PimaCommunityCollege
Contracts&Purchasing

Proposal No. P17/9944
7/27/2016

Request for Proposal
College Bookstore/Foodservice Consulting Services

Pima County Community College District ("College") is seeking proposals from qualified firms for College Bookstore/Foodservice Consulting Services.

The deadline for receipt of sealed proposals is: **August 24, 2016 at 3:00 PM (Arizona Time).** Sealed proposals must be received by this deadline at the following location:

Pima County Community College District
Finance / Contracts & Purchasing
4905D East Broadway, Room D-232
Tucson, Arizona 85709-1420

Any proposal received after the date and time listed above will be returned and will not be considered.

Questions pertaining to this Request for Proposal ("RFP") must be communicated in writing and be received via email by **August 11, 2016 at 3:00 PM (Arizona Time)**. Questions must be sent to the email address below and should include the specified Buyer's name and proposal number, and any question(s) should include a reference to the appropriate page and section number of the RFP. Questions and answers will be posted on the College's webpage listed below by **August 17. 2016 at 5:00 PM (Arizona Time)**:

Jan Posz, C.P.M., Sr. Buyer
do-bids-proposals@pima.edu

Copies of this RFP, questions and answers, and any related documents are available at:
http://www.pima.edu/administrative-services/purchasing/current-requests-for-proposals-bids-quotes.html

Director Contracts & Purchasing
Pima County Community College District
4905 East Broadway, Room D-232
Tucson, Arizona 85709-1420

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Section 1
Project Summary

1. Request for Proposal Summary

Pima County Community College District ("College") is seeking proposals from qualified firms for College Bookstore/Foodservice Consulting Services in accordance with the Scope of Work specified in this RFP.

2. Entity Submitting RFP. The terms "vendor," "offeror," "firm," "consultant," "company," or "contractor" used in this RFP or any subsequent documents or communications related to this RFP are interchangeable and mean the entity submitting a proposal and seeking to enter into a contract for the goods and/or services requested in this RFP.

3. Description of Pima County Community College District

The College, located in Tucson, Arizona, is one of the ten largest multi-campus, multi-site community colleges in the United States. The College is a two-year institution offering both occupational and traditional college courses, and awards many different degrees and certificates. The College's comprehensive curriculum includes credit courses, workforce development programs (Center for Training and Development), adult education special programs (GED), as well as corporate and community based non-credit instruction. Students attend classes at six major campuses including the Community Campus, which itself holds classes at over 70 locations in Southern Arizona. The College employs more than 1,400 regular employees, approximately 1,500 adjunct faculty and 500 part-time personnel. More than 47,500 students attend credit and non-credit classes annually. The population for the Tucson metro area is over 1 million people. The College is accredited by the Higher Learning Commission of the North Central Association of Colleges and Schools. The College is an equal opportunity, affirmative action employer and an educational institution committed to excellence through diversity. The College strives to create an environment of equal access to services and facilities for all individuals.

Section 2
Scope of Work

General Outline:

1. Intent
Pima County Community College District ("College") is seeking proposals from qualified firms to assist in the evaluation of the College's current student bookstore and foodservice operations with the intent to prepare a request for proposal(s) (RFP) reflecting the outcomes of the firm's evaluations and assist in the evaluation of proposals the College receives in response to the RFP(s).

2. Background
The College currently contracts for bookstore and foodservices at five (5) of the College's campuses and has determined a need for an experienced advisor who understands the current dynamics of college student bookstore and foodservice operations and can provide evidence of successful outcomes from similar projects for higher educational institutions, specifically community colleges. The College endeavors to provide students relevant, expected and valued services in relation to its student bookstore and foodservice operations.

3. Anticipated activities
The selected advisor will work with and provide objective support to the Executive Vice Chancellor for Finance and Administration, the College's Auxiliary Services Committee and others, as necessary, in evaluating current operations and support the preparation of an RFP and the subsequent evaluation of submitted proposals. The College anticipates, at least, the following services to be provided by the selected advisor:

- Evaluate and report findings of the College's current student bookstore and foodservice operations with an emphasis on their effectiveness in meeting student expectations;
- Assist the College in the preparation of a request for proposal(s) for student bookstore and/or foodservice operations reflective of current standards;
- Assist the College in the evaluation of proposals received in response to issued RFPs to determine the best proposal in light of the College's needs and constraints
- Provide formal and/or informal presentations to various constituency groups, including students, staff and administration;
- Other activities as mutually agreed upon by the College and the advisor.

Section 3
Proposal Preparation and Submittal

Proposals must conform to all requirements stated below and elsewhere in this RFP. Disregarding these requirements may result in disqualification of the proposal.

Before submitting a proposal, each firm shall familiarize itself with the entire RFP, including the Scope of Work, sample Agreement for Services, College's insurance requirements, and all laws, regulations and other factors affecting the firm's performance. The firm is responsible for fully understanding the requirements of a subsequent contract, and shall otherwise satisfy itself as to the expense and difficulties accompanying the fulfillment of contract requirements. The submission of a proposal will constitute a representation of compliance by the firm. There will be no subsequent financial adjustment for lack of such familiarization.

