CITY OF PHOENIX
Human Resources Department, Benefits Division
251 W. Washington St. 7th Floor
Phoenix, AZ 85003

REQUEST FOR PROPOSAL
RFP BEN 2018-01

Administrative Services Only (ASO)
for Medical and Vision Coverage

Procurement Officer
Leslie Dewar
Deputy Human Resources Director, Benefits & Wellness
602-262-6708
leslie.dewar@phoenix.gov
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1. DESCRIPTION – STATEMENT OF NEED:

The City of Phoenix invites confidential offers for bundled medical and vision services for City employees and retirees, for a five-year period (initial three-year term with the option for two, one-year extension options at the City’s discretion) commencing on January 1, 2019, in accordance with the specifications and provisions contained herein or the “Effective Date” which is upon award by City Council, conditioned upon signature and recording by the City Clerk’s department, as required by the Phoenix City Code, whichever is later.

1.1. This solicitation is available through Arizona Relay Service 7-1-1. Please call TTY 800-367-8939 for assistance.

1.2. Notwithstanding the foregoing, this Agreement will terminate upon the earliest occurrence: by reaching the end of the term including any extensions exercised, or termination pursuant to the provisions of this Agreement.

2. CITY’S VENDOR SELF-REGISTRATION AND NOTIFICATION:

Vendors must be registered in the City’s procurePHX Self-Registration System at https://www.phoenix.gov/financesite/Pages/EProc-help.aspx to respond to solicitations and access procurement information. The City may, at its sole discretion, reject any offer from an Offeror who has not registered.

3. SCHEDULE OF EVENTS:

<table>
<thead>
<tr>
<th>ACTIVITY</th>
<th>DATE</th>
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<tbody>
<tr>
<td>RFP is Issued</td>
<td>January 18, 2018</td>
</tr>
<tr>
<td>Pre-Offer Conference</td>
<td>January 22, 2018</td>
</tr>
<tr>
<td>Pre-Offer Conference Location</td>
<td>2PM AZ Time</td>
</tr>
<tr>
<td>Site Visit Date(s) and Location(s)</td>
<td>TBD if needed</td>
</tr>
<tr>
<td>Written Inquiries Due Date</td>
<td>January 24, 2018</td>
</tr>
<tr>
<td>Responses to written inquiries available</td>
<td>January 31, 2018</td>
</tr>
<tr>
<td>Offer Due Date</td>
<td>February 16, 2018 3:00 PM Arizona Time</td>
</tr>
<tr>
<td>Offer Submittal Location</td>
<td>• 2325 E. Camelback Rd, Ste 600, Phoenix AZ</td>
</tr>
<tr>
<td></td>
<td><a href="mailto:RFP.Phoenix@mercer.com">RFP.Phoenix@mercer.com</a></td>
</tr>
<tr>
<td>Finalist Interviews</td>
<td>Week of March 26, 2018</td>
</tr>
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</table>
The City reserves the right to change dates and/or locations as necessary.

4. PREPARATION OF OFFER:

4.1. All forms provided in the Submittal Section must be completed and submitted with the offer. The signed and completed Solicitation Disclosure form must be included or your offer may be deemed non-responsive.

4.2. It is permissible to copy Submittal forms if necessary. Erasures, interlineations, or other modifications of the offer must be initialed in original ink by the authorized person signing the offer. No offer will be altered, amended or withdrawn after the specified offer due date and time. The City is not responsible for Offeror’s errors or omissions.

4.3. All time periods stated as a number of days will be calendar days.

4.4. It is the responsibility of all Offerors to examine the entire solicitation and seek clarification of any requirement that may not be clear and to check all responses for accuracy before submitting an offer. Negligence in preparing an offer confers no right of withdrawal after due date and time. Offerors are strongly encouraged to:

4.5. Consider applicable laws and/or economic conditions that may affect cost, progress, performance, or furnishing of the products or services.

4.6. Study and carefully correlate Offeror’s knowledge and observations with the solicitation and other related data.

4.7. Promptly notify the City of all conflicts, errors, ambiguities, or discrepancies that Offeror has discovered in or between the solicitation and other related documents.

4.8. The City does not reimburse the cost of developing, presenting or providing any response to this solicitation. Offers submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner. The Offeror is responsible for all costs incurred in responding to this solicitation. All materials and documents submitted in response to this solicitation become the property of the City and will not be returned.

4.9. Offerors are reminded that the specifications stated in the solicitation are the minimum level required and that offers submitted must be for products or services that meet or exceed the minimum level of all features specifically listed in this solicitation. Offers offering less than any minimum specifications or criteria specified are not responsive and should not be submitted.

4.10. Offer responses submitted for products considered by the seller to be acceptable alternates to the brand names or manufacturer’s catalog references specified herein must be submitted with technical literature and/or detailed product brochures for the City’s use to evaluate the products offered. Offers submitted without this
product information may be considered as non-responsive and rejected. The City will be the sole judge as to the acceptability of alternate products offered.

4.11. Prices will be submitted on a per unit basis by line item, when applicable. In the event of a disparity between the unit price and extended price, the unit price will prevail unless obviously in error.

5. **OBTAINING A COPY OF THE SOLICITATION AND ADDENDA:**

   Attachments listed in the Table of Contents and data to support this RFP are available electronically via the Internet using [RFP.Phoenix@mercer.com](mailto:RFP.Phoenix@mercer.com).

   Interested Offerors may download the solicitation from https://www.phoenix.gov/solicitations. Internet access is available at all public libraries. Any interested offerors without internet access may obtain this solicitation by calling the Procurement Officer. It is the Offeror’s responsibility to check the website, read the entire solicitation, and verify all required information is submitted with their offer.

6. **EXCEPTIONS:**

   Offeror must not take any exceptions to any terms, conditions or material requirements of this solicitation. Offers submitted with exceptions may be deemed non-responsive and disqualified from further consideration in the City’s sole discretion. Offerors must conform to all of the requirements specified in the solicitation. The City encourages Offerors to send inquiries to the procurement officer rather than including exceptions in their Offer.

7. **INQUIRIES:**

   All questions that arise relating to this solicitation should be directed via email to the Procurement Officer and must be received by the due date indicated in the Schedule of Events. The City will not consider questions received after the deadline.

   No informal contact initiated by Offerors on the proposed service will be allowed with members of City’s staff from date of distribution of this solicitation until after the closing date and time for the submission of offers. All questions concerning or issues related to this solicitation must be presented in writing.

   The Consulting Firm and/or Procurement Officer will answer written inquiries in an addendum and publish any addendums on the Procurement Website.

8. **ADDENDA:**

   The City of Phoenix will not be responsible for any oral instructions made by any employees or officers of the City of Phoenix in regard to the offering instructions, plans, drawings,
specifications, or contract documents. Any changes to the plans, drawings and specifications will be in the form of an addendum. The Offeror must acknowledge receipt of any/all addenda by signing and returning the document with the offer submittal.

9. BUSINESS IN ARIZONA:

The City will not enter contracts with foreign corporations not granted authority to transact business, or not in good standing, in the state of Arizona by the Arizona Corporation Commission.

10. LICENSES:

If required by law for the operation of the business or work related to this Offer, Offeror must possess all valid certifications and/or licenses as required by federal, state or local laws at the time of submittal.

11. CERTIFICATION:

By signature in the offer section of the Offer and Acceptance page(s), Offeror certifies:

- The submission of the offer did not involve collusion or other anti-competitive practices.
- The Offeror must not discriminate against any employee, or applicant for employment in violation of Federal or State Law.
- 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.

12. SUBMISSION OF OFFER:

Late submissions will not be considered. RFP responses should be submitted electronically via RFP.Phoeinx@mercer.com. All Attachments are confidential and proprietary.

- A flash drive containing your Offer must also be submitted in a sealed envelope and the following information should be noted on the outside of the envelope:
  - Offeror’s Name
  - Offeror’s Address (as shown on the Certification Page)
  - Solicitation Number
  - Solicitation Title
13. WITHDRAWAL OF OFFER:

At any time prior to the solicitation due date and time, an Offeror (or designated representative) may withdraw the offer by submitting a request in writing and signed by a duly authorized representative.

14. OFFER RESULTS:

Offers and other information received in response to the solicitation will be shown only to authorized City personnel having a legitimate interest in them or persons assisting the City in the evaluation. Offers are not available for public inspection until after the City has posted the award recommendation on the City’s website.

Once the City has evaluated the offers, the City will post an award recommendation on the https://www.phoenix.gov/solicitations website. The City will not provide any further notification to unsuccessful Offerors.

15. PRE-AWARD QUALIFICATIONS:

15.1. Offeror must have been in operation a minimum of ten years. The Offeror’s normal business activity during the past ten years will have been for providing the goods or services in this solicitation. (This information must be provided in The Submittal section, Years in Business and Customer Reference Listing of this solicitation.)

15.2. Upon notification of an award the Offeror will have 30 calendar days to submit a complete certificate of insurance in the minimum amounts and the coverages as required in the Insurance Requirements of this solicitation. Insurance requirements are non-negotiable.

16. AWARD OF CONTRACT:

16.1. Award will be made to the responsive and qualified Offeror with the highest score as determined by a Selection Committee using a standardized scoring process.

16.2. Factors that may be considered by the City include:

- Capability and willingness of the Offeror to accomplish the scope of work required in the Solicitation to include:
- Adherence to City expectations including service, audit rights, and security and contracting requirements,
- Performance guarantees and at risk amounts for implementation, operational and clinical services,
- Vendor credits to support implementation, communication, wellness, education, and audit services,
- Comprehensive vendor integration capabilities,
- Executive sponsorship and strength of account management team, onsite resources, and implementation support,
- Strong analytic and reporting capabilities,
- Best in class member experience including customer care center, digital capabilities, communications, and plan design administration.

16.3. Notwithstanding any other provision of this solicitation, the City reserves the right to: (1) waive any immaterial defect or informality; or (2) reject any or all offers or portions thereof; or (3) reissue a solicitation.

16.4. A response to a solicitation is an offer to contract with the City based upon the terms, conditions, and specifications contained in the City's solicitation. Offers do not become contracts until they are executed by the Department Director. A contract has its inception in the award. For that reason, all of the terms, conditions and specifications of the procurement contract are contained in the solicitation, and in any addendum or contract amendment.

17. CITY'S RIGHT TO DISQUALIFY FOR CONFLICT OF INTEREST:

The City reserves the right to disqualify any Offeror based on any real or apparent conflict of interest that is disclosed by the offer submitted or any other data available to the City. This disqualification is at the sole discretion of the City. Any Offeror submitting an offer herein waives any right to object now or at any future time, before any agency or body, including but not limited to, the City Council of the City of Phoenix or any court.

