



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

REQUEST FOR PROPOSAL
BID SOLICITATION DOCUMENT

SOLICITATION INFORMATION			
Bid Number:	SP-17-0002	Solicitation Issued:	10/17/2016
Description:	Technical Support		
Agency:	Office of Health Information Technology		

SUBMISSION DEADLINE FOR RESPONSE			
Bid Opening Date:	November 15, 2016	Bid Opening Time:	2:00 p.m., Central Time
<p>Proposals 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 bidders to submit proposals at the designated location on or before the bid opening date and time. Proposals received after the designated bid opening date and time shall be considered late and shall be returned to the bidder without further review. It is not necessary to return "no bids" to OSP.</p>			

DELIVERY OF RESPONSE DOCUMENTS	
Delivery Address:	<p>Office of State Procurement 1509 West 7th Street, Room 300 Little Rock, AR 72201-4222</p> <p>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.</p>
Proposal's Outer Packaging:	<p>Outer packaging must be sealed and should be properly marked with the following information. If outer packaging of proposal submission is not properly marked, the package may be opened for bid identification purposes.</p> <ul style="list-style-type: none"> • Bid number • Date and time of bid opening • Bidder's name and return address

OFFICE OF STATE PROCUREMENT CONTACT INFORMATION			
OSP Buyer:	Karrie Duncan	Buyer's Direct Phone Number:	501-683-6636
Email Address:	Karrie.duncan@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

This Request for Proposal (RFP) is issued by the Office of State Procurement (OSP) on behalf of the Arkansas Office of Health Information Technology (OHIT) to obtain a project manager (PM) and two full time equivalent (FTE) representatives to maintain and expand the Arkansas's statewide Health Information Exchange (HIE) called State Health Alliance for Records Exchange (SHARE). The purpose of this RFP is to obtain bidder services and expertise for the continued development, construction, operation, and support of the SHARE.

1.2 TYPE OF CONTRACT

- A. A Term contract will be awarded to a single bidder.
- B. The initial term of this contract **shall** be for two (2) years from date of award. Upon mutual agreement by the bidder and agency, the contract may be renewed by OSP on a year-to-year basis, for up to five (5) 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

Proposals 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 bidder's agreement to and compliance with that item is mandatory.
- B. Exceptions taken to any Requirement in this *Bid Solicitation*, whether submitted in the bidder's proposal or in subsequent correspondence, **shall** cause the bidder's proposal to be disqualified.
- C. Bidder 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*. Bidder **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 words "bidder" and "bidder" are used synonymously in this document.
- C. The terms "Request for Proposal", "RFP" and "Bid Solicitation" are used synonymously in this document.

1.7 RESPONSE DOCUMENTS**A. Original Technical Proposal Packet**

1. The original *Technical Proposal Packet* **must** be submitted on or before the bid opening date and time.
2. The Proposal Packet should be clearly marked "Original" and **must** include the following:
 - a. Original signed *Proposal Signature Page*. (See *Proposal Signature Page*.)
 - b. Original signed *Agreement and Compliance Pages*. (See *Agreement and Compliance Pages*.)
 - c. Original signed *Proposed Subcontractors Form*. (See *Subcontractors*.)
 - d. *Technical Proposal* response to the *Information for Evaluation* section included in the *Technical Proposal 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 *Technical Proposal Packet*.
 - a. EO 98-04 Disclosure Form. (See *Standard Terms and Conditions, #27. Disclosure*.)
 - b. Copy of Bidder'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. Official Bid Price Sheet. (See *Pricing*.)

1. Bidder's original *Official Bid Price Sheet* **must** be submitted in hard copy format.
2. Bidder should also submit one (1) electronic copy of the *Official Bid Price Sheet*, preferably on a flash drive. A CD will also be acceptable.
3. The *Official Bid Price Sheet*, including the hard copy and electronic copy, **must** be separately sealed from the *Technical Proposal Packet* and should be clearly marked as "Pricing". Bidder **must not** include any pricing in the hard copies or electronic copies of their *Technical Proposal Packet*.

C. Additional Copies and Redacted Copy of the Technical Proposal Packet

In addition to the original *Technical Proposal Packet* and the *Official Bid Price Sheet*, the following items should be submitted:

1. *Additional Copies of the Technical Proposal Packet*
 - a. Three (3) complete hard copies (marked "COPY") of the *Technical Proposal Packet*.
 - b. Four (4) electronic copies of the *Technical Proposal 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 proposal, the copies **must** be delivered within twenty-four (24) hours of request.
2. One (1) redacted (marked "REDACTED") copy the original *Technical Proposal 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 bidders adhere to the following format and suggestions when preparing their Technical Proposal response.
- B. The original *Technical Proposal Packet* and all copies should be arranged in the following order.
 - *Proposal 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.
 - Technical Proposal response to the *Information for Evaluation* section of the *Technical Proposal Packet*.

1.9 CLARIFICATION OF BID SOLICITATION

- A. Bidders may submit written questions requesting clarification of information contained in this *Bid Solicitation*. Written questions **must** be submitted by 4:00 p.m., Central Time on October 28, 2016. Submit written questions by email to the OSP buyer as shown on page one (1) of this *Bid Solicitation*.
 1. For each question submitted, bidder should reference the specific solicitation item number to which the question refers.
 2. Bidders' 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 November 4, 2016.
- B. Bidders may contact the OSP buyer with procurement-related questions at any time prior to the bid opening.
- C. Answers to verbal questions may be given as a matter of courtesy and **must** be evaluated at bidder's risk.

1.10 PROPOSAL SIGNATURE PAGE

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

1.11 AGREEMENT AND COMPLIANCE PAGES

- A. Bidder **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 *Technical Proposal Packet*.
- B. Bidder's signature on these pages **shall** signify agreement to and compliance with all Requirements within the designated section.

