Procurement and Contracting Services

Request for Proposals for Legal Services for Intellectual Property

Please mark all proposal submission Envelopes with the following information

Sealed RFP # L051411
Due on February 14, 2014 no later than 2:00 PM MST
<table>
<thead>
<tr>
<th>SECTION #</th>
<th>TITLE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.0</td>
<td>Statement of Work</td>
</tr>
<tr>
<td>2.0</td>
<td>Definitions</td>
</tr>
<tr>
<td>3.0</td>
<td>General Information and Instructions to Proposers</td>
</tr>
<tr>
<td>4.0</td>
<td>Agreement Terms and Conditions</td>
</tr>
<tr>
<td>5.0</td>
<td>Purpose, Qualifications, Pricing, Miscellaneous</td>
</tr>
<tr>
<td>6.0</td>
<td>Certifications and Forms (Vendors to complete and return with proposal)</td>
</tr>
</tbody>
</table>
1.0 STATEMENT OF WORK

1.1 Summary. The Arizona Board of Regents (ABOR), on behalf of the University of Arizona, Arizona State University and Northern Arizona University (Universities), is soliciting proposals from interested vendors to furnish the Universities with legal services for intellectual property matters through the Universities’ respective Offices of the General Counsel (OGC) on an as-needed basis. The University of Arizona (UA) will administer this RFP.

1.2 Coverage and Participation. The intended coverage of this RFP and any Agreement resulting from this solicitation shall be for the use of the Universities’ OGC. Upon the approval and acceptance of a proposal and execution of a written contract, the firm shall be included on a list that will be available to all Universities. During the course of the Agreement resulting from this solicitation the Universities, at their sole discretion, may add additional firms, provided that they meet the stated requirements of the Request for Proposal. Pima Community College (PCC) and any other educational institution or Governmental entity may access an Agreement resulting from this solicitation issued and administered by the UA on behalf of the Universities.

2.0 DEFINITIONS

2.1 Agreement / Contract. All types of agreements entered into by the Arizona Board of Regents, regardless of what they may be called, for the procurement of materials, services or construction, or the disposal of materials. Meaning is interchangeable.

2.2 Customer. Unless otherwise implied by the context of the specific provision within this RFP, “Customer” means a customer of the vendor, other than the University.

2.3 Contractor. Same as Successful Vendor.

2.4 May, Should. Indicates something that is not mandatory but permissible, recommended or desirable.

2.5 MST. Mountain Standard Time. We do not observe Daylight Savings Time.

2.6 Must, Shall, Will. Indicates a mandatory requirement. Failure to meet these mandatory requirements may result in rejection of your proposal as non-responsive.

2.7 Proposal. The Entirety of the vendor’s responses to each point of this RFP, including any and all supplemental offers or information not explicitly requested within this RFP.

2.8 Proprietary Information. Information held by the owner that if released to the public or anyone outside the owner’s organization, would be detrimental to its
interests. It is an issue of fact rather than opinion. Pricing and/or revenues cannot be considered proprietary or confidential.

2.9 **Provider.** Same as Vendor

2.10 **Request for Proposals (RFP).** A competitive process under which discussions and negotiations are allowed, it is not to be confused with a Request for Bid (RFB), in which goods or services are precisely specified and price is substantially the only competitive factor. This RFP provides the Universities the flexibility to negotiate to arrive at a mutually agreeable relationship. Price will be considered, but will not be the only factor of evaluation.

2.11 **Respondent.** Same as Vendor.

2.12 **Response.** Same as Proposal.

2.13 **Responsible Vendor.** A person who has the capability, including necessary experience, to perform the contract requirements; who has the integrity and reliability which will ensure good faith performance and appropriate quality of the materials, services, construction or construction services, to be provided; and who is in compliance with any and all licensing requirements of the State of Arizona.

2.14 **Responsive Vendor.** A person who submits a proposal which conforms in all material respects to the Request for Proposals.

2.15 **Successful Vendor.** Any vendor selected by the University to receive a notice of award as a result of this RFP and to enter into a contract to provide the University with the products or services sought by this RFP.

2.16 **Supplemental Agreement.** Any supplemental terms and conditions agreed to by the parties in writing taking precedence over all other documents governing the transaction.

2.17 **Supplier.** Same as Vendor.

2.18 **University.** Arizona Board of Regents (ABOR), a body corporate, for and on behalf of the Universities.

2.19 **Vendor.** For purposes of this RFP, “Vendor” means any entity responding to this RFP with the intention of winning the resulting award of contract, performing the work, and/or delivering the goods specified herein.

2.20 **Vendor’s Proposal.** Same as Proposal.

2.21 **Vendor’s Response.** Same as Proposal.

3.0 **GENERAL INFORMATION AND INSTRUCTIONS TO PROPOSERS**

3.1 **Original RFP Document.** The UA Office of Procurement and Contracting Services shall retain the RFP, and all related terms and conditions, exhibits and other
attachments, in original form in an archival copy. Any modification of these, in the Vendor’s submission, is grounds for immediate disqualification.

3.2 University Demographics.

The University of Arizona is one of the top 20 research universities in the nation, with a student enrollment of over 39,000, over 15,000 faculty and staff, and a 391-acre campus. The UA is the largest employer in Pima County and the fourth largest in Arizona. In addition to its main campus in Tucson, Arizona, the UA also includes UA South in Sierra Vista, AZ, as well as the UA Health Sciences campus in downtown Phoenix, which includes the UA College of Medicine – Phoenix.

The UA, a public, Land-Grant, research institution, has a three-fold mission of teaching, research and public service and is dedicated to preparing students for an increasingly diverse and technological world and to improving the quality of life for the people of Arizona and the nation. The UA provides distinguished undergraduate, graduate and professional education; excels in basic and applied research, and creative achievement; and seeks to integrate these activities and achievements of regional, national and international significance into everyday life.