All proposal materials must be placed in a sealed package (envelope, box, etc.) clearly marked with the proposal name and number and the firm's name. It is the responsibility of the firm to ensure that proposals are received in the office of the College Director of Contracts & Purchasing by the due date and time stated on page 1 of this RFP. The firm is responsible for delivery of their proposal by the deadline notwithstanding any claims of error or failure to perform by a mail, courier or package delivery service. **No proposals or proposal modifications may be submitted orally, electronically, or via telephone, facsimile, electronic mail (email) or telegraph.**

All proposals must be typewritten on standard paper size (8½ x 11 inches) and shall be in the required format incorporating the forms provided in this RFP package, if any. It is permissible to copy these forms as required. The authorized person signing the proposal shall initial erasures, interlineations or other modifications on the proposal.

The firm must submit one (1) original copy of the proposal, clearly marked "Original." In addition, the firm must submit one (1) digital .PDF copy of the proposal on media suitable for copying and distributing electronically.

The firm's proposal should be organized in sections as outlined below:

1. **Cover Letter**
   All proposals must include a cover letter submitted under the firm's name on the firm's letterhead containing the signature and title of a person or an official of the firm who is authorized to commit the firm to a potential contract with the College. The cover letter must also identify the primary contact for this proposal and include the College's RFP number found within this RFP. The cover letter should express the firm's interest and serve as an executive summary of the proposal. Claims of proprietary information must be included in the cover letter.

2. **Proposal Form**
   All proposals must include the complete Proposal Form signed by a person or an official authorized to commit the firm to a contract with College.

3. Qualifications

The proposal must describe the firm's qualifications to provide the requested products and/or services, and include the following:

a. Description of the nature of the firm's business; include a description of experience, competencies, and overall organizational capabilities.
b. Corporate organization chart indicating key management team members.
c. Number of years in business.
d. Description of the firm's capabilities to provide the requested product(s)/service(s).
e. Description of the project staff structure, the background, qualifications and relevant experience of all staff involved in the project, including length of time at contractor; include the responsibilities that each staff member will have during the execution of this project.
f. Overview of approach and description of methodology to be used.
g. Description of project structure and detailed project timelines and phases (if applicable).
h. References: The offeror must provide three (3) independent references from three (3) different projects of similar scope, nature, and complexity to that requested by the College. The College prefers educational or governmental entity references. Each of the references must include the following information:

i. Entity Name
ii. Industry Type
iii. Address, City, Province/State/Country
iv. Contact Name, Title, Phone Number, and Email address
v. Year(s) service(s) provided
vi. Comments (include details regarding the current status of the product/service provided by offeror)

4. Response to Scope of Work

Responses must be clear and thorough, but concise, and written in plain, easy to understand language. Responses must follow the numbering format used in this RFP.

5. Exceptions Requested

a. Exceptions to the RFP/Scope of Work. Any exceptions to the requirements of this RFP that the firm requests the College to consider must be placed in this section. Each alternate or exception should be addressed separately with specific reference to the requirement. If there are no proposed alternates or exceptions, a statement to that effect must be included in this section of the proposal.

b. Exceptions to the Agreement and Terms and Conditions. The College's Sample Agreement for Services, including the Insurance Requirements, general and supplemental Terms and Conditions (Section 7 of this RFP) will be used to consummate any resulting agreement between the College and successful offeror. Any exceptions requested from the Sample Agreement must be included in this section. Any proposed additional or alternate terms and conditions required by the firm should be included here with a brief explanatory introduction.

6. Offeror's Proprietary Information

In the event the offeror elects to include in its proposal any information deemed "proprietary" or "protected," it shall package such information separately from the balance of the proposal and clearly

mark as to any proprietary claim. The College discourages the submission of such information and undertakes to provide no more than reasonable efforts to protect the proprietary nature of such information. The College, as a public entity, cannot and does not warrant that proprietary information will not be disclosed. The College shall have the right to use any and all information included in the proposals submitted unless the information is expressly restricted by the offeror.

7. Cost Proposal

The offeror shall complete the Cost Proposal Form included in this RFP (Section 6), or in alternative, use the enclosed Form as a guide in completing its own cost proposal, and shall submit such detailed Cost Proposal together with its original proposal packet. The Cost Proposal shall conform to the following guidelines:

a. Prices shall be shown by item and individually extended, unless otherwise indicated. In case of a conflict between unit price and extension, unit price prevails.
b. Proposals that include equipment or materials should include itemized sales tax in the amount of your proposal; Proposals for services only, are not taxable. Note, the College is not exempt from paying State and local transaction privilege tax (sales tax).
c. Prices for services shall be listed hourly, including the total cost and the total number of hours required to complete the services, and, if applicable, any individual category of the services.
d. For multi-year projects, include the total annual cost for each service.
e. Provide detailed explanations of any assumptions that the offeror made in calculating the project costs in order to provide sufficient information for the College to be able to prepare a detailed cost analysis and comparison.
f. Identify when the offeror proposes to invoice the College (e.g., progress payments, milestone, weekly, monthly, etc.).
g. Indicate if any items are optional and specify them in a separate section(s).

The College expects that all costs are included in the overall fee for services proposed, and that there will be no additional expenses billed to the College for any reason.

