



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-20-0001 | Solicitation Issued: | August 15, 2019 |
| Description: | Arkansas Statewide Prescription Drug Monitoring Program | | |
| Agency: | Arkansas Department Of Health – Center for Health Protection – Substance Misuse and Injury Prevention - Prescription Drug Monitoring Program | | |

| SUBMISSION DEADLINE FOR RESPONSE | | | |
|--|---------------------|-------------------|-------------------------|
| Bid Opening Date: | September 5th, 2019 | Bid Opening Time: | 2:00 p.m., 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 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. Prospective contractors assume all risk for timely, properly submitted deliveries.</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">• Bid number• Date and time of bid opening• Prospective Contractor's name and return address |

| ARKANSAS DEPARTMENT OF HEALTH CONTACT INFORMATION | | | |
|---|---|---------------|--------------|
| Issuing Officer | Tim O'Brien | Phone Number: | 501-280-4573 |
| Email Address: | Timothy.O'Brien@arkansas.gov | Fax Number: | |
| ADH Website: | https://www.healthy.arkansas.gov/programs-services/topics/grant-and-bid-opportunities | | |
| OSP Website: | http://www.arkansas.gov/dfa/procurement/bids/index.php | | |

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 (ADH) issues this Request for Proposals (RFP) to obtain proposals and a contract for the development of a prescription drug monitoring solution that will collect and compile controlled substance prescription information into a common database.

1.2 BACKGROUND

In 2011, Act 304 of the Arkansas Legislature enlisted the Arkansas Department of Health authority to establish and maintain an electronic system to monitor the dispensing of all controlled prescriptions throughout the state. The purpose of this program is to protect the state health system and citizens of Arkansas by “(1) enhancing patient care by providing prescription monitoring information that will ensure legitimate use of controlled substances,” “(2) help curtail the misuse and abuse of controlled substances,” “(3) assisting in combating illegal trade in and diversion of controlled substances” and “(4) enabling access to prescription information by practitioners, law enforcement agents and other authorized individuals and agencies and to make prescription information available to practitioners, law enforcement agents and other authorized individuals and agencies in other states.” Arkansas’s PDMP started obtaining data from dispensers in March of 2013. The Centers for Disease Control (CDC) reported that in 2017 Arkansas was the second highest state in the country for opioid prescribing rate of 105.4 opioid prescriptions per 100 persons. The number of prescriptions is decreasing from the previous year; however the national average in 2017 was 58.7 prescriptions per 100 people. In 2017, Arkansas passed Act 820 which mandates prescribers, with some exceptions, to check the PDMP prior to writing (1) a schedule II or III opioid every time and (2) the first time prescribing a benzodiazepine. The Arkansas PDMP is a grant funded program awarded by the Centers for Disease Control and the Department of Justice.

1.3 TYPE OF CONTRACT

- A. ADH intends to award a contract to a single contractor.
- B. The initial term of a resulting contract will be for one (1) year from date of award. Upon mutual agreement by the Contractor and agency, the contract may be renewed by ADH 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.

1.4 ISSUING AGENCY

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

1.5 BID OPENING LOCATION

Proposals will be opened at the following location:

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

1.6 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.

1.7 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 (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.

1.8 **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. The Official Bid Price Sheet, including the hard copy and electronic copy, **must** be separately sealed from the Technical Proposal Packet and should be clearly marked as "Pricing". A prospective contractor **shall not** include any pricing in the hard copies or electronic copies of the Technical Proposal Packet. Pricing **must** be proposed in U.S. dollars and cents.
 - c. 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. Voluntary Product Accessibility Template (VPAT). (See Technology Access)
 - e. 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 and Official Bid Price Sheet

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

1. Additional Copies of the Technical Proposal Packet
 - a. 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 the electronic copy **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.
2. Additional Copies of the Official Bid Price Sheet
 - a. Prospective contractor should also submit one (1) electronic copy of the Official Bid Price Sheet, preferably on a flash drive. A CD will also be acceptable. Do not send electronic copies via email or fax.
 - b. The Official Bid Price Sheet, including the hard copy and electronic copy, **must** be separately sealed from the Technical Proposal Packet and should be clearly marked as "Pricing". Prospective Contractor **shall not** include any pricing in the hard copies or electronic copies of their Technical Proposal Packet.
3. 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).

