



State of Arkansas
ARKANSAS DEPARTMENT OF HEALTH
4815 West Markham
Little Rock, Arkansas 72205

REQUEST FOR APPLICATION

SOLICITATION INFORMATION			
RFA Number:	DH-26-0004	RFA Issued:	August 28, 2025
Sub-Grant Description:	Medicare Rural Hospital Flexibility Program		
Agency:	AR Department of Health – Division of Health Protection, Rural Health Section		

APPLICATION DEADLINE	
Application Deadline Date/Time:	September 09, 2025, NLT 2:00 CT
Applications shall not be accepted after the designated date and time. It is the responsibility of respondents to submit applications at the designated location on or before the deadline. Applications received after the deadline shall be considered late and shall be returned to the bidder without further review.	

DELIVERY OF RESPONSE DOCUMENTS	
Sealed applications may be mailed or hand delivered to the following locations:	
Mailing Address:	Arkansas Department of Health Attn: Maurice Rogers 4815 W Markham Street, Slot #58 Little Rock, AR 72205 Delivery providers, USPS, UPS, and FedEx deliver mail to ADH's street address on a schedule determined by each individual provider. These providers will deliver to ADH based solely on the street address.
Physical Address	Arkansas Department of Health Contract Support Section 4815 W Markham Street, L163 Little Rock, AR 72205
Response's Outer Packaging:	Outer packaging must be sealed and should be properly marked with the following information. If outer packaging of response submission is not properly marked, the package may be opened for identification purposes. <ul style="list-style-type: none">• RFA number• Application Date/Time• Applicant's name and return address

ARKANSAS DEPARTMENT OF HEALTH CONTACT INFORMATION			
Issuing Officer:	Maurice Rogers	Phone Number:	(501) 280-4586
Email Address:	Maurice.Rogers@arkansas.gov	Alternate Number:	
ADH Website:	Grant & Bid Opportunities - Arkansas Department of Health		

SECTION 1 – PROGRAM OVERVIEW

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

1.1 PURPOSE

The Arkansas Department of Health (ADH) issues this Request for Application (RFA) to obtain applications for funding to provide technical assistance supporting quality improvement work with Arkansas' Critical Access Hospitals (CAHs).

1.2 BACKGROUND

The Medicare Rural Hospital Flexibility Program, or Flex Program, was established by the Balanced Budget Act (BBA) of 1997. Any state with rural hospitals and a state rural health plan may establish a Flex Program and apply for federal funding. The Flex Program also created critical access hospitals (CAHs) as a Medicare provider type. CAH designation allows the hospital to be reimbursed on a reasonable cost basis for inpatient and outpatient services including lab and qualifying ambulance services that are provided to Medicare patients and, in some states, Medicaid patients. The Flex Program grant provides funding to state governments or other designated entities to support CAHs in: financial & operational improvement, quality improvement, quality reporting, performance improvements and benchmarking, designating facilities as CAHs, population health, and the provision of rural emergency medical services (EMS). Only states with CAHs or hospitals eligible to convert to CAH status and a state rural health plan are eligible to participate in the Flex Program.

The CAH designation is designed to reduce the financial vulnerability of rural hospitals and improve access to healthcare by keeping essential services in rural communities. To accomplish this goal, CAHs receive certain benefits, such as cost-based reimbursement for Medicare services.

Eligible hospitals must meet the following conditions to obtain CAH designation:

- Have 25 or fewer acute care inpatient beds.
- Be located more than 35 miles from another hospital.
- Be located more than 15 miles from another hospital in an area with mountainous terrain or only secondary roads.
- Maintain an annual average length of stay of 96 hours or less for acute care patients.
- Provide 24/7 emergency care services.

1.3 GRANT PERIOD

- A. The anticipated initial term is to be from November 1, 2025, through August 31, 2026.
- B. Upon mutual agreement between the applicant and the agency, the sub-grant agreement may be renewed for up to six (6) additional one-year terms or portions thereof contingent upon appropriation of funding and approvals.
- C. Total agreement term, including any amendments and/or possible extensions, will not exceed seven (7) consecutive years.

