



Solicitation Cover Page

1. Solicitation #: 0900000331

2. Solicitation Issue Date: 07-20-2018

3. Brief Description of Requirement:

Pharmacy Benefit Consultation Services

Must RSVP for Pre-Bid/Education Webinar by August 1 , 2018 (Reference Section E.3)

4. Response Due Date¹: 08-24-2018

Time: 3:00 PM CST/CDT

5. Issued By and **RETURN SEALED BID TO**²:

U.S. Postal Delivery Address: OMES/Central Purchasing
505 North Lincoln Boulevard
Suite 300
Oklahoma City, OK 73105

6. Solicitation Type (type "X" at one below):

- Invitation to Bid
- Request for Proposal
- Request for Quote

7. Contracting Officer:

Name: Lisa Bradley
Phone: 405-522-4480
Email: Lisa.Bradley@omes.ok.gov

¹ Amendments to solicitation may change the Response Due Date (read GENERAL PROVISIONS, section 3, "Solicitation Amendments")

² If "U.S. Postal Delivery" differs from "Carrier Delivery", use "Carrier Delivery" for courier or personal deliveries



*"Certification for Competitive Bid and Contract" **MUST** be submitted along with the response to the Solicitation.*

1. **RE: Solicitation #** 0900000331

2. Bidder General Information:

FEI / SSN : _____ Supplier ID: _____
Company Name: _____

3. Bidder Contact Information:

Address: _____
City: _____ State: _____ Zip Code: _____
Contact Name: _____
Contact Title: _____
Phone #: _____ Fax #: _____
Email: _____ Website: _____

4. Oklahoma Sales Tax Permit¹:

- YES – Permit #: _____
- NO – Exempt pursuant to Oklahoma Laws or Rules – Attach an explanation of exemption

5. Registration with the Oklahoma Secretary of State:

- YES - Filing Number: _____
- NO - Prior to the contract award, the successful bidder will be required to register with the Secretary of State or must attach a signed statement that provides specific details supporting the exemption the supplier is claiming (www.sos.ok.gov or 405-521-3911).

6. Workers' Compensation Insurance Coverage:

Bidder is required to provide with the bid a certificate of insurance showing proof of compliance with the Oklahoma Workers' Compensation Act.

- YES – Include with the bid a certificate of insurance.
- NO – Exempt from the Workers' Compensation Act pursuant to 85A O.S. § 2(18)(b)(1-11) – Attach a written, signed, and dated statement on letterhead stating the reason for the exempt status.²

¹ For frequently asked questions concerning Oklahoma Sales Tax Permit, see <https://www.ok.gov/tax/Businesses/index.html>

² For frequently asked questions concerning workers' compensation insurance, see <https://www.ok.gov/wcc/Insurance/index.html>

7. Disabled Veteran Business Enterprise Act

- YES – I am a service-disabled veteran business as defined in 74 O.S. §85.44E. Include with the bid response 1) certification of service-disabled veteran status as verified by the appropriate federal agency, and 2) verification of not less than 51% ownership by one or more service-disabled veterans, and 3) verification of the control of the management and daily business operations by one or more service-disabled veterans.
- NO – Do not meet the criteria as a service-disabled veteran business.

Authorized Signature _____ Date _____

Printed Name _____ Title _____



Certification for Competitive Bid and/or Contract (Non-Collusion Certification)

NOTE: A certification shall be included with any competitive bid and/or contract exceeding \$5,000.00 submitted to the State for goods or services.

Agency Name: EGID Agency Number: 090

Solicitation or Purchase Order #: 0900000331

Supplier Legal Name: _____

SECTION I [74 O.S. § 85.22]:

A. For purposes of competitive bid,

1. I am the duly authorized agent of the above named bidder submitting the competitive bid herewith, for the purpose of certifying the facts pertaining to the existence of collusion among bidders and between bidders and state officials or employees, as well as facts pertaining to the giving or offering of things of value to government personnel in return for special consideration in the letting of any contract pursuant to said bid;
2. I am fully aware of the facts and circumstances surrounding the making of the bid to which this statement is attached and have been personally and directly involved in the proceedings leading to the submission of such bid; and
3. Neither the bidder nor anyone subject to the bidder's direction or control has been a party:
 - a. to any collusion among bidders in restraint of freedom of competition by agreement to bid at a fixed price or to refrain from bidding,
 - b. to any collusion with any state official or employee as to quantity, quality or price in the prospective contract, or as to any other terms of such prospective contract, nor
 - c. in any discussions between bidders and any state official concerning exchange of money or other thing of value for special consideration in the letting of a contract, nor
 - d. to any collusion with any state agency or political subdivision official or employee as to create a sole-source acquisition in contradiction to Section 85.45j.1. of this title.

B. I certify, if awarded the contract, whether competitively bid or not, neither the contractor nor anyone subject to the contractor's direction or control has paid, given or donated or agreed to pay, give or donate to any officer or employee of the State of Oklahoma any money or other thing of value, either directly or indirectly, in procuring this contract herein.

SECTION II [74 O.S. § 85.42]:

For the purpose of a contract for services, the supplier also certifies that no person who has been involved in any manner in the development of this contract while employed by the State of Oklahoma shall be employed by the supplier to fulfill any of the services provided for under said contract.

The undersigned, duly authorized agent for the above named supplier, by signing below acknowledges this certification statement is executed for the purposes of:

the competitive bid attached herewith and contract, if awarded to said supplier;

OR

the contract attached herewith, which was not competitively bid and awarded by the agency pursuant to applicable Oklahoma statutes.

Supplier Authorized Signature

Certified This Date

Printed Name

Title

Phone Number

Email

Fax Number



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A. GENERAL PROVISIONS

The following provisions shall apply where and as applicable to this Solicitation.

A.1. Definitions

As used herein, the following terms shall have the following meaning unless the context clearly indicates otherwise:

- A.1.1.** "Acquisition" means items, products, materials, supplies, services and equipment acquired by purchase, lease purchase, lease with option to purchase, or rental pursuant to applicable state law.
- A.1.2.** "Amendment" means a written restatement of or modification to a Contract Document executed by both parties.
- A.1.3.** "Bid" means an offer in the form of a bid, proposal or quote a Bidder submits in response to this Solicitation.
- A.1.4.** "Bidder" means an individual or Business Entity that submits a Bid in response to this Solicitation.
- A.1.5.** "Business Entity" means any individual, business, partnership, joint venture, corporation, S-corporation, limited liability corporation, limited liability partnership, limited liability limited partnership, sole proprietorship, joint stock company, consortium, or other legal entity recognized by statute.
- A.1.6.** "COTS" means software that is commercial off the shelf.
- A.1.7.** "Contract" means this Solicitation, which together with other Contract Documents, as may be amended from time to time, evidences the final agreement between the parties with respect to the contract awarded pursuant to this Solicitation.
- A.1.8.** "Contract Document" means, when executed by all applicable parties as necessary, this Solicitation, the Bid of the awarded Supplier, any statement of work, work order, rider or similar document related hereto, any purchase order related hereto, other statutorily required or mutually agreed documents related hereto, and any Amendment to any of the foregoing.
- A.1.9.** "Closing Date and Time" is 3:00 P.M. Central Time on the date this Solicitation closes.
- A.1.10.** "Interlocal Entity" means, with respect to any state other than Oklahoma, any authority, office, bureau, board, council, court, commission, department, district, institution, unit, division, body or house of any branch of such state government, any political subdivision of such state, and any organization related to any of the foregoing.
- A.1.11.** "OMES - ISD" means the Office of Management and Enterprise Services, Information Services Division, on behalf of the State of Oklahoma.
- A.1.12.** "Procuring Agency" means the State of Oklahoma Agency initiating the procurement.
- A.1.13.** "Request for Information or RFI" means a non-binding procurement practice used to obtain information, comments, and feedback from interested parties or potential suppliers prior to issuing a solicitation.
- A.1.14.** "State" means the government of the State of Oklahoma, its employees and authorized representatives, including without limitation any department, agency, or other unit of the government of the State of Oklahoma.
- A.1.15.** "State Entity" means any agency, authority, office, bureau, board, council, court, commission, department, district, institution, unit, division, body or house of any branch of the State government, any political subdivision of the State, and any organization related to any of the foregoing.
- A.1.16.** "State CIO" is the State Chief Information Officer or designee, in the capacity of the State Purchasing Director for information technology and telecommunications Acquisitions.
- A.1.17.** "Solicitation" means this document inviting Bids for the Acquisition referenced herein.
- A.1.18.** "Supplier" means the Bidder with whom the State enters into the Contract awarded pursuant to this Solicitation.
- A.1.19.** "Utilities" means a Bidder's reusable or pre-existing proprietary intellectual property that forms the basis for a customized or developed software deliverable for the State and which is specifically identified as such by the Bidder in writing prior to execution of the Contract awarded pursuant to this Solicitation.

A.2. Certification Regarding Debarment, Suspension, and Other Responsibility Matters

By submitting a Bid to this Solicitation:

- A.2.1.** The Bidder certifies that the Bidder and its principals or participants:
 - A.2.1.1.** Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal, state or local department or agency;
 - A.2.1.2.** Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) contract; or for violation of federal or

state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

A.2.1.3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the foregoing offenses enumerated in this certification; and

A.2.1.4. Have not within a three-year period preceding this Contract had one or more public (federal, state or local) contracts terminated for cause or default.

A.2.2. Where the Bidder is unable to certify to any of the statements in the certification above, Bidder shall attach an explanation to the Bid.

A.3. Bid Public Opening

Sealed Bids may be opened upon public request at the time and date specified herein as the Closing Date and Time.

A.4. Late Bid

Bids received by the State after the Closing Date and Time shall be deemed non-responsive and shall not be considered for any resultant award.

A.5. Legal Contract

By submitting a Bid to this Solicitation:

A.5.1. Submitted Bids are rendered as a legal offer and when accepted by the State, shall constitute a contract.

A.5.2. The Contract Documents resulting from this Solicitation shall have the following order of precedence: this Solicitation, other contract award documents, including but not limited to the Purchase Order, Amendments, required certification statements, change orders, license and other similar agreements; and the successful Bid. In the event there is a conflict between any of the preceding documents, the other contract award documents prevail over this Solicitation, and both the other contract award documents and this Solicitation shall prevail over the successful Bid. If there is a conflict between the terms of any Contract Document and applicable Oklahoma law, rules or regulations, such laws, rules and regulations shall prevail over the conflicting terms of the Contract Document.

