STATE OF ARKANSAS

DEPARTMENT OF SHARED ADMINISTRATIVE SERVICES
OFFICE OF STATE PROCUREMENT
501 Woodlane St., Ste. 220
Little Rock, Arkansas 72201-1023

REQUEST FOR PROPOSAL

SOLICITATION DOCUMENT

SECTION 1 – GENERAL INFORMATION AND INSTRUCTIONS

Solicitation Number:	SP-27-024-RFP		
Procurement Specialist:	Tara Hernandez	**Email:**	tara.hernandez@arkansas.gov

1.1 INTRODUCTION

This Request for Proposal (RFP) is issued by the Shared Administrative Services (SAS) Office of State Procurement (OSP) for the Department of Human Services ("DHS" or "Department"), Division of Medical Services ("DMS" or "Division") to obtain pricing and a contract for an External Quality Review Organization (EQRO) to perform External Quality Reviews (EQR).

The Code of Federal Regulations (CFR) governs Medicaid managed care programs under 42 CFR §438. Pursuant to 42 CFR §438, Subpart E, Medicaid agencies that enter into contracts with Prepaid Inpatient Health Plans (PIHPs), Prepaid Ambulatory Health Plans (PAHPs), Managed Care Organizations (MCOs), and Primary Care Case Management (PCCM) entities **must** undergo EQR using a third-party EQRO.

A contract will be awarded to the Prospective Contractor determined to have submitted the proposal that is the most advantageous to the State. Prospective Contractors should direct all questions, comments, or concerns regarding this Solicitation to OSP, not the Department.

1.2 LIVE PROPOSAL OPENING INFORMATION

Proposals for this RFP are subject to a public opening during which names of Prospective Contractors will be read aloud. Information for attending the public opening is provided below:

Teams Meeting Link:	https://teams.microsoft.com/meet/259654927190641?p=7DBQCkQTHYLnebeXbr
Meeting ID:	259 654 927 190 641
Passcode:	Hg9vs3S8
Call in (audio only):	501.244.3310 or find a local number

1.3 TYPE OF CONTRACT

A. As a result of this RFP, the State intends to award a contract to a single Contractor.

B. The anticipated starting date for any resulting contract is April 1, 2027, except that the actual contract start date may be adjusted unilaterally by the State for up to three (3) calendar months. By submitting a signed proposal, the Prospective Contractor represents and warrants that it will honor its proposal as being held open as irrevocable for this period.

C. The initial term of a resulting contract will be for one (1) year. Upon mutual agreement by the Contractor and Department, the contract may be renewed for up to six (6) additional one-year terms or portions thereof, not to exceed a total aggregate contract term of seven (7) consecutive years.

1.4 DEFINITION OF TERMS

A. Unless otherwise defined herein, all terms defined in Arkansas Procurement Law have the same meaning herein.

B. "Access," as it pertains to EQR, means the timely use of services to achieve optimal outcomes, as evidenced by managed care plans successfully demonstrating and reporting on outcome information for the availability and timeliness elements defined under 42 CFR §438.68 (Network adequacy standards) and 42 CFR §438.206 (Availability of services).

C. "Outcomes" means changes in patient health, functional status, satisfaction, or goal achievement that result from health care or supportive services.

D. "Program" or "Programs" means all managed care programs for the benefit of Arkansas Medicaid members, including but not limited to MCOs, PIHPs, PAHPs, and PPCMs or PCCM entities.

E. "Prospective Contractor" means a responsible offeror who submits a proposal in response to this Solicitation.

F. "Quality," as it pertains to EQR, means the degree to which an MCO, PIHP, PAHP, or PCCM entity increases the likelihood of desired health outcomes of its members through:

   1. Its structural and operational characteristics.
   2. The provision of health services that are consistent with current professional knowledge.
   3. Interventions for performance improvement. (42 CFR §438.320)

G. The terms "Request for Proposal," "RFP," and "Solicitation" are used synonymously in this document.

H. "Requirement" means a term, condition, provision, deliverable, Specification, or a combination thereof, that is obligated under the Solicitation, resulting contract, or both.

I. "Responsive Proposal" means a proposal submitted in response to this Solicitation that conforms in all material respects to this RFP.

J. "Shall" and "must" mean the imperative and are used to identify Requirements.

K. "Specification" means any technical or purchase description or other description of the physical or functional characteristics, or of the nature, of a commodity or service. "Specification" may include a description of any Requirement for inspecting, testing, or preparing a commodity or service for delivery.

L. "Staff" includes but is not limited to EQRO direct employees and all subcontractors of the EQRO, and the subcontractor's employees.

M. "State" means the State of Arkansas. When the term "State" is used herein to reference any obligation of the State under a contract that results from this Solicitation, that obligation is limited to the Department using such a contract.

N. "Subcontractor" means a business or person that contracts with the Contractor to perform a portion of the work or services required by the resulting contract.

O. "Validation" means the review of information, data, and procedures to determine the extent to which they are accurate, reliable, free from bias, and in accord with standards for data collection and analysis. (42 CFR §438.320)

1.5 SOLICITATION SCHEDULE

For informational purposes, OSP is providing a Solicitation Schedule; however, dates listed and noted with an asterisk (*) are anticipated dates only and are subject to change at the State's discretion. All times are listed in Central Time.

TABLE A: TENTATIVE SOLICITATION SCHEDULE

ACTIVITY	DATE
Deadline for Prospective Contractor Questions	September 27, 2026 @ 11:59 pm
Answers to Questions Posted*	October 1, 2026
Proposal Due Date	October 15, 2026 @ 2 pm
Initial Proposal Evaluation*	October 19 – 23, 2026
Interviews*	November 2 – 6, 2026
Final Proposal Evaluation*	November 6, 2026
Discussions Kick Off Meeting*	November 10, 2026
Finalize Discussions*	November 13, 2026
Post Anticipation to Award*	November 20, 2026
Award Contract*	April 1, 2026

1.6 CLARIFICATION OF SOLICITATION

A. Prospective Contractors should submit questions about this Solicitation by the deadline listed in Table A using the SAP Business Network Message Board.

 1. Prospective Contractors **must** be registered in the SAP Business Network to submit questions.

B. Questions submitted after the deadline may not be addressed.

C. Prospective Contractors should download *Attachment A: Written Questions*, posted with the Solicitation, to itemize and submit questions.

D. For each question submitted, Prospective Contractor should reference the specific Solicitation item number to which the question refers, as applicable.

E. Prospective Contractors should use the Clarification of Solicitation period to:

 1. Ask questions about requirements of the Solicitation
 2. Clarify Prospective Contractor assumptions
 3. Address price sheet concerns
 4. Notify the State of any Requirement that precludes the Prospective Contractor from submitting a Responsive Proposal

F. Written questions will be consolidated and responded to as appropriate.

G. A consolidated response is anticipated to be posted by the close of business on the date provided in Table A.

H. If questions are unclear or non-substantive in nature, the State may request clarification of a question(s) or decline to answer.

I. Prospective Contractors may contact the OSP Procurement Specialist with non-substantive questions at any time prior to the proposal opening.

J. An oral statement by OSP will not be part of any contract resulting from this Solicitation and may not reasonably be relied on as an aid to interpretation unless it is reduced to writing and expressly adopted by OSP.

K. Only an addendum written and authorized by the State will modify the Solicitation.

1.7 RESPONSE DOCUMENTS

A. All proposals **must** be submitted through the SAP Business Network.

1. Prospective Contractors **must** be registered in the SAP Business Network to submit their proposals.

B. To ensure compatibility, all documents **must** be submitted using Microsoft Office or Adobe compatible formats.

C. Prospective Contractors **shall** utilize the *Technical Proposal Packet* posted with the Solicitation to submit their proposals.

D. The following items are proposal Submission Requirements and **must** be submitted as part of a Prospective Contractor's proposal.

1. Completed *Technical Proposal Packet* posted with the Solicitation (see RFP Section 3.5 for explanations about the *Technical Proposal Packet* subsections)

    a. Signed *Proposal Signature Page*; signature may be ink or digital.

    b. Completed *Proposed Subcontractors Form*, if applicable

    c. Completed *Recommended Options Form*, if applicable

    d. Response to the *Information for Evaluation* subsections

2. Completed Line Item pricing (see RFP Section 1.8 for information about pricing)

3. Copy of Prospective Contractor's *Equal Opportunity Policy*

    a. Pursuant to Arkansas Code § 19-60-104, OSP requires a Prospective Contractor bidding on a state contract for professional services to submit a copy of its *Equal Opportunity (EO) Policy*.

    b. Prospective Contractors not required by law to have an *EO Policy* **must** submit a written statement to that effect.

E. Failure of a Prospective Contractor to complete the Experience, Solution, or Risk subsections of the *Technical Proposal Packet* will result in rejection of the proposal as non-responsive.

F. Should a Prospective Contractor exceed the page limits specified in the *Technical Proposal Packet* for a section, the page(s) exceeding the page limit for that section will be withheld from the Evaluators and will not be subject to consideration during scoring.

G. Prospective Contractors should not include web addresses or links in their proposals unless explicitly requested to do so.

1. Should a Prospective Contractor include web addresses or links in their proposals, the web addresses or links will be withheld from the Evaluators and will not be subject to consideration during scoring.

H. The following items, which **must** be submitted prior to a contract award, may also be included with the Prospective Contractor's proposal:

1. *EO 98-04: Contract and Grant Disclosure Form* (see SRV-1, section 11)

2. *Voluntary Product Accessibility Template* (VPAT), if applicable

I. Prospective Contractors may include a redacted copy of their proposal (labeled *Redacted*), if desired (see RFP Section 4.8 *Proprietary Information*).

J. Prospective Contractors should not include any other documents or ancillary information, such as a cover letter, promotional materials, or marketing information.

K. Proposals **must** be submitted in the English language.

L. Prospective Contractor's proposals cannot be altered or amended after the proposal opening except as permitted by law or rule.

M. Prospective Contractors may submit multiple proposals.

1.8 PRICING

A. Pricing **must** include all tasks and activities required to provide all services required by this Solicitation and under a resulting contract, including, without limitation, transitional activities.

