

CITY OF TUCSON

NOTICE OF REQUEST FOR PROPOSAL

REQUEST FOR PROPOSAL NUMBER: 090188

MATERIAL OR SERVICE: MAINTENANCE, REPAIR & OPERATION SUPPLIES

PROPOSAL DUE DATE: JULY 28, 2009, AT 4:00 P.M. LOCAL AZ TIME

PROPOSAL SUBMITTAL LOCATION: DEPARTMENT OF PROCUREMENT
255 W. ALAMEDA, 6TH FLOOR, TUCSON, AZ 85701

PRE-PROPOSAL CONFERENCE DATE: JULY 14, 2009
TIME: 1:00 P.M. TO 4:00 P.M., ARIZONA TIME
LOCATION: 255 W. ALAMEDA, 7TH FLOOR, TUCSON, AZ 85701

This solicitation and possible future amendments may be obtained from our Internet site at: <http://www.tucsonprocurement.com/> by selecting the Bid Opportunities link and the associated solicitation number.

Internet access is available at all Pima County Public Libraries. Any interested offerors without Internet access may obtain a copy of this solicitation by calling (520) 791-4217, or a copy may be picked up during regular business hours at the Department of Procurement, 255 W. Alameda, 6th Floor, Tucson, AZ.

The City of Tucson takes no responsibility for informing recipients of changes to the original solicitation document. It is the Offeror's responsibility to obtain a copy of any amendment relevant to this solicitation. Failure to submit amendments with the solicitation response may be grounds for deeming a submittal non-responsive.

If you experience any problems obtaining this Request for Proposal, please call (520) 791-4217.

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CONTRACT OFFICER: LLOYD WINDLE
TELEPHONE NUMBER: (520) 837-4105
LLOYD.WINDLE@TUCSONAZ.GOV

Interested offerors may obtain a copy of this complete solicitation by calling (520) 791-4217. A copy of this solicitation and possible future amendments may be obtained from our Internet site at: <http://www.tucsonprocurement.com/> by selecting the Bid Opportunities link and the associated solicitation number.

Competitive sealed proposals for the specified material or service shall be received by the Department of Procurement, 255 W. Alameda, 6th Floor, Tucson, Arizona 85701, until the date and time cited.

Proposals must be in the actual possession of the Department of Procurement at the location indicated, on or prior to the exact date and time indicated above. Late proposals shall not be considered. The prevailing clock shall be the City Department of Procurement clock.

Proposals must be submitted in a sealed envelope. The Request for Proposal number and the offeror's name and address should be clearly indicated **on the outside** of the envelope. All proposals must be completed in ink or typewritten. Questions must be addressed to the Contract Officer listed above.

LW/nc

PUBLISH DATE: JUNE 29, 2009

INTRODUCTION/ BACKGROUND

The City of Tucson is requesting proposals from qualified and experienced firms to provide **MAINTENANCE, REPAIR AND OPERATIONS (MRO) SUPPLIES, PARTS, EQUIPMENT & MATERIALS**. The City of Tucson requires a contractor who provides a diverse and extensive supply of MRO products for delivery to various locations in the Tucson metropolitan area and for pickup at local storefronts.

Requirements and qualifications are defined in detail in the Scope of Services Section of this Request for Proposal (RFP). The City seeks a firm that can supply the specified services, supplies, parts, equipment and materials.

The City, as the Principal Procurement Agency, has partnered with the National Intergovernmental Purchasing Alliance Company (herein National IPA) to make the resultant contract from this solicitation available to qualified Participating Public Agencies nationwide. National IPA provides marketing and administrative support for the Supplier (herein also referred to as Contractor or Consultant) that directly promotes the Supplier's products and services to Participating Public Agencies through multiple channels, each designed to promote specific products and services to public agencies on a national basis. As such, the Supplier must be able to accommodate a nationwide demand for services and to fulfill obligations as a nationwide Supplier as stated herein.

NATIONAL CONTRACT REQUIREMENTS

1. SUPPLIER COMMITMENTS

The successful Supplier must make certain commitments to both the Principal Procurement Agency and National IPA. These commitments are designed to ensure the success of the Master Agreement for all Participating Public Agencies as well as the Supplier.

A. Corporate Commitment

Supplier commits that (1) the Master Agreement (which is the legal agreement executed between the City and the Supplier) has received all necessary corporate authorization of the Supplier, (2) the Master Agreement is the Supplier's primary "go to market" strategy for public agencies, and (3) the Master Agreement will be promoted to all public agencies, including any existing customers, and transitioning those customers, upon their request, to the Master Agreement. Supplier will identify an executive corporate sponsor within the RFP response who will be responsible for the overall management of the awarded Master Agreement.

B. Pricing Commitment

Supplier commits that the Master Agreement pricing is the lowest available (net to buyer) to public agencies nationwide and further commits that if a Participating Public Agency is eligible for lower pricing through a national, state, regional or local contract, that the Supplier will match such lower pricing under the Master Agreement.

C. Sales Commitment

Supplier commits to aggressively market the Master Agreement as its "go to" market strategy in this defined sector and that its sales force will be trained, engaged and committed to offering the Master Agreement to public agencies through National IPA nationwide. Further, Supplier commits that all Master Agreement sales will be accurately and timely reported to National IPA in accordance with the National IPA Administration Agreement.

2. NATIONAL IPA ADMINISTRATIVE AGREEMENT

The Contractor will be required to enter and execute the National Intergovernmental Purchasing Alliance Administration Agreement with National IPA concurrently upon award with the Principal Procurement Agency Master Agreement before services can commence (see Attachment A). The Agreement establishes the requirements, obligations and prohibitions of the Contractor with respect to a nationwide contract effort. The City strongly encourages all potential offerors to be familiar with the terms and conditions contained therein.

3. ESTIMATED VOLUME

The City of Tucson anticipates spending approximately \$500,000 annually on MRO supplies. The dollar volume of supplies purchased under the contract is estimated to be \$25 million annually. While no minimum volume is guaranteed, the estimated annual volume is projected based on the current annual volumes among the City, other government agencies that intend to utilize the resulting contract to be made available to them through National IPA, and volume growth into other agencies through a coordinated marketing approach between the Supplier and National IPA.

4. MARKETING AND ADMINISTRATIVE SUPPORT

National IPA provides marketing and administrative support for the Contractor that directly promotes the Contractor's products and services to Participating Public Agencies through multiple channels, each designed to promote specific products and services to government agencies on a national basis.

The National IPA Marketing teams will work in conjunction with the successfully awarded contractor to promote the agreement to both existing Participating Public Agencies and new Participating Public Agencies through:

- Marketing collateral (print, email, presentations)
- Website support
- Trade shows/conferences/meetings
- Advertising

The National IPA Sales teams will work in conjunction with the successfully awarded contractor to promote the agreement to both existing Participating Public Agencies and new Participating Public Agencies through:

- Individual sales calls
- Joint sales calls
- Communications/customer service
- Training sessions for participating agencies teams
- Training sessions for contractor teams

The National IPA Contracting teams will work in conjunction with the successfully awarded contractor to promote the agreement to both existing public agencies and new Participating Public Agencies through:

- Serving as the subject matter expert for questions regarding joint powers authority and state statues and regulations for cooperative purchasing
- Training sessions for participating agencies teams
- Training sessions for contractor teams
- Quarterly business reviews to monitor program success
- General contract administration

Contractors are required to pay an administrative fee based on a minimum of 2.5% of actual sales under the Contract. The administrative fee offsets the costs of governance, lead agencies, marketing and administration of National IPA.

