



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

**INVITATION FOR BID**  
**BID SOLICITATION DOCUMENT**

SOLICITATION INFORMATION			
Bid Number:	SP-19-0028	Solicitation Issued:	March 6, 2019
Description:	State Cyber Liability Insurance		
Agency:	Arkansas Insurance Department		

SUBMISSION DEADLINE FOR RESPONSE			
Bid Opening Date:	April 5, 2019	Bid Opening Time:	2:00 p.m., Central Time
<p>Deliver bid submissions for this Invitation for Bid to the Office of State Procurement on or before the designated bid opening date and time. In accordance with Arkansas Procurement Law and Rules, it is the responsibility of Prospective Contractors to submit bids at the designated location on or before the bid opening date and time. Bids received after the designated bid opening date and time may be considered late and may be returned to the Prospective Contractor without further review. It is not necessary to return "no bids" to OSP.</p>			

DELIVERY OF RESPONSE DOCUMENTS	
Delivery Address:	<p>Office of State Procurement 1509 West 7<sup>th</sup> Street, Room 300 Little Rock, AR 72201-4222</p> <p>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. <b>Prospective Contractors assume all risk for timely, properly submitted deliveries.</b></p>
Bid's Outer Packaging:	<p>Seal outer packaging and properly mark with the following information. If outer packaging of bid submission is not properly marked, the package may be opened for bid identification purposes.</p> <ul style="list-style-type: none"><li>• Bid number</li><li>• Date and time of bid opening</li><li>• Prospective Contractor's name and return address</li></ul>

OFFICE OF STATE PROCUREMENT CONTACT INFORMATION			
OSP Buyer:	Brandi Schroeder	Buyer's Direct Phone Number:	501-682-4169
Email Address:	Brandi.Schroeder@dfa.arkansas.gov	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**

This Invitation for Bid (IFB) is issued by the Office of State Procurement (OSP) on behalf of the Arkansas Insurance Department (AID) for the State of Arkansas Multi Agency Insurance Trust (AMAIT) and its State Participating Governmental Entity boards, agencies, commissions, departments, constitutional offices, judiciary, and public funded institutions of higher education for the State Cyber Liability Insurance as specified herein. The AMAIT insurance plan is administered by the Risk Management Division (RMD) of AID in accordance with Arkansas Code Annotated (A.C.A.) § 25-35-101 to 108.

### **1.2 TYPE OF CONTRACT**

- A. As a result of this IFB, OSP intends to award a contract to a single Contractor.
- B. The anticipated starting date for any resulting contract is July 1, 2019, except that the actual contract start date may be adjusted forward unilaterally by the State for up to three (3) calendar months. By submitting a signed bid in response to the IFB, the Prospective Contractor represents and warrants that it will honor its bid as being held open as irrevocable for this period.
- C. The initial term of a resulting contract will be for one (1) year. Upon mutual agreement by the Contractor and agency, the contract may be renewed by OSP for up to six (6) additional one-year terms or portions thereof, not to exceed a total aggregate contract term of seven (7) consecutive years.

### **1.3 ISSUING AGENCY**

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

### **1.4 BID OPENING LOCATION**

Bids will be opened at the following location:

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

### **1.5 ACCEPTANCE OF REQUIREMENTS**

- A. A Prospective Contractor **must** unconditionally accept all Requirements in the Requirements Section(s) of this IFB to be considered a responsive Prospective Contractor.
- B. A Prospective Contractor's bid will be rejected if a Prospective Contractor takes exceptions to any Requirements of this IFB.

### **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. Unless otherwise defined herein, all terms defined in Arkansas Procurement Law and used herein have the same definitions herein as specified therein.
- C. "Prospective Contractor" means a person who submits a bid in response to this solicitation.
- D. "Contractor" means a person who sells or contracts to sell commodities and/or services.
- E. The terms "Invitation for Bid," "IFB," "Bid Solicitation," and "Solicitation" are used synonymously in this document.
- F. "Responsive bid" means a bid submitted in response to this solicitation that conforms in all material respects to this IFB.
- G. "Bid Submission Requirement" means a task a Prospective Contractor **must** complete when submitting a bid response. These requirements will be distinguished by using the term "**shall**" or "**must**" in the requirement.

- H. "Requirement" means a specification that a Contractor's product and/or service **must** perform during the term of the contract. These specifications will be distinguished by using the term "**shall**" or "**must**" in the requirement.
- I. "State" means the State of Arkansas. When the term "State" is used herein to reference any obligation of the State under a contract that results from this solicitation, that obligation is limited to the State agency using such a contract.

## 1.7 **RESPONSE DOCUMENTS**

### A. Bid Response Packet

1. The following are Bid Submission Requirements and **must** be submitted in the original *Bid Response Packet*.
  - a. Original signed *Bid Signature Page*. (See *Bid Response Packet*.)
    - i. An official authorized to bind the Prospective Contractor(s) to a resultant contract **must** sign the *Bid Signature Page* included in the *Bid Response Packet*.
    - ii. Prospective Contractor's signature signifies agreement to and compliance with all Requirements in this IFB, and that any exception that conflicts with a Requirement or Bid Submission Requirement of this *Bid Solicitation* will cause the Prospective Contractor's bid to be rejected.
    - iii. Bid response **must** be in the English language.
  - b. One (1) original hard copy of the *Official Bid Price Sheet*. Pricing **must** be proposed in U.S. dollars and cents.
  - c. One (1) original hard copy of the Account Manager resume that must include the Account Manager's name and contact information. (See IFB Section 2.3.C.)
  - d. One (1) original hard copy of the name(s) and contact information for the Pre-Approved Provider Cyber Response Panel vendors. (See IFB Section 2.4.B.)
  - e. One (1) original hard copy of the name and contact information for the Prospective Insurance Company(s) Claims Breach Manager, Claims Breach Counsel, Claims Breach Coach, or equivalent. (See IFB Section 2.4.C.)
  - f. Evidence of insurance agents' and brokers' errors and omissions coverage on an ACORD Certificate of Liability Insurance form. (See IFB Section 2.3.F.)
  - g. *Insurance Company Market Submission Log*. (See IFB Section 2.8.C.)
  - h. AMAIT sample policy (See IFB Items 2.9.P. and 3.2.)
2. The following items should be submitted in the original *Bid Response Packet* as a hard copy and as an electronic copy, preferably on a flash drive and in PDF format.
  - a. One (1) electronic copy of the *Official Bid Price Sheet*.
  - b. EO 98-04 *Contract and Grant Disclosure Form*. (See *Standard Terms and Conditions*, #25. *Disclosure*.)
  - c. Copy of Prospective Contractor's *Equal Opportunity Policy*. (See *Equal Opportunity Policy*.)
  - d. *Voluntary Product Accessibility Template* (VPAT). (See *Technology Access*.)
3. **DO NOT** include any other documents or ancillary information, such as a cover letter or promotional/marketing information.

## 1.8 **CLARIFICATION OF BID SOLICITATION**

- A. Submit any questions requesting clarification of information contained in this *Bid Solicitation* in writing via email by 4:00 p.m., Central Time on or before March 13, 2019, to the OSP buyer as shown on page one (1) of this *Bid Solicitation*.
  1. For each question submitted, Prospective Contractor should reference the specific solicitation item number to which the question refers.

