	State of Arizona Participating Addendum	Arizona Department of Administration State Procurement Office
	Contract No.: CTR073367	
	Description: NASPO Public Safety Communications Products, Services and Solutions	

CONTRACTOR IS STRONGLY ENCOURAGED TO READ THE ENTIRE CONTRACT.

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Scope of Work and Participation

1. Purpose and Background

1.1. Master Agreement Name and Number: NASPO ValuePoint Master Agreement No. 00318 for Public Safety Communications Products, Services and Solutions

1.2. Contractor: American Power Systems, LLC

1.3. Participating Entity: State of Arizona

1.4. Purpose: Pursuant to this Cooperative Purchasing Master Agreement, Contractor is authorized to sell only those Public Safety Radio Products and Services in the category above posted on the NASPO ValuePoint website. Contractor shall not represent to any Participating or Purchasing Entity under this Cooperative Purchasing Master Agreement that Contractor has contractual authority to sell any Public Safety Radio Products beyond those approved and posted on the NASPO ValuePoint website.

1.5. Legal Authority: In accordance with Arizona Revised Statutes (A.R.S.) § 41-2632, and Arizona Administrative Code (A.A.C.) R2-7-1003, Purchasing from a Cooperative Contract, the State of Arizona establishes this contract with American Power Systems, LLC to provide the Materials or Services described herein.

1.6. Participation: This Participating Addendum covers participation of Participating Entity in the above-referenced Master Agreement between the State of Washington and Contractor for Materials or Services. This Participating Addendum may be used by all State Agencies (Eligible Agencies) as well as members of the State of Arizona Purchasing Cooperative (Co-Op Buyers).

1.7. Term: This Participating Addendum shall become effective as of the date of the last signature below and shall terminate upon the expiration or termination of the Master Agreement, as amended, unless the Participating Addendum is terminated sooner in accordance with the terms set forth herein.

2. Primary Contacts

2.1. Primary Contacts: The following (or their named successors) are the primary contact individuals for this Participating Addendum:

2.1.1. Contractor Primary Contact:

Name:	Jason Gardner
Address:	1851 Central Pl S, Ste 206, Kent, WA 98030
Telephone:	425-615-6503
Email:	jasongardner@ampowersys.com

2.1.2. Participating Entity Primary Contact:

Name:	James Atkins
Address:	1400 W. Washington, Suite 3100, Phoenix, AZ 85007
Telephone:	602-245-8268
Email:	James.atkins@azdoa.gov

Participating Addendum Modifications to the Master Agreement

2.2. Participating Addendum Changes to Master Agreement:

2.2.1. This Participating Addendum incorporates the entire Master Agreement, including terms and conditions therein, as applied to the Participating Entity and Contractor, with the limitations, modifications, and additions described in this Section 3 of the Contract Scope of Work (Participating Addendum Modifications to the Master Agreement).

2.2.2. Any limitations, modifications, or additions specified herein shall apply only to the agreement and relationship between Participating Entity and Contractor and shall not amend or affect other participating addenda or the Master Agreement itself.

2.3. Definitions

2.3.1. “Contract” For the purpose of this Participating Addendum, the term Contract refers to the Master Agreement, as defined therein and as modified by this Participating Addendum, and any Amendments to either the Master Agreement or the Participating Addendum.

2.4. Order of Precedence

2.4.1. The following attachments are hereby incorporated into this State of Arizona Participating Addendum (PA):

2.4.1.1. Attachment A, Arizona Terms and Conditions;

2.4.1.2. Attachment B – Boycott of Israel Disclosure; and

2.4.1.3. Attachment C – Forced Labor of Ethnic Uyghurs Ban

2.4.1.4. [RESERVED for additional attachments or exhibits]

2.4.2. Master Contract and Participating Addendum Order of Precedence:

2.4.2.1. State of Arizona Participating Addendum;

2.4.2.2. Master Agreement;

2.4.2.3. Master Agreement Solicitation including all Addenda; and

2.4.2.4. Contract Vendor's response to the Master Agreement Solicitation.

2.5. Orders: Any Order placed by a Participating Entity, Eligible Agency, or Co-Op Buyer for a Material or Service offered through this Participating Addendum shall be deemed to be a sale under, and subject to the pricing and other terms and conditions of, the Master Agreement unless the parties to the order agree in writing that another contract or agreement applies to the order.

