



2017-2019

ARIZONA DEPARTMENT OF PUBLIC SAFETY

TOW SERVICE CERTIFICATION

AGREEMENT

Rev Jan 2018

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ATTACHMENTS:

- A. BUSINESS PRESENCE
- B. STORAGE FACILITY
- C. TOW TRUCKS AND EQUIPMENT
- D. ADMINISTRATIVE REQUIREMENTS

EXHIBITS:

- A. RATE SHEET
- B. DISTRICT TOW AREAS
- C. PERSONNEL RESOURCES

Purpose:

This Arizona Department of Public Safety (DPS) Tow Service Certification Agreement (TSA) contains terms and conditions that a company agrees to comply with to provide all equipment, hardware, personnel, labor, storage facilities, insurance and services required to provide 24 hours a day, 365 days a year DPS initiated:

- Accident scene towing, site clean-up & vehicle storage services;
- Abandoned and confiscated vehicle towing and vehicle storage services;
- Stranded motorist roadside assistance services and
- All other DPS initiated tow related services performed in accordance with A. R. S. §§28-872 and 28-3511.

Definitions of key words/terms used or purposes of this Tow Service Certification Agreement:

- **Shall, Must:** Indicates a mandatory requirement. Failure to meet a mandatory requirement may result in rejection of the offer as being non-responsive.
- **Should:** Indicates something that is recommended but not mandatory. If the towing firm fails to provide recommended information, DPS may, at its sole option, ask the towing firm to provide the information or evaluate the bid without the information.
- **May:** Indicates something that is not mandatory but permissible.
- **A.A.C.:** Arizona Administrative Code located at <https://www.azsos.gov/> under the Rules section.
- **Asset:** Per A. R. S. §41-1830.51, any property that has value, including financial, intangible and physical assets, and includes: Vehicles, Equipment, Stock, membership in a limited liability corporation, a partnership interest, or a beneficial interest in a trust or another like item.
- **Calendar day:** Is defined as midnight to midnight.
- **Common Ownership Interest:** A claim or title of a towing firm or its assets by two or more persons or entities which confers the right to operate, sell, lease or transfer the business or assets.
- **Call-out/Hook-up:** The response of the tow truck to a request for service from DPS. Includes the act of hooking up the item to be towed, or loading it on a dolly; cleaning up debris; and labor involved (including the removal of a driveline).
- **DPS:** The Arizona Department of Public Safety
- **Extra Labor:** Use of additional labor, other than the driver, during a tow. Labor not ordinarily needed for the job, but which is reasonably necessary to provide adequate service in a unique or exigent situation.
- **Light, Medium, and Heavy Duty Tow Trucks:** As defined in Arizona Administrative Code (“A.A.C.”) Title 13, Chapter 3, Article 10.
- **Motorist Service Call:** Responding to a DPS request for service on a “disabled vehicle”. (Disabled vehicle is defined as one that does not require towing, but needs; a) fuel – gasoline or diesel; b) tire change; c) inflate a tire; d) water for radiator; e) jump start; and/or f) opening a locked vehicle). If a tow is also provided in addition to these services, the motorist will be charged for either the service call or the hourly rate for a tow call, but not both.
- **Off-Road Recovery:** A charge applied when the tow truck must leave the boundaries of the designated State right-of-way to recover a vehicle from a desert area, farm field, ditch, ravine, or body of water. Recovery services include winching, hoisting, up-righting, or removal services necessary to position the towed vehicle so that the wrecker vehicle can hookup or load the towed vehicle. This does not apply to “in-city” tows which are outside of the interstate or state highway system, such as on a city street.
- **Scout Vehicle:** A vehicle sent out by the towing firm to the scene for determining what towing equipment to bring to the scene.

- **Stand-by:** is defined as the time at the scene during which a towing or recovery unit is not actively engaged in the towing or recovery of a vehicle. Travel time from dispatch to arrival on the scene shall not be considered Stand-By.
 - **Subcontract:** means any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.
 - **Towing Firm/Company:** One that is doing business under its own unique Federal Tax ID Number and agrees to comply with the terms and condition of this Tow Service Certification Agreement.
 - **Towing Process:** The time the tow truck is en route to the scene until the vehicle is secured in the towers vehicle storage facility or at the customer's requested destination.
 - **Traffic Incident Management (TIM):** A planned and coordinated multi-disciplinary process to detect, respond to and clear traffic incidents so that traffic flow (capacity) may be restored as safely, efficiently, and quickly as possible.
 - **TSA:** Tow Service Certification Agreement or may be referred to as "agreement".
 - **Vehicle Storage Facility:** A facility used to store towed vehicles and that complies with paragraph 29 of this TSA. The facility must be of "sufficient size". If DPS determines that the size is sufficient to store an average number of vehicles for a specified period, then the minimum requirement has been met. For example, if the total storage capability is only twenty vehicles, and experience shows an average of more than one hundred vehicles towed per week, this may not be considered adequate. If the storage capacity is sixty to one hundred with the availability of overflow storage, then this may meet or exceed the minimum requirements.
1. **Tow Area:** District Commander shall establish tow areas for each class of truck to best service the needs of the District in terms of response time and tow service availability. Tow Areas for this agreement are defined in Exhibit B.
 2. **District Realignment/Road Way Requirements:**
 - 2.1. The DPS Director may change/add/subtract District boundaries as required to maintain responsiveness to the public. District boundary changes may require changes/additions/subtractions to tow areas defined in Exhibit B. Towing firm acknowledges District realignments may add/subtract/move tow areas from this agreement.
 - 2.2. If a new District is established, agreements that cover existing areas in the new District shall be transferred over to the new District.
 - 2.3. The towing firm shall charge the agreement rate or less for any miles added to existing highways due to new construction or for district realignment. An amendment will be issued to incorporate such changes.
 - 2.4. The towing firm shall charge the agreement rate or less for any new highway that is built during agreement period and falls within the towing firm's agreement area. An amendment will be issued to incorporate any changes.
 - 2.5. The towing firm shall charge the agreement rate or less regardless if the vehicle is towed from the interstate, U.S. Highway, State Route or surrounding city or county roadways, so long as the following conditions exist:
 - 2.5.1. The request for towing is generated by DPS Operational Communications Center; or
 - 2.5.2. The tow service does not overlap or conflict with any other tow agreement that DPS has for another district or specific area being operated under a separate and distinct agreement.
 3. **Business Presence:** For the purposes of this agreement, business presence means where both the place of business (administrative functions are performed) and the vehicle storage facility(s) are located. Tow firm's business presence shall be established at the time of the offer submittal and be

verifiable. Any changes to vehicle storage facility shall comply with requirements specified in the paragraph titled Vehicle Storage Facility: Change of Location.

