



STATE OF ARKANSAS

OFFICE OF STATE PROCUREMENT

1509 West 7th Street, Room 300
Little Rock, Arkansas 72201-4222

INVITATION FOR BID BID SOLICITATION DOCUMENT

SOLICITATION INFORMATION			
Bid Number:	SP-20-0070	Solicitation Issued:	March 24, 2020
Description:	Software License		
Agency:	Arkansas State Crime Lab		

SUBMISSION DEADLINE FOR RESPONSE			
Bid Opening Date:	April 22, 2020	Bid Opening Time:	2:00 p.m., Central Time
<p>Deliver bid submissions for this Invitation for Bid to the Office of State Procurement on or before the designated bid opening date and time. In accordance with Arkansas Procurement Law and Rules, it is the responsibility of Prospective Contractors to submit bids at the designated location on or before the bid opening date and time. Bids received after the designated bid opening date and time may be considered late and may be returned to the Prospective Contractor without further review. It is not necessary to return "no bids" to OSP.</p>			

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

OFFICE OF STATE PROCUREMENT CONTACT INFORMATION			
OSP Buyer:	Brandi Schroeder	Buyer's Direct Phone Number:	501-682-4169
Email Address:	Brandi.Schroeder@dfa.arkansas.gov	OSP's Main Number:	501-324-9316
OSP Website:	http://www.dfa.arkansas.gov/offices/procurement/Pages/default.aspx		

SECTION 1 - GENERAL INSTRUCTIONS AND INFORMATION

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

1.1 PURPOSE

The Office of State Procurement (OSP) issues this Invitation for Bid (IFB) on behalf of the Arkansas State Crime Lab (ASCL) to obtain pricing and a contract for a fully continuous probabilistic genotyping software currently available on the market.

1.2 TYPE OF CONTRACT

- A. As a result of this IFB, OSP intends to award a contract to a single Contractor.
- B. The anticipated starting date for any resulting contract is May 15, 2020, except that the actual contract start date may be adjusted by the State for up to three (3) calendar months past the stated date. By submitting a signed bid in response to the IFB, the Prospective Contractor represents and warrants that it will honor its bid as being held open as irrevocable for this period.
- C. The initial term of a resulting contract will be for one (1) year. Upon mutual agreement by the Contractor and the State, the contract may be renewed by OSP for up to six (6) additional one-year terms or portions thereof, not to exceed a total aggregate contract term of seven (7) consecutive years.

1.3 ISSUING AGENCY

- A. OSP, as the issuing office, is the sole point of contact throughout this solicitation process.
- B. Prior to any contract award, address all communication concerning this Bid Solicitation through the OSP buyer.

1.4 ACCEPTANCE OF REQUIREMENTS

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

1.5 DEFINITION OF TERMS

- A. The State Procurement Official has made every effort to use industry-accepted terminology in this Bid Solicitation and will attempt to further clarify any point of an item in question as indicated in *Clarification of Bid Solicitation*.
- B. Unless otherwise defined herein, all terms defined in Arkansas Procurement Law and used herein have the same definitions herein as specified therein.
- C. The terms "Bid" and "Bid Response Packet" are used synonymously in this document.
- D. "Bid Submission Requirement" means a task a Prospective Contractor **must** complete when submitting a bid response. These requirements will be distinguished by using the term "**shall**" or "**must**" in the Requirement.
- E. "Business Day" means a day occurring Monday through Friday excluding State holidays as listed on the Arkansas Secretary of State's website at <https://www.sos.arkansas.gov/news/state-holiday-calendar/>.
- F. "Contractor" means a person who sells or contracts to sell commodities and/or services.
- G. "DNA" refers to deoxyribonucleic acid, which is the hereditary material in humans and almost all other organisms.
- H. "Go-Live Date" refers to the date immediately following the Implementation Period whereby the Contractor **shall** have completed all activities required by this Solicitation to achieve full Software implementation, anticipated to be January 1, 2021.
- I. "Implementation Period" refers to the period of time beginning on the starting date of the contract, anticipated to be June 1, 2020 during which the Contractor **shall** perform all the start-up and implementation activities required to achieve full Software implementation by the Go-Live Date.

- J. The terms “Invitation for Bid,” “IFB,” “Bid Solicitation,” and “Solicitation” are used synonymously in this document.
- K. “Prospective Contractor” means a person who submits a proposal in response to this Solicitation.
- L. “Requirement” means a specification that a Contractor’s product and/or service **must** perform during the term of the contract. These specifications will be distinguished by using the term “**shall**” or “**must**” in the Requirement.
- M. “State” means the State of Arkansas. When the term “State” is used herein to reference any obligation of the State under a contract that results from this solicitation, that obligation is limited to the State agency using such a contract.