1.12 SUBCONTRACTORS

- A. Bidder **must** complete, sign and submit the *Proposed Subcontractors Form* included in the *Technical Proposal Packet* to indicate bidder'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 *Technical Proposal Packet*. **Do not** attach any additional information to the *Proposed Subcontractors Form*.

1.13 PRICING

- A. Bidder(s) **must** include all pricing on the Official Price Bid Sheet(s) only. Any cost not identified by the successful bidder but subsequently incurred in order to achieve successful operation **shall** be borne by the bidder. The *Official Bid Price Sheet* is provided as a separate excel file posted with this *Bid Solicitation*.
- B. To allow time to evaluate proposals, prices **must** be valid for 180 days following the bid opening.
- C. The *Official Bid Price Sheet*, including the hard copy and electronic copy, **must** be separately sealed from the *Technical Proposal Packet* and should be clearly marked as "Pricing". DO NOT submit any ancillary information not related to actual pricing in the sealed pricing package.
- D. Bidder **must not** include any pricing in the hard copies or electronic copies of their *Technical Proposal Packet*. Should hard copies or electronic copies of their *Response Packet* contain any pricing, the response **shall** be disqualified.
- E. Failure to complete and submit the *Official Bid Price Sheet* **shall** result in disqualification.
- F. All proposal pricing **must** be in United States dollars and cents.
- G. The Official Bid Price Sheet may be reproduced as needed.

1.13 PRIME CONTRACTOR RESPONSIBILITY

- A. A joint proposal submitted by two or more bidders is acceptable. However, a single bidder **must** be identified as the prime contractor.
- B. The prime contractor **shall** be held responsible for the contract and **shall** be the sole point of contact.

1.14 INDEPENDENT PRICE DETERMINATION

- A. By submission of this proposal, the bidder certifies, and in the case of a joint proposal, each party thereto certifies as to its own organization, that in connection with this proposal:
 - The prices in the proposal have been arrived at independently, without collusion.
 - No prior information concerning these prices has been received from, or given to, a competitive company.
- B. Evidence of collusion **shall** warrant consideration of this proposal by the Office of the Attorney General. All bidders **shall** understand that this paragraph may be used as a basis for litigation.

1.15 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 *Technical Proposal 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 bidder **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 bidder.
- F. If a redacted copy of the submission documents is not provided with bidder's response packet, a copy of the non-redacted documents, with the exception of financial data (other than pricing), **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 bidder will be contacted prior to release of the documents.

1.16 **CAUTION TO BIDDERS**

- A. Prior to any contract award, all communication concerning this *Bid Solicitation* **must** be addressed through OSP.
- B. Bidder **must not** alter any language in any solicitation document provided by the State.
- C. Bidder **must not** alter the Official Bid Price Sheet.
- D. All official documents and correspondence related to this solicitation **shall** be included as part of the resultant contract.
- E. Proposals **must** be submitted only the English language.
- F. 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.
- G. Bidder **must** provide clarification of any information in their response documents as requested by OSP.
- H. Qualifications and proposed services **must** meet or exceed the required specifications as set forth in this *Bid Solicitation*.
- I. Bidders may submit multiple proposals.

1.17 **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 bidder **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.

1.18 **AWARD PROCESS**

A. Successful Vendor Selection

The Grand Total Score for each vendor, which **shall** be a sum of the Technical Score and Cost Score, **shall** be used to determine the ranking of proposals. The State may move forward to negotiations with those responsible offerors determined, based on the ranking of the proposals, to be reasonably susceptible of being selected for award.

B. Negotiations

1. If the State so chooses, it **shall** have the right to conduct negotiations with the highest ranking vendors. All negotiations **shall** be conducted at the sole discretion of the State. The State **shall** solely determine the items to be negotiated.
2. If negotiations fail to result in a contract, the State may begin the negotiation process with the next highest ranking vendor. The negotiation process may be repeated until the anticipated successful vendor has been determined, or until such time the State decides not to move forward with an award.

C. Anticipation to Award

1. Once the anticipated successful vendors 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. Vendors 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 vendor's responsibility to check the OSP website for the posting of an anticipated award.

D. Issuance of 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.

1.19 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 bidder's Certification Number should be included on the bidder's *Proposal Signature Page*.

1.20 EQUAL OPPORTUNITY POLICY

A. In compliance with Arkansas Code Annotated § 19-11-104, OSP is required to have a copy of the bidder'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. Bidders 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. Bidders, who are not required by law by to have an *EO Policy*, **must** submit a written statement to that effect.

1.21 PROHIBITION OF EMPLOYMENT OF ILLEGAL IMMIGRANTS

A. Pursuant to Arkansas Code Annotated § 19-11-105, prior to the award of a contract, selected bidder(s) **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 bidder(s) prior to award if their certification has expired or is not on file. Instructions for completing the certification process will be provided to the bidder(s) at that time.

1.22 PAST PERFORMANCE

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

1.23 VISA ACCEPTANCE

A. Awarded bidder 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.

1.24 PUBLICITY

- A. Bidders **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 bidder’s proposal to be disqualified.

1.25 RESERVATION

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

1.26 DEFINITION OF ACRONYMS

ACRONYM	DEFINITION
CRM	Customer Relationship Management
EHR	Electronic Health Record
FTE	Full Time Equivalent
HIE	Health Information Exchange
OHIT	Office of Health Information Technology
PM	Project Manager
SHARE	State Health Alliance for Records Exchange

SECTION 2 – MINIMUM REQUIREMENTS

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

2.1 BACKGROUND

OHIT implements the only statewide health information exchange in Arkansas - known as SHARE. SHARE brings together patients' health information from multiple sources to build a more complete patient medical record. It enables separate electronic health record systems (EHR) and other health information technology systems that cannot communicate with one another to securely and seamlessly share patient health information.

