



STATE OF ARKANSAS

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

INVITATION FOR BID BID SOLICITATION DOCUMENT

SOLICITATION INFORMATION			
Bid Number:	710-25-009	Solicitation Issued:	February 18, 2025
Description:	Emergency Intermediate Care Services		
Agency:	Department of Human Services, Division of Children and Family Services (DCFS)		

SUBMISSION DEADLINE			
Bid Submission Date/Time	March 19, 2025, 1:00 pm Central Time	Bid Opening Date/Time:	March 19, 2025, 2:00 pm Central Time
Bids shall not be accepted after the designated bid submission deadline. In accordance with Arkansas Procurement Law and Rules, it is the Bidder's responsibility to submit proposals at the designated location on or before the bid submission deadline. Bids received after the submission deadline shall be considered late and shall be returned to without further review. It is not necessary to return "no bids" to the Office of Procurement.			

DELIVERY OF RESPONSE DOCUMENTS	
Delivery Address:	Arkansas Department of Human Services Attn: Office of Procurement 700 Main Street Little Rock, AR 72201
United States mail (USPS):	Arkansas Department of Human Services Attn: Office of Procurement P.O. Box 1437 Slot W345 Little Rock, AR 72203-1437
Commercial Carrier (UPS, FedEx or USPS Exp):	Arkansas Department of Human Services Attn: Office of Procurement 112 West 8 th Street, Slot W345 Little Rock, AR 72201
	Delivery providers, USPS, UPS, and FedEx deliver mail to OP's street address on a schedule determined by each individual provider. These providers will deliver to OP based solely on the street address. Prospective Contractors assume all risk for timely, properly submitted deliveries.
Bid's Outer Packaging:	If the bid packet is not sealed and properly marked with the below information, the package may be opened for bid identification purposes. • Bid number • Date and time of bid opening • Prospective Contractor's name and return address

OFFICE OF PROCUREMENT CONTACT INFORMATION			
OP Buyer:	Tamara Debord	Buyer's Direct Phone Number:	501-683-5969
Email Address:	DHS.OP.Solicitations@dhs.arkansas.gov	DHS's Main Number:	501-682-1001
DHS Website:	https://humanservices.arkansas.gov/do-business-with-dhs		
OSP Website:	http://www.arkansas.gov/dfa/procurement/bids/index.php		

SECTION 1 - GENERAL INSTRUCTIONS AND INFORMATION**1.1 PURPOSE**

This Invitation for Bid (IFB) is issued by the Office of Procurement (OP) for the Arkansas Department of Human Services (DHS), Division of Children and Family Services (DCFS) to obtain bids and contracts for the provision of emergency intermediate care services for severe needs clients referred by DHS.

1.2 INTERGOVERNMENTAL/COOPERATIVE USE OF PROPOSAL AND CONTRACT

According to Ark. Code Ann. § 19-11-249, this proposal and any resulting contract may be available to any State Agency or Institution of Higher Education that wishes to utilize the services of the selected Contractor. Upon agreement by the parties, they may enter into an agreement as provided in this solicitation.

1.3 TYPE OF CONTRACT

A Term contract will be awarded to multiple vendors. The term of this contract **shall** be for one (1) year. The anticipated start date for the contracts is July 1, 2025. Upon agreement by the vendor and agency, the contract may be renewed by OP on a year-to-year basis, for up to six (6) additional one (1)-year terms, or a portion thereof, not to exceed a total contract term of seven (7) consecutive years.

1.4 ISSUING AGENCY

OP is the sole point of contact throughout this solicitation process. Questions regarding this IFB should be made through the State's buyer as shown on page one (1) of this document (see Section 1.10 CLARIFICATION OF SOLICITATION). Questions will be answered as a courtesy and at vendor's own risk.

1.5 BID OPENING LOCATION

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

1.6 DEFINITION OF REQUIREMENT

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

1.7 DEFINITION OF TERMS

The State has made every effort to use industry-accepted terminology in this IFB and will attempt to further clarify any point of an item in question as indicated in Section 1.10 CLARIFICATION OF SOLICITATION.

- A. The words "bidder," "vendor," and "contractor" are used synonymously in this document.
- B. "Invitation for Bid," "IFB," and "Bid Solicitation" are used synonymously in this document.
- C. "Diagnosis of a developmental disability" means a disability of a person (certified by a licensed physician, licensed psychologist, or licensed psychological examiner) that:
 1. Is attributable to:
 - a. An intellectual disability, cerebral palsy, epilepsy, spina bifida, Down syndrome, or autism;
 - b. Another condition of the person found to be closely related to an intellectual disability because the condition results in an impairment of general intellectual functioning or adaptive behavior similar to that of a person with an intellectual disability or requires treatment and services similar to that required for a person with an intellectual disability; or
 - c. Dyslexia resulting from a disability or condition described in subdivision (c)(1)(A)(i) or subdivision (c)(1)(A)(ii) of this section;
 2. Originates before the person reaches twenty-two (22) years of age;
 3. Has continued or can be expected to continue indefinitely; and
 4. Constitutes a substantial handicap to the person's ability to function without appropriate support services, including without limitation:
 - a. Planned recreational activities;

