



STATE OF ARKANSAS
OFFICE OF STATE PROCUREMENT
1509 West 7th Street, Room 300
Little Rock, Arkansas 72201-4222

REQUEST FOR QUALIFICATION
BID SOLICITATION DOCUMENT

SOLICITATION INFORMATION			
Bid Number:	SP-16-0224	Solicitation Issued:	April 15, 2016
Description:	Procurement Consultant		
Agency:	Department of Finance and Administration / Office of State Procurement		

SUBMISSION DEADLINE FOR RESPONSE			
Bid Opening Date:	May 2, 2016	Bid Opening Time:	2:00 p.m., Central Time
Responses shall not be accepted after the designated bid opening date and time. In accordance with Arkansas Procurement Law and Rules, it is the responsibility of respondents to submit responses at the designated location on or before the bid opening date and time. Responses received after the designated bid opening date and time shall be considered late and shall be returned to the respondent without further review. It is not necessary to return "no bids" to OSP.			

DELIVERY OF RESPONSE DOCUMENTS	
Delivery Address:	Office of State Procurement 1509 West 7 th Street, Room 300 Little Rock, AR 72201-4222 Delivery providers, USPS, UPS, and FedEx deliver mail to OSP's street address on a schedule determined by each individual provider. These providers will deliver to OSP based solely on the street address.
Response's Outer Packaging:	Outer packaging must be sealed and should be properly marked with the following information. If outer packaging of response submission is not properly marked, the package may be opened for bid identification purposes. <ul style="list-style-type: none">• Bid number• Date and time of bid opening• Respondent's name and return address

OFFICE OF STATE PROCUREMENT CONTACT INFORMATION			
OSP Buyer:	Angela Allman	Buyer's Direct Phone Number:	501-371-6156
Email Address:	angela.allman@dfa.arkansas.gov	OSP's Main Number:	501-324-9316
OSP Website:	http://www.dfa.arkansas.gov/offices/procurement/Pages/default.aspx		

SECTION 1 - GENERAL INSTRUCTIONS AND INFORMATION

- **Do not provide responses to items in this section unless specifically and expressly required.**

1.1 PURPOSE

The Office of State Procurement (OSP), in collaboration with the Department of Human Services (DHS), is seeking to contract with a consultant or a consulting firm who is an expert in public procurements, notably State of Arkansas procurements. The consultant **shall** assist in the oversight of the procurement process of multiple complex and costly solicitations.

1.2 TYPE OF CONTRACT

- A. A Term contract will be awarded to a single consultant or a consulting firm.
- B. The term of this contract **shall** be for one (1) year. The anticipated starting date for the contract is immediately upon award. Upon mutual agreement by the respondent and agency, the contract may be renewed by OSP on a year-to-year basis, for up to six (6) additional one-year terms or a portion thereof.
- C. The total contract term **shall not** be more than seven (7) years.

1.3 ISSUING AGENCY

OSP, as the issuing office, is the sole point of contact throughout this solicitation.

1.4 BID OPENING LOCATION

Responses submitted by the opening time and date **shall** be opened at the following location:

Office of State Procurement
1509 West Seventh Street, Room 300
Little Rock, AR 72201-4222

1.5 DEFINITION OF REQUIREMENT

- A. The words "**must**" and "**shall**" signify a Requirement of this solicitation and that respondent's agreement to and compliance with that item is mandatory.
- B. Exceptions taken to any Requirement in this *Bid Solicitation*, whether submitted in the respondent's response or in subsequent correspondence, **shall** cause the respondent's response to be disqualified.
- C. Respondent may request exceptions to NON-mandatory items. Any such request **must** be declared on, or as an attachment to, the appropriate section's *Agreement and Compliance Page* in the *Response Packet*. Respondent **must** clearly explain the requested exception and should reference the specific solicitation item number to which the exception applies. (See *Agreement and Compliance Page*.)

1.6 DEFINITION OF TERMS

- A. The State Procurement Official has made every effort to use industry-accepted terminology in this *Bid Solicitation* and will attempt to further clarify any point of an item in question as indicated in *Clarification of Bid Solicitation*.
- B. The term "consultant", "respondent", or "contractor" refers to a person or firm who may submit a proposal for this RFQ or be awarded this contract.
- C. The term "vendor" refers to future vendors who may be involved in a procurement under the administration of the resulting contracted consultant.
- D. The terms "Request for Qualifications", "RFQ" are used synonymously in this document.
- E. The term "agency" refers to DHS or to any State agency for which the contracted consultant may provide services throughout the duration of the contract.

F. The term "person" means a natural or juridical person.

1.7 **RESPONSE DOCUMENTS**

A. Original Response Packet

1. The original *Response Packet* **must** be submitted on or before the bid opening date and time.
2. The *Response Packet* should be clearly marked "Original" and **must** include the following:
 - a. Original signed *Response Signature Page*. (See *Response Signature Page*.)
 - b. Original signed *Agreement and Compliance Pages*. (See *Agreement and Compliance Pages*.)
 - c. Original signed *Proposed Subcontractors Form*. (See *Subcontractors*.)
 - d. Response to the *Information for Evaluation* section included in the *Response Packet*.
 - e. Other documents and/or information as may be expressly required in this *Bid Solicitation*.
3. The following items should be submitted in the original *Response Packet*.
 - a. EO 98-04 Disclosure Form. (See *Standard Terms and Conditions, #27. Disclosure*.)
 - b. Copy of Respondent's *Equal Opportunity Policy*. (See *Equal Opportunity Policy*.)
4. **DO NOT** include any other documents or ancillary information, such as a cover letter or promotional/marketing information.

B. Pricing is not requested for this solicitation and **must not** be submitted with the bidder's response. (See *Pricing*.)