Physicians, specialists, hospitals, labs, pharmacies, long-term care givers and others involved in patients' care push their health records into SHARE making it available in real-time to other health care providers who are participants in SHARE. For more information, please consult the SHARE website at www.sharearkansas.com.

2.2 MINIMUM BIDDER QUALIFICATIONS

- A. Bidder should have a minimum of three (3) years' experience in clinical workflow analysis, consent management, and onboarding for healthcare facilities.
- B. Bidder **must** possess knowledge of current federal and state privacy and security laws relative to patient healthcare confidentiality.
- C. Bidder **shall** provide one full time equivalent (FTE) representative/project manager with both experience in hospital information systems, onboarding, project management, and workflow design.
- D. Bidder **shall** provide two full time equivalent (FTE) representatives with experience in hospital information systems and the onboarding process.
- E. Bidder **shall** maintain Errors and Omissions insurance policy for an amount not less than \$1,000,000.00. The policy **must** be effective throughout the duration of the contract. Bidder **shall** notify OHIT within thirty (30) days if the policy is terminated or modified.

2.3 BIDDER RESPONSIBILITIES

- A. FTE Representative/Project Manager
 1. FTE Representative/Project manager **shall** provide both representative and project manager responsibilities.
 2. FTE Representative/Project manager **shall** coordinate all work items with OHIT.
 3. FTE Representative/Project manager **shall** provide oversight of representatives and act as the liaison between the representatives and OHIT.
 4. FTE Representative/Project manager **shall** provide weekly reports to OHIT.
 5. FTE Representative/Project manager **shall** also perform work items listed below for FTE representatives.
- B. FTE Representatives
 1. Representatives **shall** provide assistance with outreach, onboarding, training and other work items as assigned by the FTE Representative/Project Manager.
 2. Representatives **shall** provide the following for each client:
 - Introduction and education on connectivity options
 - Collaboration for the selected option
 - Provide details of available options
 - Manage activities in CRM
 - Map workflow for approved option
 - Complete workflow signoff document
 - Provide technical integration for the approved option
 - Finalize analysis of the IT impact and recommendation for approved option

2.4 PROJECT DELIVERABLES

To achieve the purpose of this RFP, OHIT will work with the bidder to define work items for each client necessary for the maintenance and expansion of SHARE. These items may include the following areas:

A. Outreach

Bidder **shall** engage in consumer outreach initiatives and educate consumers about the benefits of using the SHARE system to speed the adoption of health information technology.

B. Onboarding

Onboarding is the process where the bidder representatives will assist a physician, provider practice or hospital with the operational steps to ensure a successful implementation of the SHARE. Onboarding processes are unique depending on the level of automation and EHR bidders involved in the implementation. The steps for a successful provider (hospital or practice) implementation include:

- Registration with SHARE and selection from a range of interface options
 - Technical mapping and solution definition
 - Testing in the test environment
 - Training and workflow implementation
 - Go live
 - Post implementation monitoring and follow up. Onboarding a hospital or practice has two elements:
 - SHARE software licenses that are licensed from Mirth Inc. the SHARE HIE bidder. Mirth is responsible for the network capacity and configuration to add a new provider.
 - SHARE onboarding services include workflow configuration, loading, testing and training for each hospital or practice as a production user of SHARE services.
 - Onboarding varies based on the method by which a provider or hospital integrates with SHARE.
1. Bidder **must** provide two FTE representatives for onboarding account support services acceptable to OHIT that provide accurate documentation in the Customer Relationship Management (CRM) tool designated by OHIT and currently known as QuickBase. In addition, the PM **shall** provide accurate and timely execution of agreements for each onboarded participant and adequately prepare the OHIT Support team for a transition to support that implements a proactive strategy for SHARE adoption as directed by OHIT.
 2. Prior to the beginning of each month, the bidder **must** create a monthly work plan, acceptable to OHIT, which defines the monthly target goals for the representatives. The representatives **must** provide daily account management activities as directed by OHIT to prioritize and support OHIT's Participation accounts statewide in accordance with the monthly work plan
 3. The representatives **must** provide assistance with the development, deployment of implementation and adoption strategies with metrics and goals identified monthly by the parties in a monthly work plan.
 4. Bidder representatives **shall** provide operational services for onboarding and implementation for hospitals, private practices, and other health care providers as requested by OHIT. The bidder **must** create a monthly work plan outlining the target goals for each hospital and practice for the following month. Representatives **shall** provide the following services as requested by OHIT:
 - Introduction and education on the SHARE options
 - Assistance with options selection
 - Coordination or assistance with work plan development and management by project
 - Outlining of scope and details of each selected option
 - Map workflow for each option by identified departments
 - Completion of workflow signoff documents per provider
 - Coordination of the technical scoping for the approved option following the SHARE implementation process
 - Facilitation and planning for training
 - Management of the consent management process
 - Management and documentation of operational process for account specific implementations to support turnover

5. Bidder **must**, at all times, be professional in their interaction with SHARE participants. Inappropriate actions or complaints received from Participants to OHIT will be investigated. Results will be reviewed and penalties imposed for substantiated complaints.

6. Representatives **must** work on-site at OHIT offices and travel to client locations to facilitate and develop a proactive strategy for SHARE adoption as directed by OHIT.

Note: Travel related expenses **must** be borne by the bidder.

7. Representatives **must** provide daily account management to prioritize and support OHIT's strategic accounts statewide by region in accordance with the assigned metrics and goals as requested by OHIT.

8. Representatives **must** provide first line technical and operational support coordination for onboarding physician practices, hospitals, and labs located in Arkansas.

