



STATE OF ARKANSAS

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

INVITATION FOR BID BID SOLICITATION DOCUMENT

SOLICITATION INFORMATION			
Bid Number:	710-23-0052	Solicitation Issued:	June 21, 2023
Description:	Asset Verification Services		
Agency:	Department of Human Services, Division of County Operations		

SUBMISSION DEADLINE			
Bid Submission Date/Time	July 26, 2023 @1:00pm CST	Bid Opening Date/Time:	July 26, 2023 @2:00pm CST
Bids shall not be accepted after the designated bid submission date and time. In accordance with Arkansas Procurement Law and Rules, it is the responsibility of vendors to submit proposals at the designated location on or before the bid submission date and time. Bids received after the designated bid submission date and time shall be considered late and shall be returned to the vendor without further review. It is not necessary to return "no bids" to the Office of Procurement.			

DELIVERY OF RESPONSE DOCUMENTS	
Delivery Address:	Arkansas Department of Human Services Attn: Office of Procurement 700 Main Street Slot W345 Little Rock, AR 72201
United States mail (USPS):	Arkansas Department of Human Services Attn: Office of Procurement P.O. Box 1437 Slot W345 Little Rock, AR 72203-1437
Commercial Carrier (UPS, FedEx or USPS Exp):	Arkansas Department of Human Services Attn: Office of Procurement 112 West 8 th Street, Slot W345 Little Rock, AR 72201
Delivery providers, USPS, UPS, and FedEx deliver mail to OP's street address on a schedule determined by each individual provider. These providers will deliver to OP based solely on the street address. Prospective Contractors assume all risk for timely, properly submitted deliveries.	
Bid's Outer Packaging:	Seal outer packaging and properly mark with the following information. If outer packaging of bid submission is not properly marked, the package may be opened for bid identification purposes. <ul style="list-style-type: none"> • Bid number • Date and time of bid opening • Prospective Contractor's name and return address

OFFICE OF PROCUREMENT CONTACT INFORMATION			
OP Buyer:	David King	Buyer's Direct Phone Number:	501-320-6146
Email Address:	DHS.OP.Solicitations@dhs.arkansas.gov	DHS's Main Number:	501-396-6045
DHS Website:	https://humanservices.arkansas.gov/do-business-with-dhs		
OSP Website:	http://www.arkansas.gov/dfa/procurement/bids/index.php		

SECTION 1 - GENERAL INSTRUCTIONS AND INFORMATION

1.1 PURPOSE

This Invitation for Bid (IFB) is issued by the Office of Procurement (OP) for the Arkansas Department of Human Services (DHS), Division of County Operations (DCO) to obtain pricing and a contract(s) for a software solution, support, and maintenance of a Medicaid Asset Verification System (AVS) to identify assets held at various Financial Institutions (FI) by Medicaid applicants and beneficiaries.

Title VII, Section 7001(d) of P.L. 110-252 (Supplemental Appropriations Act of 2008) added a new section, 1940, to the Social Security Act. Section 1940 now requires all states to implement an electronic system for verifying the assets of aged, blind, or disabled applicants for and beneficiaries of Medicaid. This IFB is requesting offers from responsible vendors to implement and operate an electronic Asset Verification System (AVS). The federal Centers for Medicare and Medicaid Services (CMS) and DHS will provide oversight of the AVS project.

1.2 INTERGOVERNMENTAL/COOPERATIVE USE OF PROPOSAL AND CONTRACT

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

1.3 TYPE OF CONTRACT

- A. A Term contract will be awarded to a single vendor.
- B. Any resultant contract of this *Bid Solicitation* shall be subject to State approval processes which may include Legislative review.
- C. The term of this contract shall be for one (1) year. The anticipated starting date for the contract is **July 1, 2024**. Upon agreement by the vendor and agency the contract may be renewed by the Office of Procurement (OP) on a year-to-year basis, for up to six (6) additional one-year terms or a portion thereof not to exceed a total aggregate contract term of seven (7) years.

1.4 ISSUING AGENCY

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

1.5 BID OPENING LOCATION

Bids submitted by the opening date and time will be opened via video conference. DHS will publish a link to the live bid opening on the DHS website for public access. Individuals will not be permitted to attend in-person. If the bid opening cannot be held as scheduled due to technical or other issues, DHS will publish an updated schedule and video conference link on the [DHS website](#).

1.6 DEFINITION OF REQUIREMENT

- A. The words "**must**" and "**shall**" signify a Requirement of this solicitation and that vendor's agreement to and compliance with that item is mandatory.
- B. Exceptions taken to any Requirement in this *Bid Solicitation*, whether submitted in the vendor's bid or in subsequent correspondence, shall cause the vendor's bid to be disqualified.

1.7 DEFINITION OF TERMS

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

- D. The term “Applicant” refers to a person who has submitted a signed application for Medicaid benefits.
- E. The term “Asset Verification Services” or “AVS” means services provided by the awarded Contractor for verifying the assets of the population identified in the IFB Objectives
- F. The term “Financial institutions” or “FI” means any institution, including, but not limited to, any bank, savings association, credit union, security broker or dealer, and insurance company.
- G. Look-back period means the period of time (currently 60 months) that the Medicaid Program is required to verify individual assets for potential members.

1.8 RESPONSE DOCUMENTS

A. Bid Response Packet

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

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

5. Vendor’s original *Official Bid Price Sheet* **must** be submitted in hard copy format.
6. Vendor should also submit one (1) electronic copy of the *Official Bid Price Sheet*, preferably on a flash drive, in a single PDF file.
7. The *Official Bid Price Sheet*, including the hard copy and electronic copy, must be separately sealed from the *Bid Response Packet* and should be clearly marked as “Pricing.” Vendor must not include any pricing in the hard copies or electronic copies of the *Bid Response Packet*.

1.9 AGREEMENT AND COMPLIANCE PAGES

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

1.10 CLARIFICATION OF BID SOLICITATION

- A. Contractor may submit written questions requesting clarification of information contained in this *Bid Solicitation*. Written questions should be submitted by 4:00 p.m., Central Time on **June 28, 2023**. Submit written questions by email to the buyer as shown on page one (1) of this *Bid Solicitation*.
- B. The attached response template (*Attachment B*) **must** be used for submission of all written questions. All questions should include the information specified in the response template. Written questions submitted in a different format may not be answered by DHS.

