



STATE OF ARKANSAS

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

REQUEST FOR PROPOSAL BID SOLICITATION DOCUMENT

SOLICITATION INFORMATION			
Bid Number:	710-21-0046	Solicitation Issued:	March 16, 2021
Description:	Nurse Aide Competency Evaluation and Registry Services with Employment Clearance Registry		
Agency:	Division of Provider Services and Quality Assurance (DPSQA)		
SUBMISSION DEADLINE FOR RESPONSE			
Bid Submission:	April 9, 2021 @ 1:00pm Central Time	Bid Opening:	April 9, 2021 @ 2:00pm Central Time
Proposals shall not be accepted after the designated bid opening date and time. In accordance with Arkansas Procurement Law and Rules, it is the responsibility of Contractors to submit proposals at the designated location on or before the bid opening date and time. Proposals received after the designated bid opening date and time shall be considered late and shall be returned to the Contractor without further review. It is not necessary to return "no bids" to the Office of Procurement (OP).			
DELIVERY OF RESPONSE DOCUMENTS			
Drop off Address:	Arkansas Department of Human Services Attn: Office of Procurement 700 Main Street Slot W345 Little Rock, AR 72201		
United States mail (USPS):	Arkansas Department of Human Services Attn: Office of Procurement P.O. Box 1437 Slot W345 Little Rock, AR 72203-1437		
Commercial Carrier (UPS, FedEx or USPS Exp):	Arkansas Department of Human Services Attn: Office of Procurement 112 West 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. Contractors assume all risk for timely, properly submitted deliveries.		
Proposal's Outer Packaging:	Outer packaging must be sealed and should be properly marked with the following information. If outer packaging of proposal submission is not properly marked, the package may be opened for bid identification purpose <ul style="list-style-type: none"> • Bid number • Date and time of bid opening • Contractor's name and return address 		
OFFICE OF STATE PROCUREMENT CONTACT INFORMATION			
OP Buyer:	Chorsie Burns	Phone Number:	501-682-6327
Email Address:	chorsie.burns@dhs.arkansas.gov	OP's Main Number:	501-683-4162
DHS Website:	http://humanservices.arkansas.gov/Pages/default.aspx		
OPS Website:	http://www.arkansas.gov/dfa/procurement/bids/index.php		

SECTION 1 - GENERAL INSTRUCTIONS AND INFORMATION

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

1.1 PURPOSE

The Arkansas Department of Human Services (DHS) Office of Procurement (OP), on behalf of the Division of Provider Services and Quality Assurance (DPSQA), is seeking a qualified vendor to provide Nurse Aide Competency Evaluation and Registry services, including an Employment Clearance Registry (ECR).

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 up to one (1) year. The anticipated starting date for the contract is July 1, 2021. Upon mutual agreement by the Vendor and agency, the contract may be renewed by OP on a year-to-year basis, for up to six (6) additional one-year terms or a portion thereof. By submitting a signed proposal in response to the RFP, the Prospective Vendor represents and warrants that it will honor its proposal as being held open as irrevocable for this period.
- D. The total contract term **shall not** be more than seven (7) years.

1.4 ISSUING AGENCY

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

1.5 BID OPENING LOCATION

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

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

Vendors wishing to attend the bid opening must report to the main entrance of the Arkansas Department of Human Services, Donaghey Plaza South, 700 Main Street, Little Rock, Arkansas 72201 and check in with the receptionist. All attendees are required to obtain security clearance upon entrance to the building by submitting a current, valid photo ID, preferably a driver's license, to the Security Officer at the reception area. The Security Officer will issue a visitor's badge which must be worn at all times. Before leaving the bid opening, visitors are required to return the visitor's badge to the Security Officer and retrieve their ID.

The receptionist is to contact the buyer for more detailed directions to the bid opening location.

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

1.6 ACCEPTANCE OF REQUIREMENTS

- A. The words "**must**" and "**shall**" signify a Requirement of this solicitation and that the Vendor's agreement to and compliance with that item is mandatory.
- B. A Vendor's proposal will be disqualified if a Vendor takes exceptions to any Requirements named in this RFP.

- C. Vendor may request exceptions to NON-mandatory items. Any such request must be declared on, or as an attachment to, the appropriate section's Agreement and Compliance Page. Vendor must clearly explain the requested exception and should reference the specific solicitation item number to which the exception applies. (See Agreement and Compliance Page.)

1.7 **DEFINITION OF TERMS**

- A. The State Procurement Official has made every effort to use industry-accepted terminology in this *Bid Solicitation* and will attempt to further clarify any point of an item in question as indicated in *Clarification of Bid Solicitation*.
- B. Unless otherwise defined herein, all terms defined in Arkansas Procurement Law and used herein have the same definitions herein as specified therein.
- C. "Contractor" or "Vendor" means a person who sells or contracts to sell commodities and/or services.
- D. The terms "Request for Proposal", "RFP" and "Bid Solicitation" are used synonymously in this document.
- E. "State" means the State of Arkansas. When the term "State" is used herein to reference any obligation of the State under a contract that results from this solicitation, that obligation is limited to the State agency using such a contract.
- F. "Employment Clearance Registry" describes a public search domain which provides information on a current or prospective employee's competency certification standing and eligibility for employment as defined by state and federal regulations and requirements.
- G. "Knowledge examination" is defined as an examination that test the individual's knowledge of Arkansas Nursing Assistant Training Curriculum.
- H. "Clinical skills performance-based examination" is defined as a hands-on examination demonstrating the test candidate's proven ability to successfully complete required skills.
- I. "Competency examination" shall be defined as an examination that includes manual (skills) and written (or oral) knowledge evaluations.

1.8 **RESPONSE DOCUMENTS**

A. Original Technical Proposal Packet

1. A hard copy of the original *Technical Proposal Packet* **must** be received on or before the bid submittal date and time.
2. The Proposal Packet should be clearly marked "Original" and **must** include the following:
 - a. Original signed *Proposal Signature Page*. (See *Proposal Signature Page*.)
 - b. Original signed *Agreement and Compliance Pages*. (See *Agreement and Compliance Pages*.)
 - c. Original signed *Proposed Subcontractors Form*. (See *Subcontractors*.)
 - d. *Technical Proposal* response to the *Information for Evaluation* section included in the *Technical Proposal Packet*.
 - e. Other documents and/or information as may be expressly required in this *Bid Solicitation*.
3. The following items should be submitted in the original *Technical Proposal Packet*.
 - a. EO 98-04 Disclosure Form, Attachment A. (See *Standard Terms and Conditions*, #27. *Disclosure*.)
 - b. Copy of Contractor's *Equal Opportunity Policy*. (See *Equal Opportunity Policy*.)
 - c. *Voluntary Product Accessibility Template* (VPAT), if applicable. (See *Technology Access*.)

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

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

1. Vendor's original *Official Bid Price Sheet* **must** be submitted in hard copy format.
2. Vendor should also submit one (1) electronic copy of the *Official Bid Price Sheet*, preferably on a flash drive. A CD will also be acceptable.
3. The *Official Bid Price Sheet*, including the hard copy and electronic copy, **must** be separately sealed from the *Technical Proposal Packet* and should be clearly marked as "Pricing". Vendor **must not** include any pricing in the hard copies or electronic copies of their *Technical Proposal Packet*.

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

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

1. Additional Copies of the *Technical Proposal Packet*
 - a. Five (5) complete hard copies (marked "COPY") of the *Technical Proposal Packet*.
 - b. One (1) electronic copies of the *Technical Proposal Packet*, preferably on flash drives. CDs will also be acceptable.
 - c. All additional hard copies and electronic copies **must** be identical to the original hard copy. In case of a discrepancy, the original hard copy **shall** govern.
 - d. If OP requests additional copies of the proposal, the copies **must** be delivered within twenty-four (24) hours of request.

