for the number of days from the Offer due date that is stated in the Solicitation. If the Solicitation does not specifically stated a number of days for Offer acceptance, the number of days shall be one hundred and twenty (120). If a Best and Final Offer is requested pursuant to a Request for Proposals, an Offeror shall hold its Offer open for one hundred and twenty (120) days from the Best and Final Offer due date.
- 5.6 Waiver and Rejection Rights: Notwithstanding any other provision of the Solicitation, AHCCCS reserves the right to:

UNIFORM INSTRUCTIONS TO OFFERORS

- 5.6.1 Waive any minor informality;
- 5.6.2 Reject any and all Offers or portions thereof; or
- 5.6.3 Cancel the Solicitation.

6 **Award:**

- 6.1 **Number or Types of Awards:** AHCCCS reserves the right to make multiple awards or to award a Contract by individual line items or alternatives, by group of line items or alternatives, or to make an aggregate award, or regional awards, whichever is deemed most advantageous to AHCCCS.
- 6.2 **Contract Inception:** An Offer does not constitute a Contract nor does it confer any rights on the Offeror to the award of a Contract. A Contract is not created until the Offer is accepted in writing by the Procurement officer's signature on the Offer and Acceptance Form. A notice of award or of the intent to award shall not constitute acceptance of the Offer.
- 6.3 **Effective Date:** The effective date of this Contract shall be the date that the Procurement officer signs the Offer and Acceptance form or other official contract form, unless another date is specifically stated in the Contract.

7 **Protests:** Any protest shall comply with and be resolved according to A.R.S. § 36-2906 and rules adopted thereunder. Protests shall be in writing and be filed with the AHCCCS Procurement officer. Any protest of a solicitation shall be filed at least fourteen (14) days before the due date of receipt of proposals. Any protest of an award shall be filed no later than ten (10) days after the procurement officer makes the procurement file available for public inspection. A protest shall include:

- 7.1 The name, email address and telephone number of the interested party;
- 7.2 The signature of the interested party or its representative;
- 7.3 Identification of the purchasing agency and the Solicitation or Contract number;
- 7.4 A detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and
- 7.5 The form of relief requested.

SPECIAL INSTRUCTIONS TO OFFERORS

1. **Questions:** All questions related to the Solicitation are required to be submitted via email to the Procurement Officer listed on the front page of this solicitation on the AHCCCS Q and A form. All responses will be answered in the form of a solicitation amendment. Any question related to a Solicitation shall refer to the appropriate Solicitation number, page and paragraph. Offerors are prohibited from contacting any AHCCCS employee other than the Procurement Officer concerning the procurement while the solicitation and evaluation are in process.
2. **Evaluation Criteria:** In accordance with the A.R.S. 36-2903 et seq., awards shall be made to the responsible Offeror(s) whose proposal is determined in writing to be the most advantageous to AHCCCS based upon the evaluation criteria listed below. The evaluation factors are listed in their relative order of importance. Exceptions to the Terms and Conditions, as stated in the Uniform Instructions, will impact an Offeror's susceptibility for award.
 - 2.1 Evaluation Criteria 1: Method of Approach
 - 2.2 Evaluation Criteria 2: Experience and Expertise of the Firm and Key Personnel
 - 2.3 Evaluation Criteria 3: Cost
3. **Proposal Information:** Offeror shall submit their proposal as **one (1) hard copy original and (4) hard copies**, as well as **one (1) CD, thumb drive or other secure electronic device** with the same information. The proposal shall include the following:
 - 3.1 **Proposed Method of Approach:**
 - 3.1.1 Proposals will be evaluated based on the Offeror's distinctive plan for providing the system. The Offeror shall utilize a written narrative or other printed technique to demonstrate the ability to satisfy the Scope of Work. When appropriate, the narrative should describe a logical progression of tasks and efforts starting with the initial steps or tasks to be accomplished and continuing until all proposed tasks are fully described. The Offeror should respond to all of the Sections outlined in the Scope of Work explaining how they would accomplish each task listed.
 - 3.1.2 In addition to describing how the Offeror will provide all requirements listed in the scope of work (Section 5), the method of approach shall describe in detail the tools, i.e., software, licensing agreements, sub contracts, used to complete the tasks.
 - 3.1.3 Since the evaluators have already read the Scope of Work for the services described, it is not necessary for the Offeror to repeat the exact language, nor to present a paraphrased version, as an original idea for a technical approach. The language of the narrative should be straightforward and limited to facts, solutions to problems, and plans of proposed action. The usage of technical language should be used to describe a technical process.
 - 3.1.4 The Offeror shall include a proposed timeline and description for standard implementation and other proposed major milestones.
 - 3.1.5 The Offeror shall limit its written response in this section to **twenty five (25) pages**. The method of approach shall be limited to twenty (20) pages and the timeline shall be limited to five (5) pages.
 - 3.2 **Experience and Expertise of the Firm and Key Personnel:**

Offeror shall submit information documenting successful and reliable experience in past performances as related to the services in this RFP. The Offeror's experience and past performance will be evaluated on the extent of its success in managing and integrating work relevant to that

SPECIAL INSTRUCTIONS TO OFFERORS

defined in the Scope of Work. The Offeror shall describe if is an EQRO currently in operation in at least one other State Medicaid Agency. AHCCCS intends to give preference to Offerors who have an EQRO contract with another State Medicaid Agency. Submit Attachment C.

- 3.2.1 The qualifications of the key personnel proposed by the Offeror to perform the requirements of this solicitation will be considered in the evaluation. Therefore, the Offeror should submit detailed information related to the experience, technical expertise and qualifications for each key personnel proposed. Offeror should provide the names, titles and a resume for all proposed key personnel; clerical staff is not considered key personnel.
- 3.2.2 The Offeror may submit any other pertinent information which would substantiate each proposed key person possesses the experience, expertise and capability to provide the assigned services.
- 3.2.3 The Offeror should provide an organizational chart which clearly shows the reporting and lines of authority; to include all proposed key personnel and any proposed subcontractors. The organizational chart should identify the prime point of contact between the offeror and the AHCCCS Project Manager.

3.3 **Cost**

The evaluation of the category of Cost shall be based on the prices, as indicated on the **Attachment A: Pricing Schedule** submitted with Offeror's proposal.

- 4. **Intent to Provide Certificate of Insurance:** The Offeror shall provide a brief statement that, if notified of contract award, the Offeror will submit to AHCCCS for review and acceptance, the applicable certificate/s of insurance as required within this RFP document, within five (5) business days of such notification.
- 5. **Additional Information (OPTIONAL):** The Offeror may submit any other pertinent information which would substantiate the Offeror has the experience, expertise and capability to provide the required services.
- 6. **Additional Instructions for Submittal of Proposal:**
The material should be arranged and submitted in the sequence dictated on the "Offeror's Checklist" for this solicitation. AHCCCS will not provide any reimbursement for the cost of developing or presenting proposals in response to this RFP. Failure to include the requested information may have a negative impact on the evaluation of the Offeror's proposal.

