

ARIZONA CORPORATION COMMISSION

UTILITIES DIVISION

REQUEST FOR PROPOSAL

IN THE MATTER OF ARIZONA CORPORATION COMMISSION'S  
INVESTIGATION OF RESOURCE PLANNING AND PROCUREMENT IN 2013 AND 2014  
DOCKET NO. E-00000A-13-0070

“2012 INTEGRATED RESOURCE PLAN ASSESSMENT”

PROPOSALS TO BE CONSIDERED MUST BE RECEIVED  
ON OR BEFORE

3:00 pm MST, Friday, March 28, 2014

ISSUE DATE: February 3, 2014

## **1. INTRODUCTION**

You are invited to submit a proposal in accordance with the specifications contained in this Request for Proposal (“RFP”). Proposals must address all work elements in Section 3 of the RFP. Offerors must submit an original and seven (7) copies of their proposals on or before 3:00 p.m. March 28, 2014.

## **2. BACKGROUND**

The Resource Planning and Procurement Rules (“IRP Rules”) were adopted by the Arizona Corporation Commission (“ACC” or “Commission”) on February 3, 1989, and amended by final rulemaking, effective December 20, 2010. The IRP Rules are found in the Arizona Administrative Code (“AAC”) at Title 14, Chapter 2, Article 7 “Resource Planning and Procurement”, et seq. The AAC is available on the Commission’s Home website found at [www.azcc.gov](http://www.azcc.gov) under “Laws and Rules Governing the Commission”.

The IRP Rules require that Integrated Resource Plans (“IRP” or “IRPs”) be prepared on a biennial basis by all “load-serving entities”. The IRP Rules define a “load-serving entity” as “...a public service corporation that provides electricity generation service and operates or owns, in whole or in part, a generating facility or facilities with a capacity of at least 50 megawatts combined.” Based on this definition, the Commission anticipates receiving IRPs from four load-serving entities: Arizona Public Service Company, Tucson Electric Power Company, UNS Electric, and Arizona Electric Power Cooperative.<sup>1</sup>

### **2.1 Additional Information**

Meetings with Commission Staff will be held at 1200 West Washington Street, Phoenix, AZ 85007.

## **3. STATEMENT OF WORK**

The Commission’s statewide Assessment of Integrated Resource Plans is to commence upon receipt of the individual IRPs submitted by the load serving entities, on or before April 1,

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<sup>1</sup> Arizona Electric Power Cooperative (“AEPSCO”) is unique among Load Serving Entities (“LSE”) in Arizona in that all its energy sales are at the wholesale level and it serves no retail load. The Commission acknowledged AEPSCO’s unique status by ordering specific IRP data submittal requirements for AEPSCO’s future IRP filings in Decision No. 73884 (May 8, 2013). A further filing requirement for all Arizona LSEs were also included in this Decision.

2014. Commission Staff will manage the project and direct the activities of the selected Contractor(s)'s. Staff is obligated to file the 2014 Assessment of Integrated Resource Plans ("Staff Report") on or before October 1, 2014.

The selected Contractor(s) will assume a lead role in analyzing the individual IRPs compliance with the Load-Serving Entity Reporting Requirements contained in R14-2-703, and the eleven factors itemized in R14-2-704, and preparing a statewide review and assessment of the IRPs. This work scope requires the Contractor(s) to be knowledgeable in all aspects of the IRP process including demand forecasting, supply and demand-side resource options, transmission and distribution operations, and various risk analysis techniques including scenario studies and Monte Carlo methods. In addition, the selected Contractor(s) will need a keen understanding of IRP "best practices" as implemented in the United States, and especially in the Southwest. The selected Contractor(s) will also need to be familiar with Arizona's Renewable Energy Standard Tariff ("REST") Rules and the Electric Energy Efficiency Standards.

