



Notice of Request for Proposal

SOLICITATION # YH22-0072

Third Party Eligibility Verification Services

Procurement Officer:

Mr. Tracey Thomas
 Procurement Manager
 E-Mail: procurement@azahcccs.gov

Issue Date: **March 4, 2022**

RFP DESCRIPTION:	Third Party Eligibility Verification Services
Pre-Proposal Conference:	A Pre-Proposal Conference has NOT been scheduled.
Questions Due: <i>Questions shall be submitted to the procurement on the Q&A form provided with this RFP. Answers will be posted publicly on the AHCCCS website in the form of a Solicitation Amendment for the benefit of all Potential Offerors.</i>	March 18, 2022 by 5:00 PM Arizona Time
ALL OFFERORS MUST REQUEST ACCESS TO THE SFTP SERVER BY: <i>See Proposal Submission Instructions for details</i>	April 1, 2022 by 5:00 PM Arizona Time
PROPOSAL DUE DATE: <i>Proposals shall be submitted in accordance with this solicitation proposal instructions prior to the time and date indicated here, or as may be amended through a solicitation amendment.</i>	April 15, 2022 by 3:00 PM ARIZONA TIME

Late proposals shall not be considered.
OFFERORS ARE STRONGLY ENCOURAGED TO CAREFULLY READ THE ENTIRE SOLICITATION.

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the person named above. Requests should be made as early as possible to allow time to arrange the accommodation.

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ATTACHMENTS and EXHIBITS BELOW ARE INCORPORATED INTO THIS SOLICITATION BY REFERENCE AND LOCATED WITH THE RFP HERE:

<https://www.azahcccs.gov/Resources/OversightOfHealthPlans/SolicitationsAndContracts/open.html> _

Attachment 1 - Minimum Requirement Pass/Fail
Attachment 2 – Boycott of Israel
Exhibit A – Proposal Submission Instructions
Exhibit B – IT Privacy and Security
Exhibit C – Variance 270/271
Questions and Answers Form

OFFER AND ACCEPTANCE

OFFER

The undersigned Offeror hereby agrees to provide all services in accordance with the terms and requirements stated herein, including all exhibits, amendments, and final proposal revisions (if any). Signature also certifies Small Business Status.

Arizona Transaction (Sales) Privilege Tax License No.:

For clarification of this offer, contact:

Name: _____

Federal Employer Identification No.:

Title: _____

E-Mail Address: _____

Phone: _____

Company Name

Signature of Person Authorized to Sign Offer

Address

Printed Name

City State Zip

Title

CERTIFICATION

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

1. The submission of the offer did not involve collusion or other anti-competitive practices.
2. The offeror shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, State Executive Order 2009-09 or A.R.S. §§ 41-1461 through 1465.
3. The offeror has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer. Failure to provide a valid signature affirming the stipulations required by this clause shall result in rejection of the offer. Signing the offer with a false statement shall void the offer, any resulting contract and may be subject to legal remedies provided by law.
4. The offeror _____ is / _____ is **not** a small business with less than 100 employees or has gross revenues of \$4 million or less.
5. The offeror is in compliance with A.R.S. § 18-132 when offering electronics or information technology products, services, or maintenance; and
6. The offeror certifies that it is not debarred from, or otherwise prohibited from participating in any contract awarded by federal, state, or local government.

ACCEPTANCE OF OFFER (to be completed by AHCCCS)

Your offer, including all exhibits, amendments and final proposal revisions (if any), contained herein, is accepted. The Contractor is now bound to provide all services listed by the attached contract and based upon the solicitation, including all terms, conditions, specifications, amendments, etc., and the Contractor's Offer as accepted by AHCCCS.

The Contractor is cautioned not to commence any billable work or to provide any material or service under this contract until Contractor receives purchase order, contract release document or written notice to proceed.

This contract shall henceforth be referred to as

Contract No. _____.

CONTRACT SERVICE START DATE: _____.

AWARD DATE: _____.

Meggan LaPorte, CPPO, MSW, AHCCCS Chief Procurement Officer

Scope of Work

1. AHCCCS OVERVIEW

The Arizona Health Care Cost Containment System (AHCCCS) is the single State Medicaid agency for the State of Arizona. In that capacity it is responsible for operating the Title XIX and Title XXI programs through the State's 1115 Research and Demonstration Waiver, which was granted by the Centers for Medicare and Medicaid Services (CMS), U.S. Department of Health and Human Services (DHHS). As of the time of this publication, AHCCCS provides coverage to over 2.3 million members in Arizona. AHCCCS also administers several non-Title XIX programs funded by state only appropriations and federal grants received from the Substance Abuse and Mental Health Services Administration (SAMHSA) under DHHS. The majority of AHCCCS programmatic expenditures are administered through Managed Care programs, although AHCCCS also manages a Fee-for-Service program primarily for members who are American Indian. For more information on AHCCCS please visit: <https://www.azahcccs.gov/AHCCCS/AboutUs/>.

AHCCCS contracts with Managed Care Organizations (MCOs) including, but not limited to, Regional Behavioral Health Authorities (RBHAs), AHCCCS Complete Care (ACC) contractors, and Arizona Long Term Care System (ALTCS) plans that are responsible for providing acute and behavioral health services, and long-term care services (ALTCS only), to members. For more information on AHCCCS' programs and covered services, please visit: <https://www.azahcccs.gov/AHCCCS/AboutUs/programdescription.html>. A list of AHCCCS' contracted plans can be found here: <https://azweb.statemedicaid.us/HealthPlanLinksNet/HPLinks.aspx>.

AHCCCS has a total fund appropriation for State Fiscal Year (SFY) 2022 of \$18.3 billion. AHCCCS has over 114,500 active providers in Arizona, such as individual medical and behavioral health practitioners, therapy disciplines, institutions, durable medical equipment companies, and transportation entities. Additional information may be found on the AHCCCS website reporting page: <https://www.azahcccs.gov/Resources/Reports/federal.html>.

2. PURPOSE OF THE REQUEST FOR PROPOSAL (RFP)

The purpose of this Request for Proposal (RFP) is to solicit proposals from experienced vendors to provide ASC X12 005010X279A1 Eligibility Benefit Request and Response (270/271) (hereafter "v5010 270/271") real time for the AHCCCS Medicaid populations.

3. LEGAL AUTHORITY

This solicitation and any resultant contract are being entered into pursuant to A.R.S. § 36-2906, and any rules adopted thereunder.

4. OFFEROR MINIMUM QUALIFICATIONS TO BID:

AHCCCS currently has an application programming Interface (API) which contains the required data elements to create a HIPAA v5010 real-time 270/271.

Offerors shall meet the following minimum qualifications specified below:

Scope of Work

- 4.1. The Offerors shall have at least five (5) years of experience processing over five (5) million 270/271 X12 transactions monthly.
- 4.2. The Offeror shall have experience with pass-through payments for 270/271 X12 transactions.
- 4.3. The Offeror shall agree to pay the pass-through payment amount of 5.5 cents per transaction to AHCCCS.
- 4.4. The Offeror shall implement real time v5010 270/271 with AHCCCS data.
- 4.5. The Offeror shall adhere to all security requirements specified in Section 10.
- 4.6. The Offeror shall have the ability to create the X12 formatted v5010 real-time 271 response.
- 4.7. The Offeror shall have the ability to produce specified invoice and performance reports.

5. **Requirements:**

- 5.1. The Contractor shall make the service available for use to providers within six (6) weeks of contract award.
- 5.2. The Contractor shall implement the solution for a pass-through payment to be paid to AHCCCS electronically. The Contractor may charge fees, to be prior approved by AHCCCS, to its clients.
- 5.3. The Contractor shall not change its fee schedule to AHCCCS providers without formal written notice to AHCCCS sixty (60) days in advance and subject to AHCCCS approval. AHCCCS will respond within thirty (30) days of notice.
- 5.4. The Contractor shall only offer the service to AHCCCS approved registered providers.
- 5.5. The Contractor shall meet the Committee on Operating Rules for Information Exchange[®] (CAQH CORE[®]) rules: <https://www.caqh.org/core/operating-rules>
- 5.6. The Contractor shall conform to Open Web Application Security Project (OWASP) requirements which can be found at: www.owasp.org
- 5.7. The Contractor shall ensure it provides the proper content and file format for the request and response of the 270/271 enrollment verification process. (See Exhibit C)

6. **REPORTING REQUIREMENTS**

- 6.1. The Contractor shall provide the following reports on inbound and outbound transaction volume, on the 1st of every month, per calendar year broken down as follows:
 - 6.1.1. 270/271 (requests) transaction report.
 - 6.1.1.1. Include the following information in this report:
 - Number of valid transactions by provider ID.
 - Number of invalid transactions by provider ID
 - Number and percentage of transactions in the calendar month that were returned within the specified maximum response time of 20 seconds or less.
 - Number and percentage of transactions in the calendar month that were returned

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outside the specified maximum response time of 20 seconds or less.

- Include control numbers from your own internal system(s).

6.1.2. Pre-invoice report - this report will include the number of transactions sent and is to be verified and approved by AHCCCS prior to the creation of the pass-through payment invoice and sent to AHCCCS for payment.

6.1.2.1. Pre-invoice reports will be sent quarterly for verification and approval.

6.1.3. Invoice Report - this report follows the pre-invoice report and will include the approved transaction count as well as the quarterly payment to AHCCCS.

6.2. Reports shall be sent on a monthly basis to:

Vendor270271Report@azahcccs.gov

Attention: Marna Richmond, Application Development Manager

7. **PERFORMANCE GUARANTEES**

The Contractor shall adhere to:

7.1 Maximum response time rule

7.1.1 When processing in real time mode for the receipt of a v5010 X12 271 (or in the case of an error, a v5010 X12 999 response from the time of submission of a v5010 270 inquiry must be **twenty (20) seconds or less**. V5010 X12 999 response errors must be returned within the same response timeframe.

7.2 Conformance with this maximum response time rule

7.2.1 shall be considered achieved if 90 percent of all required responses are returned within the specified maximum response time as measured within a calendar month.

7.3 The Contractor must demonstrate its conformance with this maximum response time rule by demonstrating its ability to capture, log, audit, match and report the date (YYYYMMDD), time (HHMMSS) and control numbers from its own internal systems and the corresponding data received from its trading partners.

8. **System Information**

The Contractor shall ensure that its system can communicate with the following:

8.1 Data Communication with the State Data Facility

8.1.1 Eligibility verification will be performed using web services provided by the State. All data traffic with the state must be over secured and encrypted lines meeting the NIST security guidelines as referenced in the HIPAA Health Information Privacy Policy at <https://www.hhs.gov/hipaa/for-professionals/security/laws-regulations/index.html>

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8.1.2 The state will support Internet VPN, MPLS dedicated lines or other means the vendor chooses to use. All costs related to this communication link, both initial and on-going, will be the sole responsibility of the vendor.

8.2 AHCCCS currently has a web service that accepts proprietary parameters and returns proprietary 5010 compliant eligibility data from our mainframe system in XML format. AHCCCS is recommending this process be utilized in the v5010 270/271 real-time transaction.

8.3 Data and Volume Information

8.3.1 AHCCCS receives on average approximately 4.8 million 270 requests per month.

EDI 270/271 REAL-TIME INQUIRY	
Month/Year	AZ Monthly Values per Million
01/2021	3.9
02/2021	4.0
03/2021	7.1
04/2021	5.3
05/2021	4.5
06/2021	4.4
07/2021	4.8
08/2021	5.2
09/2021	4.5
10/2021	4.7
11/2021	4.6
12/2021	5.3
TOTAL	58

8.3.2 AHCCCS provides coverage to approximately 2.2 million members.

8.3.3 AHCCCS has approximately 110,000 active providers in Arizona.

8.3.4 Pre-Invoice reports should match the total transaction count that AHCCCS has for the same period within the AHCCCS audit logs.

9. PROJECT MANAGEMENT

9.1 The Contractor, in coordination and with direction from the AHCCCS Development Manager, shall coordinate all project management aspects of the engagement to ensure successful delivery of the solution with the AHCCCS Development Manager.

9.2 The Contractor's project manager shall coordinate and communicate with the AHCCCS Development Manager and provide project status reporting until the completion of the project.

9.3 The Contractor and AHCCCS Development Manager shall conduct meetings to discuss issues, risks, project progress, solution changes, resource changes, and other areas specific to the scope of work and manage to a

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schedule agreed to by the state.

9.4 The Contractor shall identify a single point of contact for the AHCCCS Development Manager to contact for project questions or issues. If/when the SPOC changes, the AHCCCS Development Manager must be notified of new SPOC contact details.

9.5 The Contractor shall inform AHCCCS immediately of any system issues/delays that may prevent timely agreed upon reports (monthly pre-invoices or quarterly invoices).

10. SECURITY REQUIREMENTS

The Contractor shall comply with the Privacy and Security requirements as specified in Exhibit B.

11. TRANSACTION FEES

11.1. The Contractor shall pay AHCCCS 5.5 cents per transaction as a pass-through payment for AHCCCS (State) administrative costs for IT (Information Technology) data, cloud storage, data center charges and related computing expenses.