1.9 LIMITED BID SUBMISSION ACCOMMODATION DURING COVID-19

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

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

- A. All bids must be received by the Bid Submission deadline specified on page 1 of the Bid Solicitation Document.
- B. All required response documents must be submitted on a USB flash drive clearly labeled "Response Packet" and sealed in a separate envelope from pricing.
- C. Pricing must be submitted on a separate, clearly marked USB flash drive and sealed in an envelope separate from the Response Packet and clearly marked "Pricing."
- D. By signing the Electronic Submission Signature Page [and Section 1 Vendor Agreement and Compliance page in the Response Packet], Bidder acknowledges and agrees that if the USB flash drives are damaged, malfunction, or the information on them is incompatible with DHS computers or electronic devices or otherwise cannot be accessed or is unusable, the submission will be considered non-responsive and will be disqualified.
- E. In order to mitigate this risk, Bidder may elect to submit bids according to the requirements specified in section 1.8 "Response Documents" of the Bid Solicitation Document or submit additional USB flash drives as backup.

1.10 ORGANIZATION OF RESPONSE DOCUMENTS

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

- B. The original *Technical Proposal Packet* and all copies should be arranged in the following order:
- *Proposal Signature Page.*
 - *All Agreement and Compliance Pages.*
 - *Proposed Subcontractors Form.*
 - Signed Addenda, if applicable.
 - E.O. 98-04 – *Contract Grant and Disclosure Form.*
 - *Equal Opportunity Policy.*
 - Other documents and/or information as may be expressly required in this *Bid Solicitation*. Label documents and/or information so as to reference the *Bid Solicitation's* item number.
 - Technical Proposal response to the *Information for Evaluation* section of the *Technical Proposal Packet*.

1.11 **CLARIFICATION OF BID SOLICITATION**

- A. Vendor 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 March 22, 2021. 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. Vendor'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 March 26, 2021.
- D. Answers to verbal questions may be given as a matter of courtesy and **must** be evaluated at vendor's risk.

1.12 **PROPOSAL SIGNATURE PAGE**

- A. An official authorized to bind the Contractor(s) to a resultant contract **must** sign the *Proposal Signature Page* included in the *Technical Proposal Packet*.
- B. Vendor's signature on this page **shall** signify vendor's agreement that either of the following **shall** cause the vendor's proposal to be disqualified:
1. Additional terms or conditions submitted intentionally or inadvertently.
 2. Any exception that conflicts with a Requirement of this *Bid Solicitation*.

1.13 **AGREEMENT AND COMPLIANCE PAGES**

- A. 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 *Technical Proposal Packet*.
- B. Vendor's signature on these pages **shall** signify agreement to and compliance with all Requirements within the designated section.

1.14 **SUBCONTRACTORS**

- A. Vendor must complete, sign and submit the *Proposed Subcontractors Form* included in the *Technical Proposal 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* or in the *Information for Evaluation* section provided in the *Technical Proposal Packet*. **Do not** attach any additional information to the *Proposed Subcontractors Form*.
- C. The utilization of any proposed subcontractor is subject to approval by the State agency.

1.15 **PRICING**

- A. Vendor(s) shall include all pricing on the Official Price Bid Sheet 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 as a separate PDF file posted with this *Bid Solicitation*.
- B. To allow time to evaluate proposals, prices **must** be valid for 180 days following the bid opening.

- C. The *Official Bid Price Sheet*, including the hard copy and electronic copy, **must** be separately sealed from the *Technical Proposal Packet* and should be clearly marked as "Pricing". DO NOT submit any ancillary information not related to actual pricing in the sealed pricing package.
- D. Vendor **must not** include any pricing in the hard copies or electronic copies of their *Technical Proposal Packet*. Should hard copies or electronic copies of their *Response Packet* contain any pricing, the response **shall** be disqualified.
- E. Failure to complete and submit the *Official Bid Price Sheet* **shall** result in disqualification.
- F. All proposal pricing **must** be in United States dollars and cents.
- G. The Official Bid Price Sheet may be reproduced as needed.

1.16 **PRIME CONTRACTOR RESPONSIBILITY**

- A. A joint proposal submitted by two or more contractors is acceptable. However, a single Vendor **must** be identified as the prime Vendor.
- B. The prime Vendor **shall** be held responsible for the contract and **shall** be the sole point of contact.

1.17 **INDEPENDENT PRICE DETERMINATION**

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

1.18 **PROPRIETARY INFORMATION**

- A. Submission documents pertaining to this *Bid Solicitation* become the property of the State and are subject to the Arkansas Freedom of Information Act (FOIA).
- B. In accordance with FOIA and to promote maximum competition in the State competitive bidding process, the State may maintain the confidentiality of certain types of information described in FOIA. Such information may include trade secrets defined by FOIA and other information exempted from the Public Records Act pursuant to FOIA.
- C. Vendor may designate appropriate portions of its response as confidential, consistent with and to the extent permitted under the Statutes and Rules set forth above, by submitting a redacted copy of the response.
- D. By so redacting any information contained in the response, the Vendor warrants that it has formed a good faith opinion having received such necessary or proper review by counsel and other knowledgeable advisors that the portions redacted meet the requirements of the Rules and Statutes set forth above.
- E. Under no circumstances will pricing information be designated as confidential.
- F. One (1) complete copy of the submission documents from which any proprietary information has been redacted should be submitted on a flash drive in the *Technical Proposal Packet*. A CD is also acceptable. Do not submit documents via e-mail or fax.
- G. Except for the redacted information, the redacted copy **must** be identical to the original hard copy, reflecting the same pagination as the original and showing the space from which information was redacted.
- H. The Vendor is responsible for identifying all proprietary information and for ensuring the electronic copy is protected against restoration of redacted data.

- I. The redacted copy **shall** be open to public inspection under the Freedom of Information Act (FOIA) without further notice to the Vendor.
- J. If a redacted copy of the submission documents is not provided with Vendor's response packet, a copy of the non-redacted documents, with the exception of financial data (other than pricing), **will** be released in response to any request made under the Arkansas Freedom of Information Act (FOIA).
- K. If the State deems redacted information to be subject to FOIA, the Vendor will be notified of the State's determination prior to release of the documents.
- L. The State has no liability to a Vendor with respect to the disclosure of Vendor's confidential information ordered by a court of competent jurisdiction pursuant to FOIA or other applicable law.

1.19 **CAUTION TO CONTRACTORS**

- A. Prior to any contract award, all communication concerning this *Bid Solicitation* **must** be addressed through OP.
- B. 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. Proposals **must** be submitted only the English language.
- F. The State **shall** have the right to award or not award a contract, if it is in the best interest of the State to do so.
- G. Vendor **must** provide clarification of any information in their response documents as requested by OP.
- H. Qualifications and proposed services **must** meet or exceed the required specifications as set forth in this *Bid Solicitation*.
- I. Vendors may submit multiple proposals. Each proposal shall be submitted separately and must include all documents and information required under this RFP in order to advance to evaluation.

1.20 **REQUIREMENT OF ADDENDUM**

- A. This *Bid Solicitation* **shall** be modified only by an addendum written and authorized by OP.
- B. Vendors 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 vendor **shall** be responsible for checking the following Office of State Procurement (OSP) and DHS websites for any and all addenda up to the bid opening:

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

1.21 **AWARD PROCESS**

A. Award Determination

The Grand Total Score for each Vendor, which **shall** be a sum of the Technical Score and Cost Score, **shall** be used to determine the ranking of proposals. The State may move forward to negotiations, pursuant to Arkansas Code Annotated § 19-11-230, with those responsible Vendors determined, based on the ranking of the proposals, to be reasonably susceptible of being selected for award.

B. Discussions and Negotiations

1. If the agency so chooses, it **shall** also have the right to enter into discussion with the qualifying vendor(s), to further define contractual details. All such discussions **shall** be conducted at the sole discretion of the State and may be conducted at any lawful time of the State's choosing. The State **shall** solely determine the items to be discussed or negotiated.
2. If discussions or negotiations fail to result in a contract, the State may begin the negotiation process with the next highest-ranking Vendor. The negotiation process may be repeated until the anticipated successful Vendor has been determined or an award made, or until such time the State decides not to move forward with an award.
3. The State may elect to request best and final offers. Any best and final offer request made by the State will be conducted with the responsible Contractors that fall within the competitive range. The competitive range shall be defined as the [three] highest ranked Contractors pursuant to Section 1.21(A) above.

C. Anticipation to Award

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

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

2. The anticipated award will be posted for a period of fourteen (14) days prior to the issuance of a contract. 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-day posting period.
3. OP **shall** have the right to waive the fourteen (14) day anticipated award posting period when it is in the best interest of the State.
4. It is the Vendor's responsibility to check the OP website for the posting of an anticipated award.

