



State of Arkansas
ARKANSAS DEPARTMENT OF HEALTH
4815 West Markham
Little Rock, Arkansas 72205

REQUEST FOR PROPOSAL

BID SOLICITATION DOCUMENT

SOLICITATION INFORMATION			
Bid Number:	DH-18-0003	Solicitation Issued:	10/4/2017
Description:	Third-Party Consultant to provide technical and professional resources to complete the Meaningful Use Public Health Objectives as they relate to Syndromic Surveillance, Immunizations, Electronic Lab Reporting and Cancer registries.		
Agency:	Arkansas Department of Health		
RESPONSE DEADLINE			
Bid Opening Date:	October 24, 2017	Bid Opening Time:	1:00 p.m., Central Time
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 vendors 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 vendor without further review. It is not necessary to return "no bids" to ADH.			
RESPONSE DELIVERY			
Delivery Address:	Arkansas Department of Health 4815 West Markham Street, Slot 58 Little Rock, AR 72205-3867 Delivery providers, USPS, UPS, and FedEx deliver mail to ADH's street address on a schedule determined by each individual provider. These providers will deliver to ADH based solely on the street address.		
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 purposes. <ul style="list-style-type: none">• Bid number• Date and time of bid opening• Vendor's name and return address		

ARKANSAS DEPARTMENT OF HEALTH CONTACT INFORMATION			
ADH Issuing Officer	Karrie Duncan	Phone Number:	501-280-4573
Email Address:	Karrie.duncan@arkansas.gov	Fax Number:	501-280-4474
ADH Website:	http://www.healthy.arkansas.gov/aboutADH/Pages/GrantBidOpportunities.aspx		

SECTION 1 - GENERAL INSTRUCTIONS AND INFORMATION

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

1.1 PURPOSE

This Request for Proposal (RFP) is issued by the Arkansas Department of Health (ADH) to obtain the services of a third-party consultant to provide project resources to complete the Meaningful Use project for the Public Health Reporting Objectives as they relate, at minimum, to the Syndromic Surveillance, Immunizations, Electronic Lab Reporting and Cancer registries. ADH is seeking a consultant with extensive experience and expertise in Public Health Meaningful Use and the related program requirements.

1.2 TYPE OF CONTRACT

- A. Any resultant contract of this *Bid Solicitation* **shall** be subject to State approval processes which may include Legislative review and approval.
- B. The resulting contract **will** be a TERM contract. The term of this contract will be one (1) year from the date of award.
- C. Upon mutual agreement by the vendor and agency, the contract may be renewed by ADH 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.

1.3 ISSUING AGENCY

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

1.4 BID OPENING LOCATION

Proposals received by the opening time and date **shall** be opened at the following location:

Arkansas Department of Health
4815 West Markham St, Room L163
Little Rock, AR 72201-4222

1.5 DEFINITION OF REQUIREMENT

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

1.6 DEFINITION OF TERMS

- A. The ADH issuing officer has made every effort to use industry-accepted terminology in this *Bid Solicitation* and will attempt to further clarify any point of an item in question as indicated in *Clarification of Bid Solicitation*.
- B. The words "bidder," "vendor," "prospective contractor" are used synonymously in this document.
- C. The terms "Request for Proposal", "RFP" and "Bid Solicitation" are used synonymously in this document.

1.7 **RESPONSE DOCUMENTS**

A. Original Technical Proposal Packet

1. Proposal Submission Requirements
 - a. Prospective Contractor **shall** provide the following:
 - i. Original signed *Proposal Signature Page*. (See *Technical Proposal Packet*.)
 - ii. One (1) original hard copy of the proposal response which includes:
 - *Technical Proposal* response to the *Information for Evaluation* section included in the *Technical Proposal Packet*.
 - *Response to the Official Bid Price Sheet*.
 - b. 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". A Prospective Contractor **shall not** include any pricing in the hard copies or electronic copies of their *Technical Proposal Packet*.
 - c. Proposal response **must** be in the English language.
 - d. Pricing **must** be proposed in U.S. dollars and cents.
2. The following items should be submitted in the original *Technical Proposal Packet*.
 - a. EO 98-04 Disclosure Form. (See *Standard Terms and Conditions*, #27. *Disclosure*.)
 - b. Copy of Prospective Contractor's *Equal Opportunity Policy*. (See *Equal Opportunity Policy*.)
 - c. Proposed Subcontractors Form. (See *Subcontractors*.)
3. **DO NOT** include any other documents or ancillary information, such as a cover letter or promotional/marketing information.

