



ARIZONA SUPREME COURT

Administrative Office of the Courts
1501 West Washington
Phoenix, Arizona 85007

Invitation for Bids

IFB 12-04

Pistols and Ammunition

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SECTION 1

Introduction and Overview

1. Introduction

The Arizona Supreme Court (hereinafter referred to as the Court) is soliciting written, sealed bids for the purchase of pistols and ammunition for its comprehensive officer safety program. Awarded contracts will also be open for use by any Arizona county probation department (hereinafter referred to as Department) and any use of contracts shall be transacted by work order or purchase order between the Department and vendor. Vendors may submit a bid only on the pistols, only on the ammunition, or on both.

Vendors who wish to submit a sealed bid based upon the specifications and conditions in this document shall submit by 4:00 P.M., Arizona time on June 15, 2012, in accordance with the schedule below.

The Court intends to award a contract or contracts, unless otherwise indicated, resulting from this invitation for a one-year period with the option to extend for an additional four years, aggregate five years, pending availability of funds. Multiple contracts may be awarded.

The public opening will be conducted on June 15, 2012 at 4:00 P.M. at the Arizona State Courts Building, 1501 W. Washington, Conference Room 230, Phoenix, Arizona.

2. Bidders' Conference

No bidders' conference will be held.

3. Bid Schedule

Activity	Date
A. Invitation for Bids (IFB) Published	May 24, 2012
B. Deadline to Submit Written Questions	May 30, 2012
C. Response to Written Questions/IFB Amendments	June 1, 2012
D. Bid Due Date	June 15, 2012

The Court reserves the right to deviate from this schedule.

Bids received after June 15, 2012, 4:00 P.M. Arizona time will not be accepted, opened, or taken into consideration during the evaluation process.

4. Bid Evaluation

Following the public opening, bids will be evaluated based upon the criteria outlined in Section 4 of this document. The contract(s) shall be entered into with the vendor(s) whose bid is determined to be the most advantageous to the Judicial Branch Unit taking into consideration the evaluation factors set forth in the IFB.

No other factors or criteria other than the evaluation criteria may be used in the evaluation process. The amount of any applicable transaction privilege or use tax of a political subdivision of this state is not a factor in determining the most advantageous bid if a competing vendor located outside of this state is not subject to a transaction privilege or use tax of a political subdivision of this state.

If there are no vendors who adequately meet the Court's specifications and/or budget, the Court reserves the right to reject any or all bids or parts thereof. This IFB does not commit the Court to award any contract or to pay any costs incurred in the preparation of bids. The Court reserves the right to accept or reject, in whole or in part, all bids submitted and/or to cancel this IFB. Multiple contracts may be awarded.

5. Americans with Disabilities Act

Persons with disabilities may request special accommodations such as interpreters, alternative formats, or assistance with physical accessibility. Requests should be made as early as possible to allow time to arrange the accommodation.

If you require special accommodations, please call (602) 452-3329 or text telephone (TDD) 452-3545.

SECTION 2

Instructions and Procedures

1. Necessary Documents

Vendors who wish to submit bids for IFB 12-04 shall complete all necessary documentation, as identified.

2. Specifications

The specifications included in this package provide adequate information as to whether or not vendors can meet the needs of the Court. Significant deviations from the specifications may be grounds for disqualification of the bid.

3. Procurement Rules

The Rules Prescribing Procurement Policies and Procedures for the Judicial Branch (hereafter referred to as the Judicial Procurement Rules) adopted by the Arizona Supreme Court in accordance with the provisions of the Arizona Revised Statutes §41-2501 E are incorporated by reference herein and are made a part of this document as if they are fully set forth herein. Copies of these rules can be obtained from Melba Davidson, at the address referenced on the cover page.

4. Subcontracts

The vendor has sole responsibility for any contracts or agreements made with any subcontractors in relationship to the IFB. No rights or obligations shall be assigned, delegated, or subcontracted in whole or in part, without the prior written approval of the Court.

5. Vendor Certification

By submission of a bid, the vendor certifies that:

- A. The vendor has not paid nor agreed to pay any person, other than a bona fide employee, a fee or a brokerage resulting from the award of the contract.
- B. The prices in the bid have been arrived at independently without consultation, communication, or agreement, for the purpose of restricting competition as to any matter relating to such prices with any other vendor.

