



**STATE OF ARKANSAS**  
**Department of Transformation and Shared Services**  
**OFFICE OF STATE PROCUREMENT**  
501 Woodlane St., Ste.220  
Little Rock, Arkansas 72201-1023

**REQUEST FOR QUALIFICATION**  
**BID SOLICITATION DOCUMENT**

SOLICITATION INFORMATION			
Solicitation Number:	SP-21-0021	Solicitation Issued:	January 11, 2021
Description:	Radio Communication Site Inspections		
Agency:	Arkansas Division of Emergency Management		

SUBMISSION DEADLINE FOR RESPONSE			
Response Opening Date:	February 10, 2021	Response Opening Time:	3:00 p.m., Central Time
<p>Deliver response for this Request for Qualification to the Office of State Procurement on or before the designated response opening date and time. In accordance with Arkansas Procurement Law and Rules, it is the responsibility of Prospective Contractors to submit responses at the designated location on or before the response opening date and time. Responses received after the designated opening date and time may be considered late and may be returned to the Prospective Contractor without further review. It is not necessary to return "no bids" to OSP.</p>			

DELIVERY OF RESPONSE DOCUMENTS	
Delivery Address:	<p>Department of Transformation and Shared Services Office of State Procurement 501 Woodlane St., Ste 220 Little Rock, AR 72201-1023</p> <p>Delivery providers, USPS, UPS, and FedEx deliver mail to OSP's street address on a schedule determined by each individual provider. These providers will deliver to OSP based solely on the street address. <b>Prospective Contractors assume all risk for timely, properly submitted deliveries.</b></p>
Response's Outer Packaging:	<p>Seal outer packaging and properly mark with the following information. If outer packaging of response submission is not properly marked, the package may be opened for response identification purposes.</p> <ul style="list-style-type: none"><li>• Solicitation number</li><li>• Date and time of response opening</li><li>• Prospective Contractor's name and return address</li></ul>

OFFICE OF STATE PROCUREMENT CONTACT INFORMATION			
OSP Buyer:	Julia Shackelford	Buyer's Direct Phone Number:	501-371.6079
Email Address:	<a href="mailto:Julia.shackelford@dfa.arkansas.gov">Julia.shackelford@dfa.arkansas.gov</a>	OSP's Main Number:	501-324-9316
OSP Website:	<a href="https://www.transform.ar.gov/procurement/">https://www.transform.ar.gov/procurement/</a>		

## SECTION 1 - GENERAL INSTRUCTIONS AND INFORMATION

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

### 1.1 PURPOSE

The Office of State Procurement (OSP) issues this Request for Qualifications (RFQ) on behalf of the Arkansas Division of Emergency Management (ADEM) for the purpose of contracting with a qualified engineering firm to provide inspections of the State's radio communication sites.

### 1.2 TYPE OF CONTRACT

- A. As a result of this RFQ, OSP intends to award a contract to a single Contractor.
- B. The anticipated starting date for any resulting contract is April 19, 2021 except that the actual contract start date may be adjusted forward unilaterally by the State for up to three calendar months. By submitting a signed response to the RFQ, the Prospective Contractor represents and warrants that it will honor its response as being held open as irrevocable for this period.
- C. The initial term of a resulting contract will be for one (1) year. Upon mutual agreement by the Contractor and agency, the contract may be renewed by OSP for up to six (6) additional one-year terms or portions thereof, not to exceed a total aggregate contract term of seven (7) consecutive years.

### 1.3 ISSUING AGENCY

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

### 1.4 RESPONSE OPENING LOCATION

Responses will be opened at the following location:

Department of Transformation and Shared Services  
Office of State Procurement  
501 Woodlane St., Ste 220  
Little Rock, AR 72201-1023

The response opening may be viewed online as follows:

Zoom Meeting Link:

<https://arkansasgov.zoom.us/j/85689395361?pwd=YUtlb0gvaU9razc0UHE2U3FFYVZFUT09>

Meeting ID: 856 8939 5361

Meeting Password: 630100

Dial-In Information: 877 853 5257 US Toll-free  
888 475 4499 US Toll-free

### 1.5 ACCEPTANCE OF REQUIREMENTS

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

## 1.6 DEFINITION OF TERMS

- A. The State Procurement Official has made every effort to use industry-accepted terminology in this *Bid Solicitation* and will attempt to further clarify any point of an item in question as indicated in *Clarification of Bid Solicitation*.
- B. Unless otherwise defined herein, all terms defined in Arkansas Procurement Law and used herein have the same definitions herein as specified therein.
- C. "Prospective Contractor" means a person who submits a response to this solicitation.
- D. "Contractor" means a person who sells or contracts to sell commodities and/or services.
- E. The terms "Request for Qualifications", "RFQ," "Bid Solicitation," and "Solicitation" are used synonymously in this document.
- F. "Business Day" means a day occurring Monday through Friday excluding State Holidays. A current listing of State holidays may be found on the Arkansas Secretary of State's website at: <https://www.sos.arkansas.gov/news/state-holiday-calendar/>.
- G. "Responsive" means a submission in response to this solicitation that conforms in all material respects to this RFQ.
- H. "Response Submission Requirement" means a task a Prospective Contractor **must** complete when submitting a response. These requirements will be distinguished by using the term "shall" or "must" in the requirement.
- I. "Requirement" means a specification that a Contractor's product and/or service **must** perform during the term of the contract. These specifications will be distinguished by using the term "**shall**" or "**must**" in the requirement.
- J. "State" means the State of Arkansas. When the term "State" is used herein to reference any obligation of the State under a contract that results from this solicitation, that obligation is limited to the State agency using such a contract.