When submitting your proposal, ensure your company name and AHCCCS solicitation number is clearly marked on the outside of the package. AHCCCS is not responsible for supplying boxes, envelopes, tape, etc. to Offerors at time of proposal delivery.
- 7. **Presentations and Demonstrations:** AHCCCS may request Offerors who are determined to be reasonably susceptible for award to give a presentation or show a demonstration of the product or service to the evaluation committee.
- 8. **Financial Stability** The Offeror must be financially stable and if requested shall be able to substantiate the financial stability of its company. Upon written request from AHCCCS, the Offeror shall submit an annual financial statement for itself, and parent company (if applicable) within five (5) business days of request. AHCCCS reserves the right to request additional documentation from the Offeror and to request reports on financial stability from

SPECIAL INSTRUCTIONS TO OFFERORS

independent financial rating services. AHCCCS reserves the right to reject any Offeror who does not demonstrate financial stability sufficient for the scope of this contract award.

9. **Clarification of Offers:** AHCCCS may request clarification of an offer any time after receipt. Clarifications may be requested orally or in writing. If clarifications are requested orally, the Offeror shall confirm the request in writing. A request for clarifications shall not be considered a determination that the Offeror is susceptible for award.
10. **Negotiations:** Negotiations may be conducted orally or in writing at the discretion of AHCCCS. Negotiations may be conducted in order to improve offers in such areas of cost, price, specifications performance, or terms, to achieve best value for AHCCCS. Negotiations may include demonstrations (oral presentations). Award(s) may be made without negotiations; therefore, offers should be submitted on most favorable terms.
11. **Final Proposal Revisions / Best and Final Offers:** Written Final Proposal Revisions, or Best and Final Offers, will be requested from any Offeror with whom negotiations have been conducted, unless the Offeror has been determined not within the competitive range, not susceptible for award or non-responsible.
12. **Request for Confidential/Proprietary Determination:**
 - 12.1 If an Offeror believes that a specific portion of its bid, proposal, offer, specification, or protest contains information that should be withheld from public inspection due to confidentiality, the Offeror shall submit to the Procurement officer a detailed legal analysis, prepared by legal counsel, which sets forth the bases for the requested non-disclosure and the specific harm or prejudice which may arise if disclosed. The analysis shall be presented to the Procurement Officer at the same time as the bid, proposal, offer, specification or protest.
 - 12.2 An entire bid, proposal, offer, specification, or protest shall **not** be identified as confidential; only those very limited and distinct portions which are considered by the Offeror as confidential may be identified as such. **Pricing shall not be considered as confidential.**
 - 12.3 In the event that AHCCCS receives a request for disclosure of the information, AHCCCS shall disclose the information in accordance with law. Prior to disclosure, AHCCCS will inform the Offeror of such request and provide the Offeror a period of time to take action it deems appropriate to support non-disclosure. The Offeror shall be responsible for any and all costs associated with the nondisclosure of the information.
 - 12.4 In addition to the required detailed legal analysis, the Offeror shall summarize in their Submittal Letter the distinct portions, including exact page numbers, of their document is requested to be kept confidential.
 - 12.5 If any pieces of your proposal are being requested to be kept confidential, and withheld from public viewing, please submit an additional redacted copy of the proposal **ON A SEPARATE CD, thumb drive or electronic device**. Our office does not require a hard copy of the redacted proposal, only an electronic copy. This will ensure that our office is crystal clear on which version of your proposal is acceptable for public viewing.
13. **Responsibility, Responsiveness and susceptibility**

In accordance with A.R.S. 41-2534(G), A.A.C. R2-7-C311, A.A.C. R2-7-C312, and A.A.C. R2-7-C316, AHCCCS shall consider, at a minimum the following criteria when determining and Offeror's responsibility, as well as the proposal's responsiveness and susceptibility for contract award.

SPECIAL INSTRUCTIONS TO OFFERORS

- 13.1. Whether the Offeror has had a contract within the last five (5) years that was terminated for cause due to breach or similar failure to comply with the terms of the contract;
- 13.2. Whether the Offeror's record of performance includes factual evidence of failure to satisfy the terms of the Offeror's agreements with any party to a contract. Factual evidence may consist of documented Contractor performance reports, customer complaints, and/or negative references;
- 13.3. Whether the Offeror is legally qualified to contract with AHCCCS and the Offeror's financial, business, personnel, or other resources, including subcontractors;
 - 13.3.1. Legally qualified includes if the Contractor or if key personnel have been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to being disapproved as a subcontractor of any public procurement unit or other governmental body.
- 13.4. Whether the Offeror promptly supplied all requested information concerning its responsibility;
- 13.5. Whether the Offer was sufficient to permit evaluation by AHCCCS, in accordance with the evaluation criteria identified in this Solicitation or other necessary offer components. Necessary offer components include: attachments, documents or forms to be submitted with the offer, an indication of the intent to be bound, reasonable or acceptable approach to perform the Scope of Work, acknowledged Solicitation Amendments, references to include experience verification, adequacy of financial/business/personal or other resources to include a performance bond and stability including subcontractors and any other data specifically requested in the Solicitation;
- 13.6. Whether the Offer was in conformance with the requirements contained in the Scope of Work, Terms and Conditions, and Instructions for the Solicitation including its Amendments and all documents incorporated by reference;
- 13.7. Whether the Offer limits the rights of AHCCCS;
- 13.8. Whether the Offer includes or is subject to unreasonable conditions, to include conditions upon AHCCCS necessary for successful Contract performance. AHCCCS shall be the sole determiner as to the reasonableness of a condition;
- 13.9. Whether the Offer materially changes the contents set forth in the Solicitation, which includes the Scope of Work, Terms and Conditions, or Instructions; and,
- 13.10. Whether the Offeror provides misleading or inaccurate information.

UNIFORM TERMS AND CONDITIONS

1. **DEFINITIONS** - All definitions listed in the definition of terms.

2. **Contract Interpretation**

- 2.1 Arizona Law. The Arizona law applies to this Contract including, A.R.S. § 36-2906 and its implementing rules.
- 2.2 Implied Contract Terms. Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.
- 2.3 Contract Order of Precedence. In the event of a conflict in the provisions of the Contract, as accepted by the State and as they may be amended, the following shall prevail in the order set forth below:
- 2.3.1 HIPAA Business Associates Addendum
 - 2.3.2 Special Terms and Conditions;
 - 2.3.3 Uniform Terms and Conditions;
 - 2.3.4 Statement or Scope of Work;
 - 2.3.5 Specifications;
 - 2.3.6 Attachments;
 - 2.3.7 Exhibits;
 - 2.3.8 Documents referenced or included in the Solicitation.
- 2.4 Relationship of Parties. The Contractor under this Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.
- 2.5 Severability. The provisions of this Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.
- 2.6 No Parole Evidence. This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.
- 2.7 No Waiver. Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

3. **Contract Administration and Operation**

- 3.1 Records. Under A.R.S. § 35-214 and § 35-215, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.
- 3.2 Non-Discrimination. The Contractor shall comply with State Executive Order No. 2009-09 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.

UNIFORM TERMS AND CONDITIONS

- 3.3 Audit. Pursuant to ARS § 35-214, at any time during the term of this Contract and five (5) years thereafter, the Contractor's or any subcontractor's books and records shall be subject to audit by the State and, where applicable, the Federal Government, to the extent that the books and records relate to the performance of the Contract or Subcontract.
- 3.4 Facilities Inspection and Materials Testing. The Contractor agrees to permit access to its facilities, subcontractor facilities and the Contractor's processes or services, at reasonable times for inspection of the facilities or materials covered under this Contract.