D. Issuance of Contract

1. Any resultant contract of this *Bid Solicitation* **shall** be subject to State approval processes which may include Legislative review.
2. A State Procurement Official will be responsible for award and administration of any resulting contract.

1.22 MINORITY AND WOMEN-OWNED BUSINESS POLICY

- A. A minority-owned business is defined by Arkansas Code Annotated § 15-4-303 as a business that is at least fifty-one percent (51%) owned by a lawful permanent resident of this State who is:

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

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

1.23 EQUAL OPPORTUNITY POLICY

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

1.24 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 OSP stating that they do not employ or contract with illegal immigrants. If selected, the Vendor certifies that they will not employ or contract with illegal immigrants during the aggregate term of a contract.
- B. OSP 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 contractor(s) at that time.

1.25 RESTRICTION OF BOYCOTT OF ISRAEL

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

1.26 PAST PERFORMANCE

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

1.27 TECHNOLOGY ACCESS

- A. When procuring a technology product or when soliciting the development of such a product, the State of Arkansas is required to comply with the provisions of Arkansas Code Annotated § 25-26-201 et seq., as amended by Act 308 of 2013, which expresses the policy of the State to provide individuals who are blind or visually impaired with access to information technology purchased in whole or in part with state funds. The Vendor expressly acknowledges and agrees that state funds may not be expended in connection with the purchase of information technology unless that technology meets the statutory Requirements found in 36 C.F.R. § 1194.21, as it existed on January 1, 2013 (software applications and operating ICSs) and 36 C.F.R. § 1194.22, as it existed on January 1, 2013 (web-based intranet and internet information and applications), in accordance with the State of Arkansas technology policy standards relating to accessibility by persons with visual impairments.
- B. ACCORDINGLY, THE VENDOR EXPRESSLY REPRESENTS AND WARRANTS to the State of Arkansas through the procurement process by submission of a Voluntary Product Accessibility Template (VPAT) for 36 C.F.R. § 1194.21, as it existed on January 1, 2013 (software applications and operating ICSs) and 36 C.F.R. § 1194.22, that the technology provided to the State for purchase is capable, either by virtue of features included within the technology, or because it is readily adaptable by use with other technology, of:
 1. Providing, to the extent required by Arkansas Code Annotated § 25-26-201 et seq., as amended by Act 308 of 2013, equivalent access for effective use by both visual and non-visual means;
 2. Presenting information, including prompts used for interactive communications, in formats intended for non-visual use;

3. After being made accessible, integrating into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired;
 4. Providing effective, interactive control and use of the technology, including without limitation the operating system, software applications, and format of the data presented is readily achievable by nonvisual means;
 5. Being compatible with information technology used by other individuals with whom the blind or visually impaired individuals interact;
 6. Integrating into networks used to share communications among employees, program participants, and the public; and
 7. Providing the capability of equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.
- C. State agencies cannot claim a product as a whole is not reasonably available because no product in the marketplace meets all the standards. Agencies **must** evaluate products to determine which product best meets the standards. If an agency purchases a product that does not best meet the standards, the agency must provide written documentation supporting the selection of a different product, including any required reasonable accommodations.
- D. For purposes of this section, the phrase “equivalent access” means a substantially similar ability to communicate with, or make use of, the technology, either directly, by features incorporated within the technology, or by other reasonable means such as assistive devices or services which would constitute reasonable accommodations under the Americans with Disabilities Act or similar state and federal laws. Examples of methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands or other means of navigating graphical displays, and customizable display appearance. As provided in Arkansas Code Annotated § 25-26-201 et seq., as amended by Act 308 of 2013, if equivalent access is not reasonably available, then individuals who are blind or visually impaired shall be provided a reasonable accommodation as defined in 42 U.S.C. § 12111(9), as it existed on January 1, 2013.
- E. If the information manipulated or presented by the product is inherently visual in nature, so that its meaning cannot be conveyed non-visually, these specifications do not prohibit the purchase or use of an information technology product that does not meet these standards.

1.28 COMPLIANCE WITH THE STATE SHARED TECHNICAL ARCHITECTURE PROGRAM

The Vendor's solution **must** comply with the State's shared Technical Architecture Program which is a set of policies and standards that can be viewed at: <http://dis.publishpath.com/policies-standards>. Only those standards which are fully promulgated or have been approved by the Governor's Office apply to this solution.

1.29 VISA ACCEPTANCE

- A. Awarded 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.

1.30 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** be cause for a Vendor's proposal to be disqualified or for the contract to be terminated.

1.31 RESERVATION

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

1.32 DATA LOCATION

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

1.33 SCHEDULE OF EVENTS

Public Notice of RFP	March 16, 2021
Deadline for Receipt of Written Questions	March 22, 2021
Response to Written Questions, On or About	March 26, 2021
Date for Bid Submission	April 9, 2021
Date and time for Opening Bid	April 9, 2021 @ 2:00pm CT
Selection of Contractor, On or About	April 30, 2021
Intent to Award Announced, On or About	May 3, 2021
Contract Start, (Subject to State Approval)	July 1, 2021

1.34 STATE HOLIDAYS

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

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

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

SECTION 2 – MINIMUM REQUIREMENTS

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

2.1 INTRODUCTION

The Arkansas Department of Human Services (DHS) Office of Procurement (OP), on behalf of the Division of Provider Services and Quality Assurance (DPSQA), is seeking to contract to provide Nurse Aide Competency Evaluation and Registry services, including Employment Clearance Registry (ECR). The successful vendor shall provide the competency examination, reports, and monitoring of testing activities and other requirements, and an effective computer-based registry database system that adequately provides all required access and services, including interstate transfers or reciprocity.

The successful bidder will perform the following general tasks:

- Transfer registry data from previous vendor.
- Provide online access through vendor's website.
- Coordinate and facilitate knowledge-based test bank creation with DHS and other knowledgeable parties, forming the Test Advisory Panel ("TAP") of a minimum of seven (7) licensed individuals. Examinations (competency evaluations) must be designed to meet the most recent federal and state requirements as of the time of the examination and in accordance with specified objectives in the "Arkansas Nursing Assistant Training Curriculum."
- Coordinate and facilitate clinical skills test bank creation with DHS and other knowledgeable parties, forming the Test Advisory Panel ("TAP") of a minimum of seven (7) individuals. Examinations (competency evaluations) must be designed to meet the most recent federal and state requirements as of the time of the examination and in accordance with specified objectives in the "Arkansas Nursing Assistant Training Curriculum."
- Develop a standardized, secure, psychometrically sound, and legally defensible knowledge and clinical skills performance-based examination that meets federal and Arkansas state curriculum requirements to evaluate competency to function as a Certified Nursing Assistant.
- Develop a database system to house previously conducted criminal record checks that result in the employment disqualification of an individual.
- Recruit and train Arkansas Nurse Assistant Test Instructors and Observers through virtual and/or face-to-face format.
- Complete certifications of Arkansas Nurse Assistant Test Instructors and Observers in a face-to-face model at the mass communication to facilities, training programs, and the general public on the Nurse Assistant and CNA Registry changes throughout the state.

2.2 CONTRACT BACKGROUND

From July 1, 2020, through December 31, 2020, a total of six thousand twenty-six (6,026) certifications were completed. Of those, four thousand five hundred eighty-nine (4,589) were for employment verification, eight hundred eighty-eight (888) were initial, three hundred twenty-seven (327) were reciprocity, and two hundred twenty (220) were renewals. In the same timeframe, a total of three thousand eight hundred two (3,802) certificates lapsed.

From July 1, 2020, through December 31, 2020, there was a total of two thousand two hundred sixty-nine (2,269) knowledge examinations. Of those, three hundred thirty-four (334) were no-shows and thirty-two (32) knowledge examinations were presented orally.

In the same timeframe, there was a total of one thousand seven hundred eighty-nine (1,789) clinical skills examinations. Of those, one hundred fifty-eight (158) were no shows.

Accuracy in Background Information:

Although an attempt has been made to provide accurate and up-to-date information, the State of Arkansas does not warrant or represent that the background information provided herein reflects all relationships or existing conditions related to this Request for Proposal.