B. Additional Copies and Redacted Copy of the Technical Proposal Packet and Official Bid Price Sheet

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. 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 ADH requests additional copies of the proposal, the copies **must** be delivered within the timeframe specified in the request.
2. Additional Copies of the *Official Bid Price Sheet*
 - a. Prospective 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. Do not send electronic copies via email or fax.

- i. *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". Prospective Contractor **shall not** include any pricing in the hard copies or electronic copies of their *Technical Proposal Packet*.
3. One (1) redacted (marked "REDACTED") copy the original *Technical Proposal Packet*, preferably on a flash drive. A CD will also be acceptable. 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 Technical Proposal response.
- B. The original *Technical Proposal Packet* and all copies should be arranged in the following order.
 - *Proposal Signature Page*.
 - *Proposed Subcontractors Form*.
 - Signed Addenda, if applicable.
 - E.O. 98-04 – *Contract Grant and Disclosure Form*.
 - *Equal Opportunity Policy*.
 - Technical Proposal response to the *Information for Evaluation* section of the *Technical Proposal Packet*.

1.9 CLARIFICATION OF BID SOLICITATION

- A. Any questions requesting clarification of information contained in this *Bid Solicitation* **must** be submitted in writing via email by 4:00 p.m., Central Time on or before October 10, 2017 to the issuing officer as shown on page one (1) of this *Bid Solicitation*.
 1. For each question submitted, vendor should reference the specific solicitation item number to which the question refers.
 2. Vendors' written questions will be consolidated and responded to by the State. The State's consolidated written response is anticipated to be posted to the ADH website by the close of business on October 16, 2017. 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 ADH buyer of any term, condition, etc., that precludes the Prospective Contractor from submitting a compliant, responsive proposal. Prospective Contractors should note that it is the responsibility of the Prospective Contractor to seek resolution of all such issues, including those relating to the terms and conditions of the contract, prior to the submission of a proposal.
- C. Prospective Contractors may contact the ADH buyer with non-substantive questions at any time prior to the bid opening.
- D. An oral statement by ADH 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 ADH.
- E. Prospective Contractors entering into a contract with the State **shall** comply with all the terms and conditions contained herein.

1.10 PROPOSAL SIGNATURE PAGE

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

1.11 SUBCONTRACTORS

- A. Vendor **must** complete, sign and submit the *Proposed Subcontractors Form* included in the *Technical Proposal 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 *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.

1.12 PRICING

- A. Prospective Contractor(s) **shall** include all pricing on the Official Bid Price Sheet(s) only. If any cost is not identified by the successful Contractor but is subsequently incurred in order to achieve successful operation, the Contractor **shall** bear this additional cost. The *Official Bid Price Sheet* is provided as a separate document 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 on the Official Bid Price sheet or in the sealed pricing package.

1.13 PRIME CONTRACTOR RESPONSIBILITY

- A. A joint proposal is acceptable. However, a single vendor **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 INDEPENDENT PRICE DETERMINATION

- A. By submission of this proposal, the vendor 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.
 - 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 vendors **shall** understand that this paragraph may be used as a basis for litigation.

1.15 PROPRIETARY INFORMATION

- A. Submission documents pertaining to this *Bid Solicitation* become the property of the State and are subject to the Arkansas Freedom of Information Act (FOIA).
- B. In accordance with FOIA and to promote maximum competition in the State competitive bidding process, the State may maintain the confidentiality of certain types of information described in FOIA. Such information may include trade secrets defined by FOIA and other information exempted from the Public Records Act pursuant to FOIA.
- C. Prospective Contractor may designate appropriate portions of its response as confidential, consistent with and to the extent permitted under the Statutes and Rules set forth above, by submitting a redacted copy of the response.
- D. By so redacting any information contained in the response, the Prospective Contractor warrants that it has formed a good faith opinion having received such necessary or proper review by counsel and other knowledgeable advisors that the portions redacted meet the requirements of the Rules and Statutes set forth above.
- E. Under no circumstances will pricing information be designated as confidential.

