



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

INVITATION FOR BID
BID SOLICITATION DOCUMENT

SOLICITATION INFORMATION			
Bid Number:	SP-18-0141	Solicitation Issued:	06/20/2018
Description:	Janitorial Service		
Agency:	DFA - Division of Building Authority		

SUBMISSION DEADLINE FOR RESPONSE			
Bid Opening Date:	07/19/2018	Bid Opening Time:	2:00 p.m., Central Time
<p>Deliver bid submissions for this Invitation For Bid to the Office of State Procurement on or before the designated bid opening date and time. In accordance with Arkansas Procurement Law and Rules, it is the responsibility of Prospective Contractors to submit bids at the designated location on or before the bid opening date and time. Bids received after the designated bid opening date and time may be considered late and may be returned to the Prospective Contractor without further review. It is not necessary to return "no bids" to OSP.</p>			

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

OFFICE OF STATE PROCUREMENT CONTACT INFORMATION			
OSP Buyer:	Timothy F. Hicks	Buyer's Direct Phone Number:	501-682-4112
Email Address:	timothyf.hicks@dfa.arkansas.gov	OSP's Main Number:	501-324-9316
OSP Website:	http://www.dfa.arkansas.gov/offices/procurement/Pages/default.aspx		

SECTION 1 - GENERAL INSTRUCTIONS AND INFORMATION

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

1.1 PURPOSE

This Invitation for Bid (IFB) is issued by the Office of State Procurement (OSP) for DFA - Division of Building Authority (DBA) to provide Janitorial Service for one (1) building located at 625 Marshall, Little Rock, AR 72201.

1.2 TYPE OF CONTRACT

- A. As a result of this IFB, OSP intends to award a contract to a single Contractor.
- B. The anticipated starting date for any resulting contract is **October 1, 2018** except that the actual contract start date may be adjusted forward unilaterally by the State for up to three calendar months. By submitting a signed bid in response to the IFB, the Prospective Contractor represents and warrants that it will honor its bid as being held open as irrevocable for this period.
- C. The initial term of a resulting contract will be for one (1) year. Upon mutual agreement by the Contractor and agency, the contract may be renewed by OSP for up to six (6) additional one-year terms or portions thereof, not to exceed a total aggregate contract term of seven (7) consecutive years.

1.3 ISSUING AGENCY

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

1.4 BID OPENING LOCATION

Bids will be opened at the following location:

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

1.5 ACCEPTANCE OF REQUIREMENTS

- A. A Prospective Contractor **must** unconditionally accept all Requirements in the Requirements Section(s) of this IFB to be considered a responsive Prospective Contractor.
- B. A Prospective Contractor's bid will be disqualified if a Prospective Contractor takes exceptions to any Requirements in the Requirements Section(s) of this IFB.

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. Unless otherwise defined herein, all terms defined in Arkansas Procurement Law and used herein have the same definitions herein as specified therein.
- C. "Prospective Contractor" means a person who submits a bid in response to this solicitation.
- D. "Contractor" means a person who sells or contracts to sell commodities and/or services.
- E. The terms "Invitation For Bid", "IFB," "Bid Solicitation," and "Solicitation" are used synonymously in this document.
- F. "Responsive bid" means a bid submitted in response to this solicitation that conforms in all material respects to this IFB.
- G. "Bid Submission Requirement" means a task a Prospective Contractor completes when submitting a bid response. These requirements will be distinguished by using the term "**shall**" or "**must**" in the requirement.

- H. "Requirement" means a specification that a Contractor's product and/or service **must** perform during the term of the contract. These specifications will be distinguished by using the term "shall" or "must" in the requirement.
- I. "State" means the State of Arkansas. When the term "State" is used herein to reference any obligation of the State under a contract that results from this solicitation, that obligation is limited to the State agency using such a contract.

1.7 **RESPONSE DOCUMENTS**

A. Bid Response Packet

1. Bid Submission Requirements

a. Prospective Contractor **shall** provide the following:

i. Original signed *Bid Signature Page*. (See *Bid Response Packet*.)

- An official authorized to bind the Prospective Contractor(s) to a resultant contract **must** sign the Bid Signature Page included in the Bid Response Packet.
- Prospective Contractor's signature signifies agreement to and compliance with all Requirements in this IFB, and that any exception that conflicts with a Requirement or Bid Submission Requirement of this *Bid Solicitation* will cause the Prospective Contractor's bid to be disqualified.

ii. One (1) original hard copy of the *Official Bid Price Sheet*.

b. Bid response **must** be in the English language.

c. Pricing **must** be proposed in U.S. dollars and cents.

2. The following items should be submitted in the original *Bid Response Packet*.

a. One (1) electronic copy of the *Official Bid Price Sheet*, preferably on a flash drive. A CD will also be acceptable.

b. EO 98-04 Disclosure Form. (See *Standard Terms and Conditions, #27. Disclosure*.)

c. Copy of Prospective Contractor's *Equal Opportunity Policy*. (See *Equal Opportunity Policy*.)

3. **DO NOT** include any other documents or ancillary information, such as a cover letter or promotional/marketing information.