1.4 AVAILABLE FUNDING

- A. Maximum amount of funding anticipated will be up to \$134,425 to a single recipient.
- B. Funding is contingent upon review and acceptance of application.
- C. Funds **must** be used in accordance with the budget as approved.
- D. ADH reserves the right to determine allowable and non-allowable costs.
- E. Prior to award, ADH may increase the amount of funding in efforts to maximize program support. Recipient(s) **must** submit a revised budget worksheet reflecting changes.

1.5 ELIGIBILITY & FUNDING REQUIREMENTS

Applicant **shall** meet the following to be eligible to obtain funding:

- A. Minimum of three (3) years' experience working with Critical Access Hospitals in the areas of performance improvement and patient safety.
- B. Minimum of two (2) years' experience working with rural health networks.
- C. Minimum of three (3) years' experience in data collection and data reporting.
- D. Minimum of three (3) years' experience in data analysis and preparing graphs.

1.6 BUDGET & JUSTIFICATION

- A. Applicant **shall** include a complete proposed budget (see Attachment A) in sufficient itemized detail to clearly demonstrate all proposed reimbursable expenses. Include any written justification necessary.
- B. Recipient(s) **shall** be reimbursed for allowable expenses only. Allowable expenses are those approved by ADH within the budget's itemized listing.

1.7 ISSUING OFFICER

The ADH contact name listed on page one is the sole point of contact throughout this solicitation.

1.8 RFA OPENING LOCATION

Applications submitted by the due time and date **shall** be opened at the following location:

Arkansas Department of Health
4815 W Markham Street, Room L163
Little Rock, AR 72205

1.9 DEFINITION OF REQUIREMENT

- A. The words "**must**" and "**shall**" signify a requirement of this RFA and that vendor's agreement to and compliance with that item is mandatory.
- B. Applicant may request exceptions to NON-mandatory items. Contractor **must** clearly explain the requested exception and should reference the specific solicitation item number to which the exception applies.

1.10 DEFINITION OF TERMS

The issuing officer has made every effort to use industry-accepted terminology in the competitive bid and will attempt to further clarify any point or item in question. The following acronyms will be used throughout the document.

CAH: Critical Access Hospital
ADH: Arkansas Department of Health
OSP: Office of State Procurement
RFA: Request for Applications

1.11 APPLICATION INSTRUCTIONS**A. Original Application Packet****1. Application Submission Requirements**

- a. Applicants **shall** provide one (1) original hard copy of the Application Packet clearly marked as "Original" and **must** include:
 - Original signed Application Signature Page
 - Proposed Subcontractors Form
 - Response to the Information for Evaluation section included in the Application Packet
 - Budget Worksheet, proposed in U.S. dollars and cents
 - Other documents and/or information may be expressly required in this solicitation. Label documents and/or information so as to reference the solicitation's item number.

b. The application **must** be entirely in the English language.

2. The following items should be submitted with the original Application Packet:

- Signed Addenda, if applicable
- Equal Employment Opportunity Policy

3. **DO NOT** include any other documents or ancillary information, such as a cover letter or promotional/marketing information.

B. Additional Copies and Redacted Copy of the Application Packet

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

1. Additional Copies of the Application Packet

- a. Three (3) complete hard copies (marked "COPY") of the Application Packet.
- b. One (1) electronic copy of the Application Packet, on a flash drive.
- c. All additional hard copies and electronic copies **must** be identical to the original hard copy. In case of a discrepancy, the original hard copy **shall** govern.
- d. If ADH requests additional copies of the response, the copies **must** be delivered within the timeframe specified in the request.

2. One (1) redacted copy (marked "REDACTED") the original Application Packet, preferably on a flash drive. (See Proprietary Information.)

1.12 CLARIFICATION OF SOLICITATION

Any questions requesting clarification of information contained in this RFA should be submitted in writing via email to the issuing buyer shown on page 1 of this RFA.

1.13 APPLICATION SIGNATURE PAGE

- A. An official authorized to bind the applicant(s) to a resultant Sub-Grant **must** sign the Application Signature Page included in the Application Packet.
- B. Applicant's signature on this page **shall** signify applicant's agreement that either of the following **shall** cause the response to be disqualified:
 - Additional terms or conditions submitted intentionally or inadvertently
 - Any exception that conflicts with a requirement of this RFA

1.14 FUNDING ESCALATION

- A. ADH may increase funding throughout the duration of the contract.
- B. Recipient **must** provide a revised budget reflecting the increase. ADH will have the right to require additional information pertaining to the increase.
- C. Budget revisions are not valid until approved by ADH.