A.5.3. Any Contract Document related to this Solicitation shall be legibly written or typed.

A.5.4. All transactions related to this Solicitation, and any Contract Document related hereto, may be conducted by electronic means pursuant to the Oklahoma Uniform Electronic Transactions Act.

A.6. Pricing

A.6.1. Bids shall remain firm for a minimum of one-twenty (120) days after the Closing Date and Time.

A.6.2. Bidders guarantee unit prices to be correct.

A.6.3. In accordance with 74 O.S. §85.40, all travel expenses to be incurred by Supplier in performance of the Contract shall be included in the total Bid price/contract amount.

A.6.4. All costs incurred by the Bidders for Bid preparation and participation in this competitive procurement shall be the sole responsibility of the Bidder. The State of Oklahoma shall not reimburse any Bidder for any such costs.

A.7. Firm Fixed Price

Unless this Solicitation specifies otherwise, a Bidder shall submit a firm, fixed price for the term of the Contract.

A.8. Pricing Requirements

If Bidder pricing does not meet requirements of the section herein titled Price and Cost, the Bid may be considered non-responsive.

A.9. Manufacturers' Name and Approved Equivalents

Unless otherwise specified in this Solicitation, manufacturers' names, brand names, information, and/or catalog numbers listed in a specification are for information and not intended to limit competition. Bidder may offer any brand for which it is an authorized representative, which meets or exceeds the specification for any item(s). However, if a Bid is based on equivalent products, indicate on the Bid form the manufacturer's name and number. Bidder shall submit sketches, descriptive literature, and/or complete specifications with their Bid. Reference to literature submitted with a previous Bid shall not satisfy this provision. The Bidder shall also explain in detail the reason(s) why the proposed equivalent will meet the specifications and not be considered an exception thereto. Bids that do not comply with these requirements are subject to rejection.

A.10. Rejection of Offer

The State reserves the right to reject any Bids that do not comply with the requirements and specifications of this Solicitation. A Bid may be rejected when the Bidder imposes terms or conditions that would modify requirements of this Solicitation or limit the Bidder's liability to the State. Other possible reasons for rejection of Bids are listed in OAC 260:115-7-32.

Attempts to impose unacceptable conditions on the State, or impose alternative terms not in the best interest of the State shall not be tolerated. Continued attempts to impose unacceptable conditions or terms on the State shall result in a determination of non-responsiveness of the Bid due to lack of compliance with the terms and conditions of negotiation or this Solicitation.

A.11. Award of Contract

- A.11.1.** The State may award the contract to more than one Bidder by awarding the contract(s) by item or groups of items, or may award the contract on an all or none basis, whichever is deemed to be in the best interest of the State of Oklahoma.
- A.11.2.** Contract awards shall be made to the lowest and best Bid(s) unless this Solicitation specifies that best value criteria is being used.
- A.11.3.** In order to receive an award or payments from the State of Oklahoma, Bidder must be registered. The Bidder registration process can be completed electronically through the website at the following link: <https://www.ok.gov/dcs/vendors/index.php>.
- A.11.4.** It is the preference of the State to award to a single Bidder. However, the State reserves the right to award to multiple Bidders when it has been determined to be in the best interest of the State.

A.12. Contract Modification

- A.12.1.** The Contract Documents issued as a result of this Solicitation is under the authority of the State personnel signing the Contract Documents. The Contract may be modified only through a written Amendment, signed by the State.
- A.12.2.** Any change to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by OMES - ISD in writing, or that is made unilaterally by the Supplier, is a material breach of the Contract. Unless otherwise specified by applicable law or rules, such changes, including but not limited to any unauthorized written Amendment, shall be void and without effect, and the Supplier shall not be entitled to any claim under the Contract based on those changes. No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in the Contract.

A.13. Delivery, Inspection and Acceptance

- A.13.1.** All deliveries shall be F.O.B. Destination. The Supplier shall prepay all packaging, handling, shipping and delivery charges and prices quoted shall include all such charges. Any products delivered pursuant to this Contract shall be subject to final inspection and acceptance by the procuring entity at destination and the procuring entity has no responsibility for the delivered products prior to acceptance. Title and risk of loss or damage to all items shall be the responsibility of the Supplier until accepted. The Supplier shall be responsible for filing, processing, and collecting any and all damage claims accruing prior to acceptance. "Destination" shall mean delivered to the receiving dock or other point specified in the applicable purchase order.
- A.13.2.** Supplier shall be required to deliver products as offered on or before the required date. Deviations, substitutions, or changes in the products shall not be made unless expressly authorized in writing by the State or Interlocal Entity, as applicable.

A.14. Invoicing and Payment

- A.14.1.** Upon submission of an accurate and proper invoice, the invoice shall be paid in arrears after products have been delivered or services provided and in accordance with applicable law. Invoices shall contain the purchase order number, a description of the products delivered or services provided, and the dates of such delivery or provision of services.
- A.14.2.** State Acquisitions are exempt from sales taxes and federal excise taxes.
- A.14.3.** Pursuant to 74 O.S. §85.44(B), invoices will be paid in arrears after products have been delivered or services provided.
- A.14.4.** Payment terms will be net 45.
- A.14.5.** Additional terms which provide discounts for earlier payment may be evaluated when making an award. Any such terms shall be no less than ten (10) days increasing in five (5) day increments up to thirty (30) days. The date from which the discount time is calculated shall be the date of a proper invoice.

A.15. Audit and Records Clause

- A.15.1.** As used in this clause, "records" includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form. In accepting any contract with the State, the Supplier agrees any pertinent state or federal agency shall have the right to examine and audit all records relevant to execution and performance of this Contract.
- A.15.2.** The Supplier is required to retain records relative to this Contract for the duration of this Contract and for a period of seven (7) years following completion and/or termination of this Contract. If an audit, litigation, or other action involving such records is started before the end of the seven-year period, the records are required to be maintained for two (2) years from the date that all issues arising out of the action are resolved, or until the end of the seven (7) year retention period, whichever is later.

A.16. Non-Appropriation Clause

The terms of this Contract and any purchase order issued for multiple years under this Contract are contingent upon sufficient appropriations being made by the applicable state legislature, federal government or other appropriate government entity. Notwithstanding any language to the contrary in this Contract, or any other Contract Document, the State Entity or Interlocal Entity may terminate its obligations under this Contract if sufficient appropriations are not made by the Oklahoma Legislature, federal government or other appropriate governing entity to pay amounts that may become due under the terms of multiple year agreements in connection with this Contract. The decision as to whether sufficient appropriations are available shall be accepted by, and be final and binding on, the Supplier.

A.17. Choice of Law and Venue

- A.17.1.** Any claims, disputes or litigation relating to the Contract Documents, singularly or in the aggregate, or the execution, interpretation, performance, or enforcement thereof shall be governed by the laws of the State of Oklahoma, or in the case of an Interlocal Entity, in the state in which the Interlocal Entity is located, without regard to application of choice of law principles.
- A.17.2.** Venue for any action, claim, dispute, or litigation relating in any way to the Contract Documents shall be in Oklahoma County, Oklahoma, or in the case of an Interlocal Entity, as agreed to between such Interlocal Entity and Supplier or as otherwise provided by applicable law.

A.18. Termination for Cause

- A.18.1.** The Supplier may terminate this Contract in whole or in part for default with both a thirty (30) day written request and upon written approval from the State. The State may terminate this Contract in whole or in part for default or any other just cause upon a thirty (30) day written notification to the Supplier.
- A.18.2.** The State may terminate this Contract immediately, in whole or in part, without a thirty (30) day written notice to the Supplier, when violations are found to be an impediment to the function of the State and detrimental to the cause of a State Entity, when conditions preclude the thirty (30) day notice, or when the State determines that an administrative error occurred prior to Contract performance. Similarly, an Interlocal Entity may terminate its obligations to Supplier immediately upon any of the foregoing conditions in this subsection.
- A.18.3.** If this Contract or certain obligations hereunder are terminated, the State, State Entity or Interlocal Entity, as applicable, shall be liable only for payment for products delivered and accepted and such termination shall not be an exclusive remedy but shall be in addition to any other rights and remedies provided for by law.

A.19. Termination for Convenience

- A.19.1.** The State may terminate this Contract, in whole or in part, for convenience if the State Chief Information Officer determines that termination is in the State's best interest. The State shall terminate this Contract by delivering to the Supplier a notice of termination for convenience specifying the terms and effective date of termination. The Contract termination date shall be a minimum of sixty (60) days from the date the notice of termination is issued by the State. Similarly, an Interlocal Entity may terminate its obligations to Supplier upon a determination by the proper authority for such Interlocal Entity that termination is in the Interlocal Entity's best interest and notice of termination by such Interlocal Entity shall be provided in accordance with the foregoing requirements set forth in this subsection.
- A.19.2.** If this Contract or certain obligations hereunder are terminated pursuant to this section, the State, State Entity, or Interlocal Entity, as applicable, shall be liable only for products delivered and accepted and such termination shall not be an exclusive remedy but shall be in addition to any other rights and remedies provided for by law.

A.20. Insurance

The Supplier shall maintain and promptly provide proof to the State of the following insurance coverage, and any renewals, additions or changes thereto, as long as the Supplier has any obligation under a Contract Document:

- a) Worker's Compensation and Employer's Liability Insurance in accordance with applicable law.

- b) Commercial General Liability Insurance on a per occurrence basis with limits of liability not less than \$1,000,000 per occurrence and aggregate combined single limit, Personal Injury, Bodily Injury and Property Damage;
- c) Automobile Liability Insurance with limits of liability of not less than \$1,000,000 per occurrence combined single limit including bodily injury and property damage and with coverage, if applicable, for all owned vehicles, all non-owned vehicles, and all hired vehicles;
- d) Professional Errors and Omissions Insurance which shall include Consultant's Computer Errors and Omissions Coverage with limits not less than \$1,000,000 per claim and in the aggregate; and
- e) Additional coverage required by the State in writing in connection with a particular Acquisition.

A.21. Employment Relationship

This Contract does not create an employment relationship between the parties. Individuals performing services required by this Contract are not employees of the State, a State Entity or an Interlocal Entity and, accordingly, shall not be eligible for rights or benefits accruing to such employees including but not limited to health insurance benefits, workers' compensation insurance, paid vacation or other leave, or any other employee benefit.

