



**STATE OF ARKANSAS**  
**OFFICE OF STATE PROCUREMENT**  
1509 West 7th Street, Room 300  
Little Rock, Arkansas 72201-4222

**REQUEST FOR PROPOSAL**  
**BID SOLICITATION DOCUMENT**

SOLICITATION INFORMATION			
Bid Number:	SP-17-0091	Solicitation Issued:	July 12, 2017
Description:	Regional Extreme Precipitation Study		
Agency:	Arkansas Natural Resources Commission		

SUBMISSION DEADLINE FOR RESPONSE			
Bid Opening Date:	August 10, 2017	Bid Opening Time:	2:00 p.m., Central Time
Proposals <b>shall not</b> be accepted after the designated bid opening date and time. In accordance with Arkansas Procurement Law and Rules, it is the responsibility of vendors to submit proposals at the designated location on or before the bid opening date and time. Proposals received after the designated bid opening date and time <b>shall</b> be considered late and <b>shall</b> be returned to the vendor without further review. It is not necessary to return "no bids" to OSP.			

DELIVERY OF RESPONSE DOCUMENTS	
Delivery Address:	Office of State Procurement 1509 West 7 <sup>th</sup> Street, Room 300 Little Rock, AR 72201-4222  Delivery providers, USPS, UPS, and FedEx deliver mail to OSP's street address on a schedule determined by each individual provider. These providers will deliver to OSP based solely on the street address.
Proposal's Outer Packaging:	Outer packaging <b>must</b> be sealed and should be properly marked with the following information. If outer packaging of proposal submission is not properly marked, the package may be opened for bid identification purposes. <ul style="list-style-type: none"><li>• Bid number</li><li>• Date and time of bid opening</li><li>• Vendor's name and return address</li></ul>

OFFICE OF STATE PROCUREMENT CONTACT INFORMATION			
OSP Buyer:	Timothy F. Hicks	Buyer's Direct Phone Number:	501-682-4112
Email Address:	<a href="mailto:Timothyf.hicks@dfa.arkansas.gov">Timothyf.hicks@dfa.arkansas.gov</a>	OSP's Main Number:	501-324-9316
OSP Website:	<a href="http://www.dfa.arkansas.gov/offices/procurement/Pages/default.aspx">http://www.dfa.arkansas.gov/offices/procurement/Pages/default.aspx</a>		

## **SECTION 1 - GENERAL INSTRUCTIONS AND INFORMATION**

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

### **1.1 PURPOSE**

The Office of State Procurement (OSP) issues this Request for Proposal (RFP) on behalf of the Arkansas Natural Resources Commission (ANRC) to obtain proposals and a contract for the purpose of developing a peer-reviewed study to use existing methodologies and science to create updated data, tools, and procedures for Probable Maximum Precipitation (PMP) depth, area, and duration relationships for the regional area including Arkansas, Louisiana, and Mississippi.

### **1.2 TYPE OF CONTRACT**

- A. A Term contract will be awarded to a single vendor, and the project is expected to be complete in approximately eighteen (18) months.
- B. The term of this contract **shall** be for two (2) years or until project completion if that is sooner than two (2) years. The start date will be from the contract award date and is anticipated to run through June 30<sup>th</sup>, 2019. Should additional time be needed to complete the project, upon mutual agreement by the vendor and agency, the contract may be renewed by OSP on a year-to-year basis, for up to five (5) additional one-year terms or a portion thereof.
- C. The total contract term **shall not** be more than seven (7) years.

### **1.3 ISSUING AGENCY**

OSP, as the issuing office, is the sole point of contact throughout this solicitation.

### **1.4 BID OPENING LOCATION**

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

Office of State Procurement  
1509 West Seventh Street, Room 300  
Little Rock, AR 72201-4222

### **1.5 DEFINITION OF REQUIREMENT**

- A. The words "**must**" and "**shall**" signify a Requirement of this solicitation and that vendor's agreement to and compliance with that item is mandatory.
- B. Exceptions taken to any Requirement in this *Bid Solicitation*, whether submitted in the vendor's proposal or in subsequent correspondence, **shall** cause the vendor's proposal to be disqualified.
- C. Vendor may request exceptions to NON-mandatory items. Any such request **must** be declared on, or as an attachment to, the appropriate section's *Agreement and Compliance Page*. Vendor **must** clearly explain the requested exception and should reference the specific solicitation item number to which the exception applies. (See *Agreement and Compliance Page*.)

### **1.6 DEFINITION OF TERMS**

- A. The State Procurement Official has made every effort to use industry-accepted terminology in this *Bid Solicitation* and will attempt to further clarify any point of an item in question as indicated in *Clarification of Bid Solicitation*.
- B. The words "bidder" and "vendor" are used synonymously in this document.
- C. The terms "Request for Proposal", "RFP" and "Bid Solicitation" are used synonymously in this document.

**1.7 RESPONSE DOCUMENTS****A. Original Technical Proposal Packet**

1. The original *Technical Proposal Packet* **must** be received on or before the bid opening date and time.
2. The Proposal Packet should be clearly marked "Original" and **must** include the following:
  - a. Original signed *Proposal Signature Page*. (See *Proposal Signature Page*.)
  - b. Original signed *Agreement and Compliance Pages*. (See *Agreement and Compliance Pages*.)
  - c. Original signed *Proposed Subcontractors Form*. (See *Subcontractors*.)
  - d. *Technical Proposal* response to the *Information for Evaluation* section included in the *Technical Proposal Packet*.
  - e. Other documents and/or information as may be expressly required in this *Bid Solicitation*.
3. The following items should be submitted in the original *Technical Proposal Packet*.
  - a. EO 98-04 Disclosure Form. (See *Standard Terms and Conditions*, #27. *Disclosure*.)
  - b. Copy of Vendor's *Equal Opportunity Policy*. (See *Equal Opportunity Policy*.)
4. **DO NOT** include any other documents or ancillary information, such as a cover letter or promotional/marketing information.

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

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

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

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

1. Additional Copies of the *Technical Proposal Packet*
  - a. Three (3) complete hard copies (marked "COPY") of the *Technical Proposal Packet*.
  - b. Four (4) electronic copies of the *Technical Proposal Packet*, preferably on flash drives. CDs will also be acceptable.
  - c. All additional hard copies and electronic copies **must** be identical to the original hard copy. In case of a discrepancy, the original hard copy **shall** govern.
  - d. If OSP requests additional copies of the proposal, the copies **must** be delivered within twenty-four (24) hours of request.
2. One (1) redacted (marked "REDACTED") copy the original *Technical Proposal Packet*, preferably on a flash drive. A CD will also be acceptable. (See *Proprietary Information*.)