1.15 PROPRIETARY INFORMATION

- A. Submission documents pertaining to this solicitation become the property of the State and are subject to the Arkansas Freedom of Information Act (FOIA).
- B. The applicant **shall** be responsible for identifying all proprietary information and for ensuring the electronic copy is protected against restoration of redacted data.
- C. The redacted copy **shall** be open to public inspection under the Arkansas Freedom of Information Act (FOIA) without further notice to the applicant.

- D. If a redacted copy of the submission documents is not provided with applicant's response packet, a copy of the non-redacted documents, with the exception of financial data, **shall** be released in response to any request made under the Arkansas Freedom of Information Act (FOIA).
- E. If the State deems redacted information to be subject to Arkansas Freedom of Information (FOIA), the vendor will be contacted prior to release of the documents.

1.16 **CAUTION TO RECIPIENT(S)**

- A. Prior to any contract award, all communication concerning this solicitation **must** be addressed through ADH.
- B. Applicant **must not** alter any language in any solicitation document provided by the State.
- C. All official documents and correspondence related to this solicitation **shall** be included as part of the resultant contract.
- D. Responses **must** be submitted only in the English language.
- E. The State **shall** have the right to award or not award a contract, if it is in the best interest of the State to do so.
- F. Applicant **must** provide clarification of any information in their response documents as requested by ADH.
- G. Qualifications **must** meet or exceed the required specifications as set forth in this solicitation.

1.17 **REQUIREMENT OF ADDENDUM**

- A. Only an addendum written and authorized by the ADH will modify the Solicitation.
- B. An addendum posted within three (3) calendar days prior to the application deadline will require the due date to be extended and may or may not include changes to the Solicitation.
- C. The applicant **shall** be responsible for checking the ADH website, [Grant & Bid Opportunities - Arkansas Department of Health](#) for any and all addenda up to bid opening.

1.18 **QUALIFICATION AND AWARD PROCESS**

A. Successful Recipient(s) Selection

The ranking of recipient(s) **shall** be determined by the total score each application receives during evaluation.

B. Anticipation to Award

1. Once the anticipated successful recipient(s) have been determined, the anticipated award notification will be emailed to all applicants and/or posted on the ADH website.
2. The anticipated award will be for a period of fourteen (14) days prior to the issuance of a contract. Applicants and agencies are cautioned that these are preliminary results only, and a contract will not be issued prior to the end of the fourteen-day period.
3. ADH **shall** have the right to waive the policy of Anticipation to Award when it is in the best interest of the State.
4. It is the applicant's responsibility to check email and/or the ADH website for the notification of an anticipated award.

C. Issuance of an Agreement

1. Any resultant sub-grant agreement of this Request For Application **shall** be subject to State approval processes which may include Legislative review.

1.19 GENERAL TERMS AND CONDITIONS

- A. Pursuant to Arkansas State Procurement Law, the Contractor **shall** certify that, unless they offer to provide the goods or services for at least twenty percent (20%) less than the lowest certifying Prospective Contractor:
1. They are not engaged in and **shall not**, during the aggregate term of the resulting contract, engage in a boycott of Israel (Arkansas Code Annotated § 25-1-503),
 2. They are not engaged in and **shall not**, during the aggregate term of the resulting contract, engage in a boycott of an Energy, Fossil Fuel, Firearms, or Ammunition Industry (Arkansas Code Annotated § 25-1-1102).
- B. Pursuant to Arkansas Procurement Law, the Contractor **shall** certify that the Contractor does not knowingly employ or contract with illegal immigrants and that the Contractor **shall not** knowingly employ or contract with illegal immigrants during the aggregate term of any contract with the State or any of its departments, institutions, or political subdivisions (Arkansas Code Annotated § 19-11-105).
- C. The Prospective Contractor **shall** certify that they are not a company owned in whole or with a majority ownership by the government of the People's Republic of China (a "Scrutinized Company") and that they do not and **shall not** during the aggregate term of the resulting contract employ a Scrutinized Company as a contractor (Arkansas Code Annotated § 25-1-1203).