1.9 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. Responses to the Information for Evaluation section of the Technical Proposal Packet should be labeled to reflect the corresponding item/question (Example: E.1.A)
- C. The original Technical Proposal Packet and all copies should be arranged in the following order:
 - Original signed Proposal Signature Page
 - Proposed Subcontractors Form
 - Restriction of Boycott of Israel Certification
 - SF-LLL Disclosure of Lobbying Activities
 - Response to the Information for Evaluation section included in the Technical Proposal Packet
 - 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>
 - Voluntary Product Accessibility Template (VPAT). (See Technology Access)
 - Business Associate Agreement (AS-4001)
 - 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.

1.10 CLARIFICATION OF BID SOLICITATION

- A. Submit any questions requesting clarification of information contained in this bid solicitation in writing via email by 3:00 p.m., Central Time August 21, 2019 to the ADH Issuing Officer shown on page one (1) of this bid solicitation.
 - 1. For each question submitted, prospective contractor should reference the specific solicitation item number to which the question refers.
 - 2. Prospective contractors' written questions will be consolidated and responded to by ADH. Consolidated written response is anticipated to be posted to the ADH website by the close of business on August 23, 2019. If prospective contractor questions are unclear or non-substantive in nature, ADH may request clarification of a question(s) or reserves the right not to respond to that question(s).
- B. The prospective contractor should notify the ADH buyer 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. Prospective contractors may contact the ADH buyer 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 ADH **shall** comply with all the terms and conditions contained herein.

1.11 PROPOSAL 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 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 may cause the proposal to be disqualified.

1.12 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.

1.13 PRICING

- A. Prospective contractor(s) **shall** include all pricing on the Official Bid Price Sheet(s) only. If any cost is not identified by the successful contractor but is subsequently incurred in order to achieve successful operation, the contractor **shall** bear this additional cost. The Official Bid Price Sheet is provided as a separate file posted with this bid solicitation.
- B. To allow time to evaluate proposals, prices **must** be valid for 180 days following the bid opening.
- C. The Official Bid Price Sheet, including the hard copy and electronic copy, **must** be separately sealed from the Technical Proposal Packet and should be clearly marked as "Pricing". **DO NOT** submit any ancillary information not related to actual pricing on the Official Bid Price sheet or in the sealed pricing package.

1.14 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.

1.15 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.

1.16 PROPRIETARY INFORMATION

- A. Submission documents pertaining to this bid solicitation become the property of the State and are subject to the Arkansas Freedom of Information Act (FOIA).
- B. 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. 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.
- G. The prospective contractor is responsible for identifying all proprietary information and for ensuring the electronic copy is protected against restoration of redacted data.
- H. The redacted copy will be open to public inspection under the Arkansas Freedom of Information Act (FOIA) without further notice to the prospective contractor.
- I. 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).
- J. If the State deems redacted information to be subject to FOIA, the prospective contractor will be contacted prior to release of the documents.
- K. 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.

1.17 CAUTION TO PROSPECTIVE CONTRACTORS

- A. Prior to any contract award, address all communication concerning this bid solicitation through the ADH 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 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.

1.18 **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.

1.19 **AWARD PROCESS**

A. Successful Contractor Selection

The grand total score for each prospective contractor, which is the sum of the technical score and cost 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
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 State Procurement Official will be responsible for the solicitation and award of any resulting contract.

