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			
Solicitation Number:	710-26-037	Solicitation Issued:	April 10, 2026
Description:	Drug Testing and Collection		
Department:	Department of Human Services, Division of Developmental Disabilities Services		

SUBMISSION DEADLINE			
Bid Submission Date/Time	April 16, 2026, 1:00 p.m., Central Time	Bid Opening Date/Time:	April 16, 2026, 2:00 p.m., Central Time
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 Contractor 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 Contractor 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 Little Rock, AR 72201
United States mail (USPS):	***Note: Hand delivered responses must be delivered to and logged by the security desk at 700 Main Street prior to the bid submission deadline to be accepted otherwise these deliveries will not be accepted and may be disqualified. Receipts for submissions will NOT be issued to bidders.***
Commercial Carrier (UPS, FedEx or USPS Exp):	Arkansas Department of Human Services Attn: Office of Procurement P.O. Box 1437 Slot W345 Little Rock, AR 72203-1437 Arkansas Department of Human Services Attn: Office of Procurement 112 West 8th Street, Slot W345 Little Rock, AR 72201 Delivery providers, USPS, UPS, and FedEx deliver mail to OP's street address on a schedule determined by each individual provider. These providers will deliver to OP based solely on the street address. **Prospective Contractors assume all risk for timely, properly submitted deliveries.**
Bid's Outer Packaging:	If the bid packet is not sealed and properly marked with the below information, the package may be opened for bid identification purposes. • Solicitation number • Date and time of bid opening • Prospective Contractor's name and return address

OFFICE OF PROCUREMENT CONTACT INFORMATION			
Department Buyer:	Jordan Philson	Buyer's Direct Phone Number:	501-396-6095

Email Address:	DHS.OP.Solicitations@dhs.arkansas.gov	DHS Main Number:	501-682-1001
Department Website: OSP Website:	DHS Procurement Announcements OSP Bid Opportunities		

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 Developmental Disabilities (DDS), Conway Human Development Center (CHDC), to obtain pricing and a contract for drug and alcohol screening services for current and prospective employees. The CHDC is located at 150 Siebenmorgen Road, Conway, AR 72032 and is a twenty-four (24) hour a day, seven (7) days a week intermediate care facility for individuals with intellectual and developmental disabilities.

Note: All DHS facilities are designated as non-smoking. All HDC's are tax exempt.

1.2 INTERGOVERNMENTAL/COOPERATIVE USE OF PROPOSAL AND CONTRACT (NON-NEGOTIABLE)

According to §19-61-802, this proposal and any resulting contract may be available to any State Agency or Institution of Higher Education that wishes to utilize the services of the selected Contractor. Upon agreement by the parties, they may enter into an agreement as provided in this solicitation.

1.3 TYPE OF CONTRACT

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

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

C. The term of this contract **shall** be for one (1) year. The anticipated starting date for the contract is July 1, 2026. Upon agreement by the Contractor 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. Contractor's questions will be answered as a courtesy and at Contractor'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 Contractor's agreement to and compliance with that item is mandatory.

B. Exceptions taken to any Requirement in this *Bid Solicitation*, whether submitted in the Contractor's bid or in subsequent correspondence, **shall** cause the Contractor'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.

1.8 RESPONSE DOCUMENTS

A. Bid *Response Packet*

The following items are submission requirements and must be submitted in the *Response Packet*.

1. A hard copy of the original response packet must be received on or before the bid submittal date and time. Printed copies should be single sided.

2. An official authorized to bind the Contractor(s) to a resultant contract **must** sign the *Bid Signature Page*.

3. Contractor's signature on this page **shall** signify Contractor's agreement that either of the following **shall** cause the Contractor'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.*

4. The following items **shall** be submitted with the *Bid Response Packet in a sealed envelope*:

   a. *Response Signature Page*.
   b. Proposed Subcontractors Form.
   c. Vendor Agreement and Compliance.
   d. Official Bid Price Sheet
   e. EO 98-04 *Contract and Grant Disclosure Form*
   f. Signed Addenda, if applicable.
   a. Other documents and/or information as may be expressly required in this Bid Solicitation. Label documents and/or information so as to reference the Bid Solicitation's item number.

5. **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, including 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.)*

1. Contractor's original *Official Bid Price Sheet* and *Cost Proposal Template (if applicable)* **must** be submitted in hard copy format.
2. Contractor should also submit one (1) electronic copy of the *Official Bid Price Sheet* and *Cost Proposal Template* (if applicable), preferably on a flash drive, in a single PDF file.
3. The *Official Bid Price Sheet* and *Cost Proposal Template* (if applicable*)*, including the hard copy and electronic copy should be clearly marked as "Pricing."

1.9 AGREEMENT AND COMPLIANCE PAGE

A. Contractor **must** sign the *Agreement and Compliance Page* relevant to each section of the *Bid Solicitation Document.* The *Agreement and Compliance Page* is included in the Bid *Response Packet*.

B. Contractor's signature on this page **shall** signify agreement to and compliance with all requirements within the designated section.

1.10 SUBCONTRACTORS

A. Contractor **must** complete and submit the *Proposed Subcontractors Form* included in the *Bid Response Packet* to indicate Contractor's intent to utilize, or to not utilize, subcontractors.

1. Prospective Contractors shall identify the service(s) that will be provided by each subcontractor under the contract.

2. Upon DHS request, Contractor shall provide a copy of the subcontractor's agreement or scope of work.

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.

D. DHS reserves the right to request removal of a subcontractor, for any reason, upon written notice to the Contractor.

1.11 PRICING

A. Pricing **must** include all tasks and activities required to provide all services required by this IFB and under a resulting contract, including without limitation transitional activities.

B. Any cost not identified by the Contractor but subsequently incurred in order to achieve successful operation **shall** be borne by the Contractor.

C. Quantities stated are estimates only and are not guaranteed. Prospective Contractor **must** bid unit price on the estimated quantity and unit of measure specified.

D. The State may order more or less than the estimated quantity on term contracts, and the Contractor **shall** sell to the Department quantities ordered at no more than the bid price.

Prices **must** be firm offers. Price increases may be considered at the time of contract renewal only if the request for an increase is submitted in writing to DHS and the DHS Office of Procurement (OP) at least six (6) months prior to contract renewal with accompanying justification.

1. The accompanying justification **must** demonstrate that the increase in price is based on unforeseen circumstances not considered within the initial submitted bid price.

2. The accompanying justification **must** demonstrate that the increase in contract price is based on an increased cost to the Contractor and that the proposed pricing is still competitive in the marketplace. DHS **shall** have the right to require additional information pertaining to the requested increase.

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

4. DHS **shall** have the right to approve or deny the request.

E. **Medicaid Enrolled Provider Rates**. For any Contractors who are also enrolled Medicaid providers, such rates and any changes thereto are governed by statutory approval protocols. As such, DHS cannot unilaterally increase approved said Medicaid rates through a contract amendment. See Ark. Code Ann. §§ 20-76-112 and 20-77-110.

