



**STATE OF ARKANSAS**  
**ARKANSAS DEPARTMENT OF HEALTH**  
4815 West Markham  
Little Rock, Arkansas 72205

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

SOLICITATION INFORMATION			
Bid Number:	DH-19-0021	Solicitation Issued:	04/30/2019
Description:	Tobacco Prevention and Cessation Program Media Campaign		
Agency:	Arkansas Department Of Health – Office of Health Communications		

SUBMISSION DEADLINE FOR RESPONSE			
Bid Opening Date:	05/17/2019	Bid Opening Time:	2:00pm Central Time
<p>Deliver proposal submissions for this Request for Proposal to the Arkansas Department of Health 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 proposals at the designated location on or before the bid opening date and time. Proposals 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 ADH.</p>			

DELIVERY OF RESPONSE DOCUMENTS	
Delivery Address:	<p>Arkansas Department of Health ATTN: Tim O'Brien 4815 West Markham Street, Slot 58 Little Rock, AR 72205-3867</p> <p>Delivery providers, USPS, UPS, and FedEx deliver mail to ADH's street address on a schedule determined by each individual provider. These providers will deliver to ADH based solely on the street address. <b>Prospective contractors assume all risk for timely, properly submitted deliveries.</b></p>
Proposal's Outer Packaging:	<p>Seal outer packaging and properly mark with the following information. If outer packaging of proposal submission is not properly marked, the package may be opened for 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>

ARKANSAS DEPARTMENT OF HEALTH CONTACT INFORMATION			
Issuing Officer:	Timothy J. O'Brien	Phone Number:	501-280-4573
Email Address:	<a href="mailto:Timothy.OBrien@arkansas.gov">Timothy.OBrien@arkansas.gov</a>	ADH Main Number	501-661-2000
ADH Website:	<a href="http://www.healthy.arkansas.gov/programs-services/topics/grant-and-bid-opportunities">http://www.healthy.arkansas.gov/programs-services/topics/grant-and-bid-opportunities</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 Arkansas Department of Health, Office of Health Communications (ADH OHC) issues this Request for Proposal (RFP) to obtain proposals and a contract for the development and implementation of a comprehensive statewide media campaign to promote the ADH OHC's Tobacco Prevention and Cessation Program (TPCP.) The TPCP media campaign will have an available annual budget of approximately \$2,000,000.00.

### **1.2 TYPE OF CONTRACT**

A. A term contract will be awarded to a single contractor.

B. The term of this contract **shall** be for one (1) year, subject to the State's right of cancellation. Upon mutual agreement by the vendor and agency, the contract may be renewed by ADH on a year-to-year basis, for up to six (6) additional one-year terms or portions thereof. In no instance will the aggregate contract term exceed seven years.

### **1.3 ISSUING AGENCY**

Arkansas Department of Health, as the issuing office, is the sole point of contact throughout this solicitation.

### **1.4 BID OPENING LOCATION**

Proposals will be opened at the following location:

**Arkansas Department of Health  
4815 West Markham Street,  
Room L117  
Little Rock, AR 72205-3867**

### **1.5 ACCEPTANCE OF REQUIREMENTS**

- A. A prospective contractor **must** unconditionally accept all requirements in the requirements section(s) of this RFP to be considered a responsive prospective contractor.
- B. A prospective contractor's proposal will be disqualified if a prospective contractor takes exceptions to any requirements in the requirements section(s) of this RFP.

### **1.6 DEFINITION OF TERMS**

- A. The Agency 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 (Section 1.9).
- 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 proposal in response to this solicitation.
- D. "Contractor" means a person who sells or contracts to sell commodities and/or services.
- E. The terms "Request for Proposal", "RFP," "Bid Solicitation," and "Solicitation" are used synonymously in this document.
- F. "Responsive proposal" means a proposal submitted in response to this solicitation that conforms in all material respects to this RFP.
- G. "Proposal Submission Requirement" means a task a contractor **must** complete when submitting a proposal 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 Arkansas Department of Health.

## 1.7 **RESPONSE DOCUMENTS**

### A. Original Technical Proposal Packet

1. Proposal Submission Requirements
  - a. Prospective contractor **shall** provide one (1) original hard copy of the Technical Proposal Packet including:
    - i. Original signed Proposal Signature Page
    - ii. Proposed Subcontractors Form
    - iii. Restriction of Boycott of Israel Certification
    - iv. SF-LLL Disclosure of Lobbying Activities
    - v. Response to the Information for Evaluation section included in the Technical Proposal Packet
    - vi. EO 98-04 Contract and Grant Disclosure and Certification form
  - b. Proposal response **must** be in the English language.
2. The following items should be submitted with the original Technical Proposal Packet:
  - a. Equal Employment Opportunity Policy
  - b. Signed Addenda, if applicable
  - c. Copy of Illegal Immigrant Certification <https://www.ark.org/dfa/immigrant/index.php/user/welcome>
  - d. Business Associate Agreement (AS-4001)
3. **DO NOT** include any other documents or ancillary information, such as a cover letter or promotional/marketing information.

