State of Arizona

Department of Education

Request For Proposal Cover Page

Arizona Department of Education
Procurement Section/3rd Floor
1535 W. Jefferson Street, Bin 37
Phoenix, AZ 85007
Phone: (602) 364-2517
Fax: (602) 542-3099

Solicitation Number:	**RFP ED05-0099**
Solicitation Due Date / Time:	**July 21, 2005,** at 3:00 P.M. Mountain Standard Time
Submittal Location:	Arizona Department of Education Procurement Section/3rd Floor 1535 West Jefferson Street, Bin #37 Phoenix, Arizona 85007
Description of Procurement:	**The Arizona Department of Education (ADE) seeks to contract with consultant(s) to act as receiver of a school district when one is required pursuant to Laws of 2005, HB 2417, Chapter 274.**

A Pre-Offer Conference will not be held in conjunction with this procurement.

In accordance with A.R.S. § 41-2534, competitive sealed proposals for the materials or services specified will be received by the Arizona Department of Education's Contracts Management Unit at the above specified location until the time and date cited. Offers received by the correct time and date will be opened and the name of each Offeror will be publicly read.

Offers must be in the actual possession of the Arizona Department of Education's Contracts Management Unit on or prior to the time and date, and at the submittal location indicated above. ***Late offers will not be considered.***

Offers must be submitted in a sealed envelope or package with the Solicitation Number and the Offeror's name and address clearly indicated on the envelope or package. All offers must be completed in ink or typewritten. Additional instructions for preparing an offer are included in this Solicitation.

Persons with disabilities may request special accommodations such as interpreters, alternate formats, or assistance with physical accessibility. Requests for special accommodations must be made with 72 hours prior notice. Such requests are to be addressed to the Solicitation Contact Person or Procurement Officer.

OFFERORS ARE STRONGLY ENCOURAGED TO CAREFULLY READ THE ENTIRE SOLICITATION.

Diane L. Gray, CPPB
Procurement Officer

(602) 364-2517
Telephone Number

June 30, 2005
Date

OFFER AND AWARD

ARIZONA DEPARTMENT OF EDUCATION
Procurement Section
1535 West Jefferson Street, Bin #37
Phoenix, Arizona 85007

SOLICITATION NO. RFP NO. ED05-0099

OFFER

The Undersigned hereby offers and agrees to furnish the materials, service(s) or construction in compliance with all the terms, conditions, specifications and amendments in the solicitation.

Company Name

Name of Person Authorized to Sign Offer

Street Address

Title of Authorized Person

City State Zip Code

Signature of Authorized Person Date of Offer

Telephone Number: _____

Facsimile Number: _____

Offeror's Arizona Transaction (Sales) Privilege Tax License Number: _____

Offeror's Federal Employer Identification Number: _____

Acknowledgement of Amendment(s):
(Offeror acknowledges receipt of amendment(s) to the Solicitation for Offers and related documents numbered and dated

Amendment No.	Date	Amendment No.	Date
_____		_____	
_____		_____	
_____		_____	

ACCEPTANCE OF OFFER AND CONTRACT AWARD

(For State of Arizona Use Only)

Your Offer, dated _____, is hereby accepted as described in the Notice of Award. You are now bound to perform based upon the solicitation and your Offer, as accepted by the State.

This Contract shall henceforth be referred to as Contract Number **ED05-0099-**_____.

You are hereby cautioned not to commence any billable work or provide any material, service or construction under this contract until you receive an executed purchase order, contract release document, or written notice to proceed, if applicable.

State of Arizona

Awarded this _____ day of _____ 2005

_____
Douglas C. Peeples, MBA, CPPB, CPCM
Procurement Administrator

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ARIZONA DEPARTMENT OF EDUCATION
Contract Management Unit
1535 West Jefferson Street, Bin #37
Phoenix, Arizona 85007

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(Note: Sections 4 and 5 may not be physically located within any resultant contract, but will be incorporated therein by reference.)

6 Attachments (These standard documents must be completed and returned by the Offeror. Other documents may be *required.* Refer to Special Instructions to Offerors.)

- **6.1** Prices
- **6.2** Offeror's Questionnaire
- **6.3** Sole Proprietor Waiver
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- **7.1** Certificate of Insurance

SECTION 1
SCOPE OF WORK

ARIZONA DEPARTMENT OF EDUCATION
Procurement Section
1535 West Jefferson Street, Bin #37
Phoenix, Arizona 85007

SOLICITATION NO. RFP NO. ED05-0099

1. **Background**

Should the State Board of Education find that a School District is insolvent or has grossly mismanaged its finances, it must, under HB2417, Chapter 274, appoint a receiver for the School District.

Offerors must agree and be able to perform any or all of the duties of receiver as specified by the Legislature in HB 2417, Chapter 274.

2. **Qualifications**

Experience as an administrator (regardless of title) of public school district or in the financial operations of a public school is recommended.