A.22. Compliance with the Oklahoma Taxpayer and Citizen Protection Act of 2007

By submitting a Bid to this Solicitation, the Bidder certifies that it is registered and participates in the Status Verification System, available at www.dhs.gov/E-Verify, as required under applicable State law and is in compliance with applicable federal immigration laws and regulations. The Bidder agrees that compliance with the certification set forth in this section shall be a continuing obligation.

A.23. Compliance with Applicable Laws

A.23.1. In connection with its performance of obligations under the terms of this Contract, the Bidder certifies compliance with and, if awarded the Contract pursuant to this Solicitation, shall continue to comply with all applicable federal, state, and local laws, rules, regulations, ordinances and orders, as amended, including but not limited to the following:

- a) Drug-Free Workplace Act of 1988 and as implemented at 45 C.F.R. part 76, Subpart F;
- b) If the payments pursuant to the Contract are expected to exceed \$100,000.00, Section 306 of the Clean Air Act, Section 508 of the Clean Water Act, Executive Order 11738, and Environmental Protection Agency Regulations which prohibit the use under nonexempt Federal contract, grant or loans of facilities included on the EPA List of Violating Facilities;
- c) Prospective participant requirements set forth at 45 C.F.R. part 76 in connection with debarment, suspension and other responsibility matters;
- d) 1964 Civil Rights Act, Title IX of the Education Amendment of 1972, Section 504 of the Rehabilitation Act of 1973 and Executive Orders 11246 and 11375, Americans with Disabilities Act of 1990;
- e) For Persons entering into a grant or cooperative agreement over \$100,000.00 (as defined at 45 C.F.R. §93.105 and 93.110), Anti-Lobbying Law set forth at 31 U.S.C. §1325 and as implemented at 45 C.F.R. part 93;
- f) Obtaining certified independent audits conducted in accordance with Government Auditing Standards and Office of Management and Budget Circular A-133 with approval and work paper examination rights of the applicable procuring entity; and
- g) Be registered as a business entity licensed to do business in the State, (registration through the Oklahoma Secretary of State at <https://www.sos.ok.gov>), have obtained a sales tax permit and be current on franchise tax payments to the State, as applicable.

A.23.2. The Supplier shall maintain all applicable licenses and permits required in association with its obligations hereunder.

A.23.3. The Supplier shall inform its employees, agents and proposed subcontractors who perform services for the State under this Contract of the Supplier's obligations hereunder and shall require compliance accordingly. At the request of the State, Supplier shall promptly provide adequate evidence that such persons are its employees, agents or approved subcontractors and have been informed of their obligations hereunder.

A.24. Gratuities

The rights of Supplier under the terms of this Contract may be immediately terminated, in whole or in part, by written notice if it is determined that the Supplier, its employee, agent or another representative offered or gave a gratuity (e.g., an entertainment or gift) to any State or Interlocal Entity employee directly involved in this Contract. In addition, a Supplier determined to be guilty of such a violation may be suspended or debarred.

A.25. Preclusion from Resulting Contracts

Any Bidder that has provided any consulting services or technical assistance that resulted in any specifications or concepts in this Solicitation, either directly or indirectly, is precluded from being awarded the Contract and from securing a sub-contractor that has

provided such services.

A.26. Mutual Responsibilities

The State and Supplier agree that:

- A.26.1.** Neither party grants the other the right to use any trademarks, trade names, or other designations in any promotion or publication without express written consent by the other party.
- A.26.2.** This is a non-exclusive Contract and each party is free to enter into similar agreements with others.
- A.26.3.** Each party grants the other only the licenses and rights specified in the Contract Document and all other rights and interests are expressly reserved.
- A.26.4.** Except as otherwise set forth herein, where approval, acceptance, consent, or similar action by either party is required under this Contract, such action shall not be unreasonably delayed or withheld

A.27. Background Checks and Verifications

At the sole discretion of the State, State Entity or Interlocal Entity, as applicable, employees of the Supplier and any subcontractor of the Supplier may be subject to background checks. If background check information is requested, the Supplier must submit, or cause to be submitted, the required information in a timely manner and the Supplier's access to facilities, data and information may be withheld prior to completion of background verification acceptable to the State, State Entity or Interlocal Entity.

A.28. Confidentiality

- A.28.1.** The Supplier shall maintain strict security of all State data and records entrusted to it or to which the Supplier gains access, in accordance with and subject to applicable federal and state laws, rules, regulations and policies and shall use any such data or records only as needed by Supplier for performance of its obligations hereunder. The Supplier further agrees to evidence such confidentiality obligation in a separate writing if required under such applicable federal or state laws, rules and regulations. If Supplier utilizes a permitted subcontractor, Supplier shall obtain specific written assurance, and provide a copy to the State, that the subcontractor shall maintain this same level of security of all data and records entrusted to or accessed by the subcontractor and agree to the same obligations as Supplier, to the extent applicable. Such written assurance may be set forth in the required subcontractor agreement referenced herein.
- A.28.2.** No State data or records shall be provided or the contents thereof disclosed to a third party unless specifically authorized to do so in writing by the State CIO or in compliance with a valid court order. The Supplier shall immediately forward to the State and the State CIO any request by a third party for data or records in the possession of the Supplier or any subcontractor or to which the Supplier or subcontractor has access and Supplier shall fully cooperate with all efforts to protect the security and confidentiality of such data or records in response to a third party request.

A.29. Unauthorized Obligations

At no time during the performance of this Contract shall the Supplier have the authority to obligate any other party hereto for payment of any goods or services over and above those set forth in this Contract. If the need arises for goods or services over and above the products, Supplier shall cease the project and contact the appropriate procuring entity for written approval prior to proceeding.

A.30. Electronic and Information Technology Accessibility

Supplier shall comply with federal and state laws, rules and regulations related to information technology accessibility, as applicable, including but not limited to Oklahoma Information Technology Accessibility Standards ("Standards") set forth at http://www.ok.gov/cio/documents/isd_itas.pdf and Supplier shall provide a Voluntary Product Accessibility Template ("VPAT") describing such compliance, which may be provided via a URL linking to the VPAT. If the products will require development or customization, additional requirements and documentation may be required and compliance shall be necessary by Supplier. Such requirements may be stated in appropriate documents including but not limited to state bids, request for proposals, statements of work, riders, agreements, purchase orders and Amendments. Accordingly, in each statement of work or similar document issued pursuant to this Contract, Supplier shall describe such compliance and identify, if and as applicable, (i) which exception to the Standards applies or (ii) a description of the tasks and estimated cost to make the proposed products and/or services compliant with applicable Standards.

All representations contained in the VPAT provided will be relied upon by the State for accessibility compliance purposes.

A.31. Patents and Copyrights

- A.31.1.** Without exception, the products prices shall include all royalties or costs owed by the Supplier to any third party arising from the use of a patent or copyright.
- A.31.2.** If a third party claims that any portion of the products provided by Supplier under the terms of this Contract infringes that party's patent or copyright, the Supplier shall defend the State against the claim at the Supplier's expense and

pay all related costs, damages, and attorneys' fees incurred by, or assessed to, the State, provided the State (i) promptly notifies the Supplier in writing of the claim and (ii) to the extent authorized by the Attorney General of the State, allows the Supplier to control the defense and any related settlement negotiations. If the Attorney General of the State does not authorize sole control of the defense and settlement negotiations to Supplier, Supplier shall be granted authorization to equally participate in any proceeding related to this section but Supplier shall remain responsible to indemnify the State for all associated costs, damages and fees incurred by or assessed to the State.

A.31.3. If such a claim is made or appears likely to be made, the Supplier shall enable the State to legally continue to use, or modify for use, the portion of products at issue or replace such potential infringing products with at least a functional non-infringing equivalent. If the Supplier determines that none of these alternatives is reasonably available, the State shall return such portion of the products at issue to the Supplier, upon written request, in exchange for a refund of the price paid for such returned goods as well as a refund, if applicable, of other products which are rendered materially unusable as intended due to removal of the portion of products at issue.

A.31.4. Supplier has no obligation regarding a claim based on any of the following: (i) modification of a product by any party other than Supplier, its employee, agent, representative, permitted subcontractor, or any State employee acting in conjunction with the Supplier; (ii) a program's use in other than its specified operating environment; (iii) the combination, operation, or use of a product with other products not provided by Supplier as a system or (iv) infringement solely by a non-Supplier product that has not been provided to the State by, through or on behalf of the Supplier as opposed to its combination with products Supplier provides to or develops for the State as a system.

A.32. Assignment

Supplier's obligations under a Contract Document may not be assigned or transferred to any other person or entity without the prior written consent of the State which may be withheld in its sole discretion. Rights granted under the terms of this Contract may be assigned or transferred, at no additional cost, to other entities within the State.

A.33. Severability

If any provision for this contract shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this contract is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

A.34. Paragraph Headings

The headings used in this Contract are for convenience only and do not constitute part of the Contract.

A.35. Failure to Enforce

Failure by the State, as applicable, at any time to enforce a provision of, or exercise a right under, any Contract Document shall not be construed as a waiver of any such provision. Such failure to enforce or exercise shall not affect the validity of any Contract Document, or any part thereof, or the right of the State to enforce any provision of, or exercise any right under, a Contract Document at any time in accordance with its terms. Likewise, a waiver of a breach of any provision in a Contract Document shall not affect or waive a subsequent breach of the same provision or a breach of any other provision in a Contract Document.

A.36. Conflict of Interest

A.36.1. Bidder must provide immediate disclosure of any contractual relationship or any other relevant contact with any State personnel or another Supplier involved in the development of a Bidder's response to this Solicitation. Any conflict of interest shall, at the sole discretion of the State, be grounds for rejection of the Bid or termination of project involvement.

A.36.2. In addition to any requirement of law or through a professional code of ethics or conduct, the Supplier and the Supplier's employees performing services for the State are required to disclose any outside activity or interest that conflicts or may conflict with the best interest of the State. Further, without prior written approval of the State, such employees shall not plan, prepare, or engage in any activity that conflicts or may conflict with the best interest of the State as long as the Supplier has an obligation under this Contract. Prompt disclosure is required under this section if the activity or interest is related, directly or indirectly, to any person or entity currently under contract with or seeking to do business with the State, its employees or any other third-party individual or entity awarded a contract with the State.

A.37. Limitation of Liability

To the extent any limitation of liability in any Contract Document is construed by a court of competent jurisdiction to be a limitation of liability in violation of applicable law, such limitation of liability shall be void.