## 1.7 RESPONSE DOCUMENTS

- A. *Original Response Packet*
  - 1. The following items are Response Submission Requirements and **must** be submitted as a hardcopy in the original *Response Packet*.
    - a. Original signed *Response Signature Page*.
    - b. One (1) original hard copy of the response to the Information for Evaluation section included in the *Response Packet*. Response **must** be in the English language.
    - c. Preliminary Site Inspection Schedule (See *Scheduling Site Inspections*.)
  - 2. The following items should be submitted in the original *Response Packet*.
    - a. EO 98-04: Contract and Grant Disclosure Form. (See *Standard Terms and Conditions, #25. Disclosure*.)
    - b. Copy of Prospective Contractor's *Equal Opportunity Policy*. (See *Equal Opportunity Policy*.)
    - c. Copies of Certificates of Insurance (See *Insurance Requirements*.)

3. **DO NOT** include any other documents or ancillary information, such as a cover letter or promotional/marketing information.
- B. Pricing is not requested for this solicitation and **must not** be submitted with the response. (See *Pricing*.)
- C. *Additional Copies and Redacted Copy of the Response Packet*.

In addition to the original *Response Packet*, the following items should be submitted:

1. *Additional Copies of the Response Packet*
  - a. Three (3) complete hard copies (marked "COPY") of the *Response Packet*.
  - b. Four (4) electronic copies of the *Response Packet*, preferably on flash drives and in PDF format. Do not send electronic copies via email or fax.
  - 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 governs.
  - d. If OSP requests additional copies of the response, the copies **must** be delivered within the timeframe specified in the request.
2. One (1) redacted (marked "REDACTED") copy the original *Response Packet*, preferably on a flash drive and in PDF format. Do not send electronic copies via email or fax. (See *Proprietary Information*.)

## 1.8 ORGANIZATION OF RESPONSE DOCUMENTS

- A. It is strongly recommended that Prospective Contractors adhere to the following format and suggestions when preparing their response.
- B. The original *Response Packet* and all copies should be arranged in the following order.
  1. *Response Signature Page*.
  2. Signed Addenda, if applicable.
  3. E.O. 98-04 – *Contract Grant and Disclosure Form*.
  4. *Equal Opportunity Policy*.
  5. *Preliminary Site Inspection Schedule*
  6. Response to the *Information for Evaluation* section of the *Response Packet*.

## 1.9 CLARIFICATION OF BID SOLICITATION

- A. Submit any questions requesting clarification of information contained in this *Bid Solicitation* in writing via email by 4:00 p.m., Central Time on or before January 22, 2021 to the OSP buyer as shown on page one (1) of this *Bid Solicitation*.
  1. For each question submitted, the Prospective Contractor should reference the specific solicitation item number to which the question refers.
  2. Prospective Contractors' written questions will be consolidated and responded to by the State. The State's consolidated written response is anticipated to be posted to the OSP website by the

close of business on February 5, 2021. If Prospective Contractor questions are unclear or non-substantive in nature, the State may request clarification of a question(s) or reserves the right not to respond to that question(s).

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

#### 1.10 RESPONSE SIGNATURE PAGE

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

#### 1.11 SUBCONTRACTORS

- A. Prospective Contractor should complete, sign, and submit the *Proposed Subcontractors Form* included in the *Response Packet*.
- 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 *Response 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.

#### 1.12 PRICING

Prospective Contractor **must not** include any pricing in their response. Pricing will be negotiated with the apparent successful Contractor after the evaluation of responses. Should the hard copies or electronic copies of their *Response Packet* contain any pricing, the response will be rejected.

#### 1.13 PRIME CONTRACTOR RESPONSIBILITY

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

#### 1.14 PROPRIETARY INFORMATION

- A. Submission documents pertaining to this *Bid Solicitation* become the property of the State and are subject to the Arkansas Freedom of Information Act (FOIA).

- B. In accordance with FOIA and to promote maximum competition in the State competitive bidding process, the State may maintain the confidentiality of certain types of information described in FOIA. Such information may include trade secrets defined by FOIA and other information exempted from the Public Records Act pursuant to FOIA.
- C. Prospective Contractor may designate appropriate portions of its response as confidential, consistent with and to the extent permitted under the Statutes and Rules set forth above, by submitting a redacted copy of the response.
- D. By so redacting any information contained in the response, the Prospective Contractor warrants that it has formed a good faith opinion having received such necessary or proper review by counsel and other knowledgeable advisors that the portions redacted meet the requirements of the Rules and Statutes set forth above.
- E. 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 *Response Packet*. Do not submit documents via email or fax.
- F. 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.
- G. The Prospective Contractor is responsible for identifying all proprietary information and for ensuring the electronic copy is protected against restoration of redacted data.
- H. The redacted copy will be open to public inspection under the Freedom of Information Act (FOIA) without further notice to the Prospective Contractor.
- I. If a redacted copy of the submission documents is not provided with Prospective 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).
- J. If the State deems redacted information to be subject to FOIA, the Prospective Contractor will be contacted prior to release of the documents.
- K. The State has no liability to a Prospective Contractor with respect to the disclosure of Prospective Contractor's confidential information ordered by a court of competent jurisdiction pursuant to FOIA or other applicable law.