- F. One (1) complete copy of the submission documents from which any proprietary information has been redacted should be submitted on a flash drive in the *Technical Proposal Packet*. A CD is also acceptable. Do not submit documents via email or fax.
- G. Except for the redacted information, the redacted copy **must** be identical to the original hard copy, reflecting the same pagination as the original and showing the space from which information was redacted.
- H. The Prospective Contractor is responsible for identifying all proprietary information and for ensuring the electronic copy is protected against restoration of redacted data.
- I. The redacted copy will be open to public inspection under the Freedom of Information Act (FOIA) without further notice to the Prospective Contractor.
- J. If a redacted copy of the submission documents is not provided with Prospective Contractor's response packet, a copy of the non-redacted documents, with the exception of financial data (other than pricing), will be released in response to any request made under the Arkansas Freedom of Information Act (FOIA).
- K. If the State deems redacted information to be subject to FOIA, the Prospective Contractor will be contacted prior to release of the documents.
- L. The State has no liability to a Prospective Contractor with respect to the disclosure of Prospective Contractor's confidential information ordered by a court of competent jurisdiction pursuant to FOIA or other applicable law.

1.16 CAUTION TO PROSPECTIVE CONTRACTORS

- A. Prior to any contract award, address all communication concerning this *Bid Solicitation* through the ADH buyer.
- B. Do not alter any language in any solicitation document provided by the State.
- C. Do not alter the Official Bid Price Sheet.
- D. All official documents and correspondence related to this solicitation become part of the resultant contract.
- E. The State has the right to award or not award a contract, if it is in the best interest of the State to do so.
- F. As requested, provide clarification regarding Prospective Contractor's proposal response to ADH.
- G. Qualifications and proposed services **must** meet or exceed the required specifications as set forth in this *Bid Solicitation*.
- H. Prospective Contractors may submit multiple proposals.

1.17 REQUIREMENT OF ADDENDUM

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

1.18 AWARD PROCESS

- A. Successful Vendor Selection

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

B. Negotiations

1. If ADH so chooses, it **shall** have the right to conduct negotiations with the highest ranking vendors. All negotiations **shall** be conducted at the sole discretion of the State. The State **shall** solely determine the items to be negotiated.
2. If negotiations fail to result in a contract, the agency may begin the negotiation process with the next highest ranking vendor. The negotiation process may be repeated until the anticipated successful vendor has been determined, or until such time ADH 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 ADH website at <http://www.healthy.arkansas.gov/programs-services/topics/grant-and-bid-opportunities> and the OSP website at http://www.arkansas.gov/dfa/procurement/pro_intent.php
2. The anticipated award will be posted for a period of fourteen (14) days prior to the issuance of a contract. Prospective Contractors and agencies are cautioned that these are preliminary results only, and a contract will not be issued prior to the end of the fourteen day posting period.
3. ADH 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 ADH and OSP 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. ADH will be responsible for award and administration of any resulting contract.

1.19 MINORITY AND WOMEN-OWNED BUSINESS POLICY

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

1.20 EQUAL OPPORTUNITY POLICY

- A. In compliance with Arkansas Code Annotated § 19-11-104, the State is required to have a copy of the vendor's *Equal Opportunity (EO) Policy* prior to issuing a contract award.
- B. *EO Policies* may be submitted in electronic format to the following email address: eeopolicy.osp@dfa.arkansas.gov, but should also be included as a hardcopy accompanying the solicitation response.
- C. The submission of an *EO Policy* to ADH is a one-time Requirement. Vendors are responsible for providing updates or changes to their respective policies, and for supplying *EO Policies* upon request to other State agencies that must also comply with this statute.

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

1.21 **PROHIBITION OF EMPLOYMENT OF ILLEGAL IMMIGRANTS**

- A. Pursuant to Arkansas Code Annotated § 19-11-105, prior to the award of a contract, selected vendor(s) **must** have a current certification on file stating that they do not employ or contract with illegal immigrants.
- B. ADH will notify the selected vendor(s) prior to award if their certification has expired or is not on file. Instructions for completing the certification process will be provided to the vendor(s) at that time.

