



# 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-17-0017R	Solicitation Issued:	February 17, 2017
Description:	K-2 Assessment		
Agency:	Arkansas Department of Education (ADE)		

### SUBMISSION DEADLINE FOR RESPONSE

Bid Opening Date:	March 13, 2017	Bid Opening Time:	2:00 p.m., Central Time
<p>Responses <b>shall not</b> be accepted after the designated bid opening date and time. In accordance with Arkansas Procurement Law and Rules, it is the responsibility of vendors 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 <b>shall</b> be considered late and <b>shall</b> be returned to the vendor without further review. It is not necessary to return "no bids" to OSP.</p>			

### DELIVERY OF RESPONSE DOCUMENTS

Delivery Address:	Office of State Procurement 1509 West 7 <sup>th</sup> 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 <b>must</b> 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"><li>• Bid number</li><li>• Date and time of bid opening</li><li>• Vendor's name and return address</li></ul>

### OFFICE OF STATE PROCUREMENT CONTACT INFORMATION

OSP Buyer:	Judy Shirley, CPPB	Buyer's Direct Phone Number:	501-324-9314
Email Address:	<a href="mailto:Judy.shirley@dfa.arkansas.gov">Judy.shirley@dfa.arkansas.gov</a>	OSP's Main Number:	501-324-9316
OSP Website:	<a href="http://www.dfa.arkansas.gov/offices/procurement/Pages/default.aspx">http://www.dfa.arkansas.gov/offices/procurement/Pages/default.aspx</a>		

## **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) issues this Request for Qualifications (RFQ) on behalf of Arkansas Department of Education (ADE) to obtain proposals and a contract for K-2 Assessment System.

### **1.2 TYPE OF CONTRACT**

- A. A Term contract will be awarded to a maximum of four (4) vendors.
- B. The term of this contract **shall** be for one (1) year. The anticipated starting date for the contract is **June 1, 2017**. Upon mutual agreement by the vendor 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 vendor’s agreement to and compliance with that item is mandatory.
- B. Exceptions taken to any Requirement in this *Bid Solicitation*, whether submitted in the vendor’s response or in subsequent correspondence, **shall** cause the vendor’s response to be disqualified.
- C. Vendor 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*. Vendor **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 “vendor” are used synonymously in this document.
- C. The terms “Request for Qualifications”, “RFQ” and “Bid Solicitation” are used synonymously in this document.
- D. Report Interpretation Guide is a document that explains the elements on all available score reports using illustrations of screenshots, and helps various audiences interpret student test score

The following table contains a list of acronyms that have been referenced in this bid solicitation.

	<b>List of Acronyms</b>
ADE	Arkansas Department of Education
CSR	Customer Service Representative
DTC	District Test Coordinator
ELA	English Language Arts
FERPA	Family Education Rights and Privacy Act
IEP	Individualized Education Program
ISR	Individual Student Reports
OSP	Office of State Procurement
PDF	Portable Document Format
RFQ	Request for Qualification
SPF	Student Performance File
TAM	Test Administration Manual

**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 Vendor's *Equal Opportunity Policy*. (See *Equal Opportunity Policy*.)
  - c. *Voluntary Product Accessibility Template* (VPAT). (See *Technology Access*.)
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. Two (2) 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") 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 vendors 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.*
  - *Voluntary Product Accessibility Template (VPAT).*
  - 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 requesting clarification of information contained in this *Bid Solicitation* **must** be submitted in writing via email by **4:00 p.m., Central Time on or before February 24, 2017** to the OSP buyer as shown on page one (1) of this *Bid Solicitation*.
1. For each question submitted, vendor should reference the specific solicitation item number to which the question refers.
  2. Vendors' 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 **March 3, 2017**.
- B. Vendors may contact the OSP buyer with non-substantive questions at any time prior to the bid opening.
- C. Oral statements by OSP **shall not** be part of any contract resulting from this solicitation and may not reasonably be relied on by any vendor as an aid to interpretation unless it is reduced to writing and expressly adopted by OSP.