A.38. Media Ownership (Disk Drive and/or Memory Chip Ownership)

- A.38.1.** In accordance with the State of Oklahoma Information Security Policy, Procedures, Guidelines set forth online at <http://www.ok.gov/cio/documents/InfoSecPPG.pdf> ("Electronic Media Retention Requirements"), any disk drives and memory cards purchased with or included for use in leased or purchased equipment under this Contract remain the property of the State.
- A.38.2.** Personal Identification Information may be retained within electronic media devices and components; therefore, the State shall not allow the release of electronic media either between State Entities or for the resale of refurbished equipment that has been in use by State Entities, by the Supplier to the general public or other entities. Electronic Media Retention Requirements shall also be applied to replacement devices and components, whether purchased or leased, the Supplier may supply during the downtime (repair) of equipment purchased or leased through this Contract. If a device has to be removed from a location for repairs, the State shall have sole discretion, prior to removal, to determine and enforce sufficient safeguards (such as a record of hard drive serial numbers) to protect Personal Identification Information that may be stored within the hard drive or memory of the device.

A.39. Offshore Services

No offshore services are provided for under this Contract. State data shall not be used or accessed internationally, for troubleshooting or any other use not specifically provided for herein without prior written permission, which may be withheld in the State's sole discretion, from the appropriate authorized representative of the State.

A.40. Failure to Provide

The Supplier's repeated failure to provide defined services, without reasonable basis as determined in the sole discretion of the State CIO, shall constitute a material breach of the Supplier's obligations, which may result in partial or whole cancellation of the Contract.

A.41. Agency Policies

The Supplier's employees and/or sub-contractors must adhere to the applicable State policies including, but not limited to acceptable use of Internet and electronic mail, facility and data security, press releases, and public relations. It is up to the Supplier to review and relay State policies covering the above to the consulting staff.

A.42. Compliance with Technology Policies

The Supplier agrees to adhere to the State of Oklahoma "Information Security Policy, Procedures, and Guidelines" available at: www.ok.gov/OSF/documents/StateOfOklahomaInfoSecPPG_osf_12012008.pdf

A.43. High Technology System Performance and Upgrades

- A.43.1.** If an Acquisition pursuant to this Contract includes a "high technology system" as defined under Oklahoma law, the Supplier shall provide documentation of the projected schedule of recommended or required system upgrades or improvements to such system for the three (3) year period following the target purchase date. If Supplier does not plan such system upgrades or improvements, the Supplier shall provide documentation that no system upgrades or improvements to the high technology system are planned for the three (3) year period following the target purchase date.
- A.43.2.** Any Acquisition pursuant to this Contract of an upgrade or enhancement to a high technology system shall be conditioned upon the Acquisition being provided at no charge to the State; the Acquisition being provided to the State at no additional charge pursuant to a previous agreement with the Supplier; the Supplier providing documentation that any required or recommended upgrade will enhance or is necessary for performance of the applicable State agency duties and responsibilities; or the Supplier providing documentation that it will no longer supply maintenance assistance to the applicable State agency and the applicable State agency documenting that the functions performed by the high technology system are necessary for performance of the State agency duties and responsibilities.

A.44. Emerging Technologies

The State of Oklahoma reserves the right to modify the terms of this Contract at any time to allow for technologies not identified in this Contract. If there are repeated requests for an "emerging technology" and the State feels it is warranted to add such technologies, the State reserves the right to include such technology hereunder or to issue an Amendment to this Contract.

A.45. Ownership Rights

- A.45.1.** Any software developed by the Supplier is for the sole and exclusive use of the State including but not limited to the right to use, reproduce, re-use, alter, modify, edit, or change the software as it sees fit and for any purpose. Moreover, except with regard to any deliverable based on the Utilities, the State shall be deemed the sole and exclusive owner of all right, title, and interest therein, including but not limited to all source data, information and materials furnished to the State, together with all plans, system analysis, and design specifications and drawings, completed programs

and documentation thereof, reports and listing, all data and test procedures and all other items pertaining to the work and services to be performed pursuant to this Contract including all copyright and proprietary rights relating thereto. With respect to Utilities, the Supplier grants the State, for no additional consideration, a perpetual, irrevocable, royalty-free license, solely for the internal business use of the State, to use, copy, modify, display, perform, transmit and prepare derivative works of Utilities embodied in or delivered to the State in conjunction with the products.

- A.45.2.** Except for any Utilities, all work performed by the Supplier of developing, modifying or customizing software and any related supporting documentation shall be considered as Work for Hire (as defined under the U.S. copyright laws) and, as such, shall be owned by and for the benefit of State.
- A.45.3.** In the event that it should be determined that any portion of such software or related supporting documentation does not qualify as "Work Made for Hire", Supplier hereby irrevocably grants to the State, for no additional consideration, a non-exclusive, irrevocable, royalty-free license to use, copy, modify, display, perform, transmit and prepare derivative works of any such software and any Utilities embodied in or delivered to the State in conjunction with the products.
- A.45.4.** Supplier shall assist the State and its agents, upon request, in preparing U.S. and foreign copyright, trademark, and/or patent applications covering software developed, modified or customized for the State. Supplier shall sign any such applications, upon request, and deliver them to the State. The State shall bear all expenses that incurred in connection with such copyright, trademark, and/or patent applications.
- A.45.5.** If any Acquisition pursuant to this Contract is funded wholly or in part with federal funds, the source code and all associated software and related documentation owned by the State may be shared with other publicly funded agencies at the discretion of the State without permission from or additional compensation to the Supplier.
- A.45.6.** It is understood and agreed that the Software is being developed by the Supplier for the sole and exclusive use of the State of Oklahoma. Moreover, except with regard to any deliverable based on Supplier's Utilities, the State of Oklahoma shall be deemed the sole and exclusive owner of all right, title, and interest therein, including all copyright and proprietary rights relating thereto.
- A.45.7.** Except for any Utilities, all work performed by the Supplier of software and any supporting documentation therefore shall be considered as Works for Hire (as such are defined under the U.S. Copyright Laws) and, as such, shall be owned by and for the benefit of State of Oklahoma.

A.46. Source Code Escrow – Reference Title 62 O.S. § 34.31

If required under applicable Oklahoma law relating to customized computer software developed or modified exclusively for a State Entity, the Supplier shall have a continuing obligation to comply with such law and place the source code for such software and any modifications thereto into escrow with an independent third party escrow agent. Supplier shall pay all fees charged by the escrow agent and enter into an escrow agreement, the terms of which are subject to the prior written approval of the State, with the escrow agent including terms that provide the State receives ownership of all escrowed source code upon the occurrence of any of the following:

- a) A bona fide material default of the obligations of the Supplier under the agreement with the agency;
- b) An assignment by the Supplier for the benefit of its creditors;
- c) A failure by the Supplier to pay, or an admission by the Supplier of its inability to pay, its debts as they mature;
- d) The filing of a petition in bankruptcy by or against the Supplier when such petition is not dismissed within sixty (60) days of the filing date;
- e) The appointment of a receiver, liquidator or trustee appointed for any substantial part of the Supplier's property;
- f) The inability or unwillingness of the Supplier to provide the maintenance and support services in accordance with the agreement with the agency;
- g) The ceasing of a Supplier of maintenance and support of the software; or
- h) Such other condition as may be statutorily imposed by the future amendment or enactment of applicable Oklahoma law.

A.47. Right to Renegotiate

Prior to exercising the State's right to cancel this Contract, the State may renegotiate the Contract for the purpose of obtaining more favorable terms for the State, provided that the term of the Contract is not modified.

A.48. Used or New Products

Bidder shall offer new items of current design unless this Solicitation specifies used, reconditioned, or remanufactured products are acceptable. Warranties in both cases should be the same.

A.49. Publicity

The award of this Contract to Supplier is not in any way an endorsement by the State of Supplier or the products and shall not be so construed by Supplier in any advertising or publicity materials. Supplier agrees to submit to the State all advertising, sales promotion, and other publicity matters relating to this Contract wherein the State's name is mentioned or language used from which the connection of the State's name therewith may, in the State's judgment, be inferred or implied as an endorsement. Supplier further agrees not to publish or use such advertising, sales promotion, or publicity matter or release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning this Contract without obtaining the prior written approval of the State.

A.50. Mandatory and Non-Mandatory Terms

- A.50.1.** Whenever the terms "shall", "must", "will", or "is required" are used in this Solicitation, the specification being referred to is a mandatory specification of this Solicitation. Failure to meet any mandatory specification may cause rejection of a Bid.
- A.50.2.** Whenever the terms "can", "may", or "should" are used in this Solicitation, the specification being referred to is a desirable item and failure to provide any item so termed shall not be cause for rejection of a Bid.

A.51. Non Tobacco – Smoke Free

By order of the Governor's Executive Order 2012-01, effective August 06, 2012 the use of any tobacco product shall be prohibited on any and all properties owned, leased or contracted for use by the State of Oklahoma, including but not limited to all buildings, land and vehicles owned, leased or contracted for use by agencies or instrumentalities of the State of Oklahoma.

A.52. OMES - ISD / Agency Relationship

Pursuant to the Oklahoma Information Technology Consolidation and Coordination Act, OMES - ISD is the entity designated to purchase information technology assets on behalf of the State of Oklahoma. The Act directs OMES - ISD to acquire necessary hardware and software, and directs OMES - ISD to authorize the use of these assets by other State agencies. OMES - ISD, as the owner of information technology assets on behalf of the State of Oklahoma, allows other State agencies to use these assets while retaining ownership and the right to reassign them upon written notification to the Supplier.

A.53. Acceptance of Solicitation Content

Unless otherwise provided in Section One of the Bidder's response to this Solicitation, all Bids shall be firm representations that the responding Bidder has carefully investigated and will comply with all terms and conditions contained in this Solicitation. Upon award of any contract to the successful Bidder, the contents of this Solicitation shall become contractual obligations between the parties. Failure to provide all proposed Amendments to the terms and conditions contained in this Solicitation of the Bid may cause the Bid to be rejected from consideration for award.

A.54. Special Provisions

Special Provisions apply with the same force and effect as these General Provisions. However, conflicts or inconsistencies shall be resolved in favor of the Special Provisions.