1.6 **RESPONSE DOCUMENTS**

- A. Each Bid **must** include one (1) original hardcopy of the *Bid Response Packet* in the English language which **must** include:
 - 1. One original *Bid Signature Page* that **must** be signed by an official authorized to bind the Prospective Contractor to a resultant contract.
 - a. By signing the *Bid Signature Page*, the Prospective Contractor signifies agreement to and compliance with all Requirements of this IFB and agrees that any exception conflicting with a Requirement or Bid Submission Requirement of this IFB will cause the Prospective Contractor’s Bid to be rejected.
 - 2. One (1) completed *Official Bid Price Sheet* with pricing proposed in U.S. dollars and cents. (See *Pricing*.)
 - 3. Peer-reviewed scientific journal publications, clearly labeled as electronic copies on a flash drive or as links to publicly accessible websites. (See *Minimum Software Requirements*.)
 - 4. Development validation documents, clearly labeled as electronic copies on a flash drive or as links to publicly accessible websites. (See *Minimum Software Requirements*.)
- B. The following items should also be submitted in the original *Bid Response Packet* as an electronic copy, preferably on a flash drive and in PDF format.
 - 1. One (1) copy of the *Official Bid Price Sheet*.
 - 2. EO 98-04 *Contract and Grant Disclosure Form*. (See *Standard Terms and Conditions*, #24. *Disclosure*.)
 - 3. Copy of Prospective Contractor’s *Equal Opportunity Policy*. (See *Equal Opportunity Policy*.)
 - 4. *Voluntary Product Accessibility Template* (VPAT), if applicable. (See *Technology Access*.)
 - 5. *Proposed Subcontractors Form*. (See *Subcontractors*.)
 - 6. Signed addenda, if applicable. (See *Requirement of Addendum*.)
 - 7. Arkansas Vendor Number, if known. (See *Vendor Registration*.)
- C. Prospective Contractors should not include any other documents or ancillary information, such as a cover letter or promotional/marketing information.
- D. Prospective Contractors should not send any Bid submission documents via email or fax.

1.7 **VENDOR REGISTRATION**

- A. Prior to award, the selected Contractor **shall** be registered as an Arkansas vendor to receive payment.
- B. For a \$25 annual fee, Prospective Contractors may register online at <https://www.ark.org/contractor/index.html> and will receive a Vendor Number upon registering. Online registration allows vendors to receive email notifications for future bid solicitations posted to the OSP website.
- C. Contractors not wishing to register online **shall** submit an updated copy of the Contractor’s Form W-9 to the State prior to award.

1.8 CLARIFICATION OF BID SOLICITATION

- A. Submit any questions requesting clarification of information contained in this Bid Solicitation in writing via email by 4:00 p.m., Central Time on or before March 30, 2020 to the OSP buyer as shown on page one (1) of this Bid Solicitation.
1. Prospective Contractors **shall** submit questions using *Template O-1: Written Questions*.
 2. For each question submitted, Prospective Contractor should reference the specific Solicitation item number to which the question refers.
 3. Prospective Contractors' written questions will be consolidated and responded to by the State. The State's consolidated written response is anticipated to be posted to the OSP website by the close of business on April 6, 2020. If Prospective Contractor questions are unclear or non-substantive in nature, the State may request clarification of a question(s) or reserves the right not to respond to that question(s).
- B. The Prospective Contractor should notify the OSP buyer of any term, condition, etc., that precludes the Prospective Contractor from submitting a compliant, responsive proposal. Prospective Contractors should note that it is the responsibility of the Prospective Contractor to seek resolution of all such issues, including those relating to the terms and conditions of the contract, prior to the submission of a bid.
- C. Prospective Contractors may contact the OSP buyer with non-substantive questions at any time prior to the bid opening.
- D. An oral statement by OSP will not be part of any contract resulting from this Solicitation and may not reasonably be relied on by any Prospective Contractor as an aid to interpretation unless it is reduced to writing and expressly adopted by OSP.

1.9 SUBCONTRACTORS

- A. Prospective Contractors should complete, sign and submit the *Proposed Subcontractors Form* included in the *Bid Response Packet*.
- B. Prospective Contractors should not attach any additional information to the *Proposed Subcontractors Form*.
- C. The utilization of any proposed subcontractor is subject to approval by the State.

1.10 PRICING

- A. Prospective Contractors **shall** include all pricing on the *Official Bid Price Sheet* only.
- B. The *Official Bid Price Sheet* is provided as a separate electronic file posted with this *Bid Solicitation* and contains the following tables for the purposes described below:
1. Table 1, Prospective Contractors **shall** enter the total annual cost to provide Software for at least three (3) concurrent users that meets all of the Requirements of this IFB.
 - a. Table 1 will be used in determining low-cost.
 2. For Table 2, Prospective Contractors **shall** enter a single one-time Implementation Fee to cover all start up and implementation activities necessary to implement the Software by the Go-Live Date, including but not limited to required hardware, add-on modules, and validation support (see *Implementation*) and a single one-time Training Fee to complete all training Requirements specified in this IFB (see *Training*).
 - a. Should these fees generally be included in the Total Annual Software Cost entered in Table 1, the State requests that Prospective Contractors structure pricing so as to accommodate the tables as provided on the *Official Bid Price Sheet*.
 - b. Should Prospective Contractors not enter fees in Table 2, the cost associated with that service will be considered to be \$0.
 - c. The fees entered will be automatically totaled and entered into the Total Initial Year Services Cost cell.
 3. The totals from Tables 1 and 2 will be automatically entered into the blue-shaded Total Initial Year Cost cell and will be used in determining low-cost.