**1.10 RESPONSE SIGNATURE PAGE**

- A. An official authorized to bind the vendor(s) to a resultant contract **must** sign the *Response Signature Page* included in the *Response Packet*.
- B. Vendor's signature on this page **shall** signify vendor's agreement that either of the following **shall** cause the vendor's response 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. Vendor **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. Vendor's signature on these pages **shall** signify agreement to and compliance with all Requirements within the designated section.

**1.12 SUBCONTRACTORS**

- A. Vendor **must** complete, sign and submit the *Proposed Subcontractors Form* included in the *Response Packet* to indicate vendor'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**

Pricing will be negotiated with the apparent successful vendor(s) after the evaluation of responses. Vendor(s) **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.

If any of the awarded vendors has an existing contract with an Arkansas school district for a K-2 ELA or math assessment, the vendor **shall**:

1. Release the school district from those contractual commitments beginning in the 2017-2018 school year: and
2. allow the school district to keep the existing contract pricing if the pricing in the existing contract is lower than the pricing in the new contract resulting from this RFQ.

**1.14 PRIME CONTRACTOR RESPONSIBILITY**

- A. A joint response submitted by two or more vendors is acceptable. However, a single vendor **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.

**1.15 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 *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 vendor **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 vendor.
- F. If a redacted copy of the submission documents is not provided with vendor'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 vendor will be contacted prior to release of the documents.

**1.16 CAUTION TO VENDORS**

- A. Prior to any contract award, all communication concerning this *Bid Solicitation* **must** be addressed through OSP.
- B. Vendor 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. Vendor **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. Vendors may submit multiple responses.

**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 vendor **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 QUALIFICATION AND AWARD PROCESS****A. Successful Vendor(s) Selection**

The vendor(s) **shall** be determined by the total score each *Response* receives in evaluation. The State will enter pricing negotiations with those responsible offerors determined, based on the scoring of the proposals, to be reasonably susceptible of being selected for award.

**B. Negotiations**

1. If the agency so chooses, it **shall** also have the right to enter discussions with the highest ranking vendor(s) to further define contractual details. 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 scoring vendor. The negotiation process may be repeated until an anticipated maximum of four (4) successful vendor(s) have 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 vendor(s) has been determined, the anticipated award(s) will be posted on the OSP website at [http://www.arkansas.gov/dfa/procurement/pro\\_intent.php](http://www.arkansas.gov/dfa/procurement/pro_intent.php).
2. The anticipated award(s) will be posted for a period of fourteen (14) days prior to the issuance of a contract(s). Vendors and agencies are cautioned that these are preliminary results only, and that contract(s) 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 a Contract**

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

**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 vendor's Certification Number should be included on the vendor's *Response 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 vendor'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](mailto: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. Vendors 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. Vendors who are not required by law 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 vendor(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 vendor(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 vendor(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 vendor's past performance with the State may be used to determine if the vendor is "responsible". Responses submitted by vendors determined to be non-responsible **shall** be disqualified.

**1.23 TECHNOLOGY ACCESS**

- A. When procuring a technology product or when soliciting the development of such a product, the State of Arkansas is required to comply with the provisions of Arkansas Code Annotated § 25-26-201 et seq., as amended by Act 308 of 2013, which expresses the policy of the State to provide individuals who are blind or visually impaired with access to information technology purchased in whole or in part with state funds. The Vendor expressly acknowledges and agrees that state funds may not be expended in connection with the purchase of information technology unless that technology meets the statutory Requirements found in 36 C.F.R. § 1194.21, as it existed on January 1, 2013 (software applications and operating ICSs) and 36 C.F.R. § 1194.22, as it existed on January 1, 2013 (web-based intranet and internet information and applications), in accordance with the State of Arkansas technology policy standards relating to accessibility by persons with visual impairments.
- B. ACCORDINGLY, THE VENDOR EXPRESSLY REPRESENTS AND WARRANTS to the State of Arkansas through the procurement process by submission of a Voluntary Product Accessibility Template (VPAT) for 36 C.F.R. § 1194.21, as it existed on January 1, 2013 (software applications and operating ICSs) and 36 C.F.R. § 1194.22, that the technology provided to the State 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, to the extent required by Arkansas Code Annotated § 25-26-201 et seq., as amended by Act 308 of 2013, equivalent access for effective use by both visual and non-visual means
  - 2. Presenting information, including prompts used for interactive communications, in formats intended for non-visual use
  - 3. After being made accessible, integrating into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired
  - 4. Providing effective, interactive control and use of the technology, including without limitation the operating system, software applications, and format of the data presented is readily achievable by nonvisual means;
  - 5. Being compatible with information technology used by other individuals with whom the blind or visually impaired individuals interact