SCOPE OF SERVICES

A. GENERAL REQUIREMENTS

1. **QUALIFIED FIRMS:** Offerors should meet the minimum qualifications:
 - a. Have a strong national presence in the MRO supply industry.
 - b. Have a distribution model capable of delivering products nationwide.
 - c. Have a demonstrated sales presence.
 - d. Be able to meet the minimum requirements of the cooperative purchasing program detailed herein.
 - e. Be able to provide the full range of products, equipment, parts, materials and services to meet the demands of the City and all agencies that opt to participate in the cooperative purchasing program with the City.
2. **DEFECTIVE PRODUCT:** All defective products shall be replaced and exchanged by the Contractor. The cost of transportation, unpacking, inspection, re-packing, re-shipping or other like expenses shall be paid by the Contractor. All replacement products must be received by the City within seven (7) days of initial notification.
3. **EQUIPMENT/RECALL NOTICES:** In the event of any recall notice, technical service bulletin, or other important notification affecting equipment purchased from this contract, a notice shall be sent to the Contract Representative. It shall be the responsibility of the contractors to assure that all recall notices are sent directly to the agencies Contract Representative.
4. **WAREHOUSING, DISTRIBUTION AND SALES FACILITIES:** The product specified in this solicitation is dependent upon an extensive manufacturer-to-customer supply chain distribution system. In order to be considered for award, each potential contractor is required to provide proof of an extensive distribution system.
5. **DELIVERY:** For City of Tucson purchases, MRO supplies shall be delivered to various City of Tucson stores locations and non-stores locations. All deliveries shall be made Monday through Friday from 8:00 a.m. to 3:00 p.m., Arizona Standard Time.
6. **CATALOGS:** Within 10 days after contract award, Contractor must submit complete price lists and catalogs of their product line in hard copy or on CD. Upon request from a using agency, Contractor shall provide, at no cost, these catalogs and price lists. An accessible public website that contains a downloadable catalog and price list or an interactive web catalog and price list maybe provided in lieu of the above hard copy requirement.

B. PRODUCT REQUIREMENTS:

1. **PRODUCTS:** A complete and comprehensive line of quality made MRO supplies to support the daily maintenance, repair and operations functions of the agency. The categories include, but are not limited to the following.
 - a. **Motors and Power Transmission-** General, Definite Purpose and HVAC motors, gear motors, bearings, V-belts and accessories.
 - b. **Electrical Supplies** – Distribution, controls, wire, cable, voice & data and supplies.

c. Lighting – Lamps, ballasts, fixtures, task lighting, flashlights and batteries.

d. Tools – Hand, power, outdoor and automotive tools and tool storage.

e. Measuring Tools & Test Instruments – Calipers, gauges, inspection, micrometers and multimeters.

f. Pneumatic – Pneumatic tools and system components, air compressors and hydraulics.

g. Machining and Cutting Tools – Drill bits, taps, dies, blades, counterbores, countersinks and abrasives.

h. Material Handling, Storage and Packaging – Ladders, hoists, shelving, storage, furniture, packaging, casters, cart, trucks and drums.

i. Welding – Welding equipment and supplies.

j. Fasteners and Adhesives – Nuts, bolts, washers, screws, hooks, flat stock, raw materials (metal, rubber, plastic), glue and cement.

k. Lubricants, Sealants and Paint - Grease, oil, penetrates sealants, caulk and paint.

l. Safety and Security Supplies – Spill containment, storage, fire protection, person protective equipment, instrumentation, signs, labels, tags and security.

m. Cleaning Equipment and Supplies – Chemicals, equipment, restroom, paper, waste containers, cleaning.

n. HVAC Supplies – Controls, heaters, air conditioning, air treatment, fans, ventilators and blowers.

o. Pumps and Plumbing – Submersible, centrifugal, water system and positive displacement pumps, pipe, valves, fittings, heaters, coolers, filtration and faucets.

p. Other Categories –

2. CURRENT PRODUCTS: All products being offered in response to this solicitation shall be in current and ongoing production; shall be formally announced for general marketing purposes; shall be a model or type currently functioning in a user (paying customer) environment and capable of meeting or exceeding all specifications and requirements set forth in this solicitation.

3. PRICING: Offerors are to provide a discount from a verifiable price index, provide a reduced net pricing schedule, a hybrid or other supplier specific pricing model. Prices/discounts shall remain firm and will include all charges that may be incurred in fulfilling requirement(s) for the twelve-month period following contract award. Where applicable, pricing shall be determined by applying Offerors discounts to the prices listed on their manufacturer's price lists, retail price sheets, catalogs or by utilizing the reduced net pricing schedule.

C. SERVICE REQUIREMENTS:

1. SERVICES: The City is interested in evaluating the following categories of value-add services for inclusion in this contract. The categories include, but are not limited to the following.

- a. **Sourcing:**
 - 1. from non-catalog suppliers,
 - 2. of line card extensions of catalog suppliers,
 - 3. for custom products, and
 - 4. for OEM repair parts and accessories.

- b. **Software Punch Out:** The capability of your electronic ordering system to interface with an agencies inventory software system.

- c. **Repair Services:** The ability to provide repair services through authorized manufacturer's facilities or other avenues.

- d. **Small Business Program:** The ability to incorporate small business enterprises into your distribution, sales and product offerings.

- e. **Green/Sustainability Program:**
 - 1. **Policies:** Efforts and policies pertaining to green and sustainability.
 - 2. **Products:** Impact on product offerings.
 - 3. **Distribution:** Impact in distribution.
 - 4. **Recycling of Lamps:** The ability to recycle lighting and electronic products.
 - 5. **Lighting and Energy Audits:** The ability to perform lighting and energy audits.
 - 6. **Certifications:** The industry recognized certifications and standards obtained.

- f. **Training & Education:** The ability to provide on-site and/or online training and educational programs/seminars.

- g. **Customer Support Services:** The policies on replacements, returns, restocking charges, after hours service, after sales support, out of stock, order tracing, technical feedback, quality assurance for orders and drop shipments.

- h. **Other Services:** Other value-add services not included in above categories.

INSTRUCTIONS TO OFFERORS

1. DEFINITION OF KEY WORDS USED IN THE SOLICITATION:

For purposes of this solicitation and subsequent contract, the following definitions shall apply:

City: The City of Tucson, Arizona

Master Agreement or Contract: The legal agreement executed between the City and the Supplier/Contractor/Consultant. The Master Agreement/Contract shall include this RFP document incorporated herein by reference, all terms, conditions, specifications, scope of work, Amendments, the Contractor's offer and negotiated items as accepted by the City.

Supplier/Contractor/Consultant: The individual, partnership, or corporation who, as a result of the competitive solicitation process, is awarded a contract by the City.

Contract Representative: The City employee or employees who have specifically been designated to act as a contact person or persons to the Contractor, and are responsible for monitoring and overseeing the Contractor's performance under this Contract.

Director of Procurement: The contracting authority for the City, authorized to sign contracts and amendments thereto on behalf of the City.

May: Indicates something that is not mandatory but permissible.

Offeror: The individual, partnership, or corporation who submits a proposal in response to a solicitation.

Shall, Will, Must: Indicates a mandatory requirement. Failure to meet these mandatory requirements, if they constitute a substantive requirement, may, at the City's sole discretion, result in the rejection of a proposal as non-responsive.

Should: Indicates something that is recommended but not mandatory. If the Offeror fails to provide recommended information, the City may, at its sole option, ask the Offeror to provide the information or evaluate the proposal without the information.

2. **PRE-PROPOSAL CONFERENCE:** If scheduled, the date and time of a Pre-Proposal conference is indicated on the cover page of this document. Attendance at this conference is not mandatory. Written minutes and/or notes will not be available, therefore attendance is encouraged. If an Offeror is unable to attend the Pre-Proposal Conference questions may be submitted in writing. Offerors are encouraged to submit written questions, via electronic mail or facsimile, at least five days prior to the Request for Proposal due date to the Contract Officer listed above. The purpose of this conference will be to clarify the contents of this Request for Proposal in order to prevent any misunderstanding of the City's position. Any doubt as to the requirements of this Request for Proposal or any apparent omission or discrepancy should be presented to the City at this conference. The City will then determine the appropriate action necessary, if any, and may issue a written amendment to the Request for Proposal. Oral statements or instructions will not constitute an amendment to this Request for Proposal.