4. For Table 3, Prospective Contractors **shall** enter applicable costs to provide the specified optional enhancements to the Software. (See *Preferred Software Capabilities*.)
 - a. Should Prospective Contractors not offer a capability specified in Table 3, Prospective Contractors **shall** enter "N/A" in the applicable cell; otherwise the cost associated with that service will be considered to be \$0.
 - b. Prospective Contractors may expand Table 3 to include additional enhancement option pricing.
 - c. Table 3 will not be used in determining low-cost.
5. For Table 4, should Prospective Contractors offer one (1) or more optional extended support item specified, Prospective Contractors **shall** enter applicable costs to provide the extended support item(s) associated with the Software.
 - a. Should Prospective Contractors not offer an extended support item specified in Table 4, Prospective Contractors **shall** enter "N/A" in the applicable cell; otherwise the cost associated with that item will be considered to be \$0.
 - b. Prospective Contractors may expand Table 4 to include additional extended support pricing.
 - c. Table 4 will not be used in determining low-cost.
- C. If any cost is not identified by the Prospective Contractor but is subsequently incurred in order to achieve successful operation, the Contractor **shall** bear this additional cost.
 1. The State will not pay or reimburse any travel costs or account management costs associated with a resultant contract.
- D. To allow time to review Bids, prices **must** be valid for ninety (90) days following the Bid opening.
- E. Prospective Contractors should not submit any ancillary information not related to actual pricing on or with the *Official Bid Price Sheet* and should not alter the *Official Bid Price Sheet*.

1.11 PRIME CONTRACTOR RESPONSIBILITY

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

1.12 INDEPENDENT PRICE DETERMINATION

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

1.13 PROPRIETARY INFORMATION

- A. Submission documents pertaining to this Bid Solicitation become the property of the State and are subject to the Arkansas Freedom of Information Act (FOIA).
- B. In accordance with FOIA and to promote maximum competition in the State competitive bidding process, the State may maintain the confidentiality of certain types of information described in FOIA. Such information may include trade secrets defined by FOIA and other information exempted from the Public Records Act pursuant to FOIA.
- C. Prospective Contractor may designate appropriate portions of its response as confidential, consistent with and to the extent permitted under the Statutes and Rules set forth above, by submitting a redacted copy of the response.

- D. By so redacting any information contained in the response, the Prospective Contractor warrants that it has formed a good faith opinion having received such necessary or proper review by counsel and other knowledgeable advisors that the portions redacted meet the requirements of the Rules and Statutes set forth above.
- E. Under no circumstances will pricing information be designated as confidential.
- F. One (1) complete copy of the submission documents from which any proprietary information has been redacted should be submitted on a flash drive in the *Bid Response Packet*. A CD is also acceptable.
- 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.

1.14 CAUTION TO PROSPECTIVE CONTRACTORS

- A. Do not alter any language in any Solicitation document provided by the State.
- B. All official documents and correspondence related to this Solicitation become part of the resultant contract.
- C. The State reserves the right to investigate as necessary to determine if the lowest-bidding Prospective Contractor meets the Requirements of this IFB.
 - 1. Upon request from OSP and for the purpose of investigation, the Prospective Contractor **shall** provide clarification, information, and documentation pertaining to the Prospective Contractor's experience, ability, and qualifications to meet the Requirements described in the IFB prior to contract award.
 - 2. Should the lowest-bidding Prospective Contractor fail to provide the clarification, information, and documentation requested within the timeframe specified by OSP or is determined by the State not to meet the Requirements of this IFB, the Prospective Contractor's Bid may be rejected.
 - 3. Should the lowest-bidding Prospective Contractor's Bid be rejected, the State reserves the right to investigate as necessary to determine if the second lowest-bidding Prospective Contractor meets the Requirements of this IFB. The State reserves the right to continue this process until a responsive Prospective Contractor has been determined.
- D. The State has the right to award or not award a contract, if it is in the best interest of the State to do so.
- E. Qualifications and proposed services **must** meet or exceed the required specifications as set forth in this Bid Solicitation.
- F. Prospective Contractors entering into a contract with the State **shall** comply with all the terms and conditions contained herein.
- G. Prospective Contractors may submit multiple bids.