The selected Contractor(s) will conduct a minimum of two Commission workshops regarding this docket and is expected to provide an evaluation and documentation of all workshop material contributed by other parties. This evaluation may take the form of a supplement to the Staff Report filed in this Docket. The Contractor shall prepare workshop agendas and author notices and participant invitations for the workshops. Commission Staff envisions the first workshop meeting will be held shortly after the release of the selected Contractor(s)'s initial draft of the Staff Report, prior to August 29, 2014. The second workshop meeting would be held soon thereafter as additional comments are received, but prior to the Open Meeting at which the Commission will consider the individual IRPs.

The selected Contractor(s) is to develop its work plan, schedule and work products in a collaborative manner with Commission Staff. The scope of this assessment includes a review of each of the individual IRPs to be submitted by the load-serving entities for compliance with the Load-Serving Entity Reporting Requirements contained in R14-2-703 and the eleven factors itemized in R14-2-704.

In addition to analyzing each individual IRP for compliance with the above listed factors, the selected Contractor(s) should prepare an analysis of how the individual IRPs fit together on a statewide basis.

The assessment process should be approximately 75 to 120 days in duration from the date of awarding a contract. Staff anticipates that the contract will be awarded in mid-April 2014.

### **3.1 MAJOR WORK ELEMENTS.**

The major work elements will include, but not be limited to, the following:

- A. Review each of the individual IRPs to be submitted by the load-serving entities for compliance with the Load-Serving Entity Reporting Requirements contained in R14-2-703.
- B. Review each of the individual IRPs to be submitted by the load-serving entities for compliance with the eleven factors itemized in R14-2-704, and listed as follows:
  - 1. The total cost of electric energy services;
  - 2. The degree to which the factors that affect demand, including demand management, have been taken into account;
  - 3. The degree to which supply alternatives, such as self-generation, have been taken into account;
  - 4. Uncertainty in demand and supply analyses, forecasts, and plans, and whether plans are sufficiently flexible to enable the load-serving entity to respond to unforeseen changes in supply and demand factors;
  - 5. The reliability of power supplies, including fuel diversity and non-cost considerations;
  - 6. The reliability of the transmission grid (the selected Contractor(s) will be provided a copy of the Commission's *Seventh Biennial Transmission Assessment 2012-2021 Staff Report*, to be used as the basis of Contractor's transmission analysis);
  - 7. The environmental impacts of resource choices and alternatives;
  - 8. The degree to which the load-serving entity considered all relevant resources, risks, and uncertainties;
  - 9. The degree to which the load-serving entity's plan for future resources is in the best interest of its customers;
  - 10. The best combination of expected costs and associated risks for the load-serving entity and its customers; and
  - 11. The degree to which the load-serving entity's resource plan allows for coordinated efforts with other load-serving entities.

- C. In addition to analyzing each individual IRP for compliance with the above listed factors, the selected Contractor(s) shall prepare an analysis of how the individual IRPs fit together on a statewide basis. The intent of this statewide analysis is to determine how efficiently the individual IRPs complement one another to provide a reasonable balance of electric service costs and risks on a statewide basis.
- D. Prepare and submit all Staff data requests of other parties.
- E. Prepare and submit all data responses requested of Staff by other parties.
- F. Organize and facilitate two Commission-sponsored workshops relative to this IRP Assessment and support Staff involvement therein. The first workshop will address industry and public comments on the draft Staff Report for this IRP Assessment. The second workshop would allow the electric industry and the public to give additional comments on the IRP Assessment. The Contractor shall prepare workshop agendas and author notices and participant invitations for the workshops.
- G. Submit a summary report to Staff of workshop findings (may be included in the selected Contractor's IRP Assessment Staff Report).
- H. Author the Staff Report and recommendations regarding whether the 2012 IRPs submitted by the load-serving entities are reasonable and in the public interest on an individual and statewide basis. In addition, the selected Contractor shall collaborate with Staff on the final draft of these documents.
- I. Recommend procedural improvements for future Integrated Resource Plan Assessments.
- J. Appear, testify, comment and participate as appropriate at meetings, hearings and Commission Open Meetings on behalf of Staff.
- K. Provide technical support to Staff involvement in meetings, hearings and Commission Open Meetings.