C. Training

1. Bidder **shall** provide post-implementation training, adoption, and user management tools to clients.

2. Training **must** be made available to new end users on how to use the system. All training data collected or received must be kept secure and confidential.

3. Bidder **shall** serve as a subject matter expert to provide additional support when necessary for SHARE.

D. Reporting

FTE representative/project manager **must** provide weekly status reports in writing to OHIT during weekly meetings. All Customer Relationship Management (CRM) done in Quickbase and reporting **must** be provided in a timely manner as determined by OHIT. Reporting **must** include but not be limited to:

- Project oversight reporting – weekly status report
- Project metrics reporting – weekly status report
- Implementation of project staffing plans- appropriate allocation based on monthly work plans
- CRM Reporting – Quickbase is up to date and complete
- Specific strategy account project management (as requested by the OHIT Coordinator or designee)

2.5 PERFORMANCE STANDARDS

A. State law requires that all contracts for services include Performance Standards for measuring the overall quality of services provided. The table shown below: *Performance Standards* identifies expected deliverables, performance measures, or outcomes; and defines the acceptable standards a bidder **must** meet in order to avoid assessment of damages.

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 bidder 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 bidder 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 bidder 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 agency due to the assessment of damages, bidder **shall** follow the direction of the agency regarding the required compensation process.

PERFORMANCE STANDARDS: Program Deliverable: Vendor will provide the operational implementation, deployment, and technical support services required to establish, operate and implement the Arkansas State Health Alliance for Records Exchange (SHARE) and achieve a high level of SHARE adoption. CCG agrees to provide the following operational and technical services to the OHIT in a time and manner acceptable to OHIT.		
Performance Indicator I: Service Criteria	Acceptable Performance	Damages for Insufficient Performance
<p>Vendor agrees to provide operational services for on-boarded and implementing hospitals, practices and other health care providers as requested by the OHIT Coordinator/Director. The parties agree to create a monthly work plan outlining the target goals for each hospital and practice or healthcare provider for the following month. Vendor agrees the onboarding and oversight and recruiting resources will provide the following services as requested by OHIT:</p> <ol style="list-style-type: none"> 1. Recruiting targeted participants to SHARE as directed by the OHIT Director/Coordinator or her designee 2. Introduction and education on the SHARE options to potential participants 3. Assistance to SHARE participants with options selection 4. Coordination or assistance with work plan development and management by project 5. Outlining of scope and details of each selected option 6. Map workflow for each option by identified departments 7. Completion of workflow signoff documents per provider 8. Coordination of the technical scoping for the approved option following the SHARE implementation process 9. Facilitation and planning for training 10. Management of the consent management process 11. Management and documentation of operational process for account specific implementations to support turnover. 	<p>Acceptable Performance shall be defined as completing the tasks outlined in the monthly work plan within ten (10) days of the last business day of the month as well as training and onboarding of a participant within fifteen (15) business days of the Health Information Service Provider (HISP) completion date, unless a delay is caused by OHIT or the participant and the delay is documented in Quickbase.</p>	<p>A. Vendor will be required to submit and implement an acceptable corrective action plan. Payment may be delayed under the terms of the agreement pending satisfactory implementation of the plan.</p> <p>Payment may be reduced by 10% of the monthly invoice of the month in which the failure to perform occurred and may result in below standards VPR rating</p>

Performance Indicator II: Service Criteria	Acceptable Performance	Damages for Insufficient Performance
<p>Vendor shall provide accurate and timely execution of agreements per participant and adequately prepare the OHIT Support team for a transition to support that implements a proactive strategy for SHARE adoption as directed by OHIT. Prior to the beginning of each month, the parties agree to create a monthly work plan which defines the monthly target goals for the resources. The resources must provide daily account management activities as directed by OHIT to prioritize and support OHIT’s Participation accounts statewide by region in accordance with the monthly work plan.</p>	<p>Acceptable Performance shall be defined as having a client sign a PA SOW and ensuring that the participant account is accurately and timely updated within two (2) business days of activity in OHIT’s customer reporting management tool, Quickbase. If more than three (3) accounts are not accurately and timely documented in Quickbase this will be considered unacceptable performance under the contract.</p>	<p>Payment may be reduced by 10% of the monthly invoice of the month in which the failure to perform occurred and may result in below standards VPR rating</p>
Performance Indicator III: Service Criteria	Acceptable Performance	Damages for Insufficient Performance
<p>The Vendor must provide assistance with the development, deployment of implementation and adoption strategies with metrics and goals identified monthly by the parties in a monthly work plan. The Vendor must provide weekly status reporting in writing to OHIT at a weekly status meeting agreeable to the parties. All Customer Relationship Management (CRM) and reporting will be provided in a time and manner acceptable to OHIT. Reporting must include but not limited to:</p> <ol style="list-style-type: none"> 1. Project oversight reporting – weekly status report 2. Project metrics reporting – weekly status report 3. CRM Reporting – Quickbase is up to date and complete within three business days of activity. 	<p>Acceptable Performance shall be defined as meeting the reporting requirements identified under Performance Indicator III.</p>	<p>Failure to provide the required reports will result in a 10% reduction of the monthly invoice in which the failure to perform occurred and may result in below standards VPR rating</p>

SECTION 3 – CRITERIA FOR SELECTION

- Do not provide responses to items in this section.

