



STATE OF ARKANSAS

Department of Human Services
Office of Procurement
700 Main Street,
Little Rock, AR 72201

FINAL INVITATION FOR BID BID SOLICITATION DOCUMENT

SOLICITATION INFORMATION			
Bid Number:	710-19-1023	Solicitation Issued:	02/15/2019
Description:	INSPECTIONS OF CARE (IOC)		
Agency:	DIVISION OF PROVIDER SERVICES AND QUALITY ASSURANCE (DPSQA)		
SUBMISSION DEADLINE FOR RESPONSE			
Submission Date:	March 18, 2019	Bid opening Time:	2:00pm
<p>Bids shall not be accepted after the designated bid submission date and time. In accordance with Arkansas Procurement Law and Rules, it is the responsibility of vendors to submit proposals at the designated location on or before the bid submission date and time. Bids received after the designated bid submission date and time shall be considered late and shall be returned to the vendor without further review. It is not necessary to return "no bids" to the Office of Procurement (OP).</p>			
DELIVERY OF RESPONSE DOCUMENTS			
Drop off (walk in):	Arkansas Department of Human Services Attn: Office of Procurement 700 Main Street Slot W345 Little Rock, AR 72201		
United States mail (USPS):	Arkansas Department of Human Services Attn: Office of Procurement P.O. Box 1437 Slot W345 Little Rock, AR 72203-1437		
Commercial Carrier (UPS, FedEx or USPS Exp):	Arkansas Department of Human Services Attn: Office of Procurement 112 West 8 th Street, Slot W345 Little Rock, AR 72201		
Delivery providers, USPS, UPS, and FedEx deliver mail to OP's street address on a schedule determined by each individual provider. These providers will deliver to OP based solely on the street address.			
Bid's Outer Packaging:	Outer packaging must be sealed and should be properly marked with the following information. If outer packaging of proposal submission is not properly marked, the package may be opened for bid identification purposes. <ul style="list-style-type: none">• Bid number• Date and time of bid opening• Vendor's name and return address		
Department of Human Services CONTACT INFORMATION			
OP Buyer:	Chorsie Burns	Buyer's Direct Phone Number:	501-682-6327
Email Address:	chorsie.burns@dhs.arkansas.gov	DHS's Main Number:	501-682-2929
DHS Website:	http://humanservices.arkansas.gov/Pages/default.aspx		
OSP Website:	http://www.arkansas.gov/dfa/procurement/bids/index.php		
DMS Website:	https://www.medicaid.state.ar.us/General/rfp/rfq.aspx		

SECTION 1 - GENERAL INSTRUCTIONS AND INFORMATION

1.1 PURPOSE

This Invitation for Bid (IFB) is issued by the Office of Procurement (OP) for the Arkansas Department of Human Services (DHS) Division of Provider Services and Quality Assurance (DPSQA) to obtain a contract with a qualified Vendor to conduct onsite Inspections of Care (IOC) reviews, Health and Safety Licensure/Certification Reviews and Quality of Care Reviews for the provider types specified in the Scope of Work.

DHS will contract with one (1) Vendor to provide these services statewide. The Vendor must conduct reviews as specified in this IFB and maintain a staffed office located in Pulaski County, Arkansas that is operational during Arkansas state government business hours, Monday-Friday, 8:00am-5:00pm Central Standard Time (CT), with the exception of official State Holidays.

1.2 TYPE OF CONTRACT

- A. A Term contract will be awarded to a single vendor.
- B. Any resultant contract of this *Bid Solicitation* **shall** be subject to State approval processes which may include Legislative review.
- C. The term of this contract **shall** be for one (1) year. The anticipated starting date for the contract is 05/01/2019. Upon mutual agreement by the vendor and agency, the contract may be renewed by OP on a year-to-year basis, for up to six (6) additional one-year terms or a portion thereof not to exceed a total aggregate contract term of seven (7) years.

1.3 ISSUING AGENCY

The OP, as the issuing office, is the sole point of contact throughout this solicitation process. Vendor questions regarding this Bid Solicitation should be made through the State's buyer as shown on page two of this document. Vendor's questions will be answered as a courtesy and at vendor's own risk.

1.4 BID OPENING LOCATION

Bids submitted by the opening time and date **shall** be opened at the following location:

Department of Human Services
Office of Procurement
700 Main Street
Little Rock, AR 72201

Vendors wishing to attend the bid opening must report to the main entrance location, Arkansas Department of Human Services, Donaghey Plaza South Building, 700 Main Street, Little Rock, Arkansas 72201 and check in with the receptionist. All attendees are required to obtain security clearance upon entrance to the building by submitting a current, valid photo ID, preferably a driver's license, to the Security Officer at the reception area. The Security Officer will issue a visitor's badge which must be worn at all times. Before leaving the bid opening visitors are required to return the visitor's badge to the Security Officer and retrieve their ID.

The receptionist is to contact the buyer, for the vendor, for more detailed directions to the bid opening location.

1.5 DEFINITION OF REQUIREMENT

- A. The words "**must**" and "**shall**" signify a Requirement of this solicitation and that vendor's agreement to and compliance with that item is mandatory.
- B. Exceptions taken to any Requirement in this *Bid Solicitation*, whether submitted in the vendor's bid or in subsequent correspondence, **shall** cause the vendor's bid to be disqualified.
- C. Vendor may request exceptions to NON-mandatory items. Any such request **must** be declared on, or as an attachment to, the appropriate section's *Agreement and Compliance Page*. Vendor **must** clearly explain the

requested exception and should reference the specific solicitation item number to which the exception applies.
(See *Agreement and Compliance Page*.)

1.6 DEFINITION OF TERMS

- A. The State Procurement Official has made every effort to use industry-accepted terminology in this *Bid Solicitation* and will attempt to further clarify any point of an item in question as indicated in *Clarification of Bid Solicitation*.
- B. The words “bidder,” “vendor,” and “contractor” are used synonymously in this document.
- C. The terms “Invitation for Bid”, “IFB” and “Bid Solicitation” are used synonymously in this document.

Collective Terms	Definition
ARChoices Provider	Refers to an ARChoices Home and Community-Based Services waiver provider, certified by the Division of Provider Services and Quality Assurance as having met all Centers for Medicare and Medicaid Services (CMS) approved provider criteria for the service(s) they wish to enroll to provide. Certification requirements for ARChoices waiver providers are currently outlined in the ARChoices in Homecare provider manual available at https://medicaid.mmis.arkansas.gov/Provider/Docs/archchoices.aspx
Client Interview and Record Review	Refers to an integrated, holistic assessment of the sampled clients which includes an assessment of medications (if appropriate), the quality of life of the client affected by his/her environment and daily interactions with staff, and an assessment of those pertinent care concerns identified for each sampled client by the survey team. Limited record review and dining observations are integrated into the client review.
Complaint	Refers to a written or verbal account, provided by the client, provider, or someone acting on behalf of the client, of noncompliance with Federal and/or State laws and regulations.
Division of Youth Services Community-Based Youth Service Provider	Refers to a regionalized provider who service juveniles and families referred by Juvenile courts. Services are funded through contracts with DYS and include youth and family assessment and case management, diversion, family reunification, aftercare, and Interstate compact for Juveniles.
Division of Youth Services Secure Residential Treatment Facility	Refers to a staff or hardware secure facility designed to rehabilitate adjudicated delinquents committed to DYS. Residential Secure Treatment Facilities may house thirty-two (32) or more residents, ten (10) to twenty (20) years of age, within a dorm-like environment.
Division of Youth Services Specialized Residential Treatment Program	Refers to a non-secure residential program serving four (4) to twelve (12) residents referred by DYS, ranging in age from ten (10) to seventeen (17) years old, emphasizing family-style living in a home-like environment. Programs may include group homes or emergency shelters.
Fee-for-Service Outpatient Behavioral Health Services Provider	Refers to a Behavioral Health Agency or an Independently Licensed Practitioner, certified by the Division of Provider Services and Quality Assurance as having met all of the certification requirements to provide counseling and substance abuse services in the Medicaid-funded Outpatient Behavioral Health Services program. Certification requirements for fee-for-service Outpatient Behavioral Health Services providers, including Behavioral Health Agencies and Independently Licensed Practitioners, are currently outlined in their respective certification manuals available at https://humanservices.arkansas.gov/images/uploads/dpsqa/DBHS_Behavioral_Health_Agency_Certification_-_FINAL_-_Updated_QBHP_Training.pdf and https://humanservices.arkansas.gov/images/uploads/dpsqa/DBHS_Independently_Licensed_Practitioner_Certification_Manual.pdf
General Observations of the Provider	Refers to an assessment of the environment of the facility/agency affecting the client's life, health, and safety.

