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**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 acknowledges receipt of all pages indicated in the Table of Contents.

Arizona Transaction (Sales) Privilege Tax License No.: \_\_\_\_\_

For clarification of this offer, contact:  
Name: \_\_\_\_\_

Federal Employer Identification No.: \_\_\_\_\_

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

E-Mail Address: \_\_\_\_\_

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

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

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

\_\_\_\_\_  
Address

\_\_\_\_\_  
Printed Name

City State Zip

\_\_\_\_\_  
Title

**CERTIFICATION**

By signature in the Offer section above, the bidder 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, State 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 bidder certifies that the above referenced organization \_\_\_\_ is /\_\_\_\_ is not a small business with less than 100 employees or has gross revenues of \$4 million or less.
5. In accordance with ARS §35-393, the Offeror hereby certifies that the Offeror does not have scrutinized business operations in Iran.
6. In accordance with ARS §35-391, the Offeror hereby certifies that the Offeror does not have scrutinized business operations in Sudan.


**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.

This contract shall henceforth be referred to as Contract No. \_\_\_\_\_.

Awarded this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_

\_\_\_\_\_  
Michael Veit, as AHCCCS Chief Procurement Officer and not personally

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**1. AHCCCS OVERVIEW**

Arizona Health Care Cost Containment System (AHCCCS) is the single state Medicaid agency for the 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.

Over 86.5% of the SFY 2012 AHCCCS program’s expenditures were through managed care programs. The AHCCCS Administration contracts with Managed Care Organizations that are responsible for providing Acute, Long Term Care, and Behavioral Health Services. A current list of the contracted plans can be found here: <http://www.azahcccs.gov/applicants/healthplans/available.aspx>. The Fee-For-Service (FFS) membership is comprised mainly of the Federal Emergency Services (FES) population and American Indians. Detail enrollment information may be found at: <http://www.azahcccs.gov/reporting/enrollment/population.aspx>.

The program has a total fund budget for FY 2013 of approximately \$6.1 billion. AHCCCS has approximately 58,000 active providers such as individual medical and behavioral health practitioners, therapy disciplines, institutions, durable medical equipment companies and transportation entities. Additional expenditure data may be found along with the RFP on the AHCCCS website.

**2. PURPOSE**

The purpose of this Request for Proposal (RFP) is to procure the services of an organization (hereby referred to as "Contractor") which has the experience and expertise to provide AHCCCS with First Party Liability and Third Party Liability recovery services, Medicaid Recovery Audit Contractor (RAC) services, Commercial Insurance Coverage Verification/ Data Match and other related services as described in this RFP. Compensation under this contract will be based upon the Pricing Schedule accepted by AHCCCS, contained herein, and is subject to the review and approval of CMS.


It is the intention of AHCCCS to evaluate proposals and award a contract to a single Vendor for the services specified herein.

**3. LEGAL AUTHORITY**


This solicitation and any resultant contract is being entered into and administered pursuant to A.R.S. 41-2501 et. seq., and administrative rules and regulations A.A.C. R2-7-101 et. seq., that constitutes the Arizona Procurement Code.

**4. CONTRACTOR DUTIES AND RESPONSIBILITIES**

4.1 The Contractor shall be responsible for all First Party Liability and Third Party Liability recovery programs which recover FFS expenditures, Joint Liability Case recoveries, Estate Recovery and Trust recoveries; RAC program recoveries as well as other recoveries as described in this RFP. The Contractor shall also be responsible for commercial insurance data matching and coverage verification for all AHCCCS members. While operating these programs, the responsibilities include, but are not limited to, the following:

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- 4.1.1 Maximizing recoveries;
  - 4.1.2 Complying with all federal and state laws, regulations, policy and procedures;
  - 4.1.3 Complying with reporting requirements as set forth by CMS and AHCCCS;
  - 4.1.4 Maintaining processes to ensure compliance with HIPAA standards;
  - 4.1.5 Identifying, researching, and verifying payments made by AHCCCS to providers;
  - 4.1.6 Filing, amending and releasing Liens;
  - 4.1.7 Developing case facts and making recommendations to AHCCCS on Casualty and Estate Recovery and after the settlement amounts have been agreed to by AHCCCS, conduct all appropriate activities to settle the case;
  - 4.1.8 Receiving and processing all referral information, and referring Total Plan cases to the appropriate Acute Care Contractor or Long Term Care Contractor;
  - 4.1.9 Receiving and processing information received from the Industrial Commission of Arizona and the Arizona Department of Transportation, and referring select data to the appropriate Acute Care Contractor or Long Term Care Contractor;
  - 4.1.10 Referring suspected cases of fraud/abuse to AHCCCS;
  - 4.1.11 Enter into data sharing agreements with insurers that provide healthcare coverage to Arizona residents and maintain a data base of insurance coverage information;
  - 4.1.12 Conduct ongoing data matches of the AHCCCS Members with the database of insured coverage and provide AHCCCS a list of Members whose health care expenses may be covered by health insurance;
  - 4.1.13 Coordinate RAC activities with AHCCCS' Office of the Inspector General (OIG);
  - 4.1.14 Ensure providers identified by the Contractor are not under investigation by AHCCCS OIG and/ or have no existing pending complaints;
  - 4.1.15 Keeping AHCCCS informed of personnel who are assigned under the AHCCCS contract for recovery and reporting purposes;
  - 4.1.16 Timely notification and reporting of all activities and issues;
  - 4.1.17 Maintaining solid internal control systems; bank procedures, and cash control;
  - 4.1.18 Recommending new programs that will enhance the recovery of AHCCCS expenditures;
  - 4.1.19 Responding to surveys and correspondence;
  - 4.1.20 Maintaining an adequate staff with appropriate expertise and training;
  - 4.1.21 Establishing, and maintaining, contractual relationships with insurance companies for data matches, and post payment billing activities;
  - 4.1.22 Providing and maintaining a case management tracking system, that is accessible to AHCCCS, which documents the detail case history and all recovery activities; and
  - 4.1.23 Providing all necessary legal expertise associated with cases prior to the State Fair Hearing process. This includes, but is not limited to representing AHCCCS in interpleader actions and alternative dispute resolution proceedings.
- 4.2 AHCCCS retains the right to expand the scope of work by mutual agreement for any additional services that may be beneficial to AHCCCS.
- 4.3 As part of this contract, any changes to operating policies and procedures pertaining to the recovery processes, as defined herein, must be approved by AHCCCS. All policies and procedures that are developed between the Contractor staff and the AHCCCS staff are the property of AHCCCS.

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- 4.4 The Contractor shall adhere to banking procedures as specified and/or modified by AHCCCS. The Contractor’s personnel authorized to endorse settlement checks are subject to AHCCCS' written approval. Settlement checks payable to AHCCCS, which require endorsement, shall be endorsed using the endorsement stamp provided by AHCCCS. The Contractor shall provide AHCCCS with a letter that identifies its employees who are authorized to endorse such checks. The Contractor shall notify AHCCCS by letter within five working days to the attention of AHCCCS TPL Administrator, of making any change to this endorsement authority listing.
- 4.5 AHCCCS may obtain First Party Liability and Third Party Liability cases from an Acute Care Contractor or Long Term Care Contractor when the Acute Care Contractor or Long Term Care Contractor terminates its AHCCCS contract. The Contractor is obligated to pursue recovery of those cases under the same terms and conditions for similar AHCCCS recoveries.
- 4.6 The Contractor shall ensure operational manuals are kept current to maximize AHCCCS recoveries and to remain in compliance with Federal and State requirements. Any changes shall be finalized and a revision printed within thirty (30) days of the operational change.
- 4.7 The Contractor shall comply with the requirements of HIPAA and all federal regulations as described in the “Business Associate” addendum that is included herein.
- 4.8 The Contractor shall provide information to AHCCCS on any program change that they believe should be disseminated to external entities involved with recovery practices including, but not limited to, the AHCCCS quarterly “Claims Clues” newsletter.

**5. FIRST PARTY LIABILITY AND THIRD PARTY LIABILITY RECOVERY PROGRAMS**

The sources of potential recovery that the Contractor shall pursue include, but are not limited to: Casualty and Tortfeasor, Restitution, Estate Recovery, TEFRA Liens, Trusts, Commercial Insurance, and Credit Balance recoveries. Each of these is briefly described below. In addition, Attachment A, “Periodic Report Requirements,” contains a list of the financial and statistical reports that the Contractor must prepare and submit on a weekly, monthly or quarterly basis, as required by AHCCCS. Attachment B, “Examples of Contractor Activities by TPL Source,” lists examples of specific activities the Contractor must do, at a minimum, to adequately perform this contract. Additional information can be found in Attachment C, “AHCCCS Historic Program Recoveries” and Attachment D, “TPL COB Commercial Insurance Adds and Terminations”.

- 5.1 **Casualty and Tortfeasor:** Casualty and Tortfeasor recoveries are obtained from settlements or awards to FFS Members and Joint Liability Cases for injuries or illness resulting from automobile accidents, malpractice suits, etc. AHCCCS has 60 days from the date of notification of hospital discharge or medical care and treatment to file a lien. If this 60-day period has expired, AHCCCS relies on its assignment and subrogation rights as set forth in State law to enforce its claim.

The Contractor is responsible for identifying FFS Members who have claims with specific ICD-9 Trauma codes that are consistent with injuries that may be covered by Liable Parties. In accordance with 42 CFR 433.138(e), the Contractor is required to identify FFS claims that contain ICD-9-CM diagnosis codes 800 – 999.9 (excluding code 994.6) utilizing claim information provided by AHCCCS.

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The ICD-10 code set is expected to be implemented October 1, 2014, and the Contractor will be informed of the changes impacting the trauma code match process as they are developed. The Contractor will treat all claims identified through this trauma code match process as a new Casualty referral.

In addition to the referrals generated by the trauma code match process, other referrals come from a variety of sources including: the Acute Care Contractors or Long Term Care Contractors, attorneys, insurance companies, Providers, Members, etc. The Contractor is responsible for processing all referrals and determining whether the case is a Joint Liability Case or a Total Plan case.


Certain factors have a bearing on how Casualty cases are worked for recovery. The Contractor shall recover FFS and Acute Care Contractor and Long Term Care Contractor expenses on a Joint Liability Case. All Reinsurance and FFS expenditures are reimbursed to AHCCCS from a Joint Liability Case recovery before any payment is made to the Acute Care Contractor or Long Term Care Contractor. The Contractor refers all Total Plan Cases to the Acute Care Contractor or Long Term Care Contractor for recovery.

There are ongoing changes in law that may impact the Casualty and tortfeasor recovery process. A recent example is the *SOUTHWEST FIDUCIARY INC v. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION* [2011] (<http://caselaw.findlaw.com/az-court-of-appeals/1559118.html>) which placed limits on AHCCCS recoveries and may increase the cost to defend an AHCCCS claim. The Contractor shall take all necessary steps to comply with any changes in law.

- 5.2 **Restitution:** Restitution recoveries are obtained through a Restitution court order, upon a defendant's conviction for an offense causing economic loss to any person. The court, at its sole discretion, may order that all or any portion of the fine imposed be allocated as Restitution to be paid by the defendant to any person who suffered an economic loss caused by the defendant's conduct. In ordering Restitution for economic loss, the court shall consider all loss caused by the criminal offense or offenses for which the defendant has been convicted.

Federal and State Courts will order a convicted defendant to pay Restitution to AHCCCS in criminal cases where AHCCCS has paid for medical services that are related to the victim's injuries. Request for paid medical services information for Restitution cases are primarily requested by County Adult Probation Officers. The County Adult Probation Officer will submit the AHCCCS claim amount to the court. After the court determines the amount of the Restitution, the court, or a staff member designated by the court, including a probation officer, shall specify the manner in which the Restitution is to be paid.

