STATE OF ARKANSAS

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

REQUEST FOR PROPOSAL

BID SOLICITATION DOCUMENT

SOLICITATION INFORMATION			
Bid Number:	710-21-0027	Solicitation Issued:	October 23, 2020
Description:	Cost Report Audits and Upper Payment Limit Calculations		
Agency:	Department of Human Services (DHS)		

SUBMISSION DEADLINE FOR RESPONSE			
Bid Submission:	December 3, 2020 1:00pm CT	Bid Opening:	December 3, 2020 2:00pm CT

Proposals **shall not** be accepted after the designated bid opening date and time. In accordance with Arkansas Procurement Law and Rules, it is the responsibility of Contractors to submit proposals at the designated location on or before the bid opening date and time. Proposals received after the designated bid opening date and time **shall** be considered late and **shall** be returned to the Contractor without further review. It is not necessary to return "no bids" to the Office of Procurement (OP).

DELIVERY OF RESPONSE DOCUMENTS	
Drop off Address:	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 8th 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. **Contractors assume all risk for timely, properly submitted deliveries.**
Proposal's Outer Packaging:	Outer packaging **must** be sealed and should be properly marked with the following information. If outer packaging of proposal submission is not properly marked, the package may be opened for bid identification purpose • Bid number • Date and time of bid opening • Contractor's name and return address

OFFICE OF STATE PROCUREMENT CONTACT INFORMATION			
OP Buyer:	Nawania Williams	Phone Number:	501-320-6511
Email Address:	Nawania.williams@dhs.arkansas.gov	OP's Main Number:	501-682-1001
DHS Website: OPS Website:	http://humanservices.arkansas.gov/Pages/default.aspx http://www.arkansas.gov/dfa/procurement/bids/index.php		

SECTION 1 - GENERAL INSTRUCTIONS AND INFORMATION

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

1.1 PURPOSE

The Arkansas Department of Human Services (DHS) is seeking a contract with a qualified vendor to provide support for supplemental payments, including cost report audits and related settlements and upper payment limit calculations for a variety of providers, including, without limitation, hospitals, nursing homes, Intermediate Care Facilities (ICF), Federally Qualified Health Centers (FQHC), physicians, and any emerging provider groups. The vendor shall also perform Disproportionate Share Hospital (DSH) payment calculations. In addition, the successful respondent to this Request for Proposals (RFP) shall provide related deliverables, including, without limitation, reporting and a paperless workflow system.

1.2 INTERGOVERNMENTAL/COOPERATIVE USE OF PROPOSAL AND CONTRACT

In accordance with Arkansas Code §19-11-249, this proposal and resulting contract is available to any State Agency or Institution of Higher Education that wishes to utilize the services of the selected proposer, and the proposer agrees, they may enter into an agreement as provided in this solicitation.

1.3 TYPE OF CONTRACT

A. A Term contract will be awarded to a single Contractor.

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 up to one (1) year. The anticipated starting date for the contract is March 1, 2021. Upon mutual agreement by the Contractor 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.

D. The total contract term **shall not** be more than seven (7) years.

1.4 ISSUING AGENCY

The Office of Procurement, as the issuing office, is the sole point of contact throughout this solicitation.

1.5 BID OPENING LOCATION

Proposals received 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

Contractors wishing to attend the bid opening must report to the main entrance of the Arkansas Department of Human Services, Donaghey Plaza South, 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 more detailed directions to the bid opening location.

When circumstances warrant, DHS may elect to conduct the bid opening entirely via video conference. If DHS makes this election, DHS shall post a link to the video conference on its website. If the bid opening will be conducted entirely via video conference, individuals will not be permitted to attend in-person.

1.6 ACCEPTANCE OF REQUIREMENTS

A. The words "**must**" and "**shall**" signify a Requirement of this solicitation and that the Contractor's agreement to and compliance with that item is mandatory.

B. A Contractor's proposal wil**l** be disqualified if a Contractor takes exceptions to any Requirements named in this RFP.

C. Contractor 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. Contractor must clearly explain the requested exception and should reference the specific solicitation item number to which the exception applies. (See Agreement and Compliance Page.)

1.7 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. "Contractor" means a person who sells or contracts to sell commodities and/or services.

D. The terms "Request for Proposal", "RFP" and "Bid Solicitation" are used synonymously in this document.

E. "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.

1.8 RESPONSE DOCUMENTS

A. Original *Technical Proposal Packet*

1. A hard copy of the original *Technical Proposal Packet* **must** be received on or before the bid submittal date and time.

2. The Proposal Packet should be clearly marked "Original" and **must** include the following:

   a. Original signed *Proposal Signature Page*. (See *Proposal Signature Page.)*

   b. Original signed *Agreement and Compliance Pages*. (See *Agreement and Compliance Pages.)*

   c. Original signed *Proposed Subcontractors Form.* (See *Subcontractors*.)

   d. *Technical Proposal* response to the *Information for Evaluation* section included in the *Technical Proposal Packet*.

   e. Other documents and/or information as may be expressly required in this *Bid Solicitation*.

3. The following items should be submitted in the original *Technical Proposal Packet*.

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

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

   c. *Voluntary Product Accessibility Template* (VPAT), if applicable. (See *Technology Access.*)

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

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

1. Contractor's original *Official Bid Price Sheet* **must** be submitted in hard copy format.

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

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

C. Additional Copies and Redacted Copy of the *Technical Proposal Packet*

In addition to the original *Technical Proposal Packet* and the *Official Bid Price Sheet*, the following items should be submitted:

1. Additional Copies of the *Technical Proposal Packet*

a. Three (3) complete hard copies (marked "COPY") of the *Technical Proposal Packet*.

b. Four (4) electronic copies of the *Technical Proposal Packet*, preferably on flash drives. CDs will also be acceptable.

c. All additional hard copies and electronic copies **must** be identical to the original hard copy. In case of a discrepancy, the original hard copy **shall** govern.

d. If OP requests additional copies of the proposal, the copies **must** be delivered within twenty-four (24) hours of request.

1.9 LIMITED BID SUBMISSION ACCOMMODATION DURING COVID-19

The Arkansas Department of Human Services (DHS) Office of Procurement (OP) extends the following bid submission accommodation to our Prospective Vendors in order to mitigate some of the difficulties presented by the current COVID-19 outbreak.

Prospective Bidders may elect to submit electronic bids via thumb drive only as long as the following conditions are met.

A. All bids must be received by the Bid Submission deadline specified on page 1 of the Bid Solicitation Document.

B. All required response documents must be submitted on a USB flash drive clearly labeled "Response Packet" and sealed in a separate envelope from pricing.

C. Pricing must be submitted on a separate, clearly marked USB flash drive and sealed in an envelope separate from the Response Packet and clearly marked "pricing."

D. By signing the Electronic Submission Signature Page [and Section 1 Vendor Agreement and Compliance page in the Response Packet], Bidder acknowledges and agrees that if the USB flash drives are damaged, malfunction, or the information on them is incompatible with DHS computers or electronic devices or otherwise cannot be accessed or is unusable, the submission will be considered non-responsive and will be disqualified.

E. In order to mitigate this risk, Bidder may elect to submit bids according to the requirements specified in section 1.7 "Response Documents" of the Bid Solicitation Document or submit additional USB flash drives as backup.

1.10 ORGANIZATION OF RESPONSE DOCUMENTS

A. It is strongly recommended that Contractors adhere to the following format and suggestions when preparing their Technical Proposal response.

B. The original *Technical Proposal Packet* and all copies should be arranged in the following order:

- *Proposal Signature Page*.
- All *Agreement and Compliance Pages*.
- *Proposed Subcontractors Form*.
- Signed Addenda, if applicable.

