



State of Arkansas
OFFICE OF STATE PROCUREMENT
1509 West Seventh Street, Room 300
Little Rock, Arkansas 72201-4222

INVITATION FOR BID

IFB Number: SP-16-0113	Buyer: Jaime Motley
Commodity: Acorns Agency: Arkansas Agriculture Department	Bid Opening Date: September 30, 2015
Date Issued: September 21, 2015	Bid Opening Time: 1:00 PM Central Time

BIDS WILL BE ACCEPTED UNTIL THE TIME AND DATE SPECIFIED ABOVE. THE BID ENVELOPE, INCLUDING THE OUTSIDE OF OVERNIGHT PACKAGES, MUST BE SEALED AND SHOULD BE PROPERLY MARKED WITH THE BID NUMBER, DATE AND HOUR OF BID OPENING AND VENDOR'S RETURN ADDRESS. IT IS NOT NECESSARY TO RETURN "NO BIDS" TO THE OFFICE OF STATE PROCUREMENT.

Vendors are responsible for delivery of their bid documents to the Office of State Procurement prior to the scheduled time for opening of the particular bid. When appropriate, vendors should consult with delivery providers to determine whether the bid documents will be delivered to the OSP office street address prior to the scheduled time for bid opening. Delivery providers, USPS, UPS, and FedEx deliver mail to our street address on a schedule determined by each individual provider. These providers will deliver to our offices based solely on our street address.

MAILING ADDRESS: Office of State Procurement 1509 West Seventh Street, Room 300 Little Rock, AR 72201-4222 TELEPHONE NUMBER: 501-324-9316	BID OPENING LOCATION: Office of State Procurement 1509 West Seventh Street, Room 300 Little Rock, AR 72201-4222
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Company Name:

Name (type or print):

Title:

Address:

City:

State:

Zip Code:

Telephone Number:

Fax Number:

E-Mail Address:

Signature:

USE INK ONLY. UNSIGNED BIDS WILL NOT BE CONSIDERED

Business Designation
(check one):

Individual []

Sole Proprietorship []

Public Service Corp []

Partnership []

Corporation []

Government/ Nonprofit []

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TYPE OF CONTRACT:	FIRM
AGENCY P.R. NUMBER	1000724494

1. MINORITY BUSINESS POLICY

Minority participation is encouraged in this and in all other procurements by state agencies. Minority is defined by Arkansas Code Annotated § 15-4-303 as a lawful permanent resident of this state who is: African American, Hispanic American, American Indian, Asian American, Pacific Islander American or a Service Disabled Veteran as designated by the United States Department of Veterans Affairs. The Arkansas Economic Development Commission conducts a certification process for minority business. Bidders unable to include minority-owned business as subcontractors "may explain the circumstances preventing minority inclusion".

Check minority type:

African American____
Asian American____

Hispanic American____
Pacific Islander American____

American Indian____
Service Disabled Veteran____

Arkansas Minority Certification Number_____

2. EQUAL EMPLOYMENT OPPORTUNITY POLICY

- A. In compliance with Arkansas Code Annotated § 19-11-104, OSP is required to have a copy of the vendor's *Equal Opportunity (EO) Policy* prior to issuing a contract award.
- B. *EO Policies* may be submitted in electronic format to the following email address: eeopolicy.osp@dfa.arkansas.gov, but should also be included as a hardcopy accompanying the solicitation response.
- C. The submission of an *EO Policy* to OSP is a one-time Requirement. Vendors are responsible for providing updates or changes to their respective policies, and for supplying *EO Policies* upon request to other State agencies that **must** also comply with this statute.
- D. Vendors, who are not required by law by to have an *EO Policy*, **must** submit a written statement to that effect.