## 1.8 **ORGANIZATION OF RESPONSE DOCUMENTS**

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

## 1.9 **CLARIFICATION OF BID SOLICITATION**

- A. Any questions requesting clarification of information contained in this *Bid Solicitation* **must** be submitted in writing via email by 4:00 p.m., Central Time on or before July 18, 2017 to the OSP buyer as shown on page one (1) of this *Bid Solicitation*.
  1. For each question submitted, vendor should reference the specific solicitation item number to which the question refers.
  2. Vendors' written questions will be consolidated and responded to by the State. The State's consolidated written response is anticipated to be posted to the OSP website by the close of business on July 20, 2017.
- B. Vendors may contact the OSP buyer with non-substantive questions at any time prior to the bid opening.
- C. No oral statement by OSP is part of any contract resulting from this solicitation and may not reasonably be relied on by any vendor as an aid to interpretation unless it is reduced to writing and expressly adopted by OSP.

## 1.10 **PROPOSAL SIGNATURE PAGE**

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

## 1.11 **AGREEMENT AND COMPLIANCE PAGES**

- A. Vendor **must** sign all *Agreement and Compliance Pages* relevant to each section of the *Bid Solicitation Document*. The *Agreement and Compliance Pages* are included in the *Technical Proposal Packet*.
- B. Vendor's signature on these pages **shall** signify agreement to and compliance with all Requirements within the designated section.

## 1.12 **SUBCONTRACTORS**

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

**1.13 PRICING**

- A. Vendor(s) **must** include all pricing on the Official Price Bid Sheet(s) only. Any cost not identified by the successful vendor but subsequently incurred in order to achieve successful operation **shall** be borne by the vendor.
- B. To allow time to evaluate proposals, prices **must** be valid for 180 days following the bid opening.
- C. The *Official Bid Price Sheet*, including the hard copy and electronic copy, **must** be separately sealed from the *Technical Proposal Packet* and should be clearly marked as "Pricing". DO NOT submit any ancillary information not related to actual pricing in the sealed pricing package.
- D. Vendor **must not** include any pricing in the hard copies or electronic copies of their *Technical Proposal Packet*. Should hard copies or electronic copies of their *Response Packet* contain any pricing, the response **shall** be disqualified.
- E. Failure to complete and submit the *Official Bid Price Sheet* **shall** result in disqualification.
- F. All proposal pricing **must** be in United States dollars and cents.
- G. The Official Bid Price Sheet may be reproduced as needed.

**1.14 PRIME CONTRACTOR RESPONSIBILITY**

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

**1.15 INDEPENDENT PRICE DETERMINATION**

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

**1.16 PROPRIETARY INFORMATION**

- A. Submission documents pertaining to this *Bid Solicitation* become the property of the State and are subject to the Arkansas Freedom of Information Act (FOIA).
- B. One (1) complete copy of the submission documents from which any proprietary information has been redacted should be submitted on a flash drive in the *Technical Proposal Packet*. A CD is also acceptable.
- C. 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.
- D. The vendor **shall** be responsible for identifying all proprietary information and for ensuring the electronic copy is protected against restoration of redacted data.
- E. The redacted copy **shall** be open to public inspection under the Freedom of Information Act (FOIA) without further notice to the vendor.
- F. If a redacted copy of the submission documents is not provided with vendor's response packet, a copy of the non-redacted documents, with the exception of financial data (other than pricing), **shall** be released in response to any request made under the Arkansas Freedom of Information Act (FOIA).
- G. If the State deems redacted information to be subject to FOIA, the vendor will be contacted prior to release of the documents.

### 1.17 **CAUTION TO VENDORS**

- A. Prior to any contract award, all communication concerning this *Bid Solicitation* **must** be addressed through OSP.
- B. Vendor **must not** alter any language in any solicitation document provided by the State.
- C. Vendor **must not** alter the Official Bid Price Sheet.
- D. All official documents and correspondence related to this solicitation **shall** be included as part of the resultant contract.
- E. Proposals **must** be submitted in only the English language.
- F. The State **shall** have the right to award or not award a contract, if it is in the best interest of the State to do so.
- G. Vendor **must** provide clarification of any information in their response documents as requested by OSP.
- H. Qualifications and proposed services **must** meet or exceed the required specifications as set forth in this *Bid Solicitation*.
- I. Vendors may submit multiple proposals.

### 1.18 **REQUIREMENT OF ADDENDUM**

- A. This *Bid Solicitation* **shall** be modified only by an addendum written and authorized by OSP.
- B. An addendum posted within three (3) calendar days prior to the bid opening **shall** extend the bid opening and may or may not include changes to the Bid Solicitation.
- C. The vendor **shall** be responsible for checking the OSP website, <http://www.arkansas.gov/dfa/procurement/bids/index.php>, for any and all addenda up to bid opening.

### 1.19 **AWARD PROCESS**

#### A. Successful Vendor Selection

The Grand Total Score for each vendor, which **shall** be a sum of the Technical Score and Cost Score, **shall** be used to determine the ranking of proposals. The State may move forward to negotiations with those responsible offerors determined, based on the ranking of the proposals, to be reasonably susceptible of being selected for award.

#### B. Negotiations

- 1. If the State so chooses, it **shall** have the right to conduct negotiations with the highest ranking vendors. All negotiations **shall** be conducted at the sole discretion of the State. The State **shall** solely determine the items to be negotiated.
- 2. If negotiations fail to result in a contract, the State may begin the negotiation process with the next highest ranking vendor. The negotiation process may be repeated until the anticipated successful vendor has been determined, or until such time the State decides not to move forward with an award.

#### C. Anticipation to Award

- 1. Once the anticipated successful vendor has been determined, the anticipated award will be posted on the OSP website at [http://www.arkansas.gov/dfa/procurement/pro\\_intent.php](http://www.arkansas.gov/dfa/procurement/pro_intent.php).
- 2. The anticipated award will be posted for a period of fourteen (14) days prior to the issuance of a contract. Vendors and agencies are cautioned that these are preliminary results only, and a contract will not be issued prior to the end of the fourteen day posting period.
- 3. OSP **shall** have the right to waive the policy of Anticipation to Award when it is in the best interest of the State.

