



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

REQUEST FOR PROPOSAL
 RFP SOLICITATION DOCUMENT

| SOLICITATION INFORMATION | | | |
|---|--|---------------------------------|--|
| Solicitation Number: | 710-24-0005 | Solicitation Issued: | December 22, 2023 |
| Description: | Medicaid Third Party Liability | | |
| Agency: | Department of Human Services, Division of Medical Services (DMS) | | |
| SUBMISSION DEADLINE | | | |
| Proposal Submission Date and Time | February 19, 2024, 1:00 p.m., Central Time | Proposal Opening Date and Time: | February 19, 2024, 2:00 p.m., Central Time |
| <p>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).</p> | | | |
| 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 | | |
| <p>Delivery providers, USPS, UPS, and FedEx deliver mail to OP's street address on a schedule determined by each individual provider. These providers will deliver to OP based solely on the street address. Prospective Contractors assume all risk for timely, properly submitted deliveries.</p> | | | |
| Proposal's Outer Packaging: | <p>Seal outer packaging and properly mark with the following information. If outer packaging of proposal submission is not properly marked, the package may be opened for proposal identification purposes.</p> <ul style="list-style-type: none"> ▪ Solicitation number ▪ Date and time of proposal opening ▪ Vendor's name and return address | | |
| OFFICE OF PROCUREMENT CONTACT INFORMATION | | | |
| OP Buyer: | Arnetia Dean | Buyer's Direct Phone Number: | 501-683-5969 |
| Email Address: | DHS.OP.Solicitations@dhs.arkansas.gov | OP's Main Number: | 501-396-6045 |
| DHS Website: | https://humanservices.arkansas.gov/do-business-with-dhs | | |
| OSP Website: | http://www.arkansas.gov/dfa/procurement/bids/index.php | | |

Table of Contents

| | | |
|------------------|---|-----------|
| SECTION 1 | GENERAL INFORMATION AND INSTRUCTIONS..... | 4 |
| 1.1 | INTRODUCTION | 4 |
| 1.2 | INTERGOVERNMENTAL/COOPERATIVE USE OF PROPOSAL AND CONTRACT | 4 |
| 1.3 | TYPE OF CONTRACT | 4 |
| 1.4 | ISSUING AGENCY | 4 |
| 1.5 | BID OPENING LOCATION | 4 |
| 1.6 | ACCEPTANCE OF REQUIREMENTS | 4 |
| 1.7 | DEFINITION OF TERMS | 5 |
| 1.8 | RESPONSE DOCUMENTS | 5 |
| 1.9 | ORGANIZATION OF RESPONSE DOCUMENTS | 6 |
| 1.10 | CLARIFICATION OF RFP SOLICITATION..... | 6 |
| 1.11 | PROPOSAL SIGNATURE PAGE | 7 |
| 1.12 | AGREEMENT AND COMPLIANCE PAGES..... | 7 |
| 1.13 | SUBCONTRACTORS..... | 7 |
| 1.14 | PRICING | 7 |
| 1.15 | PRIME CONTRACTOR RESPONSIBILITY | 8 |
| 1.16 | INDEPENDENT PRICE DETERMINATION..... | 8 |
| 1.17 | PROPRIETARY INFORMATION | 8 |
| 1.18 | CAUTION TO CONTRACTORS | 9 |
| 1.19 | REQUIREMENT OF ADDENDUM | 9 |
| 1.20 | AWARD PROCESS | 9 |
| 1.21 | MINORITY AND WOMEN-OWNED BUSINESS POLICY | 10 |
| 1.22 | EQUAL OPPORTUNITY POLICY | 10 |
| 1.23 | PROHIBITION OF EMPLOYMENT OF ILLEGAL IMMIGRANTS | 10 |
| 1.24 | RESTRICTION OF BOYCOTT OF ISRAEL | 10 |
| 1.25 | PAST PERFORMANCE..... | 11 |
| 1.26 | TECHNOLOGY ACCESS | 11 |
| 1.27 | COMPLIANCE WITH THE STATE SHARED TECHNICAL ARCHITECTURE PROGRAM | 12 |
| 1.28 | VISA ACCEPTANCE | 12 |
| 1.29 | PUBLICITY | 12 |
| 1.30 | RESERVATION..... | 12 |
| 1.31 | DATA LOCATION | 12 |
| 1.32 | SCHEDULE OF EVENTS | 12 |
| 1.33 | STATE HOLIDAYS | 12 |
| SECTION 2 | MINIMUM REQUIREMENTS | 14 |
| 2.1 | INTRODUCTION | 14 |
| 2.2 | MINIMUM QUALIFICATIONS | 14 |
| 2.3 | PERFORMANCE STANDARDS..... | 14 |
| 2.4 | SCOPE OF WORK..... | 15 |
| 2.4.1 | <i>Administration</i> | 15 |
| 2.4.2 | <i>Cost Avoidance and Third Party Liability Identification</i> | 16 |
| 2.4.3 | <i>Post Payment Recovery</i> | 17 |
| 2.4.4 | <i>Casualty Recovery</i> | 19 |
| 2.4.5 | <i>Call Center Requirements</i> | 20 |
| 2.4.6 | <i>TPL Collections Lockbox</i> | 21 |
| 2.4.7 | <i>Reporting Requirements</i> | 22 |
| 2.4.8 | <i>Project Management</i> | 23 |
| 2.4.9 | <i>License to Access Shared Data Warehouse</i> | 25 |
| 2.4.10 | <i>Computer Requirements</i> | 25 |
| 2.4.11 | <i>System Security and Privacy Management Plan</i> | 27 |
| 2.4.12 | <i>Disaster Recovery and Business Continuity and Contingency Plan (DR-BCCP) Deliverable</i> | 28 |
| 2.4.13 | <i>Records and Documentation</i> | 29 |
| 2.4.14 | <i>Project Closure and Turnover</i> | 30 |
| 2.4.15 | <i>Deliverables</i> | 31 |

SECTION 3 SELECTION 33

3.1 TECHNICAL PROPOSAL SCORE 33

3.2 ORAL PRESENTATION/DEMONSTRATION SCORE **ERROR! BOOKMARK NOT DEFINED.**

3.3 COST SCORE..... 34

3.4 GRAND TOTAL SCORE 35

3.5 DISCUSSIONS..... **ERROR! BOOKMARK NOT DEFINED.**

3.6 PROSPECTIVE CONTRACTOR ACCEPTANCE OF EVALUATION TECHNIQUE 35

SECTION 4 GENERAL CONTRACTUAL REQUIREMENTS 36

4.1 PAYMENT AND INVOICE PROVISIONS 36

4.2 GENERAL INFORMATION 36

4.3 CONDITIONS OF CONTRACT 37

4.4 STATEMENT OF LIABILITY 37

4.5 PERFORMANCE BONDING 37

4.6 RECORD RETENTION..... 38

4.7 PRICE ESCALATION 38

4.8 CONFIDENTIALITY..... 38

4.9 CONTRACT INTERPRETATION 38

4.10 CANCELLATION..... 38

4.11 SEVERABILITY 38

SECTION 5 STANDARD TERMS AND CONDITIONS..... 39

SECTION 1 GENERAL INFORMATION AND INSTRUCTIONS

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

1.1 INTRODUCTION

This Request for Proposal (RFP) is issued by the Arkansas Department of Human Services (DHS), Office of Procurement (OP) for the Division of Medical Services (DMS) to obtain services for the implementation, development and maintenance and operations of a new Medicaid Third Party Liability Identification, Cost Avoidance and Recovery system.

Arkansas is required to provide Medicaid reimbursement for covered medical services only as the payor of last resort. Medicaid beneficiaries or their authorized representatives are required as a condition of eligibility to provide information regarding the availability of third-party resources.

DMS operates a Third Party Liability (TPL) unit to ensure that all other possible sources of payment are pursued. The State uses a TPL Contractor to match third party data and the Medicaid Management Information System (MMIS) to cost avoid, or deny, payment of claims and recover Medicaid payments. A contracted fiscal agent operates the MMIS.

Federal laws and regulations pertaining to a state's TPL program, and relevant to this RFP include, but are not limited to, Sections 1902, 1906 and 1917 of the Social Security Act within the United States Code (42 USC 1396a, 1396e and 1396p, respectively) and regulations in the Code of Federal Regulations at 42 CFR 433.135 through 433.154. Additional federal guidance related to TPL requirements is available in the State Medicaid Manual, Part 3 (CMS Pub. 45)

The Office of Procurement is the sole point of contact throughout this solicitation process.

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

As a result of this RFP, OP intends to award a contract to a single Contractor.

The term of this contract shall be for one (1) year. The anticipated start date for the contract is July 1, 2024. Upon mutual agreement by the Contractor and DHS, the contract may be renewed by OP, on a year-to-year basis, for up to six (6) additional one-year terms or portions thereof.

The total contract term shall not be more than seven (7) years.

1.4 ISSUING AGENCY

The Office of Procurement (OP), as the issuing office, is the sole point of contact throughout this solicitation process. Vendor questions regarding this Bid Solicitation should be made through the Issuing Officer as shown on page one (1) of this document.

1.5 BID OPENING LOCATION

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

1.6 ACCEPTANCE OF REQUIREMENTS

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

- C. Contractor 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. Contractor **must** clearly explain the requested exception and should reference the specific solicitation item number to which the exception applies. (See Agreement and Compliance Page.)
- D. DHS **must** not be required to accept any requested exceptions. Only exceptions expressly accepted by DHS will become part of the resulting contract.