18. SOLICITATION TRANSPARENCY POLICY:

18.1. Commencing on the date and time a solicitation is published, potential or actual offerors or respondents(including their representatives) shall only discuss matters associated with the solicitation with the Mayor, any members of City Council, the City Manager, any Deputy City Manager, or any department director directly associated with the solicitation (including in each case their assigned staff, except for the designated procurement officer) at a public meeting, posted under Arizona Statutes, until the resulting contract(s) are awarded to all offers or responses are rejected and the solicitation is cancelled without any announcement by the Procurement Officer of the City's intent to reissue the same or similar solicitation.
18.2. As long as the solicitation is not discussed, Offerors may continue to conduct business with the City and discuss business that is unrelated to the solicitation with the City staff. Offerors may not discuss the solicitation with any City employees or evaluation panel members.

18.3. Offerors may discuss their proposal or the solicitation with the Mayor or one or more members of the Phoenix City Council, provided such meetings are scheduled through the Procurement Officer, and are posted as open meetings with the City Clerk at least 24 hours prior to the scheduled meetings. The City Clerk will be responsible for posting the meetings. The posted notice shall identify the participants and the subject matter, as well as invite the public to participate.

18.4. With respect to the selection of the successful Offerors, the City Manager and/or City Manager's Office will continue the past practice of exerting no undue influence on the process. In all solicitations of bids and proposals, any direction on the selection from the City Manager and/or City Manager's Office and Department Head (or representative) to the proposal review panel or selecting authority must be provided in writing to all prospective Offerors.

18.5. This policy is intended to create a level playing field for all Offerors, assure that contracts are awarded in public, and protect the integrity of the selection process. OFFERORS THAT VIOLATE THIS POLICY SHALL BE DISQUALIFIED. After official Notice is received by the City for disqualification, the Offeror may follow the Protest process, unless the Solicitation is cancelled without notice of intent to re-issue.

18.6. “To discuss” means any contact by the Offeror, regardless of whether the City responds to the contact. Offerors that violate this policy shall be disqualified until the resulting contract(s) are awarded, or all offers or responses are rejected and the solicitation is cancelled without any announcement by the Procurement Officer of the City’s intent to reissue the same or a similar solicitation. The City interprets the policy as continuing through a cancellation of a solicitation until Council award of the contract, as long as the City cancels with a statement that the City will rebid the solicitation.

19. PROTEST PROCESS:

19.1. Offeror may protest the contents of a solicitation no later than seven days before the solicitation deadline when the protest is based on an apparent alleged mistake, impropriety or defect in the solicitation. Protests filed regarding the solicitation may be addressed by an amendment to the solicitation or denied by the City. If denied, the opening and award will proceed unless the City determines that it is in the City’s best interests to set new deadlines, amend the solicitation, cancel or re-bid.

19.2. Therefore, unless otherwise notified by a formal amendment, the Protester must adhere to all solicitation dates and deadlines, including timely filing of an offer, regardless of filing a protest.
19.3. Offeror may protest an adverse determination issued by the City regarding responsibility and responsiveness, within seven days of the date the Offeror was notified of the adverse determination.

19.4. Offeror may protest an award recommendation if the Offeror can establish that it had a substantial chance of being awarded the contract and will be harmed by the recommended award. The City will post recommendations to award the contract(s) to a particular Offeror on the City’s website. Offeror must submit award protests within seven days after the posting of the award recommendation, with exceptions only for good cause shown, within the City’s full and final discretion.

19.5. All protests will be in writing, filed with the Procurement Officer identified in the solicitation and include the following:

19.5.1. Identification of the solicitation number;

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

19.5.3. A detailed statement describing the legal and factual grounds for the protest, including copies of relevant documents;

19.5.4. The form of relief requested; and

19.5.5. The signature of the protester or its authorized representative.

19.6. The Procurement Officer will render a written decision within a reasonable period of time after the protest is filed. The City will not request City Council authorization to award the contract until the protest process is complete. All protests and appeals must be submitted in accordance with the City’s Procurement Code, (Phoenix City Code, Ch. 43), and administrative regulation 3.10 and any protests or appeals not submitted within the time requirements will not be considered. Protests must be filed with the Procurement Officer.

20. PUBLIC RECORD:

All Offers submitted in response to this solicitation will become the property of the City and become a matter of public record available for review pursuant to Arizona State law. If an Offeror believes that a specific section of its Offer response is confidential, the Offeror will isolate the pages marked confidential in a specific and clearly labeled section of its Offer response. An Offeror may request specific information contained within its Offer is treated by the Procurement Officer as confidential provided the Offeror clearly labels the information “confidential.” To the extent necessary for the evaluation process, information marked as “confidential” will not be treated as confidential. Once the procurement file becomes available for public inspection, the Procurement Officer will not make any information identified by the Offerors as “confidential” available to the public unless necessary to support the evaluation process or if specifically requested in accordance with applicable public records law. When a public records request for such information is received, the Procurement Officer will notify the Offeror in writing of any request to view
any portion of its Offer marked “confidential” or “proprietary.” The Offeror will have the time set forth in the notice to obtain a court order enjoining such disclosure. If the Offeror does not provide the Procurement Officer with a court order enjoining release of the information during the designated time, the Procurement Officer will make the information requested available for inspection.

21. LATE OFFERS:

Late Offers Late Offers must be rejected, except for good cause. If a late Offer is submitted, the Department will document the date and time of the submittal of the late Offer, keep the Offer and notify the Offeror that its Offer was disqualified for being late.

22. RIGHT TO DISQUALIFY:

The City reserves the right to disqualify any Offeror who fails to provide information or data requested or who provides materially inaccurate or misleading information or data. The City further reserves the right to disqualify any Offeror on the basis of any real or apparent conflict of interest that is disclosed by the Offeror submitted or any other data or information available to the City. This disqualification is at the sole discretion of the City. By submission of a solicitation response, the Offeror waives any right to object now or at any future time, before any agency or body including, but not limited to, the City Council of the City or any court as to the exercise by the City of such right to disqualify or as to any disqualification by reason of real or apparent conflict of interest determined by the City. The City reserves the right to replace the disqualified Offeror.

23. CONTRACT AWARD:

The City reserves the right to award a contract in the way most advantageous to the City. The City reserves the right to multiple awards.

24. DETERMINING RESPONSIVENESS AND RESPONSIBILITY:

Offers will be reviewed for documentation of any required minimum qualifications, and completeness and compliance with the solicitation requirements. The City reserves sole discretion to determine responsiveness and responsibility.

Responsiveness: Nonresponsive Offers will not be considered in the evaluation process. The solicitation states criteria that determine responsiveness, and the solicitation includes terms and conditions that if included or excluded from Offers (as the case may be) will render an Offer nonresponsive.

Responsibility: To obtain true economy, the City must conduct solicitations to minimize the possibility of a subsequent default by the Offeror, late deliveries, or other unsatisfactory
performance that may result in additional administrative costs. It is important that the Offeror be a responsible Offeror. Responsibility includes the Offeror’s integrity, skill, capacity, experience, and facilities for conducting the work to be performed.

25. **EVALUATION OF COMPETITIVE SEALED OFFERS:**
   - The City will use its discretion in applying the following processes to this solicitation. Any ties in scoring will be resolved with a best and final price request and the lowest price will prevail.

   Qualifications and Experience – 250 points
   Method of Approach – 500 points
   Pricing – 250 points

26. **DETERMINING RESPONSIVENESS AND RESPONSIBILITY:**

   26.1. Offers will be reviewed for documentation of minimum qualifications, completeness, and compliance with the Solicitation requirements. The City reserves sole discretion to determine responsiveness and responsibility.

   26.2. Responsiveness: Nonresponsive Offers will not be considered in the evaluation process. The solicitation states criteria that determine responsiveness, and the solicitation includes terms and conditions that if included or excluded from Offers (as the case may be) will render an Offer nonresponsive.

   26.3. Exceptions, conditions, reservations, or understandings are presumed to be unacceptable, and an Offer that includes unacceptable exceptions, conditions, reservations, or understandings may be rejected as nonresponsive. Alternatively, the City in its sole discretion may instruct in writing that any Offeror remove the conditions, exceptions, reservations or understandings. If the Offeror fails to do so in writing, the City may determine the Offer to be nonresponsive.

   26.4. Responsibility: To obtain true economy, the City must conduct solicitations to minimize the possibility of a subsequent default by the contractor, late deliveries, or other unsatisfactory performance that may result in additional administrative costs. It is important that the Offeror be a responsible contractor. Responsibility includes the Offeror’s integrity, skill, capacity, experience, and facilities for conducting the work to be performed.

   26.5. The Procurement Officer, in consultation with legal counsel, will review each Offer to determine if the Offeror is responsible. The City’s determination as to whether an Offeror is responsible will be based on the information furnished by the Offeror, interviews (if any), any information at the City’s request, information in any best and final offer, and information received from Offeror’s references, including information about Offeror’s history, terminations for convenience or cause, contract breach lawsuits or notices of claim and any other sources the City deems appropriate. Award of the Contract resulting from the
Solicitation will not be made until any necessary investigation, which each Offeror agrees to permit by submitting its Offer, is made by the City as it deems necessary. A review of responsibility may occur up to contract award.

26.6. The Offeror’s unreasonable failure to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for a determination of non-responsibility with respect to such Offeror.

27. DETAILED EVALUATION OF OFFERS AND DETERMINATION OF COMPETITIVE RANGE:

During deliberations, the Evaluation Panel will reach a consensus score for each evaluation criterion except price. The Procurement Officer will score the price, which will be added to the overall consensus score. The overall consensus scores will determine the Offerors’ rankings and which Offers are within the Competitive Range, when appropriate.

28. OFFERS NOT WITHIN THE COMPETITIVE RANGE:

The City may notify Offerors of Offers that the City determined are not in the Competitive Range.

29. DISCUSSIONS WITH OFFERORS IN THE COMPETITIVE RANGE:

29.1. The top finalists may be interviewed by the City’s selection committee and asked to respond to questions or provide clarification for any facet of their Offer.

29.2. Demonstrations - each finalist may prepare and deliver a presentation of their proposed solution based on the script developed by the evaluation panel. The City may also require a hands-on lab demonstration designed specifically for the evaluation panel. The results of the surveys will be tabulated and delivered to the evaluation team for the final review and solution selection session(s).

29.3. If an Offer in the Competitive Range contains conditions, exceptions, reservations or understandings to or about any Contract or Solicitation requirement, the City may discuss or negotiate the conditions, exceptions, reservations or understandings during these meetings. But the City in its sole discretion may reject any and all conditions, exceptions, reservations and understandings, and the City may instruct any Offeror to remove the conditions, exceptions, reservations or understandings. If the Offeror fails to do so, the City may determine the Offer is nonresponsive, and the City may revoke its determination that the Offer is in the Competitive Range.