### B. Additional Copies and Redacted Copy of the Technical Proposal Packet

In addition to the original Technical Proposal Packet, the following items should be submitted:

1. Additional Copies of the Technical Proposal Packet
  - a. Four (4) complete hard copies (marked "COPY") of the Technical Proposal Packet.
  - b. One (1) electronic copy of the Technical Proposal Packet, preferably on a flash drive. A CD will also be acceptable. Do not send electronic copies via email or fax.
  - 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 governs.
  - d. If ADH requests additional copies of the proposal, the copies **must** be delivered within the timeframe specified in the request.
  - e. Contractor **shall not** include any pricing in the hard copies or electronic copies of their Technical Proposal Packet.
2. One (1) redacted (marked "REDACTED") copy the original Technical Proposal Packet, preferably on a flash drive. A CD will also be acceptable. Do not send electronic copies via email or fax. (See Proprietary Information).

## 1.8 **ORGANIZATION OF RESPONSE DOCUMENTS**

- A. It is strongly recommended that prospective contractors adhere to the following format and suggestions when preparing their Technical Proposal response.
- B. The original Technical Proposal Packet and all copies should be arranged in the following order:
- Proposal Signature Page.
  - *All Agreement and Compliance Pages.*
  - Proposed Subcontractors Form.
  - Signed Addenda and Attachments, if applicable.
  - SF-LLL Disclosure of Lobbying Activities
  - EO 98-04 Contract and Grant Disclosure and Certification form
  - Equal Employment Opportunity Policy
  - Copy of Illegal Immigrant Certification <https://www.ark.org/dfa/immigrant/index.php/user/welcome>
  - Other documents and/or information as may be expressly required in this Solicitation. Label documents and/or information so as to reference the Solicitation's item number.

## 1.9 **CLARIFICATION OF BID SOLICITATION**

- A. Submit any questions requesting clarification of information contained in this bid solicitation in writing via email by 4:00 pm Central Time Tuesday May 7, 2019 to the ADH Issuing Officer 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 by ADH. The ADH's consolidated written response is anticipated to be posted to the ADH website by the close of business on May 9, 2019
- B. The prospective contractor should notify the ADH procurement official of any term, condition, etc., that precludes the prospective contractor from submitting a compliant, responsive proposal. Prospective contractors should note that it is their responsibility to seek resolution of all such issues, including those relating to the terms and conditions of the contract, prior to the submission of a proposal.
- C. Vendors may contact the ADH issuing officer with non-substantive questions at any time prior to the bid opening.
- D. An oral statement by ADH 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 ADH.
- E. Prospective Contractors entering into a contract with the State **shall** comply with all the terms and conditions contained herein.

## 1.10 **RESPONSE SIGNATURE PAGE**

- A. An official authorized to bind the prospective contractor(s) to a resultant contract **must** sign the Proposal Signature Page included in the *Technical Proposal Packet*.
- B. Prospective Contractor's signature on this page signifies Prospective Contractor's agreement to and compliance with all Requirements of this RFP, and that any exception that conflicts with a Requirement or Proposal Submission Requirement of this *Bid Solicitation* will cause the Prospective Contractor's proposal to be rejected.

**1.11 SUBCONTRACTORS**

- A. Prospective contractor should complete, sign and submit the Proposed Subcontractors Form included in the Technical Proposal Packet.
- B. Additional subcontractor information may be required or requested. **Do not** attach any additional information to the Proposed Subcontractors Form.
- C. The utilization of any proposed subcontractor is subject to approval by ADH.

**1.12 PRICING**

- A. Prospective contractor(s) **shall** describe, in their proposals, how to best utilize the annual budget of approximately \$2,000,000.

**NOTE:** The TPCP Media Campaign does not utilize an official bid price sheet. Any reference to an official bid price, sheet or pricing of any kind should be ignored

**1.13 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.

**1.14 INDEPENDENT PRICE DETERMINATION**

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

**1.15 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 *Technical Proposal 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 Arkansas Freedom of Information Act (FOIA) without further notice to the prospective contractor.
- J. If a redacted copy of the submission documents is not provided with prospective contractor's response packet, a copy of the non-redacted documents, with the exception of financial data (other than pricing), will be released in response to any request made under the Arkansas Freedom of Information Act (FOIA).
- K. If the State deems redacted information to be subject to FOIA, the 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 confidential information ordered by a court of competent jurisdiction pursuant to FOIA or other applicable law.