3. ALTERATION OF ORIGINAL IFB DOCUMENTS

- A. The original written or electronic language of the IFB documents **shall** not be changed or altered except by approved written addendum issued by the Office of State Procurement.
- B. This does not eliminate a Bidder from taking exception(s) to non-mandatory terms and conditions, but does clarify that the Bidder cannot change the original document's written or electronic language.
- C. If the Bidder wishes to make exception(s) to any of the original language, it must be submitted by the Bidder in separate written or electronic language in a manner that clearly explains the exception(s).
- D. If Bidder's/Contractor's submittal is discovered to contain alterations/changes to the original written or electronic documents, the Bidder's response may be declared as "non-responsible" and the response **shall** not be considered.

4. REQUIREMENT OF AMENDMENT

- A. This *Bid Solicitation* **shall** be modified only by an addendum written and authorized by OSP.
- B. Vendors are cautioned to ensure that they have received or obtained, and have responded to, any and all addenda to the *Bid Solicitation* prior to submission of response.
- C. There will be no addenda to a *Bid Solicitation* three (3) calendar days prior to the bid opening, unless the addenda extends the bid opening date or cancels the bid.
- D. It is the responsibility of the vendor to check the OSP website, <http://www.arkansas.gov/dfa/procurement/bids/index.php>, for any and all addenda up to bid opening.

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5. DELIVERY OF RESPONSE DOCUMENTS

In accordance with Arkansas Procurement Law and Rules, it is the responsibility of vendors to submit bids at the designated location on or before the bid opening date and time. Bids received after the designated bid opening date and time **shall** be considered late and **shall** be returned to the vendor without further review. It is not necessary to return "no bids" to OSP.

6. ADDITIONAL TERMS AND CONDITIONS

The Office of State Procurement objects to, and **shall** not consider, any additional terms or conditions submitted by a bidder, including any appearing in documents attached as part of a bidder's response. In signing and submitting his bid, a bidder agrees that any additional terms or conditions, whether submitted intentionally or inadvertently, **shall** have no force or effect. Failure to comply with terms and conditions, including those specifying information that must be submitted with a bid, **shall** be grounds for rejecting a bid.

7. ANTICIPATION TO AWARD

- A. Once an anticipated successful vendor has been determined, the anticipated award will be posted on the OSP website at http://www.arkansas.gov/dfa/procurement/pro_intent.php.
- B. The anticipated award will be posted for a period of fourteen (14) days prior to the issuance of a contract. Vendors and agencies are cautioned that these are preliminary results only, and a contract will not be issued prior to the end of the fourteen day posting period.
- C. OSP **shall** have the right to waive the policy of Anticipation to Award when it is in the best interest of the State.
- D. It is the vendor's responsibility to check the OSP website for the posting of an anticipated award.

8. PAST PERFORMANCE

In accordance with provisions of State Procurement Law, specifically OSP Rule R5:19-11-230(b)(1), a vendor's past performance with the State may be used to determine if the vendor is "responsible". Bids submitted by vendors determined to be non-responsible **shall** be disqualified.

9. VISA ACCEPTANCE

- A. Awarded vendor(s) should have the capability of accepting the State's authorized VISA Procurement Card (p-card) as a method of payment.
- B. Price changes or additional fee(s) **shall not** be levied against the State when accepting the p-card as a form of payment.
- C. VISA is not the exclusive method of payment.

10. EO-98-04 GOVERNOR'S EXECUTIVE ORDER

Bidders should complete the Disclosure Forms issued with this bid.

11. CURRENCY

All bid pricing **must** be United States dollars and cents.

12. LANGUAGE

Bids **shall** only be accepted in the English language.

SECTION 1 - GENERAL INFORMATION

1.1 **INTRODUCTION**

This Invitation for Bid (IFB) is issued by the Office of State Procurement (OSP) for the Arkansas Agriculture Department – Forestry Commission (AAD – Forestry Commission) to obtain pricing and a contract(s) for acorns.

1.2 **ISSUING AGENCY**

The issuing office is the sole point of contact in the State for the selection process. Vendor questions regarding IFB related matters should be made through the State's buyer, Jaime Motley at 501-371-6065 or Jaime.Motley@dfa.arkansas.gov. Vendor's questions **shall** be answered as a courtesy and at vendor's own risk.