B. Any cost not identified by the Contractor but subsequently incurred in order to achieve successful operation **shall** be borne by the Contractor.

C. Quantities stated are estimates only and are not guaranteed. Prospective Contractors **must** bid unit price on the estimated quantity and unit of measure specified.

D. The State may order more or less than the estimated quantity on term contracts, and the Contractor **shall** sell to the Department quantities ordered at no more than the bid price.

E. Prices **must** be firm offers. Price increases may be considered at the time of contract renewal only if the request for an increase is submitted in writing to DHS and the DHS Office of Procurement (OP) at least six (6) months prior to contract renewal with accompanying justification.

   1. The accompanying justification **must** demonstrate that the increase in price is based on unforeseen circumstances not considered in the initial bid, is based on an increased cost to the Contractor, and the proposed pricing is competitive in the marketplace. DHS **shall** have the right to require additional information pertaining to the requested increase.

   2. Increases will not be considered to increase profit or margins.

   3. DHS **shall** have the right to approve or deny the request.

F. **Medicaid Enrolled Provider Rates**. For any Contractors who are also enrolled Medicaid providers, such rates and any changes thereto are governed by statutory approval protocols. As such, DHS cannot unilaterally increase approved Medicaid rates through a contract amendment. See Arkansas Code §§ 20-76-112 and 20-77-110.

G. If pricing documents do not allow for accurate pricing, Prospective Contractors should notify the SAS OSP Procurement Specialist at least seventy-two (72) hours before the bid opening time.

H. Pricing **must** be proposed in U.S. dollars and cents.

I. Discount from list bids pricing is not acceptable unless requested elsewhere in the Solicitation.

J. State and local sales taxes should not be included in the bid price. Trade discounts should be deducted from the unit price and the net price should be shown in the bid.

1.9 SUBCONTRACTORS

A. Prospective Contractors **shall** complete and submit the *Proposed Subcontractors Form* included in the *Technical Proposal Packet* to indicate the Prospective Contractor's intent to utilize, or to not utilize, subcontractors.

B. Prospective Contractors **shall** identify the service(s) that will be provided by each subcontractor under the resulting contract on the *Proposed Subcontractors Form* where indicated.

C. Additional subcontractor information may be required or requested in the following sections of this *Bid Solicitation*. Prospective Contractors should not attach any additional information to the *Proposed Subcontractors Form*.

D. The Contractor **shall** ensure the State's interest, including any rights granted in the resulting contract, is protected and reserved in any agreement or scope of work between the Contractor and its subcontractor(s).

E. Upon DHS request, the Contractor **shall** provide a copy of the subcontractor's agreement or scope of work.

F. The utilization of any proposed subcontractor is subject to approval by DHS. DHS reserves the right to request removal of a subcontractor, for any reason, upon written notice to the Contractor.

SECTION 2 – SCOPE AND REQUIREMENTS

2.1 PROSPECTIVE CONTRACTOR MINIMUM QUALIFICATIONS

A. The Prospective Contractor **shall** be registered to do business in the State of Arkansas and in good standing by the start of any resulting contract.

   1. For verification purposes, the Prospective Contractor **shall** provide a Certificate of Good Standing, Certificate of Authority, or other required Arkansas Secretary of State documentation such as non-filing or nonqualifying statements, upon DHS request.

B. The Prospective Contractor **shall** meet the Qualifications of EQROs pursuant to 42 CFR §438.354.

C. The Prospective Contractor **shall** have completed a minimum of two (2) comprehensive EQRO assessments for a State Medicaid Agency within the last five (5) years.

   1. These assessments **must** have included Long-Term Services and Supports (LTSS) for individuals with intellectual and developmental disabilities or behavioral health diagnoses.

D. The Prospective Contractor and subcontractors **shall** disclose any notices of concern, corrective action, sanction, or termination by a state or federal government, or a private entity with which it contracts, within the last ten (10) years including any Health Insurance Portability and Accountability Act (HIPAA) violations and data breaches.

   1. The Prospective Contractor **shall** provide, to DHS upon request, documentation including the status of all corrective action(s) including documentation that the corrective action(s) were completed to the satisfaction of the issuing agency.

E. The Prospective Contractor and subcontractors **shall not** have been involved with any of the following occurrences regarding any other state's Medicaid managed care programs or a federal Medicare managed care program within the past ten (10) years:

   1. Any ongoing litigation and any litigation resolved (including by settlement).
   2. Any HIPAA violations or data breaches ongoing or resolved.
   3. Any financial penalties greater than one thousand dollars ($1,000.00) incurred as a result of failure to meet one (1) or more contractual performance standards on any EQRO contract.

F. The Prospective Contractor **shall** submit a Letter of Bondability from an admitted Surety Insurer prior to award of the contract.

2.2 ACTIVITIES RELATED TO EQRO

The Contractor **shall** conduct EQR activities in accordance with CMS EQR activities and protocols to enable DHS to comply with federal and State EQR requirements.

A. The Contractor **shall** conduct activities that address the following elements without limitation:

   1. Plans, including structure and operations
   2. Members
   3. Claims
   4. Authorizations
   5. Data
   6. Measurements
   7. Data and Measurement Validation

8. Evaluation

9. Quality Assurance

10. Improvements

B. The Contractor **shall** conduct the activity following this sequence of procedures:

   1. DHS will select the appropriate activity and standards to be evaluated and provide direction to the Contractor.

   2. The Contractor **shall** conduct the activity pursuant to the agreed upon methodology.

   3. The Contractor **shall** provide findings and recommendations to each program being reviewed, including opportunities for improvement and/or corrective action steps, if indicated.

C. The Contractor **shall** conduct the mandatory AND optional activities to ensure DHS's and each program's compliance with [42 CFR §438.358].

D. The Contractor **shall** evaluate each PASSE provider's compliance with the Key Performance and Quality Indicators (KPIs) annually.

   1. Current KPIs will be provided during discussions regarding the quality review of these programs.

2.3 ADDITIONAL PROGRAMS / MODIFICATION OR ADDITIONAL REQUIREMENTS

A. The Contractor **shall** be responsible for EQR activities for additional programs added at DHS's discretion.

B. Additional programs anticipated to be included are:

   1. Non-Emergency Medical Transportation (NET)

   2. Patient-Centered Medical Home (PCMH)

   3. Acquired Brain Injury Waiver

      a. 1915c Waiver that DHS plans to seek during the 2026 – 2027 period.

C. Programs in addition to the ones anticipated may be developed or added after award.

   1. The scope and compensation for additional programs will be negotiated at the time DHS confirms adoption of the programs.

D. The Contractor **shall** perform services related to EQR services that are not otherwise specified in this Solicitation.

   1. Services may include special projects that arise as a result of newly developed DHS programs and services or actions from:

      a. Congress

      b. Legislature

      c. DHS

      d. CMS

E. The specific work requirements and the reimbursement for EQR-related services will be negotiated between the Contractor and DHS.

F. The Contractor **shall** provide its usual and customary rate for any special projects it may have performed in other states or for the federal government.

1. DHS will work with the Contractor to finalize the scope of the ad hoc activity prior to the Contractor undertaking the responsibility.
2. DHS will determine future activities that will fall within the scope of this RFP.

2.4 FRAUD WASTE AND ABUSE

A. The Contractor **shall** safeguard against fraud, waste, and abuse under the CMS Final Rule.

   1. This is required by managed care programs under [42 CFR § 438.608](42 CFR § 438.608).

B. The Contractor **shall** work with the Office of Medicaid Inspector General (OMIG) to gather data on fraud, waste, and abuse reports for the MCO entities.

2.5 REPORTING

A. The Contractor **shall** prepare the following reports for DHS, including, but not limited to, reports required by CMS:

   1. Individual Activity Reports
      a. Executive summary of all program findings
      b. Documentation of components of the review
      c. Final compliance determinations for each regulatory provision
      d. Year to year comparison of program specific findings
         i. Utilization of historical reports and data provided by incumbent to ensure accurate comparison
         ii. Details of the initiatives and action steps taken by each program previously
      e. Recommendations and corrective action steps
   2. Milestone and Activity Reports
   3. Annual Technical Report pursuant to 42 CFR § 438.364
      a. The Contractor **shall** deliver the finalized annual technical report to DHS no later than February 28th following the end of each calendar year being reported, ensuring compliance with the April 30th deadline for submission to CMS and for posting on the appropriate websites pursuant to the CMS Final Rule.
         i. If CMS moves the deadline, or DHS otherwise requests a different deadline, the Contractor **shall** deliver the finalized technical report by the revised date assigned by DHS.
   4. Provider Compliance with KPIs Report
      a. The report **must** be submitted to DHS annually by the date set by DHS.
   5. Community and Employment Supports (CES) Waiver Quarterly Person-Centered Service Plan (PCSP) Performance Measure Report.
   6. Other reports identified by DHS.

B. The Contractor **shall** provide related and underlying data regarding the reports as needed and as requested by DHS.

C. The Contractor **shall** work with DHS in the first year of the contract to set out deadlines for each report.

   1. This will include a deadline that allows DHS to review the report prior to submission to CMS.

D. The Contractor **shall** deliver all reports electronically to the designated DHS contact in a format specified or approved by DHS.
    1. The Contractor **shall** modify report content, frequency, or other factors at DHS request.
    2. Exclusive of CMS reporting.

2.6 DATA COLLECTION REQUIREMENTS

A. Data collection components include, but are not limited to, the following:
    1. Encounter data, including data file layout and data dictionaries;
    2. Claim, including original, amended, and withdrawn;
    3. Relevant medical records; and
    4. Managed care records maintained by PASSE Care Coordinators (including, but not limited to, the PCSP).

B. The Contractor **shall** work with and coordinate data collection activities with DHS and each managed care program vendor.
    1. The Contractor **shall** execute a Business Associate Agreement (BAA) with DHS, each managed care program vendor, and other entities as necessary, to share data files, medical records, and other data sets.
    2. The Contractor **shall** provide proof of all BAAs to DHS.