2.6. Master Agreement Deletion: Paragraph 6.2 Payment is hereby deleted in its entirety.

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IN WITNESS, WHEREOF, the parties have executed this Participating Addendum as of the date of execution by both parties below.

American Power Systems, LLC	Jason Gardner Jason Gardner (Aug 23, 2024 12:19 PDT)
Contractor company name	Signature of person authorized to sign Contract
1851 Central Pl S, Ste 206	Jason Gardner
Address	Printed name and title
Kent, WA 98030	Dir of Compliance
City, State, ZIP	Contact name and title
	jasongardner@ampowersys.com 425-615-6503
	Contact email address Contact phone number

CERTIFICATION: By signature in the above, Contractor certifies that it:

1. Will not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, [Arizona] State Executive Order Nos. 2023-09, 2023-01, 2009-9, and A.R.S. §§ 41-1461 through 41-1465;
2. 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 Contract; failure to provide a valid signature affirming the stipulations required by this clause may void the Contract;
3. Has not signed the Contract with a false statement, which will void the Contract and may subject Contractor to legal penalties under law;
4. Complies with A.R.S. § 18-132 when offering electronics or information technology products, services, or maintenance;
5. Did not and will not involve collusion or other anti-competitive practices; and
6. Is not debarred from, or otherwise prohibited from, participating in any contract awarded by any federal entity, or state or local government.

CONTRACT EXECUTION BY PROCUREMENT AUTHORITY

The Contractor is now bound to sell the Materials or Services listed in the attached Contract, including all terms, conditions, and specifications as stated herein. The Contract shall henceforth be referred to as Contract No. CTR073367 with an effective date of 8/26/2024. The Contractor is cautioned not to commence any billable work or to provide any Material or Service under this Contract until Contractor receives an Order or written notice to proceed from the State.

State of Arizona Contract Executed this 23rd **day of** August **20** 24

John R

John Red Horse
Sr. Manager – Technology, SPO
Procurement officer signature

ATTACHMENT A
STATE OF ARIZONA TERMS AND CONDITIONS

1. No Indemnification. Notwithstanding any provision of the Agreement to the contrary, the Department is not authorized to indemnify the Contractor.

2. Availability of Funds. Every payment obligation of the Department under this Agreement is conditioned upon the availability of funds appropriated and allocated for the payment of such obligation. If funds are not appropriated, allocated and available or if the appropriation is changed by the legislature resulting in funds no longer being available for the continuance of this Agreement, this Agreement may be terminated by the Department or any other agency of the State of Arizona at the end of the period for which funds are available. No liability shall accrue to the Department or any other agency of the State of Arizona in the event this provision is exercised, and neither the Department nor any other agency of the State of Arizona shall be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

3. Records. Under A.R.S. § 35-214 and § 35-215, the Contractor shall retain and shall contractually require each Subcontractor to retain any and all Data and other "records" relating to the acquisition and performance of the Contract for a period of five (5) years after the completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.

4. Non-Discrimination. The Contractor shall comply with State Executive Order Nos. 2023-09, 2023-01, 2009-09, and any and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.

5. Audit. Pursuant to A.R.S. § 35-214, at any time during the term of this Contract and five (5) years thereafter, the Contractor's or any Subcontractor's books and records shall be subject to audit by the State and, where applicable, the Federal Government, to the extent that the books and records relate to the performance of the Contract or Subcontract.

6. Facilities Inspection and Materials Testing. The Contractor agrees to permit access to its facilities, Subcontractor facilities, and the Contractor's processes or services, at reasonable times for inspection of the facilities or Materials covered under this Contract as required under A.R.S. § 41-2547.

7. Notices. Notices to the Contractor required by this Contract shall be made by the State to the person indicated on the signature block to the Contract submitted by the Contractor unless otherwise stated in the Contract. Notices to the State required by the Contract shall be made by the Contractor to the Procurement Officer stated in the Contract, or listed on the State's eProcurement system. An authorized Procurement Officer and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice to the other; an amendment to the Contract shall not be necessary.

