



STATE OF ARKANSAS
ARKANSAS FAIR HOUSING COMMISSION
101 East Capitol Avenue, Suite 212
Little Rock, Arkansas 72201

REQUEST FOR PROPOSAL
BID SOLICITATION DOCUMENT

SOLICITATION INFORMATION			
Bid Number:	AFHC17-0003	Solicitation Issued:	July 25, 2017
Description:	Contract Services for Fair Housing Testing Services		
Agency:	Arkansas Fair Housing Commission		

SUBMISSION DEADLINE FOR RESPONSE			
Bid Opening Date:	August 30, 2017	Bid Opening Time:	8:00 a.m., Central Time
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 vendors 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 vendor without further review. It is not necessary to return "no bids" to AFHC.			

DELIVERY OF RESPONSE DOCUMENTS	
Delivery Address:	Arkansas Fair Housing Commission 101 East Capitol Avenue, Suite 212 Little Rock, AR 72201-4222 Delivery providers, USPS, UPS, and FedEx deliver mail to AFHC's street address on a schedule determined by each individual provider. These providers will deliver to AFHC based solely on the street address.
Proposal's Outer Packaging:	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. <ul style="list-style-type: none">• Bid number• Date and time of bid opening• Vendor's name and return address

ARKANSAS FAIR HOUSING COMMISSION CONTACT INFORMATION			
AFHC Buyer:	Arkansas Fair Housing Commission	Buyer's Direct Phone Number:	501-682-3247
Email Address:	Carol.johnson@arkansas.gov ; railen.mason@arkansas.gov ; lora.levisee@arkansas.gov	AFHC's Main Number:	501-682-3247
Contact Person(s):	Carol Johnson, Railen Mason, Lora Levisee		

AFHC Website:	http://www.fairhousing.arkansas.gov
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

Arkansas Fair Housing Commission, a state agency located in Little Rock, Arkansas, requests proposals for Fair Housing Testing.

1.2 TYPE OF CONTRACT

- A. A Term contract will be awarded to a single vendor.
- B. The term of this contract **shall** be for one (1) year. The anticipated starting date for the contract is October 1, 2017. Upon mutual agreement by the vendor and agency, the contract may be renewed by AFHC 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

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

1.4 BID OPENING LOCATION

Proposals received by the opening time and date **shall** be opened at the following location:

Arkansas Fair Housing Commission
101 East Capitol Avenue, Suite 212
Little Rock, Arkansas 72201

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 proposal or in subsequent correspondence, **shall** cause the vendor's proposal 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*. 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 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 received 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 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. Official Bid Price Sheet. (See *Pricing*.)

1. Vendor's original *Official Bid Price Sheet* **must** be submitted in hard copy format.
2. Vendor 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". Vendor **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 AFHC 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 vendors 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.*
 - *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.
 - Technical Proposal response to the *Information for Evaluation* section of the *Technical Proposal 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 8:00 a.m., Central Time on or before August 11, 2017 to the AFHC 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 AFHC website by the close of business on August 18, 2017.
- B. Vendors may contact the AFHC buyer with non-substantive questions at any time prior to the bid opening.
- C. No oral statement by AFHC is 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 AFHC.

1.10 PROPOSAL SIGNATURE PAGE

- A. An official authorized to bind the vendor(s) to a resultant contract **must** sign the *Proposal Signature Page* included in the *Technical Proposal Packet*.
- B. Vendor's signature on this page **shall** signify vendor's agreement that either of the following **shall** cause the vendor'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. 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 *Technical Proposal 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 *Technical Proposal Packet*.

- 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*.
- C. The utilization of any proposed subcontractor is subject to approval by the State agency.

1.13 **PRICING**

- A. Vendor(s) **must** include all pricing on the Official Price Bid Sheet(s) only. Any cost not identified by the successful vendor but subsequently incurred in order to achieve successful operation **shall** be borne by the vendor. 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. Vendor **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.

1.14 **PRIME CONTRACTOR RESPONSIBILITY**

- A. A single vendor **must** be identified as the prime contractor.
- B. The prime contractor **shall** be responsible for the contract and jointly and severally liable with any of its subcontractors, affiliates, or agents to the State for the performance thereof.