1.7 DEFINITION OF TERMS

- A. Unless otherwise defined herein, all terms defined in Arkansas Procurement Law and used herein have the same definitions herein as specified therein.
- B. "Prospective Contractor", means a responsible offeror who submits a proposal in response to this solicitation.
- C. "Prospective Contractor", "Contractor", "bidder", "vendor" and "respondent" are used synonymously in this document.
- D. The terms "buyer" and "Issuing Officer" are used synonymously in this document.
- E. The terms "Request for Proposal", "RFP," "RFP Solicitation," "Bid Solicitation" and "Solicitation" are used synonymously in this document.

"Responsive proposal" means a proposal submitted in response to this solicitation that conforms in all material in respects to this RFP.

"Proposal Submission Requirement" means a task a Prospective Contractor **shall** complete when submitting a proposal response. These requirements will be distinguished by using the term "shall" or "must" in the requirement.

"Requirement" means a specification that a Contractor's commodity and/or service **must** meet or exceed in the performance of its contractual duties under any contract awarded as a result of this RFP. These specifications will be distinguished by using the terms "shall" or "must" in the requirement.

"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 Department using such a contract.

1.8 RESPONSE DOCUMENTS

- A. Original *Technical Proposal Packet*

The following items are Proposal Submission Requirements and **must** be submitted in the original Technical Proposal Response Packet.

1. A hard copy of the original *Technical Proposal Packet* **must** be received on or before the bid submittal date and time. Copy should not be two sided.
2. The Proposal Packet should be clearly marked "Original" and **must** include the following:
 - a. Original signed Response Signature Page. (See Technical Response Packet.)
 - b. Original signed Agreement and Compliance Page. (See Technical Response Packet.)
 - c. Original Proposed Subcontractors Form. (See Subcontractors.)
 - d. EO 98-04 Contract and Grant Disclosure Form, Attachment A. (See Standard Terms and Conditions.)
 - e. Technical Proposal response to the Information for Evaluation section included in the Technical Proposal Packet.
 - f. 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. Copy of Contractor's Equal Opportunity Policy. (See Equal Opportunity Policy.)

- b. Signed addenda to this RFP, if applicable. (See Requirement of Addendum.)
 - 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.

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. Three (3) complete hard copies (marked "COPY") of the *Technical Proposal Packet*.
 - b. Four (4) electronic copy of the *Technical Proposal Packet*, preferably on flash drives. A CD will also be acceptable. All items on flash drive or CD should be in PDF format.
 - 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. One (1) redacted copy, in PDF format, if applicable, (marked "REDACTED") of the original *Technical Proposal Packet*, preferably on a flash drive. A CD will also be acceptable. (See *Proprietary Information*.)
 - e. If OP requests additional copies of the proposal, the copies **must** be delivered within twenty-four (24) hours of request.

1.9 ORGANIZATION OF RESPONSE DOCUMENTS

- A. It is strongly recommended that Contractors adhere to the following format and suggestions when preparing their Technical Proposal response.
- B. The original *Technical Proposal Packet* and all copies should be arranged in the following order:
 - *Proposal Signature Page.*
 - *Agreement and Compliance Page.*
 - Signed Addenda, if applicable.
 - E.O. 98-04 – *Contract Grant and Disclosure Form.*
 - *Equal Opportunity Policy.*
 - *Proposed Subcontractors Form.*
 - 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 Response Packet*.

1.10 CLARIFICATION OF RFP SOLICITATION

- A. Contractor may submit written questions requesting clarification of information contained in this *Bid Solicitation*. written questions should be submitted via email by 4:00 p.m., Central Time on or before January 3, 2024. Submit questions to the OP buyer as shown on page one (1) of this *Bid Solicitation*. It is the contractor's responsibility to guarantee receipt of the questions by the specific time and date. DHS accepts no responsibility for accurate or timely receipt of email submission.
- B. The attached response template (*Attachment B*) should be used for submission of all written questions. For each question submitted, Vendor should reference the specific solicitation item number to which the question refers. Written questions submitted in a different format may not be answered by DHS.
- C. Contractor's written questions will be consolidated and responded to by the State. The State's consolidated written response is anticipated to be posted to the OP website by the close of business on January 19, 2024.
- D. Answers to verbal questions may be given as a matter of courtesy and **must** be evaluated at contractor's risk.
- E. Oral statements by OP **shall not** be part of any contract resulting from this solicitation and **may not**

reasonably be relied on by any vendor as an aid to interpretation unless it is reduced to writing and expressly adopted by DHS.

1.11 RESPONSE SIGNATURE PAGE

- A. An official authorized to bind the Contractor(s) to a resultant contract **must** sign the *Response Signature Page* included in the *Technical Response Packet*.
- B. Contractor's signature on this page **shall** signify contractor's agreement that either of the following **shall** cause the contractor'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*.

1.12 AGREEMENT AND COMPLIANCE PAGE

- A. Contractor **must** sign the Agreement and Compliance Page relevant to each section of the Bid Solicitation Document. The Agreement and Compliance Page is included in the Technical Proposal Packet.
- B. Contractor's signature on this page **shall** signify agreement to and compliance with all Requirements within the designated section.

1.13 SUBCONTRACTORS

- A. Contractor **must** complete and submit the *Proposed Subcontractors Form* included in the *Technical Response Packet* to indicate contractor'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 Response Packet*. **Do not** attach any additional information to the *Proposed Subcontractors Form*.
- C. The utilization of any proposed subcontractor is subject to approval by DHS.

1.14 PRICING

- A. Contractor(s) shall include all pricing on the Official Price Bid Sheet only. Any cost not identified by the successful contractor but subsequently incurred in order to achieve successful operation **shall** be borne by the Contractor. The *Official Bid Price Sheet* is provided as a separate file posted with this *Bid Solicitation*.
- B. Contractor's original *Official Bid Price Sheet* **must** be submitted in hard copy format.
- C. Contractor should also submit one (1) electronic copy of the *Official Bid Price Sheet*, in PDF format, preferably on a flash drive. A CD will also be acceptable. All items on flash drive or CD should be in PDF format.
- D. To allow time to evaluate proposals, prices **must** be valid for 180 days following the bid opening.
- E. 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.
- F. Contractor **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.
- G. Failure to complete and submit the *Official Bid Price Sheet* **shall** result in disqualification.
- H. All proposal pricing **must** be in United States dollars and cents.
- I. The Official Bid Price Sheet may be reproduced as needed.

1.15 PRIME CONTRACTOR RESPONSIBILITY

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

1.16 INDEPENDENT PRICE DETERMINATION

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

1.17 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. Contractor may designate appropriate portions of its response as confidential, consistent with and to the extent permitted under the Statutes and Rules set forth above, by submitting a redacted copy of the response.
- D. By so redacting any information contained in the response, the Contractor warrants that it has formed a good faith opinion having received such necessary or proper review by counsel and other knowledgeable advisors that the portions redacted meet the requirements of the Rules and Statutes set forth above.
- E. Under no circumstances will pricing information be designated as confidential.
- F. One (1) complete copy of the submission documents from which any proprietary information has been redacted should be submitted on a flash drive in the *Technical Proposal Packet*. A CD is also acceptable. Do not submit documents via 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 Contractor is responsible for identifying all proprietary information and for ensuring the electronic copy is protected against restoration of redacted data.
- I. The redacted copy **shall** be open to public inspection under the Freedom of Information Act (FOIA) without further notice to the Contractor.
- J. If a redacted copy of the submission documents is not provided with Contractor's response packet, a copy of the non-redacted documents, with the exception of financial data (other than pricing), **will** be released in response to any request made under the Arkansas Freedom of Information Act (FOIA).
- K. If the State deems redacted information to be subject to FOIA, the Contractor will be notified of the State's determination prior to release of the documents.
- L. The State has no liability to a Contractor with respect to the disclosure of Contractor's confidential information ordered by a court of competent jurisdiction pursuant to FOIA or other applicable law.

1.18 CAUTION TO CONTRACTORS

- A. Prior to any contract award, all communication concerning this *Bid Solicitation* **must** be addressed through the OP buyer.
- B. Contractor **must not** alter any language in any solicitation document provided by the State.
- C. Contractor **must not** alter the Official Bid Price Sheet.
- D. All official documents and correspondence related to this solicitation **shall** be included as part of the resultant contract.
- E. 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. Contractor **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. Contractors 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.

1.19 REQUIREMENT OF ADDENDUM

- A. This *Bid Solicitation* **shall** be modified only by an addendum written and authorized by OP.
- B. Contractors are cautioned to ensure that they have received or obtained, and have responded to, any and all addenda to the Bid Solicitation prior to submission of response.
- C. An addendum posted within three (3) calendar days prior to the bid opening **shall** extend the bid opening and may or may not include changes to the Bid Solicitation.
- D. The vendor **shall** be responsible for checking the websites listed on page one (1) for any and all addenda up to bid opening.

1.20 AWARD PROCESS

A. Award Determination

The Grand Total Score for each Contractor, which shall be the 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 Contractors 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 negotiation process may be repeated until an anticipated successful vendor(s) 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 meet the minimum qualifications at section 2.2.

C. Anticipation to Award

1. Once the anticipated successful Contractor has been determined, the anticipated award will be posted on the websites listed on page one (1) of this RFP.
2. The anticipated award will be posted for a period of fourteen (14) days prior to the issuance of a contract. Contractors and agencies are cautioned that these are preliminary results only, and a contract will not be issued prior to the end of the fourteen-day posting period.
3. DHS **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 Contractor'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.
3. DHS reserves the right to award multiple contracts.

1.21 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.

1.22 EQUAL OPPORTUNITY POLICY

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

1.23 PROHIBITION OF EMPLOYMENT OF ILLEGAL IMMIGRANTS

- A. Pursuant to Arkansas Code Annotated § 19-11-105, prior to the award of a contract, selected Contractor(s) **must** have a current certification on file with OSP stating that they do not employ or contract with illegal immigrants. If selected, the Contractor certifies that they will not employ or contract with illegal immigrants during the aggregate term of a contract.
- B. OSP will notify the selected contractor(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.