Restitution recovery is similar to the Casualty and tortfeasor recovery process in that recovery can be a FFS, Joint Liability or a Total Plan Case. The Contractor shall be responsible for processing all referrals and determining whether the case is a FFS case, a Joint Liability Case or a Total Plan Case. The Contractor shall recover FFS and Acute Care Contractor and Long Term Care Contractor expenses on a Joint Liability Case. All Reinsurance and FFS expenditures are reimbursed to AHCCCS from a Joint Liability Case recovery before any payment is made to the Acute Care Contractors or Long Term Care Contractors.

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The Contractor shall provide a monthly report that identifies the current balance due to AHCCCS on open cases. The report format and content shall be as prescribed by AHCCCS.

The Contractor shall establish and maintain a line of communication whereby AHCCCS will be informed of court orders pertaining to AHCCCS recovery case so as to maximize recoveries of AHCCCS expenditures.

On a Joint Liability Case, when AHCCCS is paid in full, the case will be referred to the concerned Acute Care Contractor or Long Term Care Contractor for collection of the balance due.

Total Plan Cases are forwarded to the Acute Care Contractor or Long Term Care Contractor for recovery.


- 5.3 **Estate Recovery:** AHCCCS receives federal, state, and county funds to operate the ALTCS-EPD program. The ALTCS-DD program is funded by federal and state funds. The Contractor shall separately account for ALTCS-EPD and ALTCS-DD estate recovery collections. Section 1917 of the Social Security Act required all states to implement an estate recovery program that at a minimum recovers Title XIX payments for nursing facility services, home and community based services, and related hospital and prescription drug services provided to Medicaid individuals age 55 and older. AHCCCS only recovers from the estates of ALTCS Members. AHCCCS was granted the authority under its 1115 demonstration waiver to exempt the recovery from the estates of Acute Care Contractor program enrollees 55 or older who receive long term care services.

The AHCCCS estate claim that is filed against the Member’s estate is the total of the Title XIX (ALTCS) expenditures that were incurred by AHCCCS during the Member’s ALTCS enrollment period when the member was age 55 and older, minus the sum of: the Share-of-Cost payments that were paid by the Member during the enrollment period; approved payments made to a Qualified Long-Term Care Insurance Policy; and the Medicare Benefit paid by AHCCCS on, or after January 1, 2010 for dual eligible Members.

The Contractor shall be responsible for processing application requests for statutory exemptions under hardship and partial recovery as defined in AHCCCS Rules, A.A.C. R9-28-911 and R9-28-912. The Contractor shall review the application and supporting documentation and make a recommendation to AHCCCS. AHCCCS will waive its estate claim when an heir meets all of the undue hardship waiver criteria. AHCCCS may also reduce the amount of the estate claim when an heir to the estate meets the criteria for a “Partial Recovery (Reduction)” of the estate claim. The Contractor shall review the application and supporting documentation and make a recommendation to AHCCCS when an heir to the estate meets the criteria for a partial recovery (reduction) of the estate claim. In the absence of a statutory exemption, or an undue hardship, the Contractor shall pursue recovery of the AHCCCS estate claim from the Member’s estate.

Under Arizona probate law, if probate is not opened within two (2) years of the Member’s death, the Member’s property, including the Member’s real estate, passes to the survivors free and clear of any claims. In some instances no one is willing to open an estate, so from time-to-time AHCCCS will acquire the powers and undertake the duties and liabilities of a personal representative of a decedent to protect its interest as a creditor of the estate. In these instances, AHCCCS shall be the



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estate’s personal representative, and the Contractor may be asked to retain independent legal counsel, approved by AHCCCS, to provide ongoing legal advice in opening, administering, and closing probate. Prior to opening probate AHCCCS will provide the Contractor with guidance if the reasonable fees and costs of the independent legal counsel will be paid from proceeds of the estate or if the Contractor shall be required to pay the legal costs from the contingency fee related to the recovery.

5.4 **TEFRA Liens:** As authorized under 42 U.S.C. 1396p, AHCCCS imposes TEFRA Liens against the real property, including the Member’s primary residence, of certain permanently institutionalized ALTCS Members. The purpose of the Lien is to recover the cost of ALTCS benefits upon sale or the transfer of the ALTCS Member’s property prior to the Members’ death. The Contractor shall be responsible for the preparation, filing, and release of all TEFRA Liens. If the property, subject to the TEFRA Lien, is sold prior to the Member’s death, the Contractor shall pursue recovery of the AHCCCS estate claim from proceeds of the sale of the property if there is not a statutory exemption from recovery. The Contractor shall pay the Lien fees and AHCCCS will reimburse the full amount of the Lien fees.


5.5 **Trusts:** As part of ALTCS eligibility a Member may create a Trust that meets certain specifications. Only specified payments are allowed to be made from the Trust which includes tort/subrogation matters under the assignment of rights, and payments for share of cost. AHCCCS must be designated the primary beneficiary for reimbursement of ALTCS expenditures upon the Member’s death, or upon the revocation of the Trust. Expenditures for burial expenses are generally not deductible from the Trust.

Upon the death of the individual or termination of the Trust, AHCCCS is paid the remaining funds from the Trust, including share-of-cost payments that have been returned to the trust account, up to the total amount of the AHCCCS expenditures on behalf of the Member. The Contractor shall pursue recovery of the amount of the AHCCCS expenditures from any remaining Trust funds. If a Member moves out of state, AHCCCS retains its beneficiary right to the Trust and is required to be notified when the Member dies, or upon the revocation of the Trust.

5.6 **Credit Balance Recovery Program:** AHCCCS utilizes a two-step Credit Balance Recovery Program: the first step allows the AHCCCS contracted provider to conduct a “self-audit” to identify accounts receivable credit balances and allowed the provider to return overpayments with “amnesty.” The second step involves on-site review of the credit balance process for selected providers. The Contractor shall be responsible for conducting the Credit Balance Recovery Program on behalf of AHCCCS.

5.7 **Commercial Insurance Recovery:** Health Insurers are required by the Deficit Reduction Act of 2005 (DRA) and A.R.S. 36-2923 to:

- 5.7.1 Accept the state’s right of recovery from a third party payor;
- 5.7.2 Respond to an inquiry regarding a claim for payment that is submitted for payment within three (3) years of the date of service; and,
- 5.7.3 Not deny a claim submitted solely on the basis of the date the claim was submitted, the type or format of the claim, or the failure to present proper documentation at the time of

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service as long as: (a) the claim is submitted within three years of the date of service, and (b) the action to enforce its rights with respect to the claim is commenced within six (6) years after the date of service.

Acute Care Contractors and Long Term Care Contractors are required to engage in retroactive third party recovery efforts for members for whom a claim was paid, for up to two (2) years from the date of service, to determine if there are other payor sources that were not known at the time of payment. After two (2) years from the service date, AHCCCS will direct the recovery efforts for the retroactive recovery of claims not previously identified by the Acute Care Contractor or Long Term Care Contractor as having a reasonable expectation of recovery.


The Contractor shall be responsible for identifying claims that may be covered by other commercial insurers, billing the appropriate carrier, and pursue recovery of the billed claims on behalf of AHCCCS.

## 6. COMMERCIAL INSURANCE COVERAGE VERIFICATION/ DATA MATCH

The Contractor shall take reasonable measures, pursuant to 42 CFR 433.138, to determine the legal liability of a Liable Party to pay for AHCCCS Members. To ensure that AHCCCS is in compliance with the federally mandated cost avoidance requirements to deny and avoid the cost of claims when there is a known Liable Party, the Contractor shall be responsible to maintain the AHCCCS third party leads file database. In order to ensure that only a valid Liable Party is added to the database, the Contractor shall be responsible for verifying third party leads received from various sources including but not limited to eligibility entities, referrals from Acute Care Contractors and Long Term Care Contractors and commercial insurance. Notification to the Acute Care Contractor and Long Term Care Contractor occurs electronically through the AHCCCS Third Party Leads submission process. The Contractor shall be required to have a Web based referral process in place for non-Contractor insurance coverage referrals, no later than December 1, 2013.

AHCCCS is required by A.R.S. § 36-2923 to report annually to the Arizona State Legislature on the commercial insurer's compliance with this statute. See: <http://www.azahcccs.gov/reporting/Downloads/InsuranceCarrierComplianceReport2013.pdf> for a copy of the 2013 report.

- 6.1 **Coverage Verification:** The Contractor shall receive health insurance information, from the above mentioned sources, that requires verification of the type of coverage and the timeframe of the coverage with the insurer prior to posting the coverage information in the third party leads file database, which will be used for cost avoidance and cost recovery activities. The Contractor shall be responsible for the initial verification of the insurance coverage information using industry accepted practices, as well as a re-verification of that information every six (6) months, or on another time table defined by AHCCCS. All verified insurance information, as well as any updates thereto, shall be transferred to AHCCCS electronically using the established TPL file layout.
- 6.2 **Commercial Insurance Data Match:** The Deficit Reduction Act of 2005 and A.R.S. 36-2923 requires health care insurers to provide all enrollment information necessary to determine the time period in which a person who is defined as an AHCCCS eligible person, or that person's spouse or dependents,

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may be or have been covered by the health care insurer and the nature of that coverage. The Contractor shall enter into, and maintain, trading partner agreements with insurers that provide major medical, pharmacy and/or Medicare Supplemental coverage to allow for the receipt of commercial insurance coverage information for AHCCCS members that they insure. The Contractor shall be required to perform a data match of the eligibility information received from the health insurers with the AHCCCS recipient eligibility file monthly. The Contractor shall provide AHCCCS all verified matched records using the Contractor’s match criteria as defined in their response to this RFP and approved by AHCCCS.

6.3 **Other Data Matches:** In addition to obtaining member and paid claims file information from AHCCCS to perform matches, the Contractor will receive TPL leads, via AHCCCS, from:

6.3.1 Arizona Department of Transportation, Motor Vehicle Division, and

6.3.2 Arizona Industrial Commission.

The Contractor shall be required to utilize this data in their recovery efforts, and to pass the non-FFS member data to the appropriate Acute Care Contractor or Long Term Care Contractor in a timely manner. The Contractor shall treat all claims identified through these data matches as a Casualty referral.

## 7. MEDICAID RECOVERY AUDIT CONTRACTOR (RAC) SERVICES

Section 6411 of the Affordable Care Act of 2010 established the Medicaid RAC program and 42 CFR Part 455 Subpart F, implements section 1902(a)(42)(B) of the Social Security Act. The federal rule requires Medicaid RACS to review fee-for-service claims for overpayments and underpayments.

Within the contract term AHCCCS may request that the Contractor develop a methodology for a recovery audit of managed care claims.


7.1 Contractor Shall Adhere to the Following Responsibilities for Fee for Service Claims:

7.1.1 **All requirements as defined in 42 CFR 455.506 and 455.508,** that include:

7.1.1.1 Providing at all times trained medical professionals, to the satisfaction of AHCCCS, who are in good standing with the relevant State licensing authorities, where applicable, to review Medicaid claims. In addition, the Contractor must hire certified coders for effective review of claims.

7.1.1.2 Hiring 1.0 FTE Medical Director who is a Doctor of Medicine or Doctor of Osteopathy in good standing with the relevant State licensing authorities and has relevant work and educational experiences.

7.1.1.3 Working collaboratively with AHCCCS to develop an education and outreach program which includes notification to providers of audit policies and protocols.


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- 7.1.1.4 Providing customer service measures such as a toll free customer number; compiling and maintaining provided addresses and points of contact; mandatory acceptance of electronic medical records.
- 7.1.1.5 Refraining from reviewing claims that are older than three (3) years from the date of the service. Eliminate claims from review that have been settled or negotiated through the State Fair Hearing Process or through AHCCCS.
- 7.1.1.6 Refraining from auditing claims that are in process of being audited by another entity.
- 7.1.1.7 Notifying providers of overpayment findings within sixty (60) calendar days of findings.
- 7.1.1.8 Referring suspected cases of fraud/abuse to AHCCCS.
- 7.1.1.9 Collaborating with AHCCCS to set limits on the number and frequency of medical records to be reviewed.