1.20 CERTIFICATION REGARDING LOBBYING

- A. The applicant will comply with Public Law 101-121, Section 319 (Section 1352 of Title 31 U.S.C.) by certifying that appropriated federal funds have not been or will not be used to pay any person to influence or attempt to influence a federal official/employee in connection with awarding of any federal contract, sub-grant, loan or cooperative agreement for an award in excess of \$100,000.
- B. If the apparent successful applicant has paid or will pay for lobbying using funds other than appropriated federal funds, Standard Form-LLL (Disclosure of Lobbying Activities) **shall** be completed and included with the sub-grant packet.

1.21 CERTIFICATION REGARDING DEBARMENT AND SUSPENSION

- A. The recipient, as a lower tier recipient of federal funds, will comply with Executive Order 12549 (Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion – Lower Tier Covered Transactions).
- B. By signing and submitting this application package, the applicant(s) understands and agrees, as defined in 45 CFR Part 76, and certifies to the best of its knowledge and belief that it and its principals:
1. Are not presently debarred, suspended proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department of agency.
 2. Where the prospective lower tier participant is unable to certify any of the above, such prospective participant shall attach an explanation to this proposal.

1.22 PAST PERFORMANCE

An applicant's past performance with the State may be used to determine if the applicant is "responsible." Responses submitted by applicant determined to be non-responsible **shall** be disqualified.

1.23 PRIVACY & SECURITY REQUIREMENTS

The Contractor **shall**:

1. At all times comply with the requirements of the Arkansas Personal Information Protection Act and any other State/Federal laws, regulations, rules, and policies regarding the privacy and security of information.
2. Provide for physical and electronic security of all Protected Health Information generated or acquired by the contractor in implementation of the contract, in compliance with Health Insurance Portability and Accountability

Act (HIPAA) and the Health Information Technology for Economic and Clinical Health (HITECH) Act, and consistent with the Business Associate Agreement executed between the parties.

3. If required, prior to award, the contractor **must** sign a Business Associate Agreement.

1.24 **RESERVATION**

The State will not pay costs incurred in the preparation of an application.

SECTION 2 – APPLICANT REQUIREMENTS

2.1 **SCOPE OF WORK**

- A. The scope of services to be provided by the Contractor **shall** include, without limitation, aid in the overall improvement of quality of care in Arkansas CAHs, providing educational health/medical information and guidance verbally and in written form, identify methods to correct system failures and improve publicly reported quality measures. The Contractor **shall**:
1. Provide assistance to Arkansas' 28 Critical Access Hospitals (CAHs) in meeting the requirements of the Medicare Beneficiary Quality Improvement Project (MBQIP) as prescribed by the Federal Office of Rural Health Policy (FORHP).
 2. Provide quality assurance (QA) data specific to the quality improvement workload.
 3. Provide monthly and annual reports to the Rural Health Section/Medicare Flex Program.
 4. Provide a final workplan to include statewide activities related to one or more of the core recipient requirements.
 5. Comply with all applicable State and federal laws.

2.2 **RECIPIENT REQUIREMENTS**

A. **PERFORMANCE IMPROVEMENT**

1. The Contractor **shall** provide a minimum of one (1) onsite visit to each of Arkansas' 28 Critical Access Hospitals (CAHs) per year.
2. The Contractor **shall** provide a minimum of three (3) onsite visits to each of Arkansas' 28 Critical Access Hospitals (CAHs) determined to be the lower fifty percent for quality measures by RHS/FLEX by August 31, 2026, or at a date determined by ADH.
3. The Contractor **shall** conduct four (4) Regional Collaborative Education meetings with each of Arkansas' 28 Critical Hospitals (CAHs) prior to January 1, 2026, or at a date determined by ADH.
4. The Contractor **shall** conduct an Annual Rural Health Conference with Arkansas' 28 Critical Access Hospitals (CAHs) prior to February 28, 2026, or at a date determined by ADH.