8. Federal Immigration and Nationality Act. Contractor shall comply with all federal, state and local immigration laws and regulations relating to the immigration status of their employees during the term of the contract. Further, Contractor shall flow down this requirement to all Subcontractors utilized during the term of the contract. The State shall retain the right to perform random audits of Contractor and Subcontractor records or to inspect papers of any employee thereof to ensure compliance. Should the State determine that the Contractor or any Subcontractors be found noncompliant, the State may pursue all remedies allowed by law, including, but not limited to: suspension of work, termination of the contract for default and suspension or debarment of the contractor.

9. E-Verify Requirements. In accordance with A.R.S. § 41-4401, Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23- 214, Subsection A.

10. Protection of State Cybersecurity Interests. The Contractor shall comply with State Executive Order No. 2023-10, which includes, but is not limited to, a prohibition against (a) downloading and installing of TikTok on all State-owned and State-leased information technology; and (b) accessing TikTok through State information technology.

11. Certifications Required by State Law.

    11.1. If Contractor is a Company as defined in A.R.S. § 35-393, Contractor certifies that it is not currently engaged in a boycott of Israel as described in A.R.S. §§ 35-393 *et seq*. and will refrain from any such boycott for the duration of this Contract.

    11.2. Contractor further certifies that it shall comply with A.R.S. § 35-394, regarding use of the forced labor of ethnic Uyghurs, as applicable.

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

13. Applicable Taxes

    13.1. Payment of Taxes. The Contractor shall be responsible for paying all applicable taxes, for which the seller shall be able to collect from the buyer regardless of inclusion on any such quote or Purchase Order.

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

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

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

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

15. Cancellation for Conflict of Interest. Pursuant to A.R.S. § 38-511, the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is or becomes at any time while the Contract or an extension of the Contract is in effect an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. § 38-511.

16. Contract Claims. All contract claims or controversies under this Contract shall be resolved according to A.R.S. Title 41, Chapter 23, Article 9, and rules adopted thereunder.

17. Arbitration. The parties to this Contract agree to resolve all disputes arising out of or relating to this Contract through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12-1518, except as may be required by other applicable statutes (A.R.S. Title 41).

18. Statewide Contract. The Contract is a mandatory statewide contract (per A.A.C. R2-7-607) for multiple purchases, projects, or assignments, and a cooperative contract (per A.R.S. § 41-2632 and A.A.C. R2-7-1002(B)) that can be purchased against by some or all Eligible Agencies and any Co-Op Buyers that elect to participate. Even if only one Eligible Agency needs or elects to purchase against the Contract, it is to be construed as being a cooperative contract hereunder.

18.1 Contractor shall verify if an ordering entity is a current Co-Op Buyer before selling Materials to or providing Services for them under the Contract. The current list of Co-Op Buyers is available on the State Procurement Office website:

https://spo.az.gov/suppliers/usage-reporting

18.2 Contractor shall sell to Co-Op Buyers at the same price and on the same lead times and other terms and conditions under which it sells to Eligible Agencies, with the sole exception of any legitimately additional costs for extraordinary shipping or delivery requirements if the Co-Op Buyer is having Materials delivered or installed or Services performed at locations not contemplated in the contracted pricing (e.g. delivery to a location outside Arizona).

18.3 Contractor shall pay State an administrative fee against all Contract sales to Co-Op Buyers, as provided for under A.R.S. § 41-2633. Rates are set in accordance with SPO Technical Bulletin (TB) 007, available on the SPO website, which may be revised at the State's sole discretion as part of Arizona state procurement policy. For convenience (though note that this link may change over time) TB 007 may be found here:

https://spo.az.gov/suppliers/usage-reporting

Failure to remit the administrative fees is a material breach of contract, and will entitle the State to its remedies under Contract Terms and Conditions Section 8 and its right to terminate for default under Section 9. Method of calculation, payment procedures, and other details are provided on the State Procurement Office website:

https://spo.az.gov/suppliers/usage-reporting

18.4 Contractor shall submit to State a quarterly usage report documenting all Contract sales to both Eligible Agencies and Co-Op Buyers, itemized separately. Contractor shall further itemize divisions, groups or areas within a given Eligible Agency if they place Orders independently of each other. Failure to submit the report is a material breach of contract, and will entitle the State to its remedies under Contract Terms and Conditions Section 8 and its right to terminate for default under Section 9. Contractor shall submit the report using the forms and following the instructions on the State Procurement Office website:

https://spo.az.gov/suppliers/usage-reporting

18.5 Contractor shall acknowledge each Order from Eligible Agencies within one (1) business day after receipt by either: (a) "approving" the Order electronically in the State's eProcurement System, which will indicate Contractor's unqualified acceptance of the Order as-issued; or (b) "rejecting" the Order electronically in the State's eProcurement System, with a concurrent explanation by email to relevant originator as to the reason for rejecting it. By way of reminder, the only grounds on which the Contractor may reject or refuse an Order are those set out in subparagraph 25.3 [Orders are Obligatory]. Unless and until Contractor has approved the Order in the State's eProcurement System, it will have no effect under the Contract and will not oblige either State or Contractor. If the relevant Eligible Agency explicitly instructs at the time that a verbal acceptance is sufficient because of urgency or other unusual circumstances and Contractor duly gives its verbal acceptance, then Contractor will be deemed to have accepted the Order immediately upon commencing performance, provided that, Contractor must follow-up its verbal acceptance by accepting the Purchase Order electronically in the State's eProcurement System within three (3) business days. Contractor shall thereafter be barred from subsequently rejecting the Order in the State's eProcurement System and if it does so the rejection will be void.

18.6 Contractor shall acknowledge each Order from Co-Op Buyers in conformance with each Co-Op Buyer's instructions given at the time of ordering or in any supplemental participating agreement Contractor might have with them. Orders from Co-Op Buyers create no obligation on State's part, since they are entirely between the Co-Op Buyer and Contractor. That notwithstanding, Contractor's obligation under the Contract is to service Co-Op Buyers commercially as though they were with an Eligible Agency, and Contractor's refusal to do so would be a material breach of the Contract.

19. Subcontracts. The Contractor shall not enter into any Subcontract under this Contract for the performance of this Contract without the advance written approval of the Procurement Officer as described in Arizona State Procurement Office Standard Procedure 002. The Contractor shall clearly list any proposed Subcontractors and the Subcontractor's proposed responsibilities. The Subcontract shall incorporate by reference the terms and conditions of this Contract.

20. State's Contractual Remedies.

20.1 Right to Assurance. If the State in good faith has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this Contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days specified in the demand may, at the State's option, be the basis for terminating the Contract under the Uniform Terms and Conditions or other rights and remedies available by law or provided by the contract.

20.2. Stop Work Order.

20.2.1. The State may, at any time, by written order to the Contractor, require the Contractor to stop all or any part of the work called for by this Contract for period(s) of days indicated by the State after the order is delivered to the Contractor. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

20.2.2. If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Procurement Officer shall make an equitable adjustment in the delivery schedule, Materials price, or Contract price, or any combination thereof, and the Contract shall be amended in writing accordingly.

20.3. Non-exclusive Remedies. The rights and the remedies of the State under this Contract are not exclusive.

20.4. Nonconforming Tender. Materials or Services supplied under this Contract shall fully comply with the Contract. The delivery of Materials or Services or a portion of the Materials or Services that do not fully comply constitutes a breach of contract. On delivery of nonconforming Materials or Services, the State may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or remedy available to it.

20.5. Right of Offset. The State shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by the State, or damages assessed by the State concerning the Contractor's non-conforming performance or failure to perform the Contract, including expenses, costs and damages described in the Uniform Terms and Conditions.

21. Contract Termination.

21.1 Cancellation for Conflict of Interest. Pursuant to A.R.S. § 38-511, the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is or becomes at any time while the Contract or an extension of the Contract is in effect an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. § 38-511.

21.2. Gratuities. The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State with the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about contract performance. The State, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three (3) times the value of the Gratuity offered by the Contractor.

21.3. Suspension or Debarment. The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a Subcontractor of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the Contractor is not currently suspended or debarred. If the Contractor becomes suspended or debarred, the Contractor shall immediately notify the State.