1.15 REQUIREMENT OF ADDENDUM

- A. Only an addendum written and authorized by OSP will modify this Bid Solicitation.

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

1.16 AWARD PROCESS

A. Successful Contractor Selection

- 1. Award will be made to the lowest-bidding, responsible Prospective Contractor based on the Total Initial Year Cost submitted on the *Official Bid Price Sheet*.

B. Negotiations

- 1. If the State so chooses, negotiations may be conducted with the lowest-bidding Prospective Contractor. Negotiations are conducted at the sole discretion of the State.
- 2. If negotiations fail to result in a contract, the State may begin the negotiation process with the next lowest-bidding Prospective Contractor. The negotiation process may be repeated until the anticipated successful Contractor has been determined, or until such time the State decides not to move forward with an award.

C. Anticipation to Award

- 1. Once the anticipated successful Contractor has been determined, the anticipated award will be posted on the OSP website at http://www.arkansas.gov/dfa/procurement/pro_intent.php.
- 2. The anticipated award will be posted for a period of fourteen (14) days prior to the issuance of a contract. Prospective Contractors and agencies are cautioned that these are preliminary results only, and a contract will not be issued prior to the end of the fourteen (14) day posting period.
- 3. OSP may waive the policy of Anticipation to Award when it is in the best interest of the State.
- 4. It is the Prospective Contractor's responsibility to check the OSP website for the posting of an anticipated award.

D. Issuance of Contract

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

1.17 MINORITY AND WOMEN-OWNED BUSINESS POLICY

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

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

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

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

1.18 EQUAL OPPORTUNITY POLICY

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

- B. *EO Policies* should be included as a hardcopy accompanying the Solicitation response.
- C. Contractors are responsible for providing updates or changes to their respective policies, and for supplying *EO Policies* upon request to other State agencies that must also comply with this statute.
- D. Prospective Contractors who are not required by law to have an *EO Policy* **must** submit a written statement to that effect.

1.19 PROHIBITION OF EMPLOYMENT OF ILLEGAL IMMIGRANTS

- A. Pursuant to Arkansas Code Annotated § 19-11-105, Contractors providing services **shall** certify with OSP that they do not employ or contract with illegal immigrants.
- B. By signing and submitting a response to this Bid Solicitation, a Prospective Contractor agrees and certifies that they do not employ or contract with illegal immigrants. If selected, the Prospective Contractor certifies that they will not employ or contract with illegal immigrants during the aggregate term of a contract.

1.20 RESTRICTION OF BOYCOTT OF ISRAEL

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

1.21 PAST PERFORMANCE

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

1.22 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, 2019 (software applications and operating ICSs) and 36 C.F.R. § 1194.22, as it existed on January 1, 2019 (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, 2019 (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, 2019.
- 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.

1.23 COMPLIANCE WITH THE STATE SHARED TECHNICAL ARCHITECTURE PROGRAM

The Prospective Contractor’s commodity or service **must** comply with the State’s shared Technical Architecture Program which is a set of policies and standards that can be viewed at: <https://www.dfa.arkansas.gov/intergovernmental-services/state-technology-cost-analysis/architecture-compliance/>. Only those standards which are fully promulgated or have been approved by the Governor’s Office apply to this solution.

1.24 VISA ACCEPTANCE

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

1.25 PUBLICITY

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

1.26 RESERVATION

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

1.27 ETHICAL STANDARDS

It **shall** be a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a State 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.

SECTION 2 – REQUIREMENTS

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

2.1 INTRODUCTION

The Forensic DNA Section of the Arkansas State Crime Laboratory (ASCL) seeks to purchase a fully continuous probabilistic genotyping software (hereinafter referred to as “Software”) currently available on the market.

The Forensic DNA Section serves the entire State of Arkansas and currently consists of twenty (20) DNA analysts. The focus of the Forensic DNA Section is to provide forensic DNA typing of selected biological materials associated with official investigations including sexual assaults, homicide and property crimes. The Forensic DNA section utilizes the latest in polymerase chain reaction (PCR) technology to assist law enforcement in cases involving DNA evidence. ASCL anticipates up to three (3) analysts concurrently analyzing data from separate cases within the Software at any given time.

2.2 GENERAL REQUIREMENTS

- A. The Contractor **shall** provide Software that includes Requirements specified in this IFB and meets the final approval of ASCL.
- B. The Contractor **shall** complete all tasks specified in this IFB to implement the Software to the satisfaction of ASCL by the Go-Live Date.
- C. The Contractor **shall** provide validation assistance in meeting all Scientific Working Group on DNA Analysis Methods (SWGDM) Probabilistic Genotyping Validation Guideline Section 4 requirements, including general plans and analysis for determining settings. (See *Validation*.)
- D. All Software, Software licenses, data, and hardware **must** be physically located within the secure confines of ASCL and its secure information technology (IT) network.
- E. The Contractor **shall** maintain all resources necessary to achieve full implementation, ensure implementation activities are completed by the specified deadlines, and resolve all implementation issues, including escalating issues to appropriate parties as needed.
- F. If requested by ASCL, the Contractor **shall** attend meetings and perform services in-person at ASCL in Little Rock.
 1. ASCL anticipates in-person meetings to be minimal and for most services to be performed off-site.