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 91st 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 TECHNOLOGY ACCESS

- A. When procuring a technology product or when soliciting the development of such a product, the State of Arkansas is required to comply with the provisions of Arkansas Code Annotated § 25-26-201 et seq., as amended by Act 308 of 2013, which expresses the policy of the State to provide individuals who are blind or visually impaired with access to information technology purchased in whole or in part with state funds. The Prospective Contractor expressly acknowledges and agrees that state funds may not be expended in connection with the purchase of information technology unless that technology meets the statutory Requirements found in 36 C.F.R. § 1194.21, as it existed on January 1, 2013 (software applications and operating ICSs) and 36 C.F.R. § 1194.22, as it existed on January 1, 2013 (web-based intranet and internet information and applications), in accordance with the State of Arkansas technology policy standards relating to accessibility by persons with visual impairments.
- B. Accordingly, the Prospective Contractor expressly represents and warrants to the State of Arkansas through the procurement process by submission of a Voluntary Product Accessibility Template (VPAT) for 36 C.F.R. § 1194.21, as it existed on January 1, 2013 (software applications and operating ICSs) and 36 C.F.R. § 1194.22, that the technology provided to the State for purchase is capable, either by virtue of features included within the technology, or because it is readily adaptable by use with other technology, of:
1. Providing, to the extent required by Arkansas Code Annotated § 25-26-201 et seq., as amended by Act 308 of 2013, equivalent access for effective use by both visual and non-visual means.
 2. Presenting information, including prompts used for interactive communications, in formats intended for non-visual use.
 3. After being made accessible, integrating into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired.
 4. Providing effective, interactive control and use of the technology, including without limitation the operating system, software applications, and format of the data presented is readily achievable by nonvisual means.
 5. Being compatible with information technology used by other individuals with whom the blind or visually impaired individuals interact.
 6. Integrating into networks used to share communications among employees, program participants, and the public.
 7. Providing the capability of equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.
- C. State agencies cannot claim a product as a whole is not reasonably available because no product in the marketplace meets all the standards. Agencies must evaluate products to determine which product best meets the standards. If an agency purchases a product that does not best meet the standards, the agency must provide written documentation supporting the selection of a different product, including any required reasonable accommodations.
- D. For purposes of this section, the phrase “equivalent access” means a substantially similar ability to communicate with, or make use of, the technology, either directly, by features incorporated within the technology, or by other reasonable means such as assistive devices or services which would constitute reasonable accommodations under the Americans with Disabilities Act or similar state and federal laws. Examples of methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands or other means of navigating graphical displays, and customizable display appearance. As provided in Arkansas Code Annotated § 25-26-201 et seq., as amended by Act 308 of 2013, if equivalent access is not reasonably available, then individuals who are blind or visually impaired **shall** be provided a reasonable accommodation as defined in 42 U.S.C. § 12111(9), as it existed on January 1, 2013.
- E. If the information manipulated or presented by the product is inherently visual in nature, so that its meaning cannot be conveyed non-visually, these specifications do not prohibit the purchase or use of an information technology product that does not meet these standards.

1.26 COMPLIANCE WITH THE STATE SHARED TECHNICAL ARCHITECTURE PROGRAM

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

<http://www.dis.arkansas.gov/policiesStandards/Pages/default.aspx>. Only those standards which are fully promulgated or have been approved by the Governor's Office apply to this solution.

1.27 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.

1.28 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 (BAA) executed between the parties.

B. Prior to contract award, the contractor **must** sign a Business Associate Agreement.

1.29 RESERVATION

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

1.29 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.

1.30 DEFINITION OF ACRONYMS

| ACRONYM | DEFINITION | ACRONYM | DEFINITION |
|---------|---|---------|--|
| ADH | Arkansas Department of Health | HIPAA | Health Insurance Portability and Accountability Act |
| PDMP | Prescription Drug Monitoring Program | NIST | National Institute of Standards and Technology (NIST) |
| ASAP | American Society for Automation in Pharmacy | HITECH | Health Information Technology for Economic and Clinical Health |
| CDC | Center for Disease Control & Prevention | NDC | National Drug Code |
| NPI | National Provider Identifier | MME | Morphine Milligram Equivalent |
| DEA | Drug Enforcement Agency | OHIT | Office of Health Information Technology |
| EH | Eligible Hospitals | PHA | Public Health Agencies |
| EHR | Electronic Health Record | PHI | Protected Health Information |
| BAA | Business Associate Agreement | | |

SECTION 2 – REQUIREMENTS

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

2.1 INTRODUCTION

The Arkansas Department of Health (ADH) issues this Request for Proposals (RFP) to obtain proposals and a contract for the development of a prescription drug monitoring solution that will collect and compile controlled substance prescription information into a common database.