8. Appendix

The Proposal Appendix must include:

a. All documents or forms required by the College to be completed by the firm, including the required Certification Forms included in this RFP (Section 8).
b. Details of any litigation your company or any of its subsidiaries or affiliates has had in the past five years relate to the performance of services provided by your firm.
c. If a firm has had any previous contracts canceled or is currently debarred, suspended, or proposed for debarment by any government entity, the current status must be documented in this proposal. If any customer has stopped using the product(s) or service(s) you are proposing, provide details including customer name, date when product was installed, date when product was discontinued (usage) and reason for discontinuation, including contact details of the customer.
d. If the firm intends to use any cooperative, subcontract, third party agreement, or the like to perform under their proposal, the firm must supply the name, address, qualifications and criteria used by the firm for selection of any third party, and the intended services to be performed. **The services provided under the Scope of Work proposed, in part or in whole, shall not be subcontracted without prior written permission of the College.**

9. Certifications –

By signing the Proposal Form (included in Section 6), the offeror certifies that the submission of the proposal did not involve collusion or other anti-competitive practices; that 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 proposal. The Offeror also certifies whether it is a small business under the federal regulations, and if so, the category of eligible small business.

In addition, by signing the Mandatory Certification Forms (included in Section 8), the offeror certifies (1) whether or not an employee of the College has, or whose relative has, a substantial interest in any agreement subsequent to this RFP; (2) whether it complies with the legal worker verification requirements; and if applicable, (3) the status with regard to debarment, or suspension by any governmental entity; and (4) anti-lobbying certification and disclosure.

Failure to provide signatures affirming the stipulations required above will result in the rejection of the submitted proposal and, if applicable, any resulting agreement. Signing the certifications with a false statement shall void the proposal and, if applicable, any resulting agreement.

Section 4
Selection and Contract Award

Proposals shall be evaluated based on the requirements set forth in the RFP. Selection of the firm(s) will be at the discretion of the College and will be based on the proposal that the College deems to be the most responsive and responsible and serves the best interests of the College. It is the intent of the College to negotiate and enter into a contract with the selected firm following a Notice of Intent of Selection.

Selected offeror(s) may be required to make on-site oral and visual presentations or demonstrations at the request of the College. The College will schedule the time and location for any presentations. Costs and equipment for such presentations are the responsibility of the offeror. Best and Final offers may be solicited from the pool of finalists prior to selection of the successful firm.

Proposals will be reviewed by the College Selection Committee and will be evaluated based on the following criteria, which are listed in descending order of importance:

- **a.** Firm Experience and Qualifications
  - **i.** Experience with projects of similar type and scope.
  - **ii.** Experience with private and public sector organizations, and institutions of higher education.
- **b.** Staff Expertise / Implementation and Operational Teams
  - **i.** The experience of staff proposed to be involved in the project.
  - **ii.** Proven and demonstrated hands-on expertise of key management team members and staff in this area of work.
  - **iii.** Demonstrated expertise in being a strategic partner with clients.
- **c.** Project Methodology and Structure (if specified in Scope of Work).
  - **i.** Description of the approach, methodology, and project structure to be used to satisfy the College's project scope and objectives.
- **d.** Implementation and/or delivery schedule
  - **i.** Proposed timeline reasonableness and responsiveness to project's intended outcomes.
- **e.** Relevant References

Section 5
RFP Completion Checklist

This checklist is a summary of some of the required components of the RFP. It is provided as a convenience to offerors, but is not intended to be all-inclusive or to imply acceptance or evidence of compliance by its use. It is the responsibility of the offeror to submit complete and compliant proposals.

- ☐ **Cover Letter**
- ☐ **Proposal Form (refer to Section 6)**
- ☐ **Cost Proposal Form (refer to Section 6)**
- ☐ **Qualifications**
- ☐ **Response to Scope of Work**
- ☐ **Exceptions Requested to Scope of Work and Sample Agreement (refer to Section 2 and Section 7)**
- ☐ **Completed and Signed Certifications (refer to Section 8)**

Section 6
Proposal Form

Date _____

Proposal of _____,
(Company Name)
□ a corporation organized and existing under the laws of the State of _____;
□ a partnership, registered in the State of _____, and consisting of
_____;
□ an individual trading as _____,
located at _____

This Proposal is submitted in response to RFP No. _____, _____
[provide title or brief description]

The undersigned, as a duly authorized officer, hereby agrees to be bound by the content of this Proposal and agrees to comply with the terms, conditions and provisions of the referenced RFP and any addenda thereto in the event of an award. Exceptions are to be noted as stated in the RFP. The proposal shall remain in effect for a period of ninety (90) calendar days as of the Due Date for responses to the RFP.

The undersigned understands that the College reserves the right to reject any or all Proposals or to waive any formality or technicality, as determined by the College in its sole discretion, in any Proposal in the interest of the College.

The undersigned hereby acknowledges receipt of the following Addenda, if any:

Addendum No.	Date:
_____	_____
_____	_____
_____	_____
_____	_____

The undersigned hereby certifies that this Proposal is genuine and not a sham or collusive, nor made in the interest or behalf of any person not herein named, and that the undersigned has not directly or indirectly induced or solicited any other offeror to put in a sham proposal, or any other person or entity to refrain from submitting proposals, and that the Offeror has not in any manner sought by collusion to secure for itself an advantage over any other Offeror.

The undersigned further certifies that your firm (check the appropriate areas) □ does ***or*** □ does not meet the Federal (S.B.A.) Small Business definition (FAR 19.001) and size standards (FAR 19.102). If it does, please "CHECK" one of the following:
□ small business; □ veteran-owned small business; □ service-disabled veteran-owned small business; □ HUB Zone small business; □ small disadvantaged business; or □ women-owned small business.