The UA provides top quality educational programs and support services to attract an excellent and diverse student body. As a highly ranked research institution, the UA carries out significant scholarly and creative research and integrates the new knowledge into the educational experience. The University’s educational, research and public service programs are linked to local, state, national and international needs in a spirit of collaboration. Per UA Website (2011-12 UA Factbook Information), the UA offers 119 undergraduate programs, 127 masters, 92 doctoral, 3 professional and 4 specialist programs in 14 colleges and 19 schools.

- Additional information about The University of Arizona can be accessed via the Internet at [http://www.arizona.edu](http://www.arizona.edu).

Arizona State University is one of the premier metropolitan public research universities in the nation. ASU is research-driven but focused on learning - teaching is carried out in a context that encourages the creation of new knowledge. ASU maintains a tradition of academic excellence in core disciplines and has become an important global center for innovative interdisciplinary teaching and research.

ASU is one university in many places. In addition to the historic Tempe campus, a college town in the midst of a dynamic metropolitan region, ASU comprises three other campuses: ASU at the West campus in northwest Phoenix adjacent to Glendale, ASU at the Polytechnic campus in Mesa, and the Downtown Phoenix campus in the city’s urban core. ASU envisions the downtown Phoenix campus to serve 10,000 to 15,000 students with an active 24/7 environment that includes academics, housing, retail, and cultural programs and entertainment.

ASU seeks to provide the best possible education to the broadest possible spectrum of society, embracing the educational needs of the entire population. By the year 2020, ASU is projected to enroll 90,000 students. ASU champions diversity and is international in scope, welcoming students from all 50 states and nations across the globe. ASU is an active partner with the private sector in initiatives to enhance the social well-being, economic competitiveness, cultural depth, and quality of life of metropolitan Phoenix and the state.
ASU seeks to advance social and economic development in Arizona. As it evolves, ASU will serve as the prototype for the New American University, redefining the existing conception of research universities. ASU is building a comprehensive metropolitan research university that is an unparalleled combination of academic excellence and commitment to our social, economic, cultural, and environmental setting.

The New American University is an institution that measures its academic quality by the education its graduates have received rather than by the academic credentials of its incoming freshman class; one whose researchers, while pursuing their scholarly interests, also consider the public good; one whose students, faculty, and staff transcend the concept of community service to accept responsibility for the economic, social, cultural, and environmental vitality of the communities they serve.

- Additional information about Arizona State University can be accessed via the Internet at http://www.asu.edu.

Northern Arizona University offers a comprehensive set of academic programs for 80 baccalaureate degrees, 48 master degrees, and 8 doctoral degrees. NAU has a statewide off-campus program consisting of 35 instructional sites around the state, including a permanent center in Yuma, Arizona and is expanding relationships with various community colleges throughout the state.

Fall 2011 total enrollment was 25,364 students 17,761 at the Flagstaff campus (of which approximately 8,100 live on campus) and 7,363 distance learning students. NAU is poised for significant enrollment growth.

NAU employs approximately 2,400 full-time faculty and staff. The total budget for Fiscal Year 2011-2012 was $358 million.

NAU includes 10 academic divisions:

A. College of Arts & Letters  
B. W.A. Franke College of Business Administration  
C. College of Engineering, Forestry & Natural Sciences  
D. College of Education  
E. College of Social & Behavioral Sciences  
F. College of Health and Human Services  
G. Graduate College  
H. Undergraduate Studies  
I. NAU-Yavapai  
J. NAU-Yuma

The 738-acre main campus is located in Flagstaff, Arizona. Flagstaff is a four season city with over 57,000 residents located on the Colorado Plateau at an elevation of 7,000 feet. NAU is at the junction of Interstate Highways 40 and 17, less than a three hour drive from Phoenix, Arizona.

- Additional information about Northern Arizona University can be accessed via the Internet at http://www.nau.edu/web/index.shtml.

3.3 Schedule of Events. The following is the tentative schedule that will apply to this RFP, but may change in accordance with the University’s needs.
3.4 Accommodations for People with Disabilities. If the Vendor or any of the Vendor’s employees participating in this RFP need, or have questions about the UA’s accommodations for people with disabilities, please make arrangements with Ted Nasser at telephone # 520-621-5449, facsimile # 520-626-5428, email address enasser@email.arizona.edu. Such requests should be made as early as possible to allow time to arrange the accommodation(s).

3.5 PROPOSAL PREPARATION INSTRUCTIONS

3.5.1 Vendor’s Understanding of the RFP. In responding to this RFP, the Vendor accepts the responsibility fully to understand the RFP in its entirety, and in detail, including making any inquiries to the University as necessary to gain such understanding. The UA reserves the right to disqualify any Vendor who demonstrates less than such understanding. Further, the UA reserves the right to determine, at its sole discretion, whether the Vendor has demonstrated such understanding. Related to this, the Universities’ right extends to cancellation of award if award has been made. Such disqualification and/or cancellation shall be at no fault, cost, or liability whatsoever to the Universities.

3.5.2 UA Provides Information in Good Faith without Liability. All information provided by the UA in this RFP is offered in good faith. Individual items are subject to change at any time. The UA makes no certification that any item is without error. The UA is not responsible or liable for any use of the information, or for any claims attempted to be asserted therefrom.

3.5.3 Verbal versus Written Communication. Verbal communication shall not be effective unless formally confirmed in writing by the specified UA procurement official in charge of managing this RFP’s process. In no case shall verbal communication override written communication.

3.5.4 Questions, Communications and Inquiries between the UA and Vendors. All Vendor inquiries, questions and requests for clarification related to this RFP are to be directed, in writing (email and facsimile are also acceptable), ONLY to the Buyer listed below. Once this RFP has been sent out, Vendors are not to contact any UA Department, other than Procurement and contracting Services, concerning this RFP, or risk disqualification (see Section 3.5.1 above):

For U.S. Mail – Only (Please note that all U.S. Mail, including Express Mail, is delivered to the University’s Postal Services office and is then distributed to University Departments, including Procurement and Contracting Services, which may delay it by a day or more):

The University of Arizona
Procurement and Contracting Services
PO Box 210300
Tucson, Arizona 85721
Attn: Ted Nasser
Applicable terms and conditions herein shall govern communications and
inquiries between the UA and Vendors, as they relate to this RFP.

