0000159188

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

SUSAN BITTER SMITH, Chairman
BOB STUMP
BOB BURNS
DOUG LITTLE
TOM FORESE

In the matter of: CONCORDIA FINANCING COMPANY, LTD, a/k/a "CONCORDIA FINANCE," ER FINANCIAL & ADVISORY SERVICES, L.L.C., LANCE MICHAEL BERSCH, and DAVID JOHN WANZEK and LINDA WANZEK, husband and wife, Respondents.	DOCKET NO. S-20906A-14-0063 **SECURITIES DIVISION'S MOTION TO QUASH DISCOVERY DEMANDS BY THE ER RESPONDENTS**

ORIGINAL

RECEIVED
2015 JAN -5 P 4: 59
AZ CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission
DOCKETED
JAN 05 2015
DOCKETED BY

Table of Contents

I. Introduction 1
II. Background 2
III. Legal Analysis 4
A. The APA And Commission Rules Govern Discovery In This Administrative Proceeding. 4
B. The "Default" Provision Regarding The ARCP In The Commission's Rules Does Not Render The ARCP's Discovery Provisions Applicable Here 7
C. Respondents Have No Reasonable Need For The Information They Demand.. 9
D. The Division Is Not Required to Produce Privileged or Confidential Documents. 10
1. Work Product and Attorney-Client Privilege. 11
2. The Securities Act's Confidentiality Statute. 14
E. The Discovery Demands Are Unreasonably Overbroad, Unduly Burdensome, and Oppressive. 15
IV. Conclusion 16

I. Introduction

The Securities Division ("Division") of the Arizona Corporation Commission ("Commission") respectfully requests that the Hearing Officer issue an order quashing the Non-Uniform Interrogatories, Request for Production, Requests for Admission, and two Notices of Deposition (collectively, "Discovery Demands") the ER Respondents[1] served on the Division. The ER Respondents demand, among other things, the Division's entire unredacted investigative file, case file and personnel file of any employee the Division intends to call as a witness.

Neither the Administrative Procedures Act ("APA") nor the Commission's Rules of Practice and Procedure authorize the ER Respondents to serve such Discovery Demands. Contrary to the ER Respondents' assertions in the Discovery Demands, the Commission's Rules of Practice and Procedure ***do not*** incorporate the discovery procedures found in the Arizona Rules of Civil Procedure ("ARCP"). Rather, the provisions for limited discovery in the APA and the Commission's Rules of Practice and Procedure govern. Those provisions require the ER Respondents to demonstrate "reasonable need," something they have made no effort to do.

In addition to failing to meet the applicable administrative criteria to obtain discovery, the ER Respondents are precluded from obtaining most of the information and documents they demand due to privilege and the Security Act's confidentiality statute, A.R.S. § 44-2042. Finally, the Discovery Demands are overbroad and unduly burdensome.

For these reasons, the Hearing Officer should issue an order quashing the Discovery Demands.

---

[1] This motion refers to the following Respondents as "the ER Respondents": ER Financial & Advisory Services, LLC ("ERF"), Lance Michael Bersch ("Bersch"), David John Wanzek ("Wanzek") and Linda Wanzek ("Mrs. Wanzek").

II. Background

This enforcement action alleges Respondents Bersch and Wanzek, who are both certified public accountants, and the limited liability company they formed, ERF, committed securities fraud and other violations of the Arizona Securities Act ("Securities Act")[2] by selling unregistered investment contracts to their accounting clients by means of material misrepresentations and omissions, and other deceitful practices. The Division filed its Notice of Opportunity for Hearing on February 27, 2014. On April 4, 2014, the ER Respondents filed a Motion to Dismiss and Answer. On August 13, 2014, the Hearing Officer denied the ER Respondents' Motion to Dismiss and set a procedural conference for September 2, 2014.

At the September 2nd procedural conference, the ER Respondents requested a 45-day prehearing exchange of lists of witnesses and exhibits, which the Division agreed to instead of the usual 30-day exchange.[3] In addition, at that procedural conference the ER Respondents discussed off the record with the Division their intent to propound discovery.[4] The ER Respondents, however, did not seek any authorization from the Hearing Officer at that time, or since, to serve any discovery.

On October 7, 2014, the ER Respondents served what they named their "First Request for Production of Documents to Concordia Financing Company, Ltd."[5] Concordia objected on numerous grounds.[6] Concordia correctly pointed out, "[T]he exclusive mechanism under the Rules of Practice before the Arizona Corporation Commission for obtaining documents is a subpoena.... A request for production of documents is not an available device in this proceeding." Exhibit 2.

---

[2] A.R.S. §§ 44-1801 through 44-2126.

[3] *See* Transcript of Procedural Conference on 9/2/2014 at 16:16 to 17:2.

[4] *See* Transcript of Procedural Conference on 9/2/2014 at 9:13-16.

[5] A copy of the ER Respondents' "First Request for Production of Documents to Concordia Financing Company, Ltd." is attached as Exhibit 1.

[6] See letter from D. Wood to T. Sabo dated 11/25/2014, a copy of which is attached as Exhibit 2.

On November 24, 2014, the ER Respondents served the Division with their "First Request for Production of Documents," "First Set of Non-Uniform Interrogatories," "First Set of Requests for Admissions," "Notice of 30(b)(6) Deposition," and "Notice of Deposition of Gary R. Clapper," copies of which are attached as Exhibits 3 through 7, respectively. Through these Discovery Demands, the ER Respondents demand production of, among other things:

- "A complete copy of the Personnel File of each employee of the Securities Division that it intends to call as a witness in this matter;"[7]
- "The Securities Division's complete investigative file No. 8371 and case file for Docket No. S-20906A-14-0063," including at least 46 subcategories of documents;[8]
- "Copies of all other documents obtained during the Securities Division's investigation resulting in Docket No. S-20906A-14-0063....;"[9]
- All documents regarding the ER Respondents that the Division provided to or received from "other state securities agencies, other state regulatory agencies, [and] law enforcement organizations (including without limit the Arizona Attorney Generals' Office, the FBI, and the United States Department of Justice)....;"[10] and
- Every fact and document the Division may contend supports the allegations in the Notice.[11]

---

[7] Exhibit 3 at 7:20-21.
[8] Exhibit 3 at 7:22 to 14:21.
[9] Exhibit 3 at 14:22-24.
[10] Exhibit 3 at 14:25 to 15:8.
[11] *See* Exhibit 4 (Non-Uniform Interrogatories) and Exhibit 6 (Notice of 30(b)(6) Deposition).

Each of the Discovery Demands begins by asserting that the ARCP are "incorporated by reference in A.C.C. R14-3-101(B) [*sic*]." Subsection (B) of R14-3-101, however, makes no reference to the ARCP. Presumably, the ER Respondents intend to cite to Subsection (A) of R14-3-101, which does contain such a reference.

Repeatedly asserting that the ARCP apply does not make it so. Nor do those assertions entitle the ER Respondents to propound overreaching discovery demands in contravention of the controlling statutes and rules discussed below.

III. Legal Analysis

A. The APA And Commission Rules Govern Discovery In This Administrative Proceeding.

In Arizona, the Administrative Procedures Act[12] and agency procedural rules, not the Arizona Rules of Civil Procedure, govern discovery during an administrative contested case.[13]

As a threshold matter, under A.R.S. § 41-1062(A)(1) of the APA relating to adjudicative proceedings, an administrative hearing "may be conducted in an informal manner and without adherence to the rules of evidence required in judicial proceedings." Thus, administrative proceedings like this one are intended to be less costly and speedier than civil litigation governed by the ARCP, which often entails costly discovery procedures and disputes.[14]

....

....

---

[12] A.R.S. §§ 41-1001 to 41-1092.12.

[13] "'Contested case' means any proceeding, including rate making, except rate making pursuant to article XV, Constitution of Arizona, price fixing and licensing, in which the legal rights, duties or privileges of a party are required or permitted by law ... to be determined by an agency after an opportunity for an administrative hearing." A.R.S. § 41-1001(4).

[14] *See also* R14-3-101(B) ("These [Commission] [R]ules shall be liberally construed to secure just and speedy determination of all matters presented to the Commission.").

....

Arizona's Legislature has specified what discovery may be conducted in an administrative enforcement action. Under A.R.S. § 41-1062(A)(4) of the APA:

> Prehearing depositions and subpoenas for the production of documents may be ordered by the officer presiding at the hearing, provided that the party seeking such discovery demonstrates that the party has reasonable need of the deposition testimony or materials being sought.... Notwithstanding the provisions of § 12-2212, ***no*** subpoenas, ***depositions or other discovery shall be permitted*** in contested cases except as provided by agency rule or this paragraph. (Emphases added).

Therefore, the only forms of pre-hearing discovery permitted in administrative proceedings under the APA are: (a) subpoenas, based on a showing of reasonable need and authorized by the Hearing Officer; (b) depositions, based on a showing of reasonable need and authorized by the Hearing Officer; and (c) any other discovery provided by the agency's rules.

As allowed by § 41-1062(A)(4), discovery provided by the Commission's Rules[15] is limited. With respect to document discovery, R14-3-108(A) provides for a prehearing conference for the purposes of "arranging for the exchange of proposed exhibits or prepared expert testimony...." R14-3-109(L) similarly provides for the parties to exchange copies of exhibits "before or at the hearing." R14-3-109(O) provides that a subpoena duces tecum "may be issued upon application in writing." Pursuant to § 41-1062(A)(4) of APA, any application for a subpoena must demonstrate that "the party has reasonable need of the deposition testimony or materials being sought."

[15] R14-3-101 through R14-3-113.

With respect to depositions, R14-3-109(P) provides in relevant part: "The Commission, a Commissioner, or any party to any proceeding before it may cause the depositions of witnesses to be taken ***in the manner prescribed by law*** and ***of the civil procedure*** for the Superior Court of the state of Arizona." (Emphasis added). Under this rule, a respondent may request a prehearing deposition *as prescribed by A.R.S. § 41-1062(A)(4)*, which requires a showing of reasonable need. The *procedure* under which such a deposition will be taken is the procedure used for civil actions before the Superior Court, i.e. the procedure set forth in the ARCP.

Although the ARCP may apply to the procedure of a deposition obtained under § 41-1062(A)(4) and R14-3-109(P), the ARCP do not give a respondent a right to a deposition. The ARCP do not "abridge, enlarge or modify substantive rights." A.R.S. § 12-109(A). Indeed, "Substantive rights created by statute cannot be enlarged or diminished by rules promulgated by [the Arizona Supreme Court]." *Daou v. Harris*, 139 Ariz. 353, 357, 678 P.2d 934, 938 (1984).

Thus, consistent with the APA, the Commission's Rules provide that discovery may be had in the form of: (a) the exchange of proposed exhibits or prepared expert testimony; (b) subpoenas, based on a showing of reasonable need and authorized by the Hearing Officer; and (c) depositions, based on a showing of reasonable need and authorized by the Hearing Officer.

In this case, the parties will exchange lists of witnesses and exhibits on March 27, 2015, which is 45 days before the hearing begins.[16]

The ER Respondents have not applied for the issuance of any subpoenas duces tecum under R14-3-109(O) or depositions under R14-3-109(P). Nor have they attempted to demonstrate a reasonable need for a subpoena or a deposition, as

[16] *See* Fifth Procedural Order at 3:23-25.

required under § 41-1062(A)(4) of APA. Instead, the ER Respondents simply disregarded the discovery provisions of the APA and the Commission's Rules, and instead invoked the ARCP as purported support for serving their improper Discovery Demands.

B. The "Default" Provision Regarding The ARCP In The Commission's Rules Does Not Render The ARCP's Discovery Provisions Applicable Here.

The ER Respondents will contend that the ARCP's discovery provisions apply to Commission proceedings by virtue of R14-3-101(A), which provides in part: "In all cases in which procedure is set forth ***neither by law, nor by these rules, nor by regulations or orders*** of the Commission, the Rules of Civil Procedure for the Superior Court of Arizona as established by the Supreme Court of the state of Arizona shall govern." This "default" provision regarding the ARCP does not mean that the ARCP's discovery provisions apply to administrative proceedings. As detailed above, discovery in an administrative action is addressed by both the APA and the Commission's Rules. There is no basis to invoke the ARCP's discovery provisions when the Legislature and the Commission have specified what discovery may be conducted in an administrative action like this one.

Further, the APA expressly prohibits any other type of discovery. *See* A.R.S. § 41-1062(A)(4) ("[N]o subpoenas, depositions or other discovery shall be permitted in contested cases except as provided by agency rule or this paragraph."). The statute's preclusion of any other types of discovery not specifically listed is clear. *See In re Estate of Wyatt*, 235 Ariz. 138, 139 ¶ 5, 329 P.3d 1040, 1041 (2014) (when statutory language is clear, courts "do not resort to other methods of statutory interpretation to determine the legislature's intent because its intent is readily discernible from the face of the statute.") (internal quotation omitted). Thus, the ER

Respondents' Non-Uniform Interrogatories, Requests for Production, Requests for Admission, and two Notices of Deposition are expressly prohibited under § 41-1062(A)(4).

Even if the APA and the Commission's Rules were somehow construed to be ambiguous, which they are not, a finding that the ER Defendants' ARCP-based Discovery Demands are improper and should be quashed is still mandated. Had the Arizona Legislature and Commission desired that ARCP's discovery provisions could be used in administrative cases like this one, they could have easily and expressly done so. They did not. *See e.g., State v. Fell*, 203 Ariz. 186, 189, 52 P.3d 218, 221 (App. 2002) (under the established rule of statutory construction, *expressio unius est exclusio alterius,* the expression of one or more items of a class indicates an intent to exclude all items of the same class which are not expressed). Rather, the APA and Commission's Rules specifically only permit document subpoenas and depositions upon a showing of reasonable need, and the exchange of lists of witnesses and exhibits.

The ER Respondents' incorrect reading of R14-3-101(A) also conflicts with the unambiguous language of R14-3-101(B), which states that the hearing officer should interpret the Rules to "secure just and speedy" determinations of all matters presented to the Commission.

The fact that the ARCP's discovery procedures do not apply is consistent with administrative law from other jurisdictions. For instance, "[T]he Federal Rules of Civil Procedure for discovery do not apply to [federal] administrative proceedings." *Silverman v. Commodity Futures Trading Comm'n*, 549 F.2d 28, 33 (7th Cir. 1977); *Pacific Gas and Electric Company v. FERC,* 746 F.2d 1383, 1387 (9th Cir. 1984) (rejecting claim that FERC abused its discretion by not permitting the parties to

engage in discovery). Similarly, the District of Columbia's Administrative Procedure Act "like its federal counterpart—the Administrative Procedure Act, does not provide for discovery." *In re Herndon*, 596 A.2d 592, 595 (D.C. Ct. App. 1991). As in Arizona, "Under Utah law, discovery in formal agency adjudications is available only if an applicable statute or rule so provides and only to the extent provided in the applicable statute or rule." B*eaver County v. Utah State Tax Commission*, 916 P.2d 344, 353 (Utah 1996).[17]

In summary, the ARCP's discovery provisions do not apply to this administrative proceeding. The ER Respondents' ARCP-based Discovery Demands should be quashed because the Commission's Rules do not permit them and § 41-1062(A)(4) of the APA expressly prohibits them.

C. Respondents Have No Reasonable Need For The Information They Demand.

As noted above, under the APA, the party seeking to subpoena documents or take a deposition has the burden to show reasonable need before the Hearing Officer authorizes that discovery. *See* A.R.S. § 41-1062(A)(4); A.R.S. § 41-1092.07(F)(4). The ER Respondents have made no effort to meet this threshold requirement, nor can they do so for several reasons.

First, the ER Respondents have had the same opportunity as the Division to investigate this case in order to prepare their defense in this matter. In short, there should be no allegation in the Notice that the ER Respondents cannot confirm or

[17] *See also Weinberg v. Commodity Futures Trading Comm'n*, 699 F. Supp. 808, 813 (C.D. Cal. 1988) ("It is settled that administrative proceedings provide no basic constitutional right to pre-trial discovery."); *LTV Steel Co. v. Industrial Commission*, 748 N.E.2d 1176, 1182 (Ohio 2000) ("Generally there is no due process right to discovery in administrative hearing cases, and particularly no constitutional right to take depositions."); *Pet v. Dep't of Health Serv.*, 638 A.2d 6, 20 (Conn. 1994) ("It is well-settled that parties to judicial or quasi-judicial proceedings are not entitled to pre-trial discovery as a matter of constitutional right.").

deny from simply reviewing their own records (which they have refused to produce in response to subpoenas), by interviewing their own investors and other third party witnesses, or by conducting their own legal research. If anything, the ER Respondents are at distinct advantage because know what they said to their investors, most of whom were also their accounting clients.

Second, the Division is already obligated to provide the ER Respondents with its list of witnesses and exhibits 45 days before the evidentiary hearing. *See* Fifth Procedural Order. The Division will identify all of the investor witnesses and third-party witnesses it expects to call, and provide as proposed exhibits all documents it intends to rely upon. The ER Respondents will be free to interview those witnesses and scrutinize the proposed exhibits. Because the Division will be providing the ER Respondents with the evidence referenced in the Notice via its list of witnesses and exhibits, their Discovery Demands are unwarranted.

Third, the ER Respondents are afforded the same opportunity as the Division to call witnesses at hearing by filing an application for hearing subpoenas, *see* R14-3-109(O). The ER Respondents also will be able to cross-examine all of the Division's witnesses and attempt to dispute the Division's documentary evidence.

For these reasons, the ER Respondents have no reasonable need for the information they demand.

D. The Division Is Not Required to Produce Privileged or Confidential Documents.

Without making any attempt to demonstrate the "reasonable need" required under the APA and Commission's Rules, the ER Respondents demand the Division's "complete investigative file No. 8371 and case file for Docket No. S-20906A-14-0063." Exhibit 3 at 7:22. They also demand "all other documents obtained during

the Securities Division's investigation resulting in Docket No. S-20906A-14-0063...." Exhibit 3 at 14:22-24. In addition, the ER Respondents demand copies of all documents regarding themselves that the Division may have provided to or received from "other state securities agencies, other state regulatory agencies, [and] law enforcement organizations (including without limit the Arizona Attorney Generals' Office, the FBI, and the United States Department of Justice)...." Exhibit 3 at 14:25 to 15:8.

No provision within the Commission's Rules, APA or the Securities Act requires the Division to provide those materials, which are attorney-client privileged, protected by the work product doctrine, and/or subject to the confidentiality requirements of A.R.S. § 44-2042.

1. Work Product and Attorney-Client Privilege.

The information sought by the ER Respondents is work product not subject to disclosure. The work product privilege exists to promote the adversary system by safeguarding the fruits of an attorney's trial preparations from the discovery attempts of an opponent. The work product doctrine protects material obtained by or prepared by an attorney or the attorney's agent in anticipation of litigation or in preparation for trial. *See State ex rel. Corbin v. Ybarra*, 161 Ariz. 188, 191, 777 P.2d 686, 689 (1989) (*citing Hickman v. Taylor,* 329 U.S. 495 (1947)).

Work product is reflected "in interviews, statements, memoranda, correspondence, briefs, mental impressions, personal beliefs, and countless other tangible and intangible ways." *Hickman,* 329 U.S. at 511. Accordingly, courts have found that a wide variety of documents and things are protected by the work-product doctrine. *See U.S. v. Nobles*, 422 U.S. 225, 239 (1975) (documents created by investigators working for attorneys); *Dritt v. Morris*, 357 S.W. 2d 13, 18 (Ark. 1962)

(witness interviews and statements); *U.S. v. Kelsey-Hayes Wheel Co.*, 15 F.R.D. 461, 462 (E.D. Mich. 1954) (signed statements of witnesses and reports of investigations and other communications prepared at the direction of government attorneys); *S.E.C. v. World-Wide Coin Inv., Ltd.*, 92 F.R.D. 65, 66-67 (N.D. Ga. 1981) (staff memorandum and communications between attorneys and investigators regarding investigation); *United States v. Deere & Co.*, 9 F.R.D. 523, 528 (D.C. Minn. 1949) (formulation of questions propounded through questionnaires prepared by government attorneys; court determined both questions and answers were protected); *Hertzberg v. Veneman*, 273 F. Supp. 2d 67 (D.D.C. 2003) (documents, videotapes, and simple forms with boxes to check that were sent to individuals); *Maguire v. State*, 458 S.2d 311, 312 (Fla. Dist. App. 1984) (recorded statements and written transcripts thereof from victim and insurance adjuster); *U.S. v. Salsedo*, 607 F.2d 318, 320 (9th Cir. 1979) (transcript from tape recording of conversations between defendant and government informant); *Gargano v. Metro- North*, 222 F.R.D. 38, 40 (D. Conn. 2004) (transcripts of audio taped statements of insurer's employees); *U.S. v. Stewart*, 287 F.Supp.2d 461, 466 (S.D.N.Y. 2003) (email from defendant to defendant's attorney and to defendant's daughter detailing facts surrounding a transaction was covered by the work product); *In re Grand Jury Proceedings*, 601 F.2d 162, 166 (5th Cir. 1979) (documents prepared by an accountant at the direction of an attorney).

The information the ER Respondents are attempting to obtain are interviews, statements, and documents that are the fruit of the Division's two-plus years of labor investigating this matter and preparing for hearing. This situation is similar to the U.S. Supreme Court case, *Hickman v. Taylor*, wherein an attorney interviewed witnesses and prepared memoranda summarizing the interviews. Written discovery

requests were issued by opposing counsel for witness statements and memoranda concerning witness interviews. The Court refused to require production, finding the work product privilege applied, and the moving party could not show they could not obtain the information from other sources. *Hickman*, 329 U.S. at 509-511.

Further, the investigatory file may, and often does, contain other privileged materials such as legal research performed by counsel, attorney notes, drafts of pleadings, materials from consulting experts,[18] correspondence between counsel for the Division, correspondence between counsel and the investigator, and correspondence between the Division and third parties. All of these materials are either attorney-client privileged or protected under the work product doctrine.

In order to obtain work product, the ER Respondents "must show that [they have] a substantial need for the materials and cannot, without undue hardship, obtain the substantial equivalent by other means." The ER Respondents have made no attempt to show substantial need or that they cannot obtain the information requested by other means. The ER Respondents have equal access to the investors, have equal access to their investment documents, and equal access to background information. They have the ability to subpoena third parties during the pendency of this action with a showing of reasonable need.

The ER Respondents simply do not want to (or have failed to) put in the time, effort and resources to prepare their case. Instead, they want to have the information handed to them by the Division. That does not constitute substantial need.

[18] Consulting experts' materials are protected by the work product doctrine when the expert is not disclosed as a testifying expert. *See Emergency Care Dynamics Ltd. v. Superior Court*, 188 Ariz. 32, 36, 932 P.2d 297, 301 (App. 1997).

2. The Securities Act's Confidentiality Statute.

To the extent the ER Respondents could somehow overcome the reasonable need threshold requirement, and then overcome the work product and attorney-client privileges applicable to their Discovery Demands, they have yet another hurdle: the Securities Act's confidentiality statute.

The legislative mandate imposed by the confidentiality statute of the Act, A.R.S. § 44-2042, provides in relevant part:

> A. The names of complainants and ***all information or documents obtained by any officer, employee or agent of the commission ... in the course of any examination or investigation are confidential*** unless the names, information or documents are made a matter of public record. An officer, employee or agent of the commission shall not make the confidential names, information or documents available to anyone other than a member of the commission, another officer or employee of the commission, an agent who is designated by the commission or director, the attorney general or law enforcement or regulatory officials, except pursuant to any rule of the commission or ***unless the commission or the director authorizes the disclosure of the names, information or documents as not contrary to the public interest.***

A.R.S. § 44-2042 (emphases added).

By statute, all information and documents obtained by the Division during an investigation are confidential. In their demand for the full unredacted investigatory file, the ER Respondents completely ignore § 44-2042, let alone realize that compliance with it is not discretionary, but mandatory under the law. There has not been any authorization by the Commission or Director authorizing disclosure of names, information or documents in the investigatory file as not contrary to public interest.

Although disclosure of such information would be in the Hearing Officer's discretion per the statute, there would still have to be a finding by the Hearing Officer that the disclosure is not contrary to the public interest. This standard should

not be glossed over lightly. Disclosure of investigatory file materials could reveal the Division's investigative strategies, and interfere with or obstruct the Division's ability to effectively examine, investigate, or enforce the Act. It would create precedent that could cause investors to fail to report violations of the Act, when the primary purpose of the Act is to protect the public. *See* 1951 Ariz. Sess. Laws ch. 20, § 18.

Moreover, merely disclosing the names of the Division's witnesses and documents related to those investors' investments in the list of witnesses and exhibits on March 27, 2015, and submitting Division witness testimony at the hearing on May 11, 2015, does not mean the entire investigatory file is subject to discovery. The only documents the Division will make "a matter of public record" will be those the ***Division*** introduces into evidence at hearing. Unless and until those investigatory documents are made public, or the Hearing Officer requires disclosure as not contrary to the public interest, § 44-2042's confidentiality mandate governs over the ER Respondents' Discovery Demands.

E. The Discovery Demands Are Unreasonably Overbroad, Unduly Burdensome, and Oppressive.

The Commission has the ability to prohibit a subpoena if it is "unreasonable or oppressive." R14-3-109(O). On their face, the ER Respondents' Discovery Demands are unreasonably overbroad, unduly burdensome, and oppressive. *See, e.g,* Exhibit 3 (Request for Production) at pages 7-15; Exhibit 4 (Non-Uniform Interrogatories) at pages 4-10; Exhibit 5 (Requests for Admissions) at pages 4-7. Because they blatantly disregard the controlling provisions of the APA, the Commission's Rules and the confidentiality provision of A.R.S. § 44-2042(A), the

ER Respondents appear to have propounded the Discovery Demands in bad faith mainly to harass and create undue expense.

As the ER Respondents' counsel well know, the Division is limited in its ability to disclose certain information by several statutes. 42 U.S.C. § 405(c)(2)(C)(viii) (social security numbers); A.R.S. § 44-1373 (same); A.R.S. § 13-4051 (certain arrest records); A.R.S. § 41-1750 (criminal history information). Disclosure of this information is statutorily prohibited. If the Division were to have to produce its entire investigatory and case files for this matter, it would have to expend significant resources to redact confidential information to avoid violating these statutes. Imposing such a burden on the Division when the ER Respondents have the ability to obtain all information they need to defend themselves through other means is untenable.

If the Discovery Demands are not quashed for all the other reasons set forth above, they should be quashed as unreasonably overbroad, unduly burdensome, and oppressive.

IV. Conclusion

The discovery rules for contested administrative proceedings in this state are expressly provided by statute and agency rule, and the principles of due process are amply preserved within these rules. The Division is neither inclined nor obligated to comply with the Discovery Demands, especially since the ER Respondents have not attempted to show a reasonable need for any of the documents and information they seek. The ER Respondents have misspent their resources on their ill-conceived Motion to Dismiss and Special Action instead of focusing on the facts and attempting to develop useful evidence. Now they demand the Division to hand over two years' worth of work product and confidential information. Not only do the

Discovery Demands fail to meet administrative requirements, but the burden on the Division to respond to such overbroad requests would be enormous.

For all the reasons stated herein, the Division respectfully requests that the ER Respondents' Discovery Demands be quashed.

RESPECTFULLY SUBMITTED this 5TH day of January, 2015.

By _____
James D. Burgess
Attorney for the Securities Division
of the Arizona Corporation Commission

ORIGINAL and 8 copies of the foregoing
Motion to Quash
filed this 5th day of January, 2015, with:

Docket Control
Arizona Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007

COPY of the foregoing hand-delivered
this 5th day of January, 2015, to:

The Honorable Mark H. Preny
Administrative Law Judge
Arizona Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007

COPIES of the foregoing sent via
U.S. Mail and email this 5th day of January, 2015, to:

Paul J. Roshka, Jr.
Timothy J. Sabo
Roshka DeWulf & Patten, PLC
One Arizona Center
400 East Van Buren, Suite 800
Phoenix, AZ 85004
Attorneys for ER Financial & Advisory Services, LLC,
Lance Michael Bersch, David John Wanzek, and Linda Wanzek

Alan S. Baskin
David Wood
Baskin Richards, PLC
2901 N. Central Avenue, Suite 1150
Phoenix, Arizona 85012
Attorneys for Concordia Financing Company, Ltd.

Karen Hovde

Exhibit 1

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS
BOB STUMP, Chairman
GARY PIERCE
BRENDA BURNS
BOB BURNS
SUSAN BITTER SMITH

In the matter of: CONCORDIA FINANCING COMPANY, LTD, a/k/a "CONCORDIA FINANCE," ER FINANCIAL & ADVISORY SERVICES, LLC, LANCE MICHAEL BERSCH, and DAVID JOHN WANZEK and LINDA WANZEK, husband and wife, Respondents.	Docket No. S-20906A-14-0063 **RESPONDENTS ER FINANCIAL & ADVISORY SERVICES, LLC, LANCE MICHAEL BERSCH, DAVID JOHN WANZEK AND LINDA WANZEK's FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO CONCORDIA FINANCING COMPANY, LTD, a/k/a "CONCORDIA FINANCE"**

Pursuant to the Rules of Practice before the Arizona Corporation Commission, A.A.C. R14-3-101 et seq., Respondents, ER Financial & Advisory Services, LLC, Lance Michael Bersch, David John Wanzek and Linda Wanzek (the "ER Respondents") request that the documents or things designated in the list labeled "Documents to be Produced" be produced by Respondent Concordia Financing Company, LTD, a/k/a "Concordia Finance" for inspection and copying.

Except as provided otherwise in the attached list, the time and place of production are:

Time: No later than forty (40) calendar days from the date of service of this Request unless this time frame is modified by the Administrative Law Judge.

Place: Roshka DeWulf and Patten, PLC, One Arizona Center, 400 East Van Buren Street, Suite 800, Phoenix, Arizona 85004.

The list labeled "Documents to be Produced" sets forth the items to be produced, either by individual item or by category; describes each item and category with reasonable particularity; and specifies the reasonable time, place and manner of making the production and performing the related acts in connection with each item.

The party upon whom this Request is served shall satisfy or object to it in writing within twenty (20) days from the date of service of this Request unless this time frame is modified by the Administrative Law Judge.

The Response shall state, with respect to each item or category, that the documents will be produced and related activities will be permitted as requested, unless the Request is objected to, in which event the reasons for objection shall be stated.

The documents or things sought by this Request include documents, information and things in the possession, custody or control of the Respondent Concordia Financing Company, LTD, a/k/a "Concordia Finance", its attorneys and all present and former agents, servants, representatives, investigators and others who may have obtained custody of the documents and things on behalf of the party or their attorneys.

Unless otherwise indicated, this Request covers the time frame of January 1, 1998 to the present.

DEFINITIONS

For the purposes of this Request for Production of Documents, the following terms and references have been abbreviated and defined as follows:

1. The terms "and" and "or" shall be construed conjunctively or disjunctively, whichever makes the document request more inclusive.

2. The term "Concordia," "you" and "your" shall mean Concordia Financing Company, Ltd., a/k/a "Concordia Finance".

3. The term "ER Respondents" shall mean collectively, ER Financial & Advisory Services, LLC, Lance Michael Bersch, David John Wanzek and Linda Wanzek.

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

4. The term "ACC" shall mean the Arizona Corporation Commission.

5. The term "Desist and Refrain Order" shall refer to the October 7, 2013 State of California Business, Consumer Services and Housing Agency Department of Business Oversight's Desist and Refrain Order issued to Kenneth Crowder, Chris Crowder, David Wanzek, Michael Bersch, and Concordia Financing Co., Ltd.

6. The terms "document" or "documents" include, without limiting their generality, all contracts, agreements, correspondence, letters, files, memoranda, messages, handwritten notes, e-mail, inter- or intra-departmental or office or firm communications, telephone logs, telephone messages, computer disks, hard drives, telegrams, newsletters or other publications, stock certificates, stock options, promissory notes, appraisal reports, expressions of opinion as to value or use of real or personal property, valuation estimates of any kind, financial data, *pro formas*, estimates, financial projections, statements, credit and loan applications, accounting records and worksheets, financial statements, diaries, calendars, logs, desk diaries, appointment books, feasibility studies, recordings, notes of conversations, notes of meetings, notes of conferences, notes of investigations, notes of opinions, notes of interviews, written statements, recorded or taped interviews or statements, drafts of reports, preliminary reports, final reports, studies, forecasts, prospectuses, charts, graphs, maps, drawings or other representations or depictions, telephone records, motion picture film, audio or video tape recordings, facsimile copies, computer printouts, data card programs or other input or output of data processing systems, photographs (positive print, slides or negatives), microfilm or microfiche, or other data compilations from which information can be obtained or translated through detection devices into reasonably usable form, whether originals or copies, altered or unaltered, made by any means. The terms "document" and "documents" also include all copies which are, in any manner, not identical in content to the originals. Any comment or notation appearing on any document, and not a part of the original text, is to be considered a separate "document." Any draft, or any other preliminary form of any document, is also to be considered a separate "document."