2.3 **MINIMUM QUALIFICATIONS**

- A. The Contractor **must** be registered to do business in the State of Arkansas. For verification purposes, Vendor **must** submit official documentation of their active registration from the Arkansas Secretary of State's Office.
- B. The testing services **must** have at least five (5) consecutive calendar years of experience in educational testing, vocational educational testing, psychometrics, computer programming and operations, and test administration and management. For verification purposes, Vendor **shall** provide a narrative of experience reflecting the requirement(s) above as well as letters of recommendation from contract managers who can verify experience at bid submission. Letters of recommendation for contract managers **must** include the following: current phone number, mailing address, email address, title, and printed name.

2.4 **SCOPE OF WORK**

A. Examination Development and Validation

The Contractor **shall** develop a standardized, secure, psychometrically sound and legally defensible knowledge, theory, and clinical skills performance-based examination that meets federal and Arkansas state curriculum requirements to evaluate competency to function as a certified nursing assistant in Arkansas nursing facilities.

1. The Contractor **shall** participate in meetings with the Division/Office and Arkansas nursing home industry experts, designated as a Testing Advisory Panel, in the development of test questions and skills demonstration procedures.
2. The Contractor **shall** participate with the Division/Office in a quarterly review of the effectiveness of the test, pass rates, scoring weight values, and cut scores.
3. The Contractor **must** develop examinations written for a reading comprehension level appropriate for the education and experience requirements of the discipline.
4. The Contractor **shall** develop a minimum of three (3) different variations of the knowledge examination. Each knowledge examination **must** include at least one hundred (100) operational items with a maximum of two (2) hours allocated for completion of the examination.
5. The Contractor **shall** provide a clinical skills performance-based examination comprised of skills ranging in degree of difficulty recommended by the Test Advisory Panel and approved by DHS. The skills examination **must** include resident rights, infection control, communication, and interpersonal skills. Each skills examination **must** include at least fifteen (15) items with a maximum of two (2) hours allocated for completion of the examination.
6. The Contractor **must** prepare and use different forms of the test, using a random selection process to choose an appropriate number of items for the written/oral portion of the test and at least one (1) task from each difficulty stratum as required by federal law, regulations, and guidelines for the skills portion of the test.
7. The Contractor **shall** maintain ongoing test validation documentation and a system that ensures the integrity of the pool of test questions and individual test versions.
8. The Contractor **shall** provide assistance to the Division/Office in the event of any legal challenge against the Division/Office concerning the test or testing procedures, processes, or results. Assistance **shall** include, but not be limited to:
 - a. Provision of relevant contractor staff, including but not limited to: a representative of those who authored the test, those who proctored the exam, or those who participated in scoring, as witnesses in any hearing or proceeding upon request by the Division/Office;
 - b. Provision of relevant documentation in support of the application review or the competency evaluation program, including statistical information;
 - c. Consultation to the Division/Office on issues under adjudication; and
 - d. Provision of expert witnesses as required for the preparation of, or in conducting, the defense.

Prospective Contractor shall provide its proposed approach to providing the services specified in RFP Section 2.4.A. as part of Prospective Contractor's technical proposal.

B. Examination Administration

The Contractor **shall** effectively manage and effectuate delivery of the competency evaluation program and exam.

1. The Contractor **shall** develop and manage an application process and procedures for screening test candidate eligibility, test scheduling, and processing test fees based on established criteria and timeframes.
 - a. The Contractor **must** ensure the test candidate has a certification indicating successful completion of nursing aide training through an Arkansas-approved program.
 - b. The Contractor **must** maintain a system used for collection of eligibility screening (to include knowledge, skill, and “no show”) and test fees, and submission of billing invoices to the Division/Office.
 - c. Ongoing compliance will be monitored monthly by billing submissions provided to the Division/Office.

Prospective Contractor must provide its proposed application process and procedures for screening test candidate eligibility, test scheduling, and processing test fees based on established criteria and timeframes as required at 2.4.B.1 as part of Prospective Contractor’s technical proposal.

2. The Contractor **must** ensure trained personnel at each examination site to register candidates, administer the examination, and monitor the candidates closely to maintain security, including a 1:3 ratio of Arkansas Nurse Assistant Test Instructors and Observers to candidates testing.
3. The Contractor **shall** maintain an adequate number of Registered Nurses, as defined above, to administer and evaluate the clinical skills portion of the competency examination.
 - a. The Registered Nurse **must** be licensed in Arkansas or in a compact state participating with the Arkansas State Board of Nursing, and the license **must** be in good standing with the issuing authority, and if applicable, the Arkansas State Board of Nursing.
 - b. Each Registered Nurse administering and evaluating skills examination **must** have at least one (1) year of nursing experience in long-term care within the past five (5) years from the date of hire or **must** have at least one (1) year of experience teaching in a nursing assistant or nursing education program within the past five (5) years from the date of hire.
 - c. The Contractor **must** train each Registered Nurse administering and evaluating skills examination in testing protocols and provide reimbursement for services rendered.
 - d. The Contractor **must** develop a system to ensure that the testing candidate cannot schedule into a test conducted by their instructor or any nurse within the corporate structure that trained the candidate.
 - e. Ongoing compliance **shall** be monitored through reports of test scheduling delays, submission of contractor’s staffing roster, and validated complaints.

Prospective Contractor shall provide its approach to ensuring a sufficient number of Registered Nurses at each training site as required at RFP Section 2.4.B.2-3 as part of Prospective Contractor’s technical proposal.

4. The Contractor **shall** administer and conduct the examination in English and offer a substitute examination, including an oral component, for those with limited literacy skills. The oral examination **must** be provided in a neutral manner, where the term “neutral manner” means no physical, verbal, or other action will indicate or tend to indicate the answer.
5. The Contractor **must** ensure suitable accommodations for the candidates to take the examination (e.g., good lighting and ventilation, adequate spacing between the candidates, chairs, a writing surface, and accessibility to rest rooms). Accommodations **must** be free from distractions that would affect the candidates’ ability to perform optimally on the examination. Examination sites **must** be designated non-smoking, be accessible for all candidates, and have both parking facilities and public transportation available.
6. The Contractor **shall** develop and maintain plans to accommodate the special testing needs of handicapped persons and religious obligations that preclude weekend test dates.

Prospective Contractor shall provide its approach to providing the testing accommodation required in RFP Section 2.4.B.4-6 as part of Prospective Contractor’s technical proposal.

7. The Contractor **shall** prevent conflict-of-interest issues between trainers, observers, and testing personnel.
 - a. The Contractor **shall** develop policies and procedures to prevent, manage, and resolve conflicts of interest and breaches of security.
 - b. The Contractor **shall** report concerns and resolution related to test integrity, test security, and conflicts of interest to the Division/Office within twenty-four (24) hours of the Contractor receiving knowledge of the issue, or on the next business day if the reporting requirement would fall on a Saturday, Sunday, or a holiday.
8. The Contractor **must** ensure the protection of the examination integrity and security, including but not limited to:
 - a. Providing for the secure development, storage, and shipment of component evaluation materials;
 - b. Accounting for and replacing materials lost or damaged in transit to a test site;
 - c. Providing a system to deter fraudulent registration, including requiring proof of successful completion of applicable training;
 - d. Requiring that each candidate provide two (2) forms of signature identification, one of which must contain a photograph;
 - e. Conducting and paying for the investigation of actual or alleged security breaches;
 - f. Assuming liability if the agents, employees, or subcontractors of the selected testing service lose or otherwise compromise examination materials;
 - g. Assuring that the rights and obligations of test registrants are clearly specified, observed, and enforced; and
 - h. Providing procedures for the handling of both latecomers and candidates who need to be excused from the examination room (e.g., to use the rest room, etc.).

Prospective Contractor shall provide its approach to ensuring testing integrity as required at RFP Section 2.4.B.7-8 as part of Prospective Contractor's technical proposal.

9. The Contractor **shall** establish a contingency plan for continued operations to satisfy the terms set forth in the contract. The plan **shall** include, without limitation, contingency plans for pandemics, natural disaster, fire, data storage and recovery, and alternative testing sites.

Prospective Contractor must provide its proposed contingency plan meeting the requirements at RFP Section 2.4.B.9 as part of Prospective Contractor's technical response.