**Informal communications** shall include but are not limited to requests
from/to Vendors or Vendors’ representative of any kind or capacity, with the
exception of the Purchasing Department, for information, comments,
speculation, etc. Inquiries for clarifications and information that will not
require addenda may be submitted verbally to the Buyer named above, at any
time.

**Formal communications** shall include but are not limited to the following.

- Questions concerning this RFP must be submitted in writing, and be
  received **no later than February 4, 2014 at 2:00 PM MST.**
- Errors and omissions in this RFP and enhancements. Vendors shall bring
to the UA’s attention any discrepancies, errors, or omissions that may
exist within this RFP. Vendors shall recommend to the UA any
enhancements in respect to this RFP, which might be in the Universities’
best interests. These must be submitted in writing, and be received **no
later than February 4, 2014 at 2:00 PM MST.**
- Inquiries about technical interpretations must be submitted in writing,
and be received **no later than February 4, 2014 at 2:00 PM MST.**
- Inquiries for clarification / information that will not require addenda may
be submitted verbally to the Buyer named above at any time during this
process.
- Verbal and/or written presentations and pre-award negotiations under this
RFP.
- Addenda to this RFP.

Informal communications shall cease on the date of distribution of this
RFP and formal communications shall commence. On the date that the
UA notifies responding vendors of this RFP’s result and executes the
resulting contract with the successful Vendor, informal communications
may resume and formal communications may cease.

**3.5.5 Addenda and the University’s Response to Communications for Vendor.**
The UA will make a good-faith effort to provide a written response to each
question or request for clarification that requires addenda within three (3)
University business dates after.

All addenda will be posted to our web site only:

http://pacs.arizona.edu/RFP-BID Opportunities

- Vendors who want the addenda supplied to them in another form
  must notify Ted Nasser of that requirement. Otherwise, it will be
  the vendor’s responsibility to check the web site for any additional
  information and addenda concerning this RFP.
The University will not respond to any questions / requests for clarification that require addenda, if received by the University after February 4, 2014 at 2:00 PM MST.

3.5.6 Attention to Terms and Conditions. Vendors are cautioned to thoroughly understand and comply with all matters covered under the Terms and Conditions section of this RFP. The successful Vendor is expected to enter into a form of agreement approved by the Arizona Board of Regents. The agreement terms and conditions included in this RFP are intended to be incorporated into this agreement. Proposals that are contingent upon any changes to these terms and conditions may be deemed to be non-responsive and may be rejected.

3.5.7 Required Signatures. The UA may reject any Vendor’s response if it is not signed as indicated and/or required by the areas, spaces, or forms provided within this RFP.

3.5.8 Collusion Prohibited. In connection with this RFP, Vendor collusion with other Vendors or employees thereof, or with any employee of the Universities, is prohibited and may result in vendor disqualification and/or cancellation of award. Any attempt by the vendor, whether successful or not, to subvert or skirt the principles of open and fair completion may result in vendor disqualification and/or cancellation of award. Such disqualification and/or cancellation shall be at no fault or liability whatsoever to the Universities.

3.5.9 Improper Business Relationships / Conflict of Interest Prohibited. In connection with this RFP, each Vendor shall ensure that no improper, unethical, or illegal relationships or conflict of interest exist between or among the vendor, the Universities, and any other party to this RFP. The UA reserves the right to determine the materiality of such relationships, when discovered or disclosed, whether intended or not; and to decide whether or not Vendor disqualification and/or cancellation of award shall result. Such disqualification and/or cancellation shall be at no fault or liability whatsoever to the Universities.

3.5.10 Anti-Kickback. In compliance with FAR 52.203-7, the University has in place and follows procedures designed to prevent and detect violations of the Anti-Kickback Act of 1986 in its operations and direct business relationships.

3.6 PROPOSAL SUBMISSION AND SUBSEQUENT ACTION

Proposals must be delivered sealed; be received and be date / time stamped at the University’s Procurement and Contracting Services office reception desk, which is located on the 5th floor of the University Services Annex Building, 220 W. 6th Street, Tucson, AZ 85701, no later than February 14, 2014 at 2:00 PM MST.

Vendors, please be advised that it is your sole responsibility to ensure that your proposal is received as described in the paragraph above. The UA shall not be responsible for any delays that may occur.

Proposals must be delivered sealed to:

For U.S. Mail – Only (please note that all U.S. Mail, including Express Mail, is delivered to the University’s Postal Services office and is then
distributed to University Departments, including Procurement and Contracting Services, which may delay it by a day or more):

The University of Arizona
Procurement and Contracting Services
P.O. Box 210300
Tucson, Arizona 85721
Attn: Ted Nasser, C.P.M.

For other methods of delivery (e.g. FedEx, UPS, etc.):

The University of Arizona
Procurement and Contracting services
University Services Annex, Bldg. 300A
220 W. 6th Street, 5th Floor
Tucson, Arizona 85701
Attn: Ted Nasser, C.P.M.

no later than February 14, 2014 at 2:00 PM MST. The University shall not accept proposals received by facsimile or email. The University shall, at the specified Due date and time, accept all proposals that are otherwise in order. The University will allow interested parties to be present for purposes of identifying which Vendors have responded. The University will make no immediate decision at such time, and there will be no disclosure of any information contained in any proposal until after formal notice of award and execution of any contract resulting from this RFP. When multiple solicitations have been scheduled to open at the same date and time, the University will open solicitations that have interested individuals present in sequential order by solicitation number. During the course of any agreements resulting from this solicitation the Universities, at their sole discretion, may add additional firms, provided that they meet the stated requirements of the RFP.

If only one proposal is received, the UA may extend the Due Date in order to determine why other vendors did not respond and to encourage other vendors to respond.