F. If pricing documents do not allow for accurate pricing, Prospective Contractor should notify the SAS OSP Procurement Specialist at least seventy-two (72) hours before the bid opening time.

G. Pricing **must** be proposed in U.S. dollars and cents.

H. Discount from list bids pricing is not acceptable unless requested elsewhere in the Solicitation.

I. State and local sales taxes should not be included in the bid price. Trade discounts should be deducted from the unit price and the net price should be shown in the bid.

1.12 PRIME CONTRACTOR RESPONSIBILITY

A. A joint bid submitted by two (2) or more Contractors is acceptable. However, a single Contractor **must** be identified as the prime contractor.

B. The prime contractor **shall** be held responsible for the contract and **shall** be the sole point of contact.

1.13 INDEPENDENT PRICE DETERMINATION

A. By submission of this bid, the Contractor 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 Contractors **shall** understand that this paragraph may be used as a basis for litigation.

1.14 PROPRIETARY INFORMATION (NON-NEGOTIABLE)

A. Documents submitted pertaining to this *Bid Solicitation* become property of the State and are subject to the Arkansas Freedom of Information Act (FOIA) (*see* Ark. Code Ann. § 25-19-101, et seq.).

B. In accordance with FOIA, all public records shall be open to inspection unless specifically exempted from disclosure. In the interest of promoting 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 be 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 FOIA and any other applicable law by submitting a redacted copy of the response. By redacting any information contained in the response, the Contractor warrants that it has formed a good faith opinion having received such necessary or proper review by counsel and other knowledgeable advisors that the portions redacted are exempt from disclosure pursuant to Ark. Code Ann. § 25-19-105(b). The Arkansas FOIA has a presumption of openness. It is to be liberally interpreted, and exemptions are to be narrowly construed. For each redaction, Prospective Contractor **must** provide detailed justification as to how disclosure of the redacted information would give advantage to competitors. As custodian of the records, the State has the legal authority to review redactions to determine whether each are specifically and sufficiently justified to retain redaction prior release. **Evidence that demonstrates that the Prospective Contractor meets the minimum qualifications of this IFB must be minimally redacted.**

D. **Under no circumstances will pricing information be designated as confidential.**

E. One (1) complete electronic copy of the submission documents from which any proprietary information has been redacted should be submitted on a flash drive in the Response Packet. Do not submit documents via e-mail or fax.

F. Except for the redacted information, the redacted copy **must** be identical to the original hard copy, reflecting the same pagination as the original and showing the space from which information was redacted.

G. The Prospective Contractor is responsible for identifying all proprietary information and for ensuring the electronic copy is protected against restoration of redacted data.

H. The redacted copy shall be open to public inspection under the Freedom of Information Act (FOIA) without further notice to the Prospective Contractor.

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

J. The State will release any redacted information deemed to be subject to FOIA; the State will **not** contact the Prospective Contractor prior to the release of documents.

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

1.15 CAUTION TO VENDORS

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

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

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

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

E. 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. Contractor **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. Contractors may submit multiple bids.

1.16 REQUIREMENT OF ADDENDUM

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

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

C. An addendum posted within three (3) calendar days prior to the bid opening shall extend the bid opening and may or may not include changes to the Bid Solicitation.

D. The Contractor shall be responsible for checking the following websites listed on page one (1) for any and all addenda up to bid opening.

1.17 CONTRACTOR SELECTION

A. Award Determination

1. Award is expected to be made to lowest responsible, responsive bidder based on grand total. Consideration will only be given to those that bid 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. The State reserves the right to determine that received costs from any vendor are unreasonable (too high for the requirements of the subject solicitation) or unrealistic (too low to reflect the ability of the offeror to meet the requirements of the solicitation). When it is determined by the State that pricing is potentially unrealistic or unreasonable, the State may request an offeror to clarify elements of pricing, and the offeror may be removed from consideration for a solicitation, at the sole discretion of the State.

3. 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. Discussions and Negotiations

1. If the State so chooses, negotiations may be conducted with the lowest-bidding, responsive and responsible bidder if:
   a. All bids received from responsive and responsible bidders exceed available funding; or
   b. It appears that additional savings to the state may result from negotiation.

2. If negotiations fail to result in a contract, the State may begin the negotiation process with the next lowest-bidding, responsive and responsible bidder. The negotiation process may be repeated until an acceptable lower bid price is negotiated, or until such time the State determines negotiations are no longer in the best interest of the state.

3. Negotiations are conducted at the sole discretion of the State.

C. Anticipation to Award

1. Once an anticipated successful Contractor has been determined, the anticipated award will be posted on the websites listed on page one (1) of this IFB.

2. The anticipated award will be posted for a period of fourteen (14) days prior to the issuance of a contract. Contractors and agencies are cautioned that these are preliminary results only, and a contract will not be issued prior to the end of the fourteen (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 Contractor's responsibility to check the above referenced websites for the posting of an anticipated award.

5. These notices are anticipated awards only and are subject to protest.

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.

1.18 EQUAL EMPLOYMENT OPPORTUNITY POLICY

A. In compliance with Arkansas Code Annotated § 19-60-104, 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. Contractors are responsible for providing updates or changes to their respective policies, and for supplying *EO Policies* upon request to other State agencies that must also comply with this statute.

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

1.19 COMBINED CERTIFICATIONS

A. Pursuant to Arkansas law, a Contractor must certify compliance with the certification requirements listed below that are relevant to the contractor's performance under the resulting contract and will remain so for the aggregate term of any resultant contract. Additionally, Contractor agrees and certifies they shall comply with all Arkansas laws applicable to the contractor's performance under the resulting contract.

1. Boycott Israel. See Arkansas Code Annotated § 25-1-503.
2. Knowingly employ or contract with illegal immigrants. See Arkansas Code Annotated § 19-60-105.
3. Boycott Energy, Fossil Fuel, Firearms, and Ammunition Industries. See Arkansas Code Annotated § 25-1-1102.
4. Employ a Scrutinized Company as a subcontractor. See Arkansas Code Annotated § 25-1-1203.

1.20 PAST PERFORMANCE

In accordance with provisions of State Procurement Law, specifically Ark. Code Ann. § 19-61-506 and OSP Rule 19 CAR § 1-527(b), 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.

1.21 PROCUREMENT CARD ACCEPTANCE (IF APPLICABLE)

A. Awarded Contractor should have the capability of accepting the State's authorized 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. P-card is not the exclusive method of payment.

1.22 PUBLICITY

A. Contractors **shall not** issue a news release pertaining to this *Bid Solicitation* or any portion of the project without OP's prior written approval.