4. It is the vendor's responsibility to check the OSP website for the posting of an anticipated award.

D. Issuance of Contract

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

1.20 DEMONSTRATIONS

- A. The agency has the option to require demonstrations after the completion of the technical proposal evaluation. A vendor **must** provide a demonstration if requested.
- B. The three (3) highest ranking responsive vendors, based on the scores received in the Evaluation of technical proposals **shall** qualify to proceed to Demonstrations.
- C. Qualifying vendors proceeding to Demonstrations, **shall** deliver a Demonstration, in person, to an Evaluation Committee appointed by the ANRC.
- D. Approximately one to two weeks prior to Demonstrations, qualifying vendors will receive official notification from the ANRC regarding specific scheduling and demonstration requirement details.
- E. The vendor's staff member(s) to be assigned to the possible resulting contract for the ANRC account **shall** deliver the Demonstration.
- F. If the ANRC opts to require demonstrations, these **shall** be evaluated and scored as part of the Evaluation.
- G. The ANRC reserves the right to record any and all Demonstrations.
- H. The vendor **shall** be responsible for all expenses associated with the Demonstration including all travel and preparation expenses.
- I. Pricing **shall not** be discussed or included in the Demonstration.

1.21 MINORITY BUSINESS POLICY

- A. Minority is defined by Arkansas Code Annotated § 15-4-303 as a lawful permanent resident of this State who is:
  - African American
  - American Indian
  - Asian American
  - Hispanic American
  - Pacific Islander American
  - A Service Disabled Veterans as designated by the United States Department of Veteran Affairs
- B. The Arkansas Economic Development Commission conducts a certification process for minority businesses and disabled veterans. The vendor's Certification Number should be included on the vendor's *Proposal Signature Page*.

1.22 EQUAL OPPORTUNITY POLICY

- A. In compliance with Arkansas Code Annotated § 19-11-104, OSP is required to have a copy of the vendor's *Equal Opportunity (EO) Policy* prior to issuing a contract award.
- B. *EO Policies* may be submitted in electronic format to the following email address: [eeopolicy.osp@dfa.arkansas.gov](mailto:eeopolicy.osp@dfa.arkansas.gov), but should also be included as a hardcopy accompanying the solicitation response.
- C. The submission of an *EO Policy* to OSP is a one-time Requirement. Vendors are responsible for providing updates or changes to their respective policies, and for supplying *EO Policies* upon request to other State agencies that must also comply with this statute.
- D. Vendors, who are not required by law by to have an *EO Policy*, **must** submit a written statement to that effect.

**1.23 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.

**1.24 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.

**1.25 VISA ACCEPTANCE**

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

**1.26 PUBLICITY**

- A. Vendors **shall not** issue a news release pertaining to this *Bid Solicitation* or any portion of the project without OSP's prior written approval.
- B. Failure to comply with this Requirement **shall** be cause for a vendor's proposal to be disqualified.

**1.27 RESERVATION**

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



## **SECTION 2 – MINIMUM REQUIREMENTS**

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

### **2.1 INTRODUCTION AND BACKGROUND**

The purpose of this project is to develop a peer-reviewed study to use existing methodologies and science to create updated data, tools, and procedures for estimating extreme precipitation depth, area, and duration relationships for the regional area including Arkansas (AR), Louisiana (LA), and Mississippi (MS). The project will involve new PMP estimates across AR, LA, and MS using the current state-of-the-practice Hydrometeorological Reports (HMR)-style deterministic PMP processes currently being utilized by the meteorological consultant community. The latest extreme storm data, climate data, and analysis tools will be utilized in a gridded-GIS-based platform.

Rainfall for use in spillway design at state-regulated dams is currently estimated in the AR/LA/MS region using HMRs provided by the National Oceanic and Atmospheric Administration (NOAA). Those reports and the methods utilized were developed in conjunction with the US Army Corps of Engineers. Arkansas, Louisiana, and Mississippi each use HMRs 51 ("PMP Estimates, US East of the 105<sup>th</sup> Meridian") and 52 ("Application of PMP Estimates – US East of the 105<sup>th</sup> Meridian"), which were released in 1978 and 1982, respectively.

In July 2008, the Extreme Storm Event Working Group (ESEWG) was chartered by the federal Advisory Committee on Water Information, Subcommittee on Hydrology. Their purpose is to coordinate studies and improve methods used to develop extreme precipitation estimates, including PMP, and to develop a detailed scope of work and funding requirements to update the NOAA HMRs. Through their work, they identified the need for updating the HMRs to include extreme storms that had occurred since their publication, and to modernize methods of analysis. In December 2011, a report titled "Review of Probable Maximum Precipitation Procedures and Databases Used to Develop Hydrometeorological Reports" was written by the US Bureau of Reclamation for the Nuclear Regulatory Commission, Office of Nuclear Regulatory Research. The report concluded that much research had been conducted on this topic but that little had yet to be assimilated into "operational estimates of PMP," i.e., none had yet been put to use. Recommended research topics for future updating and use include numerical modeling, estimation of uncertainty, finer spatial discretization, incorporation of local climate effects, use of climate variability/change information, and probabilistic estimates.

Over the years, Site-Specific Probable Maximum Precipitation (SSPMP) studies have been conducted around the country as a substitute for the HMR estimates. To date there are no national standards of practice for such studies and some studies with conflicting or contradictory results have been contentious. The dam safety programs in four states, Nebraska, Ohio, Arizona, and Wyoming have employed private sector meteorological consultants to update the HMR procedures in their states using a "Statewide PMP" processes developed by those consultants. These studies could be considered standardized due to the fact that the same consultant has performed each study and each have had three-member "Peer Review Panels" as dictated by the Federal Energy Regulatory Commission (FERC). However, no Federal or dam safety sanctioned standards of practice, guidelines, or recommended procedures have been developed through the course of these studies, thereby leaving the States that develop them vulnerable. Meanwhile, at least two additional states (Texas and Virginia) are moving ahead with their own Statewide PMP studies.

It is ANRC's understanding that NOAA has no current plans to update the HMR products, documents, or processes. Other Federal extreme precipitation estimation efforts are disparate; research within NOAA is on-going in regard to extreme climate forecasting using physical-based numerical models, and the United States Army Corps of Engineers (USACE) and United States Bureau of Reclamation (USBR) continue to work with probabilistic methods for flood hazard risk assessments.

The ESEWG conducted a survey of state dam safety programs PMP needs in the spring of 2014. A significant response to surveys included an urgent need for updating HMR-like estimates of PMP. The HMRs are increasingly viewed as outdated and their use in dam safety regulation is becoming increasingly difficult to defend to dam owners and to elected officials. Yet in some states, statutes require the use of NOAA HMR PMP as the de facto standard. The lack of current NOAA PMP estimates along with the lack of Federal or industry-sanctioned alternatives leaves these states in limbo.