- E.O. 98-04 – *Contract Grant and Disclosure Form*.
- *Equal Opportunity Policy.*
- Other documents and/or information as may be expressly required in this *Bid Solicitation*. Label documents and/or information so as to reference the *Bid Solicitation's* item number.
- Technical Proposal response to the *Information for Evaluation* section of the *Technical Proposal Packet.*

1.11 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 November 5, 2020. 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 November 19, 2020.

D. Answers to verbal questions may be given as a matter of courtesy and **must** be evaluated at contractor's risk.

1.12 PROPOSAL SIGNATURE PAGE

A. An official authorized to bind the Contractor(s) to a resultant contract **must** sign the *Proposal Signature Page* included in the *Technical Proposal Packet*.

B. Contractor's signature on this page **shall** signify contractor's agreement that either of the following **shall** cause the contractor's proposal to be disqualified:

1. Additional terms or conditions submitted intentionally or inadvertently.

2. Any exception that conflicts with a Requirement of this *Bid Solicitation*.

1.13 AGREEMENT AND COMPLIANCE PAGES

A. Contractor **must** sign all *Agreement and Compliance Pages* relevant to each section of the *Bid Solicitation Document.* The *Agreement and Compliance Pages* are included in the *Technical Proposal Packet*.

B. Contractor's signature on these pages **shall** signify agreement to and compliance with all Requirements within the designated section.

1.14 SUBCONTRACTORS

A. Contractor must complete, sign and submit the *Proposed Subcontractors Form* included in the *Technical Proposal Packet* to indicate contractor'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* or in the *Information for Evaluation* section provided in the *Technical Proposal Packet*. **Do not** attach any additional information to the *Proposed Subcontractors Form*.

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

1.15 PRICING

A. Contractor(s) shall include all pricing on the Official Price Bid Sheet only**.** Any cost not identified by the successful contractor but subsequently incurred in order to achieve successful operation **shall** be borne by the Contractor. The *Official Bid Price Sheet* is provided as a separate PDF file posted with this *Bid Solicitation*.

B. To allow time to evaluate proposals, prices **must** be valid for 180 days following the bid opening.

C. The *Official Bid Price Sheet*, including the hard copy and electronic copy, **must** be separately sealed from the *Technical Proposal Packet* and should be clearly marked as "Pricing". DO NOT submit any ancillary information not related to actual pricing in the sealed pricing package.

D. Contractor **must not** include any pricing in the hard copies or electronic copies of their *Technical Proposal Packet*. Should hard copies or electronic copies of their *Response Packet* contain any pricing, the response **shall** be disqualified.

E. Failure to complete and submit the *Official Bid Price Sheet* **shall** result in disqualification.

F. All proposal pricing **must** be in United States dollars and cents.

G. The Official Bid Price Sheet may be reproduced as needed.

1.16 PRIME CONTRACTOR RESPONSIBILITY

A. A joint proposal submitted by two or more contractors is acceptable. However, a single Contractor **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.

1.17 INDEPENDENT PRICE DETERMINATION

A. By submission of this proposal, the Contractor certifies, and in the case of a joint proposal, each party thereto certifies as to its own organization, that in connection with this proposal:
- The prices in the proposal have been arrived at independently, without collusion; and
- No prior information concerning these prices has been received from, or given to, a competitive company.

B. Evidence of collusion **shall** warrant consideration of this proposal by the Office of the Attorney General. All Contractors **shall** understand that this paragraph may be used as a basis for litigation.

1.18 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. 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 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 *Technical Proposal Packet*. A CD is also acceptable. Do not submit documents via e-mail 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 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 **shall** be open to public inspection under the Freedom of Information Act (FOIA) without further notice to the Contractor.

J. If a redacted copy of the submission documents is not provided with Contractor's response packet, a copy of the non-redacted documents, with the exception of financial data (other than pricing), **will** be released in response to any request made under the Arkansas Freedom of Information Act (FOIA).

K. If the State deems redacted information to be subject to FOIA, the Contractor will be notified of the State's determination prior to release of the documents.

L. The State has no liability to a Contractor with respect to the disclosure of Contractor's confidential information ordered by a court of competent jurisdiction pursuant to FOIA or other applicable law.

1.19 CAUTION TO CONTRACTORS

A. Prior to any contract award, all communication concerning this *Bid Solicitation* **must** be addressed through OP.

B. Contractor **must not** alter any language in any solicitation document provided by the State.

C. Contractor **must not** alter the Official Bid Price Sheet.

D. All official documents and correspondence related to this solicitation **shall** be included as part of the resultant contract.

E. Proposals **must** be submitted only 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. Contractor **must** provide clarification of any information in their response documents as requested by OP.

H. Qualifications and proposed services **must** meet or exceed the required specifications as set forth in this *Bid Solicitation*.

I. Contractors may submit multiple proposals. Each proposal shall be submitted separately and must include all documents and information required under this RFP in order to advance to evaluation.

1.20 REQUIREMENT OF ADDENDUM

A. This *Bid Solicitation* **shall** be modified only by an addendum written and authorized by OP.

B. Contractors are cautioned to ensure that they have received or obtained, and have responded to, any and all addenda to the Bid Solicitation prior to submission of response.

C. 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.

D. The contractor **shall** be responsible for checking the following Office of State Procurement (OSP) and DHS websites for any and all addenda up to the bid opening:

http://humanservices.arkansas.gov/about-dhs/op/procurement-announcements http://www.arkansas.gov/dfa/procurement/bids/index.php

1.21 AWARD PROCESS

A. Award Determination

The Grand Total Score for each Contractor, which **shall** be a sum of the Technical Score and Cost Score, **shall** be used to determine the ranking of proposals. The State may move forward to negotiations with those responsible Contractors determined, based on the ranking of the proposals, to be reasonably susceptible of being selected for award.

B. Negotiations

1. If the State so chooses, discussions and negotiations may be conducted with the highest-ranking Contractors. Negotiations are conducted at the sole discretion of the State.

2. If discussions and negotiations fail to result in a contract, the State may begin the negotiation process with the next highest-ranking Contractors. 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.

3. The State may elect to request best and final offers. Any best and final offer request made by the State will conducted with the responsible Contractors that fall within the competitive range. The competitive range shall be defined as the three (3) highest ranked Contractors pursuant to Section 1.21(A) above.

C. Anticipation to Award

1. Once the anticipated successful Contractor has been determined, the anticipated award will be posted on the DHS and OSP websites at:

> http://humanservices.arkansas.gov/about-dhs/op/procurement-announcements
>
> http://www.arkansas.gov/dfa/procurement/bids/index.php

2. The anticipated award will be posted for a period of fourteen (14) days prior to the issuance of a contract. Contractors and agencies are cautioned that these are preliminary results only, and a contract will not be issued prior to the end of the fourteen-day posting period.

3. OP **shall** have the right to waive the fourteen (14) day anticipated award posting period when it is in the best interest of the State.

4. It is the Contractor's responsibility to check the OP website for the posting of an anticipated award.

D. Issuance of Contract

1. Any resultant contract of this *Bid Solicitation* **shall** be subject to State approval processes which may include Legislative review.

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

1.22 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 Veteran 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 *Proposal Signature Page*.

1.23 EQUAL 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 the State is a one-time Requirement. Contractors are responsible for providing updates or changes to their respective policies, and for supplying *EO Policies* upon request to other State agencies that must also comply with this statute.

D. Contractors who are not required by law by to have an *EO Policy* **must** submit a written statement to that effect.

1.24 PROHIBITION OF EMPLOYMENT OF ILLEGAL IMMIGRANTS

A. Pursuant to Arkansas Code Annotated § 19-11-105, prior to the award of a contract, selected Contractor(s) **must** have a current certification on file with OSP stating that they do not employ or contract with illegal immigrants. If selected, the Contractor certifies that they will not employ or contract with illegal immigrants during the aggregate term of a contract.

B. OSP will notify the selected contractor(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 contractor(s) at that time.

1.25 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 Proposal Signature Page of the response packet, a Contractor agrees and certifies that they do not, and will not for the duration of the contract, boycott Israel.