B. SPECIAL PROVISIONS

B.1. Contract Term, Renewal and Extension Option

- B.1.1.** The contract period shall begin on the effective date and shall extend through One (1) Year unless renewed, extended, or terminated in accordance with applicable contract provisions. The Supplier shall not commence work, commit funds, incur costs, or in any way act to obligate the State until so notified in writing of the approval of the contract. The authorized State representative is the only individual who can transmit that approval to the Supplier.
- B.1.2.** By mutual consent of the parties hereto, it is intended that there shall be four (4) options to renew, subject to the terms and conditions set forth herein, each for duration of one (1) year.
- B.1.3.** Prior to each renewal, the State shall subjectively consider the value of this Contract to the State, the Supplier's performance under the Contract and shall review certain other factors, including but not limited to the a) terms and conditions of Contract Documents to determine validity with current State and other applicable statutes and rules; b) then current products pricing and price discounts offered by Supplier; and c) then current products and support offered by Supplier.
- B.1.4.** If the State determines changes to a Contract Document are required as a condition precedent to renewal, the State and Supplier will cooperate in good faith to evidence such required changes in an Amendment.
- B.1.5.** The State, at its sole option, may choose to exercise an extension for ninety (90) days beyond the final renewal option period, at the Contract pricing rate. If this option is exercised, the State shall notify the Supplier in writing prior to contract end date. The State, at its sole option, may choose to exercise subsequent ninety (90) day extensions, by mutual consent and at the Contract pricing rate, to facilitate the finalization of related terms and conditions of a new award or as needed for transition to a new Supplier.
- B.1.6.** In the alternative, the procuring agency reserves the right to extend any Contract awarded if it is determined to be in the best interest of the State.

B.2. Solicitation Specific Definitions

- B.2.1.** EGID – Employees Group Insurance Division, also known as “Owner”
- B.2.2.** OMES/CP – Office of Management and Enterprise Services/Central Purchasing Division
- B.2.3.** Evaluation Committee – the team who will participate in the evaluation process. The term is used interchangeably with “selection team” and “evaluation team”.
- B.2.4.** Evaluation Team – the team who will participate in the evaluation process. The term is used interchangeably with “selection team” and “evaluation committee”.
- B.2.5.** Firm – Individual, company or corporation that supplies the expertise required in this solicitation. This term used interchangeably with “respondent” or “offeror”.
- B.2.6.** PC- Project Capability which is a criteria of the Selection Phase.
- B.2.7.** RA-Risk Assessment which is a criteria of the Selection Phase.
- B.2.8.** Selection team – the team who will participate in the evaluation process. The term is used interchangeably with “evaluation committee” and “evaluation team”.
- B.2.9.** VA-Value Add which is a criteria of the Selection Phase.
- B.2.10.** HIPAA Rules- “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.

B.3. Appeal

- B.3.1.** In the event any audit resolution, review, monitoring, or oversight results in the determination that EGID has overpaid Contractor for this contract. Contractor has a right to file a written appeal to the EGID Executive Director. EGID will consider the appeal before final action or reimbursement is sought by EGID. Payments under the Contract will continue while the appeal is pending unless the Contract is otherwise terminated.

B.4. Obligations of Permitted Subcontractor

- B.4.1.** If the Supplier is permitted to utilize subcontractors in support of this Contract, the Supplier shall remain solely responsible for its obligations under the terms of this Contract and for its actions and omissions and those of its agents, employees and subcontractors. Any proposed subcontractor shall be identified by entity name and by employee name in the applicable proposal and shall include the nature of the services to be performed. Prior to a subcontractor being utilized by the Supplier in connection with provision of the products, the Supplier shall obtain written approval of the State of such subcontractor and each employee of such subcontractor proposed for use by

the Supplier. Such approval is within the sole discretion of the State. As part of the approval request, the Supplier shall provide a copy of a written agreement executed by the Supplier and subcontractor setting forth that such potential subcontractor is bound by and agrees to perform the same covenants and be subject to the same conditions, and make identical certifications to the same facts and criteria, as the Supplier under the terms of all applicable Contract Documents. Supplier agrees that maintaining such agreement with any subcontractor and obtaining prior approval by the State of any subcontractor and associated employees shall be a continuing obligation. The State further reserves the right to revoke approval of a subcontractor or an employee thereof in instances of poor performance, misconduct or for other similar reasons.

B.4.2. All payments for products shall be made directly to the Supplier. No payments shall be made to the Supplier for any services performed pursuant to this Contract by unapproved or disapproved employees of the Supplier or a subcontractor.

B.4.3. Subcontract Modification

Any change to a contractor's subcontract shall be treated as a new subcontract and the above requirements of Part 2. "Subcontracting" apply.

B.5. Audit

B.5.1. Federal Funds

Organizations that expend \$500,000 or more in a year in federal funds from all sources shall have a certified independent audit conducted in accordance with OMB Circular A-133, (June 26, 2003 Revision), "Audits of States, Local Governments and Non-Profit Organizations," pursuant to the *Single Audit Act of 1984*, 31 U.S.C. §§ 7501-7507 (Pub.L. 98-502, Oct. 19, 1984, 98 Stat. 2327), and subsequent amendments thereto.

Audit fees for the Contractor and/or its subcontractors expending less than \$500,000 in federal funds will not be an allowable cost to a federal award unless the audit is arranged for and paid for by EGID or a pass-through agency.

B.5.2. State Funds

Corporations, both for-profit and non-profit, and governmental entities that receive \$50,000 or more in a year in state funds from EGID shall have a certified independent audit of its operations conducted in accordance with Government Audit Standards. The financial statements shall be prepared in accordance with Generally Accepted Accounting Principles and the report shall include a Supplementary Schedule of Awards listing all state and federal funds by contract and a Supplementary Schedule of Revenue and Expenditures by function and funding source.

B.5.3. Auditor Approval and Audit Distribution

The audit shall be performed by a certified public accountant or public accountant who has a valid and current permit to practice public accountancy in the State of Oklahoma and who is approved by the Oklahoma Accountancy Board to perform audits according to Government Audit Standards. EGID retains the authority to examine the work papers of said auditor.

The Contractor shall submit two copies of the annual audit report to the Office of Juvenile Affairs – Contracts Unit P.O. Box 268812, Oklahoma City, Oklahoma 73126-8812, with a copy, if applicable, of the management letter to all audit findings within 120 days of the Contractor's fiscal year end. Contractor shall submit a copy of the corrective action plan to all audit findings within 60 days of the audit submission to EGID. In the event the Contractor is unable to provide the audit report within the time specified, the Contractor shall submit a written request to the address listed in this paragraph for an extension citing the reason for the delay. EGID reserves the right to suspend payment to the Contractor for costs owed pursuant to the Contract if EGID has not received the Contractor's audit for the previous fiscal year.

B.6. Civil Rights

B.6.1. Contractor shall at all times comply (and will require any subcontractors to comply) with any applicable statutorily imposed nondiscrimination requirements. Contractor further agrees to comply with applicable terms of the specific following statutes, regulations and executive orders:

Omnibus Crime Control and Safe Streets Act of 1968 (OCCSSA), Pub.L. 90-351, June 19, 1968, 82 Stat. 197

B.6.1.1. *The Victims of Crime Act of 1984*, Pub.L. 98-473, Title II, ch. XIV, Oct. 12, 1984, 98 Stat. 2170

The Juvenile Justice and Delinquency Prevention Act of 2002, Pub.L. 107-273, Div. C, Title II, Subtitle B §§ 12201 to 12223, Nov. 2, 116 Stat. 1869

B.6.1.2. *The Civil Rights Act of 1964*, Pub.L. 88-352, July 2, 1964, 78 Stat. 241

B.6.1.3. *The Rehabilitation Act of 1973*, Pub.L. 93-112, Sept. 26, 1973, 87 Stat. 355

B.6.1.4. *The Americans with Disabilities Act of 1990*, Pub.L. 101-336, July 26, 1990, 104 Stat. 327

B.6.1.5. *The Education Amendments of 1972*, Pub.L. 92-318, June 23, 1972, 86 Stat. 235;

B.6.1.6. *The Age Discrimination Act of 1975*, Pub.L. 94-135, Title III, Nov. 28, 1975, 89 Stat. 728

Equal Treatment for Faith-Based Organizations, 28 C.F.R. §§38.1 and 38.2; see Exec. Order No. 13279, amended by Exec. Order no. 13403, equal protection of the laws for faith-based and community organizations.

B.6.2. Contractor agrees that in the event a federal or state court or administrative agency makes a finding of discrimination on the basis of race, color, religion, national origin, or sex (after a due process hearing) against Contractor or a Subcontractor, Contractor will forward a copy of the finding to EGID to be forwarded to the United States Department of Justice.

B.7. Drug-Free Work Place

B.7.1. Contractor also agrees that the Contractor and its employees and agents will not engage in or allow the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance while performing under the Contract. The Contractor agrees to require all subcontractors under the Contract to abide by this provision.

B.7.2. Unless prohibited by law, Contractor must maintain a policy for testing employees for the use of alcohol and illegal drugs consistent with EGID's rules, policies and procedures for drug and alcohol testing.

B.8. Duplicate Billing Prohibition

B.8.1. Contractor shall not bill EGID for services required under the Contract for which the Contractor has already received or will receive compensation for the same services from EGID or another source. Contractor may seek additional funding from another source to enhance the services for which EGID is providing compensation.

B.9. Health Insurance Portability and Accountability Act of 1996 (HIPAA)

B.9.1. Contractor, its agents, vendors, officers and employees, acknowledges that it may have, or may obtain, access to confidential protected health information, including, but not limited to individually identifiable health information. Contractor may use the protected health information solely to perform its duties and responsibilities under the Contract. Contractor shall comply with all applicable laws and regulations specifically including, but not limited to, the privacy and security standards of the *Health Insurance Portability and Accountability Act of 1996* (HIPAA), Pub.L. 104-191, Aug. 21, 1996, 110 Stat. 1936, as it may be amended.

B.10. Monitoring and Financial Compliance Review

B.10.1. EGID, through any authorized representative, has the authority, at reasonable times, to inspect, investigate or otherwise evaluate the services performed under the Contract and financial transactions related thereto. Such inspections, investigations or evaluations may be conducted on the premises where the services are being performed. If any inspection, investigation or evaluation is conducted by EGID, Contractor shall provide all reasonable assistance necessary. All inspections, investigations or evaluations shall be performed in such manner as will not unduly interfere with the Contractor's performance of the services. EGID shall have access to and the authority to examine and copy all records related to the Contract and the services to be provided under it at any time during the period such records are required to be maintained or retained by Contractor. EGID will not impose an unreasonable administrative burden on Contractor. Contractor shall establish and maintain confidential files or otherwise make such files available at the service delivery site for all program personnel and service recipients.