- b. Medical services such as physical therapy and speech therapy; and
 - c. Possibilities for sheltered employment or job training (see Ark. Code Ann. § 26-51-503).
- D. "Intermediate Care Facility for Individuals with Intellectual and Developmental Disabilities (ICF/IDD)" means a residential institution maintained for the care and training of persons with intellectual and developmental disabilities (see Ark. Code Ann. § 20-48-901(2)).
- E. Intermediate care facility services means those items and services furnished in an intermediate care facility as defined in 42 CFR §§ 440.140 and 440.150.

1.8 RESPONSE DOCUMENTS

A. Bid Response Packet

An official authorized to bind the Contractor to a resultant contract **must** sign the *Bid Signature Page*. Signature on this page signifies Bidder's agreement that either of the following **shall** cause the bid to be disqualified:

- a. Additional terms or conditions submitted intentionally or inadvertently.
- b. Any exception that conflicts with a Requirement of this IFB.

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

- a. *Attachment A: Executive Order 98-04 Disclosure Form.*
- b. Copy of Vendor's *Equal Opportunity Policy*.
- c. Signed addenda to this IFB, if applicable (see Requirement of Addendum).
- d. *Attachment H: Combined Certifications for Contracting with the State of Arkansas.*
- e. Documentation that the bidder meets the minimum qualifications outlined in this IFB (see *Minimum Qualifications*).

DO NOT include any other documents or ancillary information, such as a cover letter, promotional, or marketing information. **Submit one (1) electronic copy and one (1) hard copy of the *Bid Response Packet*, excluding the *Official Bid Price Sheet*. The electronic copy should be submitted preferably on a flash drive and to the extent possible, as a single PDF document. [See Section 1.15 PROPRIETARY INFORMATION for instructions on submitting a redacted copy of the *Bid Response Packet*.]**

B. Official Bid Price Sheet (see Section 1.12 PRICING)

Bidder **must** submit one (1) hard copy and one (1) electronic copy of the original *Official Bid Price Sheet*. The electronic copy should be submitted preferably on a flash drive, in a single PDF file. The *Official Bid Price Sheet* (both the hard and electronic copies) **must** be separately sealed from the *Bid Response Packet* and should be clearly marked as "Pricing." Bidder **must** not include any pricing in the hard or electronic copies of the *Bid Response Packet*.

1.9 AGREEMENT AND COMPLIANCE PAGE

Contractor **must** sign the *Agreement and Compliance Page* relevant to each section of the IFB. The *Agreement and Compliance Page* is included in the *Bid Response Packet*. Bidder's signature on this page signifies agreement to and compliance with all requirements within the designated section.

1.10 CLARIFICATION OF SOLICITATION

Bidders may submit written questions requesting clarification of information contained in this IFB. *Attachment B: Response Template* **must** be used to submit written questions. Include all information specified in the response template. Written questions submitted in a different format may not be answered by the State.

Written questions should be submitted by 4:00 p.m., Central Time on February 25, 2025 by email to the buyer as shown on page one (1) of this IFB. All received questions will be consolidated and responded to by the State. The State's consolidated written response is anticipated to be posted to the OP website by the close of business on March 4, 2025. Answers to verbal questions may be given as a matter of courtesy and **must** be evaluated at the bidder's risk.

1.11 SUBCONTRACTORS

Bidders **must** complete and submit the *Proposed Subcontractors Form* included in the *Bid Response Packet* to indicate Bidder's intent to utilize, or to not utilize, subcontractors. Additional subcontractor information may be required or requested in following sections of this IFB. **Do not** attach any additional information to the *Proposed Subcontractors Form*. The utilization of any proposed subcontractor is subject to approval by the State agency.

1.12 PRICING (see Section 1.8.B. *Official Bid Price Sheet*)

Bidders **must** include all pricing on the *Official Bid Price Sheet* and attach a justification for the prices quoted. Any cost not identified by the successful bidder but subsequently incurred in order to achieve successful operation **shall** be borne by the Contractor. All bid pricing **must** be in United States dollars and cents. Prices **must** be valid for one hundred twenty (120) days following the bid opening.

Failure to complete and submit the *Official Bid Price Sheet* **shall** result in disqualification. The *Official Bid Price Sheet* may be reproduced as needed.

1.13 PRIME CONTRACTOR RESPONSIBILITY

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

1.14 INDEPENDENT PRICE DETERMINATION

By submission of this bid, Contractor certifies, and in the case of a joint response, each party thereto certifies as to its own organization, that in connection with this bid:

1. The prices in the bid have been arrived at independently, without collusion.
2. No prior information concerning these prices has been received from, or given to, a competitive company.