C. The Contractor **shall** work with managed care vendors and DHS to implement a data flow process.
    1. The data flow process **must** include any data collection-related function requiring:
        a. New or revised user interface design
        b. A User Acceptance Testing (UAT) Phase
        c. Sign off for acceptance of all data transfer processes
    2. The Contractor **shall** accept data extracts from:
        a. The Medicaid Management Information System (MMIS) data warehouse
        b. PASSEs
        c. Other DHS data sources
    3. The Contractor **shall** have a communication plan for use in communicating vendor information and review requests.
        a. The communication plan **must** be approved by DHS prior to implementation.

2.7 YEAR ONE ACTIVITIES

A. The Contractor **shall** evaluate all CMS required activities and the optional activities chosen or directed by DHS including, but not limited to:
    1. [Protocol 1] – Assessment of Compliance with Medicaid Managed Care Regulations
    2. [Protocol 2] – Validation Measures Reported by the MCO
    3. [Protocol 3] – Validation of Performance Improvement Projects (PIPs)
    4. [Protocol 4] – Validation of Encounter Data Reported by the MCO
    5. [Protocol 5] – Validation and Implementation of Surveys

6. Protocol 6 – Calculation of Performance Measures
7. Protocol 7 – Implementation of Performance Improvement Projects (PIPs)
8. Protocol 8 – Focused Studies
9. Protocol 9 – Conducting Focus Studies of Health Care Quality
10. Protocol 10 – Assist with Quality Rating of Medicaid and CHIP Managed Care Organizations, PIHPs, and PAHPs Plans

B. The Contractor **shall** review that each PASSE meets the State's requirements in:

1. Policies
2. Procedures
3. Processes
4. Methodology
5. Compliance Standards

C. DHS will provide the Contractor with the PASSE's requirements.

D. The Contractor **shall** validate each PASSE's PIPs active during the preceding twelve (12) months.

E. The Contractor **shall** participate in DHS's ongoing efforts to prevent, detect, and remediate critical incidents based on the home and community-based waiver requirements to assure the health and welfare of the enrolled member.

F. The Contractor **shall** validate performance measures calculated by the State during the preceding twelve (12) months.

1. The Contractor **shall** validate compliance with Managed Care standards, quality assessment, and performance improvement.

G. The Contractor **shall** analyze data identified by the state as having potential quality or utilization concerns.

H. The Contractor **shall** validate network adequacy and access to care during the preceding twelve (12) months.

I. The Contractor **shall** conduct review of members appeal, complaint, grievance processes and management, and identify any backlogs.

J. The Contractor **shall** evaluate and provide feedback to the State regarding PASSEs achieving better success or outcomes in metrics than others. This should include, but is not limited to:

1. Utilization
2. Emergency Room visits
3. Care coordination
4. Other quality outcomes achieved
5. Additional activities agreed upon by the Contractor and State or mandated by federal requirements

K. The Contractor **shall** incorporate the results of the Consumer Assessment of Healthcare Providers and Systems (CAHPS) health care survey and surveys distributed to PASSE members or providers by the health plans into a cohesive report.

1. The quality metrics reported include, but are not limited to, quality of care coordination measures provided by the PASSE, the Healthcare Effectiveness Data and Information Set (HEDIS) measures for behavioral health services, and the National Core Indicators (NCI) survey for Developmental Disabilities providers.

L. The Contractor **shall** evaluate care coordinator training rates and content to ensure all care coordinators receive required training at hiring and annually.

M. The Contractor **shall** evaluate each PASSEs Alternative Payment Methodologies (APMs) and collaborate with DHS and PASSEs to improve innovation and value-added service models across populations.

2.8 PIP VALIDATION REQUIREMENTS

A. The Contractor **shall** validate that each PASSE's PIPs meet the following:

1. Are designed to achieve significant improvement, sustained over time, in health outcomes and member satisfaction;
2. Includes measurement of performance using objective quality indicators;
3. Implements interventions to achieve improvement in access to and quality of care;
4. Evaluates the effectiveness of the interventions based on the performance measures collected as part of the PIP; and
5. Includes planning and initiation of activities for increasing or sustaining improvement.

B. The Contractor **shall** validate that each PASSE's PIPs address:

1. The collection and submission of performance measurement data, including any required by DHS or CMS;
2. Mechanisms to detect both underutilization and overutilization of services; and
3. Mechanisms to assess quality and appropriateness of care furnished to:
   a. Members with special health care needs as defined by the state in the quality strategy
   b. Members using long-term care and support (LTSS) including:
      i. An assessment of care between care settings and
      ii. A comparison of services and supports received with those set forth in the enrolled member's PCSP.

2.9 NETWORK ADEQUACY

A. Network adequacy may include any or all the following:

1. Primary care (adult and pediatric);
2. Obstetrics and gynecology;
3. Developmental disability providers;
4. Behavioral health;
5. Home and Community Based Service providers in PASSE;
6. Specialist (adult and pediatric);
7. Hospital;
8. Pharmacy;

9. All other provider types listed in any governing documents, including agreements and provider manuals; and
10. Additional provider types when it promotes the objectives of the Medicaid program for the provider type to be subject to such time and distance standards.

B. The Contractor **shall** evaluate network adequacy including, but not limited to:

1. The methods and process used by the PASSE to meet DHS time and distance standards;
2. Validation of time and distance standard results submitted by each PASSE;
3. Review and evaluate network contracting and PASSE process for meeting network adequacy standards;
4. Review and evaluate PASSEs compliance with member notification of provider disenrollment; and
5. Review of members satisfaction surveys and complaints, together with processes for handling complaints and issue resolution.

C. The Contractor **shall** confirm access to care and adequate network by including, without limitation:

1. Sampling cold calls of providers listed in PASSE network, using a valid sampling methodology, to verify the percentage of providers that have available appointments within the DHS standard for new patients.
2. Calling at least ten percent (10%) of providers listed in each of the following service categories:
   a. Behavioral health;
   b. Developmental disabilities;
   c. Primary care physicians;
   d. Hospitals; and
   e. Pharmacists.
3. Calling at least ten percent (10%) of all other provider types combined.

D. The Contractor **shall** confirm that members were able to access services listed in their PCSP.

1. The Contractor **shall** conduct independent PCSP reviews quarterly to include the following total annual sample sizes:
   a. Behavioral Health sample size is based on a 95% confidence interval with a margin of error of +/- 5%.
   b. CES waiver sample size is based on a 95% confidence interval with a margin of error of +/- 5%.
   c. Sample sizes may change at the discretion of DHS if methodology is changed in the state plan amendment or waiver that governs the requirement or the Contractor finds significant non-compliance that warrants further analysis.
   d. Use information collected from the consumer and provider surveys to determine if services were provided timely and in accordance with PCSPs.

E. The Contractor **shall** evaluate and provide feedback on PASSE compliance with CMS and state requirements regarding PCSP development and content including, but not limited to, § 441.301(c)(1) Section C, 1-3.

2.10 DATA EVALUATION

A. Data evaluation **must** include the following compiled by each PASSE:

1. Analyze datasets (i.e., encounter, quality metrics, PIP, abuse, waste, overpayment, and fraud) and identify trends in utilization and quality.
2. Review outcome data regarding completed PIP projects.
3. Analyze program activity data identified by DHS as having potential quality or utilization concerns.
4. Review use of certain services or buckets of services requested by the Department.
5. Validate timely filing and payment of claims by the PASSE and PASSE providers, including review of their payment systems.
6. Conduct independent PIPs based on Department or EQRO identified quality or utilization concerns.
7. Review and validate the PASSE credentialing process, including timeliness of the process.
8. Analyze effectiveness of the PASSEs.

B. The Contractor **shall** evaluate and provide feedback to DHS of why one PASSE achieves better success or outcomes in metrics such as, but not limited to, utilization, ER visits, care coordination, and other quality outcomes achieved.

C. The Contractor **shall** conduct a focused study aimed at assessing the experiences of children and youth in foster care specific to the quality of health-related service delivery.

D. The Contractor **shall** conduct one-time studies necessary for clinical or non-clinical services.

E. The Contractor **shall** review and evaluate data-related activities, including, but not limited to:

1. PASSE's data collection process;
2. Encounter edits;
3. Data validation;
4. Completeness of the data submissions for encounter file submission, quality measure reporting, and the PIP;
5. Assessment of total cost of case management, emergency room utilization, and other statistically defined high-cost services for evaluation, and recommendations as part of performance improvement measures; and
6. Accuracy of financial reporting.

F. The Contractor **shall** conduct additional activities recommended by DHS.

2.11 YEARLY ACTIVITIES (RECURRING)

A. The Contractor **shall** complete an additional review that focuses on Program Integrity.

B. The Contractor **shall** collaborate with DHS to develop the methodology and tools.

C. This review will be more in depth and focus on the integrity of the overall utilization review, payment, and reporting practices of each PASSE.

D. This review will be provided in a separate report and include individual and comparative results for each PASSE and a comparison of previous reporting periods.

E. At minimum, this review will assess the PASSE's individual compliance with the following:

1. Screening all claims for completeness, logic, and consistency prior to payment.
2. Paying for certain items or services as set forth in more detail in the following sections of the PASSE Agreement.
3. §5.4: State Plan services
4. PASSE Agreement
    a. §5.8.1
    b. §7.1.12
    c. §7.1.19
    d. §7.1.30
    e. §7.1.13
    f. §7.1.29
    g. §7.1.32
5. The National Correct Coding Initiative (NCCI) editing programs for the Healthcare Common Procedure Coding System (HCPCS)/Current Procedural Terminology (CPT) codes to promote correct coding and control coding errors, except for allowable NCCI edits exclusions in accordance with Title VI –Transparency and Program Integrity, Subtitle F – Additional Medicaid Program Integrity Provisions, Section 6507 – Mandatory State Use of NCCI.
6. National Correct Coding Initiative (NCCI) Prohibiting balance billing by participating and out-of-network providers for covered services. This means that the provider may not bill the enrolled member directly for any amount not paid by the PASSE for the services provided and when the PASSE is unable to rectify, reporting the occurrence to DHS.
7. Third Party Liability (TPL) recoupment.
    a. Medicaid is the payor of last resort unless specifically prohibited by applicable state or federal law. This means the PASSE **must** pay for covered services only after all other sources of payment have been exhausted, e.g., the insurance carrier of a tortfeasor. The PASSE **must** take reasonable measures to identify potentially legally liable third-party sources.
8. Requiring all providers to report provider-preventable conditions associated with claims for payment or member treatments for which payment would otherwise be made.
    a. The PASSE cannot make payments for any provider-preventable conditions in accordance with 42 CFR § 438.3(g).
9. Honoring any authorizations for services issued by DHS or its contractors for newly assigned members. If a provider can submit verification of an authorization issued by DHS or its contractors prior to the effective date of PASSE assignment.
    a. The PASSE **must** provide payment for that service at their negotiated rate.