Health and Safety Licensure/Certification Inspection	<p>Shall include without limitation the following:</p> <ul style="list-style-type: none"> i. A review of the provider's licensure and certification; a review of professional care staff credentials; and a review of paraprofessional staff credentials. The review of staff will validate whether staff members have the appropriate educational requirements, have had the necessary training required, and are licensed, if it is required. This review will also include verification of criminal and abuse background checks on direct care staff in accordance with the provider's licensure or contract requirements (depending on the provider type). ii. A review of staffing documents to determine if adequate numbers of staff are provided according to the number and acuity of beneficiaries/clients. iii. A review of policy and procedure manuals. iv. A review of maintenance records to determine if equipment is periodically examined and to determine if it is in good working order and if environmental requirements have been met. v. Observation of meals, food temperature checks. vi. Face-to-face interviews with direct care staff; and <p>Observation of program milieu. When conducting observations, particular attention should be given to beneficiary/client interaction with staff; staff member activities, equipment, documentation, building structure, sounds and smells; people, care, activities, processes, documentation, policies, equipment, etc., that are present that should not be present, as well as, those that are not present that should be present; integration of services; storage, security and confidentiality of beneficiary/client records.</p>
Inpatient Psychiatric for U21 Provider	Refers to a hospital-based or facility-based program licensed by the Arkansas Department of Health, providing acute, inpatient psychiatric services to Medicaid beneficiaries under 21 years of age. Inspection of Care guidelines for Inpatient Psychiatric for U21 providers are currently outlined in the provider manual available at https://medicaid.mmis.arkansas.gov/Provider/Docs/inppsyach.aspx
Inspections of Care	Refers to an onsite inspection of care. Specific inspection of care guidelines for Inpatient Psychiatric for U21 providers are outlined in the provider manual available at https://medicaid.mmis.arkansas.gov/Provider/Docs/inppsyach.aspx
Medication Pass and Pharmacy Services	Refers to an assessment of the pharmaceutical services provided in the facility, including the provision of the medication pass observation, the application of the medication error detection methodology, the provision of services by a licensed pharmacist, and agency/facility procedures and processes in place regarding the acquiring, receiving, dispensing, and administering of medications, use of controlled medications, disposal of unused medications, and medication access and storage.
Onsite Inspection	Refers to any onsite visit including, but not limited to, an inspection of care review, a health and safety licensure/certification review, and/or a quality of care review.
Provider	Refers to the entity delivering services to clients. May include the following Medicaid-funded providers: ARChoices waiver providers, Outpatient Behavioral Health Services providers, and Inpatient Psychiatric providers for the under 21 population. May include the following non-Medicaid funded providers: Substance abuse providers, DYS Secure Residential Treatment providers, DYS Specialized Residential Treatment providers, and DYS Community-Based Youth Service providers.
Quality of Care Review	<p>Shall include without limitation the following:</p> <ul style="list-style-type: none"> i. Face-to-Face or telephone interviews with clients and/or their families (or other appropriate persons, as determined by the client) to determine 1) how client outcomes and the client's quality of life are related to the provision of care/treatment/case management by the provider; 2) if the care/treatment/case management provided by the provider has enabled

	<p>clients to reach or maintain their highest practicable physical, mental, and psychosocial well-being; 3) whether aspects of the environment, staff interactions, and provision of services affect sampled clients in their daily lives; and 4) if the provider has properly assessed client care/treatment needs/case management needs, conducted proper care/treatment/case management planning, implemented the plan and evaluated care/treatment/case management provided to the clients.</p> <p>ii. A review of client care plans/treatment plans/case management plans (depending on the population) to validate information gained during interviews and observation.</p> <p>If applicable, observation of at least one medication administration pass by provider staff to include but not limited to physician's orders, Medication Administration Record (MAR) review, Treatment Access Record (TAR) review, narcotic counts and records review.</p>
Reconsideration or Informal Dispute Resolution	Refers to the process providing for a reconsideration of citations, deficiencies, or sanctions when requested by the provider. The provider may request reconsideration only once per review and within ten (10) calendar days of receipt of the deficiency. Any reconsideration is contingent upon the submission of additional information by the provider.
Required Documentation	Refers to the minimum documentation necessary to competently perform any type of review, reconsideration, appeal, reply to correspondence or any other process dependent upon such documentation for completion.

1.7 **RESPONSE DOCUMENTS**

A. *Bid Response Packet*

1. An official authorized to bind the vendor(s) to a resultant contract **must** sign the *Bid Signature Page*.
2. Vendor's signature on this page **shall** signify vendor's agreement that either of the following **shall** cause the vendor's bid to be disqualified
 - a. Additional terms or conditions submitted intentionally or inadvertently.
 - b. Any exception that conflicts with a Requirement of this *Bid Solicitation*.
3. The following items **shall** be submitted with the *Bid Response Packet in a sealed envelope*.
 - a. EO 98-04 Disclosure Form (Attachment A).
 - b. Copy of Vendor's *Equal Opportunity Policy*. (See *Equal Opportunity Policy*.)
 - c. Signed addenda to this IFB, if applicable. (See Requirement of Addendum.)
 - d. Documentation that vendor meets the minimum qualifications outlined in this IFB. (See *Minimum Qualifications*.)
4. **DO NOT** include any other documents or ancillary information, such as a cover letter or promotional/marketing information. **Submit one (1) electronic copy of the response packet, excluding the Official Bid Price Sheet, preferably on a flash drive and one (1) hard copy. To the extent possible, all electronic files should be a single document in PDF format.**

B. *Official Bid Price Sheet*. (See *Pricing*.)

1. Vendor's original *Official Bid Price Sheet* **must** be submitted in hard copy format.
2. Vendor should also submit one (1) electronic copy of the *Official Bid Price Sheet*, preferably on a flash drive, in a single PDF file.

3. The *Official Bid Price Sheet*, including the hard copy and electronic copy, must be separately sealed from the *Bid Response Packet* and should be clearly marked as "Pricing." Vendor must not include any pricing in the hard copies or electronic copies of the *Bid Response Packet*.

1.8 **AGREEMENT AND COMPLIANCE PAGES**

- A. Vendor **must** sign all *Agreement and Compliance Pages* relevant to each section of the *Bid Solicitation Document*. The *Agreement and Compliance Pages* are included in the *Bid Response Packet*.
- B. Vendor's signature on these pages **shall** signify agreement to and compliance with all requirements within the designated section.

1.9 **CLARIFICATION OF BID SOLICITATION**

- A. Contractor may submit written questions requesting clarification of information contained in this *Bid Solicitation*. Written questions should be submitted by **4:00 p.m.**, Central Time on **02/22/2019**. Submit written questions by email to the buyer as shown on page one (1) of this *Bid Solicitation*.
- B. The attached response template (*Attachment B*) **must** be used for submission of all written questions. All questions should include the information specified in the response template. Written questions submitted in a different format may not be answered by DHS.
- C. Contractor's written questions will be consolidated and responded to by the State. The State's consolidated written response is anticipated to be posted to the OP website by the close of business on **03/01/2019**.
- D. Answers to verbal questions may be given as a matter of courtesy and **must** be evaluated at contractor's risk.

1.10 **SUBCONTRACTORS**

- A. Vendor **must** complete, sign and submit the *Proposed Subcontractors Form* included in the *Bid Response Packet* to indicate vendor's intent to utilize, or to not utilize, subcontractors.
- B. Additional subcontractor information may be required or requested in following sections of this *Bid Solicitation*. **Do not** attach any additional information to the *Proposed Subcontractors Form*.
- C. The utilization of any proposed subcontractor is subject to approval by the State agency.

1.11 **PRICING**

- A. Vendor(s) **must** include all pricing on the *Official Bid Price Sheet(s)* only. Any cost not identified by the successful vendor but subsequently incurred in order to achieve successful operation **shall** be borne by the vendor. The *Official Bid Price Sheet* is provided in the *Bid Response Packet*.
- B. A justification of prices quoted should be attached to the *Official Bid Price Sheet*.
- C. To allow time to evaluate bids, prices **must** be valid for one hundred twenty (**120**) days following the bid opening.
- D. Failure to complete and submit the *Official Bid Price Sheet* **shall** result in disqualification.
- E. All bid pricing **must** be in United States dollars and cents.
- F. The *Official Bid Price Sheet* may be reproduced as needed.
- G. The *Official Bid Price Sheet* and accompanying price justification **must** be separately sealed from the *Bid Response Packet*.

1.12 **PRIME CONTRACTOR RESPONSIBILITY**

- A. A joint bid submitted by two (2) or more vendors is acceptable. However, a single vendor **must** be identified as the prime contractor.
- B. The prime contractor **shall** be held responsible for the contract and **shall** be the sole point of contact.

1.13 **INDEPENDENT PRICE DETERMINATION**

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

1.14 **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 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 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.

1.15 **CAUTION TO VENDORS**

- A. Prior to any contract award, all communication concerning this *Bid Solicitation* **must** be addressed through OP.
- B. Vendor **must not** alter any language in any solicitation document provided by the State.

- C. Vendor **must not** alter the Official Bid Price Sheet.
- D. All official documents and correspondence related to this solicitation **shall** be included as part of the resultant contract.
- E. Bids **must** be submitted only in the English language.
- F. The State **shall** have the right to award or not award a contract, if it is in the best interest of the State to do so.
- G. Vendor **must** provide clarification of any information in their response documents as requested by OP.
- H. Bids **must** meet or exceed all defined specifications as set forth in this *Bid Solicitation*.
- I. Bids **must** meet all terms and conditions of this Invitation for Bid and the laws of the State of Arkansas.
- J. Vendors may submit multiple bids.