3.6.1 Faxes and Emails Not Accepted. The University shall not accept proposals received by fax or email.

3.6.2 Number of Proposal Copies to be Furnished. Vendors are to submit one (1) original and four (4) copies, in hardcopy form, along with a copy in electronic form, on a CD, flash drive or other removable storage device, in Microsoft Word.

3.6.3 Marking of Envelopes. Vendors shall ensure that the submittal envelope(s) clearly and conspicuously display the following identifying information in addition to any other information otherwise required for transmittal, and are sealed.

Sealed RFP # L051411
Due on February 14, 2014 at 2:00 PM, MST
Attn: Ted Nasser, C.P.M.
3.7 EVALUATION PROCESS AND AWARD

3.7.1 Contractual Intent / Right to Terminate and Recomence RFP Process. The Universities intend to contract with a pool of Vendors whose proposals are considered to be in the best interests of the Universities. However, the Universities may terminate this RFP process at any time up to notice of award, without prior notice, and without liability of any kind or amount. Further, the Universities reserve the right to commence one or more subsequent RFP processes seeking the same or similar products or services covered hereunder.

3.7.2 Determination of and Information Concerning Vendor’s Qualifications. The UA reserves the right to determine whether a vendor has the ability, capacity, and resources necessary to perform in full any contract resulting from this RFP. The UA may request from vendors information it deems necessary to evaluate such Vendors’ qualifications and capacities to deliver the products and/or services sought hereunder. The UA may reject any Vendor’s proposal for which such information has been requested but which the Vendor has not provided. Such information may include but is not limited to:

- Personnel resources
- Physical resources
- Internal financial, operating, quality assurance, and other similar controls and policies
- Resumes of key attorneys and other personnel pertinent to the requirements of the RFP
- Customer references
- Disclosures of complaints or pending actions, legal or otherwise, against the Vendor

3.7.3 Method of Award. Each response to this RFP will be reviewed for its overall competence, compliance, format, and organization. Proposals which the UA deems overly complex, disorganized, or difficult to evaluate may be rejected. The award shall be made to the responsive and responsible Vendors whose proposals are determined to be the most advantageous to the Universities, taking into consideration the following evaluation criteria listed in the relative descending order of importance. Pricing is a criterion. However, the Universities are under no obligation whatsoever to select as most responsive the proposal that demonstrates the lowest pricing.

**Evaluation Criteria**

- Demonstrated knowledge, technical expertise and performance in providing intellectual property counsel services as outlined in the Proposer Qualifications (Section 5.2).
- Reasonableness of costs for services (Section 5.3).

3.7.4 Selection, Negotiation, Additional Information. Although the Universities reserve the right to negotiate with any Vendor or Vendors to arrive at its final decision and/or to request additional information or clarification on any
matter included in the proposal, it also reserves the right to select the most responsive and responsible Vendor or Vendors without further discussion, negotiation, or prior notice. The Universities may presume that any proposal is a best-and-final offer.

3.7.5 **Pre-Award Presentations.** The UA reserves the right to require presentations from the highest ranked Vendors, in which they may be asked to provide information in addition to that provided in their proposals.

3.7.6 **Pre-Award Negotiations.** The UA reserves the right to negotiate prior to award with the highest ranked Vendors for purposes of addressing the matters set forth in the following list, which may not be exhaustive.

- Resolving minor differences and scrivener’s errors
- Clarifying necessary details and responsibilities
- Emphasizing important issues and points
- Receiving assurances from Vendors
- Obtaining the lowest and best pricing

3.7.7 **Vendor’s Need to use Proprietary Rights of the Universities.** All information proprietary to the University and disclosed by the University to any Vendor shall be held in confidence by the Vendor and shall be used only for purposes of the Vendor’s performance under any contract resulting from this RFP.

3.7.8 **Public Record.** After the award and execution of a contract resulting from this RFP, Vendor’s proposal becomes public record and is available for review during the UA’s regular office hours. The Universities will, in good faith and to the extent allowed by law, honor any Vendor information that is clearly designated and conspicuously labeled as proprietary, and the Universities agree that the information is proprietary. If the Vendor needs to submit proprietary information with the proposal, the Vendor shall ensure that it is enclosed in a separate envelope from the proposal and that it is clearly designated and conspicuously labeled as such. The envelope must also contain the reason(s) why the enclosed material is to be considered proprietary. At no time shall the entire proposal be considered proprietary and be kept confidential. The University shall not be liable in any manner or in any amount for disclosing proprietary information if such information is not clearly so designated and conspicuously so labeled. The University shall likewise not be liable if it did not know or could not have reasonably known that such information was proprietary. Pricing information cannot be considered proprietary or confidential.

3.7.9 **Certification.** By signature on the “Proposal Certification” form included herein, the Vendor certifies that the submission of the proposal did not involve collusion or other anti-competitive practices. The Vendor 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. In addition, Vendor certifies whether or not an employee of any of the Universities has, or has a relative who has, a substantial interest in any
Agreement subsequent to this RFP. Vendor also certifies their status with regard to debarment, or suspension by any federal entity.

Failure to provide a valid signature affirming the stipulations required by this clause shall result in the rejection of the submitted proposal and, if applicable, any resulting Agreement. Signing the certification with a false statement shall void the proposal and, if applicable, any resulting Agreement. Any resulting Agreement may be subject to legal remedies provided by law. Vendor agrees to promote and offer to the University only those services and/or materials as stated in and allowed for under resulting Agreement(s).

4.0 AGREEMENT TERMS AND CONDITIONS

The following are the Terms and Conditions that will become part of any Agreement consummated between the University and the Successful Vendor. **In the event of a conflict between any provisions contained in any of the documents governing this transaction, the following shall be the order of precedence: Agreement; Request for Proposals; Proposal.**

4.1 Actions of Successful Vendor. The Universities are under no obligation whatsoever to be bound by the actions of any Successful Vendor with respect to third parties. The Successful Vendor is not a division or agent of the Universities.

