



# 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-19-0012            | Solicitation Issued: | 01/24/2019 |
| Description: | Cigarette Tax Stamps  |                      |            |
| Agency:      | DFA/Revenue-Misc. Tax |                      |            |

### SUBMISSION DEADLINE FOR RESPONSE

|   |                   |                   |                         |
|---|-------------------|-------------------|-------------------------|
| Bid Opening Date:   | February 22, 2019 | 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:      | Office of State Procurement<br>1509 West 7 <sup>th</sup> Street, Room 300<br>Little Rock, AR 72201-4222<br><br>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. <b>Prospective Contractors assume all risk for timely, properly submitted deliveries.</b> |
| Bid's Outer Packaging: | 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. <ul style="list-style-type: none"><li>• Bid number</li><li>• Date and time of bid opening</li><li>• Prospective Contractor's name and return address</li></ul>  |

### OFFICE OF STATE PROCUREMENT CONTACT INFORMATION

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

## **SECTION 1 - GENERAL INSTRUCTIONS AND INFORMATION**

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

### **1.1 PURPOSE**

This Invitation for Bid (IFB) is issued by the Office of State Procurement (OSP) for the Arkansas Department of Finance and Administration, Revenue Department (DFA-Revenue) to obtain pricing and a contract for Cigarette Tax Stamps.

### **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 July 1, 2019, 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 process.

### **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 rejected 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 **must** complete 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.
- J. "Working days" is defined in this contract as Monday through Friday of each week exclusive of all official State holidays.
- K. "Normal delivery" is defined in this contract as "Delivery to a building with an accessible dock to one specific room or area by use of material handling equipment without breaking shipping container to hand truck deliver individual cartons."
- L. "Cost of Cover" is defined as the right of a buyer, after breach by the seller, to purchase goods in the open market in substitution for those due from the seller if such purchase is made in good faith and without unreasonable delay. The buyer may recover as damages the difference between the cost of cover and the contract price plus any incidental and consequential damages less expenses saved in consequence of the seller's breach.

## 1.7 **RESPONSE DOCUMENTS**

### A. Bid Response Packet

1. The following are Bid Submission Requirements and **must** be submitted in the original Bid Response Packet.
  - a. Original signed *Bid Signature Page*. (See *Bid Response Packet*.)
    - i. 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*.
    - ii. 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 rejected.
    - iii. Bid response **must** be in the English language.
  - b. One (1) original hard copy of the *Official Bid Price Sheet*. Pricing **must** be proposed in U.S. dollars and cents.
2. The following items should be submitted in the original *Bid Response Packet* as a hard copy and as an electronic copy, preferably on a flash drive and in PDF format.
  - a. One (1) copy of the *Official Bid Price Sheet*,
  - 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*.)
  - d. *Voluntary Product Accessibility Template* (VPAT). (See *Technology Access*.)
  - e. Proposed Subcontractors Form. (See Subcontractors.)
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 contract.

**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 excel 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 an ALL OR NONE basis based on the GRAND TOTAL. **Consideration will be given only to those who bid all line items.**

**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](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 INTERGOVERNMENTAL/COOPERATIVE USE OF COMPETITIVELY BID PROPOSALS AND CONTRACTS**

In accordance with Arkansas Code Annotated § 19-11-249, any State public procurement unit may participate in any contract resulting from this solicitation with a participating addendum signed by the Contractor and approved by the chief procurement officer of the procurement agency issuing this solicitation.

**1.18 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 91<sup>st</sup> 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*.

**1.19 EQUAL OPPORTUNITY POLICY**

- A. In compliance with Arkansas Code Annotated § 19-11-104, OSP must have a copy of the anticipated Contractor's *Equal Opportunity (EO) Policy* prior to issuing a contract award.
- B. *EO Policies* should be included as a hardcopy accompanying the solicitation response.
- C. 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.

**1.20 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.

**1.21 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.

**1.22 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 rejected.

**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 rejected.

**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 the Arkansas Department of Finance and Administration, Revenue Department (DFA-Revenue) to obtain pricing and a contract for Cigarette Tax Stamps.