1.16 **REQUIREMENT OF ADDENDUM**

- A. This *Bid Solicitation* **shall** be modified only by an addendum written and authorized by OP.
- B. An addendum posted within three (3) calendar days prior to the bid opening **shall** extend the bid opening and may or may not include changes to the Bid Solicitation.
- C. The vendor **shall** be responsible for checking the following websites for any and all addenda up to bid opening:
<http://www.arkansas.gov/dfa/procurement/bids/index.php>,
<http://humanservices.arkansas.gov/about-dhs/op/procurement-announcements>

1.17 **AWARD PROCESS**

- A. Vendor Selection
 - 1. Award **shall** be made on an ALL OR NONE basis to the lowest responsive bidder. Bidders must meet minimum qualifications. Bids must meet or exceed all defined specifications. Bids must meet all terms and conditions of this IFB and the laws of the State of Arkansas.
 - 2. Contract award, extension, or renewal is contingent upon approval by officials of DHS, subsequent approval by the DHS Office of Procurement, review by the Legislative Council and the availability of State funds. Changes to any non-financial portion of this agreement may be made with the agreement of both DHS and the Contractor.
- B. Negotiations
 - 1. If the State so chooses, negotiations may be conducted with the lowest responsive bidder. 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 responsive bidder. The negotiation process may be repeated until the lowest responsive vendor has been determined, or until such time the State decides not to move forward with an award.
- C. Anticipation to Award
 - 1. Once an anticipated successful vendor has been determined, the anticipated award will be posted on the following websites:
<http://www.arkansas.gov/dfa/procurement/bids/index.php>,
<http://humanservices.arkansas.gov/about-dhs/op/procurement-announcements>
 - 2. The anticipated award will be posted for a period of fourteen (14) days prior to the issuance of a contract. Vendors and agencies are cautioned that these are preliminary results only, and a contract will not be issued prior to the end of the fourteen day posting period.
 - 3. OP **shall** have the right to waive the policy of Anticipation to Award when it is in the best interest of the State.

4. It is the vendor's responsibility to check the above referenced websites for the posting of an anticipated award.

D. Issuance of Contract

1. Any resultant contract of this Bid Solicitation shall be subject to State approval processes which may include Legislative review.
2. An OP Official will be responsible for award and administration of any resulting contract.

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 that is at least fifty-one percent (51%) 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 Veterans Affairs
- B. A woman-owned business is defined by Arkansas Code Annotated § 15-4-303(9) 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 EMPLOYMENT OPPORTUNITY POLICY

- A. In compliance with Arkansas Code Annotated § 19-11-104, the State is required to 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. The submission of an *EO Policy* to OSP is a one-time Requirement. Vendors are responsible for providing updates or changes to their respective policies, and for supplying *EO Policies* upon request to other State agencies that must also comply with this statute.
- D. Vendors, who are not required by law by 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, prior to the award of a contract, selected vendor(s) **must** have a current certification on file with the Office of State Procurement (OSP) stating that they do not employ or contract with illegal immigrants.
- B. OP will notify the selected vendor(s) prior to award if their certification has expired or is not on file. Instructions for completing the certification process will be provided to the vendor(s) at that time.

1.21 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 vendor's past performance with the State may be used to determine if the vendor is "responsible." Proposals submitted by vendors determined to be non-responsible **shall** be disqualified.

1.23 **TECHNOLOGY ACCESS**

- A. When procuring a technology product or when soliciting the development of such a product, the State of Arkansas is required to comply with the provisions of Arkansas Code Annotated § 25-26-201 et seq., as amended by Act 308 of 2013, which expresses the policy of the State to provide individuals who are blind or visually impaired with access to information technology purchased in whole or in part with state funds. The Prospective Contractor expressly acknowledges and agrees that state funds may not be expended in connection with the purchase of information technology unless that technology meets the statutory Requirements found in 36 C.F.R. § 1194.21, as it existed on January 1, 2013 (software applications and operating ICSs) and 36 C.F.R. § 1194.22, as it existed on January 1, 2013 (web-based intranet and internet information and applications), in accordance with the State of Arkansas technology policy standards relating to accessibility by persons with visual impairments.
- B. Accordingly, the Prospective Contractor expressly represents and warrants to the State of Arkansas through the procurement process by submission of a Voluntary Product Accessibility Template (VPAT) for 36 C.F.R. § 1194.21, as it existed on January 1, 2013 (software applications and operating ICSs) and 36 C.F.R. § 1194.22, that the technology provided to the State for purchase is capable, either by virtue of features included within the technology, or because it is readily adaptable by use with other technology, of:
 1. Providing, to the extent required by Arkansas Code Annotated § 25-26-201 et seq., as amended by Act 308 of 2013, equivalent access for effective use by both visual and non-visual means.
 2. Presenting information, including prompts used for interactive communications, in formats intended for non-visual use.
 3. After being made accessible, integrating into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired.
 4. Providing effective, interactive control and use of the technology, including without limitation the operating system, software applications, and format of the data presented is readily achievable by nonvisual means.
 5. Being compatible with information technology used by other individuals with whom the blind or visually impaired individuals interact.
 6. Integrating into networks used to share communications among employees, program participants, and the public.
 7. Providing the capability of equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.
- C. State agencies cannot claim a product as a whole is not reasonably available because no product in the marketplace meets all the standards. Agencies must evaluate products to determine which product best meets the standards. If an agency purchases a product that does not best meet the standards, the agency must provide written documentation supporting the selection of a different product, including any required reasonable accommodations.
- D. For purposes of this section, the phrase "equivalent access" means a substantially similar ability to communicate with, or make use of, the technology, either directly, by features incorporated within the technology, or by other reasonable means such as assistive devices or services which would constitute reasonable accommodations under the Americans with Disabilities Act or similar state and federal laws. Examples of methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands or other means of navigating graphical displays, and customizable display appearance. As provided in Arkansas Code Annotated § 25-26-201 et seq., as amended by Act 308 of 2013, if

equivalent access is not reasonably available, then individuals who are blind or visually impaired **shall** be provided a reasonable accommodation as defined in 42 U.S.C. § 12111(9), as it existed on January 1, 2013.

- E. If the information manipulated or presented by the product is inherently visual in nature, so that its meaning cannot be conveyed non-visually, these specifications do not prohibit the purchase or use of an information technology product that does not meet these standards.

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

The respondent's solution must comply with the state's shared Technical Architecture Program which is a set of policies and standards that can be viewed at: <http://dis.publishpath.com/policies-standards>. Only those standards which are fully promulgated or have been approved by the Governor's Office apply to this solution.

1.25 **VISA ACCEPTANCE**

- A. Awarded vendor should have the capability of accepting the State's authorized VISA Procurement Card (p-card) as a method of payment.
- B. Price changes or additional fee(s) **shall not** be levied against the State when accepting the p-card as a form of payment.
- C. VISA is not the exclusive method of payment.

1.26 **PUBLICITY**

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

1.27 **RESERVATION**

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

1.28 **SCHEDULE OF EVENTS**

Public Notice of IFB	February 15, 2019
Deadline for Receipt of Written Questions	February 22, 2019
Response to Written Questions	March 1, 2019
Date and time for Opening Bids	March 18, 2019 @ 2:00pm CDT
Intent to Award Announced, On or About	March 19, 2019
Contract Start, (Subject to State Approval)	May 1, 2019

1.29 **STATE HOLIDAYS**

Holidays are those days as declared legal state holidays by authority of Act 304 of 2001. Those days are as follows:

New Year's Day	January 1
Dr. Martin Luther King Birthday	Third Monday in January
George Washington Birthday	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veterans Day	November 11
Thanksgiving Day	Fourth Thursday in November
Christmas Eve	December 24
Christmas Day	December 25

Additional days can be proclaimed as holidays by the Governor through executive proclamation. State offices are normally closed on holidays; however, there are occasions (i.e. during legislative sessions) when it may become

necessary to keep state offices open on holidays. The Contractor shall maintain adequate staff on such working holidays.

SECTION 2 – MINIMUM REQUIREMENTS

2.1 INTRODUCTION

This Invitation for Bid (IFB) is issued by the Office of Procurement (OP) for the DHS Division of Provider Services and Quality Assurance (DPSQA) to obtain pricing and a contract with a qualified Quality Improvement Organization (QIO) or QIO-like entity for the primary purpose of conducting annual and random onsite health and safety licensure/certification reviews, inspection of care reviews, and quality of care reviews for the following Providers:

- A. ARChoices in Home Care (ARChoices),
- B. Home and Community-Based Services (HCBS) waiver providers
- C. Outpatient Behavioral Health Services (OBHS) Fee-for-Service including Substance Abuse Treatment Facilities;
- D. Inpatient Psychiatric Services for the Under Twenty-One (U21) population; and
- E. Division of Youth Services (DYS) Secure Residential Treatment Facilities, Specialized Residential Treatment (including group homes), and Community-Based Youth Service.

DPSQA will contract with one (1) vendor to provide these services statewide. The Contractor **must** conduct activities specified in this IFB from an office located in Pulaski County, Arkansas and during Arkansas state government business hours, Monday-Friday, 8:00am -5:00pm CST, with the exception of Official State Holidays.