1.3 **CAUTION TO BIDDERS**

A. During the time between the bid opening and contract award, any contact concerning this IFB should be initiated by the issuing office or requesting entity and not the vendor. Specifically, the person(s) named herein will initiate all contact.

1. Vendors must submit one (1) signed original IFB response on or before the date specified on page one.

B. The State Procurement Official reserves the right to award a contract or reject a bid for any or all line items of a bid received as a result of this IFB, if it is in the best interest of the State to do so. Bids will be rejected for one or more reasons not limited to the following:

1. Failure of the vendor to submit bid(s) on or before the deadline established by the issuing office.

2. Failure to sign an Official Bid Document.

3. Failure to complete the Official Bid Price Sheet(s).

4. Any wording by the vendor in their response to this IFB, or in subsequent correspondence, which conflicts with or takes exception to a requirement in the IFB.

5. Failure of any proposed goods or service to meet or exceed the specifications.

1.4 **BID FORMAT**

A. The words "**must**" and "**shall**" signify a Requirement of this solicitation and that vendor's agreement to and compliance with that item is mandatory.

B. Exceptions taken to any Requirement in this *Bid Solicitation*, whether submitted in the vendor's proposal or in subsequent correspondence, **shall** cause the vendor's proposal to be disqualified.

1.5 **TYPE OF CONTRACT**

A. Any resultant contract of this *Bid Solicitation* **shall** be subject to State approval processes which may include Legislative review and approval.

B. The resulting contract will be a FIRM contract.

1.6 **PAYMENT AND INVOICE PROVISIONS**

All invoices **shall** be forwarded to the:

Arkansas Agriculture Department – Forestry Commission
Attention: Allan Murray
1402 Highway 391 North
North Little Rock, AR 72117

A. Payment **shall** be made in accordance with applicable State of Arkansas accounting procedures upon acceptance by the Agency.

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- B. The State may not be invoiced in advance of delivery and acceptance of any commodity. Payment will be made only after the contractor has successfully satisfied the AAD – Forestry Commission as to the goods and/or services purchased.
- C. Vendors should invoice AAD – Forestry Commission by an itemized list of charges. Purchase Order Number and/or Contract Number should be referenced on each invoice.
- D. Selected vendor must be registered to receive payment and future bid notifications. If you are not a registered vendor you may register on-line at <https://www.ark.org/vendor/index.html>.

1.7 RECORD RETENTION

- A. The vendor **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. Financial and accounting 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, and for five (5) years from expiration date and final payment on the contract or extension thereof.

1.8 PROPRIETARY INFORMATION

- A. Submission documents pertaining to this *Bid Solicitation* become the property of the State and are subject to the Arkansas Freedom of Information Act (FOIA).
- B. One (1) complete copy of the submission documents from which any proprietary information has been redacted should be submitted in electronic format with your proposal.
- C. Except for the redacted information, the redacted copy **must** be identical to the original hard copy reflecting the same pagination as the original, and showing the empty space from which information was redacted.
- D. It is the responsibility of the vendor to identify all proprietary information and to ensure the electronic copy is protected against restoration of redacted data.
- E. The redacted copy **shall** be open to public inspection under the Freedom of Information Act (FOIA) without further notice to the vendor.
- F. If a redacted copy of the submission documents is not provided with vendor's response packet, a copy of the non-redacted documents, with the exception of financial data (other than pricing), **shall** be released in response to any request made under the Arkansas Freedom of Information Act (FOIA).
- G. If the State deems redacted information to be subject to FOIA, the vendor will be contacted prior to release of the documents.

1.9 RESERVATION

This IFB does not commit the State Procurement Official to award a contract(s), to pay costs incurred in the preparation of a bid in response to this request, or to procure or contract for commodities or services.

1.10 PRIME CONTRACTOR RESPONSIBILITY

The selected vendor **shall** be required to assume prime contractor responsibility for the contract and **shall** be the sole point of contact with regard to all commodities, services and support.