B. **QUALITY IMPROVEMENT**

1. The Contractor **shall** identify issues and provide technical assistance to Arkansas' 28 Critical Access Hospitals (CAHs) as determined by hospital performance with the Medicare Beneficiary Quality Improvement Project (MBQIP) Measures Data Reports. These data reports consist of Patient Safety /Inpatient/Outpatient, Hospital Consumer Assessment of Healthcare Providers and Systems (HCAHPS), and Emergency Department Transfer Communication (EDTC), and Antibiotic Stewardship measures. The MBQIP project is for CAHS to implement quality improvement initiatives to improve their patient care and operations.
2. The Contractor **shall** subscribe to MBQIP Monthly, an e-newsletter that highlights current information about the Medicare Beneficiary Quality Improvement Project (MBQIP) and provides critical access hospitals (CAHs) with information and support for quality reporting and improvement. MBQIP Monthly is produced through the Rural Quality Improvement Technical Assistance program by Telligen.
3. The Contractor **shall** participate in MBQIP Virtual Knowledge Group (VKG) monthly webinars to share MBQIP successes, discuss challenges, and brainstorm strategies to assist hospitals toward reporting,

participating, improving, and excelling across the five MBQIP quality domains of global measures, patient safety, patient experience, care coordination, and emergency department.

4. The Contractor **shall** conduct Regional Collaborative area learning sessions in five (5) public health regions of the state once a year. These sessions facilitate learning in small groups and provide a forum for education on new, innovative strategies for improving quality improvement scores and sharing best practices.
5. The Contractor **shall** provide technical assistance to Arkansas' 28 CAHs by either of the following: physical on-site visit, virtual WebEx, emails, video conference, or telephone calls.
6. The Contractor **shall** assist each of the Arkansas Critical Access Hospitals (CAHs) with identifying and obtaining a certified Hospital Consumer Assessment of Healthcare Providers and Systems (HCAHPS) vendor if the hospital does not currently have one.

C. REPORTING

1. The Contractor **shall** submit monthly and annual reports to the Rural Health Section (RHS) including assigned workload volume, methods of contacts with each CAH (e.g. phone, e-mails, virtual, or on-site), resources provided during visits, copies of power point presentations, any significant issues or occurrences, detailed listing of any barriers and successes that are CAH specific, detailed listing of any overall opportunities and successes, dates of all consulting services, CAH education for each participating CAH, the type of data reporting tools utilized, the number of CAHs who have received an in-person site visits, methods used to improve CAH quality performance, impact and outcome of activities, barriers and challenges with providing services and that CAHs have expressed they are having along with efforts taken to address them, and an action plan for seven (7) CAHs each quarter with specific goals and activities. By the end of the fourth quarter, an action plan should be developed for all twenty-eight (28) CAHs.

D. INVOICE SUBMISSION

1. The Contractor **shall** submit invoices monthly to the Rural Health Section as required by grant requirements. Proof of expenditure will be included with the submission by the following month. Charged costs will be based on an approved budget and program plan under Arkansas State Law.

SECTION 3 – CRITERIA FOR SELECTION

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

3.1 APPLICATION SCORE

- A. ADH will review each Application Packet to verify submission requirements have been met. Application Packets that do not meet submission requirements **shall** be disqualified and **shall not** be evaluated.
- B. An agency-appointed evaluation committee will evaluate and score qualifying applications. Evaluation will be based on applicant's response to the Information for Evaluation section included in the Application Packet.

1. Members of the evaluation committee will individually review and evaluate proposals and complete an Individual Score Worksheet for each proposal. Individual scoring for each evaluation criteria will be based on the following Scoring Description.

Quality Rating	Quality of Response	Description	Confidence in Proposed Approach
5	Excellent	When considered in relation to the RFA evaluation factor, the application squarely meets the requirement and exhibits outstanding knowledge, creativity, ability or other exceptional characteristics. Extremely good.	Very High
4	Good	When considered in the relation to the RFA evaluation factor, the application squarely meets the requirement and is better than merely acceptable.	High
3	Acceptable	When considered in relation to the RFA evaluation factor, the application is of acceptable quality.	Moderate
2	Marginal	When considered in relation to the RFA evaluation factor, the application's acceptability is doubtful.	Low
1	Poor	When considered in relation to the RFA evaluation factor, the application is inferior.	Very Low
0	Unacceptable	When considered in relation to the RFA evaluation factor, the application clearly does not meet the requirement, either because it was left blank or because the application is unresponsive.	No Confidence

2. After initial individual evaluations are complete, the evaluation committee members will meet to discuss their individual ratings during the consensus meeting. At this consensus scoring meeting, each member will be afforded an opportunity to discuss his or her rating for each evaluation criteria.
 3. After committee members have had an opportunity to discuss their individual scores with the group, the individual committee members will be given the opportunity to change their initial individual scores, if they feel that is appropriate.
 4. The final individual scores of the evaluators will be recorded on the Consensus Score Sheets and averaged to determine the group or consensus score for each application.
 5. Other agencies, consultants, and experts may also examine documents at the discretion of the Agency.
- C. The Information for Evaluation section has been divided into sub-sections.
1. In each sub-section, items/questions have each been assigned a maximum point value of five (5) points. The total point value for each sub-section is reflected in the table below as the Maximum Raw Score Possible.