**7.1.2 Audit/Review/Coordination:**

- 7.1.2.1 Coordinate all audit and recovery efforts with AHCCCS, other contractors and entities, including but not limited to the efforts of the AHCCCS Office of Inspector General, federal and state law enforcement, the Federal Department of Justice, the Federal Bureau of Investigations, the Federal Office of Inspector General, and the Arizona State Medicaid Fraud Control Unit to ensure activities proposed are not duplicative of other program integrity activities or operations.
- 7.1.2.2 Provide information on types of providers and claims recommended for review/audit; provide the reason for selecting the type; and define the scope of the review/audit (time frame, type of claim and services reviewed/audited).
- 7.1.2.3 Provide a list of criteria that is utilized to identify candidates for the provider on-site audits/ desk reviews.
- 7.1.2.4 Establish provider medical record request process consistent with AHCCCS policy.
- 7.1.2.5 Allow providers the opportunity to present additional documentation and reconsideration consistent with AHCCCS policy.
- 7.1.2.6 Invoice the provider using an AHCCCS approved format.
- 7.1.2.7 Maintain tracking and reporting processes as specified by the Agency.

**7.1.3 Appeals.** The Contractor shall provide all necessary documentation and support to defend the audit findings in the appeals process, if needed, as well as witness testimony, if required any administrative appeal or court proceeding resulting from a review/audit of a Medicaid provider by the Contractor.

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- 7.1.4 **Overpayment.** The recovery techniques utilized by the Contractor shall be legally supportable and follow the guidelines of all applicable AHCCCS policies, regulations and manuals as well as all federal laws and regulations. The Contractor shall not forward claims for adjustment if the claim is incorrectly coded but the coding error does not equate to a difference in the payment amount. For example, HCPCS code E0250 requires an RR modifier for payment. Payment with the modifier is \$25.00 per service. Without the modifier payment is \$25.00 per service. While the claim without the modifier is incorrect, there is no overpayment therefore the claim should not be forwarded for adjustment.
- 7.1.5 **Underpayment.** The contingency fee for underpayments will be paid for underpayments of \$250.00 or more on claims submitted on a UB04, and \$100.00 or more on claims submitted on CMS 1500 and ADA forms. However the contractor shall still identify underpayments of any amount.
- 7.1.6 **Right to Terminate RAC Recoveries.** If the Contractor demonstrates, with a reasonable degree of certainty, that the fees earned on RAC recoveries during any three (3) month period following the first twelve (12) month period of the start of this contract do not cover the direct costs of the recovery efforts during that same time period, the Contractor may exercise its right to terminate its contractual obligations under Section 7 of the Scope of Work (“MEDICAID RECOVERY AUDIT CONTRACTOR (RAC) SERVICES”) after giving AHCCCS sixty (60) days written notice and obtaining agreement from AHCCCS regarding such termination. AHCCCS agrees not to unreasonably withhold such agreement from the Contractor. Further, efforts to exercise this Right to Terminate clause do not abrogate any other sections of this Scope of Work nor relieve either party from its obligations under the remainder of this agreement.

## 8. COMPUTER SYSTEM

The Contractor shall lease, own, or have access to computer facilities that can meet the requirements of this contract and HIPAA. The Contractor’s computer facilities shall have the capability of accepting and processing all referred accounts in the format provided by AHCCCS utilizing Electronic Data Interchange (EDI). The file format and content may be revised from time to time to comply with HIPAA and with AHCCCS data requirements.

AHCCCS requires a secure connection to its Secured File Transfer Protocol (SFTP) server. This requires adherence to the *External User Affirmation Statement* found on AHCCCS' website.

The Contractor is authorized to exchange data with AHCCCS relating to the information requirements of this contract and as required to support the data elements to be provided in the format specified. The information so recorded and submitted to AHCCCS shall be in accordance with all procedures, policies, rules, or statutes in effect during the term of this contract. If any of these procedures, policies, rules, or statutes are hereinafter changed, both parties agree to conform to these changes following appropriate notification to both parties by AHCCCS. The Contractor shall be responsible for any incorrect data, delayed submission or payment and/or penalty applied due to any error, omission, deletion, or erroneous insert

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caused by Contractor submitted data. Any data that does not meet the standards required by AHCCCS shall not be accepted by AHCCCS.

The Contractor shall be responsible for identifying any inconsistencies immediately upon receipt of data from AHCCCS and communicating to AHCCCS those inconsistencies within ten (10) days. If any unreported inconsistencies are subsequently discovered, the Contractor shall be responsible for the necessary adjustments to correct its records at its own expense.

The Contractor shall accept from AHCCCS original evidence of eligibility and enrollment in a form appropriate for electronic data exchange.

The use of any of the above files for purposes other than identified herein is prohibited without prior written consent from AHCCCS.

The Contractor’s computer facilities shall be able to transmit third party coverage information to AHCCCS computer system in a format acceptable to AHCCCS and to receive third party liability information from AHCCCS computer system.

Recovery Database: The Contractor shall maintain a database of all cases where recovery has been attempted or completed. The format and content of the data will be established through mutual agreement. The Contractor’s database pertaining to AHCCCS cases shall be accessible online to the AHCCCS TPL Section staff.

Recovery Extract: The Contractor shall maintain and transmit to AHCCCS an electronic extract in a format, content, and time frames as prescribed by AHCCCS that contains valid recovery data pertaining to recoveries. The contractor shall write standardized queries for use by AHCCCS in monitoring contractor activities.


**9. SYSTEM INTERFACE/TESTING REQUIREMENTS**

The Contractor shall provide AHCCCS or authorized government officials with full access to its computer system for monitoring, review, and testing of the Contractor’s operations relating to the contract.

The Contractor shall ensure that changing or making major upgrades to their information systems affecting processing and/or other major business components will be accompanied by a plan which includes a timeline, milestones to include adequate testing before implementation. At least six (6) months prior to the anticipated implementation date the contractor shall provide the system change plan to AHCCCS for review and comment.

**10. AUDIT TRAIL REQUIREMENTS**

The Contractor’s MIS (Management Information Systems) shall provide a complete audit trail of all entries, changes, deletions, and adjustments.

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**11. CONTROL AND SECURITY REQUIREMENT**

The Contractor shall provide adequate controls and security in accordance with HIPAA standards as approved by AHCCCS to maintain the integrity and confidentiality of computerized data. In addition, the Contractor shall provide documentation of its data control and security systems to enable AHCCCS to evaluate the adequacy of such systems, as evidenced by an annual audit (SSAE 16) by an outside firm, approved in advance by AHCCCS, of the security of its systems and stored data.

**12. METROPOLITAN PHOENIX OFFICE**

The Contractor shall be required to have an office that is located in the metropolitan Phoenix, Arizona area. If the Contractor does not have an office in the metropolitan Phoenix area at the time of the contract award, the Contractor has up to six (6) months from the date of the contract award to establish and staff the office.

**13. CONTRACTOR PERSONNEL**

With its proposal, the Contractor shall identify all personnel who will be specifically assigned to this contract and must include a detailed professional resume for each person identified. After contract award, the Contractor shall forward to AHCCCS a copy of the resume of any replacements of key personnel assigned to this contract. For personnel replacement purposes, the Contractor shall provide a training plan to AHCCCS. The training plan shall show the replacement is fully trained to assume the program responsibilities.

In the event of unsatisfactory performance (to be determined solely by AHCCCS) by a Contractor employee, the Contractor, upon request by AHCCCS, shall submit for AHCCCS approval of the professional resume of a proposed replacement employee within ten (10) days of receipt of the request from AHCCCS.


The Contractor shall maintain sufficient staff to satisfactorily perform the contract requirements and have in place a contingency staffing plan in the event of an unexpected or sudden loss of employees assigned to this contract.

The Contractor shall provide a current work schedule to include office telephone numbers, fax numbers and cell phone numbers of personnel working on AHCCCS cases.

**14. PICK-UP AND DELIVERY SERVICES; HOURS OF OPERATION**

The Contractor shall provide and maintain a routine, systematic and reliable pick-up and delivery service for documents transferred between the Contractor and AHCCCS. Even if this function is subcontracted, the Contractor shall remain entirely responsible for this contract requirement. The Contractor shall be open for business, at a minimum, Monday through Friday from 8 a.m. to 5 p.m. local (Arizona) time (except State recognized holidays), unless otherwise agreed to by AHCCCS. During the hours of operation, the Contractor shall ensure that qualified staff are readily available to respond and address programmatic and policy issues.

The Contractor shall respond to, or acknowledge, telephone calls pertaining to AHCCCS cases no later than the next business day.

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**15. RELATIONS WITH THE PUBLIC**

All personal contacts and written communications performed by the Contractor in connection with this contract shall be conducted in a manner which fosters and promotes cooperation and understanding, and which does not result in adverse publicity or loss of public support. The Contractor shall notify AHCCCS within five (5) days of receipt of any complaint, or threatened or actual legal action against the Contractor, pertaining to the Contractor’s activities under this contract.

**16. AHCCCS APPROVAL OF PROCESS, CORRESPONDENCE, FORMS**

The Contractor shall only use procedures, correspondence, forms, legal documents and other related documents in conjunction with administering the recovery program processes that have been approved in writing by AHCCCS prior to their usage.

The Contractor shall review all legal documents within one business day of receipt and notify AHCCCS of the proposed action, including copies of related documents, within two (2) business days of receipt. Any future related documents shall be provided within two (2) business days of receipt.

**17. RETURN OF ERRONEOUS PAYMENTS OR REFUNDS**

Within thirty (30) days of written request by AHCCCS, the Contractor shall forward to AHCCCS, with proper identifying information, any fees, recoveries or refunds paid to the Contractor, which are subsequently determined to be incorrect by AHCCCS or disallowed as a result of federal or state audit or successful appeal of a provider overpayment previously determined by the RAC contractor. Written request shall be deemed given upon mailing by certified mail, return receipt requested.

**18. RECOVERY RESTRICTION**


The Contractor shall not attempt TPL recovery for programs other than those described in Sections 5 through 7 of the Scope of Work without the written approval of AHCCCS.

**19. PERIODIC REPORT REQUIREMENTS**

AHCCCS requires periodic reports and other information from the Contractor. The submission of late, inaccurate, or otherwise incomplete reports shall constitute failure to report subject to the penalty provisions described in this contract. Standards applied for determining adequacy of required reports shall be applied as follows:

- 19.1 Timeliness: Reports or other required data shall be received on or before scheduled due dates.
- 19.2 Accuracy: Reports or other required data shall be prepared in strict conformity with appropriate authoritative sources and/or AHCCCS defined standards.
- 19.3 Completeness: All required information shall be fully disclosed in a manner that is both responsive and pertinent to report intent with no material omissions.



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AHCCCS requirements regarding report format, report content, and frequency of submission of reports are subject to change at any time during the term of the contract. The Contractor shall comply with all changes specified by AHCCCS. The Contractor shall be responsible for continued reporting beyond the term of the contract for the finalization of cases, if any, retained by the Contractor beyond the transition to the new contractor. The Contractor shall comply with all reporting requirements summarized in Attachment A, “Periodic Report Requirements.”

## 20. COMPENSATION


Compensation under this contract will be based upon the Compensation Schedule accepted by AHCCCS contained herein, and is subject to the review and approval of CMS. All Contingency fees calculations shall be based upon the Net Recovery. The RAC’s compensation for overpayments will be based on the actual amount recovered and the RAC will be paid a contingency fee percentage of the amount recovered. The amount will be considered recovered only after AHCCCS receives the payments from the providers and after any or all appeals are resolved. The RAC’s compensation for underpayments will be based on the amount of the actual underpayment amounts paid to providers identified from the improper payment recovery review process and the Contractor will be paid a contingency fee percentage of the underpayments actually paid to providers. AHCCCS shall make payments to the Contractor in accordance with the terms of this contract provided that the Contractor’s performance is in compliance with the terms and conditions of this contract. Payments to the Contractor will be made after all appropriate documentation and/or required data has been received and approved by AHCCCS.