1.22 **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 Prospective Contractor agrees and certifies that they do not, and will not for the duration of the contract, boycott Israel.

1.23 **PAST PERFORMANCE**

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

1.24 **VISA ACCEPTANCE**

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

1.25 **PUBLICITY**

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

1.26 **RESERVATION**

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

1.27 **DEFINITION OF ACRONYMS**

ACRONYM	DEFINITION	ACRONYM	DEFINITION
ADH	Arkansas Department of Health	HIPPA	Health Insurance Portability & Accountability Act of 1996
ARRA	American Recovery and Reinvestment Act	ISDS	International Society of Disease Surveillance
CAH	Critical Access Hospital	MU	Meaningful Use
CDC	Center for Disease Control & Prevention	MURCS	Meaningful Use Registration and Reporting System

CMS	Centers for Medical and Medicare Services	NIST	National Institute of Standards & Technology
EP	Eligible Professionals	OHIT	Office of Health Information Technology
EH	Eligible Hospitals	PHA	Public Health Agencies
EHR	Electronic Health Record	PHI	Protected Health Information
FTE	Full Time Equivalent	PM	Project Manager
HIE	Health Information Exchange	ONC HIT	Office of National Coordinator for Health Information technology

SECTION 2 – BACKGROUND

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

2.1 BACKGROUND

The American Recovery and Reinvestment Act of 2009 (ARRA) provides for state Medicaid programs to offer financial incentives to eligible professionals (EPs), eligible hospitals (EHs), and critical access hospitals (CAHs) who adopt certified electronic health records (EHR) technology.

To qualify, participating providers and facilities **must** meet criteria established by Centers for Medical and Medicare Services (CMS) with the Office of National Coordinator for Health Information technology (ONC HIT).

The Arkansas Department of Health (ADH) is responsible for onboarding and integration efforts. As part of integration efforts, the Arkansas Department of Health established a Meaningful Use (MU) program in 2012 that expands across the state to improve the quality and efficiency of healthcare and reduce medical errors using electronic health records.

ADH seeks to contract with a third-party consultant who will provide resources and services to assist with onboarding and integration efforts by providing ongoing technical support, developing documentation, and implementing processes as defined by ADH.

SECTION 3 – MINIMUM REQUIREMENTS

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

3.1 MINIMUM QUALIFICATIONS

- A. Bidder should have a minimum of three (3) years' experience in clinical workflow analysis, consent management, and onboarding for healthcare facilities.
- B. Bidder **must** possess knowledge of current federal and state privacy and security laws relative to patient healthcare confidentiality.
- C. Bidder **shall** maintain Errors and Omissions insurance policy for an amount not less than \$1,000,000.00. The policy must be effective throughout the duration of the contract. Bidder **shall** notify ADH within thirty (30) days if the policy is terminated or modified.
- D. Bidder **must** have experience using Rhapsody Integration Engine including Rhapsody variables, lookup tables and developing routes, filters and communications points necessary for processing HL7 V2.5.x and CDA R2 messages in accordance with the published Implementation Guide for each registry.
- E. Bidder **must** have experience using Rhapsody Management Console and Dashboard to monitor activity, resolve issues and setup automatic distribution of alerts.

- F. Bidder **must** have experience creating DOS commands and scheduling reoccurring tasks via Windows Scheduler.
- G. Bidder **must** have experience with Java Scripting
- H. Bidder **must** have extensive experience with Microsoft SQL Server (2014 or newer) including database design, SQL queries, table indexes and stored procedures.
- I. Bidder **must** have experience creating customized reports using SAP Crystal Reports (2013 or newer) including the use of commands, drill downs, sub-reports, charts, crosstabs, alerts and integration with business applications such as SAP Business Objects Intelligence Platform.
- J. Bidder **must** have experience with Microsoft Access (2013 or newer) using remote data sources to access external SQL databases and design GUI applications.
- K. Bidder **must** have extensive knowledge and experience with HL7 V2.5.x and CDA R2 messages.
- L. Bidder **must** have knowledge of Arkansas Intergovernmental agencies processes including:
 - 1. Collaboration with the State Health Information Exchange/SHARE
 - 2. Collaboration with the Department of Human Services/Medicaid
- M. Bidder **must** have Public Health Objectives and Policies for Arkansas Government knowledge and procedures as it relates to the following:
 - 1. Statutes
 - 2. Business Associate Agreements
 - 3. Data Use Agreements
 - 4. HIPAA
 - 5. Health Information Technology (HIT)
 - 6. Data Security - NIST