2.2 MINIMUM VENDOR QUALIFICATIONS

The Offeror must provide proof with its proposal that the following minimum qualifications have been met in order for a proposal to be considered reasonably susceptible for award:

- A. The successful vendor shall own a PDMP system that has been fully implemented and fully operational with live data for at least two (2) state governments having the same or similar services as required in this RFP.
- B. Vendor **shall** have successfully demonstrated at least two (2) years of experience in the production of PDMP software which incorporates similar services as required in this RFP.
- C. Vendor **shall** describe its capability to offer the long-term commitment and financial resources necessary to provide the services required by this RFP at the highest level.
- D. The vendor **shall** describe previous or current engagements (of a similar size, nature, and complexity as defined by the RFP requirements) that it has performed within the last two (2) years that demonstrate its capability to perform the service required in this RFP. Vendor **shall** include the following:
 1. Contract duration, including dates
 2. Geographic area served and size of system installation
 3. Brief written description of the solution provided and the methodology employed
 4. A reference from each previous/current engagement that can be contacted for verification of all data submitted (*include name, title, company name, address, and telephone number*).

NOTE: Previous or Current Engagement Reference Form Provided in Tech. Response Packet

5. If using subcontractors, provide name, address, and telephone number.

NOTE: Subcontractor Form Provided In Technical Response Packet

- E. Where it is stated that a vendor **must** meet certain requirements, it **shall** be understood that the requirements apply to the vendor, its sub-contractors and any other third-party which the vendor or its sub-contractors intend to use in performance of the task. Vendor **must** submit a detailed report of the required key staff by:
 1. Name
 2. Proposed position on project team
 3. Relevant experience for each phase of implementation, including:
 - a. Planning and design
 - b. Infrastructure design & installation
 - c. Development, integration testing, and deployment
 - d. Transition

NOTE: Key Staff form provided in the Technical Response Packet

2.3 **SCOPE**

The Arkansas Department of Health is seeking proposals for a software system that facilitates the collection, analysis and reporting of information on the prescribing, dispensing and use of prescription drugs. The system will allow for the collection of prescription data from dispensaries, provide a secure site to house the data and establish a secure website in which authorized users are able to access specific data.

2.4 **DATA COLLECTION**

- A. The contractor shall prepare and provide to the Arkansas Department of Health (ADH) an electronic manual for dispensers containing instructions necessary to comply with the reporting requirements, including technical support.
- B. The contractor shall prepare and provide to the ADH an electronic manual for users containing instructions necessary to navigate the system, run reports, update personal information, including technical support.
- C. The contractor shall collect the electronic data in the format of American Society for Automation in Pharmacy (ASAP) Telecommunications Format for Controlled Substances in Version 4.2, or the most current version available. All subsequent upgrades shall be provided at no cost.
- D. The contractor shall support a web portal and direct connect capabilities to allow dispensers to submit data directly, via sftp, or web application or other electronic means.
- E. The following data elements shall be collected for all controlled prescription transactions and other drugs of concern identified by the Department of Health:
 1. Name of Prescriber
 2. National provider identifier (NPI) of prescriber
 3. Drug Enforcement Agency (DEA) number of prescriber, with suffix if applicable
 4. Name of dispenser
 5. National provider number (NPI) of dispenser
 6. Drug Enforcement Agency (DEA) number of dispenser
 7. Prescription number
 8. Name of patient for whom the prescription is written
 9. Address of the patient for whom the prescription is written
 10. Date of birth of the patient for whom the prescription is written
 11. Gender of patient for whom the prescription is written
 12. Species of patient for whom the prescription is written, if applicable
 13. Date the prescription was written
 14. Date the prescription was dispensed
 15. Number of refills authorized on the original prescription
 16. Method of payment
 17. Name and strength of the controlled substance including National Drug Code (NDC) number
 18. Quantity of controlled substance prescribed
 19. Quantity of controlled substance dispensed
 20. Number of days prescribed
- F. The contractor shall have the capacity to accept a report of zero (or "zero report") prescriptions in a given time period and provide a report of those zero submissions to program staff.
- G. The contractor shall have the capacity to receive electronic prescription data transmitted directly from the dispensers, seven days a week, twenty-four hours per day and three hundred and sixty-five days a year.
- H. The contractor shall have the capacity to allow dispensers under common ownership to submit their data in a single joint transmission, provided each dispenser is clearly identified for each prescription.
- I. The contractor shall ensure that all data submitted is complete.