### **3.2 WORK PRODUCTS**

As evidence of completion of the major work elements, the selected Contractor(s) must provide the following work products:

1. Electronic copies of the draft Staff Report, draft Memorandum from the Director of Utilities Division to Docket Control, draft Recommended Opinion and Order, the final Staff Report, final Memorandum from the Director to Docket Control, and final proposed Recommended Opinion and Order.

2. Oral testimony or comment and technical support on Staff's behalf at meetings, hearings, and Commission Open Meetings for this docket.
3. One (1) complete set of workpapers, indexed in an orderly form, supporting the development of all findings of facts and recommendations by the selected Contractor(s) and summarizing the work plan, schedule, and procedures used in analyzing and evaluating all assembled evidentiary material. Workpapers will include computer discs, electronic files, printouts and any other medium by which data and narratives are obtained and retained.
4. Electronic copies of all data requests and responses to data requests.

### **3.3 ESTIMATED COMPLETION DATES**

The workshop dates and Commission Open Meeting dates have not yet been established. For planning purposes, the Offeror should assume that a contract will be awarded by May 2, 2014. The assessment process is expected to be approximately 75 to 120 days in duration from the date of awarding the contract. The final Staff Report must be docketed no later than Monday, October 1, 2014. Preliminary drafts of all written work products must be submitted to Staff **at least** two (2) weeks prior to the due date for delivery of all work products in its final form.

The expected due dates for delivery of work products may change depending on dates established in any forthcoming Procedural Order(s) or Commission established meeting dates. Duration of the contract will run until this proceeding before the Commission has been completed.

### **3.4 PROGRESS REPORTS**

Throughout all phases of work, the selected Contractor(s) will be required to submit, on a monthly basis, two (2) copies of a work status report to the Director of the Utilities Division, or the Director's designee, who will assess the report and notify the selected Contractor(s) of any significant problems and changes. The report should contain the following information:

1. Comparison of the actual or planned progress of the selected Contractor(s) during the previous month.
2. Identification of actual or potential problems in completing the work with an assessment of their probable impacts and recommended solutions to the problems.

No invoices will be accepted unless these required progress reports have been submitted.

#### **4. CONTRACT MANAGEMENT**

The Director of the Utilities Division, or the Director's designee, is responsible for the overall management of this project. Among other things, the Director, or the Director's designee, will be responsible for:

1. Overseeing the project operation as it relates to policy questions.
2. Identifying any changes in the end product the Director or Director's designee deem appropriate.
3. Assessing the progress and problems of the project.
4. Reviewing status reports and approving Contractor's proposed plans for action.
5. Determining final compliance with terms of the contract.

#### **5. INSTRUCTIONS FOR PREPARING PROPOSALS**

##### **5.1 GENERAL INSTRUCTIONS**

Offerors should prepare a single proposal package containing two separate sections: a Technical Section and a Cost Section. An original and seven (7) copies of the proposal are to be mailed or delivered to:

Steven M. Olea  
Director of Utilities Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

The cover sheet for the proposal should indicate clearly the consulting firm's name, telephone number and address; primary contact name and telephone number <sup>2</sup>; and the coinciding RFP

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<sup>2</sup> The listed telephone number and address location will be considered the primary means of contact for any and all members of the Prime Contractor's team for billing purposes. Any costs associated with the use of multiple office locations on the part of the Prime Contractor and the Prime Contractor's team (including sub-contractors) in conducting this project shall be assumed by the (i.e. the sole responsibility) Prime Contractor, these costs include but are not limited to the actual costs of using 1) facsimiles, 2)

name, i.e., IN THE MATTER OF ARIZONA CORPORATION COMMISSION'S  
INVESTIGATION OF RESOURCE PLANNING AND PROCUREMENT IN 2013 AND 2014.

DOCKET NO. E-00000A-13-0070

“2014 INTEGRATED RESOURCE PLAN ASSESSMENT”

**To be considered for the award, all proposals must be received no later than 3:00 p.m. Mountain Standard Time, March 28, 2014.**

Proposals should be prepared simply and economically, providing a straightforward, concise description of Contractor(s)'s capabilities to satisfy the requirements of the RFP. Emphasis should be on completeness and clarity of content. Proposals will be opened publicly at 3:00 p.m. on April 2, 2014, at the Arizona Corporation Commission Offices, Room 202, 1200 West Washington, Phoenix, Arizona 85007. Previously submitted offers may not be withdrawn after that time.