1.8 **CLARIFICATION OF BID SOLICITATION**

- A. The Prospective Contractor should notify the OSP buyer of any term, condition, etc., that precludes the Prospective Contractor from submitting a compliant, responsive proposal. Prospective Contractors should note that it is the responsibility of the Prospective Contractor to seek resolution of all such issues, including those relating to the terms and conditions of the contract, prior to the submission of a bid.
- B. Prospective Contractors may contact the OSP buyer with non-substantive questions at any time prior to the bid opening.
- C. An oral statement by OSP will not be part of any contract resulting from this solicitation and may not reasonably be relied on by any Prospective Contractor as an aid to interpretation unless it is reduced to writing and expressly adopted by OSP.
- D. Prospective Contractors entering into a contract with the State **shall** comply with all the terms and conditions contained herein.

1.9 SUBCONTRACTORS

No Sub-contractors will be considered for this IFB.

1.10 PRICING

- A. Prospective Contractor(s) **shall** include all pricing on the Official Bid Price Sheet(s) only. If any cost is not identified by the successful Contractor but is subsequently incurred in order to achieve successful operation, the Contractor **shall** bear this additional cost. The *Official Bid Price Sheet* is provided as a separate electronic file posted with this *Bid Solicitation*.
- B. To allow time to review bids, prices **must** be valid for 90 days following the bid opening.
- C. DO NOT submit any ancillary information not related to actual pricing on or with the Bid Price Sheet.

1.11 PRIME CONTRACTOR RESPONSIBILITY

- A. A single Prospective Contractor **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.

1.12 INDEPENDENT PRICE DETERMINATION

- A. By submission of this bid, the Prospective Contractor certifies, and in the case of a joint response, each party thereto certifies as to its own organization, that in connection with this bid:
 - The prices in the bid 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 warrants consideration of this bid by the Office of the Attorney General. All Prospective Contractors **shall** understand that this paragraph may be used as a basis for litigation.

1.13 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. In accordance with FOIA and to promote maximum competition in the State competitive bidding process, the State may maintain the confidentiality of certain types of information described in FOIA. Such information may include trade secrets defined by FOIA and other information exempted from the Public Records Act pursuant to FOIA.
- C. Prospective Contractor may designate appropriate portions of its response as confidential, consistent with and to the extent permitted under the Statutes and Rules set forth above, by submitting a redacted copy of the response.
- D. By so redacting any information contained in the response, the Prospective Contractor warrants that it has formed a good faith opinion having received such necessary or proper review by counsel and other knowledgeable advisors that the portions redacted meet the requirements of the Rules and Statutes set forth above.
- E. Under no circumstances will pricing information be designated as confidential.
- F. 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 *Bid Response Packet*. A CD is also acceptable. Do not submit documents via email or fax.
- G. 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.

- H. The Prospective Contractor is responsible for identifying all proprietary information and for ensuring the electronic copy is protected against restoration of redacted data.
- I. The redacted copy will be open to public inspection under the Freedom of Information Act (FOIA) without further notice to the Prospective Contractor.
- J. If a redacted copy of the submission documents is not provided with Prospective Contractor's *Bid Response Packet*, a copy of the non-redacted documents, with the exception of financial data (other than pricing), will be released in response to any request made under the Arkansas Freedom of Information Act (FOIA).
- K. If the State deems redacted information to be subject to FOIA, the Prospective Contractor will be contacted prior to release of the documents.
- L. The State has no liability to a Prospective Contractor with respect to the disclosure of Prospective Contractor's confidential information ordered by a court of competent jurisdiction pursuant to FOIA or other applicable law.

1.14 **CAUTION TO PROSPECTIVE CONTRACTORS**

- A. Prior to any contract award, address all communication concerning this *Bid Solicitation* through the OSP buyer.
- B. Do not alter any language in any solicitation document provided by the State.
- C. Do not alter the Official Bid Price Sheet.
- D. All official documents and correspondence related to this solicitation become part of the resultant contract.
- E. The State has the right to award or not award a contract, if it is in the best interest of the State to do so.
- F. As requested, provide clarification regarding Prospective Contractor's bid response to OSP.
- G. Qualifications and proposed services **must** meet or exceed the required specifications as set forth in this *Bid Solicitation*.
- H. Prospective Contractors may submit multiple bids.

1.15 **REQUIREMENT OF ADDENDUM**

- A. Only an addendum written and authorized by OSP will modify this *Bid Solicitation*.
- B. An addendum posted within three (3) calendar days prior to the bid opening may extend the bid opening and may or may not include changes to the Bid Solicitation.
- C. The Prospective Contractor is expected to check the OSP website, <http://www.arkansas.gov/dfa/procurement/bids/index.php>, for any and all addenda up to bid opening.

1.16 **AWARD PROCESS**

- A. Successful Contractor Selection
 - 1. Award will be made to the lowest-bidding, responsible Prospective Contractor on a/an **ALL OR NONE Total Annual Cost for All Services basis. (Attachment "E")**
- B. Negotiations
 - 1. If the State so chooses, negotiations may be conducted with the lowest-bidding Prospective Contractor. Negotiations are conducted at the sole discretion of the State.
 - 2. If negotiations fail to result in a contract, the State may begin the negotiation process with the next lowest-bidding Prospective Contractor. The negotiation process may be repeated until the anticipated successful Contractor 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 Contractor has been determined, the anticipated award will be posted on the OSP website at http://www.arkansas.gov/dfa/procurement/pro_intent.php.
2. The anticipated award will be posted for a period of fourteen (14) days prior to the issuance of a contract. Prospective Contractors and agencies are cautioned that these are preliminary results only, and a contract will not be issued prior to the end of the fourteen day posting period.
3. OSP may waive the policy of Anticipation to Award when it is in the best interest of the State.
4. It is the Prospective Contractor's responsibility to check the OSP website for the posting of an anticipated award.