3. **INQUIRIES:** Any question related to the Request for Proposal shall be directed to the Contract Officer whose name appears above. An offeror shall not contact or ask questions of the department for whom the requirement is being procured. The Contract Officer may require any and all questions be submitted in writing. Offerors are encouraged to submit written questions via electronic mail or facsimile, at least five days prior to the proposal due date. Any correspondence related to a solicitation should refer to the appropriate Request for Proposal number, page and paragraph number. An envelope containing questions should be identified as such, otherwise it may not be opened until after the official proposal due date and time. Oral interpretations or clarifications will be without legal effect. Only questions answered by a formal written amendment to the Request for Proposal will be binding.

4. **AMENDMENT OF REQUEST FOR PROPOSAL:** The Offeror shall acknowledge receipt of a Request for Proposal Amendment by signing and returning the document by the specified due date and time.

5. **FAMILIARIZATION OF SCOPE OF WORK:** Before submitting a proposal, each offeror shall familiarize itself with the Scope of Work, laws, regulations and other factors affecting contract performance. The Offeror shall be responsible for fully understanding the requirements of the subsequent Contract and otherwise satisfy itself as to the expense and difficulties accompanying the fulfillment of contract requirements. The submission of a proposal will constitute a representation of compliance by the Offeror. There will be no subsequent financial adjustment, other than that provided by the subsequent Contract, for lack of such familiarization.

6. PREPARATION OF PROPOSAL:

A. All proposals shall be on the forms provided in this Request for Proposal package. It is permissible to copy these forms as required. Facsimiles or electronic mail proposals shall not be considered.

B. The Offer and Acceptance form, the Price Page and any solicitation amendments must be signed and returned with the proposal.

C. The Offer and Acceptance page shall be signed by a person authorized to submit an offer. An authorized signature on the Offer and Acceptance page, Proposal Amendment(s), or cover letter accompanying the proposal documents shall

constitute an irrevocable offer to sell the good and/or service specified herein. Offeror shall submit any additional requested documentation, signifying intent to be bound by the terms of the agreement.

- D. The authorized person signing the proposal shall initial erasure, interlineations or other modifications on the proposal.
 - E. In case of error in the extension of prices in the proposal, unit price shall govern when applicable.
 - F. Periods of time, stated as a number of days, shall be in calendar days.
 - G. It is the responsibility of all offerors to examine the entire Request for Proposal package and seek clarification of any requirement that may not be clear and to check all responses for accuracy before submitting a proposal. Negligence in preparing a proposal confers no right of withdrawal after due date and time.
 - H. The City shall not reimburse the cost of developing, presenting, submitting or providing any response to this solicitation.
 - I. Offeror must list any subcontractors to be utilized in the performance of the services specified herein. For each subcontractor, details on respective qualifications must be included.
- 7. PAYMENT DISCOUNTS:** Payment discount periods shall be computed from the date of receipt of the material/service or correct invoice, whichever is later, to the date City's payment warrant is mailed. Unless freight and other charges are itemized, any discount provided shall be taken on full amount of invoice. Payment discounts of twenty-one calendar days or more shall be deducted from the proposed price in determining the price points. However, the City shall be entitled to take advantage of any payment discount offered by a vendor provided payment is made within the discount period.
- 8. TAXES:** The City of Tucson is exempt from federal excise tax, including the federal transportation tax.
- 9. PROPOSAL/SUBMITTAL FORMAT: Original and 4 copies (5 total) of each proposal** should be submitted on the forms and in the format specified in the RFP. Offerors shall also submit one electronic copy of the proposal on cd, disc or zip disc in MS Office97 or .pdf format. Any confidential information shall be submitted on a separate cd, disc or zip disc. The original copy of the proposal should be clearly labeled "Original" and shall be single-sided, three hole punched and in a binder. The material should be in sequence and related to the RFP. **The sections of the submittal should be tabbed, clearly identifiable and should include a minimum of the following sections: the completed Offer and Acceptance Form, all signed Amendments, a copy of this RFP document and the Offeror's response to the Evaluation Criteria including the completed Price Page.** Failure to include the requested information may have a negative impact on the evaluation of the offeror's proposal.
- 10. EXCEPTIONS TO CONTRACT PROVISIONS:** A response to any Request for Proposal is an offer to contract with the City based upon the contract provisions contained in the City's Request for Proposal, including but not limited to, the specifications, scope of work and any terms and conditions. Offerors who wish to propose modifications to the contract provisions must clearly identify the proposed deviations and any proposed substitute language. The provisions of the Request for Proposal cannot be modified without the express written approval of the Director or his designee. If a proposal or offer is returned with modifications to the contract provisions that are not expressly approved in writing by the Director or his designee, the contract provisions contained in the City's Request for Proposal shall prevail.
- 11. PUBLIC RECORD:** All proposals submitted in response to this Request for Proposal shall become the property of the City and shall become a matter of public record available for review subsequent to the award notification.
- 12. CONFIDENTIAL INFORMATION:** The City of Tucson is obligated to abide by all public information laws. If an Offeror believes that any portion of a proposal, offer, specification, protest or correspondence contains information that should be withheld, a statement advising the Contract Officer of this fact should accompany the submission and the information shall be so identified wherever it appears. The City shall review all requests for confidentiality and may provide a written determination to designate specified documents confidential or the request may be denied. Price is not confidential and will not be withheld. If the confidential request is denied, such information shall be disclosed as public information, unless the offeror submits a formal written objection.
- 13. CERTIFICATION:** By signature on the Offer and Acceptance page, solicitation Amendment(s), or cover letter accompanying the submittal documents, Offeror certifies:
- A. The submission of the offer did not involve collusion or other anti-competitive practices.
 - B. The Offeror shall not discriminate against any employee or applicant for employment in violation of Federal or State law.
 - C. 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, meal or service to a public servant in connection with the submitted offer.
 - D. The Offeror hereby certifies that the individual signing the submittal is an authorized agent for the Offeror and has the authority to bind the Offeror to the Contract.

