



State of Arkansas  
OFFICE OF STATE PROCUREMENT  
1509 West Seventh Street, Room 300  
Little Rock, Arkansas 72201-4222

## INVITATION FOR BID

IFB Number: <b>SP-16-0089R</b>	Buyer: <b>LEE COSTLEY</b>
Commodity: <b>HAULING SERVICE</b>	Bid Opening Date: <b>09/03/2015</b>
Agency: <b>ARKANSAS DEPARTMENT OF CORRECTION</b>	
Date Issued: <b>08/21/2015</b>	Bid Opening Time: <b>1:00 PM CENTRAL TIME</b>

BIDS WILL BE ACCEPTED UNTIL THE TIME AND DATE SPECIFIED ABOVE. THE BID ENVELOPE, INCLUDING THE OUTSIDE OF OVERNIGHT PACKAGES, MUST BE SEALED AND SHOULD BE PROPERLY MARKED WITH THE BID NUMBER, DATE AND HOUR OF BID OPENING AND VENDOR'S RETURN ADDRESS. IT IS NOT NECESSARY TO RETURN "NO BIDS" TO THE OFFICE OF STATE PROCUREMENT.

Vendors are responsible for delivery of their bid documents to the Office of State Procurement prior to the scheduled time for opening of the particular bid. When appropriate, vendors should consult with delivery providers to determine whether the bid documents will be delivered to the OSP office street address prior to the scheduled time for bid opening. Delivery providers, USPS, UPS, and FedEx deliver mail to our street address on a schedule determined by each individual provider. These providers will deliver to our offices based solely on our street address.

<b>MAILING ADDRESS:</b> Office of State Procurement 1509 West Seventh Street, Room 300 Little Rock, AR 72201-4222  <b>TELEPHONE NUMBER:</b> 501-324-9316	<b>BID OPENING LOCATION:</b> Office of State Procurement 1509 West Seventh Street, Room 300 Little Rock, AR 72201-4222
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Company Name: \_\_\_\_\_

Name (type or print): \_\_\_\_\_ Title: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

**Signature:** \_\_\_\_\_

**USE INK ONLY. UNSIGNED BIDS WILL NOT BE CONSIDERED**

Business Designation (check one):	Individual [ ]	Sole Proprietorship [ ]	Public Service Corp [ ]
	Partnership [ ]	Corporation [ ]	Government/ Nonprofit [ ]

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TYPE OF CONTRACT:	TERM
AGENCY P.R. NUMBER	1000719156

1. **MINORITY BUSINESS POLICY:** Minority participation is encouraged in this and in all other procurements by state agencies. Minority is defined by Arkansas Code Annotated § 15-4-303 as a lawful permanent resident of this state who is: African American, Hispanic American, American Indian, Asian American, Pacific Islander American or a Service Disabled Veteran as designated by the United States Department of Veterans Affairs. The Arkansas Economic Development Commission conducts a certification process for minority business. Bidders unable to include minority-owned business as subcontractors "may explain the circumstances preventing minority inclusion".

Check minority type: African American\_\_\_\_ Hispanic American\_\_\_\_ American Indian\_\_\_\_ Asian American\_\_\_\_  
Pacific Islander American\_\_\_\_ Service Disabled Veteran\_\_\_\_

Arkansas Minority Certification Number\_\_\_\_\_

2. **EQUAL EMPLOYMENT OPPORTUNITY POLICY:** In compliance with Arkansas Code Annotated § 19-11-104, the Office of State Procurement is required to have a copy of the vendor's Equal Opportunity Policy prior to issuing a contract award. EO Policies may be submitted in electronic format to the following email address: [eeopolicy.osp@dfa.arkansas.gov](mailto:eeopolicy.osp@dfa.arkansas.gov), or as a hard copy accompanying the solicitation response. The Office of State Procurement will maintain a file of all vendor EO policies submitted in response to solicitations issued by this office. The submission is a one- time requirement, but 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 that do not have an established EO policy will not be prohibited from receiving a contract award, but are required to submit a written statement to that effect.