2.12 STAFFING REQUIREMENTS

A. The Contractor **shall** maintain at least the minimum number of personnel required to perform under the resulting contract and report any revisions to staffing quotas immediately to DHS.

B. The Contractor **shall** have staff available at all required meetings with DHS.

C. The Contractor **shall** have the staff necessary to perform the activities proposed at the onset of the resulting contract term.

D. The Contractor **shall** have staff available in Arkansas when required to complete EQRO activities.

E. The Contractor **shall** have staff available by phone during State business hours, 8:00 a.m. – 5:00 p.m. CST and respond to voicemails and emails within two (2) business days, excluding [state holidays](#).

F. The Contractor **shall** ensure that all persons, whether they are employees, agents, subcontractors, Providers, or anyone acting for or on behalf of the Contractor, are legally authorized to render services under applicable federal or Arkansas law and/or regulations.

G. The Contractor **shall not** employ a consultant or have any other agreement with a person that has been debarred or suspended by any federal or state agency for the provision of items or services related to the entity's contractual obligation with the State.

H. The Contractor **shall** have policies and procedures in place to routinely monitor its own staff positions and subcontractors for individuals debarred or excluded from participation in the contract by law.

I. The Contractor **shall** disclose to the Contract Monitor information required by 42 CFR §455.106 regarding the Contractor's staff and persons with an ownership/controlling interest in the Contractor that have been convicted of a criminal offense related to that person's involvement in Medicare/Medicaid or Title XIX programs.

J. A single individual **shall not** hold more than one (1) position unless originally specified by the Contractor in their proposal and/or approved by DHS.

2.13 STAFFING PLAN

A. The Staffing Plan **must** fulfill the requirements of this RFP.

B. The Contractor **shall** submit an initial Staffing Plan during Discussions and an updated plan to be reviewed annually. It **must** include, but is not limited to:

   1. The roles, qualifications, and number of positions the Contractor will fill.
   2. Identify all subcontractors and their proposed function.
   3. Identify all known changes throughout the term of the contract.
   4. Confirm all Contractor and subcontractor staff assigned to the project **shall** reside in the United States for the duration of the contract.
   5. Identify aggregate full-time equivalent projections and the assumptions used to generate those projections.

C. The Contractor **shall** submit an updated Staffing Plan to the DHS appointed Contract Monitor thirty (30) days after contract commencement, showing the number and type of staff resources to be assigned this project, if there have been changes to the initial Staffing Plan submitted.

D. The Contractor **shall** request the Contract Monitor to approve a modified Staffing Plan if the contract necessitates lower staffing levels.

   1. The Contractor **shall** have approval from the Contract Monitor prior to implementation of the modified Staffing Plan.

E. The Contractor **shall** always maintain staffing levels at 90% of its proposed staffing plan set forth in its *Technical Proposal Packet* or its modified Staffing Plan as approved by the Contract Monitor.

    1. Additional costs accrued due to failure to maintain 90% staffing threshold will not be a covered expense for the purpose of this contract.

F. The Contractor **shall** include adequate administrative staff in the Staffing Plan to assist the Project Manager and other personnel in performing tasks as needed.

2.14 PROJECT MANAGER

A. The Contractor **shall** provide one (1) Full-Time Equivalent (FTE) Project Manager (PM) dedicated 100% to this contract. The PM **shall** have an advanced degree and at least three (3) years' experience directing EQR projects similar in scope and size as the project described in this RFP.

B. The PM **shall** be based in Little Rock, Arkansas, and accessible to State staff during State business hours.

C. A surrogate PM **shall** be designated for PM absences exceeding three (3) business days.

D. The PM **shall** be at the Contractor's administrative level and **shall** be approved by the DHS Contract Monitor, including upon replacement.

    1. The PM **shall** meet with DHS on a regular basis in Little Rock, Arkansas, during implementation and on a periodic basis thereafter.
    2. The frequency and dates of meetings will be determined by DHS during contract negotiations, during implementation, and throughout the contract term as needed.
    3. The PM **shall** have experience coordinating subcontractor staff if the Contractor proposes to use subcontractors.

E. The PM **shall** be responsible for coordinating the implementation and operations of all aspects of the contract, including the following deliverables, without limitation:

    1. Coordinate all EQR activities with the designated DHS EQRO contact throughout the design, development, and finalization of all technical reports and other deliverables.
    2. Participate in meetings as requested by DHS either via phone, video conference, or on site at DHS.
        a. The purpose of these regular meetings is to maintain communication with the DHS-designated EQRO contact to discuss progress, barriers, and any other related issues relevant to the EQR activities.

F. The Project Manager **shall** designate appropriate staff to meet with DHS and program staff to provide clarification or direction in relation to EQR projects and facilitate meetings including:

    1. Providing an agenda.
    2. Minute taking.
    3. Creating and distributing informational materials.
    4. Preparing oral presentations of EQR findings, recommendations, corrective action plans, and technical assistance to DHS and/or program staff.
    5. Ensuring all final technical reports and other deliverables are timely, well written, accurate, and complete.
    6. Assisting DHS in responding to any questions from CMS or other stakeholders about any final technical reports or deliverables.

7. Preparing and delivering Contractor activity reports to DHS, including any due dates, milestones, and project status.

2.15 KEY PERSONNEL

A. The Contractor **shall** designate a qualified individual to serve as the dedicated EQRO Contract Manager (CM).

   1. The CM **must** hold a senior management position within the EQRO and be authorized to represent the EQRO in all matters pertaining to the EQRO contract with DHS.

B. The Contractor **shall** designate one (1) or more Evaluator Leads.

C. Contractor **shall** designate dedicated, qualified individuals to meet the requirements of 42 CFR §438.354, including statisticians and additional positions.

D. The Contractor **shall** ensure that the Key Personnel are the same individuals that are referenced during discussions unless substitution is approved by the Contract Monitor.

E. The Contractor **shall** maintain key personnel to ensure essential project tasks are completed without interruption or reallocation of work effort.

F. Reassignments of key personnel on essential project tasks **must** be reviewed and approved by DHS prior to reassignment.

   1. Key Personnel **shall** perform continuously for the resulting contract term, or as agreed upon during discussions.

G. Key Personnel **shall not** be removed by the Contractor from working under the resulting contract without prior written approval by the Contract Monitor.

H. The Contractor **shall** submit a substitution request at least fifteen (15) calendar days prior to the intended date of change, unless notice is otherwise given to DHS.

I. The Contractor **shall** advise DHS when notice is given or upon discovery if there is less than a fifteen (15) day notice.

J. The Contractor **shall** fill vacant positions within thirty (30) calendar days of the vacancy occurring, unless otherwise approved in advance by DHS.

K. Proposed substitutions of Key Personnel **shall** be equal to or exceed the ones they replace.

   1. The DHS Contract Manager will approve substitution.

L. The Contractor **shall** provide the Contract Monitor with a substitution request that **must** include:

   1. A detailed explanation of the reason(s) for the substitution request;

   2. The resume of the proposed substitute personnel signed by the substituting individual and their formal supervisor; and

   3. The resume of the current personnel for comparison purposes.

M. The Contract Monitor may request additional information concerning the proposed substitution.

N. DHS may interview the proposed substitute personnel prior to deciding whether to approve the substitution request.

O. The Contract Monitor will notify the Contractor in writing of:

   1. Acceptance or denial

   2. Contingent or temporary approval for a specified time limit of the requested substitution

P. The Contract Monitor will not unreasonably withhold approval of a requested key personnel replacement.

Q. The Contractor **shall** ensure a complete transfer of information and seamless transfer when there is a change on Key Personnel.

2.16 EQRO STAFF AND SUBCONTRACTOR REQUIREMENTS

A. The Contractor and all EQRO staff and subcontractors **shall** meet the following requirements:

1. Eligible for participation in the Medicaid program. However, participation in Medicaid Fee-for-Service is not required.

2. Pass a background check based on the nature and scope of the work the employee or subcontractor will perform.

3. Not be debarred, suspended, or otherwise excluded from participating in procurement activities under the Federal Acquisition Regulation or from participating in non-procurement activities under regulations or guidelines issued under federal Executive Order 12549.

4. Not be debarred, suspended, or otherwise excluded from participation in federal health care programs under either section 1128 or section 1128A of the Act or listed on the Arkansas Medicaid Excluded Provider's List.

2.17 TRAINING

A. The Contractor **shall** train all staff members, including subcontractors, performing services under any resulting contract from this RFP.

B. All Contractor staff members, agents, and subcontractors **shall** receive training and comply with the provisions of all applicable security and privacy laws, including, but not limited to:

1. HIPAA

2. Health Information Technology for Economic and Clinical Health Act (HITECH)

3. Arkansas Personal Information Protection Act (PIPA), Act 1526 of 2005 (Arkansas Code § 4-110-101 et seq.)

C. Training and compliance **must** include, at a minimum, the HIPAA Privacy Rule, the HIPAA Security Rule, compliance and enforcement, sanctions/remedies, recognizing and reporting a breach, mitigation strategies following a breach or incident, safeguarding Protected Health Information (PHI) and Personally Identifiable Information in any form, including in verbal, documentary, and electronic forms, in accordance with federal guidance.

D. The Contractor **shall** provide training annually and document the training sessions.

E. The Contractor **shall** provide annual training documentation for review by the State upon request.

F. The Contractor **shall** monitor federal and State notices for changes that are relevant to industry developments or performance monitoring and initiate collaboration on incorporating necessary changes with DHS.