Like other states, Arkansas, Louisiana, and Mississippi have identified and set as a priority the need to update extreme precipitation estimates for use in the evaluation of spillway adequacy in their states, using modern meteorological methods. Due to the similarities in geography and meteorology between the three states, a cooperative, regional study has been proposed.

As described above, as outside consultants and state dam safety programs work to update and modernize the methods of predicting PMP rainfall for spillway adequacy studies, peer review boards are a typical part of the process. We envision dam safety representatives and state climatologists from AR, LA, and MS working together through quarterly meetings to establish consensus on all aspects of the project from goals to final outcomes.

The ultimate goal is to create updated, broadly accepted GIS-based data and tools for estimating PMP precipitation depth, area, and duration relationships for individual basins within the regional area that includes Arkansas, Louisiana, and Mississippi. The data and tools developed will be utilized by the States of Arkansas, Louisiana, and Mississippi as part of their Rules for determining spillway adequacy for dams in their states.

## 2.2 **GENERAL REQUIREMENTS**

- A. The vendor **shall** identify by name a dedicated point of contact for the duration of the contract to attend all meetings with ANRC, supporting agencies, and the Project Review Board. The board will consist of one (1) representatives from each State Dam Safety Office and one (1) representatives from each State Climatologist Office.
- B. Work **shall** begin under the Contract as soon as possible after contract execution. The vendor **shall** proceed with due diligence, with the expectation of completing all specified work within eighteen (18) months of contract award.
- C. Tasks under this scope of work may be added, adjusted, and/or deleted during discussion with the vendor at the kick-off meeting and throughout the contract. With a study of this size and specialization, these adjustments may be necessary as technical dialog is exchanged between ANRC and the selected vendor or as new information, technology, methodologies, and or data becomes available.
- D. The scope **shall** include new PMP estimates across AR, LA, and MS using the current state-of-the-practice HMR-style deterministic PMP processes as currently being utilized by the meteorological consultant community. The latest extreme storm data, climate data, and analysis tools **must** be utilized in a gridded-GIS-based platform.
- E. The primary end product of this analysis for the Arkansas, Louisiana, and Mississippi dam safety programs **shall** be an update of PMP estimates based on defensible and modern meteorological science for evaluating spillway adequacy. The project deliverables envisioned are tools to estimate how much rain could fall within a given basin based on deterministic storm-based PMP methods, to include, but not be limited to:
  - 1. Review of the rainfall analysis published in HMRs 51 and 52. A critical evaluation of the storms selected for analysis in the development of published rainfall estimates, and of the procedures used to conduct storm transposition and maximization **must** be provided.
  - 2. Expansion of the existing extreme storms database. Significant rainfall events which have occurred after the analyses documented in the relevant HMRs were published **shall** be identified and analyzed, particularly with respect to meteorological and orographic factors.
  - 3. Selection of the list of storms to be used to develop the gridded regional analysis product. This study is not intended to document and analyze all extreme storms. Average Exceedance Probability (AEP) criteria **shall** be established to limit storm analysis to extreme storms that drive PMP maxima when transposed to all regions within the study.
  - 4. Analysis and separation of the historic storms by storm type (e.g. local convective, remnant tropical storm, etc.)
  - 5. A study of all previous work regarding definition of "Sub-regions," or regions of homogenous meteorological characteristics within the heterogeneous super region of the study. Use previous studies, additional and/or new statistical analysis to create scientifically defensible sub-regions for the study.
- 6. The deliverables **shall** be provided in a method and format as specified or approved by the State.
- F. The vendor **shall** perform in-place maximization of controlling storms, using updated dew point climatology and modern methods to determine relevant reference and maximum dew point values (e.g. use HYSPLIT to determine moisture trajectories)

1. The vendor **shall** perform storm transposition analyses for controlling storms applicable to all sub-regions.
- G. The vendor **shall** fully explain, justify, and document via technical memoranda as approved by the State:
  1. The techniques utilized to separate and transpose convergence precipitation from orographically influenced precipitation in sub-regions of the study with terrain effects.
  2. Elevation adjustments applied during maximization and transposition.
  3. Spatial & Temporal Envelopment procedures to address sample variation.
- H. The vendor **shall** develop areal reduction factors.
- I. The vendor **shall** develop appropriate spatial patterns for drainage basin of interest.
- J. The vendor **shall** develop appropriate enveloped temporal distributions suitable for use in all basins for both local and general storms within the region or sub-region.
- K. Through the course of this study, the successful vendor **shall** make every attempt to develop consistency between the results of this study and the results of those previous studies conducted in states or regions adjacent to the AR/LA/MS Region.
- L. The vendor **shall** provide quality control procedures to ensure data and analyses are accurate and defensible. Methodology **must** be consistent with the World Meteorological Organization PMP development strategies (Attachment 1) or **must** be supported by technical documentation provided for review and approved by the Project Review Board.
- M. The vendor **shall** provide quality control procedure to ensure data and analyses are accurate and defensible. Methodology **must** be consistent with the World Meteorological Organization PMP development strategies (Attachment 1) or **must** be supported by technical documentation provided for review and approved by the Project Review Board.
- N. The vendor **shall** provide reasonableness checks of final PMP estimates by:
  1. Comparison of PMP estimates to HMR 51 estimates (map +/- difference).
  2. Comparison of PMP estimates to NOAA Atlas 14 or other frequency estimates (map difference).
  3. Showing historic extreme storms as % of PMP.

## 2.3 **OTHER PROJECT REQUIREMENTS**

- A. The above components of the study **must** be assimilated into an operational model or process whereby PMP/Precipitation Frequency estimates can be made and adjusted as determined appropriate by dam safety professionals and other end users to a defined criteria (Rules) to determine rainfall depths for use in rainfall-runoff modeling for spillway analysis within the region. All operational models or processes **must** be in accordance with the World Meteorological Organization standards referenced in item 2.2 L.
- B. The vendor **shall** provide a technical memorandum in a method and format as approved by the State that addresses ownership & long-term maintenance and updating requirements of all data and any applications/add-ons developed to achieve the goals described. This **must** consist of a technical memorandum describing the exchange of data with the ANRC and the continuous updating processes required for ANRC after completion of the contract.
- C. The vendor **shall** provide to ANRC GIS tools and databases that are downloadable and capable of running on local platforms by users from the aforementioned states of Arkansas, Louisiana, and Mississippi.