3.1 TECHNICAL PROPOSAL SCORE

- A. OSP will review each *Technical Proposal Packet* to verify submission Requirements have been met. *Technical Proposals 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 Technical Proposals. Evaluation will be based on vendor’s response to the *Information for Evaluation* section included in the *Technical Proposal Packet*.
1. Members of the Evaluation Committee will individually review and evaluate proposals and complete an Individual Score Worksheet for each proposal.
 2. After initial individual evaluations are complete, the Evaluation Committee members will meet to discuss their individual ratings. At this consensus scoring meeting, each member will be afforded an opportunity to discuss his or her rating for each evaluation criteria.
 3. After committee members have had an opportunity to discuss their individual scores with the group, the individual committee members will be given the opportunity to change their initial individual scores, if they feel that is appropriate.
 4. The final individual scores of the evaluators will be recorded on the Consensus Score Sheets and averaged to determine the group or consensus score for each proposal.
 5. 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 five (5) 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
E1. Experience	65	25	200
E2. Qualifications of Staff	20	35	280
E3. Approach	5	15	120
E4. Project Understanding	15	25	200
Totals	105	100.0%	800

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

D. The bidder’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. Bidder’s weighted scores for sub-sections will be added to determine the Total Technical Score for the Proposal.

F. Technical Proposals that do not receive a minimum weighted score of 350 may not move forward in the solicitation process. The pricing for proposals which do not move forward **shall** remain sealed and **shall not** be scored.

3.2 COST SCORE

A. When pricing is opened for scoring, the maximum amount of cost points will be given to the bidder with the lowest grand total as shown on the Official Bid Price Sheet. (See *Grand Total Score* for maximum points possible for cost score.)

B. The amount of cost points given to the remaining bidders will be allocated by using the following formula:

$$(A/B)*(C) = D$$

A = Lowest Total Cost
 B = Second (third, fourth, etc.) Lowest Total Cost
 C = Maximum Points for Lowest Total Cost
 D = Total Cost Points Received

3.3 GRAND TOTAL SCORE

The Technical Score and Cost Score will be added together to determine the Grand Total Score for the bidder. The bidder with the highest Grand Total Score will be selected as the apparent successful bidder. (See *Award Process*.)

	Maximum Points Possible
Technical Proposal	800
Cost	200
Maximum Possible Grand Total Score	1,000

3.4 BIDDER ACCEPTANCE OF EVALUATION TECHNIQUE

A. Bidder **must** agree to all evaluation processes and procedures as defined in this solicitation.

B. The submission of a *Technical Proposal Packet* **shall** signify the bidder’s understanding and agreement 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. All invoices **shall** be forwarded to:

Arkansas Office of Health Information Technology
1501 N University Suite 420
Little Rock, AR 72207

- B. Payment will be made in accordance with applicable State of Arkansas accounting procedures upon acceptance 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 bidder has successfully satisfied the agency as to the reliability and effectiveness of the goods or services purchased as a whole.
- E. The bidder 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. Other sections of this *Bid Solicitation* may contain additional Requirements for invoicing.
- G. Selected bidder **must** be registered to receive payment and future *Bid Solicitation* notifications. Bidders may register on-line at <https://www.ark.org/bidder/index.html>.

4.2 GENERAL INFORMATION

- A. The State **shall not** lease any equipment or software for a period of time which continues past the end of a fiscal year unless the contract allows for cancellation by the State Procurement Official upon a 30 day written notice to the bidder/lessor in the event funds are not appropriated.
- B. The State **shall not** contract with another party to indemnify and defend that party for any liability and damages.
- C. The State **shall not** pay damages, legal expenses or other costs and expenses of any other party.
- D. The State **shall not** continue a contract once any equipment has been repossessed.
- E. Any litigation involving the State **must** take place in Pulaski County, Arkansas.
- F. The State **shall not** agree to any provision of a contract which violates the laws or constitution of the State of Arkansas.
- G. 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.
- H. The laws of the State of Arkansas **shall** govern this contract.

- I. A contract **shall not** be effective prior to award being made by a State Procurement Official.
- J. In a contract with another party, the State will accept the risk of loss of the equipment and pay for any destruction, loss or damage of the equipment while the State has such risk, when:
 - The extent of liability for such risk is based upon the purchase price of the equipment 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 bidder **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.
- A. The bidder **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 bidder.

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 bidder-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 bidder **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 bidder-owned items.
- B. The bidder's liability for damages to the State **shall** be limited to the value of the Contract or \$1,000,000, 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 bidder; 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 bidder 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 bidder; 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 bidder 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 bidder **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 bidder, bidder's subsidiaries, and bidder'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 of 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 bidder 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 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 bidder **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.**

The contract must comply with all statutes, regulations, codes, ordinances, licensure or certification requirements applicable to the Consultant or to the Consultant's agents and employees and to the subject matter of the contract. Failure to comply shall be deemed unacceptable performance.

The Consultant agrees to hold the Office of Health Information Technology (OHIT) harmless and to indemnify the OHIT under the Agreement for costs or fees, which the OHIT may sustain as a result of the Consultant performance or lack of performance.

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.

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.

BID SUBMISSION: Original Proposal Packets **must** be submitted to the Office of State Procurement on or before the date and time specified for bid opening. The Proposal 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 proposals **must** be placed in separate packages and should be completely and properly identified. Late bids **shall not** be considered under any circumstances.

AMENDMENTS: Bidder's proposals cannot be altered or amended after the bid opening except as permitted by regulation.

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. Bidder **shall** properly identify items being returned.

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.

CLAIMS: Any claims the Contractor may assert under this Agreement shall be brought before the Arkansas State Claims Commission ("Commission"), which shall have exclusive jurisdiction over any and all claims that the Contractor may have arising from or in connection with this Agreement. Unless the Contractor's obligations to perform are terminated by the State, the Contractor shall continue to provide the Services under this Agreement even in the event that the Contractor has a claim pending before the Commission.

Term of the Contract. The contract shall terminate June 31, 2018 unless renewed by the parties. The contract may be renewed for up to an additional four (4) years in one-year increments. OHIT shall notify the Vendor at least thirty (30) days prior to the end of the contract period or extension thereof if the State intends to renew the contract.

