



**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-19-0057	Solicitation Issued:	05/03/2019
Description:	Drug Testing Service, Veterinary		
Agency:	DFA-Division of Racing Commission		

SUBMISSION DEADLINE FOR RESPONSE			
Bid Opening Date:	May 16, 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:	Judy Shirley, CPPB	Buyer's Direct Phone Number:	501-324-9314
Email Address:	<a href="mailto:Judy.shirley@dfa.arkansas.gov">Judy.shirley@dfa.arkansas.gov</a>	OSP's Main Number:	501-324-9316
OSP Website:	<a href="http://www.dfa.arkansas.gov/offices/procurement/Pages/default.aspx">http://www.dfa.arkansas.gov/offices/procurement/Pages/default.aspx</a>		

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

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

### **1.1 PURPOSE**

This Invitation for Bid (IFB) is issued by the Office of State Procurement (OSP) for the Department of Finance & Administration (DFA)–Racing Commission to obtain the services of a Contractor who will provide drug testing services/supplies on the animals at the Oaklawn Race Track for Horses and Southland Greyhound Park for Canines. DFA-Racing Commission oversees each park and both facilities are located in Arkansas.

### **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 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 in the Requirements Section(s) 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.
- J. "AGS Drug Testing Protocol" means American Graded Stakes (Drug Testing) Protocol.
- K. "Available" means able to be used or obtained; at someone's disposal.
- L. "Chain of Custody" means the procedures beginning at the time of collection to account for all handling and storage of each specimen. A document or paper trail showing the seizure, custody, control, transfer, analysis, and disposition of physical and electronic evidence.
- M. "The Committee" means The Committee that is appointed by The Jockey Club, which determines the criteria for graded stakes races in the U.S. The Jockey Club is an independent organization not affiliated or controlled by any State government.
- N. "Confirmatory analysis" means a secondary laboratory procedure used to analyze a positive test result from a screening test. Gas Chromatography/Mass Spectrometry (GC/MS) is the only authorized confirmation test.
- O. "ELISA" means Enzyme-Linked Immunosorbent Assay test that uses antibodies and color change to identify a substance. A popular format of "wet-lab" type analytic biochemistry assay that uses a solid-phase Enzyme Immunoassay (EIA) to detect the presence of a substance, usually an antigen, in a liquid sample or wet sample.
- P. "GC/MS" means Gas Chromatography/Mass Spectrometry. An analytical method that combines the features of gas chromatography and mass spectrometry to identify different substances within a test sample.
- Q. "HPLC" means High-Performance Liquid Chromatography. A technique in analytical chemistry used to separate, identify, and quantify each component in a mixture.
- R. "Immunoassay Tests" are chemical tests used to detect or quantify a specific substance, the analyte, in a blood or body fluid sample, using an immunological reaction. Immunoassays are highly sensitive and specific. Immunoassay test measures the presence or concentration of a macromolecule or a small molecule in a solution through the use of an antibody or an antigen.
- S. "LC/MS/MS" means Liquid Chromatography with Tandem Mass Spectrometry. An analytical chromatographic technique that is useful for separating ions or molecules that are dissolved in a solvent.
- T. "LC-DAD" means Liquid Chromatography/Diode Array Detection.
- U. "Medical Review Officer (MRO)" means a licensed physician who is qualified to interpret and evaluate test results and other relevant medical information.
- V. "NSAIDs" means Non-Steroidal Anti-Inflammatory Drugs. The NSAIDs listing of drugs is an industry standard listing.
- V. "Protect" means to restrict access to or use of (data or a memory location).
- W. "Split Sample" or "Referee Sample" means the urine specimen is divided into two containers. The purpose of the split sample is to allow the owner or trainer of the Equine/Canine the option to have a non-permitted substance that tested positive, retested at a different certified laboratory.
- X. "TLC" means Thin-Layer Chromatography. A chromatography technique used to separate non-volatile mixtures. Compounds are separated on a thin layer of adsorbent material, typically a coating of silica gel on a glass plate or plastic sheet.