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

- 3.5 Notices. Notices to the Contractor required by this Contract shall be made by the State to the person indicated on the Offer and Acceptance form submitted by the Contractor unless otherwise stated in the Contract. Notices to the State required by the Contract shall be made by the Contractor to the Solicitation Contact Person indicated on the Solicitation cover sheet, unless otherwise stated in the Contract. An authorized Procurement Officer and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice to the other and an amendment to the Contract shall not be necessary.
- 3.6 Advertising, Publishing and Promotion of Contract. The Contractor shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the Procurement Officer.
- 3.7 Property of the State. Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of the State. The Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. The Contractor shall not use or release these materials without the prior written consent of the State.
- 3.8 Ownership of Intellectual Property. Any and all intellectual property, including but not limited to copyright, invention, trademark, trade name, service mark, and/or trade secrets created or conceived pursuant to or as a result of this contract and any related subcontract ("Intellectual Property"), shall be work made for hire and the State shall be considered the creator of such Intellectual Property. The agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract shall own (for and on behalf of the State) the entire right, title and interest to the Intellectual Property throughout the world. Contractor shall notify the State, within thirty (30) days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor(s), agrees to execute any and all document(s) necessary to assure ownership of the Intellectual Property vests in the State and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the State. The Intellectual Property shall not be disclosed by Contractor or its subcontractor(s) to any entity not the State without the express written authorization of the agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract.

Notwithstanding the foregoing, if the State elects, in its sole and absolute discretion, to relinquish its ownership interest in any or all of the Intellectual Property, the State shall have the rights to use, modify,

UNIFORM TERMS AND CONDITIONS

reproduce, release, perform, display, sublicense or disclose such Intellectual Property within State government and operations without restriction for any activity in which the State is a party (collectively, "Government Purpose Rights").

- 3.9 Federal Immigration and Nationality Act. The Contractor shall comply with all federal, state and local immigration laws and regulations relating to the immigration status of their employees during the term of the contract. Further, the Contractor shall flow down this requirement to all subcontractors utilized during the term of the contract. The State shall retain the right to perform random audits of Contractor and subcontractor records or to inspect papers of any employee thereof to ensure compliance. Should the State determine that the Contractor and/or any subcontractors be found noncompliant, the State may pursue all remedies allowed by law, including, but not limited to; suspension of work, termination of the contract for default and suspension and/or debarment of the Contractor.
- 3.10 E-Verify Requirements. In accordance with A.R.S. § 41-4401, Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with A.R.S. § 23-214, Subsection A.
- 3.11 Offshore Performance of Work Prohibited. Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and involve access to secure or sensitive data or personal client data shall be performed within the defined territories of the United States. Unless specifically stated otherwise in the specifications, this paragraph does not apply to indirect or 'overhead' services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers.

4. Costs and Payments

- 4.1 Payments. Payments shall comply with the requirements of A.R.S. Titles 35 and 41, Net 30 days. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate invoice for payment from the State within thirty (30) days.
- 4.2 Delivery. Unless stated otherwise in the Contract, all prices shall be F.O.B. Destination and shall include all freight delivery and unloading at the destination.
- 4.3 Applicable Taxes.
- 4.3.1 Payment of Taxes. The Contractor shall be responsible for paying all applicable taxes.
- 4.3.2 State and Local Transaction Privilege Taxes. The State of Arizona is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect such taxes from the buyer does not relieve the seller from its obligation to remit taxes.
- 4.3.3 Tax Indemnification. Contractor and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require all subcontractors to hold the State harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

UNIFORM TERMS AND CONDITIONS

4.3.4 IRS W9 Form. In order to receive payment the Contractor shall have a current I.R.S. W9 Form on file with the State of Arizona, unless not required by law.

4.4 Availability of Funds for the Next State fiscal year. Funds may not presently be available for performance under this Contract beyond the current state fiscal year. No legal liability on the part of the State for any payment may arise under this Contract beyond the current state fiscal year until funds are made available for performance of this Contract.

4.5 Availability of Funds for the current State fiscal year. Should the State Legislature enter back into session and reduce the appropriations or for any reason and these goods or services are not funded, the State may take any of the following actions:

4.5.1 Accept a decrease in price offered by the Contractor;

4.5.2 Cancel the Contract; or

4.5.3 Cancel the contract and re-solicit the requirements.

5. Contract Changes

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

5.2 Subcontracts. The Contractor shall not enter into any Subcontract under this Contract for the performance of this contract without the advance written approval of the Procurement Officer. The Contractor shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities. The Subcontract shall incorporate by reference the terms and conditions of this Contract.

5.3 Assignment and Delegation. The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Procurement Officer. The State shall not unreasonably withhold approval.

6. Risk and Liability

6.1 Risk of Loss. The Contractor shall bear all loss of conforming material covered under this Contract until received by authorized personnel at the location designated in the purchase order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.

6.2 Indemnification - Patent and Copyright. The Contractor shall indemnify and hold harmless the State against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of Contract performance or use by the State of materials furnished or work performed under this Contract. The State shall reasonably notify the Contractor of any claim for which

UNIFORM TERMS AND CONDITIONS

it may be liable under this paragraph. If the Contractor is insured pursuant to A.R.S. § 41-621 and § 35-154, this section shall not apply.

6.3 Force Majeure.

6.3.1 Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term "*force majeure*" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions-intervention-acts; or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.

6.3.2 Force Majeure shall not include the following occurrences:

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

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

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

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

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

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

7. **Warranties**

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

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

UNIFORM TERMS AND CONDITIONS

- 7.2.1 Of a quality to pass without objection in the trade under the Contract description;
 - 7.2.2 Fit for the intended purposes for which the materials are used;
 - 7.2.3 Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units;
 - 7.2.4 Adequately contained, packaged and marked as the Contract may require; and
 - 7.2.5 Conform to the written promises or affirmations of fact made by the Contractor.
- 7.3 Fitness. The Contractor warrants that any material supplied to the State shall fully conform to all requirements of the Contract and all representations of the Contractor, and shall be fit for all purposes and uses required by the Contract.
- 7.4 Inspection/Testing. The warranties set forth in subparagraphs 7.1 through 7.3 of this paragraph are not affected by inspection or testing of or payment for the materials by the State.
- 7.5 Compliance With Applicable Laws. The materials and services supplied under this Contract shall comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable license and permit requirements.
- 7.6 Survival of Rights and Obligations after Contract Expiration or Termination.
- 7.6.1 Contractor's Representations and Warranties. All representations and warranties made by the Contractor under this Contract shall survive the expiration or termination hereof. In addition, the parties hereto acknowledge that pursuant to A.R.S. § 12-510, except as provided in A.R.S. § 12-529, the State is not subject to or barred by any limitations of actions prescribed in A.R.S., Title 12, Chapter 5.
 - 7.6.2 Purchase Orders. The Contractor shall, in accordance with all terms and conditions of the Contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Procurement Officer, including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

8. State's Contractual Remedies

- 8.1 Right to Assurance. If the State in good faith has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this Contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days specified in the demand may, at the State's option, be the basis for terminating the Contract under the Uniform Terms and Conditions or other rights and remedies available by law or provided by the contract.
- 8.2 Stop Work Order.
- 8.2.1 The State may, at any time, by written order to the Contractor, require the Contractor to stop all or any part, of the work called for by this Contract for period(s) of days indicated by the State after the order is delivered to the Contractor. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

UNIFORM TERMS AND CONDITIONS

8.2.2 If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Procurement Officer shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.

8.3 Non-exclusive Remedies. The rights and the remedies of the State under this Contract are not exclusive.

8.4 Nonconforming Tender. Materials or services supplied under this Contract shall fully comply with the Contract. The delivery of materials or services or a portion of the materials or services that do not fully comply constitutes a breach of contract. On delivery of nonconforming materials or services, the State may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or remedy available to it.