6. Bid Preparation

- A. Vendors are expected to examine all rules, documents, forms, specifications, standard provisions, and all instructions. These materials can be made available in alternative formats upon request. Failure to do so will be at the vendor's risk.
- B. Each vendor shall furnish all information required by the IFB. The vendor should refer to Section 5 which contains the bid submittal documents and Section 8 which is a comprehensive submission checklist, to ensure all required materials have been enclosed.

7. Definitions

- A. Time: If stated as a number of days, will be calendar days.
- B. Shall, Will: Indicates mandatory requirement.
- C. Must: Denotes the imperative.
- D. Should: Indicates a preference.

8. Submission of Inquiries

Inquiries or questions related to this IFB are to be directed in writing to the contact person specified below. Any verbal or written inquiries directed to anyone other than the contact person below will not be considered. All questions must be submitted by May 30, 2012, to:

Melba Davidson
Arizona Supreme Court
1501 West Washington, Suite 105
Phoenix, Arizona 85007-3231
Email: mdavidson@courts.az.gov
Fax: (602) 452-3735

Questions and responses will be posted to the Arizona Judicial Branch website. Any explanations or clarifications given at the website will be considered added to the IFB provisions. Vendors must check the website at <http://www.azcourts.gov/adminservices/Procurement.aspx> for such updates.

9. Bid Submission

- A. Sealed bids are due on or before June 15, 2012, at 4:00 P.M. Arizona time to Melba Davidson, Arizona Supreme Court, 1501 West Washington, Suite 105, Phoenix, Arizona 85007-3231. Bids must be in the possession of the Court on or prior to the exact time and date indicated. Late bids will not be considered under any circumstance.

- B. Vendors submitting a bid shall indicate the vendor's name and the IFB number on each page of the document.
- C. Erasures, interlineations, or other modifications in the bid must be initialed by a person authorized to sign the bid and contract.
- D. Bids must be submitted in a sealed envelope with the IFB number and the vendor's name and address clearly indicated on the outside of the package. All bids must be completed in ink or be typewritten.
- E. The vendor must submit one original hardcopy and one copy in digital format of each bid.
- F. All responses and accompanying documentation will become the property of the Court at the time the bids are opened.

10. Public Opening

A public opening of bids will be held at 4:00 P.M. Arizona time on June 15, 2012, at the Arizona State Courts Building, 1501 W. Washington, Conference Room 230. At that time, the name of each vendor shall be publicly read and recorded. All other information contained in the bid shall be confidential so as to avoid disclosure of contents prejudicial to competing vendors during the process of negotiation. This record shall be open for public inspection after a contract is entered into. However, where the vendor designates, and the court concurs, trade secrets or other proprietary data contained in the bid documents shall remain confidential.

11. Contract Award

Contract(s) shall be entered into with the lowest responsible and responsive vendor(s) whose bid conforms in all material respects to the requirements set forth in the IFB and best meet the needs of the Judicial Branch, taking into consideration the evaluation factors set forth in the IFB.

SECTION 3

Specifications

1. Purpose

The Court is soliciting written, sealed bids for the purchase of pistols and ammunition for its comprehensive officer safety program.

2. New Equipment

All equipment, materials, parts and other components incorporated in the work or an item covered by this contract shall be new, of the latest model and of the most suitable grade for the purpose intended. Offers must be for equipment on which the original manufacturers' serial number has not been altered in any way. Throughout the contract term, the Court reserves the right to reject any altered equipment.

3. Shipping Terms

Bid prices shall be F.O.B. destination for all regularly scheduled deliveries. Additional freight charges will not be authorized. Vendor shall retain title and control of all goods until they are delivered and acceptance has been made by a representative of the respective Department. All risks of transportation and related charges shall be the responsibility of the Vendor. The Court will notify the Vendor promptly of any damaged goods and shall assist the Vendor in arranging for inspection.

4. Delivery

All orders must be delivered within 30 days of receipt. Delivery shall be accomplished during normal working hours, Monday thru Friday from 8 a.m. until 5 p.m. The Department will not accept deliveries on State holidays unless prior arrangements have been made and agreed to by both parties.