## 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.
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) copy of the *Official Bid Price Sheet*,
  - b. EO 98-04 Disclosure Form. (See *Standard Terms and Conditions, #27. Disclosure*.)
  - c. Copy of Prospective Contractor's *Equal Opportunity Policy*. (See *Equal Opportunity Policy*.)
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. 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.
- B. Prospective Contractors may contact the OSP buyer with non-substantive questions at any time prior to the bid opening.
- C. 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.
- D. Prospective Contractors entering into a contract with the State **shall** comply with all the terms and conditions contained herein.

## 1.9 **SUBCONTRACTORS**

Subcontractors will not be considered for this solicitation.

## 1.10 **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.
- B. To allow time to review bids, prices **must** be valid for 90 days following the bid opening.
- C. DO NOT submit any ancillary information not related to actual pricing on or with the Bid Price Sheet.

**1.11 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.

**1.12 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.

**1.13 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 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 *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 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 Prospective Contractor's confidential information ordered by a court of competent jurisdiction pursuant to FOIA or other applicable law.

**1.14 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.

**1.15 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.

**1.16 AWARD PROCESS****A. Successful Contractor Selection**

1. Award will be made to the, responsible Prospective Contractor with the lowest estimated grand total on an all or none basis.
2. Consideration will be given only to those who bid all line items.

**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-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.

**1.17 INTERGOVERNMENTAL/COOPERATIVE USE OF COMPETITIVELY BID PROPOSALS AND CONTRACTS**

In accordance with Arkansas Code Annotated § 19-11-249, any State public procurement unit may participate in any contract resulting from this solicitation with a participating addendum signed by the Contractor and approved by the chief procurement officer of the procurement agency issuing this solicitation.

**1.18 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*.

**1.19 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.

**1.20 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.

**1.21 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.

**1.22 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.

**1.23 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.

**1.24 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.

**1.25 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) for the Department of Finance & Administration (DFA) – Racing Commission to obtain the services of a Contractor who will provide drug testing services/supplies on the animals at the Oaklawn Race Track for Horses and Southland Greyhound Park for Canines. DFA-Racing Commission oversees each park and both facilities are located in Arkansas.

Oaklawn Park Race Track (Horses) is located at: 2705 Central Avenue, Hot Springs, AR 71901. The current racing schedule is: January 2019 through May 2019. DFA-Racing Commission reserves the right to amend the racing schedule if it is in the best interest of the State.

Southland Greyhound Park (Canines), is located at: 1550 Ingram Blvd., West Memphis, AR 72301. The current racing schedule is: July 1, 2019 through June 30, 2020. DFA-Racing Commission reserves the right to amend the racing schedule if it is in the best interest of the State.

Specimen collection for equine and canine will be gathered by the assigned veterinarian at each park location.

### **2.2 BACKGROUND**

Drug testing programs are implemented to enforce drug and medication rules. Programs consist of a two-part testing process, which utilizes urine as the primary sample type. All samples are tested in the preliminary screening process and any samples with suspicious results require a second round of confirmatory testing.

All race animals participating in racing in Arkansas, at the two (2) locations mentioned above, are subject to drug testing to ensure the integrity of the race results.

A positive drug test, or an overage of a controlled therapeutic medication, may result in a penalty being assessed against the person(s) responsible for the animal(s), including a fine, suspension, and/or loss of purse.

The biological specimen screening process, as defined in this IFB, detects the presence of performance altering and therapeutic drugs both in equine and canine animals. All test results are documented and remain the property of DFA-Racing Commission.