6. Integrating into networks used to share communications among employees, program participants, and the public
  7. Providing the capability of equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired
- C. State agencies cannot claim a product as a whole is not reasonably available because no product in the marketplace meets all the standards. Agencies **must** evaluate products to determine which product best meets the standards. If an agency purchases a product that does not best meet the standards, the agency must provide written documentation supporting the selection of a different product, including any required reasonable accommodations.
- D. For purposes of this section, 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 and federal laws. Examples of methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands or other means of navigating graphical displays, and customizable display appearance. As provided in Arkansas Code Annotated § 25-26-201 et seq., as amended by Act 308 of 2013, if equivalent access is not reasonably available, then individuals who are blind or visually impaired shall be provided a reasonable accommodation as defined in 42 U.S.C. § 12111(9), as it existed on January 1, 2013.
- E. If the information manipulated or presented by the product is inherently visual in nature, so that its meaning cannot be conveyed non-visually, these specifications do not prohibit the purchase or use of an information technology product that does not meet these standards.

#### **1.24 COMPLIANCE WITH THE STATE SHARED TECHNICAL ARCHITECTURE PROGRAM**

The respondent's solution **must** comply with the State's shared Technical Architecture Program which is a set of policies and standards that can be viewed at: <http://www.dis.arkansas.gov/policiesStandards/Pages/default.aspx>. Only those standards which are fully promulgated or have been approved by the Governor's Office apply to this solution.

#### **1.25 VISA ACCEPTANCE**

- A. Awarded vendor 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.

#### **1.26 PUBLICITY**

- A. Vendors **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 vendor's response to be disqualified.

#### **1.27 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**

This Request for Qualifications (RFQ) is issued by the Office of State Procurement (OSP) for the Arkansas Department of Education (ADE) to establish a list of qualified vendors who will work in conjunction with ADE to deliver an online adaptive K-2 assessment.

The Arkansas Department of Education (ADE) is committed to supporting early childhood education to ensure that all Arkansas children develop a strong foundation for learning. Therefore, it is the intent of ADE to provide all K-2 students with a comprehensive assessment that measures student performance and growth on the Arkansas English Language Arts (ELA) and mathematics standards for grades K-2.

In order to facilitate similar interpretations of student performance among assessments, the top scoring vendors **must** agree to provide any necessary documents or data to ADE in order for ADE or designated party to conduct a concordance analysis should it be necessary.

In the administration of the aforementioned activities, the Vendor shall:

- Comply with all State laws, rules, and regulations, including but not limited to any guidance issued by ADE.
- Cooperate with all ADE staff and contractors.

### **2.2 OVERVIEW AND BACKGROUND INFORMATION**

The proposed K-2 comprehensive assessment **shall** be developmentally appropriate and measure the Arkansas Kindergarten through grade 2 State Standards in English Language Arts (ELA) and mathematics for students in grades K-2.

In 2015, the Arkansas 90<sup>th</sup> General Assembly passed Act 1268 which revised the language of Act 1294 of 2013. Act 1268 requires school districts to screen each student for dyslexia in kindergarten through grade two (K-2). Ideally, the proposed K-2 interim assessments could meet some of the requirements of Arkansas Code 6-41-603 (a) (1) –(2)(A-F) which includes the screening of students in the following areas: (A) phonological and phonemic awareness, (B) sound symbol recognition, (C) alphabet knowledge, (D) decoding skills, (E) rapid naming skills, and (F) encoding skills.