B. Failure to comply with this Requirement **shall** be cause for a Contractor's bid to be disqualified.

1.23 RESERVATION

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

1.24 DATA LOCATION (NON-NEGOTIABLE)

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

1.25 SCHEDULE OF EVENTS

Public Notice of IFB	April 10, 2026
Date and Time for Bid Submission	April 16, 2026, 1:00 p.m. CT
Date and Time for Bid Opening	April 16, 2026, 2:00 p.m. CT
Intent to Award Announced, On or About	May 1, 2026
Contract Start (Subject to State Approval)	July 1, 2026

1.26 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 Developmental Disabilities (DDS), Conway Human Development Center (CHDC), to obtain pricing and a contract for drug and alcohol screening services for current and prospective employees. The CHDC is located at 150 Siebenmorgen Road, Conway, AR 72032 and is a twenty-four (24) hour a day, seven (7) days a week intermediate care facility for individuals with intellectual and developmental disabilities.

2.2 BACKGROUND

In accordance with DHS Policy 1087, Employee Drug and Alcohol Prevention, all individuals selected for new employment, a change in employment within DHS, or identified for testing based on reasonable cause shall be required to submit to drug and/or alcohol testing as a condition of employment and continued employment. All offers of employment are contingent upon the selectee successfully passing the required pre-employment drug and/or alcohol screening. This requirement applies to current DHS employees applying for different positions, all new hires or final selected applicants, and any DHS employee subject to reasonable cause testing. CHDC requires testing for drugs of abuse, including both illicit and prescription drugs, at standard, industry-accepted cutoff levels as established and administered by the testing facility for each drug tested.

When a job offer is extended to an applicant residing out of state, DHS may require that drug screening be conducted in the applicant's state of residence. The Contractor shall provide the name, address, and telephone number of an approved collection facility based on the applicant's location. In the event a DHS employee is involved in an out-of-state accident requiring post-accident testing, the collection site shall be determined by the location of the accident. Any alternate collection facility must comply with all applicable DOT regulations and follow procedures equivalent to those used by the Contractor's collection facilities. For out-of-state testing, the local vendor shall invoice the Contractor at the contract rate, and the Contractor shall invoice DHS; accordingly, this invoicing process applies to both out-of-state pre-employment and post-accident drug testing involving DHS employees.

DHS employees are prohibited from using or possessing controlled substances or alcohol while on duty, reporting to work under the influence of alcohol or illegal drugs, or misusing legally prescribed medications. Misuse of prescription medication includes the use of drugs prescribed to another individual. For purposes of this policy, legal drugs are defined as medications prescribed by a licensed physician or authorized medical provider.

2.3 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 must have a minimum of five (5) years of experience providing drug and alcohol screening services. For verification purposes, Prospective Contractor must provide, with bid submission, a completed Attachment F Client History Form.

D. Contractor must be certified by the Substance Abuse and Mental Health Services Administration (SAMHSA) (formerly known as the National Institute of Drug Abuse). For verification purposes, Prospective Contractor **must** submit at time of bid a copy of Contractor's current SAMHSA certification.

E. Prospective Contractor or subcontractor(s) must have a business permit(s) for specimen collection. For verification purposes, Prospective Contractor must provide a copy of the permit(s) with bid submission.

F. Each laboratory used by the Contractor shall be appropriately licensed by Department of Health as a testing laboratory in accordance with Arkansas A.C.A. § 11-14-110. For verification purposes, Prospective Contractor shall provide, with bid submission, a copy of the lab(s) certification(s).

G. Contractor must have an after-hours emergency contact number and an after-hours testing facility. For verification purposes, Prospective Contractor must provide an after-hours phone number and contact person on page 5 of the response packet.

2.4 SCOPE OF WORK

A. The Contractor shall, in accordance with these specifications, furnish the required lab, personnel, transportation, materials, tools, and equipment necessary for the collection, screening and testing of specimens collected from prospective and current employees of the Conway Human Development Center (CHDC).

B. Compliance
1. Contractor shall have on or before the contract start date, and shall maintain for the duration of the contracted period, the following:
   a. A license to do business in the State of Arkansas.
   b. All licenses and certification of the Contractor's employee that administer drug testing. All required licenses and certifications must be on file with CHDC in case alternative testing (hair and/or blood) is required.
2. The contractor shall provide Drug screen analysis with laboratory testing and confirmation testing of positive results at a certified and approved testing laboratory as required by Arkansas Code Annotated § 11-14-101 et seq. A lab testing facility within the State of Arkansas is preferred but an out of state testing facility will be acceptable as long as the time frame specifications can be met, and a local courier service pick-up of specimens is used.

C. Specimen Collection
1. All non-pre-employment testing, including but not limited to reasonable cause, workers' compensation, diluted specimens, medication count errors, and any other applicable testing as required shall be collected by a trained designated CHDC staff member.

2. The contractor shall conduct pre-employment drug screen collection off-site at a contractor designated facility. Pre-employment samples should be collected by trained personnel at the contractor's designated location. For collections other than pre-employment, contractor will train CHDC staff on procedures for proper collection, testing, reporting, and steps for facilitating confirmatory testing (when needed). The contractor shall be solely responsible for specimen collection, chain of custody procedures, laboratory analysis/confirmation, and all drug/alcohol testing services, including alternative testing methods (e.g., hair or blood) when requested.

3. The contractor shall provide the required kit that is used for sample collection and testing, along with custody control forms, seals, and everything needed for drug screen collection, testing, confirmation, and reporting. As new technology develops or depending on the agency's need, new methods of testing may be requested. The contractor shall provide and use other requested methods at no additional cost to CHDC.

4. Contractor must provide sample/specimen pick-up for drug testing Monday through Friday, 8:00 a.m.-4:00 p.m.

5. Contractor **must** provide alternative drug collection and testing access twenty-four (24) hours daily, three hundred sixty-five (365) days a year, with no closure for holidays or other events, to include hair and/or blood testing at the employee's expense, if they are unable to provide a sample.

D. Testing
1. A laboratory testing facility located within the State of Arkansas is preferred; however, an out-of-state laboratory is acceptable provided it meets all applicable federal and state requirements.

2. The Contractor shall ensure all specimen collection, handling, testing, and reporting are conducted under strict security protocols to prevent tampering and maintain chain of custody integrity. All services shall comply with the Health Insurance Portability and Accountability Act (HIPAA).

3. The Contractor **shall** report drug screen results as either "Negative" or "Positive." All non-negative samples must be sent for confirmatory testing.

4. Positive Drug Screening Results
    a. A "Positive" result **shall** indicate that the employee/applicant did not pass the drug and/or alcohol screening analysis
    b. All positive drug screen results must be reported, by email, fax, or telephone, to a CHDC-designated employee within forty-eight (48) hours of drug testing and completion of Medication Review Officer (MRO) review.
    c. The Contractor shall confirm all initial positive screening results by re-testing the same specimen using an approved confirmatory testing methodology at the time results are obtained.