3.2 **VENDOR RESPONSIBILITIES**

A. Participation

- 1. Prior to the commencement of work, the vendor **must** attend an introductory meeting with ADH at an agreed upon date, time, and location with final determination made by ADH.
- 2. Vendor **must** participate in the Joint Public Health Forum with the CDC, ONC, and other state PHAs for the purpose of improving the efficiency and accuracy of data exchange through the use of technology.
- 3. Vendor **must** participate in the EHR vendor collaboration effort with the ONC, CDC, and other state PHAs for the purpose of improving availability and quality of healthcare data.
- 4. Vendor **must** participate in the monthly ISDS Surveillance Community of Practice Calls to bring together stakeholders with a vested interest in Syndromic Surveillance and facilitate collaborative efforts to share guidance e, resources, and technical assistance.
- 5. Vendor **must** work with ADH to establish additional MU measures to improve public health.
- 6. Vendor **must** attend meetings upon request by ADH.

B. Outreach & Onboarding

- 1. Vendor **must** engage in outreach initiatives and educate potential participants on the Meaningful Use program and benefits in efforts to increase the number of Arkansas participants.
- 2. Vendor **must** provide services for onboarding including but not limited to workflow configuration, loading, testing, and training for each participating provider.

3. Prior to the beginning of each month, the vendor **must** create a monthly work plan that defines target goals. The monthly plan, at minimum, **must** include metrics, goals, adoption strategies, a summary of onboarding services, and a listing of new participants.
4. Vendor **must** assign account management activities to support the monthly work plan.

C. Technical Support

1. Vendor **must** provide assistance with the development, deployment of implementation and adoption strategies in accordance to the monthly work plan.
2. Vendor **must** maintain communication with providers for exchanging HL7 2.5.1 and CDA R2 electronic messages.
3. Vendor **must** serve as an account manager to prioritize and support accounts in accordance with the assigned metrics and goals.
4. Vendor **must** recommend methods to ensure Protected Health Information (PHI) is secure and non-identifiable prior to query and management reporting.
5. Vendor **must** provide continuous operational and technical support to ADH for public health registries.
6. Vendor **must** communicate with multiple registries to determine best practices for process improvement regarding data validation.
7. Vendor **must** consult with ADH Syndromic Surveillance department and outside sources to identify data that can be added into the Essence System such as drug overdose, poison control, death reporting, etc.
8. Vendor **must** review ADH current processes and provide recommendations to comply with federal incentive program guidelines for electronic exchange and data processing.
9. Vendor **must** review the existing Meaningful Use Registration and Reporting System (MURCS) to provide support and recommendations for additional incentive measures, analytical data, graphs, and reports.
10. Vendor **must** work on-site at ADH offices and travel to participant locations to facilitate deployment and implementation.

Note: ADH will only be responsible for vendor travel expenses when vendor travel is requested by ADH.

D. Process & Documentation Development

1. Vendor **must** develop process documentation for interface configurations for providers that send electronic data through direct interfaces and through the local Health Information Exchange (HIE).
2. Vendor **must** develop automated procedures to monitor provider onboarding and internal application interactions with ADH personnel, along with the current vendor analyst.
3. Vendor **must** develop automated processes to meet Public Health Meaningful Use federal regulations and requirements
4. Vendor **must** develop and implement long term quality assurance plans for providers to assist with monitoring electronic data.
5. Vendor **must** develop and implement processes to provide useful data to providers in a timely manner.
6. Vendor **must** develop and implement additional reports and dashboards to assist in monitoring and analyzing accumulated data.
7. Vendor **must** develop and implement automated alert notifications for data that falls outside of established thresholds.