### **2.2 BACKGROUND INFORMATION:**

- A. State Miscellaneous Tax information regarding cigarettes may be found at the following link:  
<https://www.dfa.arkansas.gov/excise-tax/miscellaneous-tax/cigarettes>.
- B. The excise tax is reported and paid by:
  - Licensed wholesalers or distributors making the first sale in the State of Arkansas or
  - Arkansas consumers who purchase unstamped cigarettes.
- C. A listing of the current Cigarette Wholesalers and Stamp deputies for calendar year 2018 may be found at the following link: <https://www.dfa.arkansas.gov/images/uploads/exciseTaxOffice/wholesalersStampDeputies.pdf>.
- D. The tax payment is evidenced by a cigarette tax stamp affixed by a licensed wholesaler to each cigarette pack sold.
- E. Applicable statutes: AR Code Ann. §26-57-201 et seq., §26-57-801 et seq., and §26-57-1101 et seq. See Attachment "B" for detail information.

### **2.3 PROSPECTIVE CONTRACTOR QUALIFICATIONS**

- A. Prospective Contractor **shall** have a minimum of three (3) years' experience printing Cigarette Tax Stamps for a state facility within the continental United States.
- B. The State of Arkansas reserves the right to request references and/or documented proof of experience, prior to Anticipation to Award.

### **2.4 GENERAL REQUIREMENTS**

- A. Within five (5) business days of receipt of the contract from DFA-Revenue, the Contractor **shall** provide the representative(s) contact information who **shall** service the awarded contract. The following **must** be provided to DFA-Revenue:
  - Name of representative
  - Telephone Number of representative
  - Email address of representative
- B. Contractor **shall** print and deliver seven (7) different cigarette tax stamps (herein referred to as tax stamps) for DFA-Revenue, in accordance with the provisions and requirements as stated in this IFB.
- C. Unless otherwise directed by the State contact, the Contractor **shall not** deviate from the printing requirements stated herein.
- D. With receipt of purchase order from DFA-Revenue the Contractor **shall** print tax stamps as identified by:
  - 1. Description
  - 2. Quantities
  - 3. Required color/design
- E. Contractor **shall** perform all cigarette tax stamps services to the sole satisfaction of DFA-Revenue.



- F. When requested by DFA-Revenue, the Contractor **shall** furnish the following at no additional cost :
1. Material
  2. Labor
  3. Facilities
  4. Equipment
  5. Training, per the specifications of this IFB
  6. Supplies necessary to perform the services required herein
- G. In the event of a change in State statutes requiring a new cigarette tax stamp(s), the Contractor **shall** print all such stamp(s) requested by DFA-Revenue.
- H. If during the term of this contract or any extension thereof, it becomes necessary to provide additional border zone stamps, the State reserves the right to order additional state specific border stamps with color to be specified at the time of the order.
- I. The stamps **must** be made on unique, safety tinted, mill-controlled, colored paper furnished by the Contractor.
- J. DFA-Revenue will select the colors at the time of order and will determine the final paper color in consultation with the Contractor.
- K. Paper color may change throughout the term of the contract.
- L. All paper **must** be:
1. Imprinted with a safety tint
  2. Arranged and printed so that it cannot be photographed on colored paper
  3. Specified by the DFA-Revenue
- M. The base paper for the stamps **must** contain identifiable protective features which will at once permit analysis to establish its authenticity.
- N. The safety tint **must**:
1. Transfer with the machine applied stamps
  2. Transfer with the stamps and lettering extending beyond the edges of the stamp and transfer with the stamps
  3. Print the lettering as to appear on the face of the stamp
  4. Appear on the paper between the stamps
- O. The Cigarette Tax Stamp(s) **must** be heat applied, or DFA-Revenue approved equal application process.
- P. The Cigarette Tax Stamp(s) **must** adhere to:
1. Cellophane
  2. Polypropylene
  3. Other surface types as required by DFA-Revenue

Q. Any sheet offered that is found to contain excessive lint or foreign (non-paper) elements will be rejected. "Excessive lint" is defined as more than is normally associated with the use of stamp safety tinted colored paper.