#### 1.16 **CAUTION TO PROSPECTIVE CONTRACTORS**

- A. Prior to any contract award, address all communication concerning this bid solicitation through the ADH issuing officer.
- 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 proposal response to ADH.
- 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 proposals.

#### 1.17 **REQUIREMENT OF ADDENDUM**

- A. Only an addendum written and authorized by ADH 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 ADH website at <http://www.healthy.arkansas.gov/programs-services/topics/grant-and-bid-opportunities> and the OSP website <http://www.arkansas.gov/dfa/procurement/bids/index.php> for any and all addenda up to bid opening.

#### 1.18 **AWARD PROCESS**

- A. Successful Contractor Selection  
The grand total score for each prospective contractor, which is the post presentation technical score will be used to determine the ranking of proposals. The State may move forward to negotiations with those responsible prospective contractors 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, negotiations may be conducted with the highest ranking prospective contractors. 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 highest ranking 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 ADH website at <http://www.healthy.arkansas.gov/programs-services/topics/grant-and-bid-opportunities> and 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 day posting period.
3. ADH 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 ADH and 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 ADH Procurement Official will be responsible for the solicitation and award of any resulting contract.

**1.19 PRESENTATIONS**

- A. The Prospective Contractors with the top three (3) Total Technical Scores after the completion of the technical proposal evaluation may be contacted by ADH to schedule a presentation and, if requested, **shall** deliver a presentation in person at the Arkansas Department of Health. The option for requiring presentations is at the discretion of the ADH OHC.
1. Qualifying Prospective Contractors will receive official notification from the ADH regarding specific scheduling and presentation requirement details approximately two (2) weeks prior to the proposed presentation date.
  2. The Account Manager to be assigned to the ADH TPCP contract **shall** be present for the presentation.
  3. All other key personnel to be assigned to the ADH TPCP contract should also be present for the presentation.
- B. Qualifying Prospective Contractors **shall** be responsible for providing any and all audio/visual or other equipment necessary for the presentation.
- C. Qualifying Prospective Contractors **shall** be responsible for all expenses associated with the presentation, including travel and preparation expenses.
- D. Qualifying Prospective Contractors **shall not** discuss or include pricing in the presentation.
- E. Presentations will not consist of a question and answer session.

**1.20 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 Proposal Signature Page.

**1.21 EQUAL EMPLOYMENT OPPORTUNITY POLICY**

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

**1.22 PROHIBITION OF EMPLOYMENT OF ILLEGAL IMMIGRANTS**

- A. Pursuant to Arkansas Code Annotated § 19-11-105, Contractor(s) providing services **shall** certify 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.

**1.23 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 signing and submitting a response to this bid solicitation, a prospective contractor agrees and certifies that they do not, and will not for the duration of the contract, boycott Israel.

**1.24 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". Proposals submitted by prospective contractors determined to be non-responsible will be disqualified.

**1.25 PUBLICITY**

- A. Do not discuss the solicitation nor your proposal 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 proposal to be disqualified.

**1.26 PRIVACY & SECURITY REQUIREMENTS**

- A. The Contractor **shall**:
  - 1. At all times comply with the requirements of the Arkansas Personal Information Protection Act and any other State/Federal laws, regulations, rules, and policies regarding the privacy and security of information.
  - 2. Provide for physical and electronic security of all Protected Health Information generated or acquired by the contractor in implementation of the contract, in compliance with Health Insurance Portability and Accountability (HIPAA) and the Health Information Technology for Economic and Clinical Health (HITECH) Act, and consistent with the Business Associate Agreement executed between the parties.
- B. Prior to contract award, the contractor **must** sign a Business Associate Agreement.

**1.27 RESERVATION**

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

**1.28 VENDOR PERFORMANCE REPORTS (VPR)**

Pursuant to Arkansas Code Annotated § 19-11-268 and § 19-11-1013, ADH will report vendor performance for contracts with a total projected cost of \$25,000 or more, excluding property leases and construction projects.

**1.29 DEFINITION OF ACRONYMS**

ACRONYM	DEFINITION
ADH	Arkansas Department of Health
MSA	Master Settlement Agreement
CDC	Centers for Disease Control & Prevention
OHC	Office of Health Communications
TPCP	Tobacco Prevention and Cessation Program

**SECTION 2 –REQUIREMENTS**

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

**2.1 INTRODUCTION & BACKGROUND**

The Arkansas Department of Health, Office of Health Communications issues this Request for Proposal (RFP) to obtain proposals and a contract with a vendor capable of partnering with the ADH OHC for the development and implementation of a comprehensive statewide media campaign with an approximate budget of \$2 million to promote the ADH OHC’s Tobacco Prevention and Cessation Program (TPCP.)