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

9. Contract Termination

9.1 Cancellation for Conflict of Interest. Pursuant to A.R.S. § 38-511, the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is or becomes at any time while the Contract or an extension of the Contract is in effect an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. § 38-511.

9.2 Gratuities. The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State for the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about contract performance. The State, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the Contractor.

9.3 Suspension or Debarment. The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the Contractor is not currently suspended or debarred. If the Contractor becomes suspended or debarred, the Contractor shall immediately notify the State.

UNIFORM TERMS AND CONDITIONS

- 9.4 Termination for Convenience. The State reserves the right to terminate the Contract, in whole or in part at any time when in the best interest of the State, without penalty or recourse. Upon receipt of the written notice, the Contractor shall stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the State. In the event of termination under this paragraph, all documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State upon demand. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination. The cost principles and procedures provided in A.A.C. R2-7-701 shall apply.
- 9.5 Termination for Default.
- 9.5.1 In addition to the rights reserved in the contract, the State may terminate the Contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. The Procurement Officer shall provide written notice of the termination and the reasons for it to the Contractor.
- 9.5.2 Upon termination under this paragraph, all goods, materials, documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State on demand.
- 9.5.3 The State may, upon termination of this Contract, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Contract. The Contractor shall be liable to the State for any excess costs incurred by the State in procuring materials or services in substitution for those due from the Contractor.
- 9.6 Continuation of Performance Through Termination. The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

10. Arbitration

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

SPECIAL TERMS AND CONDITIONS

1. **Assignment of Contract and Bankruptcy:** This contract is voidable and subject to immediate cancellation by the Procurement officer upon Contractor becoming insolvent or filing proceedings in bankruptcy or assigning rights or obligations under this contract without the prior written consent of the Procurement officer.
2. **Choice of Forum:** The parties agree that jurisdiction over any action arising out of or relating to this contract shall be brought or filed in a court of competent jurisdiction located in the State of Arizona.
3. **Clean Air Act ([42 U.S.C. 7401- 7671q.](#)) and the Federal Water Pollution Control Act ([33 U.S.C. 1251- 1387](#)), as amended:**

Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act ([42 U.S.C. 7401- 7671q](#)) and the Federal Water Pollution Control Act as amended ([33 U.S.C. 1251- 1387](#)). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
4. **Conflict of Interest:** The Contractor shall not undertake any work that represents a potential conflict of interest, or which is not in the best interest of AHCCCS or the State without prior written approval by AHCCCS. The Contractor shall fully and completely disclose any situation that may present a conflict of interest. If the Contractor is now performing or elects to perform during the term of this contract any services for any AHCCCS health plan, provider or Contractor or an entity owning or controlling same, the Contractor shall disclose this relationship prior to accepting any assignment involving such party.
5. **Contract Cancellation (Minimum 10 Day):** The Procurement officer reserves the right to cancel the whole or any part of this contract due to failure by the Contractor to carry out any material obligation, term or condition of the contract. The Procurement officer shall issue written notice to the Contractor for acting or failing to act as in any of the following
 - 5.1 The Contractor provides material that does not meet the specifications of the contract;
 - 5.2 The Contractor fails to adequately perform the services set forth in the specifications of the contract;
 - 5.3 The Contractor fails to complete the work required or furnish the materials required within the time stipulated by the contract;
 - 5.4 The Contractor fails to make progress in the performance of the contract and/or gives the Procurement officer reason to believe that the Contractor will not or cannot perform to the requirements of the contract;
 - 5.5 Upon receipt of the written notice of concern, the Contractor shall have a minimum of ten (10) days (Procurement officer may determine a longer period) to provide a satisfactory response to the Procurement officer. Failure on the part of the Contractor to adequately address all issues of concern may result in the Procurement officer resorting to any single or combinations of the following remedies.
 - 5.5.1 Cancel any contract;
 - 5.5.2 Reserve all rights or claims to damage for breach of any covenant of the contract;
 - 5.5.3 Perform any test or analysis on materials for compliance with the specifications of the contract. If the result of any test confirms a material no-compliance with the specifications, any reasonable expense of testing shall be borne by the Contractor;
 - 5.5.4 In case of default, the Procurement officer reserves the right to purchase materials, or to complete the required work in accordance with the law. The Procurement officer may recover reasonable excess costs from the Contractor by;
 - 5.5.4.1 Deduction from an unpaid balance;
 - 5.5.4.2 Collection against the bid and/or performance bond; or

SPECIAL TERMS AND CONDITIONS

5.5.4.3 Any combination of the above or any other remedies as provided by law.

6. **Contract Disputes:** Contract claims and disputes shall be adjudicated in accordance with State Law, AHCCCS Rules and this contract. Except as provided by 9 A.A.C. Chapter 22, Article 6, the exclusive manner for the Contractor to assert any dispute against AHCCCS shall be in accordance with the process outlined in 9 A.A.C. Chapter 34 and A.R.S. §36-2932.
 - 6.1 All disputes except as provided under 9 A.A.C. Chapter 22, Article 6 shall be filed in writing and be received by AHCCCS no later than 60 days from the date of the disputed notice. All disputes shall state the factual and legal basis for the dispute.
 - 6.2 Pending the final resolution of any disputes involving this contract, the Contractor shall proceed with performance of this contract in accordance with AHCCCS' instructions, unless AHCCCS specifically, in writing, requests termination or a temporary suspension of performance.

7. **Cooperation with other Contractors:** AHCCCS may award other contracts for additional or related work and the Contractor shall fully cooperate with such other contractors and AHCCCS employees or designated agents, and carefully fit its own work to such other contractors' work. Contractor shall not commit or permit any act which will interfere with the performance of work by any other contractor or by AHCCCS employees. AHCCCS shall equitably enforce this section to all contractors to prevent the imposition of unreasonable burdens on any contractor.

8. **Confidentiality of Records and Disclosure of Confidential Information:**
 - 8.1 The Contractor shall not, without prior written approval from AHCCCS and/or Med-QUEST, either during or after the performance of the services required by this contract, use, other than for such performance, or disclose to any person other than AHCCCS and/or Med-QUEST personnel with a need to know, any information, data, material, or exhibits created, developed, produced, or otherwise obtained during the course of the work required by this contract. This nondisclosure requirement shall also pertain to any information contained in reports, documents, or other records furnished to the Contractor by AHCCCS and/or Med-QUEST.
 - 8.2 The Contractor shall establish and maintain written policies procedures and controls, approved by AHCCCS and/or Med-QUEST, governing access to, duplication of, and dissemination of all such information for the purpose of assuring that no information contained in its records or obtained from AHCCCS and/or Med-QUEST or others carrying out its functions under the contract, is used or disclosed by it, its agents, officers or employees, except as required to efficiently perform duties under the contract. Persons requesting such information shall be referred to AHCCCS and/or Med-QUEST. The Contractor's data safeguard program shall further conform to the data confidentiality and security requirements of AHCCCS and/or Med-QUEST policy and procedures, and all-relevant state and federal requirements, including HIPAA standards.
 - 8.3 The disclosure of information in summary, statistical, or other form that does not identify particular individuals is permitted only with prior AHCCCS and/or Med-QUEST approval. The use or disclosure of information concerning Members will be limited to purposes directly connected with the scope of this contract.