C. Additional Copies and Redacted Copy of the Response Packet

In addition to the original *Response Packet*, the following items should be submitted:

1. Additional Copies of the *Response Packet*
 - a. Three (3) complete hard copies (marked "COPY") of the *Response Packet*.
 - b. Four (4) electronic copies of the *Response Packet*, preferably on flash drives. CDs will also be acceptable.
 - c. All additional hard copies and electronic copies **must** be identical to the original hard copy. In case of a discrepancy, the original hard copy **shall** govern.
 - d. If OSP requests additional copies of the response, the copies **must** be delivered within twenty-four (24) hours of request.
2. One (1) redacted copy (marked "REDACTED") **of** the original *Response Packet*, preferably on a flash drive. A CD will also be acceptable. (See *Proprietary Information*.)

1.8 **ORGANIZATION OF RESPONSE DOCUMENTS**

A. It is strongly recommended that respondents adhere to the following format and suggestions when preparing their Response.

B. The original *Response Packet* and all copies should be arranged in the following order.

- *Response Signature Page*.
- *All Agreement and Compliance Pages*.
- *Proposed Subcontractors Form*.

- Signed Addenda, if applicable.
- E.O. 98-04 – *Contract Grant and Disclosure Form*.
- *Equal Opportunity Policy*.
- Other documents and/or information as may be expressly required in this *Bid Solicitation*. Label documents and/or information so as to reference the *Bid Solicitation's* item number.
- Response to the *Information for Evaluation* section of the *Response Packet*.

1.9 **CLARIFICATION OF BID SOLICITATION**

- A. Any questions respondents have requesting clarification of information contained in this *Bid Solicitation* **must** be submitted in writing via email to the OSP buyer as shown on page one (1) of this *Bid Solicitation* by 4:00 p.m., Central Time on April 19, 2016.
1. For each question submitted, respondent should reference the specific solicitation item number to which the question refers.
 2. Respondents' written questions will be consolidated and responded to by the State. The State's consolidated written response is anticipated to be posted to the OSP website by the close of business on April 21, 2016.
- B. Respondents may submit written questions of a non-substantive, non-contractual nature up until the bid opening.

1.10 **RESPONSE SIGNATURE PAGE**

- A. An official authorized to bind the respondent(s) to a resultant contract **must** sign the *Response Signature Page* included in the *Response Packet*.
- B. Respondent's signature on this page **shall** signify respondent's agreement that either of the following **shall** cause the respondent's response to be disqualified:
- Additional terms or conditions submitted intentionally or inadvertently.
 - Any exception that conflicts with a Requirement of this *Bid Solicitation*.

1.11 **AGREEMENT AND COMPLIANCE PAGES**

- A. Respondent **must** sign all *Agreement and Compliance Pages* relevant to each section of the *Bid Solicitation Document*. The *Agreement and Compliance Pages* are included in the *Response Packet*.
- B. Respondent's signature on these pages **shall** signify agreement to and compliance with all Requirements within the designated section.

1.12 **SUBCONTRACTORS**

- A. Respondent **must** complete, sign and submit the *Proposed Subcontractors Form* included in the *Response Packet* to indicate respondent's intent to utilize, or to not utilize, subcontractors.
- B. Additional subcontractor information may be required or requested in following sections of this *Bid Solicitation* or in the *Information for Evaluation* section provided in the *Response Packet*. **Do not** attach any additional information to the *Proposed Subcontractors Form*.

1.13 **PRICING**

- A. Pricing will be negotiated with the apparent successful consultant or firm after the evaluation of responses.
1. It is anticipated that pricing will be a combination of:
 - a. Percentage payments per specified benchmarks achieved per project(s).
 - b. Hourly fee payments for services extraneous to the project(s).

2. Based on their procurement expertise, the apparent successful respondent should come to pricing negotiations prepared to recommend and discuss a fee schedule and pricing structure that will efficiently serve both parties in attaining the goals of this RFQ.

B. Respondent **must not** include any pricing in their response. Should the hard copies or electronic copies of their *Response Packet* contain any pricing, the response **shall** be disqualified.

1.14 **PROPRIETARY INFORMATION**

- A. Submission documents pertaining to this *Bid Solicitation* become the property of the State and are subject to the Arkansas Freedom of Information Act (FOIA).
- B. One (1) complete copy of the submission documents from which any proprietary information has been redacted should be submitted on a flash drive in the *Response Packet*. A CD is also acceptable.
- C. Except for the redacted information, the redacted copy **must** be identical to the original hard copy, reflecting the same pagination as the original and showing the space from which information was redacted.
- D. The respondent **shall** be responsible for identifying all proprietary information and for ensuring the electronic copy is protected against restoration of redacted data.
- E. The redacted copy **shall** be open to public inspection under the Freedom of Information Act (FOIA) without further notice to the respondent.
- F. If a redacted copy of the submission documents is not provided with respondent's response packet, a copy of the non-redacted documents, with the exception of financial data, **shall** be released in response to any request made under the Arkansas Freedom of Information Act (FOIA).
- G. If the State deems redacted information to be subject to FOIA, the respondent will be contacted prior to release of the documents.

1.15 **CAUTION TO RESPONDENTS**

- A. Prior to any contract award, all communication concerning this *Bid Solicitation* **must** be addressed through OSP.
- B. Respondent **must not** alter any language in any solicitation document provided by the State.
- C. All official documents and correspondence related to this solicitation **shall** be included as part of the resultant contract.
- D. Responses **must** be submitted only in the English language.
- E. The State **shall** have the right to award or not award a contract, if it is in the best interest of the State to do so.
- F. Respondent **must** provide clarification of any information in their response documents as requested by OSP.
- G. Qualifications **must** meet or exceed the required specifications as set forth in this *Bid Solicitation*.
- H. Respondents may submit multiple responses.

1.16 **REQUIREMENT OF ADDENDUM**

- A. This *Bid Solicitation* **shall** be modified only by an addendum written and authorized by OSP.
- B. An addendum posted within three (3) calendar days prior to the bid opening **shall** extend the bid opening and may or may not include changes to the Bid Solicitation.
- C. The respondent **shall** be responsible for checking the OSP website, <http://www.arkansas.gov/dfa/procurement/bids/index.php>, for any and all addenda up to bid opening.