### **2.3 PROSPECTIVE CONTRACTOR QUALIFICATIONS**

- A. The Prospective Contractor **shall** have a minimum of three (3) years' experience providing laboratory service analysis and drug testing supplies for a State facility of similar nature in the Continental United States.
- B. OSP reserves the right to request references or proof of experience, as indicated above, prior to Anticipation to Award.
- C. The Prospective Contractor **shall** submit the following copies of current Accreditations/Certifications. The copies should be included with the bid submission, or when requested by DFA/OSP, in order to be considered:
  - ACLASS – ISO/IED Guide 17025
  - RMTTC Lab Accreditation Requirements and Operating Standards
  - International Laboratories Accreditations Cooperation – (ILAC)
  - Thoroughbred Owners and Breeders Association (TOBA)
  - American Association for Laboratory Accreditation
  - American Graded Stakes Committee (AGS Drug Testing Protocol)
  - United States Food and Drug Administration (FDA) Certified
  - United States Environmental Protection Agency (EPA) ICR Laboratory Approval
  - Intrastate Drug Test Research Program
- D. Compliance with the American Graded Stakes (AGS) Drug Testing Protocol is a condition of a race maintaining its eligibility for grading. The grade designated by the Committee may be revoked at any time, before or after a

given race, if the Committee, in its sole discretion, determines that the AGS Drug Testing Protocol was not followed. See "The Committee" defined in section 1.6 (M)

## 2.4 **GENERAL CONTRACTOR REQUIREMENTS**

- A. Contractor **shall** maintain in full force and effect, all required:
1. Licenses
  2. Permits
  3. Accreditations/Certifications necessary to perform this contract
- B. Contractor **shall** test for drugs as indicated on the *Official Price Sheet*.
- C. When requested by the DFA-Racing Commission, Contractor **shall** provide drug testing collection kits for both racing locations. (See Section 2.9 & 2.10 for testing kits required)
- D. All cost for collection kit supplies **must** be included in the cost of the tests required by DFA-Racing Commission.
- E. Contractor **shall** provide all expendable drug testing supplies for onsite collection and transportation of urine and blood specimens.
- F. Contractor **shall** use universal precautions for collecting and handling all specimens according to: [https://www.osha.gov/SLTC/bloodborne pathogens/index.html#revised\\_standard](https://www.osha.gov/SLTC/bloodborne pathogens/index.html#revised_standard)
- G. Contractor **shall** notify DFA-Racing Commission of any abnormal or adulterated results, by phone and/or email, within twenty-four (24) hours of receipt of the specimen, prior to the specimen samples being rejected. DFA-Racing Commission veterinarian will ensure laboratory quality control procedures are followed.
- H. Contractor **shall** protect the confidentiality of:
1. All testing results
  2. Statistical, personnel, and/or technical data supplied by DFA-Racing Commission
- I. Any use, sale, or offering of testing data, in any form, by the Contractor, or any individual or entity in the Contractor's charge or employ **shall** be considered a violation of this contract. Confidentiality violations may result in:
1. Contract termination
  2. Contractor's suspension from racing events
  3. Contractor's debarment from the State of Arkansas
  4. Criminal prosecution by the State Attorney General office
- J. DFA-Racing Commission reserves the right to negotiate laboratory services not identified in this IFB, should newer or additional drug testing services, which are unknown at the time of this IFB, be required.

## 2.5 **LABORATORY TESTING REQUIREMENTS**

- A. All laboratory testing **must** follow current guidelines in the American National Standard General Requirements for Competence of Testing and Calibration Laboratories #ISO 17025-1999 plus Animal Drug Testing Supplement.
- B. Laboratory proficiency testing scores should be submitted with the bid submission but **must** be submitted electronically as requested by DFA-Racing Commission for review throughout the term of the contract.

- C. Laboratory **must** provide confirmation results of all medication violations using GC/MS, LC/MS, or Tandem/MS techniques of HPLC for PBZ/Oxphenbutazone quantitation, electronically, as requested by DFA-Racing Commission.
- D. Laboratory **must** provide screening analysis results of confiscated materials (Pills, syringes, etc.), electronically, as requested by DFA-Racing Commission from each location as shown in section 2.1.