5. Negative Drug Screening Results
    a. All negative drug screen results must be reported, by email, fax, or telephone to CHDC-designated employee within twenty-four (24) hours of drug testing. All non-negative samples must be sent for confirmatory testing.
6. In the event an employee/applicant disputes a confirmed positive result, the individual may obtain testing from another certified laboratory, physician's office, or hospital within twenty-four (24) hours of notification. If the alternate test is negative, the Contractor shall be responsible for the payment of the alternate test and any associated legal costs.

7. The Contractor shall provide expert testimony and confirmation documentation as directed by DHS and at no additional cost.

E. Laboratory
The lab utilized for drug screens **must** be certified by SAMHSA.

1. Drug screens shall include the following two (2) panels:
    a. Panel #1 Pre-employment testing:
        i. Oral fluid testing for Amphetamines and Methamphetamine
        ii. Oral fluid testing for Cocaine Metabolites
        iii. Oral fluid testing for Phencyclidine (PCP)
        iv. Oral fluid testing for THC metabolites
        v. Oral fluid testing for Opiates

    b. Panel #2 All other testing:
        i. Oral fluid testing for Amphetamines and Methamphetamine
        ii. Oral fluid testing for Cocaine Metabolites
        iii. Oral fluid testing for Phencyclidine (PCP)
        iv. Oral fluid testing for THC metabolites
        v. Oral fluid testing for Opiates
        vi. Breathalyzer testing for Alcohol

2. Additional drugs, that are unknown at the time of this contract, may be requested to be tested.

F. Reporting
Contractor must submit a monthly report of drug tests given for each: new hire, promotion, random, reasonable, post-accident, etc. as requested by CHDC. Reports of the test results will be held strictly confidential and will be submitted only to authorized CHDC personnel.

2.5 CONFLICT OF INTEREST MITIGATION

A. The Contractor shall comply with the terms of the DHS Organizational or Personal Conflict of Interest provisions.

B. The Contractor shall disclose all actual, apparent, or potential conflicts of interest to DHS within five (5) business days of having knowledge of them, unless otherwise approved by DHS.

C. The Contractor shall develop a mitigation plan as requested by DHS which must be approved and accepted by DHS prior to implementation.

D. Changes to the approved mitigation plan must be approved in advance by DHS.

2.6 BACKGROUND CHECK REQUIREMENT

A. The Contractor shall comply with Arkansas Code Annotated § 21-15-101 et seq., and any amendments thereto, which requires all employees of state agencies in designated positions (including those providing care, supervision, treatment, or any other services to the elderly, intellectually or developmentally disabled persons, individuals with mental illnesses, or children who reside in any state-operated facility) or a position in which the applicant or employee will have direct contact with a child, to submit to specified background and registry checks.

B. Should an applicant or employee be found to have been convicted of a crime listed in Arkansas Code Annotated§ 21-15-101 et seq., that employee or applicant shall be prohibited from providing services in a designated position as defined by Arkansas law or being present at the facility.

C. Should an applicant or employee be found to have been named as an offender or perpetrator in a true, substantiated, or founded report from the Child Maltreatment Central Registry, the Adult Abuse Central Registry, or the Certified Nursing Assistant/ Employment Clearance Registry, the applicant or employee shall be immediately disqualified.

2.7 MANDATED REPORTING

A. Pursuant to Arkansas Code Annotated §§ 12-18-402(b)(10) and 12-12-1708(a)(1)(AA), Contractor and all of its employees, agents, and all Subcontractors and Subcontractor's employees and agents **shall** immediately make a report to the Child Abuse Hotline or the Adult Maltreatment Hotline (based on type of maltreatment) if Contractor or any of its employees, agents, or Subcontractors' employees and agents, while performing duties under this contract, have reasonable cause to suspect that:

1. A child has been subjected to child maltreatment.
2. A child died as a result of child maltreatment.
3. A child died suddenly and unexpectedly.
4. Observe a child being subjected to conditions or circumstances that would reasonably result in child maltreatment.
5. An endangered person or an impaired person has been subjected to conditions or circumstances that constitute adult maltreatment or long-term care facility resident maltreatment.

2.8 TRANSITION PLAN PROCEDURES

A. DHS reserves the right to request submission of a transition plan and/or the timely delivery of any DHS data, contract deliverables, at any time, for any reason, during the contract term.

B. Within thirty (30) calendar days of DHS request, the Contractor **shall** submit for approval a detailed plan for transitioning all contracted services to DHS, or to another Contractor selected by DHS to provide the contracted services.

1. The Contractor **shall not** implement the plan until it has received DHS's written approval of the plan, including pre-approval of the format and delivery method of all proprietary data, and all contract deliverables.
2. The Contractor **shall** take all reasonable action to provide a minimally disruptive turnover.

C. The plan **must** include the following, without limitation:

1. Contractor's proposed approach to the transition;
2. List of Contractor's tasks, subtasks, and schedule for all transition activities;

3. Contractor's organizational chart and staffing matrix for all staff responsible for transition activities including title, telephone number, and email address;
4. Operational tasks and procedures necessary to support ongoing operations during transition;
5. A detailed description of the services required by the new Contractor to complete the transition;
6. A detailed description of the transfer of proprietary data. DHS **must** pre-approve the format and delivery method of all proprietary data, and the plan **must** include at minimum, the following:
    a. Provisions for the delivery of all proprietary data collected and/or created during the life of the contract to DHS thirty (30) calendar days prior to the contract end date.
    b. Provisions for the delivery of all proprietary data collected and/or created during the final thirty (30) business days of the contract, or any proprietary data not captured in the initial delivery no more than fifteen (15) business days following the contract end date.
7. DHS reserves the right to request re-submission of any proprietary information deemed unacceptable after the Contractor's initial transfer.

D. The Contractor **shall** work in good faith and cooperate with any new Contractor and the State during the transition period.

E. The Contractor **shall** participate in any transitional meetings as requested by the new vendor and the State.

F. The Contractor **shall** coordinate and cooperate with the new vendor in the transition of services as follows (or as otherwise required by DHS):

1. Ninety (90) days from contract end date, the Contractor **shall** facilitate virtual "shoulder to shoulder" observation of all aspects of the day-to-day contractual operations by new vendor for thirty (30) days.
2. Sixty (60) days from contract end date, the new vendor will assume primary contractual responsibilities and facilitate incumbent Contractor's virtual "shoulder to shoulder" support for a minimum of thirty (30) days.
3. Thirty (30) days from the contract end date, the Contractor **shall** remain available for questions and technical assistance for new Contractor and the State on an as-needed basis.
4. Ten (10) business days after the completed transition, Contractor **shall** provide DHS with a Transition Results Report documenting the results of each step of the transition plan. **The transition shall not be considered complete until this document is approved by DHS.**

2.9 EXPIRATION OR TERMINATION PROCEDURE REQUIREMENTS

A. Upon delivery by electronic mail or certified mail to the Contractor of a Notice of Termination specifying the nature of the termination and the date upon which such termination becomes effective, the Contractor **shall** complete the following unless otherwise directed by DHS:

1. Stop work under the resulting contract on the date and to the extent specified in the Notice of Termination which may or may not be the same date as contract termination.
2. Place no further orders or enter into any additional subcontracts for services.
3. Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination.
4. Assign to DHS in the manner and to the extent directed by the DHS representative all of the rights, title, and interest of the Contractor in the orders or subcontracts so terminated.
    a. DHS **shall** have the right, in its discretion, to settle or pay any and all claims arising out of the termination of such orders and subcontracts.
5. With the approval or ratification of the DHS representative, settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, the cost of which would be reimbursable, in whole or part, in accordance with the provisions of the contract.
6. Transfer title to DHS and deliver in the manner at the time and extent directed by the DHS representative, all files, data, information, manuals, or other documentation or property, in any form whatsoever, that relate to the work terminated by the Notice of Termination.