2. Prospective Contractors' 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 March 20, 2019. If Prospective Contractor questions are unclear or non-substantive in nature, the State may request clarification of a question(s) or reserves the right not to respond to that question(s).
- D. The Prospective Contractor should notify the OSP buyer of any term, condition, etc., that precludes the Prospective Contractor from submitting a compliant, responsive proposal. Prospective Contractors should note that it is the responsibility of the Prospective Contractor to seek resolution of all such issues, including those relating to the terms and conditions of the contract, prior to the submission of a bid.
- E. Prospective Contractors may contact the OSP buyer with non-substantive questions at any time prior to the bid opening.
- F. An oral statement by OSP will not be part of any contract resulting from this solicitation and may not reasonably be relied on by any Prospective Contractor as an aid to interpretation unless it is reduced to writing and expressly adopted by OSP.
- G. Prospective Contractors entering into a contract with the State **shall** comply with all the terms and conditions contained herein.

#### 1.9 **PRICING**

- A. Prospective Contractor(s) **shall** include all pricing on the *Official Bid Price Sheet(s)* only. If any cost is not identified by the successful Contractor but is subsequently incurred in order to achieve successful operation, the Contractor **shall** bear this additional cost. The *Official Bid Price Sheet* is provided as a separate electronic file posted with this *Bid Solicitation*.
- B. To allow time to review bids, prices **must** be valid for ninety (90) days following the bid opening.
- C. DO NOT submit any ancillary information not related to actual pricing on or with the *Official Bid Price Sheet*.

#### 1.10 **PRIME CONTRACTOR RESPONSIBILITY**

- A. A single Prospective Contractor **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.

#### 1.11 **INDEPENDENT PRICE DETERMINATION**

- A. By submission of this bid, the Prospective Contractor certifies, and in the case of a joint response, each party thereto certifies as to its own organization, that in connection with this bid:
  - The prices in the bid 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 warrants consideration of this bid by the Office of the Attorney General. All Prospective Contractors **shall** understand that this paragraph may be used as a basis for litigation.

#### 1.12 **PROPRIETARY INFORMATION**

- A. Submission documents pertaining to this *Bid Solicitation* become the property of the State and are subject to the Arkansas Freedom of Information Act (FOIA).
- B. In accordance with FOIA and to promote maximum competition in the State competitive bidding process, the State may maintain the confidentiality of certain types of information described in FOIA. Such information may include trade secrets defined by FOIA and other information exempted from the Public Records Act pursuant to FOIA.
- C. Prospective Contractor may designate appropriate portions of its response as confidential, consistent with and to the extent permitted under the Statutes and Rules set forth above, by submitting a redacted copy of the response.
- D. By so redacting any information contained in the response, the Prospective Contractor warrants that it has formed a good faith opinion having received such necessary or proper review by counsel and other

knowledgeable advisors that the portions redacted meet the requirements of the Rules and Statutes set forth above.

- E. Under no circumstances will pricing information be designated as confidential.
- F. One (1) complete copy of the submission documents from which any proprietary information has been redacted should be submitted on a flash drive in the *Bid Response Packet*. A CD is also acceptable. Do not submit documents via email or fax.
- G. Except for the redacted information, the redacted copy **must** be identical to the original hard copy, reflecting the same pagination as the original and showing the space from which information was redacted.
- H. The Prospective Contractor is responsible for identifying all proprietary information and for ensuring the electronic copy is protected against restoration of redacted data.
- I. The redacted copy will be open to public inspection under the FOIA without further notice to the Prospective Contractor.
- J. If a redacted copy of the submission documents is not provided with Prospective Contractor's *Bid Response Packet*, a copy of the non-redacted documents, with the exception of financial data (other than pricing), will be released in response to any request made under the FOIA.
- K. If the State deems redacted information to be subject to FOIA, the Prospective Contractor will be contacted prior to release of the documents.
- L. The State has no liability to a Prospective Contractor with respect to the disclosure of Prospective Contractor's confidential information ordered by a court of competent jurisdiction pursuant to FOIA or other applicable law.

#### **1.13 CAUTION TO PROSPECTIVE CONTRACTORS**

- A. Prior to any contract award, address all communication concerning this *Bid Solicitation* through the OSP buyer.
- B. Do not alter any language in any solicitation document provided by the State.
- C. Do not alter the *Official Bid Price Sheet*.
- D. All official documents and correspondence related to this solicitation become part of the resultant contract.
- E. The State has the right to award or not award a contract, if it is in the best interest of the State to do so.
- F. As requested, provide clarification regarding Prospective Contractor's bid response to OSP.
- G. Qualifications and proposed services **must** meet or exceed the required specifications as set forth in this *Bid Solicitation*.
- H. Prospective Contractors may submit multiple bids.

#### **1.14 REQUIREMENT OF ADDENDUM**

- A. Only an addendum written and authorized by OSP will modify this *Bid Solicitation*.
- B. An addendum posted within three (3) calendar days prior to the bid opening may extend the bid opening and may or may not include changes to the *Bid Solicitation*.
- C. The Prospective Contractor is expected to check the OSP website, <http://www.arkansas.gov/dfa/procurement/bids/index.php>, for any and all addenda up to bid opening.

#### **1.15 AWARD PROCESS**

##### **A. Successful Contractor Selection**

- 1. Award will be made to the lowest-bidding, responsible Prospective Contractor on an all or none basis.

##### **B. Negotiations**

- 1. If the State so chooses, negotiations may be conducted with the lowest-bidding Prospective Contractor. Negotiations are conducted at the sole discretion of the State.

2. If negotiations fail to result in a contract, the State may begin the negotiation process with the next lowest-bidding Prospective Contractor. The negotiation process may be repeated until the anticipated successful Contractor 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 Contractor 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. Prospective Contractors and agencies are cautioned that these are preliminary results only, and a contract will not be issued prior to the end of the fourteen (14) day posting period.
3. OSP may waive the policy of Anticipation to Award when it is in the best interest of the State.
4. It is the Prospective Contractor'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* is subject to State approval processes which may include Legislative review.
2. A State Procurement Official will be responsible for the solicitation and award of any resulting contract.

**1.16 MINORITY AND WOMEN-OWNED BUSINESS POLICY**

- A. A minority-owned business is defined by Arkansas Code Annotated § 15-4-303 as a business owned by a lawful permanent resident of this State who is:
  - African American
  - American Indian
  - Asian American
  - Hispanic American
  - Pacific Islander American
  - A Service Disabled Veteran as designated by the United States Department of Veteran Affairs
- B. A women-owned business is defined by Act 1080 of the 91<sup>st</sup> General Assembly Regular Session 2017 as a business that is at least fifty-one percent (51%) owned by one (1) or more women who are lawful permanent residents of this State.
- C. The Arkansas Economic Development Commission conducts a certification process for minority-owned and women-owned businesses. If certified, the Prospective Contractor's Certification Number should be included on the *Bid Signature Page*.

**1.17 EQUAL OPPORTUNITY POLICY**

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

**1.18 PROHIBITION OF EMPLOYMENT OF ILLEGAL IMMIGRANTS**

- A. Pursuant to Arkansas Code Annotated § 19-11-105, Contractor(s) providing services **shall** certify with OSP that they do not employ or contract with illegal immigrants.