If any part of the work must be subcontracted, vendor **must** include a list of subcontractors, including firm name and address, contact person, complete description of work to be subcontracted, and descriptive information concerning subcontractor's organizational activities in their bid response.

The contractor **shall** give OSP immediate notice, in writing, by certified mail of any action which, in the opinion of the contractor, may result in litigation related in any way to the contract or the State.

1.11 CONDITIONS OF CONTRACT

The vendor(s) **shall** at all times observe and comply with federal and State laws, local laws, ordinances, orders, and regulations existing at the time of or enacted subsequent to the execution of this contract which in any manner affect the completion of the work. The successful bidder(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.

1.12 STATEMENT OF LIABILITY

The State **shall** demonstrate reasonable care but **shall** not be liable in the event of loss, destruction, or theft of contractor-owned items to be delivered or to be used in the installation of deliverables. The vendor(s) is required to retain total liability until the deliverables have been accepted by the "authorized agency official." At no time **shall** the State be responsible for or accept liability for any vendor-owned items.

1.13 AWARD RESPONSIBILITY

The State Procurement Official **shall** be responsible for award and administration of any resulting contract(s).

1.14 AWARD CRITERIA

Award **shall** be made on a LINE ITEM Basis.

NOTE: Species with quantities listed over 5,000 lbs. **must** be bid in lots of 5,000 lbs. each.

(Example): Nuttall Oak - quantity needed is 10,000 lbs. (Vendor may bid on only 5,000 lbs. if that is all the vendor can commit too).

Vendor **must** specify quantity on bid form.

Bids **must** meet or exceed all defined specifications. Bids **must** meet all terms and conditions of this Invitation for Bid and the laws of the State of Arkansas.

1.15 DELEGATION AND/OR ASSIGNMENT

The vendor **shall** not assign the contract in whole or in part or any payment arising there from without the prior written consent of the State Procurement Official. The vendor **shall** not delegate any duties under this contract to a subcontractor unless the State Procurement Official has given written consent to the delegation.

1.16 COST

All charges **must** be included on the Official Bid Price Sheet(s) and **must** include all associated cost for the goods being bid. Bid pricing must be valid for 60 days following IFB opening to allow sufficient time to tabulate and evaluate bid responses.

NOTE:

1. The State **shall** not be obligated to pay any costs not identified on the Official Bid Price Sheet(s)
2. Any cost not identified by the bidder but subsequently incurred in order to achieve delivery **shall** be borne by the bidder.

1.17 DELIVERY – FOB DESTINATION

Arkansas Agriculture Department – Forestry Commission
Baucum Nursery
Attention: Allan Murray
1402 Highway 391 North
North Little Rock, AR 72117

- A. The agency **must** receive delivery within 7 calendar days of the harvest of the product.
- B. A minimum of twenty-four (24) hours prior to the delivery goods the vendor **must** schedule the delivery with Baucum Nursery.
- C. Vendors **shall** be responsible for unloading and storing unscheduled deliveries.
- D. Acorns and Seeds **must** be packaged in burlap and/or poly sacks of no more than fifty (50) pounds per sack

1.18 ACCEPTANCE STANDARDS

Inspection and acceptance/rejection of product(s) **shall** be made within thirty (30) days of receipt. Arkansas Agriculture Department – Forestry Commission **shall** have the option to return any product(s) within the thirty (30) day timeframe for any reason. Bid must include a “total satisfaction” return policy for all products and **shall** not impose any liability on the State for such returns.

1.19 CANCELLATION

In the event the State no longer needs the service or commodity specified in the contract or purchase order due to program changes, changes in laws, rules, or regulations, relocation of offices, or lack of appropriated funding, the State may cancel the contract or purchase order by giving the contractor written notice of such cancellation thirty (30) days prior to the date of cancellation.