29.4. To the fullest extent permitted by law, the City will not provide any information, financial or otherwise, to any Offeror about other Offers received in response to this solicitation. During discussions with Offerors in the Competitive Range, the City will not give Offerors specific prices or specific financial requirements that
Offerors must meet to qualify for further consideration. The City may state that proposed prices are too high with respect to the marketplace or otherwise unacceptable. Offerors will not be told of their relative rankings before Contract award.

30. BEST AND FINAL OFFERS (BAFO):

30.1. A BAFO is an option available for negotiations. Each Offeror in the Competitive Range, which is determined in the City’s sole discretion, may be afforded the opportunity to amend its Offer and make one BAFO.

30.2. If an Offeror’s BAFO modifies its initial Offer, the modifications must be identified in the BAFO. The City will evaluate BAFOs based on the same requirements and criteria applicable to initial Offers. The City will adjust appropriately the initial scores for criteria that have been affected by Offer modifications made by a BAFO. Based on the criteria defined in the solicitation as weighted, the City will then perform final scoring and prepare final rankings.

30.3. The Evaluation Panel will recommend the Offer that is the best value and most advantageous to the City based on the evaluation criteria.

30.4. The City reserves the right to make an award to an Offeror whose Offer is the highest rated, best value, and most advantageous to the City based on the evaluation criteria, without conducting written or oral discussions with any Offeror, without negotiations, and without soliciting BAFOs.
SECTION II – STANDARD TERMS AND CONDITIONS

1. DEFINITION OF KEY WORDS USED IN THE SOLICITATION:

Shall, Will, Must: Indicates a mandatory requirement. Failure to meet these mandatory requirements may result in the rejection of Offer as non-responsive.

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

May: Indicates something that is not mandatory but permissible.

For purposes of this solicitation, the following definitions will apply:

“A.R.S.” Arizona Revised Statute

“Buyer” or “Procurement Officer” City of Phoenix staff person responsible for the solicitation. The City employee or employees who have specifically been designated to act as a contact person or persons to the Contractor, and responsible for monitoring and overseeing the Contractor's performance under this contract.

"City" The City of Phoenix

"Contractor" The individual, partnership, or corporation who, as a result of the competitive process, is awarded a contract by the City of Phoenix.

"Contract” or “Agreement" The legal agreement executed between the City of Phoenix, AZ and the Contractor.

“Days” Means calendar days unless otherwise specified.
“Employer” Any individual or type of organization that transacts business in this state, that has a license issued by an agency in this state and employs one or more employees in this state. Employer includes this state, any political subdivision of this state and self-employed persons. In the case of an independent contractor, employer means the independent contractor and does not mean the person or organization that uses contract labor. (A.R.S. 23-211).

“Offer” Means a response from a supplier, contractor or service provider to a solicitation request that, if awarded, binds the supplier, contractor or service provider to perform in accordance with the contract. Same as Offer, proposal, quotation or tender.

“Offeror” Any Vendor, Seller or Supplier submitting a competitive offer in response to a solicitation from the City. Same as Bidder or Proposer.

“Solicitation” Means an Invitation for Offer (IFB), Request for Proposal (RFP), Request for Quotations (RFQ), Request for Qualifications (RFQu) and request for sealed Offers, or any other type of formal procurement which the City makes public through advertising, mailings, or some other method of communication. It is the process by which the City seeks information, proposals, Offers or quotes from suppliers.

“Suppliers” Firms, entities or individuals furnishing goods or services to the City.

“Vendor or Seller” A seller of goods or services.

2. CONTRACT INTERPRETATION:

2.1. APPLICABLE LAW: This Contract will be governed by the law of the State of Arizona, and suits pertaining to this Contract will be brought only in Federal or State courts in Maricopa County, State of Arizona.
2.2. **CONTRACT ORDER OF PRECEDENCE:** In the event of a conflict in the provisions of the Contract, as accepted by the City and as they may be amended, the following will prevail in the order set forth below:

2.2.1. Special terms and conditions
2.2.2. Standard terms and conditions
2.2.3. Amendments
2.2.4. Statement or scope of work
2.2.5. Specifications
2.2.6. Attachments
2.2.7. Exhibits
2.2.8. Instructions to Contractors
2.2.9. Other documents referenced or included in the Invitation for Offer

2.3. **ORGANIZATION – EMPLOYMENT DISCLAIMER:** The Agreement resulting hereunder is not intended to constitute, create, give rise to or otherwise recognize a joint venture agreement or relationship, partnership or formal business organization of any kind, and the rights and obligations of the parties will be only those expressly set forth in the agreement. The parties agree that no persons supplied by the Contractor in the performance of Contractor’s obligations under the agreement are considered to be City’s employees and that no rights of City civil service, retirement or personnel rules accrue to such persons. The Contractor will have total responsibility for all salaries, wage bonuses, retirement, withholdings, workmen’s compensation, occupational disease compensation, unemployment compensation, other employee benefits and all taxes and premiums appurtenant thereto concerning such persons, and will save and hold the City harmless with respect thereto.

2.4. **SEVERABILITY:** The provisions of this Contract are severable to the extent that any provision or application held to be invalid will not affect any other provision or application of the contract which may remain in effect without the invalid provision or application.

2.5. **NON-WAIVER OF LIABILITY:** The City of Phoenix as a public entity supported by tax monies, in execution of its public trust, cannot agree to waive any lawful or legitimate right to recover monies lawfully due it. Therefore, any Contractor agrees that it will not insist upon or demand any statement whereby the City agrees to limit in advance or waive any right the City might have to recover actual lawful damages in any court of law under applicable Arizona law.
2.6. **PAROL EVIDENCE:** This Agreement is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of this agreement. No course of prior dealings between the parties and no usage in the trade will be relevant to supplement or explain any term used in this Contract. Acceptance or acquiescence in a course of performance rendered under this contract will not be relevant to determine the meaning of this Contract even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to object.

3. **CONTRACT ADMINISTRATION AND OPERATION:**

3.1. **RECORDS:** All books, accounts, reports, files and other records relating to the contract will be subject at all reasonable times to inspection and audit by the City for five years after completion of the contract. Such records will be produced at a City of Phoenix office as designated by the City.

3.2. **CONFIDENTIALITY AND DATA SECURITY:**

3.2.1. All data, regardless of form, including originals, images and reproductions, prepared by, obtained by, or transmitted to Contractor or its subcontractors in connection with this Agreement is confidential, proprietary information owned by the City. Except as specifically provided in this Agreement, the Contractor and its subcontractors will not disclose data generated in the performance of the service to any third person without the prior written consent of the City Manager, or his/her designee. Personal identifying information, financial account information, or restricted City information, whether electronic format or hard copy, must be secured and protected at all times, in accordance with federal, state and local law and, if applicable, in compliance with Payment Card Industry Data Security Standards, to avoid unauthorized access. At a minimum, Contractor must encrypt and/or password protect electronic files. This includes data saved to laptop computers, computerized devices or removable storage devices.

3.2.2. When personal identifying information, financial account information, or restricted City information, regardless of its format, is no longer necessary, the information must be redacted or destroyed through appropriate and secure methods that ensure the information cannot be viewed, accessed or reconstructed.

3.2.3. In the event that data collected or obtained by the Contractor in connection with this Agreement is believed to have been compromised, Contractor will notify the Department's Deputy Chief Information Officer immediately. Contractor agrees to reimburse the City for any costs incurred by the City to investigate potential breaches of this data and,
where applicable, the cost of notifying individuals who may be impacted by the breach.

3.2.4. Contractor agrees that the requirements of this section will be incorporated into all subcontractor agreements entered into by the Contractor. It is further agreed that a violation of this section will be deemed to cause irreparable harm justifies injunctive relief in court. A violation of this section may result in immediate termination of this agreement without notice.

3.2.5. The obligations of Contractor under this section will survive the termination of this Agreement

3.3. DISCRIMINATION PROHIBITED: Contractor agrees to abide by the provisions of the Phoenix City Code Chapter 18, Article V as amended.

Any contractor, in performing under this contract, will not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age or disability nor otherwise commit an unfair employment practice. The supplier and/or lessee will take action to ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, or national origin, age or disability and adhere to a policy to pay equal compensation to men and women who perform jobs that require substantially equal skill, effort and responsibility, and that are performed within the same establishment under similar working conditions. Such action will include but not be limited to the following: Employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training; including apprenticeship. The supplier further agrees that this clause will be incorporated in all subcontracts with all labor organizations furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this contract. Contractor further agrees that this clause will be incorporated in all subcontracts, job-contractor agreements or subleases of this agreement entered into by supplier/lessee.

3.4. EQUAL EMPLOYMENT OPPORTUNITY AND PAY: In order to do business with the City, Contractor must comply with Phoenix City Code, 1969, Chapter 18, Article V, as amended, Equal Employment Opportunity Requirements. Contractor will direct any questions in regard to these requirements to the Equal Opportunity Department, (602) 262-6790.

For a Contractor with 35 employees or fewer: Contractor in performing under this Agreement shall not discriminate against any worker, employee or applicant, or
any member of the public, because of race, color, religion, sex, national origin, age, or disability, nor otherwise commit an unfair employment practice. The Contractor will ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, national origin, age, or disability. Such action shall include but not be limited to the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training; including apprenticeship. The Contractor further agrees that this clause will be incorporated in all subcontracts related to this Agreement that involve furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this Agreement. Contractor further agrees that this clause will be incorporated in all subcontracts, Contractor agreements or subleases of this agreement entered into by supplier/lessee.

For a Contractor with **more than 35 employees:** Contractor in performing under this Agreement shall not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age, or disability, nor otherwise commit an unfair employment practice. The Contractor will ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, national origin, age, or disability, and shall adhere to a policy to pay equal compensation to men and women who perform jobs that require substantially equal skill, effort, and responsibility, and that are performed within the same establishment under similar working conditions. Such action shall include but not be limited to the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training; including apprenticeship. The Contractor further agrees that this clause will be incorporated in all subcontracts with all labor organizations furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this contract. Contractor further agrees that this clause will be incorporated in all subcontracts, job-Contractor agreements or subleases of this Agreement entered into by supplier/lessee. The Contractor further agrees not to discriminate against any worker, employee or applicant, or any member of the public, because of sexual orientation or gender identity or expression and shall ensure that applicants are employed, and employees are dealt with during employment without regard to their sexual orientation or gender identity or expression.

3.4.3 Documentation: Suppliers and lessees may be required to provide additional documentation to the Equal Opportunity Department affirming that a nondiscriminatory policy is being utilized.
3.4.4 Monitoring: The Equal Opportunity Department shall monitor the employment policies and practices of suppliers and lessees subject to this article as deemed necessary. The Equal Opportunity Department is authorized to conduct on-site compliance reviews of selected firms, which may include an audit of personnel and payroll records, if necessary.