Knowledge of the following is required:

a. Laws affecting public schools in Arizona, including, but not limited to, Title 15 of the Arizona Revised Statutes, the Arizona Administrative Code and the Uniform System of Financial Record.

b. Generally Accepted Accounting Principles.

3. **Contractor Responsibilities/Services**

The contractor must be able to perform any or all of the duties of receiver as specified by the Legislature in HB 2417, Chapter 274.

The contractor is responsible for coordinating with appropriate representative(s) of the Arizona Department of Education (ADE) in carrying out the requirements of this contract.

4. **Timeline** – On an "as needed, when needed" basis.

SECTION 2
SPECIAL TERMS AND CONDITIONS

ARIZONA DEPARTMENT OF EDUCATION
Procurement Section
1535 West Jefferson Street, Bin #37
Phoenix, Arizona 85007

SOLICITATION NO. RFP NO. ED05-0099

1. **Definition of Terms Used in these Special Terms and Conditions.** As used in these Special Terms and Conditions, the following terms, in addition to those terms defined in Section 3, Paragraph 1, have the following meaning:

   A. *"ADE"* means the Arizona Department of Education.

   B. *"Department"* means the Arizona Department of Education.

   C. *"Services"* means services performed, workmanship and material furnished or used in the performance of services.

2. **Changes.**

   A. The Procurement Officer may at any time, by written order, and without notice to the sureties, if any, make mutually acceptable changes within the general scope of this Contract in any one or more of the following:

      (1) Description of services to be performed;

      (2) Time of performance (i.e., hours of the day, days of the week, etc.); and

      (3) Place of performance of the services.

   B. If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under this Contract, whether or not changed by the order, the Procurement Officer shall make an equitable adjustment in the Contract price, the delivery schedule, or both, and shall modify the contract.

   C. The Contractor must assert its right to an adjustment under this provision within 30 days from the date of receipt of the written order. However, if the Procurement Officer decides that the facts justify it, the Procurement Officer may receive and act upon a proposal submitted before final payment of the Contract.

   D. If the Contractor's proposal includes the cost of property made obsolete or excess by the change, the Procurement Officer shall have the right to prescribe the manner of the disposition of the property.

   E. Failure to agree to any adjustment shall be a dispute under the Contract Claims provision of this Contract. However, nothing in this provision shall excuse the Contractor from proceeding with the Contract as changed.

3. **Indemnification.**

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 "Indemnitee") 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 Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, 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.

4. Insurance.

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.

• 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.

2. **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

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.

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 the person named in paragraph 17.c of this section 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 the person named in paragraph 17.c of this section. 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.

5. **Contract Term.** The term of this Contract shall commence on the date the Procurement Officer signs the Offer and Acceptance Form, signifying ADE's acceptance of the Offeror's proposal and will remain in effect through June 30, 2006, unless terminated, canceled, or extended as otherwise provided herein.

6. **Option to Extend the Term of the Contract.**

A. ADE may, at its sole option, extend the term of this Contract by written notice to the Contractor within sixty (60) calendar days of the Contract expiration date.

B. If ADE exercises this option, the extended Contract shall be considered to include this option provision as well as all other terms and conditions of the original contract, as modified.

C. The total duration of this Contract, including the exercise of any options under this provision, shall not exceed five (5) years.

7. **Pricing.** All pricing shall be firm, fixed and be inclusive of all labor, equipment, materials, products, freight (FOB Destination), consumable supplies, insurance, and all other costs incidental to the services provided.

8. **Employment of State Personnel.** The Contractor shall not employ any person or persons in the employ of the State of Arizona for any work required by the terms of this Contract, without prior written approval of the Procurement Officer.

9. **Warranty of Services.**

A. The Contractor warrants that all services provided hereunder will conform to the requirements of the Contract, including all descriptions, specifications and attachments made a part of this Contract. ADE's acceptance of services or goods provided by the Contractor shall not relieve the Contractor from its obligations under this warranty.

B. In addition to its other remedies, ADE 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 the provisions of this Contract in the manner and to the same extent as services originally furnished hereunder.

10. **Inclusive Offeror.** Offeror(s) are encouraged to make every effort to utilize subcontractors that are small, women-owned and/or minority owned business enterprises. This could include subcontracts for percentage of the services. Offerors who are committing a portion of their work to such subcontractors shall do so by identifying the type of service and work to be performed by providing detail concerning your organization's utilization of small, women-owned and/or minority business enterprises. Emphasis should be placed on specific areas that are subcontracted and percentage of contract utilization and how this effort will be administered and managed, including reporting requirements.

11. **Cooperation with Other Contractors and Subcontractors.** The Contractor shall fully cooperate with other ADE contractors, subcontractors and assigns and shall carefully plan and perform its own work to accommodate the work of other ADE contractors. The Contractor shall not intentionally commit or permit any act which will interfere with the performance of work by any other ADE contractors.