- J. If a dispenser's data is not complete, the contractor will notify ADH and the dispenser within 48 hours and follow up to ensure that the dispenser corrects and resubmits the data. If the dispenser fails to resubmit corrected data within 7 days or if a dispenser fails to submit other required transaction data, the contractor will notify ADH of the deficiency within 24 hours of this failure.
- K. Submitted data shall be cleansed, validated and loaded into the Microsoft SQL searchable database within 24 hours of being submitted by the dispenser.
- L. The contractor shall allow dispensers to submit corrected data, log the change in the system and display indicating that the data has been corrected.
- M. The contractor shall provide an avenue for dispensers to correct, modify, remove or delete data/prescription previously entered into the PDMP.
- N. The contractor shall provide a toll-free telephone number and email address through which dispensers may contact contractors to resolve problems and receive information concerning data transmission. The toll-free number shall be staffed Monday through Friday, 9:00am to 5:00pm CT. Voicemail shall be available at all times but will be responded to Monday through Friday, 9:00am to 5:00pm CT.
- O. The contractor shall be responsible for the conversion of any historical program data from previous contractors.
- P. The system shall allow users to obtain historical data dated since the establishment of the Arkansas PDMP on March 1, 2013.

2.5 **SECURE WEB SERVICES**

- A. The contractor shall provide an SSL 3.0 or TLS secure web site for access to the data in the database and provide the PDMP with a sample screen shot.
- B. The contractor shall provide a secure environment for capturing and transmitting protected health information (PHI) and for making the information available to dispensers, providers and other user roles.
- C. The contractor shall adhere to state and federal laws and regulations concerning the confidentiality of PHI including the privacy and security standards of the Health Insurance Portability and Accountability Act (HIPAA) of 1996 and common industry standards for privacy and security practices and processes as defined by the National Institute of Standards and Technology (NIST) and Health Information Technology for Economic and Clinical Health (HITECH).
- D. For any breach or suspected breach of security of the collected data, the contractor shall: (1) Notify ADH/PDMP immediately by telephone or email; (2) Conduct an investigation; (3) Confiscate and secure any evidence in conjunction with such occurrence; and (4) Provide ADH/PDMP with a written report of the investigation within three (3) business days of first learning of the breach or suspected breach.

ADH Breach Contact Information:
 Arkansas Department of Health
 Attn: HIPAA Privacy Officer
 4815 West Markham Street, Slot 13
 Little Rock, AR 72205
 Email: Eric.Roberts@arkansas.gov
 Phone: Eric Roberts - 501-683-3273

- E. Only registered users approved by ADH shall be allowed to access any of the data collected as part of the PDMP.
- F. The user roles of the system shall include but are not limited to the following:
 - a. **Healthcare Professionals**
 - 1. Physician (MD, DO)
 - 2. Physician Assistant
 - 3. Podiatrist (DPM)
 - 4. Psychologist
 - 5. Dentist

6. Nurse Practitioner/Clinical Nurse Specialist
7. Optometrist
8. Pharmacist
9. Prescriber Delegate—Unlicensed
10. Prescriber Delegate—Licensed
11. Pharmacist Delegate—Unlicensed
12. Pharmacist Delegate—Licensed
13. Medical Resident
14. Veterinarian

b. Law Enforcement

1. DEA
2. Medicaid Fraud Units
3. Local
4. Master CLEPPDI
5. Delegate CLEPPDI

c. Other

1. Board of Medicine Investigator
2. Board of Dentistry Investigator
3. Board of Nursing Investigator
4. Board of Pharmacy Investigator
5. Licensing Board Investigator
6. State Medicaid Program