## 2.6 LABORATORY SCREENING METHODS

- A. To insure the integrity of the Arkansas Racing Commission, the following screening methods, or DFA-Racing Commission approved equal, **must** be utilized:
1. Urine or blood samples screened using:
    - a. Combination approach of rotating thin-layer chromatography, immunoassay screening, or instrumental screening using Liquid Chromatography/Diode Array (LC-DAD) detection or Gas Chromatography/Mass Spectrometry.
    - b. Equine urine screening consisting of fifteen (15) immunoassay tests and one (1) additional test performed by TLC, HPLC, or GC/MS.
    - c. Canine urine screening consisting of five (5) immunoassay tests and two (2) additional test performed by TLC, HPLC, or GC/MS.
  2. HPLC, ELISA, GC/MS or Thin-Layer Chromatography (TLC) hydrolysis-acid extraction, salt-out extraction, and enzyme hydrolysis basic extraction techniques.
    - a. This method will ensure coverage for commonly encountered therapeutic medications, such as the Non-Steroidal Anti-inflammatory Drugs (NSAID's) as well as a large diversity of compounds such as Ephedrine, Methocarbamol, Lidocaine, Procaine, Atropine, DMSP, etc.
  3. Enzyme Linked Immunosorbent Assay (ELISA) using a minimum of fifteen (15) immunoassay test, on a non-pooled basis, to address detection of trace amounts of RCI Class I, II, and III drugs.
  4. Instrumental screening using either Liquid Chromatography/Diode Array Detection (LC-DAD) or Gas Chromatography/Mass Spectrometry (GC/MS) to detect a large diversity of compounds of all RCI drug classes.
- B. Positive results **must** be confirmed by GC/MS or Liquid Chromatography with Tandem Mass Spectrometry (LC/MS/MS). Expanded panels **must** be included in the pricing.
- C. Contractor **shall**, without additional compensation, and as determined by DFA-Racing Commission, correct or revise any:
1. Errors
  2. Omissions
  3. Other deficiencies in its deliverables and laboratory services

## 2.7 LABORATORY SERVICE REPORTING (TEST RESULTS)

- A. Unless otherwise directed, screening results **must** have a (72) hour turn-around-time from the time of sample receipt to reporting the screening results to DFA-Racing Commission.
- B. Unless otherwise directed, screening results **must** be emailed to the following:
1. Dr. Joseph Lokanc at: [Joseph.lokanc@dfa.arkansas.gov](mailto:Joseph.lokanc@dfa.arkansas.gov). (Oaklawn Park)
  2. Smokey Campbell at: [Smokey.campbell@dfa.arkansas.gov](mailto:Smokey.campbell@dfa.arkansas.gov). (DFA Racing Commission)