12. **Report Standards.** Reports or written materials prepared by the Contractor in response to the requirements of this Contract shall be thoroughly researched for accuracy of content, shall be grammatically correct and not contain spelling errors, shall be submitted in a format approved in advance by the Procurement Officer, and shall be submitted in draft form for advance review and comment by the Procurement Officer, if necessary or specified. The cost of correcting grammatical errors, correcting report data, or other revisions required to bring the report or written material into compliance with the Contract requirements shall be borne by the Contractor.

13. **Offshore Performance of Work Prohibited**
Due to security and identity protection concerns, direct services under this contract shall be performed within the borders of the United States. Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and may involve access to secure or sensitive data or personal client data or development or modification of software for the State shall be performed within the borders of the United States. Unless specifically stated otherwise in the specifications, this definition does not apply to indirect or "overhead" services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers. Offerors shall declare all anticipated offshore services in the proposal.

14. **Payments.**

A. The Contractor shall submit invoices in one (1) original and one (1) copy. Invoices shall include:

(1) Name and address of the Contractor.

(2) Invoice date.

(3) Contract number or other authorization for supplies delivered or services performed (including order number and contract line item number).

(4) Description, quantity, unit of measure, unit price, and extended price of supplies delivered or services performed.

(5) Shipping and payment terms (e.g., shipment number and date of shipment, prompt payment discount terms).

(6) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the Contract or in a proper notice of assignment).

(7) Name (where practicable), title, phone number, and mailing address of person to be notified in the event of a defective invoice.

(8) Any other information or documentation required by the Contract (such as evidence of shipment).

B. Submittal of an invoice constitutes Contractor's certification that services have been delivered as specified on the invoice in accordance with the Contract.

C. Submit invoices to the following address:

Accounting Section Bin #1
Arizona Department of Education
1535 West Jefferson Street
Phoenix, Arizona 85007

15. Address to which Contractor payment(s) should be mailed, if different than that listed on the Offer and Award Form.

_____
(Company Name)

_____
(Street Address)

_____
(City & State) (Zip Code)

16. Contract Administration

A. Contractor representative to contact for contract administration purposes:

_____
(Name and Title)

_____
(Street Address)

_____
(City & State) (Zip Code)

_____
(Telephone and fax Numbers)

_____
(E-Mail Address)

B. The ADE representative to contact for technical or programmatic matters concerning contract performance (NOTE: this person is not authorized to direct contractor performance or make changes in contract requirements.)

Ruth Solomon, Associate Superintendent of Education Policy
(Name and Title)

1535 W. Jefferson Street
(Street Address)

Phoenix, AZ 85007
(City & State) (Zip Code)

(602) 364-1541
(Telephone Number)

rsolomo@ade.az.gov

C. All contract administration matters will be managed by the Procurement Officer named below. All correspondence concerning this contract shall be directed to this individual.

Diane L. Gray, CPPB
Contracts Management Unit, Bin #37
Arizona Department of Education
1535 West Jefferson Street
Phoenix, Arizona 85007
Phone: (602) 364-2517
Fax: (602) 542-3099
E-Mail: **dgray@ade.state.az.gov**

SECTION 3
UNIFORM TERMS AND CONDITIONS

ARIZONA DEPARTMENT OF EDUCATION
Procurement Section
1535 West Jefferson Street, Bin #37
Phoenix, Arizona 85007

SOLICITATION NO. RFP NO. ED05-0099

Version 7

1. **Definition of Terms.** As used in this Solicitation and any resulting Contract, the terms listed below are defined as follows:

   A. *"Attachment"* means any item the Solicitation requires the Offeror to submit as part of the Offer.

   B. *"Contract"* means the combination of the Solicitation, including the Uniform and Special Instructions to Offerors, the Uniform and Special Terms and Conditions, and the Specifications and Statement or Scope of Work; the Offer and any Final Proposal Revisions; and any Solicitation Amendments or Contract Amendments.

   C. *"Contract Amendment"* means a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.

   D. *"Contractor"* means any person who has a Contract with the State.

   E. *"Days"* means calendar days unless otherwise specified

   F. *"Exhibit"* means any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.

   G. *"Gratuity"* means 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.

   H. *"Materials"* means 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.

   I. *"Procurement Officer"* means the person duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract or their designee.

   J. *"Services"* means the furnishing of labor, time or effort by a contractor or subcontractor which does not involve the delivery of a specific end product other than required reports and performance, but does not include employment agreements or collective bargaining agreements.

   K. *"Subcontract"* means 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.

   L. *"State"* means the State of Arizona and Department or Agency of the State that executes the Contract.

   M. *"State Fiscal Year"* means the period beginning with July 1 and ending June 30.

2. **Contract Interpretation.**

   A. 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 it's implementing rules, Arizona Administrative Code (A.A.C.) Title 2, Chapter 7.

B. 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.

C. 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:

(1) Special Terms and Conditions;

(2) Uniform Terms and Conditions;

(3) Statement or Scope of Work;

(4) Specifications;

(5) Attachments;

(6) Exhibits;

(7) Documents referenced or included in the Solicitation.