- G. The system shall provide an online user registration process by which all user roles must undergo an “administrative access approval process”.
- H. The system shall allow users to identify a healthcare specialty from a designated list of specialties upon registration and the ability to change specialties when applicable.
- I. The system shall verify the validity of a prescriber’s and dispenser’s DEA numbers automatically upon registration.
- J. The system shall support multiple users to use the PDMP and to be in the same application at the same time.
- K. Registered users shall have the ability to log-in to the system by using the email address as the username and the password associated to the user’s account.
- L. Registered users shall have the ability to change their passwords and reset forgotten passwords without the assistance from the contractor or ADH.
- M. The system will require the user’s password to be complex (upper and lowercase letters, numbers and special characters) with a minimum length of ten (10) characters. Users shall not use any of the previous twenty six (26) passwords and must be changed at minimum every ninety (90) days
- N. The system shall permit a registered user to request and receive information, including automatic reports, via the Internet and email, without intervention of the PDMP. The registered user shall have the option to download the report in a PDF or a CSV file.
- O. The system shall provide a method for law enforcement officers and other specified groups have the ability to create queries in which the results cannot be viewed or retrieved without the approval of the program staff as a result of administrative authority.
- P. The system shall allow patient searches for law enforcement to require and capture an agency case number.
- Q. The system shall provide online access for specific user roles, as determined by the PDMP, the capacity to select delegate accounts for their agents as well as establish a method for users to monitor the activity of the delegates. The registered user shall have the ability to enable and disable their delegate’s access.

- R. The system shall be capable of filtering prescription data so that only animal patient prescriptions are accessible by the role of veterinarians.
- S. The system shall allow the PDMP to post communications and links to websites on the homepage/dashboard.
- T. The system shall be interoperable and compatible with both PMP interconnect and RxCheck to facilitate interstate data sharing of information from other state prescription drug monitoring programs.
- U. The system shall be capable of bi-directionally integrating PDMP information into electronic health records, pharmacy management/dispensing systems and health information exchanges.
- V. The system shall be capable of generating a yearly query audit report on specified role types and sent annually through the system on a set date of ADH choosing. The user shall be able to edit the audit report signifying the approval of the queries and return the audit through the system to ADH.
- W. The system shall allow ADH to access current and historical user activity data.

2.6 DATA MANAGEMENT

- A. The contractor shall collect and load data into the database, which will reside with the contractor on the contractor's servers within their own secure environment. The database and all the data in the database shall belong to the Arkansas Department of Health.
- B. The contractor hosting the PDMP database shall offer data access, data management and data correlation capabilities for ease of data analysis.
- C. The contractor shall provide the Department with a description of their ability to offer redundancy, fault tolerance and "up-time" greater than 99.9% annual availability.
- D. The system shall be able to convert the DEA registration numbers to prescriber and dispenser name and address.
- E. The system shall be able to convert National Drug Code (NDC) numbers to drug name, strength, dosage form and controlled substance schedule, both at the point of data import and also retrospectively upon receiving NDC updates. The contractor shall maintain a current reference source of NDC numbers.
- F. The contractor shall be able to electronically clean and standardize the data to identify individuals using different, but similar names (i.e., James Smith, Jim Smith, Jimmy Smith) as well as different but similar addresses. Contractor shall provide the details of how the standardization and matching will be done as well as which criteria will be used as the matching algorithm in the system.
- G. The system shall be able to allow ADH to manually link or de-link patient prescription records and patient summaries.
- H. Vendor will (i) execute (A) nightly database backups to a backup server, (B) incremental database transaction log file backups at least every 30 minutes to a backup server, (C) weekly backups of all hosted Customer (ADH) Information and the default path to a backup server, and (D) nightly incremental backups of the default path to a backup server; (ii) replicate Customer's database and default path to an off-site location (i.e., other than the primary data center) of the vendor determination and (iii) save the last 14 nightly database backups on a secure transfer server, of the vendor determination, in a manner that is compliant with NIST security standards and HIPAA Contingency Plan section 164.308(a)(7) and HITECH regulations (i.e., at any given time, the last 14 nightly database backups will be on as secure transfer server that is accessible by Customer at any time, from which Customer may retrieve the database backups. Customer data must remain within the United States at all times and may not be stored or transmitted outside of the US for any reason including backing up data or for disaster recovery purposes.
- I. At the ADH's request, Vendor will provide a copy of the ADH's Information to the ADH in an ASCII pipe-delimited format on a secure transfer server. Upon expiration of this Agreement or termination of this Agreement for any reason, vendor shall (a) deliver to the ADH at no cost to the ADH a current copy of all of the ADH Information in the form in use as of the date of such expiration or termination along with a copy of the database schema and/or data dictionary that details data linkages and relationships and (b) completely destroy or erase all other copies of the ADH's Information in Provider's or its agents' or subcontractors' possession in any form, including but not limited to electronic, hard copy, or other memory device. Once destroyed or erased, vendor shall have its officers certify in