- C. Contractor's written questions will be consolidated and responded to by the State. The State's consolidated written response is anticipated to be posted to the OP website by the close of business on **July 12, 2023**.
- D. Answers to verbal questions may be given as a matter of courtesy and **must** be evaluated at contractor's risk.

1.11 SUBCONTRACTORS

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

1.12 PRICING

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

1.13 PRIME CONTRACTOR RESPONSIBILITY

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

1.14 INDEPENDENT PRICE DETERMINATION

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

1.15 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 redacting any information contained in the response, the Prospective Contractor warrants that it has formed a good faith opinion having received such necessary or proper review by counsel and other knowledgeable advisors that the portions redacted meet the requirements of the Rules and Statutes set forth above.
- E. Under no circumstances will pricing information be designated as confidential.
- F. One (1) complete copy of the submission documents from which any proprietary information has been redacted should be submitted on a flash drive in the *Bid Response Packet*. A CD is also acceptable. Do not submit documents via email or fax.
- G. Except for the redacted information, the redacted copy **must** be identical to the original hard copy, reflecting the same pagination as the original and showing the space from which information was redacted.
- H. The Prospective Contractor is responsible for identifying all proprietary information and for ensuring the electronic copy is protected against restoration of redacted data.
- I. The redacted copy will be open to public inspection under FOIA without further notice to the Prospective Contractor.
- J. If a redacted copy of the submission documents is not provided with Prospective Contractor's *Bid Response Packet*, a copy of the non-redacted documents, with the exception of financial data (other than pricing), will be released in response to any request made under FOIA.
- K. If the State deems redacted information to be subject to FOIA, the Prospective Contractor will be contacted prior to release of the documents.
- L. The State has no liability to a Prospective Contractor with respect to the disclosure of Prospective Contractor's confidential information ordered by a court of competent jurisdiction pursuant to FOIA or other applicable law.

1.16 CAUTION TO VENDORS

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

1.17 REQUIREMENT OF ADDENDUM

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

1.18 AWARD PROCESSA. Vendor Selection

1. Award will be made to the lowest responsible, responsive bidder based on total. Consideration will only be given to those that bid on all line items. Bidders must meet minimum qualifications. Bids must meet or exceed all defined specifications. Bids must meet all terms and conditions of this Invitation for Bid and the laws of the State of Arkansas.
2. Contract award, extension, or renewal is contingent upon approval by DHS officials, subsequent approval by the OP, review by the Legislative Council and the availability of State funds. Changes to any non-financial portion of this agreement may be made with the agreement of both DHS and the Contractor.

B. Negotiations

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

C. Anticipation to Award

1. Once an anticipated successful vendor has been determined, the anticipated award will be posted on the following websites:
<https://humanservices.arkansas.gov/do-business-with-dhs>
<https://www.arkansas.gov/dfa/procurement/bids/index.php>
2. The anticipated award will be posted for a period of fourteen (14) days prior to the issuance of a contract. Vendors and agencies are cautioned that these are preliminary results only, and a contract will not be issued prior to the end of the fourteen (14) day posting period.
3. OP **shall** have the right to waive the policy of Anticipation to Award when it is in the best interest of the State.
4. It is the vendor's responsibility to check the above referenced websites for the posting of an anticipated award.

D. Issuance of Contract

1. Any resultant contract of this Bid Solicitation shall be subject to State approval processes which may include Legislative review.
2. An Office of Procurement Official 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 that is at least fifty-one percent (51%) owned by a lawful permanent resident of this State who is:

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

- B. A woman-owned business is defined by Arkansas Code Annotated § 15-4-303(9) as a business that is at least fifty-one percent (51%) owned by one (1) or more women who are lawful permanent residents of this State.
- C. The Arkansas Economic Development Commission conducts a certification process for minority-owned and women-owned businesses. If certified, the Prospective Contractor's Certification Number should be included on the *Bid Signature Page*.

1.20 EQUAL EMPLOYMENT OPPORTUNITY POLICY

- A. In compliance with Arkansas Code Annotated § 19-11-104, the State is required to have a copy of the anticipated Contractor's *Equal Opportunity (EO) Policy* prior to issuing a contract award.
- B. EO Policies should be included as a hardcopy accompanying the solicitation response.
- C. The submission of an *EO Policy* to the OP 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 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 with the OP stating that they do not employ or contract with illegal immigrants.
- B. OP will notify the selected vendor(s) prior to award if their certification has expired or is not on file. Instructions for completing the certification process will be provided to the vendor(s) at that time.

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

1.23 PAST PERFORMANCE

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

1.24 TECHNOLOGY ACCESS

- A. When procuring a technology product or when soliciting the development of such a product, the State of Arkansas is required to comply with the provisions of Arkansas Code Annotated § 25-26-201 et seq., which expresses the policy of the State to provide individuals who are blind or visually impaired with access to information technology purchased in whole or in part with state funds. The Prospective Contractor expressly acknowledges and agrees that state funds may not be expended in connection with the purchase of information technology unless that technology meets the statutory requirements found in 36 C.F.R. § 1194.21, as it existed on January 1, 2019 (software applications and operating ICSs) and 36 C.F.R. § 1194.22, as it existed on January 1, 2019 (web-based intranet and internet information and applications), in accordance with the State of Arkansas technology policy standards relating to accessibility by persons with visual impairments.