7. Complete the performance of such part of the work as **shall not** have been terminated by the Notice of Termination or stop work order.
8. Take such action as may be necessary, or as the DHS representative may direct, for the protection and preservation of the property related to the contract in the Contractor's possession and in which DHS has or may acquire an interest.

B. The Contractor **shall** proceed immediately with the performance of the above obligations notwithstanding any delay in determining or adjusting the amount of any item or reimbursable price under this subsection.

C. After receipt of a Notice of Termination, the Contractor **shall** submit to DHS all outstanding claims within ten (10) working days.

D. The Contractor and DHS may agree upon the amounts to be paid to Contractor by reason of the total or partial termination of work as described in this subsection.

E. In the event of Contractor and DHS's failure to agree, in whole or in part, on the amount to be paid to Contractor in connection with the total or partial termination of work as described in this section, DHS will determine, on the basis of information available, the amount, if any, due to Contractor by reason of termination and shall pay to the Contractor the amount so determined.

2.10 CONTRACT REMEDIES

A. The Contractor **shall** be liable to the State for all actual and direct damages caused by the Contractor's default.

1. The State may self-perform or buy substitute deliverables from a third party for those that were to be provided by the Contractor.
2. The State may recover the costs associated with self-performance or acquiring substitute deliverables, less any expenses or costs avoided by the Contractor's default.
3. If actual and direct damages are uncertain or difficult to determine, or are otherwise not addressed in the resulting contract, the State may recover liquidated damages.

B. Unless otherwise specified, liquidated damages will be in the amount of 1% of the value of the order, deliverable, or milestone that are the subject of the default, for every day that the default is not cured by the Contractor.

1. Any liquidated damages agreed upon in the Performance Standards attachment shall apply and the State will not invoke duplicative damages.

C. The State may withhold payment or set off the amount of any liquidated damages, other damages, or any other obligation of the Contractor or its subsidiaries to the State, including any amounts the Contractor owes to the State under the resulting contract, against any payments due to the Contractor under the resulting contract.

2.11 AUDIT REQUIREMENTS

A. The Contractor **shall** comply with DHS audit requirements as outlined in "Arkansas Department of Human Services Audit Guidelines."

B. Copies may be obtained from:

Arkansas Department of Human Services Office of Payment Integrity Audit Coordination
P.O. Box 1437 – Slot S270
Little Rock, Arkansas 72203-1437

2.12 PROPERTY AND SOFTWARE

A. All documents and deliverables prepared by the Contractor and accepted by DHS **shall** become the property of DHS and **shall not** be used for any other purpose by Contractor without DHS's specific written consent.

B. 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 DHS or OSP.

C. The Contractor **shall** properly identify items being returned.

D. Property, including intellectual property, acquired or created by Contractor as a Contract deliverable or as a result of its performance of contract services, is the property of DHS that **shall** be used only as expressly authorized and kept confidential as permitted or required by law.

E. The Contractor **shall** be responsible for the proper custody and care of all DHS owned property, including DHS owned property used in connection with the performance of this contract, and Contractor agrees to reimburse DHS for its loss or damage due to negligence, theft, vandalism, or Acts of God.

F. In accordance with Arkansas Code Annotated § 19-60-106, any data received or stored by a Contractor for storage services, software services, or any other Contract service is the property of DHS.

1. For the purposes of this section, “Data” means recorded information, regardless of form or characteristic.

G. DHS reserves the right to request that Contractor provide a detailed data transition plan and/or return its data at any time, for any purpose.

H. The Contractor will have access to all applications software required by DHS for use in the performance of the services covered in the resulting contract, subject to customary confidentiality and other license terms and conditions.

1. No changes in the applications software may be made without the written consent of DHS if the change would have the effect of causing DHS to incur additional costs for either hardware or software upgrades or both.

I. DHS **shall** retain ownership of any code, algorithm, or methodology created by the Contractor and used in the development of a deliverable under a resulting contract.

J. Any applications software developed by Contractor in the performance of the services under the resulting contract **must** become the property of the State of Arkansas at no additional cost.

K. Any existing software applications owned by Contractor and used in the performance of the services under the resulting contract **must** be granted to the State of Arkansas at no additional cost, subject to customary confidentiality and other license terms and conditions.

L. The Contractor **shall** provide DHS ownership of any software that is designed, developed, installed, or enhanced with Federal funding per Federal Financial Participation (FFP) (45 CFR 95.617).

M. The Contractor **shall** provide DHS with a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use and authorize others to use for federal and state government purposes software, modifications to software, and documentation that is designed, developed, installed, or enhanced with Federal funding per FFP (42 CFR 433.112).

2.13 PRIVACY AND SECURITY

A. The Contractor shall ensure and maintain compliance with the most current version of Health Insurance Portability and Accountability Act (HIPAA), Health Information Technology for Economic and Clinical Health (HITECH), The Privacy Act of 1974, Arkansas Personal Information Protection Act (Arkansas Code § 4-110-104), and other Federal and State privacy and security standards.

1. The State of Arkansas Security and Privacy policies (Policies: 1001 -1003, 1053, 1074, 1095, 4001 - 4013, and 5000 - 5011) can be found at: https://humanservices.arkansas.gov/dhs-policies.

B. 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 discovery of the breach (unless otherwise approved by DHS) at DHS.IT.Security.Team@dhs.arkansas.gov.

C. The Contractor shall use protected health information (PHI) and other Confidential Information only in a manner that is necessary to provide the services required in this Solicitation and under a resulting contract.

1. For purposes of a resulting contract, any information furnished or made available to the Contractor relating to DHS clients, the financial condition, results of operation, business, customers, properties, assets, liabilities or information relating to recipients and providers including, but not limited to PHI as defined by the Privacy Rule promulgated pursuant to the HIPAA of 1996, is collectively referred to as "Confidential Information."

D. The Contractor shall safeguard the use and disclosure of, and restrict access to, PHI and other confidential information.

E. The Contractor and DHS shall acknowledge that the disclosure of Confidential Information in contravention of the provisions hereof would damage the party to whom the information disclosed relates and such party has the right to seek all remedies at law or equity to minimize such damage and to obtain compensation therefore.