4.2 Advertising. The Successful Vendor shall not advertise or publish information concerning the Agreement without prior written consent of the Universities. The Universities shall not unreasonably withhold permission.

4.3 Americans With Disabilities Act. The Successful Vendor shall comply with all applicable provisions of the Americans With Disabilities Act and applicable federal regulations under the act.

4.4 Conflict of Interest. Pursuant to the provisions of Arizona Revised Statute § 38-511, the Arizona Board of Regents may, within three years after its execution, cancel the Agreement without penalty or further obligation if any person significantly involved in negotiating, drafting, securing or obtaining the Agreement for or on behalf of the Arizona Board of Regents becomes an employee in any capacity of any other party or a consultant to any other party with reference to the subject matter of the Agreement while the Agreement or any extension thereof is in effect.

4.5 Drug Free Workplace. The Successful Vendor agrees that in the performance of the Agreement, neither the Successful Vendor nor any employee of the Successful Vendor shall engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity covered by the Agreement. The Universities reserve the right to request a copy of the Successful Vendor’s Drug Free Workplace Policy. The Successful Vendor further agrees to insert a provision similar to this statement in all subcontracts for services required.

4.6 Equal Opportunity. The provisions of Section 202 of Executive Order 11246.41 C.F.R. Sec. 60-1.4.41 C.F.R. Sec. 60-250.4 and 41 C.F.R. Sec. 60-741.4 are incorporated herein by reference and shall be applicable to the Agreement unless the Agreement is exempted under the rules, regulations or orders of the U.S. Secretary of Labor.
4.7 Federal, State, and Local Taxes, Licenses and Permits. Successful Vendor is solely responsible for complying with all laws, ordinances, and regulations on taxes, licenses and permits, as they may apply to any matter under this RFP. The Successful Vendor must demonstrate that they are duly licensed by whatever regulatory body may so require during the performance of the Agreement. Prior to the commencement of Agreement, the Successful Vendor shall be prepared to provide evidence of such licensing as may be requested by the Universities. Successful Vendor shall, at no expense to the Universities, procure and keep in force during the entire period of the Agreement all such permits and licenses.

4.8 Inspection and Audit. Pursuant to the provisions of Arizona Revised Statute § 35-214, all books, accounts, reports, files and other records relating to the Agreement shall be subject at all reasonable times to inspection and audit by the Arizona Board of Regents, the Universities or the Auditor General of the State of Arizona, or their agents for five (5) years after completion or termination of the Agreement.

4.9 Liens. Each Successful Vendor shall keep the Universities free and clear from all liens asserted by any person or entity for any reason arising out of the furnishing of services or materials by or to the Successful Vendor.

4.10 Modifications. The Agreement can be modified or rescinded only by a writing signed by both parties and their duly authorized agents.

4.11 Non-Discrimination. The parties shall comply with all applicable state and federal statutes and regulations governing equal employment opportunity, non-discrimination, and immigration.

4.12 Sales and Use Tax. The Successful Vendor agrees to comply with and to require all of his subcontractors to comply with all the provisions of applicable law. The Successful Vendor further agrees to indemnify and hold harmless the Universities from any and all claims and demands made against it by virtue of the failure of the Successful Vendor or any subcontractors to comply with the provisions of any and all said laws. The Universities are not exempt from state sales and use tax, except for equipment purchased for research or development. Any equipment ordered as tax exempt shall be invoiced separately from taxable systems, even if purchased on the same purchase order as issued by one of the Universities pursuant to the Agreement.

4.13 Sexual Harassment. Federal law and the policies of the Universities prohibit sexual harassment of the Universities’ employees or students. Sexual harassment includes any unwelcome sexual advance toward a University employee or student, any request for a sexual favor from a University employee or student, or any other verbal or physical conduct of a sexual nature that is so pervasive as to create a hostile or offensive working environment for University employees, or a hostile or offensive academic environment for University students. University vendors, subcontractors and suppliers for this project are required to exercise control over their employees so as to prohibit acts of sexual harassment of University employees and students. The employer of any person who the University, in its reasonable judgment, determines has committed an act of sexual harassment agrees as a term and condition of the Agreement to cause such person to be removed from the project site and from University premises and to take such other action as may be reasonably necessary to cause the sexual harassment to cease.
4.14 **Administrative (Legal) Remedies.** The Arizona Board of Regents has promulgated **Administrative (Legal) Remedies** for alleged breaches or disputes arising from the Agreement. These remedies are exclusive and must be exhausted before the filing of any legal action.

4.15 **Assignment-Delegation.** No right or interest in the Agreement shall be assigned or delegation of any obligation made by Successful Vendor without the written permission of the Universities. Any attempted assignment or delegation by Successful Vendor shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph.

4.16 **Assignment of Anti-Trust Overcharge Claims.** The parties recognize that in actual economic practice overcharges resulting from anti-trust violations are in fact borne by the ultimate purchaser; therefore, Successful Vendor hereby assigns to the Universities any and all claims for such overcharges.

4.17 **Force Majeure.** Neither party shall be held responsible for any losses resulting if the fulfillment of any terms or provisions of the 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, said party is unable to prevent.

4.18 **Indemnification / Hold Harmless.** The Successful Vendor shall indemnify, defend, and hold harmless to the fullest extent allowed by law the State of Arizona, the Arizona Board of Regents and the Universities, their 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 Successful Vendor, its employees, agents, representatives, or subcontractors, their employees, agents, or representatives in connection with or incident to the performance of the agreement, or arising out of Workers Compensation claims, Unemployment Compensation claims, or Unemployment Disability Compensation claims of employees of Successful Vendor and/or its subcontractors of claims under similar such laws and obligations. Successful Vendor’s obligation under this provision shall not extend to any liability caused by the sole negligence of the State of Arizona, Arizona Board of Regents, Universities or their officers, agents, and employees or to the extent that such liability is based on a claim typically covered by Successful Vendor’s professional liability policy for the benefit of the Indemnitees. Such indemnification shall specifically include infringement claims made against any and all intellectual property supplied by Successful Vendor and third party infringement under the Agreement.