3.5. **LEGAL WORKER REQUIREMENTS:** The City of Phoenix is prohibited by A.R.S. § 41-4401 from awarding a contract to any Contractor who fails, or whose subcontractors fail, to comply with A.R.S. § 23-214(A). Therefore, Contractor agrees that:

3.5.1. Contractor and each subcontractor it uses warrants their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with A.R.S. § 23-214, subsection A.

3.5.2. A breach of a warranty under paragraph 1 will be deemed a material breach of the contract that is subject to penalties up to and including termination of the contract.

3.5.3. The City of Phoenix retains the legal right to inspect the papers of any Contractor or subcontractor employee who works on the contract to ensure that the Contractor or subcontractor is complying with the warranty under paragraph 1.

3.6. **LICENSES AND PERMITS:** Contractor will keep current Federal, State, and local licenses and permits required for the operation of the business conducted by the Contractor as applicable to this contract.

3.7. **ADVERTISING:** Contractor will not advertise or publish news releases concerning this contract without the prior written consent of the Deputy Finance Director, and the City will not unreasonably withhold permission.

3.8. **EXCLUSIVE POSSESSION:** All services, information, computer program elements, reports, and other deliverables which may be created under this contract are the sole property of the City of Phoenix and will not be used or released by the Contractor or any other person except with prior written permission by the City.

3.9. **HEALTH, ENVIRONMENTAL AND SAFETY REQUIREMENTS:** The Contractor’s products, services and facilities will be in full compliance with all applicable Federal, State and local health, environmental and safety laws, regulations, standards, codes and ordinances, regardless of whether or not they are referred to by the City.

At the request of City representatives, the Contractor will provide the City:

3.9.1. Environmental, safety and health regulatory compliance documents (written safety programs, training records, permits, etc.) applicable to services provided by the Contractor in this contract.
3.9.2. A list of all federal, state, or local (EPA, OSHA, Maricopa County, etc.) citations or notice of violations issued against their firm or their subcontractors including dates, reasons, dispositions and resolutions.

The City will have the right to inspect operations conducted by the Contractor or subcontractor in the performance of this agreement. The City further reserves the right to make unannounced inspections of the Contractor’s facilities (during normal business hours).

3.10. COMPLIANCE WITH LAWS: Contractor agrees to fully observe and comply with all applicable Federal, State and local laws, regulations, standards, codes and ordinances when performing under this Contract regardless of whether they are being referred to by the City. Contractor agrees to permit City inspection of Contractor’s business records, including personnel records to verify any such compliance.

Because the contractor will be acting as an independent contractor, the City assumes no responsibility for the Contractor’s acts.

3.11. LAWFUL PRESENCE REQUIREMENT: Pursuant to A.R.S. §§ 1-501 and 1-502, the City of Phoenix is prohibited from awarding a contract to any natural person who cannot establish that he or she is lawfully present in the United States. In order to establish lawful presence, this person must produce qualifying identification and sign a City-provided affidavit affirming that the identification provided is genuine. This requirement will be imposed at the time of contract award. In the event the prevailing responder is unable to satisfy this requirement, the City will offer the award to the next-highest scoring responder. The law does not apply to fictitious entities such as corporations, partnerships and limited liability companies.

3.12. NO ISRAEL BOYCOTT: By entering into this contract, the Contractor certifies that they are not currently engaged in, and agrees for the duration of the contract to not engage in, a boycott of Israel.

3.13. CONTINUATION DURING DISPUTES: Contractor agrees that notwithstanding the existence of any dispute between the parties, insofar as is possible, under the terms of the contract, the Contractor will continue to perform the obligations required of Contractor during the continuation of any such dispute unless enjoined or prohibited by an Arizona Court of competent jurisdiction.

3.14. EMERGENCY PURCHASES: The City reserves the right to purchase from other sources those items which are required on an emergency basis and cannot be supplied immediately from stock by the Contractor.
3.15. **STRICT PERFORMANCE:** Failure of either party to insist upon the strict performance of any item or condition of the contract or to exercise or delay the exercise of any right or remedy provided in the contract, or by law, or the acceptance of materials or services, obligations imposed by this contract or by law will not be deemed a waiver of any right of either party to insist upon the strict performance of the contract.

4. **COSTS AND PAYMENTS:**

4.1. **GENERAL:** Any prompt payment terms offered must be clearly noted by the Contractor on all invoices submitted to the City for the payment of goods or services received. The City will make every effort to process payment for the purchase of material or services within thirty to forty-five calendar days after receipt of a correct and complete invoice, unless a good faith dispute exists to any obligation to pay all or a portion of the account. Payment terms are specified in the Offer.

4.2. **PAYMENT DEDUCTION OFFSET PROVISION:** Contractor acknowledges that the City Charter requires that no payment be made to any Contractor as long as there is an outstanding obligation due to the City. Contractor agrees that any obligation it owes to the City will be offset against any payment due to the Contractor from the City.

4.3. **LATE SUBMISSION OF CLAIM BY CONTRACTOR:** The City will not honor any invoices or claims which are tendered one year after the last item of the account accrued.

4.4. **NO ADVANCE PAYMENTS:** Advance payments are not authorized. Payment will be made only for actual services that have been received.

4.5. **FUND APPROPRIATION CONTINGENCY:** The Vendor recognizes that any agreement entered into will commence upon the day first provided and continue in full force and effect until termination in accordance with its provisions. The Vendor and the City herein recognize that the continuation of any contract after the close of any given fiscal year of the City, which ends on June 30th of each year, will be subject to the approval of the budget of the City providing for or covering such contract item as an expenditure therein. The City does not represent that said budget item will be actually adopted, said determination being the determination of the City Council at the time of the adoption of the budget.

4.6. **MAXIMUM PRICES:** The City will not be invoiced at prices higher than those stated in any contract resulting from this Offer. Contractor certifies, by signing this Offer that the prices offered are no higher than the lowest price the Contractor charges other buyers for similar quantities under similar conditions. Contractor further agrees that any reductions in the price of the goods or services covered by this Offer and occurring after award will apply to the undelivered balance. The Contractor will promptly notify the City of such price reductions.
5. **CONTRACT CHANGES:**

   5.1. **CONTRACT AMENDMENTS:** Contracts will be modified only by a written contract amendment signed by persons duly authorized to enter into contracts on behalf of the Contractor. No verbal agreement or conversation with any officer, agent, or employee of the City either before or after execution of the contract, will affect or modify any of the terms or obligations contained or to be contained in the contract. Any such verbal agreements or conversation shall be considered as unofficial information and in no way binding upon the City or the Contractor. All agreements shall be in writing and contract changes shall be by written amendment signed by both parties.

   5.2. **ASSIGNMENT - DELEGATION:** No right or interest in this contract nor monies due hereunder will be assigned in whole or in part without written permission of the City, and no delegation of any duty of Contractor will be made without prior written permission of the City, which may be withheld for good cause. Any assignment or delegation made in violation of this section will be void.

6. **RISK OF LOSS AND LIABILITY:**

   6.1. **FORCE MAJEURE:** Except for payment of sums due, neither party will be liable to the other nor deemed in default under this contract if and to the extent that such party's performance of this contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Force majeure will not include late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition.

   If either party is delayed at any time in the progress of the work by force majeure, the delayed party will notify the other party in writing of such delay, as soon as is practical, of the commencement thereof and will specify the causes of such delay in such notice. Such notice will be hand-delivered or mailed certified-return receipt and will make a specific reference to this provision, thereby invoking its provisions. The delayed party will cause such delay to cease as soon as practicable and will notify the other party in writing when it has done so. The time of completion will be extended by contract modification for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this contract.

   6.2. **CONTRACT PERFORMANCE:** The City's authorized representative will decide all questions which may arise as to the quality and acceptability of any work performed under the contract. If, in the opinion of the City's authorized representative, performance becomes unsatisfactory, the City will notify the Contractor.
The Contractor will have 30 days from that time to correct any specific instances of unsatisfactory performance, unless a different amount of time is specified in the agreement.

7. CITY’S CONTRACTUAL RIGHTS:

7.1. Whenever one party to this contract in good faith has reason to question the other party's intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made and no written assurance is given within five days, the demanding party may treat this failure as an anticipatory repudiation of this contract.

7.2. NON-EXCLUSIVE REMEDIES: The rights and remedies of the City under this Contract are non-exclusive.

7.3. DEFAULT IN ONE INSTALLMENT TO CONSTITUTE BREACH: Each installment or lot of the agreement is dependent on every other installment or lot and a delivery of non-conforming goods or a default of any nature under one installment or lot will impair the value of the whole agreement and constitutes a total breach of the agreement as a whole.

7.4. COVENANT AGAINST CONTINGENT FEES: Seller warrants that no person or selling agent has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employers or bona fide established commercial or selling agencies maintained by the seller for the purpose of securing business. For breach or violation of this warranty, the City will have the right to annul the contract without liability or in its discretion to deduct from the contract price a consideration, or otherwise recover the full amount of such commission, brokerage or contingent fee.

7.5. COST JUSTIFICATION: In the event only one response is received, the City may require that the Contractor submit a cost proposal in sufficient detail for the City to perform a cost/price analysis to determine if the Offer price is fair and reasonable.

7.6. WORK PRODUCT, EQUIPMENT AND MATERIALS: All work product, equipment, or materials created or purchased under this contract belongs to the City and must be delivered to the City at City’s request upon termination of this contract. Contractor agrees that all materials prepared under this contract are “works for hire” within the meaning of the copyright laws of the United States and assigns to City all rights and interests Contractor may have in the materials it prepares under this contract, including any right to derivative use of the material.

8. CONTRACT TERMINATION:

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

8.2. CONDITIONS AND CAUSES FOR TERMINATION:

8.2.1 This contract may be terminated at any time by mutual written consent, or by the City, with or without cause, upon giving 90-days written notice to Contractor. The City at its convenience, by written notice, may terminate this contract, in whole or in part. If this contract is terminated, the City will be liable only for payment under the payment provisions of this contract for services rendered and accepted material received by the City before the effective date of termination. Title to all materials, work-in-process and completed but undeliverable goods, will pass to the City after costs are claimed and allowed. The Seller will submit detailed cost claims in an acceptable manner and will permit the City to examine such books and records as may be necessary to verify the reasonableness of any claims.

8.2.2 The City reserves the right to cancel the whole or any part of this contract due to failure of Contractor to carry out any term, promise, or condition of the contract. The City will issue a written notice of default to Contractor for acting or failing to act as in any of the following:

- In the opinion of the City, Contractor provides personnel who do not meet the requirements of the contract;
- In the opinion of the City, Contractor fails to perform adequately the stipulations, conditions or services/specifications required in this contract;
- In the opinion of the City, Contractor attempts to impose on the City personnel or materials, products or workmanship, which is of an unacceptable quality.
- Contractor fails to furnish the required service and/or product within the time stipulated in the contract;
- In the opinion of the City, Contractor fails to make progress in the performance of the requirements of the contract and/or give the City a positive indication that Contractor will not or cannot perform to the requirements of the contract.