- B. Accordingly, the Prospective Contractor expressly represents and warrants to the State of Arkansas through the procurement process by submission of a Voluntary Product Accessibility Template (VPAT) for 36 C.F.R. § 1194.21, as it existed on January 1, 2019 (software applications and operating ICSs) and 36 C.F.R. § 1194.22, that the technology provided to the State for purchase is capable, either by virtue of features included within the technology, or because it is readily adaptable by use with other technology, of:
1. Providing, to the extent required by Arkansas Code Annotated § 25-26-201 et seq., equivalent access for effective use by both visual and non-visual means.
 2. Presenting information, including prompts used for interactive communications, in formats intended for non-visual use.
 3. After being made accessible, integrating into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired.
 4. Providing effective, interactive control and use of the technology, including without limitation the operating system, software applications, and format of the data presented is readily achievable by nonvisual means.
 5. Being compatible with information technology used by other individuals with whom the blind or visually impaired individuals interact.
 6. Integrating into networks used to share communications among employees, program participants, and the public.
 7. Providing the capability of equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.
- C. State agencies cannot claim a product as a whole is not reasonably available because no product in the marketplace meets all the standards. Agencies must evaluate products to determine which product best meets the standards. If an agency purchases a product that does not best meet the standards, the agency must provide written documentation supporting the selection of a different product, including any required reasonable accommodations.
- D. For purposes of this section, the phrase “equivalent access” means a substantially similar ability to communicate with, or make use of, the technology, either directly, by features incorporated within the technology, or by other reasonable means such as assistive devices or services which would constitute reasonable accommodations under the Americans with Disabilities Act or similar state and federal laws. Examples of methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands or other means of navigating graphical displays, and customizable display appearance. As provided in Arkansas Code Annotated § 25-26-201 et seq., if equivalent access is not reasonably available, then individuals who are blind or visually impaired **shall** be provided a reasonable accommodation as defined in 42 U.S.C. § 12111(9), as it existed on January 1, 2019.
- E. If the information manipulated or presented by the product is inherently visual in nature, so that its meaning cannot be conveyed non-visually, these specifications do not prohibit the purchase or use of an information technology product that does not meet these standards.
- 1.25 COMPLIANCE WITH THE STATE SHARED TECHNICAL ARCHITECTURE PROGRAM**
The respondent’s solution must comply with the state’s shared Technical Architecture Program which is a set of policies and standards that can be viewed at <https://www.dfa.arkansas.gov/intergovernmental-services/state-technology-cost-analysis/architecture-compliance/>. Only those standards which are fully promulgated or have been approved by the Governor’s Office apply to this solution.
- 1.26 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.

1.27 PUBLICITY

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

1.28 RESERVATION

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

1.29 SCHEDULE OF EVENTS

Public Notice of IFB	June 21, 2023
Deadline for Receipt of Written Questions	June 28, 2023 @ 4:00pm CST
Response to Written Questions, On or About	July 12, 2023
Date and Time for Bid Submission	July 26, 2023 @1:00pm CST
Date and Time for Bid Opening	July 26, 2023 @2:00pm CST
Intent to Award Announced, On or About	August 4, 2023
Contract Start (Subject to State Approval)	July 1, 2024

1.30 STATE HOLIDAYS

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

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

Additional days can be proclaimed as holidays by the Governor through executive proclamation. State offices are normally closed on holidays however, there are occasions (i.e. during legislative sessions) when it may become necessary to keep state offices open on holidays. The Contractor shall maintain adequate staff on such working holidays.

SECTION 2 – MINIMUM REQUIREMENTS

2.1 INTRODUCTION

This Invitation for Bid (IFB) is issued by the Office of Procurement (OP) for the Arkansas Department of Human Services (DHS), Division of County Operations (DCO) to obtain pricing and a contract(s) for a software solution, support, and maintenance of Medicaid Asset Verification System (AVS) to identify assets held at various Financial Institutions (FI) by Medicaid applicants and beneficiaries.

DHS provides a wide range of assistance programs to help Arkansans in need including, without limitation, the following: food benefits (SNAP); temporary cash assistance (TANF); services for persons with developmental disabilities and persons who are aging; adult protective services; child welfare programs; child support services; and childcare assistance, licensing, and monitoring. DHS also handles applications and eligibility for ARKIDS, the state’s Medicaid program offering health care to children.

In order to process new applications for specific Medicaid benefits, DHS is required by federal law to verify the assets of applicants and responsible parties for applicants to ensure that Medicaid benefits serve the designated populations. DHS requires AVS to identify liquid assets of applicants as part of the eligibility determination process.

2.2 MINIMUM QUALIFICATIONS

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

- A. The Contractor **must** be registered to do business in the State of Arkansas and in good standing by the initial start of any resulting contract. For verification purposes, Contractor **must** provide a [Certificate of Good Standing](#), [Certificate of Authority](#), other required [Arkansas Secretary of State](#) documentation such as non-filing or nonqualifying statements, upon DHS request.
- B. The bidder **must** include a copy of all required licensure and certification documents in the bidder's response to this solicitation. See "Response Documents."
- C. The Contractor **shall** have an established network of Financial Institutions (FIs) who will participate in the AVS. For verification purposes, Prospective Contractor **must** provide a listing of FIs with bid submission and describe the methodology for securing additional FIs.
- D. The Contractor **must** have experience within the last five (5) years in CMS asset verification programs. For verification purposes, the Prospective Contractor **must** provide three (3) references from entities to which the Prospective Contractor has provided financial AVS. Each reference should include the entity's name, summary of program, dates, name, mailing address, telephone number, and email address of the individual with knowledge of the work provided.
- E. The Contractor **must** be bondable. For verification purposes the Prospective Contractor **must** submit a Letter of Bondability from an admitted Surety Insurer with bid submission. The letter must unconditionally offer to guarantee, to the extent of one hundred percent (100%) of the annual contract price, the Prospective Contractor's performance in all respects of the terms and conditions of the IFB and the resultant contract. The Prospective Contractor **shall** be required to provide DHS with the Performance Bond described in this section upon contract start.

2.3 SCOPE OF WORK

- A. Contractor **must** provide, at a minimum, an Asset Verification System (AVS) that meets all the requirements of Section 1940 of the Social Security Act (42 U.S.C §1396w) and any guidance issued by the Centers for Medicare and Medicaid Services (CMS), DHS policies, and all applicable State and Federal laws, rules, and regulations. Any changes to the interface or secure web portal solution that are required by CMS or law, shall be provided by the Contractor at no additional cost to the State.
- B. The Contractor **must** send secure verification inquiries electronically on behalf of DHS via the internet or similar means from the AVS to the financial institutions or entities that maintain data on behalf of financial institutions. Secure verification inquiries **must** be sent immediately upon receipt unless otherwise approved by DCO. The Contractor shall notify DHS of any delays. The system **must** have the capability to provide for both electronic submission requests and electronic receipt of responses from financial institutions.