D. Issuance of Contract

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

1.17 MINORITY AND WOMEN-OWNED BUSINESS POLICY

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

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

B. A women-owned business is defined by Act 1080 of the 91st General Assembly Regular Session 2017 as a business that is at least fifty-one percent (51%) owned by one (1) or more women who are lawful permanent residents of this State.

C. The Arkansas Economic Development Commission conducts a certification process for minority-owned and women-owned businesses. If certified, the Prospective Contractor's Certification Number should be included on the *Bid Signature Page*.

1.18 EQUAL OPPORTUNITY POLICY

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

B. *EO Policies* may be submitted in electronic format to the following email address: eeopolicy.osp@dfa.arkansas.gov, but should also be included as a hardcopy accompanying the solicitation response.

C. The submission of an *EO Policy* to OSP is a one-time Requirement. Contractors 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. Prospective Contractors who are not required by law to have an *EO Policy* **must** submit a written statement to that effect.

1.19 PROHIBITION OF EMPLOYMENT OF ILLEGAL IMMIGRANTS

A. Pursuant to Arkansas Code Annotated § 19-11-105, Contractor(s) providing services **shall** certify with OSP that they do not employ or contract with illegal immigrants.

- B. By signing and submitting a response to this *Bid Solicitation*, a Prospective Contractor agrees and certifies that they do not employ or contract with illegal immigrants. If selected, the Prospective Contractor certifies that they will not employ or contract with illegal immigrants during the aggregate term of a contract.

1.20 RESTRICTION OF BOYCOTT OF ISRAEL

- A. Pursuant to Arkansas Code Annotated § 25-1-503, a public entity **shall not** enter into a contract with a company unless the contract includes a written certification that the person or company is not currently engaged in, and agrees for the duration of the contract not to engage in, a boycott of Israel.
- B. This prohibition does not apply to a company which offers to provide the goods or services for at least twenty percent (20%) less than the lowest certifying business.
- C. By checking the designated box on the Bid Signature Page of the response packet, a Prospective Contractor agrees and certifies that they do not, and will not for the duration of the contract, boycott Israel.

1.21 PAST PERFORMANCE

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

1.22 COMPLIANCE WITH THE STATE SHARED TECHNICAL ARCHITECTURE PROGRAM

The Prospective Contractor's commodity or service **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.

1.23 VISA ACCEPTANCE

- A. Awarded Contractor 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) **must not** be levied against the State when accepting the p-card as a form of payment.
- C. VISA is not the exclusive method of payment.

1.24 PUBLICITY

- A. Do not discuss the solicitation nor your bid response, nor issue statements or comments, nor provide interviews to any public media during the solicitation and award process.
- B. Failure to comply with this Requirement may be cause for a Prospective Contractor's bid to be disqualified.

1.25 RESERVATION

The State will not pay costs incurred in the preparation of a bid.

SECTION 2 – REQUIREMENTS

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

2.1 INTRODUCTION

This Invitation for Bid (IFB) is issued by the Office of State Procurement (OSP) for DFA - Division of Building Authority (DBA), to obtain pricing and a contract for Janitorial Services.

Approximate cleanable square footage is: **119,556**.

DBA reserves the right to make additions or deletions to the current cleanable square footage based on construction requirements, needs of the agency, and/or unknown requirements at the time of this IFB.

The square foot price will be used to calculate the cost in the event the building cleaning area should have additions or deletions.

Additions or deletions in square footage that occurs prior to the 15th of any month will become effective the 1st day of the month in which the change occurs. Conversely, any increases or decreases will occur after the 15th of any month will become effective the 1st day of the following month.

NOTE: Before submitting a bid each Bidder **shall** carefully read the Invitation for Bid specifications. Prior to submitting a bid, each Bidder **shall** fully inform themselves as to all existing conditions and limitations under which the work is to be performed and **shall** include in the bid a sum to cover the cost of all items necessary to perform the work as set forth in the contract documents. No allowances will be made to any Bidder because of lack of examination or knowledge.

2.2 SITE VISITATION: MANDATORY

The agency will have one mandatory walk-through for all Prospective Contractors interested in bidding. No more than two (2) representatives from each vendor **shall** be allowed to attend the walk-through.

Site visit will be held at:

DFA - Division of Building Authority
Justice Building
625 Marshall Street
Little Rock, AR 72201

Date: July 10th, 2018
Time: 10:00 a.m.

A sign in sheet **must** be signed upon arrival.

Late arrivals will not be permitted to join the tour.

Attached is a Site Visit Form (Attachment "D") which **must** be signed by the building contact personnel after the completion of the site visit. The site inspection form should be submitted, with the Prospective Contractor's bid response, to be considered for the job.

NOTE: Failure to attend the walk-through, on the scheduled date and time, will result in a rejection of the Prospective Contractor's bid response.

2.3 PROSPECTIVE CONTRACTOR RESPONSIBILITIES

A. BUSINESS LICENSE

1. The Prospective Contractor **must** have a valid Arkansas business license. A copy of the license should be submitted prior to anticipation to award, or when requested by OSP.