The undersigned further certifies that as a duly authorized officer, he or she is authorized to negotiate in good faith on behalf of this firm for purposes of this RFP.

_____
(Offeror's Full Legal Name)

_____
(Signature)

_____
(Print Name)

_____
(Title)

_____
(Complete Business Address)
_____

_____
(Email Address)

_____
(Phone)

_____
(Federal Taxpayer ID Number)

Section 6 (continues)
Cost Proposal Form

(See specific requirements for this Form in Section 3, Paragraph 7.
Note: All costs shall be included here; No additional expenses shall be billed to College for any reason).

[Insert types and descriptions of pricing needed]

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Section 7
Sample Agreement

AGREEMENT FOR SERVICES

THIS AGREEMENT FOR SERVICES ("**Agreement**") is made as of _____, 2016 ("**Effective Date**") by and between PIMA COUNTY COMMUNITY COLLEGE DISTRICT ("**College**"), a political subdivision of the State of Arizona, located in Tucson, Arizona, and _____[insert Contractor's full legal name]_____ ("**Contractor**"), a(n) __[insert Contractor's State of incorporation/registration]_____corporation, with a principal place of business at ____[insert complete address]_____ .

NOW, THEREFORE, in exchange of mutual promises and other valuable consideration, the parties agree as follows:

1. **SERVICES**

1.1. Subject to the terms and conditions stated in Attachment A and, if applicable, Attachment E, attached to and made part of this Agreement, Contractor shall provide College the _____ services ("**Services**"). Attachment B, which is attached to and made part of this Agreement, provides detailed description of the Services, including the Scope of Work, to be performed by Contractor.

1.2. As part of the Services, Contractor shall deliver to College all goods, reports, documents and other materials ("**Deliverables**") as set forth in Attachment B.

2. COMPENSATION

In exchange for the Services, College shall pay Contractor as compensation the total amount of _____ ($_____) dollars, as and when set forth on Attachment C, which is attached to and made part of this Agreement. Unless states expressly in Attachment C, Contractor shall be solely responsible for all expenses it incurs in connection with the Contractor's obligations under this Agreement.

3. **TERM**

The initial term of the contract shall be for one year from date of award. Four, one-year extensions of the contract may be effected by Purchase Order or an amendment to this Agreement approved by both parties.

4. **TERMINATION**

4.1. **Termination for Cause.** Notwithstanding the Term, College reserves the right to terminate this Agreement in whole or in part due to the failure of Contractor to comply with any term or condition of the Agreement, to acquire and maintain all required insurance policies, licenses and permits, or to make satisfactory progress in performing the Services. College shall provide written notice of the termination and the reasons for it to Contractor. Upon termination under this provision, all goods, materials, documents, data and reports prepared by Contractor under this Agreement shall become the property of and be delivered to College on demand. College may, upon termination of the Agreement, procure, on terms and in the manner that it deems appropriate, the services to replace those under this Agreement. Contractor shall be liable to College for any excess costs incurred by College in re-procuring the services.

4.2. **Termination for Convenience**. College reserves the right to terminate this Agreement in whole or in part at any time when in the best interests of College without penalty or recourse. Upon receipt of the written notice, Contractor shall immediately stop all work as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to College. In the event of termination under this provision, all documents, data and reports prepared by Contractor under this Agreement shall become the property of and delivered to College. Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of termination. Such compensation shall be Contractor's sole remedy against College in the event of termination under this provision.

5. INSURANCE

Contractor shall (and shall cause its subcontractors to) procure and maintain until all of the Contractor's obligations under this Agreement have been discharged or satisfied, including any warranty periods, insurance coverage described in Attachment D, and shall otherwise comply with the requirements of Attachment D, which is attached to and made part of this Agreement.

6. NOTICES

Any notice to be given under this Agreement shall be in writing and sent to the intended party's address indicated below:

To **COLLEGE:**

Name:_____
Phone:_____
Email:_____
Address:_____
_____

To **CONTRACTOR:**

Name:_____
Phone:_____
Email:_____
Address:_____
_____

7. **ENTIRE AGREEMENT; AMENDMENTS**

7.1. This document, including all Attachments constitutes the entire agreement between the parties with respect to the subject matter and supersedes all prior communications and understandings, written or oral, between the parties.

7.2. This Agreement shall not be modified, amended, or extended except by written amendment signed by both parties.

[SIGNATURE PAGE CONTINUES]

IN WITNESS WHEREOF, the parties' duly authorized representatives have signed this Agreement on the dates indicated below:

For **COLLEGE**

PIMA COUNTY COMMUNITY COLLEGE DISTRICT:

By:_____
Print Name:_____
Title:_____
Date:_____

By:_____
Print Name:_____
Title:_____
Date:_____

For **CONTRACTOR**

[INSERT CONTRACTOR'S FULL LEGAL NAME]:

By:_____
Print Name:_____
Title: _____
Date:_____

By:_____
Print Name:_____
Title:_____
Date:_____

ATTACHMENTS:

Attachment A – General Terms and Conditions
Attachment B – Scope of Work; Deliverables
Attachment C – Compensation
Attachment D – Insurance Requirements

ATTACHEMENT A to AGREEMENT FOR SERVICES

GENERAL TERMS AND CONDITIONS

1. **Contractor's Performance of Services.** Contractor shall provide all tools, equipment, and supplies Contractor determines to be necessary to perform the Services.