1.26 PAST PERFORMANCE

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

1.27 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 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 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; and

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.

1.28 COMPLIANCE WITH THE STATE SHARED TECHNICAL ARCHITECTURE PROGRAM

The Contractor'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.

1.29 VISA ACCEPTANCE

A. Awarded Contractor should have the capability of accepting the State's authorized VISA Procurement Card
(p-card) as a method of payment.

B. Price changes or additional fee(s) **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.

1.30 PUBLICITY

A. Contractors **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 Contractor's proposal to be disqualified or for the contract to be terminated.

1.31 RESERVATION

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

1.32 DATA LOCATION

Contractor shall under no circumstances allow Arkansas data to be relocated, transmitted, hosted or stored outside the continental United States in connection with any services provided under this contract entered into under this RFP, either directly by the Contractor or by its subcontractors.

1.33 SCHEDULE OF EVENTS

Public Notice of RFP	October 23, 2020
Deadline for Receipt of Written Questions	November 5, 2020
Response to Written Questions, On or About	November 19, 2020
Date for Bid Submission	December 3, 2020 1:00pm CT
Date and time for Opening Bid	December 3, 2020 2:00pm CT
Intent to Award Announced, On or About	January 8, 2021
Contract Start, (Subject to State Approval)	March 1, 2021

1.34 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 Jr. 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
Veteran's 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

Do not provide responses to items in this section unless expressly required.

2.1 INTRODUCTION

The Arkansas Department of Human Services (DHS) is seeking a contract with a qualified vendor to provide support for supplemental payments, including cost report audits and related settlements and upper payment limit calculations for a variety of providers, including, without limitation, hospitals, nursing homes, Intermediate Care Facilities (ICF), Federally Qualified Health Centers (FQHC), physicians, and any emerging provider groups. The vendor shall also perform Disproportionate Share Hospital (DSH) payment calculations. In addition, the successful respondent to this Request for Proposals (RFP) shall provide related deliverables, including, without limitation, reporting and a paperless workflow system.

2.2 MINIMUM QUALIFICATIONS

A. Contractor shall provide resumes for one (1) Supervising Manager and one (1) Project Manager meeting the experience requirements stated in RFP Section 2.5 Staffing. In addition, Contractor shall provide current valid professional Certified Public Accountant licensure for the proposed Supervising Manager.

B. Contracting entity and all subcontractors **shall** have a minimum of ten (10) years of experience in healthcare consulting, auditing, and cost report preparation.

1. With its proposal submission, the Contractor **shall** provide a minimum of three (3) business contacts to include the name, address, and telephone number of at least one (1) manager in each organization who is personally familiar with the Contractor's performance under any current or past contracts. DHS reserves the right to contact the references submitted as well as any other references which may attest to the respondent's work experience. Proposals from respondents whose references do not respond within five (5) business days of the request for verification may be disqualified.

2. Contractor **shall** include a narrative with its proposal submission describing relevant healthcare consulting, auditing, and cost preparation experience.

C. The Contractor **shall** be independent from all facilities and providers covered in the scope of work for this RFP. By signing the Contractor signature page for Section 2 in the *Technical Proposal Packet*, Contractor certifies that it is independent from all providers covered in the scope of work for this RFP.

D. Contracting entity **shall** have a minimum of ten (10) years of experience performing Medicaid or Medicare program audits, analyzing provider cost report data, and performing Disproportionate Share Hospital (DSH) payment calculations.

1. With its proposal submission, the Contractor **shall** provide a minimum of three (3) business contacts to include the name, address, and telephone number of at least one (1) manager in each organization who is personally familiar with the Contractor's performance under any current or past contracts. **Prospective Contractor may use one or more of the contacts provided for 2.2 B to satisfy this requirement.** DHS reserves the right to contact the references submitted as well as any other references which may attest to the respondent's work experience. Proposals from respondents whose references do not respond within five (5) business days of the request for verification may be disqualified.

2. Contractor **shall** include a narrative with its proposal submission describing relevant experience performing Medicaid or Medicare program audits, analyzing provider cost report data, and performing Disproportionate Share Hospital (DSH) payment calculations.

E. Contractor and all subcontractors must disclose all occurrences of terminations, corrective actions and sanctions by state governments or the Federal government within the last ten (10) years. For verification purposes, all disclosures must be submitted in writing with bid submission. If Contractor has no occurrences to disclose, Contractor must include a signed attestation to this effect with bid submission.

F. The Contractor must be registered to do business in the State of Arkansas. For verification purposes, Contractor must submit official documentation of their active registration from the Arkansas Secretary of State's Office.

2.3 SCOPE OF WORK

A. Hospitals and Federally Qualified Health Centers (FQHC)
Prospective Contractor shall provide its approach to providing the services as required in this section (2.3 A.1-8) as part of its technical response (*See Technical Proposal Packet).*

1. The Contractor **shall** perform audits of selected Medicaid services and other rate and cost report data analyses including without limitation:
   - desk reviews;
   - tentative and final settlements and letters; and
   - audits of cost reports submitted by hospitals, sexual offender programs, and Federally Qualified Health Centers (FQHC).

2. Based on these desk reviews/audits, the Contractor **shall** calculate interim Medicaid per diem reimbursement rates and Medicaid cost settlements in a manner consistent with the method used by the Medicare program and any other specific requirements identified in the Arkansas Medicaid State Plan (https://medicaid.mmis.arkansas.gov/Download/general/units/ORP/ARMedicaidSP.pdf).

3. If the Contractor is not the Medicare intermediary, the Contractor **shall** obtain the audited cost reports from the out-of-state intermediary and calculate the interim per diem reimbursement rates and cost settlement amounts based on Arkansas Medicaid payment history reimbursement and charges as provided by DHS Division of Medical Services (DMS).

4. Although no cost settlements are reimbursed for in-state and out-of-state inpatient psychiatric and rehabilitative hospitals, the Contractor **shall**, for informational purposes only, provide to DMS audited reviewed cost report information for these providers.

5. Contractor **shall** provide the deliverables described in the table below.

Type of Provider Cost Report or Service	Type of Deliverable Required of Vendor	Number of Deliverables Per Contract Year*
In-state acute hospitals	Desk Reviews-Audits Full-scope Audit Agreed Upon Procedures/ Per Diem Sets, TEFRA Sets Per Diem	Desk Reviews: Additional – 25 Tentative – 127 Final – 80 Reopening – 15 TEFRA – 100 Full-scope Audits: 1 – 3
Border-city acute hospitals as identified in the Arkansas Medicaid State Plan	Desk Reviews-Audits/Full Scope Audit/Agreed Upon Procedures/ Per Diem Sets	Desk Reviews: Tentative – 25 Final – 25 Full-scope Audit: 1
In-state and out-of-state psychiatric hospital residential treatment units and sexual offender programs	Desk Reviews-Audits/Full Scope Audit/Agreed Upon Procedures/ Per Diem Sets	Desk Reviews: Tentative – 16 Final – 16
In-state and out-of-state pediatric hospitals	Desk Reviews-Audits/Full Scope Audit/Agreed Upon Procedure/ Per Diem Sets	Desk Reviews: Tentative – 25 Final – 25

		Full-scope Audit: 2
Federally Qualified Health Centers (FQHC)	Desk reviews Audit/Full Scope audit/agreed upon procedures	Desk Reviews: 56 – Total cost settlements (14 – Cost reports) (includes 1 – Tentative cost settlement, 1– Tentative wrap-around payment (WRAP), 1 – Final cost settlement, 1– Final WRAP) Full-scope Audit: 2 - 3
Other provider types to be identified may include, without limitation: • Home health • Early intervention day treatment • Adult developmental day treatment	Cost report form design and desk review	

*** The numbers the table illustrate DMS's current expectations of future workloads. They are not guarantees of the volume of work the selected Vendor will actually be asked to perform. The actual volume of work may be more or less than the estimates above.**

6. Cost Report Requirements
   a) Contractor **must** have the ability to accept provider cost reports meeting the following requirements.