E. Training

1. Vendor **must** provide ongoing training as necessary.
2. Vendor **must** serve as the subject matter expert to provide additional support.

F. Reporting

1. Upon request, vendor **must** provide ADH with a written status report. Reports **must** include but not be limited to:
 - Status overview
 - Milestones
 - Budget information
 - Updates on work plans and participants
 - Other information as requested by ADH
2. Vendor **must** provide ADH with a weekly summary of hours worked and a general overview of work performed.

3.3 AGENCY RESPONSIBILITIES

- A. ADH will assign staff to serve as primary contact to the Vendor. The vendor **shall** report to designated ADH staff.
- B. ADH will provide the vendor with all available data required to analyze current operations and capabilities, including staffing, system capabilities and options available under current contracts.
- C. ADH will make staff available as needed to help the vendor understand current operations and the existing available options.
- D. ADH will provide office space, copiers, access to phones, etc.
- E. ADH will schedule meetings on an as-needed basis and provide meeting space at its main campus. All in-person meetings between the vendor and ADH **shall** be held at this location unless otherwise stated by ADH.

3.4 VENDOR PERFORMANCE REPORTS (VPR)

- A. Vendor Performance Reports **shall** be utilized whenever the Vendor is in default of the contract terms as outlined in this RFP.
- B. Upon notification of the VPR, the Vendor **shall** promptly take all corrective actions to be in compliance with the contract terms.
- C. The agency and the Vendor **shall** work together during the vendor's resolution of any non-compliance issue.
- D. The Vendor is hereby notified that non-compliance of the VPR may under certain circumstances be considered a (30) day cancellation if it is so stated in the VPR notice to the Vendor issued by ADH.

3.4 PERFORMANCE STANDARDS

- A. State law requires that all contracts for services include Performance Standards for measuring the overall quality of services provided. *Table Below: Performance Standards* identifies expected deliverables, performance measures, or outcomes; and defines the acceptable standards a vendor **must** meet in order to avoid assessment of damages.
- B. The State may be open to negotiations of Performance Standards prior to contract award, prior to the commencement of services, or at times throughout the contract duration.
- C. The State **shall** have the right to modify, add, or delete Performance Standards throughout the term of the contract, should the State determine it is in its best interest to do so. Any changes or additions to performance standards will be made in good faith following acceptable industry standards, and may include the input of the vendor so as to establish standards that are reasonably achievable.

- D. All changes made to the Performance Standards **shall** become an official part of the contract.
- E. Performance Standards **shall** continue throughout the term of the contract.
- F. Failure to meet the minimum Performance Standards as specified **shall** result in the assessment of damages.
- G. In the event a Performance Standard is not met, the vendor will have the opportunity to defend or respond to the insufficiency. The State **shall** have the right to waive damages if it determines there were extenuating factors beyond the control of the vendor that hindered the performance of services. 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, vendor **shall** follow the direction of the agency regarding the required compensation process.

PERFORMANCE STANDARDS		
Service Criteria	Acceptable Performance	Damages for Insufficient Performance
Participation	Attend meetings as outlined in the RFP	Failure to attend meetings may result in a 2% deduction for each absence and/or may result in below standard VPR rating.
Outreach & Onboarding	Provide a monthly work plan outlining vendor's efforts to increase number of Arkansas participants	Failure to increase the number of Arkansas participants may result in below standard VPR rating and/or cancellation of contract
Technical Support	Completing the tasks outlined in the monthly work plan	If not completed by the established deadline, vendor will be required to submit and implement an acceptable corrective action plan. Payment may be delayed under the terms of the Agreement pending satisfactory implementation and/or may result in below standard VPR rating.
Process Documentation & Development	Develop & document processes & procedures as outlined in section 3.2.D in this RFP	Failure to develop and document processes may result in delayed payment pending receipt of documentation and/or may result in below standard VPR rating.
Training	Provide ongoing training	Failure to provide training will result in a 20% deduction from the monthly invoice for each month of occurrence and/or may result in below standard VPR rating.
Reporting	Provide status report upon request	Failure to provide the required reports will result in a 10% deduction from the monthly invoice of the month of occurrence and/or may result in below standard VPR rating.