21.4. Termination for Convenience. The State reserves the right to terminate the Contract, in whole or in part at any time when in the best interest of the State, without penalty or recourse. Upon receipt of the written notice, the Contractor shall stop all work, as directed in the notice, notify all Subcontractors of the effective date of the termination and minimize all further costs to the State. In the event of termination under this paragraph, all documents, Data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State upon demand. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed, and Materials or Services accepted before the effective date of the termination and shall reimburse Contractor for actual, documented costs incurred in fulfilling the Contract up to the cancellation effective date and the cost of any obligations incurred in fulfilling the Contract up to the cancellation effective date that demonstrably cannot be canceled or that have pre-established cancellation penalties specified in the relevant Contracts, to the extent the penalties are reasonable and customary for the Materials or Services in question. The cost principles and procedures provided in A.R.S. § 41-2543 and A.A.C. Title 2, Chapter 7, Article 7, shall apply.

21.5. Termination for Default.

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

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

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

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

22. Click-through Terms and Conditions. If either party uses a web-based ordering system, an electronic purchase order system, an electronic order acknowledgement, a form of an electronic acceptance, or any software based ordering system with respect to the Contract (each an "Electronic Ordering System"), the parties acknowledge and agree that an Electronic Ordering System is for ease of administration only, and Contractor is hereby given notice that the persons using Electronic Ordering Systems on behalf of State do not have any actual or apparent authority to create legally binding obligations that vary from the terms and conditions of the Contract. Accordingly, where an authorized State user is required to "click through" or otherwise accept or be made subject to any terms and conditions in using an Electronic Ordering System, any such terms and conditions are deemed void upon presentation. Additionally, where an authorized State user is required to accept or be made subject to any terms and conditions in accessing or employing any Materials or Services, those terms and conditions will also be void.

23. Gratuities. The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State with the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about contract performance. The State, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three (3) times the value of the Gratuity offered by the Contractor.

24. Books and Records.

24.1 Retain Records. In addition to the audit rights detailed in the Uniform Terms and Conditions, State also requires that, pursuant to A.R.S. § 41-2548(B), Contractor shall retain and shall contractually require each Subcontractor to retain books and records relating to any cost and pricing data submitted in satisfaction of § 41-2543 for the period specified in the statute.

24.2 Usage Information. Additionally, any and all information (including, but not limited to, documentation or Data) related to Eligible Agency and Co-Op Buyer usage retained solely within the Contractor's system (for example, related to punch-out or

Contractor catalog sales) shall be considered public information or information that can be shared with and distributed by the State freely and for any purpose under the State's government purpose rights detailed in Section 3 of the Uniform Terms and Conditions [Ownership of Intellectual Property]. Any modifications to this Contract notwithstanding, the State shall have free use of any and all information related to Eligible Agency or Co-Op Buyer purchasing. Upon request by the State, Contractor shall promptly provide the State with any usage information requested and shall not attempt to limit the State's use in any way.

24.3 Right To Audit. The retained books and records are subject to audit by State during that period. Pursuant to A.R.S. § 41-2548(B), Contractor shall retain and shall contractually require each Subcontractor to retain books and records relating to performance under the Contract for the period specified in the statute and those retained books and records are subject to audit by State during that period.

24.4 Auditing. Contractor or Subcontractor shall either make all such books and records under subparagraphs 24.1 and 24.2 available to State at all reasonable times or produce the records at a designated State office on State's demand, the choice of which being at State's discretion. For the purpose of this paragraph, "reasonable times" are during normal business hours and in such a manner so as to not unreasonably interfere with normal business activities.

25. Orders.

25.1 Order Sufficiency. The Contract was awarded in accordance with the Arizona Procurement Code; the transactions and procedures required by the Arizona Procurement Code for competitive source selection have been met. An Order issued that cites the correct State contract number will suffice to authorize the Contractor to provide the Materials and perform the Services covered by that Order.

25.2 Order Terms. All Orders are subject to the Contract Terms and Conditions; an Order cannot modify the Contract Terms and Conditions. Any Contractor terms added to quotes or otherwise unilaterally added to Eligible Agency or Co-Op Buyer Orders are null and void.