- 3.1. Towing firm shall have and maintain, through ownership, lease and/or other type of written agreement with a property owner an existing and properly zoned place of business and vehicle storage facility(s) within the district or state location deemed by DPS to be in close geographic proximity to the geographic towing area or areas submitted by the towing firm.
 - 3.2. Acceptance of offers submitting adjoining areas, districts, or state's storage facility locations shall be made at the sole discretion of DPS. Ownership and/or written agreements for vehicle storage facility(s) offered shall be in place at the time of submission of the offer. Contingency agreements, oral or written, with a property owner to purchase or lease vehicle storage facility(s) upon award of an agreement shall not be accepted. Towing firm's vehicle storage facility shall also meet Vehicle Storage Facility specifications.
 - 3.3. Tow firms having out of state business presence shall meet all the qualifications, terms, conditions, and specifications contained herein, inclusive of but not limited to, qualification/certification of tow trucks and tow truck drivers, compliance with Arizona Administrative Rules, and/or any other State of Arizona or DPS standards.
4. **Common Ownership Interest:** Pursuant to A. R. S. §41-1830.51, a towing firm may only have one contractual agreement with DPS per geographic towing area. Additionally, if an owner of a towing firm, has a common ownership interest in another towing firm or the assets, or shared use of the assets, of another towing firm, the owner may not participate in more than one application for a contractual agreement within the same geographic towing area for that application. If towing companies share any employees or staff, the companies shall be considered as one company for purposes of the rotation list in the geographically contracted tow area.
 5. **Acquisition of Another DPS Towing Firm:** As provided in A. R. S. § 41-1830.51, if a towing firm that has an agreement with DPS acquires another towing firm that has an agreement with DPS, both agreements will remain valid for one year after the date of the acquisition. At the end of the one year period the agreements shall be treated as being one. The acquired towing firm's agreement shall be terminated. DPS District Commander shall be notified in writing within 30 days of all acquisitions made under this provision.
 6. **Sale of the DPS towing firm to a non-DPS towing firm:** If a towing firm under agreement sells to a towing firm not under agreement with DPS, this agreement is immediately terminated. DPS District Commander shall be notified in writing within 30 days of all tow firm sales.
 - 6.1. The new owner may sign a TSA at any time during the remainder of the previous owner's TSA term. The new owner is subject to passing DPS inspections and meeting the requirements of the TSA.
 7. **Name changes for towing firms:** If a towing firm expresses interest in changing the towing firm name during an agreement, notice must be given in writing to the DPS Procurement Office on towing firm letterhead within 30 days of the name change. DPS Procurement will issue an amendment to this TSA for all name changes.
 8. **Compliance with Arizona Administrative Code ("A.A.C.") Title 13, Chapter 3:** Towing firm shall be in, and maintain, compliance with all sections of Arizona Administrative Code ("A.A.C.") articles 7 through 13 and/or any revisions, deletions or additions thereto that may be incorporated by the state, during towing firm's day to day business operations and when performing all work under the agreement. Full text versions of all towing related administrative rules are available via download at <https://www.azsos.gov/rules/arizona-administrative-code>.

- 8.1. Failure by towing firm to have and maintain compliance with all applicable sections of A.A.C. articles 7 through 13 and/or other Terms and Conditions of this agreement, and maximum allowable rates/pricing covered in the agreement is a violation of the agreement. Any such action is subject to all legal and contractual remedies available to the State inclusive of, but not limited to, agreement termination, suspension, and/or debarment of the towing firm.
9. **Responsibility and Susceptibility:** The State will consider, but is not limited to, the following in determining a towing firm's responsibility as well as susceptibility to agreement signing:
 - 9.1. Whether the towing firm has had a contract within the last five (5) years that was terminated for cause due to breach or similar failure to comply with the terms of the contract;
 - 9.2. Whether the towing firm record of performance includes factual evidence of failure to satisfy the terms of the towing firm's agreements with any party to a contract. Factual evidence may consist of documented vendor performance reports, customer complaints and/or negative references;
 - 9.3. Whether the towing firm is legally qualified to contract with the State;
 - 9.4. Whether the towing firm promptly supplied all requested information concerning its responsibility;
 - 9.5. Whether the towing firm documentation was sufficient to permit evaluation by the State, in accordance with the attachments or other necessary TSA components. Necessary components include: attachments, documents or forms to be submitted with the agreement, an indication of the intent to be bound, references, experience verification, adequacy of financial, business, personal or other resources and stability including subcontractors and any other data specifically requested in the TSA.
 - 9.6. Whether the towing firm provides misleading or inaccurate information.
10. **Declaration:** The towing firm shall declare whether it 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.
11. **Subcontracting:** The towing firm shall not enter into any Subcontract under this TSA for the performance of this agreement without prior approval from the District Commander or designee. If towing firm is unable to respond to a DPS initiated dispatch call, towing firm shall not delegate or assign their DPS initiated dispatch call for towing services to another towing firm to perform the scheduled tow.

District Commander or DPS scene manager may allow a towing firm to use additional resources from another towing firm or equipment company if DPS deems the use of those additional resources is necessary for traffic incident management. If multiple tow firms are used at a scene, towed vehicles shall only be delivered to the storage facility of the dispatched tow firm of record.

12. **Maximum Allowable Service Call Rates:** Towing firm shall provide the services specified herein twenty-four (24) hours a day, 365 days a year, including weekends and holidays, for the maximum allowable rates or less as set forth herein. The towing firm is free to charge less than the maximum rates. The maximum allowable service call rates shall, at a minimum, include: Deployment to scene, vehicle hook-up, winching, labor required to perform preparation to tow, on scene clean-up of debris, drive-line removal (if required), recovery, use of dollies (when necessary), and any other service which may be incidental to any specific towing situation.
 - 12.1. Maximum allowable rates shall apply to the use of a single tow truck. Towing firm may not disengage trailers, etc. from a vehicle requiring tow if both can be towed safely as one unit. This requirement may be waived upon prior approval from the on scene DPS Trooper or the vehicle's owner. Should two (2) or more tow trucks be required by the on scene DPS Trooper, each shall be designated as individual tows and thus charged accordingly.
 - 12.2. Maximum allowable hourly rates shall be prorated every 15 minutes after the first complete hour and shall start when the tow truck is dispatched/on the way to a specified scene and shall end at the point of vehicle delivery/unload at the nearest towing firm vehicle storage facility, at a destination specified by the vehicle's owner, or at a destination specified by the on scene DPS Trooper. The nearest towing firm vehicle storage facility may be validated by using the shortest route from the scene to the storage yard in Google Maps or equivalent program. Unless specified by vehicle owner or on scene DPS Trooper, no storage or mileage fees shall be charged if the towing firm did not deliver vehicle to their tow yard nearest the scene.
 - 12.3. Maximum allowable flat rates shall apply to light and medium duty tows and shall include delivery of vehicle to towing firm's storage facility or customer or DPS requested location and are subject to mileage charges per Exhibit A.
13. **Maximum Allowable Mileage Rates:** Maximum allowable mileage rates shall apply only in cases where a vehicle is being towed and shall start at the point of scene (loaded vehicle) and end at point of vehicle delivery/unload at the nearest towing firm vehicle storage facility, at the destination as specified by the vehicle's owner, or at a destination specified by the on scene DPS Trooper. Mileage rates may not be charged when hourly rates are billed by the towing firm unless specified in Exhibit A.
14. **Maximum Allowable Road Side Assistance Rates:** Towing firm shall provide the services specified herein twenty-four (24) hours a day, 365 days a year, including weekends and holidays for the maximum allowable rates or less as set forth on the TSA price sheet. Maximum allowable road side assistance rates shall apply only when the towing firm performs this service under the agreement. This is a one-time flat rate not inclusive of any hourly and/or mileage rates.
15. **Maximum Allowable Vehicle Storage Rates:** Maximum allowable storage rates shall apply to each calendar day (calendar days are defined as midnight to midnight) in which the vehicle is securely stored in accordance with the requirements specified herein. Rates shall not apply for the calendar day in which a vehicle is picked up. Additionally, should a vehicle be stored pursuant to ARS § 28-3511, storage rates/charges shall not exceed the rate specified in A.R.S. § 28-3511.
 - 15.1. There shall be no additional charges made by the towing firm unless specifically set forth in this agreement. All charges shall be for 24 hours a day, 365 days a year.
 - 15.2. No additional fee shall be charged by the towing firm where it is necessary for the towing firm to deliver the vehicle/unit(s) to the public roadway access adjacent to his/her property from the storage area.
 - 15.3. There shall be no storage charge anytime during the first calendar day in which a towed unit or units is picked up. A calendar day is defined as midnight to midnight.
 - 15.4. There shall be no storage charge for any day or days the storage facility is closed and the vehicle owner is unable to claim the vehicle. This does not include normal Sunday closures.