- B. By signing and submitting a response to this *Bid Solicitation*, a Prospective Contractor agrees and certifies that they do not employ or contract with illegal immigrants. If selected, the Prospective Contractor certifies that they will not employ or contract with illegal immigrants during the aggregate term of a contract.

**1.19 RESTRICTION OF BOYCOTT OF ISRAEL**

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

**1.20 PAST PERFORMANCE**

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

**1.21 COMPLIANCE WITH THE STATE SHARED TECHNICAL ARCHITECTURE PROGRAM**

The Prospective Contractor's commodity or service **must** comply with the State's shared Technical Architecture Program which is a set of policies and standards that can be viewed at:

<https://www.dfa.arkansas.gov/intergovernmental-services/state-technology-cost-analysis/architecture-compliance/>.

Only those standards which are fully promulgated or have been approved by the Governor's Office apply to this solution.

**1.22 VISA ACCEPTANCE**

- A. Awarded Contractor 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) **must 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.

**1.23 PUBLICITY**

- A. Do not discuss the solicitation nor your bid response, nor issue statements or comments, nor provide interviews to any public media during the solicitation and award process.
- B. Failure to comply with this Requirement may be cause for a Prospective Contractor's bid to be rejected.

**1.24 RESERVATION**

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

## **SECTION 2 – REQUIREMENTS**

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

### **2.1 INTRODUCTION**

This Invitation for Bid (IFB) is issued by the Office of State Procurement (OSP) on behalf of the Arkansas Insurance Department (AID) for the State of Arkansas Multi Agency Insurance Trust (AMAIT) and the Participating Governmental Entity State boards, agencies, commissions, departments, constitutional offices, judiciary, and public funded institutions of higher education (Participating Governmental Entities) for the State Cyber Liability Insurance as specified herein. The AMAIT insurance plan is administered by the Risk Management Division (RMD) of AID in accordance with Arkansas Code Annotated (A.C.A.) § 25-35-101 to 108. The AID Federal Employment Identification Number (FEIN) is 71-6006766.

This IFB is issued for a master Cyber Liability Insurance contract covering 144 Participating Governmental Entities. Participation in the AMAIT Insurance Plan by the Participating Governmental Entities is mandatory as defined in accordance with A.C.A. § 25-35-104.

### **2.2 AMAIT AND PARTICIPATING GOVERNMENTAL ENTITIES**

RMD has worked with the Participating Governmental Entities to provide insurance expertise, consulting, loss prevention, and appraisal services since 1981. The RMD establishes all insured values for the Participating Governmental Entity accounts. The Participating Governmental Entities are not allowed to self-report insured values.

The AMAIT trust fund, established in 2003, is dedicated to the operation of Commercial Multiple Line All Risk Insurance, Business Auto Insurance, and Cyber Liability Insurance programs for Participating Governmental Entities in the State of Arkansas. The AMAIT trust fund currently has a fund balance in excess of \$16 million. The Cyber Liability Insurance program was added to the AMAIT trust fund in 2018. Expenditures for the trust fund are established by law, and funds are managed by the Office of Treasurer for the State of Arkansas. An outside audit of AID, including the AMAIT trust fund is conducted annually by Arkansas Legislative Audit. The audit can be found at <http://www.arklegaudit.gov>.

- A. The list of current Participating Governmental Entities is provided on the *AMAIT Cyber Mailing List – Agencies Currently Insured Report*. (See Attachment E.)
- B. The three (3) digit AASIS Business Area Code Number (AASIS Code) **must** become a part of the Participating Governmental Entity name and **must** be used in all claims reporting, all claims payments, all named insured schedules, and all correspondence. (See Attachment E.)
- C. The University of Arkansas (UA) System and all of its campus locations do not participate in the AMAIT Cyber Liability Insurance Plan, including, but not limited to: UA universities, UA community colleges, UA experiment farms, UA medical center, UA cooperative extension service, etc.
- D. The following attachments are provided with the solicitation for informational purposes:

Attachment A	2018 Current Cyber Liability Insurance Policy(s) Coverage Forms and Endorsements
Attachment B	AMAIT Loss History All Claims by Policy Year Report - January 2019
Attachment C	AMAIT Annual Loss Experience Report - January 2019
Attachment D	AMAIT Annual Actual Expenditures Report
Attachment E	AMAIT Cyber Mailing List – Agencies Currently Insured
Attachment F	Company Monthly Loss History Report – January 2019
Attachment G	State of Arkansas AMAIT Cyber Claim Protocol Endorsement
Attachment H	Insurance Company Market Submission Log

- E. Questions regarding this IFB and the Insurance Plan **must** be directed to OSP in accordance with IFB Section 1.8 *Clarification of Bid Solicitation*.



- F. Prospective Contractors **shall not** contact the individual Participating Governmental Entities directly for underwriting questions or inspection appointments.

## **2.3 PROSPECTIVE CONTRACTOR QUALIFICATIONS**

- A. The Prospective Contractor **shall** be licensed to do business in the State of Arkansas.
- B. The Prospective Contractor **shall** have authority to effectuate the binding of coverage.
- C. The Prospective Contractor **shall** have a dedicated commercial line Account Manager in position to provide account management for the AMAIT Plan from the start of the contract.
  - 1. The Account Manager **shall** have at least three (3) years of experience in Commercial Cyber Liability Insurance.
  - 2. The Account Manager **shall** have at least one (1) year of experience in drafting and reviewing manuscript endorsements and editing other policy form language.
  - 3. The Prospective Contractor **shall** submit the Account Manager's resume in the *Bid Response Packet*.
- D. Prior to response submission, the Prospective Contractor **shall** have an office location in Arkansas where the dedicated commercial lines Account Manager is located to provide account management for the AMAIT account.
- E. The Prospective Contractor **shall** provide evidence of insurance agents' and brokers' errors and omissions insurance with a minimum limit of \$10,000,000.00 per occurrence.
  - 1. The Prospective Contractor **shall** provide evidence of this coverage on an ACORD Certificate of Liability Insurance form in the *Bid Response Packet*.
  - 2. The Contractor **shall** submit written evidence of this coverage to the RMD Director or the Director's designee by June 10 of each year throughout the term(s) of the contract in a format and manner approved by RMD.
- F. The State reserves the right to make whatever investigation is necessary to determine that the apparent successful Contractor is compliant with the specifications of this IFB.

## **2.4 PROSPECTIVE INSURANCE COMPANY REQUIREMENTS**

- A. The Prospective Insurance Company(s) **shall** be approved or authorized to do business in the State of Arkansas.
- B. The Prospective Insurance Company(s) **shall** have Pre-Approved Provider Cyber Response Panel vendors assigned to the AMAIT account.
  - 1. The Prospective Contractor **shall** provide the name(s) of and contact information for the Pre-Approved Provider Cyber Response Panel vendors assigned to the AMAIT account in the *Bid Response Packet*.
- C. The Prospective Insurance Company(s) **shall** have a dedicated Claims Breach Manager, Claims Breach Counsel, Claims Breach Coach, or equivalent in position and assigned to the AMAIT account to provide all claim management for the AMAIT account.
  - 1. The Prospective Contractor **shall** provide the name and contact information of the Prospective Insurance Company Claims Breach Manager, Claims Breach Counsel, Claims Breach Coach, or equivalent in the *Bid Response Packet*.
- D. The Prospective Insurance Company(s) **shall** have an A.M. Best Company rating of A (Excellent), Class Financial Size Category (FSC) XII or better.
  - 1. The Prospective Contractor **shall** enter the A.M. Best Company rating on the *Official Bid Price Sheet*.