2.3 MINIMUM SOFTWARE REQUIREMENTS

- A. The Software probabilistic genotyping methods and characteristics **must** meet Daubert Standard and Federal Rules of Evidence Requirements for expert testimony.
 1. Evidence of the underlying scientific principle(s) of the probabilistic genotyping method and characteristics **must** be published in a peer-reviewed scientific journal.
 2. Prospective Contractors **shall** include electronic copies of or links to the peer-reviewed scientific journal(s) with the *Bid Response Packet*.
- B. The Software developmental validation **must** meet SWGDAM requirements for addressing sensitivity, specificity, precision, case-type samples, control samples, and accuracy.
 1. Prospective Contractors **shall** include electronic copies of or links to the developmental validation with the *Bid Response Packet*.
- C. The Software **must** allow for up to twenty (20) analyst with a minimum of three (3) concurrent users in an 8-chain configuration after validation is complete.
 1. ASCL anticipates up to three (3) analysts at a time may be interacting with the Software, loading profiles and settings, and retrieving their analyzed data.
- D. The Software **must** operate in ASCL's current Windows 10 networked environment and **must** accommodate upgrades and other changes to potential, future networking.

- E. The Software **must** be based on a fully continuous model with algorithms and biological statistical strategies that enable full utilization (weighing) of all DNA typing results, including those encountered in the most challenging forensic samples.
- F. The Software **must** be developmentally validated to provide match statistics for single source, 2-, 3-, and 4-person mixtures.
- G. The Software **must** include the following components for setting up calculations for analysis:
 - 1. Incorporate models for positive and negative stutter.
 - 2. Account for allelic drop-out, locus drop-in, and sample degradation.
 - 3. Incorporate a user-selectable theta correction.
 - 4. Use an assumed known contributor in the deconvolution of DNA mixtures.
- H. The Software **must** generate output for most-likely unknown contributor profiles for entry in Combined DNA Index System (CODIS).
 - I. The Software **must** support role-based secure access by authorized ASCL staff, with varying levels of access depending on role, to include:
 - 1. Administrator role to manage users and lab settings.
 - 2. Analyst role to process casework.
 - 3. Training role (if needed to prevent disruption of casework data).
- J. The Software **must** allow for new kit types, allele frequency calculation, and subpopulations to be added without Software updates.
- K. The Software **must** be compatible with GeneMapper ID-X analyzed results.
- L. If Markov Chain Monte Carlo (MCMC) based, the Software **must** provide for the following selectable settings:
 - 1. A lab-selectable burn-in value.
 - 2. User option for seed-setting for repetition of previous results.
 - 3. User option for an extended output which logs each "step" in a calculation for court review.
- M. The report generated by the Software **must** be generated in a format approved by ASCL and **must** include the following data as applicable:
 - 1. Likelihood ratios.
 - 2. Genotypic weights.
 - 3. Diagnostics.
 - 4. Results.
- N. The Software **must** be fully developed and meet the final approval of ASCL prior to the Go-Live Date.

2.4 **PREFERRED SOFTWARE CAPABILITIES**

- A. During the Implementation Period, should ASCL request one (1) or all of the following additional Software capabilities, and should the Contractor offer such additional Software capabilities, the Contractor **shall** provide the requested additional Software capability(s) at the cost submitted on the Contractor's *Official Bid Price Sheet*.
 - 1. Ability to store known profiles and search mixture profiles against knowns for robust contamination detection.
 - 2. Related-persons match statistic reporting.

3. Histograms of results in the reporting.
4. Estimated number of contributors modules.

2.5 **IMPLEMENTATION REQUIREMENTS**

- A. Within five (5) Business Days following contract award, the Contractor **shall** schedule and facilitate an initial kickoff meeting with ASCL, with ASCL having final approval of all meeting dates and times.
 1. The initial kickoff meeting may be held via conference call.
 2. ASCL may choose to hold subsequent meetings during the Implementation Period via conference call or video conference, and the Contractor **shall** attend all subsequent meetings requested by ASCL.
- B. During the initial kickoff meeting, the Contractor **shall** present a Project Plan for the configuration, implementation, delivery, and validation of the Software.
- C. The Project Plan **must** include:
 1. Recommended implementation timeline.
 2. All implementation activities, including Contractor and ASCL staff responsibilities and estimated hours of effort for each.
 3. A validation and acceptance plan with all validation activities and timeframes. (See *Validation*.)
 4. A training plan with all training activities and timeframes. (See *Training*.)
 5. Proposed templates for all reports. (See *Reporting*.)
- D. Implementation activities **must** include:
 1. Installation and upgrade, and/or assistance with user installation as specified by ASCL, of all required hardware and software.
 2. Validation support, implementation, and training.
 3. All other activities needed to provide a fully functioning Software that meets ASCL's objectives.
- E. The Contractor **shall** submit a final Project Plan for ASCL's review and approval within two (2) weeks following the initial kickoff meeting.