SPECIAL TERMS AND CONDITIONS

- 8.4 The Contractor shall advise its employees, agents and subcontractors, if any, that they are subject to these confidentiality requirements. A signed confidentiality statement containing language approved by AHCCCS and/or Med-QUEST will be obtained from all employees, agents and subcontractors, if any, and maintained in the individual's personnel file with a copy sent to AHCCCS and/or Med-QUEST upon request.
9. **Covenant against Contingent Fees:** The Contractor warrants that no person or agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee. For violation of this warranty, the Procurement officer shall have the right to annul this contract without liability.
10. **Contract:**
- 10.1 The contract between AHCCCS and the Contractor shall consist of (1) the Request for Proposal (RFP) including AHCCCS policies and procedures incorporated by reference as part of the RFP and (2) the proposal submitted by the Contractor in response to the RFP including any Best and Final Offers. In the event of a conflict in language between the proposal (including any Best and Final Offers) and the RFP (including AHCCCS policies and procedures incorporated by reference), the provisions and requirements set forth and/or referenced in the RFP (including AHCCCS policies and procedures incorporated by reference) shall govern.
- 10.2 The contract shall be construed according to the laws of the State of Arizona. The State of Arizona is not obligated for the expenditures under the contract until funds have been encumbered.
11. **Equal Employment Opportunity.** Except as otherwise provided under 41 CFR part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, Equal Employment Opportunity (30 FR 12319, 12935, 3 CFR 1964- 1965 Comp., p. 339) as amended by Executive Order 11375 amending Executive Order 11246 Relating to Equal Employment Opportunity, and implementing regulations at 41 CFR part 60.
12. **Fraud and Abuse:**
- 12.1 It shall be the responsibility of the Contractor to report all cases of suspected fraud and abuse by subcontractors, members or employees. The Contractor shall provide written notification of all such incidents to the Procurement officer.
- 12.2 As stated in A.R.S. § 13-2310, incorporated herein by reference, any person who knowingly obtains any benefit by means of false or fraudulent pretenses, representations, promises or material omissions is guilty of a class 2 felony.
- 12.3 Contractors are required to research potential overpayments identified by a fraud and abuse investigation or audit conducted by AHCCCS. After conducting a cost benefit analysis to determine if such action is warranted, the Contractor should attempt to recover any overpayments identified due to erroneous, false or fraudulent billings.
13. **Independent Contractor and Employees of Contractor:** The Contractor represents himself/herself to be an independent contractor offering such services to the general public and shall not represent himself/herself or his/her employees to be an employee of the State of Arizona and/or AHCCCS. Therefore, the Contractor shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers compensation, employee insurance, etc. All employees of the Contractor employed or in performance of work under this Contract shall be employees of the Contractor at all times and not of AHCCCS. The Contractor shall comply with

SPECIAL TERMS AND CONDITIONS

the Social Security Act, Workers' Compensation laws and unemployment laws of the State of Arizona as well as federal, state and local legislation relevant to the Contractor's business.

14. **Licenses:** Contractor shall maintain in current status all federal, state and local licenses and permits required for the operation of the business conducted by the Contractor.
15. **Lobbying:** No funds paid to the Contractor by AHCCCS, or interest earned thereon, shall be used for the purpose of influencing or attempting to influence an officer or employee of any federal or State agency, a member of the United States Congress or State Legislature, an officer or employee of a member of the United States Congress or State Legislature in connection with awarding of any federal or State contract, the making of any federal or State grant, the making of any federal or State loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal or State contract, grant, loan, or cooperative agreement. The Contractor shall disclose if any funds other than those paid to the Contractor by AHCCCS have been used or will be used to influence the persons and entities indicated above and will assist AHCCCS in making such disclosures to CMS. Byrd Anti-Lobbying Amendment. If the contract value is in excess of \$100,000, the contract requires that the entity file the required certification that each tier has not and will not use Federal appropriated funds to pay any person or 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.
16. **No Guaranteed Quantities:** AHCCCS does not guarantee the Contractor any minimum or maximum quantity of services or goods to be provided under this contract.
17. **Non-exclusive Contract:** Any contract resulting from this solicitation shall be awarded with the understanding and agreement that it is for the sole convenience of AHCCCS. The state reserves the right to obtain like goods or services from another source when necessary.
18. **Ownership of Information and Data:**
 - 18.1 Any data or information system, including all software, documentation and manuals, developed by Contractor pursuant to this contract, shall be deemed to be owned by AHCCCS. The federal government reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use for federal government purposes, such data or information system, software, documentation and manuals. Proprietary software which is provided at established catalog or market prices and sold or leased to the general public shall not be subject to the ownership or licensing provisions of this section.
 - 18.2 Data, information and reports collected or prepared by Contractor in the course of performing its duties and obligations under this contract shall be deemed to be owned by AHCCCS. The ownership provision is in consideration of Contractor's use of public funds in collecting or preparing such data, information and reports. These items shall not be used by Contractor for any independent project of Contractor or publicized by Contractor without the prior written permission of the Procurement officer. Subject to applicable state and federal laws and regulations, AHCCCS shall have full and complete rights to reproduce, duplicate, disclose and otherwise use all such information. At the termination of the contract, Contractor shall make available all such data to the Procurement officer within thirty (30) days following termination of the contract or such longer period as approved by the

SPECIAL TERMS AND CONDITIONS

Procurement officer. For purposes of this subsection, the term "data" shall not include member medical records.

- 18.3 Except as otherwise provided in this section, if any copyrightable or patentable material is developed by Contractor in the course of performance of this contract, the federal government, AHCCCS and the State of Arizona shall have a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for state or federal government purposes. Contractor shall additionally be subject to the applicable provisions of 45 CFR Part 74 and 45 CFR Parts 6 and 8.

19. Records:

- 19.1 In addition to the requirements set forth in this contract under the Uniform Terms and Conditions, all books and records shall be maintained to the extent and in such detail as required by AHCCCS Rules and Policies. The AHCCCS records management guidelines are located at: <http://www.azahcccs.gov>. Records shall include, but not be limited to, financial statements, case files (both hard copy and stored data), and other records specified by AHCCCS.
- 19.2 The Contractor shall make available at its office at all reasonable times during the term of this contract and the period set forth in in this section, any of its records for inspection, audit or reproduction by any authorized representative of AHCCCS, State or Federal government.
- 19.3 The Contractor shall preserve and make available all records for a period of seven (7) years from the date of final payment under this contract except as provided below:
- 19.3.1 If this contract is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of seven (7) years from the date of any such termination.
- 19.3.2 Records that relate to grievances, disputes, litigation or the settlement of claims arising out of the performance of this contract, or costs and expenses of this contract to which exception has been taken by AHCCCS, shall be retained by the Contractor for a period of seven (7) years after the date of final disposition or resolution thereof.
- 19.3.3 Completed case files shall be scheduled for archive shipment to AHCCCS, as defined by AHCCCS Policy and Procedures.

20. **Responsibility for Payments Indemnification:** The Contractor shall be responsible for issuing payment for services performed by the Contractor's employees and will indemnify and save AHCCCS harmless for all claims whatsoever growing out of the lawful demands of employees, subcontractors, suppliers or any other third party incurred in the furtherance of the performance of the contract. The Contractor shall, at AHCCCS' request, furnish satisfactory evidence that all obligations of the nature hereinabove designated have been paid, discharged or waived.

21. Term of Contract and Option to Renew:

- 21.1 The initial term of this contract shall be for **three (3) initial years with two (2) one-year options to extend**, not to exceed a total contracting period of five (5) years. The terms and conditions of any such contract extension shall remain the same as the original contract, as amended. All contract extensions shall be through contract amendment, and shall be at the sole option of AHCCCS.