2. The Prospective Contractor is required to maintain a valid Arkansas business license (Per City or County) throughout the term of the contract. In the event that a Prospective Contractor's business license expires or becomes invalid, the Prospective Contractor will have fifteen (15) business days to obtain a new or renewed license. Should a business license require more than fifteen (15) days, justification **must** be submitted by the City or County in which the Prospective Contractor is licensed. If justification is not submitted from the City or County, DBA may submit a thirty (30) day cancellation notice to the Prospective Contractor.
3. The Prospective Contractor will be responsible for any cost associated with an invalid or delinquent license
4. The business license name **must** be as shown on the bid response or awarded contract. Failure to provide a current Arkansas business license, as specified above, shall result in a VPR for "non-performance" and shall constitute grounds for contract cancellation upon thirty (30) day notice of cancellation to the Prospective Contractor.

B. REFERENCES

Bidders are required to submit the following references to OSP, when requested, prior to anticipation to award:

- a. Prospective Contractor should submit at least three (3) reference accounts, all of which **must** be located in Central Arkansas, to whom Prospective Contractor has been providing client services of a same or similar nature within the last two (2) years. (See map defining Central Arkansas area – Identified as ADEM Emergency Management Areas – Attachment "B"). Submitted reference accounts should be on reference accounts company letterhead.
- b. Each reference should include contact person, telephone numbers including cell phone number if possible, and email address.
- c. Office of State Procurement (OSP) reserves the right to contact any or all clients of the bidder even if they were not provided by the Prospective Contractor. Sites may be visited by OSP and/or the DAH Representative at any time.
- d. Successful bidder **must** have cleaned commercial general office space with a minimum of **110,000 square feet** or more, for a consecutive twelve (12) month period, within the last year. Combining square footage for multiple buildings does not meet this requirement.
- e. The reference accounts should rate the quality of cleaning by rating the bidder's performance as to poor, fair, good or excellent in quality of cleaning.

C. CRIMINAL BACKGROUND CHECKS

1. Prior to awarding, the Prospective Contractor will provide, at no cost to the State of Arkansas, the following Criminal Background Check Reports (Background Reports – Attachment "C") on:
 - a. Prospective Contractor and company official.
 - b. Supervisors and Employees.
2. **ONLINE BACKGROUND REPORTS WILL NOT BE ACCEPTED.** Arkansas State Police (ASP) certified background reports on all employees **shall be provided to DBA** prior to placement in the building, including employees that may be added at a later date or those employees that are used for infrequent tasks such as; Monthly, Semi-Annual, or Annual cleaning requirements.
 - a. Background reports **must** be current. Current is defined as background reports which are dated and received by DBA within (72) hours of being sent by the Arkansas State Police (ASP). Background reports which are not current **shall** not be considered.
 - b. OSP and DBA reserve the right to terminate any resultant contract resulting from this IFB should evidence show tampering of any Background Reports.

- c. The Prospective Contractor **shall** utilize the ASP for all Background Reports.
- d. Prospective Contractor **shall** immediately notify DBA of any changes or substitution of any employees assigned to the building locations. Background Reports **shall** be sent by ASP directly to DBA for review.
- e. All employees working in the building must pass an ASP criminal background check prior to the commencement of their work. No employee **shall** be placed in the building and commence work until and unless they have passed an ASP criminal background check. DBA reserves the right to determine if a company employee passes or fails the criminal background check based on the results of the check. If the individual fails they **shall** not be allowed to work or visit the building in performance of any contractual duties or responsibilities.
- f. The apparent low bidder **shall** utilize the ASP Identification Bureau Individual Record Form pursuant to the instructions as stated on the form. The apparent low bidder **shall** send the completed forms directly to ASP once the Anticipation to Award notification is issued. The ASP form is included in this IFB.
- g. **Renewal Periods:** DBA requires, at no cost to the State, current reports, current is defined as background reports which are dated and received by DBA within (72) hours of being sent by the Arkansas State Police (ASP). Background reports which are not current **shall** not be considered, on all individuals that will be placed in the building at the start of each contract renewal period. Contractor **shall** complete the Form for each employee and submit it to the ASP not more than thirty (30) days prior to the start of the renewal period. DBA **shall** supply copies of the criminal background information to OSP upon receipt of documents. Previously provided background checks will not be accepted.
- h. **Additional Background Checks:** DBA reserves the right to require, at no cost to the State, additional background checks of any employee at any time during the initial or any subsequent terms of the contract should good cause exist and is provided to the Contractor. DBA **shall** have sole authority to determine good cause. Contractor **shall** complete the Form and send it directly to the ASP after written notification has been provided. DBA **shall** supply copies of the criminal background information, when requested, to OSP.

2.4 **POLYGRAPH EXAMINATIONS**

DBA reserves the right to have Prospective Contractor's employees take polygraph examinations under the provisions of Public Law #100-347, 29 USC 2001 et. seq. All expenses for polygraph examinations will be at the expense of the successful bidder.

2.5 **PROTECTION OF PROPERTY**

- A. Contractor **shall** take all precautions necessary to prevent the unauthorized use or pilferage of materials, tools, equipment, fixtures, furnishings, and any other items from the building including but not limited to tenant offices and common areas.
- B. Telephones and all other equipment installed in the offices are the property of the State of Arkansas and **shall** not be utilized by the Prospective Contractor or their employees. Unauthorized use is subject to reimbursement to the State.
- C. The Prospective Contractor **shall** also be responsible for any loss or damage to the State's property and to the property of other's due to the Contractor's personnel, and shall make good, at his own expense, such loss or damage at the request of DBA.
- D. Supervisor **shall** visually check all employees when entering and leaving the building. Except in the case of an emergency or trash removal employees **must** not exit the building until their shift is completed.
- E. Equipment and Materials: The Prospective Contractor **shall** be responsible for any loss, damage, or destruction of their own property or that of any equipment and materials used in conjunction with the work performed. The Prospective Contractor **shall** purchase at Prospective Contractor's own expense such policy to cover Prospective Contractor's owned property.