#### 1.15 CAUTION TO PROSPECTIVE CONTRACTORS

- A. Prior to any contract award, address all communication concerning this *Bid Solicitation* through the OSP buyer.
- B. Do not alter any language in any solicitation document provided by the State.
- C. All official documents and correspondence related to this solicitation become part of the resultant contract.
- D. The State has the right to award or not award a contract, if it is in the best interest of the State to do so.
- E. As requested, provide clarification regarding Prospective Contractor's response to OSP.

- F. Qualifications and proposed services **must** meet or exceed the required specifications as set forth in this *Bid Solicitation*.
- G. Prospective Contractors may submit multiple responses.

#### 1.16 REQUIREMENT OF ADDENDUM

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

#### 1.17 QUALIFICATION AND AWARD PROCESS

##### A. *Successful Contractor Selection*

The total Score for each Prospective Contractor will be used to determine the ranking of responses.

##### B. *Negotiations*

1. The State will move forward to pricing negotiations with those responsible Prospective Contractors determined, based on the ranking of the responses, to be reasonably susceptible of being selected for award.
2. If the State so chooses, negotiations may be conducted to further define contractual details. Negotiations are conducted at the sole discretion of the State.
3. If negotiations fail to result in a contract, the State may begin the negotiation process with the next highest-ranking Prospective Contractor. The negotiation process may be repeated until the anticipated successful Contractor has been determined, or until such time the State decides not to move forward with an award.

##### C. *Anticipation to Award*

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

##### D. *Issuance of a 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(s).

#### 1.18 MINORITY AND WOMEN-OWNED BUSINESS POLICY

- A. A minority-owned business is defined by Arkansas Code Annotated § 15-4-303 as a business owned by a lawful permanent resident of this State who is:
  - African American
  - American Indian
  - Asian American
  - Hispanic American
  - Pacific Islander American
  - A Service-Disabled Veteran as designated by the United States Department of Veteran Affairs
- B. A women-owned business is defined by Act 1080 of the 91<sup>st</sup> General Assembly Regular Session 2017 as a business that is at least fifty-one percent (51%) owned by one (1) or more women who are lawful permanent residents of this State.
- C. The Arkansas Economic Development Commission conducts a certification process for minority-owned and women-owned businesses. If certified, the Prospective Contractor's Certification Number should be included on the *Response Signature Page*.

#### 1.19 EQUAL OPPORTUNITY POLICY

- A. In compliance with Arkansas Code Annotated § 19-11-104, OSP must have a copy of the anticipated Contractor's *Equal Opportunity (EO) Policy* prior to issuing a contract award.
- B. *EO Policies* should be included as a hardcopy accompanying the solicitation response.
- C. Contractors are responsible for providing updates or changes to their respective policies, and for supplying *EO Policies* upon request to other State agencies that must also comply with this statute.
- D. Prospective Contractors who are not required by law to have an *EO Policy* **must** submit a written statement to that effect.

#### 1.20 PROHIBITION OF EMPLOYMENT OF ILLEGAL IMMIGRANTS

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

#### 1.21 RESTRICTION OF BOYCOTT OF ISRAEL

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

**1.22 PAST PERFORMANCE**

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

**1.23 VISA ACCEPTANCE**

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

**1.24 PUBLICITY**

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

**1.25 RESERVATION**

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

## SECTION 2 – REQUIREMENTS

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

### 2.1 INTRODUCTION

The Office of State Procurement (OSP) issues this Request for Qualifications (RFQ) on behalf of the Arkansas Division of Emergency Management (ADEM) for the purpose of contracting with a qualified engineering firm to provide inspections of the State's radio communication sites and to provide associated reporting.

The radio communication sites (herein after referred to as "Sites") to be included in this project are located across the state of Arkansas and consist of both guyed and self-support towers and associated equipment shelters, fencing, and access roads. For informational purposes, anticipated Site locations are included in Attachment A – *Arkansas Wireless Information Network (AWIN) Site Information* to this RFQ. Although the Sites depicted in Attachment A are not expected to change, any changes to the final list of Sites to be inspected along with existing Site drawings, and other documentation for the towers will be made available to the Contractor upon award.

The State expects the Contractor to begin providing services after contract award, anticipated to be April 19, 2021, and expects the services to be completed within 45 Business Days thereafter. The general scope includes the following:

- Performing inspections on the physical infrastructure of the Sites which include both guyed and self-supporting towers, associated equipment shelters, fencing, and access roads.
- Reporting

The scope does not include microwave path analysis, radio frequency (RF) equipment testing, analysis of the viability of power supply, or the plumbing and tensioning of the guyed towers.