Terms of Payment/Billing. The Vendor agrees to submit all billing invoices within sixty (60) days of the expiration of the contract. Any billings for services rendered during a particular state fiscal year which are not submitted within ninety days of the end of the fiscal year will not be paid.

Termination of Contract. The OHIT or Vendor may cancel this contract unilaterally at any time, for any reason including without limitation the unavailability of federal funds, state funds or both by giving the other party sixty (60) calendar days' written notice, and delivering notice of cancellation either in person or by certified mail, return receipt requested, restricted delivery. Availability of funds will be determined at the sole discretion of the OHIT. Payment for partially completed services or deliverables satisfactorily delivered to and not yet approved by the OHIT shall be at a price mutually agreed upon by the Vendor and the OHIT. . **NOTHING IN THIS CONTRACT SHALL BE DEEMED A WAIVER OF THE STATE'S RIGHT TO SOVEREIGN IMMUNITY.**

Upon delivery to the Vendor of a Notice of Termination specifying the nature of the termination and the date upon which such termination becomes effective, the Vendor shall fully cooperate with OHIT in the transition of all services as directed by OHIT. After receipt of a Notice of Termination, the Vendor shall submit to the OHIT all outstanding claims within ten (10) working days. The Vendor and the OHIT may agree upon the amounts to be paid to the Vendor by reason of the total or partial termination of work as described in this section. In the event of the failure of the Vendor and the OHIT to agree in whole or in part as to the amount with respect to costs to be paid to the Vendor in connection with the total or partial termination of work as described in this section, the OHIT shall determine, on the basis of information available, the amount, if any, due to the Vendor by reason of termination and shall pay to the Vendor the amount so determined.

Expenses. All expenses incurred by Vendor or its agents shall comply with federal and state law and regulation including the Arkansas Travel Policy and shall not exceed the rates permitted by a state agency. OHIT agrees to pay for travel and expenses in accordance with the Arkansas Travel Policy.

Representation of OHIT. OHIT hereby represents that it has acquired all necessary legal rights required for all software, hardware and any other form of intellectual property which OHIT provides to Vendor during the course of this Agreement. The parties agree that any software, hardware or other intellectual property purchased by OHIT shall be returned to OHIT and remain the property of OHIT at the termination of this Agreement.

Independent Vendor. This Agreement is not intended by the parties to constitute or create a joint venture, partnership, or formal business organization of any kind, and the rights and obligations of all parties will be only those expressly set forth herein. Neither party will have authority to bind the other except to the extent authorized herein. Vendor will remain as an independent Vendor at all times and neither party will act as the agent for the other. Vendor agrees that it and any of its employees who provide Services under the terms of this Agreement are independent Vendors and not employees of OHIT.

Without limiting the generality of the foregoing, Vendor and its employees are not employees of OHIT for federal tax, worker's compensation or any other purpose, Vendor's employees are not entitled to any pension, deferred compensation, welfare, insurance or other benefits afforded to employees of OHIT, and Vendor is responsible for any and all taxes relating to Vendor's employees' employment, compensation or services under this Agreement. Further, Vendor shall not represent that Vendor's employees are, or hold them out as, an employee or agent of OHIT. Vendor is not authorized to, and shall not, enter into any contract, Agreement or other commitment, or incur any obligation or liability, in the name or otherwise on behalf of OHIT.

Disputes and Cure Process. OHIT and Vendor agree to resolve disputes between them as set out at A.C.A. §19-11-246. In the event Agreement is not reached over a dispute, both OHIT and Vendor agree to reasonably maintain the performance of service as was done before the dispute. The Parties agree to pursue a mutually agreeable dispute resolution process prior to any formal adjudication process.

Confidential Information. It is contemplated that this Agreement will involve disclosure to Vendor of OHIT's or OHIT's Participants' Confidential Information. Vendor agrees that all Protected Health Information as defined by the Health Insurance Portability and Accountability Act (HIPAA) is "Confidential Information". The Vendor shall comply with all OHIT policies governing privacy and security of Confidential Information and shall implement and maintain reasonable security procedures and practices appropriate to the nature of the Confidential Information as required by A.C.A. § 4-11-104, the Personal Information Protection Act ("the Act") and HIPAA. In addition, the Vendor shall comply with the Business Associate Agreement between the parties, incorporated herein by reference, and shall disclose any security incidents of privacy or security by contacting the OHIT Interim Director within one (1) business day of the incident by notification to the following e-mail address: shirley.a.tyson@hit.arkansas.gov.

The Vendor shall treat all Confidential Information which is obtained by it through its performance under the contract as Confidential Information as required by state and federal law and shall not use any information so obtained in any manner except as necessary for the proper discharge of its obligations. The parties acknowledge that the disclosure of Confidential Information in contravention of the provisions hereof would damage the party to whom the information disclosed relates and such party has the right to seek all remedies at law or equity to minimize such damage and to obtain compensation therefore.

Injunction. Upon any breach or threatened breach by Vendor of the foregoing Sections, the OHIT shall be entitled to injunctive relief (temporary restraining order, temporary injunction and/or permanent injunction) in whole or in part. Each party acknowledges and agrees that a breach or threatened breach will result in irreparable injury to the other party and that there is no adequate remedy at law to the other party with respect to a breach or threatened breach of the covenants contained in Sections 8. Each party recognizes that the damages to the other party because of a breach or a threatened breach by the breaching party are not presently susceptible to the computation of monetary damages and that injunctive relief is the only practicable remedy available to protect the other party's interests. However, nothing contained in the foregoing provisions of this Paragraph or in any injunctive relief granted shall be deemed a waiver of the other party's right to establish the actual damages sustained by reason of the breach or threatened breach by the breaching party of the covenants contained herein, nor shall it be deemed a waiver of the sovereign immunity of the State of Arkansas. We expressly preserve the state's sovereign immunity. Further, should the other party prevail in any such proceedings, the breaching party shall be responsible to pay to the other party all costs and expenses incurred by the other party in maintaining any such action, specifically including reasonable attorneys' fees.