2.6 **VALIDATION**

- A. Validation activities **must** include, at minimum:
 1. A validation and acceptance plan that complies with the following documents:
 - a. SWGDAM Guidelines for the Validation of Probabilistic Genotyping Systems. (See https://1ecb9588-ea6f-4feb-971a-73265dbf079c.filesusr.com/ugd/4344b0_22776006b67c4a32a5ffc04fe3b56515.pdf for more information.)
 - b. SWGDAM Validation Guidelines for DNA Analysis Methods. (See https://1ecb9588-ea6f-4feb-971a-73265dbf079c.filesusr.com/ugd/4344b0_813b241e8944497e99b9c45b163b76bd.pdf for more information.)
 2. A report with results and recommendations for settings to be included in ASCL acceptance documentation.
- B. During validation, the Software **must** perform successfully under all normal operational conditions in accordance with the Requirements specified by this IFB, operating instructions, and the Contractor's technical and user specifications.

2.7 **TRAINING**

- A. Training activities **must** include a standardized user training program for up to three (3) initial analysts to be completed upon or around the time of validation completion.
 1. Should ASCL request subsequent training sessions for additional users, the Contractor **shall** provide additional training sessions as requested by ASCL.
- B. The Contractor **shall** provide, at minimum, the following electronic reference materials for ASCL use for the life of a resulting contract:

1. Software user manual.
 2. Frequently Asked Questions (FAQ) file.
 3. Website location information for all other online and printed resources.
- C. The Contractor **shall** provide all training sufficiently in advance to the Go-Live Date of the Software such that all ASCL staff required to be trained have had enough exposure to proficiently use the Software.
- D. In the event that the Contractor makes any material alterations to the Software, the Contractor **shall** update the training materials accordingly.
1. ASCL will determine what constitutes a “material alteration.”
 2. The Contractor **shall** provide updated training materials at no additional cost to the State.

2.8 TECHNICAL SUPPORT

- A. Throughout the Implementation Period, the Contractor **shall** provide implementation support to ASCL personnel on Business Days.
1. ASCL anticipates most of this support to be provided via telephone and email; however, should ASCL require an in-person visit, the Contractor **shall** provide support in person as requested by ASCL.
- B. The Contractor **shall** provide customer service and technical support via email and/or toll-free telephone to ASCL staff on Business Days throughout the term(s) of a resulting contract.
1. Customer service and technical support staff **shall** be fluent English-speakers.
- C. Should ASCL determine there is a serious flaw in the Software programming, the Contractor **shall** perform whatever actions deemed necessary by ASCL to correct the flaw within the timeframes mutually agreed upon and approved by ASCL.

2.9 DATA OWNERSHIP AND TRANSITION

- A. All servers and data, along with any documents, electronic reports, records, or other media produced as a result of this solicitation **must** remain in the Continental United States at all times and **must not** be accessed outside the Continental United States.
- B. The Contractor **shall** abide by all applicable regulatory or compliance requirements to which use of the services provided under a resulting contract is subject and to which data, stored or processed under a resulting contract, is subject.
- C. The Contractor **shall** consider all ownership of all data generated, stored, transferred, exchanged and/or processed under a resulting contract as belonging to the State and **shall not** hold ownership or an intellectual property claim to any deliverable associated with a resulting contract.
- D. Upon termination, cancellation, expiration, and/or other conclusion of a resulting contract, the Contractor **shall** transfer 100% of State-owned data back to the State or to another contractor designated by the State within the timeframes determined by ASCL.
1. The Contractor **shall** destroy all copies of the State-owned data the Contractor possesses.
 2. At the State's request, Contractor **shall** certify in writing that it has so destroyed or erased all copies of the State's data and that it **shall not** make any use of the State's data.

2.10 CONFIDENTIALITY

- A. The Contractor **shall not** disclose to any third party or use, except in connection with the performance of services required under a resulting contract, any confidential information of ASCL's business learned by the Contractor in the course hereof.
1. This confidentiality obligation does not apply to information which is already known to the public or in the event that the Contractor receives a validly issued administrative or judicial order, warrant, or other process that requires the Contractor to disclose all or part of the confidential information or is otherwise required to disclose any confidential information in order to comply with any law.

SECTION 3 – GENERAL CONTRACTUAL ITEMS

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

3.1 PAYMENT AND INVOICE PROVISIONS

A. Forward invoices to:

Arkansas State Crime Lab
Department of Public Safety
1 State Police Plaza
Little Rock, AR 72209

- B. Invoices should include the purchase order and contract number.
- C. Payment will be made in accordance with applicable State of Arkansas accounting procedures upon acceptance of goods and services by the State.
- D. Payment will be made only after the Contractor has successfully satisfied the State as to the reliability and effectiveness of the services purchased as a whole.