AAD-Forestry Commission or the Office of State Procurement **shall** have the Authority to terminate this agreement with each vendor if stated specifications are not being met. Reasons for termination may be, but are not limited to, the following:

- 1. Not supplying specified quantities of any one species in a timely manner when that species is available.
- 2. Supplying acorns that are not fresh, pure, clean, cap free, moist and that do not sink in water when floated tested.
- 3. Not following specifications when collecting, cleaning, and handling, delivering or storing acorns.

SECTION 2 SPECIFIC REQUIREMENTS

2.1 PRODUCT REQUIREMENTS

- A. Acorns and Seeds **shall only** be received at the AAD-Forestry Commission's Baucum Nursery in North Little Rock.
- B. Acorns and Seeds **must** be packaged in burlap and/or poly sacks.
- C. Each sack **must** weigh no more than fifty (50) pounds.
- D. Acorns and Seeds **must** be fresh.
- E. Acorns and Seeds **must** be refrigerated immediately after collection and prior to delivery to the Nursery.
- F. Acorns and Seeds **must** be kept at approximately 36° Fahrenheit.
- G. Sacks **must** be tagged to indicate: size (small, medium, or large), species, weight, and county and State of harvest.
- H. Acorns and Seeds **must** be pure and clean upon delivery.
- I. Acorns and Seeds **must** not contain any caps
 - 1. Overcup acorns are the exception and caps **must** be present
- J. All Acorns and Seeds **must** be floated, and all floaters **must** be removed.
- K. Acorns and Seed deliveries' **shall not** be accepted for, but is not limited to the following reasons:
 - 1. Product is dirty or contains debris
 - 2. Product containing floaters
 - 3. Product is sprouted

2.2 REIMBURSEMENT

- A. Payment **shall** be based on pounds of fresh, pure, clean, moist, cap free acorns that sink in water.
 - 1. Overcup Acorns **shall** be based on pounds of sound acorns.
 - a. Sound acorns **shall** be calculated by multiplying the total pounds by the percentage of sound acorns.
 - b. Percentage of sound acorns **shall** be determined by cutting representative samples of acorns at the Nursery upon delivery.
- B. Acorns **shall** be weighed at the time of delivery at the Nursery and payment **will** be based on this weight.
- C. Overcup acorns with less than 70% sound acorns **shall** not be accepted.
- D. When acorns are delivered, weighed and accepted, each vendor **shall** sign and invoice for the number of pounds of acceptable acorns.
- E. Paperwork for payment **shall** then be submitted (by the Nursery) to AAD-Forestry Commission State Office in Little Rock, Arkansas.
- F. AAD-Forestry Commission **shall** have the right to adjust the number of pounds needed for each species. Adjustments may be made in accordance with the demand and/or available funds.

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OFFICIAL BID PRICE SHEET

<u>Item</u>	<u>Material/Description</u>	<u>Qty</u>	<u>UoM</u>	<u>Unit Price</u>	<u>Ext. Price</u>
1	Cherrybark Oak Acorn	3,500	Pounds		
2	Chinkapin Oak Acorn	1,000	Pounds		
3	Swamp, Chestnut Oak Acorn	12,000	Pounds		
**Pounds able to be delivered (Must be bid in 5,000 lb. lots.)			Pounds		
4	Northern Red Oak Acorn	2,000	Pounds		
5	Nuttall Oak Acorn	15,000	Pounds		
**Pounds able to be delivered (Must be bid in 5,000 lb. lots.)			Pounds		
6	Overcup Oak Acorn	10,000	Pounds		
**Pounds able to be delivered (Must be bid in 5,000 lb. lots.)			Pounds		
7	Pin Oak Acorn	2,000	Pounds		
8	Shumard Oak Acorn	7,500	Pounds		
**Pounds able to be delivered (Must be bid in 5,000 lb. lots.)			Pounds		
9	Water Oak Acorn	4,000	Pounds		
10	White Oak Acorn	5,000	Pounds		
11	Willow Oak Acorn	4,000	Pounds		
12	Native Pecan Seed	3,000	Pounds		
13	Persimmon Seed	1,200	Pounds		
14	Water Hickory Seed	2,500	Pounds		

** Bidder **must** notate the pounds of acorns that **shall** be available at the price bid.
See section 1.14 for details.