3. **PROHIBITION OF EMPLOYMENT OF ILLEGAL IMMIGRANTS**

A. Pursuant to Arkansas Code Annotated § 19-11-105, prior to the award of a contract, selected vendor(s) **must** have a current certification on file with OSP stating that they do not employ or contract with illegal immigrants.

B. OSP will notify the selected vendor(s) prior to award if their certification has expired or is not on file. Instructions for completing the certification process will be provided to the vendor(s) at that time.

4. **ALTERATION OF ORIGINAL IFB DOCUMENTS:** The original written or electronic language of the IFB documents shall not be changed or altered except by approved written addendum issued by the Office of State Procurement. This does not eliminate a Bidder from taking exception(s) to non-mandatory terms and conditions, but does clarify that the Bidder cannot change the original document's written or electronic language. If the Bidder wishes to make exception(s) to any of the original language, it must be submitted by the Bidder in separate written or electronic language in a manner that clearly explains the exception(s). If Bidder's/Contractor's submittal is discovered to contain alterations/changes to the original written or electronic documents, the Bidder's response may be declared as "non-responsible" and the response shall not be considered.

5. **REQUIREMENT OF AMENDMENT:** THIS IFB MAY BE MODIFIED ONLY BY AMENDMENTS WRITTEN AND AUTHORIZED BY THE OFFICE OF STATE PROCUREMENT. Bidders are cautioned to ensure that they have received or obtained, and responded to, any and all amendments to the bid prior to submission. There will be no addendums to a bid 72 hours prior to the bid opening. It is the responsibility of the vendor to check the OSP website, <http://www.arkansas.gov/dfa/procurement/bids/index.php> for any and all addendums up to that time.

6. **DELIVERY OF RESPONSE DOCUMENTS:** In accordance with the Arkansas Procurement Law and Rules, it is the responsibility of vendors to submit bids at the place, and on or before the date and time, set in the bid solicitation documents. Bid documents received at the Office of State Procurement after the date and time designated for bid opening are considered late bids and shall not be considered. Bid documents arriving late, which are to be returned and are not clearly marked, may be opened to determine for which bid the submission is intended.

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7. **ADDITIONAL TERMS AND CONDITIONS:** The Office of State Procurement objects to, and shall not consider, any additional terms or conditions submitted by a bidder, including any appearing in documents attached as part of a bidder's response. In signing and submitting his bid, a bidder agrees that any additional terms or conditions, whether submitted intentionally or inadvertently, shall have no force or effect. Failure to comply with terms and conditions, including those specifying information that must be submitted with a bid, shall be grounds for rejecting a bid.
8. **ANTICIPATION TO AWARD:** After complete evaluation of the bid, the anticipated award will be posted on the OSP website ([http://www.arkansas.gov/dfa/procurement/pro\\_intent.php](http://www.arkansas.gov/dfa/procurement/pro_intent.php)). The purpose of the posting is to establish a specific timeframe in which vendors and agencies are aware of the anticipated award. The bid results will be posted for a period of fourteen (14) days prior to the issuance of any award. Vendors and agencies are cautioned that these are preliminary results only, and no official award will be issued prior to the end of the fourteen day posting period. Accordingly, any reliance on these preliminary results is at the agency's/vendor's own risk.

The Office of State Procurement reserves the right to waive the policy of Anticipation to Award when it is in the best interest of the State. Vendors are responsible for viewing the Anticipation to Award section of the OSP web site at: [http://www.arkansas.gov/dfa/procurement/pro\\_intent.php](http://www.arkansas.gov/dfa/procurement/pro_intent.php).