11.2. This fee shall be paid to AHCCCS on a quarterly basis based upon the reporting figures in section 5 as approved by AHCCCS.

11.3. Pre-Invoice reports should match the total successful transaction count that AHCCCS has for the same period within the AHCCCS audit logs.

11.3.1. In the event the Contractor and AHCCCS monthly counts do not match, a 0.1 percent variance will be permitted.

11.4. The method of transaction fee will be determined/agreed by the parties after award of the Contract.

11.5. The Contractor shall agree to process payments using electronic funds transfer method. Details of this process will be communicated after the solicitation is awarded.

Definition of Terms

As used in this Solicitation and any resulting Contract, the terms listed below are defined as follows:

1. **AHCCCS:** The Arizona Health Care Cost Containment System – a managed health care program which pertains to health care services provided pursuant to A.R.S. 36-2903 et seq., and is also the name of the State agency.
2. **ATTACHMENT:** Any item the Solicitation requires an Offeror to submit as part of the Offer.
3. **BEST AND FINAL OFFER:** A revision to an Offer submitted after negotiations are completed that contains the Offeror's most favorable terms for price, service and products to be delivered. Sometimes referred to as a Final Proposal Revision.
4. **CONTRACT:** The combination of the Solicitation, including the Instructions to Offerors, Contract Terms and Conditions, and Scope of Work; the Offer; any Best and Final Offers; any Solicitation Amendments or Contract Amendments; and any terms applied by law.
5. **CONTRACT AMENDMENT:** A written document signed by the Procurement officer that is issued for the purpose of making changes in the contract.
6. **CONTRACTOR:** A person who has a contract with AHCCCS.
7. **DAYS:** Calendar days unless otherwise specified.
8. **EXHIBIT:** Any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.
9. **GRATUITY:** A payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.
10. **HEALTH PLAN:** An organization which contracts with the AHCCCS Administration to administer the provision of a comprehensive package of AHCCCS covered acute and behavioral health care services to AHCCCS members enrolled with the health plan.
11. **OFFER:** A response to a solicitation.
12. **OFFEROR:** A person who responds to a Solicitation.
13. **PERSON:** Any corporation, business, individual, union, committee, club or other organization or group of individuals.
14. **MAY:** Indicates something that is not mandatory but permissible.
15. **MATERIALS:** All property, including equipment, supplies, printing, insurance and leases of property but does not include land, a permanent interest in land or real property or leasing space.

Definition of Terms

16. **OFFER:** A response to a solicitation.
17. **OFFEROR:** A vendor or person who responds to a Solicitation.
18. **PROCUREMENT OFFICER:** The person, or his or her designee, duly authorized by the State and AHCCCS to enter into and administer Contracts and make written determinations with respect to the Contract.
19. **PROGRAM CONTRACTOR:** An organization which contracts with the AHCCCS Administration to execute the provision of a comprehensive package of ALTCS covered acute care, behavioral health services and long-term care services to ALTCS members enrolled with the program Contractor.
20. **SHALL, MUST:** Indicates a mandatory requirement. Failure to meet these mandatory requirements may result in the rejection of a proposal as non-responsive.
21. **SHOULD:** Indicates something that is recommended but not mandatory. If the Offeror fails to provide recommended information, the State may, at its sole option, ask the Offeror to provide the information or evaluate the proposal without the information.
22. **SCOPE OF WORK:** Those provisions of this solicitation which specify the work and/or results to be achieved by the Contractor.
23. **SOLICITATION:** An Invitation for Bids (“IFB”), a Request for Proposals (“RFP”), a Request for Quotations (“RFQ”), or a Qualified Vendor List (“QVL”).
24. **SOLICITATION AMENDMENT:** A written document that is authorized by the Procurement officer and issued for the purpose of making changes to the Solicitation.
25. **SUBCONTRACT:** Any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.
26. **STATE:** The State of Arizona and Department or Agency of the State that executes the Contract.
27. **STATE FISCAL YEAR:** The period beginning with July 1 and ending June 30.

UNIFORM INSTRUCTIONS TO OFFERORS

1. **Definitions** – all definitions listed in the Definition of Terms.

2. **Inquiries:**

- 2.1 **Duty to Examine:** It is the responsibility of each Offeror to examine the entire Solicitation, seek clarification in writing (inquiries), and examine its Offer for accuracy before submitting an Offer. Lack of care in preparing an Offer shall not be grounds for modifying or withdrawing the Offer after the Offer due date and time.
- 2.2 **Solicitation Contact Person:** Any inquiry related to a Solicitation, including any requests for or inquiries regarding standards referenced in the Solicitation shall be directed solely to the Procurement Officer.
- 2.3 **Submission of Inquiries:** All inquiries related to the Solicitation are required to be submitted via email to the Procurement Officer listed on the front page of this solicitation and on the AHCCCS Q and A form. All responses to inquiries will be answered in the form of a solicitation amendment. Any inquiry related to a Solicitation shall refer to the appropriate Solicitation number, page and paragraph. Offerors are prohibited from contacting any State employee other than the Procurement Officer concerning the procurement while the solicitation and evaluation are in process.
- 2.4 **Timeliness:** Any inquiry or exception to the Solicitation shall be submitted as soon as possible and should be submitted no later than the date and time indicated on the Notice of Request for Proposal (RFP front page) for review and determination by AHCCCS. Failure to do so may result in the inquiry not being considered for a Solicitation Amendment.
- 2.5 **No Right to Rely on Verbal Responses:** Any inquiry that results in changes to the Solicitation shall be answered solely through a written Solicitation Amendment. An Offeror may not rely on verbal responses to its inquiries.
- 2.6 **Solicitation Amendments:** The Solicitation shall only be modified by a Solicitation Amendment.
- 2.7 **Pre-Offer Conference:** If a Pre-Offer Conference has been scheduled under this Solicitation, the date, time and location shall appear on the Solicitation cover sheet. Offerors should raise any questions they may have about the Solicitation at that time. An Offeror may not rely on any verbal responses to questions at the conference. Material issues raised at the conference that result in changes to the Solicitation shall be answered solely through a written Solicitation Amendment.
- 2.8 **Persons with Disabilities:** Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Solicitation Contact Person. Requests shall be made as early as possible to allow time to arrange the accommodation.

UNIFORM INSTRUCTIONS TO OFFERORS

3. Offer Preparation:

- 3.1 Electronic Documents: The Solicitation is provided in an electronic format. Offerors are responsible for clearly identifying any and all changes or modifications to any Solicitation documents upon submission. Any unidentified alteration or modification to any Solicitation, attachments, exhibits, forms, charts, or illustrations contained herein shall be null and void. Offeror's electronic files shall be submitted in a format acceptable to the State. Acceptable formats include .doc and .docx (Microsoft Word), .xls and .xlsx (Microsoft Excel), .ppt and .pptx (Microsoft PowerPoint) and .pdf (Adobe Acrobat). Offerors wishing to submit files in any other format shall submit an inquiry to the Procurement Officer.
- 3.2 Evidence of Intent to be Bound: The Offer and Acceptance form within the Solicitation shall be submitted with the Offer and shall include a signature by a person authorized to sign the Offer. The signature shall signify the Offeror's intent to be bound by the Offer and the terms of the Solicitation and that the information provided is true, accurate, and complete. Failure to submit verifiable evidence of an intent to be bound, such as an original signature, may result in rejection of the Offer.
- 3.3 Exceptions to Terms and Conditions: All exceptions included with the Offer shall be submitted in a clearly identified separate section of the Offer in which the Offeror clearly identifies the specific paragraphs of the Solicitation where the exceptions occur. Any exceptions not included in such a section shall be without force and effect in any resulting Contract unless such exception is specifically accepted by the Procurement Officer in a written statement. The Offeror's preprinted or standard terms will not be considered by the State as a part of any resulting Contract.
- 3.3.1 All exceptions that are contained in the Offer may negatively impact an Offeror's susceptibility for award. An Offer that takes exception to any material requirement of the solicitation may be rejected.
- 3.4 Subcontracts: Offeror shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities in the Offer.
- 3.5 Cost of Offer Preparation: AHCCCS will not reimburse any Offeror the cost of responding to a Solicitation.
- 3.6 Federal Excise Tax: The State of Arizona is exempt from certain Federal Excise Tax on manufactured goods. Exemption Certificates will be provided by the State.
- 3.7 Provision of Tax Identification Numbers: Offerors are required to provide their Arizona Transaction Privilege Tax Number and/or Federal Tax Identification number, if applicable, in the space provided on the Offer and Acceptance Form.
- 3.7.1 Employee Identification: Offeror agrees to provide an employee identification number or social security number to the State for the purposes of reporting to appropriate taxing authorities, monies paid by the Department under this contract. If the federal identifier of the Offeror is a social security number, this number is being requested solely for tax reporting purposes and will be shared with only appropriate state and federal officials. This submission is mandatory under 26 U.S.C. § 6041A.

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- 3.8 Identification of Taxes in Offer. The State of Arizona is subject to all applicable state and local transaction privilege taxes. All applicable taxes shall be identified as a separate item offered in the solicitation. When applicable, the tax rate and amount shall be identified on the price sheet.
- 3.9 Disclosure: If the firm, business, or person submitting this Offer has been debarred, suspended, or otherwise lawfully precluded from participating in any public procurement activity, including being disapproved as a subcontractor with any federal, state, or local government, or if any such preclusion from participation from any public procurement activity is currently pending, the Offeror shall fully explain the circumstances relating to the preclusion or proposed preclusion in the Offer. The Offeror shall include a letter with its Offer setting forth the name and address of the governmental unit, the effective date of this suspension or debarment, the duration of the suspension or debarment, and the relevant circumstances relating to the suspension or debarment. If suspension or debarment is currently pending, a detailed description of all relevant circumstances including the details enumerated above shall be provided.
- 3.10 Federal Immigration and Nationality Act: By signing of the Offer, the Offeror warrants that both it and all proposed subcontractors are in compliance with federal immigration laws and regulations (FINA) relating to the immigration status of their employees. The State may, at its sole discretion, require evidence of compliance during the evaluation process. Should the State request evidence of compliance, the Offeror shall have 5 days from receipt of the request to supply the adequate information. Failure to comply with this instruction or failure to supply requested information within the timeframe specified shall result in the offer not being considered for contract award.
- 3.11 Offshore Performance of Work Prohibited: Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients involve access to secure or sensitive data or personal client data shall be performed within the defined territories of the United States. Unless specifically stated otherwise in the specifications, this paragraph does not apply to indirect or “overhead” services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers. **Offerors shall declare all anticipated offshore services in the Offer.**

4. Submission of Offer:

- 4.1 Offer and Acceptance: Offers shall include a signed Offer and Acceptance form. The Offer and Acceptance form shall be signed with a signature by the person authorized to sign the Offer and shall be submitted no later than the Solicitation due date and time. Failure to return an Offer and Acceptance form may result in rejection of the Offer.
- 4.2 Solicitation Amendments: Each Solicitation Amendment shall be signed with an original signature by the person signing the Offer and shall be submitted no later than the Offer due date and time. Failure to return a signed copy of a material Solicitation Amendment may result in rejection of the Offer.
- 4.3 Offer Amendment or Withdrawal: An Offer may not be amended or withdrawn after the Offer due date and time except as otherwise provided under applicable law.
- 4.4 Public Record: All Offers submitted and opened are public records and must be retained by the State for a period of time in accordance with the law. for six (6) years. Offers shall be open and available to public inspection after Contract award, except for such portions Offers deemed to be confidential in accordance with the procurement. by the State.

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

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

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

5. Evaluation:

5.1 Taxes: If the products and/or services specified require transaction privilege or use taxes, they shall be described and itemized separately on the offer. Arizona transaction privilege and use taxes shall not be considered for evaluation.

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

5.3 Disqualifications: An Offeror (including each of its principals) who is currently debarred, suspended or otherwise lawfully prohibited from any public procurement activity shall have its offer rejected.

5.4 Offer Acceptance Period: An Offeror submitting an Offer under this Solicitation shall hold its Offer open for the number of days from the Offer due date that is stated in the Solicitation. If the Solicitation does not specifically state a number of days for Offer acceptance, the number of days shall be one hundred and twenty (120). If a Best and Final Offer is requested pursuant to a Request for Proposals, an Offeror shall hold its Offer open for one hundred and twenty (120) days from the Best and Final Offer due date.

5.5 Waiver and Rejection Rights: Notwithstanding any other provision of the Solicitation, AHCCCS reserves the right to:

5.5.1 Waive any minor informality;

5.5.2 Reject any and all Offers or portions thereof; or

5.5.3 Cancel the Solicitation.

6. Award: AHCCCS shall award a Contract to the responsible and responsive Offeror whose proposal is determined most advantageous to the State under A.R.S. §36-2906 (R9-22 Article 6).

6.1 Number or Types of Awards: AHCCCS reserves the right to make multiple awards or to award a Contract by individual line items or alternatives, by group of line items or alternatives, or to make an aggregate award, or regional awards, whichever is deemed most advantageous to AHCCCS and to the State.