2.2 SERVICE DELIVERY LOCATION

All services must be provided during normal state work hours and within the agreed upon number of days unless otherwise arranged and coordinated with DHS. The vendor shall give the agency immediate notice of any anticipated delays that may affect the service delivery requirement.

2.3 MINIMUM QUALIFICATION

The Contractor **must** meet the following requirements:

1. Vendor **must** have five (5) years' experience performing: (1) Health and Safety licensure/certification visits with HCBS waiver providers and/or Behavioral Health providers and (2) Quality of Care reviews with HCBS waiver providers and/or Behavioral Health providers. To clarify, Vendor is not required to have five (5) years' experience in categories (1) and (2) separately. Vendor may use five (5) years' concurrent experience in categories (1) and (2) to meet this requirement. Vendor must have at least five (5) years' experience in one category, and at least three (3) years' experience in the other category (categories (1) and (2)) in order to qualify. For verification purposes Vendor **must** provide an overview of prior work, within the past five (5) years (or longer depending on the experience used to qualify under this section), meeting these requirements and which **must** include the following:

- scopes of work,
- estimated volume of reviews,
- time period of contract,
- contract amounts, and
- contact information for staff who can verify Vendor's experience, including the following information without limitation: staff member's name, title, current phone number, email address, and mailing address.

Proposals may be disqualified from respondents whose references do not respond within five (5) business days of the request for verification.

2. Vendor must be a Quality Improvement Organization (QIO) or have QIO-like status. For verification purposes, Vendor must submit at time of bid official documentation from the Centers for Medicare and Medicaid Services (CMS) Quality Improvement Group, Center for Clinical Standards and Quality, attesting to Vendor's official status as a QIO or QIO-like entity.
3. Vendor must certify that he/she has not received any sanctions or corrective actions by a state or Federal government within the last ten (10) years. However, failure to certify may not disqualify a Vendor's bid submission if Vendor provides detailed documentation of each sanction and any corresponding corrective action received from a State or Federal government within the last ten (10) years. Documentation must include

status of all corrective actions within the last ten (10) years, including corrective actions completed to the satisfaction of the issuing government agency.

4. Vendor and all Vendor Subcontractors, if any, must certify that Vendor and all Vendor Subcontractors have read the Organizational or Personal Conflict of Interest Clause (see Attachment G) and that Vendor and all Vendor Subcontractors have no actual, apparent, or potential conflicts of interest with the providers specified in Attachments II-VII) If Vendor or any Vendor Subcontractor does have an actual, apparent, or potential conflict of interest, Vendor must disclose all relevant information pertaining to such conflict of interest. Vendors disclosing a potential, actual or apparent conflict of interest must submit a conflict of interest mitigation plan at the time of bid. DHS, in its sole discretion, will determine if a conflict exists and whether it can be mitigated or waived. Bidders with conflicts of interest that cannot be mitigated or waived shall be disqualified.
5. Vendor must be bondable. As proof of meeting this requirement the Vendor must submit a Letter of Bondability from an admitted Surety Insurer with its bid submission. The letter shall unconditionally offer to guarantee to the extent of one hundred percent (100%) of the annual contract price the bidder's performance in all respects of the terms and conditions of the IFB and the resultant contract.

2.4 **SCOPE OF WORK**

The successful bidder under this IFB **shall** conduct annual and random onsite health and safety licensure/certification reviews, inspection of care reviews, and quality of care/quality of service reviews for an array of provider types as specified in this IFB.

The Vendor **shall** have an office located in Pulaski County. The Vendor's Pulaski County office **must** be open from 8:00 am to 5:00 pm, Central Standard Time, Monday through Friday, exclusive of state holidays and **must** follow the state inclement weather policy. Vendor's staff **must** be present and available to providers and DHS while the office is open, including coverage during lunch time and breaks. The Vendor **must** have an automated method of receiving messages and information from providers after business hours and on holidays.

The Vendor **shall** reply in writing to DHS within twenty-four (24) hours of, request by DHS, regarding any correspondence, including correspondence about complaints received by the Vendor in connection with the contract or Vendor's staff.

The Vendor **shall** maintain staff with the necessary qualifications to complete the required activities and responsibilities outlined within this IFB.

- A. Vendor **shall** perform health and safety licensure/certification reviews for an array of provider types including without limitation:
 1. ARChoices providers.
 2. Fee-for-service Outpatient Behavioral Health; and
 3. Substance Abuse Treatment.
- B. Vendor **shall** perform quality of care reviews for an array of provider types including without limitation:
 1. ARChoices. (only Attendant Care and Respite providers);
 2. Fee-for-service Outpatient Behavioral Health Services.
 3. Substance Abuse Treatment;
 4. Division of Youth Services (DYS) Secure Residential Treatment Facilities.
 5. DYS Specialized Residential Treatment Programs, and
 6. DYS Community-Based Youth Service.
- C. Vendor **shall** perform inspection of care reviews for an array of provider types including without limitation:
 1. Inpatient Psychiatric Services for Under 21 (U21) population.
- D. Vendor **shall** perform related functions and processes including, but not limited to:
 1. Reconsiderations (Informal dispute resolutions) requested by providers.
 2. Intake and tracking of **provider or beneficiary** complaints **received by DHS and forwarded to Vendor. made by providers or beneficiaries.**

3. Participation in complaint investigations as directed by DPSQA and/or DHS.
4. Participation in all activities related to administrative appeals and litigation based in whole or in part on Vendor's acts or omissions.
5. Required ad hoc reporting.
6. Development and provision of all forms and documents related to the above-mentioned processes.
7. Development and implementation of various Quality Assurance and Performance Improvement projects identified by DHS.
8. Conduct all communications in a secure and Health Insurance Portability and Accountability Act (HIPPA)-compliant manner.
9. Secure repository and maintenance of all data collected in the course of executing all review types and the above-mentioned related processes; and
10. Any other task necessary to provide all the deliverables identified in this IFB.

E. Vendor **shall** adhere to the following standard requirements applicable to all process types including without limitation:

1. Perform all functions under this contract in compliance with applicable laws, policies, regulations and guidelines, including those set forth by DHS, including without limitation, due process as it relates to processes, timeframes, forms and notifications.
2. Use only DHS pre-approved forms and letters for any and all correspondence to Providers, including legal notifications. Vendor shall seek approval from DHS within thirty (30) days from the contract award date on all forms, surveys, and letters used in performance of this contract prior to use by Vendor, including the following without limitation:
 - a. Onsite health and safety licensure/certification survey.
 - b. Onsite inspection of care survey.
 - c. Onsite quality of care survey.
 - d. Provider notification of health and safety licensure/certification review deficiency statement.
 - e. Provider notification of inspection of care deficiency statement.
 - f. Provider notification of quality of care review deficiency statement.
 - g. Reconsideration (informal dispute resolution) process and correspondence.
 - h. Appeals process.
 - i. All forms and correspondence related to complaint processes as set forth in this IFB and Attachment I.
3. The Vendor **shall** perform all Health and Safety Licensure/Certification Reviews, Quality of Care Reviews, and Inspection of Care Reviews, informal dispute resolutions, and complaint intake and investigations as described herein.
4. Adhere to the timeframes for each review type set forth in this IFB. Unless specifically noted, the hours or days **shall** not include weekends and any legal holidays observed by the Federal government or Arkansas State government in the computation thereof; adherence to timeframes must be reported to DHS in monthly reports and may be considered in Vendor's Quality Assurance/Performance Improvement activities set out herein.
5. All reviews **shall** be conducted by Vendor staff meeting the minimum education requirements specified in this IFB depending on the type of review.
6. Vendor **shall** notify DHS within five (5) business days of instances wherein Vendor has identified instances of a provider not meeting established standards of care, if noted during the course of carrying out inspections of care review functions under this contract, including Health and Safety Reviews and/or Clinical Quality Reviews. DHS will work with Vendor to establish an acceptable method of communicating such instances of non-standard care to DHS.
7. Vendor **shall** complete, file, retain, and make available to DHS upon request records related to this contract in a secure, HIPPA-compliant manner. Such records shall include, without limitation, documents utilized by Vendor in providing services to DHS under this contract, including those created by Vendor.