During the 2014-15 school year, a pre-Kindergarten through Grade 2 Assessment Task Force met on multiple occasions and made the following recommendations for future Arkansas early childhood assessments:

- Kindergarten students need to be administered a valid, reliable, and developmentally appropriate universal screener assessment at the beginning of the school year
- K-2 assessments need to be valid, reliable, and developmentally appropriate assessments in reading and math
- K-2 assessments need to be aligned to the Arkansas State Standards in English Language Arts and mathematics
- K-2 teachers need timely results that will provide rich information to help plan and guide instruction throughout the year
- K-2 teachers need quality training on how to properly administer the assessments and use the data to make informed instructional decisions.

The desired assessments are designed to provide teachers with actionable data that can be used to support student learning.

### 2.3 **VENDOR QUALIFICATIONS**

- A. A minimum of five (5) years' experience working directly with the development and delivery of K-2 Assessments.
- B. The vendor **shall** provide the qualified staff necessary to conduct the /K-2 Assessment training as specified in this RFQ.
- C. The vendor **shall** meet all applicable Arkansas laws, rules, and regulations regarding implementing and administering K-2 Assessment as described in this RFQ.
- D. The vendor **shall** develop and maintain transparent, documented procedures for completing all K-2 Assessments required by this RFQ.
- E. The vendor **shall** be available for consultation by ADE for matters related to K-2 Assessments.
- F. All vendor staff directly involved in the training of AR educator **shall** have:
  - 1. A minimum of one (1) year experience working directly with the training for K-2 Assessments.
  - 2. Ability to train, answer questions, and verify information received from participating Arkansas school districts.

### 2.4 **ORAL PRESENTATIONS**

The State will conduct Oral Presentations from Vendors admitted to the field of competition as described in this RFQ.

- A. The key personnel as identified in the Vendor's RFQ **must** be active participants in the Oral Presentations – the State is not interested in corporate or sales personnel being the primary participants in oral presentations. This event will focus on proposal clarifications, an understanding of the capabilities of the Vendor and importantly identified key personnel's ability to perform consistent with the Vendor's proposal in meeting the State's requirements.
- B. The State will notify selected Vendors of the time and location for these activities, and supply agendas or topics for discussion. The State reserves the right to ask additional questions during oral presentations to clarify the scope and content of the written proposal.
- C. The Vendor's oral presentation **must** substantially represent material included in the original written proposal, and the State will not allow the introduction of new concepts or offers during the Orals Presentations.
- D. After the completion of *Part 1* of the technical proposal evaluation, up to six (6) vendors with the top Technical Score Sub-Total will be contacted to schedule an Oral Presentation.
- E. Qualifying vendors proceeding to *Part II*-Oral Presentation of the Evaluation, **shall** deliver an Oral Presentation, in person, to an Evaluation Committee appointed by ADE.
- F. Approximately one (1) week prior to Oral Presentations, qualifying vendors will receive official notification from ADE regarding specific scheduling and presentation requirement details.
- G. The Vendor's staff members to be assigned to the possible resultant contract for the ADE account **shall** deliver the Oral Presentation.
- H. Oral Presentation **shall** be evaluated and scored as Part II of the Evaluation.
- I. ADE reserves the right to record any and all Oral Presentations.
- J. Pricing **must** not be discussed or included in the Oral Presentations.
- K. The vendors (maximum four) receiving the highest ranking score resulting from the combined weighted scores from *Part I and Part II of the Evaluation* **shall** be selected as the apparent successful vendors and may enter into discussions with ADE.

**2.5 ASSESSMENTS REQUIRED**

The K-2 assessment **must** meet the following:

- A. Online adaptive K-2 Assessment that assesses both the Arkansas English Language Arts (ELA) and mathematics standards at each respective grade. (See Attachments).
- B. Assessment **must** be able to be administered at multiple points throughout the year: at a minimum fall, winter, and spring.
- C. Each Assessment administration **must** include enough items to adequately report student performance on the depth and breadth of the Arkansas State Standards in ELA and mathematics.
- D. **Must** report reading Lexile measures for each student.
- E. The final report **must** provide a measure of grade level student performance.
- F. The assessment **must** be a psychometrically sound measurement tool developed based on universal design principles that is able to measure achievement of diverse populations of students. This **must** include bias and sensitivity review and field-testing within a diverse population.
- G. Flexible administration within each testing window, i.e., not all students **must** test at the same time and tests can be administered within the classroom setting.