The Contractor awarded a contract as a result of this RFQ **shall not** submit a response to a solicitation(s) the State may subsequently issue for the Site remediation effectuated by the services performed under the contract resulting from this RFQ.

### 2.2 PROSPECTIVE CONTRACTOR QUALIFICATIONS

- A. The Prospective Contractor **shall** be a licensed engineering firm with staffed structural engineers available to perform and/or oversee the radio communication site inspections.
- B. The Prospective Contractor **shall** have a minimum of three (3) years of cumulative experience in communication tower inspection services described within this RFQ.
- C. The Prospective Contractor **shall** have completed and be current with all applicable training as required and/or recommended by Occupational Safety and Health Administration's (OSHA) and the Federal Communications Commission's (FCC) Communication Towers Best Practices such as Comtrain Competent Climber Training, Safety Connection Fall Protection Training, Tractel Tower Rescue Training, and RSI Radio RF Hazards Training.

### 2.3 INSURANCE REQUIREMENTS

- A. The Contractor **shall** have the following insurance policies and associated coverage limits in place prior to providing services and **shall** maintain the insurance policies throughout the contract terms or until otherwise released by ADEM.

1. Worker's Compensation Insurance Statutory Requirements

2. General Liability Coverage - \$1,000,000 per occurrence limit
  3. Automobile Liability Coverage - \$1,000,000 per occurrence limit
- B. The Prospective Contractor should provide copies of Certificates of Insurance with the Response Packet submission but **shall** provide copies prior to performing services and within a timeframe requested by OSP or ADEM.
  - C. The Contractor **shall** provide OSP and ADEM with replacement copies of the Certificates of Insurance not less than thirty (30) calendar days prior to the expiration date of the insurance policies unless otherwise released from doing so by ADEM.
  - D. Each Certificate of Insurance **must** name OSP and ADEM as certificate holders with the intent to notify the same within ten (10) Business Days of any intent to cancel the insurance.

## 2.4 SITE INSPECTION GENERAL REQUIREMENTS

- A. The Contractor **shall** comply with the Occupational Safety and Health Administration's (OSHA) and the Federal Communications Commission's (FCC) Communication Towers Best Practices.
- B. Contractor **shall** clean and remove all materials and debris prior to leaving the Site and **shall** leave the Site in same or better condition as it was prior to the Site inspection.
- C. Contractor **shall** digitally photograph, document in detail, and label all warranted and unusual observances and damages applicable to each Site inspected for all conditions potentially compromising the Site, such as loose guys, excessive bows, and cracked foundations. The Contractor **shall** include the documentation and photographs surrounding such conditions in the *Communications Site Inspection Report*. (See *Communications Site Inspection Report Requirements*).
- D. Contractor **shall** conduct services in compliance with all applicable Federal and State laws, rules, regulations, and all applicable local safety regulations and standards.
- E. All tower inspections **must** be based on the Telecommunications Industry Association (TIA) TR-14, Revision H.
- F. As deemed necessary and requested by ADEM, Contractor **shall** perform additional Site inspections beyond those specified herein, including but not limited to additional tower component inspections.

## 2.5 SCHEDULING SITE INSPECTIONS

- A. The Contractor **shall** coordinate all Site inspections with ADEM.
- B. As a Response Submission Requirement, the Contractor **shall** provide a preliminary Site inspection schedule applicable to all the Sites stated in Attachment A: *AWIN Site Information*. The Prospective Contractor and ADEM will finalize the preliminary Site inspection schedule during contract negotiations. ADEM reserves the right to have final approval of the final Site inspection schedule.
- C. Contractor **shall** only perform Site inspections on Business Days between the hours of 8:00 a.m. and 5:00 p.m., Central Time.

## 2.6 GUYED AND SELF-SUPPORT TOWER INSPECTION REQUIREMENTS

- A. The Contractor **shall** perform inspections applicable to guyed and self-support towers as specified herein and as otherwise required by ADEM including but not limited to inspections on the towers' members, finish, lighting, and foundations.
- B. Contractor **shall** inspect the towers' members including but not limited to assessing for:

1. Bent members (legs and lacing)
  2. Loose members
  3. Missing members
  4. Security of climbing facilities, platforms, catwalks, and ladders
  5. Loose and/or missing bolts
- C. Contractor **shall** inspect the towers' finish including but not limited to assessing for:
1. Condition of paint and/or galvanizing
  2. Presence of rust and/or corrosion conditions
  3. Condition of the Federal Aviation Administration (FAA) and/or International Civil Aviation Organization (ICAO) color markings
  4. Water collection in members
- D. Contractor **shall** inspect the towers' lighting including but not limited to assessing for:
1. Security and weather tightness of conduit, junction boxes, and fasteners
  2. Drains and vents to ensure in open position
  3. Wiring condition
  4. Properly functioning controllers including but not limited to flashers, photo controls, and alarms
- E. The Contractor **shall** inspect the towers' foundations including but not limited to assessing:
1. Ground Conditions for:
    - a. Settlements or movements
    - b. Erosion
    - c. Overall Site condition such as drainage issues or trees that threaten the structures and building foundations.
  2. Base Conditions for:
    - a. Tightness of nuts and lock nuts
    - b. Condition of Grout
  3. Concrete Conditions for:
    - a. Crackling, spalling, or splitting
    - b. Chipped, broken concrete