B.10.2. EGID will complete a performance evaluation at the end of the contract period, evaluating the quality and appropriateness of the services provided, as required by 74 O.S. § 85.41B.

B.11. Prior Unmet Contractual Obligations

B.11.1. Under the Contract, EGID has the authority to suspend payment to Contractor in the event the Contractor has not met its contractual obligations for submission of reports, schedules, audits or other documentation required by a prior year's contract. Such suspension of payments to the Contractor shall continue until such required documents are received by EGID.

B.12. Severability

B.12.1. If any provision under this agreement or its application to any person or circumstance is held invalid by any court of competent jurisdiction, such invalidity does not affect any other provision of this agreement or its application that can be given effect without the invalid provision or application.

B.13. Unallowable Costs

- B.13.1.** In the event any audit, audit resolution, review, monitoring, or any other oversight results in the determination that Contractor has expended EGID funds on unallowable costs on this or any previous contract, Contractor shall reimburse EGID in full for all such costs on demand. EGID may, at its sole discretion, deduct and withhold such amounts from subsequent payments to be made to the Contractor under this or other contracts.

B.14. Supplier Services

The State of Oklahoma shall not guarantee any minimum or maximum amount of the Supplier services that may be required under this Contract.

C. SOLICITATION SPECIFICATIONS

C.1. Information and Desired Results

- C.1.1.** The Employee Group Insurance Division of the Office of Management and Enterprise Services (EGID) wishes to engage the services of a Pharmacy Benefit Consulting Firm to provide consulting services to maximize the value of the EGID HealthChoice pharmacy benefit of the stakeholders, the providers, and the plan.
- C.1.2.** The consultant must possess superior experience and expertise in providing consulting services for pharmacy benefit programs with demographics similar to the EGID and will be expected to provide:
 - C.1.2.1.** Planning and development of pharmacy benefit designs and cost containment options.
 - C.1.2.2.** Pharmacy Benefit Manager contract development pursuant to competitive bidding regulations as needed and PBM contract performance evaluation on an on-going basis.
 - C.1.2.3.** Data and trend analyses including expenditure projections, cost benefit analyses of proposed program changes, industry trends, and legislation. This includes analysis and financial impacts for any proposed legislation that impacts EGID.
 - C.1.2.4.** Reimbursement strategies including economic analyses and recommendations, cost containment options, and co-payment incentives.
 - C.1.2.5.** Technical assistance and recommendations concerning specialty programs, manufacturer rebates, Medicare Part D, CMS contracting options, identification and consultation regarding emerging industry trends, and other pharmacy benefit issues.
 - C.1.2.6.** High-cost claims analysis, showing current high-cost claims for the most recent quarter, including previous trends. This analysis will identify claims for medications paid under both the medical and pharmacy benefit that are of suspect value, including improperly paid claims, such as those for over-the-counter (OTC) products, medical devices, medications specifically excluded from the medical and/or pharmacy benefit, and other similar items. Consultant will be expected to provide recommendations on actions to take to mitigate anything determined to be wasteful spending, including recommending new plan exclusion strategies, formulary changes, and utilization management (UM) changes.
 - C.1.2.7.** EGID currently operates a 2nd level appeals Committee. The Committee meets weekly and reviews appeals for members and deals with acute issues relating to the pharmacy program. The consultant will be expected to actively participate in this committee. Advice regarding the structure and operation of this and other committees would also be solicited from the consultant.

C.2. Obligations and Activities of Vendor

- C.2.1.** Vendor agrees to:
 - C.2.1.1.** Not use or disclose protected health information other than as permitted or required by this Agreement or as required by law;
 - C.2.1.2.** Use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of protected health information other than as provided for by this Agreement;
 - C.2.1.3.** Report to EGID any use or disclosure of protected health information not provided for by this Agreement of which it becomes aware, including breaches of unsecured protected health information as required at 45 CFR 164.410, and any security incident of which it becomes aware; breaches involving 100 or more affected individuals shall be reported within ten (10) days of discovery, and breaches involving less than 100 affected individuals shall be reported within thirty (30) days of discovery; Vendor shall provide EGID

with information regarding the nature and extent of the improper use or disclosure and any additional information EGID may reasonably request;

- C.2.1.4.** Mitigate, to the extent practicable, any harmful effect that is known to Vendor of a use or disclosure of Protected Health Information by Vendor in violation of the requirements of this Agreement
- C.2.1.5.** In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of the Vendor agree to the same restrictions, conditions, and requirements that apply to the Vendor with respect to such information;
- C.2.1.6.** Make available protected health information in a designated record set to the individual or the individual's designee as necessary to satisfy EGID's obligations under 45 CFR 164.524;
- C.2.1.7.** Provide access, at the request of EGID and during normal business hours, to Protected Health Information in a Designated Record Set to EGID or, as directed by EGID, to an Individual in order to meet the requirements under 45 CFR §164.524, provided that EGID delivers to Vendor a written notice at least five (5) business days in advance of requesting such access. This provision does not apply if Vendor and its employees, subcontractors and agents have no Protected Health Information in a Designated Record Set of EGID.
- C.2.1.8.** Make any amendment(s) to Protected Health Information in a Designated Record Set that the EGID directs or agrees to pursuant to 45 CFR §164.526, at the request of EGID or an Individual. This provision does not apply if Vendor and its employees, subcontractors and agents have no Protected Health Information from a Designated Record Set of EGID.
- C.2.1.9.** Maintain and make available the information required to provide an accounting of disclosures to the individual as necessary to satisfy EGID's obligations under 45 CFR 164.528;
- C.2.1.10.** Unless otherwise protected or prohibited from discovery or disclosure by law, Vendor agrees to make internal practices, books, and records, including policies and procedures, relating to the use or disclosure of Protected Health Information received from, or created or received by Vendor on behalf of, EGID, available to the EGID or to the Secretary for purposes of the Secretary determining EGID's compliance with the Privacy Rule or Security Rule. Vendor shall have a reasonable time within which to comply with requests for such access and in no case shall access be required in less than five (5) business days after Vendor's receipt of such request, unless otherwise designated by the Secretary.
- C.2.1.11.** To the extent the Vendor is to carry out one or more of EGID's obligation(s) under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the EGID in the performance of such obligation(s); and
- C.2.1.12.** Make its internal practices, books, and records available to the State for purposes of determining compliance with the HIPAA Rules.
- C.2.2.** Permitted Uses and Disclosures by Vendor
 - C.2.2.1.** Except as otherwise limited by this Agreement, Vendor may make any uses and disclosures of Protected Health Information necessary to perform its services to EGID and otherwise meet its obligations under this Agreement, if such use or disclosure would not violate the Privacy Rule if done by EGID. All other uses or disclosures by Vendor not authorized by this Agreement or by specific instruction of EGID are prohibited.
 - C.2.2.2.** Vendor may use or disclose protected health information as required by law.
 - C.2.2.3.** Vendor agrees to make uses and disclosures and requests for protected health information consistent with EGID's minimum necessary policies and procedures.
 - C.2.2.4.** Vendor may not use or disclose protected health information in a manner that would violate Subpart E of 45 CFR Part 164 if done by EGID.
 - C.2.2.5.** Vendor may disclose protected health information for the proper management and administration of Vendor or to carry out the legal responsibilities of the Vendor, provided the disclosures are required by law, or Vendor obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notifies Vendor of any instances of which it is aware in which the confidentiality of the information has been breached.
 - C.2.2.6.** Vendor may provide data aggregation services relating to the health care operations of the EGID.
- C.2.3.** Provisions for EGID to Inform Vendor of Privacy Practices and Restrictions
 - C.2.3.1.** EGID shall notify Vendor of any limitation(s) in the notice of privacy practices of EGID under 45 CFR 164.520, to the extent that such limitation may affect Vendor's use or disclosure of protected health information.

- C.2.3.2.** EGID shall notify Vendor of any changes in, or revocation of, the permission by an individual to use or disclose his or her protected health information, to the extent that such changes may affect Vendor's use or disclosure of protected health information.
- C.2.3.3.** EGID shall notify Vendor of any restriction on the use or disclosure of protected health information that EGID has agreed to or is required to abide by under 45 CFR 164.522, to the extent that such restriction may affect Vendor's use or disclosure of protected health information.

D. EVALUATION

D.1. Evaluation Method

- D.1.1.** An evaluation committee will review and evaluate proposals.
- D.1.2.** The State will be awarding this proposal with the Best Value Method, for the degree to which proposal meets criteria as follows:

D.2. Evaluation Criteria

- D.2.1.** Level of Expertise – LE
- D.2.2.** Risk Assessment – RA
- D.2.3.** Value Added – VA
- D.2.4.** Cost
- D.2.5.** Interview
- D.2.6.** Past Performance

D.3. Description of Evaluation Criteria

- D.3.1.** Project Capability (PC) Submittal – Whether the pages are blank or filled must NOT exceed 6 pages (front side of page only) and is comprised of: Level of Expertise (2 pages), a Risk Assessment Plan (2 pages), and a Value added Plan (2 pages). (See Attachment E, F, and G).
- D.3.2.** Purpose of PC Submittal
 - D.3.2.1.** Assist the State in prioritizing Respondents submittals based on their ability to understand and deliver the required services.
 - D.3.2.2.** Assist the Respondent in planning what they are going to do before they do it.
 - D.3.2.3.** Provide high performing Respondents the opportunity to differentiate themselves from their competitors due to their experience and expertise by using verifiable performance metrics and previous best value results.
- D.3.3.** PC Submittal Form Requirements
 - D.3.3.1.** PC submittal must NOT contain any names that can be used to identify who the Respondent is (such as firm names, personnel names, Project names, or product names).
 - D.3.3.2.** The PC submittal must not include the proposed cost or the proposed duration that the Respondent has identified in the Proposal Form.
 - D.3.3.3.** A PC proposal template is included in this RFP. This document must be used by all Respondents. Respondents are NOT allowed to re-create, re-format, or modify the template in any manner. Respondents must type their responses on the Word template provided.
 - D.3.3.3.1.** The PC Submittal (whether the pages are blank or filled) must NOT exceed 6 pages (front side of page only).
 - D.3.3.3.2.** Failure to comply with any of the PC format requirements may result in disqualification.
 - D.3.3.3.3.** The PC Submittal shall not contain any marketing information. The Submittal should be used to prove to the State that the Respondent has expertise for the specific project being proposed upon.
- D.3.4.** Level of Expertise Plan -Overview
 - D.3.4.1.1.** The Level of Expertise Plan is to allow the Respondent to differentiate their capability to meet the requirements of this project with a plan that meets time and cost goals. All cost and schedule impacts associated with project capabilities listed within the Level of Expertise Plan (Attachment E) must be included in your base cost/schedule.
- D.3.5.** Risk Assessment Plan – Overview