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

7. The term "all documents" means every document, as defined above, known to you and every document which can be located or discovered by reasonably diligent efforts.

8. The terms "writing" or "written" are intended to include, but not necessarily be limited to, the following: handwriting, typewriting, printing, photographing and every other means of recording upon any tangible thing, any form of communication later reduced to a writing or confirmed by a letter.

9. The term "communication" means any oral, written, electronic, graphic, demonstrative, or other transfer of information, ideas, opinions or thoughts between two or more individuals or entities, regardless of the medium by which such communication occurred, and shall include, without limitation, written contact by such means as letters, memoranda, telegrams, telex, or any documents, and oral contact by such means as face to face meetings and telephone conversations.

10. The terms "concerns" or "concerning" include referring to, alluding to, responding to, relating to, connected with, commenting on, impinging or impacting upon, in respect of, about, regarding, discussing, showing, describing, affecting, mentioning, reflecting, analyzing, constituting, evidencing or pertaining to.

11. The term "person(s)" shall mean any natural person, corporation, partnership, sole proprietorship, joint venture, association, limited liability company, governmental or other public entity, or any other form of organization or legal entity, and all of their officials, directors, officers, employees, representatives, attorneys and agents.

12. The terms "meeting" and "meetings" mean any coincidence of presence of two or more persons between or among whom some communication occurs, whether or not such coincidence of presence was by chance or prearranged, formal or informal, or in connection with some other activity.

//

//

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

INSTRUCTIONS FOR USE

A. In producing documents and things, indicate the particular request to which a produced document or thing is responsive.

B. In producing documents and things, furnish all documents or things known or available to you, regardless of whether such documents or things are possessed directly by you or your directors, officers, agents, employees, representatives and investigators or by your attorneys or their agents, employees, representatives or investigators.

C. If any requested document or thing cannot be produced in full, produce each such document to the extent possible, specifying each reason for your inability to produce the remainder and stating whatever information, knowledge or belief you have concerning the unproduced portion and the expected dates on which full production can be completed.

D. If any documents or things requested were in existence but are no longer in existence, then so state, specifying for each document or thing:

(1) The type of document or thing;

(2) The type(s) of information contained therein;

(3) The date upon which it ceased to exist;

(4) The circumstances under which it ceased to exist;

(5) The identity of each person or persons having knowledge or who had knowledge of the contents thereof; and

(6) The identity of each person or persons having knowledge of the circumstances under which each document or thing ceased to exist.

E. This Request for Production of Documents is deemed to be continuing. If, after producing documents and things, you obtain or become aware of any further documents, things or information responsive to this Request for Production of Documents, you are required to produce to Respondents such additional documents and things, or provide Respondents with such additional information.

F. Documents attached to each other should not be separated.

G. In lieu of producing originals or copies thereof responsive to this Request, you may, at your option, submit legible photographic or other reproductions of such documents, provided that the originals or copies from which such reproductions were made are retained by you until the final disposition of this proceeding.

H. In the event that you seek to withhold any documents, things or information on the basis that it is properly subject to some limitation on discovery, you shall supply Respondents with a list of the documents and things for which limitation of discovery is claimed, indicating:

(1) The name of each author, writer, sender or initiator of such document or thing, if any;

(2) The name of each recipient, addressee or party for whom such document or thing was intended, if any;

(3) The name of the person in custody or charge or possession of each such document;

(4) The date of each such document, if any, or an estimate thereof and so indicated as an estimate;

(5) The general subject matter as described in each such document, or, if no such description appears, then such other description sufficient to identify said document;

(6) The name, business address and position of each person who has seen, or has access to or knowledge of, the contents or nature of any such document; and

(7) The claimed grounds for limitation of discovery (*e.g.*, "attorney-client privilege").

DOCUMENTS TO BE PRODUCED

1. All documents you produced to the Arizona Corporation Commission.

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

2. All documents you produced to the California Department of Business Oversight, or its predecessor agencies, including all documents you produced in the investigation leading to the Desist and Refrain Order, and in any proceedings resulting from or related to the Desist and Refrain Order.

3. The transcript and all exhibits for the examination conducted pursuant to the California Department of Business Oversight subpoena dated March 5, 2013.

4. Any and all legal opinions received by Concordia regarding whether the Sale of Contracts and Servicing Agreements, Custodial Agreements, Truck Financing Agreements, or related agreements are "securities" under Arizona law, California law, the law of any other state, or Federal law.

5. Copies of all custodial agreements signed by Mr. Wanzek, Mr. Bersch, or ER, and copies of the related Sale of Contracts and Servicing Agreements.

6. For each investment or client identified in # 5, copies of all communications with the investor.

7. For each investment or client identified in #5, documents sufficient to show the amounts invested by each investor and the amounts paid to each investor.

8. Copies of all audited or unaudited financial statements of Concordia.

9. Documents sufficient to show the financial institutions with which Concordia has had ongoing relationships.

10. Copies of all communications between Concordia and Pacific Financial Advisors.

11. Concordia's Articles of Incorporation.

12. Concordia's bylaws.

13. Concordia's board minutes for the time period that Mr. Bersch or Mr. Wanzek were members of the board.

14. Documents sufficient to identify the board members of Concordia with dates of service, for the period 1998 to present.

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

15. Documents sufficient to identify the current ownership structure of Concordia.

16. Organizational charts for Concordia from 1998 to present.

17. All communications between Concordia and the Arizona Corporation Commission.

18. Documents sufficient to show the law firms used by Concordia from 1998 to present.

19. Documents sufficient to identify the 192 investors as alleged in Paragraph 26 of the ACC's Notice of Opportunity.

20. Documents sufficient to identify the 446 distinct investments as alleged in Paragraph 26 of the ACC's Notice of Opportunity.

21. Documents sufficient to show the amounts received by Concordia from each of the 192 investors alleged in Paragraph 26 of the ACC's Notice of Opportunity.

22. Documents sufficient to show the amounts paid by Concordia to each of the 192 investors alleged in Paragraph 26 of the ACC's Notice of Opportunity.

23. Documents sufficient to show the amounts received by Concordia for each of the 446 distinct investments alleged in Paragraph 26 of the ACC's Notice of Opportunity.

24. Documents sufficient to show the amounts paid by Concordia for each of the 446 distinct investments alleged in Paragraph 26 of the ACC's Notice of Opportunity.

25. All communications between Concordia and ER, Mr. Bersch, or Mr. Wanzek regarding whether the Sale of Contracts and Servicing Agreements, Custodial Agreements, Truck Financing Agreements, or related agreements are securities under Arizona law, California law, or Federal law.

//

//

//

//

//

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

RESPECTFULLY SUBMITTED this 7th day of October, 2014.

ROSHKA DEWULF & PATTEN, PLC

By _____

Paul J. Roshka, Jr.
Timothy J. Sabo
One Arizona Center
400 East Van Buren Street, Suite 800
Phoenix, Arizona 85004

Copies of the foregoing hand-delivered
this 7th day of October, 2014, to:

Alan S. Baskin, Esq.
David E. Wood, Esq.
Baskin Richards, PLC
2901 North Central Avenue, Suite 1150
Phoenix, Arizona 85012
Attorneys for Respondent Concordia Finance Company, LTD.

James D. Burgess, Esq.
Securities Division
Arizona Corporation Commission
1300 West Washington, 3rd Floor
Phoenix, Arizona 85007

By _____

N:\Cases\ER Financial AC\Pleadings\First RFP to Concordia.doc

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

Exhibit 2

BASKINRICHARDS

David E. Wood
dwood@baskinrichards.com

November 25, 2014

VIA ELECTRONIC MAIL

Timothy Sabo
Roskha DeWulf & Patten, PLC
400 E. Van Buren St., Suite 800
Phoenix, AZ 85004

Re: *In the Matter of Concordia Financing Company, et al.*
Arizona Corporation Commission Docket No. S-20906A-14-0063

Dear Mr. Sabo:

We have carefully reviewed the request for production of documents. For a number of reasons, we will not be responding with any documents. First, the exclusive mechanism under the Rules of Practice before the Arizona Corporation Commission ("Commission") for obtaining documents is a subpoena. Second though, under either the Rules of Practice or civil rules, the requests for documents are overbroad and unduly burdensome. Even if the civil rules applied, they would not allow for the scope of these requests as stated against an identically situated party. Third, beyond the scope of the requested documents, the request includes numerous categories of documents that could not lead to any evidence relevant to this proceeding, that are otherwise privileged, or that are otherwise equally obtainable by the ER Respondents.

A request for production of documents is not an available device in this proceeding. The Rules of Practice adopted the civil rules of procedure only where procedure is otherwise set "neither by law, nor by these rules." R14-3-101. However, the Rules of Practice adopted a single, exclusive mechanism for obtaining documents, a subpoena. R14-3-109(O). Given that adopted procedure, no civil rule can be used to supplant the Commission's rule. "A well established rule of statutory construction provides that the expression of one or more items of a class indicates an intent to exclude all items of the same class which are not expressed." *Pima County v. Heinfeld*, 134 Ariz. 133, 134, 654 P.2d 281, 282 (1982). However, for the same reasons listed below, a subpoena for the same items in the request would be quashed.

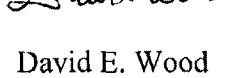
Under either the civil rules of procedure or the Rules of Practice, many of the requested categories of documents could not lead to the discovery of any evidence relevant to this proceeding. As limited examples, documents relating to the ongoing relationships Concordia has

with any financial institutions does not bear on anything related to the ER Respondents or the claims that the Securities Division has lodged against the ER Respondents. Similarly, the current ownership structure of Concordia, organizational charts, its prior financial statements, communications with other entities, bylaws and board minutes cannot lead to anything relevant to this proceeding for the ER Respondents. Additionally, documents related to the legality of sales in other states may be irrelevant to the legality of sales in Arizona. *Tritschler v. Allstate Ins. Co.*, 213 Ariz. 505, 519, ¶ 44, 144 P.3d 519, 533 (Ct. App. 2006) (upholding trial court rejection of requests for documents nationwide as laws vary from state to state).

Relatedly, the requests are overbroad and unduly burdensome to Concordia, a company barely surviving. Requests for simply all communications, all board minutes, all financial statements, all exhibits, all transcripts, and even all custodial agreements is unlimited in scope. Compliance with that request would require Concordia to dig through its entire business history and make copies, not unlike requests that are denied for nationwide records searches. *Id.* ¶ 45 (upholding trial court rejection of requests for documents nationwide as overbroad). Additionally, the requests alone are unduly burdensome. Concordia would have to reallocate a large percentage of time and resources to digging, calling, retrieving, and redacting to comply with the requests, which again, would not lead to relevant information for the ER Respondents. Even if the requests were not overbroad, the Rules of Practice would condition compliance with any of the requests upon advancement of the reasonable cost of compliance. R14-3-109(O)(2).

Finally, some of the requests would encompass confidential materials or materials publicly available. The requests included materials that are privileged and not subject to disclosure in the request for "[a]ny and all legal opinions received by Concordia . . . ." Additionally, the request for communications with the Arizona Corporation Commission would encompass confidential materials. Some of the requests include materials equally available to the ER Respondents in the possession of public agencies or the ER Respondents themselves. The transcripts and exhibits related to the California Department of Business Oversight can be requested directly from that agency. Similarly, in this proceeding, Concordia is situated as an identical party to the ER Respondents. The burden of proof lies with the Securities Division, including to prove the existence of the subject agreements. Those exhibits are subject to disclosure in the ordinary course in this proceeding by the Securities Division.

Sincerely,



David E. Wood
For the Firm

DEW/cim

Exhibit 3

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS
BOB STUMP, Chairman
GARY PIERCE
BRENDA BURNS
BOB BURNS
SUSAN BITTER SMITH

Ex. 3

In the matter of: CONCORDIA FINANCING COMPANY, LTD, a/k/a "CONCORDIA FINANCE," ER FINANCIAL & ADVISORY SERVICES, LLC, LANCE MICHAEL BERSCH, and DAVID JOHN WANZEK and LINDA WANZEK, husband and wife, Respondents.	Docket No. S-20906A-14-0063 **RESPONDENTS ER FINANCIAL & ADVISORY SERVICIES, LLC, LANCE MICHAEL BERSCH, DAVID JOHN WANZEK and LINDA WANZEK's** **FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO THE SECURITIES DIVISION OF THE ARIZONA CORPORATION COMMISSION**

Pursuant to Rule 34 of the Arizona Rules of Civil Procedure, as incorporated by reference in A.A.C. R14-3-101(B), Respondents ER Financial & Advisory Services, LLC, Lance Michael Bersch, David John Wanzek and Linda Wanzek (the "ER Respondents"), request that the documents or things designated in the list labeled "Documents to be Produced" be produced for inspection and copying.

Except as provided otherwise in the attached list, the time and place of production are:

Time: No later than forty (40) calendar days from the date of service of this Request unless this time frame is modified by the Administrative Law Judge.

Place: Roshka DeWulf and Patten, PLC, One Arizona Center, 400 East Van Buren Street, Suite 800, Phoenix, Arizona 85004.

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

The list labeled "Documents to be Produced" sets forth the items to be produced, either by individual item or by category; describes each item and category with reasonable particularity; and specifies the reasonable time, place and manner of making the production and performing the related acts in connection with each item.

The party upon whom this Request is served shall satisfy or object to it in writing within twenty (20) days from the date of service of this Request unless this time frame is modified by the Administrative Law Judge.

The Response shall state, with respect to each item or category, that the documents will be produced and related activities will be permitted as requested, unless the Request is objected to, in which event the reasons for objection shall be stated.

The documents or things sought by this Request include documents, information and things in the possession, custody or control of the Securities Division, their attorneys and all present and former agents, servants, representatives, investigators and others who may have obtained custody of the documents and things on behalf of the party or their attorneys.

Unless otherwise indicated, this Request covers the time frame of January 1, 2005 to the present.

DEFINITIONS

For the purposes of this Request for Production of Documents, the following terms and references have been abbreviated and defined as follows:

1. The terms "and" and "or" shall be construed conjunctively or disjunctively, whichever makes the document request more inclusive.
2. The terms "Securities Division," "you" and "your" shall mean the Securities Division of the Arizona Corporation Commission.
3. The term "ER Financial" shall mean ER Financial & Advisory Services, LLC.
4. The term "Mr. Bersch" shall mean Lance Michael Bersch.
5. The term "Mr. Wanzek" shall mean David John Wanzek.

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

6. The term "Mrs. Wanzek" shall mean Linda Wanzek.
7. The term "ER Respondents" shall mean ER Financial, Mr. Bersch, Mr. Wanzek, and Mrs. Wanzek.
8. "Respondents" shall mean all of the respondents collectively.
9. "Concordia" shall mean Concordia Financing Company, Ltd., aka Concordia Finance.
10. The term "Notice" means the Notice of Opportunity for Hearing Regarding Proposed Order to Cease and Desist, Order for Restitution, Order for Administrative Penalties, and Order for Other Affirmative Action in Arizona Corporation Commission Docket No. S-20906A-14-0063, together with any subsequent or amended Notice filed in that docket.
11. "This Docket" means Arizona Corporation Commission Docket No. S-20906A-14-0063.
12. The terms "document" or "documents" include, without limiting their generality, all contracts, agreements, correspondence, letters, files, memoranda, messages, handwritten notes, e-mail, inter- or intra-departmental or office or firm communications, telephone logs, telephone messages, computer disks, hard drives, telegrams, newsletters or other publications, stock certificates, stock options, promissory notes, appraisal reports, expressions of opinion as to value or use of real or personal property, valuation estimates of any kind, financial data, *pro formas*, estimates, financial projections, statements, credit and loan applications, accounting records and worksheets, financial statements, diaries, calendars, logs, desk diaries, appointment books, feasibility studies, recordings, notes of conversations, notes of meetings, notes of conferences, notes of investigations, notes of opinions, notes of interviews, written statements, recorded or taped interviews or statements, drafts of reports, preliminary reports, final reports, studies, forecasts, prospectuses, charts, graphs, maps, drawings or other representations or depictions, telephone records,

motion picture film, audio or video tape recordings, facsimile copies, computer printouts, data card programs or other input or output of data processing systems, photographs (positive print, slides or negatives), microfilm or microfiche, or other data compilations from which information can be obtained or translated through detection devices into reasonably usable form, whether originals or copies, altered or unaltered, made by any means. The terms "document" and "documents" also include all copies which are, in any manner, not identical in content to the originals. Any comment or notation appearing on any document, and not a part of the original text, is to be considered a separate "document." Any draft, or any other preliminary form of any document, is also to be considered a separate "document."

13. The term "all documents" means every document, as defined above, known to you and every document which can be located or discovered by reasonably diligent efforts.

14. The terms "writing" or "written" are intended to include, but not necessarily be limited to, the following: handwriting, typewriting, printing, photographing and every other means of recording upon any tangible thing, any form of communication later reduced to a writing or confirmed by a letter.

15. The term "communication" means any oral, written, electronic, graphic, demonstrative, or other transfer of information, ideas, opinions or thoughts between two or more individuals or entities, regardless of the medium by which such communication occurred, and shall include, without limitation, written contact by such means as letters, memoranda, telegrams, telex, or any documents, and oral contact by such means as face to face meetings and telephone conversations.

16. The terms "concerns" or "concerning" include referring to, alluding to, responding to, relating to, connected with, commenting on, impinging or impacting upon, in respect of, about, regarding, discussing, showing, describing, affecting, mentioning, reflecting, analyzing, constituting, evidencing or pertaining to.

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

17. The term "person(s)" shall mean any natural person, corporation, partnership, sole proprietorship, joint venture, association, limited liability company, governmental or other public entity, or any other form of organization or legal entity, and all of their officials, directors, officers, employees, representatives, attorneys and agents.

18. The terms "meeting" and "meetings" mean any coincidence of presence of two or more persons between or among whom some communication occurs, whether or not such coincidence of presence was by chance or prearranged, formal or informal, or in connection with some other activity.

INSTRUCTIONS FOR USE

A. In producing documents and things, indicate the particular request to which a produced document or thing is responsive.

B. In producing documents and things, furnish all documents or things known or available to you, regardless of whether such documents or things are possessed directly by you or your directors, officers, agents, employees, representatives and investigators or by your attorneys or their agents, employees, representatives or investigators.

C. If any requested document or thing cannot be produced in full, produce each such document to the extent possible, specifying each reason for your inability to produce the remainder and stating whatever information, knowledge or belief you have concerning the unproduced portion and the expected dates on which full production can be completed.

D. If any documents or things requested were in existence but are no longer in existence, then so state, specifying for each document or thing:

(1) The type of document or thing;

(2) The type(s) of information contained therein;

(3) The date upon which it ceased to exist;

(4) The circumstances under which it ceased to exist;

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

(5) The identity of each person or persons having knowledge or who had knowledge of the contents thereof; and

(6) The identity of each person or persons having knowledge of the circumstances under which each document or thing ceased to exist.

E. This Request for Production of Documents is deemed to be continuing. If, after producing documents and things, you obtain or become aware of any further documents, things or information responsive to this Request for Production of Documents, you are required to produce to Respondents such additional documents and things, or provide Respondents with such additional information.

F. Documents attached to each other should not be separated.

G. In lieu of producing originals or copies thereof responsive to this Request, you may, at your option, submit legible photographic or other reproductions of such documents, provided that the originals or copies from which such reproductions were made are retained by you until the final disposition of this proceeding.

H. In the event that you seek to withhold any documents, things or information on the basis that it is properly subject to some limitation on discovery, you shall supply Respondents with a list of the documents and things for which limitation of discovery is claimed, indicating:

(1) The name of each author, writer, sender or initiator of such document or thing, if any;

(2) The name of each recipient, addressee or party for whom such document or thing was intended, if any;

(3) The name of the person in custody or charge or possession of each such document;

(4) The date of each such document, if any, or an estimate thereof and so indicated as an estimate;

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

(5) The general subject matter as described in each such document, or, if no such description appears, then such other description sufficient to identify said document;

(6) The name, business address and position of each person who has seen, or has access to or knowledge of, the contents or nature of any such document; and

(7) The claimed grounds for limitation of discovery (*e.g.*, "attorney-client privilege").

DOCUMENTS TO BE PRODUCED

1. Copies of all discovery requests (whether denominated as a Request for Production, Request for Admission, Uniform Interrogatory, Non-Uniform Interrogatory, Data Request, Notice of Deposition, Subpoena, or otherwise) received by the Securities Division in this Docket and all responses thereto.
2. Copies of all discovery requests (whether denominated as a Request for Production, Request for Admission, Uniform Interrogatory, Non-Uniform Interrogatory, Data Request, Notice of Deposition, Subpoena, or otherwise) issued by the Securities Division in this Docket and all responses thereto.
3. A complete copy of the Personnel File of each employee of the Securities Division that it intends to call as a witness in this matter.
4. The Securities Division's complete investigative file No. 8371 and case file for Docket No. S-20906A-14-0063. This should include, but not be limited to, the following:

   a. All tapes, CDs, DVDs, electronic audio, visual, or audio-visual files and/or transcripts of tapes and/or memoranda and/or notes and/or transcripts of

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

sworn or unsworn testimony or interviews that in any way memorialize communications between the Securities Division on the one hand and (i) ER Respondents, (ii) officers, employees, independent agents, or representatives of ER Respondents, (iii) Concordia, and (iv) any officers, employees, independent agents, or representatives of Concordia, including any and all Examinations Under Oath, and all exhibits thereto;

b. All tapes, CDs, DVDs, electronic audio, visual, or audio-visual files and/or transcripts of sworn or unsworn testimony or interviews that that in any way memorialize communications between the Securities Division and any entity or individual interviewed and/or contacted in connection with the Securities Division's investigation of any of the Respondents and relating to the allegations set forth in the Notice. This includes all complaints, correspondence and Examinations Under Oath, and all exhibits thereto;

c. All documents in the possession or under the control of the Securities Division relating to any of the Respondents;

d. All affidavits, questionnaires and statements provided by any and all individuals interviewed or contacted by the Securities Division relating to the allegations set forth in the Notice and/or relating to any of the Respondents, and all notes of any such interviews or contacts;

e. All correspondence regarding or referring to any of the Respondents;

f. All documents or other information provided by any of the Respondents or any of their officers, employees, independent agents, or representatives to the Securities Division;

g. All documents regarding or referring to the clients of any of the Respondents;

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

h. All documents evidencing telephone calls made by the Securities Division or anyone acting on its behalf to any of the Respondents or any of their officers, employees, independent agents, or representatives, including, but not limited to, (i) documents sufficient to identify each telephone call made by the Securities Division, (ii) who authorized each telephone call, (iii) who placed the telephone calls, (iv) the scripts or outlines used by the individuals who placed or received these calls; and (v) any notes, transcripts, tapes or other memoranda memorializing the telephone calls;

i. All documents evidencing telephone calls made by the Securities Division or anyone acting on its behalf to any of investors referenced in the Notice or their representatives, including, but not limited to, (i) documents sufficient to identify each telephone call made by the Securities Division, (ii) who authorized each telephone call, (iii) who placed the telephone calls, (iv) the scripts or outlines used by the individuals who placed or received these calls; and (v) any notes, transcripts, tapes or other memoranda memorializing the telephone calls;

j. Copies of each "Truck Financing Contract", as defined in Paragraph 8 of the Notice;

k. Copies of each "Servicing Agreement", as defined in Paragraph 9 of the Notice;

l. Copies of each "Promissory Note" as defined in Paragraph 8 of the Notice;

m. Copies of each "Custodial Agreement" as defined in the Notice;

n. A copy of the brochure identified in Paragraph 16 of the Notice;

o. A copy of the "presentation materials" identified in Paragraph 17 of the Notice;

p. A copy of the "flow chart" identified in Paragraph 19 of the Notice;

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

q. Any and all documents showing the "pooling" alleged in Paragraph 20 of the Notice;

r. Any and all documents supporting the allegations in Paragraph 20 of the Notice;

s. Copies of each truck title, as referenced in the Notice;

t. Any and all documents supporting the allegations in Paragraph 21 of the Notice;

u. Any and all documents supporting the allegation that "Concordia pooled proceeds derived from all the Truck Financing Contracts and other sources of income to pay interest payments to its investors" as alleged in Paragraph 23 of the Notice;

v. Any and all documents supporting the allegation that the "Concordia investments were never liquid" as alleged in Paragraph 24 of the Notice, including documents supporting the Securities Division's definition of "liquid" and all calculations used to make this determination;

w. Any and all documents supporting the figures for amounts paid in and paid out as referenced in Paragraph 26 of the Notice;

x. Any and all documents supporting the alleged board of directors service of Mr. Bersch and Mr. Wanzek as alleged in Paragraph 29(a) of the Notice;

y. A copy of each security the Securities Division alleges Mr. Wanzek offered or sold within or from Arizona, as alleged in Paragraph 34 of the Notice, and documents sufficient to show the names of the investor or purchaser of each such security;

z. A copy of each security the Securities Division alleges Mr. Bersch offered or sold within or from Arizona, as alleged in Paragraph 34 of the Notice, and

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

documents sufficient to show the names of the investor or purchaser of each such security;

aa. A copy of each security the Securities Division alleges ER offered or sold within or from Arizona, as alleged in Paragraph 34 of the Notice, and documents sufficient to show the names of the investor or purchaser of each such security;

bb. Any and all documents regarding the alleged approval or non-approval by a third party insurer as referenced in Page 10, lines 1-3 of the Notice;

cc. Documents sufficient to show the administrative penalties the Securities Division is requesting against Mr. Wanzek or his martial community;

dd. Documents sufficient to show the administrative penalties the Securities Division is requesting against Mr. Bersch;

ee. Documents sufficient to show the administrative penalties the Securities Division is requesting against ER;

ff. Documents sufficient to show the restitution the Securities Division is requesting against Mr. Wanzek or his marital community;

gg. Documents sufficient to show the restitution the Securities Division is requesting against Mr. Bersch;

hh. Documents sufficient to show the restitution the Securities Division is requesting against ER;

ii. All documents evidencing written communications in any form (including correspondence, emails, and text messages) made by the Securities Division or anyone acting on its behalf to any of investors referenced in the Notice or their representatives, including, but not limited to, (i) documents sufficient to identify each such written communication made by the Securities Division, (ii) who authorized each written communication, (iii) who sent the

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

written communication, (iv) the text of the written communication; and (v) any notes, transcripts, tapes or other memoranda related to the written communication;

jj. Documents sufficient to identify the 192 investors referenced in Paragraph 26 of the Notice;

kk. Documents sufficient to identify the 116 Arizona residents referenced in Paragraph 26 of the Notice;

ll. All documents received from any of the 191 investors referenced in Paragraph 26 of the Notice;

mm. All documents received from any other "investors" not included in Request No. 4.ll. above;

nn. Documents showing that Mr. Bersch or Mr. Wanzek actually sold any of the alleged "securities" referenced in the Notice;

oo. Documents showing that Mr. Bersch or Mr. Wanzek actually made (or failed to disclose) each of the alleged representations described in Paragraph 3(a), (b) and (c) of the Notice (page 9, line 14 to page 10 line 3);

pp. All subpoenas issued by the Securities Division in connection with the investigation of any of the Respondents, all responses thereto, all communications between the Securities Division and the recipient of the subpoenas, and any supplemental responses;

qq. A copy of the "electronic document inventory log (Word doc) which records all documents and evidence gathered", as referenced in page 9 of 98 of Arizona Corporation Commission Request for Proposal attached as Exhibit 1 hereto, for this Docket or the related investigation;

rr. A copy of all hand-written notes and reports, as referenced in the following sentence on page 9 of 98 of Arizona Corporation Commission Request for

Proposal attached as Exhibit 1 hereto, for this Docket or the related investigation: "The interviewer incorporates all hand-written notes of an interview into a written document or report within 20 working days of the creation of the notes or preserves the original hand-written notes";

ss. A copy of any "Financial Analysis" for this Docket or the related investigation, as described page 9 to 10 of 98 of Arizona Corporation Commission Request for Proposal attached as Exhibit 1 hereto:

1.3 Financial Analysis

Forensic accountants analyze financial records and related documents in support of potential litigation of cases brought by the Division. These records documents must be maintained with the possibility that they will be disclosed in the course of litigation if the accountants are called as expert witnesses at hearing. Accountants are involved in the following key activities:

1.3.1 Maintaining a master list of documents reviewed

1.3.2 Creating separate Access databases for each case and manually entering transaction information from bank statements into the Access database by one of the following methods; and

1.3.2.1 Manually entering the information into the database,

1.3.2.2 Entering the information into an Excel spreadsheet from which formatted information is transferred to the database, or

1.3.2.3 OCR scanning bank statements, then exporting the information to Excel for formatting and upload to the Access database;

1.3.3 Entering bank statement information into tables in the Access database for further analysis and reporting;

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

1.3.4 Sending bank detail letters using a template or custom letter asking for more detailed information on specific transactions and updating the database with those details;

1.3.5 Assigning a code to each financial transaction from a list of standardized codes in order to facilitate further analysis and reporting;

1.3.6 Analyzing financial information using queries from the Access database, customized Crystal Reports, and Excel to identify patterns of activity and to determine whether investors' funds were used as represented in disclosure documents;

1.3.7 Developing reports using charts, graphs, and transaction listings, cash flow summaries showing source and use of funds, and other reports; and

1.3.8 Preparing a restitution list in Excel from a template which is manually entered and provided to the case team for use at a hearing or trial and to the collections agent;

tt. A copy of the enforcement database for this Docket or the related investigation, as described on pages 8 to 12 of the Arizona Corporation Commission Request for Proposal attached as Exhibit 1 hereto; and

uu. A copy of the "restitution list" for this Docket or the related investigation, as described on page 13 of the Arizona Corporation Commission Request for Proposal attached as Exhibit 1 hereto.

5. Copies of all other documents obtained during the Securities Division's investigation resulting in Docket No. S-20906A-14-0063 that are not specifically referred to in Request Nos. 1, 2, 3 and 4 (including all subparts) above.

6. Copies of all documents provided by the Securities Division to other state securities agencies, other state regulatory agencies, law enforcement organizations (including without

limitation the Arizona Attorney General's office, the FBI, and the United States Department of Justice) regarding any of the Respondents, or their officers, employees, independent contractors or representatives.

7. Copies of any documents that concern or reflect any contacts or communications with other state securities agencies, other state regulatory agencies, law enforcement organizations (including without limitation the Arizona Attorney General's office, the FBI, and the United States Department of Justice) regarding the regarding any of the Respondents, or their officers, employees, independent contractors or representatives.

8. Copies of all documents provided to, reviewed by or prepared by any expert the Securities Division intends to call as a witness at the hearing, all drafts of those documents, and all notes or other documents in the possession of such expert that relate to this matter.

9. Any documents demonstrating that any of the Respondents had *scienter* with respect to the allegations in the Notice.

DATED this 24th day of November, 2014.

ROSHKA DEWULF & PATTEN, PLC

By

Paul J. Roshka, Jr.
Timothy J. Sabo
One Arizona Center
400 East Van Buren Street, Suite 800
Phoenix, Arizona 85004
Attorneys for ER Financial & Advisory Services, LLC, Lance Michael Bersch, David John Wanzek and Linda Wanzek

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

Copies of the foregoing hand-delivered
this 24th day of November, 2014, to:

James D. Burgess, Esq.
Securities Division
Arizona Corporation Commission
1300 West Washington, 3rd Floor
Phoenix, Arizona 85007

and a copy mailed that same day to:

Alan S. Baskin, Esq.
David E. Wood, Esq.
Baskin Richards, PLC
2901 North Central Avenue, Suite 1150
Phoenix, Arizona 85012
Attorneys for Respondent Concordia Finance Company, LTD.

By _____

Cases/ER.ACC/~~Discovery~~/First RFP to ACC

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

EXHIBIT 1

Notice of Request for Proposal

In accordance with A.R.S. § 41-2534, competitive sealed proposals for the materials or services specified, will be received by the State Procurement Office **online** through the State's e-Procurement system, ProcureAZ (https://procure.az.gov) at the date and time posted in ProcureAZ. Proposals received by the correct time and date will be opened and the name of each offeror will be publically available. **Proposals must be in the actual possession of the State on or prior to the time and date and at the location indicated in the Notice. Late proposals will not be considered.**

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the appropriate Procurement Agency. Requests should be made as early as possible to allow time to arrange the accommodation. A person requiring special accommodations may contact the solicitation contact person responsible for this procurement as identified above.

OFFERORS ARE STRONGLY ENCOURAGED TO CAREFULLY READ THE ENTIRE SOLICITATION.