2.6 CLEANING SUPPLIES AND COMPLIANCE

- A. The Prospective Contractor **shall** provide all labor, equipment, and cleaning supplies needed to ensure satisfactory performance of the contract. Cleaning supplies that **must** be provided by the Prospective Contractor include, but are not limited to: tissue paper, paper towels (white bleached where available), liquid soap, trash can liners (floor, wall unit, and sanitary napkin receptacles) glass cleaners, air freshener/dispenser units for restrooms, all sanitizing and cleaning products used by the Prospective Contractor in performance of this contract, and vacuum cleaners with HEPA filters.
- B. DBA request the use of certified green cleaning products to help create a healthy work environment for the janitorial staff and its building occupants. DBA specification encourage the most environmentally friendly products with equivalent or higher performance at equal or lower cost than traditional products.
- C. The **Contractor** shall be responsible for receiving, handling, storage, and delivery of all materials and equipment needed for the performance of this contract and maintaining the Building at 625 Marshall Street, Little Rock, AR.
- D. DBA encourages the use of green products when available.
- E. Product Safety Data Sheets are to be available, within (24) business hours, when requested by DBA on all products used by the contractor.

2.7 INSURANCE REQUIREMENTS

- A. Prior to anticipation to award or when requested by OSP, the Contractor must furnish an approved “Certificate of Insurance” and must maintain the following insurance requirement throughout the contract period.
- B. The insurance may not be modified without OSP and DBA approval.
- C. Liability Limits are as follows:

Commercial General Liability	
Each Occurrence	\$1,000,000.00
General Aggregate	\$2,000,000.00
Automobile Liability	
Combined Single Limit	\$1,000,000.00
Worker's Compensation and Employer's Liability	
Worker's Compensation	Statutory Limits
Employer Liability	\$100,000.00
Disease Each Employee	\$100,000.00
Umbrella Liability	
Each Occurrence	\$2,000,000.00
General Aggregate	\$2,000,000.00

- D. Each Certificate of Insurance shall name OSP and DBA as certificate holders with the intent to notify same of any intention to cancel the insurance within ten (10) days.
- E. The Contractor is required to provide Commercial General Liability insurance with the additional insured endorsement that is primary non-contributory. All policies shall contain a waiver of subrogation against the State of Arkansas and DFA - Division of Building Authority arising from work performed by or on behalf of the Contractor.

2.8 JANITORIAL SERVICE REQUIREMENTS

A. SERVICE HOURS

Janitorial (one-day person) services shall be performed: **Monday through Friday, 8:00 a.m. to 4:30 p.m., except on holidays observed by the State.**

Janitorial (After-hours) services shall be performed: **Monday through Friday, 5:00 p.m. to 9:00 p.m., except on holidays observed by the State.**

Periodic work may be approved for weekends by DBA personnel. Any variation from normal service hours must be approved by DBA prior to schedule change.

B. NON-PERMITTED ENTRANCE TO BUILDING

1. Visitors or children are not permitted to accompany the Prospective Contractor or any employee's while performing janitorial service duties as required by this IFB.
2. A Prospective Contractor or employee allowing visitors or children in the building, while performing janitorial service duties, will result in a Vendor Performance Report (VPR) being issued to the Prospective Contractor in accordance with this IFB.
3. DBA does not permit weaponry of any type, by the contractor or the contractor's staff, at the 625 Marshall, Little Rock, AR location. Should weaponry be discovered or be involved in any incident, immediate termination of the contractor and/or staff will be given.
4. A Prospective Contractor receiving a negative VPR may be terminated from contract.

2.9 JANITORIAL TASK & FREQUENCY SCHEDULE

See attachment "A" – Janitorial Task & Frequency Schedule.