After contract award, the proposals shall be open for public inspection except to the extent that the withholding of information is permitted or required by law. Additionally, work performed under contract will become a matter of public record unless determined confidential. Within 10 days after a contract is awarded all proposals are open to public inspection unless determined to be confidential. See Arizona Administrative Code Rule R2-7-C317. If you are asserting that your proposal contains confidential information, you must comply with the State's procurement rules concerning claims of confidentiality. Generally, information in the proposal, including costing information, is not considered confidential under the procurement rules. If you are asserting that any part of your proposal and costing information is confidential and not open to public inspection even after the contract is awarded, you must comply with Rule R2-7-103. Rule R2-7-103 requires that you designate the specific confidential trade secrets and/or confidential proprietary information that you claim are confidential and submit a statement in support of your assertion. Your claim of confidential trade secrets and/or confidential proprietary information is then reviewed and considered under the process set out in Rule R2-7-103. A complete set of Arizona's procurement rules can be viewed on the Secretary of State's web site.

The selected Contractor(s) will be required to retain all records relating to this contract for five years after the contract's completion.

## **5.2 TECHNICAL SECTION FORMAT**

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electronic or parcel mailings, or 3) telephonic equipment (such as long distance calling or conference calling lines) as forms of communications among the Prime Contractor's team members and /or offices.

The Technical Section should be submitted as a separate part of the total response to this RFP. The proposal format should be the same as the format below and all information requested must be presented.

PART I. Business Organization. State the full name and address of your organization and, if applicable, the branch office or other subordinate element that will perform or assist in performing the work. For any subcontractors included in your proposal, indicate whether they operate as an individual, partnership or corporation; if a corporation, include the state in which they are incorporated and state whether they are licensed to operate in the state of Arizona.

PART II. Project Summary. Present your understanding of the project requirements, its goals and objectives, and a summary of the problems which must be addressed and solved to successfully fulfill the requirements. Include a brief narrative description of your proposed effort and of the products that will be delivered.

PART III. Work Plan. Describe your plan for accomplishing the work. Indicate the number of person-hours you have allocated to each task. Include a time-related display showing each task, event and decision point in your plan.

PART IV. Management Summary. Provide an overview explanation and chart showing project leadership and supervision, reporting responsibilities, and Contractor (and Subcontractor, if appropriate) and team interfaces. Identify individuals by name and title. Indicate the procedures you will use for scheduling and controlling the work to be performed. Indicate the person, or persons, responsible for each phase of the work, and indicate the person with ultimate responsibility for completion of the project.

PART V. Prior Experience. Provide a brief description of recent assignments, which would qualify your firm to undertake the proposed work. Include the project title and completion date related to each assignment. Also include the names of each assignment's project manager and other key participants. Provide a specific reference including name, title, and organization, address and telephone number for each assignment given.

PART VI. Personnel. Include the number of executive and professional personnel by skill and qualification. Show where these personnel will be stationed during the time they are engaged in the work performed under this contract. Show the inclusive periods, total number of hours, and percent of time that each individual will devote to this project. Identify each individual by name and title. Provide resumes of all executive or professional personnel. Indicate by name and title who prepared the proposal and how the individual will participate in the project. Specify personnel who will testify in the case and identify their previous experience in providing testimony.

PART VII. Relationships with Arizona Utilities. List all Arizona public utilities or public utility affiliates for which your firm, or any members of your professional staff proposed for the project, has worked in a professional capacity during the past three years. For each firm listed, briefly describe the nature of the professional relationship and the impact of this relationship upon your firm's ability to serve the Commission in an independent capacity. Describe any other legal, professional, or financial relationships between Arizona public utilities and any key members.

PART VIII. Authorized Negotiators. Include the name, address and telephone numbers of person(s) in your organization authorized to negotiate the proposed contract.