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STANDARD TERMS AND CONDITIONS

1. GENERAL

Any special terms and conditions included in the invitation for bid override these standard terms and conditions. The standard terms and conditions and any special terms and conditions 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 reserves the right to accept or reject all or any part of a bid or any and all bids, to waive minor technicalities, and to award the bid to best serve the interest of the state.

3. BID SUBMISSION

Bids must be submitted to the Office of State Procurement on this form, with attachments when appropriate, on or before the date and time specified for bid opening. If this form is not used, the bid may be rejected. The bid must be typed or printed in ink. The signature must be in ink. Unsigned bids will be disqualified. The person signing the bid should show title or authority to bind his firm in a contract. Each bid should be placed in a separate envelope completely and properly identified. Late bids will not be considered under any circumstances.

4. PRICES

Bid unit price F.O.B. destination. In case of errors in extension, unit prices shall govern. Prices are firm and not subject to escalation unless otherwise specified in the bid invitation. Unless otherwise specified, the bid must be firm for acceptance for thirty days from the bid opening date. "Discount from list" bids are not acceptable unless requested in the bid invitation.

5. QUANTITIES

Quantities stated in **term contracts** are estimates only, and are not guaranteed. Bid unit price on the estimated quantity and unit of measure specified. The state may order more or less than the estimated quantity on term contracts. Quantities stated on **firm contracts** are actual requirements of the ordering agency.

6. BRAND NAME REFERENCES

Any catalog brand name or manufacturer's reference used in the bid invitation is descriptive only, not restrictive, and used to indicate the type and quality desired. Bids on brands of like nature and quality will be considered. If bidding on other than referenced specifications, the bid must show the manufacturer, brand or trade name, and other descriptions, and should include the manufacturer's illustrations and complete descriptions of the product offered. The state reserves the right to determine whether a substitute offered is equivalent to and meets the standards of the item specified, and the state may require the bidder to supply additional descriptive material. The bidder guarantees that the product offered will meet or exceed specifications identified in this bid invitation. If the bidder takes no exception to specifications or reference data in this bid he will be required to furnish the product according to brand names, numbers, etc., as specified in the invitation.

7. GUARANTY

All items bid shall be newly manufactured, in first-class condition, latest model and design, including, where applicable, containers suitable for shipment and storage, unless otherwise indicated in the bid invitation. The bidder hereby guarantees that everything furnished hereunder will be free from defects in design, workmanship and material, that if sold by drawing, sample or specification, it will conform thereto and will serve the function for which it was furnished. The bidder further guarantees that if the items furnished hereunder are to be installed by the bidder, such items will function properly when installed. The bidder also guarantees that all applicable laws have been complied with relating to construction, packaging, labeling and registration. The bidder's obligations under this paragraph shall survive for a period of one year from the date of delivery, unless otherwise specified herein.

8. SAMPLES

Samples or demonstrators, when requested, must be furnished free of expense to the state. Each sample should be marked with the bidder's name and address, bid number and item number. If samples are not destroyed during reasonable examination they will be returned at bidder's expense, if requested, within ten days following the opening of bids. All demonstrators will be returned after reasonable examination.

9. TESTING PROCEDURES FOR SPECIFICATIONS COMPLIANCE

Tests may be performed on samples or demonstrators submitted with the bid or on samples taken from the regular shipment. In the event products tested fail to meet or exceed all conditions and requirements of the specifications, the cost of the sample used and the reasonable cost of the testing shall be borne by the bidder.

10. AMENDMENTS

The bid cannot be altered or amended after the bid opening except as permitted by regulation.

11. TAXES AND TRADE DISCOUNTS

Do not include state or local sales taxes in the bid price. Trade discounts should be deducted from the unit price and the net price should be shown in the bid.