SPECIAL TERMS AND CONDITIONS

21.2 When the Procurement officer issues an amendment to extend the contract, the provisions of such extension will be deemed to have been accepted 60 days after the date of mailing by the Procurement officer, even if the extension amendment has not been signed by the Contractor, unless within that time the Contractor notifies the Procurement officer in writing that it refuses to sign the extension amendment. If the Contractor provides such notification, the Procurement officer will initiate contract termination proceedings.

21.3 If the Contractor chooses not to renew this contract, the Contractor may be liable for certain costs associated with the transition of its members to a different Contractor. If the Contractor provides the Procurement officer written notice of its intent not to renew this contract at least 180 days before its expiration, this liability for transition costs may be waived by the Procurement officer.

22. Warranty:

Unless otherwise modified elsewhere in the terms and conditions, the Contractor warrants that, for one year after acceptance by the State, the Materials shall be fully compatible with the State's computer hardware and software environment.

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

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

23. Indemnification

Contractor shall indemnify, defend with counsel reasonably approved by the State, and hold harmless, the State, its departments, agencies, boards, commissions, universities, officers, agents and employees (collectively, the "Indemnitee") from and against any and all claims, actions, damages, costs (including attorneys' fees), and losses arising under this Contract, including, but not limited to, bodily injury or personal injury (including death) or loss or damage to tangible or intangible property, but excluding damages arising solely from the gross negligence or willful misconduct of the Indemnitee. This indemnification obligation includes any claim or amount arising out of, or recovered under, the Workers' Compensation Law or arising out of the failure of the Contractor to comply with any federal, state or local law, statute, ordinance, rule, regulation or court decree. Contractor shall have control, subject to the reasonable approval of the State, of the defense of any action on such claim and all negotiations for its settlement or compromise, provided, however, that when substantial principles of government of public law are involved, or when involvement of the State is otherwise mandated by law, the State may elect, in its sole and absolute discretion, to participate in such action at its own expense with respect to attorneys' fees and costs, but not liability and the State shall have the right to approve or disapprove any settlement which approval shall not be unreasonably withheld or delayed. The State shall reasonably cooperate in its defense and any related settlement negotiations.

24. Limitation Of Liability

First Party Limitation of Liability:

Contractor's liability for first party damages to the State arising from this Contract shall be limited to two (2) time(s) the maximum not-to-exceed amount of this Contract. The foregoing limitation of liability shall not apply to: (i) liability, including indemnification obligations, for third party claims, including but not limited to, infringement

SPECIAL TERMS AND CONDITIONS

of third party intellectual property rights; (ii) claims covered by any specific provision of the Contract calling for liquidated damages or other amounts, including but not limited to performance requirements; or (iii) costs or attorneys' fees that the State is entitled to recover as a prevailing party in any action.

25. Intellectual Property Indemnification

With respect solely to Materials provided or proposed by Contractor or Contractor's agents, employees, or subcontractors (each a "Contractor Party") for the performance of this Contract, Contractor shall indemnify, defend and hold harmless the State its departments, agencies, boards, commissions, universities, officers, agents and employees (collectively, the "Indemnitee"), against any third-party claims for liability including but not limited to, reasonable costs and expenses, including attorneys' fees, for infringement or violation of any patent, trademark, copyright or trade security, by such Materials or the State's use thereof.

In addition, with respect to claims arising from computer hardware or software manufactured or developed solely by a third party, Contractor shall pass through to the State such indemnity rights as it receives from such third party (the "Third Party Obligation") and will cooperate in enforcing then; provided, however, that (i) if the third party manufacturer fails to honor the Third Party Obligation, or (ii) the Third Party Obligation is insufficient to fully indemnify the State, Contractor shall indemnify, defend and hold harmless the State against such claims in their entirety or for the balance of any liability not fully covered by the Third Party Obligation.

The State shall reasonably notify Contractor of any claim for which the Contractor may be liable under this section. If the Contractor is insured pursuant to ARS 41-621 and 35-154, this section shall not apply. Contractor shall have control, subject to the reasonable approval of the State, of the defense of any action on such claim and all negotiation for its settlement or compromise, provided, however, that when substantial principles of government or public law are involved or when involvement of the State is otherwise mandated by law, the State may elect, in its sole and absolute discretion, to participate in such action at its own expense with respect to attorneys' fees and costs, but not liability, and the State shall have the right to approve or disapprove any settlement, which approval shall not be unreasonably withheld or delayed. The State shall reasonably cooperate in the defense and any related settlement negotiations.

If Contractor believes at any time that any Materials provided or in the use pursuant to this Contract infringe a third party's intellectual property rights, Contractor shall, at Contractor's sole cost and expense, and upon receipt of the state's prior written consent, which shall not be unreasonably withheld, (i) replace in infringing Material with a non-infringing Material; (ii) obtain for the State the right to continue to use the infringing Material; or (iii) modify the infringing Material to be non-infringing, provided that following any replacement or modification made pursuant to the foregoing, the Material continues to function in accordance with the Contract. Contractor's failure or inability to accomplish any of the foregoing shall be deemed a material breach of this Contract.

Notwithstanding the foregoing, Contractor shall not be liable for infringement based solely on any Indemnitee's:

- (i) Modification of Materials provided by Contractor other than as contemplated by the Contract or the specifications of such Materials or as otherwise authorized or proposed in any way by Contractor or a Contractor Party;
- (ii) Use of the Materials in a manner other than as contemplated by this Contract or the specifications of such Materials, or as otherwise authorized or proposed in any way by Contractor or a Contractor Party; or
- (iii) Use of the Materials in combination, operation, or use with other products in a manner not contemplated by the Contract, or, the specifications of such Materials, or as otherwise authorized or proposed in any way by Contractor or a Contractor Party.

SPECIAL TERMS AND CONDITIONS

Contractor certifies, represents and warrants to the State that it has appropriate systems and controls in place to ensure that State funds will not be used in the performance of the Contractor for the acquisition, operation or maintenance of Materials in violation of intellectual property laws.

SPECIAL TERMS AND CONDITIONS

INSURANCE REQUIREMENTS

Network Security (Cyber) and Privacy Liability Insurance

1.0 Insurance Requirements

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

2.0 Minimum Scope and Limits of Insurance

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

1.3 Commercial General Liability (CGL) – Occurrence Form

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

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

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

1.4 Business Automobile Liability

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

Combined Single Limit (CSL)	\$1,000,000
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- a. Policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by, or on behalf of, the Contractor involving automobiles owned, hired and/or non-owned by the Contractor.
- b. Policy shall contain a waiver of subrogation endorsement as required by this written agreement in favor of the State of Arizona, and its departments, agencies, boards,

SPECIAL TERMS AND CONDITIONS

INSURANCE REQUIREMENTS

commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

1.5 Workers' Compensation and Employers' Liability

Workers' Compensation Statutory

Employers' Liability

Each Accident	\$1,000,000
Disease – Each Employee	\$1,000,000
Disease – Policy Limit	\$1,000,000