10. The Contractor **must** provide sufficient testing statewide. Testing centers for the duration of the agreement **must** include at least one (1) fixed test site in each of the following areas or regions: Northwest Arkansas, Northeast Arkansas, Southwest Arkansas, Southeast Arkansas, and at least three (3) centers in Central Arkansas. Additional testing sites may be required upon State request.
 - a. The test schedule **must** ensure the travel distance for test candidates is fifty (50) miles or less and the capability for providing tests for candidates at approved training facilities.
11. The Contractor **shall** provide free "sharing" workshops as demand warrants for Arkansas nurse aide training programs.
12. The Contractor **must** ensure that each candidate has a maximum of no more than thirty (30) minutes after arrival at the test site to take the examination.
13. The Contractor **must** ensure that each candidate is allotted a maximum of two (2) hours to complete each portion of the competency examination.

Prospective Contractor must provide its proposed approach to meeting the testing site requirements specified at RFP Section 2.4.10-13 as part of its technical proposal.

14. The Contractor **shall** be responsible for establishing, maintaining, and supplying the Division/Office with a test schedule to handle the testing demand.
 - a. The Contractor **must** ensure completion of test request and scheduling for each test registrant within two (2) business days of receipt.

- b. The Contractor **must** provide administration of knowledge and skill examinations within one (1) week of registration.

Prospective Contractor shall provide its approach to meeting the scheduling requirements specified at RFP Section 2.4.B.14

15. The Contractor **shall** develop and maintain a method for issuance of test scores to State agency, test candidates, and training programs within three (3) working days from date of examination completion. The Contractor **must** provide candidates who fail a portion of the competency examination with a scoring report to include:
 - a. Notification of the failed attempt;
 - b. Diagnostic information to assist in preparing to retake the examination. For purpose of this requirement, "assist" means providing the candidate with pass or fail results for each of the clinical skills performed during the exam, the possible number of items in each content area of the written or oral exam, and the number of items in each content area that the candidate answered correctly;
 - c. Verification that all candidates are allowed three (3) total attempts to successfully pass the exam within one (1) year of the date of completion from an eligible training program;
 - d. Re-administration of an examination to a candidate at no additional charge if the candidate's examination failure may be due to problems arising at the examination site (e.g., malfunction of service provider examination equipment, continuous noise disturbance, unprofessional test administration, or any other severe disruption as determined by State agency);
 - e. Verification of the expiration date by which each candidate must successfully pass the examination; and
 - f. Notification that retraining will be required after the third failed attempt of any portion of the exam or after the expiration date.
16. The Contractor **shall** establish and maintain procedures to permit test candidates to question the accuracy of the scoring of their test.
17. The Contractor **shall** retain exam scores and records for a minimum of six (6) years.

Prospective Contractor shall provide its approach to meeting the test scoring requirements at RFP Section 2.4.B.15-17 as part of Prospective Contractor's technical proposal.

C. Renewal Process

The Contractor **shall** develop, maintain, and manage renewal processes and procedures to ensure appropriate processing, eligibility screening, issuance of certificates, and data sharing with the Division/Office.

1. The Contractor **shall** develop and provide management of a registry renewal process that provides for notifications, prevents renewals prior to sixty (60) calendar days of expiration, and processing within five (5) working days of receipt.
2. The Contractor **must** update each individual's registry database record upon successful renewal, including the current or last place of employment for individuals working in a long-term care facility.
3. This provision **shall** be monitored by generated reports through the online data system and accounting software made accessible at any time by the Division/Office.

Prospective Contractor shall provide its approach to providing the renewal processes and procedures as required at RFP Section 2.4.C as part of Prospective Contractor's technical proposal.

D. Reciprocity Process

The Contractor **shall** develop, maintain, and manage interstate transfer and reciprocity processes and procedures to ensure appropriate processing, eligibility screening, issuance of certificates, and sharing data with the Division/Office.

1. The Contractor **shall** develop and provide management of a registry process that provides online submission of the requests and notifications directly to and from the individual.
2. The Contractor **must** update each individual's registry database record upon successful processing.

3. This provision will be monitored by submitted reports and validated complaints.

Prospective Contractor shall provide its approach to providing the interstate transfer and reciprocity processes and procedures as required at RFP Section 2.4.D as part of Prospective Contractor's technical response.

E. Military Licensure

Automatic licensure for active duty service members, returning military veterans, and spouses **shall** be conducted by Vendor in accordance to Arkansas Code Annotated [§ 17-1-106](#).

Prospective Contractor shall provide its approach to providing automatic licensure for active duty service members as required at RFP Section 2.4.E as part of Prospective Contractor's technical response.

F. Contractor Restrictions

The Contractor **shall** avoid having any direct or indirect ownership or financial interest in any nursing assistant training program and ensure that all subcontractors (not to include Nurse Aide Training Program (NATP) instructors) and all employees of the contractor or subcontractors also avoid having any such ownership or financial interest.

G. Reports

The Contractor **shall** develop and maintain reports for contract monitoring of testing activities and other requirements.

1. The Contractor **shall** provide the Division/Office access to online or electronic reporting that must be accessible at all times. Reporting **shall** include, but not be limited to:
 - a. Attrition rates;
 - b. Misconduct reports;
 - c. Monthly certification totals;
 - d. Pass/Fail rates;
 - e. Scheduled and completed exams;
 - f. Monthly registry activity for Reciprocity and Renewals;
 - g. Regional site verification of location, including site name, physical address, city and state;
 - h. List of all test proctors, observers, and actors with their required qualifications and/or certifications;
 - i. Scoring data (specific to state, individual, discipline, testing site [fixed and flexible], attempt or otherwise requested);
 - j. All questions pulled for examination and the percentage of fail rate for each question;
 - k. Specific exam administered to each candidate, including questions and correct responses;
 - l. Date application received by testing company to date in which candidate notified of test date;
 - m. Date application received by testing company to date candidate tested;
 - n. Date candidate tested to date test scored;
 - o. Date test scored to date candidate notified of test results; and
 - p. Test evaluator data (number of candidates tested, pass/fail rate, complaints, locations where testing, and otherwise requested).
2. The Contractor **shall** provide additional customized reports when requested by the Division/Office within ten (10) business days of receipt of the request for the report.
3. The Contractor **must** allow NATP programs and providers access at no additional charge, via the Internet and in written form upon request, to all the testing service's scoring data specific to their program.
4. The Contractor **shall** make available through the online system current information on complaints and dispute resolutions for DHS to review at any time. The Contractor **shall** notify DHS immediately upon becoming aware of a dispute situation that is not housed in the online system.
5. The Contractor **shall** provide monthly and upon request a report of all payments received from test candidates, training programs, long-term care facilities, and any other payment sources.
 - a. The report **must** include:
 - source of payment
 - method of payment
 - amount of payment

- name of candidate or individual to which the payment is applied
 - the purpose of the payment
- b. Payments not applied to an individual's account within ten (10) calendar days of receipt **must** be included on this report with an explanation of how the funds will be distributed and disbursed.
6. The Contractor **shall** provide a monthly billing invoice for examination fees, registry fees, reciprocity fees, and any other fees allowed to be charged to the Division/Office by this contract. The invoice **shall** include the candidate's name, exam date, and registry placement and/or renewal date. An applicant deemed as a "no show" by the vendor is not reimbursable by DHS.
7. The Contractor **shall** provide monthly and upon request a report of all telephonic customer assistance provided, including average answer times, average hold times, and call volume.
8. The Contractor **shall** make available to DHS all system generated reports for any date range input into the online system.
9. Unless otherwise specified herein, the Contractor **shall** provide all monthly reports on the fifth (5th) day of the month following the last day of the reporting period, or as requested, to verify compliance with contracted services.
10. The Contractor **shall** create, maintain, and supply an operational roster of all Arkansas-dedicated staff to the State agency upon implementation of services. An updated operational roster of vendor staff **shall** be provided to the State agency within monthly reporting
11. The Contractor **shall** provide all reports required by this contract in such format as requested by the Division/Office.

Prospective Contractor shall provide its approach to meeting the reporting requirements specified at RFP Section 2.4.G as part of Prospective Contractor's technical response.