In 1993, the Arkansas Tobacco Prevention & Cessation Program (TPCP) was established through a federal grant from the Department of Health & Human Services, Centers for Disease Control and Prevention (CDC). In July 2001 the program was drastically enhanced with the receipt of funding from the Master Settlement Agreement (MSA). The Arkansas Department of Health receives 31.6% of the annual payment into the Tobacco Settlement Program fund. Fifteen (15) percent of the 31.6% is allocated by law to serve tobacco prevention and cessation activities in minority communities.

The Arkansas Department of Health Tobacco Prevention and Cessation Program works to improve the health of Arkansans by promoting smoke-free environments and tobacco-free lifestyles. ADH TPCP works with communities, schools and organizations across the state to implement and carry out effective, culturally appropriate strategies and use evidence-based interventions to reduce deaths and health problems due to tobacco use and secondhand smoke.

The main goals of the ADH TPCP program include:

- Prevent the initiation of smoking and other tobacco use;
- Eliminate exposure to secondhand smoke;
- Help tobacco-users who want to quit; and
- Identify and eliminate tobacco-related health disparities among populations by addressing health equity in each goal area.

In the fight against tobacco, TPCP targets a broad audience which includes: those who smoke cigarettes; users of smokeless tobacco; women who smoke while pregnant, tobacco users struggling with mental illnesses and/or substance abuse addiction, and youth.

TPCP's successful outcomes include passage of legislation to make workplaces, including hospitals and public funded college campuses, smoke-free; legislation to protect children restrained in child passenger safety seats from secondhand smoke; reduced smoking rates among adults and youth; strengthened enforcement regulations, and a 2006 increase in the tobacco tax.

For more information on TPCP visit:

<https://www.healthy.arkansas.gov/programs-services/topics/tobacco-prevention-and-cessation>

## **2.2 PRIME VENDOR QUALIFICATIONS**

- A. The prime vendor shall be authorized to do business in the State of Arkansas prior to award.
- B. The prime vendor must certify in written format (Attachment A) that it has not received in the past five (5) years funding from nor have an affiliation (membership, ownership, contractual or other) with any organization that has any interest in the production, manufacture, marketing, distribution, sale or continued use of tobacco, including subsidiaries, foundations or other related parties of such organizations. This restriction shall apply throughout the entire term of the contract.

## **2.3 VENDOR QUALIFICATIONS**

- A. The qualifications in this section **shall** be met through the vendor's own experience or through the experience of the vendor's proposed subcontractors.
- B. The vendor **shall** have a minimum of three (3) years' experience with advertising in the public health industry or a health-related field. Experience should be with projects of a similar size and scope.
- C. The vendor **shall** have a fully integrated creative development department.
- D. The vendor **shall** have clear lines of communication and responsibility within its organization.
- E. The vendor **shall** have the ability to lead and/or work in coordination with any subcontracts to execute marketing strategies.
- F. The vendor **shall** have a minimum of three (3) years' experience with CMS, Google Analytics, and Google Tag Manager.
- G. The vendor **shall** have extensive knowledge and experience with industry's best practices in social marketing campaign management.
- H. The vendor **shall** have in-house media buying capability with buying experience in all of Arkansas' media markets.

## **2.4 GENERAL REQUIREMENTS**

- A. Cooperate fully with ADH OHC and other media/health communication partners as appropriate, during the course of the media contract. The contractor will submit campaign strategy and plan components to the ADH OHC for approval.
- B. The vendor **shall** initiate research, development, implementation and evaluation of social marketing campaigns on various tobacco related issues as designated by ADH OHC.
- C. The vendor **shall** adhere to best practices and utilize research to ensure that all campaign concepts are evidence based or theory-based.
- D. The vendor **shall** provide key insights, segmentation and suggestions for media placement for desired target audiences.
- E. The vendor **shall** provide the six services listed below:
  - 1. Lead and Creative
  - 2. Media Planning and Buying
  - 3. Market Research
  - 4. Marketing Strategy Development and Implementation
  - 5. Campaign Evaluation
  - 6. Public Relations Assistance

- F. The prime vendor **shall** provide Lead and Creative. As Lead, the vendor **shall** oversee all aspects of the contract, and it is highly preferable that the Lead handles the majority of all remaining services. However, the vendor may choose to subcontract one or more, or a portion thereof, of the above services numbered 2 through 6.
- G. Meet with ADH staff, or other program designee on a regular basis to ensure a well- coordinated flow of work.
- H. Utilize a digital tool, like Microsoft SharePoint, for effective project management and file sharing.
- I. Work with assigned ADH staff to identify and implement efficiencies and integration in as many places as possible between the programs' messages.