8. Documentation and correspondence related to all Inspections of Care, including Health and Safety Reviews and/or Clinical Quality Reviews, informal dispute resolutions, and complaint investigations must be maintained by Vendor in accordance with the Arkansas Records Retention Policy or at the conclusion of an appeal or litigation, whichever is longer.
9. The Vendor **shall** establish and maintain an internal quality assurance process and provide DPSQA with documented evidence as requested. At a minimum, the Vendor shall track and trend the following for internal quality assurance purposes:
 - a. Survey completion timeframes by provider type and at the individual provider level;
 - b. Complaint investigation timeframes by provider type and at the individual provider level;
 - c. Corrective action plan review timeframes by provider type and at the individual provider level;
 - d. Frequency of follow-up visits by provider type and at the individual provider level;
 - e. Frequency of reconsideration requests by provider type and at the individual provider level; and
 - f. Frequency and topics of staff trainings.
10. At a minimum the Vendor **shall** provide the following electronic monthly reports to DHS by the twenty-fifth (25th) day of the month for work done the previous month:
 - a. List of providers (and physical sites) identified for annual, random, and follow-up inspections by provider type;
 - b. List of providers (and physical sites) that submitted corrective action plans by provider type;
 - c. List of providers (and physical sites) with corrective action plans that were not approved (rejected), by provider type, including recommendations for further action based upon identified deficiencies and non-responsive corrective action plan;
 - d. List of providers (and physical sites) that received a follow-up review/inspection, by provider type, with a brief summary of findings;
 - e. List of providers (and physical sites) requesting a reconsideration (informal dispute resolution) and the outcome of those reconsiderations by provider type;
 - f. Types of deficiencies by provider type and at the individual provider level;
 - g. Complaints received by priority level, by provider type and at the individual provider level;
 - h. Complaints investigated and requiring corrective action by provider type and at the individual provider level; and
 - i. List of providers (and physical sites) exhibiting habitual non-compliance.
11. The Vendor **must** submit a plan acceptable to DHS that identifies educational needs of providers and materials to be presented in accordance with conducting the Health and Safety Reviews, Inspections of Care, or Quality of Care Reviews.
12. The Vendor **shall** participate in DHS-scheduled educational workshops in conjunction with DHS and other DHS-contracted entities for the purpose of remedial training for existing providers.
13. The Vendor **shall** complete, file, and retain all records required by or maintained in connection with the contract and make such records available to DPSQA within twenty-four (24) hours of request.
14. The Vendor **shall** participate in activities related to ARChoices, Fee-for-Services Outpatient Behavioral Health; Substance Abuse Treatment; Acute Inpatient Psychiatric for U21; and DYS Residential and Community-Based program modifications, improvements, or both, as requested by DHS.
15. The Vendor **shall** develop and provide a quarterly contract performance report describing how each contract deliverable was met, or corrective action taken. This report shall be provided by the tenth (10th) day following the end of a quarter.
16. The Vendor **shall** prepare and distribute annual electronic reports to DPSQA. The reports **shall** be delivered within five (5) business days of the anniversary of the contract start date and shall cover the entire, prior year of the contract. The annual report **shall** include, at a minimum:

- a. A summary of the activities performed for the year, which shall include without limitation the total number of Health and Safety Reviews, Inspections of Care, and Clinical Quality/Quality Service Reviews by provider type; the total number of corrective action plans reviewed by provider type; the total number of follow-up visits by provider type; the total number of reconsideration requests by provider type and at the individual provider level; and the total number of complaints by priority level and provider type;
- b. A summary of the Vendor's timeliness in completing the Health and Safety Reviews, Inspections of Care, and Clinical Quality/Quality Service Reviews by provider type;
- c. A summary of the Vendor's timeliness in completing complaint investigations by provider type;
- d. A summary of the Vendor's timeliness in reviewing corrective action plans by provider type;
- e. A summary of any challenges or risks the Vendor perceives in the year ahead and how the Vendor proposes to manage and mitigate them; and
- f. Recommendations for improving efficiency and quality of services being rendered by the Vendor.

2.5 **HEALTH AND SAFETY AND LICENSURE/CERTIFICATION REVIEW**

- A. All ARChoices, Fee-for-Service Outpatient Behavioral Health Services (Behavioral Health Agencies and Independently Licensed Practitioners), and Substance Abuse Treatment providers **shall** receive an annual onsite Health and Safety Licensure/Certification Review (See Attachments II-V).
- B. The Vendor **shall** utilize a Health and Safety licensure/certification review team as outlined in Section 2.10.B.8 ~~(E-F)~~. All Health and Safety licensure/certification review teams **shall** meet requirements outlined in Sections 2.9 and 2.10(A).
- C. General information:
 1. The Vendor **shall** use the licensure regulations, certification manuals, and/or provider manuals specified in 1.6 "Definition of Terms" to guide the investigation and to determine whether, based on the investigation and findings, the agency has met the requirements.
 2. The Vendor **shall** provide clear evidence in support of any finding that the provider has failure to meet a requirement outlined in licensure regulations, certification manuals and/or provider manuals.
 3. When investigating a concern, the Vendor **shall** note the tag number for that requirement, as specified in the licensing regulations, certification manual, and/or provider manual (See 1.6 "Definition of Terms"), to help direct the investigation.
 4. The Vendor **shall** perform onsite visits which **shall** include observations and formal and informal interviews. The Vendor **shall** conduct record reviews for the primary purpose of obtaining specific information, i.e., look at what is needed, not the whole record. The information gathering tasks are interrelated. Information acquired while doing observations and interviews will direct the record review. Likewise, information obtained while doing the record review may help direct what observations or interviews are needed.
 5. The Vendor's review team **shall** meet during the course of the onsite visit to share information, e.g., findings, areas of concern, any changes needed in the focus of the survey. The Vendor **shall** use this information to guide the investigation but use professional judgment and a team approach to determine if a deficient practice has occurred.
- D. The Vendor **shall** follow the steps outlined below to conduct a Health and Safety Licensure/Certification Review.
 1. General Observation of Clients:
 - a. The Vendor **shall** use observation to gather client-specific information for the clients included in the sample, and be alert to the provision of care, staff-client interactions, and quality of life for all clients.
 2. General Observation of the Provider:
 - a. The Vendor **shall** observe physical features in the facility's environment that affect clients' quality of life, health, and safety.
 - b. During the initial tour the Vendor's review team **shall** note and document any concerns in client

rooms (if applicable) and the general environment. Any concerns **shall** be investigated and followed up either through the client review for sampled clients or during observation.

- c. The Vendor's review team **shall** review the condition of the environment, such as cleanliness, sanitation, presence or absence of pests, accident hazards, functioning of equipment, and the proper and safe storage of drugs, biological, housekeeping compounds and equipment.
 - d. The Vendor **shall** document all observations thoroughly and in real time.
 - e. The Vendor **shall** observe the provider's environment at different times during the survey (if applicable), for example, first and second shift, common areas when in use by clients.
3. Kitchen/Food Service Observation (only applicable to the ARChoices Home-Delivered Meals waiver providers and Substance Abuse Treatment Facilities):
- a. The Vendor **shall** observe the Kitchen/Food Service to determine if the provider is storing, preparing, distributing, and serving food according to regulations as set forth by state, county, and local health departments to prevent food borne illness.
 - b. The Vendor **shall** also evaluate the availability of food in relation to the number of residents and whether food being prepared is consistent with the written, planned menu.
 - c. If concerns are noted with meal service, preparation, quality of meals, etc., the Vendor **shall** interview the person(s) responsible for dietary services to determine how the staff are assigned and monitored to assure meals are prepared according to the menu, delivered to clients in a timely fashion, and at proper temperature.

F. Provider Record Review

- 1. The Vendor **shall** conduct a review of the provider's licensure and certification, review of professional care staff credentials, and review of paraprofessional staff credentials. In reviewing staff credentials, the Vendor **shall** validate whether provider staff members have the appropriate educational requirements, have had the necessary training required, and are licensed as required. This review **shall** also include verification of criminal and abuse background checks on direct care staff in accordance with the provider's licensure or contract requirements (depending on the provider type).
- 2. The Vendor **shall** conduct a review of staffing documents to determine if an adequate number of staff are provided according to the number and acuity of beneficiaries/clients.
- 3. The Vendor **shall** conduct a review of provider's policy and procedure manuals to determine if policy and procedures exist and contain the necessary information in accordance with the licensure/certification requirements; and the policy and procedures are functional, such as, it identifies, develops, plans, implements, monitors, and ensures procedures are carried out according to licensure/certification requirements.
- 4. The Vendor **shall** review the policies and procedures manual to determine if the Provider has developed and operationalized abuse prohibition policies and procedures that prohibit abuse, neglect, involuntary seclusion and misappropriation of property for all clients. The review includes components of the agency's policies and procedures as contained in the licensure/certification regulations and/or provider manual.
- 5. The Vendor **shall** review the policies and procedures manual to determine whether the abuse prohibition policies and procedures include the following:
 - a. Screening of potential new hires;
 - b. Training of employees (both for new employees, and ongoing training for all employees);
 - c. Prevention policies and procedures;
 - d. Identification of possible incidents or allegations which need investigation;
 - e. Investigation of actual incidents and allegations;

- f. Protection of residents during investigations; and
- g. Reporting of incidents, investigations, and Provider response to the results of their investigations.

6. The Vendor **shall** interview the individual(s) identified by the Provider as responsible for coordinating the policies and procedures to evaluate how each component of the policies and procedures is operationalized, if not obvious from the policies.
7. The Vendor **shall** review prior incident and accident reports and request written evidence of how the Provider has handled alleged violations (if applicable). In doing so, the Vendor shall determine if the Provider implemented adequate procedures for reporting and investigating; for protection of the client during the investigation; and for the provision of corrective action.
8. The Vendor **shall** interview clients and/or families regarding their awareness of how to report allegations, incidents and/or complaints.
9. The Vendor **shall** interview at least three (3) direct care staff, representing different shifts if possible and appropriate, to determine if staff are aware of what, when, and to whom to report according to the Provider policies.
10. The Vendor **shall** conduct a review of maintenance records to determine if equipment is periodically examined and to determine if it is in good working order and if environmental requirements have been met.