Evidence of collusion **shall** warrant consideration of this bid by the Office of the Attorney General. All Contractors **shall** understand that this paragraph may be used as a basis for litigation.

1.15 PROPRIETARY INFORMATION

- A. Documents submitted pertaining to this IFB become property of the State and are subject to the Arkansas Freedom of Information Act (FOIA). 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 result in another party gaining an unfair competitive advantage and other information exempted from the Public Records Act pursuant to FOIA.
- B. Bidders may designate appropriate portions of their 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 *Bid Response Packet*. By redacting any information contained in the *Bid Response Packet*, the bidder 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. **Under no circumstances will pricing information be designated as confidential.**
- C. One (1) complete electronic copy of the redacted submission documents should be submitted on a flash drive in the *Bid Response Packet*. A CD may also be acceptable. Do not submit documents via email or fax. 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. Bidder is responsible for identifying all proprietary information and for ensuring the electronic copy is protected against restoration of redacted data.
- D. The redacted copy will be open to public inspection under FOIA without further notice to the bidder. If a redacted copy is not provided with the *Bid Response Packet*, a copy of the non-redacted documents, with the exception of financial data (other than pricing), will be released in response to any request made under FOIA. If the State deems redacted information to be subject to FOIA, the bidder will be contacted prior to release of the documents. The State has no liability to a bidder with respect to the disclosure of confidential information ordered by a court of competent jurisdiction pursuant to FOIA or other applicable law.

1.16 CAUTION TO VENDORS

- A. Prior to any contract award, all communication concerning this IFB **must** be addressed through OP. Bidder must provide clarification of any information submitted in the *Bid Response Packet* if requested by OP.
- B. Bidders **must not** alter any language in any solicitation document provided by the State, including the *Official Bid Price Sheet*. Bids **must** be submitted in the English language. Bids must meet or exceed all defined specifications, terms, and conditions set forth in this IFB and the laws of the State of Arkansas. Bidders may submit multiple bids.
- C. All official documents and correspondence related to this solicitation **shall** be included as part of the resultant contract. The State **shall** have the right to award or not award a contract, if it is in the State's best interest.

1.17 REQUIREMENT OF ADDENDUM

This IFB **shall** be modified only by an addendum written and authorized by OP. 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 IFB. The bidder **shall** be responsible for checking the following websites for any and all addenda up to bid opening:

<https://humanservices.arkansas.gov/do-business-with-dhs>
<https://www.arkansas.gov/dfa/procurement/bids/index.php>

1.18 AWARD PROCESS**A. Vendor Selection**

Awards will be made to the lowest responsible, responsive bidders based on unit price (daily rate). Awarded Contractors will be ranked in descending order with the lowest bid listed as the first contact. DHS may contact bidders from lowest price to highest price based on service type, proximity, and availability.

1. DHS intends to receive services with the least overall expense to the State. If multiple bidders of equal distance from the client's current location can provide services for that client, DHS will select the bidder with the lowest rate. Where the cost of travel may increase the State's total expense, DHS may select the bidder with the least total expense to the State.

B. Negotiations

The State may, at its sole discretion, choose to conduct negotiations with the lowest qualifying bidder. If negotiations fail to result in a contract, the State may begin the negotiation process with the next qualifying bidder. The negotiation process may be repeated until the lowest responsive vendor has been determined, or until such time the State decides not to move forward with an award.

C. Anticipation to Award

Once an anticipated awardee has been determined, the anticipated award will be posted on the following websites:

<https://humanservices.arkansas.gov/do-business-with-dhs>
<https://www.arkansas.gov/dfa/procurement/bids/index.php>

The anticipated award will be posted for a period of fourteen (14) days prior to the issuance of a contract. Vendors and agencies are cautioned that these are preliminary results only, and a contract will not be issued prior to the end of the fourteen (14) day posting period. OP **shall** have the right to waive the policy of Anticipation to Award when it is in the State's best interest. It is the vendor's responsibility to check the above referenced websites for the posting of an anticipated award.

D. Issuance of Contract

Any contract resulting from this IFB shall be subject to State approval processes which may include Legislative review. An OP official will be responsible for award and administration of any resulting contract.

Contract award, extension, or renewal is contingent upon approval by DHS officials, subsequent approval by OP, review by the Legislative Council, and the availability of State funds. Pursuant to Ark. Code Ann. § 19-11-265, any material changes to the resulting contract are subject to review by the Legislative Council.

1.19 MINORITY AND WOMEN-OWNED BUSINESS POLICY

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

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

- B. A woman-owned business is defined by Ark. Code Ann. § 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 bidder should include its Certification Number on the *Bid Signature Page*.