### **5.3 COST SECTION FORMAT**

The Cost Section should be submitted as a separate part of the total response to this RFP. The format should be the same as the format below and all information requested must be present.

The information requested in this section is required to support the reasonableness of your quotation. Your established method of costing may be used and described.

1. Labor Costs – Itemize so as to show the following for each category of personnel with a different rate per hour:
  - a. Category: e.g., Project Manager, Senior Analyst, etc.;
  - b. Project work station location
  - c. Estimated hours;
  - d. Rate per hour; and
  - e. Total cost for each category and for all direct labor proposed.
2. Cost of Supplies – Itemize these costs.
3. Other Direct Costs – Itemize these costs.
4. Transportation and Subsistence Costs – Show travel cost and per diem separately.
5. Total Price Bid Project – By separate explanation, segregate the labor costs between direct labor costs, indirect or overhead costs, and fixed fee or profit.

### **5.4 PROPOSAL EVALUATION CRITERIA**

The contract will be awarded to the Offeror whose proposal is determined to be most advantageous to the state based on the factors set forth in this Request for Proposal. The

successful Offeror will be chosen based on several factors and not on cost alone. In addition, the Commission reserves the right to award less than the entire work project described in Section 3 to any one Contractor and to direct the retention of a subcontractor or subcontractors approved by the Commission. Offerors who submit a proposal may be required to make an oral presentation of their proposals to the Commission Staff. These presentations may be conducted with responsible Offerors who submit proposals that are reasonably susceptible to being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to, the requirements of this RFP. In the course of these presentations, there shall be no disclosure of any information derived from proposals submitted by competing Offerors. The Commission Staff also reserves the right to conduct a Best and Final Offer process.

## **5.5 EVALUATION FACTORS**

- 5.5.1 Demonstrated Understanding of the Project.** A determination will be made of the bidder's clear understanding of the project. Specifically, points will be accrued for the bidder's demonstrated understanding of the public utility regulatory issues on a national scope; understanding of the treatment of issues under the state of Arizona's regulatory law; reference to case-specific issues as identified by bidder and understanding of the impact of these issues upon the consumers of Arizona.
- 5.5.2 Technical Credibility.** An evaluation will be made of the soundness of the proposal as it relates to the technical details of the project in order to attain the requirements described in the RFP, including a proposed work plan and management plan. Attention will be given to the distribution of person-hours by task for each contractor team member; the percentage of each team member's time devoted to this project; the chart highlighting relevant deadlines by task; and the clear identification of proposed witnesses and individuals assigned to participate in the hearing.
- 5.5.3 Qualifications of the Firm.** The proposal will be reviewed with careful attention to the bidder's prior work experience in the areas described in Section 3.
- 5.5.4 Qualifications of Contractor Team.** The proposal will also be reviewed with regard to the commitment of specific personnel to the project and their experience in the areas included in the Statement of Work as described in Section 3 of the RFP.
- 5.5.5 Costs.** An evaluation of the reasonableness of the proposed cost in light of the project scope will be made.

## 6. TERMS AND CONDITIONS OF THE AWARD

The Contract referred to in this and subsequent sections is the contract or agreement between the State and the successful Offeror. The Commission contemplates that a fixed price reimbursement type contract will be awarded. Reimbursement will be made for authorized travel and subsistence expenses only upon submission and approval of receipts and required back-up information as indicated in this RFP and in the procedures set forth by the Business Office of the Commission<sup>3</sup>.

Payments will be made upon submission of an approved original invoice. Each invoice will clearly show: the Contractor's name and address; amount of the bill; the Commission contract billing number and date; the hours and rates per individual designating dates, time and hours worked, and distinguishing charged hours from non-charged hours; and the percentage of work completed. Invoices which carry requests for reimbursement of travel and subsistence must be exact and must be accompanied by all required backup information with one (1) copy of appropriate legible receipts for each reimbursement. All invoices will be reviewed and must be approved by the State prior to payment.

Payments for invoices covering work on contract deliverables may be withheld pending delivery and acceptance of such deliverable items. The Commission reserves the right to withhold a percentage not greater than 15 percent of each payment until all the work defined in the contract is completed to the satisfaction of the Commission. No invoices will be accepted unless the required detailed progress reports have been submitted.