D. 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.

E. 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.

F. No Parol 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.

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

3. Contract Administration and Operation.

A. Records. Under A.R.S. § 35-214 and § 35-215, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.

B. Non-Discrimination. The Contractor shall comply with State Executive Order No. 99-4 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.

C. Audit. Pursuant to A.R.S. § 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.

D. 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.

E. 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 and an amendment to the Contract shall not be necessary.

F. 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.

G. Property of the State. Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of the State. The Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. The Contractor shall not use or release these materials without the prior written consent of the State.

H. 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.

4. Costs and Payments.

A. 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.

B. 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 destinations.

C. Applicable Taxes.

(1) Payment of Taxes. The Contractor shall be responsible for paying all applicable taxes.

(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 taxes from the buyer does not relieve the seller from its obligation to remit taxes.

(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) 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.

(5) 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.

(6) 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:

a. Accept a decrease in price offered by the Contactor;

b. Cancel the Contract;

c. Cancel the Contract and re-solicit the requirements.

5. Contract Changes.

A. 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.

B. 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.

C. 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.

A. 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.

B. General Indemnification. To the extent permitted by A.R.S. § 41-621 and § 35-154, the State of Arizona shall be indemnified and held harmless by the Contractor for its vicarious liability as a result of entering into this Contract. Each party to this Contract is responsible for its own negligence.

C. Indemnification.

(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.

(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.

(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.

D. Force Majeure.

(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.

(2) Force Majeure shall not include the following occurrences:

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

b. 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

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

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

(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.

E. 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.

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

B. 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:

(1) Of a quality to pass without objection in the trade under the Contract description;

(2) Fit for the intended purposes for which the materials are used;

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

(4) Adequately contained, packaged and marked as the Contract may require; and

(5) Conform to the written promises or affirmations of fact made by the Contractor.

C. 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.

D. Inspection/Testing. The warranties set forth in subparagraphs 7A through 7C of this paragraph are not affected by inspection or testing of or payment for the materials by the State.

E. Year 2000.

(1) Notwithstanding any other warranty or disclaimer of warranty in this Contract, the Contractor warrants that all products delivered and all services rendered under this Contract shall comply in all respects to performance and delivery requirements of the specifications and shall not be adversely affected by any date-related data Year 2000 issues. This warranty shall survive the expiration or termination of this Contract. In addition, the defense of *force majeure* shall not apply to the Contractor's failure to perform specification requirements as a result of any date-related data Year 2000 issues.

(2) Additionally, notwithstanding any other warranty or disclaimer of warranty in this Contract, the Contractor warrants that each hardware, software, and firmware product delivered under this Contract shall be able to accurately process date/time data (including but not limited to calculation, comparing, and sequencing) from, into, and between the twentieth and twenty-first centuries, and the years 1999 and 2000 and leap year calculations, to the extent that other information technology utilized by the State in combination with the information technology being acquired under this Contract properly exchanges date-time data with it. If this Contract requires that the information technology products being acquired perform as a system, or that the information technology products being acquired perform as a system in combination with other State information technology, then this warranty shall apply to the acquired products as a system. The remedies available to the State for breach of this warranty shall include, but shall not be limited to, repair and replacement of the information technology products delivered under this Contract. In addition, the defense of *force majeure* shall not apply to the failure of the Contractor to perform any specification requirements as a result of any date-related data Year 2000 issues.

F. 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.

G. Survival of Rights and Obligations after Contract Expiration or Termination.

(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.

(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.

A. 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.

B. Stop Work Order.

(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.

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

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

D. Nonconforming Tender. Materials or services supplied under this Contract shall fully comply with the Contract. The delivery of materials or services 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.

E. 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.

A. 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.

B. 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.

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

D. Termination for Convenience. The State reserves the right to terminate the Contract, in whole or in part at any time, when in the best interests of the State without penalty or recourse. Upon receipt of the written notice, the Contractor shall immediately 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.

E. Termination for Default.

(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.

(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.

(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.

F. 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.

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).

SECTION 4
SPECIAL INSTRUCTIONS TO OFFERORS

ARIZONA DEPARTMENT OF EDUCATION
Procurement Section
1535 West Jefferson Street, Bin #37
Phoenix, Arizona 85007

SOLICITATION NO. RFP NO. ED05-0099

1. **Definition of Terms Used in these Special Instructions.** As used in these instructions, the following terms, in addition to those terms defined in Section 2, Paragraph 1, have the following meaning:

   A. *"ADE"* means the Arizona Department of Education.

   B. *"Department"* means the Arizona Department of Education.

2. **Required Information.** The following shall be submitted concurrent with and as part of the Offer: One clearly marked original and three (3) copies of the offer are required.