1.17 QUALIFICATION AND AWARD PROCESS**A. Successful Respondent Selection**

The ranking of respondents **shall** be determined by the total score each *Response* receives in evaluation. The respondent receiving the highest ranking score for their *Response* **shall** be selected as the apparent successful respondent and **shall** enter negotiations with the State.

B. Negotiations

1. The State will enter pricing negotiations with the highest ranking respondent.
2. If the State so chooses, it **shall** also have the right to enter discussions with the highest ranking respondent to further define contract details. All negotiations **shall** be conducted at the sole discretion of the State. The State **shall** solely determine the items to be negotiated.
3. If the State and respondent cannot reach an agreement regarding contractual matters, including pricing, the State **shall** declare the respondent as non-responsive and will begin the negotiation process with the next highest ranking respondent. The negotiation process will be repeated until an anticipated successful respondent has been determined, or until such time the State decides not to move forward with an award.

C. Anticipation to Award

1. Once an anticipated successful respondent has been determined, the anticipated award will be posted on the OSP website at http://www.arkansas.gov/dfa/procurement/pro_intent.php.
2. The anticipated award will be posted for a period of fourteen (14) days prior to the issuance of a contract. Respondents and agencies are cautioned that these are preliminary results only, and a contract will not be issued prior to the end of the fourteen day posting period.
3. OSP **shall** have the right to waive the policy of Anticipation to Award when it is in the best interest of the State.
4. It is the respondent's responsibility to check the OSP website for the posting of an anticipated award.

D. Issuance of a Contract

1. Any resultant contract of this *Bid Solicitation* **shall** be subject to State approval processes which may include Legislative review and approval.
2. A State Procurement Official will be responsible for award and administration of any resulting contract.

1.18 MINORITY BUSINESS POLICY

A. Minority is defined by Arkansas Code Annotated § 15-4-303 as a lawful permanent resident of this State who is:

- African American
- American Indian
- Asian American
- Hispanic American
- Pacific Islander American
- A Service Disabled Veterans as designated by the United States Department of Veteran Affairs

B. The Arkansas Economic Development Commission conducts a certification process for minority businesses and disabled veterans. The respondent's Certification Number should be included on the respondent's *Response Signature Page*.

1.19 EQUAL OPPORTUNITY POLICY

A. In compliance with Arkansas Code Annotated § 19-11-104, OSP is required to have a copy of the respondent's *Equal Opportunity (EO) Policy* prior to issuing a contract award.

- B. *EO Policies* may be submitted in electronic format to the following email address: eeopolicy.osp@dfa.arkansas.gov, but should also be included as a hardcopy accompanying the solicitation response.
- C. The submission of an *EO Policy* to OSP is a one-time Requirement. Respondents are responsible for providing updates or changes to their respective policies, and for supplying *EO Policies* upon request to other State agencies that **must** also comply with this statute.
- D. Respondents who are not required by law by to have an *EO Policy* **must** submit a written statement to that effect.

1.20 **PROHIBITION OF EMPLOYMENT OF ILLEGAL IMMIGRANTS**

- A. Pursuant to Arkansas Code Annotated § 19-11-105, prior to the award of a contract, selected respondent **must** have a current certification on file with OSP stating that they do not employ or contract with illegal immigrants.
- B. OSP will notify the selected respondent prior to award if their certification has expired or is not on file. Instructions for completing the certification process will be provided to the respondent at that time.

1.21 **PAST PERFORMANCE**

- A. In accordance with provisions of State Procurement Law, specifically OSP Rule R5:19-11-230(b)(1), a respondent's past performance with the State may be used to determine if the respondent is "responsible". Responses submitted by respondents determined to be non-responsible **shall** be disqualified.

1.22 **VISA ACCEPTANCE**

- A. Awarded respondent should have the capability of accepting the State's authorized VISA Procurement Card (p-card) as a method of payment.
- B. Price changes or additional fee(s) **shall not** be levied against the State when accepting the p-card as a form of payment.
- C. VISA is not the exclusive method of payment.

1.23 **PUBLICITY**

- A. Respondents **shall not** issue a news release pertaining to this *Bid Solicitation* or any portion of the project without OSP's prior written approval.
- B. Failure to comply with this Requirement **shall** be cause for a respondent's response to be disqualified.

1.24 **RESERVATION**

The State **shall not** pay costs incurred in the preparation of a response.

SECTION 2 – MINIMUM REQUIREMENTS

- **Do not provide responses to items in this section unless specifically and expressly required.**

2.1 INTRODUCTION

The Office of State Procurement (OSP), in collaboration with the Department of Human Services (DHS), is seeking to contract with a consultant or a consulting firm who is an expert in public procurements, notably State of Arkansas procurements. The consultant **shall** assist in the procurement process of multiple complex and costly solicitations. Currently, DHS is planning the three following major solicitations which **shall** be the primary focus of the work:

1. Dental Only Managed Care for the Division of Medical Services (DMS)
2. Systems Integrator of the Integrated Eligibility Management System
3. DHS Information Systems Supports (ISS)

These three solicitations (the “Projects”) are anticipated to take a minimum of one year to complete.

Consultant services **shall** include involvement in, and oversight of, all phases of procurements as directed by OSP from the early stages of solicitation planning and development through the final stages of legislative review and contract award, including providing documentation and expert testimony in the event of a protest or litigation.

The above Projects **shall** require deliverables of procurement documents to be provided. At any phase during other future procurement or procurement projects, deliverables may be required and **shall** be provided as directed.