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

1.6 Network Security (Cyber) and Privacy Liability

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

- a. Such insurance shall include, but not be limited to, coverage for third party claims and losses with respect to network risks (such as data breaches, unauthorized access or use, ID theft, theft of data) and invasion of privacy regardless of the type of media involved in the loss of private information, crisis management and identity theft response costs. This should also include breach notification costs, credit remediation and credit monitoring, defense and claims expenses, regulatory defense costs plus fines and penalties, cyber extortion, computer program and electronic data restoration expenses coverage (data asset protection), network business interruption, computer fraud coverage, and funds transfer loss.
- b. In the event that the Network Security and Privacy Liability insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract and, either continuous coverage will be maintained, or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.
- c. The policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to vicarious liability of the insured arising out of the activities performed by or on behalf of the Contractor.
- d. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

2. Additional Insurance Requirements

SPECIAL TERMS AND CONDITIONS

INSURANCE REQUIREMENTS

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

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

3. Notice of Cancellation

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

4. Acceptability of Insurers

Contractor's insurance shall be placed with companies licensed in the State of Arizona or hold approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers. Insurers shall have an "A.M. Best" rating of not less than A- VII. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

5. Verification of Coverage

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

- 5.1 All such certificates of insurance and policy endorsements must be received by the State before work commences. The State's receipt of any certificates of insurance or policy endorsements that do not comply with this written agreement shall not waive or otherwise affect the requirements of this agreement.
- 5.2 Each insurance policy required by this Contract must be in effect at, or prior to, commencement of work under this Contract. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.
- 5.3 All certificates required by this Contract shall be sent directly to the Department. The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. The State of Arizona reserves the right to require complete copies of all insurance policies required by this Contract at any time.

6. Subcontractors

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

INSURANCE REQUIREMENTS

7. Approval and Modifications

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

HIPAA BUSINESS ASSOCIATES ADDENDUM

Amended 2016

This Addendum is made part of this Contract between the Arizona Health Care Cost Containment System ("AHCCCS") and the Contractor, referred to as "Business Associate" in this Addendum.

AHCCCS and Business Associate agree that the underlying Contract shall comply with the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as set forth in Title 45, Parts 160 and 164 of the Code of Federal Regulations (the "CFR"), as amended. In the event of conflicting terms or conditions, this Addendum shall supersede the underlying Contract.

1. DEFINITIONS

The following terms used in this Addendum shall have the same meaning as those terms in the HIPAA rules set forth in Title 45, Parts 160 and 164 of the CFR: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required by Law, Secretary, Security Incident, SubContractor, Unsecured Protected Health Information, and Use.

2. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE

Business Associate agrees to:

- 2.1. Not use or disclose protected health information ("PHI") other than as permitted or required by this Addendum or as required by law;
- 2.2. Use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic PHI, to prevent use or disclosure of protected health information other than as provided for by this Addendum;
- 2.3. Report to AHCCCS any use or disclosure of PHI not provided for by this Addendum of which it becomes aware, including breaches of unsecured protected health information as required at 45 CFR §164.410, and any security incident of which it becomes aware in the following manner;
 - 2.3.1. Reporting. Business Associate shall report to AHCCCS any use or disclosure of PHI that is not authorized by the Contract, by law, or in writing by AHCCCS. Business Associate shall make an initial report to the AHCCCS Privacy Official not more than twenty-four (24) hours after Business Associate learns of such unauthorized use or disclosure. The initial report shall include all of the following information to the extent known to the Business Associate at the time of the initial report:
 - A. A description of the nature of the unauthorized use or disclosure, including the number of individuals affected by the unauthorized use or disclosure;
 - B. A description of the PHI used or disclosed;
 - C. The date(s) on which the unauthorized use or disclosure occurred;
 - D. The date(s) on which the unauthorized use or disclosure was discovered;
 - E. Identify the person(s) who used or disclosed the PHI in an unauthorized manner;
 - F. Identify the person(s) who received PHI disclosed in an unauthorized manner;
 - G. A description of actions, efforts, or plans undertaken by the Business associate to mitigate the harm of the unauthorized disclosure;

HIPAA BUSINESS ASSOCIATES ADDENDUM

- H. A description of corrective actions undertaken or planned to prevent future similar unauthorized use or disclosure;
- I. An assessment of whether a breach, as defined in 45 CFR 164.402, including, if necessary, an assessment of the probability of harm, and
- J. Such other information, as may be reasonably requested by the AHCCCS Privacy Official.

Business Associate shall provide AHCCCS with supplemental reports promptly as new information becomes available, as assessments and action plans are developed, and as action plans are implemented. In any event, Business Associate shall provide a comprehensive written report including all of the information listed above no later than twenty (20) days after discovery of the unauthorized use or disclosure.

- 2.3.2. Mitigation. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of the Contract.
- 2.3.3. Sanctions. Business Associate shall have and apply appropriate sanctions against any employee, subContractor or agent who uses or discloses AHCCCS PHI in violation of this Addendum or applicable law.
- 2.4. In accordance with 45 CFR §164.502(e)(1)(ii) and §164.308(b)(2), if applicable, ensure that any subContractors that create, receive, maintain or transmit PHI on behalf of the Business Associate agree to the same restrictions, conditions and requirements that apply to the Business Associate with respect to such information;
- 2.5. Make available PHI in a designated record set to AHCCCS as necessary to satisfy AHCCCS' obligations under 45 CFR §164.524;
- 2.6. Make any amendment(s) to PHI in a designated record set as directed or agreed to by AHCCCS pursuant to 45 CFR §164.526, or take other measures as necessary to satisfy AHCCCS' obligations under 45 CFR §164.526;
- 2.7. Maintain and make available the information required to provide an Accounting of Disclosures to AHCCCS as necessary to satisfy AHCCCS' obligations under 45 CFR §164.528;
- 2.8. To the extent Business Associate is to carry out one of more of AHCCCS' obligations under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to AHCCCS in the performance of such obligation(s); and
- 2.9. Make its internal practices, books and records available to AHCCCS and the Secretary for purposes of determining compliance with the HIPAA rules.

3. PERMITTED USES AND DISLOSURES BY BUSINESS ASSOCIATE

- 3.1. Business Associate may only use or disclosure PHI as necessary to perform the services and obligations set forth in the underlying Contract;
- 3.2. Business Associate may use or disclose protected health information as required by law;

HIPAA BUSINESS ASSOCIATES ADDENDUM

- 3.3. Business Associate agrees to make uses and disclosures and requests for protected health information consistent with AHCCCS' Minimum Necessary Policy, located at www.azahcccs.gov ;
- 3.4. Business Associate may not use or disclose protected health information in a manner that would violate Subpart E of 45 CFR Part 164 if done by AHCCCS, except for the specific uses and disclosures set forth below in (3.5 and 3.6);
- 3.5. Business Associate may use protected health information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate; and
- 3.6. Business Associate may provide data aggregation services relating to the health care operations of AHCCCS.