16. **Maximum Allowable Off-Road Recovery Rates:** Maximum allowable off-road recovery rates shall apply when the tow truck must leave the boundaries of the designated State right-of-way to recover a vehicle from a desert area, farm field, ditch, ravine, or body of water. Recovery services include winching, hoisting, up-righting, or removal services necessary to position the towed vehicle so that the wrecker vehicle can hookup or load the towed vehicle. This does not apply to "in-city" tows which are outside of the interstate or state highway system, such as on a city street. If special circumstances exist within the State right-of-way, the maximum allowable off-road recovery rate may be applied with the approval of the DPS Trooper on scene. This is a one-time flat rate not inclusive of any hourly and/or mileage rates.
17. **Stand-By Rate:** Stand-by rates are the time at the scene during which a towing or recovery unit is not actively engaged in the towing or recovery of a vehicle. Travel time from dispatch to arrival on the scene shall not be considered Stand-By. Stand-by rates may be charged after the first 30 minutes on scene in 15 minute increments.
18. **Extra Labor Rate:** Use of additional labor, other than the driver, during a tow. Labor not ordinarily needed for the job, but which is reasonably necessary to provide adequate service in a unique or exigent situation. Rates for extra labor apply from the time the extra labor is assigned to the wrecker service until released from service. Special circumstances for light and medium tows only as regular scene clean-up is covered in the flat maximum allowable service call rate. Extra Labor must be approved by the Trooper on scene.
19. **Rate Adjustments:** Per ARS 41-1830.52, Department of public safety contractual agreements; towing; maximum allowable rates, the department may adjust the rates on this agreement with an amendment to reflect the results of the even-numbered year rate survey and review.
20. **Non-Exclusive Agreement:** This is a non-exclusive agreement. DPS shall reserve the right, at its sole discretion, to obtain like goods or services from other sources or non-agreement providers when necessary. No guarantee shall be made to the towing firm as to the number or frequency of provided services. DPS shall reserve the right to utilize the services of any resultant towing firm during the agreement term. DPS shall also reserve the right to add new tow firms on TSA if deemed necessary by the District Commander for the safety of the public, safety of the DPS Trooper or Troopers, tow truck response times, improved traffic incident management, or convenience to the public.
21. **Utilization of services, no guarantee:** Although DPS anticipates routine services to be performed under the TSA; no commitment of any kind concerning actual utilization of services from the towing firm is expressed or implied. DPS shall also reserve the right to utilize the services of any towing firm during the agreement term. Additionally, and as deemed necessary, DPS may utilize the services of alternate and/or additional towing firms under agreement and/or non-TSA towing providers in circumstances, inclusive of but not limited to adverse weather conditions, multiple vehicle accidents, safety of the public, safety of the DPS Trooper or Troopers, tow truck response times, convenience to the public or when the towing firm does not possess sufficient resources required to respond to an individual situation.
22. **Towing firm availability days/times:** Towing firm shall accept and return DPS initiated service calls, dispatch tow trucks to designated service locations (scenes) 24 hours a day, 365 days a year (including State observed holidays).
23. **Towing Firm & Tow Truck Inspection Applications:** Towing firm shall have and maintain at its place of business, complete and approved DPS Tow Truck Company Registration Application form; #802-07004 for its company and DPS Tow Truck Inspection application form #802-07068-F for all tow trucks used during its day to day business operations and when performing work under the TSA.

Application forms are available via download at www.azdps.gov in the Commercial Vehicle Enforcement area of the Highway Patrol Division section. Signature of applicant on DPS approved form #802-07004 and #802-07068-F shall expressly:

- 23.1. Attest to the fact that all supplied information is true and accurate;
- 23.2. Agree to comply with the rules and regulations for the design and operation of tow trucks as adopted by DPS;
- 23.3. Certify that operators of vehicles shall be competent by reason of experience or by training in the recovery and towing of vehicles as prescribed in the aforementioned rules and regulations;
- 23.4. Agree that operators are required to adhere to any pertinent state or federal motor carrier regulations.

24. **Tow Trucks:** Towing firm shall have and maintain its tow truck(s) in accordance with all applicable sections of **A.A.C. Title 13, articles 8 & 9** and/or any revisions, additions, or deletions thereto that may be incorporated by the state during its day to day business operations and when performing work under the TSA. Full text versions of tow truck specifications/requirements are available via download at <https://www.azsos.gov/rules/arizona-administrative-code>. Towing firm's tow trucks shall also:

- 24.1. Have completed DPS tow truck inspection applications on file with DPS;
- 24.2. Have identification requirements that are not interchangeable from one tow truck to another tow truck (i.e. use of temporary and/or magnetic type identifications are expressly prohibited);
- 24.3. Be properly maintained, mechanically sound and roadworthy;
- 24.4. Have adequate supplies of road safety devices (i.e. safety flares, lights, reflective highway stands, etc.);
- 24.5. Be equipped with jack stands and tire sliding devices;
- 24.6. Be equipped with sufficient safety and ancillary equipment, i.e. chains, slings, bumpers, snatch blocks, brooms, shovels, sand buckets and/or containers for carrying trash, vehicle debris, etc., required to safely clear vehicles and prepare them for towing to towing firm's nearest storage facility, and to perform all required "on scene" site clean-up services; and
- 24.7. Be equipped with motorcycle tie down straps (rollback and/or tilt bed trucks).

25. **Tow Truck(s), Additions:** Towing firm may add newly acquired tow trucks in the same TSA awarded vehicle class to be used under the TSA at any time during the agreement period. DPS reserves the right to inspect tow trucks and audit tow truck lists at any time.

- 25.1. Towing firm shall provide upon DPS request:
 - 25.1.1. Confirmation that the newly acquired truck passed DPS tow truck inspection (Form #802-07068-F);
 - 25.1.2. Confirmation that the proposed tow truck meets or exceeds paragraph 24 titled Tow Trucks
- 25.2. Requests for additions of other classes of tow trucks that were not part of the original application (light, medium, heavy) may be approved by the District Commander or authorized designee if deemed necessary for the safety of the public, safety of the DPS Trooper or Troopers, tow truck response times, improved traffic incident management, or convenience to the public. Requests must be submitted on company letterhead and submitted to the DPS District Commander or authorized designee for review and disposition. Requests shall, at a minimum include:
 - 25.2.1. The proposed tow truck's make, model number and year;

- 25.2.2. Confirmation that DPS tow truck inspection application form #802-07068-F is on file at DPS for the proposed tow truck(s);
- 25.2.3. Confirmation that the proposed tow truck meets or exceeds paragraph 24 titled Tow Trucks; and
- 25.2.4. Approval or denial of requests shall be made by the DPS District Commander or authorized designee. Approvals shall be in the form of an official TSA amendment issued by DPS Procurement Office.
26. **Tow Truck Drivers (“agents”)**: All tow truck drivers (“agents”) utilized by the towing firm shall be in, and maintain, compliance with all applicable sections of A.A.C. Title 13, Chapter 13, article 12 and/or any revisions, additions, or deletions thereto that may be incorporated by the State during the towing firm’s day-to-day business operations and when performing work under the agreement. A full text version of the Arizona Administrative Code is available via download at <https://www.azsos.gov/rules/arizona-administrative-code>. Towing firms are required to take reasonable steps to establish anyone defined as an “agent” of the towing firm, is compliant with the requirements in A.A.C. Title 13, Chapter 13, article 12 (i.e. criminal background check, driving history).
- 26.1. Tow truck drivers (“agents”) utilized by the towing firm shall either have completed or shall complete a four-hour block of training entitled SHRP2 National Traffic Incident Management Responder Training, within three months after TSA award and/or within 90 days of the date the individual tow truck driver (“agent”) starts to perform work under the TSA. SHRP2 training is available through DPS and other Federal Highway Administration (“FHWA”) qualified instructors. Tow truck drivers (“agents”) having completed the SHRP2 training prior to TSA award or prior to performing work under the TSA shall not be required to re-complete the training.
- 26.2. Tow firm shall send out their most experienced driver available for DPS initiated tow service calls.
27. **Tow Truck Drivers (“agents”) Additions**: Towing firm may add new tow truck drivers (“agents”) to be used to perform work under the TSA at any time during the agreement period. Towing firm shall maintain a list of current drivers with E-Verify status, driver license information and Traffic Incident Management training status. The list of drivers (“agents”) is subject to DPS inspection and verification that steps were taken to verify compliance with **A.A.C. Title 13, Chapter 13, article 12**. Towing firm shall ensure that the list of drivers (“agents”), at a minimum includes:
- 27.1. Driver license information for the proposed tow truck drivers (“agents”); and
- 27.2. Confirmation that proposed tow truck drivers (“agents”) meet or exceeds paragraph 26 titled Tow Truck Drivers (“agents”).
- 27.3. New tow truck divers (“agents”) utilized by the towing firm shall either have completed or shall complete a four-hour block of training entitled SHRP2 National Traffic Incident Management Responder Training, within 90 days of the date the individual tow truck driver (“agent”) starts to perform work under the TSA. SHRP2 training is available through DPS and other Federal Highway Administration (“FHWA”) qualified instructors. New tow truck drivers (“agents”) having completed the SHRP2 training prior performing work under the TSA shall not be required to re-complete the training.
28. **Designated Vehicle Storage Facility(s)**: Towing firm shall use only the vehicle storage facility(s) specifically awarded and or added through an official TSA amendment for TSA tows.