3.2 GENERAL INFORMATION

A. The State will not:

1. Lease any equipment or software for a period of time which continues past the end of a fiscal year unless the contract allows for cancellation by the State Procurement Official upon a thirty (30) day written notice to the Contractor/lessor in the event funds are not appropriated.
2. Contract with another party to indemnify and defend that party for any liability and damages.
3. Pay damages, legal expenses or other costs and expenses of any other party.
4. Continue a contract once any equipment has been repossessed.
5. Agree to any provision of a contract which violates the laws or constitution of the State of Arkansas.
6. Enter a contract which grants to another party any remedies other than the following:
 - a. The right to possession.
 - b. The right to accrued payments.
 - c. The right to expenses of de-installation.
 - d. The right to expenses of repair to return the equipment to normal working order, normal wear and tear excluded.
 - e. The right to recover only amounts due at the time of repossession and any unamortized nonrecurring cost as allowed by Arkansas Law.

- B. Any litigation involving the State **must** take place in Pulaski County, Arkansas.
- C. The laws of the State of Arkansas govern this contract.
- D. A contract is not effective prior to award being made by a State Procurement Official.

3.3 CONDITIONS OF CONTRACT

- A. Observe and comply with federal and State of Arkansas laws, local laws, ordinances, orders, and regulations existing at the time of, or enacted subsequent to the execution of a resulting contract which in any manner affect the completion of the work.
- B. Indemnify and save harmless the State and all its officers, representatives, agents, and employees against any claim or liability arising from or based upon the violation of any such law, ordinance, regulation, order or decree by an employee, representative, or subcontractor of the Contractor.

3.4 STATEMENT OF LIABILITY

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

3.5 RECORD RETENTION

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

3.6 PRICE ESCALATION

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

3.7 CONTRACT INTERPRETATION

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

3.8 CANCELLATION

- A. For Cause. The State may cancel any contract resulting from this Solicitation for cause when the Contractor fails to perform its obligations under it by giving the Contractor written notice of such cancellation at least thirty (30) days prior to the date of proposed cancellation. In any written notice of cancellation for cause, the State will advise the Contractor in writing of the reasons why the State is considering cancelling the contract and provide the Contractor with an opportunity to avoid cancellation for cause by curing any deficiencies identified in the notice of cancellation for cause prior to the date of proposed cancellation. To the extent permitted by law and at the discretion of the parties, the parties may agree to minor amendments to the contract and avoid the cancellation for cause upon mutual agreement.
- B. For Convenience. The State may cancel any contract resulting from the Solicitation by giving the Contractor written notice of such cancellation sixty (60) days prior to the date of cancellation.

- C. If upon cancellation the Contractor has provided commodities or services which the State of Arkansas has accepted, and there are no funds legally available to pay for the commodities or services, the Contractor may file a claim with the Arkansas Claims Commission under the laws and regulations governing the filing of such claims.