writing that it has so destroyed or erased all copies of the ADH's Information and that it shall not make any use of the ADH's Information.

- J. The vendor shall provide all data variables listed in section 2.2.3 collected from the dispensers and the data on the user's profile within the PDMP (i.e., Provider specialty levels) to ADH in raw data cuts delivered weekly.

2.7 QUERIES AND REPORTS

- A. Prescriber roles shall have the ability to generate a "self-report" based on their DEA number to allow prescribers to view the prescriptions filled under that DEA number. The user shall be able to download the information generated into a CSV or PDF.
- B. The system shall establish a patient query, prescriber query and dispenser query. The PDMP shall have the ability to select the types of queries a user role is able to generate and whether or not an administrative approval is required. The user shall be able to download the information generated into a CSV or PDF.
- C. The system shall calculate the Morphine Milligram Equivalent (MME) for all opioid prescriptions on all reports using the conversion factors set by the CDC.
- D. The system shall allow the user to view their individual requests history and the history of their delegates.
- E. The system shall allow prescribers and dispensers the ability to perform queries on multiple patients at once rather than one at a time. The user shall be able to download the information generated into a CSV or PDF.
- F. The system shall be able to calculate the number of registered user accounts approved by role type and number of queries performed by role types.
- G. The system shall enable administrative staff the ability to perform ad hoc queries to respond to requests from patients, licensing boards and law enforcement agencies.
- H. The contractor shall provide the PDMP the ability to identify non-reporting dispensers.
- I. The contractor shall provide the PDMP with reports and reporting formats to provide required performance measure reports for the Harold Rogers Prescription Drug Monitoring Program Grant.
- J. The contractor shall provide ADH with reports monitoring mandatory querying of the PDMP for prescribers in Arkansas prior to prescribing, in accordance to Arkansas code 20-7-604(d).
- K. Prescriber Report Cards—The system shall create electronic quarterly individualized prescriber reports on how they compare to their peers in the same specialty on the following metrics:
1. Number of persons for which you prescribed opioids (monthly average)
 2. Number of prescriptions you wrote for opioids (monthly average)
 3. Top 3 medications prescribed
 4. Prescriptions by Daily MME (<50; 51-90, >90, >200)
 5. Opioid treatment duration (% of patients) (<7 days, 7-28 days, >90 days)
 6. Prescription volumes (Total MME monthly average)
 7. Anxiolytic/Sedative/Hypnotic prescribing (monthly average)
 - a. Number of prescriptions
 - b. Dosage units
 8. PDMP usage (monthly average)
 9. Dangerous combination therapy
 - a. Opioid + Benzo in the same month
 - b. Opioid + Benzo + carisoprodol in the same month
- L. System Availability/Uptime Report. This report will indicate system availability/uptime during the previous month. The report will include any narratives related to system downtime or performance degradation that will outline the cause of the outage/degradation. The report should identify response times between the user requests and the applications.