25.3 Orders are Obligatory. Until the expiration or earlier termination of the Contract, State may issue and Contractor shall accept Orders that make proper reference to the Contract and are permissible hereunder, provided that, Contractor is not obliged to accept any Order that is not consistent with the then-current pricing, lead times, specifications, or payment provisions of the Contract. Contractor shall fulfill and complete any Orders that are begun but not yet completed as of expiration or earlier termination of the Contract unless State instructs otherwise at the time.

25.4 No Minimums or Commitments. (a) Contractor shall not impose any minimum dollar amount, item count, services volume, or services duration on Orders; (b) State makes no commitment of any kind concerning the quantity or monetary value of activity actually initiated or completed during the term of the Contract; (c) Contractor shall only deliver or perform as authorized by Orders; and (d) State is not limited as to the number of Orders it may issue for the Contract. For clarity of intent, the foregoing applies equally whether an Eligible Agency issues the Order or, if applicable, a Co-Op Buyer issues it.

25.5 Non-contracted Materials or Services. Any attempt to knowingly represent for sales, marketing, or related purposes that Materials or Services not specifically awarded are under a State contract is a violation of the Contract and law.

26. Order Cancellations. State may cancel Orders within a reasonable period after issuance and at its discretion. The same method used for ordering will be used for cancellation.

26.1 If State cancels an Order, then State shall:

26.1.1 pay Contractor for any portion of the Materials and Services from that Order that have been properly delivered or performed as of the cancellation effective date; and

26.1.2 reimburse Contractor for actual, documented costs incurred in fulfilling the Order up to the cancellation effective date and the cost of any obligations incurred in fulfilling the Order up to the cancellation effective date that demonstrably cannot be canceled or that have pre-established cancellation penalties specified in the relevant Subcontracts, to the extent the penalties are reasonable and customary for the work in question.

26.2 Contractor shall not charge or be entitled to charge State for any new costs it incurs after receiving the cancellation notice; State is not liable for any Materials that were produced, shipped, or delivered, or Services that were performed before Contractor had acknowledged the corresponding Order.

26.3 State shall also be able to cancel Orders freely and without any further obligation at any time prior to Contractor's formal acknowledgement of the Order.

27. <u>Payments.</u> State shall make payments in compliance with Arizona Revised Statutes Titles 35 and 41. Unless and then only to the extent expressly stated otherwise in the Pricing Section of the Special Terms and Conditions above, State shall make payment in full for Materials that have been delivered and accepted and Services that have been performed and accepted within the time specified in A.R.S. § 35-342, after both of the following occur: (a) all of the Materials being invoiced have been delivered or installed (as applicable) and accepted and all of the Services being invoiced have been performed and accepted; and (b) Contractor has provided a complete and accurate invoice in the form and manner called for in the Contract, provided that, State will not make or be liable for any payments to Contractor until Contractor has registered properly in the State's eProcurement System and provided a current IRS Form W-9 to State unless excused by law from providing one.

28. <u>Insurance.</u>

28.1 Business Automobile Liability.

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

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

a. Policy shall be endorsed, as required by this written agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by, or on behalf of, the Contractor involving automobiles owned, hired and/or non-owned by the Contractor.

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

28.2 Workers' Compensation and Employers' Liability.

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

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

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

28.3 Commercial General Liability (CGL) – Occurrence Form

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

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

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

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

28.4 Additional Insurance Requirements.

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

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

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

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

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

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

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

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

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

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

	Attachment B: Participation in Boycott of Israel	Arizona Department of Administration State Procurement Office
	Contract No.: CTR073367	
	Description: NASPO Public Safety Communications Products, Services and Solutions	

Attachment B: Participation in Boycott of Israel

Please note that if any of the following apply to this Contract, then the Contractor shall select the "Exempt Contract or Contractor" option below:

- The Contract has an estimated value of less than $100,000;
- Contractor is a sole proprietorship;
- Contractor has fewer than ten (10) employees; OR
- Contractor is a non-profit organization.

Pursuant to A.R.S. §35-393.01, public entities are prohibited from entering into contracts "unless the contract includes a written certification that the company is not currently engaged in, and agrees for the duration of the contract to not engage in, a boycott of goods or services from Israel."