R. As requested by DFA-Revenue, the Contractor **shall** provide the following:

1. Name of the paper supplier
2. Name of the manufacturer of the paper stock
3. Samples of the paper to be used

S. The delivery of the samples **must** be via UPS, FedEx, or a delivery method approved by DFA-Revenue.

## 2.5 **NUMBERING**

- A. The stamps **must** be serially and consecutively numbered by the paper manufacturer.
- B. A report accurately reflecting the count of the stamps **must** be provided electronically to DFA-Revenue upon their request.
- C. Starting numbers for stamps will be supplied after award. Each stamp on a roll **must** have the same number as the roll number and the rolls must be sequentially numbered.
- D. Based on the requirements of 2000-1 Tobacco Master Settlement Agreement, all stamps **shall** be numbered sequential for tracking purposed by DFA-Revenue and Arkansas Tobacco Control. Reports showing missed numbers, skipped numbers, or numbers in a "bad production run" are to be provided by the Contractor to DFA-Revenue as agreed upon. Stamps **shall** be manufactured as stated in the specifications of this IFB.

## 2.6 **INK**

Contractor **shall** either print with soy-based ink or non-soy-based ink and **shall** indicate on the *Official Bid Price Sheet* which type of ink will be utilized.

## 2.7 **PAPER USAGE/SPOILAGE**

- A. As requested by DFA-Revenue, the Contractor **shall** be required to provide/verify an accurate account/record the following:
1. All paper used in the production of the stamps
  2. Spoilage
- B. All spoiled paper stock and seconds **must** be strictly accounted for and secured by the Contractor until their destruction in the presence of a duly authorized agent of the DFA-Revenue, either by affidavit or on-site.
- C. Prospective Contractor **shall** indicate on the *Official Bid Price Sheet*, the paper type proposed by the Prospective Contractor for Cigarette Tax Stamp(s).

## 2.8 **PROTECTION AND CONTROL**

- A. All stamps and paper **must** contain proven protective features to guarantee against illegal reproduction.
- B. As requested by DFA-Revenue, the Contractor **shall** submit a separate confidential detailed statement, detailing the system used for the protection of the State against unlawful reproduction and the method by which such reproduction could be detected by inspectors of the State.
- C. Refusal to submit a separate, confidential, detailed statement, when requested by DFA-Revenue, may result in possible termination of the contract.

**2.9 CIGARETTE TAX STAMP REQUIREMENTS AND ITEM DESCRIPTION**

The following stamps **shall** be manufactured in first-class condition, free from defects in design, workmanship and mater, designed as stated in the specifications, and function for the purpose as intended by this IFB. Unacceptable design, workmanship, material, or shipment damage as referenced in section 2.19.

**A. ITEM 1: CIGARETTE MACHINE STAMPS, Cig. 20's, (Heat applied)**

1. Each stamp **must** be of irregular shape and outline and **must** not contain less than three (3) colors of ink excluding the paper tint.
2. The stamps **must** be approximately 1/2" x 1/2".
3. Stamps **must** be 30,000 per roll, with ascending and descending numbers to provide an exact count of stamps remaining and stamps used on the roll.
4. Each roll **must** be packed in a serially numbered cardboard box.
5. Boxes **must** be labeled similarly as shown below.

State of Arkansas  
20 Cig – 30,000 Stamps  
Roll No. 00001

6. All missing or skipped numbers **must** be accounted for by the Contractor and provided electronically to DFA-Revenue upon their request.
7. 25 boxes **must** be packed in a suitable corrugated container to protect contents from damage during shipment, handling, and storage.
8. Corrugated container **must** have consistent markings on the outside indicating the following:
  - a. Type (name) of stamp
  - b. Quantity contained within
  - c. Denomination
  - d. First and last consecutive serial number clearly marked on one end of box.
9. The same five-character alphanumeric **must** appear on each stamp within a 30,000, stamp roll.
10. This five-character alphanumeric **must** ensure the State that the same alphanumeric will not be repeated during the life of the contract.

**B. ITEM 2: CIGARETTE MACHINE STAMPS, Cig. 25's (Heat applied)**

1. Each stamp **must** be of irregular shape and outline and **must not** contain less than three (3) colors of ink excluding the paper tint.
2. The stamps **must** be approximately 1/2" x 1/2".
3. Stamps **must** be 4,800 per roll, with ascending and descending numbers to provide an exact count of stamps remaining and stamps used on the roll.
4. Each roll **must** be packed in a serially numbered cardboard box.
5. Boxes **must** be labeled similarly as shown below.