2. **Supervision**. Contractor is using its own knowledge, skill, and technical know-how in the performance of the Services and is not being supervised by College.

3. **Government Fees; Licenses.** Contractor shall be solely responsible for complying with all laws and regulations regarding taxes, permits, and fees as they may apply to any matter under this Agreement. Contractor shall, at its own cost, obtain and maintain in full force and effect during the entire Term all business registrations or licenses required to perform the Services. Upon request by College, Contractor shall demonstrate that it is duly licensed by whatever regulatory body may so require during the performance of the Agreement.

4. **Work to Be Performed by Others**. College reserves the right to perform any and all services in-house or to utilize the services of other firms on unrelated projects.

5. **Warranties.**

5.1. Contractor warrants that the Services will be performed in a professional and workmanlike manner and in conformity with industry standards by persons reasonably suited by skill, training, and experience for the type of services they are assigned to perform.

5.2. Contractor further warrants that (i) it owns or has sufficient rights in all Deliverables, and no Deliverables will infringe on or violate any intellectual property rights of any third parties; (ii) no code or software developed or delivered by Contractor under this Agreement will contain any viruses, worms, or other disabling devices or code; and (iii) in addition to any implied warranties, all Deliverables will conform to the specifications and descriptions created therefor.

5.3. To the extent, Contractor warrants that the Services, Deliverables, all electronic and information technology to be provided under this Agreement comply with the accessibility requirements of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §12101 et seq.) and Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794d), and maintain Web Content Accessibility Standards 2.0 at Level AA.

6. Scope of Relationship. Contractor is an independent contractor. Neither Contractor nor any of Contractor's employees, agents, or subcontractors, or their employees or subcontractors (collectively, with Contractor, "**Contractor Parties**"), shall be deemed employees, agents, partners, or joint venturers of College, and nothing in this Agreement will be construed to authorize either party to act as agent for the other.

7. Intellectual Property.

7.1. College's Intellectual Property All intellectual property that Contractor may make, conceive, discover, develop, or create, either solely or jointly with any other person or persons including College, pursuant to or in connection with the Services, including all intermediate and partial versions ("**Contract IP**"), will be owned by College, and where applicable, all copyrightable Contract IP will be considered "Work Made for Hire" under the U.S. Copyright Act, 17 U.S.C. §101 et seq. To the extent that any Contract IP is not, by operation of law, agreement or otherwise considered work made for hire for College (or if ownership of all rights therein do not otherwise vest exclusively in College), Contractor hereby irrevocably assigns, without further consideration, to College, all rights, title, and interest to all Contract IP. For purposes of this Agreement, "**Intellectual Property**" or "**IP**" means all forms of legally protectable intellectual property, including copyrights, trademarks, inventions, patent applications, patents and mask works, drawings and/or blueprints.

7.2. Contractor's Intellectual Property. Contractor will retain ownership of its pre-existing Intellectual Property, including any of its pre-existing Intellectual Property that may be incorporated into the Contract IP, provided that Contractor informs College in writing before incorporating any pre-existing Intellectual Property into any Contract IP. Contractor hereby grants to College a perpetual, irrevocable, royalty-free, worldwide right and license (with the right to sublicense), to freely use, make, have made, reproduce, disseminate, display, perform, and create derivative works based on such pre-existing Intellectual Property as may be incorporated into the Contract IP or otherwise provided to College in the performance of the Services.

7.3. College Data As between the parties, College will own, or retain all of its rights in, all data and information that College provides to Contractor, as well as all data managed by Contractor on behalf of College, including all output, reports, analyses, and other materials relating to or generated by the Services, even if generated by Contractor, as well as all data obtained or extracted through College's or Contractor's use of the Services (collectively, "**College Data**"). The College Data also includes all data and information provided directly to Contractor by College students and employees, and includes personal data, metadata, and user content. The College Data will be College's Intellectual Property and Contractor shall treat it as College's confidential and proprietary information. Contractor will not use, access, disclose, or license or provide to third parties any College Data, or any materials derived therefrom, except: (i) to the extent necessary to fulfill Contractor's obligations to College under this Agreement; or (ii) as authorized in writing by College. Contractor may not use any College Data, whether or not aggregated or de-identified, for product development, marketing, profiling, benchmarking, or product demonstrations, without College's prior written consent. Upon request by College, Contractor shall deliver, destroy, and/or make available to College any or all of College Data.

8. **Confidentiality**

8.1. If, during the Term, either party is provided with access to or otherwise is exposed to confidential and proprietary information relating to the other party's business practices, strategies, and technologies, as well as the other party's confidential information, including personnel records, health and safety reports, or any other documentation of a private or confidential nature, including educational records covered by Section 9, and College Data, covered by Section 7.3 of this Agreement (collectively, "**Confidential Information**"), the party shall handle and store such Confidential Information in a secure manner so as to prevent that information from being intercepted by unauthorized persons, lost, published or otherwise disseminated. Neither party shall reproduce or otherwise use any Confidential Information except in the performance of the Services, and will not disclose any Confidential Information in any form to any third party, either during or after the Term, except with the other party's prior written consent.

8.2. Notwithstanding the preceding paragraph, neither party will have obligation to maintain as confidential the other party's Confidential Information that the party can show: (i) was already lawfully in the possession of or known by the party before receipt; (ii) is or becomes generally known in the industry through no violation of this Agreement or any other agreement; (iii) is lawfully received by the party from a third party without restriction on disclosure or use; (iv) is required to be disclosed by court order following notice to the other party sufficient to allow that party to contest such order; or (v) is approved in writing by the party for release or other use.