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

1.25 PAST PERFORMANCE

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

1.26 TECHNOLOGY ACCESS

- A. When procuring a technology product or when soliciting the development of such a product, the State of Arkansas is required to comply with the provisions of Arkansas Code Annotated § 25-26-201 et seq., which expresses the policy of the State to provide individuals who are blind or visually impaired with access to information technology purchased in whole or in part with state funds. The Contractor expressly acknowledges and agrees that state funds may not be expended in connection with the purchase of information technology unless that technology meets the statutory Requirements found in 36 C.F.R. § 1194.21, as it existed on January 1, 2019 (software applications and operating ICSs) and 36 C.F.R. § 1194.22, as it existed on January 1, 2019 (web-based intranet and internet information and applications), in accordance with the State of Arkansas technology policy standards relating to accessibility by persons with visual impairments.
- B. ACCORDINGLY, THE CONTRACTOR EXPRESSLY REPRESENTS AND WARRANTS to the State of Arkansas through the procurement process by submission of a Voluntary Product Accessibility Template (VPAT) for 36 C.F.R. § 1194.21, as it existed on January 1, 2019 (software applications and operating ICSs) and 36 C.F.R. § 1194.22, that the technology provided to the State for purchase is capable, either by virtue of features included within the technology, or because it is readily adaptable by use with other technology, of:
 - 1. Providing, to the extent required by Arkansas Code Annotated § 25-26-201 et seq., equivalent access for effective use by both visual and non-visual means;
 - 2. Presenting information, including prompts used for interactive communications, in formats intended for non-visual use;
 - 3. After being made accessible, integrating into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired;
 - 4. Providing effective, interactive control and use of the technology, including without limitation the operating system, software applications, and format of the data presented is readily achievable by nonvisual means;
 - 5. Being compatible with information technology used by other individuals with whom the blind or visually impaired individuals interact;
 - 6. Integrating into networks used to share communications among employees, program participants, and the public; 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., 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.

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.

1.27 COMPLIANCE WITH THE STATE SHARED TECHNICAL ARCHITECTURE PROGRAM

The Contractor's solution **must** comply with the State's shared Technical Architecture Program which is a set of policies and standards that can be viewed at: <https://www.dfa.arkansas.gov/intergovernmental-services/state-technology-cost-analysis/architecture-compliance/>. Only those standards which are fully promulgated or have been approved by the Governor's Office apply to this solution.

1.28 MASTERCARD ACCEPTANCE

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

1.29 PUBLICITY

- D. Contractors **shall not** issue a news release pertaining to this *Bid Solicitation* or any portion of the project without OP's prior written approval.
- E. Failure to comply with this Requirement **shall** be cause for a Contractor's proposal to be disqualified or for the contract to be terminated.

1.30 RESERVATION

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

1.31 DATA LOCATION

Contractor 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 Contractor or by its subcontractors.

1.32 SCHEDULE OF EVENTS

| ACTIVITY | DATE |
|--|----------------------------------|
| Public Notice of RFP | December 22, 2023 |
| Deadline for Receipt of Written Questions | January 3, 2024, 4:00 p.m. CST |
| Response to written Questions, On or About | January 19, 2024 |
| Proposal Due Date and Time | February 19, 2024, 1:00 p.m. CST |
| Opening Proposal Date and Time | February 19, 2024, 2:00 p.m. CST |
| Intent to Award Announcement Posted, On or About | March 22, 2024 |
| Contract Start Date (Subject to State Approval) | July 1, 2024 |

1.33 STATE HOLIDAYS

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

| HOLIDAY | DATE |
|-----------------------------------|-----------------------------|
| New Year's Day | January 1 |
| Dr. Martin Luther King'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 Contractor **shall** maintain adequate staff on such working holidays.

SECTION 2 MINIMUM REQUIREMENTS

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

2.1 INTRODUCTION

This Request for Proposal (RFP) is issued by the Arkansas Department of Human Services (DHS), Office of Procurement (OP) for the (Division) to obtain pricing and a contract for Medicaid Third Party Liability Identification, Cost Avoidance and Recovery services. The Office of Procurement is the sole point of contact throughout this solicitation process.

Arkansas is required to provide Medicaid reimbursement for covered medical services only as the payor of last resort. Medicaid beneficiaries or their authorized representatives are required as a condition of eligibility to provide information regarding the availability of third-party resources.

DMS operates a Third Party Liability (TPL) unit to ensure that all other possible sources of payment are pursued. The State uses a TPL Contractor to match third party data and the Medicaid Management Information System (MMIS) to cost avoid, or deny, payment of claims and recover Medicaid payments. A contracted fiscal agent operates the MMIS.

Federal laws and regulations pertaining to a state's TPL program, and relevant to this RFP include, but are not limited to, Sections 1902, 1906 and 1917 of the Social Security Act within the United States Code (42 USC 1396a, 1396e and 1396p, respectively) and regulations in the Code of Federal Regulations at 42 CFR 433.135 through 433.154. Additional federal guidance related to TPL requirements is available in the State Medicaid Manual, Part 3 (CMS Pub. 45)

DHS, at its sole discretion, reserves the right to request services for additional DHS divisions and locations.

2.2 MINIMUM QUALIFICATIONS

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

- A. The Contractor **must** be registered to do business in the State of Arkansas and in good standing by the initial start of any resulting contract. For verification purposes, Contractor **must** provide a [Certificate of Good Standing](#), [Certificate of Authority](#), other required [Arkansas Secretary of State](#) documentation such as non-filing or nonqualifying statements, upon DHS request.
- B. The bidder **must** include a copy of all required licensure and certification documents in the bidder's response to this solicitation. See "Response Documents."
- C. The Contractor **shall** have at least five (5) years cumulative experience working on similar contracts for at least three (3) other state Medicaid programs or similar human services programs. If the Contractor proposes to use subcontractors, the Contractor's proposed subcontractors **shall** have the experience working on similar projects with other State Medicaid or human services programs. For verification purposes, the Contractor must accurately complete and sign Attachment I - Client History Form.
- D. The Contractor **must** be bondable. For verification purposes the Prospective Contractor shall submit a Letter of Bondability from an admitted Surety Insurer with bid submission. The letter must unconditionally offer to guarantee, to the extent of one hundred percent (100%) of the annual contract price, the Prospective Contractor's performance in all respects of the terms and conditions of the RFP and the resultant contract. The Contractor shall be required to provide DHS with the performance bond described in this section upon contract award.

2.3 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 Contractor **must** meet to avoid assessment of damages.
- B. DHS 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. DHS shall have the right to modify, add, or delete Performance Standards throughout the term of the contract, should DHS determine it is in its best interest to do so. Any changes or additions to performance standards will be made in good faith following acceptable industry standards and may include the input of the Contractor 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 Contractor will have the opportunity to defend or respond to the insufficiency. DHS may waive damages if it determines there were extenuating factors beyond the control of the Contractor that hindered the performance of services or if it is in the best interest of DHS to do so. In these instances, DHS shall have final determination of the performance acceptability.
- H. Should any compensation be owed to DHS due to the assessment of damages, Contractor shall follow the direction of DHS regarding the required compensation process.

2.4 SCOPE OF WORK

This RFP includes a variety of both automated and manual Third Party Liability activities. Contractors are encouraged to propose innovative solutions to meet or exceed the requirements of this RFP. All proposals must be consistent with current Arkansas Medicaid policies and limitations for covered services, provider types, state plan benefits, and federal and state law. All activities should augment current Medicaid processes and must not duplicate Arkansas Medicaid's work effort.

To meet the objective to maximize cost avoidance and third party recoveries from all sources, the Contractor will be required to perform the following functions to enhance and supplement the DHS with minimal impact on DHS staff and resources.

2.4.1 Administration

- A. The Contractor **shall** be responsible for the development, maintenance, operations, and administration of the Third Party Liability Program.
- B. The Contractor **must** have carrier matching agreements in place with all major insurance carriers prior to the start of the contract.
- C. The Contractor must maintain an organizational structure and staffing level with sufficient experience to discharge the Contractor's responsibilities and provide this information in writing when requested by DHS.
- D. The Contractor **must** notify DHS in writing of the persons authorized to act on behalf of the Contractor.
- E. At a minimum, the Contractor shall designate a Project Director, Project Manager, and on-site TPL Analyst as key personnel.
- F. The Contractor **must** submit proposed key personnel for approval within thirty (30) calendar days of the Contract start date. Key personnel change requests must be submitted, in writing to DHS for approval at least thirty (30) days in advance of the proposed change, unless shorter notice is required to fill the position. Contractor shall provide resumes of personnel proposed for consideration. No key personnel change may be made without written approval by DHS.
- G. The Contractor **must** maintain a project director with DHS in connection with contractual responsibilities. The Project Director shall serve as the Contractor's point of contact for DHS, respond to inquiries from DHS, and attend routine and special meetings with DHS.
- H. The Contractor **must** provide one (1) on-site staff member that is exclusively dedicated to the DHS TPL program. Resumes of proposed personnel should include:

1. Experience in projects of similar scope and size
 2. Educational background, certifications, licenses, special skills, etc.
- I. DHS reserves the right to disapprove of a staff member's placement.
 - J. The Contractor shall assume complete responsibility for staff training.
 - K. The Contractor shall fully cooperate with any contractors, consultants, or other parties that may be engaged by DHS. The Contractor must grant access to the Office of Medicaid Inspector General (OMIG), Medicaid Fraud Control Units (MFCU), federal Office of Inspector General (OIG), legislative audit, DHS, and entities specified by DHS. The Contractor must permit access by any other parties, when requested in writing by DHS, to the Medicaid program files, procedures, and records in the possession of or under the control of the Contractor.