G. Informal interviews with direct care staff

The contractor **shall** collect information to verify and validate information obtained from other survey procedures and provide the opportunity for all interested parties to provide what they believe is pertinent information.

2.6 **QUALITY OF CARE REVIEWS**

- A. All ARChoices providers (only Attendant Care and Respite providers), fee-for-service Outpatient Behavioral Health Services (including Behavioral Health Agencies and Independently Licensed Practitioners), Substance Abuse Treatment providers, and DYS Residential and Community-Based Youth Service providers **shall** receive an annual, onsite quality of care review by Vendor's quality of care review team(s) (See Attachments II-VI).
- B. All quality of care review teams **shall** meet requirements outlined in Sections 2.9 and 2.10(A).
- C. The Vendor **shall** follow the steps outlined below to conduct a Quality of Care Review.
 1. Client Interview and Record Review:
 - a. The Vendor **shall** use the client review to determine:
 - 1) How client outcomes and the client's quality of life are related to the provision of care by the provider;
 - 2) If the care provided by the provider has enabled clients to reach or maintain their highest practicable physical, mental, and psychosocial well-being;
 - 3) Whether aspects of the environment, staff interactions, and provision of services affect sampled clients in their daily lives; and
 - 4) If the provider has properly assessed client care/treatment needs, conducted proper care planning/treatment planning/case management, implemented the plan and evaluated the plan provided to the clients.
 - b. The Vendor **shall** ~~develop~~ randomly generate a case mix of clients based on clients that are receiving services on the day of the onsite visit.
 - c. The same reviewer should conduct the entire Client Review for an assigned client.
 - d. The Vendor **shall** request schedules of the following, as appropriate, to facilitate the Client Review:
 - 1) Meals;
 - 2) Medications;
 - 3) Activities;

- 4) Special treatments;
- 5) Specialized therapies; and
- 6) Physician/Therapist visits or visits of other health professionals.

- e. The Vendor **shall** interview clients (and/or their families or other appropriate persons, as determined by the client) in the case mix to collect information and verify and validate information obtained from other survey procedures. Client interviews **shall** be conducted privately unless the client expresses a preference to have a family member, staff member, or other appropriate persons (as determined by the client) present.
- f. The Vendor **shall** complete a comprehensive care plan/treatment plan/case management plan review (depending on population) to include observations, client interview, and a record review. After observing and talking with the client, the reviewer **shall** conduct a record review, which includes the following:
 - 1) Review of care plan/treatment plan/case management plan, interventions, and evaluations;
 - 2) Review of the implementation of the care plan/treatment plan/case management plan and client response; and
 - 3) Review of the relationship of the client's drug regimen to the client's condition (if applicable).

H. Medication Pass and Pharmacy Services (Substance Abuse Treatment facilities, DYS Residential Treatment Facilities and DYS Specialized Residential Treatment Services)

- 1. The Vendor **shall** determine whether the provider safely administers medications including: accuracy of medication administration (including preparation and technique); labeling that contains at least the name and strength/concentration of the medication, as well as expiration date when applicable, and security of medications.
- 2. The Vendor **shall** determine whether medications are stored and handled in accordance with manufacturers' recommendations and/or state or federal requirements.
- 3. The Vendor **shall** review medication storage in order to determine whether:
 - a. Medications and biologicals are accessible only to authorized staff and are locked when not under the direct observation of the authorized staff;
 - b. Controlled medications are stored in a manner to limit access and to facilitate reconciliation in accordance with the provider's policies;
 - c. Medications are stored to maintain their integrity and to support safe administration of the correct medication to the correct resident, by the correct route and in the correct dose;
 - d. Medications available for use are not expired, contaminated, or unusable;
 - e. Medication labels are legible, intact, contain the name and dose/concentration of the medication, contain the appropriate cautionary/accessory instructions such as "do not crush," contain the expiration date when applicable, and support the safe administration of the medication; and
 - f. Multi-dose vials are labeled per provider policy and manufacturer's specifications once use of the vial has been initiated.
- 4. The Vendor **shall** determine whether the provider reconciles controlled medications, as appropriate. If the Vendor cites a concern regarding controlled medications during the survey process or during the medication pass, the Vendor **shall** interview appropriate provider staff, such as the director of nursing or the licensed pharmacist, regarding the concern.
- 5. If the Vendor identifies a potential problem regarding lack of reconciliation or loss of controlled medications

the Vendor **shall** review the provider's procedure and a sample of the reconciliation records and compare the amount of medication available with the amount the records indicate should be available. The Vendor **shall** interview the director of nursing and/or licensed pharmacist regarding actual frequency of the reconciliation; how the provider investigates loss or inability to reconcile controlled medications; and how the licensed pharmacist has been involved in recognizing the situation and collaborating with the provider to review and update its practices and procedures.

6. After observing the medication pass the Vendor shall compare observations with the prescriber's orders. The Vendor **shall** review to determine whether there was an error(s) in medication administration. The Vendor **shall** note any medication errors related to the preparation or administration of medications or biologicals that are not in accordance with any of the following:
 - a. The prescriber's order (whether given incorrectly or omitting an ordered dosage);
 - b. Manufacturer's specifications (not recommendations) regarding the preparation and administration of the medication or biological; and
 - c. Accepted professional standards and principles that apply to professionals providing services.
7. After completion of the observations and reconciliations, the Vendor **shall** calculate the provider's medication error rate, if one or more errors are found. To calculate the medication error rate, the contractor shall add the number of errors and divide by the opportunities for error (doses given plus the doses ordered but not given), then multiply by one hundred (100). After calculating the medication error rate (if necessary), the Vendor **shall** cite a medication error deficiency if it is determined that the facility's overall error rate is five percent (5%) or more.
8. The Vendor **shall** determine whether the provider obtains the services of a licensed pharmacist. If the Vendor determines that there is no licensed pharmacist providing services in the provider the Vendor **shall** interview the administrator and others as appropriate, regarding the length of time the provider has been without the services of a licensed pharmacist and current efforts underway to obtain the services of a licensed pharmacist.
9. If the Vendor determines that the provider has a licensed pharmacist and concerns have been identified regarding the provision of services related to pharmacist functions the Vendor **shall** interview the licensed pharmacist, the administrator and, as necessary, the director of nursing and/or medical director regarding the processes to provide and oversee pharmaceutical services consultation.
10. The Vendor **shall** determine whether the provider provides or obtains pharmaceutical services, including routine and emergency medications, to meet the needs of each client. If the Vendor identifies concerns regarding pharmaceutical services (such as: any of the required components related to safe medication use, storage, labeling; the use of authorized staff to administer medications; emergency medication issues; licensed pharmacist consultation), the Vendor **shall** review the provider's evidence (e.g., licensed pharmacist's reports to the provider) that they have been receiving ongoing pharmacy consultation regarding all aspects of the provision of pharmaceutical services in the provider including identification of problems and recommendations for corrective actions.
11. The Vendor **shall** determine whether the licensed pharmacist is available during the survey or identify how to contact the licensed pharmacist in order to respond to reviewer questions about pharmaceutical services. The Vendor **shall** review procedures and interview staff and/or the licensed pharmacist regarding the areas of concern.

2.7 **INSPECTIONS OF CARE REVIEW FOR ACUTE INPATIENT PSYCHIATRIC FOR U 21**

- A. All in-state Inpatient Psychiatric providers for the Under Twenty-One (U21) population **must** receive an annual onsite Inspection of Care consistent with the Code of Federal Regulations, 42 CFR §§456.600 through 456.614. There **must** be a sufficient number of teams within the State that an onsite Inspection of Care can be made at appropriate intervals in each facility (See Attachment VII).
- B. The Vendor **must** perform, at a minimum, Inspections of Care in accordance with the Inspection of Care guidelines outlined in Sections 221.600 – 221.620 and 241.000 – 241.700 of the Inpatient Psychiatric Services for Under Age 21 provider manual available at:

<https://medicaid.mmis.arkansas.gov/Provider/Docs/inppsynd.aspx>.

- C. Inspections of Care must also include:
 1. A review of the provider's licensure and certification, fifty percent (50%) review of professional care staff credentials, and fifty percent (50%) review of other direct care staff credentials. A review of staff shall include verification of criminal and abuse background checks on direct care staff in accordance with the provider's licensure;
 2. Face-to-Face interviews with ten percent (10%) of total number of family members and hospital staff and employees; and
 3. Observation of program milieu.