1.20 EQUAL EMPLOYMENT OPPORTUNITY POLICY

Pursuant to Ark. Code Ann. § 19-11-104, the State must have a copy of the anticipated awardee's *Equal Opportunity (EO) Policy* prior to issuing a contract award. *EO Policies* should be included as a hardcopy in the *Bid Response Packet*. The submission of an *EO Policy* to OP is a one-time requirement, however, vendors are responsible for providing updates or changes to their respective policies, and for supplying *EO Policies* upon request to other State agencies that must also comply with this statute. Vendors who are not required by law to have an *EO Policy* must submit a written statement to that effect.

1.21 COMBINED CERTIFICATIONS

Bidder shall submit the signed *Attachment H: Combined Certifications for Contracting with the State of Arkansas* in the *Bid Response Packet*.

1.22 PAST PERFORMANCE

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

1.23 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 Ark. Code Ann. § 25-26-201 et seq., which expresses the State's policy to provide individuals who are blind or visually impaired with access to information technology purchased in whole or in part with state funds. Vendor expressly acknowledges and agrees that state funds may not be expended in connection with the purchase of information technology unless that technology meets the statutory requirements found in 36 C.F.R. § 1194.21, as it existed on January 1, 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, Vendor expressly represents and warrants to the State of Arkansas through the procurement process by submission of a Voluntary Product Accessibility Template (VPAT) for 36 C.F.R. § 1194.21, as it existed on January 1, 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 Ark. Code Ann. § 25-26-201 et seq., equivalent access for effective use by both visual and non-visual means.
 - 2. Presenting information, including prompts used for interactive communications, in formats intended for non-visual use.
 - 3. After being made accessible, integrating into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired.
 - 4. Providing effective, interactive control and use of the technology, including without limitation the operating system, software applications, and format of the data presented is readily achievable by nonvisual means.
 - 5. Being compatible with information technology used by other individuals with whom the blind or visually impaired individuals interact.
 - 6. Integrating into networks used to share communications among employees, program participants, and the public.
 - 7. Providing the capability of equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.
- C. State agencies cannot claim a product as a whole is not reasonably available because no product in the marketplace meets all the standards. Agencies must evaluate products to determine which product best meets the standards. If an agency purchases a product that does not best meet the standards, the agency must provide written documentation supporting the selection of a different product, including any required reasonable accommodations.
- D. For purposes of this section, the phrase "equivalent access" means a substantially similar ability to communicate with, or make use of, the technology, either directly, by features incorporated within the technology, or by other reasonable means such as assistive devices or services which would constitute

reasonable accommodations under the Americans with Disabilities Act or similar state and federal laws. Examples of methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands or other means of navigating graphical displays, and customizable display appearance. As provided in Ark. Code Ann. § 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.

- E. If the information manipulated or presented by the product is inherently visual in nature, so that its meaning cannot be conveyed non-visually, these specifications do not prohibit the purchase or use of an information technology product that does not meet these standards.

1.24 COMPLIANCE WITH THE STATE SHARED TECHNICAL ARCHITECTURE PROGRAM

The bidder'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.

1.25 PROCUREMENT CARD ACCEPTANCE

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

1.26 PUBLICITY

Vendors **shall not** issue a news release pertaining to this IFB or any portion of the project without OP's prior written approval. Failure to comply with this Requirement **shall** be cause for disqualification of a vendor's bid.

1.27 RESERVATION

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

1.28 SCHEDULE OF EVENTS

Public Notice of IFB	February 18, 2025
Deadline for Receipt of Written Questions	February 25, 2025, 4:00 pm CST
Response to Written Questions, On or About	March 4, 2025
Date and Time for Bid Submission	March 19, 2025, 1:00 pm CST
Date and Time for Bid Opening	March 19, 2025, 2:00 pm CST
Intent to Award Announced, On or About	April 4, 2025
Contract Start (Subject to State Approval)	July 1, 2025

1.29 STATE HOLIDAYS

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

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

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

SECTION 2 – MINIMUM REQUIREMENTS

2.1 INTRODUCTION

This IFB is issued to obtain bids for the provision of Emergency Intermediate Care services in an ICF/IDD (see Section 1.7 DEFINITION OF TERMS) to clients who meet the eligibility criteria for ICF placement and require an institutional level of care. All services provided **shall** be in compliance with Ark. Code Ann. § 20-48-901 and ICF standards as set forth in the DHS [Office of Long-Term Care \(OLTC\) rules and regulations](#) for [small ICF/MR facilities](#) and [large ICF/MR facilities](#). (see Attachment J - Bidders Library for Manual links). (Medicaid Provider Type 13-W9)

Clients served by any resulting contract must meet IDD/OCF eligibility requirements. Some clients may not be enrolled in the Arkansas Medicaid Program at the time of referral for services. The purpose of this contract is to ensure that all clients referred by or in DCFS custody receive necessary and appropriate comprehensive and individualized health care and rehabilitation services to individuals to promote their functional status and independence. This contract will provide a bridge allowing for emergent inpatient care until the client is enrolled in the Medicaid Program and/or assigned to a Provider-Led Arkansas Shared Savings Entity (PASSE) if already enrolled, at which point the PASSE will take over management of the client's healthcare needs.