      Social Security Act Section 1886 (f) (l) requires that a cost report be submitted on CMS 2552-10 form in a standardized electronic format as the official cost report. A printout of the settlement summary (cost report Worksheet S, Parts I - III) from the electronic file **must** be signed by the hospital's administrator or chief financial officer certifying the accuracy of the electronic file (42 CFR 413.24 (f) (4) (iv)). This printout **must** accompany the electronic file. A hard copy of the cost report is not required to be filed; however, the signature page **must** be mailed with an original signature to the contractor. The print image file **must** contain the encryption coding both in the print image file and on the facsimile Worksheet S just below the electronic cost report encryption code (PRM-II, 130.2).

   b) Submission of Cost Reports
      i. Timely filed—The contractor **shall** electronically transmit to DMS and provider a reminder letter which informs the provider of the due date for filing the cost report and the penalty for not filing the cost report timely. This practice **shall** be done according to the Medicare Financial Management Manual (https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/fin106c03.pdf).
      ii. Late reports—The contractor **shall** send DMS past-due letter notifications to issue to the provider when the Cost Report has not been received fourteen (14) business days after due date. The contractor **shall** send a past-due notice every thirty (30) business days of no correspondence.
      iii. Filed under protest—If a cost report is filed under protest, the fact that the report is filed under protest and the disputed items and amounts **must** be disclosed. Reference: PRM-II, Section 115.
      iv. Extensions—Section 255.00 D of the Arkansas Medicaid Manual (https://medicaid.mmis.arkansas.gov/Provider/Docs/hospital.aspx) requires that an extension of the due date for filing a cost report be granted by DMS only when a provider's operations have been significantly adversely affected. Extension requests from providers **shall** be submitted in writing and received by DMS at a minimum of fifteen (15) calendar days before the cost report due date. Contractor **shall** forward any extension request to DMS. If the provider is not approved for an extension, one hundred percent (100%) of the

provider's payments **shall** be suspended until an acceptable cost report is received. Reference: 255.00 C of the Arkansas Medicaid Manual.

v. Rejected reports—If contractor receives cost reports found to contain specific edit errors or have required documentation missing, contractor **shall** reject the cost report and notify the provider. If a report is rejected after the due date, it **shall** be treated as a past-due cost report if an acceptable cost report is not filed within fifteen (15) calendar days of notification of rejection and request to re-file or resubmit an acceptable cost report and documentation. Contractor **shall** notify DHS/DMS of the past due cost reports. Once a cost report is received, the contractor **shall** contact DHS/DMS immediately. Reference: 42 CFR 413.24 (f) (4) and 255.00 C of the Arkansas Medicaid Manual.

c) Contractor **shall** ensure that the Medicaid report meets the Arkansas Medicaid requirements, including, without limitation, the following requirements:
- Arkansas Medicaid data **must** be included on facilities' Medicare cost report.
- Costs for services to patients over Age 1 **must** be separated from costs for patients under Age 1 for all Prospective Payment System acute care hospitals.
- For a psychiatric hospital, residential treatment services **must** be reported in a separate cost center from routine acute care services.
- The acute care routine cost and residential routine cost **must** be separated for the proper application of cost and payment limits.

7. Desk Reviews

a) Contractor **shall** perform limited procedure reviews, referred to as desk reviews, of cost reports to determine acceptability and the necessity of full-scope audits. The scope of these reviews is the same as Medicare Title XVIII, with an additional supplemental for pediatrics and nursery services, which is Medicaid Title XIX-specific.

b) All desk reviews **shall** be conducted according to schedules and criteria approved in advance by DHS. Contractor **shall** propose criteria for determining acceptability of cost reports and necessity of full-scope audits as part of Contractor's Technical Proposal.

c) Contractor **shall** perform desk reviews on one hundred percent (100%) of all hospitals and FQHC cost report submissions.

d) At the completion of review, the Contractor **shall** send a letter to DMS indicating the amount due provider or DMS.

e) The Contractor **shall** be responsible for resolving any item of dispute with the provider as a result of a review process.

f) A tentative cost settlement **must** be received by DMS through the paperless workflow within sixty (60) calendar days after the cost report is accepted and logged.

g) All Medicaid Notice of Program Reimbursements (NPR) **must** be received by DMS through the Contractor-provided paperless workflow within seventy-five (75) business days after receipt of Medicare NPR. For those hospitals for which the Contractor is not the Medicare intermediary, the Medicaid NPR **must** be received by DMS within seventy-five (75) business days after the Contractor receives the audited cost report information from the hospital's Medicare intermediary.

h) The Contactor **shall** return corrected tentative and final NPRs to DMS within ten (10) business days after receiving NPRs requiring correction from DMS.

8. Full-scope Audits

a) Based on the outcome of the desk reviews, Contractor **shall** perform full-scope audits corresponding to Medicare guidelines of participating providers or as Medicare requirements dictate. The audit selection process **shall** include consideration of the time elapsed since a provider was last audited.

b) At the completion of an audit, the Contractor **shall** send a letter to DMS indicating the amount due the hospital or DMS.

c) The Contractor **shall** ensure that cost reports are available to DMS on or before the last day of the fifth month following the close of the period covered by the report. For cost reports ending on a day other than the last day of the month, cost reports are due one hundred and fifty (150) calendar days after the last day of the cost reporting period (42 CFR 413.24 (f)).

d) Contractor **must** conduct all full-scope audits according to schedules approved in advance by DMS.

e) The Contractor **shall** calculate and report to DMS any identified payment and recovery amounts due DMS or due the provider.

f) The Contractor **shall** create cost settlements for both tentative and final Notice of Program Reimbursement (NPR) letters, and other necessary documents deemed appropriate by DMS to exchange information in a secure environment.

g) The Contractor **shall** be responsible for resolving any item of dispute with the provider as a result of an audit process.

h) A tentative cost settlement **must** be received by DMS through the paperless workflow within sixty (60) calendar days after the cost report is accepted and logged.

i) All Medicaid NPRs **must** be received by DMS through the Contractor-provided paperless workflow within seventy-five (75) working days after receipt of Medicare NPR. For those hospitals for which the Contractor is not the Medicare intermediary, the Medicaid NPR **must** be received by DMS within seventy-five (75) working days after the Contractor receives the audited cost report information from the hospital's Medicare intermediary.

j) The Contactor **shall** return corrected tentative and final NPRs to DMS within ten (10) business days after receiving NPRs requiring correction from DMS.

k) Contractor **shall** conduct annual field audits on the following, without limitation.
- Arkansas Children's Hospital
- Arkansas Children's Hospital Northwest
- University of Arkansas for Medical Sciences (UAMS)
- Methodist University Hospital, Memphis
- Up to an additional five percent (5%) of the in-state hospitals in consultation with DMS
- At least twenty percent (20%) of FQHCs. Contractor **must** audit all FQHCs at least once every 5 (five) years.

9. Additional Audit Functions
Prospective Contractor must provide its approach to providing the services as required in this section (2.3 A.9) as part of its technical response (See *Technical Proposal Packet*).

a) The Contractor **shall** incur the cost of common audit functions to the extent that such activity would normally be undertaken for Title XVIII purposes. The cost of audit work required by DMS for Title XIX purposes and not routinely undertaken for Title XVIII purposes **shall** be charged by the Contractor to DMS (See section 2.3.G).

b) The Contractor **shall** perform a reconciliation of the Provider Statistical & Reimbursement Report for Title XIX data.

c) The Contractor **shall** review appropriate third-party insurance payments and recoveries.

d) The Contactor **shall** perform resolution of disputed cost report adjustments. The Contractor **shall not** charge DMS for audits performed to correct errors made by the Contractor's audit staff, which result in the reopening of cost reports.

e) The Contractor **shall** perform other audit activity expressly related to the Title XIX programs as required by federal regulations or directives or as requested in writing by the Director of DMS or other DMS designee.

f) The Contractor **shall** report information discovered in the performance of the audit functions which will impact the Arkansas Medicaid Program to DMS designee. Reporting must be provided to the DMS designee electronically within five (5) business days of discovery.

g) The Contractor **shall** respond to written inquiries at the administrative level in writing. If more time is needed to prepare a response, the Contractor **shall** advise DMS in writing.

h) Contractor shall be liable for all adverse actions, losses or damages resulting from any errors made by Contractor's audit staff.