Table of Contents

OFFER AND ACCEPTANCE FORM		PAGE 3
SCOPE OF WORK		PAGE 4
UNIFORM TERMS AND CONDITIONS		PAGE 22
SPECIAL TERMS AND CONDITIONS		PAGE 30
UNIFORM INSTRUCTIONS TO OFFERORS		PAGE 41
SPECIAL INSTRUCTIONS TO OFFERORS		PAGE 46
EXHIBIT A	Functional, Technical and Interface Requirements	PAGE 61
EXHIBIT B	Bidder's Library	PAGE 77
EXHIBIT C	Contractor Services and Deliverables	PAGE 79
EXHIBIT D	Database Schematic	PAGE 93
ATTACHMENT ONE (1) COST SCHEDULES		PAGE 95

Offer and Acceptance

SOLICITATION NO.:

OFFFEROR:

State of Arizona
State Procurement Office
100 N 15th Ave., Suite 201
Phoenix, AZ 85007

OFFER

TO THE STATE OF ARIZONA:
The Undersigned hereby offers and agrees to furnish the material, service or construction in compliance with all terms, conditions, specifications and amendments in the Solicitation and any written exceptions in the offer. Signature also certifies Small Business status.

Arizona Transaction (Sales) Privilege Tax License No.: _____

Federal Employer Identification No.: _____ _____ _____

E-mail: _____

Phone: _____

Fax: _____

_____
Company Name

_____
Signature of Person Authorized to Sign Offer

_____
Address

_____
Printed Name

_____
City State Zip

_____
Title

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

1. The submission of the Offer did not involve collusion or other anticompetitive practices.
2. The Offeror shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, State Executive Order 2009-09 or A.R.S. §§ 41-1461 through 1465.
3. The Offeror has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer. Failure to provide a valid signature affirming the stipulations required by this clause shall result in rejection of the offer. Signing the offer with a false statement shall void the offer, any resulting contract and may be subject to legal remedies provided by law.
4. The Offeror certifies that the above referenced organization ___ **IS/** ___ **IS NOT** a small business with less than 100 employees or has gross revenues of $4 million or less.

ACCEPTANCE OF OFFER

The Offer is hereby accepted.

The Contractor is now bound to sell the materials or services listed by the attached contract and based upon the solicitation, including all terms, conditions, specifications, amendments, etc., and the Contractor's Offer as accepted by the State.

This Contract shall henceforth be referred to as Contract No. _____. The Contractor has been cautioned not to commence any billable work or to provide any material or service under this contract until Contractor receives purchase order, contact release document, Accepted Statement of Work or written notice to proceed.

State of Arizona
Awarded this _____ **day of** _____ **20** _____

_____
Procurement Officer

I. INTRODUCTION AND RFP OVERVIEW

A Purpose

The State of Arizona has a requirement for the products and services as described herein. The purpose of the Solicitation is to conduct a competitive process, in accordance with Arizona Revised Statutes (ARS) 41-2501 et seq., to create a Contract or Contracts from which the State may acquire these Products and Services.

B Background

The Arizona Corporation Commission ("ACC"), Securities Division ("Division") seeks qualified organizations to implement a matter and case management system to replace legacy systems and databases. As part of this project, the Division also seeks to establish a new public web portal for the purpose of facilitating e-filings and e-payments (collectively the "Solution"). The Solution must align with the Division's vision to improve the efficiency and effectiveness of operations as well as to improve customer service. At a high level, the Division's objectives are :

To increase operational efficiency and effectiveness through use of an integrated database with full search capability;

To enhance customer service and transparency to the public through e-filing and e-payment capabilities;

To improve the ability to share matter and case information across the Division;

To consolidate existing data from separate legacy systems into a single system;

To increase supervisory staff's ability to monitor, assess and report on the Division's activities.

To advance the State's green initiatives through the use of optical character recognition ("OCR") scanning technology with data capture capability that enables electronic document storage in the Solution and reduces manual data entry ;

The Solution will replace the two primary systems used by Division staff as well as numerous standalone systems and databases. The Solution will also utilize Application Program Interfaces ("APIs") to facilitate the exchange of information with third party systems.

The Division is seeking an offeror to implement a highly-configurable commercial off-the-shelf ("COTS") system that can be modified to meet the requirements of this request for proposal ("RFP").

C. Overview of Required Deliverables

1. An integrated case and matter management system with full search functionality across all Division areas

   1.1 These tools need to be simple, user friendly, flexible, and reliable.

   1.2 End users should be able to retrieve every "touch point" or interaction that an individual or firm has had with the Division through search queries.

   1.3 Data from several separate legacy systems will be migrated into the new system.

   1.4 The Solution must substantially reduce or eliminate entirely the need for redundant data entry.

2. A case and matter management system that is customized to end users

2.1 All team members working on a case or matter should be able to review a snapshot of progress/milestones achieved and tasks yet to be completed.

2.2 An intuitive dashboard by functional areas should enable users to access all information about a matter or case.

2.3 The system should include case and matter tracking capabilities.

2.4 Deadline management with pop-up or email alerts must be included in the case and matter management system.

2.5 The system should have automated document generation/templates for routine/repetitive documents by functional area.

3. A public web portal with online filing and payment capabilities

3.1 Members of the public will have the ability to make filings, attach documents, complete templates, and make payments by credit card all online 24/7.

3.2 The Solution must have the ability to make complex calculations of filing fees and interest.

3.3 Online filing and payment capabilities must automatically interface with and update the matter/case management system.

4. Document management tools

4.1 Case and matter records are subject to state archive and retention requirements which timeframes must be incorporated in the Solution.

4.2 Case and matter records are subject to public information requests that require tracking.

5. Tools to assist Division management

5.1 The Solution should include report writing tools that enable management to easily generate standard and ad hoc reports.

5.2 Information entered into or deleted from the system must leave an audit trail.

5.3 The Solution should assist Division management in maximizing resource utilization.

5.4 Division management should be able to monitor and assess staff assignments and work load through the Solution.

6. Robust financial management functionality for money received or disbursed by the Division

6.1 The Solution must account for restitution payments, fines, penalties, interest and other charges assessed as a result of an administrative order.

6.2 The Solution must account for and calculate filing fees paid by securities issuers which are subsequently deposited into four different state government accounts.

6.3 The Solution must track examination fees paid by broker dealers.

6.4 The Solution must be capable of calculating interest and sliding scale fees based on statutory criteria.

6.5 The Solution must generate reports to reconcile and identify funds received.

7. A Solution that is readily configurable by the Division administrator with no assistance from internal IT or Contractors.

8. Tools to track and memorialize telephone inquiries and complaints from the public.

9. A Solution that is compatible with OCR scanning technology with automatic data extraction capability such that the extracted data may directly update the Solution database

D. Solutions Requirements Overview

The offeror shall deliver a matter and case management system software application, all other licensed business applications, technology support products, applications, a public web portal for e-filing and e-payment, and required application program interfaces that fulfill all Division, State and federal requirements. The Division seeks a highly-configurable COTS system that can be modified by non-IT staff. The Solution must interface with state-of-the-art OCR scanners with data capture functionality. Staff personal computers will be interfaced with the Solution upon implementation.

Exhibit A of this RFP includes a detailed spreadsheet entitled "Scope of Work" which details the requirements for the Solution at a global level and by functional area. Offerors must complete Exhibit A and C and other required forms and submit them with their proposals according to the instructions in the Special Instructions to Offerors section of this RFP. An overview of the Division's functional areas is presented in Section II (C), Current Environment.

Offeror must build and test interfaces between the Solution and the Division's data sharing partners. The offeror will have the responsibility of building and maintaining all data push interfaces originating from the Division's Solution. Interfaces being used for data input or usage by the Division's Solution shall also be the full responsibility of the selected offeror to negotiate, design, and implement from the providing system. Replacement of interfaces from existing systems to the Solution should require limited programming effort on behalf of the partner system. Interfaces that are to be designed with other new systems should be designed with an architect representing the sending and receiving systems, as well as business representatives to determine the triggering events, frequency, and format of data to be sent.

E. Solution Ownership

All Solution hardware shall be owned, operated, maintained, and upgraded as necessary by the Offeror. The Division has a preference that Offerors provide Solution software under one of two service models: 1) the software is owned by the Division under a perpetual licensing agreement or 2) software is provided as a service by the Offeror for a monthly subscription fee (e.g. cloud). Offerors must describe in detail whether they provide software under model 1 or 2 above. The Division will own data stored in the Solution at all times.

F. Approach to Implementation

The Division plans to implement all components of the Solution simultaneously at the Division's single office in Phoenix, AZ.

During the design, development, and implementation, the Division will minimize changes to its current systems and databases to the extent possible, but changes may be required when mandated by law. The Division will work with the Offeror to limit any impact on the Solution prior to implementation.

G. General Background of Systems

The Division is made up of two (2) sections, namely the enforcement section and the registration and compliance section. These sections rely heavily upon two legacy software databases in order to accomplish their work. Both databases are over thirteen years old and have severely limited functionality compared with today's technology solutions.

One database is used to track enforcement cases while the other database handles registration and compliance matters. In addition, Division staff has created numerous standalone spreadsheets and databases to compensate for deficiencies in the two primary databases.

The enforcement section's main tool is called the enforcement database which is an Access database originally created in 1998. The enforcement database houses information concerning the investigation and prosecution of enforcement cases against individuals and firms (referred to as "cases" in this RFP). The enforcement database and additional spreadsheets are also used to track the payment of restitution, fines and other charges resulting from an enforcement action. The recent installation of Windows 7 to staff's desktops created incompatibility issues.

The registration section uses a database called STAR which was a vendor-created product installed in 2000. The STAR database is no longer supported by the vendor and the data is maintained in a virtual environment. STAR houses all information on securities registration/ exemption filings as well as information on all state broker and adviser licensees (collectively referred to as "matters" in this RFP). STAR is also used to account for the fees paid by such registrants and licensees.

As the enforcement database and STAR are two separate and distinct systems, information entered into one system is not connected in any way to the other system. This results in information silos and an inability to run comprehensive searches on firms and persons who interact with the Division. The additional standalone spreadsheets and databases created by staff to house data further contribute to information silos.

II. CURRENT ENVIRONMENT

A. Introduction

This section provides Offerors with an overview of the Division's current business and technical operating environments, including high-level descriptions of computing applications and their operations. This view of current operations and technology provides an "as is" context, to provide a basis for understanding the Division's future direction and proposed Solution requirements.

B. Business Context and Overview

The Division is one of nine divisions of the ACC. The ACC was created by Article XV of the Arizona Constitution in 1912 and is currently governed by five Commissioners.

The Division administers the Securities Act of Arizona, A.R.S. §§ 44-1801 through 44-2126, the Arizona Investment Management Act, A.R.S. §§ 44-3101 through 44-3325, and the rules promulgated thereunder (collectively the "Acts"). The Division's staff currently numbers around 50 persons.

The Division strives to preserve the integrity of the securities marketplace through investigative actions to deter fraud and to provide registration and oversight of securities offerings, securities dealers and salesmen, investment advisers and their representatives. The Division administers the Acts through two sections within the Division: 1) enforcement and 2) registration and compliance. References herein to "cases" typically refer to activities associated with the enforcement section; references herein to "matters" typically refer to the activities of the registration and compliance section.

The Division's enforcement section endeavors to deter or remediate violations of the Acts. Members of the enforcement section bring administrative and civil actions against individuals and entities that violate the Acts. The Division may also refer cases to and work with the Attorney General on criminal actions brought by the Attorney General. Staff attorneys handle all legal and technical aspects of the case. The Division's investigators and certified public accountants provide essential litigation support in terms of marshaling witnesses, conducting financial and forensic analysis, and providing expert testimony. If an order is entered against an individual or entity requiring the payment of restitution to investors, administrative penalties or other charges, a collections specialist handles the receipting of such monies. The enforcement section also handles complaints from the public.

The Division's registration and compliance section is comprised of two units: the registration unit and compliance unit. Attorneys and analysts in the registration unit review applications for securities registration and exemption, as well as licensure of securities dealers, salesmen, investment advisers, and investment adviser representatives. All filing fees and payments received by this unit are receipted and accounted for by staff. In addition to receipting monies, opening files, and updating the registrant data base, receipting staff generate reports, exchange correspondence with filers, and collect late filing penalties.

The compliance unit has primary responsibility for conducting routine and for-cause examinations and investigations regarding the sales practices of securities broker dealers, salesmen, investment advisers, and investment adviser representatives throughout the state. The compliance section also receives and evaluates customer complaints from the public concerning registered securities dealers, salesmen, investment advisers, and investment adviser representatives.

C. Overview of Functional Areas

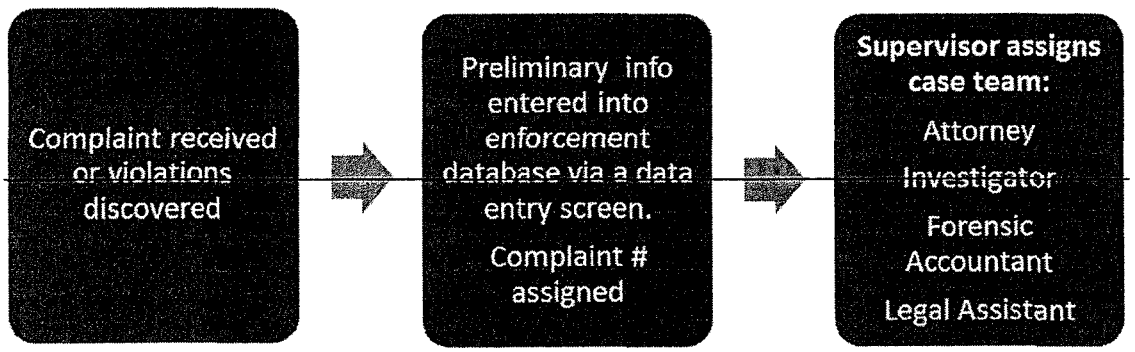
This section provides an overview of the Division's functional areas. Attached as Exhibit A is a spreadsheet entitled "Scope of Work" which details the Solution functionality required by the Division to accommodate each functional area. Offerors must submit the completed Exhibit A with their proposal. This section provides an overview of each business process area at a high level, along with a discussion of the systems, databases, and manual steps that support those processes.

1. Enforcement

The Division's enforcement section investigates to determine whether those who offer and sell securities or investment advice within or from Arizona are in compliance with the Acts. Violations may be discovered as a result of an external complaint, a referral from another agency, or an investigation or examination conducted by the Division. If violations are discovered, the Division will initiate an action against a firm or individual to enforce provisions of the Acts. Attorneys, investigators, forensic accountants and legal assistants work together to investigate and litigate alleged violations of the Acts.

1.1. Initial intake

Cases begin on receipt of complaints or alleged violations. For tracking purposes, preliminary information about the complaint or violations is entered into the enforcement database and it is assigned a complaint number.



1.2 Investigations

Investigations include the following key activities, all of which, along with the information, should be noted in the enforcement database and Excel spreadsheets/Word documents:

1.2.1 Background checks

Investigators may use a wide variety of internal and external resources to conduct the initial background research.

1.2.2 Subpoenas

The Division has the authority to subpoena witnesses, books, papers, contracts, agreements, or other documents, records, or information that the Division deems relevant to an investigation or hearing. Key activities include:

Preparation of a subpoena for testimony, documents or both using a subpoena template;

Preparation of an exhibit to the subpoena describing documents sought, if any;

Determination of whether confidential treatment is appropriate for service of subpoena on a financial institution and documenting same;

Preparation of cover letter and custodian affidavit from templates;

Tracking basic subpoena information in the enforcement database;

Separately tracking information about the subpoena on a subpoena log (Word document) with more detailed information such as upon whom served, date of service, response date, extensions granted; and

Calendaring the response due date.

1.2.3 Examinations Under Oath ("EUO") and Interviews

An EUO is a formal interview conducted by a case team attorney and recorded by a court reporter. The case team prepares exhibits for use at the EUO and marks them for identification. Less formal interviews are conducted with investors, investigative leads, and witnesses in order to obtain statements, gather evidence and records, and identify testimony that should be presented at a hearing or trial. Targets of an investigation may be interviewed informally or subpoenaed for an EUO.

The interviewer incorporates all hand-written notes of an interview into a written document or report within 20 working days of the creation of the notes or preserves the original hand-written notes.

1.2.4 Evidence management

Investigators maintain an electronic document inventory log (Word doc) which records all documents and evidence gathered.

1.3 Financial Analysis

Forensic accountants analyze financial records and related documents in support of potential litigation of cases brought by the Division. These records documents must be maintained with the possibility that they will be disclosed in the course of litigation if the accountants are called as expert witnesses at hearing. Accountants are involved in the following key activities:

1.3.1 Maintaining a master list of documents reviewed;

1.3.2 Creating separate Access databases for each case and manually entering transaction information from bank statements into the Access database by one of the following methods; and

1.3.2.1 Manually entering the information into the database,

1.3.2.2 Entering the information into an Excel spreadsheet from which formatted information is transferred to the database, or

1.3.2.3 OCR scanning bank statements, then exporting the information to Excel for formatting and upload to the Access database;

1.3.3 Entering bank statement information into tables in the Access database for further analysis and reporting;

1.3.4 Sending bank detail letters using a template or custom letter asking for more detailed information on specific transactions and updating the database with those details;

1.3.5 Assigning a code to each financial transaction from a list of standardized codes in order to facilitate further analysis and reporting;

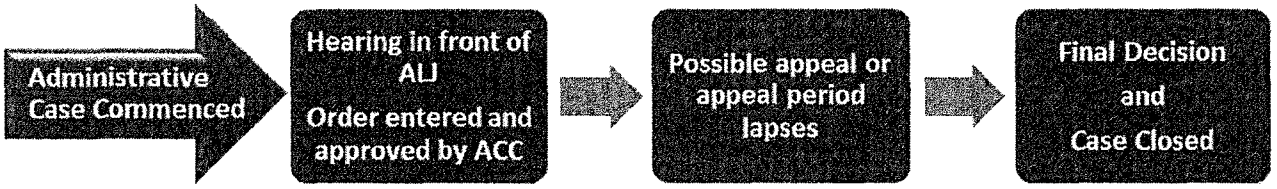
1.3.6 Analyzing financial information using queries from the Access database, customized Crystal Reports, and Excel to identify patterns of activity and to determine whether investors' funds were used as represented in disclosure documents;

1.3.7 Developing reports using charts, graphs, and transaction listings, cash flow summaries showing source and use of funds, and other reports; and

1.3.8 Preparing a restitution list in Excel from a template which is manually entered and provided to the case team for use at a hearing or trial and to the collections agent.

1.4 Cases

When a case team determines to pursue an investigation, the team opens a case file, both electronically and paper-based, in which the team transfers all information obtained during the initial investigation. Cases include administrative, civil and criminal cases.



1.4.1 Administrative Cases

The Division brings such actions before an administrative law judge ("ALJ") employed by the ACC's Hearing Division. The action may result in the imposition of monetary relief in the form of administrative penalties, restitution, and/or rescission; issuance of a cease and desist order; and/or denial, suspension, or revocation of registration/licensing.

To initiate an enforcement action through an administrative proceeding, the Division will file an administrative complaint called a Notice of Opportunity for Hearing ("Notice"), which is served on the respondents. The Notice informs the respondents of the conduct constituting a statutory violation, the statute the conduct violates, and the remedies sought by the Division. The Notice process involves the following key activities:

1.4.1.1 The Notice is approved and signed by the Director.

A hard copy of the signed Notice is filed with ACC's Docket Control; Docket Controls serves the same role as a clerk of the court.

The Notice is then served on each respondent. Following service, an affidavit of service for each respondent is prepared by the investigator and filed with the ACC's Docket Control.

The enforcement database is updated to reflect the above information.

1.4.1.2 Default and consent orders

These orders are drafted by the Division, as contrasted with Hearing Division orders described later.

A proposed order is drafted, based on the facts and remedies sought in the Notice.

A case memorandum and proposed default order are filed with the ACC's Docket Control.

The Commission approves or denies the proposed order at a meeting.
If approved, a decision is issued and filed with the ACC's Docket Control.

If appropriate, the case is turned over to the Division's collections analyst for further action.

The enforcement database is updated.

1.5 Hearings

A respondent in an administrative enforcement proceeding is given an opportunity to present the respondent's evidence and confront the state's evidence at an evidentiary hearing. The Division's administrative enforcement actions are brought before an ALJ. Key activities include:

1.5.1 The case team identifies and marks documentary evidence it will use at the hearing, with personal identifying information redacted;

1.5.2 The case team prepares copies of the Division's exhibits for the ALJ and electronic copies for each respondent;

1.5.3 The Division may issue and serve subpoenas to compel witnesses' attendance at the hearing, completing an affidavit of service;

1.5.4 If appropriate, after an Order is issued and approved by the Commission, the matter may be turned over to the Division's collections analyst for further action; and

1.5.5 The enforcement database is updated.

1.6. Rehearing and appeal

A respondent may request a rehearing. If a rehearing is not granted, or the respondent is not satisfied with the result of a rehearing, the respondent may appeal an administrative agency's decision to the Maricopa County Superior Court. Either a respondent or the Division may appeal a superior court decision to the Arizona Court of Appeals.

When a case is closed, the status of the matter is changed in the enforcement database. If the case concerned an individual against whom action was taken, a member of the case team will prepare a Form U-6 for filing electronically with the Central Registration Depository ("CRD") maintained by the Financial Industry Regulatory Authority ("FINRA"). The Form U-6 reports the case, the allegations, and how the case was resolved.

1.6.1 Civil Cases

The Acts authorize the ACC to apply to the Maricopa County Superior Court for a court order to enforce a subpoena, to bring civil actions in the Maricopa County Superior for injunctions or restoration orders, and to petition the Maricopa Superior Court to appoint a conservator or receiver.

1.6.2 Criminal cases

Violation of many of the provisions contained in the Acts is a class four felony. The Acts authorize the ACC to transmit evidence to any law enforcement agency who may institute criminal proceedings. In some cases, the law enforcement agency will request assistance from the Division, including the appointment of a staff attorney to act as a special prosecutor, a staff attorney or forensic accountant to testify as an expert witness, or a staff investigator to testify as a witness or conduct further investigation.

The case team attorney updates the enforcement database.

2.0 Collections

An order to pay restitution or penalties becomes a collection matter. Arizona law authorizes the Bankruptcy and Collection Enforcement Section "(BCE") of the Attorney General's Office to initiate proceedings to collect, compromise, or settle such debts. Collections include the following key activities:

2.1. Debt Collection Efforts

Upon submission of any administrative order for ACC approval or upon entry of any civil court judgment where restitution or penalties are ordered, the collections portion of the enforcement database is updated to reflect the order or judgment. The collections analyst files a certified copy of the administrative order with the superior court and obtains a transcripted judgment which is recorded in with the Maricopa County Recorder's Office. Key information from the transcripted judgment is entered into:

2.1.1 The enforcement database;

2.1.2 "Tickler" software so that the transcripted judgment can be renewed in 5 years unless sooner paid;

2.1.3 A Word document report for BCE; and

2.1.4 A quarterly debt report for BCE showing amounts owed to the State and how to calculate unpaid restitution, penalties and interest owed by each respondent.

The Division refers collection orders (i.e. unpaid restitution or penalty or default on payment plan) to BCE. The collection agent sends:

2.1.5 A certified copy of the order or judgment;

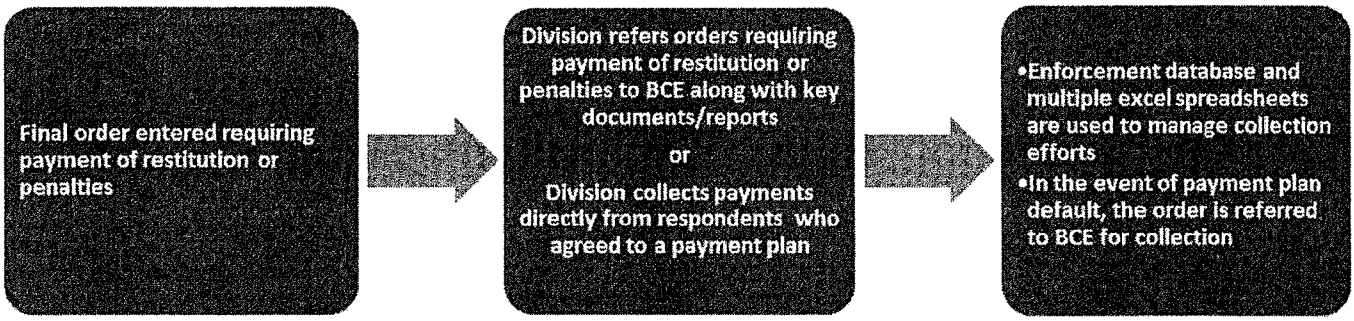
2.1.6 If the order or judgment was entered on default, a certified copy of the affidavit of service;

2.1.7 Copies of sworn financial statements; and

2.1.8 Excel spreadsheet of principal amount owed, interest start date, rate of interest, and payments made.

In some cases, respondents make payments directly to the Division. The enforcement database is updated to reflect payments made. If a respondent requests a payoff amount, the collections agent manually calculates the payoff amount with interest to the payment date. If a default in the payment plan occurs, the order is referred to BCE for collection.

BCE transfers all funds collected, minus its collection fee of 35%, to the Division along with a report detailing the payments being transferred. The collections agent transfers restitution funds to the ACC's Business Office or to the Consumer Protection & Advocacy ("CPA") section of the Attorney General's office. The collection agent sends a "Restitution Claim" spreadsheet to the ACC Business Office or to CPA to have investors' restitution checks Issued. Payments received for penalties are deposited in the State general fund.



2.2 Maintain Restitution Lists

The Division compiles a restitution list that is made up of the names and addresses of all individuals who are due restitution as a result of the enforcement action. The list sets forth the loss claimed by each investor and the pro rata portion of any restitution payments due to each investor. This information is maintained by the collections analyst on an Excel spreadsheet.

3.0 Registration and Exemptions

Securities sold or offered for sale within or from Arizona must be registered with the Division or be subject to an exemption from such registration. Each type of securities offering or exemption requires a different checklist of documents. The filing fee for the securities offering or exemption will vary based upon the type of security. Issuers file all registration materials in hard copy with the Division along with a check for the filing fee. The Division must process applications for registration within the time frames

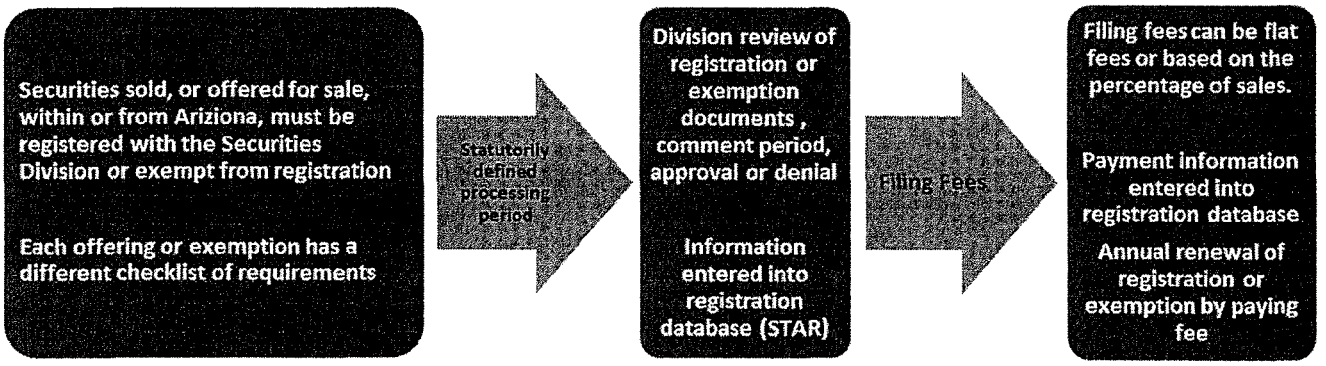
established by law. The registration staff must review the registration applications within that timeframe and issue comment letters to the issuer asking for additional information or explanation regarding the offering. The issuer must reply to the comment letter in order to advance the registration process. Registrations can be withdrawn, abandoned or denied.

Approval certificates and cover letters are sent to the issuer. Registration status can be renewed yearly with payment of a fee.

Information concerning the securities offering is manually entered into the registration database, STAR.

3.1 Filing fees

Filing fees can either be flat fees or based upon the percentage of securities sales. Securities that seek registration by qualification pay a nonrefundable fee of one-tenth of one percent of the aggregate offering price, but not less than $200 nor more than $2,000. Other securities issuers can pay between $200 to $3,500 depending on the actual sales. In some cases two fees must be calculated - one with the initial filing and the second one when the company files its final sales report with the Division. Filing fee information is entered into STAR.



4. Licensing

The Division licenses dealers, securities salesmen, investment advisers and investment adviser representatives. This process requires interaction with the Central Registration Depository ("CRD") and the Investment Adviser Registration Depository ("IARD"), both of which are separate national computer systems operated by the FINRA. The basic requirement followed by most licensees is to file an application and fee on the CRD or IARD, indicating that the licensee wishes to be licensed in Arizona. Additionally, documents may be filed directly with the Division as part of the process. Some licensees do file their application directly with the Division, bypassing the national system. In either circumstance, the Division may send a comment letter to the licensee requesting more information. Applicants are required to provide proof of lawful presence in the United States. Registration staff updates an Access database with information demonstrating compliance with this requirement.

On a weekly basis, the CRD and IARD electronically transmit fees collected for that week to the Arizona State Treasurer. On a weekly basis, the CRD and IARD provides the Division with a list of applications received. That

list is used by the Division's receipting staff to inform ACC's Business Office how the payment is to be processed.

All licenses may be renewed annually. This can either be done through the CRD or IARD or it can be done directly with the Division. FINRA electronically transmits renewal fees in a lump sum to the Arizona State Treasurer. FINRA provides the Division with a list of renewal fees paid and receipting staff uses that list to inform the Business Office of how the payment is to be processed.

Securities and filing fees total over $25,000,000 annually.

5.0 Registration and Licensing Reporting

5.1 Statistical Reports - A registration analyst prepares quarterly statistical reports which provide:

5.1.1 The number of registration and licensing applications received during the quarter by type (e.g. securities, dealer and investment adviser); and

5.1.2 The total number of current registrations by type.

5.2 Timeliness Reports - An annual timeliness report is prepared stating:

5.2.1 The number of registration and licensing applications received;

5.2.2 The number of registration and licensing applications approved; and

5.2.3 The number of applications processed beyond statutory deadlines resulting in a return of fees.

6.0 Examinations

6.1 The Division conducts examinations of the dealers, salesmen, investment advisers, and investment adviser representatives licensed in Arizona to verify that they are in compliance with the Acts.
Examinations include the following key activities:

6.1.1 Exams are scheduled in advance or on an unannounced basis;

6.1.2 Examiner prepares a Notice of Inspection Rights from a template;

6.1.3 Examiner prepares an investment adviser or broker dealer input sheet with key information;

6.1.4 Examiner obtains the signature of examinee on Notice of Inspection Rights;

6.1.5 Examiner conducts an interview of the principal with respect to the adviser's business model and practices using an examination module template;

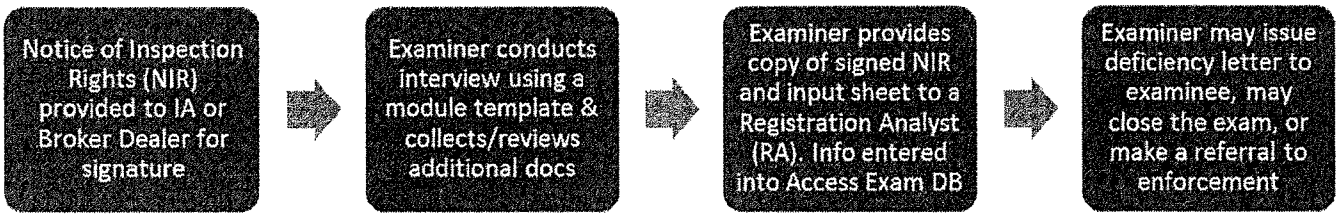
6.1.6 Examiner may review documents and collect additional documents in hard copy or electronically;

6.1.7 Upon return to the office, the examiner provides a copy of the signed Notice of Inspection Rights and input sheet to registration analyst who enters this information into the Exam Database, which is a separate Access database;

6.1.8 If the written waiver of right to receive 30 day status reports was not signed by examinee, the examiner calendars a 30 day reminder to send a status report to the examinee;

6.1.9 Examiner conducts further desk review; and

6.1.10 After deficiencies have been corrected, the exam may be closed and the examiner gives the examination file to the registration analyst. The registration analyst manually inputs the "closed" status into the Exam Database.



7. Financial Management

7.1 Calculation of interest (e.g. on restitution) - The interest rate may vary according to the order. Interest is calculated from a date certain (e.g. date of order/judgment or date of each investor's investment). The collections agent manually inputs the interest information:

7.1.1 Into the enforcement collections database; and

7.1.2. Into an Excel spreadsheet containing a formula to calculate the interest from the date of accrual until paid.

7.2 Calculation of filing fees - Calculation of securities registration and securities exemption filing fees.

7.2.1 The Division receives hard copy applications for securities registration and exemption filings. The filing packages are accompanied by checks for the filing fees. The amount of the fee depends on the type of securities offering.