2.8 **RELATED PROCESSES AND FUNCTIONS**

- A. The Vendor **shall** utilize an inspection team as outlined in Section 2.10 (F). The Inspection of Care team shall also meet requirements outlined in Sections 2.8 (D-F).
- B. The Vendor **must** issue a written report of findings following the initial on-site review/inspection, as well as any follow-up review/inspection, that specifies areas of non-compliance in relation to the licensing regulations, certification standards, or provider manual, as appropriate. The Vendor's report of findings **must** request any of the following information that applies: a corrective action plan, information on the informal dispute resolution process, and information on the formal provider appeal process. This report **shall** be submitted to the provider and DPSQA within fourteen (14) calendar days of the last day of the on-site review/inspection.
- C. The Vendor **must** solicit, receive, and evaluate provider corrective action plans. The Vendor shall furnish the provider, DPSQA and others as directed by DPSQA with a notification of the acceptance or rejection of the corrective action plan within fourteen (14) calendar days of receipt.
- D. The Vendor **must** perform follow-up on-site reviews/inspections, when necessary, to determine whether corrective actions outlined in the corrective action plan are being implemented as approved. Follow-up reviews/inspections shall focus on known deficiencies cited in the most recent review/inspection and corrective actions implemented by the provider and outlined in the corrective action plan submitted by the provider following their most recent onsite review/inspection.
- E. Follow-up inspections **shall** follow the same onsite survey protocol described previously in Sections 2.5, 2.6, and/or 2.7, although follow-up inspections will generally be more narrowly focused on those known deficiencies cited in the most recent review/inspection.
- F. The Vendor **must** propose a reconsideration (informal dispute resolution) process to reconsider citations, deficiencies, or sanctions when requested by the provider. Vendor's proposed reconsideration process shall be provided to DHS within thirty (30) days of contract start date.
- G. The provider may request reconsideration only once per review and the Vendor **shall** not bill DHS for a review of the provider reconsideration request. The Vendor's reconsideration is contingent upon the provider submitting additional information.
- H. The Vendor **must** review and issue a determination on all reconsideration requests within seven (7) calendar days of receipt. If citations or deficiencies are remedied in the reconsideration process the Vendor **must** revise the written report of findings and send it to the provider and DPSQA within ten (10) calendar days of the new determination.
- I. The Vendor **must** include as part of the monthly summary report, a list of providers requesting a reconsideration the previous month and the outcome of those reconsiderations. See Attachment VIII for information on DPSQA's current informal dispute resolution process.
- J. The Vendor **must** participate in all administrative appeals and litigation based in whole or in part on the Vendor's acts or omissions within DPSQA defined timeframes, unless a documented exception is made by DPSQA. Participation includes, without limitation, provision of the hearing statement, all documentation used by the Vendor in connection with the adverse action being heard, and pertinent witnesses.

- K. The Vendor **must** establish a complaint resolution database to track all written and verbal provider and client complaints received by ~~the Vendor DHS and forwarded to Vendor~~. The complaint resolution database **must** include the following:
 - 1. Information on complainant (if available).
 - 2. Description of the complaint.
 - 3. Information on the provider and/or client (if available).
 - 4. Priority level assignment for investigation purposes.
 - 5. Information on resolution of complaint following complaint investigation.
- L. The Vendor **shall** maintain records of verbal complaints, reviews, inspections, and any additional information related to the services specified herein for five (5) years from the date of complaint, review or inspection, or until all audits, reviews, appeals, hearings, investigations or administrative or judicial litigation to which the records may relate are finally concluded, whichever period is later.
- M. The Vendor **must** review, respond to, and investigate written and verbal provider and client complaints in accordance with DHS established complaint processes (see Attachment I). The Vendor **must** review complaints as they are logged into the complaint resolution database to prioritize complaint investigations based on the information available and in accordance with DHS established processes (see Attachment I).
- N. The Vendor **shall** notify DPSQA immediately of any verbal or written complaint received by the Vendor and prioritized as a Priority 1 or Priority 2 following review by the Vendor. The Vendor **must** investigate complaints using the same process/procedures as a typical onsite review/inspection, albeit with a narrower focus/approach.
- O. The Vendor **must** log complaints for DYS facilities. Vendor **must** confer with DHS prior to taking any action on complaints related to DYS facilities and shall provide support for any resulting investigation(s) as directed by DHS. Complaint investigations for all other provider types **shall** be the responsibility of the Vendor as specified in Section 2.8 (K-N) above.
- P. The Vendor **must** furnish a monthly report of complaints received (including assigned priority levels) and resolutions, by provider type. This report **must** also include provider specific information including any trend data.

2.9 **GENERAL STAFFING AND QUALIFICATION REQUIREMENTS**

- A. The Vendor **shall** conduct its own training and **shall** ensure that each reviewer is fully equipped and trained to conduct on-site Health and Safety Licensure/Certification Reviews, Inspections of Care, and/or Quality of Care Reviews.
- B. The Vendor **shall** recognize that each type of on-site review or inspection may have distinct reviewer qualification requirements for the successful administration of the review or inspection.
- C. Any reviewer qualification requirements of the on-site review or inspection **shall** be in addition to any staffing or staff qualification requirements listed in this IFB.
- D. The Vendor **shall** ensure that all of its survey staff working under this contract **shall** meet the minimum qualifications listed in Section 2.10 "Qualifications for Reviewers and Administrative Staffing."
- E. The Vendor **shall** provide sufficient staffing to perform all contract functions.
- F. All review staff (reviewers) **must** be trained and have experience in proper investigative techniques for identifying deficiencies.
- G. The Vendor **shall** incur any expenses related to initial and continuing training in audit techniques.
- H. The State may approve or reject any Vendor and Vendor Subcontractor staff and to require the removal or reassignment of any Vendor and Subcontractor personnel unacceptable to the State. The replacement staff member **shall** have equal or greater qualifications than the staff member being replaced. The replacement of any Vendor's staff **shall** be done in such a way that does not interfere with daily operations.

2.10 QUALIFICATIONS FOR REVIEWERS AND ADMINISTRATIVE STAFFING

- A. All Vendor's staff conducting reviews or inspections **shall**:
1. Have the ability to request and verify information from providers and individuals being reviewed or inspected;
 2. Be culturally sensitive to the population being served by the providers being reviewed or inspected;
 3. Have the necessary knowledge, skills, and abilities to successfully conduct Health and Safety Licensure/Certification Reviews, Inspections of Care, and/or Clinical Quality/Quality Service Reviews, which shall include skills in organization; time management; ability to address difficult questions and problematic individuals; and effective communication;
 4. Verify the information received from clients and the client's family members and provider staff by cross-referencing all available information; and
 5. The staff member conducting the review or inspection **shall** not be related by blood or marriage to provider staff or client in the review or inspection case mix, financially responsible for a client in the case mix, empowered to make financial or health-related decisions on behalf of a client in the case mix, and shall not benefit financially from the outcome of the provider review or inspection.
- B. Health and Safety Licensure/Certification Review Staffing
Staffing for ARChoices, Fee-for-Service Outpatient Behavioral Health Services, and Substance Abuse Treatment Health and Safety licensure/certification reviews **shall** include at a minimum, Generalists with at least a Bachelor's Degree in a Social Sciences field. In addition, each staff member **must** have a minimum of three (3) years of Social Service experience.
- C. ARChoices Quality of Care Review Staffing
Staffing for ARChoices Quality of Care Reviews **shall** include at a minimum, a multi-disciplinary team of licensed Registered Nurses and Generalists with at least a Bachelor's Degree in a Social Sciences field. In addition, each staff member **must** have a minimum of three (3) years of Social Service experience.
- D. Fee-for-Service Outpatient Behavioral Health Services and Substance Abuse Treatment Quality of Care Review Staffing
Staffing for Fee-For-Service Outpatient Behavioral Health Services, Inspections of Care **must** include at a minimum, a multi-disciplinary team of licensed Registered Nurses, licensed Mental Health professionals, and duly credentialed substance abuse professionals. In addition, each staff member **must** have a minimum of three (3) years Behavioral Health experience.
- E. DYS Quality of Care Review Staffing
Staffing for DYS Secure Residential Treatment Facilities, Specialized Residential Treatment Programs, and Community-Based Youth Services providers' quality of care reviews **shall** include at a minimum, a multi-disciplinary team of licensed Registered Nurses, licensed Mental Health professionals, and duly credentialed substance abuse professionals. In addition, each staff member **must** have a minimum of three (3) years of Juvenile Justice experience.
- F. Acute, Inpatient Psychiatric Services for U21 Inspections of Care Staffing
Staffing for Fee-For-Service Outpatient Behavioral Health Services, Inspections of Care **must** include at a minimum, a multi-disciplinary team of licensed Psychologists or Psychological examiners, other licensed Mental Health professionals, and an Arkansas licensed board certified Psychiatrist in active practice. In additional each staff member **must** have a minimum of three (3) years Behavioral Health experience.
- G. Project Director
The Vendor **shall** provide one (1) full-time equivalent (FTE) Project Director with an advanced degree and five (5) years' experience in a quality control peer review setting, preferably three (3) years of which are in Behavioral Health.

- H. ARChoices Program Manager
The Vendor **shall** provide one (1) FTE ARChoices Program Manager with a Bachelor's Degree in Social Services or a related field and at least three (3) years' experience in Program Management and at least three (3) years' experience in a home- and community-based setting.
- I. Behavioral Health Program Manager
The Vendor **shall** provide one (1) FTE Behavioral Health Program Manager with a Bachelor's Degree in Social Services or a related field and at least three (3) years' experience in Program Management and at least three (3) years' experience in a Behavioral Health setting.
- J. Youth Services Program Manager
The Vendor **shall** provide one (1) FTE Youth Services Program Manager with a Bachelor's Degree in Social Services or a related field and at least three (3) years' experience in Program Management and at least three (3) years' experience in a Juvenile Justice setting.