2.4 PROJECT KICKOFF MEETING

Contractor **must** attend a project kickoff meeting scheduled by DHS. The project kickoff meeting will be held with representatives from DHS and the Contractor after the contract start date and prior to work being performed. Items to be covered in the kickoff meeting may include, without limitation, the following:

- A. Defining lines of communication and reporting relationships
- B. Reviewing project requirements
 - 1. System Interface Testing
 - 2. Stress Test
 - 3. System Training
- C. Reviewing performance standards
- D. Pinpointing high-risk or problematic areas

2.5 WORK PLAN

The Contractor **must** develop and submit a preliminary work plan within thirty (30) calendar days from contract start date. The work plan is subject to DHS review and approval prior to being finalized. The Contractor **shall** coordinate revisions with DHS and receive DHS approval on the final work plan. The Contractor **shall** provide DHS with a work plan that includes the following:

1. Establishment of a comprehensive network of Financial Institutions (FIs).
2. Implementation and operation of an electronic Asset Verification System (AVS).
3. Tracking and reporting of verification activity.
4. Manuals and training on system use with a Train-the-Trainer framework.
5. Deliverables and milestones

2.6 BACK-UP AND DISASTER RECOVERY PLAN

- A. Within thirty (30) calendar days of contract start date, the Contractor **shall** provide a preliminary back-up and disaster recovery plan to maintain business functions. For each potential interruption type, the Contractor **shall**, at a minimum, have a plan that details the steps to be taken to survive and recover from the interruption.
- B. The plan **must** include provisions to ensure that asset verification continues to be accessible. In addition, the Contractor **must** outline the resources committed to the plan. The Contractor may include resources outside the State of Arkansas but within the United States.
- C. The Backup and Disaster Recovery Plan is subject to DHS review and approval prior to being finalized. The Contractor shall coordinate revisions with DHS and receive DHS approval on the final plan.

2.7 RISK ASSESSMENT

- A. Within thirty (30) calendar days of the contract start date, the Contractor **must** conduct a Risk Assessment and develop a Risk Assessment Plan to mitigate identified risks. The Contractor **shall** list and prioritize identified risk items from most important to least important that could cause the project to fail to meet DHS objectives, increase costs or impact on the schedule. For each identified risk, the Contractor should explain how the risk could impact the project and propose a solution to mitigate each risk.
- B. The Risk Assessment plan is subject to DHS review and approval prior to being finalized. The Contractor **shall** coordinate revisions with DHS and receive DHS approval on the final plan.

2.8 NETWORK OF FINANCIAL INSTITUTIONS

- A. The Contractor **shall** establish and maintain relationships with Financial Institutions that will participate in its AVS system. A FI is deemed to participate in the AVS system if it is contractually bound to provide the Contractor account data sufficient to serve the purposes of the AVS.
- B. The Contractor **shall** have an established process for recruiting and managing FIs and made available upon request.
- C. The Contractor **must** provide an updated list of FIs on a quarterly basis.

2.9 STAFFING REQUIREMENTS

The Contractor **shall** designate a Project Director (PD) with day-to-day responsibility for the services required under this IFB and all staff necessary to perform the services required under this IFB. The Contractor **must** communicate any staffing changes along with the position of Project Director (PD). The PD and any other staffing changes is subject to DHS approval throughout the duration of the contract.

2.10 CRIMINAL BACKGROUND CHECKS

- A. The Vendor will perform criminal background checks on all proposed staff members. Pursuant to those background checks, no staff member **shall** be staffed on this project if they have committed an offense that would preclude State employment as a "designated position", if applicable to the underlying contracted services, under Ark. Code Ann. §21-15-102 or, otherwise as a "designated financial or information technology position" pursuant to Ark. Code Ann. § 21- 15-111.
- B. Prior to the contract award and throughout the term of the contract the Contractor **must** provide DHS with Criminal Background Check for each employee or subcontractor with the permission of each employee. This includes any employees or subcontractors that may be added at a later date.

2.11 SYSTEM REQUIREMENTS

- A. The AVS **shall** operate twenty-four hours a day, seven days a week, 365 days a year except during limited periods for maintenance and occurrences outside the control of the Contractor. Routine service interruptions shall not be scheduled during normal business hours. Notifications for routine service interruptions **shall** be provided in writing to DHS and scheduled during agreed upon down times. The Contractor **shall** notify DHS within fifteen (15) minutes of any unscheduled interruption. DHS reserves the right to request changes to configurations. All configurations **shall** be approved by DHS.
- B. Contractor **shall** provide the following types of configurations for communications:
1. DHS to Vendor Asset Verification Requests
 - a. Implementation of electronic asset verification requests. The format for these requests **must**, at minimum, include the cross-platform XML data exchange format.
 - b. A single web service request will potentially contain multiple requests for verification for distinct individuals (bundling or batching).
 - c. Transactions with the web service between DHS and the Contractor will be conducted using secure SSL encryption technology to ensure protection of sensitive data; and
 - d. Upon receipt of a request, the web service **must** immediately return a response code or message indicating successful receipt of the request. The AVS **must** allow initiated verification requests to be sent to FIs other than those identified by the applicant or recipient. The AVS **must** provide an option for DHS to submit and receive a response for specified FI request.
 2. Contractor to FI Communication
 - a. The technologies and processes selected for communication between the Contractor and the various FI's should be selected and implemented with the following factors in mind:
 - i. Compliance with federal, state, and local regulations related to the financial industry and consumer information.
 - ii. Implementation of secure technologies and processes to protect the sensitive financial information being exchanged; and
Note: The Contractor **shall** ensure the highest level of security in compliance with State and Federal laws, rules, and regulations.
 - iii. Implementation of strategies and technology that encourage the broadest participation of FI's in the vendor network.
 - b. Contractor **shall** submit requests as received from DHS to FIs requesting verification of assets for an Arkansas Medicaid recipient or applicant and the spouse, if applicable. The request **shall** include information on both open and closed accounts, going back for a period of up to five (5) years as requested by DHS. The Contractor may be required to send electronic requests to multiple FIs depending on the information received during the application process; multiple FI locations may be required based on the geographic location to the Member or applicant's residence or other reasonable factors including DHS's designation of the FI.
 - c. Request **shall** allow for the specification of one (1) or more variables within the same request that may include without limitation the following:
 - i. Date range of account ownership and monthly statement balances
 - ii. Disclosed FIs and types of accounts
 - iii. Medicaid category of the applicant or recipient
 - iv. Indicator of SNAP participation by applicant or recipient.
 - d. Request **shall** include verification of assets contained in any of the following types of accounts:
 - i. Checking
 - ii. Savings
 - iii. Investment accounts,
 - iv. Individual retirement accounts (IRAs)
 - v. Treasury notes
 - vi. Certificates of deposit
 - vii. Annuities
 - viii. Bonds
 - ix. Other assets that may be held by the FI.