7.2.2 Calculation of mutual fund filing fees
Filing fees for mutual funds are calculated on a sliding scale based on the dollar amount of sales by the issuer. A mutual fund filer can pay the minimum fee of $200 at the time of the initial filing, but is required to make additional sales reports and may be required to pay additional "backend fees" calculated on its sales. Late fees may apply to backend filing fees. A mutual fund filer can pay the maximum fee of $3,500 at the time of the initial filing and no further sales reports are required. However, the mutual fund filer must renew or terminate the filing prior to the registration expiration date which is 12 months after the initial filing.

7.3 Calculation of fees apportioned to different State accounts

Fees received by the Division in payment of securities registration, securities exemption, broker dealer, investment adviser, and representative licensing fees may be directed into one or more of four possible State accounts 1) the general fund; 2) the securities regulatory and enforcement fund; 3) the investment management regulatory and enforcement fund; or 4) the Arizona Competes Fund. The amount of the fee to be allocated to one or more accounts depends upon the type of fee paid. The registration database (i.e. STAR) must calculate the split depending upon the type of fee.

7.4 Reconciliation

The registration analyst prepares daily and monthly reports for the ACC's Business Office showing dollar amounts posted to the State general ledger. The Business Office sends the

Division a daily report of amounts posted to the general ledger and underlying state accounts. The registration analyst accumulates those daily posting reports and manually enters the posted amounts into an Excel spreadsheet. On a monthly basis, the analyst prints a report detailing fees received by date, amount and category. The report data is entered into the Excel spreadsheet and reconciled against data from the Business Office posting reports.

7.5 Reporting

7.5.1 Weekly Electronic Funds Transfer ("EFT) Report

On a weekly basis, registration and receipting staff downloads a report from the CRD identifying broker dealers, salesmen, investment advisers, and investment adviser representatives who made application filings and paid fees through the CRD/IARD. The Weekly EFT Report shows the amount of filing fees owed to the Division by FINRA. FINRA pays those fees directly to the Arizona Treasurer via EFT. The Division must track those fees.

7.5.2 Daily Receipting Report

This report provides both a summary of funds received each day and a detailed breakdown of dollar amounts received. At the end of each day, receipting staff prints off the report showing the total amount received for that day. The Daily Receipting Report is sent to the Business Office (both summary and detailed breakdown).

7.6 Receipting of licensing/registration fees, renewals, miscellaneous (e.g. PRR, no action)

7.6.1 FINRA-member broker dealers and their salesmen, investment advisers and investment adviser representatives file their initial licensing applications and pay fees electronically through the CRD/IARD system. Weekly the Division downloads information from the CRD/IARD on filing fees owed the Division by FINRA. The fee payment information is manually receipted into STAR along with pertinent information concerning the filer. Renewal fees are handled similarly.

7.6.2 The Division may receive various fees by check as result of filings by a non-FINRA member broker dealers, issuer dealers, mutual fund filers, fingerprint processing fees, public records requests ("PRR") or a no-action letter requests. These fees are manually receipted by noting the amount of fee and type of filing in STAR.

7.7 Receipting of restitution, fines, penalties

7.7.1 Payments made directly to the Division - The collections agent will process any payments received from a respondent for matters not referred to BCE. All payment information must be entered into the enforcement database.

7.6.2 Penalty payments go to the Division's registration receipting staff for deposit. Receipting staff enters pertinent information into STAR and transmits the check to ACC's Business Office.

7.6.3 Restitution payments are sent to ACC's Business Office or to CPA by the collections agent along with a copy of the check and respondent information.

7.8 Monthly Transfers from BCE to the Division

BCE sends a Monthly Distribution Report to the Division's collections agent. This report lists payments collected by BCE, including the gross amount collected, commission/fees taken (if any), 35% deduction

for BCE collection fee, and 65% of payment going to ACC for deposit into the respondent's restitution account for later distribution to individual investors.

Information from BCE's Monthly Distribution Report is manually entered into 1) the enforcement database; 2) a monthly spreadsheet called "Transfer Calculation of Restitution;" and 3) Companion Transaction Entry/Transfer spreadsheet for ACC and CPA which goes to the ACC Business Office to advise it where to deposit or transfer funds.

Penalty amounts are also included in these transfers, but are automatically deposited into the general fund upon receipt of the monthly transfers. The collections agent does a breakdown of all funds collected, by restitution and penalty.

7.9 Disbursement of Recovered Funds to Investors

The collections agent monitors the respondent's restitution paid account balance to determine when a distribution to investors should be made. The collections agent updates both the ACC and CPA restitution account balance spreadsheets with any known amounts that were paid directly to the Division or payments received through the BCE department monthly transfers. Each investor's distribution amount is determined by a formula.

8. Public Contact

8.1 Attorney on Duty ("AOD")/Investigator on Duty ("IOD") calls

The Division receives inquiries on a daily basis regarding Division business, which includes telephone calls, e-mail inquiries, and in-office visitors. These contacts are tabulated by assigned staff who are on duty that day.

8.2 Public Record Requests

Public records laws require that agencies respond to public records requests. All requests for copies of public records must be submitted on a completed "public records reproduction request" form. Copying fees may be assessed, collected, and receipted. Documents produced must be itemized.

8.3 No Action Requests

The Division's statutory authorization states that the Director may formally respond to written requests from interested persons for interpretative no-action letters that confirm that the Division will not institute enforcement proceedings against certain specified persons for engaging in certain specified activities. A non-refundable filing fee of $200 must accompany requests for no-action letters.

8.3.1 Retention of no-action documentation;

8.3.1.1 A hard copy no-action letter file is maintained; or

8.3.1.2 An electronic no-action letter file is maintained.

9. Document Management

All public records held by the Division must follow a records retention schedule. Upon certain dates, documents are sent to an offsite records center and/or destroyed.

III. SCOPE OF WORK

A. Introduction

This section outlines the scope of work required for the Arizona Securities Division Legacy System Replacement Project.

The successful offeror (Contractor) will be required to work in collaboration with the ACC which includes the Securities and IT Divisions, and other representatives of the Division to accomplish the project.

The Contractor will be required to implement the Solution in the Division's office located in Phoenix, AZ.

B. Software Solution

The functionality desired is described generally in Section I (C), Overview of Required Deliverables and more specifically in Exhibit A attached to this RFP. The Division has a preference for a COTS Solution that requires more configuration than custom development. Offeror's proposals shall describe the proposed Solution functionality that requires configuration, customization, development from scratch, third party software, or that cannot be met according to the matrix included as Exhibit A. The Offeror must complete Exhibit A and respond whether they meet each requirement or not, following the detailed instructions in Special Instructions to Offerors.

The diagram set forth in Exhibit D is a high-level system diagram of what the Division requires as a software solution. The diagram shows some of the key data/functionality required only; offerors should refer to Exhibit A for the complete requirements. The diagram illustrates the following:

1. Global Requirement

   The Solution must integrate data reflecting every "touch point" an individual or entity has with the Division.

2. Examination Management

   The Solution must provide the ability to manage examination data, including examinees' key information, scheduling of exams, collecting and uploading examinees' documents, and tracking the timeline of key exam events.

3. Investigation Management

   Investigation and interview data may be uploaded or entered into the Solution, including comprehensive subpoena tracking. Reports and due date triggers are also required.

4. Case Management

   The Solution must provide case management for any litigation initiated against an individual or entity by the enforcement section. Case management includes deadline reminders, staff assignments, drafting and filing pleadings, complex financial analysis by accountants, maintaining an evidence log, and preparation for hearings.

5. Collections Management

   The Solution must account for collection of restitution and penalties as a result of enforcement actions. Payments are receipted, redistributed to investors, and reported on to various other state agencies.

6. Registration, Exemption, and Licensing Management

The Solution must collect data concerning registrations, exemptions, and licensing of individuals and entities, and securities offerings. It must allow filing fee information to be input electronically or manually into the Solution.

7. Financial Management

The Solution must have a financial module that integrates with other parts of the Solution. The Division receives payments for restitution and penalties, filing fees, and processing fees for public records requests and no-action requests. The Solution must receipt all payments and allocate such payments to one of four (4) State accounts. The Solution must be capable of complex calculation of filing fees. Notices, letters, and reports are also required.

8. Public Records Request Management

The Solution must provide the ability to track public records requests and documents provided in response to such requests. Reporting and letters are also required.

9. User Administration

The Division requires the Solution to manage both user account and role definition so that staff can be assigned specific roles (e.g. investigator, attorney) and appropriate permissions.

10. Reporting

Reporting is required in every module.

11. Web Portal

A web portal is desired for some modules to allow for forms and/or data entry by the public and to receive/process payments to the Division.

C. Hardware and Third Party Software

The Contractor shall acquire any hardware or 3rd party software required by the Solution, including licensed software, in such a manner that it may be legally used in the Solution. The Contractor shall ensure that both the hardware and software is upgradable and expandable with regular maintenance to ensure optimum performance. The Contractor must provide for no fewer than fifty (50) State user licenses for all hardware and software, including third-party software during the entire term of the contract.

Purchased hardware and software must all transfer to the State during Turnover Activities defined in Exhibit C. Offerors shall itemize hardware and software in their proposal on the cost schedules provided in Attachment 1 in the event the Division purchases the hardware and software (beyond licensing). Schedules will include price per user for each license.

D. Data Migration

For the proposed Solution, the Division shall require the Contractor to perform the complete migration of existing data that exists in the current databases, software tools, and spreadsheets used by the Division to do their work, as was described previously. The detailed requirements that must be met are part of Exhibit C.

E. Contractor Services and Deliverables

For the proposed Solution, the Division shall require the Contractor to perform the following product life cycle activities for implementing the Solution:

1. Project Initiation and Management;
2. Requirements Definition;
3. Design;
4. Development/Configuration;
5. Data Conversion;
6. Testing;
7. Training;
8. Implementation;
9. Maintenance and Operations; and
10. Turnover Activities

In Exhibit C, the Division lists all requirements per activity listed above. The Offeror must indicate, whether they meet or do not meet the requirement.

UNIFORM TERMS AND CONDITIONS

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

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

1.2 *"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 Best and Final Offers; and any Solicitation Amendments or Contract Amendments.

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

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

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

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

1.7 *"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.

1.8 "*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.

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

1.10 *"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.

1.11 *"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.

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

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

2 Contract Interpretation

2.1 Arizona Law. The Arizona law applies to this Contract including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona and the Arizona Procurement Code, Arizona Revised Statutes (A.R.S.) Title 41, Chapter 23, and its implementing rules, Arizona Administrative Code (A.A.C.) Title 2, Chapter 7.

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

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

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

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

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

2.6 No 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.

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

3 Contract administration and operation.

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

3.2 Non-Discrimination. The Contractor shall comply with State Executive Order No. 2009-09 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.

3.3 Audit. Pursuant to ARS § 35-214, at any time during the term of this Contract and five (5) years thereafter, the Contractor's or any subcontractor's books and records shall be subject to audit by the State and, where applicable, the Federal Government, to the extent that the books and records relate to the performance of the Contract or Subcontract.

3.4 Facilities Inspection and Materials Testing. The Contractor agrees to permit access to its facilities, subcontractor facilities and the Contractor's processes or services, at reasonable times for inspection of the facilities or materials covered under this Contract. The State shall also have the right to test, at its own cost, the materials to be supplied under this Contract. Neither inspection of the Contractor's facilities nor materials testing shall constitute final acceptance of the materials or services. If the State determines noncompliance of the materials, the Contractor shall be responsible for the payment of all costs incurred by the State for testing and inspection.

3.5 Notices. Notices to the Contractor required by this Contract shall be made by the State to the person indicated on the Offer and Acceptance form submitted by the Contractor unless otherwise stated in the Contract. Notices to the State required by the Contract shall be made by the Contractor to the Solicitation Contact Person indicated on the Solicitation cover sheet, unless otherwise stated in the Contract. An authorized Procurement Officer and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice to the other and an amendment to the Contract shall not be necessary.

3.6 Advertising, Publishing and Promotion of Contract. The Contractor shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the Procurement Officer.

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

3.8 Ownership of Intellectual Property
Any and all intellectual property, including but not limited to copyright, invention, trademark, trade name, service mark, and/or trade secrets created or conceived pursuant to or as a result of this contract and any related subcontract ("Intellectual Property"), shall be work made for hire and the State shall be considered the creator of such Intellectual Property. The agency, department, division, board or commission of the State of Arizona requesting the issuance of the contract shall own (for and on behalf of the State) the entire right, title and interest to the Intellectual Property throughout the world. Contractor shall notify the State, within thirty (30) days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor (s), agrees to execute any and all document(s) necessary to assure ownership of the Intellectual Property vests in the State and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the State. The Intellectual Property shall not be disclosed by contractor or its subcontractor(s) to any entity not the State without the express written authorization of the agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract.

3.9 Federal Immigration and Nationality Act The Contractor shall comply with all federal, state, and local immigration laws and regulations relating to the immigration status of their employees during the term of the Contract. Further the contractor shall flow down this requirement to all subcontractors utilized during the term of the contract. The State shall retain the right to perform random audits of contractor and subcontractor records or to inspect papers or any employee thereof to ensure compliance. Should the State determine that the contractor and or any subcontractors be found noncompliant, the State may pursue all remedies allowed by law, including but not limited to; suspension of work, termination of the contract for default and suspension and or debarment of the contractor.

3.10 E-Verify Requirements In accordance with A.R.S 41-4401, Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with A.R.S. 23-214, Subsection A.

3.11 Scrutinized Businesses In accordance with A.R.S. 35-391 and A.R.S. 35-393, Contractor certifies that the Contractor does not have scrutinized business operations in Sudan or Iran.

4 Costs and Payments

4.1 Payments. Payments shall comply with the requirements of A.R.S. Titles 35 and 41, Net 30 days. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate invoice for payment from the State within thirty (30) days.

4.2 Delivery. Unless stated otherwise in the Contract, all prices shall be F.O.B. Destination and shall include all freight delivery and unloading at the destination.

4.3 Applicable Taxes.

4.3.1 Payment of Taxes. The Contractor shall be responsible for paying all applicable taxes.

4.3.2 State and Local Transaction Privilege Taxes. The State of Arizona is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure collect such taxes from the buyer does not relieve the seller from its obligation to remit taxes.

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

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

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

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

4.5.1 Accept a decrease in price offered by the, contractor
4.5.2 Cancel the Contract
4.5.3 Cancel the contract and re-solicit the requirements.

5 Contract changes

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

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

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

6 Risk and Liability

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

6.2 Indemnification

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

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

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

6.4 Force Majeure.

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

6.4.2 Force Majeure shall not include the following occurrences:

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

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

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

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

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

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

7 Warranties

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

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

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

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

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

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

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

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

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

7.5 Compliance With Applicable Laws. The materials and services supplied under this Contract shall comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable licenses and permit requirements.

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

7.6.1 Contractor's Representations and Warranties. All representations and warranties made by the Contractor under this Contract shall survive the expiration or termination hereof. In addition, the parties hereto acknowledge that pursuant to A.R.S. § 12-510, except as provided in A.R.S. § 12-529, the State is not subject to or barred by any limitations of actions prescribed in A.R.S., Title 12, Chapter 5.

7.6.2 Purchase Orders. The Contractor shall, in accordance with all terms and conditions of the Contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Procurement Officer, including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

8 State's Contractual Remedies

8.1 Right to Assurance. If the State in good faith has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this Contract, the Procurement Officer may demand in writing

that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days specified in the demand may, at the State's option, be the basis for terminating the Contract under the Uniform Terms and Conditions or other rights and remedies available by law or provided by the contract.

8.2 Stop Work Order.

8.2.1 The State may, at any time, by written order to the Contractor, require the Contractor to stop all or any part, of the work called for by this Contract for period(s) of days indicated by the State after the order is delivered to the Contractor. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

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

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

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

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

9 Contract Termination

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

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

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

execution of a contract shall attest that the contractor is not currently suspended or debarred. If the contractor becomes suspended or debarred, the contractor shall immediately notify the State.

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

9.5 Termination for Default

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

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

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

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

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

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).

12 Comments Welcome. The State Procurement Office periodically reviews the Uniform Terms and Conditions and welcomes any comments you may have. Please submit your comments to: State Procurement Administrator, State Procurement Office, 100 North 15th Avenue, Suite 201, Phoenix, Arizona 85007.

A. Purpose

Pursuant to provisions of the Arizona Procurement Code, A.R.S. 41-2501 Et Seq., the State of Arizona intends to establish a Contract for the materials or services as listed herein in service to ADOA-ASET.

B. Term of Contract

The term of any resultant Contract shall commence on date of award and shall continue for a period of three (3) years thereafter, unless terminated, canceled or extended as otherwise provided herein.

C. Contract Extensions Ten (10) Year Maximum

The Contract term is for the stated period subject to additional successive periods of twelve (12) months per extension with a maximum aggregate including all extensions not to exceed ten (10) years.

D. Contract Type

[x] Fixed Price
[ ] Cost Reimbursement

E. Eligible Agencies

This contract shall be for the exclusive use of the Arizona Corporation Commission.

F. Non-Exclusive Contract

Any Contract resulting from this solicitation shall be awarded with the understanding and agreement that it is for the sole convenience of the State of Arizona. The State reserves the right to obtain like goods or services from another source when necessary, or when determined to be in the best interest of the State.

G. Licenses

The Contractor shall maintain in current status, all federal, state and local licenses and permits required for the operation of the business conducted by the Contractor.

H. Volume of Work

The State does not guarantee a specific amount of work either for the life of the Contract or on an annual basis.

I. Employees of the Contractor

All employees of the Contractor employed in the performance of work under the Contract shall be considered employees of the Contractor at all times, and not employees of the State. The Contractor shall comply with the Social Security Act, Workman's Compensation laws and Unemployment laws of the State of Arizona and all State, local and Federal legislation relevant to the Contractor's business.

J. Key Personnel

It is essential that the Contractor provide adequate experienced personnel, capable of and devoted to the successful accomplishment of work to be performed under this Contract. The Contractor must agree to assign specific individuals to the key positions if required.

The Contractor agrees that, once assigned to work under this Contract, key personnel shall not be removed or replaced without written notice to the State.

Key personnel who are not available for work under this Contract for a continuous period exceeding thirty (30) calendar days, or are expected to devote substantially less effort to the work than initially anticipated, the Contractor shall immediately notify the State, and shall, subject to the concurrence of the State, replace such personnel with personnel of substantially equal ability and qualifications.

K. Order Process

The award of a Contract shall be in accordance with the Arizona Procurement Code. Any attempt to represent any material and/or service not specifically awarded as being under contract is a violation of the Contract and the Arizona Procurement Code. Any such action is subject to the legal and contractual remedies available to the State, inclusive of, but not limited to, contract cancellation, suspension and/or debarment of the Contractor.

L. Cooperation with Other Contractors and Subcontractors

The Contractor shall fully cooperate with other State Contractors, Subcontractors and Assigns and carefully plans and performs its own work to accommodate the work of other Contractors. The Contractor shall not intentionally commit or permit any act which will interfere with the performance of work by any other State Contractors.

M. Changes

The State reserves the right to revise the delivery schedule and make other changes within the Scope of Work as may be deemed necessary to best serve the interest of the State. All changes shall be documented by formal amendments to the Contract. Changes made without benefit of a formal amendment will not be valid.

N. Price Adjustment

Contractor prices accepted and subsequently awarded by a Contract shall remain in effect for a minimum of three (3) years. The Contractor may request a price adjustment, but the State will not review or approve an increase until the Contract has been in effect for three (3) years. The State will review any requested rate increase to determine whether such request is reasonable in relation to increased supplier or material costs. Contractor shall provide written justification for any price adjustment requested, including information contained in the Consumer Price Index or similar official cost analysis to support any requested price increase. Any price increase adjustment, if approved, will be effective upon execution of a written Contract amendment. Likewise, the Contractor shall offer the State a price adjustment reduction concurrent with reduced costs from their suppliers. Price reductions will become effective upon execution of a Contract amendment.

O. Payment Procedures

The State will not make payments to any Entity, Group or individual other than the Contractor with the Federal Employer Identification (FEI) Number identified in the Contract. Contractor invoices requesting payment to any Entity, Group or individual other than the contractually specified Contractor shall be returned to the Contractor for correction.

The Contractor shall review and insure that the invoices for services provided show the correct Contractor name prior to sending them for payment.

If the Contractor Name and FEI Number change, the Contractor must complete an "Assignment and Agreement" form transferring contract rights and responsibilities to the new Contractor. The State must indicate consent on the form. A written Contract Amendment must be signed by both parties and a new W-9 form must be submitted by the new Contractor and entered into the system prior to any payments being made to the new Contractor.

P. Invoice Process

Unless otherwise specified in the applicable SOW, the Contractor(s) agrees to follow the below listed process for submission of invoices:

The Contractor(s) agrees to submit invoices for work that has been performed. Failure to submit invoices within thirty (30) days after providing services may result in payment denial. The State is not responsible for any delay in the invoice and payment schedule if a discrepancy in invoice supporting documentation provided by Contractor(s) is noted or if the State requires additional explanation and/or documentation. The State will not unreasonably delay payment of submitted Contractor(s) invoices.

All invoices must include the following supporting documentation for each line item on the invoice

1. PO number and Encumbrance #;
2. Contract number;
3. Description of services performed;
4. Copy of the signed Acceptance document;
5. The employee's first and last name (if individual consultant resource per hour pricing structure);
6. The dates, time, and hours for each week for which services were performed (if individual consultant resource per hour pricing structure);
7. The rate charged for those hours (if individual consultant resource per hour pricing structure);
8. The total amount due, i.e. number of hours multiplied by the rate (if individual consultant resource per hour pricing structure);
9. Original manufacturers invoice for any software and/or hardware purchased; and
10. Original manufacturers invoice for any license(s) purchased.

Q. Information Disclosure

The Contractor shall establish and maintain procedures and controls that are acceptable for the purpose of assuring that no information contained in its records or obtained from the State or from others in carrying out its functions under the contract shall be used or disclosed by it, its agents, officers, or employees, except as required to efficiently perform duties under the Contract. The Contractor also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of the Contractor as needed for the performance of duties under the Contract, unless otherwise agreed to in writing by both Parties.

R. Warranty

All services supplied under this Contract shall be fully guaranteed by the Contractor for a minimum period of ninety (90) days from the date of acceptance by the State. Any defects of design, workmanship, or delivered materials that would result in non-compliance shall be fully corrected by the Contractor without cost to the State. Products, such as hardware, or other tangible materials shall be guaranteed for a period of one (1) year.

S. Limitation of Liability

Contractor's liability for first party damages to the State arising from this Contract shall be limited to three (3) times the maximum-not-to-exceed amount of this Contract. The foregoing limitation of liability shall not apply to (i) liability, including indemnification obligations, for third party claims, including but not limited to; infringement of third party intellectual property rights; (ii) claims covered by any specific provision of the Contract calling for liquidated damages or other amounts, including but not limited to, performance requirements; or (iii) costs or attorneys' fees that the State is entitled to recover as a prevailing party in any action.

T. 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.

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

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

U. Acceptance

Determination of the acceptability of services shall be made by the sole judgment of the State. Acceptance shall be in writing, verbal acceptance will not be allowed. Services shall be completed in accordance with the Scope of Work, agreed to and accepted schedules, plans, and agreed to performance standards. Acceptance criteria shall include, but not be limited to conformity to the scope of work, quality of workmanship and successfully performing all required tasks. A standardized Acceptance document format shall be determined by the State and Contractor(s) during Transition (in). Any project milestones are not accepted by the State until a signed Acceptance document is completed. Acceptance criteria that are exclusively individual consultant resources require approval of hours for each time period invoiced for each individual consultant resource. Nonconformance to any of the stated acceptance and performance criteria of both services and or products as required shall result in a delay for payment. Payment shall not be made until nonconformance to the criteria is corrected as determined by the State.

V. Performance

Contractor agrees that, from and after the date that the applicable services commence, its performance of the Scope of Work will meet or exceed industry best practices subject to the limitations and in accordance with the provisions set forth in this Contract. If the products and services provided pursuant to this Contract are changed, modified or enhanced (whether by Change Order or through the provision of new products or services), the State and the Contractor will review the current performance experience and will in good faith determine whether such experience should be adjusted and whether additional products or services should be implemented or whether products and services be removed. The following requirements shall also apply:

1. Failure to Perform

   If Contractor fails to complete any deliverable, then Contractor shall:

   1.1 Promptly perform a root-cause analysis to identify the cause of such failure;

   1.2 Use commercially reasonable efforts to correct such failure and to begin meeting the requirements as promptly as practicable;

   1.3 Provide the State with a report detailing the cause of, and procedure for correcting, such failure; and

   1.4 If appropriate under the circumstances, take action to avoid such failure in the future.

2. Root-Cause Analysis

   In the event of the Contractor's failure to perform required services or meet agreed upon service levels or other Contractor service standards as required by the State under this Contract, the Contractor shall perform an analysis of the cause of the service level problem and implement remediation steps as appropriate. The State shall have the right to review the analysis and approve the remediation steps prior to or subsequent to their implementation, as deemed appropriate by the State, if the remediation steps impact State assets or operational processes.

W. Compensation

Should the Contractor fail to provide all required services or deliver work products, as agreed upon by State and the Contractor, the State shall be entitled to invoke applicable remedies, including but not limited to, withholding payment to the Contractor and declaring the Contractor in material breach of the Contract. If the Contractor is in any manner in default of any obligation or the Contractor's work or performance is determined by the State to be defective, sub-standard, or if audit exceptions are identified, the State may, in addition to other available remedies, either adjust the amount of payment or withhold payment until satisfactory resolution of the default, defect, exception or sub-standard performance. The Contractor shall reimburse the State on demand, or the State may deduct from future payments, any amounts paid for work products or performance which are determined to be an audit exception, defective or sub-standard performance. The Contractor shall correct its mistakes or errors without additional cost. The State shall be the sole determiner as to defective or sub-standard performance.

The Contractor shall fulfill their contractual requirements including the Deliverables identified and fulfill the roles and responsibilities described in the Statement of Work for a firm fixed price, inclusive of travel and travel-related expenses. The fixed amount shall be inclusive of any fees for the use of any third party products or services required for use in the performance of this Contract

Ten percent (10%) of the total for each invoice submitted shall be withheld as retainage. Upon acceptance of the final deliverable, the State shall release all withheld retainage to the Contractor.

X. Performance Bond

The awarded Contractor shall provide the State a performance bond in the amount of $1,000,000.00 within ten (10) days of notification of award. This performance bond shall be valid for the length of this contract and shall be renewed if required on an annual basis. The submission of the bond may be in the form of a bonding document or a one time fee in

the form of a cashier's check. Both the bond and or the check shall be returned to the Contractor at the completion of this contract.

Y. 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.

Z. Indemnification

The 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 Vendor 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 Vendor 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 Vendor from and against any and all claims. It is agreed that Vendor 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 Vendor 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 Contract Broker for the State of Arizona.

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

AA. Insurance Requirements

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

The *insurance requirements* herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this contract by the Contractor, its agents, representatives, employees or subcontractors, and Contractor is free to purchase additional insurance.

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

A. 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 and advertising 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
- Damage to Rented Premises $ 50,000
- Each Occurrence $1,000,000

a. The policy shall be endorsed **(Blanket Endorsements are not acceptable)** to include the following additional insured language: ***"The State of Arizona, and its departments, agencies, boards, commissions, universities, 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."*** 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.

b. Policy shall contain a waiver of subrogation endorsement **(Blanket Endorsements are not acceptable)** in favor of the **"State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees"** for losses arising from work performed by or on behalf of the Contractor.

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

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

a. The policy shall be endorsed **(Blanket Endorsements are not acceptable)** to include the following additional insured language: **"The State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor, involving automobiles owned, leased, hired or borrowed by the Contractor."** 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.

b. Policy shall contain a waiver of subrogation endorsement **(Blanket Endorsements are not acceptable)** in favor of the **"State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees"** for losses arising from work performed by or on behalf of the Contractor.

c. Policy shall contain a severability of interest provision.

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

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

a. Policy shall contain a waiver of subrogation endorsement **(Blanket Endorsements are not acceptable)** in favor of the **"State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees"** for losses arising from work performed by or on behalf of the Contractor.

b. This requirement shall not apply to: 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. Technology/Network Errors and Omissions Insurance

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

Coverage to include:

- Hostile action or a threat of hostile action with the intent to affect, alter, copy, corrupt, destroy, disrupt, damage, or provide unauthorized access/unauthorized use of a computer system including exposing or publicizing confidential electronic data or causing electronic data to be inaccessible;
- Computer viruses, Trojan horses, worms and any other type of malicious or damaging code;
- Dishonest, fraudulent, malicious, or criminal use of a computer system by a person, whether identified or not, and whether acting alone or in collusion with other persons, to affect, alter, copy corrupt, delete, disrupt, or destroy a computer system or obtain financial benefit for any party or to steal or take electronic data;
- Denial of service for which the insured is responsible that results in the degradation of or loss of access to internet or network activities or normal use of a computer system;
- Loss of service for which the insured is responsible that results in the inability of a third party, who is authorized to do so, to gain access to a computer system and conduct normal internet or network activities;
- Access to a computer system or computer system resources by an unauthorized person or an authorized person in an unauthorized manner;
- Loss or disclosure of confidential information no matter how it occurs;
- Systems analysis;
- Software Design;
- Systems programming;
- Data processing;
- Systems integration;
- Outsourcing including outsourcing development and design;
- Systems design, consulting, development and modification;
- Training services relating to computer software or hardware;
- Management, repair and maintenance of computer products, networks and systems;
- Marketing, selling, servicing, distributing, installing and maintaining computer hardware or software; and
- Data entry, modification, verification, maintenance, storage, retrieval or preparation of data output

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. <u>ADDITIONAL INSURANCE REQUIREMENTS</u>: The policies shall include, or be endorsed **<u>(Blanket Endorsements are not acceptable)</u>** to include, the following provisions:

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

C. <u>NOTICE OF CANCELLATION:</u> With the exception of (10) day notice of cancellation for non-payment of premium, any changes material to compliance with this contract in the insurance policies above shall require (30) days written notice to the

State of Arizona. Such notice shall be sent directly to **the Department** and shall be sent by certified mail, return receipt requested.

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

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 an authorized representative.

All certificates and endorsements **(Blanket Endorsements are not acceptable)** 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 Department**. The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. The State of Arizona reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time.

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 contracting agency in consultation with the Department of Administration, Risk Management Division. 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.

BB. Data Privacy and Security

Contractor shall treat all information obtained through performance of the contract, as confidential or sensitive information consistent with State and federal law and State Policy. Contractor or its agents shall not use any data obtained in the performance of the contract in any manner except as necessary for the proper discharge of its obligations and protection of its rights related to this agreement. Contractor shall establish and maintain procedures and controls acceptable to the State for the purpose of assuring that data in its or its agents' possession is not mishandled, misused, released, disclosed, or used in an inappropriate manner in performance of the contract. This includes data contained in Contractor's records obtained from the State or others, necessary for contract performance. Contractor and its agents shall take all reasonable steps and precautions to safeguard this information and data and shall not divulge the information or data to parties other than those needed for the performance of duties under the contract.

CC. Data Privacy/Security Incident Management

Contractor and its agents shall cooperate and collaborate with appropriate State personnel to identify and respond to an information security or data privacy incident, including a security breach.

1. Threat of Security Breach

Contractor(s) agrees to notify the State Chief Information Officer (CIO), the State Chief Information Security Officer (CISO) and other key personnel as identified of any perceived threats placing the supported infrastructure and/or applications in danger of breach of security. The speed of notice shall be at least

commensurate with the level of threat, as perceived by the Contractor(s). The State agrees to provide contact information for the State CIO, CISO and key personnel to the Contractor(s).

2. Discovery of Security Breach

Contractor agrees to immediately notify the State CIO, the CISO and key personnel as identified by the State of a discovered breach of security. The State agrees to provide contact information for the State CIO, the CISO and key personnel.

DD. Security Requirements for Contractor Personnel

Each individual proposed to provide services through this contract agrees to security clearance and background check procedures, including fingerprinting, as defined by the Arizona Department of Administration in accordance with Arizona Revised Statutes §41-710. The results of the individual's background check procedures must meet all HIPAA and law enforcement requirements. Contractor is responsible for all costs to obtain security clearance for their consultants providing services through this contract. Contractor personnel, agents or sub-contractors that have administrative access to the State's networks may be subject to any additional security requirements of the State as may be required for the performance of the contract. The Contractor, its agents and sub-contractors shall provide documentation to the State confirming compliance with all such additional security requirements for performance of the contract. Additional security requirements include but are not limited to the following:

1. Identity and Address Verification – that verifies the individual is who he or she claims to be including verification of the candidate's present and previous addresses;
2. UNAX/confidentiality Training;
3. HIPAA Privacy and Security Training; and
4. Information Security Training.