29. **Vehicle Storage Facility(s) specifications:** Towing firm's vehicle storage facility(s) shall:
- 29.1. Comply with all requirements specified in paragraph 3 titled Business Presence;
 - 29.2. Have the entire perimeter secured by an approximate 6ft high enclosure (i.e. chain link fence, block fence, fully enclosed building/structure, etc.) and secured lockable entry ways (i.e. lockable gates at all openings, garage type doors, etc.) to prevent unauthorized access to stored vehicles;
 - 29.3. Have access limited to towing firm, designated towing firm employees, DPS personnel, vehicle owners, or others having legitimate business reasons for entering the facilities;
 - 29.4. Have entryways locked at all times when Towing firm or towing firm's employees are not present;
 - 29.5. Be exclusive to the storing of towed vehicles only (i.e. shall be separate and apart from facilities/areas where vehicles are dismantled, alternate work is being performed etc.);
 - 29.6. Have a ground surface that enables the safe movement of stored vehicles throughout the lot while under the vehicles own power or while under tow regardless of prevailing weather conditions. Ground surfaces shall also be free of overgrown vegetation. Concrete, asphalt, black top, stone, macadam, limestone, iron ore, gravel, shale, caliche or other type of ground surface is preferred;
 - 29.7. Have sufficient lighting, either from the vehicle storage facility itself and/or from alternate sources (i.e. street lamps, adjacent businesses, etc.) to allow for night time release/inspection of vehicles for damage and for security purposes. Insufficient lighting shall not be acceptable;
 - 29.8. Be accessible to the public, at a minimum, between the hours of 8:00 A.M. to 6:00 P.M., Monday through Friday, and 8:00 A.M. to 12:00 P.M. (noon) on Saturdays (excluding holidays), for releasing vehicles and/or property, without additional charges being levied. After Hours Open Flat Rate shall not be charged during towing firm's posted business hours.
30. **Vehicle Storage Facility(s): Change of Location:** Towing firm may request the use of an alternate or newly acquired vehicle storage facility(s) to be used under the TSA at any time during the agreement period. All requests shall be made on company letterhead and submitted to DPS District Commander or authorized designee for review and disposition. Requests shall, at a minimum include:
- 30.1. The street address, city, state and zip code of the proposed vehicle storage facility(s);
 - 30.2. Confirmation that the proposed vehicle storage facility(s) meets or exceeds specifications in paragraph 29 titled Vehicle Storage Facility(s) specifications;
 - 30.3. Confirmation that the proposed vehicle storage facility(s) is within the same geographic area as that awarded to the towing firm. Vehicle storage facilities located outside of the TSA's geographic area shall not be approved for use under the TSA;
 - 30.4. Approval or denial of requests shall be made by DPS District Commander or authorized designee upon inspection of the proposed vehicle storage facility(s). Approvals shall be in the form of DPS Trooper signed approval of Attachment B: Vehicle Storage Facility Inspection form.
 - 30.5. If approved through a signed Attachment B: Vehicle Storage Facility form, the towing firm shall immediately provide written notice to all vehicle owners affected by the change of the new address and/any other pertinent information such as changes to its business phone numbers, etc. and shall post the same information on a sign that is clearly visible and readable at towing firm's existing vehicle storage facility's main entrance for a period of not less than 90 days.
31. **Vehicle Storage Facility(s) Signage:** Towing firm shall have clearly visible and readable signage at all vehicle storage locations covered under the TSA. Signs shall, at a minimum:
- 31.1. Be in place within 14 days after TSA award and/or within 14 days of incorporation of vehicle storage facility(s) through a DPS TSA amendment;
 - 31.2. **Outside sign 1:**
 - 31.2.1. Be posted in a clearly visible place at vehicle storage facility(s) main entrance;

- 31.2.2. Have lettering that is approximately two inches in height with a contrasting background, visible from approximately 10 feet from the nearest street and/or roadway;
 - 31.2.3. Contain towing firm's business name;
 - 31.2.4. Street address;
 - 31.2.5. Hours of operation;
 - 31.2.6. Access telephone number (Towing firm or towing firm's employees responsible for allowing vehicle owner access to vehicles 24 hours a day 365 days a year);
 - 31.2.7. Includes verbiage: "DPS Storage and Impound Facility".
 - 31.3. **Inside or Outside sign 2:**
 - 31.3.1. TSA rate schedules;
 - 31.3.2. Forms of payment for release of a vehicle; and
 - 31.3.3. List of documents required for release of vehicles.
32. **Vehicle Storage Procedures:** Towing firm shall store all vehicles towed under the TSA at the storage facilities designated/approved herein. Additionally, towing firm:
- 32.1. Shall not disengage attachments in order to increase storage charges and shall not do so without the prior approval of the vehicle's owner/owner's agent;
 - 32.2. Shall assume sole responsibility for the theft, disappearance, or damage of a vehicle, its parts or any personal effects within the vehicle, once the vehicle has been taken under tow and/or stored in its facilities. This shall not include items removed from the vehicle and taken into custody by a DPS Trooper;
 - 32.3. May remove a mechanical part, such as a battery or distributor rotor, from the vehicle to prevent unauthorized removal of the vehicle. If this is done the towing firm shall document such removal on the tow invoice inventory list and shall be solely responsible for its return and installment (at its own expense) at the time of release of the vehicle, unless otherwise instructed by DPS;
 - 32.4. Shall assist vehicle owners/owner's agents, when necessary and with valid proof of ownership or authorization, by retrieving ownership documents or identification from a towed vehicle or by accompanying them while they retrieve documents from a towed vehicle;
 - 32.5. Shall allow vehicle owners/owners agents, with valid proof of ownership or authorization, access to a towed vehicle for removal of personal effects at any time after the completion of the tow. Towing firm shall provide this service without charge during regular business hours. Towing firm may assess an after-hours release fee, at the rate specified herein if the vehicle owners/owner's agent requests access outside of regular business hours;
 - 32.6. Shall allow vehicle owners/owners agents, with valid proof of ownership or authorization, access to a towed vehicle for purposes of inspecting and/or documenting its condition. Towing firm shall provide this service without charge during regular business hours. Towing firm may assess an after-hours release fee, at the rate specified herein if the owner/owner's agent requests access outside of regular business hours.
 - 32.7. Shall allow for release of vehicle after payment received for towing and storage services with proper identification in accordance with A.R.S. 28-4842.
33. **Record of Towed/Stored Vehicles:** Towing firm shall maintain adequate records of all vehicles towed/stored under the TSA. These records shall, at a minimum, include:
- 33.1. Date of provided towing services;
 - 33.2. Date of storage;
 - 33.3. Time of storage;
 - 33.4. Class of Vehicle service;
 - 33.5. Tow location;
 - 33.6. Make, model, year of the towed vehicle;
 - 33.7. Towed vehicle's license plate number and state;
 - 33.8. Towed vehicle's identification number;