## **2.5 CREATIVE SERVICES**

- A. Create, test, produce, place and manage media and social marketing campaigns using a combination of social, digital, electronic, print, grassroots and earned channels. This will include media placement, purchase, production, pre-testing, placement and evaluation of the placed media.
- B. Partner with the ADH OHC staff in the selection of pre-produced media, the development of new media, testing, production, placement and evaluation of media components.
- C. Develop, coordinate and execute all earned media activities including public service announcements, feature stories, special news releases, special events, news conferences, media interviews, talking points and media kits.
- D. Research and identify effective ways to reach the target audience and make recommendations for the most economical use of the funds.
- E. Conduct creative testing of any new advertising materials with focus groups or through surveys or other approved methodology, based on ADH recommendations. Vendor must provide examples of methods, with adequate rationales as to how or why to test proposed or new advertising materials.

## **2.6. MEDIA PLANNING AND BUYING**

- A. Provide optimal media coverage to ensure the budget is maximized. All media should be placed according to a schedule approved by the ADH OHC designee using approved media.
  - 1. Work collaboratively with ADH OHC and all other ADH media contractors in order to maximize campaign impact and ensure there is no duplication.
- B. Place any campaign ads through a combination of both paid placement ads and public service announcements (earned media) of equal value, maximizing the exposure to target audiences and the value of media purchased under the allocated budget.
- C. Demonstrate with a sample quarterly buy plan, how they will maximize use of the most effective media outlets, which are determined to reach the target populations. The respondent must include at least three (3) current, preferably health-related case studies which exemplify work similar to that described in this RFP. Each study should identify the client and years of service, contain a statement about the scope of work, and provide insight into how the campaign was developed and implemented. Case studies should also detail how surveys (or other performance indicators) were used to measure health behavior change issues or the success of each program.
- D. Provide ADH designee a quarterly media buy for approval a minimum of two (2) weeks prior to scheduled release of the ads. Subsequently, the ADH designee must approve any changes to the provided schedule. (A media buy plan summary is defined as a plan that includes a breakout of placements for the target audience and each campaign theme to include: budget, markets, specific ads for which each theme will run and an estimate of reach/frequency/effective reach/gross ratings points, and daily time frame for TV/radio spots.)

## **2.7 REPORTING**

- A. The vendor **shall** submit all reports in a format and within the timeframes approved by the ADH OHC.
- B. Provide a quarterly and annual written assessment of the full campaign, reporting on the impact including a detailed post-buy analysis.

- C. Provide detailed programmatic and financial reports including a summary of hourly rates as well as typical markup rates for third party costs at inception of contract and on a yearly basis. The hourly rates should be provided as part of this proposal.
- D. Provide measureable results and outcomes on campaigns through appropriate evaluation methods as approved by ADH OHC. The vendor shall provide a plan for conducting and implementing campaign evaluation strategies as a measure of success.

## **2.8 STAFFING**

- A. The vendor **shall** have an office with a minimum of one (1), 100% dedicated Account Executive and dedicated day-to-day account staff in the greater Little Rock metropolitan area within 30 days of contract start date and throughout the contract term.
  - 1. The dedicated Account Executive **shall** be the point of contact for the ADH in all matters related to the services under the resulting contract and **shall** be dedicated to the ADH OHC only.
- B. Upon request by the ADH OHC, the vendor **shall** replace any staff member assigned to the State's account. The vendor **shall** provide the ADH OHC with a replacement having equal or higher qualifications and expertise than the staff member being replaced. The vendor **shall** provide the replacement in such a way that does not disrupt the daily operations of the ADH OHC.
- C. As requested by the ADH OHC, the Account Executive and/or the dedicated staff assigned to the ADH OHC account **shall** attend planning and follow-up meetings at the ADH OHC offices in Little Rock, Arkansas. Scheduled times for meetings **shall** be at the ADH OHC's discretion, and reasonable notice will be given.

## **PERFORMANCE STANDARDS**

- A. State law requires that all contracts for services include performance standards for measuring the overall quality of services provided that a contractor **must** meet in order to avoid assessment of damages.
- B. The State may be open to negotiations of performance standards prior to contract award, prior to the commencement of services, or at times throughout the contract duration. Table Below: Performance Standards identifies expected deliverables, performance measures, or outcomes; and defines the acceptable standards.
- C. The State has the right to modify, add, or delete performance standards throughout the term of the contract, should the State determine it is in its best interest to do so. Any changes or additions to performance standards will be made in good faith following acceptable industry standards, and may include the input of the contractor so as to establish standards that are reasonably achievable.
- D. All changes made to the performance standards will become an official part of the contract.
- E. Performance standards will continue throughout the aggregate term of the contract.
- F. Failure to meet the minimum performance standards as specified may result in the assessment of damages.
- G. In the event a performance standard is not met, the contractor will have the opportunity to defend or respond to the insufficiency. The State has the right to waive damages if it determines there were extenuating factors beyond the control of the contractor that hindered the performance of services. In these instances, the State has final determination of the performance acceptability.