H. Web-based Portal

1. The Contractor **must** develop and implement a publicly accessible website.
- a. This website **must** provide:
- i. Test candidates, facilities, and approved nurse aide training programs with secure access to register test candidates, accounts, test results, applications, online submission options, test scheduling and rescheduling, and other information;
 - ii. Candidates with an option to print a certificate or similar proof of passage if the candidate passed or notifying unsuccessful candidates of specific skill(s) and component(s) that the candidate failed;
 - iii. Interested parties with exam preparation materials, including test question examples;
 - iv. Instructional methods to help candidates register for tests, including application forms and online submissions options; and
 - v. Information about the testing process and locations.
- b. This website **must** be accessible and maintained twenty-four (24) hours a day, seven (7) days per week. The website **must not** be down for more than forty-eight (48) hours in any thirty (30) day period due to technical difficulties or maintenance.
- c. Downtime and any technical issues that impact access to information on the website **must** be reported to the Division/Office immediately upon the Contractor's knowledge of the issue, or by 8:00am Central Standard Time on the next business day if the reporting requirement would fall on a Saturday, Sunday, or a holiday.
- d. The Contractor **shall** maintain a system to differentiate registration numbers to indicate the type of registration (i.e., testing, deemed status, grand-fathering, interstate transfer, or reciprocity).

Prospective Contractor shall provide its approach to providing the web-based portal as required at RFP Section 2.4.H as part of Prospective Contractor's technical proposal.

I. Electronic Clearinghouse Registry

The Contractor **must** develop, maintain, and manage a database system to house employment disqualification information on individuals based on criminal record, substantiated administrative findings of patient abuse, neglect or theft against the individual.

1. The Contractor **shall** develop, implement, and maintain an information system to house an Employment Clearance Registry (ECR) with the ability to identify each individual that has a substantiated finding and the ability for the information to be exchanged between the Division/Office and the Contractor through a shared database.
2. The Contractor's information system **shall** include a web-based portal or another mechanism that shall be able to obtain and store Employment Clearance Registry (ECR) data and be accessible by providers and State agency.
3. The Contractor **shall** provide the State agency, State auditing agencies, and providers view access, edit capabilities, and printing capabilities of Employment Clearance Registry (ECR) data.
4. The database **must** be a computer-based registry database system that is designed in accordance with the State's rules and regulations, Rules and Regulations for Conducting Criminal Record Checks for Employees of Long Term Care Facilities, and meets data requirements, including:
 - a. At least three (3) levels of backup redundancy, preservation for as long as the Division/Office requires, and accessibility upon request for all records;
 - b. Capability for Division/Office staff to enter and delete data through a shared internet-based system;
 - c. Management of ongoing processes to share data with the Division/Office; and
 - d. Ability for Division/Office staff to initiate query reports.
5. This registry **must** be accessible and maintained twenty-four (24) hours a day, seven (7) days per week. The website **must not** be down for more than forty-eight (48) hours in any thirty (30) day period due to technical difficulties or maintenance.
6. Technical issues **shall** be reported to the Division/Office immediately upon the contractor's knowledge of the issue, or by 8:00am Central Standard Time on the next business day if the reporting requirement would fall on a Saturday, Sunday, or a holiday.
7. The registry **shall** maintain a status update log to archive and trace DHS and contractor's staff who update the registry.
8. The Contractor **shall** develop, implement, and maintain the registry to include the identifier to show individuals who have been prohibited from employment due to criminal histories or other disqualifying characteristics as defined in state and federal law and regulations.
9. The Contractor **shall** maintain Employment Clearance Registry (ECR) data in an electronic format acceptable by the State agency for a period of at least eight (8) years from the time of service and must be available for review by the State agency upon request.
10. The Contractor **shall** provide all proprietary Employment Clearance Registry (ECR) data maintained during the life of the contract to the State agency every ninety (90) days and otherwise within thirty (30) days of written request from DHS in a format acceptable by the State agency.

Prospective Contractor shall provide its approach to providing the electronic clearinghouse registry as required at RFP Section 2.4.I as part of Prospective Contractor's technical response.

J. Customer Service

The Contractor **shall** implement a toll-free customer assistance telephone line that is staffed with sufficient and trained staff to provide accurate information in a courteous and timely manner.

1. The Contractor **must** provide a toll-free customer assistance telephone number available, at minimum, Monday through Friday (8:00 A.M. to 5:00 P.M Central Standard Time) and Saturday from (9:00 A.M. to 2:00 P.M. Central Standard Time).

2. For the purposes of this requirement, ninety-five percent (95%) of all calls shall be answered by the third ring during regular business hours.
3. For purposes of this requirement, the standard for hold-times **shall not** exceed two minutes (2:00) with no more than fifteen percent (15%) vacated calls.
4. This provision **must** be met no later than thirty (30) calendar days from the contract start date and shall be monitored quarterly by required reports and validated complaints.

Prospective Contractor must provide its approach to meeting the customer service requirements at RFP Section 2.4.J as part of Prospective Contractor's technical proposal.

K. Training

No later than thirty (30) days prior to contract start date, the Vendor **shall** provide training to the State agency and any other entities deemed appropriate by the State agency, through in-person training and virtual training, to sufficiently detail and describe forms, documents, online information portal, operational policies, procedures, processes and internal controls (i.e., quality assurance and improvement methods) to adhere to performance-based standards set within the contract. The Vendor **shall** be responsible for all training materials necessary for the trainings provided.

Prospective Contractor must provide its approach to providing training as required at RFP Section 2.4.K as part of Prospective Contractor's technical proposal.

L. Implementation of Services

As of the contract start date, the Vendor **shall** have in place all personnel and software system configured to transmit and receive data related to the requirements set within the contract. All implementation services **must** be rendered to ensure that there is no disruption in certification, testing, and registry services during contract implementation and transition.

M. Work Plan Requirements

1. The Vendor **must** create and maintain a Work Plan that details the vendor's overall plan for the execution of the contracted activities provided with sufficient detail to ensure to DHS's satisfaction that all work shall be performed in a logical sequence, in a timely manner, and with an efficient use of resources. The Work Plan **must** include a detailed description of all activities required to successfully implement and maintain operations under this contract.
2. The Vendor **must** submit the Work Plan to DHS for review and approval within thirty (30) days of the notice award.
3. The Vendor **must** maintain and provide the State agency with an updated work plan for review yearly.
4. The Work Plan **must** sufficiently detail and describe operational policies, procedures, processes, and internal controls (i.e., quality assurance and improvement methods) to adhere to performance-based standards set within the contract.

Prospective Contractor shall provide its proposed work plan meeting the requirements at RFP Section 2.4.M as part of Prospective Contractor's technical proposal.

2.5 DATA REQUIREMENTS

- A. Contractor's system **shall** include a web-based portal or comparable mechanism that must be able to obtain, store, and render accessible for reviewing all registry data. Contractor **shall** provide DHS view access and printing capabilities for all registry data.
- B. Vendor **shall** provide all proprietary data collected and/or created during the life of the contract to DHS every ninety (90) days and otherwise within thirty (30) days of written request from DHS.

Prospective Contractor shall provide its approach to meeting the data requirements specified in RFP Section 2.5 as part of Prospective Contractor's technical response.

2.6 RESTRICTIONS ON CONTRACTOR STAFF: STATE EMPLOYMENT

The Contractor **shall not** restrict its employees, agents, subcontractors or principals who perform services for the State under this contract from performing the same or similar services for the State after termination of this contract, either as a State employee, an independent contractor, or an employee, agent, subcontractor or principal of another contract with the State.

2.7 FUTURE PROGRAM: NURSING HOME ADMINISTRATOR EXAMINATIONS

The State agency may elect to add nursing home administrator examination functions after award of this procurement in order to accommodate emerging needs. At such time, the selected vendor and DHS will discuss scope and costs.

Prospective Contractor shall provide its approach to providing nursing home administrator examinations in the future as required in RFP Section 2.7 as part of Prospective Contractor's technical response.