- 14. WHERE TO SUBMIT PROPOSALS:** In order to be considered, the Offeror must complete and submit its proposal to the City of Tucson Department of Procurement at the location indicated, prior to or at the exact date and time indicated on the Notice of Request for Proposal page. The Offeror's proposal shall be submitted in a sealed envelope. The words "SEALED PROPOSAL" with the REQUEST FOR PROPOSAL TITLE, REQUEST FOR PROPOSAL NUMBER, PROPOSAL DUE DATE AND TIME and OFFEROR'S NAME AND ADDRESS shall be written on the envelope.
- 15. LATE PROPOSALS:** Late proposals will be rejected.
- 16. OFFER AND ACCEPTANCE PERIOD:** In order to allow for an adequate evaluation, the City requires an offer in response to this solicitation to be valid and irrevocable for ninety (90) days after the proposal due date and time.
- 17. WITHDRAWAL OF PROPOSAL:** At any time prior to the specified solicitation due date and time, an offeror may formally withdraw the proposal by a written letter, facsimile or electronic mail from the Offeror or a designated representative. Telephonic or oral withdrawals shall not be considered.
- 18. DISCUSSIONS:** The City reserves the right to conduct discussions with offerors for the purpose of eliminating minor irregularities, informalities, or apparent clerical mistakes in the proposal in order to clarify an offer and assure full understanding of, and responsiveness to, solicitation requirements.
- 19. CONTRACT NEGOTIATIONS:** Exclusive or concurrent negotiations may be conducted with responsible offeror(s) for the purpose of altering or otherwise changing the conditions, terms and price of the proposed contract unless prohibited. Offerors shall be accorded fair and equal treatment in conducting negotiations and there shall be no disclosure of any information derived from proposals submitted by competing offerors.
- 20. VENDOR APPLICATION:** Prior to the award of a Contract, the successful offeror shall register with the City's Department of Procurement. Registration can be completed at <http://www.tucsonprocurement.com/> by clicking on Vendor Services.
- 21. UPON NOTICE OF INTENT TO AWARD:** The apparent successful offeror shall sign and file with the City, within five (5) days after Notice of Intent to Award, all documents necessary to the successful execution of the Contract.
- 22. AWARD OF CONTRACT:** Notwithstanding any other provision of the Request for Proposal, the City reserves the right to:
- (1) waive any immaterial defect or informality; or
 - (2) reject any or all proposals, or portions thereof; or
 - (3) reissue the Request for Proposal.
- A response to this Request for Proposal is an offer to contract with the City based upon the terms, conditions and Scope of Work contained in the City's Request for Proposal. Proposals do not become contracts unless and until they are executed by the City's Director of Procurement and the City Attorney. A contract has its inception in the award, eliminating a formal signing of a separate contract. All of the terms and conditions of the contract are contained in the Request for Proposal, unless any of the terms and conditions is modified by a Request for Proposal amendment, a Contract Amendment, or by mutually agreed terms and conditions in the Contract documents.
- 23. PROPOSAL RESULTS:** The name(s) of the successful offeror(s) will be posted on the Procurement Department's Internet site at <http://www.tucsonprocurement.com/> upon issuance of a Notice of Intent to Award or upon final contract execution.
- 24. PROTESTS:** A protest shall be in writing and shall be filed with the Director of Procurement. A protest of a Request for Proposal shall be received at the Department of Procurement not less than five (5) working days before the Request for Proposal due date. A protest of a proposed award or of an award shall be filed within ten (10) days after issuance of notification of award or issuance of a notice of intent to award, as applicable. A protest shall include:
- A. The name, address, and telephone number of the protestant;
 - B. The signature of the protestant or its representative;
 - C. Identification of the Request for Proposal or Contract number;
 - D. A detailed statement of the legal and factual grounds of protest including copies of relevant documents; and
 - E. The form of relief requested.

PROPOSAL EVALUATION REQUIREMENTS

I. PROPOSAL EVALUATION CRITERIA – (listed in relative order of importance)

- A. Method of Approach
- B. Price Proposal
- C. Qualifications & Experience

II. REQUIREMENTS SPECIFIC TO EVALUATION CRITERIA: The narrative portion and the materials presented in response to this Request for Proposal should be submitted in the same order as requested and must contain, at a minimum, the following:

A. Method of Approach

1. Distribution Network

- a. Describe how your firm proposes to distribute the products/services nationwide.
- b. Identify all other companies/distributors that will be involved in processing, handling or shipping the products/services to Participating Public Agencies.
- c. Provide the number, size and location of your firm's manufacturing, distribution facilities, warehouses, service facilities and retail networks as applicable. State the estimated dollar value of your inventory.
- d. Describe your delivery commitment. What are your standard delivery days? What is the order cutoff time for next day delivery? Identify and describe any exceptions.

2. Marketing

- a. Provide a detailed ninety-day plan describing the strategy to immediately implement the Master Agreement as your company's primary "go to" market strategy for the public sector market to your teams nationwide, to include, but not limited to:
 - 1. Executive leadership endorsement and sponsorship of the award as the public sector go-to-market strategy within first 10 days.
 - 2. Training and education of your national sales force with participation from the executive leadership of your company, along with the National IPA team within first 90 days.
- b. Provide a detailed ninety-day plan describing the strategy to market the Master Agreement to current National IPA Participating Public Agencies, as well as to prospective public agencies nationwide immediately upon award, to include, but not limited to:
 - 1. Creation and distribution of a co-branded press release to trade publications within first 10 days.
 - 2. Announcement, contract details and contact information published on the company website within first 30 days.
 - 3. Design, publication and distribution of co-branded marketing collateral within first 90 days.

4. Commitment to attendance and participation with National IPA at national (i.e. NIGP Annual Forum, NPI Conference, etc.), regional (i.e. Regional NIGP Chapter Meetings, etc.) and supplier-specific trade shows conferences and meetings throughout the term of the agreement.
 - (a) For the NIGP Annual Forum, an area is reserved by National IPA for partner suppliers. Booth space will be purchased and staffed by your company. In addition, you shall commit to provide reasonable assistance to the overall promotion and marketing efforts for the NIGP Annual Forum as directed by National IPA.
5. Design and publication of national and regional advertising in trade publications throughout the term of the agreement.
6. Ongoing marketing and promotion of the agreement throughout the term of the agreement (case studies, collateral pieces, presentations, etc.).
- c. Describe how the Master Agreement will be marketed to your existing government agency customers, and how your company will transition any such accounts to the Master Agreement available nationally through National IPA.
- d. Please acknowledge that successfully awarded contractor agrees to provide their company/corporate logo(s) to National IPA and agree to provide permission for reproduction of such logo in marketing communications and promotions.
- e. Please provide contact information for the person(s), who will be responsible for:
 1. Marketing
 2. Sales
 3. Sales Support
 4. Financial Reporting
 5. Contracts
- f. Please describe in detail how your company's national sales force is structured, including contact information for the highest-level executive in charge of the sales team.
- g. Explain in detail how the sales teams will work with the National IPA team to implement, grow and service the national program.
- h. Explain in detail how your organization will manage the overall national program throughout the term of the Master Agreement, including ongoing coordination of marketing and sales efforts, timely new participant account set-up, etc.

3. Sales

- a. Explain how your company will market and transition the Master Agreement into the **primary "go to" market strategy** to local and state government.
- b. State the amount of your company's public agency sales for the previous fiscal year. Provide a list of your top 10 public agency customers, the total purchases for each for the previous fiscal year along with a key contact for each.

- c. Explain how your company plans to market the Master Agreement to existing government customers and transition these customers to the Master Agreement. Please provide the cumulative amount of purchases that your company will guarantee to transition each year to the National IPA contract for the initial three years of the agreement.

\$ _____.00 will be transitioned in year one.

\$ _____.00 will be transitioned in year two.

\$ _____.00 will be transitioned in year three.

- d. Explain how your firm will educate its national sales force about the contract.

4. Product

- a. Provide a detailed written response illustrating how the products offered will meet the requirements of this solicitation. Offerors shall provide the proposed product lines that will meet the Product Requirements of this solicitation. Offerors shall identify and describe their MRO categories. For each proposed category, describe in detail and provide at a minimum the following types of information:
1. Identification and description of product categories offered
 2. Identification and description of sub categories
 3. Identification and description of manufacturers within each sub category
- b. What is the total number of products offered in your catalog? Are all catalog products stocked in your distribution warehouses?
- c. How are green products identified in your catalog? Online ordering?
- d. Do you offer "Private Line" products? Please describe.
- e. Submit all information that will aid the City in evaluating your proposal.

5. Services

- a. Provide a detailed written response illustrating how the services offered will meet the requirements of this solicitation. Offerors shall provide the proposed services that will meet the Service Requirements of this solicitation. For each proposed category, describe and/or provide details explaining your capabilities. In your response include information such as:
1. Policies and programs detailing your efforts in these areas.
 2. Literature explaining your capabilities.
 3. Submit all information that will aid the City in evaluating your proposal.

6. Ordering and Invoices

- a. Describe your ordering capacity (telephone, fax, internet, etc). Provide details of the capabilities of your E Commerce website including ability to display contract pricing, on-line ordering, order tracking, search options, order history, technical assistance, lists, technical data and documentation, identification of alternate green products, etc.

- b. Describe your invoicing process. Is electronic invoicing available? Is summary invoicing available? Are there other options on how an agency receives an invoice? Submit sample invoices.
- c. Describe how problems – such as a customer ordering a wrong product; a customer receiving a defective or wrong product; etc. – are resolved.
- d. Describe how your firm measures performance including identification, calculation, tracking and reporting of measurements. What is your stock fill percentage rate, by line item, of the orders filled without backorders?