EE. Access Constraints and Requirements

Contractor access to State facilities and resources shall be properly authorized by State personnel, based on business need and will be restricted to least possible privilege. Upon approval of access privileges, the Contractor shall maintain strict adherence to all policies, standards, and procedures. Policies / Standards, ADOA/ASET Policies / Procedures, and Arizona Revised Statues (ARS) 28-447, 28-449, 28-450, 38-421, 13-2408, 13-2316, 41-770).

Failure of the Contractor, its agents or subcontractors to comply with policies, standards, and procedures including any person who commits an unlawful breach or harmful access (physical or virtual) will be subject to prosecution under all applicable state and / or federal laws.

Any and all recovery or reconstruction costs or other liabilities associated with an unlawful breach or harmful access shall be paid by the Contractor.

FF. Section 508 Compliance

Unless specifically authorized in the Contract, any electronic or information technology offered to ADOA-ASET of Arizona under this Contract shall comply with A.R.S. § 41-2531 and § 41-2532 and Section 508 of the Rehabilitation Act of 1973, which requires that employees and members of the public shall have access to and use of information technology that is comparable to the access and use by employees and members of the public who are not individuals with disabilities.

GG. Health Insurance Portability and Accountability Act of 1996

The Contractor warrants that it is familiar with the requirements of HIPAA, as amended by the Health Information Technology for Economic and Clinical Health Act (HITECH Act) of 2009, and accompanying regulations and will comply with all applicable HIPAA requirements in the course of this Contract. Contractor warrants that it will cooperate with

ADOA-ASET in the course of performance of the Contract so that both ADOA-ASET and the Contractor will be in compliance with HIPAA, including cooperation and coordination with the Arizona Strategic Enterprise Technology (ASET) Group, the Chief Information Security Officer (CISO), Chief Privacy Officer and HIPAA Coordinator and other compliance officials required by HIPAA and its regulations. Contractor will sign any documents that are reasonably necessary to keep ADOA-ASET and Contractor in compliance with HIPAA, including but not limited to, business associate agreements.

If requested, the Contractor agrees to sign a "Pledge to Protect Confidential Information" and to abide by the statements addressing the creation, use and disclosure of confidential information, including information designated as protected health information and all other confidential or sensitive information as defined in policy. In addition, if requested, Contractor agrees to attend or participate in job related HIPAA training that is: (1) intended to make the Contractor proficient in HIPAA for purposes of performing the services required and (2) presented by a HIPAA Privacy Officer or other person or program knowledgeable and experienced in HIPAA and who has been approved by the ASET Chief Privacy Officer and HIPAA Coordinator.

HH. Compliance Requirements for A.R.S. § 41-4401, Government Procurement: E-Verify Requirement

1. The Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A. (That subsection reads: "After December 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the E-Verify program.)

2. A breach of a warranty regarding compliance with immigration laws and regulations shall be deemed a material breach of the Contract and the Contractor may be subject to penalties up to and including termination of the Contract.

3. Failure to comply with a State audit process to randomly verify the employment records of Contractors and subcontractors shall be deemed a material breach of the Contract and the Contractor may be subject to penalties up to and including termination of the Contract.

4. The State Agency retains the legal right to inspect the papers of any employee who works on the Contract to ensure that the Contractor or subcontractor is complying with the warranty under paragraph One (1).

UNIFORM INSTRUCTIONS TO OFFERORS

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

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

2. *"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 Best and Final Offers; and any Solicitation Amendments or Contract Amendments.

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

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

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

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

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

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

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

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

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

12. *"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.

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

B. Inquiries

1. Duty to Examine. It is the responsibility of each Offeror to examine the entire Solicitation, seek clarification in writing (inquiries), and examine its' Offer for accuracy before submitting 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.

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

3. Submission of Inquiries. The Procurement Officer or the person identified in the Solicitation as the contact for inquiries 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.

4. Timeliness. Any inquiry or exception to the solicitation shall be submitted as soon as possible and should be submitted 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.

5. 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.

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

7. Pre-Offer Conference. If a pre-Offer conference has been scheduled under this Solicitation, the date, time and location shall appear on the Solicitation cover sheet or elsewhere in the Solicitation. 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.

8. Persons With Disabilities. Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Solicitation contact person. Requests shall be made as early as possible to allow time to arrange the accommodation.

C. Offer Preparation

1. Forms: No Facsimile, Telegraphic or Electronic Mail 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.

2. 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.

3. Evidence of Intent to be Bound. The Offer and Acceptance form within the Solicitation shall be submitted with the Offer and shall include a signature (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.

4. 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.

   i. 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.

   ii. Request for Proposals. All exceptions that are contained in the Offer may negatively affect the State's proposal evaluation based on the evaluation criteria 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.

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

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

7. Solicitation Amendments. Each Solicitation Amendment shall be signed with an original signature by the person signing the Offer, and shall be submitted no later than the Offer due date and time. Failure to return a signed copy of a Solicitation Amendment may result in rejection of the Offer.

8. 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.

9. 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.

9.1 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.

10. Identification of Taxes in Offer. The State of Arizona is subject to all applicable state and local transaction privilege taxes. All applicable taxes shall be 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.

11. Disclosure. If the firm, business or person submitting this Offer has been debarred, suspended or otherwise lawfully precluded from participating in any public procurement activity, including being disapproved as a subcontractor with any Federal, state or local government, or if any such preclusion from participation from any public procurement activity is currently pending, the Offeror shall fully explain the circumstances relating to the preclusion or proposed preclusion in the Offer. The Offeror shall include a letter with its Offer setting forth the name and address of the governmental unit, the effective date of this suspension or debarment, the duration of the suspension or debarment, and the relevant circumstances relating to the suspension or debarment. If suspension or debarment is currently pending, a detailed description of all relevant circumstances including the details enumerated above shall be provided.

12. Solicitation Order of Precedence. In the event of a conflict in the provisions of this Solicitation, the following shall prevail in the order set forth below:

12.1 Special Terms and Conditions;
12.2 Uniform Terms and Conditions;
12.3 Scope of Work;
12.4 Exhibits ;
12.5 Attachments;

12.6 Special Instructions to Offerors;
12.7 Uniform Instructions to Offerors.
12.8 Other documents referenced or included in the Solicitation.

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

14. Federal Immigration and Nationality Act The Contractor shall comply with all federal, state, and local immigration laws and regulations relating to the immigration status of their employees during the term of the Contract. Further the contractor shall flow down this requirement to all subcontractors utilized during the term of the contract. The State shall retain the right to perform random audits of contractor and subcontractor records or to inspect papers or any employee thereof to ensure compliance. Should the State determine that the contractor and or any subcontractors be found noncompliant, the State may pursue all remedies allowed by law, including but not limited to; suspension of work, termination of the contract for default and suspension and or debarment of the contractor.

15. 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.

D. Submission of Offer

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

2. 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.

3. 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.

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

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

   4.2 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.

E. Evaluation

1. Unit Price Prevails. 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.

2. 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.

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

4. Disqualification. A Offeror (including each of its' principals) who is currently debarred, suspended or otherwise lawfully prohibited from any public procurement activity shall have its offer rejected.

5. 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 dates 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 Best and Final Offer is requested pursuant to a Request for Proposals, an Offeror shall hold its Offer open for one hundred-twenty (120) days from the Best and Final Offer due date.

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

   6.1 Waive any minor informality;
   6.2 Reject any and all Offers or portions thereof; or
   6.3 Cancel the Solicitation.

F. Award

1. 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.

2. Contract Inception. An Offer does not constitute a Contract nor does it confer any rights on the Offeror to the award of a Contract. A Contract is not created until the Offer is accepted in writing by the Procurement Officer's signature on the Offer and Acceptance Form. A notice of award or of the intent to award shall not constitute acceptance of the Offer.

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

G. 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 State 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:

1.1 The name, address and telephone number of the protester;
1.2 The signature of the protester or its representative;
1.3 Identification of the purchasing agency and the Solicitation or Contract number;
1.4 A detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and
1.5 The form of relief requested.

H. Comments Welcome

The State Procurement Office periodically reviews the Uniform Instructions to Offerors and welcomes any comments you may have. Please submit your comments to: State Procurement Administrator, State Procurement Office, 100 North 15th Avenue, Suite 201, Phoenix, Arizona, 85007.

1. Pre-Offer Conference

A Pre-Offer Conference will be held at the time and place indicated in the solicitation's 'Pre-Bid Conference' field as found within the State's e-Procurement system, ProcureAZ (https://procure.az.gov); attendance is not required. The purpose of the conference will be to clarify the contents of the solicitation in order to prevent any misunderstanding of the State of Arizona's position. Any doubt as to the requirements of the solicitation or any apparent omission or discrepancy should be presented to the State at the conference. The State of Arizona will then determine the appropriate action necessary, if any, and issue a written amendment to the solicitation if required. Oral statements or instructions will not constitute an amendment to the solicitation.

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, or this document in an alternative format, by contacting the State Procurement Office. Requests should be made as early as possible to allow sufficient time to arrange for accommodation.

2. Inquiries

Any and all questions related to this Request For Proposal shall be in writing and shall be directed through the State's E-Procurement System, ProcureAZ. All interested Proposers shall utilize the Q&A functionality provided through ProcureAZ. The Offeror shall not contact or ask questions of the Department for which the requirement is being procured.

3. Preparation of Proposals

3.1 Electronic Documents: This solicitation document is provided in an electronic format. Any unidentified alteration or modification to any solicitation documents, to any attachments, exhibits, forms, charts or illustrations contained herein shall be null and void. In those instances where modifications are identified, the original document published by the State shall take precedence. As provided in the Uniform Instructions to Offerors, Offerors are responsible for clearly identifying any and all changes or modifications to any solicitations document upon submission to the State.

3.2 Attachment Formats: All attachments shall be submitted in a format acceptable to the State. Acceptable formats include .doc (Microsoft Word document), .xls (Microsoft Excel spreadsheet), and .pdf (Adobe Acrobat portable document format). Prospective offerors that wish to submit attachments in other formats shall submit an inquiry to the Procurement Officer.

3.3 Confidential Information: If a person believes that any portion of a proposal, bid, offer, specification, protest or correspondence contains information that should be withheld, then the Procurement Officer shall be so advised in writing (Price is not confidential and will not be withheld). Such material shall be identified as confidential wherever it appears. The State, pursuant to A.C.R.R. R2-7-104, shall review all requests for confidentiality and provide a written determination. If the confidential request is denied, such information shall be disclosed as public information, unless the person utilizes the 'Protest' provision as noted in §41-2611 through §41-2616.

3.4 Contract Payment Terms: Offerors must indicate the prompt payment terms that they will offer to the State (for example: 2/10 Net 30; 2/15 Net 30, etc.) At a minimum, offeror's payment terms shall comply with the requirements of A.R.S. Titles 35 and 41, Net 30 days.

3.5 Subcontractors: Supplemental to the Subcontractor provision in the Uniform Instructions, Offerors shall include with their list of proposed subcontractors, their contact information, certifications required for the performance of the Contract, as well as, the Subcontractor's proposed responsibilities under the Offeror's proposal.

4. Submission of Proposal

4.1 Offer Submission, Due Date, and Time

With regards to Uniform Instructions, Section D.1 "Sealed Envelope or Package"; offers in response to this solicitation shall be submitted within the State's e-Procurement system, **ProcureAZ (https://procure.az.gov).** Offers shall be received before the date/time listed in the solicitation's 'Bid Opening Date' field. Offers submitted outside of ProcureAZ, or those that are received on or after the date/time stated in the 'Bid Opening Date' field, shall be rejected. Questions about the submission date and/or time shall be directed to the Procurement Officer or to the ProcureAZ Help Desk (procure@azdoa.gov or 602-542-7600).

4.2 Acknowledgement of Solicitation Amendments - Offerors shall acknowledge Solicitation Amendments electronically in ProcureAZ **(https://procure.az.gov)** no later than the Offer due date and time. Failure to acknowledge all/any Solicitation Amendment may result in rejection of the Offer.

5. References and Experience Verification

The Offeror agrees that by submitting an Offer, the State or its designated agent may contact any entities listed in the Offer or any entities known to have a previous business relationship with the Offeror for the purpose of obtaining references relative to past performance and verifying experience or other information submitted with the Offer. In addition, by submitting an Offer, the Offeror is agreeing to give permission to the entity to provide information and the Offeror will take whatever action is necessary to facilitate, encourage or authorize the release of information. If necessary, the Offeror shall sign a release to obtain information.

6. Responsibility

In accordance with A.R.S. 41-2534(G), A.A.C. R27-C312 and R2-7-C316, the State shall consider the following in determining Offeror's responsibility, as well, as the responsiveness and acceptability of their proposals. The State will consider, but is not limited to, the following in determining an Offeror's responsibility as well as susceptibility to Contract Award:

6.1 Whether the Offeror has had a contract within the last five (5) years that was terminated for cause due to breach or similar failure to comply with the terms of the contract;

6.2 Whether the Offeror's record of performance includes factual evidence of failure to satisfy the terms of the Offeror's agreements with any party to a contract. Factual evidence may consist of documented vendor performance reports, customer complaints and/or negative references;

6.3 Whether the Offeror is legally qualified to contract with the State and the Offeror's financial, business, personnel, or other resources, including subcontractors;

6.3.1 Legally qualified includes if the vendor or if key personnel have been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body.

6.4 Whether the Offeror promptly supplied all requested information concerning its responsibility;

6.5 Whether the Offer was sufficient to permit evaluation by the State, in accordance with the evaluation criteria identified in this Solicitation or other necessary offer components. Necessary offer components include: attachments, documents or forms to be submitted with the offer, an indication of the intent to be bound, reasonable or acceptable approach to perform the Scope of Work, signed Solicitation Amendments, references to include experience verification, adequacy of financial/business/personal or other resources to include a performance bond and stability including subcontractors and any other data specifically requested in the Solicitation;

6.6 Whether the Offer was in conformance with the requirements contained in the Scope of Work, Terms and Conditions, and Instructions for the Solicitation and its Amendments, including the documents incorporated by reference;

6.7 Whether the Offer limits the rights of the State;

6.8 Whether the Offer includes or is subject to unreasonable conditions, to include conditions upon the State or necessary for successful Contract performance. The State shall be the sole determiner as to the reasonableness of a condition;

6.9 Whether the Offer materially changes the contents set forth in the Solicitation, which includes the Scope of Work, Terms and Conditions, or Instructions; and,

6.10 Whether the Offeror provides misleading or inaccurate information.

7. Responsiveness and Acceptability

Proposals may not be considered responsive and/or acceptable if they do not contain information sufficient to evaluate the proposal in accordance with the factors identified in the solicitation or other necessary proposal components. Necessary components include an indication of the Offeror's intent to be bound, price proposal, solicitation amendments, bond and reference data as required.

8. Opening

Proposals received by the correct time and date will be opened and the name of each Offeror will be publically available. Proposals will not be subject to public inspection until after contract award.

9. Clarifications

Upon receipt and opening of proposals submitted in response to this solicitation, the State may request oral or written clarifications, including demonstrations or questions and answers, for the sole purpose of information gathering or for eliminating minor informalities or correcting nonjudgmental mistakes in proposals. Clarifications shall not otherwise afford Offerors the opportunity to alter or change their proposal.

10. Oral Presentations

The State may request oral presentations. If requested, the Offeror shall be available for oral presentations with no more than ten (10) business days advance notice. Participants in the oral presentations should include the Offeror's key persons. Such oral presentations shall not otherwise afford an Offeror the opportunity to alter or change its Offer.

11. Evaluation Criteria

In accordance with the Arizona Procurement code A.R.S. § 41-2534, awards shall be made to the responsible Offeror(s) whose proposal is determined in writing to be the most advantageous to the State based upon the evaluation criteria listed below. The evaluation factors are listed in their relative order of importance.

11.1 Solution Functionalities and Capabilities;

11.2 Cost;

11.3 Method of Approach and Management,

11.4.1 Approach to Project Initiation and Management, Requirements Definition, Design, Development and Configuration,

11.4.2 Approach to Testing, Conversion, Training, and Implementation,

11.4.3 Approach to Maintenance and Operations, and

11.4.4 Work Plan and Schedule

11.4 Offeror Qualifications and Experience.

Exceptions to the Terms and Conditions, as stated in the Uniform Instructions Section C.4, will impact an Offeror's susceptibility for award.

12. Required Proposal Format

Offerors shall provide the following information as stated. Information provided shall be used to evaluate the submitted proposal. Offerors must submit proposals in the following order separated by tabs:

Tab 1: Offer and Acceptance Form
Tab 2: Transmittal Letter
Tab 3: Executive Summary
Tab 4: Offeror Identification Information
Tab 5: Offeror Qualifications and Experience
Tab 6: Solution Capabilities and Approach to Meeting Requirements
Tab 7: Scope of Work
Tab 8: Key Personnel and Staffing
Tab 9: Work Plan and Schedule
Tab 10: Cost Schedules

Tab 1: Offer and Acceptance Form

The Offeror shall include the completed Offer and Acceptance Form found at page 3 which is signed by an individual authorized to legally bind the Offeror.

Tab 2: Transmittal Letter

The Transmittal Letter must be on official letterhead and be signed by an individual authorized to legally bind the Offeror. It shall include:

2.1 A statement indicating that the Offeror is a corporation or other legal entity. All subcontractors shall be identified along with a statement indicating the percentage of work to be performed by the prime Offeror and each subcontractor, measured as a percentage of the total contract price.

2.2 The Offeror should cross-reference the experience set forth in Tab 5 and incorporate references that support the statement that Offeror meets the qualification criteria.

2.3 A statement that the Offeror is/will be registered to do business in Arizona.

2.4 A statement identifying all amendments and addenda to this RFP issued and received by the Offeror, or a statement that none were issued and received. Offerors should note that Offerors must acknowledge RFP amendments electronically in ProcureAZ (https://procure.az.gov) no later than the due date and time for response to this RFP. Failure to acknowledge all/any amendments may result in rejection of the proposal.

2.5 If the use of subcontractor(s) is proposed, a statement from each subcontractor must be appended to the transmittal letter. The statement must be signed by an individual authorized to legally bind the subcontractor and state the general scope of the work to be performed by the subcontractor(s) including:

2.5.1 The scope and percentage of work to be performed by the subcontractor (measured as a percentage of the total agreement price paid directly to the subcontractor);

2.5.2 The subcontractor's willingness to perform the work indicated;

2.5.3 The subcontractor's intent to sign a formal agreement with the Offeror if the Offeror is awarded the contract.

2.6 A statement that no attempt has been made or will be made by the Offeror to induce any other party to submit or refrain from submitting a proposal.

2.7 A statement that the offer was arrived at independently without collusion, consultation, communication, or agreement as to any matter relating to such prices with any other Offeror or with any competitor.

2.8 The Offeror's assurance that the proposal will remain in full force and effect for at least 120 days from the proposal date, which will be specified in the Transmittal Letter.

2.9 A statement that the Offeror does not and will not have any interest that will conflict, in any manner or degree with the performance of services required under this RFP.

2.10 A statement certifying that all individuals who will be involved in this contract and the software development process will be able to pass the appropriate background investigation, including any subcontractors.

2.11 A list identifying any assumptions made by the Offeror in submitting the proposal. If no assumptions are included, the Offeror shall include a statement to that effect.

2.12 An affirmative statement agreeing to the payment and retaining terms as stated in the Special Terms and Conditions.

2.13 If the Offeror intends to subcontract any part of the scope of work, the Offeror must indicate the following for each subcontractor:

2.13.1 The subcontractor's name, address and telephone number

Tab 3: Executive Summary

The Executive Summary shall summarize and highlight relevant contents of the proposal to provide the Evaluation Committee with a broad understanding of the Offeror's proposal. Offerors should concisely summarize how their proposal meets the requirements of this RFP and why the Offeror is best qualified to perform the work required.

The Executive Summary shall highlight the Offeror's:

3.1 Understanding of the project, project management approach, and commitment to successfully perform all project activities;

3.2 Qualifications to serve as the Contractor for the project;

3.3 Overall approach to the project, including highlights of the proposed Solution, Work Plan and Schedule, staffing, approach to development and configuration, maintenance and operations and other activities included in the scope of services;

3.4 Project challenges, risks and suggested mitigation strategies based on previous implementations of similar size and scope;

3.5 Significant lessons learned from experience on previous public sector projects of similar size and scope, and how the Offeror plans to apply those lessons to this project; and

3.6 A summary of the contents of the proposal.

Tab 4: Offeror Identification Information

Offerors shall present the following identification information in this section:

4.1 The organization's full company or corporate name;

4.2 How the entity is organized (e.g. proprietorship, partnership, corporation, LLC);

4.3 An organization chart of the entity clearly depicting the Offeror's reporting relationships;

4.4 The address of the organization's headquarters office;

4.5 The names and addresses of any parent organization, any partially or wholly owned subsidiaries, and any other related organizations;

4.6 The state in which the Offeror is incorporated or organized;

4.7 The address of the Offeror's office location responsible for performance under the resulting contract if awarded the contract;

4.8 A brief history and current company ownership, including the ultimate parent organization and major shareholders and principals. If the Offeror is an out-of-state Offeror, it must indicate that it will become duly qualified to do business in Arizona before a contract is executed;

4.9 A general description of the primary business of the organization and its client base, and the organization's areas of specialization;

4.10 The number of employees both locally and nationally;

4.11 The size of organization in assets, revenue and people;

4.12 Full disclosure of any potential conflict of interest (e.g. serving as a reseller of computer hardware, business relationships between the Offeror and any State of Arizona employee who functions or has responsibilities in the review or approval of the undertaking or carrying out of the project);

4.13 A statement documenting all open or pending litigation initiated by Offeror or where Offeror is a defendant or party in any litigation that may have a material impact on the Offeror's ability to deliver the contracted services and Solution;

4.14 A statement documenting all open or pending litigation initiated by the Offeror or where the Offeror is a defendant or party in any litigation with a public sector client;

4.15 Full disclosure of any public sector contracts terminated for cause or convenience in the past five (5) years;

4.16 Full disclosure of any criminal or civil offense; and

4.17 Full disclosure of any suspension or debarment status.

Tab 5: Offeror Qualifications and Experience

Offerors must provide a detailed summary of Offeror and subcontractor experience for the proposed project.

5.1 A statement that neither the Offeror nor the subcontractor has been found in default of previous contracts in the State of Arizona;

5.2 Offeror Experience - Offerors must describe the number of years and months of experience and type of experience in each of the following categories;

5.2.1 Experience with the proposed Solution, including the proposed application, software and architecture,

5.2.2 Design, development, and configuration of state's case and matter management system conversion of data from a legacy system to a new system,

5.2.3 Testing of functionality for a case and matter management system,

5.2.4 Training state or other client staff on similar case and matter management system, and

5.2.5 Implementing, maintaining, and operating a case and matter management system similar in size and scope to the proposed Solution;

Offerors must provide responses for each category as stated above. If the Offeror has no experience in an area, it should clearly indicate or identify it as "No Experience." Offeror and each proposed subcontractor experience must be identified separately.

5.3 Offerors should provide details on clients and projects in each category as follows:

5.3.1 Client name;

5.3.2 Role of Offeror;

5.3.3 Scheduled and actual start and end dates of the project;

5.3.4 Description of system software, programming language, databases, age, and size; and

5.3.5 Description of system architecture and related hardware.

5.3.6 Description of contract scope and Offeror activities, noting similarities and differences with the RFP's scope of work in terms of size and complexity, including annual and total contract amounts.

5.4 Offeror References - The Offeror's proposal must include a minimum of three (3) corporate references from three (3) separate projects during the last five (5) years that detail its experience in completing the activities similar to those described in this RFP. The Offeror must ensure that references include those that will support evidence that the Offeror meets the requirements of this RFP.

The State reserves the right to conduct checks of Offeror references, by telephone or other means, and evaluate the Offeror based on these references. It is the Offeror's responsibility to ensure that the reference contacts (or a designated backup contact) are available during the evaluation period. The State intends to conduct reference checks for client references provided by Offerors. It may, at its sole discretion, contact additional clients not presented as references.

5.5 Offerors should indicate their personnel commitment for all current (ongoing) contracts, including new awards, not started.

5.6 Offerors should describe how the Offeror and its partnering companies will address any potential conflicts between workload underway on those contracts with the project related to this RFP if awarded the contract.

5.7 Additional Information - Offerors must provide the following information in this section:

5.7.1 A list of prior and existing contracts or agreements that the Offeror has entered into with the State of Arizona; and

5.7.2 If, at any time during the past five (5) years, the Offeror or any proposed subcontractor has had a contract terminated for convenience, nonperformance, non-allocation of funds, or any other reason. If so, the Offeror must fully describe each termination and include the name, address, and telephone number of the contracting party and describe the circumstances surrounding the termination. If no such early terminations have occurred in the past five (5) years, the Offeror should include a statement to that effect.

5.8 Offeror Financial Condition - The Offeror must demonstrate that its organization is in sound financial condition or that appropriate corrective measures are being taken to address and resolve any identified financial problems. The Offeror shall provide financial information in such a manner that the State can reasonably formulate a determination about the stability and financial strength of the organization. This must include company size, organization, date incorporation/organization, ownership, number of employees, and revenues for the previous three (3) fiscal years.

5.9 The Offeror must disclose any and all judgments, pending or expected litigation, or other real potential financial reversals that might materially affect the viability or stability of the Offeror's organization; or certify that no such condition is known to exist. This section shall include:

5.9.1 A statement of whether, in the last ten (10) years, the Offeror has filed (or had filed against it) any bankruptcy or insolvency proceeding, whether voluntary or involuntary, or undergone the appointment of a receiver, trustee, or assignee for the benefit of creditors, and if so, an explanation providing relevant details;

5.9.2 A statement of whether there are any pending Securities & Exchange Commission or ACC investigations involving the Offeror, and if such are pending or in progress, an explanation providing relevant details and an attached opinion of counsel as to whether the pending investigation(s) may impair the Offeror's performance in a contract under this RFP; and

5.9.3 Copies of the most recent independently audited financial statements, as well as those for the preceding year. The submission shall include the audit opinion, the balance sheet, and statements of income, retained earnings, cash flows, and the notes to the financial statements.

5.10 A current Dun and Bradstreet Report that includes a financial analysis of the organization would fulfill this requirement. An Offeror can use an Annual Report as verification of financial status, provided it contains at a minimum a Compiled Income Statement and Balance Sheet verified by a Certified Public Accounting firm. The State reserves the right to contact the accounting firm if questions arise. As an alternative, for those Offerors unable to provide audited financial statements or a Dun and Bradstreet Report, the Offeror shall provide tax

returns and financial statements including income statements and balance sheets for the most recent three (3) years, and any available credit reports.

5.11 In the event an Offeror is either substantially or wholly owned by another corporate entity, the Offeror must also include the same information for the parent organization and a statement that the parent will unconditionally guarantee performance by the Offeror in each and every term, covenant, and condition of such contract as may be executed by the parties.

Any proposed subcontractor whose percentage of work to be performed (measured as percentage of the total contract price) equals or exceeds twenty (20) percent must submit the required financial information, as stated above.

Tab 6: Solution Capabilities and Approach to Meeting Requirements

Software and Hardware Solution

In this section the Offeror is to give a description of the functionality in their existing off-the-shelf or proposed solution specifically showing how it meets the requirements in in the Scope of Work and Exhibit A. This description shall include:

6.1 Graphical representation of the overall proposed solution;

6.2 Major functionality and modules/components and the relationship between modules/components;

6.3 Depiction of other required interfaces or third-party solutions that are part of or will be added to the solution;

6.4 The software and hardware architecture supporting the solution;

6.5 Screen shots showing the functionality and how work process described in the RFP are to be met within the solution;

6.6 The extent to which the solution can be configured rather than new development being done;

6.7 Any tools or scripts that shall be used to handle the required data migration; and

6.8 Scalability of the product to handle increasing amounts of data.

Contractor Services and Deliverables

In this section the Offeror is to describe the project management and software development methodology that they will use to meet the detailed project schedule they must provide in Tab 9, and how their methodology and approach meet the requirements in Exhibit C. This description shall include the Offeror's methodology for:

6.9 Project initiation and management, including a project management plan;

6.10 Software development (including requirements gathering, design, development, testing);

6.11 Data migration of existing data;

6.12 Implementation of the solution;

6.13 Training, both initial and after implementation;

6.14 Maintaining and Operating the solution, including how the application will be accessed and planned down time strategy;

6.15 Patches and releases, including frequency thereof, customer expectations, and steps involved to release to customers;

6.16 Reporting and resolving security breaches; and

6.17 Turnover in the event of insolvency or end of contract.

Tab 7 Scope of Work

Exhibit A sets forth detailed functional, technical, and interface requirements. Exhibit C sets forth product life cycle requirements. In this tab the Offeror must complete both exhibits following the instructions below:

a. Requirement number

Each of the functional requirements in the tables set forth in Exhibit A has been assigned a requirement number (abbreviated "Req. #"). An alpha designator also appears in the charts that list functional requirements for easy identification

b. Category

Each of the functional requirements in the table has been assigned a category of either "Mandatory" or "Desirable" (abbreviated "M/D"). The mandatory requirements must be provided by the Offeror's proposed Solution. Offerors should indicate whether desirable requirements are also met.

c. Description

The description column in Exhibits A and C provides the features, capabilities, and other characteristics that the State seeks in the proposed Solution and its successful implementation. Some requirements include constraints and limitations to which the proposed Solution must conform. Offerors must not modify these requirements in any way. An alternate method of meeting the requirement may be proposed and noted in the Reference column, however, doing so may result in the Offeror's proposal being found non-responsive in that instance. Offeror's responses to requirements will be assumed to apply to the requirements as originally written or subsequently modified by the Division, regardless of any changes in the wording (either intentional or inadvertent) that may be included in the Offeror's proposal.

d. Offeror Response Code

Offeror responses to the functional requirements in Exhibit A will require completing the Offeror Response Code column by entering the abbreviation (shown in parentheses) corresponding to one of the six responses defined in the table below. Offerors must not enter other responses or modify the permitted responses, or their definitions, in any way. Offerors are encouraged to realistically evaluate the way in which they propose to satisfy each requirement, and to provide the correct response.

Table - Offeror Response Code Definitions

Permitted Responses	Response Definition
Existing (E)	The proposed Solution fully satisfies the requirement as-written, without modification. This only applies if the proposed software currently exists, is installed and functioning in a production environment, and will provide the functionality(ies), capability(ies), and comply with any constraints specified in the requirement.
Existing with Configuration (EC)	The proposed Solution fully satisfies the requirement as-written, without modification, except for minor configuration changes. This only applies if the proposed Solution currently exists, is installed and functioning in a production environment, and will provide the functionality(ies), capability(ies), and comply with any constraints specified in the requirement. The only customization required must be through the use of the proposed Solution's standard configuration utilities (e.g. entering customer-specific information and user-defined parameters). Programming changes to the application must not be required.
Minor Modification (MM)	The proposed Solution will be modified by the offeror so that it will fully satisfy the requirement as-written. This only applies if the proposed Solution currently exists, and is installed and functioning in a production environment. The custom programming and modifications requirement to fully satisfy the requirement must not exceed 80 hours. The offeror should be prepared to discuss the effect of the minor modification on the upgrade path of the software.
Third Party Tool (TP)	The proposed Solution will fully satisfy the requirement, as written, through the inclusion and integration of a third party software/hardware tool (e.g. a report writer, statistical analysis tool, etc.). In such cases, the total cost of this third party tool, including licensing, installation, ongoing support, and future upgrades, will be the responsibility of the offeror for as long as the offeror remains responsible for providing such support for the core application. These costs must be included in the Cost Schedules. The offeror must explain how the third party tool will be integrated into the overall proposed Solution in the appropriate sections of the proposal.
Custom Development (CD)	Custom development will be used to satisfy this requirement, either by making major modifications to existing software, or by developing new custom software or modules. Major modifications or custom development are defined as application changes or additions that will require a programming effort in excess of 80 hours.
Not Satisfied (NS)	The feature, functionality, or constraint described in the requirement will not be fully satisfied by the proposed Solution. In the case of mandatory requirements, this response may disqualify the bid from consideration.

e. Offeror Reference

Offerors shall enter in the Reference column of Exhibit A and C a description of how the proposed Solution is meeting this requirement or a reference (page/section) to any other part of parts of their proposal that corroborates the Offeror response code entered for the requirement. Multiple references may be included. When Offerors include a description of how their proposed Solution meets this requirement, the Division evaluators will assume that the Offeror's entire response to the requirement is included in the Offeror Reference column.