G. The Contractor **shall** train its staff members on relevant industry developments at an interval approved by the Contract Monitor.

2.18 ACTIVITY PLANNING AND DEVELOPMENT

A. The Contractor **shall** attend, in person, in Little Rock, Arkansas, at least the following meetings, unless otherwise approved in advanced by DHS:

1. A Contract Kickoff Meeting with staff from all involved DHS Divisions

2. Program-Specific Meetings with the involved Divisions
3. Introductory Meetings with the Managed Care Contractor and DHS
4. Legislative inquiries and hearings as requested by DHS
5. Additional meetings as requested by DHS, the Managed Care Contractors, or the selected EQRO

B. The Contractor **shall** ensure that, at minimum, the Project Manager attend these meetings along with any additional staff necessary to implement the terms of the Contract, with DHS having final determination of the required attendees.

C. The Contractor and DHS will agree upon further details regarding these meetings.

2.19 ONGOING PROGRAM PLANNING

A. The Contractor **shall** attend ongoing program specific meetings with involved DHS staff.

B. The Contractor **shall** provide a program update at each meeting with DHS staff including, without limitation:

1. Implementation of proposed work plan
2. Staffing
3. Reporting Summary
   a. Frequency and other details of contact with Managed Care organizations
   b. Initial findings
4. Regular status reports on EQR activities according to the approved workplan
5. Additional reporting measures proposed by the Contractor

C. The Contractor **shall** attend needed technical detail meetings with DHS and MCOs to discuss, without limitation:

1. Data transfer maintenance and retention
2. User acceptance testing
3. Determining training requirements

2.20 FACILITIES, COMPUTERS, AND EQUIPMENT

A. The Contractor **shall** provide all computers, equipment, and other resources necessary to fulfill the terms of the resulting contract at the Contractor's expense.

B. The Contractor **shall** furnish and maintain facilities and equipment to be able to accommodate communications and receive, send, and store all data necessary to fulfill the terms of the resulting contract, including HIPAA compliance.

C. The Contractor **shall** ensure that all facilities, computers, and equipment are properly maintained to minimize any negative impact on performance of duties.

2.21 REQUIRED INTERFACES / COMMUNICATIONS AND DATA / INFORMATION FLOWS

A. The Contractor **shall** be able to interface/communicate with all persons, entities, and systems necessary to comply with all requirements herein.

B. The Contractor **shall** work with DHS, each program, and program’s vendor to transfer all necessary data as required by each activity.

1. Certain interfaces and communications may require the Contractor to log in to another vendor’s system or receive a feed or data transfer from that vendor.

C. The Contractor and DHS **shall** work to identify any necessary interface and communication processes and the current vendor's requirements.

D. The Contractor, at minimum, **shall** provide the capability to interface with the following Arkansas Medicaid systems without limitation:

   1. MMIS
   2. Independent Assessment Systems
   3. Utilization Management Vendor(s)

E. The Contractor **shall** work diligently and in good faith with each current DHS vendor to have all necessary interfaces and communication processes operational on the contract start date.

   1. The Contractor **shall** work with DHS to establish a system for communication, including delivery or reports.

2.22 BACKGROUND CHECK REQUIREMENT

A. The Contractor **shall** comply with Arkansas Code § 21-15-101 *et seq*., and any amendments thereto, which requires all employees of state agencies in designated positions (including those providing care, supervision, treatment, or any other services to the elderly, intellectually or developmentally disabled persons, individuals with mental illnesses, or children who reside in any state-operated facility) or a position in which the applicant or employee will have direct contact with a child, to submit to specified background and registry checks.

B. An applicant or employee found to have been convicted of a crime listed in Arkansas Code § 21-15-101 et seq., **shall** be prohibited from providing services in a designated position as defined by Arkansas law or being present at the facility.

C. An applicant or employee found to have been named as an offender or perpetrator in a true, substantiated, or founded report from the Child Maltreatment Central Registry, the Adult Abuse Central Registry, or the Certified Nursing Assistant/Employment Clearance Registry, **shall** be immediately disqualified.

2.23 PRIVACY AND SECURITY

A. The Contractor **shall** ensure and maintain compliance with the most current version of Health Insurance Portability and Accountability Act (HIPAA), Health Information Technology for Economic and Clinical Health (HITECH), The Privacy Act of 1974, Arkansas Personal Information Protection Act (Arkansas Code § 4-110-104), and other Federal and State privacy and security standards.

   1. The State of Arkansas Security and Privacy policies (Policies: 1001 -1003, 1053, 1074, 1095, 4001 - 4013, and 5000 - 5011) can be found at: https://humanservices.arkansas.gov/dhs-policies.

B. The Contractor **shall** disclose any breaches of privacy or security by contacting the DHS Information Technology Security Office within one (1) business day of the discovery of the breach (unless otherwise approved by DHS) at dhsspa@dhs.arkansas.gov.

C. The Contractor **shall** use protected health information (PHI) and other Confidential Information only in a manner that is necessary to provide the services required in this Solicitation and under a resulting contract.

   1. For purposes of a resulting contract, any information furnished or made available to the Contractor relating to DHS clients, the financial condition, results of operation, business, customers, properties, assets, liabilities or information relating to recipients and providers including, but not limited to PHI as defined by the Privacy Rule pursuant to the HIPAA of 1996, is collectively referred to as "Confidential Information."

D. The Contractor **shall** safeguard the use and disclosure of, and restrict access to, PHI, and other confidential information.

E. The Contractor and DHS acknowledge that the disclosure of Confidential Information in contravention of the provisions hereof would damage the party to whom the information disclosed relates and such party has the right to seek all remedies at law or equity to minimize such damage and to obtain compensation therefore.

F. The Contractor **shall** retain all PHI, as defined by HIPAA, for ten (10) years.

G. The Contractor **shall** safeguard the use and disclosure of information concerning applicants for or recipients of Title XIX services in accordance with 42 CFR Part 431, Subpart F, and **shall** comply with 45 CFR Parts 160 and 164 and **shall** restrict access to and disclosure of such information in compliance with federal and state laws and regulations.

2.24 CONFLICT OF INTEREST MITIGATION

A. The Contractor **shall** comply with the terms of the DHS Organizational or Personal Conflict of Interest provisions and disclose all actual, apparent, or potential conflicts of interest to DHS within five (5) business days of having knowledge of them, unless otherwise approved by DHS.

B. The Contractor **shall** develop a mitigation plan as requested which **must** be approved and accepted by DHS prior to implementation. Changes to the approved mitigation plan **must** be approved in advance by DHS.

2.25 MANDATED REPORTING

A. Pursuant to Arkansas Code §§ 12-18-402(b)(10) and 12-12-1708(a)(1)(AA), the Contractor and all of its employees, agents, and all subcontractors and subcontractor's employees and agents **shall** immediately make a report to the Child Abuse Hotline or the Adult Maltreatment Hotline (based on type of maltreatment) if the Contractor or any of its employees, agents, or subcontractors' employees and agents, while performing duties under the resulting contract, have reasonable cause to suspect that:

   1. A child has been subjected to child maltreatment.
   2. A child died as a result of child maltreatment.
   3. A child died suddenly and unexpectedly.
   4. Observe a child being subjected to conditions or circumstances that would reasonably result in child maltreatment.
   5. An endangered person or an impaired person has been subjected to conditions or circumstances that constitute adult maltreatment or long-term care facility resident maltreatment.

2.26 TRANSITION PLAN PROCEDURES

A. DHS reserves the right to request submission of a transition plan and/or the timely delivery of any DHS data, contract deliverables, at any time, for any reason, during the contract term.

B. Within thirty (30) calendar days of DHS request, the Contractor **shall** submit for approval a detailed plan for transitioning all contracted services to DHS, or to another vendor selected by DHS to provide the contracted services.

   1. The Contractor **shall not** implement the plan until it has received DHS's written approval of the plan, including pre-approval of the format and delivery method of all proprietary data, and all contract deliverables.
   2. The Contractor **shall** take all reasonable action to provide a minimally disruptive turnover.

C. The plan **must** include the following, without limitation:

1. The Contractor's proposed approach to the transition;
2. List of the Contractor's tasks, subtasks, and schedule for all transition activities;
3. The Contractor's organizational chart and staffing matrix for all staff responsible for transition activities including job title, telephone number, and email address;
4. Operational tasks and procedures necessary to support ongoing operations during transition;
5. A detailed description of the services required by the new vendor to complete the transition;
6. A detailed description of the transfer of proprietary data. DHS **must** pre-approve the format and delivery method of all proprietary data, and the plan **must** include at minimum, the following:
   a. Provisions for the delivery of all proprietary data collected and/or created during the life of the contract to DHS thirty (30) calendar days prior to the contract end date.
   b. Provisions for the delivery of all proprietary data collected and/or created during the final thirty (30) business days of the contract, or any proprietary data not captured in the initial delivery no more than fifteen (15) business days following the contract end date.
7. DHS reserves the right to request re-submission of any proprietary information deemed unacceptable after the Contractor's initial transfer.

D. The Contractor **shall** work in good faith and cooperate with any new vendor and the State during the transition period and **shall** participate in any transitional meetings as required.

1. Upon DHS request, transition coordination activities **shall** include "shoulder to shoulder" observation, training, and support by the Contractor for DHS and the new vendor.
2. Ten (10) business days after the completed transition, the Contractor **shall** provide DHS with a Transition Results Report documenting the results of each transition plan step.

E. The transition **shall not** be considered complete until this document is approved by DHS.

2.27 PROPERTY AND SOFTWARE

A. All documents and deliverables prepared by the Contractor and accepted by DHS **shall** become the property of DHS and **shall not** be used for any other purpose by the Contractor without DHS's specific written consent.

B. 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 DHS or OSP.

C. The Contractor **shall** properly identify items being returned.

D. Property, including intellectual property, acquired or created by the Contractor as a contract deliverable or as a result of its performance of contract services, is the property of DHS that **shall** be used only as expressly authorized and kept confidential as permitted or required by law.