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

2.2 SERVICE DELIVERY LOCATION

Contractor **shall** provide services in an intermediate care facility for individuals with intellectual disabilities ICF/IDD referred by or in the custody of DHS. All services **must** be provided on a twenty-four (24) hour basis.

2.3 MINIMUM QUALIFICATIONS

Contractors **must** meet the following requirements:

- A. Be registered to do business in the State of Arkansas and in good standing by the start of any resulting contract. Bidder **must** provide a [Certificate of Good Standing](#), [Certificate of Authority](#), or other required [Arkansas Secretary of State](#) documentation such as non-filing or nonqualifying statements, upon DHS request.
- B. Contractor **must** be enrolled with Medicaid as a Pediatric Intermediate Care Facility for Intellectual or Developmental Disabilities (ICF/IDD). Medicaid Provider Type: Pediatric ICF/IDD (13-W9). Bidders **must** be in good standing with Arkansas Medicaid and provide their Arkansas Medicaid number on page four (4) of the *Bid Response Packet* and include a copy of all required licensure and certification documents (see Section 1.8 RESPONSE DOCUMENTS).
- C. Contractor **must** have a minimum of five (5) years of professional experience providing emergency intermediate care or equivalent type services including, but not limited to, twenty-four (24) hour nursing care, pharmacy services, physical therapy, occupational therapy, speech pathology, psychological services, special education services, and community integration activities to individuals up to twenty-one (21) years of age. Bidder **must** complete and submit *Attachment I: Client History Form* with the *Bid Response Packet*.

2.4 SCOPE OF WORK

- A. **Licensure.** Bidder must be enrolled with Medicaid as a Pediatric Intermediate Care Facility for Intellectual or Developmental Disabilities (ICF/IDD). Medicaid Provider Type: Pediatric ICF/IDD (13-W9), and must be in and remain in good standing with Arkansas Medicaid for the duration of any resulting contract.
- B. **Eligibility.** Clients referred under this contract to receive services in an Intermediate Care Facility for Intellectual or Developmental Disability (ICF/IDD) must have a diagnosis of a developmental disability or intellectual disability. Intellectual and developmental disability means a disability of a person that:
 - i. Is attributable to an impairment of general intellectual functioning or adaptive behavior, including cerebral palsy, spina bifida, Down syndrome, epilepsy, or autism:
 - ii. Is attributable to any other condition of a person found to be closely related to intellectual and developmental disability because the condition results in an impairment of general intellectual functioning or adaptive behavior similar to that of a person with an intellectual and developmental disability or requires treatment and services similar to that required for a person with an intellectual and developmental disability
 - iii. Originated prior to the client turning twenty two (22) of age
 - iv. Has continued or can be expected to continue indefinitely; and

- v. Constitutes a substantial impairment to the person's ability to function without appropriate support services, including, but not limited to, planned recreational activities and medical services.

- C. Compliance.** All services provided **shall** be in compliance with Ark. Code Ann. § 20-48-901 and ICF standards as set forth in the DHS [Office of Long-Term Care \(OLTC\) rules and regulations](#) for [small ICF/MR facilities](#) and [large ICF/MR facilities](#). (see Bidders Library for Manual links).
- D. Preliminary Evaluation.** Within two (2) business days of accepting a client under this contract, Vendor must conduct a preliminary evaluation of the client to determine if medical necessity will be met for full admission or if DCFS should be notified of discharge.
- E. Services.** Clients under this contract shall receive the same services as a client who has been fully admitted to the facility which includes all services outlined under the Condition of Participation (Section 500 of the 15 Bed or Less Long Term Care Facilities Manual) or the Services Section (Section 300 of the 16 Bed or More Long Term Care Facilities Manual). Such services shall include trachea care.

Additional services provided by the Contractor shall include, without limitation:

D. Transportation

1. Services **shall** include transportation to and from other necessary services, including without limitation:
 - a. Dental care and
 - b. Eye care
2. License, permits, and certificates must be maintained in accordance with state and federal laws for each vehicle used to provide transportation including, without limitation, the following:
 - a. Vehicle licensing
 - b. Driver's license
 - c. Registration
 - d. Insurance
 - e. Child safety seats
 - f. Seat belts

E. Reporting

Contractor **shall** submit monthly reports on each client residing at the ICF/IDD, being paid under this contract, to the DHS Division of Children and Family Services (DCFS) containing the following without limitation:

1. All intermediate care services provided to the clients for the preceding month;
2. Progress notes on each client for the preceding month;
3. Proof of applications made to DHS required for full admission to the ICF;
4. All transportation provided to DHS-referred clients for the preceding month; and
5. All referrals to outside service providers for DHS-referred clients for the preceding month, including without limitation dental care and eye care.