8.3. Upon expiration or termination of this Agreement, the parties shall cease using all originals and all copies of Confidential Information, in all forms and media, in the party's possession or under the party's control, and shall either (i) promptly return such Confidential Information to the other party; or (ii) where required and/or authorized by law, maintain in a confidential and secure manner until the information is properly destroyed at the end of any applicable retention period.

9. **Educational Records; FERPA.** College is subject to the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, and any educational records that may be provided to Contractor pursuant to this Agreement shall be used solely for the purposes of performing Services under the Agreement and shall not be disclosed except as provided by law.

10. **Public Records**. The parties acknowledge that College is a public entity subject to the provisions of the Arizona Public Records Laws, A.R.S. §§ 39-121 et. seq. In the event that a public records request is received by College requesting records described as confidential, which College determines must be disclosed, College shall notify Contractor party prior to disclosure.

11. **Privacy and Security.**

11.1. If Contractor, or its agents, or any tier of Contractor's subcontractors in the performance of this Agreement hosts or maintains College's Confidential Information on its technology, Contractor warrants that the hosting or maintenance of that information meets applicable legal and industry security standards, including qualifying for "safe harbor" rules under applicable data breach laws.

11.2. At all times during the Term, Contractor shall maintain appropriate administrative, technical and physical safeguards to protect the security and privacy of the Confidential Information in use, in motion, and at rest. These safeguards include, but are not limited to, implementation of adequate privacy and security policies and data breach response plans that comply with industry standards and the requirements of applicable laws and regulations, as long as they meet or exceed College's information security and privacy policies and procedures. Upon request, Contractor shall provide College with copies of those policies and plans.

11.3. Contractor shall maintain and enforce personnel policies that appropriately check the backgrounds of its employees who will be providing services to College. Upon request, Contractor shall provide College with copies of those policies.

11.4. In the event Contractor has reason to believe that an actual or suspected security incident or any other circumstance has occurred in which College may be required to perform a risk assessment and/or provide a notification under applicable law, Contractor shall immediately, and in no event later than twenty four (24) hours, notify the College's Chief Privacy Officer and the Office of General Counsel. Any such notice shall provide a description about the Confidential Information that was accessed as Contractor has available at the time of the notice. Contractor shall keep the Office of General Counsel updated promptly as additional details about the nature of the Confidential Information become available.

11.5. In the event of a breach, Contractor shall mitigate, to extent practicable, any harmful effect that is known to Contractor of a use or disclosure of Confidential Information in violation of this Agreement by Contractor or its subcontractor. Furthermore, in an event of a breach involving College's Confidential Information, Contractor shall obtain a mutually agreed upon vendor to provide at no cost to College forensic services, including, but not limited to, the collection of information in connection with a forensic and risk analysis.

12. **Indemnification**. Contractor shall indemnify, defend, and hold harmless to the fullest extent allowed by law, College, its officers, agents, and employees ("**Indemnitees**") from any and all claims, demands, suits, actions, proceedings, loss, cost, and damages of every kind and description, including attorneys' fees and/or litigation expenses, which may be brought or made against or incurred on account of breach, or loss of or damage to any property, or for injuries to or death of any person, or financial loss incurred by Indemnitees, caused by, arising out of, or contributed to, in whole or in part, by reasons of any act, omission, professional error, fault, mistake, or negligence of Contractor or Contractor Parties in connection with or incident to the performance of this Agreement. Such indemnification shall specifically include (i) infringement claims made against any and all intellectual property supplied by Contractor and third party infringement under the Agreement; and (ii) claims related to the disclosure of College's Confidential Information.

13. **Use of Names; Trademarks**. Neither party shall use the other party's trade name, trademark, service mark, logo, domain name, or any other distinctive brand feature ("**Marks**"), or the names of the party's employees in any publicity or advertising material without prior written approval by the other party. Contractor's use of any College's Marks, if and when authorized, shall comply with the College's design and drawing specifications.

14. **Use of College Property.** While on College property, Contractor shall comply, and shall ensure that its employees, agents, and subcontractors comply, with College policies and procedures governing security and privacy, the Drug-Free Environment, Smoking, Weapons, and Anti-Harassment (including Sexual Harassment), all of which can be found at https://www.pima.edu/about-pima/policies/board-policies/index.html. Contractor's personnel, agents, and subcontractors shall comply with all reasonable requests of College communicated to Contractor regarding personal and professional conduct, and shall otherwise conduct themselves in a businesslike manner.

15. **Compliance Generally.** The parties shall comply with the requirements of all applicable state and federal rules, regulations, and executive orders, including the Americans with Disabilities Act (ADA), 42 U.S.C. § 12132, Immigration and Nationality Act (INA), 8 U.S.C. § 1324a, and A.R.S. § 41-4401.

16. **Equal Opportunity; Non-Discrimination.** The parties shall comply with the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a), prohibiting discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin.