2.10 DEFINITION OF TASK AS REQUIRED BY DBA

- A. **VACUUM** – Use of a Vacuum Cleaner (Commercial or Residential model) to remove debris and/or particles from carpeted areas including entrance carpets and rugs throughout the building. Vacuum Cleaner should be a HEPA model to reduce allergians and pollutants from being airborne. Carpets shall be clean and free from dust balls, dirt and other debris. NOTE: Prior to vacuuming area, move and vacuum under all easily movable objects (chairs, waste receptacles, tables on wheels). Replace all items moved.
- B. **MOPPING** - Use of a wet mop (cloth, dust, micro-fiber, wool, cloth strip, etc.) to wipe debris from the floor surface. Use of appropriate floor cleaners per the surface receiving the mopping. Monthly cleaning requirement for the Tile floors are to include scrubbing/buffing with water and a mild abrasive. Signage should be utilized (Caution: Wet Floors) when floors are wet from mopping, rain, or being cleaned. Floors **must** be clean and free of dirt, water streaks, mop marks, strings; properly rinsed and presenting an overall appearance of cleanliness. Baseboards, walls, furniture and equipment **must** in no way be splashed, disfigured or damaged during mopping task.
- C. **SWEEPING** – Use of appropriate sweeping devise (Straw Broom, Electric Broom, and/or Dust Mop) to remove debris and/or particles from floors other than carpeted areas. Corners, under furniture, behind doors, stairwells, entrances, and the parking garage are to be included in the sweeping process.
- D. **GLASS** – All interior glass windows, glass panels, and exterior glass windows at building entrances are to be cleaned with appropriate glass cleaning product solutions and cloth. No streaks or cloth residue visible by the naked eye. Thoroughly clean all glass and mirrors using an approved alcohol based glass cleaner. Squeegee may be used as needed.
- E. **DUSTING** – Appropriate dusting product solution cleaners to be used per the surface receiving the dusting. Dusting devices are to be appropriate for the surface receiving dusting. E.g. Soft dusting cloth, feather duster, pre-treated dusting cloth, micro-fiber cloth, etc. Dusting devices **must** not scratch or cause damage to area receiving treatment. No streaks or cloth residue should be visible by the naked eye. Dusting of desks, tables, chairs, all fixtures, ledges, edges, shelves, exposed pipes, door frames, office partitions, defibrillator boxes, storage areas, tops of file cabinets, etc. Areas not cleared by office occupant are not to be dusted.
- F. **DISPOSE OF TRASH** – Trash debris to be removed from all trash receptacles and deposited in appropriate containers (out back) for waste company to pick-up and dispose of as scheduled. Trash dumpsters are located outside the building at the back and next to parking garage entrance. Doors cannot be left ajar during the removing of trash. Key cards are to be used to scan in and out of the building during trash removal process.

Exterior trash removal including the outside trash receptacle close to the DBA Maintenance Office, should be limited to one (1) time per night using the bin cart containing interior trash and debris. Waste receptacles should not, at any time, have an offensive odor due to contents or lack of cleaning methods to the removal of trash. Trash receptacles should be cleaned with appropriate cleaners when needed.

- G. **EMPTY RECYCLE BINS** – Recycle Bins that are full or substantially full are to be gathered from throughout the building and taken to the storage areas by the maintenance office so they can be emptied as needed by the recycle service. Empty recycle bins can be picked up at the same location and returned throughout the building as needed. These bins should be checked daily.
- H. **DISHES/DISHWASHER** - In the Supreme Court break area only (west side, second floor), all dishes left in the sink need to be loaded in the dishwasher and a wash cycle started. Only those dishes left in this area should be placed in the dishwasher. Staff should not remove dishes from individual offices or any tables or conference rooms. Servicing the dishes and loading in the dishwasher should be done on a daily basis.
- I. **CLEAN STAINLESS ITEMS** – Use appropriate cleaner solutions for cleaning stainless items in the Kitchen/Break Rooms. Cleaning device should leave no streaks or cloth residue visible by the naked eye.
- J. **SANITIZE** – Area’s receiving treatment (Kitchen, breakrooms, drinking fountains, restrooms, door handles, and elevator control panel) are to be cleaned with the appropriate cleaner for sanitizing. Sanitizing cleaning devices should leave no streaks or cloth residue visible by the naked eye.
- K. **MICROWAVES CLEANED** – Inside of microwaves **must** be cleaned with appropriate cleaner. Racks to be removed when needed and washed in warm soapy water. Racks are to be replaced, cleaned and ready for use. Glass area should receive cleaning both inside and out with appropriate cleaner. No streaks or cloth residue visible by the naked eye. **DO NOT USE COMBUSTIBLE CLEANING** solutions for cleaning the Microwave. All safety measures are to be applied by the Prospective Contractor employees regarding the cleaning of any electrical device.
- L. **REFRIGERATORS CLEANED** - Clean outside surfaces of refrigerators with appropriate cleaners by wiping down surfaces and door handles. Wiping inside unit or discarding any personal items should not be done. All safety measures are to be applied by the Prospective Contractor employees regarding the cleaning of an electrical device.
- M. **REPLENISH INVENTORY** – Restock areas that require products/inventory for daily use. E.g. toilet tissue, paper towels, soap, and trash liners.
- N. **OVERHEAD LIGHTING AND LIGHT FIXTURES** – An extendable cleaning device designed for dusting overhead items should be utilized. Cleaning device **must** not damage or leave residue on the areas receiving the service. The use of ladders is discouraged by DBA. However, if used, please notify DBA that ladders are being used for this cleaning requirement. Any dust particles that may fall to the ground are to be removed through the vacuuming process. Do we need something like this?????
- O. **DEEP CLEANING** – Cleaning methods that include removal of debris in corners, crevices, spiral designs, grout, etc. An exceptionally intense, time required, cleaning process. Appropriate cleaners are to be utilized.
- P. **SPOT REMOVAL** – Floor or carpeted areas that may have spots are to be cleaned using the appropriate cleaning equipment/device. Cleaning solutions are to be appropriate for the removal of spots. No solutions used should cause damage or offensive odors to the employees. Any solutions that cause further damage to areas receiving the treatment are to be reported immediately to the Prospective Contractor. Buildup, spillage or crusted material **shall** have been removed along with spots, smears and stains. There **shall** be no evidence of “fuzzing” caused by harsh rubbing or brushing of carpet. Spot cleaned areas **shall** blend with adjacent areas. Signage should be used to indicate “wet” or “slippery” area.
- Q. **SHAMPOOING** – Carpeted areas are to be shampooed with the appropriate cleaning machines (Commercial or Residential). Machines should extract excess water, dirt and debris from area receiving service. Cleaning solutions **must** be appropriate for shampooing the carpets. Neither the cleaning machine nor the solution should cause damage to the areas cleaned. No fuzzing or spotting of carpet should be seen after cleaning and

drying of the carpeted areas. Solutions should be environmental safe for employees when they return to work after the cleaning of the carpets. No harsh chemicals are to be used as cleaning solutions. All safety measures **must** be taken by the Prospective Contractor's employees when cleaning carpeted areas. Signage **must** be utilize to indicate "wet" or "slippery" areas.