F. The Contractor shall retain all PHI as defined by the Privacy Rule promulgated pursuant to HIPAA for six (6) years or as otherwise required by HIPAA.

G. The Contractor shall safeguard the use and disclosure of information concerning applicants for or recipients of Title XIX services in accordance with 42 CFR Part 431, Subpart F, and shall comply with 45 CFR Parts 160 and 164 and shall restrict access to and disclosure of such information in compliance with federal and state laws and regulations.

H. Contractor shall retain all PHI as defined by the Privacy Rule promulgated pursuant to HIPAA for six (6) years or as otherwise required by HIPAA.

2.14 PERFORMANCE STANDARDS

A. State law requires that contracts for services include Performance Standards for measuring the overall quality of services that a Contractor **shall** provide.

B. The State may be open to negotiations of Performance Standards prior to contract award, prior to the commencement of services, or at times throughout the contract duration. Table A: *Performance Standards* identifies expected deliverables, performance measures, or outcomes; and defines the acceptable standards and damages applicable if standards are not met.

C. Performance Standards **shall not** be amended unless they are agreed to in writing and signed by the parties.

D. Failure to meet the minimum Performance Standards as specified will result in the assessment of damages, as indicated in the Performance Standards found in Table A.

E. In the event a Performance Standard is not met, the Contractor will have the opportunity to defend or respond to the insufficiency. The State has the right to waive damages if it determines there were extenuating factors beyond the control of the Contractor that hindered the performance of services. In these instances, the State has final determination of the performance acceptability.

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

G. Contractor's failure to comply with obligations of a resulting contract, any applicable State and federal laws, regulations, and policies in performance of the services **shall** be deemed insufficient and unacceptable performance.

H. During the term of the resulting contract, the State will complete sufficient performance evaluation(s) to determine if the Contractor's performance is acceptable. The State's determination of "Acceptable Performance" as defined herein **shall** be final and controlling. In the event a Performance Standard is not met, the Contractor will have the opportunity to defend, respond to, or cure the insufficiency to the satisfaction of the State.

I. The State **shall** have the right to modify, add, or delete Performance Standards throughout the term of the resulting 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 Contractor input so as to establish standards that are reasonably achievable.

J. Unless outlined differently in Table A below, acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards for acceptable performance throughout the resulting contract term as determined by DHS.

K. Penalties will be calculated from the total payment for the month in which the deficiency took place and assessed in a future months' payment to Contractor. DHS may impose the below damages for insufficient performance cumulatively, or independently. The State may consider possible pro-rata application of damages as it determines by circumstances giving rise to the non-compliance incident(s) within the State's sole discretion.

L. Upon DHS request, a Corrective Action Plan (CAP) acceptable **shall** be submitted for DHS approval within ten (10) business days of the request. DHS will request a CAP as a first step for all contractual non-compliance or poor performance.

M. DHS reserves the right to impose additional penalties to those stated below, including without limitation: withholding payment on future invoices until the Contractor is in full compliance; maintaining a below standard Vendor Performance Report (VPR) in the vendor file for the Contractor; and terminating the Contract.

SECTION 3 – GENERAL CONTRACTUAL REQUIREMENTS

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

3.1 PAYMENT AND INVOICE PROVISIONS

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

B. The Contractor shall invoice the State as required by the Department and should not invoice the State in advance of delivery and acceptance of any commodities or services (Arkansas Code Annotated § 19-4-1206).

1. Invoices **must** be sent to the "Invoice To" point shown on the purchase order and will be paid in accordance with applicable State accounting procedures. All invoices **shall** be forwarded to:

   DHS Conway HDC
   ATTN: Mary Ferguson
   150 E. Siebenmorgen Road
   Conway, AR 72032

   Or emailed to mary.ferguson@dhs.arkansas.gov
2. The Contractor should invoice the agency by an itemized list of charges. The Department's Purchase Order Number and/or the Contract Number should be referenced on each invoice.

C. The Contractor will be paid upon completion of all of the following:

1. Submission of an original and the specified number of copies of a properly itemized invoice in a format approved by DHS;
2. Delivery and DHS acceptance of the commodity, goods, or services; and
3. Proper and legal processing of the invoice by all necessary State agencies

D. The Contractor **shall** bill all services rendered under a resulting contract as set out herein.

1. No services may be billed to a Medicaid Provider or to any other contract.
2. Payments will be made after services are provided based on the financial terms in Table B.

Table B: Financial Terms

Funding Source	Reimbursement Method*	Payment Limitations**	Match Requirements***	
			Maximum Amount of Match Required OR Percentage of Allowable Billing Required	Type(s) of Match (Select from listing below)

a. Reimbursement Method will be selected from the following: Actual Cost Reimbursement; Final Negotiated Rate; Fixed Rate; Scheduled Reimbursement.

b. Payment Limitations will be selected from the following: Quarterly Cumulative; Monthly Cumulative; None.

c. Matching Requirements: the Contractor **shall** certify the funds, property, goods, or services listed in this section will be used to meet the match requirements of the resulting contract.

d. If there are no matching requirements for a funding source, the Contractor will enter “None” in the corresponding box above.

e. Type(s) of Match: The matching requirement may be satisfied by any one or a combination of the following methods unless specific funding source restrictions apply:

f. Cash Match: Cash will be obtained by Contractor and will be applied against allowable costs covered by the resulting contract.

g. Donation of Property: Title to or the use of property or equipment has been donated by a public agency for the program(s) covered by the resulting contract.

h. If title to property is donated, match value is the fair market value of the property. If the use of the property or equipment is donated, match value is the fair rental value as determined by applicable DHS policy. These values will be used as matching of the payments.

i. Third Party In-Kind Contributions: Property, goods, or services have been donated by a non-federal agency for the programs(s) covered by the resulting contract without charge to Contractor. 45 C.F.R. Part 74, Subpart G **shall** be used to establish the basis of valuation.

j. Funds Transfer: Match funds will be submitted by a third party to DHS by check or money order under the terms of the resulting contract. Matching funds are to be received by DHS in an amount sufficient to match billing before Contractor will be reimbursed for services.

2. The Contractor **shall** certify that any funds to be donated under the resulting contract which are derived or come directly or indirectly from Federal or State funds, or any other contractor under contract to DHS, have been specifically listed as a source above.

3. The Contractor **shall** certify that the matching arrangements comply with requirements established in 45 C.F.R. Part 74, Subpart G (Cost Sharing or Matching) and all applicable DHS policies.

E. The Contractor **shall** submit all billing invoices as required by the Contract and **shall not** withhold invoicing due to ongoing dispute(s) with DHS.

1. Any payments withheld by DHS due to unacceptable or insufficient performance **must not** be subject to late payment penalties, interest, or any other liability associated with late payment.

2. Any Corrective Action Plan (CAP) that is related to the dispute(s) will remain in place until all assessed penalties are received by DHS.