5. Specifications

A. Glock Models 22, 23, and / or 27 - Gen 4

.40 caliber S&W with Trijicon night sights and a five pound connector with coil springs, shall include three law enforcement capacity magazines per pistol

B. Factory Loaded, Speer Full Metal Jacket - Training Ammunition

.40 caliber S&W, 180 Grain, 1000 round case

C. Speer Gold Dot Jacketed Hollow Point Duty Ammunition

.40 caliber S&W, 180 Grain, 1000 round case

SECTION 4
Evaluation Criteria

1. Two Phases

- A. An initial review to determine the responsiveness of the bid the requirements set forth in the IFB. For a bid to be considered responsive, it must meet the following tests:
- (1) A sealed original and digital copy must be in the possession of the Arizona Supreme Court, 1501 W. Washington, Suite 105, no later than 4:00 P.M., Arizona time on June 15, 2012.
 - (2) Bid must include all required items noted in the Submission Checklist (Section 8).
 - (3) Original bid must be in ink or typewritten.
- B. An in-depth evaluation will be based upon the following criteria:

2. Criteria

Evaluation Criteria	Relative Importance
A. Price	100%

SECTION 5
Bid Submittal Documents

1. Submittal Letter (Use as page 1 of bid)

Ms. Melba Davidson
Arizona Supreme Court
Administrative Office of the Courts
1501 W. Washington, Suite 105
Phoenix, Arizona 85007-3231

Dear Ms. Davidson:

In response to your Invitation for Bids (IFB) number 12-04, the following response is submitted.

In submitting this bid, I hereby certify that:

1. The IFB has been read and understood;
2. Requirements set forth in the IFB, will be complied with;
3. Materials requested in the IFB are enclosed;
4. All information provided is true, accurate, and complete to the best of my knowledge;
5. This bid is submitted by, or on behalf of, the party that will be legally responsible for product delivery should a contract be awarded.

Signature of Authorized Official	Date
----------------------------------	------

Name of Signatory: _____

Title: _____ Phone: _____

Vendor/Agency Name: _____

Address: _____

Federal Employer ID# or SSN#: _____

2. References (Use as page 2 of bid)

Vendors shall provide three (3) references (Phoenix or Tucson metropolitan areas preferred). Please present the following information for each reference:

- Client:** Identify the client or site as appropriate.
- Contact:** Identify the point of contact.
- Contact information:** Provide the address and telephone number of the contact.
- Project description:** Attach a brief description of service performed for each reference provided.

	<u>Client</u>	<u>Contact</u>	<u>Contact Information</u>
1.	_____	_____	_____
	_____	_____	_____
2.	_____	_____	_____
	_____	_____	_____
3.	_____	_____	_____
	_____	_____	_____

(Attach service descriptions)

3. Vendor profile (Information can be on a separate sheet)

- A. Notate the physical address, mailing address, telephone and fax numbers, and email address of vendor's primary office?

- B. Who will be the point of contact during the bid evaluation process? (Please provide name, title, direct phone number, email address, fax number, and mailing address).

- C. Who is authorized to negotiate a contract? (Please provide name, title, direct phone number, email address, fax number, and mailing address).

- D. Provide a brief history of vendor's business.

- E. Indicate the total number of vendor employees and their distribution by function.

- F. Provide most recent annual report and financial statement.

- G. Comment on any partnership(s) with other vendors.

SECTION 6 Pricing Sheet

Please provide a per unit bid. If not bidding on a specified item, vendor must note as, not applicable. Pricing is inclusive of price for product and delivery. If products specified require transaction privilege or use taxes, they shall be described and itemized separately on the price sheet. Arizona transaction privilege and use taxes shall not be considered for evaluation. All orders must be delivered within 30 days after receipt.

*In accord with the IFB Announcement and Specifications contained herein,
Vendor is submitting the following proposed costs:*

Glock Models 22, 23, and 27 - Gen 4 .40 caliber S&W with Trijicon night sights and a five pound connector with coil springs, shall include three law enforcement capacity magazines per pistol					
Model	Unit Cost	Delivery	Tax Rate	Tax Amount	Total Price Per Pistol
22	\$	\$		\$	\$
23	\$	\$		\$	\$
27	\$	\$		\$	\$

Factory Loaded, Speer Full Metal Jacket - Training Ammunition .40 caliber S&W, 180 Grain, 1000 round case				
Per 1000 Round Case	Delivery	Tax Rate	Tax Amount	Total Price Per Case
\$	\$		\$	\$

Speer Gold Dot Jacketed Hollow Point Duty Ammunition .40 caliber S&W, 180 Grain, 1000 round case				
Per 1000 Round Case	Delivery	Tax Rate	Tax Amount	Total Price Per Case
\$	\$		\$	\$

SECTION 7

Product / Service Contract

The successful bidder will be required to sign a contract containing substantially the same terms and conditions as presented in this Section. Any exceptions to the contract language must be listed in the response.