2.11 **PERFORMANCE STANDARDS**

- A. State law requires that all contracts for services include Performance Standards for measuring the overall quality of services provided. *Attachment C: Performance Based Contracting* identifies expected deliverables, performance measures, or outcomes; and defines the acceptable standards a vendor **must** meet in order to avoid assessment of damages.
- B. The State may be open to negotiations of Performance Standards prior to contract award, prior to the commencement of services, or at times throughout the contract duration.
- C. The State **shall** have the right to modify, add, or delete Performance Standards throughout the term of the contract, should the State determine it is in its best interest to do so. Any changes or additions to performance standards will be made in good faith following acceptable industry standards, and may include the input of the vendor so as to establish standards that are reasonably achievable.
- D. All changes made to the Performance Standards **shall** become an official part of the contract.
- E. Performance Standards **shall** continue throughout the term of the contract.
- F. Failure to meet the minimum Performance Standards as specified **may** result in the assessment of damages or termination of the contract.
- G. In the event a Performance Standard is not met, the vendor will have the opportunity to defend, respond to, or cure to as determined by the State, the insufficiency. The State **may** waive damages if it determines there were extenuating factors beyond the control of the vendor that hindered the performance of services or it is in the best interest of the State. In these instances, the State **shall** have final determination of the performance acceptability.

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

SECTION 3 – GENERAL CONTRACTUAL REQUIREMENTS

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

3.1 PAYMENT AND INVOICE PROVISIONS

- A. All invoices **shall** be forwarded to:
[Insert invoicing address]
- B. Payment will be made in accordance with applicable State of Arkansas accounting procedures upon acceptance goods and services by the agency.
- C. The State **shall not** be invoiced in advance of delivery and acceptance of any goods or services.
- D. Payment will be made only after the vendor has successfully satisfied the agency as to the reliability and effectiveness of the goods or services purchased as a whole.
- E. The vendor should invoice the agency by an itemized list of charges. The agency's Purchase Order Number and/or the Contract Number should be referenced on each invoice.
- F. Other sections of this *Bid Solicitation* may contain additional Requirements for invoicing.
- G. Selected vendor **must** be registered to receive payment and future *Bid Solicitation* notifications. Vendors may register on-line at <https://www.ark.org/vendor/index.html>.

3.2 GENERAL INFORMATION

- A. The State **shall not** lease any equipment or software for a period of time which continues past the end of a fiscal year unless the contract allows for cancellation by the State Procurement Official upon a 30 day written notice to the vendor/lessor in the event funds are not appropriated.
- B. The State **shall not** contract with another party to indemnify and defend that party for any liability and damages.
- C. The State **shall not** pay damages, legal expenses or other costs and expenses of any other party.
- D. The State **shall not** continue a contract once any equipment has been repossessed.
- E. Any litigation involving the State **must** take place in Pulaski County, Arkansas.
- F. The State **shall not** agree to any provision of a contract which violates the laws or constitution of the State of Arkansas.
- G. The State **shall not** enter a contract which grants to another party any remedies other than the following:
 - The right to possession.
 - The right to accrued payments.
 - The right to expenses of deinstallation.
 - The right to expenses of repair to return the equipment to normal working order, normal wear and tear excluded.
 - The right to recover only amounts due at the time of repossession and any unamortized nonrecurring cost as allowed by Arkansas Law.
- H. The laws of the State of Arkansas **shall** govern this contract.
- I. A contract **shall not** be effective prior to award being made by a State Procurement Official.
- J. In a contract with another party, the State will accept the risk of loss of the equipment or software and pay for any destruction, loss or damage of the equipment or software while the State has such risk, when:

- The extent of liability for such risk is based upon the purchase price of the equipment or software at the time of any loss, and
- The contract has required the State to carry insurance for such risk.

3.3 **CONDITIONS OF CONTRACT**

- A. The vendor **shall** at all times observe and comply with federal and State of Arkansas laws, local laws, ordinances, orders, and regulations existing at the time of, or enacted subsequent to the execution of a resulting contract which in any manner affect the completion of the work.
- B. The vendor shall indemnify and save harmless the agency and all its officers, representatives, agents, and employees against any claim or liability arising from or based upon the violation of any such law, ordinance, regulation, order or decree by an employee, representative, or subcontractor of the vendor.
- C. The Contractor agrees to the Performance Based Contracting standards as presented in Attachment C, DHS Standard Terms and Conditions as presented in Attachment D, a pro forma contract as presented in Attachment E, the Business Associate Agreement as presented in Attachment F, and the Organizational or Personal Conflict of Interest policy as presented in Attachment G.

ALL VENDOR STAFF MAY BE MANDATED REPORTERS UNDER STATE AND FEDERAL MANDATES

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 vendor-owned equipment or software and technical and business or operations literature to be delivered or to be used in the installation of deliverables and services. The vendor **shall** retain total liability for equipment, software and technical and business or operations literature. The State **shall** not at any time be responsible for or accept liability for any vendor-owned items.
- B. The vendor's liability for damages to the State **shall** be limited to the value of the Contract or five million dollars (\$5,000,000), whichever is higher. The foregoing limitation of liability **shall not** apply to claims for infringement of United States patent, copyright, trademarks or trade secrets; to claims for personal injury or damage to property caused by the gross negligence or willful misconduct of the vendor; to claims covered by other specific provisions of the Contract calling for damages; or to court costs or attorney's fees awarded by a court in addition to damages after litigation based on the Contract. The vendor and the State **shall not** be liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages. This limitation of liability **shall not** apply to claims for infringement of United States patent, copyright, trademark or trade secrets; to claims for personal injury or damage to property caused by the gross negligence or willful misconduct of the vendor; to claims covered by other specific provisions of the Contract calling for damages; or to court costs or attorney's fees awarded by a court in addition to damages after litigation based on the Contract.
- C. Language in these terms and conditions **shall not** be construed or deemed as the State's waiver of its right of sovereign immunity. The vendor agrees that any claims against the State, whether sounding in tort or in contract, **shall** be brought before the Arkansas State Claims Commission as provided by Arkansas law, and **shall** be governed accordingly.

3.5 **PERFORMANCE BONDING**

- A. The Contractor shall be required to obtain performance and payment bonds to protect the State's interest.
- B. The Contractor shall obtain a performance bond as follows:
 1. The amount of the performance bonds shall be one hundred percent (100%) of the original contract price, unless the State determines that a lesser amount would be adequate for the protection of the State; and
 2. The State may require additional performance bond protection when a contract price is increased or modified.
- C. The Contractor shall submit documentation to the satisfaction of the State that a performance bond has been obtained prior to the contract start date. The contractor shall notify the State of any changes, modification, or renewals for the performance bond during the term of the contract.

3.6 **RECORD RETENTION**

- A. The vendor **shall** maintain all pertinent financial and accounting records and evidence pertaining to the contract in accordance with generally accepted principles of accounting and as specified by the State of Arkansas Law. Upon request, access **shall** be granted to State or Federal Government entities or any of their duly authorized representatives.
- B. Financial and accounting records **shall** be made available, upon request, to the State of Arkansas's designee(s) at any time during the contract period and any extension thereof, and for five (5) years from expiration date and final payment on the contract or extension thereof.
- C. Other sections of this *Bid Solicitation* may contain additional Requirements regarding record retention.

3.7 **PRICE ESCALATION**

- A. Price increases will be considered at the time of contract renewal.
- B. The vendor **must** provide to OP 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. OP **shall** have the right to require additional information pertaining to the requested increase.
- C. Increases **shall not** be considered to increase profit or margins.
- D. OP **shall** have the right to approve or deny the request.

3.8 **CONFIDENTIALITY**

- A. The vendor, vendor's subsidiaries, and vendor's employees **shall** be bound to all laws and to all Requirements set forth in this *Bid Solicitation* concerning the confidentiality and secure handling of information of which they may become aware of during the course of providing services under a resulting contract.
- B. Consistent and/or uncorrected breaches of confidentiality may constitute grounds for cancellation of a resulting contract, and the State **shall** have the right to cancel the contract on these grounds.
- C. Previous sections of this *Bid Solicitation* may contain additional confidentiality Requirements.

3.9 **CONTRACT INTERPRETATION**

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

3.10 **CANCELLATION**

- A. For Cause. The State may cancel any contract resulting from this solicitation for cause at the discretion of DHS. The State shall give the vendor written notice of cancellation, specifying the terms and the effective date of contract termination.
- B. For Convenience. The State may cancel any contract resulting from the solicitation by giving the Contractor written notice of such cancellation no less than thirty (30) 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.

3.11 **SEVERABILITY**

If any provision of the contract, including items incorporated by reference, is declared or found to be illegal, unenforceable, or void, then both the agency and the vendor **shall** be relieved of all obligations arising under such provision. If the remainder of the contract is capable of performance, it **shall not** be affected by such declaration or finding and **shall** be fully performed.

SECTION 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.