- 33.9. Date the towed vehicle was claimed;
 - 33.10. Time the towed vehicle was claimed;
 - 33.11. Identity of person who claimed the towed vehicle;
 - 33.12. Identity of person(s) who removed personal property from the towed vehicle; and
 - 33.13. Date of 10-day filing (if applicable). The filing of a 10-day report is required by A.R.S. § 28-4838, and the fees assessed by the Motor Vehicle Division for this filing may be charged to the owner of the towed vehicle. Proof of vehicle ownership will be guided by A.R.S. § 28-2158.
34. **Property Inventory Reports:** Towing firm/tow truck drivers (“agents”) shall prepare and maintain a vehicle property inventory report for every vehicle towed under the TSA as soon as it is taken into their custody. Vehicle property inventories shall, at a minimum include:
- 34.1. All personal effects visible inside a towed vehicle; and
 - 34.2. All property contained in pickup beds, trailers, etc.
 - 34.3. Towing firm/tow truck drivers (“agents”) may remove personal effects from a vehicle and place them into secure storage to protect such personal effects from theft or loss. All personal effects removed from a vehicle shall be tagged with the tow number, vehicle identification and vehicle license number and noted on the tow invoice inventory list.
 - 34.4. Towing firm shall disclose and make available for return of all personal effects to all affected parties.
35. **Communication Equipment:** Towing firm shall have and maintain communication equipment that allows DPS to communicate with the Contactor and/or Towing firm's tow truck drivers (“agents”) 24 hours a day, 7 days a week. Communication equipment shall include at a minimum a central business phone number and/or a cell phone number for use by DPS to initiate deployment to a scene 24 hours a day, 7 days a week. Third party answering services that have dispatching capabilities may be used for communication purposes under this TSA.
- 35.1. Answering machines shall be prohibited for communication between DPS and towing firm.
 - 35.2. Towing firm shall not use a blocked unknown caller line for incoming DPS service calls.
 - 35.3. Towing firms shall respond to all Department initiated tow related service requests immediately. In the event that a specific towing firm does not respond immediately; the Department shall reserve the right to contact alternate towing firms.
36. **Response Times, On Scene:**
- 36.1. **Metro Tow Area:** Towing firm shall provide response times to all DPS requests that do not exceed 30 minutes for Light Duty and Medium Duty and 45 minutes Heavy Duty during normal duty hours (5am-7pm). For response times after hours, 45 minutes for Light and Medium Duty and 75 minutes for Heavy Duty. DPS recognizes that occasions may arise in which towing firm may be unable to supply a tow truck.
 - 36.2. **Rural Tow Area:** Towing firm shall provide response times to all DPS requests that do not exceed 2 minutes per mile after receipt of initial telephone notice during normal duty hours, and 15 minutes startup then 2 minutes per mile after duty hours, or a reasonable driving time as described below. Heavy duty response times shall be 3 minutes per mile during normal duty hours and 30 minutes startup plus 3 minutes per mile for after duty hours. DPS recognizes that occasions may arise in which towing firm may be unable to supply a tow truck.
 - 36.3. Tow firm shall notify DPS dispatch whenever they are unable to respond to a DPS call and must provide a specific reason for unavailability or cancelation. “Unavailable” or “unable to respond” will not suffice.
 - 36.4. The District Commander may alter response times to allow for reasonable and safe driving time or to compensate for periods of inclement weather that would create hazardous driving conditions as well as unforeseen highway closures and detours, rush hour traffic or for parking limitations imposed by municipalities. The towing firm shall have the ability to

communicate with drivers via radio, mobile telephone, or other like equipment, so that DPS Operational Communications Center has the ability to pass on information to the tow truck driver through the towing firms dispatch center as the tow truck driver responds to a call.

36.5. Scout vehicles do not count toward a valid response time on scene. DPS Trooper, at their discretion, may dismiss towing firm when a scout truck is sent and select another towing firm.

37. **Emergency/Expedited Services:** In cases where DPS requests emergency/expedited towing services, towing firm may utilize the tow truck's overhead lights and flashers. At no time, shall the towing firm be entitled to violate any law pertaining to the safe and prudent operation of its vehicles on State and local highways and roadways. Tow trucks are not authorized emergency vehicles and therefore shall obey all traffic laws established for prudent, responsible and safe driving throughout the State.

38. **Right of Refusal of Towing Services:** DPS shall reserve the right, at its sole discretion and/or as it deems necessary to refuse towing firm's services based on, but may not be limited to the following:

38.1. Tow truck driver ("agent") suspected of consuming intoxicating beverages, narcotics or other dangerous drugs;

38.2. Tow truck driver ("agent") and/or tow truck being found non-compliant with all applicable sections of the Arizona administrative code;

38.3. Tow truck driver ("agent") has lack of appropriate skills to handle an "on scene" situation;

38.4. Late arrival by a tow truck driver ("agent") at a specified scene;

38.5. Tow truck found to not be properly permitted by DPS;

38.6. Tow truck not being properly equipped; or for any other reason an on scene DPS Trooper considers appropriate to ensure the safety of the driving public;

38.7. Towing firm who was not called by DPS (if the situation is an emergency, the truck may be used only to the point of eliminating the hazard from the roadway)

Should a call be canceled before work or service at the scene is performed, there shall be no charge to either the owner of the vehicle or to DPS.

39. **Business/Rate Sheet Information, On Scene:** Towing firm shall maintain an adequate supply of business and TSA (maximum allowable or lower) rate cards in all tow trucks, towing firm's place of business and vehicle storage facilities for distribution "on scene and upon public request" and shall provide such to all persons requiring TSA related tow services and/or to those requesting such. All costs associated with printing, maintaining, and distributing these cards shall be borne by the towing firm. Information contained on the cards shall, at a minimum, contain the towing firm's business/Storage Facility(s):

39.1. Name;

39.2. Address;

39.3. Contact information (telephone, facsimile (if available) numbers and e-mail address (if available));

39.4. Hours of operation;

39.5. Storage facility/lot address;

39.6. Telephone number(s) for both normal hours of operation and after hour access; and

39.7. TSA (maximum allowable or lower) rate schedules.

39.8. Should a person or persons requiring tow services not be "on scene", business/rate sheet information shall be provided to the "on scene" DPS Trooper for proper distribution

40. **Administration, On Scene:** The DPS on scene Trooper(s) shall be responsible for the overall direction of on scene towing services.

41. **Clean Up Services, On Scene:** Towing firm tow truck drivers (“agents”) and/or alternate employees shall be responsible for all “on scene” clean-up of debris at the scene of an accident pursuant to A.R.S. § 28-872.D unless instructed otherwise by the DPS District Commander or authorized designee not to do so. With prior approval from the DPS District Commander or authorized designee, the towing firm may make reasonable, additional charges (i.e. extra equipment and/or extra labor) based on actual time and cost expended on the “on-scene” clean-up service for heavy duty tows (special circumstances only for light and medium duty). Any charges discovered outside of those listed on the maximum allowable TSA rate sheet, which do not have prior DPS District Commander or authorized designee approval, shall be reimbursed to the customer that was charged for the service. Towing firms shall not be permitted to utilize juveniles (persons under the age of 18 years) to perform this clean-up or any other function at the collision or call-out scene unless exempt under A.R.S. § 23-235.

42. **Charges/Billing Parties:** Towing firm shall bill only the maximum allowable rates or less as specified on the TSA price sheet. All services performed under this TSA shall be billed to the vehicles owner and not DPS. All billing shall be in compliance with the price schedules established herein. No other ancillary charges shall be allowed.