Arizona Supreme Court
Administrative Office of the Courts

Bid Number: _____
Vendor: _____

This contract is between the ARIZONA SUPREME COURT, ADMINISTRATIVE OFFICE OF THE COURTS ("Court"), located at 1501 W. Washington, Phoenix, Arizona 85007, and _____, ("Contractor") at _____ [address].

Recitals

- A. Arizona's probation system is decentralized, with each of the local adult and juvenile probation departments reporting directly to the presiding judge of the superior court in their respective counties. In accordance with the administrative and supervisory authority established under Article VI, section 3 of the Arizona Constitution, and pursuant to administrative orders of the Supreme Court and the Arizona Code of Judicial Administration, the Administrative Office of the Courts has developed and operates a comprehensive officer safety program. The officer safety program is intended to assist officers to carry out their powers and duties pursuant to Arizona Revised Statutes § 8-205 and 12-253.
- B. The Contractor specializes in law enforcement supplies and is able to provide products specified in this Contract within the time limits established by the Court.
- C. The Court desires to enter into contract with the Contractor to supply pistols and / or ammunition described in Invitation for Bids Number 12-04.

Certification

By execution of this Contract, Contractor certifies:

- A. The submission of the offer did not involve collusion or other anti-competitive practices.
- B. Contractor shall comply with all applicable state and federal laws, rules, regulations and executive orders governing equal employment opportunity, immigration, nondiscrimination, including the Americans with Disabilities Act, and affirmative action. Contractor shall include a clause to this effect in all subcontracts related to this Contract.
- C. The Contractor 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 this Contract. Signing this Contract with a false statement shall void the Contract and may be subject to all legal remedies provided by law.

- D. The Contractor agrees to promote and offer to agencies eligible to purchase under this Contract only those materials and/or services as stated in and allowed for under this Contract as Court contract items.
- E. No individual or agent has been employed or retained to solicit or secure this Contract for a commission, percentage, brokerage or contingent fee, except a bona fide employee maintained by Contractor to secure business. This paragraph does not apply to payment of fees for assistance in marketing, installation, and support or for any other purpose in performance of this Contract.

Now, therefore, in consideration of the mutual promises set forth in this Contract, the parties agree as follows:

Terms and Conditions

1. **Duration of Contract.** This Contract shall begin on execution and shall terminate on June 30, 2013.
2. **Extension of Term.** The Contract may be extended beyond the basic term by mutual agreement of the parties up to (4) four additional years for an aggregate of (5) five years. To extend the term, the Court shall provide written notice to the Contractor of its desire to extend the Contract not less than 60 days prior to the expiration of the Contract term or any subsequent extension. If both parties agree, any extension shall be effected by an amendment to the Contract signed by both parties. Contract extensions are subject to the availability of funds.
3. **Description of Product / Service.** Contractor shall supply the products outlined and provide the service prescribed in IFB 12-04 Section 3, Specifications. Contract price is attached as Exhibit A. Prices are firm throughout the term of the contract / renewals. Price increases resulting from a documented manufacturer / supplier price increase may be allowed at the time of contract extension.
4. **Use of Contract.** In addition to the Court, any Arizona county probation department (Department) or any political subdivision acting on behalf of an Arizona county probation department may obtain services under this contract. If requested, the Contractor will provide such services at the rates and according to the terms specified herein. Once the contractor is selected, a work order or purchase order will be prepared between the Department and the Contractor. The work order or purchase order will refer to this contract and by reference will incorporate all the terms and conditions of this contract. Any attempt to represent any material and/or service as being under contract with the court which is not covered under this contract is a violation of the contract and the Judicial Branch Procurement Rules. Any such action is subject to the legal and contractual remedies available to the court inclusive of, but not limited to, contract cancellation, suspension and/or debarment of the contractor.
5. **Gratuities.** The Court may, by written notice to the Contractor, terminate the Contract if it is found that gratuities in the form of entertainment, gifts, or otherwise were offered or given by the Contractor or any agent or representative of the Contractor, to any officer or employee of the Court or the state

with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performance of such Contract. In the event this Contract is canceled by the Court pursuant to this provision, the Court shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor the amount of the gratuity. Paying the expense of normal business meals which are generally made available to all eligible customers shall not be prohibited by this paragraph.