9. **PAST PERFORMANCE:** In accordance with provisions of The State Procurement Law, R7: 19-11-229 Competitive Sealed Bidding - Bid Evaluation paragraph (E) (i) & (ii): a vendor's past performance with the state may be used in the evaluation of any bid made in response to this solicitation. The past performance should not be greater than three years old and must be supported by written documentation on file in the Office of State Procurement at the time of the bid opening. Documentation may be in the form of a written or an electronic report, VPR (Vendor Performance Report), memo, file or any other appropriate authenticated notation of performance to the vendor files.
10. **VISA ACCEPTANCE:** Awarded contractors should have the capability of accepting the State's authorized VISA Procurement Card (p-card) as a method of payment. Price changes or additional fee(s) may not be assessed when accepting the p-card as a form of payment. The successful bidder may receive payment from the State by the p-card in the same manner as other VISA purchases. VISA acceptance is preferred but is not the exclusive method of payment.
11. **EO-98-04 GOVERNOR'S EXECUTIVE ORDER:** Bidders should complete the Disclosure Forms issued with this bid.
12. **CURRENCY:** All bid pricing must be United States dollars and cents.
13. **LANGUAGE:** Bids will only be accepted in the English language.

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**SECTION 1 - GENERAL INFORMATION**

**1.1 INTRODUCTION**

This Invitation for Bid (IFB) is issued by the Office of State Procurement (OSP) for the Arkansas Department of Correction (ADC or DOC) to obtain pricing and a contract for hauling service.

**1.2 ISSUING AGENCY**

**The issuing office is the sole point of contact in the State for the selection process.** Vendor questions regarding IFB related matters should be made through the State's buyer, **Lee Costley at 501-324-9318 email [lee.costley@dfa.arkansas.gov](mailto:lee.costley@dfa.arkansas.gov)**. Vendor's questions will be answered as a courtesy and at vendor's own risk.

**1.3 CAUTION TO BIDDERS**

1. **During the time between the bid opening and contract award, any contact concerning this IFB should be initiated by the issuing office or requesting entity and not the vendor.** Specifically, the person(s) named herein will initiate all contact.
2. The State Procurement Official reserves the right to award a contract or reject a bid for any or all line items of a bid received as a result of this IFB, if it is in the best interest of the State to do so. Bids will be rejected for one or more reasons not limited to the following:
  - a. Failure of the vendor to submit his bid(s) on or before the deadline established by the issuing office.
  - b. Failure to sign an Official Bid Document.
  - c. Failure to complete the Official Bid Price Sheet(s).
  - d. Any wording by the vendor in their response to this IFB, or in subsequent correspondence, which conflicts with or takes exception to a requirement in the IFB.
  - e. Failure of any proposed goods or service to meet or exceed the specifications.

**1.4 BID FORMAT**

Any statement in this document that contains the word "**will**", "**must**" or "**shall**" means that compliance with the intent of the statement is mandatory, and failure by the bidder to satisfy that intent will cause the bid to be rejected. Reference to handbooks or other technical materials as part of a response must not constitute the entire response and vendor must identify the specific page and paragraph being referenced.

**1.5 TYPE OF CONTRACT**

The contract will be a one (1) year term contract from the date of award. Upon mutual agreement by the contractor and OSP, the contract may be renewed on a year-to-year basis, for up to (six (6)) additional (one year terms) or a portion thereof. In no event shall the total contract term be more than seven (7) years.

**1.6 PAYMENT AND INVOICE PROVISIONS**

All invoices **shall** be forwarded to the:

ARKANSAS DEPARTMENT OF CORRECTION  
Attn: Accounts Payable  
P.O. BOX 6408  
PINE BLUFF, AR 71611

Payment will be made in accordance with applicable State of Arkansas accounting procedures upon acceptance by the Agency. The State may not be invoiced in advance of delivery and acceptance of any (equipment, service or commodity) Payment will be made only after the contractor has successfully satisfied the ARKANSAS DEPARTMENT OF CORRECTION as to the goods and/or services purchased. Vendors should invoice the ARKANSAS DEPARTMENT OF CORRECTION by an itemized list of charges. Purchase Order Number and/or Contract Number should be referenced on each invoice. **The vendor will be paid only for loads properly documented and reported to the Tucker Department of Correction farm office.**

Selected vendor must be registered to receive payment and future bid notifications. If you are not a registered vendor you may register on-line at <https://www.ark.org/vendor/index.html>

**1.7 RECORD RETENTION**

The Contractor **shall** be required to maintain all pertinent financial and accounting records and evidence pertaining to the contract in accordance with generally accepted principles of accounting and other procedures specified by the State of Arkansas. Access will be granted upon request, to State or Federal Government entities or any of their duly authorized representatives.