4. PROVISIONS FOR AHCCCS TO INFORM BUSINESS ASSOCIATE OF PRIVACY PRACTICES AND RESTRICTIONS

- 4.1. AHCCCS shall notify Business Associate of any limitation(s) in the AHCCCS Notice of Privacy Practices (found at www.azahcccs.gov) under 45 CFR §164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI;
- 4.2. AHCCCS shall notify Business Associate of any changes in, or revocation of, the permission by an individual to use or disclose his or her PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI; and
- 4.3. AHCCCS shall notify Business Associate of any restriction on the use or disclosure of PHI that AHCCCS has agreed to or is required to abide by under 45 CFR 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

5. TERM AND TERMINATION

- 5.1. Term: This Addendum is effective upon the effective date of the underlying Contract and shall terminate on the date AHCCCS terminates the contract for cause as authorized in paragraph (b) of this Section, or for any other reason permitted under the contract, whichever is sooner.
- 5.2. Termination for Cause: Business Associate authorizes termination of the Contract by AHCCCS if AHCCCS determines that Business Associate has breached a material term of this Addendum and Business Associate has not cured the breach or ended the violation within the time specified by AHCCCS.
- 5.3. Obligations of Business Associate Upon Termination: Upon termination, cancellation, expiration or other conclusion of the Contract, Business Associate, with respect to PHI received from AHCCCS, or created, maintained, or received by Business Associate on behalf of AHCCCS, shall:
 - 5.3.1. Retain only that PHI which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities;
 - 5.3.2. Destroy or return to AHCCCS all remaining PHI that the Business Associate still maintains in any form;

HIPAA BUSINESS ASSOCIATES ADDENDUM

- 5.3.3. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic PHI to prevent use or disclosure of the PHI, other than as provided for in this Section, for as long as Business Associate retains the PHI;
- 5.3.4. Not use or disclose the PHI retained by Business Associate other than for the purposes for which such protected health information was retained and subject to the same conditions set out in this Addendum that applied prior to termination; and
- 5.3.5. Destroy or return to AHCCCS the PHI retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal and contractual responsibilities.

5.4. Survival: The obligations of Business Associate under this Section shall survive the termination of the Contract.

6. INDEMNIFICATION AND MISCELLANEOUS

- 6.1. Indemnification: Business Associate shall indemnify, hold harmless and defend AHCCCS from and against any and all claims, losses, liabilities, costs, civil and criminal penalties, and other expenses resulting from, or relating to, the acts or omissions of Business Associate, its employees, agents, and sub-Contractors in connection with the representations, duties and obligations of Business Associate under this Addendum. The parties' respective rights and obligations under this Section shall survive termination of the Contract.
- 6.2. Regulatory References: A reference in this Addendum to a section in the HIPAA rules means the section as in effect or as amended.
- 6.3. Amendment: The parties agree to take such action as is necessary to amend this Addendum from time to time as is necessary for compliance with the requirements of the HIPAA rules or any other applicable law.
- 6.4. Interpretation: Any ambiguity in this Addendum shall be interpreted to permit compliance with the HIPAA rules.

ATTACHMENT A

Pricing Schedule

ATTACHMENT A: Pricing Schedule

Provided separately on the AHCCCS website under Open Solicitations. The Offeror shall complete this Attachment and submit with its Proposal.

Pricing Schedule must include:

- Budget for SOW 5.2.5: The evaluation of member satisfaction for the AHCCCS KidsCare (Title XXI, CHIP) population in accordance with the Children's Health Insurance Reauthorization Act of 2009
- Personnel and related costs that shall be used to prepare Mandatory and Optional Activities budgets for AHCCCS initiated Task Orders throughout the contract term.

ATTACHMENT B: Certification of Boycott of Israel

Recognizing legislation has been enacted to prohibit the State from contracting with companies currently engaged in a boycott of Israel, to ensure compliance with A.R.S. §35-393.01, this form must be completed and returned with the response to the solicitation and any supporting information to assist the State in making its determination of compliance.

As defined by A.R.S. §35-393.01:

1. "Boycott" means engaging in a refusal to deal, terminating business activities or performing other actions that are intended to limit commercial relations with Israel or with persons or entities doing business in Israel or in territories controlled by Israel, if those actions are taken either:
 - (a) In compliance with or adherence to calls for a boycott of Israel other than those boycotts to which 50 United States Code section 4607(c) applies.
 - (b) In a manner that discriminates on the basis of nationality, national origin or religion and that is not based on a valid business reason.
2. "Company" means a sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company or other entity or business association, and includes a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate.
3. "Direct holdings" means all publicly traded securities of a company that are held directly by the state treasurer or a retirement system in an actively managed account or fund in which the retirement system owns all shares or interests.
4. "Indirect holdings" means all securities of a company that are held in an account or fund, including a mutual fund, that is managed by one or more persons who are not employed by the state treasurer or a retirement system, if the state treasurer or retirement system owns shares or interests either:
 - (a) together with other investors that are not subject to this section.
 - (b) that are held in an index fund.
5. "Public entity" means this State, a political subdivision of this STATE or an agency, board, commission or department of this state or a political subdivision of this state.
6. "Public fund" means the state treasurer or a retirement system.
7. "Restricted companies" means companies that boycott Israel.
8. "Retirement system" means a retirement plan or system that is established by or pursuant to title 38.

All Offerors must select one of the following:

_____ My company **does not** participate in, and agrees not to participate in during the term of the contract a boycott of Israel in accordance with A.R.S. §35-393.01.

_____ My company **does** participate in a boycott of Israel as defined by A.R.S. §35-393.01. :

By submitting this response, proposer agrees to indemnify and hold the State, its agents and employees, harmless from any claims or causes of action relating to the State's action based upon reliance on the above representations, including the payment of all costs and attorney fees incurred by the State in defending such an action.

Company Name

Signature of Person Authorized to Sign

Address

Printed Name

City

State

Zip

Title

ATTACHMENT C: EQRO Experience of the Firm

EQRO Experience in other State Medicaid Agencies

List the other State Medicaid Agencies where you provide EQR services successfully. Attach additional pages as necessary. Include for each agency listed:

- Name, address, email, and telephone number of Contracting Agency or Company;
- Contact Person, including title, phone number, email address who may be contacted for verification of all information submitted;
- Location of Services;
- Name of all key personnel and sub-contractors used;
- Start and completion date of work performed, and
- Detailed written narrative of the specific services performed.

ATTACHMENT D: OFFEROR'S CHECKLIST

Note to Prospective Offerors: This page is added to the RFP as a convenience to Offerors. It is believed to be a complete listing of all submission requirements pursuant to this RFP. However, if a requirement is stated anywhere in the RFP text, yet does not appear in the Offeror's Checklist, the text statement takes precedence over the omission of that requirement in the Offeror's Checklist. **Provide the page number where this item is located within your proposal, in the right hand column. All items must be included and in this order.**

	SUBMISSION REQUIREMENTS	OFFEROR'S PROPOSAL Page #
1	One (1) Original and (4) Hard Copies of Proposal, 1 Electronic Copy	na
2	Submittal Cover Letter	
3	Offeror's Checklist (see ATTACHMENT D - this page)	
4	Completed and Signed Offer and Acceptance page	
5	Signed Solicitation Amendments, if any (signature page only)	
6	Method of Approach - Written narrative in response to requirements with reference to requirement paragraph number.	
7	Experience and Expertise of the Firm and Key Personnel – Written Narrative <ul style="list-style-type: none"> • Successful and reliable experience in related past performance • Detailed related information and resumes of Key Personnel • Organizational Chart 	
8	Pricing Schedule (see ATTACHMENT A)	
9	Certification of Boycott of Israel (see ATTACHMENT B)	
10	EQRO Experience of the Firm (See ATTACHMENT C)	
11	Statement of Intent to provide Certificate of Insurance	
12	Detailed Legal Analysis (If any portions are requested to be kept confidential or proprietary) If any pieces of your proposal are being requested to be kept confidential, and withheld from public viewing , please submit an additional redacted copy of the proposal ON A SEPARATE CD. Our office does not require a hard copy of the redacted proposal, only an electronic copy. This will ensure that our office is crystal clear on which version of your proposal is acceptable for public viewing.	

END OF SOLICITATION

Intentionally left blank.