### 6.1 REGULATIONS FOR THE REIMBURSEMENT OF EXPENSES

In order for reimbursement to occur, regulations must be adhered to, in detail, as described in this RFP and as set forth by the Business Office of the Commission.

**6.1.1 General Regulations.** All receipts must be legible and accurate to the penny in order for reimbursement to occur. If an invoice is returned for a correction, all copies must be

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<sup>3</sup> The listed telephone number and address on the cover sheet, as described in General Instruction, Section 5.1, will be considered the primary means of contact for any and all members of the Prime Contractor's team for billing purposes. Any costs associated with the use of multiple office locations on the part of the Prime Contractor and the Prime Contractor's team (including sub-contractors) in conducting this project shall be assumed by the (i.e. the sole responsibility) Prime Contractor, these costs include but are not limited to the actual costs of using 1) facsimiles, 2) electronic or parcel mailings, or 3) telephonic equipment (such as long distance calling or conference calling lines) as forms of communications among the Prime Contractor's team members and /or offices.

revised and resubmitted. Invoices must be submitted on a timely basis. The Commission should not receive requests for reimbursement several months after the expenses were accrued.

**6.1.2 Prohibitions.** Credit card invoices without receipts, travel agency receipts and/or invoices are **not** acceptable. No reimbursement shall be made for lodging or meals within the county of the Contractor(s)' headquarters, or within thirty (30) miles of the Contractor(s)' residence. No reimbursement requests for person-hour charges and expenses should be submitted simultaneously as each should be invoiced separately.

**6.1.3 Expense Reimbursement.** Expenses should be recorded daily as they occur, with identification numbers assigned to each expense charge and corresponding receipt. All receipts must be dated. Receipts should be attached in order of appearance and assigned reference numbers to each receipt for easy identification. Please include adding machine tapes along with expense invoices to clarify totals charged.

**6.1.4 Transportation Expense, Airfare.** The State will only reimburse for Coach Passenger fare. If you are forced to travel First Class in order to meet a Staff or Commission imposed emergency deadline, you must include an explanation in order to receive payment. The actual airplane ticket (or a copy) must be attached. The Commission will not accept travel agency invoices or credit card receipts as proof for payment. Travel times must be clearly indicated.

**6.1.5 Mileage.** Indicate origin, destination, any intermediate destination including corresponding mileage, as well as the purpose of the trip, and record the mileage in the appropriate space provided. This is the only expense for which reimbursement can occur without a receipt. Always record travel times. Mileage charge must be at precisely the current rate per mile, which will be designated in the contract; and will be based upon the most direct road routes available, from the departure point to the point of destination. Names of all employees traveling in the automobile must be clearly stated.

**6.1.6 Taxi Fare and Limousine Service.** Indicate origin and destination of trip and attach receipt from taxicab driver.

**6.1.7 Parking.** Record in the appropriate blank on the standardized expenses report form and attach receipt

**6.1.8 Car Rental.** You must include a legible receipt and explain the necessity for this expense.

**6.1.9 Miscellaneous.** Legible receipts must be submitted for any miscellaneous travel expenses such as tolls, bus rides, etc.

**6.1.10 Meals and Lodging.** You will need to identify individuals included in each receipt and record the dollar amount for each daily meal charged. Include meals eaten at your place of lodging in this section, even though the amount appears as part of the hotel receipt. Legible receipts must be included for any meal, and do remember that the State of Arizona's reimbursement policy does not allow reimbursement of expenses for entertainment or alcoholic beverages. As previously stated, the Commission cannot reimburse for expenses documented only by a credit card receipt.

If you accrue lodging expenses in any cities other than Phoenix, Arizona or neighboring communities, explain the purpose of the trip to that city. Attach a copy of the actual hotel bill to the invoice. The Commission will not reimburse for hotel accommodations documented by a credit card receipt.