- c. Honeycombing
- d. Moisture collection in low spots
- e. Exposure

## 2.7 **ADDITIONAL REQUIREMENTS SPECIFIC TO GUYED TOWER INSPECTIONS**

- A. The Contractor **shall** perform inspections of components applicable to guyed towers as instructed by ADEM including but not limited to the towers' anchors, guys, antennas, and feedlines.
- B. Contractor **shall** inspect the towers' anchors including but not limited to assessing for:
  - 1. Settlement, movement, and earth cracks
  - 2. Backfill heaped over concrete for water shedding
  - 3. Correct anchor rod condition and depth below earth (12" minimum), and confirm anchor head clear of earth
  - 4. Corrosion
- C. Contractor **shall** inspect the towers' guys including but not limited to assessing:
  - 1. Strands for:
    - a. Type (1x7 EHS, 1x19 bridge strand, etc.)
    - b. Size
    - c. Breaking Strength
    - d. Elevation
    - e. Adverse condition such as corrosion, breaks, nicks, kinks, etc.
  - 2. Guy hardware for:
    - a. Security, safety, and proper application of turnbuckles (or equivalent)
    - b. Properly placed cable thimbles
    - c. Properly placed service sleeves
    - d. Cable connectors (end fittings) including but not limited to assessing for:
      - i. Properly applied cable clamps and pre-formed wraps (including assessing if sleeves are fully wrapped and in place)
      - ii. Tight bolts
      - iii. Properly applied wire serving
      - iv. Security of strandvices
      - v. Separation (if any) and overall security of poured sockets

- vi. Cable damage or slippage
- vii. Security and condition of shackles, bolts, pins, and cotter pins

D. Contractor **shall** inspect the towers' antennas including but not limited to assessing:

1. Antenna Mounts and Antennas for members that are:
  - a. Bent, broken, or cracked
  - b. Loose
  - c. Missing
  - d. Showing loose or missing bolts
2. Secure and locked adjustments
3. Elements that are:
  - a. Bent, broken, cracked, or bullet damaged
  - b. Loose
  - c. Missing
  - d. Showing loose or missing fasteners
4. Corrosion conditions
5. Radomes or cover conditions

E. Contractor **shall** inspect the towers' feedlines (waveguide, coax, etc.) including but not limited to assessing:

1. Hangers and supports for corrosion conditions and other adverse conditions
2. Flanges and seals for integrity
3. Line Condition for:
  - a. Dents
  - b. Abrasions
  - c. Holes
  - d. Leaks
  - e. Jacket condition
4. Grounds to ensure:
  - a. Top ground strap bonded both ends

- b. Bottom ground strap bonded both ends
5. Feedline support (ice shields) for:
- a. Proper attachment
  - b. Loose and/or missing bolts
  - c. Bent and/or damaged members
- F. The Contractor **shall** take guy tensions and confirm compliance with manufacturer's recommendations.

## 2.8 EQUIPMENT SHELTER INSPECTION REQUIREMENTS

- A. The Contractor **shall** perform inspections on the equipment shelter located at each Site as specified herein and as otherwise required by ADEM, including but not limited to inspections on the equipment shelter's foundation and surrounding terrain, exterior, interior, roof and weatherproofing, and HVAC system.
- B. The Contractor **shall** inspect the equipment shelter's foundation, piers, and columns (if applicable) including but not limited to inspecting:
- 1. For settlement, evidence of movement, and other adverse conditions
  - 2. The surrounding terrain for erosion, standing water, inadequate drainage, and other adverse conditions
  - 3. The base for loose lock nuts, deteriorated grout, and other adverse conditions
  - 4. The concrete for crackling, spalling, splitting, chipping, honeycombing, low spots, and other adverse conditions.
- C. The Contractor **shall** inspect the equipment shelter's exterior including but not limited to inspecting for:
- 1. Visible damage to building and door
  - 2. Wall cracking
  - 3. Moisture stains
  - 4. Condition of seals around wall penetration points (ports)
  - 5. Condition of seal around the door
  - 6. Condition of drip awning above the door
- D. The Contractor **shall** inspect the equipment shelter's interior including but not limited to inspecting for:
- 1. Deteriorated or Adverse floor conditions such as low spots, soft spots, and standing water
  - 2. Moisture stains
  - 3. Functional overhead lighting

4. Adverse or deteriorated condition of cable runway system
- E. The Contractor **shall** inspect the equipment shelter's doorways, roof, and weather proofing including but not limited to inspecting for:
1. Visible damage
  2. Inadequate drainage
  3. Adverse or deteriorated condition of seals around roof penetrations
- F. The Contractor **shall** inspect the equipment shelter's HVAC system including but not limited to inspecting for:
1. Visible damage to exterior housing
  2. Adverse or deteriorated condition of air outlets and intake
  3. Malfunctioning thermostat and thermostat obstructions