3. Contractor to DHS Asset Verification Responses:
 - a. Upon aggregation of the asset information from the various FI's, the Contractor **must** send a response file to DHS containing the requested information and documentation that the search was conducted but no assets held or managed by the FI. The format and method of delivery of that response file will be negotiated between DHS and the vendor with final determination made by DHS.
 - b. Response transactions between the Contractor and DHS will be conducted using secure encryption technology to ensure protection of sensitive data.
 - c. The Contractor **shall** provide the response file to DHS no later than five (5) calendar days after receipt of the response from the FI. The average response time must be within two (2) business days.

2.12 SYSTEM SECURITY

- A. The Contractor **shall** protect system data using the strictest of accepted principles to ensure the safety and security of all information, data, procedures, methods, and funds involved in the performance under the contract, and **shall** require the same from all subcontractors and employees. The Contractor shall not release any data or information relating to the Arkansas Medicaid Program. Contractor **shall** protect system data to ensure that system and confidential information is not disclosed for unauthorized purposes. At a minimum, the Contractor **shall** comply with the following data security controls:
 1. The Contractor **shall** ensure that designated users from DHS may only access the system.
 2. The Contractor **shall** ensure that any sensitive information made available in any format shall be used only for the purpose of carrying out the provisions of this contract.
 3. The Contractor **shall** provide adequate internal controls through separation of duties.
 4. The Contractor **shall** provide backup procedures to allow DHS access when the Contractor's computer, system or communications are not operational.
 5. The Contractor **shall** move to a backup system within thirty (30) minutes of system disruption.
 6. The Contractor **shall** maintain adequate documentation of system operating procedures, and requirements.
 7. The Contractor **shall** provide DHS a security features user guide to describe the security features provided by the system, how to use them and how they interact with one (1) another.
 8. The Contractor **shall** ensure that the application that enforces access controls is continuously protected against tampering and/or unauthorized changes.
 9. System **shall** support secure data exchange between multiple clients as defined by DHS/OIT Security as referenced in Attachment H ARDHS-OIT Standard IT Requirements and Compliance with NIST 800-53 v5 (or subsequent versions) and at the Moderate level at a minimum.
 10. The system **must** meet all electronic Protected Health Information (PHI) requirements (e.g., The Health Insurance Portability and Accountability Act of 1996 (HIPPA)), and Personally Identifiable Information (PII) delivered over the internet or other known open networks via supported encryption technologies needed to meet CMS and NIST requirements for encryption of PHI and PII data, in addition to other State and Federal information security standards. The Contractor **shall** sign and comply with the terms of a Business Associate Agreement (Attachment F).
 11. The Contractor **shall** ensure designated users are physically located within the continental United States.
- B. The Contractor **must** provide a system security plan (SSP) within thirty (30) calendar days of the contract start date and **shall** be updated semi-annually. The Contractor **shall** coordinate revisions with DHS and receive DHS approval on the final plan. The SSP **must** include documentation supporting ongoing system risk mitigation for any system that interfaces with the DHS system. The SSP **shall** comply with the NIST 800-53 v5 (or subsequent versions) and at the Moderate level at a minimum as defined by the Centers for Medicare and Medicaid Services.
- C. The Contractor **shall** immediately notify DHS of any changes, breaches, and any other critical events regarding system security.

2.13 TECHNICAL REQUIREMENTS

The Contractor **shall** provide a AVS that meets the following functional requirements:

- A. The AVS **shall** provide a user interface from which an active user may electronically request a Financial Asset Verification report for an applicant or a responsible party that will identify accounts, whether an account is open or closed, in which the applicant or a responsible party held an ownership interest and that had a positive account

balance within a specified date range. The user interface **shall** request the following information from the active user:

1. Name of applicant and/or responsible party
 2. Social security number of the named individual
 3. Address for named individual (provide addresses the individual has resided in within the last five (5) years prior to the date of the application, if available)
 4. User ID of the requestor
- B. The AVS **shall** match information concerning both open and closed accounts for a sixty (60) month lookback period from the date determined by DHS. The AVS **shall** match identifying information including cross reference from other customer names provided by DHS to determine if any such information appears or appeared on any account as a single or joint owner. FI information **shall** be provided to DHS for opened and closed account balances as of 12:01 a.m. before any deposits are made on the first day of the month. The Contractor **shall** add the balance as of the day the form is completed.
- C. The Financial Asset Certification Report **must** be prepared in Adobe PDF format and made available for download on the AVS within ten (10) business days following the request. If the AVS does not identify any financial assets for the named individual, the Financial Asset Verification Report **must** indicate no records were found.
- D. The AVS **shall** provide secure web-based access to users over the internet. The Contractor **shall** maintain records of each active user including username, ID, supervisor's name/ID, and the user's county office number. Upon request, the Contractor shall provide DHS with a list of active users.
- E. The AVS **shall** be available for authorized users to access over the internet during normal State business hours. Users attempting to access the information outside of normal State business hours **must** have enhanced security credentials as mutually agreed upon between DHS and Contractor. Contractor **must** schedule periodic, planned service outages outside Normal State Business Hours for purposes of system maintenance and upgrades.
- F. The AVS **shall** make all completed Financial Asset Verification Reports available for download on the AVS throughout the duration of the contract resulting from this solicitation, and the download method **must** adhere to DHS security requirements/encryption standards.
- G. The AVS **must** provide users with search tools to locate the status of, and to download completed Asset Verification Reports within the AVS using the Social Security Number.
- H. The Contractor **must** provide data transmission and reports to the State via the State's Secure File Transfer Protocol (SFTP) or web portal solution.
- I. The Contractor **must** ensure seamless transmission of data between the State, Financial Institutions, and other systems necessary.
- J. The Contractor **must** configure / program their system to support the existing daily batch interface from DHS' Arkansas Integrated Eligibility System (ARIES) to electronically query AVS. The Contractor **must** return responses from AVS in the existing format that ARIES accepts. The batch file coming from ARIES can have multiple requests in the same file, and the response file **must** support multiple responses in the same file. This batch interface requires utilizing Advanced Encryption Standard (AES) to transmit and receive files.

2.14 TESTING

The Contractor **shall** coordinate with DHS on the interface development and testing according to the timeline agreed upon with DHS final approval. DHS and the Contractor **shall** perform interface testing on all components and functions of the AVS system before and after delivery of the system. The Contractor **must** provide final training materials to DHS prior to being introduced into the production environment.

2.15 TIMELINE

Within thirty (30) calendar days of the contract start date, the Contractor **must** submit a proposed timeline to DHS that includes milestone events and deliverables and the associated schedule. The Contractor **shall** be responsible for adhering to the proposed timeline unless otherwise approved by DHS.

2.16 TRAINING

The Contractor **shall** provide training for DHS and FI staff using a train-the-trainer model prior to implementation and as changes are made. The Contractor **must** provide additional training as needed upon DHS request.

2.17 IMPLEMENTATION

The Contractor **shall** be responsible for implementation and maintenance of the AVS. During implementation, the Contractor **must** submit weekly risk reports to DHS that identifies risks tied to or potentially impacting milestone attainment and timeliness of deliverables.

2.18 TECHNICAL SUPPORT

The Contractor **shall** provide technical support to DHS and FI staff. The Contractor **must** provide support and **shall** be available twenty-four (24) hours a day, seven (7) days per week.

2.19 REPORTING REQUIREMENTS

The Contractor **shall** submit:

- A. Monthly and annual summary of requests, responses, and assets (both disclosed and undisclosed) identified by recipient or applicant (or spouse if applicable) from all FIs. These reports **must** include at a minimum the following:
 1. Response rate analysis; and
 2. Medicaid category of the applicant or recipient.
 3. Indicator of SNAP participation by applicant or recipient; and
 4. The above data aggregated as necessary.
- B. Security Incidents and Reporting
 1. A security incident **shall** be defined as results or incidents from intentional or unintentional actions and may include loss and/or theft of computer media, introduction of malicious code, unauthorized attempts to gain access to information, or failed performance of the system security function.
 2. The Contractor **shall** establish and maintain incident management responsibilities and procedures to ensure a quick, effective, and orderly response to security incidents. Procedures **shall** cover all potential types of security incidents, including but not limited to the following:
 - a. Discovered viral infection
 - b. Discovered malicious code e.g., viruses, trap doors, logic bombs, worms, and Trojan horses
 - c. Uncovered hacker activity
 - d. Discovered system vulnerabilities.
 - e. Unauthorized attempt, successful or unsuccessful, to access the EBT System
 - f. Deviation from security policy
 - g. Other unusual activities
 - h. In addition to normal contingency plans (designed to recover systems or services as quickly as possible), the procedures shall also cover the following:
 - i. Analysis and identification of the cause of the incident
 - ii. Planning and implementation of remedies to prevent recurrence, if necessary
 - iii. Collection of audit trails and similar evidence
 - iv. Communication with those affected by or involved with recovery from the incident
 - v. Report incidents as required by the System Security Plan, but in any case, no more than twenty-four (24) hours after discovery of the action to DHS Security and the DHS Privacy Office.

2.20 INSURANCE REQUIREMENTS

- A. The Contractor **shall** maintain Commercial General Liability Insurance with limits sufficient to cover losses resulting from, or arising out of, Contractor action or inaction in the performance of the contract by the Contractor, its agents, servants, or employees.

Liability Limits:

1. Workers Each Occurrence Statutory Limits
Employers Liability \$1,000,000.00 each accident
2. Comprehensive General Liability Policy

Premises and Operations

Personal Injury

Each item for Comprehensive General Liability Policy **must** have:

Bodily Injury \$500,000.00 each person
 \$500,000.00 each occurrence

Property Damage \$1,000,000.00 each occurrence
 \$1,000,000.00 each aggregate

- B. Prior to contract awarding, the Contractor **must** provide DHS an approved "Certificate of Insurance" and **must** maintain the insurance requirements throughout the contract period and any/all extensions.
- C. The Insurance shall not be modified without DHS approval.
- D. The Contractor **shall** maintain insurance for the contract period and any resultant renewals in the minimum amount:
- \$1,000,000 per occurrence,
 - \$3,000,000 aggregate, for professional liability, negligence, errors and omissions and public liability.
- E. The insurance **must** have limits sufficient to cover losses resulting from, or arising out of:
- Contractor's action or inaction in the performance of the contract by the Contractor, its agents, servants, employees, or subcontractors.
- F. The insurance **shall** cover and continue to cover all occurrences during the term of this contract and any extensions thereof.
- G. All insurance policies **shall** be with a company licensed by the State of Arkansas to do business and to provide such policies.
- H. DHS is to be notified, not less than forty-five (45) days in advance of any non-renewal, cancellation, or expiration of the Contractor's insurance policy. In the event DHS receives a notice of non-renewal, the Contractor **shall** provide DHS with an insurance policy from another carrier at least thirty (30) days prior to the expiration of the insurance policy then in effect.
- I. DHS reserves the right to inspect the original insurance policies held by the Contractor.