2.5 CASE MANAGEMENT

Contractor **must** be knowledgeable and proficient in the Medicaid enrollment and PASSE assignment process and be committed to ensuring documentation submission is completed expeditiously for all clients referred by or in DCFS custody. The Contractor **must** complete DHS Form 703 by proactively working with families and/or Division staff (along with any other stakeholders including but not limited to, parents/DCFS, medical providers and DHS staff) and submit the DHS Form 703 (see Attachment J - Bidders Library and links below) and all required documentation within fourteen (14) days from the referral date to the Office of Long Term Care pursuant to 42 CFR §483.20.

- Example Form and Instructions: https://humanservices.arkansas.gov/wp-content/uploads/dhs_703.pdf
- Approved DHS process may be found here: https://humanservices.arkansas.gov/wp-content/uploads/016.06.06-003F-8364_Procedures_for_Determination_of_Medical_Need_for_Nursing_Home_Services_.pdf

After the client is assigned to a PASSE, the PASSE will take over management of the client's healthcare needs, and client(s) will no longer be paid off of this Contract. See Section 3.1 Payment and Invoicing for how the daily rate bid will be adjusted beyond the initial thirty days of admission.

2.6 CRIMINAL BACKGROUND CHECKS

Contractor must perform criminal background checks on all proposed staff members. Pursuant to those background checks, no staff member shall be staffed on this project if they have committed an offense that would preclude State employment as a “designated position,” if applicable to the underlying contracted services, under Ark. Code Ann. § 21-15-102 or otherwise as a “designated financial or information technology position” pursuant to Ark. Code Ann. § 21-15-111.

2.7 PRIVACY AND SECURITY

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 (Ark. Code Ann. § 4-110-104), and other Federal and State privacy and security standards. Prior to award, Contractor must complete and sign a Business Associate Agreement (BAA). 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-1003.pdf>
<https://humanservices.arkansas.gov/wp-content/uploads/DHS-Policy-4002.pdf>
<https://humanservices.arkansas.gov/wp-content/uploads/DHS-Policy-4008.pdf>
<https://humanservices.arkansas.gov/wp-content/uploads/DHS-Policy-4009.pdf>
<https://humanservices.arkansas.gov/wp-content/uploads/DHS-Policy-5000.pdf>
<https://humanservices.arkansas.gov/wp-content/uploads/DHS-Policy-5010.pdf>

Contractor **shall** disclose any breaches of privacy or security by contacting the DHS Information Technology Security Office within one (1) business day of the breach at DHS.IT.Security.Team@dhs.arkansas.gov.

The Contractor **shall** use protected health information and/or other confidential information only in a manner that is necessary to provide the services required in this solicitation and **shall** safeguard the use and disclosure of, and restrict access to, protected health information and/or other confidential information.

2.8 PERFORMANCE STANDARDS

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

SECTION 3 – GENERAL CONTRACTUAL REQUIREMENTS

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

3.1 PAYMENT AND INVOICE PROVISIONS

- All invoices **shall** be forwarded to ssupproviderinvoices@dhs.arkansas.gov
- Invoices **must** be submitted by the tenth (10th) day of each month and **must** include an itemized list of charges consisting at a minimum of the dates and a description of services rendered. The agency's Purchase Order Number and/or the Contract Number should be referenced on each invoice. Other sections of this IFB may contain additional invoicing requirements.
- Daily rate following emergency admission will be the ceiling DCFS- approved contract rate. Starting day thirty-one, DCFS will pay its lower or floor DCFS-approved Contract rate which will be set at half of the higher or ceiling DCFS-approved contract rate.
- Bed holds. When a child is admitted into a medical facility for an extended period of time, the contractor can bill for up to fourteen (14) calendar days to hold the bed. Any amount of time beyond the fourteen (14) calendar days **must** be approved by DCFS with an explanation of the request and the needs of the child.
- The State **shall not** be invoiced in advance of delivery and acceptance of any goods or services. Payment will be made in accordance with applicable State of Arkansas and Medicaid approved accounting procedures upon acceptance of goods and services and the vendor has successfully satisfied the agency as to the reliability and effectiveness of the goods or services purchased as a whole.
- The selected vendor(s) **must** be registered to receive payment and future IFB notifications. Vendors may register on-line at <https://www.ark.org/vendor/index.html>.