3. Nikki Langston at: [Nikki.langston@dfa.arkansas.gov](mailto:Nikki.langston@dfa.arkansas.gov), (DFA Racing Commission)
  4. Dr. Lisa Robinson at: [Lisa.Robinson@dfa.arkansas.gov](mailto:Lisa.Robinson@dfa.arkansas.gov). (Southland Greyhound Park)
- C. Confirmatory analysis **must** be provided by email to DFA-Racing Commission, within five (5) business days, after notification of screening sample. DFA-Racing Commission recipients may change from time to time. Currently, the DFA-Racing Commission recipients are:
1. Dr. Joseph Lokanc at: [Joseph.lokanc@dfa.arkansas.gov](mailto:Joseph.lokanc@dfa.arkansas.gov). (501) 701-1454
  2. Smokey Campbell at: [Smokey.campbell@dfa.arkansas.gov](mailto:Smokey.campbell@dfa.arkansas.gov), (501) 682-1467
  3. Nikki Langston at: [Nikki.langston@dfa.arkansas.gov](mailto:Nikki.langston@dfa.arkansas.gov), (501) 682-1467
  4. Dr. Lisa Robinson at: [Lisa.Robinson@dfa.arkansas.gov](mailto:Lisa.Robinson@dfa.arkansas.gov). (Southland Greyhound Park)
- D. Contractor **shall not** provide test results to individuals other than the approved DFA-Racing Commission recipient(s). Failure to comply may result in immediate termination of contract.
- E. As requested by DFA-Racing Commission, Contractor **shall** prepare and provide a written report of the results of each test performed by the laboratory.
- F. Reports **must** include written pharmacological and analytical profile of all medication violations for review by DFA-Racing Commission.
- G. Laboratory reports **must** be provided within fifteen (15) calendar days after the quarter ends. Reporting timelines are as follows:
- |                         |                         |
|-------------------------|-------------------------|
| 1 <sup>st</sup> Quarter | July 1 – September 30   |
| 2 <sup>nd</sup> Quarter | October 1 – December 31 |
| 3 <sup>rd</sup> Quarter | January 1 – March 31    |
| 4 <sup>th</sup> Quarter | April 1 – June 30       |
- H. Laboratory reports **must** include the following information:
1. The date the specimen was taken and tested.
  2. The result(s) and conclusion(s) drawn from the analysis.
  3. Reports **must** include an affidavit signed before a notary public, or by the duly qualified expert conducting the test or under whose supervision or direction the test and analysis have been performed.
  4. The interpretation of the data **must** include the level of drug content as measured in anagrams.
- I. Reports **must** be capable of being understood by a layperson.

## 2.8 **SAMPLE COLLECTION KITS AND SUPPLIES**

- A. Contractor **shall** provide, at no additional cost to DFA-Racing Commission, sample collection kits and supplies.
- B. All sample collection kits and supplies **must** meet or exceed the specifications within this IFB.
- C. Any catalog brand name or manufacturer's reference used in this IFB is descriptive only.
- D. All supplies necessary for onsite sample collection and transportation of specimens, **must** include but not be limited to the following:

1. Postage/Shipping
2. Sample cups
3. Sample bags (four (4) per sample)
4. Blood tubes (four (4) per sample)
5. Needles
6. Sample identification tags (Attachment "A")
7. Chain of Custody forms
8. Metal strip seals
9. Locks
10. Insulated shipping container

## 2.9. **EQUINE COLLECTION KITS (OAKLAWN LOCATION)**

### A. Equine Collection Kits (Oaklawn Location)

1. The Collection cups **must** be new and clean, and the sample **must** be obtained in a manner that avoids possible contamination from the environment.

#### 2. Primary Urine Sample Cup

- a. Sterile Medical/Veterinary specimen cups **must** be 8 oz. to 16 oz.
- b. Specimen cups **must** be glass or plastic as required by the laboratory for screening method.
- c. Specimen cups **must** have a screw on, secure non-leaking lid.
- d. Specimen cups **must** have a security seal provided before opening and after filling.
- e. Specimen cups security seal **must** be tamperproof tape and secured for shipment to laboratory.
- f. Specimen cups **must** be packed in secondary packaging (slotted insert) in such a way that, under normal conditions of transport, they cannot break, be punctured, or leak their contents into the secondary packing.

#### 3. Split or Referee Urine Sample Cup

- a. Sterile Medical/Veterinary specimen cups **must** be 4 oz. to 8 oz.
- b. Specimen cups **must** be glass or plastic as required by laboratory for screening method.
- c. Specimen cups **must** have a screw on, secure non-leaking lid.
- d. Specimen cups **must** have a security seal provided before opening and after filling.
- e. Specimen cups security seal **must** be tamperproof tape and secured for shipment to laboratory.
- f. Specimen cups **must** be packed in secondary packaging (slotted insert) in such a way that, under normal conditions of transport, they cannot break, be punctured, or leak their contents into the secondary packing.

4. Needles

- a. Needles **must** be new and packaged in tamper resistant packaging.
- b. Needle size **must** be 18, 19, or 20G x 1" based on the testing required.
- c. Needle size **must** be 18, 19, or 20G x 1.5" based on the testing required.
- d. Needle size may vary during the term of the contract based on the testing required by the location requiring the test.