2.4.2 Cost Avoidance and Third Party Liability Identification

- A. The Contractor **shall** identify and verify the existence of health insurance which has been disclosed, identified, or utilized by Beneficiaries, whether or not a recovery is made.
- B. At a minimum, the contractor shall establish links to the following data sources to populate the TPL Master Resource File:
 1. Defense Enrollment Eligibility Reporting System (DEERS) – The Contractor must conduct an semi-annual electronic data match with the Defense Enrollment Eligibility Reporting System (DEERS) for TRICARE/CHAMPUS and CHAMPVA coverage in accordance with the date and file formatting required by DEERS. The DEERS online data system shall be used in conjunction with the semi-annual file.
 2. Department of Human Services - Perform a monthly data match with Arkansas Office of Child Support Enforcement information systems, contingent upon availability from DHS, to identify cases where medical support is ordered that provides for health insurance coverage if it is available to Medicaid dependent children. Data matches shall be in accordance with Centers for Medicare and Medicaid Services (CMS) regulations and Arkansas Department of Human Services policies and rules.
 3. Social Security Administration (SSA) - Medicare matches are conducted utilizing the daily CMS Territory & States Beneficiary Query (TBQ) response data file from the MMIS Contractor and, Sarbanes- Oxley Act 2002 SOX, to identify Medicare coverage.
- C. Health Insurance Carriers must obtain files from all health insurance carriers as required by DHS and conduct a data match with the Arkansas Department of Human Services Medicaid eligibility file from the MMIS Contractor to identify and add, or update, third-party information on the TPL Master Resource File. The data match shall be performed on a schedule consistent with the same frequency in which the Contractor receives files from each carrier.
- D. The Contractor shall present evidence of the carrier's willingness to participate and how the Deficit Reduction Act (DRA) of 2005 has affected data matching cooperation.
- E. The Contractor must specify which of the Department's data files are needed and the frequency with which they will be required to perform data matches and recover against previously unidentified Third Party Resources. The Contractor's frequency shall not be such as to undercut or impede the efforts of DHS.
- F. The Contractor must ensure that data match criteria include the Beneficiary's full first name and last name, date of birth, gender, and full social security number for the identification of valid matches. The Contractor must present full criteria to DHS for approval prior to initiating any data matches.
- G. The Contractor must provide DHS with an automated means of updating the MMIS file with the new complete TPL information. This mechanism shall conform to DHS prescribed specifications. The update to the DHS-MMIS file must occur within a time frame specified by the Code of Federal Regulations.
- H. The Contractor must have the capability of transmitting corrections to MMIS for TPL information previously sent and subsequently found to be in error. The correction must be sent within one (1) business day after discovery and data verification to the MMIS Contractor.
- I. The Contractor must ensure that the insurance information remains current and accurate by conducting

a reconciliation process at least monthly to re-verify insurance coverage information. The Contractor must send monthly updates (adds, changes, terminations) to MMIS.

- J. The Contractor **shall** perform complex data analysis and matching on the known TPL data to identify cases where insurance is available to one member of a family but the other members in the family are not shown as covered. The Contractor should contact the insurance carrier to ascertain if other family members are enrolled or not and send the coverage data to MMIS, as appropriate.
- K. The Contractor **shall** receive individual paid claims histories from the MMIS Contractor after verified TPL information is successfully updated to the Beneficiary's eligibility file for dates of service and types of coverage that correspond to the newly added coverage.
- L. Paid claims history files contain seven years of paid claims data. Paid claims whose records already indicate TPL activity, including attachments and explanations of benefits, indicating coverage for an identical insurer may not be pursued by the Contractor.
- M. The Contractor **shall** review Beneficiary health insurance information that includes:
 - 1. Insured Beneficiaries
 - 2. Dependents of insured Beneficiaries
 - 3. Dependents of insured non-Beneficiaries (e.g., non-case parents or spouses)
 - 4. Employment-related health insurance that has not been obtained on behalf of the Beneficiaries
 - 5. Court-ordered health insurance that has not been obtained on behalf of the Beneficiaries
- N. The Contractor shall not duplicate but may supplement, DHS's identifications which result in potential recovery. Information from DHS's records will be made available to the Contractor for this purpose. Likewise, information from the Contractor's records must be made available to DHS for this purpose.
- O. The Contractor **shall** maintain a comprehensive TPL Master Resource File that contains other payor coverage that will be used to match with current Medicaid Beneficiary's data from the MMIS Contractor.
- P. The Contractor **shall** propose a comprehensive TPL Master Resource File review and verification process that will be reviewed and approved by DHS, to include:
 - 1. Migrating TPL Master Resource data from the current TPL Master Resource File, maintained by the MMIS Contractor; and
 - 2. Providing a comprehensive revalidation of all data included on the current TPL Master Resource File.

2.4.3 Post Payment Recovery

- A. The Contractor **shall** be responsible for post payment recoveries at the discretion of DHS.
 - 1. The Contractor **shall** meet the federal requirements of initiating recovery within sixty (60) calendar days after the end of the month it learns of the existence of TPL in accordance with 42 CFR 433.139(d). If TPL was known at the time payment was made, recovery must be initiated within sixty (60) calendar days after the end of the month in which payment was made.
 - 2. Contractor will anticipate a zero-dollar (\$0.00) billing threshold as DHS bills all claims to TPL, no matter how low the amount. This requirement may be relaxed for certain projects by, and at the discretion of DHS in accordance with 42 CFR 433.139(f).
 - 3. At no cost to DHS, the Contractor **must** ensure its billing media complies with requirements for filing claims with all State and Federal third party resources, including Medicare.
 - 4. The Contractor **must** implement approved electronic and paper media recoupment and disallowance cycle(s) (cycle is defined by every thirty (30) calendar days) for the MMIS Contractor to adjust and void claims. This action will be completed every thirty (30) calendar days, and a monthly file/report **must** be sent electronically from the Contractor to MMIS for adjustments and voids. Medicaid providers will have sixty (60) calendar days to refute the recovery.
 - 5. The Contractor **must** establish, maintain, and update the accounts receivable file for claims that the Contractor identifies and bills to third party resources.

6. The Contractor **must** close out all claims for which no response was received after one hundred eighty (180) calendar days following the initial billing. The Contractor may extend this period an additional one hundred twenty (120) calendar days beyond the 180 calendar days if the Contractor shows it has re-billed the claim to the insurer between the 120th and 180th initial period. Following the one hundred twenty (120) calendar day extension period, the Contractor **shall** issue a zero-payment transaction to the MMIS Contractor cancelling their rights to the recovery.
7. After one hundred eighty (180) calendar days from the date a claim has been submitted for payment to DHS by the provider of service, the Contractor **shall** submit an electronic report to DHS. The report **must** identify the status and follow-up activities for all claims for which recovery action has been initiated but not resolved. The report **must** also include claims for which payment has been identified as erroneously being made to the insured, or to the provider of health care, or to any other entity.
8. The fees for recoveries made after one hundred eighty (180) calendar days from the date a claim has been submitted to DHS for payment, whether made by the Contractor or by DHS, shall not be paid to the Contractor unless DHS authorizes such payment based on the level of effort expended by the Contractor.
9. The Contractor **must** investigate reasons for nonpayment by other insurers and resubmit claims-based criteria provided by DHS, when appropriate. The Contractor **must** include specific reasons for nonpayment in the accounts receivable file.
10. The Contractor **must** report to DHS all instances in which an insurance carrier has already paid an insured individual, a provider or DHS for subsequent follow-up by DHS or the MMIS Contractor in a monthly file.
11. The Contractor **shall** be responsible for conducting recoupment and disallowances cycles, as required by federal rules and regulations, to Arkansas Medicaid providers to determine if a Medicaid recovery involving electronic and paper media must be sent to the MMIS Contractor for voids and adjustments for DHS.
12. The Contractor **must** deduct from its billings any refunds of previous recoveries made to DHS in instances where incorrect or disallowed payments are made by insurance carriers. The total amount to be refunded should be shown on the Contractor's monthly billing statement as the amount to be deducted from the current month's bill.
13. Each claim that results in incorrect or disallowed payments made by the insurance carrier **must** be identified by billing cycle and month, State claim Internal Control Number (ICN), Beneficiary name, Medicaid ID number, date of service, provider ID number, amount billed to Medicaid, amount paid by Medicaid, amount paid by the insurance carrier, and amount to be refunded for the claim.
14. The Contractor **must** identify all refunds owed to Third Party Resources to correct recoveries or other overpayments with appropriate documentation. Upon receipt of this information, the DHS Third Party Liability Unit will verify its accuracy and request one single warrant to reimburse the Contractor for the total amount of all refunds. The Contractor **must** provide disbursement to the insurance carriers affected.
15. The Contractor **must** transmit records of previously unidentified Third-Party recoveries to the MMIS Contractor, in an agreed upon format, within ninety (90) calendar days after the effective date of the contract and at least every thirty (30) calendar days thereafter. The data **must** be transmitted within thirty (30) calendar days following the discovery of the resource.
16. The Contractor **must** review provider responses including Explanation of Medicaid Benefits (EOMB) documentation, refund requests for all or part of the Medicaid payment, remittance statements, and any other documentation the provider may submit refuting third party liability.
17. The Contractor **must** determine incomplete or inadequate responses resulting in the provider being notified in writing that the claim remains in a void status. Based on the adequacy of the provider documentation, the TPL Contractor **shall** update their database to preclude voiding of claims where no third party coverage exists.
18. Within one (1) business day, the Contractor **must** respond to provider inquiries regarding the initial mailings and provide explanations before and after the Medicaid recovery has occurred.
19. The Contractor **must** investigate and resolve provider disagreements within five (5) business days.