H. Should any compensation be owed to the State agency due to the assessment of damages, contractor **shall** follow the direction of the State agency regarding the required compensation process.

PERFORMANCE STANDARDS		
Service Criteria	Acceptable Performance	Damages for Insufficient Performance
Dedicated Account Management	Provide a minimum of one (1) Account Executive available daily to manage the ADH OHC account	\$50 per day for each day the assigned dedicated staff member fails to respond to the ADH OHC
Creative Development Timelines	Creative is developed within the timelines approved by the ADH OHC	\$500 per 24 hours when creative development exceeds the timelines established and/or approved by the ADH OHC
Media Buys	Media buys are conducted within the timelines established by the ADH OHC	\$500 per occurrence for each missed deadline for a media buy

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

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

#### **3.1 TECHNICAL PROPOSAL SCORE**

- A. ADH will review each Technical Proposal Packet to verify submission requirements have been met. Technical Proposals Packets that do not meet submission requirements will be disqualified and will not be evaluated.
- B. An agency-appointed evaluation committee will evaluate and score qualifying proposals. Evaluation will be based on the prospective contractor’s response to the Information for Evaluation section included in the Technical Proposal Packet.
  1. Members of the evaluation committee will individually review and evaluate proposals and complete an individual score worksheet for each proposal. Individual scoring for each Evaluation Criteria will be based on the following scoring description.

Quality Rating	Quality of Response	Description	Confidence in Proposed Approach
5	Excellent	When considered in relation to the RFP evaluation factor, the proposal squarely meets the requirement and exhibits outstanding knowledge, creativity, ability or other exceptional characteristics. Extremely good.	Very High
4	Good	When considered in relation to the RFP evaluation factor, the proposal squarely meets the requirement and is better than merely acceptable.	High
3	Acceptable	When considered in relation to the RFP evaluation factor, the proposal is of acceptable quality.	Moderate
2	Marginal	When considered in relation to the RFP evaluation factor, the proposal’s acceptability is doubtful.	Low

1	Poor	When considered in relation to the RFP evaluation factor, the proposal is inferior.	Very Low
0	Unacceptable	When considered in relation to the RFP evaluation factor, the proposal clearly does not meet the requirement, either because it was left blank or because the proposal is unresponsive.	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 committee, 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.

Information for Evaluation Sub-Sections	Maximum Raw Points Possible	Sub-Section's Weighted Percentage	* Maximum Weighted Score Possible
E.1 Company Staffing Capabilities & Experience	25	25%	250
E.2 Reporting	25	25%	250
E.3 Creative	25	25%	250
E.4 Media Planning & Buying	25	25%	250
<b>Total Technical Score</b>	<b>100</b>	<b>100%</b>	<b>1000</b>

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

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

$(A/B) * C = D$

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

E. The proposal's weighted scores for sub-sections will be added to determine the Total Technical Score for the proposal.

**3.2 PRESENTATION SCORE**

- A. Presentation may be required at the discretion of the ADH OHC. The Prospective Contractors with the top three (3) Total Technical Scores after the completion of the technical proposal evaluation may be contacted to schedule a Presentation.
- B. The issuing officer 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-Presentation" score sheets.
- C. 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-Presentation Consensus Score Sheet based on the information in the demonstration.
- D. The final individual scores of the evaluators on the Post-Presentation Consensus Score Sheets will be averaged to determine the final Technical score for each proposal.

**3.3 FINAL SCORE**

The Final Score will be determined by the averaging of the Post-Presentation Consensus Score Sheets. The prospective contractor's proposal with the highest averaged Post-Presentation Consensus Score Sheet will be selected as the apparent successful Contractor (See Award Process).

	Maximum Points Possible
<b>Post-Presentation Averaged Consensus Maximum Possible Score</b>	<b>1,000</b>

**3.4 PROSPECTIVE CONTRACTOR ACCEPTANCE OF EVALUATION TECHNIQUE**

- A. Prospective contractor **must** agree to all evaluation processes and procedures as defined in this solicitation.
- B. The submission of a Technical Proposal Packet signifies the prospective contractor understands and agrees that subjective judgments will be made during the evaluation and scoring of the Technical Proposals.