B. Nursing Home and Intermediate Care Facility (ICF) Audits, Analysis, and Cost Reports
Prospective Contractor must provide its approach to providing the services as required in this section (2.3.B) as part of its technical response (See *Technical Proposal Packet*).

1. Nursing home 12-month and short period cost reports are generally submitted annually in mid-September into a DMS-maintained Long Term Care Reporting system. Desk reviews of these cost reports **shall** be completed by the first week of December to allow for rates to be calculated and set effective January first.

2. Due to licensing of new nursing homes or changes in ownership between April and June, other 6-month cost reports **shall** be submitted within seventy-five (75) calendar days of a facility's first six (6) months of operation. These desk reviews **shall** be complete within two (2) months of their submission.

3. State-operated Human Development Centers and facilities, private large ICF providers, and the Arkansas Health Center (AHC) file cost reports every six (6) months (2nd Tuesdays of August and February) and their desk reviews **shall** be complete within six (6) weeks of submission.

4. A calendar-year cost report is due from each small private ICF ninety (90) calendar days after the year end. Their desk review **shall** be complete within six (6) weeks of submission.

5. A sample of eight to ten (8 – 10) current year nursing home cost reports **shall** be selected by DMS in consultation with Contractor for expanded reviews. Planning, selection, and implementation of these expanded reviews **shall** commence in January and **shall** be completed by September.

6. Contractor **shall** provide the services described in the table below.
   a) Desk Reviews
      i. The Contactor **shall** perform desk reviews of nursing home and ICF cost reports for compliance with DHS Medical Assistance Program Manual of Cost Reimbursement Rules for Long-Term Care Facilities.
      ii. Desk review procedures **shall** be updated or revised annually and detailed in the Agreed Upon Procedures (AUP) document. An AUP **shall** document each type of desk review as necessary.
      iii. Each cost report desk review completed **shall** result in a draft desk review letter suitable for mailing, accessible through paperless workflow system. The letter **must** include recommended adjustments, detailed support of each adjustment, and a Form 6 summary of the adjustment impacts.
      iv. From September through December, a weekly status report **must** be provided to DMS to track desk review progress and identify issues that need addressing.

   b) Full-scope Audit
      i. The Contactor **shall** work with DMS from January through March of each year to design the selection process of annual expanded reviews which may include analytical review of the cost report data submitted by providers and findings from desk reviews.
      ii. Expanded review procedures **must** be detailed in an AUP document.

iii. Contractor **shall** submit expanded review notification letters through the paperless workflow system.
iv. Contractor **shall** submit a draft expanded review letter suitable for mailing through the paperless workflow system. The letter **must** include recommended adjustments, detailed support of each adjustment, and a Form 6 summary of the adjustment impacts.

c) Contractor **shall** provide support as needed for provider-appealed adjustments.

d) Nursing home cost report data analysis **shall** be performed on an ad-hoc basis to identify trends and issues impacting the State Plan.

Type of Provider Cost Report or Service	Type of Deliverable Required of Vendor	Number of Anticipated Deliverables Per Contract Year*
State-operated and Private Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF-IID)	Desk Reviews/Agreed Upon Procedures	Desk Reviews: 31–less than 16 bed 5 (2 per year)–greater than 16 bed 5 (2 per year)–Human Development Centers
Nursing facilities	Desk Reviews-Audits/Field Audit/Agreed Upon Procedures	Desk Reviews: 230 Full-scope Audit: 8 - 10
State-operated nursing facility	Desk Review/Agreed Upon Procedures	Desk Reviews: 1 (2 cost reports per year)

*** The numbers in this table illustrate DMS's current expectations of future workloads. They are not guarantees of the volume of work the selected Vendor will actually be asked to perform. The actual volume of work may be more or less than the estimates above.**

C. State Medicaid Disproportionate Share Hospital (DSH) Payment Program and Submission to Independent Certified Audit Contractor
Prospective Contractor must provide its approach to providing the services as required in this section (2.3.C) as part of its technical response (See *Technical Proposal Packet*).

1. The Contractor **shall** annually calculate by May 31st Disproportionate Share Hospital (DSH) reimbursement and determine DSH payment eligibility for qualifying hospitals under the Medicaid qualifying methodologies and calculations as identified in the Arkansas Medicaid State Plan and applicable federal regulations and requirements.

2. These eligibility and reimbursement calculations **shall** be for the previous State Fiscal Year's (SFY) Medicaid total DSH allotment amount and any adjustments as identified by the Centers for Medicare and Medicaid Services (CMS).

3. Contractor **must** submit a list of providers to DMS by March 1st in order for DMS to run statistical and reimbursement data reports needed for the DSH calculation. The list **must** include provider number, name, and fiscal year.

4. DMS will provide, via email to the Contractor, the Arkansas Medicaid hospital reimbursement and statistical information on an annual basis to complete these DSH eligibility and reimbursement calculations.

5. The Contractor **shall** work jointly with DMS in obtaining other State hospital Medicaid reimbursement and statistical information (e.g., DSH Questionnaire to be submitted by hospital with annual cost report) also necessary to complete these DSH eligibility and reimbursement calculations.

6. All final DSH payable reimbursement calculations, DSH limit calculations, and supporting eligibility schedules **shall** be forwarded to DMS by May 31st for review.

7. The Contractor **shall** also assist DMS in providing a listing of qualifying facilities and DSH calculations and explanations on how facilities qualified for DSH annually to the DMS-contracted independent DSH auditor.

8. See table below for anticipated deliverables.

Type of Provider Cost Report or Service	Type of Deliverable Required of Vendor	Number of Anticipated Deliverables Per Contract Year*
In-state acute hospitals	DSH Review & Eligibility Calculation/Agreed Upon Procedures	Out of eighty-five (85) hospitals, only eight to fifteen (8–15), depending on eligibility
Border-city acute hospitals as identified in the Arkansas Medicaid State Plan	DSH Review & Eligibility Calculation /Agreed Upon Procedures	1–Shelby County, Memphis, depending on eligibility
In-state psychiatric hospital	DSH Review & Eligibility Calculation /Agreed Upon Procedures	1–Arkansas State Hospital, depending on eligibility
In-state pediatric hospitals	DSH Review & Eligibility Calculation /Agreed Upon Procedures	1–Arkansas Children's Hospital and Arkansas Children's Hospital Northwest depending on eligibility

*** The numbers in this table illustrate DMS's current expectations of future workloads. They are not guarantees of the volume of work the selected Vendor will actually be asked to perform. The actual volume of work may be more or less than the estimates above.**

D. Independent Calculation and Demonstration Payment Limits for Qualifying Providers
Prospective Contractor must provide its approach to providing the services as required in this section (2.3.D) as part of its technical response (See *Technical Proposal Packet*).

1. The contractor **shall** annually calculate Upper Payment Limits (UPL) payments and assessment fees in accordance with CMS requirements by September 30. Modifications **must** be received by DMS within fourteen (14) calendar days of request.

2. The first drafts of demonstrations **shall** be due April 30 for DMS review, with the exception of the durable medical equipment (DME) demonstration, which **shall** be due March 1. Final demonstrations **shall** be due to DMS June 1, with the exception of DME, which **shall** be due March 15.