2.2 CONTRACTOR QUALIFICATIONS

- A. Individual consultants and consulting firms may submit proposals. However, a consulting firm **shall** commit a single consultant to act as project lead and single point of contact to the State, and that consultant **must** meet all of the experience qualifications and all service and deliverable requirements of this RFQ.
- B. Consultant **shall not** use subcontractors without prior approval by OSP and DHS. If the consultant intends to use a subcontractor to fulfill consultant obligations hereunder, then prior to contract award, the contractor **shall** provide a statement specifying:
 1. The exact services or deliverables for which a subcontractor will be utilized.
 2. The percentage of work for each service or deliverable for which the subcontractor **shall** be responsible.
- C. All subcontractor involvement in the provision of services and deliverables **shall** be approved by DHS and OSP prior to that work being performed.
- D. The consultant **shall** have the ability to quickly become exceptionally knowledgeable of Arkansas Procurement Law, as well as procurement policies and best practices generally.
- E. The consultant **shall** have extensive knowledge of public procurement probity, including a minimum of 3 years’ experience with public procurement fairness and transparency practices.
- F. The consultant **shall** possess exceptional technical writing skills, and **shall** have a minimum of 3 years’ experience in creating and/or editing technical documents such as formal guidelines, policies, informational releases, or instructional manuals.
- G. The consultant **shall** possess excellent communication, negotiation, and collaboration skills.
- H. The consultant **shall** have a minimum of 3 years’ experience in writing, reviewing, and/or evaluating vendor proposals and pricing submissions for public procurements. It is highly preferred that:
 1. Such experience be on projects with a total projected cost in excess of \$10,000,000.00.

2. At least one such project was federal.
 3. At least one such project lead to certification by the Centers for Medicare and Medicaid Services (CMS) or the Joint Commission.
 4. Such experience includes addressing protests for high cost, Federal, and/or CMS related solicitations.
- I. It is highly preferable that the consultant have technical experience in the areas of the Projects, specifically, experience in the Managed Care and IT Industries. Experience in writing technical specifications for these types of contracts is also highly preferable.

2.3 **GENERAL REQUIREMENTS**

- A. Under the supervision of OSP, the Consultant **shall** provide services and deliverables to include, but not be limited to:
1. Assisting OSP, the agency, and other involved parties in the planning and execution of the entire procurement process. The consultant **shall** work with OSP to ensure that contracts are awarded in a lawful, efficient, reasonable, and transparent manner in which it is clear to competitors and to the public why a contractor was selected.
 2. Assuming the role of main procurement advisor and administrator for the agency to monitor and ensure fairness, transparency, and required confidentiality throughout the entire procurement process, with emphasis on the Evaluation process.
 3. Acting as point of contact for all parties involved in the procurement process, including the agency, OSP, vendors, and any other involved parties, as well as providing any necessary communications, documentation, or reporting to the appropriate parties.
 4. Overseeing the development of the solicitation documents in consideration of procurement law, and OSP policies, procedures, and best practices.
 5. Collaborating with all involved parties in the creation of the solicitation document to ensure the procurement objectives are met and that the requirements as written by the agency or its representatives are fair, consistent, and complete.
 6. Creating, preparing, compiling, and/or disseminating documents such as:
 - Procurement project plans
 - Procurement guidelines
 - Procedural manuals
 - Confidentiality/security forms and statements
 - Conflict of interest declarations
 - Source selection document detailing the selection process
 - Information releases, including public records subject to the Arkansas Freedom of Information Act
 7. Coordinating, facilitating, and monitoring evaluation team meetings.
 8. Ensuring that evaluation scoring is reached by consensus, that evaluation scores are fair and consistent among the proposals, and that evaluation scores accurately reflect the will of the evaluation teams.
 9. Coordinating, facilitating, and monitoring vendor demonstrations and/or site visits, if used.
 10. In collaboration with any technical personnel or consultants for the bid, verifying pricing submission accuracy.

11. Providing required testimony and expertise as required during the award determination, any protest, and legislative approval phases of solicitations.
 12. In the event of a protest, serving as coordinator of the evaluation committee's response or input to the Director of State Procurement, as well as being the agency point of contact for the Director during any protest period.
 13. Actively participating in contract negotiations post award until legislative approval and final contract execution.
- B. OSP **shall** have ultimate authority over the course of consultant services and all deliverables provided. OSP may delegate authority to DHS or other State entities/agencies at times throughout the contract period, but **shall** retain final authority of all contracted work.
- C. At the start of a procurement or project, the consultant **shall** meet with OSP and/or the delegated authority to discuss and determine the comprehensive role of the consultant and the consultant's specific responsibilities for that project.
1. OSP or the delegated authority **shall** have the right to modify the service and deliverable requirements for each procurement or project to fit the needs of the project.
 2. These requirements and responsibilities of the consultant **shall** also be subject to change during the course of a procurement or project as deemed necessary by OSP or the delegated authority.
 3. The consultant **must** adhere to the modified requirements.

2.4 WORK SCHEDULE AND LOCATION

- A. The consultant's primary focus/priority of work **shall** be the three upcoming DHS solicitation Projects previously identified above, but the consultant **shall** also assist with other procurement projects that directly impact DHS as assigned by OSP.
- B. During the term of this engagement, the consultant **shall** be available to OSP throughout the standard work days/times of Monday through Friday, 8:00AM to 5:00PM Central time. However, should it arise that an after-hours meeting is scheduled or overtime is required to meet a deadline, the consultant **shall** attend after-hours meetings as scheduled or perform overtime as may be required to meet a deadline.
- C. It is anticipated that the majority of consulting work will be completed at the consultant's off-site office location; however, the consultant may be required to work individually or collaboratively on-site at State offices in Little Rock, Arkansas, and **shall** do so as necessary as determined by OSP or the delegated authority. Reasonable notice will be given for on-site work location requirements.
- D. During on-site work at State offices, work space and basic office supplies and equipment (copier, fax, etc.) will be provided. Consultant **shall** provide their own computer/laptop and any supplies or equipment necessary for their off-site office location or to complete the service and deliverable requirements of this RFQ.
- E. When working on-site at State offices, consultant **shall** adhere to that office's regulations regarding security, safety, office hours, parking, dress code, and any other applicable State office regulations or policies.
- F. Consultant **shall** attend meetings as required at various times and at various locations in the metropolitan Little Rock, Arkansas area throughout the contract duration.
1. Some meetings may be attended via conference call or other electronic means as approved by OSP or delegated authority.
 2. In-person attendance **shall** be required for all evaluation committee meetings.
- G. Should any overnight travel, or any travel outside the metropolitan Little Rock area, be required, travel expenses **shall** be addressed with OSP at that time.