20. The Contractor **must** perform queries of the Third Party Master Resource file as requested or necessary.
21. The Contractor **must** prepare void and adjustment files for DHS submission and fiscal reporting.
22. The Contractor **must** reconcile void and adjustment files to DHS output reports.
23. The Contractor **must** work with DHS staff to accurately make recoveries and adjustments to provider claims to maintain the integrity of the DHS claiming system within MMIS.
24. The Contractor **must** investigate and resolve denial reasons such as, but not limited to the following within five (5) business days:
 - a. Untimely filing
 - b. Duplicate claim and payment
 - c. Beneficiary not eligible at time of service
 - d. No prior authorization
 - e. Formulary not on file
25. The Contractor **must** design and execute patient account review and payment audit programs in conformance with this RFP and in consultation with DHS.
26. The Contractor **shall** be responsible for conducting on-going credit balance audits to determine Medicaid credit balances and recover those credit balances for DHS.
27. The Contractor **must** develop a methodology to identify Medicaid provider inpatient and outpatient overpayments.
28. The Contractor **must** prepare and execute a notification process via letters and portal to inform the providers that the credit balance audits are planned and give them an opportunity to voluntarily return any credit balances to Medicaid.
29. The Contractor **must** identify to DHS providers which routinely review their credit balances and return payment to DHS. "Routinely" is defined as at least quarterly. Based on the Contractor's finding, providers which routinely review their credit balances and make payment to DHS may continue to process their own credit balances without subsequent Contractor review. DHS reserves the right to have Contractor review provider credit balances as deemed necessary.
30. The Contractor's activities shall not overlap, interfere with, and duplicate any past, present, or ongoing TPL activities of DHS or its MMIS Contractor.
31. The Contractor **shall** provide training as requested to DHS staff on software or hardware used for reporting, analysis, crediting and other processes of the provider credit balance activity.
32. The Contractor **must** present the full results of data matches conducted for DHS for review prior to initiating any recoveries.

2.4.4 Casualty Recovery

- A. The Contractor **must** describe its work plan and capabilities for performing specific functions, to identify, track and pursue recovery of Medicaid funds from casualty and litigation related cases (including cases involved in mass tort/global settlement), including but not limited to:
 1. Process medical record requests received from DHS within five (5) business days:
 - a. The Contractor **must** send a response back to DHS within five (5) business days and provide documentation showing the case was created.
 - b. If the Contractor receives any record requests from an attorney, insurance company, or entity other than DHS, the Contractor **must** forward that information to DHS within five (5) business days.
 2. If an attorney, insurance company, or other entity, requests information regarding an established case, including updates to the recovery amount, provide a formal response to the requestor, with the requested information within thirty (30) business days, unless otherwise directed by DHS.
 3. Date stamp each legal document (eg. subpoena, order to appear, notice of electronic filing, etc.) and forward said document to DHS within one (1) business day of receipt.
 4. Provide DHS staff with access to the Contractor's case tracking system, including all documents that identify the progress of each casualty recovery case being worked by the Contractor.

5. Provide weekly automated updates to DHS on casualty cases that are performed by the Contractor.
6. Provide a monthly report to DHS containing recovery case inventory, aging, case values, payments collected and outstanding balances. See Reporting Requirements in Section 2.4.7.
7. Contractor **shall** obtain claims profile data from a vendor specified by DHS.
8. The Contractor Casualty case workers **must** attend training provided by DHS.

2.4.5 Tort Casualty

The Contractor **shall** be responsible for performing assigned Tort Casualty cases on behalf of DHS except for Estate recovery identification and associated recoveries conducted by DHS. The exception to the Estate recovery will be casualty and mass torts. Mass tort cases are usually handled through a regional or national lien resolution administrator. Mass Tort recoveries **shall** be performed by the Contractor as deemed necessary by DHS.

2.4.6 Call Center Requirements

- A. The Contractor **shall** install, operate, monitor, and support an Automated Distribution Call (ADC) system, also called a "Call Center."
- B. The Contractor **shall** maintain staff for the Call Center that are proficient in responding to questions from Beneficiaries, providers and attorneys regarding identifications, verifications and recoveries that are the subject of this contract.
- C. Specific service requirements for the Call Center **shall** include:
 1. Operating a toll-free, HIPAA-compliant, ADC center.
 2. Accommodating all calls, including those requiring the use of interpreter services for the hearing impaired or for callers that have limited English proficiency. Beneficiaries shall not be charged a fee for translator or interpreter services.
 3. Ensuring a sufficient number of adequately trained staff to operate the Call Center on Business Days from 8:00 am to 5:00 pm Central Time, at a minimum.
 4. All staff **shall** be responsive, courteous, and accurate when responding to calls.
 5. Voice messaging as back-up during hours of operation and for recording calls received in non-working hours.
 6. Having the technological capability to allow for monitoring and auditing of calls, both by the Contractor and designated DHS personnel, for quality, accuracy, and professionalism.
 7. Having an electronic system that allows Call Center staff to document calls in sufficient detail for reference, tracking, and analysis. The documentation system must contain sufficient flexibility and reportable data fields to accommodate production and ad-hoc reports. The system must also have reportable fields to accurately capture the type of inquiry, date, and subject of each call.
 8. Having an executed and tested Call Center Disaster Recovery Plan approved by DHS by the time of Operational Readiness for providing Call Center services in the event the primary Call Center facilities are unable to function in their normal capacity.
 9. DHS will provide requirements for terminating or relinquishing ownership of the toll-free numbers upon Contract termination.
- D. Contractor **shall** ensure the Call Center meets or exceeds the following minimum standards:
 1. No blocked calls (calls receiving a busy signal) must be received.
 2. The weekly average abandon rate must not exceed five percent (5%). A call **shall** be considered abandoned after the first 30 seconds when a caller chooses to disconnect after the introductory message and prior to being connected to a representative.
 3. Hold time, when the caller is placed on hold by the representative to perform further research to assist the caller, must not exceed an average of 120 seconds per call over the course of the month.

4. All calls **must** be answered within three rings (a call pick-up system or IVR that places the call-in queue may be used) however queue times must not exceed 30 seconds on average.
 5. Calls received via voice messaging during business hours must be returned within one (1) business day of the time the message was recorded.
 6. Calls received outside of business hours **must** be returned the next business day.
 7. All DHS requests for placement of hold messages or music must be executed within one (1) business day of the request.
- E. During the Contract term, the Contractor shall:
1. After the Go-Live date, report the following information to DHS weekly for months one through three (1 – 3); and monthly thereafter no later than fifteen (15) business days after the end of each month, by a method and format approved by DHS, for the durations of the Contract Term:
 - a. Total call volume.
 - b. Percentage of calls answered.
 - c. Percentage of calls answered that were on hold, in 30 second increments.
 - d. Percentage of calls abandoned.
 - e. Number of busy signals.
 - f. Average speed of answer.
 - g. Average hold time before answer.
 - h. Average time before abandonment.
 - i. Average length of call.
 - j. Type and subject of call by volume.
 - k. Average number of Business Days to return calls received during non-business hours.
 - l. Percentage of calls answered within 3 rings or 15 seconds.
 - m. Percentage of calls on hold for 2 minutes or less.
 - n. Longest time to return a call.
 2. DHS shall have the right to amend the above list and reporting schedule at any time during the Contract term.
 3. DHS shall have the right to request ad-hoc reports as needed.

2.4.7 TPL Collections Lockbox

- A. DHS will provide the contractor with a list of which banking institutions are acceptable for creating the lockbox account.
- B. The Contractor shall work with DHS to develop the lockbox account. The Contractor shall provide oversight and payment for the lockbox service to be established for TPL recoveries made by the contractor.
- C. A State approved lockbox collection system must be established and operational within sixty (60) calendar days of contract start.
- D. The Contractor shall be responsible for the payment and fees of all costs associated with the establishment and operations of the lockbox.
- E. The Contractor must provide a monthly list of all checks received from the MMIS Contractor by electronic file in a format specified by DHS.
- F. DHS will reconcile the information provided by the Contractor to the deposits made into the secure deposit system.
- G. In the instance of reconciliation differences, DHS's Fiscal Section and the Contractor shall discuss and

come to an agreement on the best method to resolve the differences.

- H. The Contractor must resolve any reconciliation differences within thirty (30) calendar days of receipt of the returned file.
- I. The Contractor must meet with DHS, at least monthly, as determined by mutual agreement between DHS and the Contractor.
- J. The Contractor must provide daily, weekly, and monthly reports on lockbox activity using format and content approved in advance by DHS prior to first formal report submission.

2.4.8 Reporting Requirements

A. TPL Identification Reports

1. The Contractor **shall** develop and provide an electronic report of verified TPL identifications made in a format and on a schedule to be determined by DHS. The report **shall** contain separate sections of TPL information for each Beneficiary for:
 - a. previously unknown TPL was discovered;
 - b. previously unknown TPL was discovered to be terminated;
 - c. previously known TPL was discovered to be terminated; and
 - d. previously known TPL was not discovered to be terminated (i.e., verified as still in effect).
2. The reports **shall** include, but not be limited to, the following information for each Beneficiary, which shall be compatible with data fields in MMIS TPL Search panels:
 - a. Beneficiary's full name and original and current Medicaid ID number;
 - b. policy holder's name, Social Security number, and relationship to the Beneficiary;
 - c. names, addresses, and insurer codes of all third parties that are the sources of coverage;
 - d. group and policy numbers of all insureds;
 - e. names, addresses, and employer codes of all employers or unions that are the sources of coverage, if available;
 - f. scopes of coverage (e.g., hospital, major medical, pharmacy);
 - g. beginning and termination dates, for each coverage; and
 - h. comparison of newly discovered to previously identified TPL in the Master TPL Resource file.