8.3. CONTRACT CANCELLATION: All parties acknowledge that this contract is subject to cancellation by the City of Phoenix pursuant to the provision of Section 38-511, Arizona Revised Statutes.
9. **STATE AND LOCAL TRANSACTION PRIVILEGE TAXES:**

In accordance with applicable state and local law, transaction privilege taxes may be applicable to this transaction. The state and local transaction privilege (sales) tax burden is on the person who is conducting business in Arizona and the City of Phoenix. The legal liability to remit the tax is on the person conducting business in Arizona. Any failure by the Contractor to collect applicable taxes from the City shall not relieve the Contractor from its obligation to remit taxes. It is the responsibility of the prospective bidder to determine any applicable taxes. The City will look at the price or offer submitted and will not deduct, add or alter pricing based on speculation or application of any taxes, nor will the City provide advice or guidance. If you have questions regarding your tax liability, please seek advice from a tax professional prior to submitting your bid. You may also find information at Phoenix Tax Division or State of AZ Department of Revenue. Once your bid is submitted, the Offer is valid for the time specified in this Solicitation, regardless of mistake or omission of tax liability. If the City finds over payment of a project due to tax consideration that was not due, the Contractor will be liable to the City for that amount, and by contracting with the City agrees to remit any overpayments back to the City for miscalculations on taxes included in a bid price.

10. **TAX INDEMNIFICATION:**

Contractor shall, and require the same of all subcontractors, pay all federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require the same of all subcontractors, hold the City 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.

11. **TAX RESPONSIBILITY QUALIFICATION:**

Contractor may be required to establish, to the satisfaction of City, that any and all fees and taxes due to the City or the State of Arizona for any License or Transaction Privilege taxes, Use taxes or similar excise taxes, are currently paid (except for matters under legal protest). Contractor agrees to a waiver of the confidentiality provisions contained in the City Finance Code and any similar confidentiality provisions contained in Arizona statutes relative to State Transaction Privilege Taxes or Use Taxes. Contractor agrees to provide written authorization to the City Finance Department and to the Arizona State Department of Revenue to release tax information relative to Arizona Transaction Privilege Taxes or Arizona Use Taxes in order to assist the Department in evaluating Contractor’s qualifications for and compliance with contract for duration of the term of contract.
SECTION III – SPECIAL TERMS & CONDITIONS

PRICE AND DISCOUNTS:

During the initial term and subsequent renewal periods, negotiated pricing terms (all discounts, rebates, fees) will not change in a way that is viewed as a negative change, with negative financial implications, for the City. On an annual basis, the City or its representative may review the financial terms of this agreement to comparable financial offerings available in the marketplace.

PRICE:

All prices submitted shall be firm and fixed for the initial three year contract period. Thereafter, price adjustments will be considered annually provided the adjustments are submitted in writing with thirty days’ advance notice. Requests shall be accompanied with written documentation from the manufacturer confirming the price increase. The City will be the sole judge in determining the allowable increase amount. Price adjustment requests shall be sent to the procurement officer at the address on the front page of the solicitation, referencing the solicitation #. Price increases agreed to by any staff other than Deputy Finance Director or Department Director are invalid. The contractor acknowledges and agrees that it will repay all monies paid as a result of a requested price increase unless the price increase was specifically approved in writing by the Procurement Officer or Department Director.

1.1. PRICE: Prices submitted shall be firm and fixed for the initial three year contract period. Thereafter, price adjustments will be considered annually provided the adjustments are submitted in writing with 90-days advance notice. The City of Phoenix will be the sole judge in determining the allowable increase amount. Price adjustment requests shall be sent to the procurement officer at the address on the front page of the solicitation, referencing the solicitation #. Price increases agreed to by any staff other than the Department Director are invalid. The contractor acknowledges and agrees that it will repay all monies paid as a result of a requested price increase unless the price increase was specifically approved in writing by the Department Director.

1.2. PRICE ADJUSTMENTS: All prices submitted shall be firm and fixed for a period of 180 days from the Offer opening date.
2. CONFIDENTIALITY AND DATA SECURITY: All data, regardless of form, including originals, images and reproductions, prepared by, obtained by, or transmitted to Contractor in connection with this Agreement is confidential, proprietary information owned by the City. Except as specifically provided in this Agreement, the Contractor shall not disclose data generated in the performance of the service to any third person without the prior written consent of the City Manager or his/her designee.

2.2. Personal identifying information, financial account information, protected health information, or restricted City information, whether electronic format or hard copy, must be secured and protected at all times to avoid unauthorized access. At a minimum, Contractor must encrypt and/or password-protect electronic files. This includes data saved to laptop computers, computerized devices, handheld devices, networking devices, removable storage devices, or other electronic media, as well as data in transit, such as during email or file transfer.

2.3. When personal identifying information, financial account information, protected health information, or restricted City information, regardless of its format, is no longer necessary, the information must be redacted or destroyed through appropriate and secure methods that ensure the information cannot be viewed, accessed, or reconstructed. Contractor must properly dispose of such information by taking reasonable measures to protect against unauthorized access to or use of the information in connection with its disposal.

2.4. This includes implementing and monitoring compliance with policies and procedures that require the redaction, destruction, erasure, or other disposal of paper documents and electronic media containing personal identifying information, financial account information, protected health information, or restricted City information so that these types of information cannot practically be read or reconstructed. Contractor will provide the City with its information security policies and procedures regarding the redaction, destruction, erasure, or other disposal of documents and information.

2.5. In the event that data collected or obtained by the Contractor in connection with this Agreement is suspected to have been compromised, Contractor shall notify the contracting City department immediately. Contractor agrees to reimburse the City for any costs incurred by the City to investigate and respond to potential breaches of this data, including, where applicable, the cost of notifying individuals who may be impacted by the breach, attorneys’ fees, and for any monetary damages or penalties the City is assessed. In case of a breach or critical breach of the City’s information, it will be the City, not the Contractor that will inform any and all individuals affected by any such breach. Only upon prior written consent of the
City, or at the specific direction of the City, will the Contractor notify individuals affected by a breach or critical breach of the City’s information.

2.6. Contractor agrees that the City may assess or test the security of any applications, web services, or computerized systems created or provided by the Contractor that process, store, or transmit City information. If the City finds vulnerabilities that are rated medium or more critical by the Common Vulnerability Scoring System (CVSS) in these applications, web services, or computerized systems, the Contractor agrees to remediate the vulnerability at no cost to the City and within an agreed-upon timeframe not to exceed 90 days. To clarify, the Contractor must remediate found vulnerabilities in computerized systems they provide; Contractor is not liable for remediating any vulnerability found in the City’s network or computing infrastructure used to support the applications, web services, or systems created or provided by the Contractor.

2.7. Contractor agrees to abide by all current applicable legal and industry data security and privacy requirements. These include, but are not limited to, Arizona Revised Statutes §44-7501 — Notification of breach of security system; Arizona Revised Statutes §44-7601 — Discarding and disposing of records containing personal identifying information; Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy and Security Rules; Health Information Technology for Economic and Clinical Health (HITECH) Act, and Payment Card Industry Data Security Standards.

2.8. Contractor agrees to demonstrate that they have adequate controls and safeguards when they host or process personal identifying information, financial account information, protected health information, or restricted City information. This may be accomplished through a third-party audit utilizing a widely recognized auditing standard, such as Statement on Standards for Attestation Engagements (SSAE) No. 16, or through earning industry certification, such as ISO/IEC 27001.

2.9. By signing and entering this Agreement the Contractor specifically acknowledges that it is responsible for the security of cardholder data that Contractor possesses or otherwise stores, processes or transmits on behalf of the City. Additionally, as a requirement of this contract you must provide to the City a copy of your written Notice to customers that you are responsible for the security of cardholder data that you obtain and otherwise store, process or transmit.

2.10. Contractor agrees to comply with all City information security and technology policies, standards, and procedures when accessing City networks and computerized systems whether onsite or remotely.

2.11. Contractor agrees that the requirements of this Section shall be incorporated into all subcontractor agreements entered into by the Contractor. It is further agreed that a violation of this Section shall be deemed to cause
irreparable harm that justifies injunctive relief in court. A violation of this Section may result in immediate termination of this Agreement without notice. The obligations of Contractor under this Section shall survive the termination of this Agreement.

PROCUREMENT REPORTS:

Contractor shall submit monthly, quarterly, bi-annual, etc. reports in an electronic format acceptable to the City during the term of this contract and any extensions commencing one month after start period. These reports are due by the fifteenth (15) day of the month following the quarter. Total purchases for each division must be shown on a separate line. Reports should be rounded to the nearest dollar. Contractor will provide sample forms for approval by the City.

AWARD QUALIFICATION:

The Contractor hereby agrees that any of its employees who may be assigned to the City sites satisfy obligations under this contract shall be used exclusively for that purpose during the hours when they are working in areas covered by this Contract.

PERFORMANCE INTERFERENCE:

Contractor shall notify the City’s department contact immediately of any occurrence and/or condition that interferes with the full performance of the contract, and confirm it in writing within 24 hours.

Department Contact: Leslie Dewar, Deputy HR Director
Phone: 602-262-6708

3. CONTRACTOR AND SUBCONTRACTOR WORKERS BACKGROUND SCREENING: Contractor agrees that all contractor and subcontractors’ workers (collectively “Contractor’s Worker(s)”) that Contractor furnishes to the City pursuant to this agreement shall be subject to background and security checks and screening (collectively “Background Screening”) at contractor’s sole cost and expense as set forth in this section. The background screening provided by contractor shall comply with all applicable laws, rules and regulations. Contractor further agrees that the background screening required in this section is necessary to preserve and protect the public health, safety and welfare. The background screening requirements set forth in this section are the minimum requirements for the agreement. The City in no way warrants that these minimum requirements are sufficient to protect contractor from any liabilities that may arise out of the contractor’s services under this agreement or contractor’s failure to comply with
this section. Therefore, in addition to the specific measures set forth below, contractor and its contract workers shall take such other reasonable, prudent and necessary measures to further preserve and protect public health, safety and welfare when providing services under this agreement.

BACKGROUND SCREENING REQUIREMENTS AND CRITERIA:

Because of the varied types of services performed, the City has established three levels of risk and associated background screening. The risk level and background screening required for this agreement is Standard Risk Level.

3.1. Standard Risk Level: A standard risk background screening shall be performed when the contract worker’s work assignment will:

- require a badge or key for access to City facilities; or
- allow any access to sensitive, confidential records, personal identifying information or restricted City information; or
- allow unescorted access to City facilities during normal and non-business hours.

3.1.1. The background screening for this standard risk level shall include the background screening required for the minimum risk level and a background check for real identity/legal name, and shall include felony and misdemeanor records from any county in the United States, the state of Arizona, plus any other jurisdiction where the contractor worker has lived at any time in the preceding seven years from the contract worker’s proposed date of hire.