## 2.4 **GENERAL WORKSHOP REQUIREMENTS**

- A. The goals of the study **must** be advanced, assessed, and ultimately achieved through four (4) workshops. The negotiation and kick-off workshop is expected to be from 8:00 am until 5:00 pm for two (2) days in a row. Three (3) additional project completion workshops **must** occur at the 30%, 60%, and 90% project completion benchmarks and are expected to be from 8:00 am until 5:00 pm for one (1) day each.
- B. Consultants **shall** plan and budget for the negotiation and kick-off workshop and three (3) additional project completion workshops over the course of the project schedule. Costs associated with travel, lodging and per diem necessary to be prepared to participate **shall** be borne by the vendor, including but not limited to necessary travel before and after the work days to allow for full participation.
- C. The workshop locations **must** alternate between Little Rock, AR; Baton Rouge, LA; and Jackson, MS at locations in each city to be determined by the states.
- D. All workshops **must** include the in person attendance of the vendor.
- E. The workshops **must** be scheduled, arranged, coordinated and facilitated by the vendor, with prior approval of all aspects by the State.

## 2.5 **NEGOTIATION AND KICK-OFF WORKSHOP**

- A. The vendor **shall** schedule the date of the Negotiation Kick-Off Workshop within thirty (30) days of contract award with the approval of the ANRC.
- B. Tasks under this scope of work may be added, adjusted, and/or deleted during discussion with the vendor at the kick-off meeting and throughout the contract. With a study of this size and specialization, these adjustments may be necessary as technical dialog is exchanged between ANRC and the selected vendor or as new information, technology, methodologies, and or data becomes available during the project.
- C. The vendor **shall** present for ANRC approval the project description, timeline, and team member composition. The timeline will reflect the 30%, 60%, 90% project benchmarks, and the project completion benchmark.
- D. Other Items to be discussed may include, but will not be limited to:
  - 1. The final determination of the deliverables.
    - i. Due dates.
    - ii. Method of Delivery.
    - iii. Format of reports.
    - iv. Approval/revision process.
    - v. Project completion.
  - 2. Scheduling of future meetings, conference calls, etc.
  - 3. Invoicing procedures.

## 2.6 **PROJECT COMPLETION WORKSHOPS**

- A. The purpose of the project completion workshops is to provide the Project Review Board with an opportunity to discuss and provide comments for each deliverable prior to the contractor submitting the deliverables as completed for that benchmark.
- B. Project Review Board members will review benchmark deliverables and provide review written comments within 20 working days of receipt. Review Board member comments **shall** be addressed by the vendor with written responses and appropriate changes to the reports/deliverables.
- C. A deadline for addressing/resolving the board's comments will be negotiated, with the State having the final determination.

- D. After all review comments have been addressed and/or resolved, ten (10) hard copies and an electronic copy of the final report **shall** be submitted to each of the project sponsors, Arkansas, Louisiana, and Mississippi, for distribution and use.

## 2.7 **GENERAL SPECIFICATIONS FOR DELIVERABLES**

- A. The vendor **shall** provide a GIS-based tool to allow determination of PMP for all basin sizes within the AR/LA/MS Region.
- B. The GIS-based tool(s) **must** provide gridded PMP estimates at a maximum grid size of 90 arc-seconds or approximately 2.5 kilometers for a specific basin area size.
  - 1. PMP estimates **must** be calculated for Local Storms at 1-,2-,4-,5-,6-,12- and 24-hour durations and for General Storms at 1-,6-,12-,24-, 48- and 72-hour durations.
  - 2. The tool **must** apply all adjustment factors and spatial patterns needed to provide a gridded map of the PMP estimate for a specific basin of interest.
  - 3. The tool **must** provide a temporal storm distribution for each PMP estimate (Local PMP, General PMP, etc.).
  - 4. The tool **must** produce a brief summary report for each basin analysis provided the PMP estimate map, a summary table showing PMP estimate for each duration and providing the controlling storm, and confidence limits on the PMP estimates.
- C. A summary report **must** be provided to document all steps in the PMP estimation process, all data used in the study, QC processes, sensitivity analyses, reasonableness comparisons to HMR 51, 52 and NOAA Atlas 14 estimates, and Review Board comments and responses throughout the study.
- D. Further details regarding deliverables will be discussed at the Kickoff Workshop. These deliverables **must** be provided by a method and in a format as specified or approved by the state.

## 2.8 **PERFORMANCE MONITORING**

- A. The vendor **shall** schedule at State's approval monthly progress conference calls to update ANRC on any issues or concerns related to completing the project to ensure that unexpected challenges can be quickly addressed.
- B. The vendor shall provide copies of all meeting minutes (Kickoff Workshop, Project Completion Workshops, and Monthly Conference Calls, etc.) throughout the course of the project.
- C. The vendor **shall** provide a Draft report submitted to ANRC for comments prior to final report and contract completion.
- D. The format, content, and method of delivery for all of the above will be discussed with the successful vendor for State approval.

## 2.9 **PERFORMANCE STANDARDS**

- A. State law requires that all contracts for services include Performance Standards for measuring the overall quality of services provided. **Table 1: Performance Standards** identifies expected deliverables, performance measures, or outcomes; and defines the acceptable standards a vendor **must** meet in order to avoid assessment of damages.
- B. The ANRC may be open to negotiations of Performance Standards prior to contract award, prior to the commencement of services, or at times throughout the contract duration.
- C. The ANRC **shall** have the right to modify, add, or delete Performance Standards throughout the term of the contract, should the ANRC determine it is in its best interest to do so. Any changes or additions to performance standards will be made in good faith following acceptable industry standards, and may include the input of the vendor so as to establish standards that are reasonably achievable.
- D. All changes made to the Performance Standards **shall** become an official part of the contract.

- E. Performance Standards **shall** continue throughout the term of the contract.
- F. Failure to meet the minimum Performance Standards as specified **shall** result in the assessment of damages.
- G. In the event a Performance Standard is not met, the vendor will have the opportunity to defend or respond to the insufficiency. The ANRC **shall** have the right to waive damages if it determines there were extenuating factors beyond the control of the vendor that hindered the performance of services. In these instances, the ANRC **shall** have final determination of the performance acceptability.
- H. Should any compensation be owed to the agency due to the assessment of damages, vendor **shall** follow the direction of the agency regarding the required compensation process.