B. Non-Custodial Parent/Medicaid Beneficiary Reports

1. The Contractor **shall** develop an electronic report of TPL identifications made during the preceding period of coverage where the policy holder is a non-custodial parent. The electronic report of non-custodial parent coverage **shall** be in a mutually agreed upon format.
2. The Contractor **shall** ensure that the report is compatible for linking new TPL information, including non-custodial parent information, from data matches with Arkansas Office of Child Support Enforcement information systems, if provided by DHS, to case information in the Medicaid Eligibility File in a mutually agreed upon format.
3. This linkage is needed by the Contractor to identify recoveries from non-custodial parent coverage and is to be provided to DHS for internal use.

C. Monthly Program Eligibility Reports

1. The Contractor **shall** develop a monthly report of instances where individuals have been identified to be eligible to receive benefits from one or more Federal and State administered program to ensure that Medicaid is always the payor of last resort.

D. Recovery Reports

1. The Contractor **shall** submit to DHS electronic reports, at a claim detail level, of TPL recovery efforts completed during preceding periods, on a schedule to be determined by DHS.

2. The electronic report **shall** be in the format required by the MMIS Contractor for updating the MMIS Contractor's paid claims file. The data is used for adjusting claims according to methodology established for the TPL Subsystem.
3. Additionally, the Contractor separately **must** identify TPL recoveries for claims. The reports **shall** include the following information, which shall be compatible with data fields provided in the MMIS Contractor's claims processing system.
 - a. claim Internal Control Number (ICN);
 - b. TPL amount recovered;
 - c. insurer code;
 - d. employer code, if available;
 - e. reason code; and
 - f. Beneficiary's original and current Medicaid ID number, if different.
4. The Contractor **shall** submit to DHS, in a format to be agreed upon by the parties after contract award, electronic, aged cumulative monthly summary reports of recovery efforts by type, attempted or completed during the current State Fiscal Year (SFY), and the current Calendar Year (CY), by dates of service and Contractor TPL billing cycle.

E. Previously Identified TPL Reports

1. The Contractor **shall** submit to DHS, monthly electronic reports of previously identified TPL that have not been uploaded to the Beneficiary's' TPL record in MMIS.

F. Correspondence Management

1. The Correspondence Management Solution **must** be able to generate correspondence (e.g., scheduled and ad-hoc correspondence) using standard letters or forms, letter templates, and free-form letters.
2. The Contractor **shall** utilize letter, notification and other templates for correspondence that are approved by DHS.
3. The Contractor's solution **shall** store all sent or received documents in an electronic repository as determined by DHS.
4. The Contractor's Correspondence Management Solution **must** be able to integrate variable data to maximize efficiency.
5. The Contractor's solution **shall** provide the ability to create materials in English and Spanish and for reading levels, as determined by DHS.
6. The Contractor **must** perform semi-annual review of all letters and templates to ensure accuracy, consistency, and completeness. Submit documentation confirming completion of this activity and secure DHS approval for any recommended changes. During the approval process ensure that all updates are dated and formatted so that it is apparent to the reader what changes have been recommended.
7. The Contractor **must** notify DHS in writing in advance of any correspondence to providers. Advance notification and approval from DHS is required before corresponding with providers.

2.4.9 Project Management

A. Project Management Plan (PMP)

1. The purpose of the Project Management Plan is to provide a comprehensive baseline of what needs to be achieved by the project, how it is to be achieved, who will be involved, how it will be reported and measured and how information will be communicated with the project. It will serve as a reference for decision and clarifications.
2. The Contractor **shall** have a sixty (60) calendar day project implementation period. The Contractor **must** include evidence in the proposal of their ability to provide a Project Management Plan that meets all requirements in the scope of work and incorporate all activities described in the RFP. The Project Management Plan **shall** include, at a minimum, the Contractor's approach to Communication, Staffing Management, Quality Management, Risk Management, and Issue Management.

B. Communication

1. The Contractor's Communication approach **must** be designed to promote clear, comprehensive, and effective communication with Beneficiaries, providers, insurance carriers, attorneys, and DHS.
2. This includes details about various types and means of communication, communication channels, communication flow within the organizational structure, escalation, guidelines for meetings, dissemination of knowledge, multiple vendors communication and communication effectiveness.

C. Staff Management

The Contractor's Staffing approach includes, at a minimum:

1. Identify the roles and responsibilities by resource type throughout all phases of the contract, including identifying key and non-key personnel as well as FTE allocation for all personnel.
2. Detail differentiated by Contractor staff, sub-Contractor staff, if applicable, and DHS project staff.
3. Identify total hours to be expended, per phase or effort, and for the entire project, by Contractor staff and by DHS project staff.
4. Expectations regarding onsite time for Contractor resources
5. Process for temporarily and permanently replacing vacancies in key personnel and other manager/lead positions consistent with staffing SLAs.
6. Resumes for all key proposed project team members, detailing work experience and demonstrating the individual possesses the knowledge, skills, and ability to perform the responsibilities of their role and task assignments.
7. Proposed project team organization chart for both the Implementation Phase and Operations Phase of the project (if different), showing the level of authority and time commitment for all proposed staff (full time and part time).

D. Quality Management

1. The Contractor's Quality Management approach **must** identify the quality standards for the project and how quality standards are measured. It includes the process steps and quality tools that **must** be used (e.g., templates, standards, and checklists).
2. The Contractor **shall** be required to work collaboratively with DHS and other Contractors to provide schedule information to be included in the Integrated Master Schedule (IMS). Elements necessary for the IMS include start and end dates of major phases, key project milestones, integration points, dependencies, and sufficient information to support the reporting requirements as determined by DHS.
3. The Contractor **shall** coordinate module deliverable and milestone walkthroughs and participate in other module walkthroughs as required by DHS.
4. The Contractor **shall** cooperate with the State's PMO and the IV&V Contractor to give an accurate, honest reporting of the project status.

E. Risk Management

The Contractor's Risk Management approach includes at a minimum:

1. Proactive identification and analysis of risks before they become issues.
2. Development of risk avoidance, transfer, mitigation, or management strategies.
3. Approach to monitoring, communicating, reporting of risk status including procedures for documenting, resolving, and reporting issues and risks identified by the Contractor, DHS, or other project Contractors.
4. Approach to root cause analysis.
5. The appropriate methods, tools, and techniques for active and ongoing identification and assessment of project risks.
6. Describe how risks will be quantified and qualified.

F. Issue Management

The Issue Management approach includes at a minimum:

1. Approach to issue management.
 2. Issue management process steps including:
 - a. Approach to prioritizing, tracking, escalating, communicating, and reporting issues.
 - b. Approach to documenting, reporting, and resolving issues identified by the Contractor, DHS or other module Contractors.
 - c. Approach to impact analysis.
 3. Tools, and techniques for active and ongoing identification and monitoring of project issues.
 4. Roles and responsibilities.
 5. Describe how issues will be quantified and qualified.
- G. Approach To Services Report (Work Plan)
1. The Contractor **shall** prepare and submit an approach to services work plan (Work Plan) within fifteen (15) business days following the project launch meeting. The Work Plan shall include, at a minimum:
 - a. Contractor's approach to performing the scope of work by task and deliverable;
 - b. Sequence of tasks to be performed including identifying which tasks can be performed concurrently;
 - c. Methods to be used in managing the project; and
 - d. Anticipated time for each task to be completed.
 2. DHS will review the Work Plan and return it to the Contractor for modification. The Contractor **shall** submit a revised Work Plan within five (5) business days of any disapproval or need for modification.
 3. After approval of the Work Plan, the Contractor **shall** perform the work of the Contract established from this solicitation in accordance with the approved Work Plan. Any variations in the Work Plan **shall** be discussed with DHS and be submitted in writing as a modification to the Work Plan and **shall** require the written approval of DHS.
 4. The Work Plan developed by the Contractor **shall** include a schedule with times for the completion of work and deliverables. All deliverables and reports shall require the approval of DHS.
 5. The Contractor **must** describe in the work plan capabilities for performing specific functions to enhance DHS's efforts to identify and verify new liable commercial insurance coverage and load updated TPL information into the Medicaid Management Information System (MMIS) for cost avoidance, including but not limited to:
 - a. Routine and scheduled data matching with commercial insurance carriers.
 - b. Utilizing a daily extract file from the MMIS Contractor and performing daily data matching on new Medicaid eligibles with commercial insurance carriers.
 - c. Provide add files (daily and monthly) of new insurance coverage to the MMIS Contractor for loading onto Medicaid's commercial insurance policy file.
 - d. Provide termination files (daily and monthly) of insurance coverage to Medicaid's MMIS Contractor for loading onto Medicaid's commercial insurance policy file.
 - e. Monthly update file, with coverage start and end dates, to ensure that all policy information, utilized in the processing of claims, is available for cost-avoidance in Medicaid's MMIS system.

2.4.10 License to Access Shared Data Warehouse

- A. The Contractor **shall** obtain and pay for all licenses necessary to gain access to the Shared Data Warehouse of DHS program files.

2.4.11 Computer Requirements

- A. The Contractor **must** have the technical capability to interface with necessary computer systems in specified formats necessary to accomplish third party identification and recoveries. This also requires online FTP transfers of large data files.
- B. The Contractor **shall** be responsible for payment of all costs, including format changes, incurred in

securing necessary files from DHS's MMIS Contractor, performing the data matches, and returning the output of data matches to DHS for input to the MMIS.