SECTION 4 – CRITERIA FOR SELECTION

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

4.1 TECHNICAL PROPOSAL SCORE

- A. ADH 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 vendor'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. Not just good, 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 evaluation factor, the proposal appears to substantially meet the requirement, but just barely meets acceptable quality.	Moderate
2	Marginal	When considered in relation to the RFP evaluation factor, the proposal barely or partially satisfies the requirement. At the lower limit of acceptable quality.	Low
1	Poor	When considered in relation to the RFP evaluation factor, the proposal does not quite meet the requirement. Inferior in quality.	Little to No Confidence
0	Unacceptable	When considered in relation to the RFP evaluation factor, the proposal does not meet the requirement, either because it was left blank or because the proposal is unresponsive in regard to this evaluation factor.	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 group, 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 proposal.
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.

Information for Evaluation Sub-Sections	Maximum Raw Points Possible	Sub-Section's Weighted Percentage	* Maximum Weighted Score Possible
E.1 Experience	65	60%	360
E.2 Process Knowledge	20	30%	180
E.3 Methodology & Approach	30	10%	60
Total Technical Score	115	100%	600

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

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

$$(A/B) \times C = D$$

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. Vendor'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 300 may not move forward in the solicitation process. The pricing for proposals which do not move forward **shall not** be scored.

4.2 COST SCORE

A. When pricing is opened for scoring, the maximum amount of cost points will be given to the vendor with the lowest **hourly rate** 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 vendors will be allocated by using the following formula:

$$(A/B) \times (C) = D$$

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

4.3 GRAND TOTAL SCORE

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

	Maximum Points Possible
Technical Proposal	600
Cost	400
Maximum Possible Grand Total Score	1,000

4.4 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 *Technical Proposal Packet* signifies the Prospective Contractor's understanding and agreement that subjective judgments will be made during the evaluation and scoring of the Technical Proposals.

SECTION 5 – GENERAL CONTRACTUAL REQUIREMENTS

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

5.1 PAYMENT AND INVOICE PROVISIONS

- A. All invoices **shall** be forwarded to:
Arkansas Department of Health
Attn: Nancy Ipock - ITS
4815 West Markham
Little Rock, AR 72205
- B. Payment will be made in accordance with applicable State of Arkansas accounting procedures upon acceptance goods and services by the agency.
- C. The State **shall not** be invoiced in advance of delivery and acceptance of any goods or services.
- D. Payment will be made only after the vendor has successfully satisfied the agency as to the reliability and effectiveness of the goods or services purchased as a whole.
- E. The vendor should invoice the agency by an itemized list of charges. The agency's Purchase Order Number and/or the Contract Number should be referenced on each invoice.
- F. Other sections of this *Bid Solicitation* may contain additional Requirements for invoicing.
- G. Selected vendor **must** be registered to receive payment and future *Bid Solicitation* notifications. Vendors may register on-line at <https://www.ark.org/vendor/index.html>.

5.2 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.
- E. In a contract with another party, the State will accept the risk of loss of the equipment and pay for any destruction, loss, or damage of the equipment while the State has such risk, when:
 - The extent of liability for such risk is based upon the purchase price of the equipment at the time of any loss, and
 - The contract has required the State to carry insurance for such risk.