3.2. TERMS OF THIS SECTION APPLICABLE TO ALL OF CONTRACTOR’S CONTRACTS AND SUBCONTRACTS: Contractor shall include the terms of this section for contract worker background screening in all contracts and subcontracts for services furnished under this agreement including, but not limited to, supervision and oversight services.

3.3. MATERIALITY OF BACKGROUND SCREENING REQUIREMENTS; INDEMNITY: The background screening requirements of this section are material to City’s entry into this agreement and any breach of this section by contractor shall be deemed a material breach of this contract. In addition to the indemnity provisions set forth in this agreement, contractor shall defend, indemnify and hold harmless the City for any and all claims arising out of this background screening section including, but not limited to, the disqualifications of a contract worker by contractor or the City for failure to satisfy this section.
3.4. **CONTINUING DUTY; AUDIT:** Contractor’s obligations and requirements that contract workers satisfy this background screening section shall continue throughout the entire term of this agreement. Contractor shall notify the City immediately of any change to a maximum risk background screening of a contract worker previously approved by the City. Contractor shall maintain all records and documents related to all background screenings and the City reserves the right to audit contractor’s compliance with this section.

3.5. **CONTRACT WORKER ACCESS CONTROLS, BADGE AND KEY ACCESS REQUIREMENT:**

A CONTRACT WORKER SHALL NOT BE ALLOWED TO BEGIN WORK IN ANY CITY FACILITY WITHOUT: THE PRIOR COMPLETION AND CITY’S ACCEPTANCE OF THE REQUIRED BACKGROUND SCREENING. THE CONTRACT WORKER’S RECEIPT OF A CITY ISSUED BADGE. A BADGE WILL BE ISSUED TO A CONTRACT WORKER SOLELY FOR ACCESS TO THE CITY FACILITY(S) TO WHICH THE CONTRACT WORKER IS ASSIGNED. EACH CONTRACT WORKER WHO ENTERS A CITY FACILITY MUST USE THE BADGE ISSUED TO THE CONTRACT WORKER.

3.6. **KEY ACCESS PROCEDURES:** If the contractor worker’s services require keyed access to enter a City facility(s), a separate key issue/return form must be completed and submitted by the contractor for each key issued. The key issue/return form is available and the completed form shall be submitted to the badging office at the address above.

3.7. **STOLEN OR LOST BADGES OR KEYS:** Contractor shall report lost or stolen badges or keys to their local police department and must obtain a police department report (PDR) prior to re-issuance of any lost or stolen badge or key. A new badge application or key issue form shall be completed and submitted along with payment of the applicable fee listed below prior to issuance of a new badge or key.

3.8. **RETURN OF BADGE OR KEY:** All badges and keys are the property of the City and must be returned to the City at the badging office within one business day (excluding weekends and City holidays) of when the contract worker’s access to a City facility is no longer required to furnish the services under this agreement. Contractor shall collect a contract worker’s badge and key(s) upon the termination of the contract worker’s employment; when the contract worker’s services are no longer required at a particular City facility(s); or upon termination, cancellation or expiration of this agreement.

3.9. **CONTRACTOR’S DEFAULT; LIQUIDATED DAMAGES; RESERVATION OF REMEDIES FOR MATERIAL BREACH:** Contractor’s default under this section shall include, but is not limited to, the following:

3.9.1. Contract worker gains access to a City facility(s) without the proper badge or key;

3.9.2. Contract worker uses a badge or key of another to gain access to a City facility;
3.9.3. Contract worker commences services under this agreement without the proper badge, key or background screening;

3.9.4. Contract worker or contractor submits false information or negligently submits wrong information to the City to obtain a badge, key or applicable background screening; or

3.9.5. Contractor fails to collect and timely return contract worker’s badge or key upon termination of contract worker’s employment, reassignment of contract worker to another City facility or upon the expiration, cancellation or termination of this agreement.

3.9.6. Contractor acknowledges and agrees that the access control, badge and key requirements in this section are necessary to preserve and protect the public health, safety and welfare. Accordingly, contractor agrees to properly cure any default under this section within three business days (excluding weekends and City holidays) from the date notice of default is sent by the City. The parties agree that contractor’s failure to properly cure any default under this section shall constitute a breach of this section. In addition to any other remedy available to the City at law or in equity, the contractor shall be liable for and pay to the City the sum of $1,000.00 for each breach by contractor in this section. The parties further agree that the sum fixed above is reasonable and approximates the actual or anticipated loss to the City at the time and making of this agreement in the event that contractor breaches this section. Further, the parties expressly acknowledge and agree to the fixed sum set forth above because of the difficulty of proving the City’s actual damages in the event that contractor breaches this section. The parties further agree that three breaches by contractor in this section arising out of any default within a consecutive period of three months or three breaches by contractor in this section arising out of the same default within a period of 12 consecutive months shall constitute a material breach of this agreement by contractor and the City expressly reserves all of its rights, remedies and interests under this agreement, at law and in equity including, but not limited to, termination of this agreement.

3.10. **BADGE AND KEY FEES:** The following constitute the badge and key fees under this agreement. The City reserves the right to amend these fees upon a 30-day prior written notice to contractor.

3.10.1. Replacement Badge Fee: $55.00 per badge

3.10.2. Lost/Stolen Badge Fee: $55.00 per badge

3.10.3. Replacement Key Fee: $55.00 per key

3.10.4. Replacement Locks: $55.00 per lock
1. **INDEMNIFICATION:**

*Please note:* The City Charter does not allow a vendor contracting with the City to remove or modify the contract sections on Indemnification and Insurance Requirements.

Contractor must indemnify, defend, save and hold harmless the City of Phoenix and its officers, officials, agents, and employees (hereinafter referred to as “Indemnitee”) from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys’ fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as “Claims”) for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of or recovered under the Workers’ Compensation Law or arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee must, 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 City, its officers, officials, agents and employees for losses arising from the work performed by the Contractor for the City.

Contractor (as “Indemnitor”) agrees to indemnify, defend, save and hold harmless the City of Phoenix and its officers, officials, agents and employees (as “Indemnitee”) from and against any and all demands, claims, complaints, losses, damages, actions or causes of action, assessments, liabilities, costs or expenses including, without limitation, interest, penalties and reasonable attorney’s fees and reasonable expenses of investigation and remedial work (including investigations and remediation by engineers, environmental consultants and similar technical personnel) asserted against or imposed upon or incurred by Indemnitee arising in connection with, or resulting from, any Environmental Law, including but not limited to, any use, generation, storage, spill, release, discharge or disposal of any Hazardous Substance that is now or comes to be located on, at, about or under the property or because of, or in connection with, the violation of any Environmental Law (hereinafter collectively referred to as “Claims”) to the extent that such Claims are caused by the Fault of the Indemnitor, its officers, officials, agents, employees, contractors, volunteers, tenants, subtenants, invitees or licensees. As used in this section: (a) “Hazardous Substances” are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, or other petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) “Environmental Law” means federal, state or local laws and regulations, including common law, that relate to health, safety or
environmental protection; and (c) “Fault” means those nonculpable acts or omissions giving rise to strict liability under any Environmental Law pertaining to Hazardous Substances, as well as culpable conduct (negligence or willful misconduct). In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the City, its officers, officials, agents and employees for losses arising from the work performed by the Contractor for the City.

2. INSURANCE REQUIREMENTS:

Contractor and subcontractors must procure insurance against claims that may arise from or relate to performance of the work hereunder by Contractor and its agents, representatives, employees and sub-consultants. Contractor and subcontractors must maintain that insurance until all of their obligations have been discharged, including any warranty periods under this Contract.

These insurance requirements are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The City in no way warrants that the minimum limits stated in this section are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this Contract by the Contractor, his agents, representatives, employees or subcontractors and Contractor is free to purchase such additional insurance as may be determined necessary.

2.1. MINIMUM SCOPE AND LIMITS OF INSURANCE: Contractor must provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a “following form” basis.

2.1.1. Commercial General Liability – Occurrence Form

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

- General Aggregate $2,000,000
- Products – Completed Operations Aggregate $1,000,000
- Personal and Advertising Injury $1,000,000
- Each Occurrence $1,000,000

- The policy must be endorsed to include the following additional insured language: “The City of Phoenix is named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor.”
- The policy must include coverage for pollution arising from products liability for environmental control equipment, manufacturers and distributors.
2.1.2. Automobile Liability

Bodily Injury and Property Damage coverage for any owned, hired, and non-owned vehicles used in the performance of this Contract.

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

The policy must be endorsed to include the following additional insured language: “The City of Phoenix is named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, including automobiles owned, leased, hired or borrowed by the Contractor.”

2.1.3. Worker’s Compensation and Employers’ Liability

Workers’ Compensation Statutory

Employers’ Liability

- Each Accident $100,000
- Disease – Each Employee $100,000
- Disease – Policy Limit $500,000

- Policy must contain a waiver of subrogation against the City of Phoenix.
- This requirement does not apply when a contractor or subcontractor is exempt under A.R.S. 23-902(E), AND when such contractor or subcontractor executes the appropriate sole proprietor waiver form.

2.1.4. Professional Liability (Errors and Omissions Liability)

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

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

In the event that the professional liability insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy must precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.
3. **ADDITIONAL INSURANCE REQUIREMENTS**: The policies are to contain, or be endorsed to contain, the following provisions:

3.1. On insurance policies where the City of Phoenix is named as an additional insured, the City of Phoenix is an additional insured to the full limits of liability purchased by the Contractor even if those limits of liability are in excess of those required by this Contract.

3.2. The Contractor’s insurance coverage must be primary insurance and non-contributory with respect to all other available sources.

4. **NOTICE OF CANCELLATION**: For each insurance policy required by the insurance provisions of this Contract, the Contractor must provide to the City, within 2 business days of receipt, a notice if a policy is suspended, voided or cancelled for any reason. Such notice must be mailed, emailed, hand delivered or sent by facsimile transmission to Leslie Dewar, Deputy HR Director, 602-262-6708 leslie.dewar@phoenix.gov.

5. **ACCEPTABILITY OF INSURERS**: Insurance is to be placed with insurers duly licensed or authorized to do business in the state of Arizona and with an “A.M. Best” rating of not less than B+ VI. The City in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

6. **VERIFICATION OF COVERAGE**: Contractor must furnish the City with certificates of insurance (ACORD form or equivalent approved by the City) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and any required endorsements are to be received and approved by the City before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of contract.

All certificates required by this Contract must be sent directly to Leslie Dewar, Human Resources Department, Procurement Officer for this RFP. The City project/contract number and project description are to be noted on the certificate of insurance. The City reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE CITY’S RISK MANAGEMENT DIVISION.**

7. **SUBCONTRACTORS**: Contractors’ certificate(s) must include all subcontractors as additional insureds under its policies or Contractor must furnish to the City separate certificates and endorsements for each subcontractor. All coverages for subcontractors must be subject to the minimum requirements identified above.