7. Other

- a. Describe any government rebate programs applicable.
- b. Describe how your firm will meet the monthly usage reporting criteria. Submit a sample report.

B. Price Proposal

1. Describe in detail the proposed business pricing model(s). Identify any objective verifiable pricing index or indices used to calculate the offered discount pricing. This must be submitted with the proposal.
2. Provide a Price Proposal. Submit the Price Proposal as a separate and clearly identified document. The Price Proposal shall minimally include the following:
 - a. Offerors shall submit pricing based on the product and service requirements categories identified on the Scope of Services of this solicitation. Offerors should offer a fixed percentage discount from the index or indices (or established discounted pricing), where applicable, to provide pricing for all product and services offered.
 - b. Identify and provide pricing for each category and sub-category of MRO products and services including those specific to a manufacturer.
 - c. Provide a core list, and deeper discounted pricing, of high usage items based upon your compar
3. The City's expectation is that the proposed pricing shall include delivery to Tucson and Participating Public Agencies. Based on your distribution network, explain the impact of such pricing to the City, Participating Public Agencies residing in large metropolitan areas and Participating Public Agencies residing in rural areas. Propose an optimal solution(s) that would provide Participating Public Agencies with the best pricing including freight costs.
4. Propose a plan to adjust pricing as market conditions change. The plan must be verifiable and auditable. Identify calculation, formula, components, index, etc.
5. State if pricing is most favorable offered to government agencies. Describe how your firm will ensure this contract will continually offer the best pricing available to Participating Public Agencies.
6. Provide details of and propose additional discounts for volume orders, special manufacturer's offers, minimum order quantity, free goods program, total annual spend, etc.

7. Provide information on any ordering methods – such as electronic ordering or payment via pCard or EFT – or other criteria which entitle the using agency to additional discounts off of a manufacturer's price list. If so, please provide the percentage discount.
8. Provide your payment terms.
9. Indicate if payment will be accepted via credit card. If so, may credit card payment(s) be made online. Also state the Convenience Fee, if allowable, per Section 5.2.E of the Visa Operating Regulations.

C. Qualifications and Experience

1. Provide a brief history and description of your company.
2. Provide a statement of your annual sales for the past 3 years.
3. In order to evaluate the financial aspects of your company, submit your Dunn and Bradstreet Comprehensive Insight Plus Report.
4. Provide the total number and location of sales persons employed by your firm.
5. Number and location of support centers (if applicable)
6. Describe the qualifications of your sales personnel and technicians.
7. Provide a listing of key personnel who may be assigned to the City's contract. Include their title within your organization and the description of the type of work they may perform. Please identify an executive corporate sponsor who will be responsible for the overall management of the awarded Master Agreement.
8. Summarize your experience in providing product and services similar to that outlined in the Scope of Work. Provide a minimum of three references for which you have provided similar products and services. References from other public agencies, particularly municipal governments, are preferred. Please include company name, address, phone, email, and contact person.
9. Please submit any additional information that you feel is applicable to your qualifications and experience.

III. GENERAL

A. Shortlist:

The City reserves the right to shortlist the offerors on Method of Approach, Price Proposal and Qualifications & Experience of the stated criteria. However, the City may determine that shortlisting is not necessary.

B. Interviews/Demonstrations:

The City reserves the right to conduct interviews and/or product demonstrations with some or all of the offerors at any point during the evaluation process. However, the City may determine that interviews and/or demonstrations are not necessary. In the event these are conducted, information provided during the interview and/or demonstration process shall be taken into consideration when evaluating the stated criteria. The City shall not reimburse the offeror for the costs associated with the interview and/or demonstration process.

C. Additional Investigations:

The City reserves the right to make such additional investigations as it deems necessary to establish the competence and financial stability of any offeror submitting a proposal.

D. Prior Experience:

Experiences with the City and entities that evaluation committee members represent may be taken into consideration when evaluating offers.

E. Multiple Awards:

To provide adequate contract coverage, at the City's sole discretion, multiple awards may be made.

SPECIAL TERMS AND CONDITIONS

1. **COOPERATIVE PURCHASING:** The City is acting as a contracting agency for any other governmental agency that elects to utilize the resulting contract through participation in National IPA. All transactions, purchase orders, etc, will occur directly between the Contractor and each Participating Agency individually, and neither National IPA nor any governmental agency shall be liable for any acts, liabilities, damages, etc. incurred by any other Participating Agency.

Public agencies that have entered into a Cooperative Purchasing Agreement with the City of Tucson's Department of Procurement is eligible to participate in any subsequent Contract. See www.tucsonprocurement.com and click on Cooperatives for a list of the public agencies that have currently entered into Cooperative Purchasing Agreements with the City of Tucson. Additionally, this contract is eligible for use by the Strategic Alliance for Volume Expenditures (SAVE) cooperative. See <http://www.maricopa.gov/Materials/SAVE/save-members.pdf> for a listing of Participating Public Agencies. The parties agree that these lists are subject to change.

Pursuant to Oregon Revised Statutes Chapter 279A.220 the following Oregon Public Agencies are eligible to register with National IPA and access the City of Tucson contract for Maintenance, Repair & Operation Supplies made pursuant to this solicitation and is hereby given notice of the foregoing request for bids for purposes of complying with the procedural requirements of said statute:

Cities. Towns. Villages and Boroughs including but not limited to:

CITY OF ADAIR VILLAGE
CITY OF ASHLAND
CITY OF AUMSVILLE
CITY OF AURORA
CITY OF BEAVERTON
CITY OF BOARDMAN
CITY OF BURNS
CITY OF CANBY
CITY OF CANYONVILLE
CITY OF CLATSKANIE
CITY OF COBURG
CITY OF CONDON
CITY OF LA GRANDE
CITY OF LEBANON
CITY OF MILL CITY
CITY OF MILWAUKIE
CITY OF MOSIER
CITY OF NORTH PLAINS
CITY OF OREGON CITY
CITY OF PILOT ROCK
CITY OF PORTLAND
CITY OF POWERS
CITY OF RIDDLE
CITY OF SANDY
CITY OF SCAPPOOSE
CITY OF SHADY COVE
CITY OF SHERWOOD
CITY OF ST. PAUL
CITY OF TIGARD, OREGON

CITY OF TUALATIN, OREGON
CITY OF WARRENTON
CITY OF WILSONVILLE
CITY OF WINSTON
LEAGUE OF OREGON CITIES
PORTLAND DEVELOPMENT COMMISSION

Counties including but not limited to:

ASSOCIATION OF OREGON COUNTIES
BENTON COUNTY
CLACKAMAS COUNTY DEPT OF TRANSPORTATION
CLATSOP COUNTY
COLUMBIA COUNTY, OREGON
COOS COUNTY HIGHWAY DEPARTMENT
CROOK COUNTY ROAD DEPARTMENT
CURRY COUNTY OREGON
DESCHUTES COUNTY
DOUGLAS COUNTY
GILLIAM COUNTY
GILLIAM COUNTY OREGON
HARNEY COUNTY SHERIFFS OFFICE
HOOD RIVER COUNTY
JEFFERSON COUNTY
LAKE COUNTY
LINCOLN COUNTY
LINN COUNTY
MARION COUNTY, SALEM, OREGON
MORROW COUNTY
MULTNOMAH COUNTY BUSINESS AND COMMUNITY SERVICES
MULTNOMAH LAW LIBRARY
NAMI LANE COUNTY
POLK COUNTY
SHERMAN COUNTY
UMATILLA COUNTY, OREGON
UNION COUNTY
WALLOW A COUNTY
WASCO COUNTY
WASHINGTON COUNTY
YAMHILL COUNTY

K-12 including but not limited to:

BEAVERTON SCHOOL DISTRICT
BEND-LA PINE SCHOOL DISTRICT
BROOKING HARBOR SCHOOL DISTRICT NO.17-C
CANYONVILLE CHRISTIAN ACADEMY
CASCADES ACADEMY OF CENTRAL OREGON
CENTENNIAL SCHOOL DISTRICT
CENTRAL CATHOLIC HIGH SCHOOL
CENTRAL POINT SCHOOL DISTRICT NO.6
CENTRAL SCHOOL DISTRICT 13J
COOS BAY SC'HOOL DISTRICT NO.9
COUNTY OF YAMHILL SCHOOL DISTRICT 29

CULVER SCHOOL DISTRICT NO.
DALLAS SCHOOL DISTRICT NO.2
DAVID DOUGLAS SCHOOL DISTRICT
DAYTON SCHOOL DISTRICT NO.8
DE LA SALLE N CATHOLIC HS
DESCHUTES COUNTY SCHOOL DISTRICT NO.6
DUFUR SCHOOL DISTRICT NO.29
ESTACADA SCHOOL DISTRICT NO.10B
FOREST GROVE SCHOOL DISTRICT
GLADSTONE SCHOOL DISTRICT
GRANTS PASS SCHOOL DISTRICT 7
GREATER ALBANY PUBLIC SCHOOL DISTRICT
HEAD START OF LANE COUNTY
HIGH DESERT EDUCATION SERVICE DISTRICT
HOOD RIVER COUNTY SCHOOL DISTRICT
JACKSON CO SCHOOL DIST NO.9
JEFFERSON COUNTY SCHOOL DISTRICT 509-J
JEFFERSON SCHOOL DISTRICT
KLAMATH FALLS CITY SCHOOLS
LAKE OSWEGO SCHOOL DISTRICT 7J
LANE COUNTY SCHOOL DISTRICT 4J
LINCOLN COUNTY SCHOOL DISTRICT
LINN CO. SCHOOL DIST. 95C
LOST RIVER JR/SR HIGH SCHOOL
LOWELL SCHOOL DISTRICT NO.71
MARION COUNTY SCHOOL DISTRICT
MARION COUNTY SCHOOL DISTRICT 103
MCMINNVILLE SCHOOL DISTRICT NOAO
MEDFORD SCHOOL DISTRICT 549C
MITCH CHARTER SCHOOL
MONROE SCHOOL DISTRICT NO.1J
MULTISENSORY LEARNING ACADEMY
MUL TNOMAH EDUCATION SERVICE DISTRICT
NEAH-KAH-NIE DISTRICT NO.56
NESTUCCA VALLEY SCHOOL DISTRICT NO.101
NOBEL LEARNING COMMUNITIES
NORTH BEND SCHOOL DISTRICT 13
NORTH CLACKAMAS SCHOOL DISTRICT
NORTH CLACKAMAS SCHOOL DISTRICT
NORTH WASCO CTY SCHOOL DISTRICT 21
NORTHWEST REGIONAL E.DUCATION SERVICE DISTRICT
ONTARIO MIDDLE SCHOOL
OREGON TRAIL SCHOOL DISTRICT NOA6
PHOENIX-TALENT SCHOOL DISTRICT NOA
PORTLAND JEWISH ACADEMY
PORTLAND PUBLIC SCHOOLS
REDMOND SCHOOL DISTRICT
REYNOLDS SCHOOL DISTRICT
ROGUE RIVER SCHOOL DISTRICT NO.35
ROSEBURG PUBLIC SCHOOLS
SCAPPOOSE SCHOOL DISTRICT 1J
SEASIDE SCHOOL DISTRICT 10

SHERWOOD SCHOOL DISTRICT 88J
SOUTH LANE SCHOOL DISTRICT 45J3
SOUTHERN OREGON EDUCATION SERVICE DISTRICT
SPRINGFIELD SCHOOL DISTRICT NO.19
SWEET HOME SCHOOL DISTRICT NO.55
THE CATLIN GABEL SCHOOL
TIGARD-TUALATIN SCHOOL DISTRICT
WEST LINN WILSONVILLE SCHOOL DISTRICT
YONCALLA SCHOOL DISTRICT NO.32

2. **FEDERAL, STATE AND LOCAL TAXES, LICENSES AND PERMITS:** The Supplier shall comply with all Federal, State, and local licenses and permits required for the operation of the business conducted by the Supplier as applicable to this Contract. The Supplier shall, at no expense to the City, National IPA, or other Participating Public Agencies, procure and keep in force during the entire period of the Agreement all such permits and licenses.
3. **SUBCONTRACTORS:** No subcontract shall be made by the contractor with any other party for furnishing any of the services herein contracted for without the advance written approval of the Department of Procurement. All subcontractors shall comply with Federal and State laws and regulations that are applicable to the services covered by the subcontractor and shall include all the terms and conditions set forth herein which shall apply with equal force to the subcontract, as if the subcontractor were the Contractor referred to herein. Contractor is responsible for contract performance whether or not subcontractors are used.
4. **FOB DESTINATION FREIGHT PREPAID:** Prices shall be FOB Destination Freight Prepaid to the delivery location designated. Contractor shall retain title and control of all goods until they are delivered and the Contract of coverage has been completed. All risk of transportation and all related charges shall be the responsibility of the Contractor. All claims for visible or concealed damage shall be filed by the Contractor. The City will assist the Contractor in arranging for inspection.
5. **PAYMENTS:** All payments made by the City of Tucson for goods or services will be made to the vendor named on the Offer and Acceptance form. If you do not wish payment to be made to that address, you must submit an attached sheet indicating the proper mailing address with this bid.
6. **RIGHT TO TERMINATE FOR CHANGE IN OWNERSHIP OR MATERIAL RESTRUCTURE OF THE CONTRACTOR:** In addition to the Termination of Contract clause in the Standard Terms and Conditions section of this solicitation and resulting contract, the City reserves the right to cancel the whole or part of this contract within 60 days written notice of the completion of any material change of ownership in the Contractor's company, including its sale, merger, consolidation or dissolution.
7. **TERM AND RENEWAL:** The term of the Contract shall commence upon award and shall remain in effect for a period of one (1) year, unless terminated, canceled or extended as otherwise provided herein. The Contractor agrees that the City of Tucson shall have the right, at its sole option, to renew the Contract for four (4) additional one-year periods or portions thereof. In the event that the City exercises such rights, all terms, conditions and provisions of the original Contract shall remain the same and apply during the renewal period with the possible exception of price and minor scope additions and/or deletions.

- 8. PRICE ADJUSTMENT:** The City will review fully documented requests for price adjustment after any Contract has been in effect for one (1) year. Any price adjustment will only be made at the time of Contract renewal and/or extension and will be a factor in the extension review process. The City will determine whether the requested price adjustment or an alternate option, is in the best interest of the
- 9. INSURANCE:** The City requires a complete and valid Certificate of Insurance prior to the commencement of any service or activity specified in this solicitation. The City will notify the successful Contractor of the intent to issue a Contract award. The successful Contractor must at that time submit an original copy of the Certificate of Insurance, for public liability insurance of \$1,000,000 (combined single limit) for bodily injuries, and \$100,000 for property damage. CERTIFICATE SHALL SHOW THE CITY OF TUCSON AS AN ADDITIONAL INSURED. The coverages shall be maintained in full force and effect during the term of the Contract and shall not serve to limit any liabilities or any other Contractor obligations.