   A. Offer and Contract Award Form;

   B. Contract Administration: Complete Section 2 Paragraphs 15 and 16;

   C. Attachment 6.1, Prices;

   D. Attachment 6.2, Offeror's Questionnaire;

   E. Attachment 6.3, Sole Proprietor Certificate (if necessary);

   F. Attachment 6.4, Business Ownership Classification

   G. Solicitation Amendments (if any).

3. **Authorized Signature.**

   A. For any document that requires the Offeror's signature, the signature provided must be that of the Owner, Partner or Corporate Officer duly authorized to sign contractual agreements. Additionally, if requested by ADE, disclosure of ownership information shall be submitted.

      (1) Privately Owned: The Owner must sign the contract.

      (2) Partnership: A Partner must sign the contract.

      (3) Corporation: A Corporate Officer must sign the contract.

   B. If a person other than these specified individuals signs the contract, a Power of Attorney indicating the employee's authority must accompany the contract. All addenda to the contract shall be signed by the authorized individual who signed the contract except that they may be signed by a duly authorized designee.

4. **Proposal Opening:** As this is a Request For Proposals, Offers shall be opened publicly at the time and place designated on the cover page of this document. The name of each offeror shall be read publicly and recorded. Prices will not be read. Proposals will not be subject to public inspection until after Contract award.

5. **Award of Contract.** Award of a contract will be made to the most responsible Offeror(s) whose offer(s) is determined to be the most advantageous to the State based on the evaluation criteria set forth in the Solicitation.

SECTION 4
SPECIAL INSTRUCTIONS TO OFFERORS

ARIZONA DEPARTMENT OF EDUCATION
Procurement Section
1535 West Jefferson Street, Bin #37
Phoenix, Arizona 85007

SOLICITATION NO. RFP NO. ED05-0099

6. **Inclusive Offeror:**

Offeror(s) are encouraged to make every effort to utilize subcontractors that are small, women-owned and/or minority owned business enterprises. This could include subcontracts for percentage of the work. Offerors who are committing a portion of their work to such subcontractors shall do so by identifying the type of service and work to be performed by providing detail concerning your organization's utilization of small, women-owned and/or minority business enterprises. Emphasis should be placed on specific areas that are subcontracted and percentage of contract utilization and how this effort will be administered and managed, including reporting requirements.

7. **Evaluation and Selection.** Evaluation of offers may be accomplished in four steps.

A. Step One. Initial review of offer to determine basic responsiveness to the Solicitation, where offers will be reviewed to insure they include all required information.

B. Step Two. Evaluation of offer to assess the Offeror's capability to deliver the required services in accordance with the terms and conditions set forth in the Solicitation and requirements of the Scope of Work.

C. Step Three. (Optional) Discussions with Offerors concerning their offers. This step includes requests for Final Proposal Revisions from Offerors still considered susceptible of winning contract award(s).

D. Step Four. Contract award(s) made to the responsible Offeror(s) whose offer(s) is determined to be the most advantageous to the State, based on the following criteria (in bold print below), which are listed in descending order of importance.

(1) **Offeror's Experience, Expertise and Reliability; as it relates to this solicitation;** ADE will evaluate the offeror's experience, expertise and reliability based on the offeror's resume and references as matched to the needs of this solicitation.

(2) **Method of Approach and Implementation Plan;** Overview that indicates an understanding of the requirements of the Statement of Work. ADE will evaluate the offeror's response to determine how well it satisfies ADE's needs as stated in the statement of work.

(3) **Price;** The offeror's price will be compared to the lowest offer and the offeror will receive a pro-rated score based on this comparison.

8. **Discussions.** In accordance with A.R.S. § 41-2534, after the initial receipt of offers, ADE reserves the option to conduct discussions with those Offerors who submit offers determined by the State to be reasonably susceptible of being selected for award.

9. **Final Proposal Revisions.**

A. In the event the Procurement Officer determines discussions are required, discussions on the areas, items, and factors specified in this Solicitation will be held with all Offerors determined to be in the competitive range.

B. The Offeror is permitted to make revisions during negotiations. Offerors should be aware that a complete understanding as to pricing, technical, and all other terms and conditions of the proposed contract must exist between the Offeror and ADE at the conclusion of negotiations.

C. Discussions will be concluded when a mutual understanding has been reached with each Offeror remaining in the competitive range. This mutual understanding will become the basis for the Offeror's Final Proposal Revision.

D. The Final Proposal Revision must be returned, signed and dated by the Offeror within the time and date specified to be eligible for award.

10. **Certificate of Insurance Form.** ADE recommends that the Offeror consider using the sample Certificate of Insurance included in this Solicitation as **Exhibit 7.1**. If the Offeror wishes, it may submit a substantially similar Certificate of Insurance. If the Offeror so elects, the proposed Certificate of Insurance shall be submitted to ADE for review and approval.