**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 Department of Health  
Attn: Office of Health Communications  
4815 West Markham Street, Slot 65  
Little Rock, AR 72205
- B. Payment will be made in accordance with applicable State of Arkansas accounting procedures upon acceptance goods and services by ADH.
- 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. Prospective contractors may register on-line at <https://www.ark.org/contractor/index.html>.

**4.2 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.

**4.3 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. 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.

**4.4 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. Maintain all pertinent protected health information, as defined by the Privacy Rule promulgated pursuant to HIPAA, available for six (6) years or as otherwise required by HIPAA.

**4.5 PRICE ESCALATION**

- A. Price increases/escalations are not applicable to this RFP and any resulting contract. Successful vendor must not exceed the annual budgeted amount. ADH OHC will provide the vendor with the available budget annually.

**4.6 CONFIDENTIALITY**

- A. The contractor, contractor's subsidiaries, and contractor's employees **shall** be bound to all laws and requirements set forth in this 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 solicitation may contain additional confidentiality requirements.

D. "Section 20-13-819 (c): "All information shall be treated in a manner consistent with all state and federal privacy requirements, including without limitation, the federal Health and Portability and Accountability Act of 1996 privacy rule, 45 C.F.R. Section 164.512(i)."

#### 4.7 **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.

#### 4.8 **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 thirty (30) days prior to the date of cancellation.

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

#### 4.9 **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 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 Proposal Packets **must** be submitted to the Arkansas Department of Health on or before the date and time specified for bid opening. The proposal packet **must** contain all documents, information, and attachments as specifically and expressly required in the bid solicitation. The bid **must** be typed or printed in ink. The signature **must** be in ink. Unsigned bids **shall** be disqualified. The person signing the bid should show title or authority to bind his firm in a contract. Multiple proposals **must** be placed in separate packages and should be completely and properly identified. Late bids **shall not** be considered under any circumstances.
4. **PRICES:** Bid unit price F.O.B. destination. In case of errors in extension, unit prices **shall** govern. Prices **shall** be firm and **shall not** be subject to escalation unless otherwise specified in the bid solicitation. Unless otherwise specified, the bid **must** be firm for acceptance for thirty days from the bid opening date. "Discount from list" bids are not acceptable unless requested in the bid solicitation.
5. **QUANTITIES:** Quantities stated in a bid solicitation for term contracts are estimates only, and are not guaranteed. Contractor **must** bid unit price on the estimated quantity and unit of measure specified. The State may order more or less than the estimated quantity on term contracts. Quantities stated on firm contracts are actual requirements of the ordering agency.
6. **BRAND NAME REFERENCES:** Unless otherwise specified in the bid solicitation, any catalog brand name or manufacturer reference used in the bid solicitation is descriptive only, not restrictive, and used to indicate the type and quality desired. Bids on brands of like nature and quality will be considered. If bidding on other than referenced specifications, the bid **must** show the manufacturer, brand or trade name, and other descriptions, and should include the manufacturer's illustrations and complete descriptions of the product offered. The State **shall** have the right to determine whether a substitute offered is equivalent to and meets the standards of the item specified, and the State may require the contractor to supply additional descriptive material. The

Contractor **shall** guarantee that the product offered will meet or exceed specifications identified in this bid solicitation. Contractors not bidding an alternate to the referenced brand name or manufacturer **shall** be required to furnish the product according to brand names, numbers, etc., as specified in the solicitation.