17. **Misuse of Public Funds**. Contractor warrants that, with respect to any Federal, State, or local government funds: (i) Contractor has not been terminated under section 432 of the Higher Education Act for a reason involving the acquisition, use, or expenditure of such funds; (ii) has not been administratively or judicially determined to have committed fraud or any other material violation of law involving such funds; and (iii) Contractor or its officers or employees have not been convicted of, or pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of such funds, or administratively or judicially determined to have committed fraud or any other material violation of law involving such funds. A breach of the foregoing warranty shall be deemed a material breach of this Agreement. In addition to the legal rights and remedies available to College under the Agreement and law, in the event of such a breach, College shall have the right to terminate this Agreement.

18. **Federally-Funded Agreement**. If this Agreement is funded through federal contract or grant, directly or indirectly, Contractor shall comply with all applicable provisions of Attachment E.

19. **Non-Assignment**. This Agreement is personal to Contractor. Contractor shall not assign any of the Contractor's rights or delegate any of the Contractor's obligations under this Agreement to any other person or entity without the written permission of College. Any attempted assignment or delegation by Contractor shall be void and ineffective.

20. **Referencing of Orders.** For each order issued against this Agreement, College intends in good faith to reference the RFP used in procuring the Contractor's services for pricing, terms and conditions, delivery location, and other particulars. However, in the event College fails to do so, College's right to such terms, conditions, and particulars shall not be affected, and no liability of any kind or amount shall accrue to College.

21. **Price Adjustment for Multi-Year Contracts.** Price changes will normally only be considered at the end of one Agreement Term and the beginning of another. Price change requests shall be in writing, submitted at least sixty (60) days prior to the end of the current Term, and shall be supported by written evidence of increased costs to Contractor. College will not approve unsupported price increases that will merely increase the gross profitability of Contractor at the expense of College. Price change requests shall be a factor in the Agreement extension review process. College shall, in its sole opinion, determine whether the requested price increase or an alternate option is in the best interest of College.

22. **Right to Offset.** College shall have the right to offset against any sums due to Contractor, any expenses or costs incurred by College, or damages assessed by College concerning the Contractor's non-conforming performance or failure to perform the Services under this Agreement, or any other debt owing College.

23. **Stop Work Order.** College may at any time, by written order to Contractor, require Contractor to stop all or any part of the work called for by the Agreement ("**Stop Work Order**") for a period of up to ninety (90) days after the order is delivered to Contractor, and for any further period to which the parties may agree. Upon receipt of the Stop Work Order, Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incidence of costs allocable to the work covered by the order during the period of work stoppage. If a Stop Work Order issued under this provision is canceled or the period of the order or any extension expires, Contractor shall resume work. College shall make an equitable adjustment in the delivery schedules, pricing, or both, and the Agreement shall be amended in writing accordingly.

24. **Gratuities.** College may, by written notice to Contractor, cancel this Agreement if it is discovered by College that gratuities, in the form of entertainment, gifts or other were offered or given by Contractor or any agent or representative of Contractor, to any officer or employee of College with a view toward securing an agreement or

securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing of such Agreement. In the event the Agreement is canceled by College pursuant to this provision, College shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by Contractor in providing such gratuities.

25. **Insolvency.** College shall have the right to terminate the Agreement at any time in the event Contractor files a petition in bankruptcy; or is adjudicated bankrupt; or if a petition in bankruptcy is filed against Contractor and not discharged within thirty (30) days; or if Contractor becomes insolvent or makes an assignment for the benefit of its creditors or an arrangement pursuant to any bankruptcy law; or if a receiver is appointed for Contractor or its business.

26. **Cancellation for Conflict of Interest**. Pursuant to the provisions of A.R.S. § 38-511, College may, within three (3) years after its execution, cancel this Agreement without penalty or further obligation if any person significantly involved in negotiating, drafting, securing or obtaining this Agreement for or on behalf of College becomes an employee or agent in any capacity of any other party or a Contractor to any other party with reference to the subject matter of the Agreement while the Agreement or any extension thereof is in effect.

27. **Non-Appropriation**. Contractor acknowledges that College is a public institution and that the continuation of this Agreement from each fiscal year to the next during the Term shall be contingent upon the obligation of sufficient funding by the governing body for College. College shall notify Contractor party in writing as soon as reasonably possible after the unavailability of funding comes to its attention, but no later than sixty (60) days prior to the end of the fiscal year. This provision shall not be construed so as to permit College to terminate the Agreement in order to acquire similar goods or services from another party.

28. **Force Majeure.** Neither party shall be held responsible for any losses resulting if the fulfillment of any terms or provisions of this Agreement are delayed or prevented by any cause not within the control of the party whose performance is interfered with, and which by the exercise of reasonable diligence, that party is unable to prevent.

29. **No Waiver of Right by College**. No waiver by College of any breach of the provisions of this Agreement by Contractor shall in any way be construed to be a waiver of any future breach or bar the College's right to insist on strict performance of the provisions of this Agreement.

30. **Dispute Resolution**; **Arbitration.** In the event of a dispute arising under this Agreement, the parties shall exhaust all applicable administrative remedies provided for under the College Administrative Provisions. Additionally, this Agreement is subject to arbitration to the extent required by A.R.S. §§ 12-133 and 12-1518, and Rule 3.9 of Pima County Superior Court Local Rules.

31. **Severability**. If any provision of this Agreement is held to be unenforceable, then that provision will be modified to the minimum extent necessary to make it enforceable, unless that modification is not permitted by law, in which case that provision will be disregarded. If an unenforceable provision is modified or disregarded, then the rest of the Agreement will remain in effect as written.