Financial and accounting records **shall** be made available, upon request, to the State of Arkansas' 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.

**1.8 PROPRIETARY INFORMATION**

Proprietary information submitted in response to this (IFB) will be processed in accordance with applicable State of Arkansas procurement procedures. Bids and documents pertaining to the (IFB) become the property of the State and shall be open to public inspection subsequent to bid opening. It is the responsibility of the Vendor to identify all proprietary information. **The vendor should submit one complete copy of the response from which any proprietary information has been removed, i.e., a redacted copy.** The redacted copy should reflect the same pagination as the original, show the empty space from which information was redacted, and should be submitted on a CD or flash drive. Except for the redacted information, the redacted copy must be identical to the original hard copy. The vendor is responsible for ensuring the redacted copy on CD/flash drive is protected against restoration of redacted data. The redacted copy will be open to public inspection under the Freedom of Information Act (FOIA) without further notice to the vendor. If a redacted copy is not included, the entire bid will be open to public inspection with the exception of financial data (other than pricing). If the State of Arkansas deems redacted information to be subject to the FOIA the vendor will be contacted prior to sending out the information.

**1.9 RESERVATION**

This IFB does not commit the State Procurement Official to award a contract(s), to pay costs incurred in the preparation of a bid in response to this request, or to procure or contract for commodities or services.

**1.10 PRIME CONTRACTOR RESPONSIBILITY**

The selected vendor **will** be required to assume prime contractor responsibility for the contract and will be the sole point of contact with regard to all commodities, services and support.

If any part of the work must be subcontracted, vendor **must** include a list of subcontractors, including firm name and address, contact person, complete description of work to be subcontracted, and descriptive information concerning subcontractor's organizational activities in their bid response.

The contractor **shall** give OSP immediate notice, in writing, by certified mail of any action which, in the opinion of the contractor, may result in litigation related in any way to the contract or the State.

**1.11 CONTRACT INFORMATION**

1. The State of Arkansas may not contract with another party:
  - a. Upon default, to pay all sums to become due under a contract.
  - b. To pay damages, legal expenses or other costs and expenses of any party.
  - c. To continue a contract once the equipment has been repossessed.
  - d. To conduct litigation in a place other than Pulaski County, Arkansas
  - e. To agree to any provision of a contract which violates the laws or constitution of the State of Arkansas.
2. A party wishing to contract with the State of Arkansas should:
  - a. Remove any language from its contract which grants to it any remedies other than:
    - i. The right to possession.
    - ii. The right to accrued payments.
    - iii. The right to expenses of de-installation.
    - iv. The right to expenses of repair to return the equipment to normal working order, normal wear and tear excluded.
    - v. The right to recover only amounts due at the time of repossession and any unamortized nonrecurring cost as allowed by Arkansas Law.
  - b. Include in its contract that the laws of the State of Arkansas govern the contract.

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- c. Acknowledge that contracts become effective when awarded by the State Procurement Official.
3. The State of Arkansas may contract with another party:
  - a. To accept the risk of loss of the equipment and pay for any destruction, loss or damage of the equipment while the State has such risk, when the extent of liability for such risk is based upon the purchase price of the equipment at the time of any loss and the contract has required the State to carry insurance for such risk.

**1.12 CONDITIONS OF CONTRACT**

The successful bidder(s) 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 this contract which in any manner affect the completion of the work. The successful bidder(s) 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 successful bidder.

**1.13 STATEMENT OF LIABILITY**

The State will demonstrate reasonable care but shall not be liable in the event of loss, destruction, or theft of contractor-owned items to be delivered or to be used in the installation of deliverables. The vendor(s) is required to retain total liability until the deliverables have been accepted by the "authorized agency official." At no time will the State be responsible for or accept liability for any vendor-owned items.

**1.14 AWARD RESPONSIBILITY**

The State Procurement Official will be responsible for award and administration of any resulting contract.