3. DHS may, at its sole discretion, release CAP(s) prior to receiving assessed penalties if it determines release to be in the best interest of the State.

F. The Contractor **shall** submit all final billing invoices within sixty (60) days of contract expiration.

1. Any billings for services rendered during a particular state fiscal year which are not submitted within ninety (90) days of the end of the fiscal year will not be paid.

2. Payments for completed services or deliverables satisfactorily delivered to and approved by DHS **shall** be at the price according to the resulting contract.

3. Payment for partially completed services or deliverables satisfactorily delivered to and not yet approved by DHS shall be at a price mutually agreed upon by the Contractor and DHS.

G. Selected Contractor **must** be registered to receive payment and future *Bid Solicitation* notifications. Contractors must register on-line at vendor.ark.org.

H. Other sections of this *Bid Solicitation* may contain additional requirements for invoicing.

3.2 GENERAL INFORMATION (NON-NEGOTIABLE)

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

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

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

D. Any claims the Contractor may assert under this Agreement shall be brought before the Arkansas State Claims Commission ("Commission"), which shall have exclusive jurisdiction over any and all claims that the Contactor may have arising from or in connection with this Agreement. Unless the Contractor's obligations to perform are terminated by the State, the Contractor shall continue to provide the Services under this Agreement even in the event that the Contractor has a claim pending before the Commission. Any litigation involving the State **must** take place in Pulaski County, Arkansas.

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

F. The State **shall not** enter a contract which grants to another party any remedies other than the following:
1. The right to possession.

2. The right to accrued payments.

3. The right to expenses of de-installation.

4. The right to expenses of repair to return the equipment to normal working order, normal wear and tear excluded.

5. The right to recover only amounts due at the time of repossession and any unamortized nonrecurring cost as allowed by Arkansas Law.

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

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

I. In a contract with another party, the State will accept the risk of loss of the equipment or software and pay for any destruction, loss or damage of the equipment or software while the State has such risk, when:

1. The extent of liability for such risk is based upon the purchase price of the equipment or software at the time of any loss, and

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

3.3 CONDITIONS OF CONTRACT

A. The Contractor **shall** at all times observe and comply with federal and State of Arkansas laws, local laws, ordinances, orders, and regulations existing at the time of, or enacted subsequent to the execution of a resulting contract which in any manner affect the completion of the work.

B. The Contractor agrees to the Performance Based Contracting standards as presented in Attachment B, DHS Standard Terms and Conditions as presented in Attachment C, a Services Contract (SRV-1) as presented in Attachment D, and the Organizational or Personal Conflict of Interest policy as presented in Attachment E. Do not complete and return any of the above-named attachments. They are for your information only.

C. 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.

D. 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.

E. This IFB incorporates all terms in *Services Contract (SRV-1)*.

1. A Prospective Contractor's proposal may be rejected if a Prospective Contractor takes exception to any terms, conditions, or Requirements in this IFB.
2. The Prospective Contractor agrees and **shall** adhere to all terms, conditions, and Requirements if selected as the Contractor.
3. Items may only be modified if the legal requirement is satisfied and approved by the State during Discussions.

3.4 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.

   The Contractor shall submit documentation to the satisfaction of the State that a performance bond has been obtained. The performance bond must be delivered to the Arkansas Department of Human Services Chief Procurement Officer within fourteen (14) calendar days of contract execution and within one calendar day of DHS request thereafter.
3. 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.

4. 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.

B. The Contractor hereby represents and warrants to the State that there are no proceedings or investigations pending or threatened, before any court, regulatory body, administrative agency, or other governmental instrumentality having jurisdiction over the Contractor or its properties, including but not limited to, the United States Bankruptcy Court as of the date on the Response Signature Page. Additionally, Contractor **shall** provide immediate written notice to the State of any proceeding or investigation (i) seeking to prevent the consummation of any of the transactions contemplated by any resulting Contract; or (ii) seeking any determination or ruling that might materially and adversely affect the performance by the Contractor of its obligations hereunder, or the validity or enforceability of any resulting Contract. The State reserves the right to disqualify Prospective Contractor(s) subject to proceedings or investigations that may materially and adversely affect Contractor's ability to perform its obligations under the contract if it deems it to be in the best interest of the State.

3.5 RECORD RETENTION

A. The Contractor **shall** maintain all pertinent financial and accounting records and evidence pertaining to the contract in accordance with generally accepted principles of accounting and as specified by the State of Arkansas Law. Upon request, access **shall** be granted to State or Federal Government entities or any of their duly authorized representatives.

B. Financial and accounting records **shall** be made available, upon request, to the State of Arkansas's designee(s) at any time during the contract period and any extension thereof, and for five (5) years from expiration date and final payment on the contract or extension thereof.

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

3.6 PRICE ESCALATION

A. Price increases may be considered at the time of contract renewal, but any request for an increase in rates must be submitted to DHS six (6) months prior to renewal with accompanying justification. Contractor must provide to DHS and its 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

bid price including detailed information related to unforeseen circumstances not considered within the initial submitted bid price. A request for a price increase **must** include supporting documentation demonstrating that the increase in contract price is based on an increased cost to the Contractor and that the proposed pricing is still competitive in the marketplace. DHS shall have the right to require additional information pertaining to the requested increase.

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

C. DHS shall have the right to approve or deny the request.

D. Medicaid Enrolled Provider Rates. For any contractors who are also enrolled Medicaid providers, such rates and any changes thereto are governed by statutory approval protocols. As such, DHS cannot unilaterally increase approved said Medicaid rates through a contract amendment. See Ark. Code Ann. §§ 20-76-112 and 20-77-110.

3.7 CONFIDENTIALITY

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

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

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

3.8 CONTRACT INTERPRETATION

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

3.9 SEVERABILITY

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

3.10 DHS TERMS

A. The Contractor **shall** be fully responsible for all work performed under the contract.

B. The Contractor may, with the prior written consent of DHS, enter into written subcontract(s) for performance of certain of its functions under the contract.

C. No subcontract under this contract **shall** in any way relieve the Contractor of any responsibility for performance of its duties.

D. The Contractor agrees that all subcontracts **shall** adhere to DHS policies.

E. Unless otherwise approved by DHS, the Contractor **shall** give DHS immediate notice in writing by certified mail of any action or suit filed and prompt notice of any claim made against the Contractor or any subcontractor which may result in litigation related in any way to the contract or DHS.

F. The Contractor will not be liable for delay in performing under the contract if the delay arises out of causes beyond the control and without the fault or negligence of the Contractor.

G. The Contractor, its officers, and employees of the Contractor or subcontractor, in the performance of the resulting contract, **shall** act in an independent capacity and not as officers or employees of DHS.

H. DHS will exercise no managerial responsibility over the Contractor nor will the resulting contract be construed as a partnership or joint venture between the Contractor or any subcontractor and DHS or the State of Arkansas.