STANDARD TERMS AND CONDITIONS

1. **ADVERTISING:** Contractor shall not advertise or publish information concerning this Contract without prior written consent of the City's Director of Procurement.
2. **AFFIRMATIVE ACTION:** Contractor shall abide by the provisions of the Tucson Procurement Code Chapter 28, Article XII.
3. **AMERICANS WITH DISABILITIES ACT:** The Contractor shall comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101, et seq.) and applicable Federal regulations under the Act.
4. **APPLICABLE LAW:** This Contract shall be governed, and the City and Contractor shall have all remedies afforded to each, by the Tucson Procurement Code and the law of the State of Arizona. State law claims shall be brought only in Pima County Superior Court.
5. **ASSIGNMENT-DELEGATION:** No right or interest in this Contract shall be assigned by the Contractor without prior written permission of the City, and no delegation of any duty of the Contractor shall be made without prior written permission of the City's Director of Procurement. The City shall not unreasonably withhold approval and shall notify the Contractor of the City's position by written notice.
6. **CERTIFICATION OF COMPLIANCE WITH A.R.S. SEC. 35-393 ET SEQ.:** By signing this contract, the Contractor certifies that it does not have scrutinized business operations in Iran as required by A.R.S. sec. 35-393 et seq. If the City determines that the Contractor has submitted a false certification, the City may impose remedies as provided in the Tucson Procurement Code up to and including termination of this contract.
7. **CHILD/SWEAT-FREE LABOR POLICY:** The Contractor shall comply with all applicable provisions of the United States Federal and State Child Labor and Worker's Right laws and agrees if called upon to affirm in writing, that they, and any subcontractor involved in the provision of goods to the City, are in compliance.
8. **CLEAN UP:** The Contractor shall at all times keep the contract area, including storage areas used by the Contractor, free from accumulation of waste material or rubbish and, prior to completion of the work, remove any rubbish from the premises and all tools, scaffolding, equipment and materials not property of the City. Upon completion of the repair, the Contractor shall leave the work and premises in clean, neat and workmanlike condition.
9. **COMMENCEMENT OF WORK:** The Contractor is cautioned not to commence any billable work or provide any material or service under this Contract until Contractor receives purchase order or is otherwise directed to do so, in writing, by the City.
10. **CONFIDENTIALITY OF RECORDS:** The Contractor shall establish and maintain procedures and controls that are acceptable to the City for the purpose of assuring that no information contained in its records or obtained from the City or from others in carrying out its functions under the Contract shall be used by or disclosed by it, its agents, officers, or employees, except as required to efficiently perform duties under the Contract. Persons requesting such information should be referred to the City. Information pertaining to individual persons shall not be divulged other than to employees or officers of Contractor as needed for the performance of duties under the Contract, unless otherwise agreed to in writing by the City.
11. **CONTRACT AMENDMENTS:** The Procurement Department has the sole authority to:
 - A. Amend the contract or enter into supplemental verbal or written agreements;
 - B. Grant time extensions or contract renewals;
 - C. Otherwise modify the scope or terms and provisions of the contract.

This Contract shall only be modified with the approval of the Department of Procurement. Except in the case of a documented emergency, approval must be granted prior to performance. Any contract modification not explicitly approved by the Procurement Department through a written contract amendment or change order is performed at the sole risk of the Contractor and may not be eligible for payment by the City.

- 12. CONTRACT:** The Contract shall be based upon the Request for Proposal issued by the City and the Offer submitted by the Contractor in response to the Request for Proposal. The offer shall substantially conform to the terms, conditions, specifications and other requirements set forth within the text of the Request for Proposal. The City reserves the right to clarify any contractual terms with the concurrence of the Contractor; however, any substantial non-conformity in the offer, as determined by the City's Director of Procurement, shall be deemed non-responsive and the offer rejected. The Contract shall contain the entire agreement between the City of Tucson and the Contractor relating to this requirement and shall prevail over any and all previous agreements, contracts, proposals, negotiations, purchase orders, or master agreements in any form.
- 13. DEFAULT IN ONE INSTALLMENT TO CONSTITUTE TOTAL BREACH:** Contractor shall deliver conforming materials in each installment or lot of this Contract and may not substitute nonconforming materials. Delivery of nonconforming materials, or default of any nature, may constitute breach of the Contract. Noncompliance may be deemed a cause for possible Contract termination.
- 14. DUPLEXED/RECYCLED PAPER:** In accordance with efficient resource procurement and utilization policies adopted by the City of Tucson, the Contractor shall ensure that, whenever practicable, all printed materials produced by the Contractor in the performance of this Contract are duplexed (two-sided copies), printed on recycled paper and labeled as such.
- 15. EXCLUSIVE POSSESSION:** All services, information, computer program elements, reports and other deliverables created under this Contract are the sole property of the City of Tucson and shall not be used or released by the Contractor or any other person except with prior written permission by the City.
- 16. FEDERAL IMMIGRATION LAWS AND REGULATIONS:** Contractor warrants that it complies with all Federal Immigration laws and regulations that relate to its employees and complies with A.R.S. § 23-214(A) and that it requires the same compliance of all subcontractors under this Contract. Contractor acknowledges that pursuant to A.R.S. § 41-4401 and effective September 30, 2008, a breach of this warranty is a material breach of this Contract subject to penalties up to and including termination of this Contract. The City retains the legal right to audit the records of the Contractor and inspect the papers of any employee who works for the Contractor to ensure compliance with this warranty and the Contractor shall assist in any such audit. The Contractor shall include the requirements of this paragraph in each contract with subcontractors under this Contract.

If the Contractor or subcontractor warrants that it has complied with the employment verification provisions prescribed by sections 274(a) and 274(b) of the Federal Immigration and Nationality Act and the E-verify requirements prescribed by A.R.S. § 23-214(A), the Contractor or subcontractor shall be deemed to be in compliance with this provision. The City may request proof of such compliance at any time during the term of this Contract by the Contractor and any subcontractor.

- 17. FORCE MAJEURE:** 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. Force Majeure shall not include late performance by a subcontractor unless the delay arises out of a Force Majeure occurrence in accordance with this Force Majeure term and condition.

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 practical, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be hand-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 modification 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.

- 18. GRATUITIES:** The City may, by written notice to the Contractor, terminate this Contract if it is found that gratuities, in the form of entertainment, gifts, meals or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any officer or employee of the City amending, or the making of any determinations with respect to the performing of such Contract. In the event this Contract is terminated by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor the amount of the gratuity.

- 19. HUMAN RELATIONS:** Contractor shall abide by the provisions of the Tucson City Code Chapter 28, Article XII.
- 20. INDEMNIFICATION:** To the fullest extent permitted by law, Contractor, its successors, assigns and guarantors, shall pay, defend, indemnify and hold harmless the City of Tucson, its agents, representatives, officers, directors, officials and employees from and against all allegations, demands, proceedings, suits, actions, claims, including claims of patent or copyright infringement, damages, losses, expenses, including but not limited to, attorney fees, court costs, and the cost of appellate proceedings, and all claim adjusting and handling expense, related to, arising from or out of or resulting from any actions, acts, errors, mistakes or omissions caused in whole or part by Contractor relating to work, services and/or products provided in the performance of this Contract, including but not limited to, any Subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable and any injury or damages claimed by any of Contractor's and Subcontractor's employees.
- 21. INDEPENDENT CONTRACTOR:** It is understood that each party shall act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other party for any purpose.
- The Contractor shall not be entitled to compensation in the form of salaries, paid vacation or sick days by the City.
- The City of Tucson will not provide any insurance coverage to the Contractor, including Worker's Compensation coverage. The Contractor is advised that taxes, social security payments, and other withholdings shall not be withheld from a City payment issued under this Contract and that Contractor should make arrangements to directly pay such expenses.
- 22. INSPECTION AND ACCEPTANCE:** All material or service is subject to final inspection and acceptance by the City. Material or service failing to conform to the specifications of this Contract shall be held at the Contractor's risk and may be returned to the Contractor. If returned, all costs are the responsibility of the Contractor. Noncompliance may be deemed a cause for possible Contract termination.
- 23. INTERPRETATION-PAROLE EVIDENCE:** This Contract is intended by the parties to be a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of this agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in the Contract. Acceptance or consent in the course of performance under this Contract shall not be relevant to determine the meaning of this Contract even though the accepting or consenting party has knowledge of the nature of the performance and the opportunity to object.
- 24. LICENSES:** Contractor shall maintain in current status all Federal, State, and local licenses and permits required for the operation of the business conducted by the Contractor as applicable to this Contract.
- 25. LIENS:** All materials, services, and other deliverables supplied to the City under this Contract shall be free of all liens other than the security interest. Security interest shall extinguish upon full payment made by the City. Upon the City's request, the Contractor shall provide a formal release of all liens.
- 26. NO REPLACEMENT OF DEFECTIVE TENDER:** Every tender of materials must fully comply with all provisions of this Contract. If a tender is made which does not fully comply, this shall conform to the termination clause set forth within this document.
- 27. 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 City of Tucson. The City reserves the right to obtain like goods or services from another source when necessary.
- 28. OVERCHARGES BY ANTITRUST VIOLATIONS:** The City maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore, to the extent permitted by law, the Contractor hereby assigns to the City any and all claims for such overcharges as to the materials or services used to fulfill the Contract.
- 29. PAYMENT:** The City's preferred method of payment is via credit card. The City will issue a Purchase Order and, in some cases, either provide a credit card for payment at the time of ordering or pay subsequent invoices by credit card upon receipt of goods or services in good order. However, not all City employees will possess a credit card and, therefore, the City reserves the right to make payment by check as it deems necessary.