In accordance with A.R.S. 41-1830.51 Paragraph C Section 2, if a heavier class of tow vehicle is used for lighter tows, charges must be billed at the lighter duty service rates. Regardless of the class of tow truck utilized or responding to the call, charges shall not be more than for the class of vehicle towed or serviced. When vehicle recovery operations require a larger class tow truck, the higher rate may be charged if approved by the on scene DPS Trooper. Service categories and billing parties shall be only those specified below:

42.1. **For accident scene towing, site cleanup & vehicle storage services:** The vehicle’s owner, insurance carrier, or lien holder whichever is applicable. DPS shall not be responsible for payment of these services.

42.2. **Abandoned and confiscated vehicle towing and storage services:** The vehicles owner, insurance carrier, or lien holder whichever is applicable. DPS shall not be responsible for payment of these services.

42.3. **For stranded motorist, roadside assistance services:** The vehicles driver or owner. DPS shall not be responsible for payment of these services.

42.4. **For all other DPS initiated tow related services performed in accordance with A. R. S. §28-872 and/or which the DPS may require:** The vehicles owner, insurance carrier, or lien holder. DPS shall not be responsible for payment of these services.

Towing firm shall only bill/receive payments once per service call. Double billing (i.e. billing more than one party for the same services) by towing firms is prohibited.

Towing firm shall issue itemized invoices providing a detailed breakdown of tow and storage charges.

Towing firm shall accept cash, cashier’s check, money order, or major credit card or debit card for services rendered.

43. **Insurance Requirements**

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

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

44. **Minimum Scope and Limits of Insurance:** Towing firm shall provide coverage with limits of liability not less than those stated below.

44.1. **Garage Liability (CGL) – Occurrence Form:** Policy shall include bodily injury, property damage, and broad form contractual liability coverage.

- Each Occurrence \$1,000,000
- Damage to Rented Premises \$50,000
- Personal and Advertising Injury \$1,000,000
- General Aggregate \$2,000,000
- Products – Completed Operations Aggregate \$1,000,000
- Garage Liability (Premises and Operations) \$1,000,000
- **Garagekeepers Legal Liability - Direct Primary Coverage:**
- Each Auto \$100,000
- Each Heavy-Duty Vehicle \$250,000

- a. The policy shall be endorsed to include direct primary Garagekeepers Legal Liability coverage.
- b. Policy shall be endorsed, per this written agreement, to include Products Liability.
- c. 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.
- d. 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.

44.2. **Business Automobile Liability:**

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

- Combined Single Limit (CSL) \$1,000,000
- On-Hook Endorsement
 - Each Auto \$100,000
 - Each Heavy-Duty Vehicle \$250,000
- Policy shall be endorsed to include coverage for towing.

44.2.1. 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.

44.2.2. Policy shall contain a waiver of subrogation endorsement as required by this written agreement in favor of the State of Arizona, and its departments, agencies, boards,

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

44.3. **Worker's Compensation and Employers' Liability:**

Workers' Compensation	Statutory
<u>Employers' Liability</u>	
Each Accident	\$1,000,000
Disease – Each Employee	\$1,000,000
Disease – Policy Limit	\$1,000,000

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

44.3.2. This requirement shall not apply to each Contractor or subcontractor that is exempt under A.R.S. § 23-901, and when such Contractor or subcontractor executes the appropriate waiver form (Sole Proprietor or Independent Contractor). Sample Sole Proprietor Waiver and Independent Contractor forms may be found on Arizona Risk Management Division's website under Insurance located here: <https://staterisk.az.gov/insurance/forms>.

44.4. **Additional Insurance Requirements:** The policies shall include, or be endorsed to include, as required by this written agreement, the following provisions:

44.4.1. 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).

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

44.5. **Notice of Cancellation:** Applicable to all insurance policies required within the Insurance Requirements of this TSA, 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 (Arizona Department of Public Safety, Procurement Dept., P.O. Box 6638, MD 1230, Phoenix, AZ 85005-6638) and shall be sent by certified mail, return receipt requested.

44.6. **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.

- 44.7. **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 TSA. An authorized representative of the insurer shall sign the certificates. A sample Certificate of Insurance (COI) may be found on Arizona's Risk Management Division's website under the insurance section located here: <https://staterisk.az.gov/insurance/forms>.
- 44.7.1. 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.
- 44.7.2. Each insurance policy required by this TSA must be in effect at, or prior to, commencement of work under this Contract. Failure to maintain the insurance policies as required by this TSA, or to provide evidence of renewal, is a material breach of contract.
- 44.7.3. All certificates required by this TSA shall be sent directly to the Arizona Department of Public Safety, Procurement Dept., P.O. Box 6638, MD 1230, Phoenix, AZ 85005-6638. DPS Towing Services shall be noted on the certificate of insurance. The State of Arizona reserves the right to require complete copies of all insurance policies required by this TSA at any time.
- 44.8. **Subcontractors:** Towing firms' 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 the TSA, proof from the Contractor that its subcontractors have the required coverage.
- 44.9. **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 TSA amendment but may be made by administrative action.
- 44.10. **Exceptions:** In the event the Contractor or subcontractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a certificate of self-insurance. If the Contractor or subcontractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.
45. **Open Enrollment Meeting:** District Commander or authorized designee shall conduct one (1) Open Enrollment Meeting to discuss the forthcoming TSA term and issues concerning the Tow Service Certification Agreement and the tow program. Meeting is highly recommended for towing firms new to DPS, but attendance is not mandatory.
- 45.1. DPS shall provide a minimum of 7 days' notice of the meeting to towing firms currently participating in a DPS tow program and to those new towing firms expressing interest. Means of notification may include but are not limited to:
- 45.1.1. Emails generated from State Procurement system to vendors subscribed to towing related NIGP codes.
- 45.1.2. Posting in a local newspaper (i.e. Arizona Republic)
- 45.1.3. Notification to the Arizona Professional Towing & Recovery Association
- 45.1.4. Press Release on the Department of Public Safety's website
- 45.2. Completed TSA's shall not be accepted at the Open Enrollment Meeting.

46. **TSA Enrollment Period:** TSA Enrollment Period shall open the day of the Open Enrollment announcement and close a minimum of 14 calendar days thereafter. Towing firms shall submit a signed copy of the last 2 pages of the TSA, completed Attachments A-D, and Exhibit C. A certificate(s) of insurance and any applicable waiver forms as outlined in the paragraph titled Minimum Scope and Limits of Insurance will be requested if the tow firm is selected.
- 46.1. Completed TSA's shall be hand-delivered or sent via US Mail to the DPS Procurement Office for review prior to closing of the enrollment period. All e-mailed and fax forms shall also have hard copies received via US Mail within 2 weeks of Open Enrollment close.

Arizona Department of Public Safety
Procurement Department M/D 1230
2102 W. Encanto Blvd. Suite 225
Phoenix, Arizona 85009

47. **TSA Assignment:** District Commander or authorized designee shall determine the towing firms and vehicle classes assigned to each geographical tow area in the District within 30 days of closure of TSA Enrollment Period.
48. **Mid-Term TSA Assignment:** District Commander or authorize designee may add towing firms from previously submitted TSA's mid-term if deemed necessary for the safety of the public, safety of the DPS Trooper or Troopers, tow truck response times, improved traffic incident management, or convenience to the public. The term of the agreement shall not extend beyond the original TSA term for the District.
49. **Mid-Term Enrollment:** If a District Commander has deemed it necessary to add towing firms to a geographical towing area and has no previously submitted TSA's on file, the District Commander may establish an open enrollment period for that geographical towing area following paragraphs 46-47. An Open Enrollment Meeting is not required, but may be conducted at the District Commander's discretion. The term of the agreement shall not extend beyond the original TSA term for the District. Towing firms that are already on TSA in the geographical tow area shall not have to attend an enrollment meeting nor resubmit a TSA.
50. **Retention of towing records, inspection/auditing by others:** Towing firm shall retain all records, including but not limited to tow invoice copies, law enforcement releases, lien records (i.e., lien letter, proof of certified mailing, DMV printouts, appraisals, etc.), vehicle release records, inventory and condition reports to facilitate inspections and auditing by DPS and/or other parties for a period of five (5) years from the date of termination of the TSA. Towing firm shall make all records available within 24 hours of DPS' request.
51. **Confidentiality of records:** Towing firm shall establish and maintain procedures and controls that are acceptable to DPS for the purposes of assuring that no information contained in its records or obtained from DPS or from others in carrying out its functions under the TSA shall be used by or disclosed by it, its agents, officers, or employees, except as required to efficiently perform duties under the TSA. Persons requesting such information shall be referred to DPS. Towing firm shall ensure that this information is not divulged other than to DPS, its designated employees and/or officers, unless otherwise agreed to in writing by DPS.
52. **Routine Inspections:** Towing firm shall permit DPS to conduct, without prior notice, a thorough inspection of towing firm's business records, tow trucks, drivers list and vehicle storage facility or facilities for any tow made under the TSA. Records inspections may be performed at the towing firm's place of business or at the district office as determined by the Highway Patrol District Commander or designee.