M. Clinical Alerts—this system shall provide Clinical Alerts which allow custom configuration of automated alerts/notifications for prescribers and dispensers. These alerts shall alert the prescribers and dispenser via patient alert to user within the system, email notification and letter notification. The alert types are as follows:

1. Prescriber & Dispenser threshold
2. Daily Active MME threshold
3. Opioid & Benzodiazepine threshold
4. Daily Active Methadone threshold
5. Opioid Consecutive Days threshold

2.8 PDMP ANALYTICS

A. The vendor shall provide an interactive portal that is equipped with already created pre-defined reports that are adjustable with drill-down capabilities and capable allowing ADH to create reports from the raw data. Specific reports that shall be included but not limited to are:

1. PMP registration and query activity
2. Daily and total MME
3. Dispensation detail by prescriber specialty, DEA number and drug schedule
4. Geo-analysis and mapping of patient, prescriber and pharmacy
5. Top prescribers and dispensers by number of prescriptions
6. Top prescription drugs by generic name, label name and NDC
7. Percentage of opioid prescriptions state wide >90 MME
8. Dispenser compliance data submission and error analysis
9. Query activity of Gateway and PMP interconnect/RxCheck

2.9 DISASTER RECOVER PLAN

- A. The contractor shall include a copy of their disaster recovery plan pertaining to the Customer's database and system in the event the system is for any reason including but not limited to human error, equipment failure or natural disaster. The contractor shall describe how users will be notified in the event of down-time.
- B. The contractor shall establish and maintain an alternative processing arrangement adequate to resume within twenty-four hours.

2.10 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 |
| System Performance | 90% or more of user response time shall be under one (1) second as indicated on the monthly System Availability/Uptime Report | <ul style="list-style-type: none"> ▪ 85% to 90% - 1% of Monthly Total Cost ▪ 80% to 84.9% - 2% of Monthly Total Cost ▪ 75% to 79.9% - 3% of Monthly Total Cost |
| System Availability | The system shall maintain an uptime (be operationally available) for 99.5% of normal business hours as indicated on the monthly System Availability/Uptime Report. | <ul style="list-style-type: none"> ▪ 99.4% - 1% of Monthly Total Cost ▪ 99% - 2% of Monthly Total Cost ▪ 98.5% - 3% of Monthly Total Cost ▪ An additional 1% per month per percentage below. ▪ Below 75% may be grounds for contract termination |

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 minimum vendor qualifications have been met. Technical Proposals Packets that do not meet minimum vendor qualifications 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 Data Collection | 25 | 25 | 175 |
| E.2 Secure Web Services | 25 | 25 | 175 |
| E.3 Data Management | 25 | 25 | 175 |
| E.4 Queries And Reports | 25 | 25 | 175 |
| | | | |
| Total Technical Score | 100 | 100% | 700 |

*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.

- F. Technical Proposals that do not receive a minimum weighted score/subtotal of 350 may not move forward in the solicitation process. The pricing for proposals which do not move forward will not be scored.

3.2 **COST SCORE**

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

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

A = Lowest Total Cost

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

C = Maximum Points for Lowest Total Cost

D = Total Cost Points Received

3.3 **GRAND TOTAL SCORE**

The Technical Score and Cost Score will be added together to determine the Grand Total Score for the proposal. The prospective contractor's proposal with the highest Grand Total Score will be selected as the apparent successful Contractor (See Award Process).

| | Maximum Points Possible |
|---|-------------------------|
| Technical Proposal | 700 |
| Cost | 300 |
| Maximum Possible Grand Total Score | 1,000 |

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:
4815 West Markham Street, Slot #10
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 will be considered at the time of contract renewal.
- B. The contractor **must** provide to ADH 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. ADH has the right to require additional information pertaining to the requested increase.
- C. Increases will not be considered to increase profit or margins.

D. ADH has the right to approve or deny the request.

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.