5. Sharps Container for Disposal of Sharps

- a. Contractor **shall** provide a sharps container for disposal of all sharps used to gather samples.
- b. Partially and fully discharged sharps, hypodermic needles and other sharp instruments and objects **must** be disposed of in a designated sharps container to prevent a risk of infection to any animal or person that may come into contact with it.
- c. A sharps container **must** be provided for each location, by the Contractor, for a safe, convenient disposal method approved by the DFA-Racing Commission.
- d. Sharps containers should be replaced at a minimum of once a month, or as requested by DFA-Racing Commission, at each location to prevent excessive pathogen growth in the container.
- e. Sharp containers **must** be sealed and collected for disposal according to State of Arkansas guidelines.

6. Corval Serum Separator Tube

- a. Tubing **must** be new and sterile.
- b. Tubing **must** be packaged in a tamper resistant package.
- c. Tubing size **must** be a minimum of 12.5mL based on the testing required.
- d. Tubing size **must** be the appropriate size based on the testing required by the location requiring the test.
- e. Tubing **must** be manufactured of Silicone Coated Glass or equivalent.
- f. Blood Samples **must** have security seals to be provided by the Contractor.
- g. As requested by a DFA-Racing location, disposal instructions for tubing should be provided on Material Safety Data Sheets (MSDS) and/or product inserts.

7. Shipping Container

- a. Shipping container **must** be hard plastic/metal lockable (Brand Referenced – Coleman, or agency approved equal).
- b. Shipping container **must** be a minimum of 24" x 13" x 14.5".
- c. Shipping container **must** be Styrofoam slotted, or laboratory approved equal.
- d. Shipping container insert/slots **must** securely hold approximately 28 individual cups.
- e. Shipping container insert/slots **must** secure each individually wrapped or separate specimen container in a vertical position.

- f. Shipping container insert/slots **must** be stackable, without damage to upper or lower samples as packaged for shipment.
  - g. Shipping container **must** secure specimen containers and have security tape with identification for shipping.
  - h. Shipping container **must** be sterile and leak-proof.
8. Forms
- a. Contractor **shall** provide a Chain of Custody form, per each shipping container, according to laboratory and shipping requirements.

## 2.10 CANINE SAMPLE COLLECTION KITS

### A. Canine Collection Kits (Southland Greyhound Park location)

1. The Collection container **must** be new and clean, and the sample **must** be obtained in a manner that avoids possible contamination from the environment.
2. Urine Specimen Containers
  - a. Specimen containers **must** be a minimum of 120 mis Sterile Medical/Veterinary specimen containers.
  - b. Specimen containers **must** be glass or plastic as required by the laboratory for screening method.
  - c. Specimen container cups **must** have a screw on, secure non-leaking lid.
  - d. Specimen container **must** have a security seal provided before opening and after filling.
  - e. Specimen container security seal **must** be tamperproof tape and secured for shipment to laboratory.
  - f. Specimen containers **must** be packed in secondary packaging (slotted insert) in such a way that, under normal conditions of transport, they cannot break, be punctured, or leak their contents into the secondary packing.
3. Sample Card **must** meet the following or be an agency approved equal (see sample attached):
  - a. Sample card size **must** be 7" (l) x 3" (w) or agency approved equal.
  - b. The pre-printed sample number **must** be across the top of the sample card.
  - c. Each sample card **must** have a separate line for the following information:
    - i. Date of sample
    - ii. Canine tested
    - iii. Tattoo Number(s) of canine tested
    - iv. Race Number ran by canine
    - v. Finish place of the tested canine
    - vi. Identify track location where race was run
    - vii. Canine Kennel
    - viii. Trainer/Owner of the canine

- ix. Sample drawn by whom
- x. Name of Witness observing the sample process
- xi. Split Waived by whom

#### 4. Sealing Tape

- a. Sealing tape **must** be secure to prevent, when properly applied to any surface, any attempt made to remove it, until container arrives at the laboratory location. (Brand referenced – Zipr-Weld Security Tape or agency approved equal)
- b. Sealing tape **must** be red in color.
- c. Sealing tape **must** be individual tape strips measuring: 7.5" (l) x 1" (w) or agency approved equal.
- d. Sealing tape **must** have a removable paper- backing allowing the tape to stick to the approved shipping container.
- e. Sealing tape **must** allow the sealing tape strips to wrap around/over the lid of the shipping container, and the sample card.