Table 1		
<u>CRITERIA</u>	<u>STANDARD</u>	<u>DAMAGES</u>
<b>MEETINGS</b>	The primary contact person <b>must</b> attend all meetings with ANRC and supporting agencies unless prior approval is received by ANRC.	1% reduction of the total of the next invoice due for any meeting not attended in full. Invoices will be submitted at the 30%, 60% 90%, and 100% project completion benchmarks.
<b>REPORTING</b>	The vendor <b>must</b> submit all reports by the date specified by ANRC as determined in the kick-off meeting approved by the State.	\$50 per day for each day that each report is submitted past the deadline that ANRC specified will be credited to the next invoice due.
<b>COMMUNICATION</b>	The vendor <b>must</b> respond to calls and emails from ANRC within 24 business hours.	\$50 per day after the 24 business hour response time window will be credited to the next invoice due.
<b>PLAN BENCHMARKS</b>	Vendor <b>must</b> submit the working Plan for review and approval by ANRC by the deadline dates estimated in kick-off meeting approved by the State.	Payment for that benchmark will be withheld until the vendor provides an approved working Plan to ANRC.

## **SECTION 3 – CRITERIA FOR SELECTION**

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

### **3.1 TECHNICAL PROPOSAL SCORE**

- A. OSP will review each *Technical Proposal Packet* to verify submission Requirements have been met. *Technical Proposals Packets* that do not meet submission Requirements **shall** be disqualified and **shall not** be evaluated.
- B. An agency-appointed Evaluation Committee will evaluate and score qualifying Technical Proposals. Evaluation will be based on vendor's response to the *Information for Evaluation* section included in the *Technical Proposal Packet*.
1. Members of the Evaluation Committee will individually review and evaluate proposals and complete an Individual Score Worksheet for each proposal. Individual scoring for each Evaluation Criteria will be based on the following Scoring Description.

Quality Rating	Quality of Response	Description	Confidence in Proposed Approach
5	Excellent	When considered in relation to the RFP evaluation factor, the proposal squarely meets the requirement and exhibits outstanding knowledge, creativity, ability or other exceptional characteristics. Not just good, extremely good.	Very High
4	Good	When considered in the relation to the RFP evaluation factor, the proposal squarely meets the requirement and is better than merely acceptable.	High
3	Acceptable	When considered in relation to the RFP evaluation factor, the proposal appears sufficient to meet the requirement and is of acceptable quality.	Moderate
2	Marginal	When considered in relation to the RFP evaluation factor, the proposal is at the lower limit of acceptable quality at best, and its acceptability may be doubtful.	Low
1	Poor	When considered in relation to the RFP evaluation factor, the proposal appears to be inferior.	Very Low
0	Unacceptable	When considered in relation to the RFP evaluation factor, the proposal clearly does not meet the requirement, either because it was left blank or because the proposal appears absolutely unresponsive in regard to this evaluation factor.	No Confidence

2. After initial individual evaluations are complete, the Evaluation Committee members will meet to discuss their individual ratings. At this consensus scoring meeting, each member will be afforded an opportunity to discuss his or her rating for each evaluation criteria.
3. After committee members have had an opportunity to discuss their individual scores with the group, the individual committee members will be given the opportunity to change their initial individual scores, if they feel that is appropriate.
4. The final individual scores of the evaluators will be recorded on the Consensus Score Sheets and averaged to determine the group or consensus score for each proposal.

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

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

1. In each sub-section, items/questions have each been assigned a maximum point value of five (5) points. The total point value for each sub-section is reflected in the table below as the Maximum Raw Score Possible.
2. The agency has assigned Weighted Percentages to each sub-section according to its significance.
3. The three vendors with the top Technical Subtotal scores after the completion of the technical proposal evaluation will be contacted to schedule a demonstration.

Information for Evaluation Sub-Sections	Maximum Raw Points Possible	Sub-Section's Weighted Percentage	* Maximum Weighted Score Possible
E1. PROFESSIONAL EXPERIENCE	10	25%	200
E2. EXAMPLES OF WORK	40	15%	120
E3. PROJECT UNDERSTANDING AND TIMEFRAME	35	25%	200
E4. PROJECT ORGANIZATION AND STAFFING	10	20%	160
E5. REFERENCES	20	15%	120
<b>Total Technical Score</b>	<b>115</b>	<b>100%</b>	<b>800</b>

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

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

$$(A/B) \times C = D$$

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

- E. Vendor's weighted scores for sub-sections will be added to determine the Total Technical Score for the Proposal.
- F. Technical Proposals that do not receive a minimum weighted score of 400 may not move forward in the solicitation process. The pricing for proposals which do not move forward **shall not** be scored.

### 3.2 DEMONSTRATION SCORE

- A. Should the agency opt to require demonstrations, the buyer will create a second set of score sheets by copying the Excel workbook (including the scores entered) and titling each of the score sheets in that workbook as the "Post-Demonstration" score sheet.
- B. After each demonstration is complete, the Evaluation Committee members will have the opportunity to discuss the demonstration and revise their individual scores on the Post-Demonstration Consensus Score Sheet based on the information in the demonstration.
- C. The final individual scores of the evaluators on the Post-Demonstration Consensus Score Sheets will be averaged to determine final Technical score for each proposal.

### 3.3 COST SCORE

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



$$(A/B) \times (C) = D$$

A = Lowest Total Cost

B = Second (third, fourth, etc.) Lowest Total Cost

C = Maximum Points for Lowest Total Cost

D = Total Cost Points Received

### 3.4 **GRAND TOTAL SCORE**

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

	Maximum Points Possible
Technical Proposal	800
Cost	200
<b>Maximum Possible Grand Total Score</b>	<b>1,000</b>

### 3.5 **VENDOR ACCEPTANCE OF EVALUATION TECHNIQUE**

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

## **SECTION 4 – GENERAL CONTRACTUAL REQUIREMENTS**

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

### **4.1 PAYMENT AND INVOICE PROVISIONS**

- A. All invoices **shall** be forwarded to:
- Arkansas Natural Resources Commission  
101 East Capitol, Suite 350  
Little Rock, AR 72201
- B. Payment will be made in accordance with applicable State of Arkansas accounting procedures upon acceptance goods and services by the agency.
- C. The State **shall not** be invoiced in advance of delivery and acceptance of any goods or services.
- D. Payment will be made only after the vendor has successfully satisfied the agency as to the reliability and effectiveness of the goods or services purchased as a whole.
- E. The vendor should invoice the agency by an itemized list of charges. The agency's Purchase Order Number and/or the Contract Number should be referenced on each invoice.
- F. Other sections of this *Bid Solicitation* may contain additional Requirements for invoicing.
- G. Selected vendor **must** be registered to receive payment and future *Bid Solicitation* notifications. Vendors may register on-line at <https://www.ark.org/vendor/index.html>.
- H. Invoicing **shall** occur at the 30%, 60% 90%, and 100% project completion benchmarks. The completion of benchmarks will be identified and approved by the State during the discussion workshops. The invoices **must** include budget status by subtask broken down by:
- Current costs
  - Cumulative costs
  - Percent spent
  - Estimated percent completed
  - Remaining budget