1. Long-distance travel **shall** be defined as any travel required by the State which is outside the metropolitan Little Rock area as determined by OSP.
2. Overnight travel **shall** be defined and stipulated by OSP should that office determine that an extended stay outside the metropolitan Little Rock area is warranted.
3. Travel reimbursement **shall** be consistent with State law and Arkansas travel reimbursement rates and limited to actual expenses for meals, lodging, transportation and incidental expenses.
4. Otherwise, the consultant **shall** be responsible for all transportation, parking, or related expenses throughout the contract duration.

2.5 **SECURITY AND PRIVACY**

- A. Prior to award, the consultant (and all individuals providing the consultant services if the contractor is a consulting firm) **shall** complete a background check form and **shall** sign a confidentiality form supplied by OSP and/or the agency.
 1. Expense for the background check will be covered by the State.
 2. A background check that returns unacceptable results as determined by OSP **shall** result in disqualification of that consultant from contract award (or exclusion of that individual from all involvement in the contract work, if the contractor is a consulting firm).
- B. Consultant **shall** comply with HIPAA and other federal and State mandates to include privacy, security, and electronic data transfer requirements if/when applicable during the duration of the contract. If additional confidentiality or security forms are required by the State at any time during the contract, consultant **shall** complete and sign these forms and comply with all security and privacy directives.
- C. Consultant **must** have a disaster recovery or backup system in place to ensure against any loss of contractual information, documents, or data.

2.6 **PERFORMANCE STANDARDS**

- A. State law requires that all contracts for services include Performance Standards for measuring the overall quality of services provided.
 1. TABLE 1: PERFORMANCE STANDARDS below identifies expected deliverables, performance measures, or outcomes; and defines the acceptable standards a contractor **must** meet in order to avoid assessment of damages.
 2. The Performance Standards in TABLE 1 are general standards which are applicable to the entire contract; however, the State **shall** have the right to add performance standards applicable to the entire contract and/or to specific projects. These additional performance standards will be determined during negotiations with the apparent successful consultant, during initial project meetings, and/or at times when procurement projects or other duties arise or are planned and negotiated.
- B. The State may be open to negotiations of Performance Standards prior to contract award, prior to the commencement of services, or at times throughout the contract duration.
- C. The State **shall** have the right to modify, add, or delete Performance Standards throughout the term of the contract, should the State determine it is in its best interest to do so. Any changes or additions to performance standards will be made in good faith following acceptable industry standards, and may include the input of the contractor so as to establish standards that are reasonably achievable.
- D. All changes made to the Performance Standards **shall** become an official part of the contract.
- E. Performance Standards **shall** continue throughout the term of the contract.
- F. Failure to meet the minimum Performance Standards as specified **shall** result in the assessment of damages.

- G. In the event a Performance Standard is not met, the contractor will have the opportunity to defend or respond to the insufficiency. The State **shall** have the right to waive damages if it determines there were extenuating factors beyond the control of the contractor that hindered the performance of services. In these instances, the State **shall** have final determination of the performance acceptability.
- H. Should any compensation be owed to the State due to the assessment of damages, contractor **shall** follow the direction of the State regarding the required compensation process.

TABLE 1: PERFORMANCE STANDARDS

Criteria	Standard	Damages
Timely Deliverables	Deliverables provided by Performance Standards deadline(s) as established and negotiated per project prior to award or as project/duties arise	10% of benchmark payment (or as determined by the State in negotiations of that specific Performance Standard) each day past the deadline
Meeting Attendance	Attendance for the entirety of each meeting as stipulated (by conference call, in person, etc.) by OSP or the agency	20% of benchmark payment (or as determined by the State in negotiations of that specific Performance Standard) for each meeting not attended in entirety as stipulated
Availability	Available to OSP or designated authority as required Monday-Friday 8:00AM to 5:00PM, or after hours as required	5% of benchmark payment (or as determined by the State in negotiations of that specific Performance Standard) for each occasion of unavailability by phone within 30 minutes of request or in person within 1 hour of request by OSP or designated authority
Accuracy of Documentation	100% accuracy in all documentation provided to all parties	10% of benchmark payment (or as determined by the State in negotiations of that specific Performance Standard) for each item determined by OSP or designated authority to be inaccurate

SECTION 3 – CRITERIA FOR SELECTION

- Do not provide responses to items in this section.

3.1 RESPONSE SCORE

- A. OSP will review each *Response Packet* to verify submission Requirements have been met. *Response Packets* that do not meet submission *Requirements* **shall** be disqualified and **shall not** be evaluated.
- B. An agency-appointed Evaluation Committee will evaluate and score qualifying responses. Evaluation will be based on respondent’s response to the *Information for Evaluation* section included in the *Response Packet*. Other agencies, consultants, and experts may also examine documents at the discretion of the Agency.
- C. The *Information for Evaluation* section has been divided into sub-sections.
 - 1. In each sub-section, items/questions have each been assigned a maximum point value of ten (10) points. The total point value for each sub-section is reflected in the table below as the Maximum Raw Score Possible.
 - 2. The agency has assigned Weighted Percentages to each sub-section according to its significance.

Information for Evaluation Sub-Sections	Maximum Raw Points Possible	Sub-Section’s Weighted Percentage	* Maximum Weighted Score Possible
E.1 Procurement & Contracting Experience	110	50%	500
E.2 Technical Writing/Documentation Experience	40	25%	250
E.3 General Experience and Work Plan	90	25%	250
Totals	240	100.0%	1,000

*Sub-Section’s Percentage Weight x Total Weighted Score = Maximum Weighted Score Possible for the sub-section.