3.2 GENERAL INFORMATION

- A contract **shall not** be effective prior to award being made by an agency Procurement Agent.
- 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 vendor/lessor in the event funds are not appropriated. The State **shall not** continue a contract once any equipment has been repossessed. 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:
 - The extent of liability for such risk is based upon the purchase price of the equipment or software at the time of any loss.
 - The contract has required the State to carry insurance for such risk.
- The laws of the State of Arkansas **shall** govern this contract. Any litigation involving the State **must** take place in Pulaski County, Arkansas.
- The State **shall not** contract with another party to indemnify and defend that party for any liability and damages. The State **shall not** pay damages, legal expenses, or other costs and expenses of any other party. The State **shall not** agree to any provision of a contract which violates the laws or constitution of the State of Arkansas. The State **shall not** enter a contract which grants to another party any remedies other than the following:
 - The right to possession.
 - The right to accrued payments.
 - The right to expenses of deinstallation.
 - The right to expenses of repair to return the equipment to normal working order, normal wear and tear excluded.
 - The right to recover only amounts due at the time of repossession and any unamortized nonrecurring cost as allowed by Arkansas Law.

3.3 CONDITIONS OF CONTRACT

- Vendor **shall** at all times observe and comply with federal and state 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. Vendor shall indemnify and save harmless the agency and all its officers, representatives, agents, and employees against any claim or liability arising from or based upon the violation of any such law, ordinance, regulation, order, or decree by an employee, representative, or subcontractor of the vendor.
- C. Vendor agrees to *Attachment C: Performance-Based Contracting Standards*, *Attachment D: DHS Standard Terms and Conditions*, *Attachment E: Pro Forma Contract*, *Attachment F: Business Associate Agreement*, *Attachment G: Organizational or Personal Conflict of Interest Policy*, and *Attachment H: Combined Certifications for Contracting with the State of Arkansas*.

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

3.4 STATEMENT OF LIABILITY

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

3.5 PERFORMANCE BONDING

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. The State **shall** require additional performance bond protection when a contract price is increased or modified. The additional performance bond **must** be delivered to the Arkansas Department of Human Services Chief Procurement Officer within fourteen (14) calendar days of request.
- 2. Contractor **shall** notify the State of any changes, modification, or renewals for the performance bond during the contract term. The performance bond documentation **must** be provided to the State with each required notice.

Failure to provide is a breach of contract and may result in immediate contract termination, prohibition against future bidding with the State, the addition of Contractor to the DHS excluded provider list, etc.

3.6 RECORD RETENTION

- A. Vendor **shall** maintain all pertinent financial and accounting records and evidence pertaining to the contract in accordance with generally accepted accounting principles and as specified by 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 IFB may contain additional requirements regarding record retention.

3.7 PRICE ESCALATION

Price increases will be considered at the time of contract renewal. Vendor **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 **shall** have the right to require additional information pertaining to the requested increase. Increases **shall not** be considered to increase profit or margins. OP **shall** have the right to approve or deny the request.

3.8 CONFIDENTIALITY

The vendor, vendor's subsidiaries, and vendor'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 while providing services under a resulting contract. 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. Previous sections of this Bid Solicitation may contain additional confidentiality requirements.

3.9 CONTRACT INTERPRETATION

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

3.10 CANCELLATION

A. For Cause. The State may cancel any contract resulting from this solicitation for cause at the discretion of the Arkansas Department of Human Services. The State shall give the vendor written notice of cancellation, specifying the terms and the effective date of contract termination.

B.

For Convenience. The State may cancel any contract resulting from the solicitation by giving the Contractor written notice of such cancellation no less than thirty (30) days prior to the date of cancellation.

C. If upon cancellation, the Contractor has provided commodities or services which the State of Arkansas has accepted, and there are no funds legally available to pay for the commodities or services, the Contractor may file a claim with the Arkansas Claims Commission under the laws and regulations governing the filing of such claims.