### **4.2 GENERAL INFORMATION**

- A. The State **shall not** lease any equipment or software for a period of time which continues past the end of a fiscal year unless the contract allows for cancellation by the State Procurement Official upon a 30-day written notice to the vendor/lessor in the event funds are not appropriated.
- B. The State **shall not** contract with another party to indemnify and defend that party for any liability and damages.
- C. The State **shall not** pay damages, legal expenses or other costs and expenses of any other party.
- D. The State **shall not** continue a contract once any equipment has been repossessed.
- E. Any litigation involving the State **must** take place in Pulaski County, Arkansas.
- F. The State **shall not** agree to any provision of a contract which violates the laws or constitution of the State of Arkansas.

- G. 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.
- H. The laws of the State of Arkansas **shall** govern this contract.
- I. A contract **shall not** be effective prior to award being made by a State Procurement Official.
- J. In a contract with another party, the State will accept the risk of loss of the equipment or software and pay for any destruction, loss or damage of the equipment or software while the State has such risk, when:
- The extent of liability for such risk is based upon the purchase price of the equipment or software at the time of any loss, and
  - The contract has required the State to carry insurance for such risk.

#### 4.3 **CONDITIONS OF CONTRACT**

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

#### 4.4 **STATEMENT OF LIABILITY**

- A. The State will demonstrate reasonable care but will not be liable in the event of loss, destruction or theft of 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. The 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. The vendor's liability for damages to the State **shall** be limited to the value of the Contract or \$5,000,000, whichever is higher. The foregoing limitation of liability **shall not** apply to claims for infringement of United States patent, copyright, trademarks or trade secrets; to claims for personal injury or damage to property caused by the gross negligence or willful misconduct of the vendor; 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 the gross negligence or willful misconduct of the vendor; to claims covered by other specific provisions of the Contract calling for damages; or to court costs or attorney's fees awarded by a court in addition to damages after litigation based on the Contract.
- C. Language in these terms and conditions **shall not** be construed or deemed as the State's waiver of its right of sovereign immunity. The vendor agrees that any claims against the State, whether sounding in tort or in contract, **shall** be brought before the Arkansas Claims Commission as provided by Arkansas law, and **shall** be governed accordingly.

#### 4.5 **RECORD RETENTION**

- A. The vendor **shall** maintain all pertinent financial and accounting records and evidence pertaining to the contract in accordance with generally accepted principles of accounting and as specified by the State of Arkansas Law.

Upon request, access **shall** be granted to State or Federal Government entities or any of their duly authorized representatives.

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

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

#### 4.6 **CONFIDENTIALITY**

A. 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 during the course of providing services under a resulting contract.

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

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

#### 4.7 **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.

#### 4.8 **CANCELLATION**

A. 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 **shall** give the vendor written notice of cancellation, specifying the terms and the effective date of contract termination. The effective date of termination **shall** be 30 days from the date of notification, unless a longer timeframe is specified in the notification.

B. Upon default of a vendor, the State **shall** agree to pay only sums due for goods and services received and accepted up to cancellation of the contract.

#### 4.9 **SEVERABILITY**

If any provision of the contract, including items incorporated by reference, is declared or found to be illegal, unenforceable, or void, then both the agency and the 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 5 – STANDARD TERMS AND CONDITIONS**

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

1. **GENERAL:** Any special terms and conditions included in this solicitation **shall** override these Standard Terms and Conditions. The Standard Terms and Conditions and any special terms and conditions **shall** become part of any contract entered into if any or all parts of the bid are accepted by the State of Arkansas.
2. **ACCEPTANCE AND REJECTION:** The State **shall** have the right to accept or reject all or any part of a bid or any and all bids, to waive minor technicalities, and to award the bid to best serve the interest of the State.
3. **BID SUBMISSION:** Original Proposal Packets **must** be submitted to the Office of State Procurement on or before the date and time specified for bid opening. The Proposal Packet **must** contain all documents, information, and attachments as specifically and expressly required in the *Bid Solicitation*. The bid **must** be typed or printed in ink. The signature **must** be in ink. Unsigned bids **shall** be disqualified. The person signing the bid should show title or authority to bind his firm in a contract. Multiple proposals **must** be placed in separate packages and should be completely and properly identified. Late bids **shall not** be considered under any circumstances.
4. **PRICES:** Bid unit price F.O.B. destination. In case of errors in extension, unit prices **shall** govern. Prices **shall** be firm and **shall not** be subject to escalation unless otherwise specified in the *Bid Solicitation*. Unless otherwise specified, the bid **must** be firm for acceptance for thirty days from the bid opening date. "Discount from list" bids are not acceptable unless requested in the *Bid Solicitation*.
5. **QUANTITIES:** Quantities stated in a *Bid Solicitation* for term contracts are estimates only, and are not guaranteed. Vendor **must** bid unit price on the estimated quantity and unit of measure specified. The State may order more or less than the estimated quantity on term contracts. Quantities stated on firm contracts are actual Requirements of the ordering agency.
6. **BRAND NAME REFERENCES:** Unless otherwise specified in the *Bid Solicitation*, any catalog brand name or manufacturer reference used in the *Bid Solicitation* is descriptive only, not restrictive, and used to indicate the type and quality desired. Bids on brands of like nature and quality will be considered. If bidding on other than referenced specifications, the bid **must** show the manufacturer, brand or trade name, and other descriptions, and should include the manufacturer's illustrations and complete descriptions of the product offered. The State **shall** have the right to determine whether a substitute offered is equivalent to and meets the standards of the item specified, and the State may require the vendor to supply additional descriptive material. The vendor **shall** guarantee that the product offered will meet or exceed specifications identified in this *Bid Solicitation*. Vendors not bidding an alternate to the referenced brand name or manufacturer **shall** be required to furnish the product according to brand names, numbers, etc., as specified in the solicitation.
7. **GUARANTY:** All items bid **shall** be newly manufactured, in first-class condition, latest model and design, including, where applicable, containers suitable for shipment and storage, unless otherwise indicated in the *Bid Solicitation*. The vendor hereby guarantees that everything furnished hereunder **shall** be free from defects in design, workmanship and material, that if sold by drawing, sample or specification, it **shall** conform thereto and **shall** serve the function for which it was furnished. The vendor **shall** further guarantee that if the items furnished hereunder are to be installed by the vendor, such items **shall** function properly when installed. The vendor **shall** guarantee that all applicable laws have been complied with relating to construction, packaging, labeling and registration. The vendor'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 vendor'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 vendor's expense. After reasonable examination, all demonstrators will be returned at vendor's expense.
9. **TESTING PROCEDURES FOR SPECIFICATIONS COMPLIANCE:** Tests may be performed on samples or demonstrators submitted with the bid or on samples taken from the regular shipment. In the event products tested fail to meet or exceed all conditions and Requirements of the specifications, the cost of the sample used and the reasonable cost of the testing **shall** be borne by the vendor.
10. **AMENDMENTS:** Vendor's proposals cannot be altered or amended after the bid opening except as permitted by regulation.
11. **TAXES AND TRADE DISCOUNTS:** Do not include State or local sales taxes in the bid price. Trade discounts should be deducted from the unit price and the net price should be shown in the bid.
12. **AWARD:** Term Contract: A contract award will be issued to the successful vendor. 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 vendor.
13. **DELIVERY ON FIRM CONTRACTS:** This solicitation shows the number of days to place a commodity in the ordering agency's designated location under normal conditions. If the vendor cannot meet the stated delivery, alternate delivery schedules may become a factor in an award. The Office of State Procurement **shall** have the right to extend delivery if reasons appear valid. If the date is not acceptable, the agency may buy elsewhere and any additional cost **shall** be borne by the vendor.