#### 5. Shipping Container

- a. Shipping container **must** be hard plastic/metal lockable (Brand Referenced – Coleman, or agency approved equal).
- b. Shipping container **must** be a minimum of 24" x 13" x 14.5".
- c. Shipping container **must** be Styrofoam slotted, or laboratory approved equal.
- d. Shipping container insert/slots **must** securely hold approximately (28) individual cups.
- e. Shipping container insert/slots **must** secure each individually wrapped or separate specimen container in a vertical position.
- f. Shipping container insert/slots **must** be stackable, without damage to upper or lower samples as packaged for shipment.
- g. Shipping container **must** secure specimen containers and have security tape with identification for shipping.
- h. Shipping container **must** be sterile and leak-proof.

#### 6. Forms

- a. Contractor **shall** provide a Chain of Custody form, per each shipping container, according to laboratory and shipping requirements

#### 2.11 STAFF

Contractor **shall** provide drug testing analysis specialized support staff to assist DFA-Racing Commission with questions or areas of concern, as specified by this IFB. (i.e. Laboratory Director or Laboratory Supervisor.)

#### 2.12 TRAINING

- A. As required by DFA-Racing Commission, at no additional cost to DFA-Racing Commission, Contractor **shall** provide a minimum of two (2) day training as related to specimen collection/shipment.
- B. Training to be provided at the location requested (Section 2.1) per DFA-Racing Commission.

C. Training **must** include, but not limited to, the following:

1. Sample collection
2. Sample processing
3. Storage and shipping as required by the DFA-Racing Commission location(s).

#### **2.13 TECH SUPPORT**

- A. Contractor **shall**, as required by the ISO/IEC 17025, provide qualified, certified/licensed and trained personnel and certified/licensed facilities tech support for medical laboratory diagnostic testing and services.
- B. Contractor **shall** supply statewide support within one (1) business day of initial call. Contractor **must** provide a Toll-Free Assistance line or allow for collect calls to be accepted Monday through Friday, five (5) days a week. The required hours of operation are between the hours of 7:00 a.m. and 6:00 p.m. (CST). Technical knowledgeable personnel are required during these hours to answer questions and to provide assistance to the staff of the ordering entities.

#### **2.14 TRANSITION PERIOD**

At the beginning of any resultant contract from this IFB, Contractor **shall** be available to work with the previous Contractor during a three (3) week transition period. e.g. Racing documentation file transfers, removal of equipment, etc.

#### **2.15 TESTIMONY (LEGAL PROCEEDING) PROVISION**

- A. Contractor **shall** provide a testimony data package, when requested by DFA-Racing Commission, for legal proceeding involving medication violations. E.g. Supporting documents requested by legal to be used as exhibits in ARC hearings.
- B. As required for legal proceedings, Contractor **shall**, at no additional cost to DFA-Racing Commission, provide expert testimony for medication violations. This service was only required once in the last five (5) years.

#### **2.16 ORDERING/WEBSITE AVAILABILITY**

- A. Contractor **shall** establish a website for ordering supplies, scheduling pick-up services, test results, and providing reporting data to be used by the DFA-Racing Commission.
1. The website **must** have a unique identifier to gather/print data provided by the laboratory.
  2. A unique identifier may be an account number, a special code, or a password assigned to DFA-Racing Commission to securely gather the information, order supplies or view the test results.
- B. Contractor **shall** accept orders from DFA-Racing Commission by phone, fax and electronic delivery methods.
- C. Contractor's website **must** be user friendly with easy access and maintain System Security. "System Security" means a system that enforces boundaries between computer networks firewalls. A security system consisting of a combination of hardware and software that limits the exposure of a computer or computer network to attack from hackers; commonly used on local area networks that are connected to the internet."
- D. Contractor **shall** be responsible for all costs of orders, shipping, and delivery as required by this IFB.