SECTION 5
UNIFORM INSTRUCTIONS TO OFFERORS

ARIZONA DEPARTMENT OF EDUCATION
Procurement Section
1535 West Jefferson Street, Bin #37
Phoenix, Arizona 85007

SOLICITATION NO. RFP NO. ED05-0099

Version 7.1

1. Definition of Terms. As used in these Instructions, the terms listed below are defined as follows:

A. *"Attachment"* means any item the Solicitation requires an Offeror to submit as part of the Offer.

B. *"Contract"* means the combination of the Solicitation, including the Uniform and Special Instructions to Offerors, the Uniform and Special Terms and Conditions, and the Specifications and Statement or Scope of Work; the Offer and any Final Proposal Revisions; and any Solicitation Amendments or Contract Amendments; and any terms applied by law.

C. *"Contract Amendment"* means a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.

D. *"Contractor"* means any person who has a contract with the State.

E. *"Days"* means calendar days unless otherwise specified.

F. *"Exhibit"* means any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.

G. *"Offer"* means bid, proposal or quotation.

H. *"Offeror"* means a vendor who responds to a Solicitation.

I. *"Procurement Officer"* means the person duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract or his or her designee.

J. *"Solicitation"* means an Invitation for Bids ("IFB"), a Request for Proposals ("RFP"), or a Request for Quotations ("RFQ").

K. *"Solicitation Amendment"* means a written document that is authorized by the Procurement Officer and issued for the purpose of making changes to the Solicitation.

L. *"Subcontract"* means 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.

M. *"State"* means the State of Arizona and Department or Agency of the State that executes the Contract.

2. Inquiries.

A. Duty to Examine. It is the responsibility of each Offeror to examine the entire Solicitation, seek clarification in writing (inquiries), and examine its Offer for accuracy before submitting the Offer. Lack of care in preparing an Offer shall not be grounds for modifying or withdrawing the Offer after the Offer due date and time, nor shall it give rise to any Contract claim.

B. Solicitation Contact Person. Any inquiry related to a Solicitation, including any requests for or inquiries regarding standards referenced in the Solicitation, shall be directed solely to the Solicitation contact person. 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 as a contact.

C. Submission of Inquiries. The Procurement Officer or the person identified in the Solicitation as the contact for inquiries may, except at the Pre-Offer Conference, require that an inquiry 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.

D. Timeliness. Any inquiry or exception to the Solicitation shall be submitted as soon as possible and at least seven days before the Offer due date and time for review and determination by the State. Failure to do so may result in the inquiry not being considered for a Solicitation Amendment.

E. No Right to Rely on Verbal Responses. An Offeror shall not rely on verbal responses to inquiries. A verbal reply to an inquiry does not constitute a modification of the Solicitation.

F. Solicitation Amendments. The Solicitation shall only be modified by a Solicitation Amendment.

G. 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. Offerors should raise any questions 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.

H. 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.

A. 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 must be legible and contain the same information requested on the forms unless the Solicitation indicates otherwise. A facsimile, telegraphic, mailgram or electronic mail Offer shall be rejected if submitted in response to requests for proposals or invitations for bids.

B. Typed or Ink; Corrections. The Offer shall be typed or in ink. 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.

C. 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 (or acknowledgement for electronic submissions, when authorized) 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, shall result in rejection of the Offer.

D. Exceptions to Terms and Conditions. All exceptions included with the Offer shall be submitted in a clearly identified separate section of the Offer in which the Offeror clearly identifies the specific paragraphs of the Solicitation where the exceptions occur. Any exceptions not included in such a section shall be without force and effect in any resulting Contract unless such exception is specifically accepted by the Procurement Officer

in a written statement. The Offeror's preprinted or standard terms will not be considered by the State as a part of any resulting Contract.

(1) Invitation for Bids: An Offer that takes exception to a material requirement of any part of the Solicitation, including terms and conditions, shall be rejected.

(2) Request for Proposals: All exceptions that are contained in the Offer may negatively affect the State's proposal evaluation based on the evaluation criteria as stated in the Solicitation, or result in rejection of the Offer. An Offer that takes exception to any material requirement of the Solicitation may be rejected.

E. Subcontracts. Offeror shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities in the Offer.

F. Cost of Offer Preparation. The State will not reimburse any Offeror the cost of responding to a Solicitation.

G. 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 Solicitation Amendment may result in rejection of the Offer.

H. Federal Excise Tax. The State of Arizona is exempt from certain Federal Excise Tax on manufactured goods. Exemption Certificates will be provided by the State.

I. Provision of Tax Identification Numbers. Offerors are required to provide their Arizona Transaction Privilege Tax Number and/or Federal Tax Identification number in the space provided on the Offer and Acceptance Form.

(1) Employee Identification. Offeror agrees to provide an employee identification number or social security number to the Department 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 only with appropriate state and federal officials. This submission is mandatory under 26 U.S.C. § 6041A.

J. 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 included in the pricing offered in the Solicitation. At all times, payment of taxes and the determination of applicable taxes are the sole responsibility of the Contractor.

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

L. 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:

(1) Special Terms and Conditions;

(2) Uniform Terms and Conditions;

(3) Statement or Scope of Work;

(4) Specifications;

(5) Attachments;

(6) Exhibits;

(7) Special Instructions to Offerors;

(8) Uniform Instructions to Offerors;

(9) Other documents referenced or included in the Solicitation.