- C. The Contractor **shall** allow system access via the Internet to DHS staff or any designated agent(s) working on its behalf for credit balance audit purposes.
- D. The Contractor **must** maintain online internet website capability for distribution of credit balance audit reports to providers, comprehensive reporting, insurance verifications, tort casualty research and tracking of function for the DHS and other State and local government offices.
- E. The Contractor **shall** establish a secure, internet-based accounts receivable system, capable of daily and weekly updates for performing claims adjustments to the MMIS in a format to be developed in conjunction with the MMIS Contractor and approved by DHS.
- F. The Contractor **must** maintain a system that tracks and provides live update information on all cases. The system must track at the minimum the following information:
1. Commercial insurance data match dates and results
 2. Medical support notices sent and received.
 3. Individual insurance verification results.
- G. The Contractor shall provide the following additional features:
1. The IT Platform **must** have the capability to directly interface with the Arkansas Medicaid Management Information System (MMIS), any state-contracted Vendor conducting utilization management or review on DHS' behalf and **must** support direct electronic interaction with DHS's systems. The specific list of DHS's IT systems will be finalized during contract implementation.
 2. Provide for varying levels of access based on role for Contractor and State staff. The Contractor should propose various user/role access levels for DHS's review and ultimate acceptance during contract implementation.
 3. Ability for DHS staff users with the proper access level to access, view, extract and download data at any time during the Contract period, including the dump of database data or customizable reports upon request.
 4. Provide database schema, table layouts, primary key designation, foreign key relationships, data dictionaries, security implementation model(s), and support for change control on database changes, and field and table changes upon request.
 5. Allow batch data transfer or extract, transfer, and load (ETL) to DHS's enterprise data warehouse. The specific list of DHS's or data warehouse system will be finalized during contract implementation.
 6. No later than twenty (20) business days prior to contract end, Contractor **must** provide and hand over all data and work products in DHS approved non-proprietary format.
 7. The Contractor **shall** work cooperatively with DHS and incumbent Contractor to extract and load DHS's data into the IT Platform.
 8. Provide for adaptability throughout the term of the Contract for any changes DHS may need to make to the IT Platform in the future.
- H. System Updates and Changes
1. System updates or changes required that result from a determination by the Contractor or DHS that a deficiency exists within the Contractor's system **shall** be performed by the Contractor as requested by DHS and **shall** be completed by the deadline determined by DHS.
 2. Changes, corrections, or enhancements to the system shall be characterized as a system improvement.
 3. These changes may result from a determination by the Contractor or DHS when a deficiency exists within the Contractor's system.
 4. Should the Contractor believe the changes, corrections, or enhancements are needed in the system, DHS must be advised of the changes, corrections, or enhancements and must approve before implementation.

- I. ADA 508 - Web Content Accessibility Guidelines (WCAG)
 1. Section 508 of the Rehabilitation Act requires agencies to ensure their information and communication technology is accessible to people with disabilities. Agencies must give disabled employees access to information comparable to access available to others.
 2. The system implemented associated with this RFP **must** meet all current ADA 508 requirements and guidelines. Also, any training and training materials **must** be ADA 508 compliant.
 3. Any defect or penalty related to ADA 508 compliance **must** be corrected by the Contractor within 60 calendar days at no cost to DHS.
 4. Contractor **must** perform ADA 508 compliance testing on every new release.

2.4.12 System Security and Privacy Management Plan

- A. The Contractor **must** submit the System Security and Privacy Management Plan. The purpose of the System Security Management Plan is to capture and establish the approach to the System's adherence to privacy, confidentiality, and security standards.
- B. The Contractor's data management approach and operational policies **shall** meet HIPAA, HITECH, ARRA and other Federal and State privacy and security requirements.
- C. The Contractor **shall** provide a mechanism to purge source documents in accordance with HIPAA security provisions and State requirements.
- D. The Contractor's hosting solution **shall** provide the flexibility to integrate other solutions for security and regulatory purposes in the future and be cost-effective with burst capacity.
- E. The Contractor **must** retain qualified Information Security and Privacy staff to manage, provide and meet all information security and privacy requirements and contractual deliverables. Information Security and Privacy Staff do not have to be dedicated. Qualified Information Security and Privacy Staff must have a working knowledge of NIST Federal security standards and documentation, HIPAA privacy and security regulations, and information system security best practices.
- F. DHS expects the Contractor to use the Minimum Acceptable Risk Standards for Exchanges (MARS-E) SSP template and follow the quarterly Plan of Action & Milestones (POAM) process. The plan **must** also include an overview of the risk scenarios and the approach to known risk threats and known vulnerabilities. It shall provide the security architecture, processes, and controls to meet State and Federal standards (including but not limited to firewalls, zoning, encryptions, intrusion prevention, hardening, remote access, logging). DHS expects for all data to be encrypted using the latest/supported technology protocols, whether at rest/stored, in flight/transit, or communicated and/or accessed in any way. In addition, it **must** include the Vendor's plan to ensure confidentiality and privacy standards are met. The plan shall include, at a minimum:
 1. The technical approach to address and satisfy the following:
 - a. Network security controls
 - b. Perimeter security
 - c. System security and data sensitivity classification
 - d. Penetration testing
 - e. Intrusion management
 - f. Monitoring and reporting
 - g. Host hardening
 - h. Remote access
 - i. Encryption
 - j. Integration with Statewide active directory services
 - k. Interface security
 - l. Security test procedures
 - m. Managing network security devices
 - n. Security patch management and remediation
 - o. Secure communications over the Internet
 - p. Logging

2. Detailed diagrams depicting all security-related devices, subsystems, and their relationships
 3. All programmatic privacy and security controls
 4. The details of Security, Privacy and Consent Management
 5. Approach to maximizing sharing of data (provided from any external source) while complying with all appropriate rules, regulations, and policies
 6. User roles, security permissions, and administrative functions
 7. Confirmation that the Security Plan aligns with the most current version of [MARS-E](#) (2.2) as defined by the Centers for Medicare and Medicaid Services.
 8. Plan to maintain all confidentiality safeguards
 9. Plan to adhere to all privacy requirements for different data elements
 10. Any other relevant protocols or details to ensure privacy, confidentiality, and security standards are met
 11. Roles and responsibilities to be performed by the Vendor and by DHS
- G. The Contractor **shall** ensure and maintain compliance with the most current version of Health Insurance Portability and Accountability Act (HIPAA), Health Information Technology for Economic and Clinical Health (HITECH), The Privacy Act of 1974, Arkansas Personal Information Protection Act (A.C.A. § 4-110-104), and other Federal and State privacy and security standards. The State of Arkansas Security and Privacy policies can be found at:

<https://humanservices.arkansas.gov/wp-content/uploads/DHS-Policy-1001.pdf>

<https://humanservices.arkansas.gov/wp-content/uploads/DHS-Policy-4002.pdf>

<https://humanservices.arkansas.gov/wp-content/uploads/DHS-Policy-5010.pdf>

2.4.13 Disaster Recovery and Business Continuity and Contingency Plan (DR-BCCP) Deliverable

- A. The Contractor **must** submit a Disaster Recovery and Business Continuity and Contingency Plan (DR-BCCP) for the technology and infrastructure components, as well as for the business area operations continuity and contingency plan. The Contractor, together with DHS, must affirm the DR-BCCP plan, the essential roles, responsibilities, and coordination efforts for those portions of the technical infrastructure and operations as deemed appropriate.
- B. The Contractor **shall** address a wide range of infrastructure and services recovery responsibility associated with, and/or arising from, partial loss of a function or of data for a brief amount of time to a worst-case scenario in which a man-made or natural disaster, data center equipment or infrastructure failure, or total system failure may result. The plan **must** include a procedure to allow facility access in support of restoration of lost data and to support emergency mode operations in the event of an emergency. Additionally, access control will include procedures for emergency access to electronic information. The TPL system **must** be protected against hardware and software failures, human error, natural disasters, and other emergencies that could interrupt services. The plan **must** address recovery of business functions, business units, business processes, human resources, and the technology infrastructure.
- C. The DR-BCCP **must** include:
 1. Identification of the core business processes involved
 2. Documentation of “who” shall declare a “disaster or failover” and begin the DR-BCCP
 3. Distribution lists with email and telephone numbers for immediate contact
 4. Pre-approved language to notify stakeholders and the method of notification (e.g., DHS website, Provider web portal, helpdesks)
 5. For each core business process:
 - a. Identification of potential system failures for the process
 - b. Risk analysis
 - c. Impact analysis

- d. Definition of minimum acceptable levels of outputs
 6. Documentation of contingency plans
 7. Definition of triggers for activating contingency plans
 8. Process to establish a war room and business resumption team
 9. Maintenance of updated Disaster Recovery Plans and procedures
 10. Plan for replacement of personnel to include the following as a minimum:
 - a. Replacement in the event of loss of personnel before or after signing this contract
 - b. Replacement in the event of inability by personnel to meet performance standards
 - c. Allocation of additional resources in the event of the Contractor's inability to meet performance standards
 - d. Replacement/addition of personnel with specific qualifications
 - e. Timeframes necessary for replacement
 - f. Contractor's capability of providing replacements/additions with comparable experience
 - g. Methods for ensuring timely productivity from replacements/additions
- D. The Disaster Recovery Plan **must** address:
1. Retention and storage of backup files and software
 2. Hardware backup for critical system components
 3. Facility backup
 4. Backup for telecommunications links and networks
 5. Staffing plan
 6. Backup procedures and support to accommodate the loss of online communications
 7. Process for fall back to the primary system
 8. A detailed file backup plan and procedures, including the offsite storage of crucial transaction and master files; the plan and procedures **must** include a detailed frequency schedule for backing up critical files and (if appropriate to the backup media) their rotation to an offsite storage facility. The offsite storage facility must provide security of the data stored there, including protections against unauthorized access or disclosure of the information, fire, sabotage, and environmental considerations.
 9. The maintenance of current system documentation and source program libraries at an offsite location
- E. The Disaster Recovery Plan and results of periodic disaster readiness simulations must be available for review by State or Federal officials on request.