2. The agency has assigned Weighted Percentages to each sub-section according to its significance.

Information for Evaluation Sub-Sections	Maximum Raw Points Possible	Sub-Section's Weighted Percentage	* Maximum Weighted Score Possible
E.1 Quality Improvement – Current Measures	30	25	250
E.2 Quality Improvement – New Measures	10	20	300
E.3 Technical Assistance	30	30	300
E.4 Reporting	30	25	150
Response Score	100	100%	1000

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

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

$$(A/B)*C = D$$

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

- E. Applicant's weighted scores for sub-sections will be added to determine the Total Score for the Application.

3.2 ACCEPTANCE OF EVALUATION TECHNIQUE

- A. Applicant **must** agree to all evaluation processes and procedures as defined in this solicitation.
- B. The submission of an Application Packet signifies the applicant understands and agrees that subjective judgments will be made during the evaluation and scoring of the responses.

SECTION 4 – GENERAL CONTRACTUAL REQUIREMENTS

- Do not provide responses to items in this section.

4.1 PAYMENT AND INVOICE PROVISIONS

- A. All invoices **shall** be forwarded to:

Arkansas Department of Health, Rural Health Section
 Attn: Flex Program Manager
 4815 West Markham St., Slot 76
 Little Rock, Arkansas 72205

- B. Final invoices **must** be submitted to ADH within thirty (30) calendar days of contract expiration.
- C. Pursuant to Arkansas Code Annotated 19-4-206, the agency **shall** certify that services have been performed or the goods received prior to payment being authorized and processed.
- D. Additional documentation may be required when submitting invoices for payment.

4.2 USE OF FUNDS

- A. Funds **must** be used to meet requirements of the sub-grant.
- B. Funds may not be used for items not identified on the budget with a budget adjustment request and/or prior approvals.

4.3 **CONDITIONS OF CONTRACT**

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

4.4 **STATEMENT OF LIABILITY**

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

4.5 **RECORD RETENTION**

- A. The applicant **shall** maintain all pertinent financial and accounting records and evidence pertaining to the contract in accordance with generally accepted principles of accounting and as specified by the State of Arkansas Law. Upon request, access **shall** be granted to State or Federal Government entities or any of their duly authorized representatives.
- B. Records **shall** be made available, upon request, to the State of Arkansas's designee(s) at any time during the contract period and any extension thereof, for a period of five (5) years from the date this sub-grant expires, or if an audit is pending at the end of the five-year period, until resolution of the audit. Department access to all books, records, and other documents will be according to the procedures outlined in Section VIII, A, of this sub-grant. HIPAA-related records will be retained for a minimum of six (6) years from the date of sub-grant expiration.

4.6 **ACCESS TO RECORDS**

The recipient will grant access to its records upon request by duly authorized representatives of state or federal government entities. Access will be given to any books, documents, papers, or records of the recipient related to any services performed under the sub-grant.

4.7 CONFIDENTIALITY

- A. The applicant, applicant's subsidiaries, and applicant's employees **shall** be bound to all laws and to all requirements set forth in this bid solicitation concerning the confidentiality and secure handling of information of which they may become aware during the course of providing services under a resulting contract.
- B. Consistent and/or uncorrected breaches of confidentiality may constitute grounds for cancellation of a resulting contract, and the State **shall** have the right to cancel the contract on these grounds.
- C. Previous sections of this bid solicitation may contain additional confidentiality Requirements.