## **2.5 GENERAL REQUIREMENTS**

- A. Resulting Contract:
  - 1. The insurance policy(s) **must** become a part of the contract between the AID on behalf of the AMAIT insurance plan and the successful Contractor.

2. Where a conflict between the specifications and requirements of this IFB and the insurance policy(s) exists, all specifications and requirements herein **shall** govern.
  3. All conflict settlements will be in the best interest of AMAIT and will be determined by RMD.
- B. Annual Premium Payable/Billing:
1. All renewal premium(s) will be paid annually each year on or after July 1.
  2. The Contractor **shall** invoice for all coverage of insurance on one (1) billing invoice on or after July 1.
  3. The Contractor **shall not** invoice any additional or return premium due, except when a new Participating Governmental Entity is added or deleted, subject to insurance company underwriting approval, during the policy year by endorsement.
  4. Any additional or return premium due invoice for a new or deleted Participating Governmental Entity **must** be accompanied by the applicable insurance policy change endorsement and **must** be calculated on a pro-rated basis for each entity added or deleted.
- C. Audits:
1. The insurance company **shall not** conduct any mid-term or end of the policy year audits of the AMAIT schedule after policy issue for the purpose of additional premium or return premium calculation(s) except as described in IFB Item 2.5.B.3.
  2. Additional premium for any other reason will not be accepted or paid by the State.
- D. RMD will maintain the annual actual expenditures information reported to the Contractor on the *AMAIT Annual Actual Expenditures Report* based upon the most current data available as of April 1 for the previous fiscal year each year. (See Attachment D.)
- E. The insurance company(s) **shall** provide the insurance coverage on a composite rate basis for all AMAIT Participating Governmental Entities.
- F. The insurance company(s) **shall not** make any mid-term adjustment or change in any rate or composite rate by endorsement during the policy year.
- G. The insurance company(s) **shall** provide the insurance coverage on a group master policy(s) in which additional Participating Governmental Entities can be added to the policy at the current composite rate on a pro-rated basis.
1. Additions of Participating Governmental Entities to the policy will be subject to insurance company underwriting approval.
- H. The Named Insured **must** be "State of Arkansas Multi Agency Insurance Trust and Participating Entities."
- I. The insurance company(s) **shall** write and issue the policy(s) and all endorsement forms by October 1 of each year throughout the term(s) of the contract.
- J. The Contractor **shall** submit all annual rate adjustments or non-renewals to the RMD Director or the Director's designee in writing no less than sixty (60) days before the policy renewal date, in a format and manner approved by RMD.
1. Rate adjustments and non-renewals **must** only be made with prior approval from RMD.
  2. RMD will review and **shall** have the right to approve or disapprove all rate adjustments with consideration of the following:
    - a. Original bid rate as the base.
    - b. Present market condition.
    - c. Losses to date.
    - d. Underwriting of new entities.

e. Other factors at the sole discretion of the State.

K. Neither the Contractor nor the insurance company(s) **shall** establish any loss fund reserve with any other financial institution or company for the AMAIT Cyber Liability Insurance Plan annual aggregate retention or any other loss category deductible or any other entity deductible.

1. Arkansas law states that no money will be appropriated from the trust fund for any purpose except to pay for those expenses as described in the law. A loss reserve fund is not a defined expense.

## 2.6 **CLAIMS-RELATED REQUIREMENTS**

NOTE: The Contractor **shall** provide the following at no additional cost and **shall not** rely upon the insurance company to complete the following for all claims:

- A. The Contractor **shall** provide a staff of employees physically located at a claims intake office located in Arkansas.
- B. The Contractor **shall** provide a 24-hour claims reporting phone number for all claims intake.
  1. This phone number **must not** be a call answering service.
  2. This phone number **must** be answered by a live, trained, English-speaking claims intake staff member.
- C. The Contractor **shall** verify all loss notice information required for each claim reported to RMD.
- D. The Contractor **shall** report all claims to the insurance company claim intake department and adjuster(s) in accordance with the insurance policy provisions on the same day of notice.
- E. The Contractor **shall** prepare and **shall** email the ACORD Loss Notice for each claim to the specified Control Group in a format and manner approved by RMD.
- F. The Contractor **shall** code all ACORD Loss Notice information, including, but not limited to the following:
  1. Insurance company claim intake department claim number.
  2. Participating Governmental Entity name and AASIS Code number with applicable contact information.
  3. Cause of loss description categories established by RMD.
  4. Brief description of loss as indicated on ACORD Loss Notice.
  5. Date of loss.
  6. Insurance company(s) name and policy number.
- G. The Contractor **shall** prepare the *Company Monthly Loss History Report – January 2019* in accordance with RMD requirements and **shall** submit the Report to the RMD Director or the Director's designee by the 15th of each month, in a format and method approved by RMD.
- H. Company Monthly Loss History Reports (Attachment F) **must** include all claims and claim information, including:
  1. Formatting as outlined by RMD, including all required column headings.
  2. Insurance company claim number.
  3. Changes highlighted, including: new claims, change in claim status, and financial change for easy review by RMD.
  4. Cause of loss descriptions approved by RMD.
  5. Dates of losses.
  6. Participating Governmental Entity names and AASIS Code numbers.
  7. Claim statuses.

- 8. Report tabs by policy year for all policy years.
- 9. Additional information requested by RMD.
- I. The Contractor **shall** provide a dedicated staff member to process all Company Monthly Loss History Reports.
- J. The Contractor **shall** communicate with claimants, adjusters, investigators, attorneys, and others as necessary for each claim involving the AMAIT account.

## 2.7 **ADDITIONAL CONTRACTOR REQUIREMENTS**

NOTE: The Contractor **shall** provide the following at no additional cost and **shall not** rely upon the insurance company to complete the following:

- A. The Contractor **shall** submit annual strategies for identifying anticipated market considerations and propose strategies for policy renewals to the RMD Director or the Director's designee, in a method and format approved by RMD, by April 1 of each year.
- B. The Contractor **shall** submit a compilation of underwriting specifications for renewal negotiations to the RMD Director or the Director's designee by April 1 of each year, in a method and format approved by RMD.
- C. The Contractor **shall** provide coverage and price negotiations with insurers to secure the best terms and provisions for all coverage as requested by RMD.
- D. The Contractor **shall** provide an annual evaluation of the commitment and financial stability of the insurance company to ensure compliance with the IFB specifications.
- E. The Contractor **shall** ensure the accuracy of all policy forms as directed by RMD.
- F. The Contractor **shall** review policies for accuracy and correctness in advance of policy issue and delivery to minimize the need for corrections by endorsement.
- G. The Contractor **shall** deliver one (1) electronic and one (1) paper copy of each policy and all endorsements to the RMD Director or the Director's designee by October 1 of each year, in a format and manner approved by RMD.
- H. The Contractor **shall** negotiate all additional policy form changes with the insurance company as requested and approved by RMD.
- I. The Contractor **shall** schedule quarterly meetings with RMD to discuss loss control issues, exposure changes, coverage changes, policy interpretation, coverage enhancements, and general administrative matters.
  - 1. Meetings **shall** be held at AID in person in Little Rock at a date and time that is approved by RMD.
  - 2. The Contractor **shall** be responsible for all travel and/or associated expenses incurred by the Contractor as a result of these meetings.
- J. In a format and manner approved by RMD, the Contractor **shall** submit an annual report by May 1 of each year that **must** include the following:
  - 1. Schedule of coverage for the confirmation binder.
  - 2. Renewal quotation confirmation offer.
  - 3. Premium and rate worksheet.
  - 4. Insurance company claims loss history report for the prior policy years.
  - 5. Recommendations for coverage changes for the next policy year.
- K. The Contractor **shall** provide consultation and review with RMD on policy interpretation and analysis of insurance forms as needed by RMD.
- L. The Contractor **shall** prepare and submit an incident and event notification protocol detailing all specific procedures and responsibilities for Participating Governmental Entities to provide notification upon discovery or claim, in a format and manner approved by RMD.