8. **APPROVAL**: Any modification or variation from the insurance requirements in this Contract must have prior approval from the City of Phoenix Law Department, whose decision is final.
Such action will not require a formal contract amendment, but may be made by administrative action.
SECTION V – SCOPE OF WORK

Prospective bidders must agree in the entirety to all items outlined in the Scope of Work. All deviations must be noted with appropriate numerical reference on the Deviations document included in the Submittal section of this document.

A. Please note the following:

Stop loss coverage for the entire program has been carved out and is out of scope for this proposal.

PBM services are carved out and out of scope for this proposal. PBM services are currently being marketed under a separate solicitation.

All medical plans currently offered to employees and retirees include core vision benefits. Vision benefits that exceed the core vision benefits offered are out of scope for this proposal.

B. The City currently provides self-funded health plan coverage for employees and non-Medicare retirees as two distinct populations. This RFP seeks pricing and services that best suit each group and achieves economies of scale. The City reserves the right to award the RFP for Employees Only, Retirees Only, or Employees and Retirees.

The City seeks creative and innovative solutions for cost management and broad access for its active and retiree populations. Employee and retiree solutions do not need to be identical, but should best meet the needs of each group.

The City’s employee and retiree health plan design decisions are strongly influenced by the Health Care Task Force (HCTF) which consists of union, employee association, retiree and management representatives, and the Health Care Trust Board (HCTB) a group of appointed citizens and one representative of COPCU (City of Phoenix Coalition of Unions).

C. Enrollment

Enrollment in the self-funded health plans is as follows as of January 1, 2018. A detailed census as of January 1, 2018 is available at RFP.Phoenix@mercer.com This census includes all employees and all non-Medicare retirees eligible for coverage.
### D. Eligibility

1. Full-time employees, job share employees, and benefit eligible part-time employees may enroll on the first of the month following date of hire or eligibility for coverage.

2. Retiree health plan enrollment is effective on the first of the month following retirement date. The term *retiree* for purposes of this RFP means a former active City employee under the age of 65 or over 65 but not eligible for Medicare who retired from the City of Phoenix and within 45 days of their last day paid began receiving a monthly pension from either the City of Phoenix Employee’s Retirement System (COPERS) or the Public Safety Personnel Retirement System (PSPRS).

3. Eligible dependents are a legally married spouse, regardless of gender; a Qualified Domestic Partner, regardless of gender; and children to age 26. Eligible children are a biological child, adopted or placed for adoption, step-child while the employee is married to or has an active Qualified Domestic Partnership with the child’s parent, and children for whom the employee has legal guardianship or legal custody.
4. A child age 26 and older may continue already existing coverage as an eligible dependent if they have a long-term or permanent disability that makes them incapable of self-sustaining employment. The vendor will receive and review applications for this coverage and approve or deny these continued coverage requests. The City has the right to participate in these determinations when the City deems it necessary.

E. **Contribution Strategy**

The City reserves the right to modify the contribution strategy at its discretion. The current health plan contribution strategy for employees is 80% employer paid and 20% employee paid for all coverage tiers. Retirees pay between 85% and 100% of premium for all coverage tiers.

F. **Plan Year**

The plan year for medical/vision and dental plans is January 1 through December 31. Open Enrollment occurs in October. The City reserves the right to modify the plan year and open enrollment periods for the active employees, retirees, and/or both.

G. **Goals and Program Intent**

The City will continue to utilize a bundled self-funded ASO model for group health coverage to accomplish these goals:

1. Optimize patient care and health outcomes through best-in-class medical management and value-based provider reimbursement and network management;

2. Maintain a benefits program that is a key component of employee total rewards, targeted better than benchmarks;

3. Manage benefit costs to budget and market cost trends while maintaining a “better than benchmarks” level of employee contribution;

4. Provide nimble and flexible administration of the medical plan to meet City of Phoenix member needs.

H. **Scope of Work**

**Subrogation**
1. Every medical plan shall subrogate claim costs payable by auto insurance, worker’s compensation, property insurance, and other third parties according to the City’s policies and requirements. This includes monthly collections review meetings and pre-settlement approval requirements.

Data, Reports, Security

1. Provide real-time access to claims reports and utilization data for review and program decisions identified by provider type, claim type, claim size, member status, age band, gender, department, zip code, etc.

2. Provide claims data to the City’s wellness vendor on a bi-weekly basis to support wellness program goals and incentives;

3. Integrate PBM data to provide actionable clinical intelligence;

4. Your organization agrees to partner with any current or future City contracted vendor including but not limited to pharmacy, wellness, stop loss, cost transparency, on site or near site clinics, or consultants to integrate, transfer, or house data as required and approved by the City;

5. Your organization agrees to share claims data on a regularly scheduled basis with a third party price/quality transparency firm to incentivize the City’s members to use cost effective facilities and providers;

6. Your organization agrees if there is a security breach that City of Phoenix will be informed of all details and whether and how many City members were impacted. The City will be notified of a breach within forty-eight (48) hours of your organization identifying the breach occurred including weekends and holidays and detail will be provided on scope and member impact within five (5) days of the identification of the breach;

7. Your organization agrees to support a mobile application that is secure, provides relevant member history, allows members to look up providers, check coverage and cost, and access a digital ID card.

8. Your organization agrees to accept weekly eligibility files from City of Phoenix in an industry standard 834 file format.

Direct Provider Contracting

1. Conduct direct provider contracting when requested by the City to address member needs. Finalize direct provider contracting within 60 days of a request
from the Health Care Trust Board Chair or the Deputy Director of Human Resources;

Onsite or Near Site Health Clinic(s)

1. Assist the City to establish onsite or near site health clinic(s) for all members with same or next day medical appointments and pharmacy services;

2. Provide services at the near site or onsite health clinic(s) to support the City’s employee wellness program goals;

The Contract

1. The initial contract term shall be awarded for three years with opportunity for two one-year renewable terms.

2. It is the intent of this solicitation to award one or more than one contract; however, the City reserves the right to award the contractor(s) who best meets the criteria set out in this solicitation. The City does not guarantee that more than one contract will be awarded.

3. The Initial rates and contract terms shall be guaranteed at minimum from January 1, 2019 through December 31, 2019.

4. Your organization agrees to provide a designated legal contact to the City for contract negotiations who can commit to meetings with the City as requested.

5. The Contractor(s) shall provide final renewal rates to the City at least 120 calendar days prior to the contract anniversary date, as well as any data relevant to the renewal at the request of the City or its representatives at no cost to the City.

6. Contractor(s) shall certify that all services provided as part of this contract are in compliance with the Health Insurance Portability and Accountability Act of 1996 and its subsequent amendments and changes. Any violations shall be reported immediately to the City in writing. The Contractor will notify the City of any and all actions taken as a result of any violation.

7. Your organization agrees that for the term of the contract, all final contractual provisions will remain the same or will not change in a way that is viewed as a negative change for City of Phoenix. Payment dates, reconciliation timeframes, termination provisions, legal terms, etc., will not change to be less favorable to City of Phoenix.
8. For an incumbent, if you are awarded business with the City, your organization agrees that current contractual provisions and processes considered favorable for the City will remain the same (except where specifically required to address new requests / populations) or will not change to be less favorable to the City.

9. The Contractor(s) shall notify the City within five (5) business days of any change in ownership or control affecting 10% or greater interest, any acquisition by it of 10% or greater interest in any subsidiary, and any new agreement with, by or between any affiliates that is relevant to the contract.

Performance Guarantees

1. Provide performance guarantees on all medical management and administrative services, clinical services, reporting, and adherence to plan description processes and operational procedures;

Implementation

1. The Contractor(s) shall begin 2019 implementation planning with the City no later than June 4, 2018.

2. Your organization agrees to provide the City with a distinct competitive implementation allowance for the City to utilize to offset expenses related to implementation including consulting fees and IT fees, as deemed appropriate by the City, not to expire during the contract term.

3. Your organization agrees to provide funding to accommodate a pre- or post-implementation audit to verify readiness to administer the City’s program. The pre-implementation audit must be completed before the program effective date and the post-implementation audit will be conducted at a mutually agreed upon timeframe post effective date. The review will be conducted by an audit firm selected by the City and would include test claims developed independently by the audit firm to represent the City’s requirements.

4. Your organization agrees to provide a designated implementation manager and support team (not part of the regular account management team) that will be assigned to lead and coordinate the implementation activities with City of Phoenix. Your organization agrees the implementation manager shall not be managing more than 3 implementations in total while leading the implementation for the City.

5. City of Phoenix requires participation at onsite open enrollment/health fair/employee meetings as part of implementation and on an ongoing basis. Your
organization agrees to support participation in these events and that there is no minimum enrollment requirement for this service.

Allowances or Funds to Support the Plans

1. Your organization agrees to provide the City with a distinct competitive annual wellness fund that can be used for a variety of wellness program needs during the term of the contract. This should be separate and apart from any proposed implementation credits offered by your organization. Your organization agrees that all unused funds rollover to the following year.

2. Your organization agrees to provide the City with a distinct competitive annual communication fund that can be used for electronic, print, and group communications for employee and/or retiree communication needs. This should be separate and apart from any proposed implementation credits offered by your organization. Your organization agrees that all unused funds will rollover to the following year.

3. Your organization agrees to provide the City with a distinct and competitive training and education fund that can be used by Benefits & Wellness Division staff, Health Care Task Force members, and/or Health Care Trust Board members for ongoing training, education and certification. This should be separate and apart from any proposed implementation credits. Your organization agrees that all unused funds will rollover to the following year.

4. If incumbent, your organization agrees that all currently unused or remaining credits will rollover to the new contract term if the City renews the contract as a result of this RFP.

5. Your organization agrees that you will not evaluate the client’s use of implementation credits, wellness, communication or training and education funds as long as they are used in support of the City’s healthcare benefit.

Onsite Staff

1. Your organization agrees to provide one or two 100% dedicated full time account representatives onsite at the City’s Human Resources Department in Phoenix, Arizona. The number of account representatives needed will depend on whether the City chooses to award the health plan contract to one or more than one proposers. The City will provide office space at no charge to the vendor. The vendor is responsible for office furnishings, computer, internet connectivity, parking, and office supplies. On-site representatives must fulfill a satisfactory
background check and their work hours and schedule shall be established by the City.

2. Your organization agrees to provide one or two (depending on whether one or two vendors are selected) 100% dedicated full time clerical/administrative employees onsite at the City’s Benefits Division in Human Resources. The sole purpose of this/these positions is to support the onsite account representative(s) and the Benefits & Wellness Division staff.

Account Team

1. Your organization agrees to participate in vendor summit discussions to identify opportunities to enhance the member experience.