2.21 RECORD KEEPING

The Contractor **must** maintain all records of findings for auditing purposes including documentation that the search was conducted and **must** provide upon request.

2.22 DHS RESPONSIBILITIES

- A. Create electronic records requesting verification of the assets for a DHS recipient or applicant (and spouse if applicable) with an account or accounts at the FIs during the specified look-back period.
- B. Store the response from the electronic records regarding the verification of the assets for a DHS Medicaid Member or applicant; and
- C. Perform necessary case actions based on the electronic records regarding the verification of the assets for a DHS Medicaid Member or applicant.

2.23 PERFORMANCE STANDARDS

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

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

SECTION 3 – GENERAL CONTRACTUAL REQUIREMENTS

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

3.1 PAYMENT AND INVOICE PROVISIONS

- A. All invoices **shall** be forwarded to:
oppdfinancial@dhs.arkansas.gov
- B. The Contractor will be paid a one-time implementation cost of no more than the actual implementation costs up to the amount specified on the Official Bid Price Sheet or otherwise negotiated.
- C. DHS will send the Contractor a spreadsheet containing all transactions and the Contractor will bill based on the data provided.
- D. Invoices **must** be submitted by the 15th of each month.
- E. Payment will be made in accordance with applicable State of Arkansas accounting procedures upon acceptance goods and services by the agency.
- F. The State **shall not** be invoiced in advance of delivery and acceptance of any goods or services.
- G. 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.
- H. 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.
- I. Other sections of this *Bid Solicitation* may contain additional requirements for invoicing.
- J. Selected vendor **must** be registered to receive payment and future *Bid Solicitation* notifications. Vendors may register on-line at <https://www.ark.org/vendor/index.html>.

3.2 GENERAL INFORMATION

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

- H. The laws of the State of Arkansas **shall** govern this contract.
- I. A contract **shall not** be effective prior to award being made by a State Procurement Official.
- J. In a contract with another party, the State will accept the risk of loss of the equipment or software and pay for any destruction, loss or damage of the equipment or software while the State has such risk, when:
 - 1. The extent of liability for such risk is based upon the purchase price of the equipment or software at the time of any loss.
 - 2. The contract has required the State to carry insurance for such risk.

3.3 CONDITIONS OF CONTRACT

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

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

3.4 STATEMENT OF LIABILITY

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

3.5 PERFORMANCE BONDING

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

1. The amount of the performance bonds **shall** be one hundred percent (100%) of the annual contract price, unless the State determines that a lesser amount would be adequate for the protection of the State. Such performance bond must be provided to DHS prior to signing the contract.
2. The State **shall** require additional performance bond protection when a contract price is increased or modified.
3. The additional performance bond **must** be delivered to the Arkansas Department of Human Services Chief Procurement Officer within fourteen (14) calendar days of request.
4. The contractor **shall** notify the State of any changes, modification, or renewals for the performance bond during the term of the contract. The performance bond documentation **must** be provided to the State with each required notice.
5. Failure to provide is a breach of contract and may result in immediate contract termination, prohibition against future bidding with the State, the addition of Contractor to the DHS excluded provider list, etc.

3.6 RECORD RETENTION

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

3.7 PRICE ESCALATION

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

3.8 CONFIDENTIALITY

- A. The Contractor **shall** comply with all DHS policies governing the privacy and security of all protected health information and/or other confidential information received on behalf Arkansas Medicaid beneficiaries.
- B. The Contractor **shall** implement and maintain reasonable security procedures and practices regarding all protected health information and/or other confidential information as required by A.C.A § 4-110-104, The Personal Information Protection Act.
- C. The Contractor **shall** disclose any breaches of privacy or security by contacting the DHS Information Technology Security Office within one (1) business day of the breach at dhs.it.security.team@dhs.arkansas.gov.
- D. The Contractor **shall** use protected health information and/or other confidential information only in a manner that is necessary to provide the services required in this solicitation.
- E. The Contractor **shall** safeguard the use and disclosure of, and restrict access to, protected health information and/or other confidential information.

- F. Contractor **must** maintain confidentiality and meet any applicable Health Insurance Portability and Accountability Act (HIPAA) requirements. Prior to award, the Contractor **must** complete and sign a Business Associate Agreement (BAA).

3.9 CONTRACT INTERPRETATION

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

3.10 CANCELLATION

- A. For Cause. The State may cancel any contract resulting from this solicitation for cause at the discretion of the Arkansas Department of Human Services. The State shall give the vendor written notice of cancellation, specifying the terms and the effective date of contract termination.
- B. For Convenience. The State may cancel any contract resulting from the solicitation by giving the Contractor written notice of such cancellation no less than thirty (30) days prior to the date of cancellation.
- C. If upon cancellation the Contractor has provided commodities or services which the State of Arkansas has accepted, and there are no funds legally available to pay for the commodities or services, the Contractor may file a claim with the Arkansas Claims Commission under the laws and regulations governing the filing of such claims.