E. The Contractor **shall** be responsible for the proper custody and care of all DHS owned property, including DHS owned property used in connection with the performance of this contract, and the Contractor agrees to reimburse DHS for its loss or damage due to negligence, theft, vandalism, or Acts of God.

F. In accordance with Ark. Code Ann. § 19-60-106, any data received or stored by a Contractor for storage services, software services, or any other Contract service is the property of DHS.

    1. For the purposes of this section, “Data” means recorded information, regardless of form or characteristic.

G. DHS reserves the right to request that the Contractor provide a detailed data transition plan and/or return its data at any time, for any purpose.

H. The Contractor will have access to all applications software required by DHS for use in the performance of the services covered in the resulting contract, subject to customary confidentiality and other license terms and conditions.

    1. No changes in the applications software **shall** be made without the written consent of DHS if the change would cause DHS to incur additional costs for either hardware or software upgrades or both.

I. DHS **shall** retain ownership of any code, algorithm, or methodology created by the Contractor and used in the development of a deliverable under a resulting contract.

J. Any applications software developed by the Contractor in the performance of the services under the resulting contract **shall** become the property of the State of Arkansas at no additional cost.

K. Any existing software applications owned by the Contractor and used in the performance of the services under the resulting contract **shall** be granted to the State of Arkansas at no additional cost, subject to customary confidentiality and other license terms and conditions.

L. The Contractor **shall,** as applicable, due to resulting contract funding source(s), provide DHS ownership of any software that is designed, developed, installed, or enhanced with Federal funding per Federal Financial Participation (FFP) (45 CFR 95.617).

M. The Contractor **shall,** as applicable, due to resulting contract funding source(s), provide DHS with a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use and authorize others to use for federal and state government purposes software, modifications to software, and documentation that is designed, developed, installed, or enhanced with Federal funding per FFP (42 CFR 433.112).

N. Any products or applications produced by the Contractor and subject to 2 CFR § 200.315 may be licensed, reused, or reproduced by the federal government to the extent permitted by law. The Department will notify the Contractor within a reasonable timeframe of the federal government's request to reuse or reproduce any applicable product or application to share with other states in accordance with the applicable federal regulation.

2.28 EXPIRATION OR TERMINATION PROCEDURE REQUIREMENTS

A. Upon delivery by electronic mail or certified mail of a Notice of Termination specifying the nature of the termination and the date upon which such termination becomes effective, the Contractor **shall** complete the following unless otherwise directed by DHS:

    1. Stop work under the resulting contract on the date and to the extent specified in the Notice of Termination which may or may not be the same date as contract termination.
    2. Place no further orders or enter into any additional subcontracts for services.
    3. Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination.
    4. Assign to DHS in the manner and to the extent directed by the DHS representative all of the rights, title, and interest of the Contractor in the orders or subcontracts so terminated.

a. DHS **shall** have the right, in its discretion, to settle or pay any and all claims arising out of the termination of such orders and subcontracts.

5. With approval or ratification of the DHS representative, settle all outstanding liabilities and claims arising out of terminated orders and subcontracts, the cost of which would be reimbursable, in whole or part, under the contract.
6. Transfer title to DHS and deliver in the manner at the time and extent directed by the DHS representative, all files, data, information, manuals, or other documentation or property, in any form whatsoever, that relate to the work terminated by the Notice of Termination.
7. Complete the performance of such part of the work as **shall not** have been terminated by the Notice of Termination or stop work order.
8. Take such action as may be necessary, or as the DHS representative may direct, for the protection and preservation of the property related to the contract in the Contractor's possession and in which DHS has or may acquire an interest.

B. The Contractor **shall** proceed immediately with the performance of the above obligations notwithstanding any delay in determining or adjusting the amount of any item or reimbursable price under this subsection.

C. After receipt of a Notice of Termination, the Contractor **shall** submit to DHS all outstanding claims within sixty (60) calendar days.

D. The Contractor and DHS may agree upon the amounts to be paid to the Contractor by reason of the total or partial termination of work as described in this subsection.

E. In the event of Contractor and DHS's failure to agree, in whole or in part, on the amount to be paid to the Contractor in connection with the total or partial termination of work as described in this section, DHS will determine, on the basis of information available, the amount, if any, due to the Contractor by reason of termination and **shall** pay to the Contractor the amount so determined.

2.29 CONTRACT REMEDIES

A. The Contractor **shall** be liable to the State for all actual and direct damages caused by the Contractor's default.

1. The State may self-perform or buy substitute deliverables from a third party for those that were to be provided by the Contractor.
2. The State may recover the costs associated with self-performance or acquiring substitute deliverables, less any expenses or costs avoided by the Contractor's default.
3. If actual and direct damages are uncertain or difficult to determine, or are otherwise not addressed in the resulting contract, the State may recover liquidated damages.

B. Unless otherwise specified, liquidated damages will be in the amount of 1% of the value of the order, deliverable, or milestone that are the subject of the default, for every day that the default is not cured by the Contractor.

1. Any liquidated damages agreed upon in the Performance Standards attachment **shall** apply and the State will not invoke duplicative damages.

C. The State may withhold payment or set off the amount of any liquidated damages, other damages, or any other obligation of the Contractor or its subsidiaries to the State, including any amounts the Contractor owes to the State under the resulting contract, against any payments due to the Contractor under the resulting contract.

2.30 AUDIT REQUIREMENTS

A. The Contractor **shall** comply with DHS audit requirements as outlined in "Arkansas Department of Human Services Audit Guidelines."

B. Copies may be obtained from:

   Arkansas Department of Human Services
   Office of Payment Integrity Audit Coordination
   P.O. Box 1437 – Slot S270
   Little Rock, Arkansas 72203-1437

2.31 PERFORMANCE STANDARDS

A. State law requires that contracts for services include Performance Standards for measuring the overall quality of services that a Contractor **shall** provide.

B. The State may be open to negotiations of Performance Standards prior to contract award, prior to the commencement of services, or at times throughout the contract duration. Performance Standards identify expected deliverables, performance measures, or outcomes; and defines the acceptable standards and damages applicable if standards are not met.

C. Failure to meet the minimum Performance Standards as specified will result in the assessment of damages, as indicated in the Performance Standards. In the event a Performance Standard is not met, the Contractor will have the opportunity to defend or respond to the insufficiency. The State has the right to waive damages if it determines there were extenuating factors beyond the Contractor's control that hindered the performance of services. In these instances, the State has final determination of the performance acceptability.

D. Should any compensation be owed to the Department due to the assessment of damages, the Contractor **shall** follow the Department's direction regarding the required compensation process.

E. Contractor's failure to comply with obligations of a resulting contract, any applicable State and federal laws, regulations, and policies in performance of the services **shall** be deemed insufficient and unacceptable performance.

F. During the term of the resulting contract, the State will complete sufficient performance evaluation(s) to determine if the Contractor's performance is acceptable. The State's determination of "Acceptable Performance" as defined herein **shall** be final and controlling. In the event a Performance Standard is not met, the Contractor will have the opportunity to defend, respond to, or cure the insufficiency to the State's satisfaction.

G. The State **shall** have the right to modify, add, or delete Performance Standards throughout the term of the resulting contract, should the State determine it is in its best interest to do so. Any changes or additions to Performance Standards will be made in good faith following acceptable industry standards and may include Contractor input so as to establish standards that are reasonably achievable. All changes to Performance Standards **shall** be in writing as agreed to by the parties.

H. Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards for acceptable performance throughout the resulting contract term as determined by DHS.

I. Penalties may be calculated from the total payment for the month in which the deficiency took place and assessed in a future months' payment to the Contractor. DHS may impose damages for insufficient performance cumulatively or independently. The State may consider possible pro-rata application of damages as it determines by circumstances giving rise to the non-compliance incident(s) within the State's sole discretion.

J. Upon DHS request, an acceptable Corrective Action Plan (CAP) **shall** be submitted for DHS approval within ten (10) business days of the request. DHS will request a CAP as a first step for contractual non-compliance or poor performance, except when an imminent risk to health and safety, sensitive system integrity that may call for an alternate contractual remedy.

K. DHS reserves the right to impose additional penalties to those stated below, including without limitation: withholding payment on future invoices until the Contractor is in full compliance; maintaining a below standard Vendor Performance Report (VPR) in the vendor file; and contract termination.

TABLE B: PERFORMANCE STANDARDS

Service Criteria	Performance Standard	Damages
Activities Related to EQRO (See section 2.2)	Conduct all mandatory and optional activities according to the specified methodology and provide findings and recommendations for the program reviewed. Include recommendations for improvement and corrective measures when necessary. Annually evaluate each PASSE provider's compliance with KPIs.	A fifty percent (50%) penalty will be assessed in the following month's payment to the provider after each thirty (30) day period the Contractor is not in full compliance with all requirements of the contract.
Reporting (See Section 2.5)	Complete and submit all required reports by the agreed upon deadlines. Each report is timely, accurate, and complete.	A penalty of five hundred dollars ($500) will be assessed for each report not submitted to DHS by the deadline. A penalty of one thousand dollars ($1000) will be assessed for each inaccurate or incomplete report submitted to DHS.
Year One Activities (See Section 2.7)	Conduct all Year One reviews and evaluations required in Section 2.7 within the first twelve (12) months of contract start.	A penalty of one thousand dollars ($1000) will be assessed for each evaluation or review not completed by twelve (12) months from contract start.
Yearly Activities (Recurring) (See Section 2.11)	Complete the additional in depth Program Integrity review for each PASSE and submit it in a separate report.	A penalty of two hundred and fifty dollars ($250) will be assessed for each incomplete report or report not submitted by the deadline established by DHS.