2.4.14 Records and Documentation

- A. Contractor **shall** retain financial and accounting records and evidence pertaining to the contract and all data, material and working papers shall be scanned, indexed, stored, verified by DHS and stored in a location convenient to DHS.
- B. DHS requires that all data, material and working papers be retained and available for possible audit for a period of ten (10) years after final payment is made to the contractor. DHS must approve the destruction of any data, material or workpapers that have been developed in performance of this contract.
- C. The Contractor shall adhere to data retention requirements cited in 45 CFR 164.316 and Administrative Rule 37.85.414. DHS may require a longer retention period on an exception basis to support ongoing business needs (e.g., TPL recovery).
- D. The Contractor shall be able to demonstrate the ability to support requirements for backup and archiving consistent with DHS SLAs and CMS, State, and industry standards.
- E. Other sections of this Bid Solicitation may contain additional Requirements regarding record retention.
- F. Initiation Services Requirements

1. The Contractor **shall** provide during the initiation phase of the project and maintain throughout the project, system documentation that at a minimum includes:
 - a. A description of each component, their purpose, including basic functions and the business areas supported
 - b. User stories/use cases
 - c. Screen layouts, report layouts, and other output definitions, including examples and content definitions
 - d. Physical database design
 - e. A module system diagram, including all components, identifying all business process diagrams, data flows, systems functions, and their associated data storage
 - f. Configurations
 - g. Job streams within each module, identifying programs, inputs and outputs, control, job stream flow, operating procedures, and error and recovery procedures.
 - h. A network schematic showing all network components and technical security control
 - i. Listing of the edits and audits applied to each input item and the corresponding error messages.
 - j. As applicable, listing and description of all control reports
 - k. Interface Control Documents
 - l. Narrative descriptions of each of the reports and an explanation of their use must be presented.
 - m. Definition of all fields in reports, including a detailed explanation of all report item calculations.
 - n. Operations Procedure Manual
 - o. Data Dictionary
2. The Contractor **shall** conduct a project initiation kick-off meeting with key stakeholders and the DHS's project team.

2.4.15 Project Closure and Turnover

- A. During the Exit Transition Period, the Contractor **shall** work cooperatively with DHS and the new contractor and shall provide program information and details specified by DHS.
- B. Both the program information and the working relationship between the Contractor and the new Contractor shall be defined by DHS.
- C. Within the Exit Transition Period, the Contractor **shall** prepare and submit an Exit Transition Plan and Schedule of Activities to facilitate the transfer of responsibilities, information, computer systems, software and documentation, materials, URLs, telephone numbers, specifications, reports, ALL data etc., to a new contractor and/or DHS.
- D. The Exit Transition Plan **shall** be submitted by the Contractor within ten (10) days of the date of notification by DHS. The Exit Transition Plan **shall** include, at a minimum:
 1. The Contractor's proposed approach to the transition;
 2. Complete and update system and user documentation;
 3. The Contractor's tasks, subtasks, and schedule for all transition activities;
 4. An organizational chart and staffing matrix of the Contractor's staff (titles, phone, fax) responsible for transition activities;
 5. A detailed explanation of how the Contractor will begin work with a new Contractor and/or DHS within ten (10) days of receipt of notice from DHS that another contractor has been selected to provide Third Party Liability Services.
 6. Operational tasks and procedures as necessary to support ongoing operations and solutions.
 7. Lessons learned report.

8. List of incomplete tasks, such as open or pending cases and activities and solution modifications or enhancements.
 9. A detailed description of the services that would be required by another Contractor to fully take over business or system functions outlined in the Contract.
- E. DHS must approve the Exit Transition Plan before it can be implemented.
- F. DHS and the new Contractor will define the information required during this transition period and time frames for submission. DHS shall have the final authority for determining the information required.
- G. The Contractor **shall** work closely and cooperatively with DHS and the new Contractor to:
1. Transfer appropriate software, hardware, records, telephone numbers and lines, equipment, Post Office Box, and other requirements deemed necessary by DHS;
 2. Ensure uninterrupted and efficient services to Beneficiaries, Providers, and DHS during the transition period.
- H. Thirty (30) days following turnover of operations, the Contractor **must** provide DHS with a Transition Results Report documenting the completion and results of each step of the Exit Transition Plan.
- I. The transition shall not be considered complete until this document is approved by DHS.
- J. DHS shall have the right to withhold up to 20% of the last month's Premium Payment until the Turnover activities are complete and the Turnover Plan is approved by DHS.
- K. Provide and hand over all data and work product in DHS's desired non-proprietary format, decided by DHS, at the end of the contract.
- L. The Contractor **shall** work cooperatively with DHS and incumbent contractor to extract and load DHS's data into the IT Platform.
- M. The Contractor **shall** provide a Monthly Turnover Report reflecting transition activities during the turnover period.
- N. The Contractor **shall** deliver a Turnover Results Report that documents completion of each step of the Turnover Plan.
- O. DHS reserves the right to request this information at any time throughout the Contract.

2.4.16 Deliverables

- A. These processes, structures, and tools will govern any work done on the project. The Contractor **shall** agree to these processes, and any work done not in compliance with these processes is completely at risk for the Contractor.
- B. All deliverables are subject to review by DHS before final approval, acceptance, and payment. Each deliverable **shall** offer continuous improvement goals and advise on how to reach those goals.
- C. Contractor **shall** provide a Deliverable Expectations Document (DED) process document to be used during the initial Implementation, Change Requests, Enhancements and Project closeout.
- D. Contractor **shall** provide a High Level Deliverable/Milestone Implementation Plan which reflects the sixty (60) day DHS implementation timeline.
- E. DHS will have no less than ten (10) State business days to complete its initial review of the deliverable(s) after submission. DHS will accept or reject deliverables in writing. In the event of the rejection of any deliverable, the TPL Contractor will be notified of the reason(s) for rejection. Unless agreed by DHS due to the complexity of the deliverable, the Contractor will have five (5) State business days to correct the rejected deliverable and return it to DHS. Failure by DHS to complete activities within the timeframes noted does NOT constitute acceptance, approval, or completion unless otherwise agreed upon by DHS and the Contractor. DHS's acceptance or rejection of a deliverable or the delay of the due date will be made in writing by an authorized State representative.

- F. The Contractor **shall** provide deliverables that at a minimum meet the following quality standards:
 - 1. Provide accurate and comprehensive content, reflecting the specific requirements for the deliverable.
 - 2. Ensure appropriate technical level for the audience.
 - 3. Utilize correct grammar, spelling, and versioning.
 - 4. Ensure diagrams are clear, concise, and value added.
 - 5. Follow industry-related standards.
 - 6. Appropriately define and reference information.
- G. The Contractor **shall** establish and utilize a deliverable review and acceptance process agreed upon by DHS including but not limited to review cycles and deliverable walkthroughs within a timeframe as determined by DHS.
- H. All payment requests (e.g., invoices) **must** include copies of the approval signed by DHS stakeholder authorized to approve the deliverable.

SECTION 3 SELECTION

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

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 rejected and **shall** not be evaluated.
- B. An agency-appointed Evaluation Committee will evaluate and score qualifying Technical Proposals. Evaluation will be based on Prospective 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 nothing in the proposal is responsive in relation to the evaluation factor or the proposal affirmatively shows that it is unacceptable in relation to the evaluation factor. | 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 their individual scores recorded on the preliminary Individual Score Worksheet with the committee, the individual committee members will be given the opportunity to change their initial individual score, 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.

| Information for Evaluation Sub-Sections | Maximum Raw Points Possible | Sub-Section's Weighted Percentage | * Maximum Weighted Score Possible |
|---|-----------------------------|-----------------------------------|-----------------------------------|
| E.1 Administration | 10 | 15% | 105 |
| E.2 Cost Avoidance and Third Party Liability Identification | 35 | 30% | 210 |
| E.3 Recovery (Post Payment, Casualty, & Tort) | 70 | 20% | 140 |
| E.4 Call Center | 20 | 20% | 140 |
| E.5 Plans | 45 | 10% | 70 |
| E.6 Project Closure and Turnover | 10 | 5% | 35 |
| Total Technical Score | 190 | 100% | 700 |

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

- D. The proposal'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. The proposal'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/subtotal of 350 may not move forward in the solicitation process. The pricing for proposals which do not move forward will not be scored.

3.2 COST SCORE

- A. When pricing is opened for scoring, the maximum amount of cost points will be given to the proposal 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 proposals 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 Prospective Contractor's 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 PROSPECTIVE CONTRACTOR ACCEPTANCE OF EVALUATION TECHNIQUE

- A. Contractor **must** agree to all evaluation processes and procedures as defined in this solicitation.
- B. The submission of a *Technical Proposal Packet* **shall** signify the Contractor'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 Contractor has successfully satisfied the agency as to the reliability and effectiveness of the goods or services purchased as a whole.
- D. The Contractor should invoice the agency by an itemized list of charges. The agency's Purchase Order Number and/or the Contract Number should be referenced on each invoice.
- 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/vendor/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:
- G. The right to possession.
 - 1. The right to accrued payments.
 - 2. The right to expenses of de-installation.
 - 3. The right to expenses of repair to return the equipment to normal working order, normal wear and tear excluded.
 - 4. The right to recover only amounts due at the time of repossession and any unamortized nonrecurring cost as allowed by Arkansas Law.
- H. The laws of the State of Arkansas shall govern this contract.
- I. A contract shall not be effective prior to award being made by a State Procurement Official.
- J. In a contract with another party, the State will accept the risk of loss of the equipment or software and pay for any destruction, loss or damage of the equipment or software while the State has such risk, when:
 - 1. The extent of liability for such risk is based upon the purchase price of the equipment or software at the time of any loss, 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. Do not complete and return any of the above-named attachments. They are for your information only.

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 PERFORMANCE BONDING

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

4.6 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.

4.7 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.

4.8 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.

4.9 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.

4.10 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.

4.11 SEVERABILITY

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

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 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 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 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 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 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.