## 2.9 PERIMETER FENCING, ENTRY GATE, AND ACCESS ROAD INSPECTION REQUIREMENTS

- A. The Contractor **shall** perform inspections on each Site's perimeter fencing, entry gates, and access roads as specified herein and as requested by ADEM.
- B. The Contractor **shall** inspect the Site's perimeter fencing including but not limited to inspecting for:
1. Bent, broken, or missing terminal or line posts
  2. Post movement
  3. Holes or gaps in chain link mesh
  4. Adverse and deteriorated conditions of tension bands, brace bands, and end rails
  5. Adverse and deteriorated conditions of powder coating
- C. The Contractor **shall** inspect the Site's entry gates including but not limited to inspecting for:
1. Obstructions to the entry gate that prohibits full swinging/opening capabilities
  2. Corrosion and dirt on hinges and latches
  3. Improper functioning of the lock due to dirt, corrosion, and other adverse or deteriorated conditions
- D. The Contractor **shall** inspect the Site's access road including, but not limited to:
1. Pot holes
  2. Poor drainage
  3. Collapsed culverts
  4. Obstructions to the road that inhibit access to the site

## 2.10 COMMUNICATION SITE INSPECTION REPORT REQUIREMENTS

- A. The findings from the Contractor's Site inspections will inform ADEM regarding future solicitations issued for the required remediation and repairs to the Sites. As such, the Contractor **shall** issue a detailed and thorough *Communications Site Inspection Report* (herein after referred to as "Report") to ADEM for each Site inspection completed.
1. A sample of ADEM's Report is provided as Attachment B: *Communications Site Inspection Report*. The Contractor may utilize Attachment B to fulfill the reporting obligations under the contract or may use Contractor's own Report. If using Contractor's own Report, the Contractor **shall** have the Report approved by ADEM prior to its utilization under the contract.
- B. The Report **must** be clear, thorough, and organized in a manner that allows the information included in the Report to be easily identifiable.
- C. The Reports **must** clearly identify the Site by Site name and location.
- D. In the Report, the Contractor **shall** include a description of all adverse conditions, beyond those ascertained by the specific inspections required by this IFB, which the Contractor determines in his/her professional expertise should be noted in the Report.
- E. At minimum, the Contractor **shall** include the following information in the Report:
1. A description of the adverse conditions for each inspection criteria at each Site.
  2. Digital photographs taken to document warranted or unusual observances or damages at each Site, if any.
  3. A clear description of all required remediation and/or repairs needed applicable to the towers, equipment shelters, fencing, gates, and access roads.
    - a. Contractor **shall** clearly prioritize the repairs and/or remediation needed as critical, major, and minor.
  4. Guy tensions
- F. Contractor **shall** compile the Report for each Site after each Site's inspection is complete and **shall** submit the Report via email to Penny Rubow at [AWIN.Operations@adem.arkansas.gov](mailto:AWIN.Operations@adem.arkansas.gov) within a timeframe subsequent to the Site inspections as approved by ADEM during contract negotiations.
- G. ADEM reserves the right to have final approval of each Report the Contractor submits. Should ADEM request additional information or request clarification of the information already contained in the Report, the Contractor **shall** provide the additional information and clarification to ADEM's satisfaction and approval.

## 2.11 PERFORMANCE STANDARDS

- A. State law requires that all contracts for services include Performance Standards for measuring the overall quality of services provided that a Contractor **must** meet in order to avoid assessment of damages.
- B. The State may be open to negotiations of Performance Standards prior to contract award, prior to the commencement of services, or at times throughout the contract duration. *Table A: Performance Standards* identifies expected deliverables, performance measures, or outcomes; and defines the acceptable standards.

- C. The State has the right to modify, add, or delete Performance Standards throughout the term of the contract, should the State determine it is in its best interest to do so. Any changes or additions to performance standards will be made in good faith following acceptable industry standards and may include the input of the Contractor so as to establish standards that are reasonably achievable.
- D. All changes made to the Performance Standards will become an official part of the contract.
- E. Performance Standards will continue throughout the aggregate term of the contract.
- F. Failure to meet the minimum Performance Standards as specified will result in the assessment of damages.
- G. In the event a Performance Standard is not met, the Contractor will have the opportunity to defend or respond to the insufficiency. The State has the right to waive damages if it determines there were extenuating factors beyond the control of the Contractor that hindered the performance of services. In these instances, the State has final determination of the performance acceptability.
- H. Should any compensation be owed to the State agency due to the assessment of damages, Contractor **shall** follow the direction of the State agency regarding the required compensation process.