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

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

UNIFORM INSTRUCTIONS TO OFFERORS

- 6.4 A response to this Request for Proposal is an offer to contract with AHCCCS based upon the terms, conditions, scope of work and specifications of the RFP. All of the terms and conditions of the Contract are contained in this Solicitation, Solicitation amendments and subsequent Contract amendments, if any, signed by the AHCCCS Chief Procurement Officer. Proposals do not become Contracts unless and until they are accepted by the AHCCCS Chief Procurement Officer. The Proposal submitted by the Offeror will become part of the Contract with AHCCCS. A Contract is formed when the AHCCCS Chief Procurement Officer signs the award page and provides written notice of the award(s) to the Successful Offeror(s), and the Offeror accepts any special provisions to the Contract and the final rates awarded. All Offerors will be promptly notified of Contract award.
- 6.5 The Offeror should note that, if awarded a Contract, the Offeror must meet all AHCCCS requirements, irrespective of what is requested and evaluated through this Solicitation. The Proposal submitted by the Offeror will become part of the Contract with AHCCCS and the Offeror shall comply with all commitments and statements included in its RFP submission.
7. **Protests:** Any protest shall comply with and be resolved according to A.R.S. § 36-2906 and rules adopted thereunder. Protests shall be submitted via email to the AHCCCS Procurement officer.

SPECIAL INSTRUCTIONS TO OFFERORS

1. Anticipated Procurement Schedule

All dates here are subject to change at any time.

Activity	Date
RFP Release	March 4, 2022
Offeror Questions Due	March 18, 2022, by 3:00 pm Arizona Time
Deadline to request access to SFTP server	April 1, 2022, by 3:00 pm Arizona Time
Offeror's Proposals Due	April 15, 2022, by 3:00 pm Arizona Time
Anticipated RFP Award	June 1, 2022
Services Start Date	July 1, 2022

2. Questions:

All questions concerning this solicitation shall be submitted via email using the AHCCCS Q&A form found on the AHCCCS website, found with the solicitation document, to the Procurement Officer identified on the first page of this solicitation document. Offerors may not contact other AHCCCS employees concerning this solicitation.

3. Evaluation Criteria and Selection Process: In accordance with A.R.S. 36-2903 et seq., awards shall be made to the responsible offeror(s) whose proposal is determined in writing to be the most advantageous to the state based upon the evaluation criteria.

Proposals will be evaluated based upon the ability of the offeror to satisfy the requirements of the RFP in a cost-effective manner. The scored portions of the evaluation are listed in their relative order of importance. Any proposals not meeting the Minimum Qualifications will be disqualified and rejected.

1. Experience and Expertise Narrative Proposal
2. Method of Approach Narrative Proposal

Any proposal may be rejected by AHCCCS if it does not meet the minimum qualifications or mandatory requirements, does not satisfy the requirements of the RFP in a cost-effective manner, or is not in the best interest of the state. Exceptions to the Terms and Conditions, as stated in the Uniform Instructions, may impact an offeror's susceptibility for award.

Notwithstanding any other provision of this Solicitation, AHCCCS expressly reserves the right to:

1. Waive any immaterial mistake or informality,
2. Reject any or all Proposals, or portions thereof, and/or
3. Reissue a Request for Proposal.

Evaluators will be focused on information expressly provided by the Offeror. No inferences or assumptions will be made by the evaluation team when scoring in order to evaluate information submitted by the Offeror which is not clear, explicit, or thoroughly presented. Use of contingent language such as 'exploring' or 'taking under consideration' will not be given any weight during the scoring evaluation process. A policy, brochure, or reference to a policy or manual does not constitute an adequate response and will not be given any weight during the scoring evaluation process.

It is the responsibility of the Offeror to examine the entire RFP, timely seek clarification of any requirement that may not be clear and review all responses for accuracy before submitting its Proposal. The Proposal becomes a part of the Contract. Therefore, whatever information is stated in the Proposal may be evaluated either during

SPECIAL INSTRUCTIONS TO OFFERORS

the Proposal evaluation process or subsequently during other reviews. If any information contained inside an Offeror's proposal contradicts or does not comply with the solicitation requirements, the solicitation requirements prevail, unless otherwise accepted by AHCCCS in writing.

4. **Submission of Proposal**

The offeror shall submit its proposal to the AHCCCS SFTP server in accordance with Exhibit A "PROPOSAL SUBMISSION INSTRUCTIONS." Failure to follow the prescribed format for submission may result in AHCCCS determining that the submission is non-responsive.

The deadline to request access to the AHCCCS SFTP server is April 1, 2022.

Offerors must request access to the SFTP server by this date in order to submit a proposal.

5. **Contents of Proposal:**

The offeror's Proposal shall contain the following and be organized as follows (see Exhibit A Proposal Submission Instructions):

PART A

- A1 Transmittal Letter with list of portions to be kept confidential (if any)
- A2 Signed offer and Acceptance Page
- A3 Signed Solicitation Amendment(s)

PART B

- B1 Minimum Qualifications Pass/Fail (Attachment A)
- B2 Experience and Expertise Narrative Proposal (page limited to 10)
- B3 Method and Approach Proposal (page limited to 10)

PART C

- C1 Intent to provide insurance
- C2 Separate, signed, legal Analysis for Confidential /Proprietary Determination (if any)
- C3 Attestation of Boycott of Israel
- C4 Exceptions to any part of solicitation

NOTE: The following items do not count against page limits: Tables of Contents, Cover pages, Proposed Project Schedule, Org Chart and Resumes.

5.1. **Transmittal Letter:**

The Transmittal Letter must include the principal contact for the proposal along with an address, telephone number, fax number, and an e-mail address if that contact is different than the individual authorized for signature. A person authorized to commit the offeror to its representations and who can certify that the information offered in the proposal meets all general conditions must sign the letter.

In addition to the required detailed legal analysis, the Offeror shall summarize in its Transmittal Letter a list of distinct portions, including exact page numbers, of their document requested to be kept confidential. See Section 13 (below).

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5.2. Narrative Proposal:

Narrative Proposals must be structured and numbered according to the RFP section numbers and headers as presented in the table below. Responses in each section must be addressed in the order given. Since the evaluators have already read the Scope of Work for the services described, it is not necessary for the offeror to repeat the exact language, nor to present a paraphrased version, as an original idea for a technical approach. The language of the narrative should be straightforward and limited to facts, solutions to problems, and plans of proposed action. The usage of technical language should be minimized and used only to describe a technical process.

Narrative Proposals will be evaluated based on the offeror's distinctive plan for providing these specialized services. The offeror shall utilize a written narrative or any other printed technique to demonstrate the ability to satisfy the Scope of Work. When appropriate, the Narrative Proposal should describe a logical progression of tasks and efforts starting with the initial steps or tasks to be accomplished and continuing until all proposed tasks are fully described.

The Narrative Proposal should be broken into three (3) files:

- B1 – Minimum Qualifications
- B2 – Experience and Expertise
- B3 – Method of Approach

5.2.1. MINIMUM QUALIFICATIONS:

The following minimum qualifications must be satisfied in order to be responsive to this solicitation.

- 5.2.1.1. The Offerors shall have at least five (5) years experience processing over five million 270/271 X12 transactions monthly.
- 5.2.1.2. The Offeror shall have experience with pass-through payments for 270/271 X12 transactions.
- 5.2.1.3. The Offeror shall agree to pay the pass-through payment amount of 5.5 cents per transaction to AHCCCS.
- 5.2.1.4. The Offeror shall implement real time v5010 270/271 with AHCCCS data.
- 5.2.1.5. The Offeror shall adhere to all security requirements specified in Exhibit B.
- 5.2.1.6. The Offeror shall have the ability to create the X12 formatted v5010 real-time 271 response.
- 5.2.1.7. The Offeror shall be able to produce specified invoice and performance reports.

5.2.2. Experience/Expertise The entirety of the Experience/Expertise Narrative Proposal must be no more than ten (10) pages, not including attachments as specified. These attachments include, but are not limited to, organizational charts, certificates, formal agreements, and résumés. The Narrative Proposal must address the following topics, requirement and inquiries related to the

SPECIAL INSTRUCTIONS TO OFFERORS

Offeror's experience and expertise for AHCCCS' evaluation. Where possible provide details including certifications or recognitions or other objective documentation to support responses.

5.2.2.1. Offeror's Experience and Expertise - The Offeror shall describe and submit documentation demonstrating:

5.2.2.1.1. Successful and reliable experience in past performances as related to the work in this RFP.

5.2.2.1.2. The qualifications of the technical staff proposed by the Offeror to perform the requirements of this solicitation and resources to serve in each of the technical staff in the Offeror's response and their minimum qualifications. Please provide résumés.

5.2.2.1.3. Organizational chart which clearly shows the reporting and lines of authority, to include all proposed technical staff, proposed staffing and any sub-Contractors. The organizational chart should include and identify the point of contact between the Offeror and AHCCCS (Project Manager). Provide qualifications, experience and expertise of all technical staff related to performance of the scope of work. Provide job descriptions for any position identified in the organizational chart. Org chart is not included in the page limit.

5.2.2.1.4. The Offeror's current and past history regarding lawsuits, litigation or legal issues. Has the Offeror had lawsuits and litigation in the past? Does Offeror have current or pending lawsuits or litigation? Has the Offeror ever had any business license or certification suspended or revoked? Provide an explanation and current status for a yes to any of the above questions.

5.2.3. Method of Approach The entirety of the Method of Approach Narrative Proposal must be no longer than ten (10) pages. The Narrative Proposal must address the following topics, requirement and inquiries related to the Offeror's Method and Approach for AHCCCS' evaluation.

5.2.3.1. Implementation: Provide the Offeror's implementation and transition plan to assume all operations of the program. The submitted plan should include timeframes for all key implementation and transition activities including hiring necessary staff, employee orientation, establishing financial and program systems, gathering necessary data, and an expected date for completion. Please identify any specific transitional staff in the proposed organizational chart.

5.2.3.2. System Functionality

5.2.3.2.1. Provide a complete system description and explanation of the proposed tools or technologies that meet each requirement described in the Scope of Work.

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5.2.3.2.2. Detail your proposed deployment plan, including timelines, resources, and training as specified in the Scope of Work.

5.2.3.3. Maintenance and Support

5.2.3.3.1. The Offeror must provide detail of its maintenance and support for providers and members. This must include but not be limited to:

5.2.3.3.1.1. Onboarding process for providers;

5.2.3.3.1.2. Hours of support; and

5.2.3.3.1.3. Help Desk contact information.

5.2.3.4. Assumptions: The Offeror must identify any assumptions used when developing their proposals as it relates to scope, costs, schedule, resources, etc. If the Offeror's assumption takes exception to any part of the solicitation (including but not limited to requirements, scope of work or terms and conditions), these shall be explained as well in the Offeror's exceptions to terms submission.

6. **Intent to Provide Certificate of Insurance:** The offeror shall provide a brief statement that, if notified of contract award, the offeror will submit to AHCCCS for review and acceptance, the applicable certificate/s of insurance as required within this RFP document, within five (5) business days of such notification.
7. **Additional Information (OPTIONAL):** The offeror may, at its option, submit any other pertinent information which would substantiate the offeror has the experience, expertise and capability to provide the required services. The intent is to allow flexibility to an offeror who may have desire to submit information that is not specifically requested by AHCCCS in the Special Instructions to Offerors as part of its Experience and Expertise submission and is NOT intended to allow any offeror to circumvent the page limits of any requirement. Any additional information that is received pursuant to this section must be contained exclusively in the Experience and Expertise section, and the submission MUST adhere to any prescribed page limits. Any pages submitted beyond the page limits for any submission requirement will not be reviewed by evaluators nor will it be included in the scored portion of the offeror's proposal.
8. **Presentations and Demonstrations:** AHCCCS will invite Offerors who are determined to be reasonably susceptible for award to give a presentation or show a demonstration of the product or service to the evaluation committee. If a proposal is rejected or deemed not susceptible for award, the Offeror will not be given the opportunity to present and will forfeit points award in this category.
9. **Financial Stability:** The offeror must be financially stable and if requested shall be able to substantiate the financial stability of its company. Upon written request from AHCCCS, the offeror shall submit an annual financial statement for itself, and parent company (if applicable) within five (5) business days of request. The state reserves the right to request additional documentation from the offeror and to request reports on financial stability from independent financial rating services. The state reserves the right to reject any offeror who does not demonstrate financial stability sufficient for the scope of this contract award.
10. **Clarification of Offers:** AHCCCS may request clarification of an offer any time after receipt. Clarifications may be requested orally or in writing. If clarifications are requested orally, the offeror shall confirm the request in writing. A request for clarifications shall not be considered a determination that the offeror is susceptible for award.