3. Contractor **shall** calculate and provide to the State UPL calculations and demonstrations in accordance with the Arkansas Medicaid State Plan and CMS guidance.

4. The Contractor **shall** provide detailed calculations for each qualifying individual provider. Where necessary, DMS will provide data (for example, claims data from the MMIS, provider listings) for the contractor to perform the calculations. The contractor will have access to the provider cost reports through the paperless workflow system.

5. Contractor **shall** have appropriate software to calculate Medicaid case-mix based on the paid claims provided by DMS. The contractor **shall** obtain the Medicare case-mix information available through the Federal Register or other Federal source references for the same cost report period reflected in the paid claims provided by DMS.

Type of Provider Cost Report or Service	Type of Deliverable Required of Vendor	Number of Anticipated Deliverables Per Contract

		Year
In-state acute hospitals	UPL Calculation & Demonstration	80 – private hospitals 4 – public hospitals
Border-city acute hospitals as identified in the Arkansas Medicaid State Plan	UPL Calculation & Demonstration	1, which is included in the above public count
In-state psychiatric hospital residential treatment units and sexual offender programs	UPL Calculation & Demonstration	Psychiatric hospitals are included in the private count above
In-state pediatric hospitals	UPL Calculation & Demonstration	1 pediatric hospital, which is included in the private count above
In-state teaching hospital	UPL Calculation & Demonstration	1 teaching hospital
Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF-IID)	UPL Demonstration Only	31 – less than 16 bed 5 – 16 bed greater 5 – state-operated HDC's
Nursing homes – private, state-operated, non-state operated	UPL Demonstration only	230
Qualified practitioner services	UPL Calculation & Demonstration	Physician groups related to the teaching hospital (UAMS)
Clinic services	UPL Demonstration only	1
Psychiatric Residential Treatment Facility (PRTF)	UPL Demonstration only	1
Private ambulance	UPL Calculation & Demonstration	41
Durable Medical Equipment	UPL Demonstration	1

*** The numbers in this table illustrate DMS's current expectations of future workloads. They are not guarantees of the volume of work the selected Vendor will actually be asked to perform. The actual volume of work may be more or less than the estimates above.**

E. Revision of State Plan Amendments for All Supplemental Payments and Provider Fees
Prospective Contractor must provide its approach to providing the services as required in this section (2.3.E) as part of its technical response (See *Technical Proposal Packet*).

With the State's approval, Contractor shall provide revisions to Arkansas State Plan amendments for all supplemental payments and provider fees. This revision **shall** include without limitation:

1. Revising the language in the state plan as needed to be submitted to CMS.

2. Calculating budget impact needed for submission to CMS, along with any other calculations that may be required by CMS to get approval of the revised State plan amendment for any of the UPLs.

3. Answering follow up questions from CMS to get the State Plan amendment approved by CMS.

The State **shall** be given copies of any document done for these revisions, which would be needed for submissions.

F. Paperless Workflow
Prospective Contractor must provide its approach to providing the service as required in this section (2.3 F) as part of its technical response (See *Technical Proposal Packet*).

1. Contractor **shall** provide a shared paperless workflow system deemed appropriate by DMS to exchange information in a secure environment. In addition to moving work back and forth, this system **shall** allow uploads and electronic storage of documents. The system shall allow upload and storage

of documents of sufficient file size to accept all documents without the need to split, reformat or compress files.

2. At a minimum, cost reports, workpapers, provider correspondence, provider supplemental documents, and other documentation (e.g., DSH questionnaire) requirements **must** be available in the paperless workflow.

G. Ad Hoc Projects

Vendor **shall** complete ad hoc projects related to the scope of work for this contract.

1. Vendor **shall** provide its methodology for all ad hoc deliverables under this scope of work.

2. Prior to initiating any ad hoc project, DHS will provide a scoping document, with the Vendor's assistance, at enough detail for the vendor to provide a fixed fee bid. This fixed fee bid **shall** include an explanation of the basis for the estimate including Vendor's schedule of required hours and staffing.

3. The Vendor **shall** provide these services either through internal resources, or, at DHS discretion, through procurement of sub-contractors who have the specific skills required. Any resulting work efforts **shall** be administered by the Vendor through their contract with DHS.

4. As required by DHS, the Vendor **must** provide written status reports for each project throughout its life and **must** receive approval from DHS whenever the scope, schedule or budget must be modified. DHS reserves the right to terminate the project or convenience at any point in the project.

H. Other Contract Requirements

Prospective Contractor must provide its approach to providing the services as required in this section (2.3.H 2-5) as part of its technical response (See *Technical Proposal Packet*).

1. Contract Administrator's Office: The Vendor's Contract Administrator **shall** maintain an office in the United States of America to be staffed and open for business during normal Arkansas State business hours every weekday throughout the year, provided that the office may be closed on State employees' paid holidays (https://www.sos.arkansas.gov/calendar/).

2. Software: If other manufacturer's equipment or software is proposed, maintenance support and/or installation may be provided by a third party vendor if the third party vendor was the original manufacturer of the equipment or software or their authorized representative; however, bidders **must** acknowledge and agree to have maintenance support and installation services performed in accordance with the RFP, such that the vendor **shall** be liable for any failure, with the understanding that the vendor **must** have written subcontract with the OEM manufacturer or its authorized representative to cover such services and where the State **shall** be able to approve such written subcontract.

   Vendor **must** certify that all equipment and software, installation, maintenance, support, personnel, etc. to fulfill the requirements of this RFP) and the resulting contract will be provided at no additional cost above the proposal price.

3. Progress Reports: The Vendor **shall** submit a written progress report to the DMS Reimbursement Manager or designee by the tenth (10^{th}) of every month during the contract period, or more frequently as may be requested by DMS, at no additional cost to the State. Progress reports **shall** describe, at a minimum, the Vendor's progress during the past month; problems encountered; anticipated progress for the next month; anticipated problems and approaches to those and any support actions or information requested of DMS; remarks or comments, including reasons for any projected deviation from the project schedule; and a summary of activities to date. The Vendor **shall** obtain the DMS Contract Administrator's approval for any material deviation from the proposed delivery schedule. Monthly progress reports **shall** include the following without limitation:

a) Number of cost reports received and processed during the preceding month (i.e., the number of desk audits, the amount of over and under payments).

b) Contractor's field audit activity for the preceding month, including without limitation: the names of audited providers, the dates of each audit, and audit findings.

4. Meetings with State: The Vendor **shall** meet with DMS, upon request, at the headquarters of the Arkansas Department of Human Services (DHS) in Little Rock, Arkansas, or other mutually agreeable sites to discuss problems encountered by the Contractor, to review progress reports submitted, and to discuss approaches to problems.

5. Data Transfer:

a. All data transfers **shall** be secure and compliant with 45 CFR 164 and the Health Insurance Portability and Accountability Act (HIPAA) of 1996, protecting all personal health information.

b. Contractor **shall** provide all proprietary data collected and/or created during the life of the contract to DMS and within thirty (30) calendar days of request.

6. End of Contract Transition: Ninety (90) calendar days prior to the contract end date, the vendor shall submit to DHS a detailed plan for transitioning all contracted services to DHS, or to another vendor selected by DHS to provide the contracted services.

The transition plan shall include provisions for the delivery of all proprietary data collected and/or created during the life of the contract to DHS thirty (30) calendar days prior to the contract end date. All proprietary data collected and/or created during the final thirty (30) calendar days of the contract, or any proprietary data not captured in the initial delivery, shall be delivered to DHS no more than fifteen (15) calendar days following the contract end date. All transition activity is included in the contract price.

The Vendor shall not implement the plan until it has received DMS's written approval of the plan. The Vendor shall take all reasonable action to provide a minimally disruptive turnover.

7. The Contractor **shall** consult with DMS to determine whether training for DMS staff shall be provided each contract year.