Ownership Rights. Vendor grants to OHIT the entire right, title, and interest of Vendor in and to the Work Product (as defined in Section 11. below) and in and to all patents, copyrights, trade secrets, and other proprietary rights in or based on the Work Product. The parties agree that all documents, Work Product, and deliverables prepared by the Vendor and accepted by the OHIT shall become the property of the OHIT and shall not be used for any other purpose by the Vendor without the OHIT's specific written consent.

Work Product. ("Work Product") will mean all data, documentation, software and information, in whatever form, first produced or created by or for and delivered to OHIT as a result of or related to the direct performance of work or the rendition of services under this Agreement. For purposes of this Agreement, work product will not include any of Vendor's prior expertise, trade-secrets, know-how and data, documentation, manuals software and information, in whatever form, nor all such expertise, trade-secrets, know-how, etc., not first produced or created solely for OHIT under Vendor's Agreement with OHIT, but which may be included in, necessary, useful or utilized in or with the work product created for and delivered to OHIT as a result of the performance of work or the rendition of Services under this Agreement.

Records Retention. Vendor agrees to retain all records for five (5) years after final payment is made under this Contract or any related subcontract. In the event any audit, litigation or other action involving these records is initiated before the end of the five (5) year period,

the Vendor agrees to retain these records until all issues arising out of the action are resolved or until the end of the five (5) year period, whichever is later.

Access to Vendor's Records. The Vendor will grant access to its records upon request by state or federal government entities or any of their duly authorized representatives. Access will be given to any books, documents, papers or records of the Vendor which are related to any services performed under the contract. The Vendor additionally consents that all subcontracts will contain adequate language to allow the same guaranteed access to the records of subcontractors.

Disclosure. The failure of any person or entity to disclose as required under any term of Executive Order 98-04, or the violation of any rule, regulation or policy promulgated by the State OHIT of Finance and Administration pursuant to this Order, shall be considered a material breach of the terms of the contract, lease, purchase agreement, or grant and shall subject the party failing to disclose or in violation to all legal remedies available to the OHIT under the provisions of existing law.

Set-Off. The parties agree that the OHIT, in its sole discretion, shall have the right to set-off any money Vendor owes the OHIT from the OHIT's payment to Vendor under this contract.

Other Business Opportunities. The parties agree that Vendor shall not engage in any business activities for its own account or on behalf of others including, without limitation, business activities of the type conducted by the OHIT, or invest in or perform any consultation services for any other individual or entity including, without limitation the type of consultation provided under or contemplated by this Agreement for any individual or entity engaged in business activities of the type conducted by the OHIT without the prior written approval of OHIT.

Survival of Rights and Obligations. The right and obligations of the Parties under this Contract shall survive and continue after the ending or expiration of the term of this Contract, and shall bind the parties, and their legal representatives, successors, heirs and assigns.

Notices. All demands, notices and communications hereunder shall be in writing and shall be deemed to have been duly given if mailed certified mail, restricted delivery to the addresses below. Notices will be effective on the date of delivery indicated on the return receipt. Notices may also be given by courier or express mail service (e.g. Federal Express).

For the Vendor, notice will be sent to:

Shirley Tyson, Interim Arkansas HIT Coordinator
Shirley.A.Tyson@hit.arkansas.gov
Office of Health Information Technology
Prospect Building
1501 No. University Avenue, Ste. 420
Little Rock, Arkansas 72207
Office: 501-410-1999 Fax: 501-978-3940

Applicable Law. This Agreement will be governed and construed in accordance with the laws of the State of Arkansas.

Public Disclosure. Upon signing of the contract by all parties, terms of the contract shall become available to the public, pursuant to the provisions of Ark. Code Ann., § 25-19-101 et seq.

Audit Requirement. Vendor shall comply with the audit requirements applicable to the OHIT, if applicable.

Subcontracts. The Vendor is fully responsible for all work performed under the contract. The Vendor may, with the prior written consent of the OHIT, enter into written subcontract(s) for performance of certain of its functions under the contract. No subcontract under this contract shall in any way relieve the Vendor of any responsibility for performance of its duties. The Vendor agrees that all subcontracts shall adhere to OHIT policies.

- a. The Vendor shall give the OHIT immediate notice in writing by certified mail of any action or suit filed and prompt notice of any claim made against the Vendor or any subcontractor which may result in litigation related in any way to the contract or the OHIT.
- b. In accordance with Executive Order 98-04, IF the agreement between the Vendor and the subcontractor is greater than \$25,000.00:
 - The Vendor shall require the subcontractor to complete a Contract and Grant Disclosure and Certification Form. This form must be signed no later than 10 days after entering into any agreement with a subcontractor and the Vendor shall transmit a copy of this form to the agency.
 - The Vendor shall include the following in the contract between the Vendor and that Subcontractor: 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 subcontract. The party who fails to make the required disclosure or who violates the rule, regulation, or policy shall be subject to all legal remedies available to the Vendor.

Assignments. The Vendor shall not assign the contract in whole or in part or any payment arising therefrom without the prior written consent of the OHIT representative.

Insurance. Vendor agrees to maintain Errors and Omissions Insurance policy for an amount of not less than one million dollars (\$1,000,000.00). Said policy will be in place by the Start Date of this Agreement. Vendor will provide OHIT, prior to the Contract start date, a certificate from the insurance company, acceptable to the OHIT, confirming that such insurance is in effect as of the Start Date of the Agreement. Vendor will notify OHIT within thirty (30) days if such coverage is terminated or modified.