- M. As requested by RMD, the Contractor **shall** prepare and submit a Cyber Liability Insurance policy limit summary chart document to RMD, in a format and manner approved by RMD.

## 2.8 **BID PRICING REQUIREMENTS**

- A. Prospective Contractors **shall** bid on all coverage parts of the Cyber Liability Insurance forms as specified in IFB Section 3.
1. Prospective Contractors may submit more than one (1) bid.
- B. Prospective Contractors **shall** submit an *Official Bid Price Sheet* and *Bid Response Packet* for each quotation received from all qualified insurance company(s).
- C. Prospective Contractors **shall** complete and submit the *Insurance Company Market Submission Log* (Attachment H) as follows and **shall** submit it in the *Bid Response Packet*:
1. For every insurance company the Prospective Contractor contacts for a quotation, the Prospective Contractor **shall** enter the name of the insurance company in the *Name of Insurance Company* column.
  2. In the Date IFB SP-19-0028 Submitted to Company column, the Prospective Contractor **shall** enter the date the IFB was submitted to the insurance company.
  3. If the Prospective Contractor receives a quotation from an insurance company, the Prospective Contractor **shall** mark an "X" or other signifying symbol in the *Company Quoted* column of the *Log*.
  4. If the Prospective Contractor receives a declination from an insurance company to provide a quotation, the Prospective Contractor **shall** mark an "X" or other signifying symbol in the *Company Did Not Quote* column of the *Log*.
  5. If the Prospective Contractor does not receive a response from an insurance company, the Prospective Contractor may make notes that the insurance company did not respond in the *Notes* column of the *Log*.
- D. All bids submitted by the Prospective Contractor **must** be final and **must not** be subject to any contingencies.
- E. The Grand Total Annual Premium cost **must** be for a twelve (12) month policy period for all policy(s) and all coverage required.
- F. The Prospective Contractor **shall not** add any additional fees or costs to the premium(s) quoted on the *Official Bid Price Sheet*.
- G. The insurance company(s) **shall not** add any additional fees or costs to the premium(s) quoted on the *Official Bid Price Sheet*.
- H. All State of Arkansas applicable surplus lines tax (4%) on non-admitted insurance company premium(s) **must** be included in the space provided on the *Official Bid Price Sheet*.
- I. The Prospective Contractor **shall** provide a Rate(s) and a Total Annual Premium on the *Official Bid Price Sheet* based upon the total annual actual expenditures of \$22,770,189,352. (See Attachment D.)
1. The Rate(s) provided on the *Official Bid Price Sheet* **must** be used for invoicing effective July 1, 2019.
  2. The Rate(s) quoted on the *Official Bid Price Sheet* **must not** be changed after July 1, 2019.
- J. The Prospective Contractor **shall** enter a Rate in each blue-shaded cell on the *Official Bid Price Sheet*.
- K. The Prospective Contractor **shall** enter a Rate that is per one dollar (\$1) of total annual actual expenditures.
- L. The blue-shaded Rate cells will be multiplied by the Values cells to calculate the Annual Premium(s).
- M. The Grand Total Annual Premium will be used for low cost determination.

## 2.9 **GENERAL INFORMATION FOR UNDERWRITING**

- A. The basis of premium **must** be the total annual actual expenditures reported in the amount of \$22,770,189,352. (See Attachment D.)
- B. See Attachment A for a copy of the 2018 Current Cyber Liability Insurance Policy(s) Coverage Forms and

*Endorsements.*

- C. Five (5) month loss history information is provided on the *AMAIT Loss History All Claims by Policy Year Report - January 2019* and the *AMAIT Annual Loss Experience Report – January 2019* and the *Company Monthly Loss History Report – January 2019*. (See Attachments B, C, and F.)

- D. Policy/Premium Overview Information as of August 14, 2018:

100% Primary Layer	\$10 Million	Lloyds Syndicate NVA 2007 (Axis/Novae)
50/50 (Quota Share) Layer	\$15 Million Excess over \$10 Million	
50% (Quota Share)		Lloyds Syndicate BRT 2987/2988 (Brit)
50% (Quota Share)		Lloyds Syndicate Tarian Consortium 9714
Coverage Form		Manuscript Policy Form
Participating Governmental Entities Insured		144
Premium for 2018/2019 Policy Year, including surplus lines tax		\$670,800
Total Annual Actual Expenditures reported on August 14, 2018		\$21,255,896,497

- E. The aggregate retention is \$250,000.
- F. The per occurrence deductible after the aggregate retention is exhausted **must not** be more than \$100,000 per occurrence.
- G. Prior to bid submission, the insurance company(s) **shall** negotiate contracts with Pre-Approved Provider Cyber Response Panel vendors.
- H. The insurance company(s) and Contractor **shall** provide all claim management for all cyber incidents and events, including claims incurred and reported within the Insured's aggregate retention and per occurrence deductible.
- I. The insurance company(s) and Contractor **shall** pay in advance for all claim and breach costs, emergency mitigation costs, claim management costs, and adjustment expense costs for all cyber incidents, cyber events, and incurred claims for all coverage included within the Insured's aggregate retention and per occurrence deductible.
- J. All payments made by the insurance company(s) and Contractor for breach costs to the Pre-Approved Provider Cyber Response Panel vendors within the Insured's aggregate retention and per occurrence deductible including but not limited to privacy event counsel, computer forensics, data breach response, public relations, notification expenses, credit monitoring expenses, forensic accounting and claims preparation costs **must** apply to the Insured's aggregate retention and per occurrence deductible regardless of the rates, scope of work, and number of hours.
- K. The AMAIT will reimburse the insurance company(s) and Contractor for all claim and breach costs, emergency mitigation costs, claim management costs, and adjustment expense costs for all cyber incidents, cyber events, and incurred claims for all coverage included within the Insured's aggregate retention and per occurrence deductible.
- L. The insurance company(s) and Contractor **shall** provide the AMAIT with a monthly invoice for reimbursement for all claim and breach costs, emergency mitigation costs, claim management costs, and adjustment expense costs for all cyber incidents and events and incurred claims for all coverage included within the insured's aggregate retention and per occurrence deductible in a format acceptable for the auditing requirements of the State of Arkansas.
- M. The insurance company(s) and Contractor **shall** supply detailed supplemental information for each monthly invoice for all claim and breach response expense costs within the insured's aggregate retention and per occurrence deductible for reimbursement, which includes the specific claim information for each claim including but not limited to:

1. Specific claim number.
  2. Date of loss.
  3. Participating Governmental Entity name and AASIS Code.
  4. Pre-Approved Provider Cyber Response Panel Vendors payee.
  5. All claim payment amounts.
  6. Breach cost amounts.
  7. Payment dates.
  8. All other information determined by RMD.
- N. The insurance company(s) **shall** provide legal counsel as part of breach and defense costs and the AMAIT will not retain separate legal counsel.
- O. Breach costs **must** include coverage for statutory and non-statutory requirements to provide notification and credit monitoring.
- P. The Prospective Contractor **shall** attach a sample copy of the insurance company declaration page and all coverage forms and endorsements in the *Bid Response Packet* as specified in 3.2.A.