- R. **PARKING GARAGE** – Inspect the parking garage daily to remove any dirt, trash and debris. The parking garage should be serviced weekly and free of all dirt, trash, and debris. Trash receptacles need to be emptied and any oil spots should be removed with a degreaser and treated with Oil Dry or an equivalent product.

2.11 **MATERIALS AND SUPPLIES**

A. **PAPER GOODS**

1. DBA will furnish the paper goods i.e., toilet paper, paper towels and soap for the restrooms. These items will be stored in the janitorial closet located in Room 130 of the building. The janitorial staff will use as needed throughout the building.
2. All other cleaning supplies used to clean the building will be provided by the contractor at their expense.
3. Janitorial closets should be kept clean, safe, sanitary, odor free and in a neat manner.

B. **KEYS**

1. Building Manager will assign all building keys to Contractor.
2. Copies of keys are not to be made by the Contractor.
3. Building keys are not to be taken home by the Contractor or employees. The keys will be secured in the Janitorial supply area in a locked container.

2.12 **REQUIRED DOCUMENTATION**

OSP reserves the right to request required documentation, if not included with the IFB, prior to Anticipation to Award or at a time necessary to complete the review of the lowest responsive, responsible Prospective Contractor. Requested documentation **must** be received by OSP within (72) hours of written or verbal request.

2.13 **ACCEPTANCE STANDARDS**

Inspection and acceptance/rejection of product(s) will be made within thirty (30) days of receipt. The State has the option to return any product(s) within the thirty (30) day timeframe for any reason. Bid **must** include a "total satisfaction" return policy for all products and **must not** impose any liability on the State for such returns.

2.14 **PERFORMANCE STANDARDS**

- A. State law requires that all contracts for services include Performance Standards for measuring the overall quality of services provided that a Contractor **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. *Performance Standards* identifies expected deliverables, performance measures, or outcomes; and defines the acceptable standards.
- C. The State has the right to modify, add, or delete Performance Standards throughout the term of the contract, should the State determine it is in its best interest to do so. Any changes or additions to performance standards will be made in good faith following acceptable industry standards, and may include the input of the Contractor so as to establish standards that are reasonably achievable.
- D. All changes made to the Performance Standards will become an official part of the contract.
- E. Performance Standards will continue throughout the aggregate term of the contract.
- F. Failure to meet the minimum Performance Standards as specified will result in the assessment of damages.
- G. In the event a Performance Standard is not met, the Contractor will have the opportunity to defend or respond to the insufficiency. The State has the right to waive damages if it determines there were extenuating factors

beyond the control of the Contractor that hindered the performance of services. In these instances, the State has final determination of the performance acceptability.

- H. Should any compensation be owed to the State agency due to the assessment of damages, Contractor **shall** follow the direction of the State agency regarding the required compensation process.

Service Criteria	Acceptable Performance	Damages for Insufficient Performance
Daily and Weekly Cleaning	Agency complaints must be corrected within eight (8) business hours of complaint or notification.	<p>If correction is not complete within eight (8) business hours: \$8.50 per hour will be deducted from the next monthly invoice. The charge per hours will begin the ninth (9th) business hour from the complaint or notification until DBA and the Prospective Contractor have documented that the issue has been resolved.</p> <p>Incidents may result in a below standard Vendor Performance Report.</p>
Monthly, Quarterly, Semi-Annual, and Annual Cleaning	Agency complaints must be corrected within twenty-four (24) business hours of complaint or notification.	<p>If correction is not complete within 24 business hours: \$8.50 per hour will be deducted from the next monthly invoice. The charge per hour will begin the 25th business hour from complaint or notification until DBA and the Prospective Contractor have documented that the issue has been resolved.</p> <p>Incidents may result in a below standard Vendor Performance Report.</p>
Cleaning Products	All products used must be manufactured for cleaning the area being serviced.	<p>Failure to use compliant products will result in a deduction of \$25.00 (per product or instance) from the next monthly invoice. Damage resulting from products misused or products not recommended for areas serviced will be the Prospective Contractor's responsibility to repair, correct, replace, or bring to the same condition prior to cleaning.</p> <p>Incidents may result in a below standard Vendor Performance Report.</p>

SECTION 3 – GENERAL CONTRACTUAL ITEMS

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

3.1 PAYMENT AND INVOICE PROVISIONS

A. Forward invoices to:

Division of Building Authority
ATTN: Contract Analyst
501 Woodlane, Suite 101N
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. Do not invoice the State in advance of delivery and acceptance of any goods or services.
- D. Payment will be made only after the Contractor has successfully satisfied the agency as to the reliability and effectiveness of the goods or services purchased as a whole.
- E. The Contractor should invoice the agency by an itemized list of charges. The agency's Purchase Order Number and/or the Contract Number should be referenced on each invoice.
- F. Other sections of this *Bid Solicitation* may contain additional Requirements for invoicing.
- G. Selected Contractor **must** be registered to receive payment and future *Bid Solicitation* notifications. Contractors may register on-line at <https://www.ark.org/contractor/index.html>.