**6.1.11 Telephone Charges.** The simplest method of documenting telephone charges is to attach a copy of your monthly bill from the telephone company and highlight those calls for which you wish to be reimbursed. Identify parties called for all telephone numbers other than State of Arizona exchanges (602, 480, 623, 520 and 928). Include in this reporting procedure, telephone calls which originated from your place of lodging, even though the amount appears as part of the hotel receipt.

**6.1.12 General Expenses, Shipping.** Itemize and attach appropriate receipts.

**6.1.13 Duplicating.** Indicate number of pages and rate per page (e.g., 1,000 copies @ 10 cents/page = \$100) on expense reporting form. Charge must not exceed 10 cents per copy. Identify the substance in the appropriate blank of the standardized expense reporting form (testimony, draft testimony, other, etc.).

**6.1.14 Materials and Supplies.** If the materials and supplies originate from your own stock and no receipt is available, you must state this on the Commission form and identify those materials and supplies for which you wish to be reimbursed. If a receipt is available, it should be attached to the invoice.

## **7. GENERAL CONDITIONS**

**7.1 Cancellation of Contract.** If, through any cause, the Contractor shall fail to fulfill, in a timely or efficient manner, his/her obligations under this Contract, the Commission shall thereupon have the right to terminate this Contract by giving written notice to the Contractor of such termination and specifying the effective date thereon. In the event of termination, all properties, finished or unfinished documents, data, studies, and reports purchased or prepared by the Contractor under this Contract shall, at the option of the Commission, become the property of the Commission and the Contractor shall be entitled to compensation for any unreimbursed

expenses necessarily incurred in satisfactory performance of the Contract. Notwithstanding the above, the Contractor shall not be relieved of liability to the Commission by virtue of any breach of the Contract by the Contractor, and the Commission may withhold any reimbursement to the Contractor for the purpose of the set off, until such time as the exact amount of damages due the Commission from the Contractor is agreed upon or otherwise determined.

**7.2 Changes.** The Commission may, from time-to-time, require changes in the services of the Contractor to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contractor's compensation which are mutually agreed upon by the Commission and the Contractor, must be incorporated in written amendments to this Contract.

**7.3 Conflict of Interest.** No officer, employee, or member of the Contractor's governing body, and no other public official of the governing body of the locality, or localities in which the project is situated or being carried out, who exercises any functions or responsibilities in the review and approval of the undertaking or carrying out of this project, shall participate in any decision relating to this Contract which affects the Contractor's personal interest, or have any personal or pecuniary interest, direct or indirect, in this Contract or the proceeds thereof.

Contractor agrees that he/she presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract. The Contractor further covenants that, in the performance of this Contract, Contractor shall not employ any person having any such interest.

The Commission reserves the right to establish the specific conflict of interest requirements which will govern any contract resulting from this RFP.

**7.4 Copyright Prohibited.** No reports, maps, any other documents or materials produced in whole (or in part) under, or as a result of, this Contract shall be the subject of an application for copyright by or on behalf of the Contractor.

**7.5 Contractor Conditions.** Contractor shall make prompt payment, as due, to all persons supplying to said Contractor labor or material for the performance of the work provided for in this agreement. Contractor shall pay all contributions, or amounts, due the Industrial Accident Fund from such Contractor and/or Subcontractor incurred in the performance of the Contract. Contractor shall not permit any lien, or claim, to be filed or prosecuted against the State on account of any labor or material furnished. Contractor is required to hold and maintain all licenses and permits required for the operation of the business conducted by the Contractor as applicable to the contract.

**7.6 Payment of Claims.** If the Contractor fails, neglects, or refuses to make prompt payment of any claim for labor services furnished to the Contractor or a Subcontractor by any person in connection with this agreement as such claim becomes due, the proper officer(s)

representing the Commission, or State of Arizona, may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due, or to become due, the Contractor by reason of this agreement.

The payment of a claim in the manner authorized in this section shall not relieve the Contractor of his/her legal obligations or duties associated with that unpaid claim.

**7.7 Contract Terms.** When a contract is awarded, the RFP will be incorporated into the contract, and the contract will include the following provisions:

First, the laws of the State of Arizona shall govern the construction and interpretation of this Agreement.