- D. The respondent’s weighted score for each sub-section will be determined using the following formula:

(A/B)*C =D

- A = Actual Raw Points received for sub-section in evaluation
- B = Maximum Raw Points possible for sub-section
- C = Maximum Weighted Score possible for sub-section
- D = Weighted Score received for sub-section

- E. Respondent’s weighted scores for sub-sections will be added to determine the Total Score for the Response.
- F. Responses that **do not** receive a minimum weighted score of 500 **shall not** move forward in the solicitation process.

3.2 RESPONDENT ACCEPTANCE OF EVALUATION TECHNIQUE

- A. Respondent **must** agree to all evaluation processes and procedures as defined in this solicitation.
- B. The submission of a *Response Packet* **shall** signify the respondent understands and agrees that subjective judgments **shall** be made during the evaluation and scoring of the Technical Proposals.

SECTION 4 – GENERAL CONTRACTUAL REQUIREMENTS

- **Do not provide responses to items in this section.**

4.1 PAYMENT AND INVOICE PROVISIONS

- A. Unless another address is subsequently provided by OSP, all invoices **shall** be forwarded to:
- Department of Finance and Administration
Office of State Procurement
P.O. Box 2485
Little Rock, AR 72203
- B. Payment will be made in accordance with applicable State of Arkansas accounting procedures upon acceptance of goods and services by the agency.
- C. The State **shall not** be invoiced in advance of delivery and acceptance of any goods or services.
- D. Payment will be made only after the contractor has successfully satisfied the agency as to the reliability and effectiveness of the goods or services purchased as a whole.
- E. The contractor should invoice the agency by an itemized list of charges. The agency's Purchase Order Number and/or the Contract Number should be referenced on each invoice.
- F. The specific invoicing itemization directives will be determined during negotiations prior to award, or as specific occasions warrant as determined by OSP, and the contractor **must** abide by these directives.
- G. Other sections of this *Bid Solicitation* may contain additional Requirements for invoicing.
- H. Selected contractor **must** be registered with the State in order to receive payment and future *Bid Solicitation* notifications. Respondents may register on-line at <https://www.ark.org/vendor/index.html>

4.2 GENERAL INFORMATION

- A. The State **shall not** contract with another party to indemnify and defend that party for any liability and damages.
- B. The State **shall not** pay damages, legal expenses, or other costs and expenses of any other party.
- C. The State **shall not** continue a contract once any equipment has been repossessed.
- D. Any litigation involving the State **must** take place in Pulaski County, Arkansas.
- E. The State **shall not** agree to any provision of a contract which violates the laws or constitution of the State of Arkansas.
- F. The State **shall not** enter a contract which grants to another party any remedies other than the following:
- The right to possession.
 - The right to accrued payments.
 - The right to expenses of deinstallation.
 - The right to expenses of repair to return the equipment to normal working order, normal wear and tear excluded.
 - The right to recover only amounts due at the time of repossession and any unamortized nonrecurring cost as allowed by Arkansas Law.
- G. The laws of the State of Arkansas **shall** govern this contract.
- H. A contract **shall not** be effective prior to award being made by a State Procurement Official.

- I. In a contract with another party, the State will accept the risk of loss of the equipment or software and pay for any destruction, loss or damage of the equipment or software while the State has such risk, when:
 - The extent of liability for such risk is based upon the purchase price of the equipment or software at the time of any loss, and
 - The contract has required the State to carry insurance for such risk.

4.3 **CONDITIONS OF CONTRACT**

- A. The contractor **shall** at all times observe and comply with federal and State of Arkansas laws, local laws, ordinances, orders, and regulations existing at the time of, or enacted subsequent to the execution of a resulting contract which in any manner affect the completion of the work.
- B. The contractor **shall** indemnify and save harmless the agency and all its officers, representatives, agents, and employees against any claim or liability arising from or based upon the violation of any such law, ordinance, regulation, order or decree by an employee, representative, or subcontractor of the contractor.

4.4 **STATEMENT OF LIABILITY**

- A. The State will demonstrate reasonable care but will not be liable in the event of loss, destruction or theft of contractor-owned equipment or software and technical and business or operations literature to be delivered or to be used in the installation of deliverables and services. The contractor **shall** retain total liability for equipment, software and technical and business or operations literature. The State **shall** not at any time be responsible for or accept liability for any contractor-owned items.
- B. The contractor's liability for damages to the State **shall** be limited to the value of the Contract or \$1,000,000.00, whichever is higher. The foregoing limitation of liability **shall not** apply to claims for infringement of United States patent, copyright, trademarks or trade secrets; to claims for personal injury or damage to property caused by the gross negligence or willful misconduct of the contractor; to claims covered by other specific provisions of the Contract calling for damages; or to court costs or attorney's fees awarded by a court in addition to damages after litigation based on the Contract. The contractor and the State **shall not** be liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages. This limitation of liability **shall not** apply to claims for infringement of United States patent, copyright, trademark or trade secrets; to claims for personal injury or damage to property caused by the gross negligence or willful misconduct of the contractor; to claims covered by other specific provisions of the Contract calling for damages; or to court costs or attorney's fees awarded by a court in addition to damages after litigation based on the Contract.
- C. Language in these terms and conditions **shall not** be construed or deemed as the State's waiver of its right of sovereign immunity. The contractor agrees that any claims against the State, whether sounding in tort or in contract, **shall** be brought before the Arkansas Claims Commission as provided by Arkansas law, and **shall** be governed accordingly.

4.5 **RECORD RETENTION**

- A. The contractor **shall** maintain all pertinent financial and accounting records and evidence pertaining to the contract in accordance with generally accepted principles of accounting and as specified by the State of Arkansas Law. Upon request, access **shall** be granted to State or Federal Government entities or any of their duly authorized representatives.
- B. Financial and accounting records **shall** be made available, upon request, to the State of Arkansas's designee(s) at any time during the contract period and any extension thereof, and for five (5) years from expiration date and final payment on the contract or extension thereof.
- C. Other sections of this *Bid Solicitation* may contain additional Requirements regarding record retention.