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11. **Negotiations:** Negotiations may be conducted orally or in writing at the discretion of AHCCCS. Negotiations may be conducted in order to improve offers in such areas of cost, price, specifications performance, or terms, to achieve best value for the state. Negotiations may include demonstrations (oral presentations). Award(s) may be made without negotiations; therefore, offers should be submitted on most favorable terms.
12. **Final Proposal Revisions /Best and Final Offers:** Written Final Proposal Revisions, or Best and Final Offers, will be requested from any offeror with whom negotiations have been conducted, unless the offeror has been determined not within the competitive range, not susceptible for award or non-responsible.
13. **Request for Confidential/Proprietary Determination:**
 - 13.1. If an offeror believes that a specific portion of its bid, proposal, offer, specification, or protest contains information that should be withheld from public inspection due to confidentiality, the offeror shall submit to the Procurement Officer a detailed legal analysis, prepared by legal counsel, which sets forth the bases for the requested non-disclosure and the specific harm or prejudice which may arise if disclosed. The analysis shall be presented to the Procurement Officer at the same time as the bid, proposal, offer, specification, or protest.
 - 13.2. An entire bid, proposal, offer, specification, or protest shall not be identified as confidential; only those very limited and distinct portions which are considered by the offeror as confidential may be identified as such. Pricing shall not be considered as confidential.
 - 13.3. In the event that AHCCCS receives a request for disclosure of the information, AHCCCS will disclose the information in accordance with law. Prior to disclosure, AHCCCS will inform the offeror of such request and provide the offeror a period of time to take action it deems appropriate to support non-disclosure. The offeror shall be responsible for any and all costs associated with the nondisclosure of the information.
 - 13.4. In addition to the required detailed legal analysis, the offeror shall summarize in their Transmittal Letter the distinct portions, including exact page numbers, of their document is requested to be kept confidential.
 - 13.5. If any pieces of your proposal are being requested to be kept confidential, and withheld from public viewing, please submit an additional redacted copy of the proposal, clearly listed as REDACTED in the file name. This will ensure that our office is crystal clear on which version of your proposal is acceptable for public viewing.
 - 13.6. Regardless of a determination issued by the procurement officer, all portions of the Offeror's proposal, even pages that are proprietary, may be provided to CMS or other state or federal oversight agencies.
14. **REJECTION of a PROPOSAL - Responsibility, Responsiveness, Susceptibility, and Best Interest**

In accordance with applicable procurement regulations and best practices, at any time during the evaluation, AHCCCS may reject an Offer based upon a determination that Offeror is not responsible, or that the proposal is not responsive or, not susceptible for award. AHCCCS may reject the Offer if doing so is in the best interest of the State. When rejecting a proposal, AHCCCS may consider any of the following:

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- 14.1. Whether the Offeror has had a contract within the last five (5) years that was terminated for cause due to breach or similar failure to comply with the terms of the contract;
- 14.2. Whether the Offeror has had a Contract that was terminated by AHCCCS for any reason;
- 14.3. Whether the Offeror's record of performance includes factual evidence of failure to satisfy the terms of the Offeror's agreements with any party to a contract. Factual evidence may consist of documented vendor performance reports, customer complaints, and/or negative references;
- 14.4. Whether the Offeror is legally qualified to contract with the State and the Offeror's financial, business, personnel, or other resources, including sub-contractors;
 - 14.4.1. Legally qualified includes if the vendor or if key personnel have been debarred, suspended, or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to being disapproved as a subcontractor of any public procurement unit or other governmental body.
- 14.5. Whether the Offeror promptly supplied all requested information concerning its responsibility;
- 14.6. Whether the Offer was sufficient to permit evaluation by the State, in accordance with the evaluation criteria identified in this Solicitation or other necessary offer components. Necessary offer components include: attachments, documents or forms to be submitted with the offer, an indication of the intent to be bound, reasonable or acceptable approach to perform the Scope of Work, acknowledged Solicitation Amendments, references to include experience verification, adequacy of financial/business/personal or other resources to include a performance bond and stability including subcontractors and any other data specifically requested in the Solicitation;
- 14.7. Whether the Offer was in conformance with the requirements contained in the Scope of Work, Terms and Conditions, and Instructions for the Solicitation including its Amendments and all documents incorporated by reference;
- 14.8. Whether the Offer limits the rights of the State;
- 14.9. Whether the Offer includes, or is subject to, unreasonable conditions, to include conditions upon the State necessary for successful Contract performance. The State shall be the sole determiner as to the reasonableness of a condition;
- 14.10. Whether the Offer materially changes the contents set forth in the Solicitation, which includes the Scope of Work, Terms and Conditions, or Instructions;
- 14.11. Whether the Offeror provides misleading or inaccurate information;
- 14.12. Whether the Offer fails to meet the minimum mandatory requirements of the RFP;
- 14.13. Whether the Offer satisfies the requirements of the RFP in a cost effective manner, as determined by AHCCCS;

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- 14.14. Whether the Offeror's pricing is unrealistic, or unreasonably or unsubstantiatedly high or low;
or

Any Whether or not the offer is in the best interest of the State; other criteria as deemed necessary and appropriate by AHCCCS to determine if the Offer is in the best interest of the State.

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1. **DEFINITIONS** - All definitions listed in the definition of terms.

2. **Contract Interpretation**

- 2.1 Arizona Law. The Arizona law applies to this Contract including, A.R.S. § 36-2906 and its implementing rules.
- 2.2 Implied Contract Terms. Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.
- 2.3 Reserved
- 2.4 Relationship of Parties. The Contractor under this Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.
- 2.5 Severability. The provisions of this Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.
- 2.6 No Parole Evidence. This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.
- 2.7 No Waiver. Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

3. **Contract Administration and Operation**

- 3.1 Records. Under A.R.S. § 35-214 and § 35-215, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.
- 3.2 Non-Discrimination. The Contractor shall comply with State Executive Order No. 2009-09 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.
- 3.3 Audit. Pursuant to ARS § 35-214, at any time during the term of this Contract and five (5) years thereafter, the Contractor's or any subcontractor's books and records shall be subject to audit by the State and, where applicable, the Federal Government, to the extent that the books and records relate to the performance of the Contract or Subcontract.
- 3.4 Facilities Inspection and Materials Testing. The Contractor agrees to permit access to its facilities, subcontractor facilities, and the Contractor's processes or services, at reasonable times for inspection of the facilities or materials covered under this Contract.

The State shall also have the right to test, at its own cost, the materials to be supplied under this Contract. Neither inspection of the Contractor's facilities nor materials testing shall constitute final

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acceptance of the materials or services. If the State determines noncompliance of the materials, the Contractor shall be responsible for the payment of all costs incurred by the State for testing and inspection.

- 3.5 Notices. Notices to the Contractor required by this Contract shall be made by the State to the person indicated on the Offer and Acceptance form submitted by the Contractor unless otherwise stated in the Contract. Notices to the State required by the Contract shall be made by the Contractor to the Solicitation Contact Person indicated on the Solicitation cover sheet, unless otherwise stated in the Contract. An authorized Procurement Officer and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice to the other and an amendment to the Contract shall not be necessary.
- 3.6 Advertising, Publishing and Promotion of Contract. The Contractor shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the Procurement Officer.
- 3.7 Property of the State. Any materials, including reports, computer programs, and other deliverables, created under this Contract are the sole property of the State. The Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. The Contractor shall not use or release these materials without the prior written consent of the State.
- 3.8 Ownership of Intellectual Property. Any and all intellectual property, including but not limited to copyright, invention, trademark, trade name, service mark, and/or trade secrets created or conceived pursuant to or as a result of this contract and any related subcontract (“Intellectual Property”), shall be work made for hire and the State shall be considered the creator of such Intellectual Property. The agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract shall own (for and on behalf of the State) the entire right, title and interest to the Intellectual Property throughout the world. Contractor shall notify the State, within thirty (30) days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor(s), agrees to execute any and all document(s) necessary to assure ownership of the Intellectual Property vests in the State and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the State. The Intellectual Property shall not be disclosed by Contractor or its subcontractor(s) to any entity not the State without the express written authorization of the agency, department, division, board, or commission of the State of Arizona requesting the issuance of this contract.
- 3.9 Federal Immigration and Nationality Act. The Contractor shall comply with all federal, state and local immigration laws and regulations relating to the immigration status of their employees during the term of the contract. Further, the Contractor shall flow down this requirement to all subcontractors utilized during the term of the contract. The State shall retain the right to perform random audits of Contractor and subcontractor records or to inspect papers of any employee thereof to ensure compliance. Should the State determine that the Contractor and/or any subcontractors be found noncompliant, the State may pursue all remedies allowed by law, including, but not limited to; suspension of work, termination of the contract for default, and suspension and/or debarment of the Contractor.
- 3.10 E-Verify Requirements. In accordance with A.R.S. § 41-4401, Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with A.R.S. § 23-214, Subsection A.

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3.11 Offshore Performance of Work Prohibited. Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and involve access to secure or sensitive data or personal client data shall be performed within the defined territories of the United States. Unless specifically stated otherwise in the specifications, this paragraph does not apply to indirect or 'overhead' services, redundant back-up services, or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers.

4. Costs and Payments

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

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

4.3 Applicable Taxes.

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

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

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

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

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

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

4.5.1 Accept a decrease in price offered by the Contractor;

4.5.2 Cancel the Contract; or

4.5.3 Cancel the contract and re-solicit the requirements.

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5. Contract Changes

- 5.1 Amendments. This Contract is issued under the authority of the Procurement Officer who signed this Contract. The Contract may be modified only through a Contract Amendment within the scope of the Contract. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the procurement officer in writing or made unilaterally by the Contractor are violations of the Contract and of applicable law. Such changes, including unauthorized written Contract Amendments shall be void and without effect, and the Contractor shall not be entitled to any claim under this Contract based on those changes.
- 5.2 Subcontracts. The Contractor shall not enter into any Subcontract under this Contract for the performance of this contract without the advance written approval of the Procurement Officer. The Contractor shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities. The Subcontract shall incorporate by reference the terms and conditions of this Contract.
- 5.3 Assignment and Delegation. The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Procurement Officer. The State shall not unreasonably withhold approval.

6. Risk and Liability

- 6.1 Risk of Loss. The Contractor shall bear all loss of conforming material covered under this Contract until received by authorized personnel at the location designated in the purchase order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.
- 6.2 Indemnification.
- 6.2.1 Contractor/Vendor Indemnification The parties to this contract agree that the State of Arizona, its departments, agencies, boards, and commissions shall be indemnified and held harmless by the Contractor for the vicarious liability of the State as a result of entering into this contract. However, the parties further agree that the State of Arizona, its departments, agencies, boards, and commissions shall be responsible for its own negligence. Each party to this contract is responsible for its own negligence.
- 6.3 Indemnification - Patent and Copyright. The Contractor shall indemnify and hold harmless the State against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of Contract performance or use by the State of materials furnished or work performed under this Contract. The State shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph. If the Contractor is insured pursuant to A.R.S. § 41-621 and § 35-154, this section shall not apply.

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6.4 Force Majeure.

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

6.4.2 Force Majeure shall **not** include the following occurrences:

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

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

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

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

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

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

7. **Warranties**

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

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

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

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- 7.2.2 Fit for the intended purposes for which the materials are used;
- 7.2.3 Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units;
- 7.2.4 Adequately contained, packaged and marked as the Contract may require; and
- 7.2.5 Conform to the written promises or affirmations of fact made by the Contractor.
- 7.3 Fitness. The Contractor warrants that any material supplied to the State shall fully conform to all requirements of the Contract and all representations of the Contractor, and shall be fit for all purposes and uses required by the Contract.
- 7.4 Inspection/Testing. The warranties set forth in subparagraphs 7.1 through 7.3 of this paragraph are not affected by inspection or testing of or payment for the materials by the State.
- 7.5 Compliance With Applicable Laws. The materials and services supplied under this Contract shall comply with all applicable Federal, state, and local laws, and the Contractor shall maintain all applicable license and permit requirements.
- 7.6 Survival of Rights and Obligations after Contract Expiration or Termination.
 - 7.6.1 Contractor's Representations and Warranties. All representations and warranties made by the Contractor under this Contract shall survive the expiration or termination hereof. In addition, the parties hereto acknowledge that pursuant to A.R.S. § 12-510, except as provided in A.R.S. § 12-529, the State is not subject to or barred by any limitations of actions prescribed in A.R.S., Title 12, Chapter 5.
 - 7.6.2 Purchase Orders. The Contractor shall, in accordance with all terms and conditions of the Contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Procurement Officer, including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

8. State's Contractual Remedies

- 8.1 Right to Assurance. If the State in good faith has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this Contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days specified in the demand may, at the State's option, be the basis for terminating the Contract under the Uniform Terms and Conditions or other rights and remedies available by law or provided by the contract.
- 8.2 Stop Work Order.
 - 8.2.1 The State may, at any time, by written order to the Contractor, require the Contractor to stop all or any part, of the work called for by this Contract for period(s) of days indicated by the State after the order is delivered to the Contractor. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its

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terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

- 8.2.2 If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Procurement Officer shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.
- 8.3 Non-exclusive Remedies. The rights and the remedies of the State under this Contract are not exclusive.
- 8.4 Nonconforming Tender. Materials or services supplied under this Contract shall fully comply with the Contract. The delivery of materials or services or a portion of the materials or services that do not fully comply constitutes a breach of contract. On delivery of nonconforming materials or services, the State may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or remedy available to it.
- 8.5 Right of Offset. The State shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by the State, or damages assessed by the State concerning the Contractor's non-conforming performance or failure to perform the Contract, including expenses, costs, and damages described in the Uniform Terms and Conditions.