6. **Payment for Services.** A separate invoice shall be issued for each product order and no payment shall be issued prior to product delivery and correct invoice. Payment shall be subject to the provisions of ARS Title 35. The contractor will invoice the Departments using standard vouchers and format instructions approved by the Departments.

6. **Availability of Funds.** Payments for contractual obligations are contingent on funds for that purpose being appropriated, budgeted, and otherwise made available, and the provisions of the Contract shall be effective only when funds appropriated for the purpose of compensating Contractor actually are available to the Court for disbursement. The Administrative Director of the Courts shall be the sole judge and authority in determining the availability of funds under the Contract and shall keep the Contractor informed as to the availability of funds. The Court shall not be liable for any purchases or subcontracts entered into by Contractor in anticipation of funding.

7. **Assignments and Subcontracts.** No rights or obligations shall be assigned, delegated, or subcontracted in whole or in part, without the prior written approval of the Court.

8. **Other Contracts.** The Court may perform additional work related to this Contract or award other contracts for such work. The Contractor shall cooperate fully with such other contractors or state employees in the scheduling of and coordination of its own work with such additional work.

9. **Applicable Law.** The laws and regulations of the State of Arizona shall govern the rights of the parties, the performance of this Contract and any dispute thereunder. Any action relating to this Contract shall be brought in an Arizona Court in Maricopa County. Any changes in the governing laws, rules and regulations during the term of this Contract shall apply and do not require an amendment to this Contract.

10. **Arizona Procurement Code.** The Arizona Procurement Code (ARS Title 41, Chapter 23) and the Arizona Supreme Court Rules Prescribing Procurement Policies and Procedures for the Judicial Branch (Judicial Branch Procurement Rules) are incorporated as a part of this document as if fully set forth herein.

11. **Entire Agreement.** The Contract contains the entire agreement between the Court and the Contractor concerning the subject transaction and shall prevail over any and all previous agreements, contracts, bids, negotiations, purchase orders or master agreements in any form.

12. **Amendments.** This Contract shall be modified only by a written Contract amendment signed by persons duly authorized to enter into contracts on behalf of the Court and the Contractor.

13. **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 forthwith be physically amended to make such insertion or correction.

14. **Conflicts of Interest.** The Court may cancel this Contract without penalty or further obligation pursuant to ARS §38-511, if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Contract on behalf of the Court is or becomes at any time, while the Contract or any extension of the Contract is in effect, an employee of any other party to the Contract in any capacity or a consultant to any other party to the Contract with respect to the subject matter of the Contract. Cancellation shall be effective when written notice from the Court is received by all parties to the Contract unless the notice specifies a later time.

15. **Severability.** If any provision of the Contract is held invalid or unenforceable, the remaining provisions shall continue valid and enforceable to the full extent permitted by law.

16. **Relationship of the Parties.** It is clearly 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 whatsoever. The Contractor is an independent contractor in the performance of work and the provision of services under this Contract, and taxes or Social Security payments shall not be withheld from a Court payment issued hereunder.

17. **Interpretation.** This Contract is intended by the parties as a final, complete and exclusive statement of the terms of their 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 this Contract. Acceptance or acquiescence in a course of performance rendered under this Contract shall not be relevant to determine the meaning of this Contract even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to object. Whenever a term defined by the Arizona procurement code or the Judicial Branch Procurement Rules is used in this Contract, the definition contained in this code or these rules shall control with the provisions of the Judicial Branch Procurement Rules governing in the case of conflicting terms.

18. **Rights and Remedies.** No provision in this document or in the Contractor's offer 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 of default or breach of contract. The failure of either party to insist upon the strict performance of any term or condition of the Contract or to exercise or delay the exercise of any right or remedy provided in the Contract, or by law, or the acceptance of services, or the payment for services, shall not release either party from any responsibilities or obligations imposed by this Contract or by law, and shall not be deemed a waiver of any right of either party to insist upon the strict performance of the Contract.

19. **Disputes.**
 - A. **Contract Administrator Procedure.** If any dispute arising under this Contract is not disposed of by agreement between the parties within thirty (30) days, then the Court contract administrator identified in this Contract shall decide the dispute in writing and send a copy of the decision to Contractor.

B. Appeals. If the Court contract administrator's decision is not acceptable to Contractor, the dispute shall be resolved in accordance with the procedures set forth in Supreme Court Administrative Policy 7.04.

C. Continued Performance. The Court and the Contractor agree that the existence of a dispute notwithstanding, they will continue without delay to carry out all their responsibilities under this Contract that are not affected by the dispute.