7. **GUARANTY:** All items bid **shall** be newly manufactured, in first-class condition, latest model and design, including, where applicable, containers suitable for shipment and storage, unless otherwise indicated in the bid solicitation. The contractor hereby guarantees that everything furnished hereunder **shall** be free from defects in design, workmanship and material, that if sold by drawing, sample or specification, it **shall** conform thereto and **shall** serve the function for which it was furnished. The contractor **shall** further guarantee that if the items furnished hereunder are to be installed by the contractor, such items **shall** function properly when installed. The contractor **shall** guarantee that all applicable laws have been complied with relating to construction, packaging, labeling and registration. The contractor's obligations under this paragraph **shall** survive for a period of one year from the date of delivery, unless otherwise specified herein.
8. **SAMPLES:** Samples or demonstrators, when requested, **must** be furnished free of expense to the State. Each sample should be marked with the contractor's name and address, bid or contract number and item number. If requested, samples that are not destroyed during reasonable examination will be returned at contractor's expense. After reasonable examination, all demonstrators will be returned at contractor's expense.
9. **TESTING PROCEDURES FOR SPECIFICATIONS COMPLIANCE:** Tests may be performed on samples or demonstrators submitted with the bid or on samples taken from the regular shipment. In the event products tested fail to meet or exceed all conditions and requirements of the specifications, the cost of the sample used and the reasonable cost of the testing **shall** be borne by the contractor.
10. **AMENDMENTS:** Contractor's proposals cannot be altered or amended after the bid opening except as permitted by regulation.
11. **TAXES AND TRADE DISCOUNTS:** Do not include State or local sales taxes in the bid price. Trade discounts should be deducted from the unit price and the net price should be shown in the bid.
12. **AWARD:** Term Contract: A contract award will be issued to the successful contractor. It results in a binding obligation without further action by either party. This award does not authorize shipment. Shipment is authorized by the receipt of a purchase order from the ordering agency. Firm Contract: A written State purchase order authorizing shipment will be furnished to the successful contractor.
13. **DELIVERY ON FIRM CONTRACTS:** This solicitation shows the number of days to place a commodity in the ordering agency's designated location under normal conditions. If the contractor cannot meet the stated delivery, alternate delivery schedules may become a factor in an award. The Arkansas Department of Health **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 Arkansas Department of Health. 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 Arkansas Department of Health 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 Arkansas Department of Health 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 ADH. Contractor **shall** properly identify items being returned.
20. **PATENTS OR COPYRIGHTS:** The contractor **must** agree to indemnify and hold the State harmless from all claims, damages and costs including attorneys' fees, arising from infringement of patents or copyrights.
21. **ASSIGNMENT:** Any contract entered into pursuant to this solicitation **shall not** be assignable nor the duties thereunder delegable by either party without the written consent of the other party of the contract.
22. **CLAIMS:** Any claims the contractor may assert under this Agreement **shall** be brought before the Arkansas State Claims Commission ("Commission"), which **shall** have exclusive jurisdiction over any and all claims that the contractor may have arising

from or in connection with this Agreement. Unless the contractor's obligations to perform are terminated by the State, the contractor **shall** continue to provide the services under this agreement even in the event that the contractor has a claim pending before the Commission.

- 23. CANCELLATION:** In the event, the State no longer needs the commodities or services specified for any reason, (e.g., program changes; changes in laws, rules or regulations; relocation of offices; lack of appropriated funding, etc.), the State **shall** have the right to cancel the contract or purchase order by giving the contractor written notice of such cancellation thirty (30) days prior to the date of cancellation.

Any delivered but unpaid for goods will be returned in normal condition to the Contractor by the State. If the State is unable to return the commodities in normal condition and there are no funds legally available to pay for the goods, the contractor may file a claim with the Arkansas Claims Commission under the laws and regulations governing the filing of such claims. If upon cancellation the contractor has provided services which the State has accepted, the contractor may file a claim. **NOTHING IN THIS CONTRACT SHALL BE DEEMED A WAIVER OF THE STATE'S RIGHT TO SOVEREIGN IMMUNITY.**

- 24. DISCRIMINATION:** In order to comply with the provision of Act 954 of 1977, relating to unfair employment practices, the Contractor agrees that: (a) the contractor **shall not** discriminate against any employee or applicant for employment because of race, sex, color, age, religion, handicap, or national origin; (b) in all solicitations or advertisements for employees, the Contractor **shall** state that all qualified applicants **shall** receive consideration without regard to race, color, sex, age, religion, handicap, or national origin; (c) the Contractor will furnish such relevant information and reports as requested by the Human Resources Commission for the purpose of determining compliance with the statute; (d) failure of the contractor to comply with the statute, the rules and regulations promulgated thereunder and this nondiscrimination clause **shall** be deemed a breach of contract and it may be cancelled, terminated or suspended in whole or in part; (e) the contractor **shall** include the provisions of above items (a) through (d) in every subcontract so that such provisions **shall** be binding upon such subcontractor or Contractor.
- 25. ETHICAL STANDARDS:** Pursuant to Arkansas Code Annotated §19-11-708(a-c), it **shall** be breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a state contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by the contractor for the purpose of securing business.
- 26. ANTITRUST ASSIGNMENT:** As part of the consideration for entering into any contract pursuant to this solicitation, the contractor named on the Proposal Signature Page for this solicitation, acting herein by the authorized individual or its duly authorized agent, hereby assigns, sells and transfers to the State of Arkansas all rights, title and interest in and to all causes of action it may have under the antitrust laws of the United States or this State for price fixing, which causes of action have accrued prior to the date of this assignment and which relate solely to the particular goods or services purchased or produced by this State pursuant to this contract.
- 27. DISCLOSURE:** Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that order, **shall** be a material breach of the terms of this contract. Any contractor, whether an individual or entity, who fails to make the required disclosure or who violates any rule, regulation, or policy **shall** be subject to all legal remedies available to the agency.