8. Deliverable Acceptance Process: If DMS rejects a deliverable, DMS will give the Vendor a written description of the changes that **must** be made to the deliverable. This cycle of submission, review, rejection, revision, and resubmission **shall** be repeated until DMS accepts the deliverable. Vendor shall be liable for all costs associated with additional work related to deliverables rejected by DMS.

2.4 IMPLEMENTATION

Prospective Contractor must provide its approach to providing the services as required in this section as part of its technical response (See *Technical Proposal Packet*).

A. Contractor **shall** be fully operational and providing services as specified herein on January 1, 2020, unless mutually agreed to by the Contractor and DHS, at no additional cost to the State.

B. Initial Planning and Development Activities **shall** include the following without limitation:

1. Contractor **shall** establish a secure mechanism to electronically collect, maintain, and transfer cost report information, etc., before the contract start date. The mechanism **must**:

a) Allow secure transference of information electronically between the Contractor, DHS, and the providers;

b) Be a secure system capable of storing large amounts of data for the services provided under the contract;

c) Be compliant with the data transfer requirements stated at Section 2.3.H.5 of this document.

d) Collect and maintain cost report information (audited and unaudited) in a readily accessible format agreeable to DHS, from which ad hoc reports may be produced by either the Contractor or State agency staff. The Contractor **shall** make the information available to DHS on a timely basis, as mutually agreed upon with DHS;

e) Allow DHS flexibility in obtaining data to implement and develop reimbursement methodologies; and

f) Have the ability to collect and maintain historical cost report information deemed appropriate by DHS.

2. If the Contractor-provided mechanism specified above is not an internet portal, Contractor shall establish a web-based portal meeting the specifications above within the first twelve (12) months of the contract. The portal must electronically collect, maintain, and transfer cost report information

C. Between contract start date and January 1, 2021, Contractor **shall** meet with the State, according to a schedule agreed upon by Contractor and DHS, for the purposes of Project Plan development and approval. Contractor's final project plan **must** be approved by DHS no later than thirty (30) business days prior to January 1, 2021. At a minimum, the Managing Supervisor and Project Manager **shall** attend these meetings along with any additional staff necessary to implement the terms of the Contract, with DHS having final determination of the required attendees. Further details regarding these meetings **shall** be agreed upon by the Vendor and DHS during contract negotiations.

2.5 STAFFING

Prospective Contractor must Provide narratives detailing prior experience of Vendor's proposed Senior Manager and Project Manager meeting the requirements below (*Technical Proposal Packet*).

A. The Vendor's Managing Supervisor must:

1. Be licensed as a Certified Public Accountant;

2. Have at least five (5) years of experience in healthcare consulting, auditing, and cost report preparation;

3. Have seven (7) years of experience in Medicaid or Medicare program audits, analyzing provider cost report data, and performing Disproportionate Share Hospital (DSH) payment calculations

4. Have at least five (5) years of experience of supervising a staff of more than five (5) individuals who report directly or indirectly to him or her.

B. The Vendor's Project Manager **must** have at least five (5) years of experience in healthcare audit work, preferably in Medicaid audit work, Medicare audit work, or both.

2.6 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 Standards* identifies expected deliverables, performance measures, or outcomes; and defines the acceptable standards the Contractor **must** meet in order to avoid assessment of damages.

B. The State may be open to negotiations of Performance Standards prior to contract award, prior to the commencement of services, or at times throughout the contract duration.

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 Contractor 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.

G. In the event a Performance Standard is not met, the Contractor will have the opportunity to defend or respond to the insufficiency. The State **may** waive damages if it determines there were extenuating factors beyond the control of the Contractor that hindered the performance of services or if it is in the best interest of the State to do so. In these instances, the State **shall** have final determination of the performance acceptability.

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

SECTION 3 – CRITERIA FOR SELECTION

Do not provide responses to items in this section unless expressly required.

3.1 TECHNICAL PROPOSAL SCORE

A. OP will review each *Technical Proposal Packet* to verify submission Requirements have been met. *Technical Proposals Packets* that do not meet submission *Requirements* **shall** be disqualified and **shall not** be evaluated.

B. An agency-appointed Evaluation Committee will evaluate and score qualifying Technical Proposals. Evaluation will be based on Contractor's response to the *Information for Evaluation* section included in the *Technical Proposal Packet*.

1. Members of the Evaluation Committee will individually review and evaluate proposals and complete an Individual Score Worksheet for each proposal. Individual scoring for each Evaluation criteria will be based on the following Scoring Description.

Quality Rating	Quality of Response	Description	Confidence in Proposed Approach
5	Excellent	When considered in relation to the RFP evaluation factor, the proposal squarely meets the requirement and exhibits outstanding knowledge, creativity, ability or other exceptional characteristics. Extremely good.	Very High
4	Good	When considered in the relation to the RFP evaluation factor, the proposal squarely meets the requirement and is better than merely acceptable.	High
3	Acceptable	When considered in relation to the RFP evaluation factor, the proposal is of acceptable quality.	Moderate
2	Marginal	When considered in relation to the RFP evaluation factor, the proposal's acceptability is doubtful.	Low
1	Poor	When considered in relation to the RFP evaluation factor, the proposal is inferior.	Very Low
0	Unacceptable	When considered in relation to the RFP evaluation factor, the proposal clearly does not meet the requirement, either because it was left blank or because the proposal is unresponsive.	No Confidence

2. After initial individual evaluations are complete, the Evaluation Committee members will meet to discuss their individual ratings in a consensus scoring meeting. At this consensus scoring meeting, each evaluator will be afforded an opportunity to discuss his or her rating for each evaluation criteria.

3. After committee members have had an opportunity to discuss the scores recorded on the preliminary Individual Score Worksheet with the group, the individual committee members will be given the opportunity to adjust the score contained on the initial Individual Score Worksheet, if they feel that is appropriate.

4. The final individual scores of the evaluators will be recorded on the Consensus Score Sheets and averaged to determine the group or consensus score for each proposal. For purposes of scoring,

only the final scores of the evaluators reflected on the Consensus Score Sheet will be used. Each evaluator shall sign the Consensus Score Sheet affirming that the score noted is the score intended by the evaluator.

5. Other agencies, consultants, and experts may also examine documents at the discretion of the Agency.

C. The *Information for Evaluation* section has been divided into sub-sections.

1. In each sub-section, items/questions have each been assigned a maximum point value of five (5) points. The total point value for each sub-section is reflected in the table below as the Maximum Raw Score Possible.

2. The agency has assigned Weighted Percentages to each sub-section according to its significance.

3. The Financial Disclosure section points will be added to the final subtotal score to arrive at the total.

Information for Evaluation Sub-Sections	Maximum Raw Points Possible	Sub-Section's Weighted Percentage	* Maximum Weighted Score Possible
Vendor Background and Experience (E.1)	10	15%	105
Disclosure (E.2)	5	15%	105
Scope of work (E.3-E.8)	35	30%	210
Other Contract Requirements (E.9)	15	10%	70
Implementation (E.10)	5	10%	70
Staffing (E.11)	5	20%	140
Technical Score Total	**75**	**100%**	**700**

D. The Contractor's weighted score for each sub-section will be determined using the following formula:

(A/B)*C =D

A = Actual Raw Points received for sub-section in evaluation
B = Maximum Raw Points possible for sub-section
C = Maximum Weighted Score possible for sub-section
D = Weighted Score received for sub-section

E. Contractor's weighted scores for sub-sections will be added to determine the Total Technical Score for the Proposal.

F. Technical Proposals that do not receive a minimum weighted score of four hundred fifty (450) shall not move forward in the solicitation process. The pricing for proposals which do not move forward **shall not** be opened or scored.

3.2 COST SCORE

A. When pricing is opened for scoring, the maximum amount of cost points will be given to the Contractor with the lowest grand total as shown on the Official Bid Price Sheet. (See *Grand Total Score* for maximum points possible for cost score.)