I. The Contractor hereby represents and warrants to DHS that as of the execution date of a resulting contract:

J. The Contractor has been duly organized and is validly existing and in good standing under the laws of the State of Arkansas, with the power, authority, and legal right to enter into a resulting contract.

K. There are no proceedings or investigations pending or threatened, before any court, regulatory body, administrative agency, or other governmental instrumentality having jurisdiction over the Contractor or its properties (i) seeking to prevent the consummation of any of the transactions contemplated by a resulting contract; or (ii) seeking any determination or ruling that might materially and adversely affect the performance by the Contractor of its obligations hereunder, or the validity or enforceability of a resulting contract.

L. All approvals, authorizations, consents, orders, or other actions of any person or of any governmental body or official required to be obtained on or prior to the date hereof in connection with the execution and delivery of a resulting contract and the performance of the services contemplated by a resulting contract and the fulfillment of the terms hereof have been obtained.

M. The Contractor and the executive officers of the Contractor have not been the subject of any proceedings under the United States Bankruptcy Code.

N. The Contractor **shall** in all other respects comply with State and federal laws, regulations, policies, manuals, executive orders, and other official issuances that apply to the Contractor's performance under a resulting contract.

1. If a newly enacted statute, regulation, policy, or executive order requires a change to the contract or any attachment thereof, the Contractor **shall** deem this contract and any attachment to be automatically amended to comply with the newly enacted statute or regulation as of its effective date.

2. The Contractor and State will subsequently cooperate in good faith to amend the contract to comply as mandated through either a change order or amendment, whichever is deemed necessary under applicable laws and/or rules.

3. In the event of any dispute concerning the State's performance under the contract, Contractor **shall** notify the DHS Division Director in writing of any disputes or controversies that arise under or by virtue of the resulting contract between DHS and the Contractor.

4. This includes, without limitation, controversies based upon breach of contract, mistake, misrepresentation, or other cause for contract modification or recession.

5. The State Procurement Director, the head of a procurement agency, or a designee of either officer, is authorized prior to commencement of an action in court or any other action provided by law, to attempt to negotiate a settlement of the controversy with DHS and the Contractor in accordance with Arkansas Code Annotated § 19-61-703.

6. If the claim or controversy is not resolved by mutual agreement, and after reasonable notice to the DHS and the Contractor is made in accordance with Arkansas Code Annotated § 19-61-703(c)(1), the State Procurement Director, the head of a procurement agency, or a designee of either officer, shall promptly issue a decision in writing stating the reason for the actions taken and a copy of the decision shall be mailed or otherwise furnished to the Contractor.

7. This decision will be final and conclusive.

8. Pending final determination of any controversy hereunder, the Contractor **shall** proceed diligently with the performance of the resulting contract and in accordance with DHS instructions.

3.11 CERTIFICATION REGARDING LOBBYING:

A. The Contractor **shall** comply with Public Law 101-121, section 319 (31 U.S.C. § 1352) for an award in excess of $100,000.00 by certifying that appropriated federal funds have not been or will not be used to pay any person to influence or attempt to influence a federal official/employee in connection with the awarding of any federal contract, grant, loan, or cooperative agreement.

B. If the Contractor has paid or will pay for lobbying using funds other than federal appropriated funds, Standard Form-LLL (Disclosure of Lobbying Activities) **shall** be completed and included as an attachment to the resulting contract.

3.12 CERTIFICATION REGARDING DEBARMENT

A. The Contractor, as a lower tier recipient of $25,000.00 or more in federal funds, **shall** comply with Executive Order 12549 (Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions).

3.13 CERTIFICATION REGARDING EMPLOYMENT PRACTICES

A. In order to comply with the provision of Act 954 of 1977, relating to unfair employment practices, a Contractor agrees that:

1. The Contractor **shall not** discriminate against any employee or applicant for employment because of race, sex, color, age, religion, handicap, or national origin.
2. 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
3. The Contractor **shall** furnish such relevant information and reports as requested by the Human Resources Commission for the purpose of determining compliance with the statute
4. 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

B. The Contractor **shall** include the provisions of above items (1) through (4) in every subcontract so that such provisions shall be binding upon such subcontractor or Contractor.

3.14 LIMITATION OF LIABILITY

A. DHS will demonstrate reasonable care but will not be liable in the event of loss, destruction, or theft of Contractor-owned equipment or software and technical and business or operations literature to be delivered or to be used in the installation of deliverables and services.

B. The Contractor **shall** retain total liability for equipment, software and technical and business or operations literature. DHS **shall not** at any time be responsible for or accept liability for any Contractor-owned items.

C. All limitations in the resulting contract are only to the extent such limitations do not impose an unlawful indemnification on the State

D. Notwithstanding any other limitation provisions, the Contractor **shall** be liable for any other direct loss or damage to the State caused by the gross negligence, intentional or willful misconduct, fraudulent act, recklessness, or other tortious conduct of the Contractor or Contractor's employees or agents during its performance under the resulting Contract.

E. Notwithstanding any other limitation provisions, Contractor **shall** be liable for any direct loss to the State for bodily injury, death, or damage to property of the State caused by the negligence, intentional or willful misconduct, fraudulent act, recklessness, or other tortious conduct of the Contractor or Contractor's employees or agents during its performance under the resulting contract.

F. Notwithstanding any other limitation provisions, Contractor **shall** be liable for any penalties, sanctions, and disallowances assessed against DHS by Federal authorities of noncompliance with Federal regulations and standards as a result of conduct of Contractor or Contractor's employees or agents during its performance under the resulting.

G. The Contractor’s liability for damages to DHS **shall** be limited to the value of the resulting contract or $5,000,000, whichever is higher.

1. The foregoing limitation of liability **shall not** apply to claims for
    a. Infringement of United States patent, copyright, trademarks, or trade secrets
    b. To claims for personal injury or damage to property caused by Contractor’s gross negligence or willful misconduct
    c. To claims covered by other specific provisions of the resulting contract calling for damages
    d. To court costs or attorney’s fees awarded by a court in addition to damages after litigation based on the resulting contract

e. Any penalties, sanctions, or disallowances assessed against the State by Federal authorities due to Contractor's or its subcontractors' noncompliance with Federal laws, regulations, or standards.

H. The Contractor and DHS **shall not** be liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages.

1. In the event that either party to the resulting contract deems it necessary to take legal action to enforce any provision of the contract and DHS prevails, the Contractor **shall** pay all expenses of such action, including attorney's fees and costs at all stages of litigation as set by the court or hearing officer.

2. Legal action **shall** include administrative proceedings.

3.15 SURVIVAL OF RIGHTS AND OBLIGATIONS

A. The rights and obligations of the Parties under the resulting contract **shall** survive and continue after the ending or expiration of the term of the resulting contract, and **shall** bind the parties, and their legal representatives, successors, heirs and assigns as allowed by state and federal laws and rules, unless otherwise approved by DHS.