4.8 CONTRACT INTERPRETATION

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

4.9 LEGISLATIVE REVIEW

- A. Act 1032 of 1999 specifies that no state agency shall award any discretionary sub-grant that exceeds \$10,000.00 prior to review by the Arkansas Legislative Council or the Joint Budget Committee.
- B. If the state agency determines that an emergency exists, the state agency may award the sub-grant prior to review and shall immediately notify the Legislative Council or Joint Budget Committee as to the facts constituting the emergency.
- C. All non-discretionary sub-grants are exempt from review.
- D. Certain discretionary sub-grants are exempt from review. These include:
 - sub-grants to another governmental entity such as a state agency, public educational institution, federal governmental entity or body of a local government
 - disaster relief sub-grants
 - sub-grants identified by the Arkansas Legislative Council to be exempt
 - sub-grants deemed to contain confidential information that would be in violation of disclosure laws
 - sub-grants for scholarship or financial assistance award to or for a post-secondary student

4.10 CANCELLATION

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

4.11 SEVERABILITY

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

SECTION 5 – STANDARD TERMS AND CONDITIONS

- *Do not provide responses to items in this section.*
1. **GENERAL:** Any special terms and conditions included in this solicitation **shall** override these Standard Terms and Conditions. The Standard Terms and Conditions and any special terms and conditions **shall** become part of any contract entered into if any or all parts of the bid are accepted by the State of Arkansas.
 2. **ACCEPTANCE AND REJECTION:** The State **shall** have the right to accept or reject all or any part of an application or any and all applications, to waive minor technicalities, and to award the sub-grant to best serve the interest of the State.
 3. **APPLICATION SUBMISSION:** Application Packets **must** be submitted to the Arkansas Department of Health on or before the date and time specified. The Application Packet **must** contain all documents, information, and attachments as specifically and expressly required in the *Solicitation*. The application **must** be typed or printed in ink. The signature **must** be in ink. Unsigned applications **shall** be disqualified. The person signing the application should show title or authority to bind his firm in a contract. Late applications **may not** be considered.
 4. **FORCE MAJEURE:** Neither party will be held responsible for the delay or failure to perform any part of this sub-grant when such delay or failure to perform any part of this sub-grant when such delay or failure results from fire, flood, epidemic, war or insurrection, unusually severe weather, or the legal acts of public authorities.
 5. **STATE AND FEDERAL LAWS:** Performance of this sub-grant by the recipient and the Department **must** comply with state and federal laws, rules, and regulations. If any statute or regulation is enacted which requires changes in this sub-grant, the recipient will receive notification of the required changes. This sub-grant shall then be amended.
 6. **COMPLIANCE WITH NONDISCRIMINATION LAWS:** The recipient will comply with all applicable provisions of the following federal regulations related to nondiscrimination, both in service delivery to clients and in employment, including, but not limited to, the following:
 - Title 45 Code of Federal Regulations
 - Part 80 (Nondiscrimination on the Basis of Race or Sex)
 - Part 84 (Nondiscrimination on the Basis of Handicap)
 - Part 90 (Nondiscrimination Because of Age)
 - Americans with Disabilities Act of 1990, U.S.C. Section 12101 et. Seq.
 - Title 28 Code of Federal Regulations
 - Part 35 (Nondiscrimination on the Basis of Disability in State and Local Government Services)
 - Title 41 Code of Federal Regulations
 - Part 60-74 (OFCCP: Affirmative Action Regulations on Handicapped Workers)

ADH will furnish a copy of these regulations to the recipient upon request.
 7. **CONFIDENTIALITY OF CLIENT RECORDS:** The recipient will maintain the confidentiality of all client records. This restriction does not apply to disclosures made with the informed, written consent of the client, or if the client is not a competent adult or is a minor, with such consent of the client's parent, guardian, or legal representative.
 8. **LIMITATION OF THE DEPARTMENT'S OBLIGATION TO PAY:** The Department is not obligated to make payment under this sub-grant if the Department does not receive sufficient monies from the funding source(s) designated in this sub-grant to fund said obligations and other obligations of the Department or is not given legal authority from the

Arkansas Legislature to expend these funds. The Department is not obligated to make payment if sufficient state or local matching money is not available at the time the bill is presented for payment.

9. **PAYMENT FROM DEPARTMENT CONSIDERED PAYMENT IN FULL:** Payment received from the Department under this sub-grant shall be payment in full for all services and/or costs covered by the payment. No fee or other charge shall be made against a client or a third party for these services and/or costs. This paragraph does not preclude allocation of costs among two or more funding sources, or payment of portions of a service and/or cost under different funding sources, so long as there is no duplication of payment.
10. **AUDIT REQUIREMENT:** For awards in excess of \$300,000.00 a current audit report is due. Recipient shall comply with the ADH audit requirements as outlined in Arkansas Department of Health "Audit Guidelines."