4.6 CONFIDENTIALITY

- A. The contractor, contractor's subsidiaries, and contractor's employees **shall** be bound to all laws and to all Requirements set forth in this *Bid Solicitation* concerning the confidentiality and secure handling of information of which they may become aware during the course of providing services under a resulting contract.
- B. Consistent and/or uncorrected breaches of confidentiality may constitute grounds for cancellation of a resulting contract, and the State **shall** have the right to cancel the contract on these grounds.
- C. Previous sections of this *Bid Solicitation* may contain additional confidentiality Requirements.

4.7 CONTRACT INTERPRETATION

Should the State and contractor interpret specifications differently, either party may request clarification. However if an agreement cannot be reached, the determination of the State **shall** be final and controlling.

4.8 CANCELLATION

- A. In the event the State no longer needs the service or commodity specified in the contract or purchase order due to program changes, changes in laws, rules, or regulations, relocation of offices, or lack of appropriated funding. The State **shall** give the contractor written notice of cancellation, specifying the terms and the effective date of contract termination. The effective date of termination **shall** be 30 days from the date of notification, unless a longer timeframe is specified in the notification.
- B. Upon default of a contractor, the State **shall** agree to pay only sums due for goods and services received and accepted up to cancellation of the contract.

4.9 SEVERABILITY

If any provision of the contract, including items incorporated by reference, is declared or found to be illegal, unenforceable, or void, then both the agency and the contractor **shall** be relieved of all obligations arising under such provision. If the remainder of the contract is capable of performance, it **shall not** be affected by such declaration or finding and **shall** be fully performed.

SECTION 5 – STANDARD TERMS AND CONDITIONS

- **Do not provide responses to items in this section.**
- 1. **GENERAL:** Any special terms and conditions included in this solicitation **shall** override these Standard Terms and Conditions. The Standard Terms and Conditions and any special terms and conditions **shall** become part of any contract entered into if any or all parts of the bid are accepted by the State of Arkansas.
- 2. **ACCEPTANCE AND REJECTION:** The State **shall** have the right to accept or reject all or any part of a bid or any and all bids, to waive minor technicalities, and to award the bid to best serve the interest of the State.
- 3. **BID SUBMISSION:** Original Response Packets **must** be submitted to the Office of State Procurement on or before the date and time specified for bid opening. The Response Packet **must** contain all documents, information, and attachments as specifically and expressly required in the *Bid Solicitation*. The bid **must** be typed or printed in ink. The signature **must** be in ink. Unsigned bids **shall** be disqualified. The person signing the bid should show title or authority to bind his firm in a contract. Multiple responses **must** be placed in separate packages and should be completely and properly identified. Late bids **shall not** be considered under any circumstances.
- 4. **PRICES:** Bid unit price F.O.B. destination. In case of errors in extension, unit prices **shall** govern. Prices **shall** be firm and **shall not** be subject to escalation unless otherwise specified in the *Bid Solicitation*. Unless otherwise specified, the bid **must** be firm for acceptance for thirty days from the bid opening date. "Discount from list" bids are not acceptable unless requested in the *Bid Solicitation*.
- 5. **QUANTITIES:** Quantities stated in a *Bid Solicitation* for term contracts are estimates only, and are not guaranteed. Vendor **must** bid unit price on the estimated quantity and unit of measure specified. The State may order more or less than the estimated quantity on term contracts. Quantities stated on firm contracts are actual Requirements of the ordering agency.
- 6. **BRAND NAME REFERENCES:** Unless otherwise specified in the *Bid Solicitation*, any catalog brand name or manufacturer reference used in the *Bid Solicitation* is descriptive only, not restrictive, and used to indicate the type and quality desired. Bids on brands of like nature and quality will be considered. If bidding on other than referenced specifications, the bid **must** show the manufacturer, brand or trade name, and other descriptions, and should include the manufacturer's illustrations and complete descriptions of the product offered. The State **shall** have the right to determine whether a substitute offered is equivalent to and meets the standards of the item specified, and the State may require the vendor to supply additional descriptive material. The vendor **shall** guarantee that the product offered will meet or exceed specifications identified in this *Bid Solicitation*. Vendors not bidding an alternate to the referenced brand name or manufacturer **shall** be required to furnish the product according to brand names, numbers, etc., as specified in the solicitation.
- 7. **GUARANTY:** All items bid **shall** be newly manufactured, in first-class condition, latest model and design, including, where applicable, containers suitable for shipment and storage, unless otherwise indicated in the *Bid Solicitation*. The vendor hereby guarantees that everything furnished hereunder **shall** be free from defects in design, workmanship and material, that if sold by drawing, sample or specification, it **shall** conform thereto and **shall** serve the function for which it was furnished. The vendor **shall** further guarantee that if the items furnished hereunder are to be installed by the vendor, such items **shall** function properly when installed. The vendor **shall** guarantee that all applicable laws have been complied with relating to construction, packaging, labeling and registration. The vendor's obligations under this paragraph **shall** survive for a period of one year from the date of delivery, unless otherwise specified herein.
- 8. **SAMPLES:** Samples or demonstrators, when requested, **must** be furnished free of expense to the State. Each sample should be marked with the vendor's name and address, bid or contract number and item number. If requested, samples that are not destroyed during reasonable examination will be returned at vendor's expense. After reasonable examination, all demonstrators will be returned at vendor's expense.
- 9. **TESTING PROCEDURES FOR SPECIFICATIONS COMPLIANCE:** Tests may be performed on samples or demonstrators submitted with the bid or on samples taken from the regular shipment. In the event products tested fail to meet or exceed all conditions and Requirements of the specifications, the cost of the sample used and the reasonable cost of the testing **shall** be borne by the vendor.
- 10. **AMENDMENTS:** Vendor's responses cannot be altered or amended after the bid opening except as permitted by regulation.
- 11. **TAXES AND TRADE DISCOUNTS:** Do not include State or local sales taxes in the bid price. Trade discounts should be deducted from the unit price and the net price should be shown in the bid.
- 12. **AWARD:** Term Contract: A contract award will be issued to the successful vendor. It results in a binding obligation without further action by either party. This award does not authorize shipment. Shipment is authorized by the receipt of a purchase order from the ordering agency. Firm Contract: A written State purchase order authorizing shipment will be furnished to the successful vendor.
- 13. **DELIVERY ON FIRM CONTRACTS:** This solicitation shows the number of days to place a commodity in the ordering agency's designated location under normal conditions. If the vendor cannot meet the stated delivery, alternate delivery schedules may become a factor in an award. The Office of State Procurement **shall** have the right to extend delivery if reasons appear valid. If the date is not acceptable, the agency may buy elsewhere and any additional cost **shall** be borne by the vendor.