2. Your organization agrees that the City of Phoenix has the right to review, meet with and approve changes to the account team assigned to service City of Phoenix, and agrees not to change the assigned account team without prior consent from the City.

3. Your organization agrees to participate in regular Account Team meetings with City of Phoenix management as frequently as on a weekly basis immediately following implementation and on a monthly basis after implementation is fully achieved.

4. Your organization agrees to provide the City with open enrollment readiness support each contract year. Such support shall include training customer service staff on changes, implementing plan design changes, accurate set up of open enrollment website, including pricing, plan design, network and providing accurate member communications. Review and testing for accuracy will occur and results will be reviewed with the City.

5. Your organization agrees City of Phoenix may assess a penalty if the account team performance, as rated by members of City of Phoenix’s benefits management team, does not meet City expectations. All members of City of Phoenix’s account team will be reviewed as part of this guarantee measurement. Measurement of client’s satisfaction with their account team will be subjective and will be mutually agreed upon with the City. Account team performance measures will include but will not be limited to timely and complete communication with Benefits Division management, member satisfaction, and serving as the primary liaison to the Benefits Division staff.
Member Communications/ID Cards

1. Your organization agrees that you are willing to provide and customize communication materials and the City has final sign-off on mailings and emails. You agree that no communications will be delivered to City of Phoenix employees via mail, email or text without prior notification to and approval by the City.

2. Your organization agrees to provide targeted member communications at the request of City of Phoenix for any new program or change that will result in negative member impact.

3. Your organization agrees that ID cards can be customized for City of Phoenix.

4. Your organization agrees to mail ID cards to members' home or mailing address at no cost to the City of Phoenix.

General

1. The City has sole decision making responsibility as it relates to benefit design and coverage.

2. Your organization agrees that the award of this business will not be contingent upon the City awarding / continuing any other business outside of what is included in this scope specifically with the successful bidder.

3. Your organization will allow the City to self-bill for administrative service fees on a monthly basis.

4. Your organization will not require City of Phoenix to provide an advance deposit.

5. Contractor will include a transplant network and medical management services and keep the City advised on all potential transplants and transplant services. The City reserves the right to explore and/or engage alternate vendors for transplant network services/management in the future.

6. The Contractor(s) must cover all benefits from the effective date of the contract such that no employee or dependent enrolled on December 31, 2018 will suffer a loss of coverage by virtue of a change in contractors on January 1, 2019 other than by a change in plans offered or plan design as specified by the City. No employee or dependent shall lose benefits because of transition from a current Contractor to an awarded Contractor.

7. The Contractor will agree to maintain all pertinent claims for up to seven
years, including claim records, individual case review and notes, and any member inquiry records, as prudent business practice and provisions dictate.

8. Your organization acknowledges that the responses to the RFP will prevail. Ancillary documents or documents with caveats that conflict with the proposal responses will not be considered.

9. Your organization agrees that if there are conflicting responses in any portion of this RFP (questionnaire, worksheets, any supporting documentation, pricing supplement, follow-up responses, BAFO responses, etc.), the most favorable response to the City will prevail in the final contract.
SECTION VI – SUBMITTALS

All responses must include the following:

1. Completed offer submittal (Attached)
2. Completed Solicitation Disclosure submittal (Attached)
3. Completed Deviations submittal (Attached)
4. Executive Summary of Offer Limit Summary to no more than two pages
5. Proposer Questionnaire in the required format (available via RFP.Phoenix@mercer.com)
6. Pricing Worksheet in the required format (available via RFP.Phoenix@mercer.com)
7. Provider Disruption Analysis

Incomplete information may deem a proposal non-responsive.
OFFER

TO THE CITY OF PHOENIX - The Undersigned hereby offers and agrees to furnish the material and or service(s) in compliance with all terms, conditions, specifications, and addenda issued as a result of solicitation and any written exceptions in the offer.

Arizona Sales Tax No. ..........................................................
Use Tax No. for Out-of State Suppliers ..................................
City of Phoenix Sales Tax No. ..............................................
Arizona Corporation Commission File No. ............................

Taxpayer’s Federal Identification No.: If recommended for contract award, Bidder agrees to provide its federal taxpayer identification number or as applicable its social security number to the City of Phoenix for the purposes of reporting to appropriate taxing authorities, monies paid by the City of Phoenix under the awarded contract. If the Bidder provides its social security number, the City will only share this number with appropriate state and federal officials. This submission is mandatory under 26 U.S.C. § 6041A.

Enter City’s Registration System ID Number
Located at City’s eProcurement website (see SECTION I – INSTRUCTIONS - CITY’S REGISTRATION)

Offeror has read, understands, and will fully and faithfully comply with this solicitation, its attachments and any referenced documents. Offeror certifies that the prices offered were independently developed without consultation with any other Offeror or potential Offerors.

Authorized Signature ___________________________ Date ________________

Verify Name and type of company
(LLC, Inc., Sole Proprietor) ___________________________
Printed Name and Title
(Member, Manager, President) ___________________________

Address ...........................................................................
City, State and Zip Code ......................................................
Telephone Number ..............................................................
Company’s Fax Number ......................................................
Company’s Toll Free # .......................................................
Email Address ..................................................................
ACCEPTANCE OF OFFER

The Offer is hereby accepted.

The Contractor is now bound to sell the material(s) or service(s) listed by the attached contract and based upon the solicitation, including all terms, conditions, specifications, amendments, etc. and the Contractor's Offer as accepted by the City.

This contract shall henceforth be referred to as Contract No._______________. The Contractor has been cautioned not to commence any billable work or provide any material or service under this contract until Contractor receives purchase order, or contract documentation.

CITY OF PHOENIX
A Municipal Corporation
Ed Zuercher, City Manager

__________________________  Awarded this ___ day of ________________ 2017
Director or delegate, Department

__________________________
City Clerk

Approved as to form this 19th day of January 2017. This document has been approved as to form by the City Attorney and is on file with the City Clerk. It need not be submitted to the City Attorney for approval unless the form document is altered.
**SECTION VI – SUBMITTALS**

**CITY OF PHOENIX**

**SOLICITATION DISCLOSURE:**
This form must be signed and submitted to the City and all questions must be answered (or N/A) or your Offer may be considered non-responsive.

1. Name of person submitting this disclosure form.

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2. Contract Information

Solicitation # or Name:

3. Name of individual(s) or entity(ies) seeking a contract with the City (i.e. parties to the Contract)

4. List any individuals(s) or entity(ies) that are owners, partners, parent, sublessees, joint venture or subsidiaries of the individual or entity listed in Question 3. Please include all Board members, executive committee members and officers for each entry. If not applicable, indicate N/A.

5. List any individuals or entities that will be subcontractors on this contract or indicate N/A.

- Subcontractors may be retained, but not known as of the time of this submission.
- List of subcontracts, including the name of the owner(s) and business name:
6. List any attorney, lobbyist, or consultant retained by any individuals listed in Questions 3, 4, or 5 to assist in the proposal or seeking the resulting contract. If none, indicate N/A.

7. Disclosure of conflict of interest:

   Are you aware of any fact(s) with regard to this solicitation or resulting contract that would raise a “conflict of interest” issue under City Code Section 43-34?

   “An elected City official or a City employee shall not represent any person or business for compensation before the City regarding any part of a procurement, including any resulting contract, if during the time the elected official is or was in office or the employee is or was employed by the City such elected official or employee played a material or significant role in the development of the solicitation, any other part of the procurement, or the contract award.”

   □ I am not aware of any conflict(s) of interest under City Code Section 43-34.
   □ I am aware of the following potential or actual conflict(s) of interest:

8. Notice Regarding Prohibited Interest in Contracts

   State law and the Phoenix City Charter and Code prohibit public officers or employees, their close relatives, and any businesses they, or their relatives, own from (1) representing before the City any
person or business for compensation, (2) doing business with the City by any means other than through a formal procurement, and (3) doing business with the City without disclosing that the person has an interest in the contract. This prohibition extends to subcontracts on City contracts and also applies to parent, subsidiary, or partner businesses owned by a public officer or employee. See A.R.S. Sections 38-501 through 38-511, for more information (City Charter, Chapter 11, applies the state conflict-of-interest law to City employees).

Please note that any contract in place at the time a person becomes a public officer or employee may remain in effect. But the contract may not be amended, extended, modified, or changed in any manner during the officer’s or employee’s city service without following city administrative regulations.

Are you aware of any fact(s) with regard to this contract that would raise a “conflict of interest” issue under A.R.S. Sections 38-501 through 38-511. (See Arizona Revised Statutes regarding conflict of interest at www.azleg.gov).

I am not aware of any conflict(s) of interest under Arizona Revised Statutes Sections 38-501 through 38-511.

I am aware of the following conflict(s) of interest:

9. Acknowledgements

Solicitation Transparency Policy – No Contact with City Officials or Staff During Evaluation
I understand that a person or entity who seeks or applies for a city contract, or any other person acting on behalf of that person or entity, is prohibited from contacting city officials and employees regarding the contract after a solicitation has been posted.

This “no-contact” provision only concludes when the contract is awarded at a City Council meeting. If contact is required with City official or employees, the contact will take place in accordance with procedures by the City. Violation of this prohibited contacts provision, set out in City Code Sections 2-190.4 and 43-36, by respondents, or their agents, will lead to disqualification.

10. Fraud Prevention and Reporting Policy

I acknowledge that the City has a fraud prevention and reporting policy and takes fraud seriously. I will report fraud, suspicion of fraud, or any other inappropriate action to: telephone no. 602-261-8999 or 602-534-5500 (TDD); or aud.integrity.line@phoenix.gov.

The purpose of the fraud policy is to maintain the City's high ethical standards. The policy includes a way for our business partners to report wrongdoing or bad behavior. Suspected fraud should be reported immediately to the Phoenix Integrity Line. The City has adopted a zero-tolerance policy regarding fraud.

OATH

I affirm that the statements contained in this form, including any attachments, to the best of my knowledge and belief are true, correct, and complete.

Should any of the answers to the above questions change during the course of the contract, particularly as it relates to any changes in ownership, applicant agrees to update this form with the new information within 30 days of such changes. Failure to do so may be deemed a breach of contract.
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DEVIATIONS: SCOPE OF WORK

OFFEROR:

Offeror must indicate below any exceptions taken to the Scope of Work (SOW). Offeror must provide the reason for the exception and also provide recommended alternative language. Certain exceptions may have a negative impact on the evaluation of the Offeror’s proposal.

Please indicate as appropriate:

- TAKES NO EXCEPTIONS TO THE REQUIREMENTS

- TAKES EXCEPTIONS TO THE SCOPE OF WORK (SOW)

Identify SCOPE of WORK item number (where applicable) and name of section, provide a reason for the exception, and restate below the clause redlining to illustrate the requested alternative language.