14. **DELIVERY REQUIREMENTS:** No substitutions or cancellations are permitted without written approval of the Office of State Procurement. Delivery **shall** be made during agency work hours only 8:00 a.m. to 4:30 p.m. Central Time, unless prior approval for other delivery has been obtained from the agency. Packing memoranda **shall** be enclosed with each shipment.
15. **STORAGE:** The ordering agency is responsible for storage if the contractor delivers within the time required and the agency cannot accept delivery.
16. **DEFAULT:** All commodities furnished **shall** be subject to inspection and acceptance of the ordering agency after delivery. Back orders, default in promised delivery, or failure to meet specifications **shall** authorize the Office of State Procurement to cancel this contract or any portion of it and reasonably purchase commodities elsewhere and charge full increase, if any, in cost and handling to the defaulting contractor. The contractor **must** give written notice to the Office of State Procurement and ordering agency of the reason and the expected delivery date. Consistent failure to meet delivery without a valid reason may cause removal from the vendors list or suspension of eligibility for award.
17. **VARIATION IN QUANTITY:** The State assumes no liability for commodities produced, processed or shipped in excess of the amount specified on the agency's purchase order.
18. **INVOICING:** The contractor **shall** be paid upon the completion of all of the following: (1) submission of an original and the specified number of copies of a properly itemized invoice showing the bid and purchase order numbers, where itemized in the *Bid Solicitation*, (2) delivery and acceptance of the commodities and (3) proper and legal processing of the invoice by all necessary State agencies. Invoices **must** be sent to the "Invoice To" point shown on the purchase order.
19. **STATE PROPERTY:** Any specifications, drawings, technical information, dies, cuts, negatives, positives, data or any other commodity furnished to the contractor hereunder or in contemplation hereof or developed by the contractor for use hereunder **shall** remain property of the State, **shall** be kept confidential, **shall** be used only as expressly authorized, and **shall** be returned at the contractor's expense to the F.O.B. point provided by the agency or by OSP. Vendor **shall** properly identify items being returned.
20. **PATENTS OR COPYRIGHTS:** The contractor **must** agree to indemnify and hold the State harmless from all claims, damages and costs including attorneys' fees, arising from infringement of patents or copyrights.
21. **ASSIGNMENT:** Any contract entered into pursuant to this solicitation **shall not** be assignable nor the duties thereunder delegable by either party without the written consent of the other party of the contract.
22. **CLAIMS:** Any claims the Contractor may assert under this Agreement shall be brought before the Arkansas State Claims Commission ("Commission"), which shall have exclusive jurisdiction over any and all claims that the Contractor may have arising from or in connection with this Agreement. Unless the Contractor's obligations to perform are terminated by the State, the Contractor shall continue to provide the Services under this Agreement even in the event that the Contractor has a claim pending before the Commission.
23. **CANCELLATION:** In the event, the State no longer needs the commodities or services specified for any reason, (e.g., program changes; changes in laws, rules or regulations; relocation of offices; lack of appropriated funding, etc.), the State **shall** have the right to cancel the contract or purchase order by giving the vendor written notice of such cancellation thirty (30) days prior to the date of cancellation.

Any delivered but unpaid for goods will be returned in normal condition to the contractor by the State. If the State is unable to return the commodities in normal condition and there are no funds legally available to pay for the goods, the contractor may file a claim with the Arkansas Claims Commission under the laws and regulations governing the filing of such claims. If upon cancellation the contractor has provided services which the State has accepted, the contractor may file a claim. **NOTHING IN THIS CONTRACT SHALL BE DEEMED A WAIVER OF THE STATE'S RIGHT TO SOVEREIGN IMMUNITY.**
24. **DISCRIMINATION:** In order to comply with the provision of Act 954 of 1977, relating to unfair employment practices, the vendor agrees that: (a) the vendor **shall not** discriminate against any employee or applicant for employment because of race, sex, color, age, religion, handicap, or national origin; (b) in all solicitations or advertisements for employees, the vendor **shall** state that all qualified applicants **shall** receive consideration without regard to race, color, sex, age, religion, handicap, or national origin; (c) the vendor 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 vendor 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 vendor **shall** include the provisions of above items (a) through (d) in every subcontract so that such provisions **shall** be binding upon such subcontractor or vendor.
25. **CONTINGENT FEE:** The vendor 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 vendor for the purpose of securing business.
26. **ANTITRUST ASSIGNMENT:** As part of the consideration for entering into any contract pursuant to this solicitation, the vendor named on the *Proposal Signature Page* for this solicitation, acting herein by the authorized individual or its duly authorized agent, hereby assigns, sells and transfers to the State of Arkansas all rights, title and interest in and to all causes of action it may have under the antitrust laws of the United States or this State for price fixing, which causes of action have accrued prior to the date of this assignment and which relate solely to the particular goods or services purchased or produced by this State pursuant to this contract.
27. **DISCLOSURE:** Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that order, **shall** be a material breach of the terms of this contract. Any contractor,

whether an individual or entity, who fails to make the required disclosure or who violates any rule, regulation, or policy **shall** be subject to all legal remedies available to the agency.