3.11 SEVERABILITY

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

SECTION 4 – STANDARD TERMS AND CONDITIONS

- **Do not provide responses to items in this section.**
- 1. **GENERAL:** Any special terms and conditions included in this solicitation **shall** override these Standard Terms and Conditions. The Standard Terms and Conditions and any special terms and conditions **shall** become part of any contract entered into if any or all parts of the bid are accepted by the State of Arkansas.
- 2. **ACCEPTANCE AND REJECTION:** The State **shall** have the right to accept or reject all or any part of a bid, or any and all bids, to waive minor technicalities, and to award the bid to best serve the interest of the State.
- 3. **BID SUBMISSION:** *Bid Response Packets* **must** be received by OP on or before the submission deadline. The *Bid Response Packet* **must** contain all documents, information, and attachments as specifically and expressly required in the IFB. The bid **must** be typed or printed in ink. The signature **must** be in ink. Unsigned bids **shall** be disqualified. The person signing the bid should show title or authority to bind the firm in a contract. Multiple bids **must** be placed in separate packages and should be completely and properly identified. Late bids **shall not** be considered under any circumstances.
- 4. **PRICES:** Bid unit price F.O.B. destination. In case of errors in extension, unit prices **shall** govern. Prices **shall** be firm and **shall not** be subject to escalation unless otherwise specified in the IFB. Unless otherwise specified, the bid **must** be firm for acceptance for thirty (30) days from the bid opening date. "Discount from list" bids are not acceptable unless requested in the IFB.
- 5. **QUANTITIES:** Quantities stated in an IFB for term contracts are estimates only and are not guaranteed. Contractors **must** bid unit price on the estimated quantity and unit of measure specified. The State may order more or less than the estimated quantity on term contracts. Quantities stated on firm contracts are actual Requirements of the ordering agency.
- 6. **BRAND NAME REFERENCES:** Unless otherwise specified in the IFB, any catalog brand name or manufacturer reference used in the IFB 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 Contractor to supply additional descriptive material. Contractor **shall** guarantee that the product offered will meet or exceed specifications identified in this IFB. Contractors not bidding an alternative to the referenced brand name or manufacturer **shall** be required to furnish the product according to brand names, numbers, etc., as specified in the IFB.
- 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 IFB. 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. Contractor **shall** further guarantee that if the items furnished hereunder are to be installed by Contractor, such items **shall** function properly when installed. Contractor **shall** guarantee that all applicable laws have been complied with relating to construction, packaging, labeling, and registration. Contractor's obligations under this paragraph **shall** survive for a period of one (1) year from the date of delivery, unless otherwise specified herein.
- 8. **SAMPLES:** Samples or demonstrators, when requested, **must** be furnished free of expense to the State. Each sample should be marked with 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 Contractor.
- 10. **AMENDMENTS:** Bids cannot be altered or amended after the bid opening except as permitted by regulation.
- 11. **TAXES AND TRADE DISCOUNTS:** Do not include State or local sales taxes in the bid price. Trade discounts should be deducted from the unit price and the net price should be shown in the bid.
- 12. **AWARD:** *Term Contract.* A contract award will be issued to the successful Contractor. It results in a binding obligation without further action by either party. This award does not authorize shipment. Shipment is authorized by the receipt of

a purchase order from the ordering agency. *Firm Contract:* A written State purchase order authorizing shipment will be furnished to the successful Contractor.

13. **DELIVERY ON FIRM CONTRACTS:** This solicitation shows the number of days to place a commodity in the ordering agency's designated location under normal conditions. If Contractor cannot meet the stated delivery, alternate delivery schedules may become a factor in an award. OP **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 Contractor.
14. **DELIVERY REQUIREMENTS:** No substitutions or cancellations are permitted without OP's written approval. Delivery **shall** be made during agency work hours (8:00 a.m. to 4:30 p.m. Central Time) unless prior approval for other delivery has been obtained from the agency. Packing memoranda **shall** be enclosed with each shipment.
15. **STORAGE:** The ordering agency is responsible for storage if Contractor delivers within the time required and the agency cannot accept delivery.
16. **DEFAULT:** All commodities furnished **shall** be subject to inspection and acceptance by the ordering agency after delivery. Back orders, default in promised delivery, or failure to meet specifications **shall** authorize OP 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. Contractor **must** give written notice to OP 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. .
19. **STATE PROPERTY:** Any specifications, drawings, technical information, dies, cuts, negatives, positives, data, or any other commodity furnished to Contractor hereunder or in contemplation hereof or developed by 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 Contractor's expense to the F.O.B. point provided by the agency or OP. Contractor **shall** properly identify items being returned.
20. **PATENTS OR COPYRIGHTS:** 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 Contractor may assert under this Agreement **shall** be brought before the Arkansas State Claims Commission, which **shall** have exclusive jurisdiction over all claims that Contractor may have arising from or in connection with this Agreement. Unless Contractor's obligations to perform are terminated by the State, Contractor **shall** continue to provide the Services under this Agreement even if 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 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 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, Contractor may file a claim with the Arkansas State Claims Commission under the laws and regulations governing the filing of such claims. If upon cancellation Contractor has provided services which the State has accepted, 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, Contractor agrees that: (a) 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, Contractor **shall** state that all qualified applicants **shall** receive consideration without regard to race, color, sex, age, religion, handicap, or national origin; (c) 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 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) 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:** Contractor guarantees that no one has been retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by Contractor for securing business.
- 26. ANTITRUST ASSIGNMENT:** As part of the consideration for entering into any contract pursuant to this solicitation, the Contractor named on the *Bid Signature Page* for this solicitation, acting herein by the authorized individual or its duly authorized agent, hereby assigns, sells, and transfers to the State of Arkansas all rights, title, and interest in and to all causes of action it may have under the antitrust laws of the United States or this State for price fixing, which causes of action have accrued prior to the date of this assignment and which relate solely to the particular goods or services purchased or produced by this State pursuant to this contract.
- 27. DISCLOSURE:** Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that order, **shall** be a material breach of the terms of this contract. Any Contractor, whether an individual or entity, who fails to make the required disclosure or who violates any rule, regulation, or policy **shall** be subject to all legal remedies available to the agency.