D.3.5.1.1. The Respondent should list and prioritize major risk items on this contract that could cause the Respondent's "vision" or "plan" to deviate or not meet the expectations of the State (i.e. risks that the Respondent does not control). This includes sources, causes or actions that are beyond the scope of the contract that may cause cost increases, delays, change orders, or dissatisfaction to the State. Do not include in this submittal any risks caused by a lack of the Respondent's technical competency. The risks should be described in simple and clear terms so that non-industry personnel can understand the risk. The Respondent must also explain how they will mitigate, manage, and/or minimize the risk from occurring. A mitigation / management plan solution with supporting documented performance (references, performance measurements of projects when the risk mitigation was used etc.) is required for a high rating from the selection committee. The backup performance information can include how many times the mitigation plan was previously used, and the impact on performance in terms of customer satisfaction. (See Attachment F)

D.3.6. Value Added Section – Overview

D.3.6.1. The purpose of the Value Added plan is to provide Respondents with an opportunity to identify any value added options or ideas that may benefit the State at a change in cost or scope. These options or ideas may also be referred to as additional or optional services. Where applicable, the Respondent should identify: 1) what the State may have excluded or omitted from its scope; and 2) how these options or ideas have been successful through verifiable performance information and/or best value practices. The Respondent should list the cost and time impact of its options or ideas. All items should be listed in terms of a firm fixed price for the service being proposed. The ideas identified in the VA Plan must NOT be included in the Respondent's Cost Proposal. The Respondent should identify and briefly describe any options, ideas, alternatives, or suggestions to add value to this project, and indicate how the items will increase or decrease cost (note: a Value Added option must impact cost). All cost impacts associated with these Value Added options must NOT be included in your base cost. (See Attachment G)

D.3.7. Interviews

D.3.7.1. The State may shortlist (if necessary) the top rated Respondents. The shortlisted Respondents may be required to participate in an interview period. The State may interview all critical team members, including, but not limited to:

D.3.7.1.1. Account Manager (Primary Working Agent)

D.3.7.1.2. Lead Consultant (Decision Maker)

D.3.7.1.3. Senior Account Director (Escalation Contact Point)

D.3.7.1.4. The State may also request to interview additional personnel.

D.3.7.2. The State will interview individuals separately (and may perform a group interview after the individual interviews are completed). No other individuals (from the Respondents) will be allowed to sit in or participate during the individual interviews.

D.3.7.3. The State may request additional information prior to interviews.

D.3.7.4. All proposed team members must be available in person for interviews on the date specified in this RFP.

D.3.7.5. At the State's discretion, substitutes, proxies, phone interviews, or electronic interviews may be allowed.

D.3.7.6. Individuals who fail to participate in the interview will not be given a score which may jeopardize the Respondent's competitiveness.

D.3.8. Price

D.3.8.1. Respondent will submit a Cost Proposal where the Respondent will perform the required services at a firm fixed price for the identified service for the term of the contract. The Respondent must include all essential activities in the base/cost schedule. The Respondent must identify all potential services for the contract year, including value added items, and a fixed cost for each service must be identified. (Attachment B)

D.3.8.2. Respondent should include any and all services that Respondent intends to present as options to the State during the life of the contract in either the base cost schedule or the VA Plan. Services that are not included in the base cost schedule or the VA Plan cannot be considered by the State as part of this contract.

D.3.9. Past Performance

D.3.9.1. Respondent will be required to provide the Past Performance Information (PPI) Survey (Attachment H) to three references for current clients that most closely resemble EGID and one terminated reference within the past 3 years. The clients will be instructed to complete the surveys and send them directly to OMES

Central Purchasing Contracting Officer for incorporation with the RFP. Respondent will also include name and contact information for the client contact for each references so direct contact can be made if additional information is needed.

D.4. Dominance Check for Cost Reasonableness

- D.4.1.** After ranking all of the Respondents based on the selection criteria, weights, and ratings, the State will verify if the best prioritized respondent meets the following requirements:
 - D.4.1.1.** If the highest ranked Respondent is within the budget and is within (10%) of the next highest ranked Respondent's cost, then the highest ranked respondent moves to the Pre-Award Phase;
 - D.4.1.2.** If the highest ranked Respondent is within the budget, but its cost is more than 10% greater than the second highest ranked Respondent's cost, the State reserves the right to invite the second highest ranked Respondent to the Pre-Award Phase;
 - D.4.1.3.** If the highest ranked Respondent is over the budget, the State reserves the right to proceed to the highest ranked Respondent within the budget unless the State obtains additional funding;
 - D.4.1.4.** If all the Respondents are over-budget, the State may obtain additional funds and apply the rules above, re-scope the Project, or cancel the Project.
 - D.4.1.5.** If the best value Respondent's cost is more than 10% below the average Respondent's cost, the State reserves the right to proceed to the next prioritized best value Respondent;

D.5. Clarification/Pre-Award Phase

- D.5.1.** The potential best-valued Respondent will be required to perform the Clarification/Pre-Award functions as outlined in Attachment H. The intent of this period is to allow the Respondent to clarify their proposal, address any issues or risks, allow the client to add any concerns, and to prepare a Pre-Award Document.

D.6. Contract Form and Requirements

- D.6.1.** Form of Contract between the State and the Selected Respondent
 - D.6.1.1.** The Contract between the selected Respondent and the Owner will be the Owner's Agreement, which is incorporated into this RFP (the "Contract"). By submitting a Proposal, Respondent acknowledges and agrees that it received, read, understands, and shall be bound by and comply with the Contract.
 - D.6.1.2.** The Contract will incorporate by reference this RFP and any Attachments and any RFP modifications agreed to by Owner. The Owner may attach to the Contract as Supplementary Conditions Respondent's Proposal, selected provisions of Respondent's Proposal or modifications to Respondent's Proposal agreed to by Owner and Respondent.
- D.6.2.** Contract Evaluation
 - D.6.2.1.** Upon completion of each project, the Respondent will be evaluated by the Owner based on their performance on the Project. This includes (but is not limited to): overall quality, ability to manage cost and schedule, high customer satisfaction, and submission of accurate weekly reports. The Owner's evaluation of contractors, subcontractors, and individuals shall be fair, based on facts, and non-abusive.
- D.6.3.** All questions regarding the Bid if requested by the State prior to award.

E. INSTRUCTIONS TO BIDDER

E.1. Introduction

Prospective Bidders are urged to read this Solicitation carefully. Failure to do so shall be at the Bidder's risk. Provisions, terms, and conditions may be stated or phrased differently than in previous solicitations. Irrespective of past interpretations, practices or customs, Bids shall be evaluated and any resultant contract(s) shall be administered in accordance with the plain meaning of the contents hereof. The Bidder is cautioned that the requirements of this Solicitation can be altered only by written Amendment approved by the State and that verbal communications from whatever source are of no effect. In no event shall the Bidder's failure to read and understand any term or condition in this Solicitation constitute grounds for a claim after award of the Contract.

E.2. Mandatory and Non-Mandatory Terms

- E.2.1.** Whenever the terms "shall", "must", "will" or "is required" are used in this RFP, the specification being referred to is a mandatory specification of this RFP. Failure to meet any mandatory specification may cause rejection of the respondent's proposal.
- E.2.2.** Whenever the terms "can", "may", or "should" are used in this RFP, the specification being referred to is a desirable item and failure to provide any item so termed will not be cause for rejection.

E.3. Pre-Proposal / Process Education Material

- E.3.1.** A pre-proposal / educational webinar will be held on August 6, 2018 10:00 AM CDT. You must contact the contracting officer listed to RSVP and receive the invitation to join.
- E.3.2.** You must submit your request for attendance by August 1, 2018 2:00 PM CDT to receive the webinar information. All attendees will receive a calendar invitation to join the webinar.
- E.3.3.** If unable to join the webinar, alternative educational material is provided for this solicitation process. A YouTube tutorial is available: https://www.youtube.com/watch?v=Wgl3x1RB_9M&feature=youtu.be

E.4. Preparation of Proposal

- E.4.1.** It is the responsibility of the supplier to inquire about any requirements of this RFP that is not understood.
- E.4.2.** Information shall be entered on the form provided or a copy thereof.

E.5. Submission of Proposal

- E.5.1.** By submitting a proposal, the firm agrees not to make any claims, damages or have any rights to damages, because of any misunderstanding or misrepresentation of the specifications or because of any misinformation or lack of information.
- E.5.2.** If a firm fails to notify OMES/CP of an error, ambiguity, conflict, discrepancy, omission or other error in the solicitation, known to the firm, or an error that reasonably should have been known by the firm, the firm shall submit a proposal at its own risk; and if awarded the contract, the firm shall not be entitled to additional compensation, relief, or time, by reason of the error or its later correction. If a firm takes exception to any requirement or specification contained in the solicitation, these exceptions must be clearly and prominently stated in their response.
- E.5.3.** Completeness of proposal(s): It is desirable that the firm respond in a complete, but concise manner. It is the firm's sole responsibility to submit information in the responses as requested by this solicitation. The firm's failure to submit required information may cause their proposal to be rejected. However, unnecessary information should be excluded from the firm's proposal(s).

E.6. Submission Deliverables

- E.6.1.** Two (2) USB drives containing an electronic copy of the proposal must be clearly marked by the respondent's name, solicitation number and date of solicitation closing. No hard copies are required.
 - E.6.1.1.** All electronic documents must be in one of the following software options:
 - E.6.1.1.1. Microsoft Office Word or Excel
 - E.6.1.1.2. Adobe PDF

Copy of proposal emailed to Contracting Officer is not considered an electronic copy and will not be accepted.

E.6.2. Proposal Content

E.6.2.1. Completed “Responding Bidder Information” OMES/CP/Purchasing Form 076.

E.6.2.2. Completed “Certification for Competitive Bid and Contract” OMES/CP/Purchasing Form 004.

E.6.2.3. Evidence of meeting the insurance requirements

E.6.2.4. Acknowledgement of Amendments to the Solicitation (if applicable)

E.6.2.5. Agreements (if any) required by the firm.