**2.6 ACCOMMODATIONS**

Online accommodations **must** include the following:

- A. The system **must** have the ability to read test items to the student via text-to-speech or teacher-read from the screen for appropriate or allowable sections of the test.

**2.7 ONLINE SYSTEM REQUIREMENTS (INFORMATION TECHNOLOGY PLATFORM)**

The following technical requirements **must** be met.

- A. Vendor **shall** utilize an online assessment delivery as specified in the RFQ.
- B. The online assessment **shall** be delivered via a secure Internet-enabled web-based application that restricts access to the desktop and internet.
- C. The online assessment **must** allow for a user-facing system that delivers the online tests to students and include:
  - 1. Accessibility features and accommodations
  - 2. Student directions
  - 3. Individual student logins
  - 4. Delivery within a secure, web-based application that restricts access to the desktop and internet.
- D. The online assessment **must** allow for administrative management to include:
  - 1. Ability for state, district, and school personnel to manage and update student data and or student transfers
  - 2. Secure logins for users
  - 3. Various user roles to restrict access to unnecessary functions and student data
  - 4. Ability to manage the administration of tests
  - 5. Access to reports
- E. Assessment delivery **must** have built-in redundancy to protect against unplanned outages.

- F. The assessment delivery **must** have an infrastructure that will backup, store and recover data. This system **must** be built in a way that protects against cyber threats. Any updates made to the vendors infrastructure or online system will be made in a way that does not affect a school's ability to administer the assessment during the scheduled windows and at no additional cost to the state or schools.
- G. Vendor **must** provide all networking services and software.
- H. The system **must** allow for efficient access to data by the ADE.
- I. The secure web-based application **must** remain compatible with current browser and operating system releases.
- J. The online assessment **must** be securely accessible via tablet, laptop, and desktop computers.
- K. System **must** function and be maintained on current system releases of:
  - 1. Windows
  - 2. Chrome
  - 3. Macintosh
- L. Vendor should expect users to access the system via the following operating systems and browsers:
  - 1. Operating systems: Windows 7+, Mac OSX 10.6+, Chrome OS
  - 2. Mobile operating systems: iOS8+
  - 3. Browsers: IE8+, Firefox 26+, Chrome C31+, Safari 7+
- M. The system **must** support input via mouse, keyboard, trackpad, and touch screen.
- N. The system **must** provide a plan to minimize the bandwidth required to administer the assessment.
- O. The online assessment system **must** be housed in a data center located in the United States and **must** be protected from unauthorized access, hackers, viruses, malware, or other tampering.
- P. Vendor **shall** provide all necessary system enhancements including new versions of the online test delivery system during the term of the contract, or any renewals, at no additional cost.
- Q. During the term of the contract, it **shall** be necessary to modify the online delivery system to accommodate normal fixes and system enhancements.
  - 1. The vendor **shall** provide maintenance and support normal fixes and system enhancements.
  - 2. Vendor **must** inform the ADE in advance of changes that may disrupt the service to the ADE and other system users.
  - 3. Planned system outages **must** be scheduled at times when there will be no or minimal disruption to system users.

## 2.8 **TEST ADMINISTRATION MANUAL/TEST ADMINISTRATION GUIDELINES**

- A. The test manual and/or test administration guidelines **must** include the following information:
  - 1. The test purpose.
  - 2. Information about how school personnel prepare for test administration.
  - 3. Screenshots/steps for completing tasks in the online assessment system.

4. General information about how to conduct the test including appropriate testing time.
5. Specific test administration instructions.
6. Instructions on how to access and use the online assessment system.
7. Information on maintaining test security.
8. We would like the ability to include State policy but this would not exclude any vendor if they are unable to accommodate this request.

B. Manuals and/or guidelines **must** be free of typographical and style errors and contain accurate information.

C. Manuals and/or guidelines **must** be provided to ADE and schools as a PDF digital resource (including bookmarks and an index) that allows the user to read and print in PDF format.