Staffing (See Section 2.12 – 2.16)	Submit the Staffing Plan to DHS within thirty (30) days of contract start, then review and update annually. Staffing level is maintained at 90% for the contract duration. Any proposed reduction to staffing level is submitted to the Contract Monitor for prior approval.	A fifty percent (50%) penalty will be assessed in the following month's payment to the provider after each thirty (30) day period the Contractor is not in full compliance with all requirements of the contract.
Training (See Section 2.17)	Training of all staff and subcontractors is completed annually and documented as required in the SOW.	A penalty of one thousand dollars ($1000) will be assessed if Contractor fails to provide annual training documentation upon DHS request.
Activity Planning and Development (See Section 2.18)	Designated personnel attend the minimum required meetings in Little Rock unless approved in advance by DHs.	A penalty of one thousand dollars ($1000) will be assessed for each required staff personnel not in attendance at a meeting listed in the SOW and their absence is not approved in advance by DHS.
Ongoing Program Planning (See Section 2.19)	Provide a complete program update at each meeting as required by the SOW.	A penalty of five hundred dollars ($500) will be assessed for each required element of the program update not provided (see Section 2.19.B).
Facilities, Computers, and Equipment (See Section 2.20)	Furnish and maintain facilities and equipment to store and protect all data in compliance with HIPAA requirements.	A penalty of five hundred dollars ($500) will be assessed for any required report submitted late due to failure of facilities or equipment.

SECTION 3 – SELECTION

3.1 SELECTION PROCESS

A. OSP will review each *Technical Proposal Packet* to verify Submission Requirements have been met. *Technical Proposal Packets* that do not meet Submission Requirements will be rejected and will not be evaluated.

1. The State may conduct cost checks based on the cost submitted by each Prospective Contractor on the completed pricing response.

   a. Prospective Contractors submitting Responsive Proposals with a proposed cost that falls twenty-five percent (25%) or more from the average submitted cost may be asked to justify their submitted cost.

   b. Should OSP request clarification or additional information regarding cost, Prospective Contractors **shall** provide clarification and additional information within timeframes specified in the request.

B. A Department-appointed Evaluation Committee will evaluate and score Responsive Proposals. Evaluation will be based on Prospective Contractor's response to the *Information for Evaluation* section included in the *Technical Proposal Packet* and the pricing submitted by the Prospective Contractor.

1. Cost information will be provided to the members of the Evaluation Committee (Evaluators) to allow them to determine which proposal(s) is the most advantageous to the State.
2. Evaluators 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 scoring description in *Table B: Scoring Table*.

TABLE B: SCORING TABLE

SCORE	DESCRIPTION
10	The response clearly establishes the Prospective Contractor is reliable and capable of fully performing the required services. The response indicates the Prospective Contractor provides advantageous experience and approach to meeting the Department's objectives outlined in the RFP. The response leaves little to no doubt as to the Prospective Contractor's experience and ability to fulfill the Requirements of the RFP.
5	The response provides metrics suggesting that the Prospective Contractor's level of performance may be acceptable, but it does not clearly establish that the Prospective Contractor is reliable and capable of fully performing the required services.
0	The response provides metrics clearly establishing that the Prospective Contractor is unreliable and incapable of fully performing the required services. The response leaves little to no doubt as to the Prospective Contractor's inability to fulfill the Requirements of the RFP.

3. After initial individual evaluations are complete, the Evaluators will meet to discuss their individual scores. At the initial consensus meeting, each Evaluator will be afforded an opportunity to discuss his or her score for each evaluation criteria.
4. After Evaluators have had an opportunity to discuss their individual scores with the committee, the Evaluators will be given the opportunity to change their initial individual scores, if they feel that is appropriate.

5. The final individual scores of the Evaluators will be recorded on the Consensus Scoresheets and averaged to determine the group or consensus score and rank for each proposal.
6. Other agencies, consultants, and experts may also examine documents at the discretion of the Department.

C. Prospective Contractors submitting Responsive Proposals will be contacted by OSP to schedule an interview (expected to be hosted virtually).
   1. Prospective Contractors **shall** attend the interview as scheduled by OSP.
   2. Evaluators will complete an Individual Score Worksheet for each interview.
   3. Evaluation will be based on Prospective Contractor's responses to questions presented during the interview.
   4. Individual scoring for each interview will be based on the Scoring Descriptions in 3.1.B.1.
   5. During a final consensus meeting, after all interviews are complete, Evaluators will have the opportunity to discuss the interviews and change their individual interview scores on the Consensus Scoresheet, if they feel that is appropriate.
      a. The final individual scores of the Evaluators will be recorded on the Consensus Scoresheets and averaged to determine the group or consensus score and rank for each proposal.
   6. Should the State receive only one (1) Responsive Proposal, the State may forgo the interview portion of the evaluation if the proposal has received the Maximum Weighted Score Possible for the Experience, Solution, and Risk subsections.
      a. In this scenario, the proposal would automatically receive the maximum weighted score possible for the interview subsection.

D. Should the State request clarification or additional information about the Prospective Contractors' responses, Prospective Contractors **shall** provide clarification and additional information as specified by the State.

E. OSP will submit responses and pricing received from the interviewed Prospective Contractors, along with the Evaluation Committee's recommendation to the Department for review and approval to move into Discussions.

3.2 TECHNICAL PROPOSAL SCORE

A. The *Information for Evaluation* section has been divided into subsections.
   1. Each subsection has been assigned a maximum point value of ten (10) points. The total point value for each subsection is reflected in the table below as the Maximum Raw Points Possible.
   2. The Department has assigned Weighted Percentages to each subsection according to its significance.

INFORMATION FOR EVALUATION SUBSECTIONS	MAXIMUM RAW POINTS POSSIBLE	SUBSECTION'S WEIGHTED PERCENTAGE	* MAXIMUM WEIGHTED SCORE POSSIBLE
Experience	10	30%	210
Solution	10	30%	210
Risk	10	20%	140
Interview	10	20	140

Total Technical Score	**40**		**100%**	**700**

*Subsection's Percentage Weight x Total Technical Maximum Weighted Score = Maximum Weighted Score Possible for the subsection.

B. The proposal's weighted score for each subsection will be determined using the following formula:

(A/B)*C =D
A = Actual Raw Points received for subsection in evaluation
B = Maximum Raw Points possible for subsection
C = Maximum Weighted Score possible for subsection
D = Weighted Score received for subsection

C. The proposal's weighted scores for subsections will be added to determine the Total Technical Score for the proposal.

3.3 COST SCORE

A. When scores are applied to pricing, the maximum amount of cost points will be given to the proposal with the lowest one (1)-year grand total as shown in the Solicitation Line Items. (See *Grand Total Score* for maximum points possible for cost score.)

B. The amount of cost points given to the remaining proposals will be allocated by using the following formula:

(A/B)*C =D
A = Lowest estimated cost
B = Second (third, fourth, etc.) lowest estimated cost
C = Maximum Points for lowest estimated cost
D = Total price points received

3.4 GRAND TOTAL SCORE

The Technical Score and Cost Score will be added together to determine the Grand Total Score for the proposal. The State may move forward to Discussions with the Prospective Contractor determined reasonably susceptible of being selected for award.

	MAXIMUM POINTS POSSIBLE
Technical Proposal	700
Cost	300
Maximum Possible Grand Total Score	**1,000**

3.5 EXPLANATION OF THE TECHNICAL PROPOSAL REQUIREMENTS

A. Proposed Subcontractors Form

1. Prospective Contractors should complete and submit the *Proposed Subcontractors Form* to indicate the Prospective Contractor's intention to use Subcontractors.

2. Prospective Contractors should not attach any additional information to the *Proposed Subcontractors Form* but may be requested to provide additional information regarding the use of Subcontractors during Discussions.

3. Upon the Department's request, the Contractor **shall** provide a copy of the Contractor's agreement with all proposed and actual Subcontractor(s).

4. The utilization of a Subcontractor is subject to approval by the Department.

B. Recommended Options Form

1. The *Recommended Options Form* allows Prospective Contractors to identify recommended options or optional services that may benefit the State that were not included in the RFP Requirement.

   a. Prospective Contractors may use this form to propose variations or additions to the scope the Department has contemplated in this RFP.

   b. Pricing for these optional items **must** be included on the form to be considered as part of a resulting contract but will not be used for scoring or evaluation purposes.

2. Acceptance of optional services submitted on the *Recommended Options Form* is at the sole discretion of the Department.

3. Completion of the *Recommended Options Form* is optional and is not required for a proposal to be considered Responsive.

C. Experience

1. Prospective Contractors **shall** complete and submit the Experience subsection of the *Technical Proposal Packet.*

2. Prospective Contractors should explicitly state experience that fulfills all minimum qualifications specified in this Solicitation.

3. The Experience subsection allows Prospective Contractors to differentiate themselves based on their experience, technical capability, and understanding of the State's specific needs.

4. Prospective Contractors should identify expertise in the form of a claim and provide relevant experience to support each claim.

5. Prospective Contractors should use verifiable metrics (number of accounts, size of accounts, years of experience, customer satisfaction ratings) to support each claim.

D. Solution

1. Prospective Contractors **shall** complete and submit the Solution subsection of the *Technical Proposal Packet.*

2. Prospective Contractors should use the Solution subsection to:

   a. Align and comply with Requirements outlined in the RFP

   b. Propose a solution meeting the State's unique needs and objectives with enough specificity for Evaluators to evaluate the solution without exceeding established page limits

   c. Differentiate themselves from their competitors

3. Additional service options and recommendations above and beyond those required by the RFP and included in proposed solution should be included in the *Recommended Options Form*.

E. Risk

1. Prospective Contractors **shall** complete and submit the Risk subsection of the *Technical Proposal Packet.*

2. The Risk subsection allows Prospective Contractors to:

a. Identify and prioritize major risks that could potentially prevent or impair the Prospective Contractor's ability to meet the required services as proposed

b. Identify risks that might cause the Prospective Contractor to fail to meet the State's desired outcome, specifications, and performance standards

c. Identify how they will mitigate, manage, and/or minimize each risk listed.

3. Prospective Contractors should include sources, causes, or actions that are both within and beyond their control that they reasonably foresee may cause cost increases, delays, amendments, or dissatisfaction to the State.

4. Risks should be described in simple, clear, and non-technical terms.

5. Prospective Contractor should explain how the Prospective Contractor will mitigate, manage, and/or minimize each risk listed.

6. The Documented Performance cell should include details such as how many times any identified risk was previously mitigated and the impact on the Prospective Contractor's performance in terms of time, cost, and client satisfaction.