4.19 **Insurance Requirements.** Without limiting any liabilities or any other obligations of Successful Vendor, the Successful Vendor shall provide and maintain the minimum insurance coverage listed below unless otherwise agreed to in writing. Coverage shall be provided with forms and insurers acceptable to the University until all obligations under the Agreement are satisfied.
• Commercial General Liability insurance with a minimum combined single limit of TWO MILLION DOLLARS ($2,000,000) each occurrence.

The insurance policy required in the statement above shall be endorsed to name the State of Arizona, Arizona Board of Regents on behalf of the University of Arizona, Arizona State University and Northern Arizona University as additional insured and shall stipulate that the insurance afforded the Successful Vendor shall be primary insurance and that any insurance carried by the State of Arizona, the Arizona Board of Regents and the Universities, their agents, officials or employees shall be excess and not contributory insurance to that provided by Successful Vendor.

• If applicable, Workmen’s Compensation insurance to cover requirements imposed by Federal and State statutes having jurisdiction of its employees engaged in the performance and Agreement, and Employer’s Liability insurance with a minimum limit of ONE HUNDRED THOUSAND DOLLARS ($100,000).

• Professional Liability/Errors and Omissions insurance with a minimum combined single limit of ONE MILLION DOLLARS ($1,000,000) each occurrence.

A certificate of insurance acceptable to the Universities shall be furnished to the Universities prior to the commencement of Agreement as evidence that policies providing the required coverage, conditions and limits as stated within this paragraph and the above paragraphs are in full force and effect.

4.20 Intellectual Property. It is understood and agreed that ownership of intellectual property developed as a result of fulfilling the requirements of this Request for Proposals belongs solely and exclusively to the Arizona Board of Regents on behalf of the Universities. Documents/drawings used in this proposal belong to the Arizona Board of Regents on behalf of the Universities and/or are being used with permission. Intellectual property as used herein, means all forms of legally protectable intellectual property, including copyrights, trademarks, inventions, patent applications, patents and mask works, drawings and/or blueprints. It is also understood and agreed that anything created as a result of an award of this proposal is considered a work for hire under the U.S. copyright laws and as such, the Arizona Board of Regents on behalf of the Universities will own the copyright.

4.21 Laws and Regulations. Successful Vendors are solely responsible for keeping themselves fully informed of and faithfully observing all laws, ordinances, and regulations affecting the rights of their employees, and shall protect and indemnify the Universities, their officers and agents against any claims of liability arising from or based on any violation thereof.

4.22 No Waiver of Right by the University. No waiver by Universities of any breach of the provisions of the Agreement by the Successful Vendor shall in any way be construed to be a waiver of any future breach or bar the Universities’ right to insist on strict performance of the provisions of the Agreement.

4.23 Payment Terms. Payments by the Universities shall be subject to the provisions of Title 35 of Arizona Revised Statutes relating to time and manner of submission of claims. The Universities’ obligations are payable only and solely from funds appropriated for the purpose of the Agreement. Unless otherwise stated herein, the payment terms for the Agreement are Net 30 days.
4.24 **Prior Course of Dealings.** No trade usage, prior course of dealing, or course of performance under other agreements shall be a part of any agreement resulting from this RFP; nor shall such trade usage, prior course of dealing, or course of performance be used in the interpretation or construction of such resulting agreement.

4.25 **Remedies and Applicable Law.** The Agreement shall be governed by and construed in accordance with the laws of the State of Arizona. University and Successful Vendors shall have all remedies afforded each by said law. The venue in any action or litigation commenced to enforce the Agreement shall be instituted in the appropriate courts in Arizona.

4.26 **Right of Assurance.** Whenever one party to the Agreement in good faith has reason to question the other party’s intent to perform, he may demand that the other party give a written assurance of their intent to perform. In the event that a demand is made and no written assurance is given within ten calendar (10) days, the demanding party may treat this failure as an anticipatory repudiation of the Agreement.

4.27 **Right to Offset.** The Universities shall be entitled to offset against any sums due the Successful Vendor, any expenses or costs incurred by the Universities, or damages assessed by the Universities concerning the Successful Vendor’s non-conforming performances or failure to perform the Agreement, or any other debt owing the Universities, including expenses, costs and damages described in the termination provisions contained herein.

4.28 **Termination**

4.28.1 **Convenience.** The Universities reserve the right to terminate the Agreement in whole or in part at any time when in the best interests of the Universities without penalty or recourse. Upon receipt of the written notice, the Successful Vendor 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 the Universities. In the event of termination under this provision, all documents, data and reports prepared by the Successful Vendor under the Agreement shall become the property of and delivered to the University for which work was being performed. The Successful Vendor 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 the Successful Vendor’s sole remedy against the Universities in the event of termination under this provision.

4.28.2 **Default.** The Universities reserve the right to terminate the Agreement in whole or in part due to the failure of the Successful Vendor to comply with any term or condition of the Agreement, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Agreement. The Universities shall provide written notice of the termination and the reasons for it to the Successful Vendor. Upon termination under this provision, all goods, materials, documents, data and reports prepared by the Successful Vendor under the Agreement shall become the property of and be delivered to the University for which work was being performed, on demand. The University may, upon termination of
the Agreement, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under the Agreement. The Successful Vendor shall be liable to the University for any Excess Costs incurred by the University in re-procuring the materials or services.

4.28.3 **Gratuities.** The Universities may, by written notice to the Successful Vendor, cancel the Agreement if it is discovered by the Universities that gratuities, in the form of entertainment, gifts or other, were offered or given by the Successful Vendor, or any agent or representative of the Successful Vendor, to any officer or employee of the Universities 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 the Universities pursuant to this provision, Universities shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by Successful Vendor in providing such gratuities.