**Table A: Performance Standards**

<b>Service Criteria</b>	<b>Acceptable Performance</b>	<b>Damages for Insufficient Performance</b>
<b>Site Inspections</b>	Contractor performs and completes Site inspections in accordance with the finalized Site Inspection Schedule.	1% penalty applicable to each week after the completion date detailed in the finalized Site Inspection Schedule whereby the Contractor fails to complete Site Inspections in accordance with the finalized Site Inspection Schedule.
<b>Communications Site Inspection Report</b>	Contractor includes all information required by the IFB and any additional information required by ADEM on the Site Inspection Report.	\$1000 penalty for each Report the Contractor fails to provide the information required by this IFB or required by ADEM.
	Contractor submits Report after each Site inspection within the timeframe approved by ADEM.	\$1000 penalty for each instance whereby the Contractor fails to provide Reports for each Site inspection within the timeframe approved by ADEM. An additional \$100 per day for each day after the Report due date deadline whereby the Contractor does not submit the Report to ADEM.

## SECTION 3 – CRITERIA FOR SELECTION

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

### 3.1 RESPONSE SCORE

- A. OSP will review each *Response Packet* to verify submission Requirements have been met. *Response Packets* that do not meet submission Requirements will be rejected and will not be evaluated.
- B. Prospective Contractors are advised that responses **must** be well-ordered, detailed, comprehensive and clear enough to ensure a thorough evaluation.
- C. An agency-appointed Evaluation Committee will evaluate and score qualifying Responses. Evaluation will be based on Prospective Contractor’s response to the *Information for Evaluation* section included in the *Response Packet*.
  1. Members of the Evaluation Committee will individually review and evaluate responses and complete an Individual Score Worksheet for each response. 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 RFQ evaluation factor, the response 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 RFQ evaluation factor, the response squarely meets the requirement and is better than merely acceptable.	High
3	Acceptable	When considered in relation to the RFQ evaluation factor, the response is of acceptable quality.	Moderate
2	Marginal	When considered in relation to the RFQ evaluation factor, the response’s acceptability is doubtful.	Low
1	Poor	When considered in relation to the RFQ evaluation factor, the response is inferior.	Very Low
0	Unacceptable	When considered in relation to the RFQ evaluation factor, the response clearly does not meet the requirement, either because it was left blank or because the response is unresponsive.	No Confidence

2. After initial individual evaluations are complete, the Evaluation Committee members will meet to discuss their individual ratings. At this consensus scoring meeting, each member 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 their individual scores with the committee, the individual committee members will be given the opportunity to change their initial individual scores, 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 response.
5. Other agencies, consultants, and experts may also examine documents at the discretion of the Agency.

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

Information for Evaluation Sub-Sections	Maximum Raw Points Possible	Sub-Section's Weighted Percentage	* Maximum Weighted Score Possible
E.1. QUALIFICATIONS AND EXPERIENCE	25	30%	300
E.2. PROJECT EXECUTION	20	50%	500
E.3. MONITORING AND REPORTING	10	20%	200
<b>Total Technical Score</b>	<b>55</b>	<b>100%</b>	<b>1000</b>

\*Sub-Section's Percentage Weight x Total Weighted Score = Maximum Weighted Score Possible for the sub-section.

E. The response'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

F. The response's weighted scores for sub-sections will be added to determine the Total Score for the response.

### 3.2 PROSPECTIVE CONTRACTOR ACCEPTANCE OF EVALUATION TECHNIQUE

- A. Prospective Contractor **must** agree to all evaluation processes and procedures as defined in this solicitation.
- B. The submission of a *Response Packet* signifies the Prospective Contractor's understanding and agreement that subjective judgments will be made during the evaluation and scoring of the responses.

## SECTION 4 – GENERAL CONTRACTUAL REQUIREMENTS

- Do not provide responses to items in this section.

### 4.1 PAYMENT AND INVOICE PROVISIONS

A. Forward invoices to:

Arkansas Division of Emergency Management  
Building 9501  
Camp Joseph T. Robinson  
North Little Rock, AR 72199

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

### 4.2 GENERAL INFORMATION

A. The State will not:

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

- e. The right to recover only amounts due at the time of repossession and any unamortized nonrecurring cost as allowed by Arkansas Law.
- B. Any litigation involving the State **must** take place in Pulaski County, Arkansas.
- C. The laws of the State of Arkansas govern this contract.
- D. A contract is not effective prior to award being made by a State Procurement Official.

#### **CONDITIONS OF CONTRACT**

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

#### **4.2 STATEMENT OF LIABILITY**

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

#### **4.3 RECORD RETENTION**

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

- C. Other sections of this *Bid Solicitation* may contain additional Requirements regarding record retention.