20. **Warranties.** Contractor warrants that all services delivered under this Contract shall conform to the specifications of this Contract. Mere receipt of service specified and any inspection incidental thereto by the Court, shall not alter or affect the obligations of the Contractor or the rights of the Court under the foregoing warranties. Additional warranty requirements may be set forth in this document.

21. **Indemnification.** Contractor shall indemnify, defend, and save harmless the Court from any and all claims, demands, suits, actions, proceedings, loss, cost, and damages of every kind and description, including any reasonable attorneys' fees and/or litigation expenses, which may be brought or made against or incurred by the Court on account of loss of or damage to any property or for injuries to or death of any person, caused by, arising out of, or contributed to, in part, by reasons of any act, omission, professional error, fault, mistake, or negligence of the Contractor, its employees, agents, representatives, or subcontractors, their employees, agents or representatives in connection with or incidental to the performance of this Agreement, or arising out of worker's compensation claims, unemployment compensation claims, or unemployment disability compensation claims of employees of Contractor and/or its subcontractors or claims under similar such laws or obligations. Contractor's obligation under this Section shall not extend to any liability caused by the negligence of the Court, or its employees.

22. **Overcharges by Antitrust Violations.** The Court 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 Court any and all claims for such overcharges as to the goods or services used to fulfill the Contract.

23. **Force Majeure.**

A. 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 refusal 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. The force majeure shall be deemed to commence when the party declaring force majeure notifies the other party of the existence of the force majeure and shall be deemed to continue as long as the results or effects of the force majeure prevent the party from resuming performance in accordance with this agreement.

B. 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. 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.

C. 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.

24. **Right to Assurance.** Whenever one party to this Contract in good faith has reason to question the other party's intent to perform, he 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 an anticipatory repudiation of the Contract.
25. **Records.** Pursuant to provisions of Title 35, Chapter 1, Article 6 Arizona Revised Statutes §35-214 and §35-215 each Contractor shall retain, and shall contractually require each subcontractor to retain, all books, accounts, reports, files and other records relating to the acquisition and performance of the Contract for a period of five (5) years after the completion of the Contract. All such documents shall be subject to inspection and audit at reasonable times. Upon request, a legible copy of any or all such documents shall be produced at the offices of the Auditor General, the Attorney General, the Supreme Court or any agency doing business under this Contract. This paragraph does not apply to confidential information or trade secrets, such as product costing data, research and development data, and the like.
26. **Advertising.** Contractor shall not advertise or publish information concerning this Contract, without prior written consent of the Court. The Court shall not unreasonably withhold permission.
27. **Right to Inspect Plant.** The Court may, at reasonable times, and at the Court'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, in accordance with the Judicial Branch Procurement Code.
28. **Acceptance.** All services are subject to acceptance by the Court. Service or failing to conform to the specifications of this Contract shall be held at Contractor's risk and may be returned to the Contractor. If so returned, all costs are the responsibility of the Contractor. Compliance shall conform to the termination clause set forth in this document.
29. **Exclusive Possession.** All services, information, computer program elements, reports and other deliverables which may be created under this Contract are the sole property of the Court and shall not be used or released by the Contractor or any other person except with prior written permission of the Court.
30. **Licenses and Permits.** 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.
31. **Insurance.** Contractor 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 and subcontractors, their agents, representatives, and employees.

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

A. Minimum Scope and Limits of Insurance: Contractor shall provide coverage with limits of liability not less than those stated below.

1. Commercial General Liability – Occurrence Form

Policy shall include bodily injury, property damage, personal injury and broad form contractual liability.

General Aggregate	\$ 2,000,000
Products – Completed Operations Aggregate	\$ 1,000,000
Personal and Advertising Injury	\$ 1,000,000
Blanket Contractual Liability – Written and Oral	\$ 1,000,000
Fire Legal Liability	\$ 50,000
Each Occurrence	\$ 1,000,000

The policy shall be endorsed to include the following additional insured language: “The Arizona Supreme Court, the State of Arizona, and their agencies, boards, commissions, 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.”

2. Worker's Compensation and Employers' Liability

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

This coverage shall not apply to a contractor or subcontractor exempt under A.R.S. 23-901 when such contractor or subcontractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.

3. 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
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The policy shall be endorsed to include the following additional insured language: “The Arizona Supreme Court, the State of Arizona, and agencies, boards, commissions, 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.”