## 2.9 **REPORT INTERPRETATION GUIDE**

Report Interpretation Guide **must** include:

A. Sample reports for various audiences:

1. District administrators
2. Teachers
3. Parents

B. Available prior to the availability of test scores from the first test administration.

C. The Report Interpretation Guide **must** be free of typographical and style errors and contain accurate information.

D. The final document **must** be packaged as a PDF digital resource (including bookmarks and an index) that allows the user to read and print in PDF format.

E. The Report Interpretation Guide **must** be in English. The guide **must** be translated in Spanish as requested by ADE. The vendor will work with ADE to have their Report Interpretation Guide interpreted into other languages as needed depending on minority populations in the areas the assessment is administered. The vendor will only need to include the translation of the Spanish version in their cost at the time of negotiations.

## 2.10 **TEST ADMINISTRATION**

A. Vendor **shall** be responsible for the following tasks:

- Deliver test materials to Arkansas districts, FOB delivery
- Provide access to a test administration platform
- Conduct quality assurance over all testing materials
- Maintain the assessment system
- Ensure data security and follow all FERPA requirements for security and confidentiality
- Provide high-quality editorial review and proofing
- Provide customer support to ADE, districts, and schools
- Communicate with ADE weekly about concerns and progress of testing program
- Be responsive to ADE regarding questions or concerns

B. ADE will be responsible for the following tasks:

- Managing the state contracts with the vendor
- Being the liaison between the vendor and districts as appropriate
- Providing state specific policy and guidance
- Communicating concerns from the field with the vendor

## 2.11 **REPORTING**

Required reports are as follows:

### A. Data Files:

1. Data files are to be provided at the state, district and school levels that contain individual student scores and demographics.
2. The state data file **must** be provided, through a secure method of transfer, at a minimum of twice a year (mid-year and end-of-year), but ideally after each administration.
3. The final state data file **must** contain individual student scores from each administration. These files **must** be provided in a comma delimited format within 45 days after mid-year and end-of-year testing, but ideally at the end of each administration window.

### B. Reports:

1. Reporting **shall** include downloadable student data files, and downloadable PDFs of pre-built standard reports including student score reports, educator/group reports and aggregate reporting for schools, districts, and the state. Report/data files **must** include:
  - a. Individual Student Report (ISR)
  - b. Classroom report
  - c. School level aggregate report
  - d. District level aggregate report
  - e. State level aggregate report
2. The K-2 assessments **must** measure and report grade level achievement during the final interim administration.
3. The SPF file layout **shall** be provided to ADE as soon as available for use in mapping the fields in the Arkansas data systems.

## 2.12 **TRAINING**

A. Vendor **must** agree to attend and present four (4) days of live product demonstrations at a central Arkansas location, following the award. ADE will determine location and schedule for the four (4) days required.

1. Representatives from all Arkansas public school districts and Charter Schools will be invited to attend one of the scheduled dates to watch the presentations and ask questions.
2. Vendor **must** agree NOT to solicit new business with any Arkansas districts/schools prior to the Arkansas K-2 live product demonstrations.

B. Vendor **must** agree to participate in state held webinars about their assessment with ADE as needed.

C. Vendor **must** provide face-to-face and/or web based training for school personnel on the following topics:

1. Preparing for the administration of the assessment (uploading students, accessing the portal)
2. Administering the assessment.
3. Accessing and interpreting reports.

D. Vendor **must** provide training to ADE assessment staff. The training dates will be mutually agreed upon at the annual planning meeting.