53. **Auditing:** Towing firm shall, upon request make available copies of itemized tow bills for individual and/or all vehicles towed under agreement. This information shall be made available at the towing firm's place of business within ten (10) days of request or may be faxed, emailed, mailed, or delivered to the requesting DPS District Office.
54. **Right to Assurance:** If the State in good faith has reason to believe that the towing firm does not intend to, or is unable to perform or continue performing under this Agreement, the Procurement Officer may demand in writing that the towing firm give a written assurance of intent to perform. Failure by the towing firm 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 TSA under the Uniform Terms and Conditions or other rights and remedies available by law or provided by the TSA.
55. **Stop Work Order:** The State may, at any time, by written order to the towing firm, require the towing firm to stop all or any part, of the work called for by this TSA for period(s) of days indicated by the State after the order is delivered to the towing firm. The order shall be specifically identified as a stop work order issued under this clause.
- 55.1. If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the towing firm shall resume work.
56. **Complaint and Deficiency Resolution by DPS District Offices:** All complaints made or deficiencies noted against the towing firm, regardless of the source, shall be investigated by the DPS District Commander or authorized designee in accordance with Arizona Administrative Code ("A.A.C.") articles 7 through 13 and/or any revisions, deletions or additions thereto that may be incorporated by the state. Upon completion of the investigation, the DPS District Commander or authorized designee shall classify the complaint as unfounded, exonerated, not sustained, sustained, or partially sustained and shall maintain a copy (according applicable state public record retention requirements) of all complaints, deficiencies, findings, and actions taken, if any, on file in the District Office and the tow truck inspection unit. Files may include separate indexes for individual tow truck drivers ("agents").
- 56.1. Complaint and deficiency categories are, but may not be limited to:
- 56.1.1. Unqualified drivers
 - 56.1.1.1. Improperly licensed vehicle/drivers ("agents")
 - 56.1.1.2. Expired licenses
 - 56.1.1.3. Revoked or suspended licenses
 - 56.1.1.4. Gross violations on license (while driving tow truck)
 - 56.1.1.5. Not trained in Traffic Incident Management by specified timing in paragraphs 26 and 27.
 - 56.1.2. Negligent administration
 - 56.1.2.1. Charging for unnecessary or unused services, personnel, or equipment
 - 56.1.2.2. Incorrect times on bills
 - 56.1.2.3. Incorrect mileage on bills
 - 56.1.2.4. Neglecting to notify DPS of any changes
 - 56.1.2.5. Mathematical miscalculations
 - 56.1.2.6. Failure to maintain proper records and or filing of a 10-day report
 - 56.1.3. Negligent operation
 - 56.1.3.1. Improper use of equipment
 - 56.1.3.2. Incompetent drivers ("agents")
 - 56.1.3.3. Failure to prevent further damage to towed vehicle
 - 56.1.3.4. Arriving on scene without proper equipment, truck(s), supplies or personnel

- 56.1.3.5. Delivering vehicle to a storage facility that is not the nearest to scene without vehicle owner or DPS Trooper prior approval.
 - 56.1.3.6. Insufficient clean-up of debris at scene
 - 56.1.4. Unsafe tow trucks
 - 56.1.5. Unethical business practices
 - 56.1.6. Improper conduct of an owner/driver (“agent”)
 - 56.1.7. Discourteous treatment of a Trooper, dispatcher, or driver/owner of a vehicle
 - 56.1.7.1. Intimidating a Trooper, dispatcher, or driver/owner of a vehicle
 - 56.1.7.2. Physical abuse of a Trooper, dispatcher, or driver/owner of a vehicle
 - 56.1.8. Unauthorized removal of items from a towed or stored vehicle
 - 56.1.9. Failure to respond to complaint from DPS
 - 56.1.10. DUI (Drugs and/or alcohol)
 - 56.1.11. Failure/Refusal to accept calls
 - 56.1.12. Traffic violations (tow truck)
 - 56.1.13. Failure to respond to calls as mutually agreed upon
 - 56.1.14. Leaving the scene without DPS Trooper approval
 - 56.1.15. Excessive turn down rate from DPS dispatch
 - 56.1.16. Excessive and/or unreliable response times
 - 56.1.17. Unnecessary delays on scene in effort to run up tow charges.
 - 56.1.18. Subcontracting DPS towing services calls to another towing firm.
 - 56.1.19. Any other performance based issues determined by the District Commander.
- 56.2. Additionally, towing firm shall not charge for services more than the maximum allowable rates specified herein, nor shall a motorist be charged for any services not authorized under the TSA without the prior approval of the motorist or his/her representative.
- 56.3. Complaints shall be investigated in accordance with established DPS policies and procedures to the extent deemed necessary by the DPS Highway Patrol District Commander or authorized designee. Upon investigation, the DPS District Commander or authorized designee shall classify/disposition each complaint as follows:
- 56.3.1. Unfounded (allegation is false or non-factual)
 - 56.3.2. Exonerated (incident did occur, but was lawful or proper)
 - 56.3.3. Not sustained (insufficient evidence either to prove or disprove the allegations)
 - 56.3.4. Partially sustained (generally used where there are two or more allegations made, and only some or a portion of the allegations are supported by sufficient evidence)
 - 56.3.5. Sustained (the allegation is supported by sufficient evidence)
- 56.4. The DPS District Commander or authorized designee shall provide a formal written determination of all complaints that are sustained or partially sustained to the towing firm for review, implementation of corrective actions (if required) in accordance with the procedure described in paragraph 52, Right to Assurance. Notice of suspensions may be done in writing or by telephone communication/message with the affected towing firm. Suspension notices shall detail the reasons for the suspension, the areas requiring improvement (i.e. corrective action plan) and the duration of the suspension (e.g. until improvements are made and/or corrective actions have been submitted). All verbal notices of suspensions shall be followed up in writing within three (3) business days.
- 56.5. In case a suspension of services is deemed necessary by DPS, the Stop Work Order process will be followed.