## **2.10 UNDERWRITING REQUIREMENTS OF COVERAGE**

- A. The Named Insured on the insurance policy(s) **must** be "State of Arkansas Multi Agency Insurance Trust and Participating Entities."
- B. Mailing Address:
- Arkansas Multi Agency Insurance Trust  
Arkansas Insurance Department  
C/O Risk Management Division  
1200 West Third Street, Room 108  
Little Rock, AR 72201-1904
- C. The policy period **must** be from July 1 to July 1.
- D. Effective date and time **must** be July 1, 2019, 12:01 a.m. Central Time at the address of the Named Insured.
- E. The AMAIT Participating Governmental Entities retroactive date and time **must** be August 14, 2018, 12:01 a.m. Central Time at the address of the Named Insured except as follows:
1. The ASU Participating Governmental Entities (120, 125A, 125C, 128, 129, and 177) retroactive date and time **must** be September 29, 2017, 12:01 a.m. Central Time at the address of the Named Insured.
  2. The Northwest Arkansas Community College (198) retroactive date and time **must** be December 1, 2017, 12:01 a.m. Central Time at the address of the Named Insured.
- F. The Insurance Company(s) per occurrence limit **must** be \$3,000,000 for the ASU Participating Governmental Entities (120, 125A, 125C, 128, 129, and 177) for claims occurring after the retroactive date and time of September 29, 2017, 12:01 a.m. Central Time and occurring before August 14, 2018, 12:01 a.m. Central Time.
- G. The insurance company(s) per occurrence limit **must** be \$8,000,000 for the Northwest Arkansas Community College (198) for claims occurring after the retroactive date and time of December 1, 2017, 12:01 a.m. Central Time and occurring before August 14, 2018, 12:01 a.m. Central Time.
- H. The legal entity business description type **must** be Governmental.
- I. The insurance policy(s) per occurrence limit of insurance **must** be at least \$25,000,000 subject to other policy sub-limits as specified in Section 3.3.
- J. The insurance company(s) **shall not** issue the policy(s) with a "cut through" endorsement to another insurance company.

- K. The AMAIT will have the right following the effective date of cancellation or non-renewal to a period of sixty (60) days in which to give written notice at no additional cost to the insurance company of any claim first made, cyber extortion demand or ransomware demand first made, or any loss discovered, prior to the end of the policy period, provided that any actual or alleged acts, facts or circumstances underlying the claim, cyber extortion demand or ransomware demand or any loss occurred prior to the end of the policy period, and are otherwise covered by the policy, and reported to insurance company during the Automatic Extended Reporting Period.
- L. RMD on behalf of the AMAIT **shall** have the right, within thirty (30) days of the effective date of cancellation or non-renewal, to provide written notice and to purchase an Additional Extended Reporting Period for claims first made against the Named Insured and notified to the insurance company during the Additional Extended Reporting Period, with regard to any acts, facts, and circumstances occurring or committed after the retroactive date and before the end of the policy period, at no more than the following cost schedule:
1. Twelve (12) months at 100% of expiring total annual premium.
  2. The AMAIT will have sixty (60) days to process payment for the additional premium upon receipt of invoice.
- M. The insurance company(s) **shall** renew the policy(s) unless a written notice of non-renewal is mailed to the Named Insured at least ninety (90) days prior to the expiration date or anniversary date of the policy, except in the case of non-payment of premium.
- N. The insurance company(s) **shall not** cancel the policy(s) unless a written notice of cancellation is mailed to the Named Insured at least ninety (90) days before the cancellation is to take effect.
- O. The written notice of cancellation **must** include the reason(s) for cancellation and **must** comply with applicable State of Arkansas law.
- P. The insurance company(s) may cancel the policy(s) after the policy has been in effect for sixty (60) days, if the cancellation is for non-payment of premium, by giving the Named Insured a written notice of cancellation at least ten (10) days before the cancellation is to take effect.
- Q. The Prospective Contractor and insurance company(s) **shall not** submit a bid quote on the *Official Bid Price Sheet* for coverage as part of a multiple insured public entity grouped/shared policy limit plan with any other insured(s).
- R. The insurance policy(s) **must** contain a State of Arkansas AMAIT Cyber Claim Protocol Endorsement(s) that **must** include all the requirements specified in IFB Items 2.9.G. through 2.9.N.
- S. The insurance policy(s) **must** contain an endorsement to provide coverage for statutory and non-statutory requirements for notification and for credit monitoring specified in IFB Item 2.9.O.



## **SECTION 3 – INSURANCE POLICY COVERAGE REQUIREMENTS**

### **3.1 CYBER LIABILITY INSURANCE COVERAGE DEFINED**

- A. For the purposes of and as specified by this IFB, the insurance coverage will be referred to as Cyber Liability Insurance. The Cyber Liability Insurance coverage **must** meet or exceed the following defined descriptions in this Section.
- B. First party coverage including, but not limited to:
1. Breach costs: The insurance company **shall** pay on behalf of the insured any breach costs up to the limit of liability and excess of the retention, as stated in the policy schedule, arising out of an actual or suspected network security breach, privacy breach or a confidentiality breach which first occurred on or after the retroactive date and was discovered during the policy period including, but not limited to:
    - a. Privacy event counsel costs.
    - b. Computer forensic services costs.
    - c. Data breach response costs.
    - d. Public relations costs.
    - e. Notification expense costs.
    - f. Credit monitoring expense costs.
    - g. Forensic accounting and claim preparation costs.
  2. Data or programs damage costs: The insurance company **shall** pay the insured for any first party costs up to the limit of liability and excess of the retention, as stated in the policy schedule, incurred as a direct result of damage to the insured's data or insured's programs caused by computer attack or operational error which first occurred on or after the retroactive date and was discovered during the policy period.
  3. Insured's network failure – income loss and extra expense costs: The insurance company **shall** pay the insured for any income loss and extra expense up to the limit of liability as stated in the policy schedule, incurred by the insured due to the suspension or deterioration of the insured's business during the period of restoration directly as a result of the total or partial interruption, degradation in service or failure of the insured's network, provided that the duration of such interruption, degradation or failure exceeds the time retention and was directly caused by computer attack or operational error which first occurred on or after the retroactive date and was discovered during the policy period.
  4. Outsource service provider or cloud service provider failure – income loss and extra expense costs: The insurance company **shall** pay the insured for any income loss and extra expense, up to the limit of liability, as stated in the policy schedule, incurred by the insured due to the suspension or deterioration of the insured's business during the period of restoration directly as a result of the total or partial interruption, degradation in service or failure of a network operated by an outsource service provider or cloud service provider for the insured, provided that the duration of such interruption, degradation or failure exceeds the time retention and was directly caused by computer attack or operational error which first occurred on or after the retroactive date and was discovered during the policy period.
  5. Cyber extortion and ransomware costs: The insurance company **shall** reimburse the insured for any cyber extortion/ransomware payments and any cyber extortion/ransomware expenses up to the limit of liability and excess of the retention, as stated in the policy schedule, incurred directly as a result of a cyber extortion demand or ransomware demand first made during the policy period.
  6. Customer attrition costs: The insurance company **shall** pay the insured for any customer attrition loss and extra expense up to the limit of liability and excess of the retention, as stated in the policy schedule, incurred by the insured during the customer attrition period of restoration directly as a result of the reputational damage caused by an allegation made in the public domain or the release of information in the public domain to the effect that the insured committed or failed to prevent a network security breach, privacy breach or a confidentiality breach, provided that such network security breach, privacy breach or