AHCCCS is not exempt from county fees for the filing of Liens. The Contractor shall pay such fees in the course of performing the contract requirements and AHCCCS will reimburse the full amount of the fees. In addition, if the Contractor has expended money for an “expert witness,” the reasonable fees and costs of the expert witness will be paid to the Contractor from AHCCCS’ settlement amount.

Only recoveries attributable to the Contractor’s activities shall be reimbursable on a contingency basis. AHCCCS will not make payment to the Contractor for recoveries that require no action by the Contractor. The following, while not all inclusive, are examples of non-reimbursable activities:

- 20.1 Third party payments shown on a claim as collected by the provider’s action;
- 20.2 Overpayments refunded voluntarily by a provider that are not part of the Credit Balance recovery effort;
- 20.3 Cost avoidance from third party resources previously identified in AHCCCS files;
- 20.4 Claims cost avoided subsequent to the Contractor’s initial identification of a third party source; and,
- 20.5 Recoveries from adjustments to future claims.

Payments are made by electronic funds transfer, and AHCCCS shall not be liable for any error or delay in transfer or for indirect or consequential damages arising from the use of the electronic funds transfer process. Any charges or expenses imposed by the bank for transfers or related actions shall be borne by

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the Contractor. All funds received by Contractor pursuant to this contract shall be separately accounted for in accordance with generally accepted accounting principles.

At the beginning of the contract term, the Contractor may be assigned cases in progress that have been partially developed by the previous TPL recovery contractor. These will be identified by AHCCCS at the time of assignment to the Contractor and will be reimbursed the negotiated contracted contingency fee.


**21. TRANSITION TO NEW CONTRACTOR**

In the event this contract expires or is terminated, the Contractor shall cooperate fully in the transition of contract related activities to the successor contractor. All data, reports and records shall be returned within ninety (90) days of contract termination to AHCCCS in the same format in which it was received. On or before the date of termination, the Contractor shall identify all recovery cases that are actively developing for collection.

Upon review and approval by AHCCCS, the Contractor may have twelve (12) months from the date of contract termination to finalize and close cases on behalf of AHCCCS. Included are cases where the Contractor has actually initiated work on behalf of AHCCCS and the case is considered “open.” Included are the following types of cases:

- 21.1 Annuities: Contractor has received one or more payments prior to contract end date;
- 21.2 Casualty: Statutory Lien filed prior to contract end date;
- 21.3 Restitution: Contractor has been consistently receiving Restitution payments on the case for the past six (6) months;
- 21.4 Estate: Creditor’s Claim filed prior to contract end date;
- 21.5 TEFRA Lien: The TEFRA Lien has been filed prior to contract end date;
- 21.6 Probate: The Probate has been opened in Superior Court prior to contract end date;
- 21.7 Trust: Case has an Active Status prior to contract end date (Member is deceased or ineligible for ALTCS);
- 21.8 Health Insurance/Tricare: Claims billed to carriers prior to contract end date; and
- 21.9 Credit Balance: Claims that have been identified prior to contract end date.
- 21.10 RAC overpayment or underpayment that are actively in process at the time of the transition.

The twelve (12)-month period may be reduced if mutually agreed upon by AHCCCS and the Contractor. AHCCCS reserves the right to recall any cases from the Contractor if AHCCCS determines that the case is not being actively pursued.

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**22. FINANCIAL STATEMENT**

Upon request, the Contractor shall submit to AHCCCS an annual audited financial statement, for itself and parent company, if applicable.

**23. PERFORMANCE BOND OR BOND SUBSTITUTE**


Within ten (10) business days after contract award, and annually thereafter by no later than September 30, the Contractor shall submit to AHCCCS (Contracts and Purchasing) a performance bond of standard commercial scope issued by a surety company doing business in this State or a cash deposit in the amount of \$1,000,000 for the performance period of this contract to guarantee performance by the Contractor of its obligations under this contract. The performance bond shall be in a form acceptable to AHCCCS and shall be payable to the Arizona Health Care Cost Containment System, an agency of the State of Arizona.

In the event of a default by the Contractor, AHCCCS shall, in addition to any other remedies it may have under this contract, obtain payment under the performance bond or substitute security for the purposes of any of the following:

- 23.1 Paying any damages sustained by reason of non-performance or other breach of Contractor’s obligations under this contract;
- 23.2 Reimbursing AHCCCS for any administrative expenses incurred by reason of a breach of Contractor’s obligations under this contract, including, but not limited to, legal fees and expenses incurred after termination of this contract by AHCCCS for cause;
- 23.3 Covering a transition period, if any, where the Contractor does not cooperate fully with AHCCCS or a successor Contractor; and
- 23.4 Use by AHCCCS in the event the Contractor becomes insolvent.

In the event AHCCCS agrees to accept a cash deposit in lieu of a performance bond, the Contractor shall execute any and all documents and perform any and all acts necessary to secure and enforce AHCCCS' security interest in such substitute security including, but not limited to, security agreements and necessary UCC filings pursuant to the Arizona Uniform Commercial Code. In the event such security is agreed to and accepted by AHCCCS, the Contractor shall grant AHCCCS a security interest in the substitute security in order to secure performance of its obligations under this contract.

**Personnel Bonding Requirements:** The Contractor shall provide evidence of a fidelity bond in the amount of \$1,000,000 covering any loss to AHCCCS or the State due to any fraudulent or dishonest act on the part of any officer, agent, subcontractor, or employee of the Contractor.

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**1.0 CONTINGENCY BASED COMPENSATION**

1.1 The Offeror shall propose contingency fees as a percentage of recoveries for their proposed method of approach. The fee shall be inclusive of all costs associated with the delivery of the service and includes staff time, mileage, insurance, and administrative cost. No additional fees will be paid by AHCCCS.


1.2 The Offeror’s proposed contingency fees shall be broken down as follows:

1.2.1 **First Party Liability and Third Party Liability Recovery Programs and Commercial Insurance Coverage Verification / Data Match Services:** A percentage(s) of actual recoveries for the recovery programs described in paragraph 5 of the Scope of Work, which will constitute the total compensation for the services described in both paragraph 5 and 6 of the Scope of Work. The Offeror may, if it chooses, propose graduated percentages based on total amount of Net Recovery to AHCCCS.

1.2.2 **Optional add-on related service:** The Offeror may, at its option, submit a separate proposal (and a separate rate below) for providing other services not required by this solicitation. If the Offeror chooses to submit such a proposal, it will be considered only as an add-on to the TPL recovery services described herein. Whether the Offeror chooses or does not choose to submit this add-on proposal will have no effect on the evaluation of its TPL Recovery proposal and the add-on proposal itself will be negotiated only in conjunction with the award of the primary contract. If an add-on proposal is submitted, the Offeror must state so in its cover letter to the TPL proposal. The acceptance of any add-on service is at the sole option of AHCCCS.

1.2.3 **Medicaid Recovery Audit Contractor (RAC) Services:** A contingency fee for overpayments, and a separate percentage for underpayment, which will constitute the total compensation for the service described in paragraph 7 of the Scope of Work. Compensation for overpayments will be based on the actual amount recovered. The amount will be considered recovered only after AHCCCS receives the payments from the providers and all appeals are resolved. Compensation for underpayments will be based on the amount identified from the improper payment recovery review process and paid to the provider. The accepted percentage rates shall not exceed the highest contingency fee allowable for Medicare RACs services, as published in the Federal Register.

In accordance with federal requirements, the Offeror must include with its proposal sufficient documentation to show how it arrived at the proposed percentage rates.

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1.3 The Offeror shall complete and submit the following table with its proposal (**SEE EXHIBIT A**):

**CONTRACT PRICING – TPL Services:**


First Party Liability and Third Party Liability Recovery Programs and Commercial Insurance Coverage Verification / Data Match Services described in paragraph 5 and 6 of the Scope of Work	Percentage Fee
Recovery, Verification and Data Match Services	
Optional Add On Services	

**CONTRACT PRICING – Fee for Service RAC Services:**

Medicaid Recovery Audit Contractor (RAC) Services as described in paragraph 7 of the Scope of Work	Percentage Fee
RAC Services - Overpayments	
RAC Services - Underpayments	


**2.0 INVOICES**

- 2.1 The successful Offeror shall submit a monthly invoice to the address listed below for the administrative fees associated with this contract.
- 2.2 Each invoice shall provide the following information, as applicable:
  - 2.2.1 AHCCCS' assigned contract number
  - 2.2.2 description of services performed for each fee
  - 2.2.3 name of AHCCCS contact person for this agreement
  - 2.2.4 date(s) services were performed
- 2.3 Each invoice shall have adequate supporting documentation attached to allow proper expense reimbursement.
- 2.4 Invoices shall be submitted to:
  - AHCCCS
  - Accounts Payable, MD 5400
  - 701 E. Jefferson Street
  - Phoenix, AZ 85034

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

1. **A.A.C.:** the Arizona Administrative Code - the state regulations established pursuant to relevant statutes. For purposes of this solicitation, the relevant sections of the A.A.C. may be referred to in this document as "AHCCCS Rules."
2. **A.R.S.:** Arizona Revised Statutes.
3. **ACE :** the AHCCCS Customer Eligibility system.
4. **ACUTE CARE CONTRACTOR:** An organization that contracts with the AHCCCS Administration to administer the provision of a comprehensive package of AHCCCS covered acute and behavioral health care services to AHCCCS members enrolled with the Acute Care Contractor. For the purposes of this contract, the term "Acute Care Contractor" shall also include the Children's Rehabilitative Service (CRS) Contractor.
5. **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 the State agency.
6. **ALTCS:** The Arizona Long Term Care System, a program under AHCCCS that delivers long-term, acute, behavioral health and case management services to Members, as authorized by A.R.S. § 36-2932. ALTCS populations include the Elderly and Physically Disabled (ALTCS-EPD) and the Developmentally Disabled (ALTCS-DD).
7. **ATTACHMENT:** Any item the Solicitation requires an Offeror to submit as part of the Offer.
8. **CAPITATION:** the payment to an Acute Care Contractor or Long Term Care Contractor by AHCCCS of a fixed monthly payment per person in advance, for which the Acute Care Contractor or Long Term Care Contractor provides a full range of covered services.
9. **CASUALTY:** An accident, misfortune or mishap that comes by chance or without design.
10. **CMS:** The Centers for Medicare and Medicaid Services, an organization within the U.S. Department of Health and Human Services, which administers the Medicare and Medicaid programs and the State Children's Health Insurance Program.
11. **CONTRACT AMENDMENT:** A written document signed by the Procurement officer that is issued for the purpose of making changes in the contract.
12. **CONTRACT:** The combination of the Solicitation, including the Instructions to Offerors, Contract Terms and Conditions, and Scope of Work; the Offer; any Final Proposal Revisions; any Solicitation Amendments or Contract Amendments; and any terms applied by law.
13. **CONTRACTOR:** A person who has a contract with AHCCCS.
14. **COST AVOIDANCE:** A method of avoiding payment of claims when other insurance resources are available to the Member.
15. **CREDIT BALANCE RECOVERY PROGRAM:** The identification, and recovery, of payments made to Providers by AHCCCS and other Liable Parties that have resulted in an overpayment to the Provider for the service rendered that should have been returned to AHCCCS.
16. **DAYS:** Calendar days unless otherwise specified.
17. **ENCOUNTER:** A record of a medically related service rendered by a Provider or Providers registered with AHCCCS to a Member who is enrolled with an Acute Care Contractor or Long Term

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Care Contractor on the date of service. It includes all services for which an Acute Care Contractor or Long Term Care Contractor incurred any financial liability.