M. Delivery. Unless stated otherwise in the Solicitation, all prices shall be F.O.B. Destination and shall include all delivery and unloading at the destination(s).

4. Submission of Offer.

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

B. 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.

C. Public Record. All Offers submitted and opened are public records and must be retained by the State. Offers shall be open to public inspection after Contract award, except for such Offers deemed to be confidential by the State. 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. The State shall determine whether the identified information is confidential pursuant to the Arizona Procurement Code.

D. Non-collusion, Employment, and Services. By signing the Offer and Acceptance Form or other official contract form, the Offeror certifies that:

(1) The Offeror did not engage in collusion or other anti-competitive practices in connection with the preparation or submission of its Offer; and

(2) The Offeror does not discriminate against any employee or applicant for employment or person to whom it provides services because of race, color, religion, sex, national origin, or disability, and that it complies with all applicable Federal, state and local laws and executive orders regarding employment.

5. Evaluation.

A. 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.

B. Prompt Payment Discount. Prompt payment discounts of thirty (30) days or more set forth in an Offer shall be deducted from the Offer for the purposes of evaluating that price.

C. Late Offers. An Offer submitted after the exact Offer due date and time shall be rejected.

D. Disqualification. An Offer (including each of its principals) who is currently debarred, suspended or otherwise lawfully prohibited from any public procurement activity shall have its Offer rejected.

E. 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-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-twenty (120) days from the Final Proposal Revision due date.

F. Waiver and Rejection Rights. Notwithstanding any other provision of the Solicitation, the State reserves the right to:

(1) Waive any minor informality;

(2) Reject any and all Offers or portions thereof; or

(3) Cancel a Solicitation.

6. Award.

A. Number or Types of Awards. The State reserves the right to make multiple awards or to award a Contract by individual line items or alternatives, by group of line items or alternatives, or to make an aggregate award, or regional awards, whichever is most advantageous to the State. If the Procurement Officer determines that an aggregate award to one Offeror is not in the State's best interest, "all or none" Offers shall be rejected.

B. 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.

C. Effective Date. The effective date of this Contract shall be the date that the Procurement Officer signs the Offer and Acceptance form or other official contract form, unless another date is specifically stated in the Contract.

7. **Protests.** 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 both the Procurement Officer of the purchasing agency and with the Enterprise Procurement Administrator. A protest of a Solicitation shall be received by the 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:

   A. The name, address and telephone number of the protester;

   B. The signature of the protester or its representative;

   C. Identification of the purchasing agency and the Solicitation or Contract number;

   D. A detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and

   E. The form of relief requested.

8. **Comments Welcome.** The Enterprise Procurement Services Office periodically reviews the Uniform Instructions to Offerors and welcomes any comments you may have. Please submit your comments to: Enterprise Procurement Administrator, Enterprise Procurement Services Office, 100 North 15th Avenue, Suite 104, Phoenix, Arizona, 85007.

ATTACHMENT 6.1
PRICES/DELIVERY SCHEDULE
SOLICITATION No. ED05-0099

DESCRIPTION	HOURLY RATE
School Receiver Services Required by this Solicitation	$_____

Not to exceed hourly rate. Actual price to be determined by mutual agreement between school district and receiver.

If payment is made within _____ calendar days after acceptance of goods and/or services, the above quoted price, excluding sales tax, shall be discounted by _____%. (Refer to Uniform Instructions To Offerors for discount requirements.)

Notice: If the transaction privilege (sales) taxes are not described and itemized on the offer, the State will assume that the price(s) offered includes all applicable taxes.

ATTACHMENT 6.2
OFFEROR'S QUESTIONNAIRE
SOLICITATION No. ED05-0099

1. As an attachment, please provide a current resume that shows your qualifications to provide the services required by this solicitation.

2. Please provide at least three (3) references who can attest to your ability to provide the services required by this solicitation or similar services.

3. Please provide a written narrative to describe the method of approach and implementation you propose to perform the work required by this solicitation.

ATTACHMENT 6.3

ARIZONA DEPARTMENT OF ADMINISTRATION
RISK MANAGEMENT SECTION
1818 WEST ADAMS
PHOENIX, ARIZONA 85007
FAX 542-1982

SOLE PROPRIETOR WAIVER

NOTE: THIS FORM APPLIES ONLY TO STATE OF ARIZONA AGENCIES, BOARDS, COMMISSIONS AND UNIVERSITIES UTILIZING SOLE PROPRIETORS WITH NO EMPLOYEES. IF YOU ARE CONTRACTING WITH A CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP OR SOLE PROPRIETORS WITH EMPLOYEES, THIS FORM DOES NOT APPLY.

The following is a written waiver under the compulsory Workers' Compensation laws of the State of Arizona, A.R.S. §23-901 (et. seq.), and specifically, A.R.S. §23-961(L), that provides that a Sole Proprietor may waive his/her rights to Workers' Compensation coverage and benefits.