2.8 PERFORMANCE STANDARDS

- A. State law requires that all contracts for services include Performance Standards for measuring the overall quality of services provided. *Attachment C: Performance Standards* identifies expected deliverables, performance measures, or outcomes; and defines the acceptable standards the Vendor **must** meet in order to avoid assessment of damages.
- B. The State may be open to negotiations of Performance Standards prior to contract award, prior to the commencement of services, or at times throughout the contract duration.
- C. The State **shall** have the right to modify, add, or delete Performance Standards throughout the term of the contract, should the State determine it is in its best interest to do so. Any changes or additions to performance standards will be made in good faith following acceptable industry standards, and, may include the input of the Vendor so as to establish standards that are reasonably achievable.
- D. All changes made to the Performance Standards **shall** become an official part of the contract.
- E. Performance Standards **shall** continue throughout the term of the contract.
- F. Failure to meet the minimum Performance Standards as specified **may** result in the assessment of damages.
- G. In the event a Performance Standard is not met, the Vendor will have the opportunity to defend or respond to the insufficiency. The State **may** waive damages if it determines there were extenuating factors beyond the control of the Vendor that hindered the performance of services or if it is in the best interest of the State to do so. In these instances, the State **shall** have final determination of the performance acceptability.
- H. Should any compensation be owed to the agency due to the assessment of damages, Vendor **shall** follow the direction of the agency regarding the required compensation process.

SECTION 3 – CRITERIA FOR SELECTION

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

3.1 TECHNICAL PROPOSAL SCORE

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

- B. An agency-appointed Evaluation Committee will evaluate and score qualifying Technical Proposals. Evaluation will be based on Contractor’s response to the *Information for Evaluation* section included in the *Technical Proposal Packet*.
 - 1. Members of the Evaluation Committee will individually review and evaluate proposals and complete an Individual Score Worksheet for each proposal. Individual scoring for each Evaluation criteria will be based on the following Scoring Description.

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

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

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

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

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

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

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

1. In each sub-section, items/questions have each been assigned a maximum point value of five (5) points. The total point value for each sub-section is reflected in the table below as the Maximum Raw Score Possible.
2. The agency has assigned Weighted Percentages to each sub-section according to its significance.
3. The Financial Disclosure section points will be added to the final subtotal score to arrive at the total.

Information for Evaluation Sub-Sections	Maximum Raw Points Possible	Sub-Section's Weighted Percentage	* Maximum Weighted Score Possible
E.1 Background and Qualifications	5	5%	35
E.2 Examination Development and Validation	5	15%	105
E.3 Examination Administration	40	15%	105
E.4 Renewal Process	5	7%	49
E.5 Reciprocity Process	5	7%	49
E.6 Military Licensure	5	3%	21
E.7 Customer Service	5	10%	70
E.8 Reports	5	3%	21
E.9 Web-based Portal	5	15%	105
E.10 Electronic Clearinghouse Registry	5	10%	70
E.11 Training	5	3%	21
E.12 Work Plan Requirements	5	3%	21
E.13 Data Requirements	5	2%	14
E.14 Future Programs	5	2%	14
Technical Score Total	105	100%	700

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

$$(A/B)*C = D$$

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

- E. Vendor's weighted scores for sub-sections will be added to determine the Total Technical Score for the Proposal.
- F. Technical Proposals that do not receive a minimum weighted score of 450 shall not move forward in the solicitation process. The pricing for proposals which do not move forward **shall not** be opened or scored.

3.2 COST SCORE

- A. When pricing is opened for scoring, the maximum amount of cost points will be given to the Vendor with the lowest grand total as shown on the Official Bid Price Sheet. (See *Grand Total Score* for maximum points possible for cost score.)
- B. The amount of cost points given to the remaining contractors will be allocated by using the following formula:

$$(A/B) * (C) = D$$

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

3.3 GRAND TOTAL SCORE

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

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

3.4 CONTRACTOR ACCEPTANCE OF EVALUATION TECHNIQUE

- A. Vendor **must** agree to all evaluation processes and procedures as defined in this solicitation.
- B. The submission of a *Technical Proposal Packet* **shall** signify the Vendor's understanding and agreement that subjective judgments **shall** be made during the evaluation and scoring of the Technical Proposals.

SECTION 4 – GENERAL CONTRACTUAL REQUIREMENTS

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

4.1 PAYMENT AND INVOICE PROVISIONS

- A. Payment will be made in accordance with applicable State of Arkansas accounting procedures upon acceptance goods and services by the agency.
- B. The State **shall not** be invoiced in advance of delivery and acceptance of any goods or services.
- C. Payment will be made only after the Vendor has successfully satisfied the agency as to the reliability and effectiveness of the goods or services purchased as a whole.
- D. 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.
- E. Other sections of this *Bid Solicitation* may contain additional Requirements for invoicing.
- F. Selected Contractor **must** be registered to receive payment and future *Bid Solicitation* notifications. Contractors may register on-line at <https://www.ark.org/contractor/index.html>.

4.2 GENERAL INFORMATION

- A. The State **shall not** lease any equipment or software for a period of time which continues past the end of a fiscal year unless the contract allows for cancellation by the State Procurement Official upon a thirty (30) day written notice to the Contractor/lessor in the event funds are not appropriated.
- B. The State **shall not** pay damages, legal expenses or other costs and expenses of any other party.
- C. The State **shall not** continue a contract once any equipment has been repossessed.
- D. Any litigation involving the State **must** take place in Pulaski County, Arkansas.
- E. The State **shall not** agree to any provision of a contract which violates the laws or constitution of the State of Arkansas.
- F. The State **shall not** enter a contract which grants to another party any remedies other than the following:
 - 1. The right to possession.
 - 2. The right to accrued payments.
 - 3. The right to expenses of de-installation.
 - 4. The right to expenses of repair to return the equipment to normal working order, normal wear and tear excluded.
 - 5. The right to recover only amounts due at the time of repossession and any unamortized nonrecurring cost as allowed by Arkansas Law.
- G. The laws of the State of Arkansas **shall** govern this contract.
- H. A contract **shall not** be effective prior to award being made by a State Procurement Official.
- I. In a contract with another party, the State will accept the risk of loss of the equipment or software and pay for any destruction, loss or damage of the equipment or software while the State has such risk, when:
 - 1. The extent of liability for such risk is based upon the purchase price of the equipment or software at the time of any loss, and
 - 2. The contract has required the State to carry insurance for such risk.

4.3 **CONDITIONS OF CONTRACT**

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

4.4 **STATEMENT OF LIABILITY**

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

4.5 **RECORD RETENTION**

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

4.6 **PRICE ESCALATION**

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

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

4.7 **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.

4.8 **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.

4.9 **CANCELLATION**

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

4.10 **SEVERABILITY**

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

SECTION 5 – STANDARD TERMS AND CONDITIONS

Do not provide responses to items in this section.