State of Arkansas

25 Cig – 4,800 Stamps  
Roll No. 00001

6. All missing or skipped numbers **must** be accounted for by the Contractor and provided electronically to DFA-Revenue upon their request.
7. 49 boxes **must** be packed in a suitable corrugated container, to protect contents from damage during shipment, handling, and storage.
8. Corrugated container **must** have consistent markings on the outside indicating the following:
  - a. Type (name) of stamp
  - b. Quantity contained within
  - c. Denomination
  - d. First and last consecutive serial number clearly marked on one end of box.
9. The same five-character alphanumeric **must** appear on each stamp within a 4,800, stamp roll.
10. This five-character alphanumeric **must** ensure the State that the same alphanumeric will not be repeated during the life of the contract.

C. **ITEM 3: CIGARETTE HAND STAMPS, Cig. 25's (Heat applied)**

1. Each stamp **must** be of irregular shape and outline and **must** not contain less than three (3) colors of ink excluding the paper tint.
2. The stamps **must** be approximately 1/2" x 1/2".
3. Stamps **must** be 2,000 per roll, with ascending and descending numbers to provide an exact count of stamps remaining and stamps used on the roll.
4. Each roll **must** be packed in a serially numbered cardboard box.
5. Boxes **must** be labeled similarly as shown below.

State of Arkansas  
25's – 2,000 Stamps  
Roll No. 00001
6. All missing or skipped numbers **must** be accounted for by the Contractor and provided electronically to DFA-Revenue upon their request.
7. 49 boxes **must** be packed in a suitable corrugated container to protect contents from damage during shipment, handling, and storage.
8. Corrugated container **must** have consistent markings on the outside indicating the following:
  - a. Type (name) of stamp
  - b. Quantity contained within
  - c. Denomination
  - d. First and last consecutive serial number clearly marked on one end of box.
9. The same five-character alphanumeric **must** appear on each stamp within a 2,000, stamp roll.

10. This five-character alphanumeric **must** ensure the State that the same alphanumeric will not be repeated during the life of the contract.

**D. ITEMS 4-5 BORDER ZONE 20's (Heat Applied)**

1. Each stamp **must** be of irregular shape and outline and **must** not contain less than three (3) colors of ink excluding the paper tint.
2. The stamps **must** be approximately 1/2" x 1/2".
3. Stamps **must** be 9,000 stamps per roll, with ascending and descending numbers to provide an exact count of stamps remaining and stamps used on the roll.
4. Each roll **must** be packed in a serially numbered cardboard box.
5. Boxes **must** be labeled similarly as shown below.

State of Arkansas / (color of stamp)  
20's – 9,000 Stamps  
Roll No. 00001

6. All missing or skipped numbers **must** be accounted for by the Contractor and provided electronically to DFA-Revenue upon request.
7. 36 boxes **must** be packed in a suitable corrugated container to protect contents from damage during shipment, handling, and storage.
8. Corrugated container **must** have consistent markings on the outside indicating the following:
  - a. Type (name) of stamp
  - b. Quantity contained within
  - c. Denomination
  - d. First and last consecutive serial number clearly marked on one end of box.
9. The same five-character alphanumeric **must** appear on each stamp within a 9,000, stamp roll.
10. This five-character alphanumeric **must** ensure the State that the same alphanumeric will not be repeated during the life of the contract.

**E. ITEMS 6: BORDER ZONE 25's (Heat Applied)**

1. Each stamp **must** be of irregular shape and outline and **must** not contain less than three (3) colors of ink excluding the paper tint.
2. The stamps **must** be approximately 1/2" x 1/2".
3. Stamps **must** be 2,000 stamps per roll, with ascending and descending numbers to provide an exact count of stamps remaining and stamps used on the roll.
4. Each roll **must** be packed in a serially numbered cardboard box.
5. Boxes **must** be labeled similarly as shown below.

State of Arkansas

25's – 2,000 Stamps  
Roll No. 00001

6. All missing or skipped numbers **must** be accounted for by the Contractor and provided electronically to DFA-Revenue upon their request.
7. 49 boxes **must** be packed in a suitable corrugated container to protect contents from damage during shipment, handling, and storage.
8. Corrugated container **must** have consistent markings on the outside indicating the following:
  - a. Type (name) of stamp
  - b. Quantity contained within
  - c. Denomination
  - d. First and last consecutive serial number clearly marked on one end of box.
9. The same five-character alphanumeric **must** appear on each stamp within a 2,000, stamp roll.
10. This five-character alphanumeric **must** ensure the State that the same alphanumeric will not be repeated during the life of the contract.