B. The amount of cost points given to the remaining contractors will be allocated by using the following formula:

(A/B)*(C) =D

A = Lowest Total Cost
B = Second (third, fourth, etc.) Lowest Total Cost
C = Maximum Points for Lowest Total Cost
D = Total Cost Points Received

3.3 GRAND TOTAL SCORE

The Technical Score and Cost Score will be added together to determine the Grand Total Score for the proposal. The Contractor's proposal with the highest Grand Total Score will be selected as the apparent successful contractor. (See *Award Process.)*

	Maximum Points Possible
Technical Proposal	700
Cost	300
Maximum Possible Grand Total Score	**1,000**

3.4 CONTRACTOR ACCEPTANCE OF EVALUATION TECHNIQUE

A. Contractor **must** agree to all evaluation processes and procedures as defined in this solicitation.

B. The submission of a *Technical Proposal Packet* **shall** signify the Contractor's understanding and agreement that subjective judgments **shall** be made during the evaluation and scoring of the Technical Proposals.

SECTION 4 – GENERAL CONTRACTUAL REQUIREMENTS

Do not provide responses to items in this section unless expressly required.

4.1 PAYMENT AND INVOICE PROVISIONS

A. Payment will be made in accordance with applicable State of Arkansas accounting procedures upon acceptance goods and services by the agency.

B. The State **shall not** be invoiced in advance of delivery and acceptance of any goods or services.

C. Payment will be made only after the Contractor has successfully satisfied the agency as to the reliability and effectiveness of the goods or services purchased as a whole.

D. The Contractor should invoice the agency by an itemized list of charges. The agency's Purchase Order Number and/or the Contract Number should be referenced on each invoice.

E. Other sections of this *Bid Solicitation* may contain additional Requirements for invoicing.

F. Selected Contractor **must** be registered to receive payment and future *Bid Solicitation* notifications. Contractors may register on-line at https://www.ark.org/contractor/index.html.

4.2 GENERAL INFORMATION

A. The State **shall not** lease any equipment or software for a period of time which continues past the end of a fiscal year unless the contract allows for cancellation by the State Procurement Official upon a thirty (30) day written notice to the Contractor/lessor in the event funds are not appropriated.

B. The State **shall not** pay damages, legal expenses or other costs and expenses of any other party.

C. The State **shall not** continue a contract once any equipment has been repossessed.

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

E. The State **shall not** agree to any provision of a contract which violates the laws or constitution of the State of Arkansas.

F. The State **shall not** enter a contract which grants to another party any remedies other than the following:
   1. The right to possession.
   2. The right to accrued payments.
   3. The right to expenses of de-installation.
   4. The right to expenses of repair to return the equipment to normal working order, normal wear and tear excluded.
   5. The right to recover only amounts due at the time of repossession and any unamortized nonrecurring cost as allowed by Arkansas Law.

G. The laws of the State of Arkansas **shall** govern this contract.

H. A contract **shall not** be effective prior to award being made by a State Procurement Official.

I. 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:
   1. 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

2. The contract has required the State to carry insurance for such risk.

4.3 CONDITIONS OF CONTRACT

A. The Contractor **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 Contractor **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 Contractor.

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.

4.4 STATEMENT OF LIABILITY

A. The State will demonstrate reasonable care but will not be liable in the event of loss, destruction or theft of 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 **shall** 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 **shall** be limited to the value of the Contract or $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 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 **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 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 **shall 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, **shall** be brought before the Arkansas Claims Commission as provided by Arkansas law, and **shall** be governed accordingly.

4.5 PERFORMANCE BONDING

A. The Contractor **shall** be required to obtain performance bonds to protect the State's interest as follows:

1. The amount of the performance bonds **shall** be one hundred percent (100%) of the annual contract price, unless the State determines that a lesser amount would be adequate for the protection of the State. Such performance bond must be provided to DHS prior to signing the contract.

2. The State **shall** require additional performance bond protection when a contract price is increased or modified.

3. The additional performance bond **must** be delivered to the Arkansas Department of Human Services Chief Procurement Officer within fourteen (14) calendar days of request.

4. The contractor **shall** notify the State of any changes, modification, or renewals for the performance bond during the term of the contract. The performance bond documentation **must** be provided to the State with each required notice.

5. Failure to provide is a breach of contract and may result in immediate contract termination, prohibition against future bidding with the State, the addition of Contractor to the DHS excluded provider list, etc.

4.6 RECORD RETENTION

A. The Contractor **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.

4.7 PRICE ESCALATION

A. Price increases will be considered at the time of contract renewal.

B. The Contractor **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 has the right to require additional information pertaining to the requested increase.

C. Increases will not be considered to increase profit or margins.

D. OP has the right to approve or deny the request.

4.8 CONFIDENTIALITY

A. The Contractor, Contractor's subsidiaries, and Contractor's employees **shall** be bound to all laws and to all Requirements set forth in this *Bid Solicitation* concerning the confidentiality and secure handling of information of which they may become aware of during the course of providing services under a resulting contract.

B. Consistent and/or uncorrected breaches of confidentiality may constitute grounds for cancellation of a resulting contract, and the State **shall** have the right to cancel the contract on these grounds.

C. Previous sections of this *Bid Solicitation* may contain additional confidentiality Requirements.

4.9 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 **shall** be final and controlling.

4.10 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.

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

SECTION 5 – STANDARD TERMS AND CONDITIONS

Do not provide responses to items in this section.

1. **GENERAL**: Any special terms and conditions included in this solicitation **shall** override these Standard Terms and Conditions. The Standard Terms and Conditions and any special terms and conditions **shall** become part of any contract entered into if any or all parts of the bid are accepted by the State of Arkansas.

2. **ACCEPTANCE AND REJECTION**: The State **shall** have the right to accept or reject all or any part of a bid or any and all bids, to waive minor technicalities, and to award the bid to best serve the interest of the State.

3. **BID SUBMISSION**: Original Proposal Packets **must** be submitted to the Office of State Procurement on or before the date and time specified for bid opening. The Proposal Packet **must** contain all documents, information, and attachments as specifically and expressly required in the *Bid Solicitation*. The bid **must** be typed or printed in ink. The signature **must** be in ink. Unsigned bids **shall** be disqualified. The person signing the bid should show title or authority to bind his firm in a contract. Multiple proposals **must** be placed in separate packages and should be completely and properly identified. Late bids **shall not** be considered under any circumstances.

4. **PRICES**: Bid unit price F.O.B. destination. In case of errors in extension, unit prices **shall** govern. Prices **shall** be firm and **shall not** be subject to escalation unless otherwise specified in the *Bid Solicitation*. Unless otherwise specified, the bid **must** be firm for acceptance for thirty days from the bid opening date. "Discount from list" bids are not acceptable unless requested in the *Bid Solicitation*.

5. **QUANTITIES**: Quantities stated in a *Bid Solicitation* for term contracts are estimates only, and are not guaranteed. 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 proposals cannot be altered or amended after the bid opening except as permitted by regulation.

11. **TAXES AND TRADE DISCOUNTS**: Do not include State or local sales taxes in the bid price. Trade discounts should be deducted from the unit price and the net price should be shown in the bid.

12. **AWARD**: Term Contract: A contract award will be issued to the successful 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 Contactor 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. The State may also cancel the contract for convenience or for any other reason 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 *Proposal Signature Page* for this solicitation, acting herein by the authorized individual or its duly

authorized agent, hereby assigns, sells and transfers to the State of Arkansas all rights, title and interest in and to all causes of action it may have under the antitrust laws of the United States or this State for price fixing, which causes of action have accrued prior to the date of this assignment and which relate solely to the particular goods or services purchased or produced by this State pursuant to this contract.

27. DISCLOSURE: Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that order, **shall** be a material breach of the terms of this contract. Any Contractor, whether an individual or entity, who fails to make the required disclosure or who violates any rule, regulation, or policy **shall** be subject to all legal remedies available to the agency.