The Reference column will be a critical component of the Offeror's proposal. The Division expects a clear and appropriately thorough and detailed explanation of how the Offeror's proposed Solution will satisfy each requirement. While in some cases a few words may be sufficient, often this will require significant explanation. In some cases, Offerors may find it necessary to provide and reference additional documentation or exhibits. In all cases, Offerors must provide sufficient explanation in this field to enable evaluators to understand the essence of how the Offeror's proposal will satisfy the requirement. In this field Offerors must explain their Offeror Response by providing, as applicable:

An explanation of how the feature or function is, or will be, provided.

- Evidence to support this (e.g. where it is installed, other customers who can confirm it, examples, availability of demonstrations etc.)
- The nature of any configuration, modifications, or custom development required to provide the feature or function, and the estimated time and resources that will be required to accomplish it.
- Information about any third party tool being proposed including its owner/publisher, version, functionality, support etc. Offerors must describe their experience in installing and integrating this tool with the proposed Solution.

If the Response Code for any requirement is DNM (Does Not Meet), Offerors must give an explanation of an alternative approach to meeting the State's requirement in the Reference column.

Tab 8: Key Personnel and Project Staffing

Offerors will be required to provide qualified staff to perform all activities described in this RFP and meet all Scope of Work requirements. This section of the Offeror's proposal will include the following sections:

8.1 Approach to Staffing;

8.2 Project Organization Charts and Position Descriptions;

8.3 Key Corporate Personnel; and

8.3 Key Personnel

The Offeror should demonstrate an understanding of the appropriate staffing to complete the Scope of Work activities as defined in Scope of Work and Exhibit A of this RFP. Proposals should include the following:

a. Approach to Staffing

- The number and types of staff required to complete the scope of work.
- Transition of personnel between activities.
- Identification of any staff shared activities and discussion of its strategy for managing the risk of overlapping staffing.
- A proposed staffing plan showing personnel categories and staffing equivalents for major categories of staff assigned to the activities, including modifications and special project. The staffing plan should show key and non-key personnel staffing by category or person by month for the duration of the activity.
- A backup plan for replacement or supplementing staff if required.

b. Project Organization Charts and Position Descriptions

- Offeror's proposals should include an organization chart for the major activities:
- Requirements Definition, Design, Development and Configuration
- Conversion
- Testing (including separate identification of staff for system and integration testing, and support of the UAT)
- Training

- Implementation
- Maintenance and Operations (including Modifications)
- Turnover

Proposals should also include description of staffing positions shown in the organization chart and listed in the staffing charts.

c. Key Corporate Personnel

Offerors must identify and describe roles and responsibilities of all key corporate, administrative, and supervisory personnel who will be involved in providing the services sought by this RFP. The resumes shall include name, education and years of experience in current role, employment history, particularly as it relates to experience with the proposed application and software and the specified scope of work.

d. Key Project Personnel

Offerors must designate key project personnel. Key personnel must include at a minimum: Project Manager, Operations Manager, Systems Architect/Technical Team Lead, Configuration Manager, Data Manager, Training Manager, Testing Manager, and Regulatory SME. The Regulatory SME position may be met by another key person as long as all qualifications are met by the proposed person.

Offerors shall include resumes for all key project personnel. Resumes must include name, education, years of experience, and employment history, particularly as it relates to the proposed application and software and the specified scope of services.

This section shall also specify the following:

- The project manager's experience in managing subcontractor staff if the offeror proposes to use subcontractors;
- The percentage of time the project manager and each key project staff person will devote to this project on a monthly basis or by major activity.

Tab 9: Work Plan and Schedule

Offerors must provide a Work Plan and Schedule that includes:

9.1 Detailed descriptions of the major activities, tasks, and subtasks necessary to accomplish the requirements of this RFP;

9.2 Identification of the responsible party (the Division, the State, or the Offeror) for each major task and activity;

9.3 Discussion of the flexibility of the work plan to meet changes in program requirements and cope with delays should they occur; and

9.4 Discussion of any proposed delayed or phased implementation of functionality.

Any proposed delayed implementation of functionality or phasing of implementation must be fully supported in the discussion of the Offeror's approach in Exhibit C, including a description of how the Offeror will facilitate users' ability to access and coordinate data in the existing systems and database and the new Solution during any phased or delayed implementation period.

Tab 10: Cost Schedules (Attachment 1)

The following sections describe the required content and format for submission of Cost Schedules in response to this RFP. The Division shall evaluate the Total Evaluated Proposal Price on the Cost Summary.

Offerors must ensure that all costs necessary to provide a complete working system are included in the worksheets, regardless of whether or not there is a specific line item identified in the worksheets. The following costs, at a minimum, must be included: software development, testing, installation, and maintenance; hardware acquisition, installation, and maintenance; software acquisition license and maintenance; escrow account.

Any proposed system component, hardware, service, or identified work scope in the Offerors proposal that is not specifically priced or identified in the Offeror's worksheets, or that is identified after award of the contract, will be assume to be included by the Offeror at no additional cost.

Templates for Cost Schedules are included in Attachment 1. Instructions for completing each schedule are included in the following sections. If any variations exist between the Cost Summary and the other schedules and no clarification appears, the Cost Summary will prevail. It is the Offeror's responsibility to identify any missing cost items, and missing items will be the responsibility of the Offeror. The State may assign an appropriate cost to the missing item to prevent a perceived cost advantage over another Offeror.

Offerors proposals must include an Executive Summary, Cost Summary, and Cost Schedules using the worksheets provided in Attachment 1.

a. Executive Summary

The Cost section of the Offerors' proposals must include an Executive Summary of not more than three (3) pages. The Executive Summary should summarize and highlight relevant contents of the Cost Proposal to provide the Evaluation Committee with a broad understanding of the Offeror's proposed price and the required Cost Schedules. The Executive Summary should include a statement certifying that all pricing information presented as part of the proposal is in US dollars and that all required cost information is enclosed.

b. Cost Summary Worksheet

This section of the Offeror's Cost Summary is a roll-up of the two (2) supporting schedules: Cost Schedule A and Cost Schedule B. Offerors are required to ensure the costs captured on the other supporting schedules are transferred accurately to the Cost Summary Worksheet.

The State will evaluate the Total Evaluated Proposal Price on the Cost Summary Worksheet.

c. Cost Schedule A

Cost Schedule A, the Design, Development and Implement Cost Schedule, must include all offeror personnel, incidental training, hardware, software, and "other" costs necessary to design, develop, test, provide training, data conversion, interfaces development and support of the proposed Solution during the DDI phase. Offerors must provide a firm fixed price for each payment deliverable listed on the schedule. Offerors may propose additional payment deliverables for the Division's consideration.

d. Cost Schedule B

Cost Schedule B. the Maintenance and Operations Cost Schedule, includes the cost for Maintenance and Operations costs for five (5) years of operations through June 30, 2020. These costs include warranty and licenses for all five (5) years.

The price for Maintenance and Operations shall be a single price for all five (5) years of maintenance and operations. The Maintenance and Operations costs for modifications for each of the five years of operations shall be a fixed labor cost.

e. Cost Schedule C

Cost Schedule, the Modification/Enhancement Cost Schedule, provides information on the proposed hourly rate for the Division to obtain technical assistance from offeror during the life of the contract. Modification/Enhancement activities do not include the fixed rate charges for offeror's staff to provide technical assistance during the five (5) years of maintenance and operations.

The blended hourly rate includes all personnel, overhead, indirect, travel, profit, equipment usage, and other miscellaneous costs.

Discussions

In accordance with A.R.S. § 41-2534, after the initial receipt of proposals, the State may conduct discussions with those Offerors who submit proposals determined by the State to be reasonably susceptible of being selected for award.

Final Proposal Revisions

If discussions are conducted, the State shall issue a written request for Final Proposal Revisions. The request shall set forth the date, time and place for the submission of Final Proposal Revisions. Final Proposal Revisions shall be requested only once; unless the State makes a determination that it is advantageous to conduct further discussions.

Contract Award

Award of a contract will be made to the most responsive and responsible Offeror(s) whose proposal is determined to be the most advantageous to the State based on the evaluation criteria set forth in the solicitation.

Public Record

All Proposals submitted in response to this Request For Proposal shall become the property of the State and shall become a matter of Public Record available for review, subsequent to the award notification, as provided for by the Arizona Procurement Code.

Exhibit A – Functional, Technical, and Interface Requirements

This exhibit sets forth detailed functional, technical, and interface requirements. This Exhibit A must be completed by the Offeror and included in the proposal response package. The Offeror should enter one of the response codes described below next to each requirement.

Offeror Response Codes

E	**Existing**
EC	**Existing with Configuration**
M **M**	**Minor Modification**
TP	**Third Party Tool**
CD	**Custom Development**
NS	**Not Satisfied**

Global

Global includes the general functional, system administration, workflow and business rules management requirements. The requirements in this category address general functionality that is not limited to specific Division units or business processes.

Req #	M/D	Description	Response Code	Reference
GL-1	M	The proposed solution shall be web based and they shall conform to Arizona Revised Statutes security standards and protocols.		
GL-2	M	The proposed solution shall store data concerning all individuals and entities with whom the Division interacts in a central location. The information shall include: • Individual or entity name • Type (individual or entity) • Addresses (by type) • Phone (by type) and email • Preferred contact method • Registered or licensed individuals or entities by type (e.g. broker dealer, salesman, etc.) • Unique identification number(s)		
GL-3	M	The proposed solution shall allow create, edit, view, and print functionality for any individual/entity record information.		
GL-4	M	The proposed solution shall provide the ability to add and maintain dated and user identifiable notes and comments made for the record of an individual/entity.		
GL-5	M	The solution shall allow a user to search by CRD or IARD number, system generated ID, individual/entity name, type of securities offering or exemption, complaint, examination, case, and investigation. Any record displayed can be opened, viewed and worked on based on its open/closed status.		

Req #	M/D	Description	Response Code	Reference
GL-6	M	The proposed solution shall retrieve data concerning all individuals and entities with whom the Division interacts in a time efficient manner.		
GL-7	M	The proposed solution shall allow multiple individuals to view information stored in the solution at the same time.		
GL-8	M	The proposed solution shall prevent multiple users from updating the same record at the same time. A pop-up message shall alert multiple users that other users are attempting to edit the record.		
GL-9	M	The proposed solution shall track requests for information including which documents were released (e.g. requests from attorneys, requests from the public).		
GL-10	M	The proposed solution shall allow a user to open multiple screens/windows simultaneously.		
GL-11	M	The proposed solution shall prevent application of duplicate document numbers or reference numbers based on user-specified criteria.		
GL-12	M	The proposed solution shall allow a user to cancel a transaction and/or exit any document.		
GL-13	M	The proposed solution shall generate system messages, including level of urgency (e.g. processing, error handling, and/or other communication) that are clearly stated in English.		
GL-14	M	The proposed solution shall provide the ability to update the Division's organization and individual user names (division, branch).		
GL-15	D	The proposed solution may allow minor changes (e.g. font, color) to the layout of user screens.		
GL-16	M	The proposed solution should provide an on-line tutorial, a user guide, and help function to assist staff in learning how to perform job tasks, manage work flows, and use the functions and capabilities of the system.		
GL-17	M	The proposed solution shall include complete user documentation detailing the capabilities and functions of the proposed solution, in the form of an online user guide. This shall describe how end-user functions of the system are used, including functions reserved for supervisors and managers. Separate versions shall be provided for different categories of use.		
GL-18	M	The proposed solution shall provide on-line tutorial/user guide/help screens to the user based on what he or she is attempting to accomplish (as determined by the current screen, function, data field.)		
GL-19	M	The proposed solution shall provide the capability for authorized personnel to select and modify records (e.g. 100+ records if necessary) and make the same change to all of them.		
GL-20	D	The proposed solution may provide ready access to common productivity tools and job aids including: • Calendar • Quick reference telephone number list		
GL-21	M	The proposed solution shall edit and validate individual field values to ensure that only valid data is entered. Validation options include, but are not limited to the following: • Field type (e.g. numeric, alpha, required) • Validity (e.g. table look-up, data look up)		

Req #	M/D	Description	Response Code	Reference
		• Relational edits (e.g. editing relationships between fields) • Field values (e.g. acceptable range)		
GL-22	M	The proposed solution shall maintain historical information in addition to the most current set of information for all records. Historical information needs to be searchable and the user needs to have the ability to "drill-down" to pertinent data.		
GL-23	M	The proposed solution shall maintain an audit trail of all changes made to data in the system. This should be readily searchable by user ID or person/entity. This shall include but is not limited to: • The user ID of the person who made the change • The date and time of the change • The information that was changed • The data before & after it was changed, which screens were accessed and used		
GL-24	M	The proposed solution shall allow authorized individuals limited manual override capability over certain specified system transactions and require a stated reason for the override.		
GL-25	M	The proposed solution shall contain templates and automate the completion of required forms, via prefilling data on forms, from the database.		
GL-26	M	The proposed solution shall provide the ability to add new forms and change existing forms.		
GL-27	M	The proposed solution shall automatically generate forms, letters, memos, receipts etc. based on processing rules and timeframe criteria provided by the Division.		
GL-28	M	The proposed solution shall maintain all records, documents, logs etc. that pertain to an entity or individual as linked to the entity or individual by name or user selected identification number. (e.g. enforcement, registration/licensing, exam, complaint).		
GL-29	M	The proposed solution shall provide the ability to merge, unmerge, and purge person or entity records.		
GL-30	D	The proposed solution shall provide the ability to verify valid zip codes and address.		
GL-31	D	The proposed solution shall incorporate the use of spell check for free text fields.		
GL-32	M	The proposed solution shall be highly configurable so that established processes and data elements can be altered by non-IT authorized users as new demands for tracking data arise.		
GL-33	M	The proposed solution shall be highly configurable so that non-IT authorized users can modify fee schedules and formulas as required by new business demands.		
GL-34	M	The proposed solution shall be capable of using the State of Arizona relay for all email notifications.		
GL-35	M	The proposed solution shall provide the ability to store and retrieve electronic files with electronic signatures.		
GL-36	M	The proposed solution shall allow users to copy text data and save as Microsoft Word files on their workstation computers.		
GL-37	M	The solution shall allow supervisors to assign tasks, review progress, and approve completed tasks as needed.		
GL-38	M	The solution shall provide the ability to access all underlying documents that are associated with a case/matter.		

Req #	M/D	Description	Response Code	Reference
GL-39	D	The proposed solution shall include a public web portal to facilitate the filling of documents for all types of registration, licensing, and exemption applications and renewals by: • Providing forms over the portal • Providing the ability to attach/upload documents to the filing • Providing the ability to accept filing fee payments • Providing a checklist template to ensure completion of all requirements for each type of filing • Providing the ability to calculate fees Pertinent information collected over the public web portal concerning the filing shall automatically populate or update the solution database without manual intervention. Daily reports/alerts shall be generated for staff showing the filing information.		
GL-40	M	The solution shall be compatible with data capture software so that the solution has the ability to accept, store, and make available for reports certain data automatically extracted from OCR scanned documents. The extracted data must also be available to populate/update records in the database without manual intervention. Captured data may include, but is not limited to: • Key data from applications filed as well as associated dates and fees • Key data from third party reports • Payments receipted		
GL-41	M	The solution shall facilitate the storage and usage of forms/ templates that are configurable and customizable by authorized users only.		

System Administration (User Login, Roles and Profiles)

These requirements concern the process by which the proposed solution will be administered in terms of adding, managing and deleting users and maintaining user roles.

Req #	M/D	Description	Response Code	Reference
SA-1	M	The proposed solution shall provide the ability to perform system administration functions such as reference table maintenance and adding/removing users from the system.		
SA-2	M	The proposed solution shall provide authorized individuals with access to data and functions in the proposed solution by authorized user's role and profile.		
SA-3	M	The proposed solution shall have self-service login password reset capabilities.		
SA-4	M	The proposed solution shall provide screens customized by job function or task. These screens present the information, layout, options and tools applicable to the particular job function or task, and should be the same for all users performing that function or task.		
SA-5	M	The proposed solution shall accommodate the need for management to assign individual users to a single or multiple roles and perform multiple tasks. They need to allow access to the screens that best match the role they are filling or task they are performing at any given time.		

Workflow Management

These requirements concern the process by which the proposed solution will identify cases and matters and organize this information to facilitate working the case or matter.

Req #	M/D	Description	Response Code	Reference
WM-1	M	The proposed solution shall provide configurable workflow functionality for all business processes and functional areas including, but not limited to: enforcement, collections, registration, licensing, examinations, financial management, public contact, document management, administration and reporting.		
WM-2	M	The proposed solution shall provide the ability to establish and maintain multiple workflows for each business process.		
WM-3	M	The proposed solution shall support establishment of user defined rules based on workflows for any system event or transaction.		
WM-4	M	The proposed solution shall allow for copying/extending preconfigured workflows to meeting specific State business requirements.		
WM-5	M	The proposed solution shall provide tools for a system administrator to modify preconfigured workflows or develop new workflows.		
WM-6	M	The proposed solution shall allow a document to follow one of multiple approval paths based on business rules.		
WM-7	M	The proposed solution shall support multiple levels of approvals for transactions based on profile security and other user-defined criteria.		
WM-8	D	The proposed solution shall allow users to attach notes to content items within the workflow and store these notes with User ID and date/time stamp.		
WM-9	D	The proposed solution shall allow workflows to be designated as either "informational" or "action required" (such as approval).		
WM-10	M	The proposed solution shall ensure a transaction is not finalized until all required approval workflows are complete.		
WM-11	M	The proposed solution shall provide various intake workflows denoting the real-time intake process steps and whether each step has been completed.		
WM-12	M	The proposed solution shall allow a data record to be assigned to staff in different business units concurrently.		
WM-13	M	The proposed solution shall identify potential duplicate records based on business rules.		
WM-14	M	The proposed solution shall allow for assignment of records to a specific unit and/or staff member (caseload assignment) throughout the process based on, but not limited to: • Priority (system-wide or unit specific) • Staff skill set • Staff classification		
WM-15	M	The proposed solution shall provide the ability for managers to view, monitor and reassign work to other staff (group/unit or individual) and the ability to view the process actions.		
WM-16	M	The proposed solution shall notify staff automatically when a new item/document/record to review has been received based on business rules.		
WM-17	M	The proposed solution shall refresh workflow queues		

Req #	M/D	Description	Response Code	Reference
		automatically.		
WM-18	M	The proposed solution shall issue non-disruptive alerts and escalation notifications for impending deadlines for all active records.		
WM-19	M	The proposed solution shall be able to immediately forward a record to the next business function when the current business function is completed and send notification to the receiving business unit.		
WM-20	M	The proposed solution shall provide the ability to review and approve portions of the record before the record is released to the next business function.		
WM-21	D	The proposed solution shall provide notifications to users through an interface with Microsoft Outlook.		
WM-22	M	The proposed solution shall provide the ability to route scanned and/or uploaded documents for processing and/or review.		
WM-23	M	The proposed solution shall require a user to enter data in all required fields for a business process or transaction before allowing the user to exit the screen.		

Business Rules Management

These requirements concern the maintenance of the business rules functionality.

Req #	M/D	Description	Response Code	Reference
BR-1	M	The proposed solution shall include business rules management functionality.		
BR-2	M	The business rules management shall support the rules needed to comply with all applicable laws and Division policies and operational procedures, and provide the flexibility to adapt to changes in any of these areas.		
BR-3	M	The business rules management shall allow for changes to mandated timeframes, based on a state of emergency or management approved imperative.		

Enforcement

The requirements in this category address all aspects of enforcement of Acts through complaint processing, investigations, financial analysis, and administrative and civil cases.

Req #	M/D	Description	Response Code	Reference
EN-1	M	The solution shall house tables that can be customized for the entry of financial and related data for each enforcement case.		
EN-2	M	The solution shall incorporate accounting tools to calculate deposits and withdrawals by account, cash flow, and summary information.		
EN-3	D	The solution shall provide the ability to assign a code to each financial transaction being reviewed based on a list of codes		

Req #	M/D	Description	Response Code	Reference
		developed by the Division's accountants.		
EN-4	M	The solution shall provide standardized and ad hoc reporting capability on the financial and related transactions analyzed by the case team.		
EN-5	M	The solution shall provide the ability to maintain a case log of case deadlines and events that provide links to underlying documents, as applicable. The solution shall push out email reminders of key dates and deadlines.		
EN-6	M	The solution shall have the ability to allow supervisors to assign a case to a case team comprised of various team roles (e.g. attorney, paralegal, investigator, and accountant).		
EN-7	M	The solution shall automatically assign a unique case number when a user opens a new case.		
EN-8	D	The solution shall facilitate the creation of an evidence log for each case by allowing the user to select uploaded documents or other evidence for inclusion in the log.		
EN-9	M	The solution must provide a method to allow case team member to see a list of their case assignments and upcoming due dates.		
EN-10	M	The solution shall automatically generate a restitution list in a standardized format based on individuals/entities identified within the solution as eligible for restitution. The solution shall permit the entry of pertinent information concerning each individual/entity to whom restitution is due (e.g. contact information) and allow for a comment section.		
EN-11	M	The solution shall allow staff the ability to upload one or more documents related to a complaint/case.		
EN-12	M	The solution shall allow the ability to have a one-to-many or many-to-one association of complaints to cases.		
EN-13	M	The solution shall automatically calculate the proportionate amount of restitution due each investor based on the total restitution awarded or other criteria specified by business rules.		
EN-14	D	The solution shall provide a centralized location for accountants' final analyses, reports and supporting documents.		
EN-15	M	The solution shall enable the user to change the status of a complaint (e.g. open or closed) within the solution and if closed, generate a reminder for preparing a filing a Form U-6 with the CRD, if applicable.		
EN-16	M	The solution shall enable tracking of steps in issuance of a subpoena, calendaring response dates and extensions, generating reports of subpoena activity and provide links to the underlying copies of subpoena documents, affidavits of service and other related documents.		
EN-17	D	The solution shall have the ability to "attach" OCR scanned documents to a particular enforcement case and to automatically generate a document inventory log with links to the underlying documents. Authorized users shall have the ability to maintain and modify the document inventory log which shall provide viewing rights for the assigned case team.		
EN-18	D	The solution shall provide a way to mark certain documents related to a case or matter as confidential.		

Collections

The requirements in this category address the collection of restitution, fines, penalties and other charges after an order or judgment is entered against a person or entity following an enforcement action.

Req#	M/D	Description	Response Code	Reference
CO-1	M	The solution shall include "tickler" functionality for renewal of transcripted judgments every five years unless sooner paid or satisfied (e.g. settled).		
CO-2	M	The solution shall have the ability to perform complex mathematical calculations such as: • Calculation of interest from a date certain • Recalculation of balance due and interest after respondent makes a payment; based on that information generate a quarterly report of respondents still owing funds and the then current balance due • Calculation of respondent payoff figure • Calculate a running total of payments received from respondents • Calculate a running total of amounts disbursed to investors and the number of investors to whom disbursed • Accumulating payments received from respondents and calculating the proportionate amounts of investor distributions according to a Division-specified formula		
CO-3	M	The solution shall have the ability to generate a quarterly and an annual summary report showing total penalties collected, total restitution collected, and total amount collected from receivers.		
CO-4	M	The solution shall have the ability to set and modify collection status (e.g. paying, bankruptcy, settled, paid in full, closed, default).		

Registration

The requirements in this category address the process of securities registration and exemption requests.

Req#	M/D	Description	Response Code	Reference
RE-1	M	The solution must have the ability, through an API with an unrelated third party vendor that accepts nationwide mutual fund company initial filings and renewals, to update issuer and offering data within the solution database.		
RE-2	M	The solution shall provide reminders to staff, via user maintainable due date ticklers, of the approach of statutory processing/approval deadlines.		
RE-3	M	The solution shall provide authorized users the ability to manually maintain the status of the registration application.		
RE-4	M	The solution shall have the ability to automatically generate registration certificates after an approval status is entered.		

Req#	M/D	Description	Response Code	Reference
RE-5	M	The solution shall generate a renewal certificate for certain securities registrations eleven months after registration approval; upon payment of the renewal fee and renewal application, the solution shall permit printing of the renewal certificate.		
RE-6	M	The solution shall allow staff to enter information concerning securities registration and exemption applications filed directly with the Division including: • Key data from the application • Uploading documents associated with the filing • Receipting of fees Such information shall be available for reports.		
RE-7	M	The solution shall provide the ability to categorize registrations and exemptions by type.		
RE-8	M	The solution shall provide the ability to mark registered entities/individuals as active, inactive, licensed, registered, denied, revoked, abandoned, withdrawn, terminated, suspended, or notice filed.		
RE-9	M	The solution shall provide the ability to generate reports by status, including any fee or reports/documents due as determined by statute.		
RE-10	M	With respect to mutual funds, the solution shall have the ability to receive and store notice filing information, issuer fiscal year end date and/or SEC effectiveness date, renewal date on business rule, receipt fee payments and sales reports. Renewals outside calculated dates are subject to additional fees based on statute.		

Licensing

The requirements in this category address the process of licensing broker dealers, registered representatives, investment advisers, and investment adviser representatives.

Req#	M/D	Description	Response Code	Reference
LI-1	M	The solution shall generate periodic reports of broker dealer applications received by the Division.		
LI-2	M	The solution shall provide the ability for Division staff to manually enter registration and licensing data for filings that are sent directly to the Division.		
LI-3	M	The solution shall have the ability to upload documents associated with the licensing process and attach them to licensee's record in the database.		
LI-4	M	The solution shall allow staff to enter information concerning initial registration and renewal requests by Canadian dealers who file documents and pay fees directly with the Division.		
LI-5	M	The solution shall allow staff to enter information concerning salesmen associated with non-FINRA member broker dealers and issuer dealers who file licensing applications and renewals, including the filing of documents and payment of fees, directly with		

Req#	M/D	Description	Response Code	Reference
		the Division.		
LI-6	M	The solution shall allow staff to enter information concerning investment advisers who file documents required for licensing directly with the Division.		
LI-7	M	The solution shall generate standardized and ad hoc reports with user defined parameters and date range concerning the number of all types of registration applications received for the period and the total number of current registrations by type.		

Examinations

The requirements in this category address the process of conducting examinations of broker dealers and investment advisers.

Req#	M/D	Description	Response Code	Reference
EX-1	M	The solution shall allow the electronic completion of an evaluation template for investment advisers by examination staff; information entered into the template should be integrated with the solution database to update information on the investment adviser, be saved to the investment adviser's record, and make that information available for standardized and ad hoc reports. The completed template shall be delivered to the supervisor's desk top.		
EX-2	M	The solution shall provide a Division-customizable form that can be completed electronically by staff to input key information about a broker dealer or investment adviser and generate a pre-populated Notice of Inspection Rights document.		
EX-3	M	The solution shall allow users to enter an "examination completed" date and select from a menu of post-examination follow-up activities (e.g. close, obtain additional information, issue deficiency letter, recommend referral to enforcement) that can be toggled.		
EX-4	M	The solution shall automatically generate a status letter from a template 30 days after an examination if the "waiver of notice" was not signed by the examinee at the time of the examination; the letter shall be pre-filled with examinee's name and address and a reminder shall be sent to the examiner. The solution shall provide a toggle for the examiner to indicate whether the waiver of notice was signed or not at the time of the exam.		
EX-5	D	The solution shall generate an examination module (broker dealer or investment adviser) from a template, pre-filled with examinee's name, address and CRD number.		
EX-6	M	The solution shall facilitate the attachment and storage of OCR scanned documents and information obtained during or after the broker dealer or investment adviser examination to the examinee's record and display links to the underlying documents.		
EX-7	M.	The solution shall generate reports of investment advisers with user designated parameters.		
EX-8	M	The solution shall provide a calendar scheduling and examination tracking system for broker dealers and investment advisers to allow reports to be generated in order to review and analyze exams conducted, time frames for exam scheduling, number of firms examined, type of examinee (i.e. broker dealer or investment adviser), principal place of business, and related comments of examiner		

Req#	M/D	Description	Response Code	Reference
EX-9	M	The solution should be able to update a broker dealer or investment adviser record for a name change and cross reference with former name.		
EX-10	M	The solution shall provide the ability to generate a report that allows for the entry of parameters to define and refine a report concerning historical exam information.		
EX-11	M	The solution shall allow a supervisor to assign examinations to staff examiners.		
EX-12	M	The solution shall allow for entry of information concerning the status of an examination (e.g. open/closed/deficiency/referred to enforcement) and corresponding dates and make such information available for ad hoc reports.		

Financial Management

The requirements in this category address receipting of funds received and distributed, calculation of fees, interest, and penalties, reconciliation of funds allocated to different accounts, and reporting of accounting processes.

Req#	M/D	Description	Response Code	Reference
FM-1	M	The solution shall receipt fees received by the Division and update the filer's record in the solution database.		
FM-2	M	The solution shall include an audit trail for each step in processing fees received.		
FM-3	M	The solution shall create an internal invoice of filing fees owed depending upon the type of filing received; it shall enable editing of that invoice due to refunds owed, data entry errors, or changes to the proportionate amount of fees to be deposited into the State accounts.		
FM-4	M	Because mutual fund filing fees are calculated on the basis of 1/10 of 1% (up to a maximum), the solution shall enable rounding of the amount of filing fee.		
FM-5	M	The solution shall include functionality which will enable the user to leave an internal invoice "open" if less than the entire fee is paid and "close" the invoice when the balance due is paid.		
FM-6	M	The solution shall allow users to change the fiscal year end of an issuer and recalculate the renewal date.		
FM-7	M	The solution shall include functionality that enables a pending action item and sends a reminder to staff before the action item is due.		
FM-8	M	The solution shall provide safeguard messages for certain types of transactions.		
FM-9	M	The solution, through the use of an API, shall connect with an unrelated third party to accept electronic filings of mutual fund registrations and payment of the filing fees. The filing and payment information shall update the solution's database.		
FM-10	M	The solution shall automatically calculate the percentage of each fee that will be allocated to one or more of four State accounts depending on the code assigned to the filing. Such information shall be available for standardized/ad hoc reports.		
FM-11	M	The solution shall enable the user to manually create invoices for receipted monies and manually designate into which state fund or		

Req#	M/D	Description	Response Code	Reference
		funds the monies will be placed.		

Public Contact

The requirements in this category address the Division's interactions with the public through incoming calls and emails, public records requests, and no-action requests.

Req#	M/D	Description	Response Code	Reference
PC-1	D	The solution shall facilitate the tracking of IOD contacts as to type of call and how the caller learned of the Division.		
PC-2	D	The solution shall store a template of the Public Records Request form and checklist of requirements for public records request that can be sent to the requestor. The solution shall track the public records request and all correspondence/responses. The solution shall enable staff to generate an inventory log of responsive documents and a privilege log with links to electronic copies of those of those logs. The solution shall include templates of transmittal letters and correspondence with the requestor's name and address pre-populated.		
PC-3	D	The solution shall store no-action letter requests, associated documents, and responses. The requestor's name and address are entered into the solution and available to pre-populate letter templates.		

Document Management

The requirements in this category address the retention and archiving of records as well as generation of templates.

Req#	M/D	Description	Response Code	Reference
DM-1	M	The solution shall have the ability to track the location of hard copy files and documents in the office, at off-site storage, or sent to archive.		
DM-2	M	The solution shall have the ability to generate templates to be used in work flows throughout the Division. Such templates shall be pre-populated with name and address, where possible.		

Technical Requirements

Technical requirements include regulation, hardware/software, database, housing of solution, network support, workstation software, user interface, error and exception handling, interfaces, system security management, availability, performance, capacity, retention and archive, and audit requirements.

Regulations

Req#	M/D	Description	Response Code	Reference
R-1	M	The proposed solution shall conform with the sub-parts of Section 508 of the Americans with Disabilities Act (ADA) (http://www.section508.gov/).		

Hardware/Software

Req#	M/D	Description	Response Code	Reference
HS-1	M	All hardware and software implemented shall comply with ADOA and Division Information Technology Standards, Arizona Dept. of Administration – Arizona Strategic Enterprise Technology (ADOA-ASET) and Information Technology Authorization Committee standards.		
HS-2	M	All hardware and software to be implemented shall be scalable, available, and meet the performance constraints as defined in other sections of the technical constraints.		
HS-3	M	Hardware designated in the contract shall be vendor-hosted.		

Database

Req#	M/D	Description	Response Code	Reference
D-1	D	The proposed solution shall comply with the Division's standard of SQL Server databases for solutions of this size.		
D-2	M	The proposed solution shall comply with the Arizona Department Of Administration P740- Data/Information Architecture Policy and its references.		

Network Support

Req#	M/D	Description	Response Code	Reference
NE-1	M	The proposed solution shall deliver services via the Arizona's Wide Area Network, and conform to Arizona Department of Administration's P710 Network Architecture Policy and its references..		
NE-2	M	The proposed solution shall use Transmission Control Protocol/Internet Protocol (TCP/IP) for all network communication.		
NE-3	M	The proposed solution shall use Secure Sockets Layers (SSL) protocol for all network communications.		