9. Contract Termination

- 9.1 Cancellation for Conflict of Interest. Pursuant to A.R.S. § 38-511, the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Contract on behalf of the State is or becomes at any time while the Contract or an extension of the Contract is in effect an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. § 38-511.
- 9.2 Gratuities. The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State for the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about contract performance. The State, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the Contractor.
- 9.3 Suspension or Debarment. The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the Contractor is not currently suspended or debarred. If the Contractor becomes suspended or debarred, the Contractor shall immediately notify the State.

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

9.5 Termination for Default.

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

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

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

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

10. Arbitration

The parties to this Contract agree to resolve all disputes arising out of or relating to this contract through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12-1518, except as may be required by other applicable statutes.

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1. **Assignment of Contract and Bankruptcy:** This contract is voidable and subject to immediate cancellation by the Procurement officer upon Contractor becoming insolvent or filing proceedings in bankruptcy or assigning rights or obligations under this contract without the prior written consent of the Procurement Officer.
2. **Choice of Forum:** The parties agree that jurisdiction over any action arising out of or relating to this contract shall be brought or filed in a court of competent jurisdiction located in The State of Arizona.
3. **Conflict of Interest:** The Contractor shall not undertake any work that represents a potential conflict of interest, or which is not in the best interest of AHCCCS or the state without prior written approval by AHCCCS. The Contractor shall fully and completely disclose any situation that may present a conflict of interest. If the Contractor is now performing or elects to perform during the term of this contract any services for any AHCCCS health plan, provider or Contractor or an entity owning or controlling same, the Contractor shall disclose this relationship prior to accepting any assignment involving such party.
4. **Contract Cancellation (Immediate):** This contract is critical to AHCCCS, and the agency reserves the right to immediately cancel the whole or any part of this contract due to failure of the Contractor to carry out any material obligation, term, or condition of the contract. The Procurement officer shall issue a written notice of default effective at once and not deferred by any interval of time. Default shall be for acting or failing to act as in any of the following:
 - 4.1 The Contractor provides material that does not meet the specifications of the contract;
 - 4.2 The Contractor fails to adequately perform the services set forth in the specifications of the contract;
 - 4.3 The Contractor fails to complete the work required or furnish the materials required within the time stipulated in the contract;
 - 4.4 The Contractor fails to make progress in the performance of the contract and/or gives the Procurement officer reason to believe that the Contractor will not or cannot perform to the requirements of the contract;
 - 4.5 The Procurement officer may resort to any single or combination of the following remedies:
 - 4.5.1 Cancel any contract;
 - 4.5.2 Reserve all rights or claims to damage for breach of any covenants of the contract;
 - 4.5.3 Perform any test or analysis on materials for compliance with the specifications of the contract. If the result of any test confirms a material non-compliance with the specifications, any reasonable expense of testing shall be borne by the Contractor.
 - 4.5.4 In case of default, the Procurement officer reserves the right to purchase materials or to complete the required work in accordance with the Arizona Procurement Code. The Procurement Officer may recover reasonable excess costs from the Contractor by:
 - 4.5.4.1 Deduction from an unpaid balance;
 - 4.5.4.2 Collection against the bid and/or performance bond; or
 - 4.5.4.3 Any combinations of the above or any other remedies as provided by law.
5. **Contract Cancellation (Minimum 10 calendar days):** The Procurement Officer reserves the right to cancel 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 Procurement Officer shall issue written notice to the Contractor for acting or failing to act as in any of the following:
 - 5.1 The Contractor provides material that does not meet the specifications of the contract;

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- 5.2 The Contractor fails to adequately perform the services set forth in the specifications of the contract;
 - 5.3 The Contractor fails to complete the work required or furnish the materials required within the time stipulated by the contract;
 - 5.4 The Contractor fails to make progress in the performance of the contract and/or gives the Procurement Officer reason to believe that the Contractor will not or cannot perform to the requirements of the contract;
 - 5.5 Upon receipt of the written notice of concern, the Contractor shall have a minimum of ten (10) calendar days (Procurement Officer may determine a longer period) to provide a satisfactory response to the Procurement Officer. Failure on the part of the Contractor to adequately address all issues of concern may result in the Procurement Officer resorting to any single or combinations of the following remedies:
 - 5.5.1 Cancel any contract;
 - 5.5.2 Reserve all rights or claims to damage for breach of any covenant of the contract;
 - 5.5.3 Perform any test or analysis on materials for compliance with the specifications of the contract. If the result of any test confirms a material non-compliance with the specifications, any reasonable expense of testing shall be borne by the Contractor;
 - 5.5.4 In case of default, the Procurement Officer reserves the right to purchase materials, or to complete the required work in accordance with the Arizona Procurement Code. The Procurement Officer may recover reasonable excess costs from the Contractor by:
 - 5.5.4.1 Deduction from an unpaid balance;
 - 5.5.4.2 Collection against the bid and/or performance bond; or
 - 5.5.4.3 Any combination of the above or any other remedies as provided by law.
- 6. Contract Disputes:** Contract claims and disputes shall be adjudicated in accordance with state Law, AHCCCS Rules and this contract. Except as provided by 9 A.A.C. Chapter 22, Article 6, the exclusive manner for the Contractor to assert any dispute against AHCCCS shall be in accordance with the process outlined in 9 A.A.C. Chapter 34 and A.R.S. §36-2932.
- 6.1 All disputes, except as provided under 9 A.A.C. Chapter 22, Article 6, shall be filed in writing and be received by AHCCCS no later than sixty (60) days from the date of the disputed notice. All disputes shall state the factual and legal basis for the dispute.
 - 6.2 Pending the final resolution of any disputes involving this contract, the Contractor shall proceed with performance of this contract in accordance with AHCCCS' instructions, unless AHCCCS specifically, in writing, requests termination or a temporary suspension of performance.
- 7. Cooperation with other contractors:** AHCCCS may award other contracts for additional or related work and the contractor shall fully cooperate with such other contractors and AHCCCS employees or designated agents, and carefully fit its own work to such other contractors' work. Contractor shall not commit or permit any act which will interfere with the performance of work by any other contractor or by AHCCCS employees. AHCCCS shall equitably enforce this section to all contractors to prevent the imposition of unreasonable burdens on any contractor.
- 8. Confidentiality of Records and Disclosure of Confidential Information:**
- 8.1 The Contractor shall not, without prior written approval from AHCCCS, either during or after the performance of the services required by this contract, use, other than for such performance, or disclose to any person other than AHCCCS personnel with a need to know, any information, data, material, or exhibits created, developed, produced, or otherwise obtained during the course of the work required by this

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contract. This nondisclosure requirement shall also pertain to any information contained in reports, documents, or other records furnished to the Contractor by AHCCCS.

- 8.2 The Contractor shall establish and maintain written policies procedures and controls, approved by AHCCCS, governing access to, duplication of, and dissemination of all such information for the purpose of assuring that no information contained in its records or obtained from AHCCCS or others carrying out its functions under the contract, is used or disclosed by it, its agents, officers or employees, except as required to efficiently perform duties under the contract. Persons requesting such information shall be referred to AHCCCS. The Contractor's data safeguard program shall further conform to the data confidentiality and security requirements of AHCCCS policy and procedures, and all relevant state and Federal requirements, including HIPAA standards.
- 8.3 The disclosure of information in summary, statistical, or other form that does not identify particular individuals is permitted only with prior AHCCCS approval. The use or disclosure of information concerning Members will be limited to purposes directly connected with the scope of this contract.
- 8.4 The Contractor shall advise its employees, agents and subcontractors, if any, that they are subject to these confidentiality requirements. A signed confidentiality statement containing language approved by AHCCCS will be obtained from all employees, agents and subcontractors, if any, and maintained in the individual's personnel file with a copy sent to AHCCCS upon request.

9. Covenant Against Contingent Fees: The Contractor warrants that no person or agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee. For violation of this warranty, the Procurement Officer shall have the right to annul this contract without liability.

10. RFP and Contract Order of Precedence: The parties to this contract shall be bound by all terms and conditions contained herein. For interpreting such terms and conditions the following sources shall have precedence in descending order: The Constitution and laws of the United States and applicable Federal regulations; the terms of the CMS Section 1115 waiver for The State of Arizona; the Arizona state Plan; the Constitution and laws of Arizona, and applicable state Rules; the terms of this Contract which consists of the RFP, the Proposal of the Successful offeror, and any best and final offer including any attachments, executed amendments and modifications; and AHCCCS policies and procedures.

10.1 The RFP consists of the following, in order of Precedence:

- 10.1.1 HIPAA Business Associates Agreement or Addendum (if included)
- 10.1.2 Special Terms and Conditions;
- 10.1.3 Uniform Terms and Conditions;
- 10.1.4 Statement or Scope of Work;
- 10.1.5 Attachments;
- 10.1.6 Exhibits;
- 10.1.7 Documents referenced or included in the Solicitation.
- 10.1.8 AHCCCS policies and procedures incorporated by reference.

10.2 The awarded Contract between AHCCCS and the Contractor consist of the following in order of Precedence:

- 10.2.1 All Contract Amendments issued after award in descending order,
- 10.2.2 The Request for Proposal (RFP) as described above; and
- 10.2.3 The proposal submitted by the Contractor in response to the RFP including any Best and Final Offers.

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10.3 In the event of a conflict in language between the Offeror's proposal (including any Best and Final Offers) and the RFP (including AHCCCS policies and procedures incorporated by reference), the provisions and requirements set forth and/or referenced in the RFP (including AHCCCS policies and procedures incorporated by reference) shall govern.

10.4 The contract shall be construed according to the laws of The State of Arizona. The State of Arizona is not obligated for the expenditures under the contract until funds have been encumbered.

11. Administrative Changes

The Procurement Officer, or authorized designee, reserves the right to correct any obvious clerical, typographical or grammatical errors, as well as errors in party contact information (collectively, "Administrative Changes"), prior to or after the final execution of a Contract or Contract Amendment. Administrative Changes subject to permissible corrections include: misspellings, grammar errors, incorrect addresses, incorrect Contract Amendment numbers, pagination and citation errors, mistakes in the labeling of the rate as either extended or unit, and calendar date errors that are illogical due to typographical error. The Procurement Office shall subsequently notice the Contractor of corrections to administrative errors in a written confirmation letter with a copy of the corrected Administrative Change attached.

12. Fraud and Abuse:

12.1 It shall be the responsibility of the Contractor to report all cases of suspected fraud and abuse by subcontractors, Members, or employees. The Contractor shall provide written notification of all such incidents to the Procurement Officer.

12.2 As stated in A.R.S. § 13-2310, incorporated herein by reference, any person who knowingly obtains any benefit by means of false or fraudulent pretenses, representations, promises or material omissions is guilty of a class 2 felony.

12.3 Contractors are required to research potential overpayments identified by a fraud and abuse investigation or audit conducted by AHCCCS. After conducting a cost benefit analysis to determine if such action is warranted, the Contractor should attempt to recover any overpayments identified due to erroneous, false, or fraudulent billings.

13. Independent contractor and Employees of Contractor: The Contractor represents themselves to be an independent contractor offering such services to the general public and shall not represent themselves or their employees to be an employee of The State of Arizona and/or AHCCCS. Therefore, the Contractor shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers compensation, employee insurance, etc. All employees of the Contractor employed or in performance of work under this Contract shall be employees of the Contractor at all times and not of AHCCCS. The Contractor shall comply with the Social Security Act, Workers' Compensation laws, and unemployment laws of The State of Arizona as well as Federal, state, and local legislation relevant to the Contractor's business.

14. 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.

15. Lobbying: No funds paid to the Contractor by AHCCCS, or interest earned thereon, shall be used for the purpose of influencing or attempting to influence an officer or employee of any Federal or state agency, a member of the United States Congress or state Legislature, an officer or employee of a member of the United States Congress or state Legislature in connection with awarding of any Federal or state contract, the making of any Federal or state

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grant, the making of any Federal or state loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal or state contract, grant, loan, or cooperative agreement. The Contractor shall disclose if any funds other than those paid to the Contractor by AHCCCS have been used or will be used to influence the persons and entities indicated above and will assist AHCCCS in making such disclosures to CMS.

16. No Guaranteed Quantities: AHCCCS does not guarantee the Contractor any minimum or maximum quantity of services or goods to be provided under this contract.

17. 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 AHCCCS. The state reserves the right to obtain like goods or services from another source when necessary.

18. Ownership of Information and Data:

18.1 Any data or information system, including all software, documentation, and manuals, developed by Contractor pursuant to this contract, shall be deemed to be owned by AHCCCS. The Federal government reserves a royalty free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use for Federal government purposes, such data or information system, software, documentation and manuals. Proprietary software which is provided at established catalog or market prices and sold or leased to the general public shall not be subject to the ownership or licensing provisions of this section.