I am a sole proprietor and I am doing business as _____ (name of Sole Proprietors Business). I am performing work as an independent contractor for the State of Arizona, _____ _____, for Workers' Compensation purposes, and therefore, I am not entitled to Workers' Compensation benefits from the State of Arizona, _____.

I understand that if I have any employees working for me, I must maintain Workers' Compensation insurance on them.

Name of Sole Proprietor: _____

Social Security Number: _____ Telephone #: _____

Street Address/P.O. Box: _____

City: _____ State: _____ Zip Code: _____

Signature of
Sole Proprietor: _____ Date: _____

Agency: Arizona Department of Education Agency #: 455

Signature of Agency
Contract Administrator: _____ Date: _____

Both signatures must be signed and the completed form submitted to the State of Arizona, Department of Administration, Risk Management Section, Insurance Unit, 1818 W. Adams, Phoenix, Az 85007. An authorized Risk Management Representative will sign and return to the agency to be maintained in their records.

_____

Signature of Risk Management Authorized Signer Date

ATTACHMENT 6.4 BUSINESS OWNERSHIP CLASSIFICATIONS

NOTE: THE FOLLOWING REQUESTED INFORMATION IS FOR DATA COLLECTION PURPOSES ONLY

Name of Organization:			
Contact Person:			
Contact Phone:		Fax:	
Email:			
Address: Street/PO Box:			
City, State, Zip:			

Primary Business Type (Select One Only):

☐A Authorized Distributor	☐E Factory Representative	☐I Service Firm
☐B Broker	☐F Jobber/Wholesaler	☐J Surplus Dealer
☐C Construction Firm	☐G Manufacturer	☐K Health Care Provider
☐D Consulting Firm	☐H Retailer	☐L Other _____

Business Ownership Type (Select Only Those that Apply to Majority Owner(s).

Business Size:
- ☐1 Non-Small
- ☐2 Small Business (Per ARS §41-1001.14)

Business Owner Type (Check all that apply):
- ☐3 Woman Owned Business
- ☐4 Owned By Disabled Individual (Per ARS §41-1492)
- ☐5 Minority Owned Business (Per 15 CFR §1400.1(a))

If "Minority Owned," please identify:
- ☐6 African-American
- ☐7 Asian-American
- ☐8 Hispanic-American
- ☐9 Native American

APPLICANT CERTIFICATION:

I CERTIFY THAT:

1. I, as an officer of this organization, or per the attached letter of authorization, am duly authorized to certify the information requested herein;

2. To the best of my knowledge the elements of information provided herein are accurate and true as of the date; and

3. My organization shall comply with all State and Federal Equal Opportunity and Non-Discrimination requirements and conditions of employment in accordance with ARS §Title 41 Chapter 9, Article 4 and Executive Order No. 99-4 dated February 8, 1999.

Printed or Typed Name: _____ Title: _____

_____

Signature Date

CERTIFICATE OF INSURANCE

CONTRACT NO. ED05-0099

VENDOR:

ARIZONA DEPARTMENT OF EDUCATION
PROCUREMENT SECTION
1535 WEST JEFFERSON, Bin 37
PHOENIX, ARIZONA 85007
(602) 364-2517

Prior to commencing services under this Contract, the Contractor must furnish the State, certification from insurer(s) for coverages in the minimum amounts as stated below. The coverages shall be maintained in full force and effect during the term of this Contract and shall not serve to limit any liabilities or any other Contractor obligations.

Name and Address of Insurance Agency::	Company Letter	Companies Affording Coverage:
	A	
	B	
Name and Address of Insured:	C	
	D	

LIMITS OF LIABILITY MINIMUM – EACH OCCURRENCE		COMPANY LETTER	TYPE OF INSURANCE	POLICY NUMBER	DATE POLICY EXPIRES
Bodily Injury Per Person Each Occurrence Property Damage **OR** Bodily Injury and Property Damage Combined			Comprehensive General Liability Form Premises Operations Contractual Independent Contractors Products/Completed Operations Hazard Personal Injury Broad Form Property Damage Explosion & Collapse (If Applicable) Underground Hazard (If Applicable)		
Same as Above			Comprehensive Auto Liability Including Non-Owned (If Applicable)		
Necessary if underlying is not above minimum			Umbrella Liability		
Statutory Limits			Workmen's Compensation and Employer's Liability		
			Other		

State of Arizona and the Department named above are added as additional insureds as required by statute, contract, purchase order, or otherwise requested. It is agreed that any insurance available to the named insured shall be primary of other sources that may be available.

It is further agreed that no policy shall expire, be canceled or materially changed to affect the coverage available to the State without thirty (30) days written notice to the State. This Certificate is not valid unless countersigned by an authorized representative of the insurance company.

Name and Address of Certificate Holder:

Date Issued: _____

_____
Authorized Representative

END OF SOLICITATION NO. ED05-0099