3.11 SEVERABILITY

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

SECTION 4 – STANDARD TERMS AND CONDITIONS

- *Do not provide responses to items in this section.*
- 1. **GENERAL:** Any special terms and conditions included in this solicitation **shall** override these Standard Terms and Conditions. The Standard Terms and Conditions and any special terms and conditions **shall** become part of any contract entered into if any or all parts of the bid are accepted by the State of Arkansas.
- 2. **ACCEPTANCE AND REJECTION:** The State **shall** have the right to accept or reject all or any part of a bid or any and all bids, to waive minor technicalities, and to award the bid to best serve the interest of the State.
- 3. **BID SUBMISSION:** Original Bid Packets **must** be submitted to the Office of State Procurement on or before the date and time specified for bid opening. The Bid Packet **must** contain all documents, information, and attachments as specifically and expressly required in the *Bid Solicitation*. The bid **must** be typed or printed in ink. The signature **must** be in ink. Unsigned bids **shall** be disqualified. The person signing the bid should show title or authority to bind the firm in a contract. Multiple bids **must** be placed in separate packages and should be completely and properly identified. Late bids **shall not** be considered under any circumstances.
- 4. **PRICES:** Bid unit price F.O.B. destination. In case of errors in extension, unit prices **shall** govern. Prices **shall** be firm and **shall not** be subject to escalation unless otherwise specified in the *Bid Solicitation*. Unless otherwise specified, the bid **must** be firm for acceptance for thirty (30) 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. Contractors **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 (1) year from the date of delivery, unless otherwise specified herein.
- 8. **SAMPLES:** Samples or demonstrators, when requested, **must** be furnished free of expense to the State. Each sample should be marked with the Contractor's name and address, bid or contract number and item number. If requested, samples that are not destroyed during reasonable examination will be returned at Contractor's expense. After reasonable examination, all demonstrators will be returned at Contractor's expense.
- 9. **TESTING PROCEDURES FOR SPECIFICATIONS COMPLIANCE:** Tests may be performed on samples or demonstrators submitted with the bid or on samples taken from the regular shipment. In the event products tested fail to meet or exceed all conditions and requirements of the specifications, the cost of the sample used, and the reasonable cost of the testing **shall** be borne by the Contractor.
- 10. **AMENDMENTS:** Contractor's bids cannot be altered or amended after the bid opening except as permitted by regulation.
- 11. **TAXES AND TRADE DISCOUNTS:** Do not include State or local sales taxes in the bid price. Trade discounts should be deducted from the unit price and the net price should be shown in the bid.
- 12. **AWARD:** *Term Contract:* A contract award will be issued to the successful Contractor. It results in a binding obligation without further action by either party. This award does not authorize shipment. Shipment is authorized by the receipt of a purchase order from the ordering agency. *Firm Contract:* A written State purchase order authorizing shipment will be furnished to the successful Contractor.
- 13. **DELIVERY ON FIRM CONTRACTS:** This solicitation shows the number of days to place a commodity in the ordering agency's designated location under normal conditions. If the Contractor cannot meet the stated delivery, alternate delivery schedules may become a factor in an award. The Office of State Procurement **shall** have the right to extend delivery if reasons appear valid. If the date is not acceptable, the agency may buy elsewhere, and any additional cost **shall** be borne by the Contractor.

14. **DELIVERY REQUIREMENTS:** No substitutions or cancellations are permitted without written approval of the Office of State Procurement. Delivery **shall** be made during agency work hours (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; (3) proper and legal processing of the invoice by all necessary State agencies. Invoices **must** be sent to the "Invoice To" point shown on the purchase order.
19. **STATE PROPERTY:** Any specifications, drawings, technical information, dies, cuts, negatives, positives, data or any other commodity furnished to the Contractor hereunder or in contemplation hereof or developed by the Contractor for use hereunder **shall** remain property of the State, **shall** be kept confidential, **shall** be used only as expressly authorized, and **shall** be returned at the Contractor's expense to the F.O.B. point provided by the agency or by OSP. Contractor **shall** properly identify items being returned.
20. **PATENTS OR COPYRIGHTS:** The Contractor **must** agree to indemnify and hold the State harmless from all claims, damages and costs including attorneys' fees, arising from infringement of patents or copyrights.
21. **ASSIGNMENT:** Any contract entered into pursuant to this solicitation **shall not** be assignable nor the duties thereunder delegable by either party without the written consent of the other party of the contract.
22. **CLAIMS:** Any claims the Contractor may assert under this Agreement **shall** be brought before the Arkansas State Claims Commission ("Commission"), which **shall** have exclusive jurisdiction over 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 if the Contractor has a claim pending before the Commission.
23. **CANCELLATION:** In the event, the State no longer needs the commodities or services specified for any reason, (e.g., program changes; changes in laws, rules or regulations; relocation of offices; lack of appropriated funding, etc.), the State **shall** have the right to cancel the contract or purchase order by giving the Contractor written notice of such cancellation thirty (30) days prior to the date of cancellation.

Any delivered but unpaid for goods will be returned in normal condition to the Contractor by the State. If the State is unable to return the commodities in normal condition and there are no funds legally available to pay for the goods, the Contractor may file a claim with the Arkansas Claims Commission under the laws and regulations governing the filing of such claims. If upon cancellation the Contractor has provided services which the State has accepted, the Contractor may file a claim. **NOTHING IN THIS CONTRACT SHALL BE DEEMED A WAIVER OF THE STATE'S RIGHT TO SOVEREIGN IMMUNITY.**
24. **DISCRIMINATION:** In order to comply with the provision of Act 954 of 1977 relating to unfair employment practices, the Contractor agrees that: (a) the Contractor **shall not** discriminate against any employee or applicant for employment because of race, sex, color, age, religion, handicap, or national origin; (b) in all solicitations or advertisements for employees, the Contractor **shall** state that all qualified applicants **shall** receive consideration without regard to race, color, sex, age, religion, handicap, or national origin; (c) the Contractor will furnish such relevant information and reports as requested by the Human Resources Commission for the purpose of determining compliance with the statute; (d) failure of the Contractor to comply with the statute, the rules and regulations promulgated thereunder and this nondiscrimination clause **shall** be deemed a breach of contract and it may be cancelled, terminated or suspended in whole or in part; (e) the Contractor **shall** include the provisions of above items (a) through (d) in every subcontract so that such provisions **shall** be binding upon such subcontractor or Contractor.
25. **CONTINGENT FEE:** The Contractor guarantees that no one has been retained 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 securing business.
26. **ANTITRUST ASSIGNMENT:** As part of the consideration for entering into any contract pursuant to this solicitation, the Contractor named on the *Bid Signature Page* for this solicitation, acting herein by the authorized individual or its duly authorized agent, hereby assigns, sells and transfers to the State of Arkansas all rights, title and interest in and to all causes of action it may have under the antitrust laws of the United States or this State for price fixing, which causes of action have accrued prior to the date of this assignment and which relate solely to the particular goods or services purchased or produced by this State pursuant to this contract.

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