18.2 Data, information, and reports collected or prepared by Contractor in the course of performing its duties and obligations under this contract shall be deemed to be owned by AHCCCS. The ownership provision is in consideration of Contractor's use of public funds in collecting or preparing such data, information, and reports. These items shall not be used by Contractor for any independent project of Contractor or publicized by Contractor without the prior written permission of the Procurement officer. Subject to applicable state and Federal laws and regulations, AHCCCS shall have full and complete rights to reproduce, duplicate, disclose, and otherwise use all such information. At the termination of the contract, Contractor shall make available all such data to the Procurement officer within thirty (30) calendar days following termination of the contract or such longer period as approved by the Procurement officer. For purposes of this subsection, the term "data" shall not include member medical records.

18.3 Except as otherwise provided in this section, if any copyrightable or patentable material is developed by Contractor in the course of performance of this contract, the Federal government, AHCCCS and The State of Arizona shall have a royalty free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for state or Federal government purposes. Contractor shall additionally be subject to the applicable provisions of 45 CFR Part 74 and 45 CFR Parts 6 and 8.

19. Records:

19.1 In addition to the requirements set forth in this contract under the Uniform Terms and Conditions, all books and records shall be maintained to the extent and in such detail as required by AHCCCS Rules and Policies. The AHCCCS records management guidelines are located at: <http://www.azahcccs.gov>. Records shall include, but not be limited to, financial statements, case files (both hard copy and stored data), and other records specified by AHCCCS.

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19.2 The Contractor shall make available at its office at all reasonable times during the term of this contract and the period set forth in in this section, any of its records for inspection, audit, or reproduction by any authorized representative of AHCCCS, state or Federal government.

19.3 The Contractor shall preserve and make available all records for a period of five (5) years from the date of final payment under this contract except as provided below:

19.3.1 If this contract is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of five years from the date of any such termination.

19.3.2 Records that relate to grievances, disputes, litigation or the settlement of claims arising out of the performance of this contract, or costs and expenses of this contract to which exception has been taken by AHCCCS, shall be retained by the Contractor for a period of five years after the date of final disposition or resolution thereof.

19.3.3 Completed case files shall be scheduled for archive shipment to AHCCCS, as defined by AHCCCS Policy and Procedures.

20. Responsibility for Payments Indemnification: The Contractor shall be responsible for issuing payment for services performed by the Contractor's employees and will indemnify and save AHCCCS harmless for all claims whatsoever growing out of the lawful demands of employees, subcontractors, suppliers or any other third party incurred in the furtherance of the performance of the contract. The Contractor shall, at AHCCCS' request, furnish satisfactory evidence that all obligations of the nature hereinabove designated have been paid, discharged, or waived.

21. Term of Contract and Option to Renew:

21.1 The initial term of this contract shall be for two (2) initial years with three (3) one-year options to extend, not to exceed a total contracting period of five (5) years. The terms and conditions of any such contract extension shall remain the same as the original contract, as amended. All contract extensions shall be through contract amendment, and shall be at the sole option of AHCCCS.

21.2 If the Contractor chooses not to renew this contract, the Contractor may be liable for certain costs associated with the transition to a different Contractor. If the Contractor provides the Procurement Officer written notice of its intent not to renew this contract at least 180 days before its expiration, this liability for transition costs may be waived by the Procurement Officer.

21.3 Contract amendments, including renewals, are subject to approval by the Centers for Medicare and Medicaid Services (CMS).

22. WARRANTY

22.1 Unless otherwise modified elsewhere in the terms and conditions, the Contractor warrants that, for one year after acceptance by the state, the Materials shall be fully compatible with the state's computer hardware and software environment.

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

22.3 Contractor represents and warrants that the materials provided through this Contract and Scope of Work shall be free of viruses, backdoors, worms, spyware, malware and other malicious code that will hamper

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performance of the materials, collect unlawful personally identifiable information on users or prevent the materials from performing as required under the terms and conditions of this Contract.

23. INTELLECTUAL PROPERTY

23.1 Ownership of Intellectual Property. Any and all intellectual property, including but not limited to copyright, invention, trademark, trade name, service mark, or trade secrets created or conceived solely pursuant to or as a result of this Contract and any related subcontract (collectively, the "Intellectual Property"), shall be work made for hire and the state shall be the owner of such Intellectual Property. The agency, department, division board or commission of The State of Arizona requesting the issuance of this Contract shall own (for and on behalf of the state) the entire right, title and interest to the Intellectual Property through the world. Software and other materials developed or otherwise obtained by or for Contractor or its affiliates independently of this Contract ("Independent materials") do not constitute Intellectual Property. If Contractor creates derivative works of independent materials, then the elements of such derivative works created pursuant to this Contract shall constitute Intellectual Property owned by the state. Contractor shall notify the state, within thirty (30) days of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor(s), agrees to execute any and all document(s) necessary to assure ownership of the Intellectual Property vests in the state and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the state, The Intellectual Property shall not be disclosed by Contractor or its subcontractor(s) to any entity not the state without the express written authorization of the agency, department, division, board or commission of The State of Arizona requesting the issuance of this Contract.

Notwithstanding the foregoing, if the state elects, in its sole and absolute discretion, to relinquish its ownership interest in any or all of the Intellectual Property, the state shall have the rights to use, modify, reproduce, release, perform, display, sublicense or disclose such Intellectual Property within state government and operations without restriction for any activity in which the state is a party (collectively, "Government Purpose Rights").

23.2 INTELLECTUAL PROPERTY INDEMNIFICATION

With respect solely to materials provided or proposed by Contractor or Contractor's agents, employees, or subcontractors (each a "Contractor Party") for the performance of this Contract, Contractor shall indemnify, defend and hold harmless the state its departments, agencies, boards, commissions, universities, officers, agents and employees (collectively, the "Indemnitee"), against any third-party claims for liability including but not limited to, reasonable costs and expenses, including attorneys' fees, for infringement or violation of any patent, trademark, copyright or trade security, by such materials or the state's use thereof.

In addition, with respect to claims arising from computer hardware or software manufactured or developed solely by a third party, Contractor shall pass through to the state such indemnity rights as it receives from such third party (the "Third Party Obligation") and will cooperate in enforcing them; provided, however, that (i) if the third party manufacturer fails to honor the Third Party Obligation, or (ii) the Third Party Obligation is insufficient to fully indemnify the state, Contractor shall indemnify, defend and hold harmless the state against such claims in their entirety or for the balance of any liability not fully covered by the Third Party Obligation.

The state shall reasonably notify Contractor of any claim for which the Contractor may be liable under this section. If the Contractor is insured pursuant to ARS 41-621 and 35-154, this section shall not apply. Contractor shall have control, subject to the reasonable approval of the state, of the defense of any action on such claim and all negotiation for its settlement or compromise, provided, however, that when substantial principles of government

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or public law are involved or when involvement of the state is otherwise mandated by law, the state may elect, in its sole and absolute discretion, to participate in such action at its own expense with respect to attorneys' fees and costs, but not liability, and the state shall have the right to approve or disapprove any settlement, which approval shall not be unreasonably withheld or delayed. The state shall reasonably cooperate in the defense and any related settlement negotiations.

If Contractor believes at any time that any materials provided or in the use pursuant to this Contract infringe a third party's intellectual property rights, Contractor shall, at Contractor's sole cost and expense, and upon receipt of the state's prior written consent, which shall not be unreasonably withheld, (i) replace in infringing Material with a non-infringing Material; (ii) obtain for the state the right to continue to use the infringing Material; or (iii) modify the infringing Material to be non-infringing, provided that following any replacement or modification made pursuant to the foregoing, the Material continues to function in accordance with the Contract. Contractor's failure or inability to accomplish any of the foregoing shall be deemed a material breach of this Contract.

Notwithstanding the foregoing, Contractor shall not be liable for infringement based solely on any Indemnitee's:

- (i) Modification of materials provided by Contractor other than as contemplated by the Contract or the specifications of such materials or as otherwise authorized or proposed in any way by Contractor or a Contractor Party;
- (ii) Use of the materials in a manner other than as contemplated by this Contract or the specifications of such materials, or as otherwise authorized or proposed in any way by Contractor or a Contractor Party; or
- (iii) Use of the materials in combination, operation, or use with other products in a manner not contemplated by the Contract, or, the specifications of such materials, or as otherwise authorized or proposed in any way by Contractor or a Contractor Party.

Contractor certifies, represents and warrants to the state that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of the Contractor for the acquisition, operation or maintenance of materials in violation of intellectual property laws.

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Insurance Requirements

1. INDEMNIFICATION CLAUSE

To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of, or recovered under, the Workers' Compensation Law or arising out of the failure of such Contractor to conform to any federal, state, or local law, statute, ordinance, rule, regulation, or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by Contractor from and against any and all claims. It is agreed that Contractor will be responsible for primary loss investigation, defense, and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the State of Arizona, its officers, officials, agents, and employees for losses arising from the work performed by the Contractor for the State of Arizona.

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

2. INSURANCE REQUIREMENTS

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

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

3. MINIMUM SCOPE OF LIMITS OF INSURANCE

Contractor shall provide coverage with limits of liability not less than those stated below.

3.1. Commercial General Liability (CGL) – Occurrence Form

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

• General Aggregate	\$2,000,000
• Products – Completed Operations Aggregate	\$1,000,000
• Personal and Advertising Injury	\$1,000,000
• Damage to Rented Premises	\$50,000
• Each Occurrence	\$1,000,000

3.1.1. The policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials,

SPECIAL TERMS AND CONDITIONS

Insurance Requirements

agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor.

- 3.1.2. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

3.2. Workers' Compensation and Employers' Liability

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

- 3.2.1. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

- 3.2.2. This requirement shall not apply to each Contractor or subcontractor that is exempt under A.R.S. § 23-901, and when such Contractor or subcontractor executes the appropriate waiver form (Sole Proprietor or Independent Contractor).

3.3. Network Security (Cyber) and Privacy Liability

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

- 3.3.1. Such insurance shall include, but not be limited to, coverage for third party claims and losses with respect to network risks (such as data breaches, unauthorized access or use, ID theft, theft of data) and invasion of privacy regardless of the type of media involved in the loss of private information, crisis management and identity theft response costs. This should also include breach notification costs, credit remediation and credit monitoring, defense and claims expenses, regulatory defense costs plus fines and penalties, cyber extortion, computer program and electronic data restoration expenses coverage (data asset protection), network business interruption, computer fraud coverage, and funds transfer loss.

- 3.3.2. In the event that the Network Security and Privacy 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, 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.

- 3.3.3. The policy shall be endorsed, as required by this written agreement, to include The State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to vicarious liability of the insured arising out of the activities performed by or on behalf of the Contractor.

- 3.3.4. Policy shall contain a waiver of subrogation endorsement, as required by this written agreement, in favor of The State of Arizona, and its departments, agencies, boards, commissions, universities,

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officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

4. ADDITIONAL INSURANCE REQUIREMENTS

The policies shall include, or be endorsed to include, as required by this written agreement, the following provisions:

4.1. The Contractor's policies, as applicable, shall stipulate that the insurance afforded the Contractor shall be primary and that any insurance carried by the Department, its agents, officials, employees or the State of Arizona shall be excess and not contributory insurance, as provided by A.R.S. § 41-621 (E).

4.2. Insurance provided by the Contractor shall not limit the Contractor's liability assumed under the indemnification provisions of this Contract.

5. NOTICE OF CANCELLATION

Applicable to all insurance policies required within the Insurance Requirements of this Contract, Contractor's insurance shall not be permitted to expire, be suspended, be canceled, or be materially changed for any reason without thirty (30) days prior written notice to the State of Arizona. Within two (2) business days of receipt, Contractor must provide notice to the State of Arizona if they receive notice of a policy that has been or will be suspended, canceled, materially changed for any reason, has expired, or will be expiring. Such notice shall be sent directly to the Department and shall be mailed, emailed, hand delivered or sent by facsimile transmission to (State Representative's Name, Address & Fax Number).

6. ACCEPTABILITY OF INSURERS

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

If the contractor utilizes the Social Service contractors Indemnity Pool ("SSCIP") or other prior approved insurance pool for insurance coverage, SSCIP or the other prior approved insurance pool is exempt from the A.M. Best's rating requirements listed in this section. If the contractor chooses to use SSCIP or another approved insurance pool as its insurance provider, the contractor would be considered in full compliance with insurance requirements relating to the A.M. Best rating requirements.

7. VERIFICATION OF COVERAGE

Contractor shall furnish the State of Arizona with certificates of insurance (valid ACORD form or equivalent approved by the State of Arizona) evidencing that Contractor has the insurance as required by this Contract. An authorized representative of the insurer shall sign the certificates.

7.1. All such certificates of insurance and policy endorsements must be received by the State before work commences. The State's receipt of any certificates of insurance or policy endorsements that do not comply with this written agreement shall not waive or otherwise affect the requirements of this agreement.

7.2. Each insurance policy required by this Contract must be in effect at, or prior to, commencement of work under this Contract. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

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7.3. All certificates required by this Contract shall be sent directly to the Department. The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. The State of Arizona reserves the right to require complete copies of all insurance policies required by this Contract at any time.