5.3 **CONDITIONS OF CONTRACT**

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

5.4 **STATEMENT OF LIABILITY**

- A. The State will demonstrate reasonable care but will not be liable in the event of loss, destruction or theft of vendor-owned equipment or software and technical and business or operations literature to be delivered or to be used in the installation of deliverables and services. The vendor **shall** retain total liability for equipment, software and technical and business or operations literature. The State **shall** not at any time be responsible for or accept liability for any vendor-owned items.
- B. The vendor's liability for damages to the State **shall** be limited to the value of the Contract or \$1,000,000, whichever is higher. The foregoing limitation of liability **shall not** apply to claims for infringement of United States patent, copyright, trademarks or trade secrets; to claims for personal injury or damage to property caused by the gross negligence or willful misconduct of the vendor; to claims covered by other specific provisions of the Contract calling for damages; or to court costs or attorney's fees awarded by a court in addition to damages after litigation based on the Contract. The vendor and the State **shall not** be liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages. This limitation of liability **shall not** apply to claims for infringement of United States patent, copyright, trademark or trade secrets; to claims for personal injury or damage to property caused by the gross negligence or willful misconduct of the vendor; to claims covered by other specific provisions of the Contract calling for damages; or to court costs or attorney's fees awarded by a court in addition to damages after litigation based on the Contract.
- C. Language in these terms and conditions **shall not** be construed or deemed as the State's waiver of its right of sovereign immunity. The vendor agrees that any claims against the State, whether sounding in tort or in contract, **shall** be brought before the Arkansas Claims Commission as provided by Arkansas law, and **shall** be governed accordingly.

5.5 **RECORD RETENTION**

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

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

5.6 **PRICE ESCALATION**

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

5.7 **CONFIDENTIALITY**

- A. The vendor, vendor's subsidiaries, and vendor's employees **shall** be bound to all laws, such as the Health Insurance Portability and Accountability Act of 1996 (HIPPA), and 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.
- D. The successful vendor **must** sign a business associate agreement (BAA).

5.8 **CONTRACT INTERPRETATION**

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

5.9 **CANCELLATION**

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

b) For Convenience. The State may cancel any contract resulting from the solicitation by giving the Contractor written notice of such cancellation sixty (60) days prior to the date of cancellation.

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.

5.10 **SEVERABILITY**

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

SECTION 6 – 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 Arkansas Department of Health 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. Vendor **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 vendor to supply additional descriptive material. The vendor **shall** guarantee that the product offered will meet or exceed specifications identified in this *Bid Solicitation*. Vendors 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 vendor 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 vendor **shall** further guarantee that if the items furnished hereunder are to be installed by the vendor, such items **shall** function properly when installed. The vendor **shall** guarantee that all applicable laws have been complied with relating to construction, packaging, labeling and registration. The vendor'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 vendor'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 vendor's expense. After reasonable examination, all demonstrators will be returned at vendor'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 vendor.
10. **AMENDMENTS:** Vendor'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 vendor. 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 vendor.
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 vendor 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 vendor.

14. **DELIVERY REQUIREMENTS:** No substitutions or cancellations are permitted without written approval of the Arkansas Department of Health. 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 Arkansas Department of Health 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 Arkansas Department of Health 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 vendors 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. Vendor **shall** properly identify items being returned.
20. **PATENTS OR COPYRIGHTS:** The contractor **must** agree to indemnify and hold the State harmless from all claims, damages and costs including attorneys' fees, arising from infringement of patents or copyrights.
21. **ASSIGNMENT:** Any contract entered into pursuant to this solicitation **shall not** be assignable nor the duties thereunder delegable by either party without the written consent of the other party of the contract.
22. **CLAIMS:** Any claims the Contractor may assert under this Agreement shall be brought before the Arkansas State Claims Commission ("Commission"), which shall have exclusive jurisdiction over any and all claims that the Contractor may have arising from or in connection with this Agreement. Unless the Contractor's obligations to perform are terminated by the State, the Contractor shall continue to provide the Services under this Agreement even in the event that the Contractor has a claim pending before the Commission.
23. **CANCELLATION:** In the event, the State no longer needs the commodities or services specified for any reason, (e.g., program changes; changes in laws, rules or regulations; relocation of offices; lack of appropriated funding, etc.), the State **shall** have the right to cancel the contract or purchase order by giving the vendor 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 vendor agrees that: (a) the vendor **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 vendor **shall** state that all qualified applicants **shall** receive consideration without regard to race, color, sex, age, religion, handicap, or national origin; (c) the vendor 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 vendor 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 vendor **shall** include the provisions of above items (a) through (d) in every subcontract so that such provisions **shall** be binding upon such subcontractor or vendor.
25. **CONTINGENT FEE:** The vendor 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 vendor for the purpose of securing business.
26. **ANTITRUST ASSIGNMENT:** As part of the consideration for entering into any contract pursuant to this solicitation, the vendor 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.