18. **ESTATE RECOVERY:** A requirement of Section 1917 of the Social Security Act that States shall recover payments made for certain costs of care of Medicaid individuals age 55 and older.
19. **EXHIBIT:** Any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.
20. **FEE-FOR-SERVICE (FFS):** A method of payment to registered providers on an amount per-service basis. The primary AHCCCS FFS members are those enrolled with the Indian Health Services and the Federal Emergency Services Program.
21. **FIRST PARTY LIABILITY:** The resources available from any insurance or other coverage obtained directly or indirectly by a Member that provides benefits directly to the Member and is liable to pay all or part of the medical services incurred by AHCCCS, a Acute Care Contractor or Long Term Care Contractor, or the Member.
22. **FMAP:** Federal Medical Assistance Percentage, which is used to calculate the amount of Federal share of State expenditures for services that must be reported on recoveries.
23. **GRATUITY:** A payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.
24. **HIFA PARENTS:** The parents of Medicaid-(SOBRA) and KidsCare-eligible children who are not otherwise eligible for Medicaid. All eligible parents except Native Americans must pay an enrollment fee and a monthly premium based on household income.
25. **HIFA:** The CMS Health Insurance Flexibility and Accountability Demonstration Initiative, which targets State Children's Health Insurance Program (Title XXI) funding for populations with incomes at or below 200 % of the FPL.
26. **HIPAA:** The Health Insurance Portability and Accountability Act (P.L. 104-191); also known as the Kennedy-Kassebaum Act, signed August 21, 1996.
27. **JOINT LIABILITY CASE:** That AHCCCS and a Acute Care Contractor or Long Term Care Contractor incurred medical expenditures related to the medical episode.
28. **KIDSCARE:** Arizona's State Children's Health Insurance Program, which is a Federal and state program for providing health care services for children under the age of 19 living in families with a gross income at or below 200% of the federal poverty level guidelines, as defined in Title XXI.
29. **LIABLE PARTY:** A person or entity that is or may be, by agreement, circumstance or otherwise, liable to pay all or part of the medical expenses incurred by an AHCCCS applicant or Member.
30. **LIEN:** A legal claim filed with the County Recorder's office for the purpose of ensuring that AHCCCS receives reimbursement for monies paid on a Member's behalf.
31. **LONG TERM CARE CONTRACTOR:** An organization that contracts with the AHCCCS Administration to execute the provision of a comprehensive package of ALTCS covered Acute Care Contractor, behavioral health services and long term care services to ALTCS members enrolled with the Long Term Care contractor.
32. **MATERIAL OMISSION:** Facts, 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.


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33. **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.
34. **MAY:** Indicates something that is not mandatory but permissible.
35. **Medicaid Recovery Audit Contractor (RAC) services:** A recovery program administered by AHCCCS to identify and recoup overpayments and pay underpayments and recoup overpayments as defined in 42 CFR §455.504.
36. **MEDICAID:** A federal/state program authorized by Title XIX of the Social Security Act, as amended.
37. **MEDICARE:** A Federal program authorized by Title XVIII of the Social Security Act, as amended.
38. **MEMBER:** A person enrolled in AHCCCS, as defined in A.R.S. § 36-2901, A.R.S. § 36-2901.01, A.R.S. § 36-2931, A.R.S. § 36-2971, A.R.S. § 36-2981, and 42 CFR 438.10(a).
39. **NET RECOVERY:** The total dollars recovered for AHCCCS expenditures, which are disbursed to AHCCCS, its Acute Care Contractor or Long Term Care Contractors. This dollar amount does not include disbursements to Members, attorneys or others.
40. **OALS:** The AHCCCS Office of Administrative Legal Services.
41. **OFFER:** A bid, proposal or quotation.
42. **OFFEROR:** A vendor who responds to a Solicitation.
43. **OFFEROR:** An organization or other entity that submits a proposal to AHCCCS in response to this RFP.
44. **OVERPAYMENT:** The amount paid by AHCCCS to a provider that is in excess of the amount that is allowable for services furnished under section 1902 of the Social Security Act and which is required to be refunded under section 1903 of the Act. The term "Overpayment" does not include penalties, fines, or other statutory recoveries that may apply under circumstances that are in excess of the actual amount paid to a provider that is in excess of the amount that is allowed for services furnished under section 1902 of the Social Security Act. (Iowa contract)
45. **PROCUREMENT OFFICER:** The person, or his or her designee, duly authorized by the State and AHCCCS to enter into and administer Contracts and made written determinations with respect to the Contract.
46. **PROVIDER (of an ACUTE CARE CONTRACTOR):** A person or entity that contracts with AHCCCS, a Acute Care Contractor or Long Term Care Contractor, for the provision of covered services to Members according to the provisions of A.R.S. Title 36, Chapter 29, Article 1.
47. **RECOVERY:** Money paid to and received by AHCCCS solely through the efforts of the Contractor under this contract.
48. **REINSURANCE:** A risk-sharing program provided by AHCCCS to its Acute Care Contractor or Long Term Care Contractor for the reimbursement of certain contract service costs incurred by a Member beyond a certain monetary threshold.
49. **RESTITUTION:** An equitable remedy under which a person is restored to its original position prior to the loss. The Contractor is responsible for Restitution recoveries that relate to medical claims incurred by a FFS Member or a Joint Liability case, but it is not responsible for Restitution recoveries that are the result of non-medical recoveries such as Medicaid fraud and abuse.
50. **SHALL, MUST:** Indicates a mandatory requirement. Failure to meet these mandatory requirements may result in the rejection of a proposal as non-responsive.




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51. **SHARE OF COST:** The amount of money ALTCS Members are required to contribute toward the cost of their care. The monthly Share Of Cost amount is calculated by subtracting certain expenses and deductions from the Member's gross income.
52. **SHOULD:** Indicates something that is recommended but not mandatory. If the Offeror fails to provide recommended information, the State may, at its sole option, ask the Offeror to provide the information or evaluate the proposal without the information.
53. **SOLICITATION AMENDMENT:** A written document that is authorized by the Procurement officer and issued for the purpose of making changes to the Solicitation.
54. **SOLICITATION:** An Invitation for Bids ("IFB"), a Request for Proposals ("RFP"), or a Request for Quotations ("RFQ").
55. **STATE FAIR HEARING:** An administrative hearing under A.R.S. Title 41, Chapter 6, Article 10.
56. **STATE FISCAL YEAR:** The period beginning with July 1 and ending June 30.
57. **STATE:** The State of Arizona.
58. **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.
59. **TEFRA LIEN:** A Lien placed on a Member's real property pursuant to the terms and conditions of TEFRA, and AHCCCS Rules R9-28-801, et seq.
60. **TEFRA:** The Tax Equity and Fiscal Responsibility Act (1982).
61. **THIRD PARTY LIABILITY:** The resources available from a person or entity that is, or may be, by agreement, circumstance or otherwise liable to pay all or part of the medical expenses incurred by an AHCCCS Member.
62. **TORTFEASOR:** An individual that commits or is guilty of a civil wrong or injury for which a court will provide a remedy in the form of damages.
63. **TOTAL PLAN CASE:** Means that only Acute Care Contractor or Long Term Care have incurred medical expenditures related to the medical episode.
64. **TRUST:** A qualifying trust that is created, and operated, under the provisions of the Omnibus Budget Reconciliation Act of 1993 (OBRA '93), which amended Section 1917 (d)(4)(A),(B) and (C) of the Social Security Act. The use of a Trust allows certain individuals, who would not otherwise qualify financially (income or resources in excess of federal limits) for Title XIX assistance, to place certain monies in a qualifying Trust and become/remain Medicaid eligible.
65. **UNDERPAYMENT:** An amount paid to a provider or supplier for services or items furnished to a Medicaid beneficiary at a lesser amount due and payable under the Social Security Act, implementing regulations, and policies. The term "underpayment" does not include discounts or other negotiated reductions in the actual amount paid to a provider.

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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, and check its Offer for accuracy before submitting the Offer. Lack of care in preparing an Offer shall not be grounds for withdrawing the Offer after the Offer due date and time, nor shall it give rise to any Contract claim.
  
  - 2.2 **Solicitation Contact Person / Procurement Officer:** Any inquiry related to a Solicitation, including any requests for or inquiries regarding standards referenced in the Solicitation shall be directed solely to the Solicitation Contact Person or “Procurement Officer”. The Offeror shall not contact or direct inquiries concerning this Solicitation to any other State employee unless the Solicitation specifically identifies a person other than the Solicitation Contact Person/ Procurement Officer as a contact.
  
  - 2.3 **Submission of Inquiries:** The Procurement Officer may require that an inquiry, to include exceptions in the Scope of Work, be submitted in writing. Any inquiry related to a Solicitation shall refer to the appropriate Solicitation number, page and paragraph. Do not place the Solicitation number on the outside of the envelope containing that inquiry, since it may then be identified as an Offer and not be opened until after the Offer due date and time. The State shall consider the relevancy of the inquiry but is not required to respond in writing.
  
  - 2.4 **Timeliness:** Any inquiry or exception to the Scope of Work 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. No exceptions to the terms and conditions or other parts of this solicitation will be considered.
  
  - 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 or elsewhere in the Solicitation. An Offeror should raise any questions they may have about the Solicitation or the procurement 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.

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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 Forms: No Facsimile or Telegraphic Offers: An Offer shall be submitted either on the forms provided in this Solicitation or their substantial equivalent. Any substitute document for the forms provided in this Solicitation will be legible and contain the same information requested on the forms. A facsimile, telegraphic, mailgram or electronic mail Offer shall be rejected if submitted in response to requests for proposals or invitations for bids.

3.2 Typed Offer; Corrections: The Offer shall be typed. Erasures, interlineations or other modifications in the Offer shall be initialed in ink by the person signing the Offer. Modifications shall not be permitted after Offers have been opened except as otherwise provided under applicable law.


3.3 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.

3.4 Exceptions to the Scope of Work:


3.4.1 If Offerors take any exception to language in the Scope of Work, such exception shall be submitted to the Procurement Officer by the date and time indicated on the front of the RFP (Notice of Request for Proposal). This will allow the Procurement Officer to review all exceptions and, if applicable, afford any approved exceptions to all other potential Offerors.

3.4.2 If an Offeror includes, in their proposal, exceptions, not covered by paragraph 3.4.1, above, such exceptions shall be null, void and without force and shall not be considered, and may negatively affect AHCCCS' proposal evaluation based on the published evaluation criteria or may result in rejection of the proposal.

3.4.3 To the extent they are inconsistent with the terms of the Solicitation, the Offeror's preprinted or standard terms will not be considered by AHCCCS as a part of any resulting Contract. This includes separate license agreements.


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- 3.5 Subcontracts: Offeror shall clearly list any proposed subcontractors and the subcontractor’s proposed responsibilities in the Offer.
- 3.6 Cost of Offer Preparation: AHCCCS will not reimburse any Offeror the cost of responding to a Solicitation.
- 3.7 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.
- 3.8 Federal Excise Tax: The State of Arizona is exempt from certain Federal Excise Tax on manufactured goods. Exemption Certificates will be prepared upon request.
- 3.9 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.
- 3.9.1 Employee Identification: Offeror agrees to provide an employee identification number or social security number to the State for the purposes of reporting to appropriate taxing authorities, monies paid by the Department 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 state and federal officials. This submission is mandatory under 26 U.S.C. § 6041A.
- 3.10 Identification of Taxes in Offer. The State of Arizona is subject to all applicable state and local transaction privilege taxes. All applicable taxes shall be identified as a separate item offered in the solicitation. When applicable, the tax rate and amount shall be identified on the price sheet. At all times, payment of taxes and the determination of applicable taxes are the sole responsibility of the contractor.
- 3.11 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, state or local government, or if any such preclusion from participation from any public procurement activity is currently pending, the Offeror shall fully explain the circumstances relating to the preclusion or proposed preclusion in the Offer. The Offeror shall 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

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currently pending, a detailed description of all relevant circumstances including the details enumerated above shall be provided.