4. Professional Liability (Errors and Omissions Liability)

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

a. In the event that the professional liability insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall

precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.

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

B. Additional Insurance Requirements: The policies shall include, or be endorsed to include, the following provisions:

1. Wherever additional insured status is required, such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Contract.
2. The Contractor's insurance coverage shall be primary insurance with respect to all other available sources.
3. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.
4. All policies shall contain a waiver of subrogation against the Arizona Supreme Court, the State of Arizona, and their agencies, boards, commissions, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

C. Notice of Cancellation: Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days prior written notice has been given to the Court. Such notice shall be sent directly to the Court representative and shall be sent by certified mail, return receipt requested.

D. Acceptability of Insurers: Insurance is to be placed with duly licensed or approved non-admitted insurers in the state of Arizona with an "A.M. Best" rating of not less than A- VII. The Court 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 Court with certificates of insurance (ACORD form or equivalent approved by the State of Arizona) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and endorsements are to be received and approved by the Court 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 Court's representative. The Court contract number and project description shall be noted on the certificate of insurance. The Court reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time. DO NOT SEND CERTIFICATES OF INSURANCE TO THE STATE OF ARIZONA'S RISK MANAGEMENT SECTION.

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

32. **Confidentiality of Records.** The Contractor shall establish and maintain procedures and controls that are acceptable to the Court for the purpose of assuring that no information contained in its records or obtained from the Court 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. Persons requesting such information should be referred to the Court. Contractor also agrees that any 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 Court.

33. **Patents and Copyrights.** The Contractor will, at its expense, defend the Court against any claim that any item furnished under this Contract infringes a patent or copyright in the United States or Puerto Rico. The Contractor will pay all costs, damages, and attorney's fees that a court finally awards as a result of such claim. To qualify for such defense and payment, the Court will give the Contractor prompt written notice of any such claim and allow the Contractor to control, and fully cooperate with the Contractor in, the defense and all related settlement negotiations.

If the use of any item furnished under this Contract becomes, or the Contractor believes is likely to become, the subject of such a claim, the Court will permit the Contractor, at the Contractor's option and expense, either to secure the right for the Court to continue using the item or to replace it or modify it so that it becomes non-infringing so long as the item continues to meet the specifications of the original Contract. However, if neither of the foregoing alternatives is available on terms which are reasonable in the Contractor's judgment, the Court will return the item upon the Contractor's written request. The Contractor will grant the Court a credit for returned items in the full amount of the purchase price.

The Contractor shall have no obligation with respect to any such claim based upon the State's modification of the item or its combination, operation or use with apparatus not furnished by the Contractor.

This paragraph states the Contractor's entire obligation to the Court regarding infringement or the like.

34. **Taxes.** The Arizona Supreme Court is exempt from Federal Excise Tax, including the Federal Transportation Tax. The Court will pay all applicable taxes resulting from this Contract or activities hereunder exclusive of taxes based on Contractor's net income. Sales tax, as required, shall be indicated as a separate item on all invoices.

35. **Termination.**

- A. The Court reserves the right to terminate the whole or any part of this Contract due to failure by the Contractor to carry out any material obligation, term or condition of the Contract. The Court will issue written notice to Contractor for acting or failing to act as in any of the following:

- (1) The Contractor provides material that does not meet the specifications of the Contract;
- (2) The Contractor fails to adequately perform the services set forth in the specifications of the Contract;
- (3) The Contractor fails to complete the work required or to furnish the materials required within the time stipulated in the Contract;
- (4) The Contractor fails to make progress in the performance of the Contract and/or gives the Court reason to believe that the Contractor will not or cannot perform to the requirements of the Contract.