**1.15 AWARD CRITERIA**

Award shall be made on an ALL OR NONE basis.

Bids must meet or exceed all defined specifications. Bids must meet all terms and conditions of this Invitation for Bid and the laws of the State of Arkansas.

**1.16 DELEGATION AND/OR ASSIGNMENT**

The vendor shall not assign the contract in whole or in part or any payment arising there from without the prior written consent of the State Procurement Official. The vendor shall not delegate any duties under this contract to a subcontractor unless the State Procurement Official has given written consent to the delegation.

**1.17 COST**

All charges **must** be included on the Official Bid Price Sheet(s) and **must** include all associated cost for the (goods, services, system) being bid. Bid pricing must be valid for 30 days following IFB opening to allow sufficient time to tabulate and evaluate bid responses.

**NOTE:**

1. The State will not be obligated to pay any costs not identified on the Official Bid Price Sheet(s)
2. Any cost not identified by the bidder but subsequently incurred in order to achieve completion **shall** be borne by the bidder.

**1.18 PRICE INCREASES/DECREASES**

At time of renewal, the awarded vendor will be required to substantiate any price increases to the Office of State Procurement prior to passing on these increases to the agency. Price decreases must be offered as they become available during the term of the contract.

**1.19 LOAD PICKUP LOCATION**

ADC/TUCKER UNIT  
Farm Operation  
2400 State Farm Rd.  
Tucker, AR 72168

The agency requests load pickup within 24 hours after receipt of the order. If this pickup time cannot be met, the bidder must state the amount of time required to pick up the load at the ordering agency's designated location. Failure to state the pickup time obligates the bidder to complete delivery by the agency's requested date. Extended delivery dates may be considered when in the best interest of the state.

Load pickup \_\_\_\_\_ hours after receipt of order.

**1.20 CANCELLATION**

In the event the State no longer needs the service or commodity specified in the contract or purchase order due to program changes, changes in laws, rules, or regulations, relocation of offices, or lack of appropriated funding, the State may cancel the contract or purchase order by giving the contractor written notice of such cancellation thirty (30) days prior to the date of cancellation.

## SECTION 2 SPECIFIC REQUIREMENTS

### **SCOPE**

Trucks and drivers will be furnished by the successful vendor within twenty four (24) hours from the request by the Tucker farm manager or his designee. Awarded vendor must be able to provide at least four (4) trucks with dump or hopper bottoms to haul crops to locations as specified by ADC at time of pick up. If the successful vendor cannot respond within twenty four (24) hours from the request, ADC may arrange alternative sources for crop hauling. Failure to respond within 24 hours from request two (2) times during a contract period may be cause for contract non-renewal.

Any contract issued as a result of this Invitation for Bid shall not include any amounts of crops hauled by the Arkansas Department of Correction.

### **VENDOR RESPONSIBILITIES AND PROCEDURES**

1. As a condition of receiving the contract award, the successful vendor shall be required to follow department guidelines and procedures applicable to the hauling of crops harvested from State of Arkansas lands or State produced crops stored on State properties or in private elevators.
2. The successful bidder must furnish a copy of CDL license of any driver that will be coming on ADC grounds
3. Awarded vendor must provide listing of each truck and trailer (identified by license number) used for hauling ADC crops. Prior to loading, each truck and trailer must be weighed on the ADC scales at the Tucker farm. After weighing, the driver will be given a scale ticket by ADC to take to the delivery point for a signature. The hauler shall be responsible for getting the proper paperwork, to include signed ADC scale ticket and load receipt from the buyer, back to the farm office within three (3) days of the load being hauled away from Tucker farm.
4. All vehicles entering prison grounds are subject to search at any time. Charges may be filed against the driver if contraband is found. Contraband is described as any item or items determined by the Board of Corrections or ADC to jeopardize the safety, security or good order of the institution, including but not limited to items which are illegal or banned by departmental or unit policies.
5. All ADC facilities are tobacco free. Your personal use tobacco must be locked in your vehicle.
6. All cell phones must remain in your immediate possession and secured.
7. Any vehicle left unsupervised must be secured, locked and key removed.
8. All of the hauling from tucker farm will be from the fields; therefore loading times may vary due to unforeseen circumstances.
9. There will be no set hours of operation for Tucker farm operation; therefore the vendor must be available to provide sufficient trucks and drivers to haul loads seven (7) days a week and holidays.
10. **INSURANCE:** Vendor must be insured for load & liability in accordance with Arkansas DOT standards. **Prior to award, the vendor shall provide the State with proof of insurance for the minimum requirement of primary liability coverage and cargo coverage under Federal Motor Carriers Safety Administration requirements.** Prior to award, successful vendor shall furnish to the State of Arkansas, a current certificate of insurance, executed by an insurance company authorized to do business in the State of Arkansas. Bidders shall be aware that Arkansas Department of Correction will not be liable for any damages that may occur to persons or equipment.