E.6.2.5.1. Agreements not submitted with the firm’s response will not be considered after Contract Award.

E.6.2.6. Attachment A – RFP Cover Page and Declaration

E.6.2.7. Attachment B – Cost Proposal Form

E.6.2.8. Attachment C – Contract Schedule

E.6.2.9. Attachment D – Project Capability, Risk Assessment, Value Added Submittal Instructions

E.6.2.10. Attachment E – Level of Expertise Plan

E.6.2.11. Attachment F – Risk Assessment Plan

E.6.2.12. Attachment G – Value Added Plan

E.6.2.13. Attachment H – Clarification Pre-Award Phase Guide

E.6.2.14. Attachment I – Weekly Risk Report (WRR) Guide

E.6.2.15. Attachment J – Weekly Risk Report (WRR) Template

E.6.2.16. Attachment K – Business Associate Agreement

E.6.2.16.1. The vendor, as a “Business Associate”, agrees to execute the ‘Business Associate Agreement’ upon award of the contract between Oklahoma Management and Enterprise Services Employees Group Insurance Division, hereafter known as “EGID”, and the vendor as defined by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) statues and regulations.

E.6.2.17. Attachment L – IS Security Provisioning Document

E.6.2.18. Attachment M – IS Security Provisioning Spreadsheet

E.6.2.19. Attachment N – Past Performance Guide

E.6.2.20. Attachment O – Past Performance Survey

E.7. Bid Change

If the Bidder needs to change a Bid prior to the Solicitation Closing Date and Time, a new Bid shall be submitted to the State with the following statement: “This Bid supersedes the Bid previously submitted” in a single envelope, package, or container and shall be sealed. The name and address of the Bidder shall be inserted in the upper left corner of the single envelope, package, or container. Solicitation number and solicitation closing date and time must appear on the face of the single envelope, package, or container.

E.8. Solicitation Amendments

- E.8.1.** If an “Amendment of Solicitation”, OMES Form 011 (or other format as provided), is issued, then the Bidder shall acknowledge agreement with each such Amendment of Solicitation by signing and returning the Solicitation Amendment. An executed Amendment may be submitted with the Bid or may be forwarded separately. If forwarded separately, the executed Amendment must contain this Solicitation number and Closing Date and Time on the front of the envelope. The State must receive the executed Amendment by the Closing Date and Time specified for receipt of bids for the Bid to be deemed responsive. Failure to agree to a Solicitation Amendment may be grounds for rejection.
- E.8.2.** No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in this Solicitation. All Amendments to this Solicitation shall be made in writing by the State.
- E.8.3.** It is the Bidder’s responsibility to check the State’s website frequently for any possible Amendments to this Solicitation that may be issued. The State is not responsible for the Bidder’s failure to download any amendment documents required to complete its Bid.

E.9. Proprietary and/or Confidential

- E.9.1.** Unless otherwise specified in the Oklahoma Open Records Act, Central Purchasing Act, or other applicable law, documents and information a Bidder submits as part of or in connection with a Bid are public records and subject to disclosure. If a Bidder claims any portion of its Bid as confidential information, the Bidder must specifically identify what documents or portions of documents are considered confidential and identify applicable law supporting the claim of confidentiality. In addition, the Bidder shall submit the information separate and apart from the Bid and mark it Confidential. Bidder acknowledges and agrees that resumes, pricing, and marketing materials provided to the State are not trade secrets or financial or proprietary information, and are not exempt from disclosure. Pursuant to the Oklahoma State Finance Act and delegation by the State CIO, the State Purchasing Director shall make the final decision as to whether the separately submitted information is confidential.
- E.9.2.** If the State Purchasing Director does not acknowledge the information as confidential, OMES will return or destroy the information with proper notice to the Bidder and the information will not be considered in the evaluation. A Bid marked, in total, as Confidential shall not be considered.

E.10. Oklahoma Open Records Act

Bids are subject to public disclosure in accordance with the Oklahoma Open Records Act. To the extent permitted by such Act, the Bid will not be disclosed, except for purposes of evaluation, prior to approval of the awarded Contract. All material submitted becomes the property of the State. Bids will not be considered confidential after award of the Contract except that information in the Bid determined to be confidential by the State Purchasing Director shall continue to be considered confidential.

E.11. Communications Concerning Solicitation

The contracting officer listed on the cover page of this solicitation is the only individual in which the Bidder should be in contact with concerning any issues with this solicitation. Failure to comply with this requirement may result in the Bid being considered non-responsive and not considered for further evaluation.

E.12. Administrative Review

- E.12.1.** Bidders who believe solicitation requirements or specifications are unnecessarily restrictive or limit competition may submit a request for administrative review, in writing, to the procurement specialist listed herein. To be considered a request for review must be received no later than 3:00 P.M. Central Time on August 14, 2018 The State shall promptly respond in writing to each written review request, and where appropriate, issue all revisions, substitutions or clarifications through a written amendment to this Solicitation. Requests for administrative review of technical or contractual requirements shall include the reason for the request, supported by information, and any proposed changes to the requirements.

E.13. General Solicitation Questions

Bidder may submit general questions concerning the specifications of this Solicitation. All questions and answers regarding this Solicitation shall be posted to the IT procurement wiki at:

<https://wiki.ok.gov/display/itprocurement/0900000331>

- E.13.1.** Questions received via any other means will not be addressed. To register with the State of Oklahoma for wiki access, please follow the link below to request access.

<https://wiki.ok.gov/display/itprocurement/Home>

- E.13.2.** In order to guarantee that wiki access is created prior to closing date for submitting questions for a solicitation, please request access at least five (5) business days prior to the closing date for questions. The State of Oklahoma cannot be responsible for a Bidder's lack of access if the request is not made within this timeline.

- E.13.3.** When posing questions, every effort should be made to:

- a) be concise
- b) include section references, when possible; and
- c) avoid use of tables or special formatting (use simple lists).

These questions shall be answered directly on the wiki and in the form of an amendment and posted on the OMES - ISD website and linked on the wiki. Bidders are advised that any questions received after 3:00 P.M. Central Time on August 14 2018 shall not be answered.

E.14. Electronic Funds Transfer (EFT)

The State of Oklahoma passed legislation in 2012 requiring funds disbursed from the State Treasury be sent electronically.

If awarded a contract will your company accept payment for invoices from the State by EFT:

Yes No (check one)

E.15. Bid Deliverables

Note: Bid deliverables are to be submitted on thumb drive machine-readable format.

E.15.1. Section One – Introduction

- a) Letter of Introduction
- b) Completed “Responding Bidder Information” OMES Form 076.
- c) Completed “Certification for Competitive Bid and Contract” OMES Form 004.
- d) Signed Amendment(s), if any.
- e) Any exceptions to solicitation terms and conditions.

E.15.2. Section Two – Level of Expertise Plan, Risk Assessment Plan, and Value Added Plan

- a) Attachment E – Level of Expertise Plan
- b) Attachment F – Risk Assessment Plan
- c) Attachment G – Value Added Plan

E.15.3. Section Three – References

Provide Reference List as provided in Attachment H.

E.15.4. Section Four – EITA Compliance

Pursuant to Section A.30 above, if applicable, Supplier shall provide a URL link to a website providing a VPAT for products deliverables through the resulting Contract.

E.15.5. Section Five– Bidder Agreements

Bidder shall provide any required software licenses, maintenance, service agreements and any other similar applicable agreements.

Note: Any such agreements the Bidder requires, should it be the awardee of the Contract, not submitted with Bidder's original Bid shall not be considered

E.15.6. Section Six - Pricing

All information relating to costs are to be sent in a separate binder/envelope, on a separate CD, DVD, or thumb drive clearly marked as “Price/Cost.”

E.15.7. Attachment K – Business Associate Agreement

E.15.8. Attachment L – IS Security Provisioning Documents

E.15.9. Attachment M – IS Security Provisioning Spreadsheet

E.16. Awardee Financial Status

Prior to award the State may choose to request information from the Bidder to demonstrate its financial status and performance, in the form of the last three years audited financial statements or the last three years of tax returns. A certified review may be accepted (clarification may be required). If the Bidder is a subsidiary of another entity, the last three years audited financial statements of three years tax returns for the parent company must also be submitted. The State reserves the right to withhold award to a Bidder who is deemed financially weak. The State reserves the right to determine financial status at its sole discretion.

Clarification or additional documents may be requested.

E.17. Notice of Award

A notice of award in the form of a purchase order or other Contract Documents resulting from this Solicitation shall be furnished to the successful Bidder and shall result in a binding Contract.

F. SCHEDULE (TENTATIVE)

F.1. Proposed schedule for the solicitation process

Dates listed below are tentative and subject to change

No.	Task	Date/Time
7	Issue Solicitation	07/27/2018
8	Pre-Bid & Educational Meeting	8/08/2018
9	Questions Due	08/14/2018
10	Questions Answered	08/17/2018
11	Proposals due	08/24/2018
12	Evaluation Committee Meeting	08/28/2018
13	PIPS Interview Process	09/6-9/7/2018
14	Identify Best Value Supplier	9/10/2018
15	Request Vendor Clarification / Kick off	09/12/2018
16	Final Approval by Legal / IT Project Team	09/26/2018
17	Contract Award Date	09/28/2018

F.2. Explanation of Proposed Schedule (F.1)

F.2.1. Pre-Proposal Questions

F.2.1.1. All questions regarding the solicitation process and/or the solicitation are due no later than August 14 2018 at 3:00pm Central Time. Questions are to be submitted through the Wiki link in section E.

F.2.2. Proposals Due

F.2.2.1. Proposals are due August 24 2018 by 3:00 p.m. Central Time. Any proposals received after 3:00 p.m. will be considered late and will be returned to the supplier unopened.

F.2.3. Vendor Interviews

F.2.3.1. Vendor interviews will be held starting on September 6 and September 7, 2018. The time will be set at a later date. The vendor interviews are preferred to be done in person in Oklahoma City but accommodations may be made.

F.2.4. Pre-Award/Clarification Period

The Pre-Award/Clarification period will tentatively begin September 12, 2018. This meeting is to be scheduled by the supplier after addressing risks/concerns, milestone schedule, coordinating with all critical entities. This meeting is to be held in person in OKC sometime during this week with coordination to involve all required parties.

F.2.5. Contract Award

F.2.5.1. Contract award date is to be determined.

G. PRICE AND COST

The anticipated budget for this solicitation is up to \$400,000 annually.