1.15 **INDEPENDENT PRICE DETERMINATION**

- A. By submission of this proposal, the vendor 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 vendors **shall** understand that this paragraph may be used as a basis for litigation.

1.16 **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 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 (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 vendor will be contacted prior to release of the documents.

1.17 **CAUTION TO VENDORS**

- A. Prior to any contract award, all communication concerning this *Bid Solicitation* **must** be addressed through AFHC.
- B. Vendor **must not** alter any language in any solicitation document provided by the State.
- C. Vendor **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 in 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. Vendor **must** provide clarification of any information in their response documents as requested by AFHC.
- H. Qualifications and proposed services **must** meet or exceed the required specifications as set forth in this *Bid Solicitation*.
- I. Vendors may submit multiple proposals.

1.18 **REQUIREMENT OF ADDENDUM**

- A. This *Bid Solicitation* **shall** be modified only by an addendum written and authorized by AFHC.
- 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 AFHC website, <http://www.fairhousing.arkansas.gov>, for any and all addenda up to bid opening.

1.19 **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 vendor has been determined, the anticipated award will be posted on the AFHC website at <http://fairhousing.arkansas.gov>.

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. AFHC **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 AFHC 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.
2. A State Procurement Official will be responsible for award and administration of any resulting contract.

1.20 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 *Proposal Signature Page*.

1.21 EQUAL OPPORTUNITY POLICY

A. In compliance with Arkansas Code Annotated § 19-11-104, Office of State Procurement (OSP) and AFHC are 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 addresses: eeopolicy.osp@dfa.arkansas.gov and carol.johnson@arkansas.gov, but should also be included as a hardcopy accompanying the solicitation response.

C. The submission of an *EO Policy* to AFHC 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 by to have an *EO Policy*, **must** submit a written statement to that effect.

1.22 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 and AFHC stating that they do not employ or contract with illegal immigrants.

B. AFHC 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.

1.23 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". Proposals submitted by vendors determined to be non-responsible **shall** be disqualified.

1.24 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.

1.25 **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.

1.26 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.

1.27 PUBLICITY

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

1.28 RESERVATION

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

SECTION 2 – MINIMUM REQUIREMENTS

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

2.1 INTRODUCTION

The Arkansas Fair Housing Commission is a quasi-judicial, regulatory, enforcement agency that works in conjunction with the U.S. Department of Housing and Urban Development to enforce fair housing rules and regulations. The Commission also conducts outreach across the state of Arkansas, teaching the requirements of the Fair Housing Act.

AFHC seeks to contract for Fair Housing Testing Services, to identify discriminatory conduct and identify trends in fair housing violations throughout the state of Arkansas.

A. TESTING

1. Vendor shall design and coordinate testing using testing methodologies that are industry-accepted, and in accordance with HUD regulations, that
 - a. Are reliable such that they can be effectively used in enforcement and litigation and
 - b. Uncover violations of the Fair Housing Act and identify trends in fair housing violations.
2. Vendor shall complete a minimum of five paired tests in each of Arkansas' Congressional Districts.
3. Vendor shall maintain a list of properly trained, available, and reliable testers.

B. TESTERS

1. Must not have prior felony convictions or convictions of any crimes involving fraud or perjury.
2. Must receive training or be experienced in testing procedures and techniques.

C. TESTERS/ ORGANIZATIONS CONDUCTING TESTS / EMPLOYEES OR AGENTS OF THE ORGANIZATIONS CONDUCTING TESTS MAY NOT

- a. have an economic interest in the outcome of the test, without prejudice to the right of any person or entity to recover damages for any cognizable injury;
- b. be a relative or acquaintance of any party in a case,
- c. have had any employment or other affiliation, within five years, with the person or organization to be tested, or
- d. be a competitor of the person or organization to be tested in the listing, rental, sale, or financing or real estate

D. RECORD KEEPING AND REPORTING

1. Maintain and submit meticulous records of activities.

2.2 PERFORMANCE STANDARDS

- A. State law requires that all contracts for services include Performance Standards for measuring the overall quality of services provided. *Table 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.