Further Assurances. Vendor agree to take such actions, provide such documents, do such things and provide such further assurances as may reasonably be requested by the OHIT during the term of this Agreement, including without limitation, full cooperation in any legal proceedings or requests for documentation pertaining to the services rendered under this Agreement.

Contract Variations. If any provision of the Contract (including items incorporated by reference) is declared or found to be illegal, unenforceable, or void, then both the OHIT and the Vendor 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.

Severability of Provisions. If any one or more of the covenants, agreements, provisions or terms of this Contract shall be for any reason whatsoever held invalid, then such covenants, agreements, provisions or terms shall be deemed severable from the remaining covenants, agreements, provisions or terms of this Contract and shall in no way affect the validity or enforceability of the other provisions of this Contract.

Waiver. No covenant, condition, duty, obligation, or undertaking contained in or made a part of the contract will be waived except by the written agreement of the parties, and forbearance or indulgence in any other form or manner by either party in any regard whatsoever shall not constitute a waiver of the covenant, condition, duty, obligation, or undertaking to be kept, performed, or discharged by the party to which the same may apply; and until complete performance or satisfaction of all such covenants, conditions, duties, obligations, and under-takings, any other party shall have the right in invoke any remedy available under law or equity, notwithstanding any such forbearance or indulgence.

Relinquishment. The failure of the OHIT to insist upon the performance of any of the conditions in any one or more instances shall not be construed as a waiver or relinquishment of the future benefit of said condition.

State and Federal Laws. Performance of this contract by both parties must comply with State and federal laws and regulations. If any statute or regulation is enacted which requires a change in this contract or any attachment, then both parties will deem this contract and any attachment to be automatically amended to comply with the newly enacted statute or regulation as of its effective date.

Accessibility Act 1227 of 1999

The Vendor expressly acknowledges that state funds may not be expended in connection with the purchase of information technology unless that system meets certain statutory requirements, in accordance with State of Arkansas technology policy standards, relating to accessibility by persons with visual impairments.

Accordingly, the Vendor represents and warrants to the OHIT that the technology provided to the OHIT for purchase is capable, either by virtue of features included within the technology or because it is readily adaptable by use with other technology, of:

- (1) providing equivalent access for effective use by both visual and nonvisual means;
- (2) presenting information, including prompts used for interactive communications, in formats intended for nonvisual use; and
- (3) after being made accessible, it can be integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired.

For purposes of this paragraph, the phrase "equivalent access" means a substantially similar ability to communicate with or make use of the technology, either directly by features incorporated within the technology or by other reasonable means such as assistive devices or services which would constitute reasonable accommodations under the Americans with Disabilities Act or similar state or federal laws. Examples of methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands and other means of navigating graphical displays, and customizable display appearance. If requested, the Vendor must provide a detailed plan for making the purchase accessible and/or a validation of concept demonstration.

Certification Regarding Lobbying

The Vendor will comply with public law 101-121, section 319 (section 1352 of Title 31 U.S.C.) for an award in excess of one hundred thousand dollars (\$100,000.00) by certifying that appropriated federal funds have not been or will not be used to pay any person to influence or attempt to influence a federal official/employee in connection with the awarding of any federal contract, grant, loan or cooperative agreement.

If the Vendor has paid or will pay for lobbying using funds other than federal appropriated funds, Standard Form-LLL (Disclosure of Lobbying Activities) shall be completed and included as an attachment to this contract.

Certification Regarding Debarment

The Vendor, as a lower tier recipient of twenty-five thousand dollars (\$25,000.00) or more in federal funds, will comply with Executive

Order 12549 (Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions). By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:

- are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal or state agency
- where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled *Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions* without modification in all lower tier covered transactions.

Vendor certifies that the Vendor is in compliance with Public Law 101-121 (Certification Regarding Lobbying) and Executive Order 12549 (Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions):

Certification Regarding Employment Practices

Neither the Vendor nor its subcontractors shall discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age (except as provided by law), marital status, political affiliation, or disability. The Vendor must take affirmative action to ensure that employees, as well as applicants for employment, are treated without discrimination because of their race, color, religion, sex, national origin, age (except as provided by law), marital status, political affiliation, or disability. Such action shall include, but not be limited to, the following:

- Employment
- Promotion
- Demotion or transfer
- Recruitment or recruitment advertising
- Layoff or termination
- Rates of pay or other forms of compensation, and
- Selection for training, including apprenticeship.

Vendor certifies that neither the Vendor nor its subcontractors shall discriminate against any employee or applicant for employment because of race, color, religion, gender, national origin, age (except as provided by law) or disability. Vendor must insure that employees, as well as applicants for employment, are treated without discrimination because of their race, color, religion, gender, national origin, age (except as provided by law) or disability. Such action shall include, but not be limited to, employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection of training, including apprenticeships.

Compliance with OHIT Policy Issuances. The Vendor agrees to deliver the services authorized by this contract or any attachment in accordance with all procedures provided by OHIT as well as all policies, manuals and other official issuances of the State of Arkansas and OHIT promulgated through the Administrative Procedures Act.

Entire Agreement. The parties acknowledge that each have read this Contract, understand it and agree to be bound by the terms. The parties further agree that this Contract is the complete and exclusive statement of the agreement of the parties with respect to the subject matter hereof and that it supersedes all prior proposals, representations, arrangements, understandings, and agreements, whether oral or written, between the parties with respect to the subject matter hereof.

This Contract may not be modified, amended, or in any way altered except by a written agreement duly executed by the parties and approved in accordance with the laws and established procedures of the State of Arkansas.