12. AWARD

Term Contract: A contract award will be issued to the successful bidder. 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 bidder.

13. LENGTH OF CONTRACT

The invitation for bid will show the period of time the term contract will be in effect.

14. DELIVERY ON FIRM CONTRACTS

The invitation for bid will show the number of days to place a commodity in the ordering agency's designated location under normal conditions. If the bidder cannot meet the stated delivery, alternate delivery schedules may become a factor in an award. The Office of State Procurement has the right to extend delivery if reasons appear valid. If the date is not acceptable, the agency may buy elsewhere and any additional cost will be borne by the vendor.

15. DELIVERY REQUIREMENTS

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No substitutions or cancellations are permitted without written approval of the Office of State Procurement. Delivery shall be made during agency work hours only 8:00 a.m. to 4:30 p.m., unless prior approval for other delivery has been obtained from the agency. Packing memoranda shall be enclosed with each shipment.

16. STORAGE

The ordering agency is responsible for storage if the contractor delivers within the time required and the agency cannot accept delivery.

17. DEFAULT

All commodities furnished will be subject to inspection and acceptance of the ordering agency after delivery. Back orders, default in promised delivery, or failure to meet specifications authorize the Office of State Procurement to cancel this contract or any portion of it and reasonably purchase commodities elsewhere and charge full increase, if any, in cost and handling to the defaulting contractor. The contractor must give written notice to the Office of State Procurement and ordering agency of the reason and the expected delivery date. Consistent failure to meet delivery without a valid reason may cause removal from the bidders list or suspension of eligibility for award.

18. VARIATION IN QUANTITY

The state assumes no liability for commodities produced, processed or shipped in excess of the amount specified on the agency's purchase order.

19. INVOICING

The contractor shall be paid upon the completion of all of the following: (1) submission of an original and the specified number of copies of a properly itemized invoice showing the bid and purchase order numbers, where itemized in the invitation for bid, (2) delivery and acceptance of the commodities and (3) proper and legal processing of the invoice by all necessary state agencies. Invoices must be sent to the "Invoice To" point shown on the purchase order.

20. 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, be kept confidential, be used only as expressly authorized and returned at the contractor's expense to the F.O.B. point properly identifying what is being returned.

21. PATENTS OR COPYRIGHT

The contractor agrees to indemnify and hold the State harmless from all claims, damages and costs including attorneys' fees, arising from infringement of patents or copyrights.

22. ASSIGNMENT

Any contract entered into pursuant to this invitation for bid is not assignable nor the duties thereunder delegable by either party without the written consent of the other party of the contract.

23. OTHER REMEDIES

In addition to the remedies outlined herein, the contractor and the state have the right to pursue any other remedy permitted by law or in equity.

24. LACK OF FUNDS

The state may cancel this contract to the extent funds are no longer legally available for expenditures under this contract. Any delivered but unpaid for goods will be returned in normal condition to the contractor by the state. If the state is unable to return the commodities in normal condition and there are no funds legally available to pay for the goods, the contractor may file a claim with the Arkansas Claims Commission. If the contractor has provided services and there are no longer funds legally available to pay for the services, the contractor may file a claim.

25. DISCRIMINATION

In order to comply with the provision of Act 954 of 1977, relating to unfair employment practices, the bidder agrees that: (a) the bidder will 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 bidder will state that all qualified applicants will receive consideration without regard to race, color, sex, age, religion, handicap, or national origin; (c) the bidder 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 bidder 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 bidder will include the provisions of items (a) through (d) in every subcontract so that such provisions will be binding upon such subcontractor or vendor.

26. CONTINGENT FEE

The bidder guarantees that he has not retained a person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by the bidder for the purpose of securing business.

27. ANTITRUST ASSIGNMENT

As part of the consideration for entering into any contract pursuant to this invitation for bid, the bidder named on the front of this invitation for bid, 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.

28. 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.