**2.13 SUPPORT****Support necessary during testing window:**

- A. Schools **must** be able to access a help desk that is located in the U.S and staffed with persons who are knowledgeable about the system and administration procedures.
- B. Trained customer service representatives **must** be available to answer school questions during the hours of 8:00 a.m. to 4:00 p.m. Central Time during the registration and test administration windows.
- C. Vendor **will** provide information on how training is conducted for all staff and subcontractors that may be used in completion of this task when requested.
- D. Schools **must** be able to reach Customer Service via email and toll free number.
- E. Vendor **must** provide open communication to ADE, via the program management team, during the administration windows.
  - Vendor **must** provide a dedicated Arkansas program contact. This person will communicate with the ADE to provide support to the ADE staff, answer questions, and be a liaison between the ADE and the vendor.
- F. Customer service representatives (CSRs) **must** be able to differentiate questions that are policy related and should be answered by ADE staff and those that are to be answered by the vendor.
  - 1. Technical issues arising during a test window that cannot be resolved by CSRs **must** be transferred to vendor's technical support immediately.
  - 2. If students are in the classroom and unable to test, the call **must** be moved to a technical support immediately for resolution or a recommendation and **must** be provided to have students test at a later time if the problem cannot be resolved within (15) minutes.
  - 3. Technical support **must** work with the district until the issue is resolved. Technical issues unresolved after (24) hours require detailed daily status updates to ADE.
- G. Vendor **shall** provide at least one Arkansas field representative who will be able to assist local districts/schools onsite as needed with uploading students, using the platform, technology, or similar needs in a timely fashion.
- H. The help desk may have flexible hours during the summer months.

**2.14 PROJECT SCHEDULE****The following are milestones that must be met:**

- A. Annual Planning Meeting
  - 1. Vendor **shall** conduct an annual planning meeting within two (2) weeks of the award of the contract.
  - 2. Annually, prior to all test administration activities, one (1) planning meeting **shall** be scheduled to allow the agency and vendor to establish a final schedule of future work and deliverables for the life of the contract.
  - 3. The initial planning meeting will be held in a face-to-face setting.
  - 4. The vendor **shall** assume the cost of the facility audiovisual equipment, remote log-in access (e.g web ex) and materials. For budgeting purposes a one (1) day meeting can be assumed for the face-to-face meeting.
  - 5. All travel related expenses associated with this solicitation and any resultant contract related to this solicitation **will** be borne by the vendor for their company, representatives and/or employees, including up to three (3) ADE representatives.
- B. Tasks the vendor **must** do routinely regarding the overall project.



1. Weekly Telephone Conference Calls

(a) The vendor **shall** conduct weekly telephone conference meetings as agreed upon after the award with ADE.

(b) Vendor **shall**:

- Conduct the meetings
- Develop an agenda and shared with ADE (1) day prior to call
- Meeting minutes **shall** be made available within (1) day of the meeting.
- The weekly meetings **shall** be held using a virtual online meeting application.

## 2.15 DESIRED FEATURES

The following information **is** requested and **considered “desired features” as represented by ADE.**

A. Dyslexia Components per Arkansas Law

1. Vendor has the ability to report out on the following ELA areas:

- Phonological and phonemic awareness
- Sound symbol recognition
- Alphabet knowledge
- Decoding skills,
- Rapid naming skills, and
- Encoding skills

B. Valued Added Features

1. Vendor has the ability to report out on math quantile levels.

2. Additional K-2 reporting.

## 2.16 PERFORMANCE STANDARDS

- A. State law requires that all contracts for services include Performance Standards for measuring the overall quality of services provided. *Attachment A: Performance Standards* identifies expected deliverables, performance measures, or outcomes; and defines the acceptable standards a vendor **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 vendor 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 vendor 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 vendor 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, vendor **shall** follow the direction of the agency regarding the required compensation process.

**Performance Standards Table**

<b>SERVICE CRITERIA</b>	<b>ACCEPTABLE RANGE</b>	<b>DAMAGES FOR INSUFFICIENT PERFORMANCE</b>
Delivery of Assessment Testing	98%	Tests are delivered in timeframe agreed upon between the vendor and the ADE: \$100/day each day tests are not available.  Continued delays in test availability may result in a below standard VPR being written and maintained in the file.
Reporting	98%	Reports are delivered on time and error free: \$100/day each day reports are not available and/or contain errors.  Late reporting and/or incorrect reporting as required by the RFQ may result in a below standard VPR being written and maintained in the file.
Dedicated Account Management	98%	Vendor provides dedicated program manager to oversee Arkansas program: \$100 day each day person is unavailable or unresponsive.  Management functions not met per the RFQ requirements may result in a below standard VPR being written and maintained in the file.