1. **GENERAL:** Any special terms and conditions included in this solicitation **shall** override these Standard Terms and Conditions. The Standard Terms and Conditions and any special terms and conditions **shall** become part of any contract entered into if any or all parts of the bid are accepted by the State of Arkansas.
2. **ACCEPTANCE AND REJECTION:** The State **shall** have the right to accept or reject all or any part of a bid or any and all bids, to waive minor technicalities, and to award the bid to best serve the interest of the State.
3. **BID SUBMISSION:** Original Proposal Packets **must** be submitted to the Office of State Procurement on or before the date and time specified for bid opening. The Proposal Packet **must** contain all documents, information, and attachments as specifically and expressly required in the *Bid Solicitation*. The bid **must** be typed or printed in ink. The signature **must** be in ink. Unsigned bids **shall** be disqualified. The person signing the bid should show title or authority to bind his firm in a contract. Multiple proposals **must** be placed in separate packages and should be completely and properly identified. Late bids **shall not** be considered under any circumstances.
4. **PRICES:** Bid unit price F.O.B. destination. In case of errors in extension, unit prices **shall** govern. Prices **shall** be firm and **shall not** be subject to escalation unless otherwise specified in the *Bid Solicitation*. Unless otherwise specified, the bid **must** be firm for acceptance for thirty days from the bid opening date. "Discount from list" bids are not acceptable unless requested in the *Bid Solicitation*.
5. **QUANTITIES:** Quantities stated in a *Bid Solicitation* for term contracts are estimates only and are not guaranteed. Contractor **must** bid unit price on the estimated quantity and unit of measure specified. The State may order more or less than the estimated quantity on term contracts. Quantities stated on firm contracts are actual Requirements of the ordering agency.
6. **BRAND NAME REFERENCES:** Unless otherwise specified in the *Bid Solicitation*, any catalog brand name or manufacturer reference used in the *Bid Solicitation* is descriptive only, not restrictive, and used to indicate the type and quality desired. Bids on brands of like nature and quality will be considered. If bidding on other than referenced specifications, the bid **must** show the manufacturer, brand or trade name, and other descriptions, and should include the manufacturer's illustrations and complete descriptions of the product offered. The State **shall** have the right to determine whether a substitute offered is equivalent to and meets the standards of the item specified, and the State may require the Contractor to supply additional descriptive material. The Contractor **shall** guarantee that the product offered will meet or exceed specifications identified in this *Bid Solicitation*. Contractors not bidding an alternate to the referenced brand name or manufacturer **shall** be required to furnish the product according to brand names, numbers, etc., as specified in the solicitation.
7. **GUARANTY:** All items bid **shall** be newly manufactured, in first-class condition, latest model and design, including, where applicable, containers suitable for shipment and storage, unless otherwise indicated in the *Bid Solicitation*. The Contractor hereby guarantees that everything furnished hereunder **shall** be free from defects in design, workmanship and material, that if sold by drawing, sample or specification, it **shall** conform thereto and **shall** serve the function for which it was furnished. The Contractor **shall** further guarantee that if the items furnished hereunder are to be installed by the Contractor, such items **shall** function properly when installed. The Contractor **shall** guarantee that all applicable laws have been complied with relating to construction, packaging, labeling and registration. The Contractor's obligations under this paragraph **shall** survive for a period of one year from the date of delivery, unless otherwise specified herein.
8. **SAMPLES:** Samples or demonstrators, when requested, **must** be furnished free of expense to the State. Each sample should be marked with the Contractor's name and address, bid or contract number and item number. If requested, samples that are not destroyed during reasonable examination will be returned at Contractor's expense. After reasonable examination, all demonstrators will be returned at Contractor's expense.
9. **TESTING PROCEDURES FOR SPECIFICATIONS COMPLIANCE:** Tests may be performed on samples or demonstrators submitted with the bid or on samples taken from the regular shipment. In the event products tested fail to meet or exceed all conditions and Requirements of the specifications, the cost of the sample used and the reasonable cost of the testing **shall** be borne by the Contractor.
10. **AMENDMENTS:** Contractor's proposals cannot be altered or amended after the bid opening except as permitted by regulation.
11. **TAXES AND TRADE DISCOUNTS:** Do not include State or local sales taxes in the bid price. Trade discounts should be deducted from the unit price and the net price should be shown in the bid.
12. **AWARD:** Term Contract: A contract award will be issued to the successful Contractor. It results in a binding obligation without further action by either party. This award does not authorize shipment. Shipment is authorized by the receipt of a purchase order from the ordering agency. Firm Contract: A written State purchase order authorizing shipment will be furnished to the successful Contractor.
13. **DELIVERY ON FIRM CONTRACTS:** This solicitation shows the number of days to place a commodity in the ordering agency's designated location under normal conditions. If the Contractor cannot meet the stated delivery, alternate delivery schedules may become a factor in an award. The Office of State Procurement **shall** have the right to extend delivery if reasons appear valid. If the date is not acceptable, the agency may buy elsewhere, and any additional cost **shall** be borne by the Contractor.

- 14. DELIVERY REQUIREMENTS:** No substitutions or cancellations are permitted without written approval of the Office of State Procurement. Delivery **shall** be made during agency work hours only 8:00 a.m. to 4:30 p.m. Central Time, unless prior approval for other delivery has been obtained from the agency. Packing memoranda **shall** be enclosed with each shipment.
- 15. STORAGE:** The ordering agency is responsible for storage if the Contractor delivers within the time required and the agency cannot accept delivery.
- 16. DEFAULT:** All commodities furnished **shall** be subject to inspection and acceptance of the ordering agency after delivery. Back orders, default in promised delivery, or failure to meet specifications **shall** authorize the Office of State Procurement to cancel this contract or any portion of it and reasonably purchase commodities elsewhere and charge full increase, if any, in cost and handling to the defaulting Contractor. The Contractor **must** give written notice to the Office of State Procurement and ordering agency of the reason and the expected delivery date. Consistent failure to meet delivery without a valid reason may cause removal from the Contractors list or suspension of eligibility for award.
- 17. VARIATION IN QUANTITY:** The State assumes no liability for commodities produced, processed or shipped in excess of the amount specified on the agency's purchase order.
- 18. INVOICING:** The Contractor **shall** be paid upon the completion of all of the following: (1) submission of an original and the specified number of copies of a properly itemized invoice showing the bid and purchase order numbers, where itemized in the *Bid Solicitation*, (2) delivery and acceptance of the commodities and (3) proper and legal processing of the invoice by all necessary State agencies. Invoices **must** be sent to the "Invoice To" point shown on the purchase order.
- 19. STATE PROPERTY:** Any specifications, drawings, technical information, dies, cuts, negatives, positives, data or any other commodity furnished to the Contractor hereunder or in contemplation hereof or developed by the Contractor for use hereunder **shall** remain property of the State, **shall** be kept confidential, **shall** be used only as expressly authorized, and **shall** be returned at the Contractor's expense to the F.O.B. point provided by the agency or by OSP. Contractor **shall** properly identify items being returned.
- 20. PATENTS OR COPYRIGHTS:** The Contractor **must** agree to indemnify and hold the State harmless from all claims, damages and costs including attorneys' fees, arising from infringement of patents or copyrights.
- 21. ASSIGNMENT:** Any contract entered into pursuant to this solicitation **shall not** be assignable nor the duties thereunder delegable by either party without the written consent of the other party of the contract.
- 22. CLAIMS:** Any claims the Contractor may assert under this Agreement shall be brought before the Arkansas State Claims Commission ("Commission"), which shall have exclusive jurisdiction over any and all claims that the Contractor may have arising from or in connection with this Agreement. Unless the Contractor's obligations to perform are terminated by the State, the Contractor shall continue to provide the Services under this Agreement even in the event that the Contractor has a claim pending before the Commission.
- 23. CANCELLATION:** In the event, the State no longer needs the commodities or services specified for any reason, (e.g., program changes; changes in laws, rules or regulations; relocation of offices; lack of appropriated funding, etc.), the State **shall** have the right to cancel the contract or purchase order by giving the Contractor written notice of such cancellation thirty (30) days prior to the date of cancellation.
- Any delivered but unpaid for goods will be returned in normal condition to the Contractor by the State. If the State is unable to return the commodities in normal condition and there are no funds legally available to pay for the goods, the Contractor may file a claim with the Arkansas Claims Commission under the laws and regulations governing the filing of such claims. If upon cancellation the Contractor has provided services which the State has accepted, the Contractor may file a claim. **NOTHING IN THIS CONTRACT SHALL BE DEEMED A WAIVER OF THE STATE'S RIGHT TO SOVEREIGN IMMUNITY.**
- 24. DISCRIMINATION:** In order to comply with the provision of Act 954 of 1977, relating to unfair employment practices, the Contractor agrees that: (a) the Contractor **shall not** discriminate against any employee or applicant for employment because of race, sex, color, age, religion, handicap, or national origin; (b) in all solicitations or advertisements for employees, the Contractor **shall** state that all qualified applicants **shall** receive consideration without regard to race, color, sex, age, religion, handicap, or national origin; (c) the Contractor will furnish such relevant information and reports as requested by the Human Resources Commission for the purpose of determining compliance with the statute; (d) failure of the Contractor to comply with the statute, the rules and regulations promulgated thereunder and this nondiscrimination clause **shall** be deemed a breach of contract and it may be cancelled, terminated or suspended in whole or in part; (e) the Contractor **shall** include the provisions of above items (a) through (d) in every subcontract so that such provisions **shall** be binding upon such subcontractor or Contractor.
- 25. CONTINGENT FEE:** The Contractor guarantees that he has not retained a person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by the Contractor for the purpose of securing business.
- 26. ANTITRUST ASSIGNMENT:** As part of the consideration for entering into any contract pursuant to this solicitation, the Contractor named on the *Proposal Signature Page* for this solicitation, acting herein by the authorized individual or its duly authorized agent, hereby assigns, sells and transfers to the State of Arkansas all rights, title and interest in and to all causes of action it may have under the antitrust laws of the United States or this State for price fixing, which causes of action have accrued prior to the date of this assignment and which relate solely to the particular goods or services purchased or produced by this State pursuant to this contract.

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