4.28.4 **Insolvency.** The Universities shall have the right to terminate the Agreement at any time in the event Successful Vendor files a petition in bankruptcy; or is adjudicated bankrupt; or if a petition in bankruptcy is filed against Successful Vendor and not discharged within thirty (30) days; or if Successful Vendor 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 Successful Vendor or its business.

4.28.5 **Lack of Funding.** The Agreement may be canceled without further obligation on the part of the Arizona Board of Regents and the Universities in the event that sufficient appropriated funding is unavailable to assure full performance of the terms. The Successful Vendor shall be notified in writing of such non-appropriation as soon as reasonable possible. No penalty shall accrue to the Board or the Universities in the event this cancellation provision is exercised. This cancellation provision shall not be construed so as to permit the Universities to terminate the Agreement in order to acquire similar equipment, material, supplies or services from another party.

4.28.6 **Stop Work Order.** The Universities may at any time, by written order to the Successful Vendor, require the Successful Vendor to stop all or any part of the work called for by the Agreement for a period of ninety (90) days after the order is delivered to the Successful Vendor, and for any further period to which the parties may agree. The order shall be specifically identified as a Stop Work Order issued under this provision. Upon receipt of the order, the Successful Vendor 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, the Successful Vendor shall resume work. The University for which work is being performed shall make an equitable adjustment in the delivery schedule or Agreement price, or both, and the Agreement shall be amended in writing accordingly.

4.28.7 **Suspension or Debarment.** The Universities may by written notice to the Successful Vendor immediately terminate the Agreement if the Universities
determine that the Successful Vendor 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 Vendor of any public procurement unit or other governmental body.

4.29 **Continuation of Performance through Termination.** The Successful Vendor shall continue to perform, in accordance with the requirements of Agreement, up to the date of termination, as directed in the termination notice.

4.30 **Confidentiality.** The parties shall comply with 20 USC Section 1232(g), the Buckley Amendment to the Family Educational Right and Privacy Act of 1974. Therefore, Vendor shall not be entitled to receive Employee or Student information directly from Universities, other than public information available in University directories which is not protected by federal or state privacy or confidentiality statutes or regulations. Vendor may solicit Employee and Student information directly from Employees and Students subject to prior disclosures by Vendor of all intended uses of such information. Regardless of the Employee or Student personal information, even if such information is publicly available via directories, Vendor shall under no circumstances sell, duplicate, market, or give to any person or persons, entities or other companies a list or other personal information of any or all Employees or Students. All identities and personal information Employees and Students shall remain confidential. And disclosure by Vendor occurring without the express prior written consent of the Employee or Student shall result in the immediate termination of this agreement.

5.0 **PURPOSE, QUALIFICATIONS, PRICING, MISCELLANEOUS**

5.1 **PURPOSE OF RFP.** This RFP solicits proposals from interested and qualified attorneys and law firms (each, a “Proposer”) to provide legal services for intellectual property matters to the Universities’ Offices of the General Counsel (“OGC”).

The Universities intend to enter into agreements for intellectual property legal services with multiple attorneys and/or firms. The Universities do not expect that any one attorney or firm will meet all the demands for technical expertise required. Once awards are made, specific matters will be assigned by each University on a case-by-case basis. The general areas of representation sought pursuant to this RFP follow. Contracts will be awarded to the firms or individuals with the most advantageous proposals with reasonable fees, and based on the evaluation criteria in section 3.7.3.

If the Contact Partner or an Assigned Attorney leaves the firm and enters a new firm, then in the sole discretion of the University, the University may continue to work with the Contact Partner or Assigned Attorney on any existing matters. If the new firm agrees to the same terms as contained in this Agreement, or terms more favorable to the University, then the University may assign new intellectual property matters to the new firm as well as to the original firm. During the course of any agreements resulting from this solicitation the Universities, at their sole discretion, may add additional firms, provided that they meet the stated requirements of the RFP.
Prior to changing any key personnel, especially those key personnel upon whom the Universities relied in making this Agreement, Firm shall obtain the approval of the Universities; and any replacement personnel shall have capabilities at least equal to those of personnel they replaced for performance of the services. Firm shall bear all costs associated with any and all such changes, and those shall not be charged to the Universities. While it is recognized that staffing changes may be necessary from time to time, Universities will not pay for the “downtime” or learning time that may result from such a staffing change, nor for the training of the Firm’s personnel. Time spent educating newly-assigned or junior lawyers in the substantive law applicable to the matter assigned should not be included in your billings.

5.2 PROPOSER QUALIFICATION. The Universities are soliciting proposals from individual lawyers and law firms that are in the business of providing intellectual property services as described in the RFP. Proposals shall include, at a minimum, the following information, to be furnished in the order set forth below:

5.2.1 The proposer shall provide the number of years that the attorney or firm has been engaged in providing intellectual property legal service as described in this RFP. Please provide the link to your website if it contains this information.

5.2.2 Please provide references for five (5) service accounts represented from the year 2008 to present, stating the name, position, telephone and facsimile numbers of the contact person. These five service accounts should be for universities or similar other entities, for services similar to those described in this RFP.

5.2.3 Proposals are to include your knowledge, technical expertise and broad experience in intellectual property law, preferably involving the representation of universities or similar entities. Please provide the link to your website if it contains this information.

5.2.4 Please provide the details of your professional and technical expertise, experience in intellectual property matters, and other factors demonstrating the firm’s ability to perform successfully the services that it proposes in regard to Scope of Work. Proposer’s attorneys must be admitted to practice law in at least one jurisdiction in the United States and registered to practice before the United States Patent & Trademark Office. Detailed resumes of key personnel will be required to demonstrate at least five (5) years of recent relevant experience. Please provide the link to your website if it contains this information. Additionally, an Excel spreadsheet with each attorney’s expertise described in key words shall be provided.

5.2.5 Upon award, successful Proposers will be required to sign the attached Agreement for Intellectual Property Legal Services. Please review the document thoroughly and submit any concerns along with your RFP response.