This insurance coverage must be kept in effect for the term of this contract. The insurance certificate shall contain a provision stating that coverage will not be cancelled without a minimum of fifteen (15) days prior written notice being given to the State. This contract may be terminated immediately by the State if the required insurance policies expire or are cancelled.



**11. LOADING AND WEIGHING PROCEDURES**

- A. The vendor's driver must come by the scales to establish a tare weight prior to being loaded.
- B. After weighing the empty truck and trailer to establish tare weight, the Department of Correction will enter the tare weight on the scale ticket.
- C. After loading the driver will proceed to the Department of Correction scale to obtain the gross weight.
- D. After obtaining the gross weight, the DOC scale operator will complete the scale ticket.
  - 1. Gross weight (from scale ticket reading)
  - 2. Tare weight, combination of truck and trailer as determined by ADC scales.
  - 3. Net weight (gross less tare)
  - 4. Scale operator and driver must date and sign the scale ticket. Copies will be given to the driver.
  - 5. Upon delivering the load to its destination, the driver must receive a load receipt, signed by authorized destination personnel. The signed copy of the load receipt, along with the corresponding scale ticket **MUST** be returned to the farm office for documentation.

**The vendor will be paid only for loads properly documented and reported to:**

**Tucker Department of Correction Farm Office  
Attn: Sally Keffer  
2400 State Farm Rd  
Tucker, AR 72168**

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**OFFICIAL BID PRICE SHEET**

**BID ALL OR NONE**

All quantities are estimates based on approximate annual crop yields and are not guaranteed.

ITEM	DESCRIPTION	EST. QTY x	PRICE PER 100/wt =	EXTENSION PRICE
1.	Hauling Service, 17 to 30 mile radius	50,000 units units per 100/wt.	\$ _____ per 100/wt	\$ _____
2.	Hauling Service, 35 mile radius	10,000 units units per 100/wt.	\$ _____ per 100/wt	\$ _____
3.	Hauling Service, 70 mile radius	50,000 units units per 100/wt.	\$ _____ per 100/wt	\$ _____

**GRAND TOTAL ALL ITEMS:** \$ \_\_\_\_\_

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**STANDARD TERMS AND CONDITIONS**

1. **GENERAL:** Any special terms and conditions included in the invitation for bid override these standard terms and conditions. The standard terms and conditions and any special terms and conditions 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 reserves 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:** Bids must be submitted to the Office of State Procurement on this form, with attachments when appropriate, on or before the date and time specified for bid opening. If this form is not used, the bid may be rejected. The bid must be typed or printed in ink. The signature must be in ink. Unsigned bids will be disqualified. The person signing the bid should show title or authority to bind his firm in a contract. Each bid should be placed in a separate envelope completely and properly identified. Late bids will 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 are firm and not subject to escalation unless otherwise specified in the bid invitation. 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 invitation.
5. **QUANTITIES:** Quantities stated in **term contracts** are estimates only, and are not guaranteed. 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:** Any catalog brand name or manufacturer's reference used in the bid invitation 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 reserves 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 bidder to supply additional descriptive material. The bidder guarantees that the product offered will meet or exceed specifications identified in this bid invitation. If the bidder takes no exception to specifications or reference data in this bid he will be required to furnish the product according to brand names, numbers, etc., as specified in the invitation.
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 invitation. The bidder hereby guarantees that everything furnished hereunder will be free from defects in design, workmanship and material, that if sold by drawing, sample or specification, it will conform thereto and will serve the function for which it was furnished. The bidder further guarantees that if the items furnished hereunder are to be installed by the bidder, such items will function properly when installed. The bidder also guarantees that all applicable laws have been complied with relating to construction, packaging, labeling and registration. The bidder'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 bidder's name and address, bid number and item number. If samples are not destroyed during reasonable examination they will be returned at bidder's expense, if requested, within ten days following the opening of bids. All demonstrators will be returned after reasonable examination.
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 bidder.
10. **AMENDMENTS:** The bid 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.