- 3.12 **Solicitation Order of Precedence:** In the event of a conflict in the provisions of this Solicitation, the following shall prevail in the order set forth below:
- 3.12.1 Special Terms and Conditions;
  - 3.12.2 Uniform Terms and Conditions;
  - 3.12.3 Statement or Scope of Work;
  - 3.12.4 Specifications;
  - 3.12.5 Attachments;
  - 3.12.6 Exhibits;
  - 3.12.7 Special Instructions to Offerors;
  - 3.12.8 Uniform Instructions to Offerors; and
  - 3.12.9 Other documents referenced or included in the Solicitation.
- 3.13 **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.
- 3.14 **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. The State may, at its sole discretion required evidence of compliance during the evaluation process. Should the State 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.
- 3.15 **Offshore Performance of Work Prohibited.** Any service that are described in the specifications or scope of work that directly serve the State of Arizona 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

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by subcontractors at all tiers. Offerors shall declare all anticipated offshore services in the proposal.

**4. Submission of Offer:**

- 4.1 Sealed Envelope or Package: Each Offer shall be submitted to the submittal location identified in this Solicitation. Offerors should be submitted in a sealed envelope or container. The envelope or container should be clearly identified with name of the Offeror and Solicitation number. The State may open envelopes or containers to identify contents if the envelope or container is not clearly identified.
- 4.2 Reserved.
- 4.3 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.
- 4.4 Public Record: Under applicable law, all Offers submitted and opened are public records and must be retained by AHCCCS. Offers shall be open to public inspection after Contract award, except for such portions of an Offer deemed to be confidential by AHCCCS. If an Offeror believes that information in its Offer should remain confidential, it shall indicate as confidential the specific information and submit a statement with its Offer detailing the reasons that the information should not be disclosed. Such reasons shall include the specific harm or prejudice which may arise. AHCCCS shall determine whether the identified information is confidential.
- 4.5 Non-collusion, Employment, and Services: By signing the Offer and Acceptance Form or other official contract form, the Offeror certifies that:
  - 4.5.1 It did not engage in collusion or other anti-competitive practices in connection with the preparation or submission of its Offer; and
  - 4.5.2 It 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, state 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.

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- 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 (reserved)
- 5.4 Late Offers: An Offer submitted after the exact Offer due date and time shall be rejected.
- 5.5 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.
- 5.6 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 state a number of days for Offer acceptance, the number of days shall be one hundred and twenty (120). If a Final Proposal Revision is requested pursuant to a Request for Proposals, an Offeror shall hold its Offer open for one hundred and twenty (120) days from the Final Proposal Revision due date.
- 5.7 Waiver and Rejection Rights: Notwithstanding any other provision of the Solicitation, AHCCCS reserves the right to:
- 5.7.1 Waive any minor informality;
  - 5.7.2 Reject any and all Offers or portions thereof; or
  - 5.7.3 Cancel a Solicitation.

**6. Award:**

- 6.1 Number or Types of Awards: Where applicable, 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, whichever is deemed most advantageous to AHCCCS. If the Procurement officer determines that an aggregate award to one Offeror is not in AHCCCS' best interest, "all or none" Offers shall be rejected.
- 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.


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**7. Protests:**


A protest shall comply with and be resolved according to Arizona Revised Statutes Title 41, Chapter 23, Article 9 and rules adopted thereunder. Protests shall be in writing and be filed with the AHCCCS Procurement officer and with the State Procurement Administrator. A protest of a solicitation shall be received by the AHCCCS Procurement officer before the offer due date. A protest of a proposed award or of an award shall be filed within ten (10) days after the protester knows or should have known the basis of the protest. A protest shall include:

- 7.1 The name, address and telephone number of the protester;
- 7.2 The signature of the protester 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.



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1. **Questions:** All questions concerning this Request for Proposal, including technical specifications, proposal process, etc. shall be directed to the Procurement Officer identified on the first page of this solicitation document. All questions shall be in writing and submitted either via e-mail. Offerors may not contact other AHCCCS employees concerning this solicitation. **Questions should be submitted using the AHCCCS Question and Answer form found on the AHCCCS website:** <http://www.azahcccs.gov/commercial/Purchasing/open.aspx>.
  
2. **Evaluation Criteria:** Evaluation criteria are listed in the relative order of importance. The evaluation will be conducted in accordance with an established evaluation plan. The award(s) will be made to the responsible Offeror whose proposal is determined to be the most advantageous to AHCCCS, based on the following criteria:
  - 2.1 Method of Approach
  - 2.2 Experience and Expertise of the Firm
  - 2.3 Cost
  
3. **Proposal Information:** Offeror is to submit their proposal with **one (1) original and three (3) copies (for a total of four (4) sets)** in the format as contained in this RFP as well as **one (1) CD** or USB storage device with the same information. **The original copy of the proposal should be clearly labeled "ORIGINAL."** The material should be in sequence and related to the RFP. 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. The proposal should include at least the following information:
  - 3.1 **Proposed Method of Approach:**
    - 3.1.1 Proposals will be evaluated based on the Offeror's distinctive plan for providing these specialized services. 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, or to present a paraphrased version, as an original idea for a technical approach.
    - 3.1.2 **Written Narrative:** The Offeror shall utilize a written narrative or any other printed technique to demonstrate the ability to satisfy the ENTIRE 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 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 minimized and used only to describe a technical process. **Please label as Attachment 1.**

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3.1.3 **Methodology Questionnaire:** In addition to the written narrative, the Offeror shall answer all questions on the methodology questionnaire as it relates ONLY to RAC services (Exhibit B). The Offeror may include its answers to these questions either separately (labeled as Attachment 2), or in the body of the Written Narrative, if logical to do so, as long as they are clearly marked as such. If the Offeror chooses to incorporate the answers into its Written Narrative, the Offeror shall list the location, including page number, of its answer to each question on Attachment 2. The usage of technical language should be minimized and used only to describe a technical process. **Please label as Attachment 2.**

**3.2 Cost:**

3.2.1 The evaluation of the category of Cost shall be based on the prices, as indicated on the EXHIBIT A: Compensation Table submitted with Offeror’s proposal. **Please label as Attachment 3.**

**3.3 Experience and Expertise of the Firm:**


3.3.1 The Offeror’s experience and past performance will be evaluated on the extent of its success in managing and integrating work relevant to that defined in the Scope of Work. Therefore, the Offeror is advised to submit any and all information which documents successful and reliable experience in past performances as related to this RFP. **Please label as Attachment 4.**

3.3.2 **References:** References should be verifiable and be able to comment on the Offeror's related experience (Exhibit C). The Offeror should submit, at a minimum, three (3) professional services references (outside of AHCCCS) which would demonstrate the Offeror possesses an understanding and the experience in providing the required service. As these references may be checked, ensure all information is current, accurate and prior permission to use is obtained from each reference. **Please label as Attachment 5.**


**4. Intent to Provide Certificate of Insurance:** The Offeror should provide a statement that, if notified of contract award, 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. **Please label as Attachment 6.**

**5. Additional Information:** The Offeror may submit any other pertinent information which would substantiate the Offeror has the experience, expertise and capability to provide the required services. **Please label as Attachment 8.**


**6. Offeror's Checklist:** The Offeror should complete Exhibit D, “Offeror's Checklist.”

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7. **Financial Stability** The Offeror must be financially stable and able to substantiate the financial stability of its company. If requested, current financial statements or other financial information deemed appropriate documenting past sales history must be provided within five (5) business days of request. The State reserves the right to request additional documentation from the Offeror and to request reports on financial stability from independent financial rating services. The State reserves the right to reject any Offeror who does not demonstrate financial stability sufficient for the scope of this contract award.
  
8. **Offeror's Responsibility:** The Offeror is cautioned that it is the Offeror's sole responsibility to submit information related to the evaluation categories and that the State of Arizona is under no obligation to solicit such information if it is not included with the Offeror's proposal. Failure of the Offeror to submit such information may cause an adverse impact on the evaluation of the Offeror's proposal.
  
9. **Additional Instructions for Submittal of Proposal:**
  - 9.1 It is the responsibility of each Offeror to ensure their proposal is delivered to AHCCCS by the due date and time. Allow for such contingencies as heavy traffic, weather, directions to submittal location, parking, common carriers not delivering as requested, etc. AHCCCS shall not accept late proposals past the due date and time.
  
  - 9.2 AHCCCS is not responsible for supplying boxes, envelopes, tape, etc. to Offerors at time of proposal delivery.
  
  - 9.3 When submitting your proposal to AHCCCS, ensure your company name and the Request for Proposal solicitation number is clearly marked on the outside of the envelope/package.
  
10. **Proposal Opening:** Proposals shall be opened on the date and time, and at the place designated on the cover page of this document, unless amended in writing by the state agency issuing the solicitation.
  
11. **Electronic Documents:** AHCCCS may provide an electronic version of this procurement document. Any unidentified alteration or modification to the original document (or to any Exhibit contained therein) issued by AHCCCS shall be null and void. In those instances where modifications are identified, the original document issued by the State shall take precedence.
  
12. **Clarifications:** Clarifications may be requested from Offerors at any time after receipt of offers. 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.

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13. **Discussions:** In accordance with A.R.S. §41-2534, after the initial receipt of proposals, discussions are currently planned to be conducted with Offeror(s) who submit proposals determined to be reasonably susceptible of being selected for award. The discussions may include demonstrations (oral presentations). Award may be made without discussions; therefore, offers should be submitted complete and on most favorable terms.
  
14. **Final Proposal Revisions:** If discussions are conducted, they shall be conducted with all Offerors determined to be in the competitive range or reasonably susceptible for award. Written final proposal revisions will be requested from any Offeror with whom discussions have been conducted, unless the Offeror has been determined not susceptible for award or non-responsible.
  
15. **Request for Confidential / Proprietary Determination:**
  - 15.1 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.
  
  - 15.2 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.**
  
  - 15.3 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.

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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, where applicable, the Uniform Commercial Code as adopted by the State of Arizona and the Arizona Procurement Code, Arizona Revised Statutes (A.R.S.) Title 41, Chapter 23, and its implementing rules, Arizona Administrative Code (A.A.C.) Title 2, Chapter 7.

2.2 Implied Contract Terms. Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.

2.3 Contract Order of Precedence. In the event of a conflict in the provisions of the Contract, as accepted by the State and as they may be amended, the following shall prevail in the order set forth below:


- 2.3.1 Special Terms and Conditions;
- 2.3.2 Uniform Terms and Conditions;
- 2.3.3 Statement or Scope of Work;
- 2.3.4 Specifications;
- 2.3.5 Attachments;
- 2.3.6 Exhibits;
- 2.3.7 Documents referenced or included in the Solicitation.

2.4 Relationship of Parties. The Contractor under this Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.

2.5 Severability. The provisions of this Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.


2.6 No Parole Evidence. This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.

2.7 No Waiver. Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

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### 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 (5) years after the completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.
- 3.2 Non-Discrimination. The Contractor shall comply with State Executive Order No. 2009-09 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.
- 3.3 Audit. Pursuant to ARS § 35-214, at any time during the term of this Contract and five (5) years thereafter, the Contractor’s or any subcontractor’s books and records shall be subject to audit by the State and, where applicable, the Federal Government, to the extent that the books and records relate to the performance of the Contract or Subcontract.
- 3.4 Facilities Inspection and Materials Testing. The Contractor agrees to permit access to its facilities, subcontractor facilities and the Contractor’s processes or services, at reasonable times for inspection of the facilities or materials covered under this Contract.
- The State shall also have the right to test, at its own cost, the materials to be supplied under this Contract. Neither inspection of the Contractor’s facilities nor materials testing shall constitute final acceptance of the materials or services. If the State determines non-compliance of the materials, the Contractor shall be responsible for the payment of all costs incurred by the State for testing and inspection.
- 3.5 Notices. Notices to the Contractor required by this Contract shall be made by the State to the person indicated on the Offer and Acceptance form submitted by the Contractor unless otherwise stated in the Contract. Notices to the State required by the Contract shall be made by the Contractor to the Solicitation Contact Person indicated on the Solicitation cover sheet, unless otherwise stated in the Contract. An authorized Procurement Officer and an authorized Contractor representative may change their respective 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

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copyright to anyone else. The Contractor shall not use or release these materials without the prior written consent of the State.