5.3 PRICING.

5.3.1 Please provide your proposed pricing model, including your proposed hourly rate. Also, please indicate if you are open to not to exceed rates
for specific projects. Alternate fee schedule suggestions will also be considered. Include sufficient detail for complete understanding by the evaluation committee.

5.3.2 Method of Payment & Discount for Early Payment. The Universities’ preferred method of payment is via credit card. The University for which work is being performed would issue a Purchase Order and upon receipt of goods or services, pay subsequent invoices by credit card.

Will you accept payment via credit card? Yes____ No____
Do you offer an early payment discount? Yes____ No____
If yes, what is your offer? ______% if paid within _____ days after the University receives a proper, accurate and uncontested Invoice for Payment.

If payment via credit card is accepted and an early payment discount is offered, would the University receive the discount if paying by credit card? Yes____ No____

5.4 MISCELLANEOUS.

5.4.1 Vendor information.

Firm Name, address, telephone numbers and fax numbers (800/888 if available) for:

Principal place of business. _________________________________

Contact Partner. _________________________________

Federal ID/SSN number. _________________________________

In which states and before which bars are the Contract Partner and prospective Assigned Attorneys licensed to practice? _________________________________

Please include a completed W-9 tax form with your proposal.

5.4.2 Term of Award. The award of this RFP will be valid from the Agreement execution date through March 31, 2019

6.0 CERTIFICATIONS AND FORMS (Vendor to complete and return with proposal)

6.1 Certification of Proposal

6.2 Legal Workers Certification

6.3 Anti-Lobbying Certification
6.1 Certification of Proposal (vendor to complete and return with proposal)

Explanation. This certification attests to the vendor’s awareness and agreement to the content of this RFP and all accompanying provisions contained herein.

Action. Vendor is to ensure that the following certificate is duly completed and correctly executed by an authorized officer of your company.

This proposal is submitted in response to Request for Proposals # L051411 issued by the Universities. The undersigned, as a duly authorized officer, hereby certifies that

__________________________________________ (Vendor Name), located at

__________________________________________ (address), agrees to be bound by the content of this proposal and agrees to comply with the terms, conditions and provisions of the referenced Request for Proposals (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 certifies that to the best of his/her knowledge: (check one)

☐ There is no officer or employee of the University of Arizona, Arizona State University or Northern Arizona University who has, or whose relative has, a substantial interest in any Contract award subsequent to this proposal.

☐ The names of any and all public officers or employees of the University of Arizona, Arizona State University or Northern Arizona University who have, or whose relative has, a substantial interest in any Contract award subsequent to this proposal are identified by name as part of this submittal.

The undersigned further certifies that their firm (check one)

☐ IS or ☐ IS NOT currently debarred, suspended, or proposed for debarment by any federal entity. The undersigned agrees to notify the Universities of any change in this status, should one occur, until such time as an award has been made under this procurement action.

The Undersigned further certifies that your business (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 ☐ Small Disadvantaged ☐ Small Business Women-Owned ☐ Women-Owned Disadvantaged ☐ Veteran owned ☐ HUB Zone ☐ Disabled Veteran Owned ☐ Alaska Native Corp. ☐ Historically Black Colleges and Universities and Minority Institutions

Arizona Small Business (has less than 100 fulltime employees, including employees employed in any subsidiary or affiliated corporation) please “CHECK one of the following: ☐ AZ Small Business ☐ AZ Women Owned ☐ AZ Disadvantaged ☐ AZ Disadvantaged Women-owned.

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

Name: ___________________________ Title: ___________________________

Signature: ___________________________ Date: __________ Email: ___________________________

Telephone #:____________________ Facsimile #:____________________ F.E.I.N: __________
6.2 LEGAL WORKER CERTIFICATION

Date: ______________________

Procurement and Contracting Services
University of Arizona
PO Box 210300
Tucson, AZ 85721-0300

Solicitation #

As required by Arizona Revised Statutes §41-4401 the Universities are prohibited after September 30, 2008 from awarding a contract to any contractor who fails, or whose subcontractors fail, to comply with Arizona Revised Statutes § 23-214-A. The undersigned entity warrants that it complies fully with all federal immigration laws and regulations that relate to its employees, that is shall verify, through the employment verification pilot 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 after December 31, 2007, and that it shall require its subcontractors to provide the same warranties to the below entity.

The undersigned acknowledges that a breach of this warranty by the below entity or by any subcontractor(s) under any Contract resulting from this solicitation shall be deemed a material breach of the Contract and is grounds for penalties, including termination of the Contract by the Universities. The Universities retain the right to inspect the records of the below entity, subcontractor(s) and employee(s) who perform work under the Contract, and to conduct random verification of the employment records of the below entity and any subcontractor(s) who perform work under the Contract, to ensure that the below entity and each subcontractor is complying with the warranties set forth above. Contractor shall be responsible for all costs associated with compliance with such programs.

__________________________________________  ____________________________
(Firm)                                      (Address)

__________________________________________  ____________________________
(Signature Required)                        (Phone)

__________________________________________  ____________________________
(Print Name)                                 (Fax)

__________________________________________  ____________________________
(Print Title)                                (Federal Taxpayer ID Number)
6.3 ANTI-LOBBYING CERTIFICATION

Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (Sept 2007)

_____________________
(Date)

Procurement & Contracting Services
University of Arizona
PO Box 210300
Tucson, AZ 85721-0300

In accordance with the Federal Acquisition Regulation, 52.203-11:

(a) The definitions and prohibitions contained in the clause, at FAR 52.203-12, Limitation on Payments to Influence Certain Federal Transactions, included in this solicitation, are hereby incorporated by reference in paragraph (b) of this certification.

(b) The offeror, by signing its offer, hereby certifies to the best of his or her knowledge and belief that on or after December 23, 1989—

(1) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of this contract;

(2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the offeror shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, to the Contracting Officer; and

(3) He or she will include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of $100,000 shall certify and disclose accordingly.

(c) Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by Section 1352, Title 31, United States Code. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than $10,000, and not more than $100,000, for each such failure.

(Signature page follows)