**F. ITEM 7: Tax Exempt Stamps**

1. Each stamp **must** be of square shape and outline and **must** not contain less than two (2) colors of ink excluding the paper tint.
2. Stamps **must** be 15,000 per roll, with ascending and descending numbers to provide an exact count of stamps remaining and stamps used on the roll.
3. Each roll **must** be packed in a serially numbered box.
4. Boxes **must** be labeled similarly as shown below.

State of Arkansas  
Tax Exempt – 15,000 Stamps  
Roll No. 00001

5. All missing or skipped numbers **must** be accounted for by the Contractor and provided electronically to DFA-Revenue upon their request.
6. 36 boxes **must** be packed in a suitable corrugated container to protect contents from damage during shipment, handling and storage.
7. Corrugated container **must** have consistent markings on the outside indicating the following:
  - a. Type (name) of stamp
  - b. Quantity contained within
  - c. Denomination
  - d. First and last consecutive serial number clearly marked on one end of box.
8. The same five-character alphanumeric **must** appear on each stamp within a 15,000, stamp roll.

9. This five-character alphanumeric **must** ensure the State that the same alphanumeric will not be repeated during the life of the contract.

**2.10 SAMPLES OF CIGARETTE STAMPS AND PROOF OF ABILITY/SAMPLES OF LIKE JOBS**  
**(See attached) Attachment "A."**

**NOTE:** Ink colors **must** be provided electronically by the Contractor to DFA-Revenue at the time of award. Ink colors must be identifiable by a product number or color coding number representing the agreed upon **color**. DFA-Revenue reserves the right to change ink colors at any time throughout the term of the contract. Contractor **shall** adjust accordingly.

**2.11 OPTIONAL SECURITY FEATURES**

The rates for optional security features **must not** enter into the determination of the lowest, responsible Contractor. Prospective Contractors are advised that costs which are not a logical progression of the price bid or which exceed "fair market value" as determined by the State by a comparison of other prices obtained will result in rejection of the Contractor's bid. Optional security features are verified by DFA-Revenue and Arkansas Tobacco Control.

**A. Variable Imaging (Vi)**

If requested by DFA-Revenue, the Vi feature **must** contain the State's initials, which resembles a hologram, in the middle of the stamp that will change color and luster when viewed at different angles.

Note: The Contractor may require an additional ten (10) working days for delivery if this feature is requested. See *Official Bid Price Sheet* to indicate additional cost if Variable Image (Vi) Security Feature is requested.

**B. Tagant**

If requested by DFA-Revenue, stamps **must** emit a green luminescence when exposed to an invisible laser energy beam directed from a battery-powered pen.

Note: The Contractor may require an additional twenty (20) working days for delivery if this feature is requested. See *Official Bid Price Sheet* to indicate additional cost if Tagant Image Security Feature is requested.

**2.12 MINIMUM ORDERS**

Item 1: The agency will order in quantities of a minimum of five (5) cases per item per order.

Items 2-7: The agency will order in quantities of a minimum of one (1) case per item per order.

**2.13 ORDERING PROCEDURES**

All orders placed against this contract will be in the form of an agency issued purchase order on an as-required basis.

**2.14 PROOFS**

Following the bid opening, should samples of like jobs be required, Prospective Contractor **shall** provide samples to DFA-Revenue, when requested, for review purposes.

A. Submitted samples **must** have been produced within the past two (2) years.

B. Samples **must** represent same quality and specifications indicated within this IFB.

C. Requested samples **must** be received within five (5) working days after request.

D. Samples **must** be furnished free of expense to the State.

E. Each sample should be marked with the Prospective Contractor's name and address, bid number and item number.

F. Should samples not be destroyed during reasonable examination they will be returned at Prospective Contractor's expense, if requested, or destroyed.

**2.15 SUBSTITUTION OF BRAND**

- A. Any substitution of paper stock and/or ink, under this contract, after the award, **must** be agreed upon between DFA-Revenue and the Contractor before production of stamps.
- B. Substitutions **must** be the same or higher specification and technical data for each product as specified herein.