- 56.6. All complaints brought to the attention of the towing firm by DPS or a motorist shall be responded to in writing and forwarded to the DPS District Commander or authorized designee within thirty (30) days of notification.
- 56.7. A tow company owner may request the appropriate bureau commander of the region in which the company operates to review any suspension imposed. The bureau commander may change the classification or action as deemed appropriate.
57. **Governor Declared Disasters:** Towing firm Recovery Services: In the event of Governor declared disasters within the State of Arizona such as, but not limited to, hurricanes, floods, earthquakes and wildfires, that may require egress, ingress and contra-flow operations on state highways and interstates, towing firm may be tasked by DPS to assist in providing such items as fuel, water and supplies to the public using these state highways and interstates. Should DPS require such services and after determination of what the towing firm's role would be in a specific disaster operation, the DPS shall:
- 57.1. Develop a plan that illustrates how the towing firm shall be utilized;
- 57.2. Determine if the services are within the TSA scope;
- 57.3. Contact towing firm for facilitation of the plan;
- 57.4. In cases where the services are determined to be outside of the TSA scope, agree as soon as practical on the scope of services, terms duration and fixed price for performance by the towing firm (pursuant to A. R. S. §41-2537).
- 57.5. DPS, at its sole discretion, may modify or terminate such services at any time, and as required, to ensure the safety of the general and motoring public.
58. **Licensing:** Towing firm(s) performing work within the State of Arizona shall, if applicable be properly licensed for the terms and conditions in which they are agreeing to in this TSA.
59. **Safety Standards:** All items and/or services supplied on this TSA must comply with the current applicable occupational safety and health standards of the State of Arizona Industrial Commission, The National Electric Code, and The National Fire Protection Association Standards.
60. **I.T. 508 Compliance:** Unless specifically authorized in the TSA, any electronic or information technology offered to the State of Arizona under this TSA shall comply with A.R.S. § 41-2531 and 41-2532 and Section 508 of the Rehabilitation Act of 1973, which required that employees and members of the public shall have access to and use information technology that is comparable to the access and use by employees and members of the public who are not individuals with disabilities.
61. **Illegal/Non-Prescription Drugs, Alcohol and Weapons:** Illegal/non-prescription drugs, alcohol and weapons (of any type) are not permitted on DPS property (land or building). Any towing firm or towing firm employee possessing illegal/non-prescription drugs, alcohol and/or weapons (of any type) on DPS property shall be immediately removed from the property and not be allowed future access. Any such action is subject to the legal and contractual remedies available to the State inclusive of, but not limited to, TSA termination, suspension, and/or debarment of the towing firm.
62. **Executive Order 2007-03 Improving Air Quality:** Towing firm shall comply with Executive Order 2007-03 as it applies to this TSA.
63. **E-Verify Requirements:** In accordance with A.R.S. § 41-4401, Towing firm 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.

64. **Assignment and Delegation:** The towing firm shall not assign any right nor delegate any duty under this TSA without the prior written approval of the Procurement Officer. The State shall not unreasonably withhold approval.
65. **Soliciting Repairs by Towing firms is Prohibited:** Towing firm and/or tow truck drivers (“agents”) shall not solicit business for any particular vehicle repair shop(s) during the towing process or during any subsequent storage period for any towing service provided under the TSA.
66. **Right of Refusal of Services by Vehicle Owners:** Towing firm shall honor request by vehicle owners should they request service by an alternate towing company. Such request may also be approved by the on scene DPS Trooper.
67. **Federal Immigration and Nationality Act:** The contractor shall comply with all federal, state and local immigration laws and regulations relating to the immigration status of their employees during the term of the contract. Further, the contractor shall flow down this requirement to all subcontractors utilized during the term of the contract. The State shall retain the right to perform random audits of contractor and subcontractor records or to inspect papers of any employee thereof to ensure compliance. Should the State determine that the contractor and/or any subcontractors be found noncompliant, the State may pursue all remedies allowed by law, including, but not limited to; suspension of work, termination of the contract for default and suspension and/or debarment of the contractor.
68. **Indemnification Clause:** To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees (hereinafter referred to as “Indemnitee”) from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys’ fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as “Claims”) for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of, or recovered under, the Workers’ Compensation Law or arising out of the failure of such Contractor to conform to any federal, state, or local law, statute, ordinance, rule, regulation, or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by Contractor from and against any and all claims. It is agreed that Contractor will be responsible for primary loss investigation, defense, and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the State of Arizona, its officers, officials, agents, and employees for losses arising from the work performed by the Contractor for the State of Arizona.
- This indemnity shall not apply if the contractor or sub-contractor(s) is/are an agency, board, commission or university of the State of Arizona.
69. **Boycott of Israel:** In accordance with ARS § 35-393.01, the towing firm shall provide, as part of its proposal, written certification that the towing firm is not currently engaged in, and agrees for the duration of the TSA to not engage in, a boycott of Israel. This written certification shall be used to determine Responsible towing firms, and subsequently becomes part of the TSA.
70. **Applicable Law:** In accordance with ARS § 41-2501, et seq, and AAC R2-7-101, et seq, the TSA shall be governed and interpreted by the laws of the State of Arizona.

71. **Non-Availability of Funds:** In accordance with ARS § 35-154, every payment obligation of the State under the TSA is conditioned upon the availability of funds appropriated or allocated for payment of such obligation. If funds are not allocated and available for the continuance of this agreement, this TSA may be terminated by the State at the end of the period for which funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.
72. **Conflict of Interest:** In accordance with A.R.S. § 38-511, State may within three years after execution cancel the Agreement, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the Agreement on behalf of the State, at any time while the Agreement is in effect, becomes an employee or agent or any other party to the Agreement in any capacity or a consultant to any other party of the Agreement with respect to the subject matter of the Agreement.
73. **Termination for Convenience:** The State reserves the right to terminate the TSA, 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 towing firm shall stop all work, as directed in the notice, and minimize all further costs to the State. In the event of termination under this paragraph, all documents, data and reports prepared by the towing firm under the agreement shall become the property of and be delivered to the State upon demand. The towing firm shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination. The cost principles and procedures provided in A.A.C. R2-7-701 shall apply.
74. **Towing Firm TSA Termination:** The tow firm may at any time, terminate this agreement by submitting their request to terminate in writing with a minimum of 14 days' notice to the Procurement Department.
75. **Amendments:** The agreement may be modified at any time through an Amendment, within the scope of the TSA, issued by the Procurement Department.
76. **Non-Discrimination:** In accordance with ARS § 41-1461, et seq, towing firm shall provide equal employment opportunities for all persons, regardless of race, color, creed, religion, sex, age, national origin, disability or political affiliation. Towing firm shall comply with the Americans with Disabilities Act.
77. **Arbitration:** In accordance with ARS § 12-1518, the parties to agree to resolve all disputes arising out of or relating to this Contract through arbitration, after exhausting applicable administrative review except as may be required by other applicable statutes.
78. **Advertising, Publishing and Promotion of Contract:** The Contractor shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the Procurement Officer. For example, posting photos from scene or tow on social media require prior written approval.

79. TOW FIRM APPROVAL:

I certify that all drivers operating under this Tow Service Certification Agreement (TSA) are qualified and competent. I further certify that I have read and understand this TSA and agree to abide by all the provisions. I further agree to indemnify, defend, and save harmless the state, its officers, agents, and employees from any and all claims and losses accruing or resulting to the towing firm in connection with the performance of the TSA, and from any and all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by the towing firm in the performance of this TSA. The towing firm, and the agents and employees of the towing firm, in the performance of this TSA, shall act in an independent capacity and not as officers or employees or agents of the State of Arizona.

Towing Firm Approval		
Signature	Typed Name	
Company	Title	Date
Business Address	Business Phone Number	
US DOT# (if applicable)		

80. DPS APPROVAL:

District Commander or authorized designee hereby assigns the towing firm the following vehicle classes and geographic tow area(s) for the TSA term.

Tow Firm Name: _____

	Tow Area 1	Tow Area 2	Tow Area 3	Tow Area 4	Tow Area 5	Tow Area 6	Tow Area 7	Tow Area 8	Tow Area 9
Light									
Medium									
Heavy									
HD Rotator									

Attachment D: Administrative Requirements Question 5 Subcontractors Reported:

Approved _____ Denied _____

The terms of this TSA (2017-2019 TSA) will become effective:

_____ and end _____
 Date Date

Signature		Printed Name	
Badge #	Title		Date

81. DPS DEPUTY DIRECTOR APPROVAL:

DPS Deputy Director or designee hereby approves of the selection of the towing firm to participate in the 2017-2019 Tow Service Agreement for the term stated above.

Signature	Date
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