TABLE A: PERFORMANCE STANDARDS

SERVICE CRITERIA	ACCEPTABLE PERFORMANCE	DAMAGES
TESTING		
State in detail Vendors proposed testing design and proposed coordination of testing methodologies.	Testing design and coordination must be industry accepted and in compliance with HUD regulations	Vendor shall forgo all payments for tests involving testing design or coordination that does not meet applicable standards.
State in detail, how vendor will ensure the reliability of the tests such that they can be effectively used in enforcement and litigation.	Testers must follow testing methodology, as approved by Commission.	Vendor shall forgo all payments for testing that cannot be effectively used in litigation.
State in detail how vendor will ensure that testing will uncover violations of the Fair Housing Act.	Testers must follow testing methodology, as approved by Commission.	Vendor shall forgo all payments for testing not following approved methodology.
State in detail how vendor will ensure testing will identify trends in Fair Housing Violations.	Testers must follow testing methodology, as approved by Commission.	Vendor shall forgo all payments for testing not following approved methodology.

Set out a proposed schedule to perform a minimum of five paired tests in each of Arkansas' Congressional Districts.	Perform a minimum of five paired tests in each of Arkansas' Congressional Districts.	\$500 for each test not performed.
State in detail how Vendor will ensure the availability of properly trained and reliable testers.	Testing performed according to schedule, as approved by Commission.	\$100 per day, for each day testing not performed as scheduled.
TESTERS		
State in detail steps Vendor will take to ensure testers have no prior felony convictions or convictions of any crimes involving fraud or perjury.	Testing must be conducted by testers meeting qualifications.	Vendor shall forgo all payments for testing conducted by testers not meeting qualifications.
State in detail Vendor's criteria for determining a potential tester is experienced in testing procedures and techniques.	Testing must be conducted by testers meeting qualifications.	Vendor shall forgo all payments for testing conducted by testers not meeting qualifications.
State in detail proposed training process for unexperienced or new potential testers.	Testing must be conducted by testers meeting qualifications.	Vendor shall forgo all payments for testing conducted by testers not meeting qualifications.
TESTERS/ ORGANIZATIONS CONDUCTING TESTS / EMPLOYEES OR AGENTS OF THE ORGANIZATIONS CONDUCTING TESTS		
State in detail how Vendor will ensure testers/organizations conducting tests/employees or agents of the organizations conducting tests do not have an economic interest in the outcome of the test, without prejudice to the right of any person or entity to recover damages for any cognizable injury;	Testing must be conducted by testers/organizations/employees or agents of the organizations that meet designated qualifications.	Vendor shall forgo all payments for testing conducted by testers/organizations/employees or agents of the organizations not meeting designated qualifications.
State in detail how Vendor will ensure testers /organizations conducting tests/employees or agents of the organizations conducting tests are not a relative or acquaintance of any party in a case,	Testing must be conducted by testers/organizations/employees or agents of the organizations that meet designated qualifications.	Vendor shall forgo all payments for testing conducted by testers/organizations/employees or agents of the organizations not meeting designated qualifications.
State in detail how Vendor will ensure testers /organizations conducting tests/employees or agents of the organizations conducting tests have had no employment or other affiliation, within five years, with the person or organization to be tested	Testing must be conducted by testers/organizations/employees or agents of the organizations that meet designated qualifications.	Vendor shall forgo all payments for testing conducted by testers/organizations/employees or agents of the organizations not meeting designated qualifications.
State in detail how Vendor will ensure testers /organizations conducting tests/employees or	Testing must be conducted by testers/organizations/employees or agents of the organizations	Vendor shall forgo all payments for testing conducted by testers/organizations/employees

agents of the organizations conducting tests are not competitors of the person or organization to be tested in the listing, rental, sale, or financing or real estate.	that meet designated qualifications.	or agents of the organizations not meeting designated qualifications.
RECORD KEEPING AND REPORTING		
State in detail proposed record keeping and submission methods.		