- 3.8 Ownership of Intellectual Property. Any and all intellectual property, including but not limited to copyright, invention, trademark, trade name, service mark, and/or trade secrets created or conceived pursuant to or as a result of this contract and any related subcontract (“Intellectual Property”), shall be work made for hire and the State shall be considered the creator of such Intellectual Property. The agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract shall own (for and on behalf of the State) the entire right, title and interest to the Intellectual Property throughout the world. Contractor shall notify the State, within thirty (30) days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor(s), agrees to execute any and all document(s) necessary to assure ownership of the Intellectual Property vests in the State and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the State. The Intellectual Property shall not be disclosed by contractor or its subcontractor(s) to any entity not the State without the express written authorization of the agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract.
- 3.9 Federal Immigration and Nationality Act. The contractor shall comply with all federal, state and local immigration laws and regulations relating to the immigration status of their employees during the term of the contract. Further, the contractor shall flow down this requirement to all subcontractors utilized during the term of the contract. The State shall retain the right to perform random audits of contractor and subcontractor records or to inspect papers of any employee thereof to ensure compliance. Should the State determine that the contractor and/or any subcontractors be found noncompliant, the State may pursue all remedies allowed by law, including, but not limited to; suspension of work, termination of the contract for default and suspension and/or debarment of the contractor.
- 3.10 E-Verify Requirements. In accordance with A.R.S. § 41-4401, Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A.
- 3.11 Scrutinized Businesses. In accordance with A.R.S. § 35-391 and A.R.S. § 35-393, Contractor certifies that the Contractor does not have scrutinized business operations in Sudan or Iran.
- 3.12 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


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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.
- 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;



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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.

6.2.1 Contractor/Vendor Indemnification (Not Public Agency) The parties to this contract agree that the State of Arizona, its departments, agencies, boards and commissions shall be indemnified and held harmless by the contractor for the vicarious liability of the State as a result of entering into this contract. However, the parties further agree that the State of Arizona, its departments, agencies, boards and commissions shall be responsible for its own negligence. Each party to this contract is responsible for its own negligence.

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6.2.2 Public Agency Language Only Each party (as 'indemnitor') agrees to indemnify, defend, and hold harmless the other party (as 'indemnitee') from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as 'claims') arising out of bodily injury of any person (including death) or property damage but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees, or volunteers."

6.3 Indemnification - Patent and Copyright. The Contractor shall indemnify and hold harmless the State against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of Contract performance or use by the State of materials furnished or work performed under this Contract. The State shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph. If the contractor is insured pursuant to A.R.S. § 41-621 and § 35-154, this section shall not apply.

6.4 Force Majeure.

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


6.4.2 Force Majeure shall not include the following occurrences:

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

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

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

6.4.3 If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable

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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.

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

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

## 7. Warranties

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

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

7.2.1 Of a quality to pass without objection in the trade under the Contract description;

7.2.2 Fit for the intended purposes for which the materials are used;


7.2.3 Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units;

7.2.4 Adequately contained, packaged and marked as the Contract may require; and

7.2.5 Conform to the written promises or affirmations of fact made by the Contractor.

7.3 Fitness. The Contractor warrants that any material supplied to the State shall fully conform to all requirements of the Contract and all representations of the Contractor, and shall be fit for all purposes and uses required by the Contract.

7.4 Inspection/Testing. The warranties set forth in subparagraphs 7.1 through 7.3 of this paragraph are not affected by inspection or testing of or payment for the materials by the State.

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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.

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


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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

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activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the contractor is not currently suspended or debarred. If the contractor becomes suspended or debarred, the contractor shall immediately notify the State.

9.4 Termination for Convenience. The State reserves the right to terminate the Contract, in whole or in part at any time when in the best interest of the State, without penalty or recourse. Upon receipt of the written notice, the Contractor shall stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the State. In the event of termination under this paragraph, all documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State upon demand. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination. The cost principles and procedures provided in A.A.C. R2-7-701 shall apply.

9.5 Termination for Default.

9.5.1 In addition to the rights reserved in the contract, the State may terminate the Contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. The Procurement Officer shall provide written notice of the termination and the reasons for it to the Contractor.


9.5.2 Upon termination under this paragraph, all goods, materials, documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State on demand.

9.5.3 The State may, upon termination of this Contract, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Contract. The Contractor shall be liable to the State for any excess costs incurred by the State in procuring materials or services in substitution for those due from the Contractor.

9.6 Continuation of Performance Through Termination. The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.


## 10. Contract Claims

All contract claims or controversies under this Contract shall be resolved according to A.R.S. Title 41, Chapter 23, Article 9, and rules adopted thereunder.

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## 11. Arbitration

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

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- 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 **Authority to Contract:** This contract is issued under the authority of the Procurement officer who signed this 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 an unauthorized state employee 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.
  
- 3 **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.
  
- 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 Acute Care Contractor, 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 (Immediate):** This contract is critical to AHCCCS and the agency reserves the right to immediately cancel the whole or any part of this contract due to failure of the contractor to carry out any material obligation, term or condition of the contract. The Procurement officer shall issue a written notice of default effective at once and not deferred by any interval of time. Default shall be for acting or failing to act 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 in 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 The Procurement officer may resort to any single or combination of the following remedies:
    - 5.5.1 Cancel any contract;
    - 5.5.2 Reserve all rights or claims to damage for breach of any covenants of the contract;




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- 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 non-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 Arizona Procurement Code. 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
  - 5.5.4.3 Any combinations of the above or any other remedies as provided by law.

- 6 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
- 6.1 The contractor provides material that does not meet the specifications of the contract;
  - 6.2 The contractor fails to adequately perform the services set forth in the specifications of the contract;
  - 6.3 The contractor fails to complete the work required or furnish the materials required within the time stipulated by the contract;
  - 6.4 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;
  - 6.5 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.
    - 6.5.1 Cancel any contract;
    - 6.5.2 Reserve all rights or claims to damage for breach of any covenant of the contract;
    - 6.5.3 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;
    - 6.5.4 In case of default, the Procurement officer reserves the right to purchase materials, or to complete the required work in accordance with the Arizona Procurement Code. The Procurement officer may recover reasonable excess costs from the contractor by:
      - 6.5.4.1 Deduction from an unpaid balance;
      - 6.5.4.2 Collection against the bid and/or performance bond; or
      - 6.5.4.3 Any combination of the above or any other remedies as provided by law.

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- 7 Contract Disputes:** Contract disputes arising under A.R.S. § Title 36, Chapter 29 shall be adjudicated in accordance with AHCCCS Rules.
- 8 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.
- 9 Confidentiality of Records:**
- 9.1 The contractor shall establish and maintain procedures and controls, that are acceptable to AHCCCS, for the purpose of assuring that no information contained in its records or obtained from AHCCCS or others carrying out its functions under the contract, shall be used or disclosed by it, its agents, officers or employees, except as required to efficiently perform duties under the contract. Persons requesting such information shall be referred to AHCCCS. The contractor also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of the contractor as needed for the performance of duties under the contract, unless otherwise agreed to, in writing, by AHCCCS.
- 9.2 The disclosure of information in summary, statistical, or other form that does not identify particular individuals is permitted only with prior AHCCCS approval. The use or disclosure of information concerning Members will be limited to purposes directly connected with the scope of this contract.
- 9.3 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 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 upon request.
- 10 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.
- 11 Contract:**
- 11.1 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

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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.

11.2 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.

**12 Disclosure of Confidential Information:** The Contractor shall not, without prior written approval from the Procurement officer, 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 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.

**13 Effective Date:** The effective date of this contract shall be the date that the Procurement officer signs the Offer and Award page of this document unless otherwise stated in this Contract.

**14 Employees of the Contractor:** 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 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.


**15 Fraud and Abuse:**

15.1 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.


15.2 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.

15.3 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.

**16 Incorporation by Reference:** This solicitation and all attachments and amendments, the Contractor's proposal, final proposal revision accepted by the Procurement officer, and any approved subcontracts are hereby incorporated by reference into the contract.

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- 17 Independent 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.
- 18 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.
- 19 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.
- 20 No Guaranteed Quantities:** AHCCCS does not guarantee the Contractor any minimum or maximum quantity of services or goods to be provided under this contract.
- 21 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.
- 22 Ownership of Information and Data:**
- 22.1 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.
- 22.2 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

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

22.3 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.


**23 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.

**24 Term of Contract and Option to Renew:**


24.1 The initial term of this contract shall be for one (1) initial year with four (4) 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.

24.2 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.

24.3 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.

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**25 Warranty of Services:** The Contractor warrants that all services provided under this contract will conform to the requirements stated herein. AHCCCS' acceptance of services provided by the Contractor shall not relieve the Contractor from its obligations under this warranty. In addition to its other remedies, the Procurement officer may, at the Contractor's expense, require prompt correction of any services failing to meet the Contractor's warranty herein. Services corrected by the Contractor shall be subject to all of the provisions of this contract in the manner and to the same extent as the services originally furnished.

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**INDEMNIFICATION AND INSURANCE TERMS** – Professional Service Contracts

a. **INDEMNIFICATION CLAUSE:**

Contractor shall indemnify, defend, save and hold harmless the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees (hereinafter referred to as “Indemnatee”) from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys’ fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as “Claims”) for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of or recovered under the Workers’ Compensation Law or arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnatee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnatee, be indemnified by Contractor from and against any and all claims. It is agreed that Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the State of Arizona, its officers, officials, agents and employees for losses arising from the work performed by the Contractor for the State of Arizona.


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

**2.0 INSURANCE REQUIREMENTS:**

Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract, are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.

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 might arise out of the performance of the work under this contract by the Contractor, its agents, representatives, employees or subcontractors, and Contractor is free to purchase additional insurance.

2.1 **MINIMUM SCOPE AND LIMITS OF INSURANCE:** Contractor shall provide coverage with limits of liability not less than those stated below.

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**A. Commercial General Liability – Occurrence Form**

Policy shall include bodily injury, property damage, personal injury 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
- Blanket Contractual Liability – Written and Oral \$ 1,000,000
- Fire Legal Liability \$ 50,000
- Each Occurrence \$ 1,000,000

- a. The policy shall be endorsed to include the following additional insured language:  
*“The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named 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 against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

**B. Business Automobile Liability**

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


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

- a. The policy shall be endorsed to include the following additional insured language:  
*“The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor, involving automobiles owned, leased, hired or borrowed by the Contractor”.*
- b. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

**C. Worker's Compensation and Employers' Liability**

- Workers' Compensation Statutory
- Employers' Liability
  - Each Accident \$ 500,000
  - Disease – Each Employee \$ 500,000
  - Disease – Policy Limit \$ 1,000,000



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- a. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its 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: Separately, EACH contractor or subcontractor exempt under A.R.S. 23-901, AND when such contractor or subcontractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.

**D. Professional Liability (Errors and Omissions Liability)**

- Each Claim \$ 1,000,000
- Annual Aggregate \$ 2,000,000

- a. In the event that the professional 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 that 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.
- b. The policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Work of this contract.

- 3.0 **ADDITIONAL INSURANCE REQUIREMENTS:** The policies shall include, or be endorsed to include, the following provisions:
1. The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees wherever additional insured status is required. Such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Contract.
  2. The Contractor's insurance coverage shall be primary insurance with respect to all other available sources.
  3. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.
- 4.0 **NOTICE OF CANCELLATION:** With the exception of (10) day notice of cancellation for non-payment of premium, any changes material to compliance with this contract in the insurance policies above shall require (30) days written notice to the State of Arizona. Such notice shall be sent directly to AHCCCS and shall be sent by certified mail, return receipt requested.
- 5.0 **ACCEPTABILITY OF INSURERS:** Insurance is to be placed with duly licensed or approved non-admitted insurers in the state of Arizona with an "A.M. Best" rating of not less than A- VII. The State of Arizona

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in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.