confidentiality breach first occurred on or after the retroactive date and was discovered during the policy period.

7. Hardware damage costs: The insurance company **shall** pay the insured for the replacement of any hardware under the insured's direct ownership and operation that is deemed unfit for purpose, up to the limit of liability and excess of the retention as stated in the policy schedule, occurring as a direct result of a network security breach on the insured's network, which occurred on or after the retroactive date and which was discovered during the policy period.

C. Third party liability coverage including, but not limited to:

1. Network security, privacy and confidentiality liability: The insurance company **shall** pay on behalf of the insured for any damages and defense costs up to the limit of liability and excess of the retention, as stated in the policy schedule, arising out of a claim first made against the insured during the policy period alleging that the insured committed or failed to prevent a network security breach, privacy breach or a confidentiality breach which first occurred on or after the retroactive date.
2. Network security and privacy regulatory penalties and investigation costs liability: The insurance company **shall** pay on behalf of the insured any regulatory penalties and regulatory investigation costs up to the limit of liability and excess of the retention, as stated in the policy schedule, arising out of a regulatory claim first made against the insured during the policy period alleging that the insured committed or failed to prevent a network security breach, privacy breach or a confidentiality breach which first occurred on or after the retroactive date.
3. Multimedia liability: The insurance company **shall** pay on behalf of the insured any damages and defense costs up to the limit of liability and excess of the retention, as stated in the policy schedule, arising out of a claim first made against the insured during the policy period alleging that the insured committed, either directly or indirectly, or failed to prevent a multimedia wrongful act which first occurred on or after the retroactive date.
4. Technology errors and omissions liability: The insurance company **shall** pay on behalf of the insured any damages and defense costs up to the limit of liability and excess of the retention, as stated in the policy schedule, arising out of a claim first made against the insured during the policy period alleging that the insured committed a technology error and omission which first occurred on or after the retroactive date.

D. Payment Card Industry Data Security Standard (PCI DSS) fines, penalties and assessments and PCI DSS claim expense coverage including, but not limited to:

1. PCI DSS fines, penalties and assessments and PCI DSS claim expense coverage: The insurance company **shall** pay on behalf of the insured any PCI DSS fines, penalties and assessments and PCI DSS claim expenses up to the limit of liability and excess of the retention, as stated in the policy schedule, arising out of a PCI DSS claim first made against the insured during the policy period alleging that the insured committed or failed to prevent a network security breach, privacy breach or a confidentiality breach which first occurred on or after the retroactive date.

E. Cyber terrorism coverage including, but not limited to:

1. Cyber terrorism coverage: The insurance company **shall** reimburse the insured or pay on behalf in the event of a cyber terrorism event if a loss or a claim is covered under one or more of the coverage agreements listed above.

### 3.2 **CYBER LIABILITY INSURANCE POLICY COVERAGE FORMS**

A. The insurance policy(s) **must** meet or exceed the *2018 Current Cyber Liability Insurance Policy(s) Coverage Forms and Endorsements*. (See Attachment A.)

B. Coverage insured as defined in 3.2.A. **must** include the following:

1. First party coverage, including:
  - a. Breach costs.
  - b. Costs for damage to data or programs.

- c. Insured's network failure – income loss and extra expense.
- d. Outsource service provider/cloud service provider failure - income loss and extra expense.
- e. Cyber extortion and ransomware.
- f. Customer attrition – reputational damage.
- g. Hardware.
- 2. Third party insuring agreements, including:
  - a. Network security, privacy, and confidentiality liability.
  - b. Network security privacy liability (regulatory fines, penalties, and investigation costs).
  - c. Multimedia liability.
  - d. Technology errors and omissions.
- 3. PCI DSS fines, penalties, and assessments.
- 4. Cyber terrorism.

### 3.3 **POLICY LIMITS AND SUB-LIMITS**

Policy limits and sub-limits of liability per occurrence and annual aggregate **must** be as follows (see Attachment A):

A. First party coverage, including:		
1.	\$25,000,000/\$25,000,000	Breach costs
2.	\$25,000,000/\$25,000,000	Costs for damage to data or programs
3.	\$25,000,000/\$25,000,000	Insured's network failure – income loss and extra expense
4.	\$25,000,000/\$25,000,000	Outsource service provider/cloud service provider failure – income loss and extra expense
5.	\$25,000,000/\$25,000,000	Cyber extortion and ransomware
6.	\$25,000,000/\$25,000,000	Customer attrition – reputational damage
7.	\$500,000/\$500,000	Hardware
B. Third party coverage, including:		
1.	\$25,000,000/\$25,000,000	Network security, privacy and confidentiality liability
2.	\$10,000,000/\$10,000,000	Network security privacy liability (regulatory fines, penalties, and investigation costs)
3.	\$25,000,000/\$25,000,000	Multimedia liability
4.	\$25,000,000/\$25,000,000	Technology errors and omissions
C. PCI DSS fines, penalties, and assessments:		
1.	\$12,500,000/\$12,500,000	PCI DSS fines, penalties, and assessments
D. Cyber terrorism:		
1.	\$25,000,000/\$25,000,000	Cyber terrorism

### 3.4 **AGGREGATE RETENTION AND DEDUCTIBLES**

A. The aggregate retention and per occurrence deductibles **must not** exceed the following:

- 1. The aggregate retention is \$250,000.
- 2. The per occurrence deductible, after the aggregate retention is exhausted, is \$100,000.