Workstation Software

Req#	M/D	Description	Response Code	Reference
WS-1	M	The proposed solution shall support a browser based interface (Internet Explorer V8.0 or above) supported by the ACC's IT Division running on the current version of Microsoft Windows operating system as required by the Division.		

User Interface

Req#	M/D	Description	Response Code	Reference
UI-1	M	The proposed solution shall provide a user-friendly color Graphical		

Req#	M/D	Description	Response Code	Reference
		User Interface (GUI) for user presentation. The GUI shall be consistent throughout the solution. Examples include, but are not limited to: • Standard naming convention • Pointing device support • Pop-up windows • Keyboard functionality • Button navigation • Drop down lists • Auto fill		

Error and Exception Handling

Req#	M/D	Description	Response Code	Reference
EE-1	M	The proposed solution shall provide logging, reporting and accessing errors and exceptions.		

System Tools

Req#	M/D	Description	Response Code	Reference
ST-1	D	The proposed solution shall comply with NIEM-Justice Standards for information exchange, where possible.		
ST-2	D	The proposed solution should include all data elements in the NIEM-Justice Standard.		
ST-3	M	The proposed solution shall be able to support industry standard bar code reading and production for forms and other items to minimize data entry requirements.		

System Security Management

Req#	M/D	Description	Response Code	Reference
SS-1	M	The proposed solution shall support user authentication and authorization per NIST 800-63.		
SS-2	M	The proposed solution shall comply with Division security policies. A.R.S. Title 41, Chapter 32 Arizona Dept. of Administration – Arizona Strategic Enterprise Technology (ADOA-ASET) and Information Technology Authorization Committee standards (P800 – IT Security Policy).		
SS-3	D	The proposed solution shall include security administration roles, such as security architect, security administrator, security analyst, delegated administrator.		

Availability

Req#	M/D	Description	Response Code	Reference
AV-1	M	The proposed internal solution shall be available no less than 99.9% of scheduled uptime in any calendar month.		
AV-2	M	The proposed solution shall have no scheduled downtime from 6am to 6pm daily, seven days a week.		
AV-3	D	The proposed web portal solution shall be available no less than 99 percent of scheduled uptime in any calendar month for authentication and query, and 99% for fee payments.		
AV-4	M	Routine maintenance shall be pre-scheduled by no less than one week's notice and appropriate notice shall be posted.		

Performance

Req#	M/D	Description	Response Code	Reference
PR-1	M	The proposed solution shall provide the following user response times as measured over a period of one hour as determined by the Division: a) No more than three (3) seconds ninety-eight percent (98%) of the time for any page load, save, edit or update transaction b) No more than two (2) seconds ninety percent (90%) of the time for any page load, save, edit, or update transaction c) No more than one (1) second eighty percent (80%) of the time for any page load, save, edit, or update transaction d) Search and report queries at a minimum shall have no degradation as compared with search and report generation in the current system, where the longest report search time is 10 seconds		
PR-2	M	The contractor shall perform real-time system monitoring, providing monthly reports that detail response times, system use and capacity, concurrent users, and system errors.		

Capacity

Req#	M/D	Description	Response Code	Reference
CA-1	M	The proposed solution shall support the caseload and user base of 50.		
CA-2	M	The proposed solution shall support an annual workload growth rate of 10% over the next ten years.		

Retention and Archive

Req#	M/D	Description	Response Code	Reference
RA-1	M	The proposed solution shall distinguish between active and inactive cases and provide the ability to change the case from active status to inactive status and from inactive status to active status.		
RA-2	M	The proposed solution shall not allow inactive cases to deteriorate the performance of searching and reporting on active cases.		
RA-3	M	The proposed solution must store archived data and make it accessible online to users within a Division-specified period of time.		

Interfaces

The proposed solution will be required to exchange information with many other systems and sources, both within and external to the Division and the State of Arizona. The requirements in this category address system interface functionality.

Req#	M/D	Description	Response Code	Reference
IN-1	D	APIs shall be included in the proposed solution to facilitate the query, storage, retrieval and exchange of fee and application information between the Division and related third parties, such as other State agencies, and with unrelated third parties such as electronic mutual fund filing vendors and a public web portal.		
IN-2	D	APIs shall be scripted to input web portal securities information and exemption applications, licensing applications, and mutual fund electronic filing information from third party vendors into the solution database.		
IN-3	M	APIs shall be compliant with the Arizona Department of Administration P700- Enterprise Architecture Policy.		

Exhibit B ---- Bidders Library

Acronyms and Definitions

Acronym	Description
A.A.C.	Arizona Administrative Code
ACC	Arizona Corporation Commission
ADOA-ASET	Arizona Department of Administration – Arizona Strategic Enterprise Technology
ALJ	Administrative law judge
AOD	Attorney On Duty
API	Application Program Interface
A.R.S.	Arizona Revised Statutes
BCE	Bankruptcy and Collection Enforcement Section of the Arizona Attorney General
CIO	Chief Information Officer
CISO	Chief Information Security Officer
COTS	Commercial Off-The-Shelf
CPA	Consumer Protection & Advocacy Section of the Arizona Attorney General
CRD	Central Registration Depository
CSL	Combined Single Limit (in the insurance context)
DRP	Disaster Recovery Plan
DSD	Design Specification Document
EFT	Electronic funds transfer
EUO	Examination under oath
FEI	Federal Employer Identification (Number)
FINRA	Financial Industry Regulatory Authority
HIPAA	The Health Insurance Portability and Accountability Act of 1996
IARD	Investment Advisor Registration Depository
IEEE	Institute of Electrical and Electronic Engineers
IM Act	Arizona Investment Management Act
IOD	Investigator On Duty
KPI	Key Performance Indicator
M&O	Maintenance & Operations
MTP	Master Test Plan
NIST	National Institute of Standards and Technology
Notice	Notice for Opportunity of Hearing
OCR	Optical Character Recognition
PMBOK	Project Management Body of Knowledge
PRR	Public record request
RFP	Request For Proposal
RTM	Requirement Traceability Matrix
SEC	U.S. Securities and Exchange Commission
SLA	Service level agreements
SME	Subject matter expert
UAT	User Acceptance Test
WBS	Work Breakdown Structure

Term	**Definition**
Acts	Arizona Securities Act and Investment Management Act
Business Office	Business office of the ACC
Case	Investigation and prosecution of an individual or entity
Division	Arizona Corporation Commission, Securities Division
Docket Control	ACC's Docket Control that functions as a "clerk of court," which refers to the custodian of records and the collector of fees and other deposits of money for the ACC's dispute resolution body.
HITECH Act	Health Information Technology for Economic and Clinical Health Act of 2009
Indemnitor	The party that will compensate, defend, and hold harmless another party from and against claims, losses, liability, costs, or expenses
Indemnitee	The party that will obtain compensation and protection from another party from and against claims, losses, liability, costs, or expenses
Intellectual Property	Intangible rights protecting commercially valuable products of the human intellect, including trademark, copyright, patent, and trade-secret rights
Matter	Information relating to a securities registration/exemption filing, or information relating to a state broker and adviser license
Notice	Administrative complaint filed with ACC, Hearing Division against an individual or entity
Securities Act	Arizona Securities Act
The Solution	A matter and case management system to replace legacy systems and databases, and a public web portal allowing for the e-filings and e-paymentsm

Exhibit C – Contractor Services and Deliverables

This exhibit sets forth detailed requirements for contractor services and deliverables described in Section III (E) that apply to the entire product life cycle. This Exhibit C must be completed by the Offeror and included in the proposal response package. The Offeror should enter one of the response codes described below next to each requirement.

Offeror Response Codes

M	**Meet**
DNM	**Does Not Meet**

Additional instructions for completion of this form are provided in Special Instructions to Offerors of the RFP.

1. Project Initiation and Management

The following section provides a description of the Contractor deliverables required to plan and execute the activities identified in this RFP via project management.

Req #	M/D	Description	Response Code	Reference
PI-1	M	Contractor shall assign a project manager for the life of the project who will maintain the project deliverables and schedule (start date, duration, end date) and ensure timely close-out of the project.		
PI-2	M	Contractor shall develop, deliver, and maintain a software development plan, including # of assigned resources, a project plan with work tasks, milestones and deliverables. This shall be called the baseline schedule. This schedule must include software requirements gathering, design, development, testing, training and implementation. The required data conversion must be included.		
PI-3	M	Contractor shall plan and lead project kick-off activities which include a project kick-off meeting within 10 business days of contract execution. The Contractor shall provide an overview of project tasks and project schedule. Within 5 business days of the kick-off meeting, the Contractor shall document meeting decisions and outcomes.		
PI-4	M	As part of its proposal, the Contractor shall develop, deliver, maintain, and execute a preliminary Master Work Plan and Work Breakdown (WBS) that conforms with PMBOK®. Within 10 business days of the project kick-off meeting, Contractor shall deliver an updated work plan and WBS that reflects changes from the plan submitted with the proposal as discussed and agreed to during the kick-off meeting. As the project progresses, the plan shall be refined with additional detailed work activities for		

Req #	M/D	Description	Response Code	Reference
		upcoming activities.		
PI-5	M	The Master Work Plan and WBS must be created and maintained in MS Project or similar program in a version approved by the Division. The updates must occur no less than on a weekly basis. Contractor shall develop and maintain a Gantt chart, or similar project management tool, showing the following: • Planned and actual start and end dates for tasks, percentage complete and critical path activities • Summary of work completed during previous week and results achieved • Summary of proposed tasks and deliverables for upcoming week • Contractor's analysis of critical issues, including schedule slippage		
PI-6	M	Project success indicators must be included and agreed to by the Securities Division.		
PI-7	M	All changes to the baseline schedule initiated in this activity shall require Division approval. Performance to schedule must be reported weekly to the Division.		
PI-8	M	Due dates in the Master Work Plan shall not be updated without mutual agreement between Contractor and the Division Project Manager to reflect the accurate status of the project		
PI-9	M	Project risks, issues and status are to be communicated to the Division on a weekly basis. Status must include work completed, work to be performed in the upcoming week, and the updated Master Work Plan. Contractor shall attend status meetings or conference calls on a weekly basis.		
PI-10	M	Contractor shall draft ADOA-ASET status reports for Division review, approval, and submission.		

2. Requirements Definition

This section describes Contractor's responsibilities to define requirements prior to designing, developing or configuring the Solution.

RD-1	M	The Contractor shall work with Division personnel to review the business, technical and interface requirements stated in Exhibit A, and generate a set of desired requirements and business rules for use in the system design.		
RD-2	M	The requirements documents shall be prioritized and signed off on by the Division before development work begins. The approved document shall serve as the baseline. The requirements template shall also be approved by the Division.		
RD-3	M	All changes to the baseline requirements must be evaluated for cost,		

		schedule and technical impact and approved by the Division.		
RD-4	M	The Contractor shall provide a document outlining all business rules that are developed or configured for the Solution. The document must outline how each business rule aligns to specific requirements.		
RD-5	M	The Contractor shall develop, deliver, maintain, and update a Requirements Traceability Matrix ("RTM"). The Contractor shall use the requirements identified in Exhibit A to ensure both forward and backward traceability. Requirements tracking must assure all requirements are developed, configured, tested, and approved by the Division.		

3. Design

This section describes Contractor's responsibilities in designing a Solution that meets the needs of the Division as articulated in this RFP.

DE-1	M	Contractor shall ensure that its Solution design meets all requirements to conduct the business processes described in Section II and all requirements listed in Exhibit A. The design must be documented in a Design Specification Document ("DSD")		
DE-2	M	The Contractor shall plan and facilitate Joint Application Design sessions detailing the proposed Solution design with Contractor and Division and State IT staff. System documentation shall include system information for the Division's system administrator(s).		
DE-3	M	Contractor's detailed design specifications must be delivered incrementally, as they are developed for each functional area or module by release. Contractor shall describe Solution design in detail and shall write system and component narratives at a level understandable by non-technical persons.		
DE-4	M	Contractor's design specifications must include: • Application architecture • Flow diagram of all functions identifying major inputs, processes, and outputs • Description of all software modules or functionality • Detailed screen and report layouts by function • Detailed screen and report narrative descriptions by function		
DE-5	M	Contractor must submit its design specifications for approval by the Securities Division prior to code or configuration initiation.		
DE-6	M	Contractor shall perform prototyping where appropriate to enable State staff to review and accept designs for windows, screens, reports or other layouts.		
DE-7	M	Contractor shall develop, deliver, maintain and execute a Data Management Plan that describes the strategy for managing data throughout the project, including a description of archiving and retention plans.		
DE-8	M	Contractor shall develop, deliver, maintain and execute a disaster recovery plan (DRP) that addresses recovery of business functions, including, without limitation: • Strategies for backup, failover, and clustering • Allow for normal Division day-to-day activities and services to be		

		resumed within 8 hours of the inoperable condition at the primary site • Contractor must test the DRP prior to implementation, document results, remediate issues, and test the plan annually		
DE-9	M	Contractor shall develop and deliver Use Cases for the Division's review. Use cases shall be completed for each functional area or module.		
DE-10	M	Contractor's design shall meet State data protection and security policies and procedures.		
DE-11	M	Contractor shall ensure that the Division's system administrator is allowed to configure data attributes.		

4. Development/Configuration

This section describes Contractor's responsibilities for ensuring that the construction of the systems and architecture conforms to the requirements and design specifications documented and approved during the Requirements and Design activities.

DV-1	M	The Contractor shall be responsible for developing and configuring a Solution to meet Division requirements.		
DV-2	M	The Contractor shall perform unit testing on all code development and provide evidence thereof to Division staff.		
DV-3	M	Contractor shall acquire any hardware or software required by the Solution, including licensed software, in such a manner that it may be legally used by the Solution. Contractor shall ensure that both hardware and software is upgradable and expandable with regular maintenance to ensure optimal performance.		
DV-4	M	Contractor must provide 50 licenses for State users for all hardware and software, including third party software, during the entire term of the contract. Licenses must allow for transfer to the State during Turnover activities. The Contractor must clearly describe in its RFP response the licensing cost for Division users for all hardware and software.		

5. Data Conversion

This section describes Contractor's responsibilities in converting data contained in legacy systems to reside in the Solution.

DC-1	M	The Contractor shall be responsible for planning, developing, testing, and managing the data conversion process.		
DC-2	M	The Contractor shall be responsible for converting all legacy data from the Division's existing systems, standalone PC systems, spreadsheets and other supporting applications required for ongoing operations of the Solution and the historical reporting needs of the Division.		
DC-3	M	The Contractor must store archived data and make it accessible online to users though the Solution within a Division-specified period of time.		
DC-4	M	The Contractor shall use automated data conversion software and minimize manual intervention to the greatest extent possible.		
DC-5	M	The Contractor shall obtain the Division's approval of the conversion software programs prior to use during conversion.		
DC-6	M	Contractor shall test the data conversion and provide results to the Division.		
DC-7	M	Upon approval of the conversion software programs, the Contractor will produce exception reports and assist the Division in performing manual data conversion/clean-up.		

DC-8	M	Contractor will be required to convert selected comments or text data resident in the legacy systems and other supporting systems to pdf files, which be attached as documents to records in the Solution.		
DC-9	M	The data conversion process will have its own life cycle and may be performed through implementation period.		
DC-10	M	All project management and software development requirements shall apply to the Data Conversion portion of the project.		
DC-11	M	The Contractor shall be responsible for performing data clean-up of post-migration data issues. Data clean-up shall include executing modifications to the conversion programs, re-converting data, analyzing results, and producing reports to assist the Division in manual conversion of data as the Division determines necessary for approval.		
6. Testing				
This section describes Contractor's responsibilities associated with testing the Solution.				
TE-1	M	The Contractor shall provide development, conversion, testing, training, performance testing, pre-production ("UAT"), and production environments, providing access to Division staff to testing and training environments.		
TE-2	M	The Contractor shall develop a plan for building and maintaining all environments associated with the Solution with details and a graphical presentation of the environmental components required to test and configure the Solution, including hardware, software, communications, and security.		
TE-3	M	The Contractor shall develop, deliver, maintain, and execute a Master Test Plan ("MTP") which must include plans for unit, data migration, performance and load testing, integration, and user acceptance testing.		
TE-4	M	The Contractor will perform unit, data migration, performance and load testing, and integrated system testing to ensure the Solution defects are found and eliminated.		
TE-5	M	Written test cases must be created for all requirements, and updated in the Traceability Matrix.		
TE-6		The contractor shall develop and document User Acceptance test cases with the support of Division subject matter experts (SMEs).		
TE-7	M	The Division must approve User Acceptance Testing (UAT) test cases.		
TE-8	M	The Division may supplement UAT test cases provided by the Contractor with additional documented test cases.		
TE-9	M	The Division requires all unit, integration, and performance and load tests for a release be completed without defect prior to start of UAT for that release, unless otherwise approved by the Division.		
TE-10	M	The Contractor shall produce and deliver Test Defect Reports generated from either a commercial defect-tracking tool or a Contractor developed defect log and progress report, for all testing activities, showing severity, owner, hours to fix, issue description.		
TE-11	M	Defects severity and closing of any defects must be agreed to by the Division.		

7. Training

This section provides the description and deliverables associated with training Division staff on the Solution.

Req #	M/D	Description	Response Code	Reference
TR-1	M	The Contractor is responsible for training Securities and IT Division staff on the Solution. Training will include classroom, instructor-led training, training the Division's trainers and Division's system administrators, and computer-based training.		
TR-2	M	The Contractor shall develop a training environment Training Plan that address all phases of training including pre-implementation, post-implementation, M&O, and Turnover. The Training Plan shall describe the training strategy and goals, course materials, and training evaluation plan.		
TR-3	M	The Contractor shall conduct a training needs analysis for business and technical staff. The needs analysis shall address staff's knowledge, existing skills, job roles and responsibilities to ensure training is geared toward the correct audience.		
TR-4	M	Contractor shall ensure that training minimizes staff time away from ongoing job responsibilities and training allows for a variety of pre-existing skills.		
TR-5	M	Contractor shall ensure that training shall also include any necessary training required to complete User Acceptance Training.		
TR-6	M	Training shall cover all tasks that are performed within the Solution for the Division training staff (Train-the-Trainers) and by job function for all other Division staff.		
TR-7	M	Training shall include an evaluation measure and instrument to verify training was successful. This shall be approved by the Securities Division.		
TR-8	M	The Contractor shall provide training at the Division's office in Phoenix, Arizona. Training shall begin no more than 15 business days prior to implementation.		
TR-9	M	The Contractor shall be responsible for developing and updating all training materials. All training materials shall become property of the State under the contract.		
TR-10	D	The Contractor must provide an online hands-on tutorial capability for the major functions within the Solution defined by the Division. Contractor shall update online training materials throughout the M&O period. The tutorials must be made part of the final Solution so that new users will have the online tutorial to assist in learning the Solution.		
TR-11	M	The Solution must incorporate online help, online policy and procedures manuals, and hard copy user manuals.		
TR-12	M	The Contractor shall furnish and maintain appropriate hardware, software, and telecommunications to support the development, maintenance, and presentation of training program(s) and		

Req #	M/D	Description	Response Code	Reference
		materials.		

8. Implementation

This section describes the Contractor's responsibilities for implementation of the Solution from the Contractor to the Division after go-live approval from the Division is given.

Req #	M/D	Description	Response Code	Reference
IM-1	M	The Contractor shall be responsible for deploying the Solution after successfully completing all testing activities and confirming that all Solution components, data, and infrastructure meet Division requirements.		
IM-2	M	Prior to the start of M&O, the Division must officially accept the Solution and issue instructions to cut over to the new Solution.		
IM-3	M	The Contractor shall develop a production environment and any other environments required for the implementation.		
IM-4	M	Prior to the Solution moving into the production environment, the Division must approve initiation of operations on the approved "go-live" date.		
IM-5	M	The Contractor shall develop an Implementation Plan that describes, and provides procedures for, how the Solution will be transitioned into an operational system.		
IM-6	M	The Contractor shall develop a Contingency/Recovery Plan that will include written management policies and procedures to maintain or restore business and technical operations in the event of an emergency, system failure, or disaster.		
IM-7	M	The Contractor shall provide the Division with an M&O Manual which includes information necessary to handle routine production processing, ongoing maintenance and outage schedules, performance monitoring, configuration management, help desk processes, and contact lists.		
IM-8	M	The Contractor shall develop a Post-Implementation Operational Monitoring Plan that includes methods and schedules for monitoring performance standards and assess security during operations as defined in Exhibit A.		
IM-9	M	The Contractor shall agree to SLA requirements that establish clear relationships between the Division and the Contractor, set service goals, and provide a framework for continuous analysis and improvement.		
IM-10	M	The Contractor shall identify Personally Identifiable Information ("PII") that is contained within the Solution and ensure it is protected according to State of Arizona and federal requirements. PII is defined by SISPO P900-E901, Data Classification Matrix, effective May 31, 2011. See A.R.S. Title 41, Chapter 9, Articles 3 and 4,		

Req #	M/D	Description	Response Code	Reference
		A.R.S. §41-1441, et seq; A.R.S. §41-1461), and the federal Privacy Act.		
IM-11	M	The Contractor shall develop, deliver, maintain and execute a System Security and Privacy Plan. Contractor shall review and update the plan annually after conducting a risk assessment. The plan shall address how the Solution will prevent unauthorized physical and network access.		
IM-12	M	The Contractor shall implement processes for ensuring only authorized personnel access data.		
IM-13	M	The Contractor shall provide a process for reviewing and updating access rights on a regular basis.		
IM-14	M	The Contractor shall provide audit reports for tracking users, associated security groups, roles, settings, passwords and duplicate IDs.		
IM-15	M	The Division will determine the frequency and content of security audits.		
IM-16	M	The Contractor shall provide the Division with an immediate report of any incidents of intrusion and hacking regardless of outcome.		
IM-17	M	In the event of an incident of intrusion, the Contractor shall initiate corrective actions within timeframes approved by the Division. Contractor's proposal shall present its approach to mitigation of breaches. Contractor is responsible for providing the Division with documentation concerning breaches within 24 hours of detection.		
IM-18	M	The Division requires the Contractor to maintain network security (Cyber) and privacy insurance of $ 1,000,000 per claim and $2,000,000 aggregate annually.		
IM-19	M	The Contractor shall develop, deliver, maintain and execute a mapping of all implemented security controls against the NIST 800-53 Security Control Catalog. The mapping shall identify the source of the requirement and whether the requirement is fully or partially implemented, or is planned to be implemented.		
IM-20	M	The Contractor shall provide software tools to track each defect from identification through correction and testing.		
IM-21	M	The Contractor shall create an Escrow account on or before the start of operations. The account must contain all source code and data, the latest release version, and all required documentation. The escrow account must include the following, without limitation: • Two copies of the source code including all listing of the lines of programming and any custom developed code for the Solution for each version • A complete copy of executable code including table structures, data structures, system tables and data • Application Program Interfaces • Complete documentation of all aspects of the Solution including design documentation, technical documentation and user		

Req #	M/D	Description	Response Code	Reference
		documentation Costs associated with the escrow account must be included in the M&O prices proposed in Attachment 1.		
IM-22	M	In the event that Contractor becomes insolvent, subject to receivership, or becomes voluntarily or involuntarily subject to the jurisdiction of the bankruptcy court, or if the Contractor fails to provide maintenance and/or support for the product as outlined in the contract, or the Contractor discontinues the product, the Division shall be entitled to access the software source code and related items for use in maintaining the Solution either by its own self or by a third party		
IM-23	M	Contractor will deposit with the escrow agent any new release or updated version of the software within 10 business day from production release and proof of the deposit must be forwarded to the Division.		

9. Maintenance and Operations

The following section provides the description and deliverables associated with performing Maintenance and Operations (M&O) of the Solution.

Req #	M/D	Description	Response Code	Reference
MO-1	M	For a hosted Solution, the Contractor shall be responsible for the maintenance and operation of all hardware and software during the contract period.		
MO-2	M	The Contractor shall provide qualified personnel, resources, and supplies to support the operation of any module or functionality of the Solution that is implemented to meet the SLAs defined in the contract.		
MO-3	M	Contractor shall maintain and support the Solution which includes, without limitation: • Activities necessary for the Solution to perform efficiently under agreed upon standards • Activities necessary to ensure that all data and programs are current and errors and defects are corrected • Activities necessary to meet new or revised Arizona and federal requirements • Responses to production problems or emergency situations		
MO-4	M	The Division may request modifications or enhancements to the Solution throughout the term of the contract. The Contractor shall perform software modifications for all components of the Solution following completion of implementation activities and approved		

Req #	M/D	Description	Response Code	Reference
		start of operations, as requested by the Division based on a contractual hourly rate quote.		
MO-5	M	The Contractor shall provide, within 5 days, a response quote to an Enhancement request, that indicates the cost (equipment and manpower), work hours required, and proposed implementation date.		
MO-6	M	The Contractor shall implement upgrades, patches, and fix updates based upon an agreed upon schedule with the Division at no additional cost. Testing is required prior to any release.		
MO-7	M	The Contractor shall provide the capability to roll back data and software releases or programs as requested by the Division.		
MO-8	M	The Solution shall allow the Division the option of maintaining user accounts and related reference data.		
MO-9	M	The Contractor shall provide monthly status reports summarizing all work orders (break/fix or enhancements) completed and the status of work in progress.		
MO-10	M	The Contractor shall negotiate the schedule, format, and frequency of regular status meetings with the Division during the maintenance and operations cycle.		
MO-11	M	The Contractor must monitor performance against Division-specified Key Performance Indicators ("KPIs") in the SLAs finalized in the contract.		
MO-12	M	Upon request, the Contractor will provide the Division with all reports and data used in the determination of SLA compliance and calculation of KPI metrics.		
MO-13	M	The Contractor shall implement corrective action, at a schedule agreed upon with the Division, for any missed metrics or service level agreements.		
MO-14	M	The Division and the Contractor agree that failure by the Contractor to perform in accordance with the established KPIs results in a loss to the Division. If the Contractor fails to meet the KPIs, the Division may retain a percentage of the total monthly payment as agreed in the contract.		
MO-15	M	Service Level Agreements and KPIs shall be reviewed and updated annually.		
MO-16	M	The Contractor shall manage and correct all problems reported by the Division through the duration of the M&O Period under the contract. The Priority 1-4 service levels described under this section shall be met.		
MO-17	M	The Contractor shall implement needed expansions of hardware and network at the Contractor's own expense, subject to Division approval, before resource degradation impacts Solution performance through the life of the contract.		
MO-18	M	The Contractor shall monitor and report on application and data server performance.		
MO-19	M	The Contractor shall support and provide assistance with any State of Arizona and federal audits as the Division requests at a specified hourly contractual rate.		

Req #	M/D	Description	Response Code	Reference
MO-20	M	With each new release, the Contractor shall provide specific Release Notes, as well as develop, deliver, and maintain User Manuals that incorporate all business process and screen changes in the release.		
MO-21	M	The Contractor shall provide post-implementation training support for entire M&O period, or the period specified by the Division, by conducting weekly, monthly or quarterly refresher courses as specified by the Division, and a contracted rate.		
M0-22	M	The Contractor shall provide a support call desk to which all problems encountered can be reported and help given for questions or problems encountered when using the Solution.		
MO-23	M	The Contractor shall provide a point of contact for all enhancement requests made by the Division.		
MO-24	M	All enhancements will follow the project management and software development process requirements defined under Project Management and Software Development.		
MO-25	M	The Contractor shall, at the request of the Division, bundle lower priority fixes and enhancements together in a monthly release, to minimize testing and training impacts.		
MO-26	M	All defects reported and prioritized by the Division during implementation and M&O period shall be fixed by the Contractor. **Priority 1 Errors**. Critical business impact. Indicates Solution is unavailable for use resulting in a critical impact on operations. Requires notification of the Division within one (1) hour of problem discovery and resolution within two (2) hours. **Priority 2 Errors**. Serious business impact. Indicates serious production issues where the Solution is usable but is severely limited, and no workaround exists. Requires notification to the Division within one (1) hour of problem discovery and resolution within twenty-four (24) hours. **Priority 3 Errors**. Significant business impact. Indicates moderate productions issue where the Solution is usable and a workaround is available (not critical to operations). Requires notification to the Division within one (1) hour of problem discovery and resolution within five (5) business days. **Priority 4 Errors**. Minimal business impact. Indicates the problem results in little impact on operations or there is reasonable circumvention of the problem. Requires notification of the Division within one (1) hour of problem discovery and resolution within an agreed-upon schedule between the Contractor and the Division.		
MO-27	M	Contractor shall be responsible for implementing service requests that the Division has identified as a maintenance service request.		

Req #	M/D	Description	Response Code	Reference
MO-28	M	Contractor must provide Division-approved automated tools to measure and report Solution downtime and response time. Solution response time is measured from the time a transaction is entered until all data is displayed on the screen or print process begins.		
MO-29	M	Contractor shall monitor the implemented Solution for quality control and verify all activities are functioning properly. Contractor will expeditiously repair or remedy any function that does not meet the standards set during Solution definition, design, and testing.		

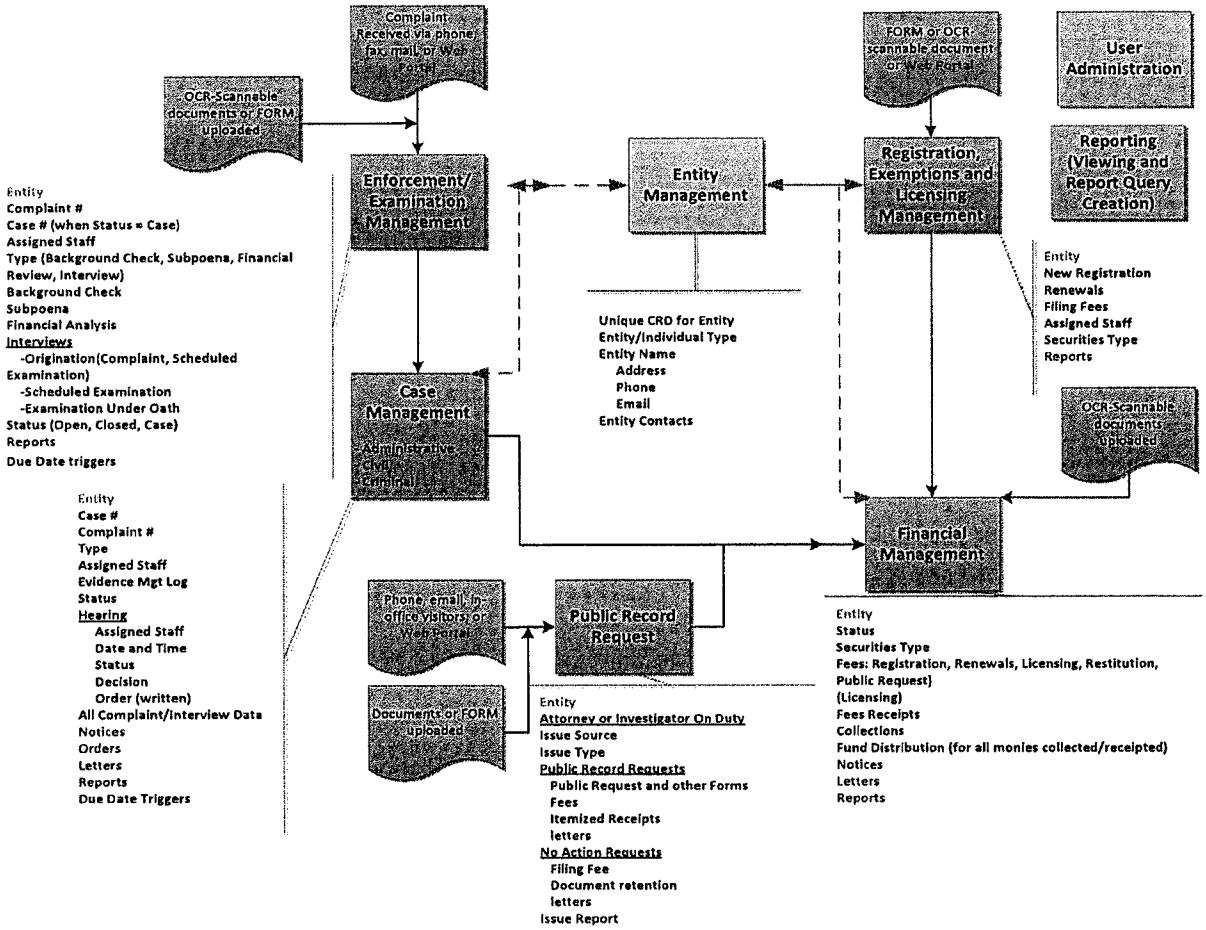
10. Turnover

This section describes the Contractor's responsibilities for transfer of the Solution from the Contractor to the Division at the end of Maintenance and Operations or upon termination of the Contract, or insolvency. The Division may exercise its option to extend the M & O period of the contract and delay Turnover activities for that period, which would extend the M & O period.