SECTION 3 – CRITERIA FOR SELECTION

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

3.1 TECHNICAL PROPOSAL SCORE

- A. AFHC 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*.
- Members of the Evaluation Committee will individually review and evaluate proposals and complete an Individual Score Worksheet for each proposal. Individual scoring for each Evaluation Criteria will be based on the following Scoring Description.

Quality Rating	Quality of Response	Description	Confidence in Proposed Approach
5	Excellent	When considered in relation to the RFP evaluation factor, the proposal squarely meets the requirement and exhibits outstanding knowledge, creativity, ability or other exceptional characteristics. Not just good, extremely good.	Very High
4	Good	When considered in the relation to the RFP evaluation factor, the proposal squarely meets the requirement and is better than merely acceptable.	High
3	Adequate	When considered in relation to the evaluation factor, the proposal appears to substantially meet the requirement, but just barely meets acceptable quality.	Moderate
2	Marginal	When considered in relation to the RFP evaluation factor, the proposal barely or partially satisfies the requirement. At the lower limit of acceptable quality.	Low
1	Poor	When considered in relation to the RFP evaluation factor, the proposal does not quite meet the requirement. Inferior in quality.	Little to No Confidence
0	Unacceptable	When considered in relation to the RFP evaluation factor, the proposal does not meet the requirement, either because it was left blank or because the proposal is unresponsive in regard to this evaluation factor.	No Confidence

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
TESTING			
Testing design and coordination of testing methodologies.	5	10	50
Testing designed and conducted to be effectively used in enforcement and litigation.	5	10	50
Testing designed and conducted to uncover violations of the Fair Housing Act.	5	10	50
Testing that identifies trends in Fair Housing Violations.	5	10	50
Conducting minimum of five paired tests in each of Arkansas' Congressional Districts.	5	10	50
Availability of properly trained and reliable testers.	5	5	25
TESTERS			
Evaluation process for testers experienced in testing procedures and techniques.	5	5	25
Training process for unexperienced or new potential testers.	5	10	50
TESTERS/ ORGANIZATIONS CONDUCTING TESTS / EMPLOYEES OR AGENTS OF THE ORGANIZATIONS CONDUCTING TESTS			
Testers/Organizations conducting tests/Employees or Agents thereof meeting stated standards.	5	10	50
RECORD KEEPING AND REPORTING			
Record Keeping	5	10	50
Reporting	5	10	50
Total Technical Score	55	100%	500

*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:

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

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 Total Technical Score for the Proposal.

F. Technical Proposals that do not receive a minimum weighted score/subtotal of 200 may not move forward in the solicitation process. The pricing for proposals which do not move forward **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 vendor with the lowest seven year grand total as shown in Table One (1) 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 vendors 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 vendor. The vendor with the highest Grand Total Score will be selected as the apparent successful vendor. (See *Award Process*.)

	Maximum Points Possible
Technical Proposal	500
Cost	500
Maximum Possible Grand Total Score	1000

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 Fair Housing Commission
101 East Capitol Avenue, Suite 212
Little Rock, Arkansas 72201

- 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 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 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.
- A. 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 **\$50,000**, 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.

PRICE ESCALATION

- A. Price increases will be considered at the time of contract renewal.
- B. The vendor **must** provide to AFHC 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. AFHC **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. AFHC **shall** have the right to approve or deny the request.

4.6 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 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 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.

4.8 CANCELLATION

- A. In the event the State no longer needs the service or commodity specified in the contract or purchase order due to program changes, changes in laws, rules, or regulations, relocation of offices, or lack of appropriated funding. The State **shall** give the 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.

4.9 SEVERABILITY

If any provision of the contract, including items incorporated by reference, is declared or found to be illegal, unenforceable, or void, then both the agency and the 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 Proposal Packets **must** be submitted to the Arkansas Fair Housing Commission 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.
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 proposals 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 Arkansas Fair Housing Commission. 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 Arkansas Fair Housing Commission 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 Arkansas Fair Housing Commission 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 AFHC. 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 *Proposal 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.