32. **Governing Law; Venue**. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Arizona, without regard to its conflicts of law principles. Jurisdiction and venue for any dispute arising out of this Agreement shall exclusively rest in the Pima County, Arizona.

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7/27/2016

ATTACHMENT B to SERVICE AGREEMENT

SCOPE OF WORK; DELIVERABLES
(This Attachment will be developed from the Scope of Work defined in section 2 of this RFP and successful Offeror's proposal)

Proposal No. P17/9944
7/27/2016

ATTACHMENT C to AGREEMENT FOR SERVICES

COMPENSATION
(This Attachment will be developed based on the Cost Proposal Form of the successful Offeror's proposal)

Proposal No. P17/9944
7/27/2016

ATTACHMENT D to AGREEMENT FOR SERVICES

INSURANCE REQUIREMENTS

1. GENERAL INSURANCE REQUIREMENTS:

A. Contractor shall, upon request, submit to the College's Purchasing Representative certificates of insurance evidencing the coverage required in this Attachment as proof that the policies providing the required coverages are in full force and effect. The amounts shall not be less than the amounts specified below or such other amounts as specified in advance in writing by the College's Purchasing Representative.

B. All policies, except for Workers' Compensation, shall contain a waiver of subrogation in favor of the Pima County Community College District, its Board of Governors, employees, students, and any of its affiliates, subsidiaries or related entities. Contractor's insurance coverages shall be primary as to any other insurance or source, and shall include a severability of interest clause. Coverage provided by Contractor shall not be limited to the liability assumed under the indemnification provisions of this Agreement.

C. For policies shown in Section 2(B), 2(C), and 2(E) below, **the insurance certificates shall name Pima County Community College District, its Board of Governors, employees, and students as an additional insureds with respect to liability arising out of the activities performed by or on behalf of Contractor.**

D. Coverage afforded under the policies may not be cancelled, terminated, or materially altered until at least thirty (30) days' prior written notice has been provided by Contractor to the College's Purchasing Representative.

E. Contractor shall prevent all persons or entities retained by, through, or under Contractor, from entering upon College's premises or continuing the performance of the work unless such person or entity is and continues to be insured in accordance with requirements stated in this Attachment.

F. In the event Contractor and/or any person or entity retained by, through, or under Contractor fail to maintain required insurance coverage, College may, at its discretion, procure or renew such missing insurance coverage and charge the cost of such insurance premiums to Contractor.

2. INSURANCE COVERAGE REQUIRED:

A. Workers' Compensation -Required for All Risk Levels:

Company	Workers' Compensation – Statutory Employers' Liability-$1,000,000 each person/each accident

B. Auto Liability -Required for All Risk Levels for vehicles used in the performance of the contracted work:

Company Vehicles	Private Passenger Vehicles - $1M per accident covering all owned, non-owned, and hired vehicles. Commercial Vehicles - $5M per accident covering all owned, non-owned, and hired vehicles.

C. General Liability

$1M per occurrence

Examples of Low Risk Activities: Professional Services, Training Activities, Classroom Software Programmers, Couriers & Messengers, Audio & Video Equipment Suppliers, Office Machine Maintenance, Delivery Services.

D. Professional Errors and Omissions (including Environmental Impairment Liability)	$1M per occurrence

PimaCommunityCollege
Contracts&Purchasing

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Section 8
Mandatory Certification Forms

CONFLICT OF INTEREST CERTIFICATION

_____
(date)

The undersigned certifies that to the best of his/her knowledge: (**check only one**)

□ There is no officer or employee of College who has, or whose relative has, a substantial interest in any contract resulting from this RFP.

□ The names of all public officers or employees of College who have, or whose relative has, a substantial interest in any contract resulting from this RFP, and the nature of the substantial interest, are included below or as an attachment to this certification:

_____

_____

_____

_____

_____	_____
(Signature)	(Phone)
_____	_____
(Print name)	(Email address)
_____	_____
(Print title)	(Federal Taxpayer ID Number)

Section 8 (continues)

WORKER ELIGIBILITY VERIFICATION

_____
(date)

As required by the Arizona Revised Statutes § 41-4401, College is prohibited from awarding a contract to any contractor who fails, or whose subcontractors/subrecipients fail, to comply with A.R.S. § 23-214 governing the employee verification requirement through the federal e-verify program.

Accordingly, the Offeror warrants that:

(1) it complies fully with all applicable federal immigration laws and regulations that relate to its employees; that it shall, as applicable or required under A.R.S. § 23-214, verify, through the e-verify program as jointly administered by the U.S. Department of Homeland Security and the Social Security Administration or any of its successor programs, the employment eligibility of each employee hired to work on the resulting agreement with College; and

(2) that it shall, as applicable or required under A.R.S. §23-214, require its subcontractors and sub-subcontractors to provide the same warranties to the Offeror.

A breach of the foregoing warranty shall be deemed a material breach of the resulting agreement. In addition to the legal rights and remedies available to College under the law, in the event of such a breach, College shall have the right to terminate the resulting agreement with the Offeror.

Upon request, the College shall have the right to inspect the papers of each contractor, subcontractor or any employee of either who performs work hereunder for the purpose of ensuring that the contractor or subcontractor is in compliance with the warranty set forth in this provision.

_____	_____
(Signature)	(Phone)
_____	_____
(Print name)	(Email)
_____	_____
(Print title)	(Federal Taxpayer ID Number)