Req #	M/D	Description	Response Code	Reference
TO-1	M	The Contractor shall be responsible for planning the turnover of the Solution to the Division or a designated agent at the conclusion of the M&O period upon notification from the Division.		
TO-2	M	The Contractor shall provide a detailed Turn Over Plan, subject to approval by the Division. Such plan shall include, without limitation, the following: • Procedures to identify and verify all software, data, documentation and miscellaneous supplies that will be transferred to the Division • All hardware specifications • All software, including custom-developed code and COTS systems purchases, developed or managed by Contractor in delivery of this contract • All data and information repositories such as databases, system files, data files, archives • Mitigation and contingency plans to address Turnover execution failures • Turnover schedule		
TO-3	M	In the event the contract agreement is a direct purchase rather than licensing of the Solution, all software, data, and documentation developed, procured, or managed by the Contractor shall be transferred to the Division. The Contractor will be required to attest that the supplied components and materials are current, accurate, and complete.		
TO-4	M	In the event the contract agreement is a hosted Solution with hardware purchased by the Division, all hardware, machine		

Req #	M/D	Description	Response Code	Reference
		software, data, supplies and documentation developed, procured, or managed by the Contractor shall be transferred to the Division. The Contractor will be required to attest that the supplied components and materials are current, accurate, and complete.		
TO-5	M	The Contractor shall develop, deliver, maintain, and execute a Turnover Plan. The plan shall define the resources, staffing, training, and tasks for successful transfer of M&O of the Solution to the Division.		
TO-6	M	The Contractor shall provide all documentation required to maintain the software (requirements documents, design documents, architecture diagrams, database design documentation, test scripts, training materials) and hardware specifications.		
TO-7	M	The Contractor shall furnish the Division with a statement of the resources that will be required for the Division or its designated agent to take over M&O of the Solution		
TO-8	M	All transfers must be made on electronic media or network transfer and approved by the Division. All transfers must be verified by the Division as accurate and complete.		
TO-9	M	Transfer shall include all current and historical support records including: ▪ End-user support scripts and diagnostic aids ▪ Incident management records ▪ Problem management records including work-arounds and known errors or defects ▪ Change management records, including Post Implementation reports ▪ Release management records ▪ Security incident records ▪ System and network performance reports ▪ System and network performance data records ▪ Root cause analysis reports ▪ Reports from operational recovery exercises		
TO-10	M	Transfer shall be deemed complete after completion of a Division readiness assessment to include assessment of ability of technology, personnel and processes to support full Solution M&O at the level of performance established by the Contractor or in the SLAs.		
TO-11	M	The Contractor shall provide transfer of help desk documentation.		
TO-12	M	The Contractor shall provide knowledge transfer in code review sessions with developers.		
TO-13	M	At the successful completion of the Turnover Period, upon notification from the Division, the Contractor shall arrange for the removal of all software, file systems and related documentation		

Req #	M/D	Description	Response Code	Reference
		from all Contractor systems.		
TO-14	M	The Contractor shall develop a report to assess the completion of all scheduled activities within expected performance measures and derive any lessons learned and best practices to be applied to future projects.		


Complaint Received via phone, fax, mail, or Web Portal
OCR-Scannable documents or FORM uploaded
Enforcement/ Examination Management
Entity Management
FORM or OCR scannable document or Web Portal
Registration, Exemptions and Licensing Management
User Administration
Reporting (Viewing and Report Query Creation)
Entity
Complaint #
Case # (when Status = Case)
Assigned Staff
Type (Background Check, Subpoena, Financial Review, Interview)
Background Check
Subpoena
Financial Analysis
Interviews
-Origination(Complaint, Scheduled Examination)
-Scheduled Examination
-Examination Under Oath
Status (Open, Closed, Case)
Reports
Due Date triggers
Unique CRD for Entity
Entity/Individual Type
Entity Name
Address
Phone
Email
Entity Contacts
Entity
New Registration
Renewals
Filing Fees
Assigned Staff
Securities Type
Reports
Case Management
Administrative
Civil
Criminal
OCR-Scannable documents uploaded
Financial Management
Entity
Case #
Complaint #
Type
Assigned Staff
Evidence Mgt Log
Status
Hearing
Assigned Staff
Date and Time
Status
Decision
Order (written)
All Complaint/Interview Data
Notices
Orders
Letters
Reports
Due Date Triggers
Phone, email, in-office visitors, or Web portal
Public Record Request
Documents or FORM uploaded
Entity
Attorney or Investigator On Duty
Issue Source
Issue Type
Public Record Requests
Public Request and other Forms
Fees
Itemized Receipts
letters
No Action Requests
Filing Fee
Document retention
letters
Issue Report
Entity
Status
Securities Type
Fees: Registration, Renewals, Licensing, Restitution, Public Request)
(Licensing)
Fees Receipts
Collections
Fund Distribution (for all monies collected/receipted)
Notices
Letters
Reports

Attachment 1 – Cost Schedules

This attachment includes detailed cost schedules to be completed by the Offeror and included in the proposal:

- Executive Summary
- Cost Summary
- Schedule A
- Schedule B
- Schedule C

Executive Summary

The Executive Summary should be not more than three (3) pages. The Executive Summary should summarize and highlight relevant contents of the Cost Proposal to provide the Evaluation Committee with a broad understanding of the Offeror's proposed price and the required Cost Schedules. The Executive Summary should include a statement certifying that all pricing information presented as part of the proposal is in US dollars and that all required cost information is enclosed.

Cost Summary

		FYE 2015	FYE 2016	FYE 2017	FYE 2018	FYE 2019
Line #		07/01/14-06/30/15	07/01/15-06/30/16	07/01/16-06/30/17	07/01/17-06/30/18	07/01/18-06/30/19
1	DDI Costs (from Schedule A)					
2	Total Maintenance and Operation Costs (from Schedule B)					
3	Total Project Cost					

Schedule A – Design, Development, and Implementation Payment Deliverables

Attachment 1

SOLICITATION NO.:

TITLE:

	FYE 2015	FYE 2016	FYE 2017	FYE 2018	FYE 2019	Total
Project Initiation						
Software Project Management Plan						$0.00
Other (Specify)						$0.00
Requirements Definition						
Requirements Specification Document						
Business Rules Document						
Other (Specify)						
Design						
Design Specifications Document						
Data Management Plan						
Disaster Recovery Plan						
Interface Control Document						
Database Design Document						
Other (Specify)						
Testing						
Master Test Plan						
Unit Test Results						
System and Integrated Test Results						
Other (Specify)						
Data Conversion						
Conversion Plan						
Preliminary Converted Data						
Final Converted Data						
Other (Specify)						
Implementation						
Post-Implementation Evaluation Report						
Final Training Report						
System Documentation						
Maintenance and Operations Manual						
Other (Specify)						

Hardware Hosted on Vendor Servers/ Vendor Managed – Infrastructure/monitoring						
Initial Cost						
Annual Cost (includes support and upgrades)						
Other (Specify)						
Web Portal						
Design/Development						
Implementation						
Annual Expense (includes support and upgrades)						
E-payment functionality						
E-filing functionality						
Other (Specify)						
Software as a Service						
Product, hosting, support and sustainment costs						
Training						
System administrator training						
Staff training						
On-going help/support						
Development and Configuration						
Software Costs/Licenses (50)						
Software Costs – Third Party Software						
Other (Specify)						
Application Program Interfaces (cost per API)						
Design, Development, Implementation						
FY totals						
Total DDI Price to be transferred to Cost Summary						$0.00

The State reserves the right to award a Contract by individual line items or alternatives, by group of line items or alternatives, or to make an aggregate award whichever is most advantages to the State.

	Annual	Total Five (5) Years
Solution Maintenance and Operations	$_____	$_____ To be transferred to Cost Summary

Schedule B – Maintenance and Operations

Schedule C – Modification Activities

Blended Hourly Rate for FYE 2015 – FYE 2019 $_____

Exhibit 4

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

BEFORE THE ARIZONA CORPORATION COMMISSION

Ex. 4

COMMISSIONERS
BOB STUMP, Chairman
GARY PIERCE
BRENDA BURNS
BOB BURNS
SUSAN BITTER SMITH

In the matter of: CONCORDIA FINANCING COMPANY, LTD, a/k/a "CONCORDIA FINANCE," ER FINANCIAL & ADVISORY SERVICES, LLC, LANCE MICHAEL BERSCH, and DAVID JOHN WANZEK and LINDA WANZEK, husband and wife, Respondents.	Docket No. S-20906A-14-0063 **RESPONDENTS ER FINANCIAL & ADVISORY SERVICIES, LLC, LANCE MICHAEL BERSCH, DAVID JOHN WANZEK and LINDA WANZEK's** **FIRST SET OF NON-UNIFORM INTERROGATORIES** **TO THE SECURITIES DIVISION OF THE ARIZONA CORPORATION COMMISSION**

Pursuant Rules 33 and 33.1 of the Arizona Rules of Civil Procedure, as incorporated by reference in A.A.C. R14-3-101.B, Respondents ER Financial & Advisory Services, LLC, Lance Michael Bersch, David John Wanzek and Linda Wanzek, (the "ER Respondents") request that the Securities Division of the Arizona Corporation Commission answer in writing and under oath the following Non-Uniform Interrogatories. The following Definitions and General Instructions apply to these Non-Uniform Interrogatories.

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

DEFINITIONS

For the purposes of these Non-Uniform Interrogatories, the following terms and references have been abbreviated and defined as follows:

1. The terms "and" and "or" shall be construed conjunctively or disjunctively, whichever makes the document request more inclusive.
2. The terms "Securities Division," "you" and "your" shall mean the Securities Division of the Arizona Corporation Commission.
3. The term "ER Financial" shall mean ER Financial & Advisory Services, LLC.
4. The term "Mr. Bersch" shall mean Lance Michael Bersch.
5. The term "Mr. Wanzek" shall mean David John Wanzek.
6. The term "Mrs. Wanzek" shall mean Linda Wanzek.
7. The term "ER Respondents" shall mean ER Financial, Mr. Bersch, Mr. Wanzek, and Mrs. Wanzek.
8. "Respondents" shall mean all of the respondents collectively.
9. "Concordia" shall mean Concordia Financing Company, Ltd., aka Concordia Finance.
10. The term "Notice" means the Notice of Opportunity for Hearing Regarding Proposed Order to Cease and Desist, Order for Restitution, Order for Administrative Penalties, and Order for Other Affirmative Action in Arizona Corporation Commission Docket No. S-20906A-14-0063, together with any subsequent or amended Notice filed in that docket.
11. "This Docket" means Arizona Corporation Commission Docket No. S-20906A-14-0063.
12. The terms "document" or "documents" include, without limiting their generality, all contracts, agreements, correspondence, letters, files, memoranda, messages, handwritten notes, e-mail, inter- or intra-departmental or office or firm communications, telephone logs, telephone messages, computer disks, hard drives,

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

telegrams, newsletters or other publications, stock certificates, stock options, promissory notes, appraisal reports, expressions of opinion as to value or use of real or personal property, valuation estimates of any kind, financial data, *pro formas*, estimates, financial projections, statements, credit and loan applications, accounting records and worksheets, financial statements, diaries, calendars, logs, desk diaries, appointment books, feasibility studies, recordings, notes of conversations, notes of meetings, notes of conferences, notes of investigations, notes of opinions, notes of interviews, written statements, recorded or taped interviews or statements, drafts of reports, preliminary reports, final reports, studies, forecasts, prospectuses, charts, graphs, maps, drawings or other representations or depictions, telephone records, motion picture film, audio or video tape recordings, facsimile copies, computer printouts, data card programs or other input or output of data processing systems, photographs (positive print, slides or negatives), microfilm or microfiche, or other data compilations from which information can be obtained or translated through detection devices into reasonably usable form, whether originals or copies, altered or unaltered, made by any means. The terms "document" and "documents" also include all copies which are, in any manner, not identical in content to the originals. Any comment or notation appearing on any document, and not a part of the original text, is to be considered a separate "document." Any draft, or any other preliminary form of any document, is also to be considered a separate "document."

13. The term "all documents" means every document, as defined above, known to you and every document which can be located or discovered by reasonably diligent efforts.

14. The terms "writing" or "written" are intended to include, but not necessarily be limited to, the following: handwriting, typewriting, printing, photographing and every other means of recording upon any tangible thing, any form of communication later reduced to a writing or confirmed by a letter.

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

15. The term "communication" means any oral, written, electronic, graphic, demonstrative, or other transfer of information, ideas, opinions or thoughts between two or more individuals or entities, regardless of the medium by which such communication occurred, and shall include, without limitation, written contact by such means as letters, memoranda, telegrams, telex, or any documents, and oral contact by such means as face to face meetings and telephone conversations.
16. The terms "concerns" or "concerning" include referring to, alluding to, responding to, relating to, connected with, commenting on, impinging or impacting upon, in respect of, about, regarding, discussing, showing, describing, affecting, mentioning, reflecting, analyzing, constituting, evidencing or pertaining to.
17. The term "person(s)" shall mean any natural person, corporation, partnership, sole proprietorship, joint venture, association, limited liability company, governmental or other public entity, or any other form of organization or legal entity, and all of their officials, directors, officers, employees, representatives, attorneys and agents.
18. The terms "meeting" and "meetings" mean any coincidence of presence of two or more persons between or among whom some communication occurs, whether or not such coincidence of presence was by chance or prearranged, formal or informal, or in connection with some other activity.

NON-UNIFORM INTERROGATORIES

1. Explain the amount of administrative penalties you are seeking against Mr. Wanzek or his marital community, including all supporting calculations.

2. Explain the amount of administrative penalties you are seeking against Mr. Bersch, including all supporting calculations.

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

3. Explain the amount of administrative penalties you are seeking against ER, including all supporting calculations.

4. Explain the amount of restitution you are seeking against Mr. Wanzek or his marital community, including all supporting calculations.

5. Explain the amount of restitution you are seeking against Mr. Bersch, including all supporting calculations.

6. Explain the amount of restitution you are seeking against ER, including all supporting calculations.

7. Identify each of the 192 investors referenced in Paragraph 26 of the Notice, including the amount invested and the person or persons who offered or sold them the investment(s).

8. Identify each of the "446 distinct investments" referenced in Paragraph 26 of the Notice, including the amount of the investment, and who offered or sold the investment.

9. For each of the investments identified in response to Interrogatory No. 8, please identify all principal repayments, profits, or returns or other funds received by the investor with respect to the investment.

10. Provide the Division's definition of "liquid" or "liquidity" as referenced in page 7, lines 1-4 and page 9, lines 25 to 26 of the Notice.

11. Regarding the allegation in Paragraph 3(a) of the Notice (page 9, lines 22 to 24), identify each instance of the alleged representation, including the person making the representation, the person receiving the representation, and method of communication, and the date of the representation.

12. Regarding the allegation in Paragraph 3(b) of the Notice (page 9, lines 25 to 26), identify each instance of the alleged representation, including the person making the representation, the person receiving the representation, and method of communication, and the date of the representation.

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

13. Regarding the allegation in Paragraph 3(c) of the Notice, (page 10, lines 1-3), identify each instance of the alleged representation, including the person making the representation, the person receiving the representation, and method of communication, and the date of the representation.

14. Paragraph 19 of the Notice alleges that there is a flow chart that "indicates that a Concordia investment is a product approved by a specified third-party insurance company. Identify the insurance company, and identify each document you believe shows that the product was not approved by the insurance company.

15. Paragraph 20 of the Notice alleges that "In practice, Concordia did not use any particular investor's capital to purchase the Truck Financing Contracts assigned to the investor's Servicing Agreement. Instead, Truck Financing Contracts were purchased using monies pooled from the principal supplied by multiple investors, as well as monies from other sources." Identify each document you contend supports this allegation.

16. Do you contend that Mr. Wanzek or Mr. Bersch were aware of the practice alleged in Paragraph 20 of the Notice? If so, please identify each document supporting this contention and state each fact that you contend supports this contention.

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

17. Paragraph 21 of the Notice alleges that "Not all Servicing Agreements had assigned to them specific performing Truck Financing Contracts. At times, Concordia did not own sufficient performing Truck Financing Contracts to replace a non-performing contract assigned to an investment with one of equal or greater value." Identify each document you contend supports this allegation and state each fact that you contend supports this contention.

18. Do you contend that Mr. Wanzek or Mr. Bersch were aware of the practice alleged in Paragraph 21 of the Notice? If so, please identify each document supporting this contention and state each fact that you contend supports this contention.

19. Paragraph 22 of the Notice alleges that "Moreover, the vehicle titles subject to the Truck Financing Contracts were not put in the name of the investors nor were investors listed as lien holders on the vehicle titles." Identify each document you contend supports this allegation and state each fact that you contend supports this contention.

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

20. Do you contend that Mr. Wanzek or Mr. Bersch were aware of the practice alleged in Paragraph 22 of the Notice? If so, please identify each document supporting this contention and state each fact that you contend supports this contention.

21. Paragraph 23 of the Notice alleges that "Finally, the interest Concordia paid on a given instrument was not dependent upon the performance of specific Truck Financing Contracts assigned to the particular investment. Instead, Concordia used the pooled proceeds derived from all the Truck Financing Contracts and other sources of income to pay interest payments to its investors." Identify each document you contend supports this allegation and state each fact that you contend supports this contention.

22. Do you contend that Mr. Wanzek or Mr. Bersch were aware of the practice alleged in Paragraph 23 of the Notice? If so, please identify each document supporting this contention and state each fact that you contend supports this contention.

23. If you responded to any of the Requests for Admission with anything other than an unqualified admission, for each such response:

    a. State the basis for such denial or qualification;

    b. State all facts that support your denial or qualified admission;

c. Identify each person having knowledge of each such fact;

d. Identify every document which refers to, relates to, or evidences such fact;

e. Set forth a complete and detailed exposition of what you contend to be the true statement of fact respecting the subject matter of each such denied or qualified request for admission.

DATED this 24th day of November, 2014.

ROSHKA DEWULF & PATTEN, PLC

By _____

Paul J. Roshka, Jr.
Timothy J. Sabo
One Arizona Center
400 East Van Buren Street, Suite 800
Phoenix, Arizona 85004
Attorneys for ER Financial & Advisory Services, LLC, Lance Michael Bersch, David John Wanzek and Linda Wanzek

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

Copies of the foregoing hand-delivered
this 24th day of November, 2014, to:

James D. Burgess, Esq.
Securities Division
Arizona Corporation Commission
1300 West Washington, 3rd Floor
Phoenix, Arizona 85007

and a copy mailed that same day to:

Alan S. Baskin, Esq.
David E. Wood, Esq.
Baskin Richards, PLC
2901 North Central Avenue, Suite 1150
Phoenix, Arizona 85012
Attorneys for Respondent Concordia Finance Company, LTD.

By _____

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

Exhibit 5

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS
BOB STUMP, Chairman
GARY PIERCE
BRENDA BURNS
BOB BURNS
SUSAN BITTER SMITH

In the matter of: CONCORDIA FINANCING COMPANY, LTD, a/k/a "CONCORDIA FINANCE," ER FINANCIAL & ADVISORY SERVICES, LLC, LANCE MICHAEL BERSCH, and DAVID JOHN WANZEK and LINDA WANZEK, husband and wife, Respondents.	Docket No. S-20906A-14-0063 **RESPONDENTS ER FINANCIAL & ADVISORY SERVICIES, LLC, LANCE MICHAEL BERSCH, DAVID JOHN WANZEK and LINDA WANZEK's** **FIRST SET OF REQUESTS FOR ADMISSIONS** **TO THE SECURITIES DIVISION OF THE ARIZONA CORPORATION COMMISSION**

Pursuant Rule 36 of the Arizona Rules of Civil Procedure, as incorporated by reference in A.A.C. R14-3-101.B, Respondents ER Financial & Advisory Services, LLC, Lance Michael Bersch, David John Wanzek and Linda Wanzek, (the "ER Respondents") request that the Securities Division of the Arizona Corporation Commission answer in writing and under oath the following Requests for Admissions. The following Definitions and General Instructions apply to these Requests for Admissions.

DEFINITIONS

For the purposes of these Requests for Admissions, the following terms and references have been abbreviated and defined as follows:

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

1. The terms "and" and "or" shall be construed conjunctively or disjunctively, whichever makes the document request more inclusive.
2. The terms "Securities Division," "you" and "your" shall mean the Securities Division of the Arizona Corporation Commission.
3. The term "ER Financial" shall mean ER Financial & Advisory Services, LLC.
4. The term "Mr. Bersch" shall mean Lance Michael Bersch.
5. The term "Mr. Wanzek" shall mean David John Wanzek.
6. The term "Mrs. Wanzek" shall mean Linda Wanzek.
7. The term "ER Respondents" shall mean ER Financial, Mr. Bersch, Mr. Wanzek, and Mrs. Wanzek.
8. "Respondents" shall mean all of the respondents collectively.
9. "Concordia" shall mean Concordia Financing Company, Ltd., aka Concordia Finance.
10. The term "Notice" is intended to include the Notice of Opportunity for Hearing Regarding Proposed Order to Cease and Desist, Order for Restitution, Order for Administrative Penalties, and Order for Other Affirmative Action in Arizona Corporation Commission Docket No. S-20906A-14-0063.
11. "This Docket" means Arizona Corporation Commission Docket No. S-20906A-14-0063.
12. The terms "document" or "documents" include, without limiting their generality, all contracts, agreements, correspondence, letters, files, memoranda, messages, handwritten notes, e-mail, inter- or intra-departmental or office or firm communications, telephone logs, telephone messages, computer disks, hard drives, telegrams, newsletters or other publications, stock certificates, stock options, promissory notes, appraisal reports, expressions of opinion as to value or use of real or personal property, valuation estimates of any kind, financial data, *pro formas*, estimates, financial projections, statements, credit and loan applications, accounting

records and worksheets, financial statements, diaries, calendars, logs, desk diaries, appointment books, feasibility studies, recordings, notes of conversations, notes of meetings, notes of conferences, notes of investigations, notes of opinions, notes of interviews, written statements, recorded or taped interviews or statements, drafts of reports, preliminary reports, final reports, studies, forecasts, prospectuses, charts, graphs, maps, drawings or other representations or depictions, telephone records, motion picture film, audio or video tape recordings, facsimile copies, computer printouts, data card programs or other input or output of data processing systems, photographs (positive print, slides or negatives), microfilm or microfiche, or other data compilations from which information can be obtained or translated through detection devices into reasonably usable form, whether originals or copies, altered or unaltered, made by any means. The terms "document" and "documents" also include all copies which are, in any manner, not identical in content to the originals. Any comment or notation appearing on any document, and not a part of the original text, is to be considered a separate "document." Any draft, or any other preliminary form of any document, is also to be considered a separate "document."

13. The term "all documents" means every document, as defined above, known to you and every document which can be located or discovered by reasonably diligent efforts.

14. The terms "writing" or "written" are intended to include, but not necessarily be limited to, the following: handwriting, typewriting, printing, photographing and every other means of recording upon any tangible thing, any form of communication later reduced to a writing or confirmed by a letter.

15. The term "communication" means any oral, written, electronic, graphic, demonstrative, or other transfer of information, ideas, opinions or thoughts between two or more individuals or entities, regardless of the medium by which such communication occurred, and shall include, without limitation, written contact by such means as letters,

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

memoranda, telegrams, telex, or any documents, and oral contact by such means as face to face meetings and telephone conversations.

16. The terms "concerns" or "concerning" include referring to, alluding to, responding to, relating to, connected with, commenting on, impinging or impacting upon, in respect of, about, regarding, discussing, showing, describing, affecting, mentioning, reflecting, analyzing, constituting, evidencing or pertaining to.

17. The term "person(s)" shall mean any natural person, corporation, partnership, sole proprietorship, joint venture, association, limited liability company, governmental or other public entity, or any other form of organization or legal entity, and all of their officials, directors, officers, employees, representatives, attorneys and agents.

18. The terms "meeting" and "meetings" mean any coincidence of presence of two or more persons between or among whom some communication occurs, whether or not such coincidence of presence was by chance or prearranged, formal or informal, or in connection with some other activity.

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

REQUESTS FOR ADMISSION

1. Admit that Mr. Bersch did not offer or sell any Promissory Notes, as defined in the Notice.

_____ Admit _____ Deny

2. Admit that Mr. Wanzek did not offer or sell any Promissory Notes, as defined in the Notice.

_____ Admit _____ Deny

3. Admit that Mr. Wanzek is a resident of Florida.

_____ Admit _____ Deny

4. Admit that Mrs. Wanzek is a resident of Florida.

_____ Admit _____ Deny

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

5. Admit that Florida is not a community property state.

_____ Admit _____ Deny

6. Admit that Mr. Bersch did not act with *scienter* with respect to the allegations set forth in the Notice.

_____ Admit _____ Deny

7. Admit that Mr. Wanzek did not act with *scienter* with respect to the allegations set forth in the Notice.

_____ Admit _____ Deny

8. Admit that Mr. Bersch relied on Concordia's assurances that the Truck Financing Contracts and Servicing Agreements were not securities.

_____ Admit _____ Deny

9. Admit that Mr. Wanzek relied on Concordia's assurances that the Truck Financing Contracts and Servicing Agreements were not securities.

_____ Admit _____ Deny

10. Admit that Mr. Bersch relied on the opinion of Concordia's attorney that the Truck Financing Contracts and Servicing Agreements were not securities.

_____ Admit _____ Deny

11. Admit that Mr. Wanzek relied on opinion of Concordia's attorney that the Truck Financing Contracts and Servicing Agreements were not securities.

_____ Admit _____ Deny

12. Admit that the Securities Division took no action regarding the Truck Financing Contracts and Servicing Agreements until 2012.

_____ Admit _____ Deny

13. Admit that Mrs. Wanzek played no role in any of the matters alleged in the Notice.

_____ Admit _____ Deny

14. Admit that Concordia was represented by a reputable law firm during the period of time covered by the Notice.

_____ Admit _____ Deny

15. Admit that Concordia's financial statements were audited by a reputable accounting firm during part of the time covered by the Notice.

_____ Admit _____ Deny

16. Admit that Chino Commercial Bank served as a custodian for some of the Truck Financing Contracts and Servicing Agreements.

_____ Admit _____ Deny

17. Admit that the Truck Financing Contracts related to actual loans made to purchase actual big-rig trucks.

_____ Admit _____ Deny

18. Admit that the returns on the investments alleged in the Notice performed no worse than many other investments during same time frame.

_____ Admit _____ Deny

19. Admit that the losses, if any, suffered by investors were not caused by Mr. Bersch or Mr. Wanzek.

_____ Admit _____ Deny

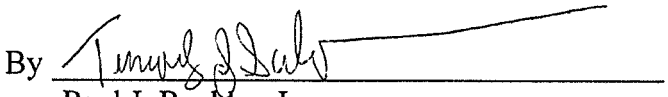
ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

20. Admit that the majority of the "446 distinct investments" alleged in Paragraph 26 of the Notice occurred before 2005.

_____ Admit _____ Deny

DATED this 24th day of November, 2014.

ROSHKA DEWULF & PATTEN, PLC

By 

Paul J. Roshka, Jr.
Timothy J. Sabo
One Arizona Center
400 East Van Buren Street, Suite 800
Phoenix, Arizona 85004
Attorneys for ER Financial & Advisory Services, LLC, Lance Michael Bersch, David John Wanzek and Linda Wanzek

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

Copies of the foregoing hand-delivered
this 24th day of November, 2014, to:

James D. Burgess, Esq.
Securities Division
Arizona Corporation Commission
1300 West Washington, 3rd Floor
Phoenix, Arizona 85007

And a copy mailed that same day to:

Alan S. Baskin, Esq.
David E. Wood, Esq.
Baskin Richards, PLC
2901 North Central Avenue, Suite 1150
Phoenix, Arizona 85012
Attorneys for Respondent Concordia Finance Company, LTD.

By _____

Cases/ER.ACC/Discovery/First RFA to ACC

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

Exhibit 6

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS
BOB STUMP, Chairman
GARY PIERCE
BRENDA BURNS
BOB BURNS
SUSAN BITTER SMITH

In the matter of: CONCORDIA FINANCING COMPANY, LTD, a/k/a "CONCORDIA FINANCE," ER FINANCIAL & ADVISORY SERVICES, LLC, LANCE MICHAEL BERSCH, and DAVID JOHN WANZEK and LINDA WANZEK, husband and wife, Respondents.	Docket No. S-20906A-14-0063 **NOTICE OF 30(b)(6) DEPOSITION OF** **THE SECURITIES DIVISION OF THE ARIZONA CORPORATION COMMISSION**

TO: The Securities Division of the Arizona Corporation Commission, and its attorney,

PURSUANT TO A.A.C. R14-3-109(p) AND RULE 30(b)(6), OF THE ARIZONA RULES OF CIVIL PROCEDURE, YOU ARE COMMANDED to designate and produce for deposition one or more officers, directors, or managing agency, or such other persons who consent to testify on your behalf, to testify as to matters known by or reasonably available to you with respect to the following subjects:

ALL MATTERS SET FORTH IN THE SECURITIES DIVISION NOTICE OF OPPORTUNITY

With respect to each person designated, you also are requested to set for the matters on which each personal will testify.

The deposition upon oral examination will be taken at the time and place designated below,

before a court reporter, Notary Public, or some other official authorized by law to administer oaths.

DATE AND TIME OF DEPOSITION: **March 4, 2015 at 2:00 p.m.**

PLACE OF DEPOSITION: **Roshka DeWulf & Patten, PLC**
One Arizona Center
400 E. Van Buren, Suite 800
Phoenix, AZ 85004

DATED this 24th day of November, 2014.

ROSHKA DEWULF & PATTEN, PLC

By _____

Paul J. Roshka, Jr.
Timothy J. Sabo
One Arizona Center
400 East Van Buren Street, Suite 800
Phoenix, Arizona 85004
Attorneys for ER Financial & Advisory Services, LLC, Lance Michael Bersch, David John Wanzek and Linda Wanzek

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

Copies of the foregoing hand-delivered
this 24th day of November, 2014, to:

James D. Burgess, Esq.
Securities Division
Arizona Corporation Commission
1300 West Washington, 3rd Floor
Phoenix, Arizona 85007

and a copy mailed that same day to:

Alan S. Baskin, Esq.
David E. Wood, Esq.
Baskin Richards, PLC
2901 North Central Avenue, Suite 1150
Phoenix, Arizona 85012
Attorneys for Respondent Concordia Finance Company, LTD.

By _____

Cases/ER.ACC/Discovery/Notice of Depo – ACC 30(b)(6)

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

Exhibit 7

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS
BOB STUMP, Chairman
GARY PIERCE
BRENDA BURNS
BOB BURNS
SUSAN BITTER SMITH

In the matter of: CONCORDIA FINANCING COMPANY, LTD, a/k/a "CONCORDIA FINANCE," ER FINANCIAL & ADVISORY SERVICES, LLC, LANCE MICHAEL BERSCH, and DAVID JOHN WANZEK and LINDA WANZEK, husband and wife, Respondents.	Docket No. S-20906A-14-0063 **NOTICE OF DEPOSITION OF GARY R. CLAPPER**

Respondents, ER Financial & Advisory Services, LLC, Lance Michael Bersch, David John Wanzek, and Linda Wanzek (the "ER Respondents"), pursuant to A.A.C. R14-3-109(p), give notice that the deposition of the person whose name and address is stated below will be taken upon oral examination at the time and place stated below before an officer authorized by law to administer oaths, continuing from day to day until such deposition(s) have been completed:

PERSONS TO BE EXAMINED:	**Gary R. Clapper**
DATE AND TIME OF DEPOSITION:	**March 4, 2015 at 10:00 a.m.**
PLACE OF DEPOSITION:	**Roshka DeWulf & Patten, PLC** **One Arizona Center** **400 E. Van Buren, Suite 800** **Phoenix, AZ 85004**

DATED this 24th day of November, 2014.

ROSHKA DEWULF & PATTEN, PLC

By _____

Paul J. Roshka, Jr.
Timothy J. Sabo
One Arizona Center
400 East Van Buren Street, Suite 800
Phoenix, Arizona 85004
Attorneys for ER Financial & Advisory Services, LLC, Lance Michael Bersch, David John Wanzek and Linda Wanzek

ROSHKA DEWULF & PATTEN, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

Copies of the foregoing hand-delivered this 24th day of November, 2014, to:

James D. Burgess, Esq.
Securities Division
Arizona Corporation Commission
1300 West Washington, 3rd Floor
Phoenix, Arizona 85007

And a copy of the forgoing mailed that same day to:

Alan S. Baskin, Esq.
David E. Wood, Esq.
Baskin Richards, PLC
2901 North Central Avenue, Suite 1150
Phoenix, Arizona 85012
Attorneys for Respondent Concordia Finance Company, LTD.

By _____

Cases/ER/ACC/Discovery/Notice of Depo - Clapper