**2.16 QUALITY**

- A. The stamps **must** be made in conformance with:
  - 1. Normal industry standards with excellent quality printing.
  - 2. Various protective features and other requirements as specified within this IFB.
- B. Any procedure or technique not stated for construction of items in this IFB **must** meet industry standards for excellent quality.
- C. Receipt of the merchandise does not constitute acceptance.
- D. Contractor **shall** grant DFA-Revenue a minimum of twenty (20) working days in which to inspect the merchandise and to determine if its quality meets the requirements or standards of the contract.
- E. At the time authorization for the reprint is given, the Office of State Procurement will establish, in writing, a new delivery date. Contractor **must** adhere to this date.

**2.17 OVERRUN/UNDERRUN ALLOWANCE**

- A. 2% overruns/underruns will be allowed by DFA-Revenue.
- B. Contractor **shall** bill overruns at no more than 80% of unit contract price.
- C. Contractor **shall** bill underruns at no more than full unit price and subtracted from the total bid price.
- D. Overruns **must** be a continuation of the numbering sequence.
- E. Contractor **shall not** allow duplicate numbers.

**2.18 DELIVERY: FOB DESTINATION**

- A. Contractor **shall** deliver to:  
  
DFA Revenue – Miscellaneous Tax  
1816 West 7<sup>th</sup> Street, B-270 Ledbetter Bldg.  
Little Rock, AR 72201
- B. Contractor **shall** contact DFA-Revenue to schedule all deliveries. Contact information will be provided by DFA-Revenue to the Contractor at the time of the award.
- C. DFA-Revenue requests delivery within (35) working days after receipt of the order. If this delivery date cannot be met, the Prospective Contractor **shall** state on the *Official Bid Price Sheet* the alternate number of days required to begin the service and/or place the commodity in the ordering agency's designated location.
- D. Failure to state the alternate delivery time obligates the Contractor to complete delivery by the agency's requested date.
- E. Extended delivery dates may be considered when in the best interest of the State.
- F. The time the proof is out of the Contractors hands for DFA-Revenue approval will not count against production time.
- G. All transportation expenses for inside delivery of the finished product as well as all required proofs **must** be included in bid price.



- H. Unit prices quoted **must** include, at no additional charge, the Contractor providing “Normal delivery” service.
- I. All deliveries **must** be made during normal State work hours and within the agreed upon number of days unless otherwise arranged and coordinated with DFA-Revenue.
- J. Normal State delivery hours are: 8:00 a.m. to 4:30 p.m., Monday through Friday excluding State recognized holidays.
- K. The Contractor **shall** provide DFA-Revenue with immediate notice of any anticipated delays or plant shutdowns that will affect the delivery requirement.
- L. Loss or damage that occurs during shipping, prior to the order being received by DFA-Revenue, **shall** be the Contractor’s responsibility.
- M. All orders **must** be properly packaged to prevent damage during shipping.
- N. Delivery cartons are to be palletized (standard pallet size) and shrink-wrapped to provide stabilization during transportation of product.
- O. All shipments **must** be made using a bonded and insured carrier.
- P. The Contractor **shall** be responsible for safe and proper delivery.

## 2.19 **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.

| Criteria          | Performance Standards  | Damages  |
|-------------------|--|--|
| Quality of stamps | First-class condition, free from defects in design, workmanship and material, as specified in the IFB. | Damages are to be “Cost of Cover”. Cost of Cover is defined for this IFB in section 1.6 (L). |

|                              |   |  |
|------------------------------|---|--|
| Unacceptable stamps/shipment | Unacceptable design, workmanship, material, or shipment damage as specified in the IFB. | Damages are to be “Cost of Cover”. Cost of Cover is defined for this IFB in section 1.6 (L). |
|------------------------------|---|--|

## **SECTION 3 – GENERAL CONTRACTUAL ITEMS**

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

### **3.1 PAYMENT AND INVOICE PROVISIONS**

A. Forward invoices to:

DFA Revenue – Miscellaneous Tax  
Attention: Accounts Payable  
1816 West 7<sup>th</sup> Street, B-270 Ledbetter Bldg.,  
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.

### **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 \$1,000,000.00, 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. 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 rejected. 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. **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.
23. **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.
24. **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.
25. **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.