#### 4.4 PRICE ESCALATION

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

#### 4.5 CONFIDENTIALITY

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

#### 4.6 CONTRACT INTERPRETATION

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

#### 4.7 CANCELLATION

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

#### 4.8 SEVERABILITY

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

## SECTION 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 Response Packets **must** be submitted to the Office of State Procurement on or before the date and time specified for bid opening. The Response Packet **must** contain all documents, information, and attachments as specifically and expressly required in the *Bid Solicitation*. The bid **must** be typed or printed in ink. The signature **must** be in ink. Unsigned bids **shall** be rejected. The person signing the bid should show title or authority to bind his firm in a contract. Multiple responses **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:** Prospective Contractor's responses cannot be altered or amended after the bid opening except as permitted by regulation.
11. **TAXES AND TRADE DISCOUNTS:** Do not include State or local sales taxes in the bid price. Trade discounts should be deducted from the unit price and the net price should be shown in the bid.
12. **AWARD:** Term Contract: A contract award will be issued to the successful Contractor. It results in a binding obligation without further action by either party. This award does not authorize shipment. Shipment is authorized by the receipt of a purchase order from the ordering agency. Firm Contract: A written State purchase order authorizing shipment will be furnished to the successful Contractor.
13. **DELIVERY ON FIRM CONTRACTS:** This solicitation shows the number of days to place a commodity in the ordering agency's designated location under normal conditions. If the Contractor cannot meet the stated delivery, alternate delivery schedules may become a factor in an award. The Office of State Procurement **shall** have the right to extend delivery if reasons appear valid. If the date is not acceptable, the agency may buy elsewhere, and any additional cost **shall** be borne by the Contractor.
14. **DELIVERY REQUIREMENTS:** No substitutions or cancellations are permitted without written approval of the Office of State Procurement. Delivery **shall** be made during agency work hours only 8:00 a.m. to 4:30 p.m. Central Time, unless prior approval for other delivery has been obtained from the agency. Packing memoranda **shall** be enclosed with each shipment.
15. **STORAGE:** The ordering agency is responsible for storage if the Contractor delivers within the time required and the agency cannot accept delivery.
16. **DEFAULT:** All commodities furnished **shall** be subject to inspection and acceptance of the ordering agency after delivery. Back orders, default in promised delivery, or failure to meet specifications **shall** authorize the Office of State Procurement to cancel this contract or any portion of it and reasonably purchase commodities elsewhere and charge full increase, if any, in cost and handling to the defaulting Contractor. The Contractor **must** give written notice to the Office of State Procurement and ordering agency of the reason and the expected delivery date. Consistent failure to meet delivery without a valid reason may cause removal from the Contractors list or suspension of eligibility for award.
17. **VARIATION IN QUANTITY:** The State assumes no liability for commodities produced, processed or shipped in excess of the amount specified on the agency's purchase order.
18. **INVOICING:** The Contractor **shall** be paid upon the completion of all of the following: (1) submission of an original and the specified number of copies of a properly itemized invoice showing the bid and purchase order numbers, where itemized in the *Bid Solicitation*, (2) delivery and acceptance of the commodities and (3) proper and legal processing of the invoice by all necessary State agencies. Invoices **must** be sent to the "Invoice To" point shown on the purchase order.
19. **STATE PROPERTY:** Any specifications, drawings, technical information, dies, cuts, negatives, positives, data or any other commodity furnished to the Contractor hereunder or in contemplation hereof or developed by the Contractor for use hereunder **shall** remain property of the State, **shall** be kept confidential, **shall** be used only as expressly authorized, and **shall** be returned at the Contractor's expense to the F.O.B. point provided by the agency or by OSP. Contractor **shall** properly identify items being returned.
20. **PATENTS OR COPYRIGHTS:** The Contractor **must** agree to indemnify and hold the State harmless from all claims, damages and costs including attorneys' fees, arising from infringement of patents or copyrights.
21. **ASSIGNMENT:** Any contract entered into pursuant to this solicitation **shall not** be assignable nor the duties thereunder delegable by either party without the written consent of the other party of the contract.

- 22. DISCRIMINATION:** In order to comply with the provision of Act 954 of 1977, relating to unfair employment practices, the Contractor agrees that: (a) the Contractor **shall not** discriminate against any employee or applicant for employment because of race, sex, color, age, religion, handicap, or national origin; (b) in all solicitations or advertisements for employees, the Contractor **shall** state that all qualified applicants **shall** receive consideration without regard to race, color, sex, age, religion, handicap, or national origin; (c) the Contractor will furnish such relevant information and reports as requested by the Human Resources Commission for the purpose of determining compliance with the statute; (d) failure of the Contractor to comply with the statute, the rules and regulations promulgated thereunder and this nondiscrimination clause **shall** be deemed a breach of contract and it may be cancelled, terminated or suspended in whole or in part; (e) the Contractor **shall** include the provisions of above items (a) through (d) in every subcontract so that such provisions **shall** be binding upon such subcontractor or Contractor.
- 23. CONTINGENT FEE:** The Contractor guarantees that he has not retained a person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by the Contractor for the purpose of securing business.
- 24. ANTITRUST ASSIGNMENT:** As part of the consideration for entering into any contract pursuant to this solicitation, the Contractor named on the *Response Signature Page* for this solicitation, acting herein by the authorized individual or its duly authorized agent, hereby assigns, sells and transfers to the State of Arkansas all rights, title and interest in and to all causes of action it may have under the antitrust laws of the United States or this State for price fixing, which causes of action have accrued prior to the date of this assignment and which relate solely to the particular goods or services purchased or produced by this State pursuant to this contract.
- 25. DISCLOSURE:** Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that order, **shall** be a material breach of the terms of this contract. Any Contractor, whether an individual or entity, who fails to make the required disclosure or who violates any rule, regulation, or policy **shall** be subject to all legal remedies available to the agency.