### **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 as shown in the table below.

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
<b>Evaluation Part I-Technical Proposal</b>			
E.1 Assessment	40	10%	100
E.2 Accommodations	5	7.5%	75
E.3 Online System Requirements (Info Tech)	25	7.5%	75
E.4 Test Administration Manual	15	5%	50
E.5 Report Interpretation Guide	5	5%	50
E.6 Test Administration	15	7.5%	75
E.7 Reporting	20	10%	100
E.8 Training	5	7.5%	75
E.9 Support	5	5%	50
E.10 Project Schedule	5	5%	50
E.11 Desired Features	15	5%	50
<b>Technical Score Sub-Total</b>	<b>155</b>	<b>75%</b>	<b>750</b>
<b>Evaluation Part II-Presentation</b>			
E.12 Oral Presentations	25	25	250
<b>Technical Score Total</b>	<b>180</b>	<b>100%</b>	<b>1,000</b>

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

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

$$(A/B) \times C = D$$

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. Vendor's weighted scores for sub-sections will be added to determine the Technical Score Total for the Proposal.

F. Technical Proposals that do not receive a minimum weighted score/subtotal of **350** may not move forward in the solicitation process.

### 3.2 ORAL PRESENTATION SCORE

A. After the completion of *Part 1* of the technical proposal evaluation, up to six (6) vendors with the top Technical Score Sub-Total will be contacted to schedule an Oral Presentation.

B. The buyer will create a second set of score sheets by copying the Excel workbook (including the scores entered) and naming the Consensus Score Sheets, the Weighted Score Sheets, and the Technical Summary Score Sheet in that second workbook as "Post-Presentation" score sheets.

- C. After each presentation is complete, the Evaluation Committee members will have the opportunity to discuss the presentation and revise their individual scores on the Post-Presentation Consensus Score Sheet based on the information in the presentation.
- D. The final individual scores of the evaluators on the Post-Presentation Consensus Score Sheets will be used to determine final Technical score for each proposal.

### 3.3 **GRAND TOTAL SCORE**

The maximum four (4) vendor(s) with the highest Grand Total Score will be selected as the apparent successful vendor(s). (See *Award Process*.)

	Maximum Points Possible
Technical Proposal	1,000
<b>Maximum Possible Grand Total Score</b>	<b>1,000</b>

### 3.4 **VENDOR ACCEPTANCE OF EVALUATION TECHNIQUE**

- A. Vendor **must** agree to all evaluation processes and procedures as defined in this solicitation.
- B. The submission of a *Technical Proposal Packet* **shall** signify the vendor'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 Department of Education (ADE)  
Attention: Hope Allen  
4 Capitol Mall  
Little Rock, AR 72201
- 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 vendor has successfully satisfied the agency as to the reliability and effectiveness of the goods or services purchased as a whole.
- E. The vendor 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 vendor **must** be registered with the State in order to receive payment and future *Bid Solicitation* notifications. Vendors may register on-line at <https://www.ark.org/vendor/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 vendor/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 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 vendor **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 vendor **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 vendor.

#### 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 vendor-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 vendor **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 vendor-owned items.
- B. The vendor's liability for damages to the State **shall** be limited to the value of the Contract or \$5,000,000, 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 vendor; 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 vendor 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 vendor; 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 vendor 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 vendor **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 PRICE ESCALATION**

- A. Price increases will be considered at the time of contract renewal.
- B. The vendor **must** provide the State with a written request for the price increase. The request **must** include supporting documentation demonstrating that the increase in contract price is based on an increase in market price. The State **shall** have the right to require additional information pertaining to the requested increase.
- C. Increases **shall not** be considered to increase profit or margins.
- D. The State **shall** have the right to approve or deny the request.

**4.7 CONFIDENTIALITY**

- A. The vendor, vendor's subsidiaries, and vendor'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.

**4.8 CONTRACT INTERPRETATION**

Should the State and vendor 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.

**4.9 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 vendor 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 vendor, the State **shall** agree to pay only sums due for goods and services received and accepted up to cancellation of the contract.

**4.10 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 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.



## **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. **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.
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.