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- 12. AWARD: Term Contract:** A contract award will be issued to the successful bidder. 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 bidder.
- 13. LENGTH OF CONTRACT:** The invitation for bid will show the period of time the term contract will be in effect.
- 14. DELIVERY ON FIRM CONTRACTS:** The invitation for bid will show the number of days to place a commodity in the ordering agency's designated location under normal conditions. If the bidder cannot meet the stated delivery, alternate delivery schedules may become a factor in an award. The Office of State Procurement has the right to extend delivery if reasons appear valid. If the date is not acceptable, the agency may buy elsewhere and any additional cost will be borne by the vendor.
- 15. DELIVERY REQUIREMENTS:** No substitutions or cancellations are permitted without written approval of the Office of State Procurement. Delivery shall be made during agency work hours only 8:00 a.m. to 4:30 p.m., unless prior approval for other delivery has been obtained from the agency. Packing memoranda shall be enclosed with each shipment.
- 16. STORAGE:** The ordering agency is responsible for storage if the contractor delivers within the time required and the agency cannot accept delivery.
- 17. DEFAULT:** All commodities furnished will be subject to inspection and acceptance of the ordering agency after delivery. Back orders, default in promised delivery, or failure to meet specifications authorize the Office of State Procurement to cancel this contract or any portion of it and reasonably purchase commodities elsewhere and charge full increase, if any, in cost and handling to the defaulting contractor. The contractor must give written notice to the Office of State Procurement and ordering agency of the reason and the expected delivery date. Consistent failure to meet delivery without a valid reason may cause removal from the bidders list or suspension of eligibility for award.
- 18. 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.
- 19. 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 invitation for bid, (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.
- 20. 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, be kept confidential, be used only as expressly authorized and returned at the contractor's expense to the F.O.B. point properly identifying what is being returned.
- 21. PATENTS OR COPYRIGHTS:** The contractor agrees to indemnify and hold the State harmless from all claims, damages and costs including attorneys' fees, arising from infringement of patents or copyrights.
- 22. ASSIGNMENT:** Any contract entered into pursuant to this invitation for bid is not assignable nor the duties thereunder delegable by either party without the written consent of the other party of the contract.
- 23. OTHER REMEDIES:** In addition to the remedies outlined herein, the contractor and the state have the right to pursue any other remedy permitted by law or in equity.
- 24. LACK OF FUNDS:** The state may cancel this contract to the extent funds are no longer legally available for expenditures under this contract. 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. If the contractor has provided services and there are no longer funds legally available to pay for the services, the contractor may file a claim.
- 25. DISCRIMINATION:** In order to comply with the provision of Act 954 of 1977, relating to unfair employment practices, the bidder agrees that: (a) the bidder will 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 bidder will state that all qualified applicants will receive consideration without regard to race, color, sex, age,

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religion, handicap, or national origin; (c) the bidder 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 bidder 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 bidder will include the provisions of items (a) through (d) in every subcontract so that such provisions will be binding upon such subcontractor or vendor.

- 26. CONTINGENT FEE:** The bidder 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 bidder for the purpose of securing business.
- 27. ANTITRUST ASSIGNMENT:** As part of the consideration for entering into any contract pursuant to this invitation for bid, the bidder named on the front of this invitation for bid, 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.
- 28. 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.