- B. Upon receipt of the written notice of concern, the Contractor shall have ten (10) days to provide a satisfactory response. During the ten day period, the parties will have an opportunity to address the concern. If the response is considered unsatisfactory, the Court will so indicate and participate in continued discussion toward resolving the concern. This process will continue during the ten day period until the concern is adequately addressed. Failure on the part of the Contractor to satisfactorily address all issues of concern by the end of the ten day period may result in the Court resorting to any single or combination of the following remedies:
- (1) Cancel the Contract;
 - (2) Reserve all rights or claims to damage for breach of any covenants of the Contract;
 - (3) Perform any test or analysis on materials for compliance with the specifications of the Contract. If the results of any test or analysis confirms a material noncompliance with the specifications, any reasonable expense of testing shall be borne by the Contractor;
 - (4) In case of default, the Court reserves the right to purchase materials, or to complete the required work in accordance with the Judicial Branch Procurement Code. The Court may recover any reasonable actual excess costs up to the greater of \$100,000 or the purchase price of the equipment or services that are the subject matter of, or directly related to, the cause of action, from the Contractor by:
 - (a) Deduction from an unpaid balance;
 - (b) Collection against any bid and/or performance bond, or;
 - (c) Any combination of the above or any other remedies as provided by law.
36. **Price Reduction.** A price reduction adjustment may be offered at any time during the term of this Contract and shall become effective upon notice.
37. **Statewide Purchasing.** If authorized in a particular solicitation, any Arizona court or any political subdivision on behalf of a court may procure material or services described in this Contract for use by Arizona courts or judicial branch units. Where so authorized, Contractor agrees to provide such materials or services to other courts at the Contract prices and under the Contract terms. Any attempt to represent any material and/or service as being under contract with the Court which is not a subject of or addition to this Contract is a violation of the Contract and the Judicial Branch Procurement Rules. Any such action is subject to the legal and contractual remedies available to the Court inclusive of, but not limited to, Contract cancellation, suspension and/or debarment of the Contractor.
38. **Public Record.** This Contract is a public record, available for review, as required by state law.
39. **Criminal History Check.** The Court may require Contractor to provide identifying information for Contractor and any individuals working in judicial facilities or having access to judicial information for the purposes of conducting a criminal history records check for security purposes. Contractor agrees to cooperate with such requests and understands that the Court may terminate this Agreement if the results of the criminal history records check would disqualify the Contractor or individual and there is no acceptable alternative.
40. **Compliance with the Arizona Legal Workers Act, A.R.S. §41-4401.**
- A. Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with A.R.S. §23-214(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.”). If this compliance requirement disqualifies any of Contractor’s key personnel or individuals working at the direction of Contractor and no acceptable alternative is provided the Court may terminate this contract.

- B. A breach of a warranty regarding compliance under subparagraph A shall be deemed a material breach of the contract that is subject to penalties up to and including termination of the contract.
- C. The Court retains the legal right to audit and inspect the papers of any of Contractor’s employee or subcontractor’s employee who works on the contract to ensure that Contractor’s personnel and any person working at the direction of Contractor is complying with the warranty under subparagraph A.

41. **Non-Discrimination.** The parties agree to comply with all applicable court, state and federal laws, rules, regulations and executive orders governing nondiscrimination, including the Americans with Disabilities Act, equal employment opportunity, immigration, and affirmative action. Contractor shall include a clause to this effect in all subcontracts related to this Contract.

42. **Scrutinized Business Operations.** Pursuant to A.R.S. § 35-391.06 and 35-393.06, the Contractor certifies that it does not have a scrutinized business operation in Sudan or Iran. For the purpose of this Section the term “scrutinized business operations” shall have the meanings set forth in A.R.S. § 35-391 or and 35-393, as applicable. If the Court determines that the Contractor submitted a false certification, the Court may impose remedies as provided by law including cancellation or termination of this Agreement.

43. **Notices.** Notice required pursuant to the terms of this Contract shall be in writing and shall be directed to the Court's contract administrator and Contractor's representative at the addresses specified immediately below or to such other persons or addresses as either party may designate to the other party by written notice. Notice shall be delivered in person or by certified mail, return receipt requested.

Notice to the Court:

Jeanne K. Brandner, Program Manager
 Arizona Supreme Court
 Administrative Office of the Courts
 Juvenile Justice Services Division
 1501 West Washington, Suite 337
 Phoenix, AZ 85007

Notice to the Contractor:

ARIZONA SUPREME COURT
 Administrative Office of the Courts

[CONTRACTOR'S NAME]

By:_____

By:_____

Title:_____

Title:_____

Date:_____

Date:_____

Social Security or Federal
Employer Identification
No. _____

Made in Two Originals

SECTION 8
Submission Checklist

The following materials must be submitted as part of a vendor response:

1. Bid Submittal Letter (see page 10);
2. References (see page 11)
3. Vendor Profile (see page 12);
4. Pricing sheet (see page 13);
5. A description of exceptions (if any) to the sample contract provided in Section 7 of the IFB. Any exceptions to the sample contract terms must be noted in the vendor response; and
6. Additional Data (any additional descriptive/narrative data the vendor wants to submit.