Second, all parties are hereby put on notice that this Agreement is subject to cancellation.

Third, Contractor and Commission recognize that, in actual economic practice, overcharges resulting from anti-trust violations are, in fact, borne by the Purchaser. Therefore, Contractor hereby assigns to Commission any and all claims for such overcharges.

Fourth, each payment obligation of the Commission created hereby is conditioned upon the availability of State or Federal funds which are appropriated, or allocated, for the payment of such obligation. If funds are not allocated and available for the continuance of the function performed by any equipment, material or service, the contract period for any machine, material or service directly, or indirectly, involved in the performance of that function, may be terminated by the Commission at the end of the period for which the funds are available. The Commission shall notify the Contractor at the earliest possible time which machine, material or service will, or may be, affected by a shortage of funds. No penalty shall accrue to the Commission in the event this provision is exercised, and the Commission shall not be obligated or liable for any future payments due or for any damages as a result of termination under this Section. This provision shall not be construed so as to permit the Commission to terminate this Agreement of any machine, material or service listed on any schedule hereinunder in order to acquire similar equipment or service from another Contractor.

Fifth, the Commission explicitly reserves the right to terminate the contract resulting from this RFP upon five (5) days notice to the Contractor in the event a determination is made that administration of the Arizona Universal Service Fund is no longer necessary.

Sixth, no right or interest in the contract may be assigned without the written permission of the Director of Utilities Division or the Director's designee.

Finally, the parties agree to resolve disputes arising out of this Agreement pursuant to Arizona law.

**7.8 Indemnification and Insurance.** Contractor agrees to defend, indemnify and save harmless the Arizona Corporation Commission and its divisions and all officers, agents and employees thereof (hereinafter “indemnities”), each severally and separately, against all liabilities, demands, claims, damages, losses, costs and expense of whatsoever kind or nature including, without limitation, any and all direct and indirect costs of defense made against, incurred or suffered by any such indemnities as a direct or indirect consequence of injury, sickness or disease including death to persons, injury to or destruction of property including without limitation the loss of use of property or any other cause of action whatsoever arising out of, or resulting from, or which would have not occurred or existed but for this Contract.

Contractor, performing as an independent contractor hereunder, shall be fully responsible for all tax obligations, Workmen’s Compensation insurance, and all other applicable insurance coverage, for itself and its employees, and the Commission shall have no responsibility or liability for any such taxes or insurance coverage.

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.

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

**1. 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. The 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.
2. **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  
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”.***
3. **Workers’ Compensation and Employers’ Liability**  
Workers' Compensation Statutory Employers' Liability  
Each Accident  
\$ 500,000  
Disease – Each Employee  
\$ 500,000  
Disease – Policy Limit  
\$1,000,000
- a. The 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.

4. **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.

B. **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.

C. **NOTICE OF CANCELLATION:** Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days prior written notice has been given to the State of Arizona. Such notice shall be sent directly to **(Arizona Corporation Commission, c/o Kimberly Battista, Administration Division Director, 1200 W. Washington Street, Phoenix, AZ 85007)** and shall be sent by certified mail, return receipt requested.

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

E. **VERIFICATION OF COVERAGE:** 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.

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.

All certificates required by this Contract shall be sent directly to (**Arizona Corporation Commission, c/o Yvonne Watkins, Administrative Services Officer III, 1200 W. Washington Street, Phoenix, AZ 85007**). The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. The State of Arizona reserves the right to require complete, 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 SECTION.**

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

G. **APPROVAL:** Any modification or variation from the insurance requirements in this Contract shall be made by the Department of Administration, Risk Management Section, whose decision shall be final. Such action will not require a formal Contract amendment, but may be made by administrative action.

H. **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.

## **6.5 FILING OF A PROTEST**

Any interested party may protest the award of a contract pursuant to the RFP. The protest shall include the following information:

1. The name, address, and telephone number of the protestor;
2. The signature of the protestor or its representative;
3. A detailed statement of the legal and factual grounds for the protest including copies of relevant documents; and
4. The form of relief requested

**END OF SOLICITATION**