**6.0 VERIFICATION OF COVERAGE:**

- 6.1 Contractor shall furnish the State of Arizona with certificates of insurance (ACORD form or equivalent approved by the State of Arizona) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.
- 6.2 All certificates and endorsements are to be received and approved by the State of Arizona before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.
- 6.3 All certificates required by this Contract shall be sent directly to the AHCCCS Procurement Officer. The AHCCCS contract number and project description shall be noted on the certificate of insurance. The State of Arizona and AHCCCS reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE STATE OF ARIZONA'S RISK MANAGEMENT DIVISION.**

7.0 **SUBCONTRACTORS:** Contractors' certificate(s) shall include all subcontractors as insureds under its policies **or** Contractor shall furnish to the State of Arizona/AHCCCS separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.

8.0 **APPROVAL:** Any modification or variation from the *insurance requirements* in this Contract shall be made by the AHCCCS in consultation with the ADOA. Such action will not require a formal Contract amendment, but may be made by administrative action.


9.0 **EXCEPTIONS:** In the event the Contractor or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of Self-Insurance. If the contractor or sub-contractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.

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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 this 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"). In the event of conflicting terms or conditions, this Addendum shall supersede the Contract.


1. Definitions. Capitalized terms not otherwise defined in the Contract shall have the meanings given to them in Title 45, Parts 160 and 164 of the CFR and are incorporated herein by reference.
2. Use and Disclosure of Protected Health Information. Business Associate shall use and/or disclose Protected Health Information ("PHI") only to the extent necessary to satisfy Business Associate's obligations under the Contract.
3. Prohibition on Unauthorized Use or Disclosure of PHI. Business Associate shall not use or disclose any PHI received from or on behalf of AHCCCS, except as permitted or required by the Contract, as required by law or as otherwise authorized in writing by AHCCCS. Business Associate shall comply with:
  - (a) Title 45, Part 164 of the CFR;
  - (b) State laws, rules and regulations applicable to PHI not preempted pursuant to Title 45, Part 160, Subpart B of the CFR or the Employee Retirement Income Security Act of 1974 ("ERISA") as amended; and
  - (c) AHCCCS's health information privacy and security policies and procedures.
4. Business Associate's Operations. Business Associate may use PHI it creates or receives for or from AHCCCS only to the extent necessary for Business Associate's proper management and administration or to carry out Business Associate's legal responsibilities. Business Associate may disclose such PHI as necessary for Business Associate's proper management and administration or to carry out Business Associate's legal responsibilities only if:
  - (a) The disclosure is required by law; or
  - (b) Business Associate obtains reasonable assurance, evidenced by written contract, from any person or organization to which Business Associate shall disclose such PHI that such person or organization shall:
    - (i) Hold such PHI in confidence and use or further disclose it only for the purpose for which Business Associate disclosed it to the person or organization or as required by law; and
    - (ii) Notify Business Associate (who shall in turn promptly notify AHCCCS) of any instance of which the person or organization becomes aware in which the confidentiality of such PHI was breached.

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5. Data Aggregation Services. Business Associate may use PHI to provide Data Aggregation Services related to AHCCCS's Health Care Operations.
6. PHI Safeguards. Business Associate shall develop, implement, maintain and use appropriate administrative, technical and physical safeguards to prevent the improper use or disclosure of any PHI received from or on behalf of AHCCCS.
7. Electronic Health Information Security and Integrity. Business Associate shall develop, implement, maintain and use appropriate administrative, technical and physical security measures in compliance with Section 1173(d) of the Social Security Act, Title 42, Section 1320d-2(d) of the United States Code and Title 45, Part 142 of the CFR to preserve the integrity and confidentiality of all electronically maintained or transmitted Health Information received from or on behalf of AHCCCS pertaining to an individual. Business Associate shall document and keep these security measures current.
8. Protection of Exchanged Information in Electronic Transactions. If Business Associate conducts any Standard Transaction for or on behalf of AHCCCS, Business Associate shall comply, and shall require any subcontractor or agent conducting such Standard Transaction to comply, with each applicable requirement of Title 45, Part 162 of the CFR. Business Associate shall not enter into or permit its subcontractors or agents to enter into any Trading Partner Contract in connection with the conduct of Standard Transactions for or on behalf of AHCCCS that:
  - (a) changes the definition, Health Information condition or use of a Health Information element or segment in a Standard;
  - (b) adds any Health Information elements or segments to the maximum defined Health Information set;
  - (c) uses any code or Health Information elements that are either marked "not used" in the Standard's Implementation Specification or are not in the Standard's Implementation Specification(s); or
  - (d) changes the meaning or intent of the Standard's Implementation Specification(s).
9. Subcontractors and Agents. Business Associate shall require each of its subcontractors or agents to whom Business Associate may provide PHI received from, or created or received by Business Associate on behalf of AHCCCS to agree to written contractual provisions that impose at least the same obligations to protect such PHI as are imposed on Business Associate by the Contract.
10. Access to PHI. Business Associate shall provide access, at the request of AHCCCS, to PHI in a Designated Record Set, to AHCCCS or, as directed by AHCCCS, to an individual to meet the requirements under Title 45, Part 164, Subpart E, Section 164.524 of the CFR and applicable state law. Business Associate shall provide access in the time and manner set forth in AHCCCS's health information privacy and security policies and procedures.

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11. Amending PHI. Business Associate shall make any amendment(s) to PHI in a Designated Record Set that AHCCCS directs or agrees to pursuant to Title 45, Part 164, Subpart E, Section 164.526 of the CFR at the request of AHCCCS or an Individual, and in the time and manner set forth in AHCCCS's health information privacy and security policies and procedures.
  
12. Accounting of Disclosures of PHI.
  - (a) Business Associate shall document such disclosures of PHI and information related to such disclosures as would be required for AHCCCS to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with Title 45, Part 164, Subpart E, Section 164.528 of the CFR.
  
  - (b) Business Associate agrees to provide AHCCCS or an individual, in the time and manner set forth in AHCCCS's health information privacy and security policies and procedures, information collected in accordance with Section 11(a) above, to permit AHCCCS to respond to a request by an individual for an accounting of disclosures of PHI in accordance with Title 45, Part 164, Subpart E, Section 164.528 of the CFR.
  
13. Access to Books and Records. Business Associate shall make its internal practices, books and records relating to the use and disclosure of PHI received from or on behalf of AHCCCS available to AHCCCS and to DHHS or its designee for the purpose of determining AHCCCS's compliance with the Privacy Rule.
  
14. Reporting. Business Associate shall report to AHCCCS any use or disclosure of PHI not authorized by the Contract, by law, or in writing by AHCCCS. Business Associate shall make the report to AHCCCS's Privacy Official not less than 24 hours after Business Associate learns of such unauthorized use or disclosure. Business Associate's report shall at least:
  - (a) Identify the nature of the unauthorized use or disclosure;
  - (b) Identify the PHI used or disclosed;
  - (c) Identify who made the unauthorized use or received the unauthorized disclosure;
  - (d) Identify what Business Associate has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure;
  - (e) Identify what corrective action Business Associate has taken or shall take to prevent future similar unauthorized use or disclosure; and
  - (f) Provide such other information, including a written report, as reasonably requested by AHCCCS's Privacy Official.
  
15. 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.

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16. Termination for Cause. Upon AHCCCS's knowledge of a material breach by Business Associate of the terms of this Addendum, AHCCCS shall:
- (a) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate if Business Associate does not cure the breach or end the violation within the time specified by AHCCCS.
  - (b) Immediately terminate the Contract if Business Associate has breached a material term of the Contract and cure is not possible.
  - (c) If neither termination nor cure is feasible, AHCCCS shall report the violation to DHHS.
17. Return or Destruction of Health Information.
- (a) Except as provided in Section 17(b) below, upon termination, cancellation, expiration or other conclusion of the Contract, Business Associate shall return to AHCCCS or destroy all PHI received from AHCCCS, or created or received by Business Associate on behalf of AHCCCS. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.
  - (b) In the event that Business Associate determines that returning or destroying the PHI is not feasible, Business Associate shall provide to AHCCCS notification of the conditions that make return or destruction not feasible. Upon verification by AHCCCS that the return or destruction of PHI is not feasible, Business Associate shall extend the protections of the Contract to such PHI and limit further uses and disclosure of PHI to those purposes that make the return or destruction not feasible, for so long as Business Associate maintains such PHI.
18. Automatic Amendment. Upon the effective date of any amendment to the regulations promulgated by HHS with respect to PHI, the Contract shall automatically amend such that the obligations imposed on Business Associate as a Business Associate remain in compliance with such regulations.

	<b>Exhibit A: Compensation Table</b>		<b>AHCCCS</b>
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**PROPOSED RATES**

**CONTRACT PRICING – TPL Services:**

First Party Liability and Their Party Liability Recovery Programs and Commercial Insurance Coverage Verification / Data Match Services described in paragraph 5 and 6 of the Scope of Work	Percentage Fee
Recovery, Verification and Data Match Services	
Optional Add On Services	

**CONTRACT PRICING – Fee for Service RAC Services:**


Medicaid Recovery Audit Contractor (RAC) Services as described in paragraph 7 of the Scope of Work	Percentage Fee
RAC Services - Overpayments	
RAC Services - Underpayments	

	<b>Exhibit B: Methodology Questionnaire</b>		<b>AHCCCS</b>
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*In addition to written narrative, the Offeror shall complete the following methodology questionnaire as it relates ONLY to RAC:*


1. Describe your specific experience regarding RAC services in both the Medicaid and Medicare arenas.
2. Provide your findings / results for both overpayments and underpayments. Provide the amount and % of the total that equated to the both over and underpayments.
3. Describe the major trends seen regarding overpayments. What type of educational interventions were used to correct the findings?
4. Describe the tools and technologies utilized specific to RAC.
5. Provide pertinent policies and procedures addressing RAC.
6. Describe your protocol for notification and collection of overpayments and your interface with the Medicaid Agency.



	<b>Exhibit C: Firm's References</b>		<b>AHCCCS</b>
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References should be verifiable and should be able to comment on the firm's related experience. The Offeror should submit a minimum of three (3) similar size and scope professional references (outside of AHCCCS) for organizations your company has provided services. Each reference should provide at least the following information:

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

	<b>Exhibit D: Offeror's Checklist</b>		<b>AHCCCS</b>
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**Note to Prospective Offerors:** This Exhibit has been added to this 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. **Place a check mark to the left and provide the page number where this item is located within your proposal, in the right hand column. All items must be included.**

Require ment #	Description	OFFER TO LABEL AS:	Offeror's Page #
1	Offeror's checklist completed (i.e., <u>your page numbers</u> entered in the right-hand column of this table.)	This Page	
2	Copies of proposal submitted as one (1) marked "Original" and three (3) copies plus one (1) CD	NA	
3	Offer and Acceptance page completed and signed	Offer and Acceptance	
4	Signed Cover Sheets of Solicitation Amendments, if any	Amendments	
5	Method of Approach Narrative	Attachment 1	
6	Methodology Questionnaire (Exhibit B)	Attachment 2	
7	Compensation Table (Exhibit A)	Attachment 3	
8	Detailed narrative summarizing the firm's experience	Attachment 4	
9	Minimum of three (3) references for the firm (Exhibit C)	Attachment 5	
10	Statement of Intent to provide Certificate of Insurance	Attachment 6	
11	Additional Information (if any)	Attachment 7	

	<b>End of Solicitation</b>		<b>AHCCCS</b> Arizona Health Care Cost Containment System 701 East Jefferson, MD 5700  Phoenix, Arizona 85034
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	<b>BLANK PAGE</b>	OF 67	

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