#### **2.17 DELIVERY: FOB DESTINATION**

Delivery **must** be as shown on purchase order

- A. The agency requests delivery within five (5) working days after receipt of the order. If this delivery date cannot be met, the Prospective Contractor **must** state the alternate number of days required to begin the service and/or place the commodity in the ordering agency's designated location. (*See Official Bid Price Sheet.*)
- B. Failure to state the alternate delivery time obligates the Contractor to complete delivery by the agency's requested date.

- C. Extended delivery dates may be considered when in the best interest of the State.
- D. All deliveries **must** be made during normal State work hours, Monday through Friday, 8:00 a.m. to 5:00 p.m., Central Time and within the agreed upon number of days unless otherwise arranged and coordinated with the agency.
- E. The Contractor **shall** give the agency immediate notice of any anticipated delays or plant shutdowns that will affect the delivery requirement.
- F. Loss or damage that occurs during shipping, prior to the order being received by the agency, is the Contractor's responsibility.
- G. All orders should be properly packaged to prevent damage during shipping.

## 2.18 **TRANSPORTATION**

- A. Contractor **shall** provide a pick-up transportation service for collection(s) to Contractor's laboratory at no additional cost to DFA-Racing Commission.
- B. When requested by DFA-Racing Commission, Contractor **shall** provide overnight courier service to expedite sample testing analysis.

## 2.19 **ACCEPTANCE STANDARDS**

Inspection and acceptance/rejection of sample kits/supplies will be made within thirty (30) days of DFA-Racing Commission receipt. The State has the option to return any product(s) within the thirty (30) day timeframe for any reason. Bid **must** include a "total satisfaction" return policy for all products and **must not** impose any liability on the State for such returns.

## 2.20 **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. *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 will 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.

Criteria	Performance Standards	Damages
Invoicing	Accurate invoicing per sample test grouping received by Contractor.	5% deduction, of the total corrected dollar amount of an incorrect invoice.
Reporting	Confirmatory analysis within five (5) business days.	5% deduction of invoicing, per shipment tested, for delayed receipt of analysis results.
Supplies	Received within the five (5) days after receipt of order.	5% item cost deduction, per every five (5) business days, per item, received late or back-ordered.

## **SECTION 3 – GENERAL CONTRACTUAL ITEMS**

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

### **3.1 PAYMENT AND INVOICE PROVISIONS**

A. Forward invoices to:

Department of Finance and Administration  
Division of Racing  
2705 Central Avenue  
Hot Springs, AR 71901

- 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>.

### **3.2 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.

### 3.3 **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.

### 3.4 **STATEMENT OF LIABILITY**

- A. The State will demonstrate reasonable care but will not be liable in the event of loss, destruction or theft of 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 \$1,000,000, 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.

### 3.5 **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.

### 3.6 **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.

**3.7 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.

**3.8 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.

**3.9 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.

**3.10 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 4 – STANDARD TERMS AND CONDITIONS**

- *Do not provide responses to items in this section.*
- 1. **GENERAL:** Any special terms and conditions included in this solicitation **shall** override these Standard Terms and Conditions. The Standard Terms and Conditions and any special terms and conditions **shall** become part of any contract entered into if any or all parts of the bid are accepted by the State of Arkansas.
- 2. **ACCEPTANCE AND REJECTION:** The State **shall** have the right to accept or reject all or any part of a bid or any and all bids, to waive minor technicalities, and to award the bid to best serve the interest of the State.
- 3. **BID SUBMISSION:** 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.