8. SUBCONTRACTORS

Contractor's certificate(s) shall include all subcontractors as insureds under its policies or Contractor shall be responsible for ensuring and/or verifying that all subcontractors have valid and collectable insurance as evidenced by the certificates of insurance and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum Insurance Requirements identified above. The Department reserves the right to require, at any time throughout the life of this contract, proof from the Contractor that its subcontractors have the required coverage.

9. APPROVAL AND MODIFICATIONS

The Contracting Agency, in consultation with State Risk, reserves the right to review or make modifications to the insurance limits, required coverages, or endorsements throughout the life of this contract, as deemed necessary. Such action will not require a formal Contract amendment but may be made by administrative action.

10. EXCEPTIONS

In the event the Contractor or subcontractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a certificate of self-insurance. If the Contractor or subcontractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.

HIPAA BUSINESS ASSOCIATES ADDENDUM

Updated April 2020

This Addendum is made part of this Contract between the Arizona Health Care Cost Containment System ("AHCCCS") and the Contractor, referred to as "Business Associate" in this Addendum.

AHCCCS and Business Associate agree that the underlying Contract shall comply with the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as set forth in Title 45, Parts 160 and 164 of the Code of Federal Regulations (the "CFR"), as amended. In the event of conflicting terms or conditions, this Addendum shall supersede the underlying Contract.

1. DEFINITIONS

The following terms used in this Addendum shall have the same meaning as those terms in the HIPAA rules set forth in Title 45, Parts 160 and 164 of the CFR: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required by Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

2. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE

Business Associate agrees to:

- 2.1. Not use or disclose protected health information ("PHI") other than as permitted or required by this Addendum or as required by law;
- 2.2. Use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic PHI, to prevent use or disclosure of protected health information other than as provided for by this Addendum;
- 2.3. Report to AHCCCS any use or disclosure of PHI not provided for by this Addendum of which it becomes aware, including breaches of unsecured protected health information as required at 45 CFR §164.410, and any security incident of which it becomes aware in the following manner;
 - 2.3.1. Reporting. Business Associate shall report to AHCCCS any use or disclosure of PHI that is not authorized by the Contract, by law, or in writing by AHCCCS. Business Associate shall make an initial report to the AHCCCS Privacy Official not more than twenty-four (24) hours after Business Associate learns of such unauthorized use or disclosure. The initial report shall include all of the following information to the extent known to the Business Associate at the time of the initial report:
 - A. A description of the nature of the unauthorized use or disclosure, including the number of individuals affected by the unauthorized use or disclosure;
 - B. A description of the PHI used or disclosed;
 - C. The date(s) on which the unauthorized use or disclosure occurred;
 - D. The date(s) on which the unauthorized use or disclosure was discovered;
 - E. Identify the person(s) who used or disclosed the PHI in an unauthorized manner;
 - F. Identify the person(s) who received PHI disclosed in an unauthorized manner;
 - G. A description of actions, efforts, or plans undertaken by the Business associate to mitigate the harm of unauthorized disclosure;
 - H. A description of corrective actions undertaken or planned to prevent future similar unauthorized use or disclosure;

HIPAA BUSINESS ASSOCIATES ADDENDUM

- I. An assessment of whether a breach, as defined in 45 CFR 164.402, including, if necessary, an assessment of the probability of harm, and
- J. Such other information, as may be reasonably requested by the AHCCCS Privacy Official.

2.3.2. Business Associate shall provide AHCCCS with supplemental reports promptly as new information becomes available, as assessments and action plans are developed, and as action plans are implemented. In any event, Business Associate shall provide a comprehensive written report including all of the information listed above no later than twenty (20) days after discovery of the unauthorized use or disclosure.

2.3.3. Mitigation. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of the Contract.

2.3.4. Sanctions. Business Associate shall have and apply appropriate sanctions against any employee, subcontractor or agent who uses or discloses AHCCCS PHI in violation of this Addendum or applicable law.

2.4. In accordance with 45 CFR §164.502(e)(1)(ii) and §164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain or transmit PHI on behalf of the Business Associate agree to the same restrictions, conditions and requirements that apply to the Business Associate with respect to such information;

2.5. Make available PHI in a designated record set to AHCCCS as necessary to satisfy AHCCCS' obligations under 45 CFR §164.524;

2.6. Make any amendment(s) to PHI in a designated record set as directed or agreed to by AHCCCS pursuant to 45 CFR §164.526, or take other measures as necessary to satisfy AHCCCS' obligations under 45 CFR §164.526;

2.7. Maintain and make available the information required to provide an Accounting of Disclosures to AHCCCS as necessary to satisfy AHCCCS' obligations under 45 CFR §164.528;

2.8. To the extent Business Associate is to carry out one of more of AHCCCS' obligations under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to AHCCCS in the performance of such obligation(s); and

2.9. Make its internal practices, books and records available to AHCCCS and the Secretary for purposes of determining compliance with the HIPAA rules.

3. PERMITTED USES AND DISLOSURES BY BUSINESS ASSOCIATE

3.1. Business Associate may only use or disclose PHI as necessary to perform the services and obligations set forth in the underlying Contract;

3.2. Business Associate may use or disclose protected health information as required by law;

HIPAA BUSINESS ASSOCIATES ADDENDUM

- 3.3. Business Associate agrees to make uses and disclosures and requests for protected health information consistent with Minimum Necessary, as required at 45 § CFR 164.502(b) and 164.514(d).
- 3.4. Business Associate may not use or disclose protected health information in a manner that would violate Subpart E of 45 CFR Part 164 if done by AHCCCS, except for the specific uses and disclosures set forth below in (3.5 and 3.6);
- 3.5. Business Associate may use protected health information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate; and
- 3.6. Business Associate may provide data aggregation services relating to the health care operations of AHCCCS.

4. PROVISIONS FOR AHCCCS TO INFORM BUSINESS ASSOCIATE OF PRIVACY PRACTICES AND RESTRICTIONS

- 4.1. AHCCCS shall notify Business Associate of any limitation(s) in the AHCCCS Notice of Privacy Practices (found at www.azahcccs.gov) under 45 CFR §164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI;
- 4.2. AHCCCS shall notify Business Associate of any changes in, or revocation of, the permission by an individual to use or disclose his or her PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI; and
- 4.3. AHCCCS shall notify Business Associate of any restriction on the use or disclosure of PHI that AHCCCS has agreed to or is required to abide by under 45 CFR §164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

5. TERM AND TERMINATION

- 5.1. Term: This Addendum is effective upon the effective date of the underlying Contract and shall terminate on the date AHCCCS terminates the contract for cause as authorized in paragraph (b) of this Section, or for any other reason permitted under the contract, whichever is sooner.
- 5.2. Termination for Cause: Business Associate authorizes termination of the Contract by AHCCCS if AHCCCS determines that Business Associate has breached a material term of this Addendum and Business Associate has not cured the breach or ended the violation within the time specified by AHCCCS.
- 5.3. Obligations of Business Associate Upon Termination: Upon termination, cancellation, expiration or other conclusion of the Contract, Business Associate, with respect to PHI received from AHCCCS, or created, maintained, or received by Business Associate on behalf of AHCCCS, shall:
 - 5.3.1. Retain only that PHI which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities;
 - 5.3.2. Destroy or return to AHCCCS all remaining PHI that the Business Associate still maintains in any form;

HIPAA BUSINESS ASSOCIATES ADDENDUM

- 5.3.3. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic PHI to prevent use or disclosure of the PHI, other than as provided for in this Section, for as long as Business Associate retains the PHI;
- 5.3.4. Not use or disclose the PHI retained by Business Associate other than for the purposes for which such protected health information was retained and subject to the same conditions set out in this Addendum that applied prior to termination; and
- 5.3.5. Destroy or return to AHCCCS the PHI retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal and contractual responsibilities.

5.4. Survival: The obligations of Business Associate under this Section shall survive the termination of the Contract.

6. INDEMNIFICATION AND MISCELLANEOUS

- 6.1. Indemnification: Business Associate shall indemnify, hold harmless and defend AHCCCS from and against any and all claims, losses, liabilities, costs, civil and criminal penalties, and other expenses resulting from, or relating to, the acts or omissions of Business Associate, its employees, agents, and sub-contractors in connection with the representations, duties and obligations of Business Associate under this Addendum. The parties' respective rights and obligations under this Section shall survive termination of the Contract.
- 6.2. Regulatory References: A reference in this Addendum to a section in the HIPAA rules means the section as in effect or as amended.
- 6.3. Amendment: The parties agree to take such action as is necessary to amend this Addendum from time to time as is necessary for compliance with the requirements of the HIPAA rules or any other applicable law.
- 6.4. Interpretation: Any ambiguity in this Addendum shall be interpreted to permit compliance with the HIPAA rules.

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PROPOSAL SUBMISSION INSTRUCTIONS

Third Party Eligibility Verification Services

YH22-0072

The Deadline to Request Access to the SFTP is March 18, 2022 by 5:00 pm Arizona Time

FAILURE TO SUBMIT A REQUEST TO ACCESS THE SFTP SERVER BY THE DEADLINE WILL DISQUALIFY YOU FROM SUBMITTING A PROPOSAL FOR THE SOLICITATION.

RFP (Public)

The RFP and supporting attachments and exhibits can be found here:

<https://www.azahcccs.gov/Resources/OversightOfHealthPlans/SolicitationsAndContracts/open.html>

1. Bidders Library (Public)

The Bidders Library is a public page on the AHCCCS website containing all relevant information, or links to the information, pertaining to this RFP. The public Bidders Library can be found here:

<https://www.azahcccs.gov/Resources/OversightOfHealthPlans/SolicitationsAndContracts/bidderslibrary.html>

2. Secure File Transfer Protocol (SFTP) Server (Secure)

The AHCCCS SFTP server will be used as the required location for submission of proposals. The SFTP server can be found here: <https://sftp.statemedicaid.us>

Access to the SFTP server is restricted to potential Offerors for this solicitation. Individuals seeking access to the SFTP will be required to submit an official statement of their intent to bid on this RFP. No other parties shall have access to the SFTP server or information/documents stored within.

Each individual is required to request access to the SFTP site as well as the specific SFTP RFP folders, including individuals who already have access to the AHCCCS SFTP Production site.

Each Offeror shall upload its Proposal to the secured location, identified in this Exhibit, on the AHCCCS SFTP server no later than the Proposal due date listed on the front page of the solicitation, as may be amended. For each Offeror, the number of individuals permitted to obtain access to the SFTP strictly limited to two (2) – One Primary, and One Back up.

Once an individual is granted permission to the SFTP server, the individual should be able to perform the following:

1. Download documents from the appropriate folder(s),
2. Upload Documents to the appropriate folder, and
3. Rename documents you have uploaded.

The individual will not be able to delete or alter any documents after they are loaded. If the individual wishes to change a document that has been uploaded prior to the Proposal due date, it is recommended that the individual rename the original document to "DELETE", then upload a new document. No actions shall be allowed after the proposal due date.

Files names (including the URL path) for electronic files uploaded to the SFTP cannot exceed 255 characters.

EXHIBIT A

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3. **Requesting Access to SFTP**

Every individual requesting access must submit the following three (3) forms to AHCCCSDataExchange@azahcccs.gov with copy to Procurement@azahcccs.gov. The subject line shall include the Offeror's Name, the RFP # and "SFTP access request", and in the body of the email, each Offeror shall list the names of the two individuals and designation as the primary or back up individual.

1. Offeror's Intent to Bid
2. AHCCCS Electronic Data Exchange Request Form, and
3. AHCCCS External User Affirmation Statement.

4. **Offeror's Intent to Bid form**

Found along with the RFP on the AHCCCS website

<https://www.azahcccs.gov/Resources/OversightOfHealthPlans/SolicitationsAndContracts/open.html>

5. **AHCCCS Electronic Data Exchange Request Form**

Each individual is required to complete and submit the AHCCCS Electronic Data Exchange Request Form at the following link: <https://www.azahcccs.gov/PlansProviders/ISDresources.html>

**** Please follow the instructions in this Exhibit and disregard the instruction on the actual form****

Section I – Insert Date, Check "Non – EDI Data" and Check "Add User"

Section II – Folder Name – Enter "YH22-0001"

Section III – Enter the "Entity Name" (your company/offeror name) Leave other fields blank.

Section IV – Enter the User First Name, Last Name, Phone, Email Address. All 4 fields must be completed. This is necessary for each individual requesting access to the SFTP Server.

Section V – Not applicable

Section VI – Not Applicable

Section VII - Check the "Attached" box and ensure you have submitted a completed and signed AHCCCS External User Affirmation Statement. Your user Affirmation Statement is to be included in your email submission as instructed in this Exhibit.

6. **AHCCCS External User Affirmation Statement**

Each individual is required to sign the Affirmation Statement at the following link:

<https://www.azahcccs.gov/PlansProviders/Downloads/ISD/ExternalUserAffirmationStatement.pdf>

7. **Test Access**

Once SFTP access has been granted the individual will receive an automated email from 'AHCCCS Secure SFTP [do not reply] SFTP@azahcccs.gov' with login credentials. Each individual is required to perform a test as directed by AHCCCS. Instructions for the test will be sent to each user after access is granted.