Under A.R.S. §35-393:

1. "Boycott" means engaging in a refusal to deal, terminating business activities or performing other actions that are intended to limit commercial relations with entities doing business in Israel or in territories controlled by Israel, if those actions are taken either:
   (a) Based in part on the fact that the entity does business in Israel or in territories controlled by Israel.
   (b) In a manner that discriminates on the basis of nationality, national origin or religion and that is not based on a valid business reason.
2. "Company" means an organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company or other entity or business association, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate, that engages in for-profit activity and that has ten or more full-time employees.

...

5."Public entity" means this State, a political subdivision of this State or an agency, board, commission or department of this state or a political subdivision of this State.

The certification below does not include boycotts prohibited by 50 United States Code Section 4842 or a regulation issued pursuant to that section. *See* A.R.S. §35-393.03.

In compliance with A.R.S. § 35-393 *et seq*., all Contractors must select one of the following:

☒ The Contractor does not participate in, and agrees not to participate in during the term of the contract, a boycott of Israel in accordance with A.R.S. § 35-393 *et seq.* I understand that my entire response will become a public record in accordance with A.A.C. R2-7-C317.

☐ The Contractor **does** participate in a boycott of Israel as described in A.R.S. § 35-393 *et seq*.

☐ **Exempt Contract, or Contractor.**
Indicate which of the following statement(s) applies to this Contract:

☐ Contract has an estimated value of less than $100,000;
☐ Contractor is a sole proprietorship;
☐ Contractor has fewer than ten (10) employees; and/or
☐ Contractor is a non-profit organization.

American Power Systems, LLC	Jason Gardner Jason Gardner (Aug 23, 2024 12:19 PDT)
Contractor Name	Signature of Person Authorized to Sign

1851 Central Pl S, Ste 206			Jason Gardner
Address			Printed Name
Kent	WA	98030	Dir of Compliance
City	State	Zip	Title

	Attachment C: Forced Labor of Ethnic Uyghurs Ban	Arizona Department of Administration State Procurement Office
	Contract No.: CTR073367	
	Description: NASPO Public Safety Communications Products, Services and Solutions	

Attachment C: Forced Labor of Ethnic Uyghurs Ban

Please note that if any of the following apply to the Contractor, then the Contractor shall select the "Exempt Contractor" option below:

- Contractor is a sole proprietorship;
- Contractor has fewer than ten (10) employees; OR
- Contractor is a non-profit organization.

Pursuant to A.R.S. § 35-394, written certification is required to show that the company entering into a contract with a public entity does not use the forced labor, or use any contractors, subcontractors or suppliers that use the forced labor or any goods or services produced by the forced labor or any goods or services produced by the forced labor, of ethnic Uyghurs in the People's Republic of China.

Under A.R.S. § 35-394:

1. "Company" means an organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company or other entity or business association, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate, that engages in for-profit activity and that has ten or more full-time employees.
2. "Public entity" means this State, a political subdivision of this State or an agency, board, commission or department of this State or a political subdivision of this State.

In compliance with A.R.S. § 35-394, all Contractors must select one of the following:

◉ The Contractor **does not** use, and agrees not to use during the term of the contract, any of the following:

- Forced labor of ethnic Uyghurs in the People's Republic of China;
- Any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China; or
- Any Contractors, Subcontractors, or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China.

☐ The Contractor **does** use of Forced Uyghurs Labor as described in A.R.S. § 35-394.

☐ **Exempt Contractor: Select all statements that apply to the Contractor:**

☐ Contractor is a sole proprietorship;
☐ Contractor has fewer than ten (10) employees; and/or
☐ Contractor is a non-profit organization.

American Power Systems, LLC	Jason Gardner Jason Gardner (Aug 23, 2024 12:19 PDT)
Contractor Name	Signature of person authorized to sign
1851 Central Pl S, Ste 206	Jason Gardner Dir of Compliance
Address	Printed name and title
Kent, WA 98030	jasongardner@ampowersys.com 425-615-6503
City, State, ZIP	Contact email address Contact phone number

	Attachment C: Forced Labor of Ethnic Uyghurs Ban	Arizona Department of Administration State Procurement Office
	Contract No.: CTR073367	
	Description: NASPO Public Safety Communications Products, Services and Solutions	