14. **DELIVERY REQUIREMENTS:** No substitutions or cancellations are permitted without written approval of the Office of State Procurement. Delivery **shall** be made during agency work hours only 8:00 a.m. to 4:30 p.m. Central Time, unless prior approval for other delivery has been obtained from the agency. Packing memoranda **shall** be enclosed with each shipment.
15. **STORAGE:** The ordering agency is responsible for storage if the contractor delivers within the time required and the agency cannot accept delivery.
16. **DEFAULT:** All commodities furnished **shall** be subject to inspection and acceptance of the ordering agency after delivery. Back orders, default in promised delivery, or failure to meet specifications **shall** authorize the Office of State Procurement to cancel this contract or any portion of it and reasonably purchase commodities elsewhere and charge full increase, if any, in cost and handling to the defaulting contractor. The contractor **must** give written notice to the Office of State Procurement and ordering agency of the reason and the expected delivery date. Consistent failure to meet delivery without a valid reason may cause removal from the vendors list or suspension of eligibility for award.
17. **VARIATION IN QUANTITY:** The State assumes no liability for commodities produced, processed or shipped in excess of the amount specified on the agency's purchase order.
18. **INVOICING:** The contractor **shall** be paid upon the completion of all of the following: (1) submission of an original and the specified number of copies of a properly itemized invoice showing the bid and purchase order numbers, where itemized in the *Bid Solicitation*, (2) delivery and acceptance of the commodities and (3) proper and legal processing of the invoice by all necessary State agencies. Invoices **must** be sent to the "Invoice To" point shown on the purchase order.
19. **STATE PROPERTY:** Any specifications, drawings, technical information, dies, cuts, negatives, positives, data or any other commodity furnished to the contractor hereunder or in contemplation hereof or developed by the contractor for use hereunder **shall** remain property of the State, **shall** be kept confidential, **shall** be used only as expressly authorized, and **shall** be returned at the contractor's expense to the F.O.B. point provided by the agency or by OSP. Vendor **shall** properly identify items being returned.
20. **PATENTS OR COPYRIGHTS:** The contractor **must** agree to indemnify and hold the State harmless from all claims, damages and costs including attorneys' fees, arising from infringement of patents or copyrights.
21. **ASSIGNMENT:** Any contract entered into pursuant to this solicitation **shall not** be assignable nor the duties thereunder delegable by either party without the written consent of the other party of the contract.
22. **OTHER REMEDIES:** In addition to the remedies outlined herein, the contractor and the State **shall** have the right to pursue any other remedy permitted by law or in equity.
23. **CANCELLATION:** In the event, the State no longer needs the commodities or services specified for any reason, (e.g., program changes; changes in laws, rules or regulations; relocation of offices; lack of appropriated funding, etc.), the State **shall** have the right to cancel the contract or purchase order by giving the vendor written notice of such cancellation thirty (30) days prior to the date of cancellation.

Any delivered but unpaid for goods will be returned in normal condition to the contractor by the State. If the State is unable to return the commodities in normal condition and there are no funds legally available to pay for the goods, the contractor may file a claim with the Arkansas Claims Commission under the laws and regulations governing the filing of such claims. If upon cancellation the contractor has provided services which the State has accepted, the contractor may file a claim. **NOTHING IN THIS CONTRACT SHALL BE DEEMED A WAIVER OF THE STATE'S RIGHT TO SOVEREIGN IMMUNITY.**
24. **DISCRIMINATION:** In order to comply with the provision of Act 954 of 1977, relating to unfair employment practices, the vendor agrees that: (a) the vendor **shall not** discriminate against any employee or applicant for employment because of race, sex, color, age, religion, handicap, or national origin; (b) in all solicitations or advertisements for employees, the vendor **shall** state that all qualified applicants **shall** receive consideration without regard to race, color, sex, age, religion, handicap, or national origin; (c) the vendor will furnish such relevant information and reports as requested by the Human Resources Commission for the purpose of determining compliance with the statute; (d) failure of the vendor to comply with the statute, the rules and regulations promulgated thereunder and this nondiscrimination clause **shall** be deemed a breach of contract and it may be cancelled, terminated or suspended in whole or in part; (e) the vendor **shall** include the provisions of above items (a) through (d) in every subcontract so that such provisions **shall** be binding upon such subcontractor or vendor.
25. **CONTINGENT FEE:** The vendor guarantees that he has not retained a person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by the vendor for the purpose of securing business.
26. **ANTITRUST ASSIGNMENT:** As part of the consideration for entering into any contract pursuant to this solicitation, the vendor named on the *Response Signature Page* for this solicitation, acting herein by the authorized individual or its duly authorized agent, hereby assigns, sells and transfers to the State of Arkansas all rights, title and interest in and to all causes of action it may have under the antitrust laws of the United States or this State for price fixing, which causes of action have accrued prior to the date of this assignment and which relate solely to the particular goods or services purchased or produced by this State pursuant to this contract.
27. **DISCLOSURE:** Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that order, **shall** be a material breach of the terms of this contract. Any contractor, whether an individual or entity, who fails to make the required disclosure or who violates any rule, regulation, or policy **shall** be subject to all legal remedies available to the agency.