8. **Questions**

If assistance is needed with your SFTP account or access, please email AHCCCSDataExchange@azahcccs.gov with email Subject Line: "SFTP request for RFP# YH22-0072"

For all other questions about the RFP, please email Procurement@azahcccs.gov

EXHIBIT A

PROPOSAL SUBMISSION INSTRUCTIONS

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9. **Submitting Your Proposal**

The Offeror's Proposal shall contain the following and shall be organized as follows. Each item shall be submitted to the SFTP server as a separate file with the prescribed naming convention. If AHCCCS determines a Proposal to be non-responsive, AHCCCS may elect not to score the Proposal.

Main SFTP Folder: /ProcurementRFPs/RFP YH22-0072

Sub-Folder where Offeror will upload their proposal: /ProcurementRFPs/RFP YH22-0072 Offeror Name

- PART A
 - A1 Transmittal Letter with list of portions to be kept confidential (if any) <Offeror Name>
 - A2 Signed Offer and Acceptance Page <Offeror Name>
 - A3 Signed Solicitation Amendment(s) <Offeror Name>
- PART B
 - B1 Attachment 3 Minimum Requirements Pass/Fail
 - B2 Narrative of Experience/Expertise of Firm and Key Personnel <Offeror Name>
 - B3 Narrative of Proposed Method of Approach <Offeror Name>
- PART C
 - C1 Intent to provide insurance <Offeror Name>
 - C2 Signed, legal Analysis for Confidential /Proprietary Determination (if any) <Offeror Name>
 - C3 Attachment 2 Attestation of Boycott of Israel <Offeror Name>
 - C4 Exceptions to any part of solicitation (if any) <Offeror Name>

Files names (including the URL path) for electronic files uploaded to the SFTP cannot exceed 255 characters. Each item must be a separate standalone electronic file. Please do not submit the proposal as one (1) large file.

10. **Notification**

Upon final upload of the Offeror's Proposal to the SFTP, the Offeror shall email notification to the Chief Procurement Officer at Procurement@azahcccs.gov. AHCCCS will provide a return email notification to the Offeror upon receipt within one business day. Notification will be provided to the contact person provided on the Offeror's Proposal, Solicitation and Offer Page. The notification shall serve *only* as confirmation that a document from the Offeror was received to the SFTP. The email notification from AHCCCS does not confirm whether or not the document conforms to the material elements of the submission requirement(s) or whether or not the Offeror's Proposal qualifies as responsive.

11. **Font and Borders**

All responses shall be submitted in Calibri 11-point font or larger with borders no less than ½".

12. **Page Limits**

The Offeror has the discretion to include or exclude the narrative submission requirement text as a part of the Offeror's response; however, the required page limit applies regardless of whether or not the text is included. AHCCCS will only consider the information provided within the allotted page limit and permitted attachments, if any, in response to a specific submission requirement when evaluating the Offeror's Proposal. AHCCCS will not consider information outside the allotted page limit or any other information provided elsewhere in the Proposal when reviewing a specific response to an individual submission requirement.

EXHIBIT A
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13. Evaluation

Evaluation of proposals will include only information expressly provided by the Offeror will be considered. No inferences or assumptions will be made by the evaluation team when scoring in order to evaluate information submitted by the Offeror which is not clear, explicit, or thoroughly presented. Use of contingent language such as 'exploring' or 'taking under consideration' will not be given any weight during the scoring evaluation process. A policy, brochure, or reference to a policy or manual does not constitute an adequate response and will not be given any weight during the scoring evaluation process.

It is the responsibility of the Offeror to examine the entire RFP, timely seek clarification of any requirement that may not be clear and review all responses for accuracy before submitting its Proposal. The Proposal becomes a part of the Contract. Therefore, whatever information is stated in the Proposal may be evaluated either during the Proposal evaluation process or subsequently during other reviews. If any information contained inside an Offeror's proposal contradicts or does not comply with the solicitation requirements, the solicitation requirements prevail, unless otherwise accepted by AHCCCS in writing.

EXHIBIT B

IT PRIVACY AND SECURITY

The Contractor (and/or any subcontractor) will be responsible for the privacy and security requirements below for the Solution throughout the engagement. See the Business Associate Addendum for additional details. For all Solutions that will process, store, or transmit restricted or confidential data, see the additional requirements in PVS-14 – PVS-15. For Solutions that will process, store, or transmit data from the Federal Hub, see additional requirements in PVS-16 – PVS-17.

AHCCCS, AND IF APPLICABLE MQD, shall determine the level of criticality for incidences in consultation with the Contractor. Following contract award, AHCCCS, AND IF APPLICABLE MQD, shall supply contact information to the Contractor for reporting incidences.

For all Solutions:	
PVS-01	The Solution shall be compliant with NIST 800-53 at the moderate level, the Minimum Acceptable Risk Standards for Exchanges (MARS-E), or its equivalent.
PVS-02	The Contractor shall comply with AHCCCS, and if applicable MQD, information security requirements and employ appropriate security controls in accordance with applicable laws, Executive Orders, directives, policies, regulations, standards, and guidance.
PVS-03	The Contractor shall establish and maintain security and privacy policies and procedures for how data is stored, handled, and accessed within the Contractor environment.
PVS-04	As part of the proposal submission, the Contractor shall submit a security and privacy assessment and SSAE-18 assessment or its equivalent.
PVS-05	<p>Ninety (90) calendar days before the Solution enters production and annually thereafter, the Contractor shall:</p> <ul style="list-style-type: none"> • Have a security and privacy assessment and penetration testing conducted by an independent, third-party contractor, approved by AHCCCS, AND IF APPLICABLE MQD, who is qualified by the federal government to perform assessments on computers that access federal information and has experience performing security assessments with other government agencies. • The penetration test report results shall be submitted to AHCCCS, AND IF APPLICABLE MQD, and any major or critical vulnerabilities mitigated. • The Security and Privacy Controls Assessment Report (SAR) shall be submitted to AHCCCS, AND IF APPLICABLE MQD, within twenty-four (24) hours of finalizing the report.
PVS-06	The Contractor shall encrypt data to and from the Contractor environment using FIPS 140-3 compliant encryption technologies.
PVS-07	The Contractor shall be responsible for monitoring emerging information security threats and vulnerabilities and the necessary remediation.
PVS-08	The Contractor shall resolve all identified high and medium vulnerabilities within the timeframes specified by the requirements noted in PVS-01 above, unless otherwise approved in writing by AHCCCS, AND IF APPLICABLE MQD. Low vulnerabilities shall be discussed prior to resolution. Only those issues that AHCCCS, AND IF APPLICABLE MQD, deems important shall need to be remediated.
PVS-09	Before the Solution enters production, the Contractor shall provide complete Solution documentation, onsite training and training manuals, desk level procedures and practices to avoid security breaches.
PVS-10	The Contractor shall provide a written report and assessment to AHCCCS, AND IF APPLICABLE MQD, within twelve (12) hours following the identification of any security incident detailing all actions taken concerning the incident, including the type of incident, the current status, and any potential impact(s).
PVS-11	The Contractor shall perform patching and corrections related to security vulnerabilities of a critical nature within three (3) calendar days and those of a major

EXHIBIT B

IT PRIVACY AND SECURITY

	nature within ten (10) business days.
PVS-12	The Contractor shall report to the State any instances of unauthorized access to or potential disclosure of Personal Identifiable Information (PII) or Protected Health Information (PHI) in the custody or control of the Contractor. Any such report shall be made by the Contractor within twenty-four (24) hours after the Unauthorized Disclosure has come to the attention of the Contractor. The Contractor shall take all necessary measures to halt any further Unauthorized Disclosures. The Contractor, at the sole discretion of the State, shall provide no cost credit monitoring services for individuals whose PII or PHI was affected by the Unauthorized Disclosure. The Contractor shall bear the cost of notification to all individuals affected by the Unauthorized Disclosure, including individual letters and public notice. The remedies set forth in this Section are not exclusive and are in addition to any claims or remedies available to this State under this Contract.
PVS-13	For all persons identified to have access to the Solution and data prior to execution of the contract and throughout the life of the agreement, the Contractor shall complete and submit the following: <ul style="list-style-type: none"> • AHCCCS Electronic Data Exchange Request Form • External User Affirmation Statement
For Solutions that will process, store, or transmit restricted or confidential data:	
PVS-14	The Contractor shall be subject to U.S. Federal laws and regulations protecting Personally Identifiable Information (PII).
PVS-15	As part of the proposal submission, the Contractor shall provide proof of compliance with all the following requirements, at the standards that are current for each requirement, and submit supporting information of compliance to AHCCCS, AND IF APPLICABLE MQD. Proof of compliance is subject to approval by AHCCCS, AND IF APPLICABLE MQD. In the situation of a conflicting requirement or standard, the more stringent requirement shall apply. <ul style="list-style-type: none"> • HIPAA Privacy and Security – specifically CFR Title 45 Public Welfare, Parts 155.260 and 164 – Security and Privacy. • Arizona security standards and policies set by ADOA/ASET.
For Solutions that will process, store, or transmit data from the Federal hub:	
PVS-16	As part of the proposal submission, the Contractor shall provide proof of compliance with all the following requirements, at the standards that are current for each requirement, and submit supporting information of compliance to AHCCCS, AND IF APPLICABLE MQD. Proof of compliance is subject to approval by AHCCCS, AND IF APPLICABLE MQD. In the situation of a conflicting requirement or standard, the more stringent requirement shall apply. <ul style="list-style-type: none"> • HIPAA Privacy and Security – specifically CFR Title 45 Public Welfare, Parts 155.260 and 164 – Security and Privacy. • Arizona security standards and policies set by ADOA/ASET. • All applicable ACA requirements and standards, including MARS-E.
PVS-17	The Contractor shall provide all MARS-E compliance documentation within the timeframes indicated in the Artifacts and Timelines document.

EXHIBIT C

SUPPLEMENTAL 270/271 DATA

The Contractor shall ensure it provides the proper content and file format for the request and response of the 270/271 enrollment verification process.

1. Variation between Managed Care Organization (MCO) enrollment and Fee for Service (FFS) in 271 data.

ENROLLMENT INFO if MCO	
EB{3{IND{30{HM{MERCY CARE PLAN	Enrolled HP with info of 'Health Benefit Plan Coverage' (no details)

Vs.

ENROLLMENT INFO if FFS	
EB{3{IND{1^2^33^35^45^47^82^86^88^93^98^AD^A F^AL^PT^BY^BZ^UC{MC{AMERICAN INDIAN HEALTH PLAN	Enrolled in an FFS segment and identifies the Service Codes covered (not all inclusive)

1.1. Behavioral Health Services (BHS) and Children's Rehabilitative Services (CRS) data are included in the 271 response.

1.2. Series of allowed parameter look-ups – search parameters – primary/alternate/optional.

1.3. The search criteria accepted for the AHCCCS 270 request are:

- AHCCCS ID and DOB,
- LAST NAME, DOB and SSN,
- AHCCCS ID, NAME and DOB,
- AHCCCS ID, LAST and FIRST NAME and DOB,
- LAST and FIRST NAME & DOB,
- LAST and FIRST NAME, DOB & SSN,
- LAST and FIRST NAME, DOB & MEDICARE CLAIM NUMBER.

1.4. Newborn data is included in the 271 response for the mother.

1.5. The following provider types are excluded from submitting Inquiries:

- DJ - Dept of Juvenile corrections,
- DN - DOC Non-pay provider,
- F1 - Fiscal Intermediaries,
- H2 - One Time only out of state,
- 45 - county Phase in,

EXHIBIT C

SUPPLEMENTAL 270/271 DATA

- 73 - Out-of-state ENC or 1 time FFS Prov,
- 91 - QMB only Recipient.

1.6. Due to linked records – it is possible to have multiple overlapping enrollments for the same time period (Primary record and Secondary record).

200 OD	H L	DEPENDENT LEVEL	When provider is requesting information about a mother's newborn child (DOB must be less than 12 months in past), this segment will be used by the provider to submit gender and DOB of newborn and the 2100C segments will provide the mother's demographic data. If found, the newborn data will be returned on the 271 as the subscriber and mother's data will not be returned. If newborn DOB is more than 12 months in the past, data in 271 will only be provided on mother.
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211 OC	E B	SUBSCRIBER ELIGIBILITY/ BENEFIT INFORMATIO N	<p>This segment will be repeated for each of the following benefit groupings:</p> <ul style="list-style-type: none"> ELIGIBLE (up to 20x) ENRLL FFS (up to 20x) ENROLL CAP (up to 20x) MDC PT D (up to 2x) MEDICARE HMO (up to 1x) MEDICARE (1x for each type) TPL (up to 2x) COPAY (up to 1x) SHARE OF COST (up to 20x) BHS (up to 3x) CRS (up to 1x) TSC (up to 1x) AZEIP (up to 1x)
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END OF SOLICITATION

Intentionally left blank.