Unless payment is made by credit card at time of order or point of sale, a separate invoice shall be issued for each shipment of material or service performed, and no payment shall be issued prior to receipt of material or service and correct invoice.

The City shall make every effort to process payment for the purchase of materials or services within twenty-one (21) calendar days after receipt of materials or services and a correct invoice.

- 30. PROTECTION OF GOVERNMENT PROPERTY:** The Contractor shall use reasonable care to avoid damaging existing buildings, equipment, and vegetation (such as trees, shrubs, and grass) on City property. If the Contractor fails to do so and damages such property, the Contractor shall replace or repair the damage at no expense to the City, as determined and approved by the City's Director of Procurement. If the Contractor fails or refuses to make such repair or replacement, the City will determine a cost and the Contractor shall be liable for the cost thereof, which may be deducted from the Contract price.
- 31. PROVISIONS REQUIRED BY LAW:** Each and every provision of law and any clause required by law to be in the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the Contract shall be amended to make such insertion or correction.
- 32. RECORDS:** Internal control over all financial transactions related to this Contract shall be in accordance with sound fiscal policies. The City may, at reasonable times and places, audit the books and records of the Contractor and/or any subcontractors. Said audit shall be limited to this Contract.
- 33. RIGHT TO ASSURANCE:** Whenever one party to this Contract has reason to question, in good faith, the other party's intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made and no written assurance is given within five (5) days, the demanding party may treat this failure as the other party's intent not to perform and as a cause for possible Contract termination.
- 34. RIGHT TO INSPECT:** The City may, at reasonable times, and at the City's expense, inspect the place of business of a Contractor or subcontractor which is related to the performance of any Contract as awarded or to be awarded.
- 35. RIGHTS AND REMEDIES:** No provision in this document or in the Contractor's proposal shall be construed, expressly or by implication, as a waiver by either party of any existing or future right and/or remedy available by law in the event of any claim, default or breach of contract. The failure of either party to insist upon the strict performance of any term or condition of the Contract, to exercise or delay the exercise of any right or remedy provided in the Contract or by law, or to accept materials or services required by this Contract or by law shall not be deemed a waiver of any right of either party to insist upon the strict performance of the Contract.
- 36. SEVERABILITY:** The provisions of this Contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the Contract which may remain in effect without the valid provision or application.
- 37. SHIPMENT UNDER RESERVATION PROHIBITED:** No tender of a bill of lading shall operate as a tender of the materials. Non-compliance shall conform to the termination clause set forth within this document.
- 38. SUBCONTRACTS:** No subcontract shall be entered into by the Contractor with any other party to furnish any of the material/service specified herein without the advance written approval of the City's Director of Procurement. All subcontracts shall comply with Federal and State laws and regulations which are applicable to the services covered by the subcontract and shall include all the terms and conditions set forth herein which shall apply with equal force to the subcontract, as if the subcontractor were the Contractor referred to herein. The Contractor is responsible for contract performance whether or not subcontractors are used.
- 39. SUBSEQUENT EMPLOYMENT:** The City may terminate this Contract without penalty or further obligation pursuant to A.R.S. Section 38-511 if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Contract, on behalf of the City, is or becomes, at any time while the Contract or any extension of the Contract is in effect, an employee of, or a contractor to, any other party to this Contract with respect to the subject matter of the Contract. Termination shall be effective when written notice from the City's Director of Procurement is received by the parties to this Contract, unless the notice specifies a later time.

40. TERMINATION OF CONTRACT: This Contract may be terminated at any time by mutual written consent, or by the City, with or without cause, upon giving thirty (30) days written notice. The City, at its convenience, by written notice, may terminate this Contract, in whole or in part. If this Contract is terminated, the City shall be liable only for payment under the payment provisions of this Contract for services rendered and accepted material received by the City before the effective date of termination.

The City reserves the right to terminate the whole or any part of this Contract due to the failure of the Contractor to carry out any term or condition of the Contract. The City will issue a written ten (10) day notice of default to the Contractor for acting or failing to act as specified in any of the following:

In the opinion of the City, the Contractor provides personnel that do not meet the requirements of the Contract;

In the opinion of the City, the Contractor fails to perform adequately the stipulations, conditions or services/specifications required in this Contract;

In the opinion of the City, the Contractor attempts to impose personnel, materials, products or workmanship of an unacceptable quality;

The Contractor fails to furnish the required service and/or product within the time stipulated in the Contract;

In the opinion of the City, the Contractor fails to make progress in the performance of the requirements of the Contract;

The Contractor gives the City a positive indication that the Contractor will not or cannot perform to the requirements of the Contract.

Each payment obligation of the City created by this Contract is conditioned upon the availability of City, State and Federal funds that are appropriated or allocated for the payment of such an obligation. If funds are not allocated by the City and available for the continued purchase of the services and/or materials provided under this Contract, this Contract may be terminated by the City at the end of the period for which funds are available. The City will endeavor to notify the Contractor in the event that continued service will or may be affected by non-appropriation. No penalty shall accrue to the City in the event this provision is exercised, and the City shall not be obligated or liable for any future payments due or for any damages as a result of termination under this paragraph.

41. TITLE AND RISK OF LOSS: The title and risk of loss of material or service shall not pass to the City until the City actually receives the material or service at the point of delivery, unless otherwise provided within this Contract.

42. WARRANTIES: Contractor warrants that all material or service delivered under this Contract shall conform to the specifications of this Contract. Mere receipt of shipment of the material or service specified and any inspection incidental thereto by the City shall not alter or affect the obligations of the Contractor or the rights of the City under the foregoing warranties. Additional warranty requirements may be set forth in this document.

OFFER AND ACCEPTANCE

OFFER

TO THE CITY OF TUCSON:

The Undersigned hereby offers and shall furnish the material or service in compliance with all terms, scope of work, conditions, specifications, and amendments in the Request for Proposal which is incorporated by reference as if fully set forth herein.

For clarification of this offer, contact:

Company Name

Name: _____

Address

Title: _____

City State Zip

Phone: _____

Signature of Person Authorized to Sign

Fax: _____

Printed Name

E-mail: _____

Title

ACCEPTANCE OF OFFER

The Offer is hereby accepted. The Contractor is now bound to sell the materials or services specified in the Contract. This Contract shall be referred to as Contract No. _____.

CITY OF TUCSON, a municipal corporation

Approved as to form this ____ day of _____, 2009.

Awarded this ____ day of _____, 2009.

As Tucson City Attorney and not personally

Mark A. Neihart, C.P.M., CPPB, A.P.P., CPM
As Director of Procurement and not personally

ATTACHMENT A

SAMPLE COPY OF AGREEMENT TO BE EXECUTED BETWEEN SUPPLIER AND NATIONAL INTERGOVERNMENTAL PURCHASING ALLIANCE COMPANY