## **SECTION 4 – GENERAL CONTRACTUAL ITEMS**

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

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

A. Forward invoices to:

Arkansas Multi Agency Insurance Trust  
Arkansas Insurance Department  
Risk Management Division  
1200 West Third Street Room 108  
Little Rock, AR 72201-1904

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

### **4.2 GENERAL INFORMATION**

A. The State will not:

1. 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 Contractor/lessor in the event funds are not appropriated.
  2. Contract with another party to indemnify and defend that party for any liability and damages.
  3. Pay damages, legal expenses, or other costs and expenses of any other party.
  4. Continue a contract once any equipment has been repossessed.
  5. Agree to any provision of a contract which violates the laws or constitution of the State of Arkansas.
  6. Enter a contract which grants to another party any remedies other than the following:
    - a. The right to possession.
    - b. The right to accrued payments.
    - c. The right to expenses of de-installation.
    - d. The right to expenses of repair to return the equipment to normal working order, normal wear and tear excluded.
    - e. The right to recover only amounts due at the time of repossession and any unamortized nonrecurring cost as allowed by Arkansas Law.
- B. Any litigation involving the State **must** take place in Pulaski County, Arkansas.
- C. The laws of the State of Arkansas govern this contract.
- D. A contract is not effective prior to award being made by a State Procurement Official.

**4.3 CONDITIONS OF CONTRACT**

- A. Observe and comply with federal and State of Arkansas laws, local laws, ordinances, orders, and regulations existing at the time of, or enacted subsequent to the execution of a resulting contract which in any manner affect the completion of the work.
- B. Indemnify and save harmless the agency and all its officers, representatives, agents, and employees against any claim or liability arising from or based upon the violation of any such law, ordinance, regulation, order or decree by an employee, representative, or subcontractor of the Contractor.

**4.4 STATEMENT OF LIABILITY**

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

**4.5 RECORD RETENTION**

- A. 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, grant access to State or Federal Government entities or any of their duly authorized representatives.
- B. Make financial and accounting records available, upon request, to the State of Arkansas's designee(s) at any time during the contract period and any extension thereof, and for five (5) years from expiration date and final payment on the contract or extension thereof.
- C. Other sections of this *Bid Solicitation* may contain additional Requirements regarding record retention.

**4.6 PRICE ESCALATION**

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

**4.7 CONFIDENTIALITY**

- A. The Contractor, Contractor's subsidiaries, and Contractor's employees will 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 has the right to cancel the contract on these grounds.

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

#### **4.8 CONTRACT INTERPRETATION**

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

#### **4.9 CANCELLATION**

- A. For Cause. The State may cancel any contract resulting from this solicitation for cause when the Contractor fails to perform its obligations under it by giving the Contractor written notice of such cancellation at least thirty (30) days prior to the date of proposed cancellation. In any written notice of cancellation for cause, the State will advise the Contractor in writing of the reasons why the State is considering cancelling the contract and provide the Contractor with an opportunity to avoid cancellation for cause by curing any deficiencies identified in the notice of cancellation for cause prior to the date of proposed cancellation. To the extent permitted by law and at the discretion of the parties, the parties may agree to minor amendments to the contract and avoid the cancellation for cause upon mutual agreement.
- B. For Convenience. The State may cancel any contract resulting from the solicitation by giving the Contractor written notice of such cancellation sixty (60) days prior to the date of cancellation.
- C. If upon cancellation the Contractor has provided commodities or services which the State of Arkansas has accepted, and there are no funds legally available to pay for the commodities or services, the Contractor may file a claim with the Arkansas Claims Commission under the laws and regulations governing the filing of such claims.

#### **4.10 SEVERABILITY**

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

## **SECTION 5 – STANDARD TERMS AND CONDITIONS**

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

become a factor in an award. The Office of State Procurement **shall** have the right to extend delivery if reasons appear valid. If the date is not acceptable, the agency may buy elsewhere and any additional cost **shall** be borne by the Contractor.

14. **DELIVERY REQUIREMENTS:** No substitutions or cancellations are permitted without written approval of the Office of State Procurement. Delivery **shall** be made during agency work hours only 8:00 a.m. to 4:30 p.m. Central Time, unless prior approval for other delivery has been obtained from the agency. Packing memoranda **shall** be enclosed with each shipment.
15. **STORAGE:** The ordering agency is responsible for storage if the Contractor delivers within the time required and the agency cannot accept delivery.
16. **DEFAULT:** All commodities furnished **shall** be subject to inspection and acceptance of the ordering agency after delivery. Back orders, default in promised delivery, or failure to meet specifications **shall** authorize the Office of State Procurement to cancel this contract or any portion of it and reasonably purchase commodities elsewhere and charge full increase, if any, in cost and handling to the defaulting Contractor. The Contractor **must** give written notice to the Office of State Procurement and ordering agency of the reason and the expected delivery date. Consistent failure to meet delivery without a valid reason may cause removal from the Contractors list or suspension of eligibility for award.
17. **VARIATION IN QUANTITY:** The State assumes no liability for commodities produced, processed or shipped in excess of the amount specified on the agency's purchase order.
18. **INVOICING:** The Contractor **shall** be paid upon the completion of all of the following: (1) submission of an original and the specified number of copies of a properly itemized invoice showing the bid and purchase order numbers, where itemized in the *Bid Solicitation*, (2) delivery and acceptance of the commodities and (3) proper and legal processing of the invoice by all necessary State agencies. Invoices **must** be sent to the "Invoice To" point shown on the purchase order.
19. **STATE PROPERTY:** Any specifications, drawings, technical information, dies, cuts, negatives, positives, data or any other commodity furnished to the Contractor hereunder or in contemplation hereof or developed by the Contractor for use hereunder **shall** remain property of the State, **shall** be kept confidential, **shall** be used only as expressly authorized, and **shall** be returned at the Contractor's expense to the F.O.B. point provided by the agency or by OSP. Contractor **shall** properly identify items being returned.
20. **PATENTS OR COPYRIGHTS:** The Contractor **must** agree to indemnify and hold the State harmless from all claims, damages and costs including attorneys' fees, arising from infringement of patents or copyrights.
21. **ASSIGNMENT:** Any contract entered into pursuant to this solicitation **shall not** be assignable nor the duties thereunder delegable by either party without the written consent of the other party of the contract.
22. **DISCRIMINATION:** In order to comply with the provision of Act 954 of 1977, relating to unfair employment practices, the Contractor agrees that: (a) the Contractor **shall not** discriminate against any employee or applicant for employment because of race, sex, color, age, religion, handicap, or national origin; (b) in all solicitations or advertisements for employees, the Contractor **shall** state that all qualified applicants **shall** receive consideration without regard to race, color, sex, age, religion, handicap, or national origin; (c) the Contractor will furnish such relevant information and reports as requested by the Human Resources Commission for the purpose of determining compliance with the statute; (d) failure of the Contractor to comply with the statute, the rules and regulations promulgated thereunder and this nondiscrimination clause **shall** be deemed a breach of contract and it may be cancelled, terminated or suspended in whole or in part; (e) the Contractor **shall** include the provisions of above items (a) through (d) in every subcontract so that such provisions **shall** be binding upon such subcontractor or Contractor.
23. **CONTINGENT FEE:** The Contractor guarantees that he has not retained a person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by the Contractor for the purpose of securing business.
24. **ANTITRUST ASSIGNMENT:** As part of the consideration for entering into any contract pursuant to this solicitation, the Contractor named on the *Bid Signature Page* for this solicitation, acting herein by the authorized individual or its duly authorized agent, hereby assigns, sells and transfers to the State of Arkansas all rights, title and interest in and to all causes of action it may have under the antitrust laws of the United States or this State for price fixing, which causes of action have accrued prior to the date of this assignment and which relate solely to the particular goods or services purchased or produced by this State pursuant to this contract.
25. **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.