3.2 GENERAL INFORMATION

A. The State will not:

1. 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 Contractor/lessor in the event funds are not appropriated.
2. Contract with another party to indemnify and defend that party for any liability and damages.
3. Pay damages, legal expenses or other costs and expenses of any other party.
4. Continue a contract once any equipment has been repossessed.
5. Agree to any provision of a contract which violates the laws or constitution of the State of Arkansas.
6. Enter a contract which grants to another party any remedies other than the following:
 - a. The right to possession.
 - b. The right to accrued payments.
 - c. The right to expenses of de-installation.
 - d. The right to expenses of repair to return the equipment to normal working order, normal wear and tear excluded.
 - e. The right to recover only amounts due at the time of repossession and any unamortized nonrecurring cost as allowed by Arkansas Law.

- B. Any litigation involving the State **must** take place in Pulaski County, Arkansas.

- C. The laws of the State of Arkansas govern this contract.
- D. A contract is not effective prior to award being made by a State Procurement Official.
- E. 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.

3.3 **CONDITIONS OF CONTRACT**

- A. 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. Indemnify and save harmless the agency and all its officers, representatives, agents, and employees against any claim or liability arising from or based upon the violation of any such law, ordinance, regulation, order or decree by an employee, representative, or subcontractor of the Contractor.

3.4 **STATEMENT OF LIABILITY**

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

3.5 **RECORD RETENTION**

- A. 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, grant access to State or Federal Government entities or any of their duly authorized representatives.
- B. Make financial and accounting records 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.

3.6 PRICE ESCALATION

- A. Price increases will be considered at the time of contract renewal.
- B. The Contractor **must** provide to OSP 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. OSP has the right to require additional information pertaining to the requested increase.
- C. Increases will not be considered to increase profit or margins.
- D. In the event of an increase in the Federal or State Minimum Wage, this contract may be renegotiated based on the number of man-hours being expended on the contract. The Prospective **will** be required to supply such documentation as may be considered necessary by DBA - Division of Building Authority and OSP to support a claim for higher compensation due to higher minimum wage requirements.
- E. OSP has the right to approve or deny the request.

3.7 CONFIDENTIALITY

- A. The Contractor, Contractor's subsidiaries, and Contractor's employees will 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 has the right to cancel the contract on these grounds.
- C. Previous sections of this *Bid Solicitation* may contain additional confidentiality Requirements.

3.8 CONTRACT INTERPRETATION

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

3.9 CANCELLATION

- A. For Cause. The State may cancel any contract resulting from this solicitation for cause when the Contractor fails to perform its obligations under it by giving the Contractor written notice of such cancellation at least thirty (30) days prior to the date of proposed cancellation. In any written notice of cancellation for cause, the State will advise the Contractor in writing of the reasons why the State is considering cancelling the contract and provide the Contractor with an opportunity to avoid cancellation for cause by curing any deficiencies identified in the notice of cancellation for cause prior to the date of proposed cancellation. To the extent permitted by law and at the discretion of the parties, the parties may agree to minor amendments to the contract and avoid the cancellation for cause upon mutual agreement.
- B. For Convenience. The State may cancel any contract resulting from the solicitation by giving the Contractor written notice of such cancellation sixty (60) days prior to the date of cancellation.
- C. If upon cancellation the Contractor has provided commodities or services which the State of Arkansas has accepted, and there are no funds legally available to pay for the commodities or services, the Contractor may file a claim with the Arkansas Claims Commission under the laws and regulations governing the filing of such claims.

3.10 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 Contractor will be relieved of all obligations arising under such provision. If the remainder of the contract is capable of performance, it will not be affected by such declaration or finding and **must** be fully performed.

SECTION 4 – 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 Bid Packets **must** be submitted to the Office of State Procurement on or before the date and time specified for bid opening. The Bid 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 bids **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. Contractor **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 Contractor to supply additional descriptive material. The Contractor **shall** guarantee that the product offered will meet or exceed specifications identified in this *Bid Solicitation*. Contractors 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 Contractor 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 Contractor **shall** further guarantee that if the items furnished hereunder are to be installed by the Contractor, such items **shall** function properly when installed. The Contractor **shall** guarantee that all applicable laws have been complied with relating to construction, packaging, labeling and registration. The Contractor'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 Contractor'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 Contractor's expense. After reasonable examination, all demonstrators will be returned at Contractor'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 Contractor.
- 10. **AMENDMENTS:** Contractor's bids 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 Contractor. 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 Contractor.
- 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 Contractor 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 Contractor.

- 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 Contractors 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. Contractor **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 Contractor 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 Contractor agrees that: (a) the Contractor **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 Contractor **shall** state that all qualified applicants **shall** receive consideration without regard to race, color, sex, age, religion, handicap, or national origin; (c) the Contractor 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 Contractor 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 Contractor **shall** include the provisions of above items (a) through (d) in every subcontract so that such provisions **shall** be binding upon such subcontractor or Contractor.
- 25. CONTINGENT FEE:** The Contractor 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 Contractor for the purpose of securing business.
- 26. ANTITRUST ASSIGNMENT:** As part of the consideration for entering into any contract pursuant to this solicitation, the Contractor named on the *Bid 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.