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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

MIRIAM FLORES, individually and as)
parent of Miriam Flores, a minor child, et)
al.,)
)
Plaintiffs,)
)
vs.)
)
STATE OF ARIZONA, et al.,)
)
Defendants,)
AMERICAN COUNCIL OF)
ENGINEERING COMPANIES OF)
ARIZONA; and ASSOCIATED)
GENERAL CONTRACTORS OF)
AMERICA, ARIZONA CHAPTER,)
Intervenors.

No. CV 92-596-TUC-RCC
ORDER

Pending before the Court is the American Council of Engineering Companies of Arizona, and Associated General Contractors of America, Arizona Chapter, (“Intervenors”), Motion to Intervene and Alternative Motion To File Brief *Amicus Curiae* (Docket No. 298) filed on August 18, 2005. As set forth below, the Motion to Intervene is GRANTED.

1 On August 2, 2005, Plaintiffs filed a motion for sanctions against the Defendants.
2 Plaintiffs' motion seeks to enjoin the State from receiving federal highway funds. On
3 August 18, 2005, Intervenor filed a Motion to Intervene pursuant to Rule 24(a) of the FED.
4 R. of CIV. P.

5 **DISCUSSION**

6 Intervention as of right is governed by Federal Rule of Civil Procedure 24(a), which
7 provides in part:

8 Upon timely application anyone shall be permitted to intervene
9 in an action ... (2) when the applicant claims an interest relating
10 to the property or transaction which is the subject of the
11 action and the applicant is so situated that the disposition of
12 the action may as a practical matter impair or impede the
13 applicant's ability to protect that interest, unless the applicant's
14 interest is adequately represented by existing parties.

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16 *U.S. v. City of Los Angeles*, Cal. 288 F.3d 391, 397 (C.A. 9 (Cal.), 2002). Moreover, “one who
17 seeks to intervene as of right in a pending lawsuit must show that: (1) it has a significant
18 protectable interest relating to the property or transaction that is the subject of the action;
19 (2) the disposition of the action may, as a practical matter, impair or impede the applicant's
20 ability to protect its interest; (3) the application is timely; and (4) the existing parties may
21 not adequately represent the applicant's interest. *Id.* (citing *Donnelly v. Glickman*, 159 F.3d
22 405, 409 (9th Cir. 1998). The Court should “generally construe Rule 24(a) [and this test]
23 broadly in favor of the intervenors.” *United States ex rel. McGough v. Covington Techs.*
24 *Co.*, 967 F.2d 1391, 1394 (9th Cir. 1992).

25 Upon review of the pleadings, the Court finds that the Intervenor has filed a
26 timely motion to intervene, that they have a significant legally protectable interest because
27 Intervenor has received **contracts** from the State of Arizona and the specific sanctions,
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1 if granted, would directly impact that interest due to the restraining of federal highway
2 funds, and that the named Defendants may not adequately represent the Intervenor
3 interests. As such, under Rule 24(a)(2), FED. R. CIV. P., Intervenor may intervene as of
4 right as a defendant with respect to Plaintiffs' Motion for Sanctions (Docket No. 296).

5 DATED this 4th day of October, 2005.

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Raner C. Collins
United States District Judge