3.9 SEVERABILITY

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

SECTION 4 – STANDARD TERMS AND CONDITIONS

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

1. **GENERAL:** Any special terms and conditions included in this Solicitation **shall** override these Standard Terms and Conditions. The Standard Terms and Conditions and any special terms and conditions **shall** become part of any contract entered into if any or all parts of the Bid are accepted by the State of Arkansas.
2. **ACCEPTANCE AND REJECTION:** The State **shall** have the right to accept or reject all or any part of a Bid or any and all Bids, to waive minor technicalities, and to award the Bid to best serve the interest of the State.
3. **BID SUBMISSION:** Original Bid Response Packets **must** be submitted to the OSP on or before the date and time specified for Bid opening. The Bid Response Packet **must** contain all documents, information, and attachments as specifically and expressly required in the Bid Solicitation. The Bid **must** be typed or printed in ink. Unsigned Bids **shall** be rejected. The person signing the Bid should show title or authority to bind his firm in a contract. Multiple Bids **must** be placed in separate packages and should be completely and properly identified. Late Bids **shall not** be considered under any circumstances.
4. **PRICES:** Bid unit price F.O.B. destination. In case of errors in extension, unit prices **shall** govern. Prices **shall** be firm and **shall not** be subject to escalation unless otherwise specified in the Bid Solicitation. Unless otherwise specified, the Bid **must** be firm for acceptance for thirty days from the Bid opening date. "Discount from list" Bids are not acceptable unless requested in the Bid Solicitation.
5. **QUANTITIES:** Quantities stated in a Bid Solicitation for term contracts are estimates only and are not guaranteed. Contractor **must** bid unit price on the estimated quantity and unit of measure specified. The State may order more or less than the estimated quantity on term contracts. Quantities stated on firm contracts are actual Requirements of the ordering agency.
6. **BRAND NAME REFERENCES:** Unless otherwise specified in the Bid Solicitation, any catalog brand name or manufacturer reference used in the Bid Solicitation is descriptive only, not restrictive, and used to indicate the type and quality desired. Bids on brands of like nature and quality will be considered. If bidding on other than referenced specifications, the Bid **must** show the manufacturer, brand or trade name, and other descriptions, and should include the manufacturer's illustrations and complete descriptions of the product offered. The State **shall** have the right to determine whether a substitute offered is equivalent to and meets the standards of the item specified, and the State may require the Contractor to supply additional descriptive material. The Contractor **shall** guarantee that the product offered will meet or exceed specifications identified in this Bid Solicitation. Contractors not bidding an alternate to the referenced brand name or manufacturer **shall** be required to furnish the product according to brand names, numbers, etc., as specified in the Solicitation.
7. **GUARANTY:** All items bid **shall** be newly manufactured, in first-class condition, latest model and design, including, where applicable, containers suitable for shipment and storage, unless otherwise indicated in the Bid Solicitation. The Contractor hereby guarantees that everything furnished hereunder **shall** be free from defects in design, workmanship and material, that if sold by drawing, sample or specification, it **shall** conform thereto and **shall** serve the function for which it was furnished. The Contractor **shall** further guarantee that if the items furnished hereunder are to be installed by the Contractor, such items **shall** function properly when installed. The Contractor **shall** guarantee that all applicable laws have been complied with relating to construction, packaging, labeling and registration. The Contractor's obligations under this paragraph **shall** survive for a period of one year from the date of delivery, unless otherwise specified herein.
8. **SAMPLES:** Samples or demonstrators, when requested, **must** be furnished free of expense to the State. Each sample should be marked with the Contractor's name and address, Bid or contract number and item number. If requested, samples that are not destroyed during reasonable examination will be returned at Contractor's expense. After reasonable examination, all demonstrators will be returned at Contractor's expense.
9. **TESTING PROCEDURES FOR SPECIFICATIONS COMPLIANCE:** Tests may be performed on samples or demonstrators submitted with the Bid or on samples taken from the regular shipment. In the event products tested fail to meet or exceed all conditions and Requirements of the specifications, the cost of the sample used, and the reasonable cost of the testing **shall** be borne by the Contractor.
10. **AMENDMENTS:** Contractor's Bids cannot be altered or amended after the Bid opening except as permitted by regulation.
11. **TAXES AND TRADE DISCOUNTS:** Do not include State or local sales taxes in the Bid price. Trade discounts should be deducted from the unit price and the net price should be shown in the Bid.
12. **AWARD:** Term Contract: A contract award will be issued to the successful Contractor. It results in a binding obligation without further action by either party. This award does not authorize shipment. Shipment is authorized by the receipt of a purchase order from the ordering agency. Firm Contract: A written State purchase order authorizing shipment will be furnished to the successful Contractor.
13. **DELIVERY ON FIRM CONTRACTS:** This Solicitation shows the number of days to place a commodity in the ordering agency's designated location under normal conditions. If the Contractor cannot meet the stated delivery, alternate delivery schedules may become a factor in an award. The OSP **shall** have the right to extend delivery if reasons appear valid. If the date is not acceptable, the State 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 OSP. Delivery **shall** be made during State 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 State. 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 ordering 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 OSP 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 OSP 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 ordering 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 ordering agency or by OSP. Contractor **shall** properly identify items being returned.
20. **PATENTS OR COPYRIGHTS:** The Contractor **must** agree to indemnify and hold the State harmless from all claims, damages and costs including attorneys' fees, arising from infringement of patents or copyrights.
21. **ASSIGNMENT:** Any contract entered into pursuant to this Solicitation **shall not** be assignable nor the duties thereunder delegable by either party without the written consent of the other party of the contract.
22. **DISCRIMINATION:** In order to comply with the provision of Act 954 of 1977, relating to unfair employment practices, the Contractor agrees that: (a) the Contractor **shall not** discriminate against any employee or applicant for employment because of race, sex, color, age, religion, handicap, or national origin; (b) in all solicitations or advertisements for employees, the Contractor **shall** state that all qualified applicants **shall** receive consideration without regard to race, color, sex, age, religion, handicap, or national origin; (c) the Contractor will furnish such relevant information and reports as requested by the Human Resources Commission for the purpose of determining compliance with the statute; (d) failure of the Contractor to comply with the statute, the rules and regulations promulgated thereunder and this nondiscrimination clause **shall** be deemed a breach of contract and it may be cancelled, terminated or suspended in whole or in part; (e) the Contractor **shall** include the provisions of above items (a) through (d) in every subcontract so that such provisions **shall** be binding upon such subcontractor or Contractor.
23. **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.
24. **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 ordering agency.