Arkansas Department of Health
Internal Audit Section
4815 West Markham Street, Slot 54
Little Rock, AR 72205-3867

11. **DEPARTMENTAL RECOVERY OF FUNDS:** The Department shall seek to recover funds not utilized in accordance with the terms and conditions of this sub-grant.
12. **AMENDMENTS:** Any amendment to this sub-grant shall be valid only when in writing and when duly signed by the authorized representative(s) of the Recipient and the Arkansas Department of Health. Recipient and Department acknowledge that no verbal or written representations, other than those contained herein, have been made as an inducement to enter into this agreement and that this writing constitutes the entire agreement.
13. **AWARD:** Term Contract: A contract award will be issued to the successful recipient. It results in a binding obligation without further action by either party. This award does not authorize shipment. Shipment is authorized by the receipt of a purchase order from the ordering agency. Firm Contract: A written State purchase order authorizing shipment will be furnished to the successful vendor.
14. **STATE PROPERTY:** Any specifications, drawings, technical information, dies, cuts, negatives, positives, data or any other commodity furnished to the contractor hereunder or in contemplation hereof or developed by the contractor for use hereunder **shall** remain property of the State, **shall** be kept confidential, **shall** be used only as expressly authorized, and **shall** be returned at the contractor's expense to the F.O.B. point provided by the agency. Vendor **shall** properly identify items being returned.
15. **PATENTS OR COPYRIGHTS:** The contractor **must** agree to indemnify and hold the State harmless from all claims, damages and costs including attorneys' fees, arising from infringement of patents or copyrights.
16. **ASSIGNMENT:** Any contract entered into pursuant to this solicitation **shall not** be assignable nor the duties thereunder delegable by either party without the written consent of the other party of the contract.
17. **CLAIMS:** Only those claims for costs and services specifically authorized under this sub-grant will be allowed by the Department. Any work performed, material furnished, or costs incurred not covered by this sub-grant shall be solely the responsibility of the Recipient.
18. **CANCELLATION:** In the event the State no longer needs the commodities or services specified for any reason (e.g., program changes; changes in laws, rules or regulations; relocation of offices; lack of appropriated funding, etc.), the State **shall** have the right to cancel the contract or purchase order by giving the vendor written notice of such cancellation thirty (30) days prior to the date of cancellation.

NOTHING IN THIS CONTRACT SHALL BE DEEMED A WAIVER OF THE STATE'S RIGHT TO SOVEREIGN IMMUNITY.

19. **DISCRIMINATION:** In order to comply with the provision of Act 954 of 1977, relating to unfair employment practices, the vendor agrees that: (a) the vendor **shall not** discriminate against any employee or applicant for employment because of race, sex, color, age, religion, handicap, or national origin; (b) in all solicitations or advertisements for employees, the vendor **shall** state that all qualified applicants **shall** receive consideration without regard to race, color, sex, age, religion, handicap, or national origin; (c) the vendor will furnish such relevant information and reports

as requested by the Human Resources Commission for the purpose of determining compliance with the statute; (d) failure of the vendor to comply with the statute, the rules and regulations promulgated thereunder and this nondiscrimination clause **shall** be deemed a breach of contract and it may be cancelled, terminated or suspended in whole or in part; (e) the vendor **shall** include the provisions of above items (a) through (d) in every subcontract so that such provisions **shall** be binding upon such subcontractor or vendor.

- 20. ETHICAL STANDARDS:** Pursuant to Arkansas Code Annotated §19-11-708(a-c), it **shall** be breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a state contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by the contractor for the purpose of securing business.
- 21. ANTITRUST ASSIGNMENT:** As part of the consideration for entering into any contract pursuant to this solicitation, the vendor named on the *Application Signature Page* for this solicitation, acting herein by the authorized individual or its duly authorized agent, hereby assigns, sells and transfers to the State of Arkansas all rights, title and interest in and to all causes of action it may have under the antitrust laws of the United States or this State for price fixing, which causes of action have accrued prior to the date of this assignment and which relate solely to the particular goods or services purchased or produced by this State pursuant to this contract.
- 22. DISCLOSURE:** Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that order, **shall** be a material breach of the terms of this contract. Any contractor, whether an individual or entity, who fails to make the required disclosure or who violates any rule, regulation, or policy **shall** be subject to all legal remedies available to the agency.