F. Interview

1. The Interview will allow Prospective Contractors to further demonstrate their experience in providing the services outlined in the RFP.

2. Each Prospective Contractor meeting the Submission Requirements will be contacted by OSP to schedule an interview.

3. Prospective Contractors **shall** attend the interview as scheduled.

4. Prospective Contractors **shall** identify a representative at the time of interview confirmation who **shall** attend the interview as part of the evaluation process; requests for additional representatives may be considered by OSP at the time of scheduling.

5. OSP will conduct structured and timed interviews using a pre-determined set of interview questions, which will be provided to Prospective Contractors in advance of the Interview.

6. Evaluators may ask follow up or clarifying questions based on responses given by the Prospective Contractor.

3.6 DISCUSSIONS

A. The State will move forward into Discussions with the responsible Prospective Contractor(s) whose proposal(s) have been determined to be reasonably susceptible to being selected for award.

B. Discussions may be conducted with the highest-ranking Prospective Contractor based on the Grand Total Score for each proposal or with multiple Prospective Contractors reasonably susceptible of being awarded a contract.

C. Should the State choose to engage in Discussions with the highest-ranking Prospective Contractor, the Prospective Contractor invited to participate in Discussions **shall** provide all documents required during Discussions.

1. Should the Department determine, through the Discussions process, that the Prospective Contractor's solution, approach, timelines, deliverables, expectations of the State, or a combination thereof make the Prospective Contractor no longer reasonably susceptible of being awarded a contract, the Department may abandon Discussions with that Prospective Contractor through a written justification to OSP, and may proceed to additional rounds of Discussions with the next highest-ranking Prospective Contractor.

D. Should the State choose to engage in Discussions with multiple Prospective Contractors contemporaneously, each Prospective Contractor invited to participate in Discussions **shall** provide all documents required during Discussions.

   1. Should a Prospective Contractor not provide the required documents within timeframes requested by OSP or choose not to engage in the Discussions process, the Prospective Contractor's proposal will be considered withdrawn and will not be subject to further consideration in the Solicitation process.

E. If Discussions necessitate material revisions of proposals, each responsible Prospective Contractor reasonably susceptible of being awarded a contract will be provided an opportunity to revise its proposal for the purpose of submitting a best and final offer.

F. During the Discussions Kick Off Meeting, the Prospective Contractor **shall** provide the following documents to the State:

   1. A detailed scope of work clearly clarifying the Prospective Contractor's understanding, implementation, and performance of services required in this RFP, including all activities required by the Contractor and all activities expected by the State

   2. A comprehensive Risk Management Plan intended to mitigate any risks, including but not necessarily limited to, the risks identified in the Risk Plan submitted in the Prospective Contractor's *Technical Proposal Packet*

   3. A proposed financial summary, including:

      a. The completed pricing response and *Recommended Options Form* submitted in the Prospective Contractor's *Technical Proposal Packet*

      b. A proposed payment schedule

   4. Proposed project management and reporting templates

G. During Discussions, the Prospective Contractor **shall** address questions and concerns the State may have to the satisfaction of the State.

H. During Discussions, the Prospective Contractor **shall** revise Discussions documents until agreement is made and the State has provided final approval.

   1. The Prospective Contractor **shall** attend follow up Discussions meeting as determined necessary by the State. Reasonable effort will be made to accommodate scheduling conflicts.

I. During Discussions, the Prospective Contractor **shall** present a final draft of Discussions documents to the State, including, at minimum:

   1. A summary of all plans and scope of work developed during the discussions process and mutually agreed upon by the State and the Prospective Contractor

   2. A detailed scope of work clearly identifying the Prospective Contractor's implementation and performance of services required in this RFP, including all provisions negotiated and agreed upon by the State and the Prospective Contractor since the Discussions Kick Off Meeting

   3. Description of deliverables in terms of simplified metrics

   4. The Risk Management Plan

   5. Project management and reporting templates

   6. Financial summary, including:

a. The completed pricing response submitted in the Prospective Contractor's *Technical Proposal Packet*

b. A list of agreed upon and accepted recommended options (with impact to price)

c. A payment schedule

d. Contact information for the Prospective Contractor's key personnel

J. Once approved by the State, final drafted documents will become part of the resulting contract.

3.7 ANTICIPATION TO AWARD

A. Once an anticipated Contractor has been determined, the anticipated award will be posted to the OSP website by the date and time listed in Table A.

B. It is the Prospective Contractors' responsibility to check the OSP website for the posting of an anticipated award.

C. Anticipated awards will generally be posted for a period of fourteen (14) days prior to the issuance of a contract.

D. These notices are anticipated awards only and are subject to protest.

E. A contract resulting from this Solicitation is subject to State review and approval processes prior to award, which may include Legislative review.

3.8 PROSPECTIVE CONTRACTOR ACCEPTANCE OF EVALUATION TECHNIQUE

The submission of a *Technical Proposal Packet* signifies the Prospective Contractor's understanding and agreement that some subjective value judgments will be made during the evaluation and scoring of the technical proposals.

SECTION 4 – SOLICITATION TERMS AND CONDITIONS

4.1 ACCEPTANCE OF REQUIREMENTS

A. This RFP incorporates all terms of the *Services Contract (SRV-1) Fillable Form* (found here), unless otherwise negotiated and agreed upon during Discussions.

1. The contract template is attached to the Solicitation as a sample for informational purposes only.
2. Items may only be modified if the legal requirement is satisfied and approved by the State during Discussions.

B. The Prospective Contractor agrees and **shall** adhere to all terms, conditions, and Requirements of the RFP if selected as the Contractor.

1. A Prospective Contractor's proposal may be rejected if a Prospective Contractor takes exception to any terms, conditions, or Requirements in this RFP.

C. Qualifications and services **must** meet or exceed the required Requirement as set forth in the Solicitation.

D. A Prospective Contractor's past performance with the State may be used to determine if the Prospective Contractor is responsible (19 CAR § 1-401).

1. Proposals submitted by Prospective Contractors determined to be non-responsible will be rejected.

4.2 INVOICING AND PAYMENT

A. The Contractor **must** be registered as a vendor to receive payment and may register online by visiting https://sas.arkansas.gov/procurement/vendor-resources/.

B. The Contractor **shall** invoice the State as required by the Department and should not invoice the State in advance of delivery and acceptance of any commodities or services (Arkansas Code § 19-4-1206).

1. To ensure timely processing, all invoices **must** contain the applicable state purchase order (PO) number.
2. Contractors failing to include a valid PO number on an invoice waive any carrying charges, penalties, or fees associated with late payment, pursuant to Arkansas Code § 19-61-303.
3. The Contractor should invoice the agency by an itemized list of charges.
4. Payment will be made in accordance with applicable State of Arkansas accounting procedures after the Contractor has successfully satisfied the Department as to the reliability and effectiveness of the commodities or services purchased as a whole.

C. All payments to the Contractor under a resulting contract **shall** be made exclusively through ACH (Automated Clearing House) direct deposit or the State's authorized purchasing card (p-card) as applicable.

1. The Contractor **shall** provide the necessary banking information, including account number, routing number, and any other details required to facilitate ACH direct deposits.
2. The Contractor **shall** be responsible for ensuring that the provided banking information is accurate and up to date. Any delays or errors in payment caused by incorrect or outdated information provided by the Contractor **shall not** be the responsibility of the Department.

3. The Department will process payments according to the agreed payment schedule, and all payments made via ACH direct deposit **shall be** considered as duly received upon successful transmission to the Contractor's designated bank account.
4. Price changes or additional fee(s) **must not** be levied against the State when accepting the p-card as a form of payment.

4.3 CONTRACTOR CERTIFICATIONS

A. Pursuant to Arkansas State Procurement Law, the Contractor **shall** certify that, unless they offer to provide the commodities 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 § 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 § 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 § 19-60-105).

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 § 25-1-1203).

D. Pursuant to Arkansas State Procurement Law, the Contractor **shall** in all other respects comply with the laws, rules, and executive orders of the state that apply to the Contractor's performance under a resulting contract.

4.4 GENERAL TERMS AND CONDITIONS

A. Prior to the award of any resulting contract, the Prospective Contractor **shall** be registered to do business in the State of Arkansas through the Arkansas Secretary of State's office (https://sos.arkansas.gov/).

B. A single Prospective Contractor **must** be identified as the prime contractor.

  1. The prime Contractor **shall** be responsible for the resulting contract and jointly and severally liable with any of its subcontractors, affiliates, or agents to the State for the performance thereof.

C. By submission of a proposal, the Prospective Contractor represents and warrants:

  1. That the prices in the proposal have been arrived at independently, without any collusion with another competing Prospective Contractor.
     a. Collusion violates Arkansas Procurement Law and can lead to suspension, debarment, and can be referred to the Attorney General's officer for investigation and appropriate legal action (Arkansas Code §§ 19-61-403 and 19-61-702).
  2. That the Prospective Contractor has not retained a person to solicit or secure the resulting 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 Prospective Contractor for the purpose of securing business.

D. Prospective Contractor should not discuss the Solicitation or proposal, issue statements or comments, or provide interviews to public media during the Solicitation and award process.

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

4.5 PROPRIETARY INFORMATION

A. The release of public records is governed by the Arkansas Freedom of Information Act (FOIA) (Arkansas Code § 25-19-101 et. seq.).

B. Submission documents pertaining to the Solicitation become the property of the State and are subject to FOIA.

C. In accordance with FOIA, and to promote maximum competition in the State competitive sealed proposals, the State may maintain the confidentiality of certain types of information described in FOIA; such information may include trade secrets and other information exempted from public disclosure pursuant to FOIA.

D. Consistent with and to the extent permitted under FOIA, any Prospective Contractor may designate appropriate portions of a proposal as confidential by submitting a redacted copy of the proposal.

E. Pricing information submitted in a proposal is not considered confidential after an anticipated awardee is named and should not be redacted.

F. By redacting information contained in the proposal, the Prospective Contractor warrants that, after having received such necessary or proper review by counsel or other knowledgeable advisors, it has formed a good faith opinion that the portions redacted are not considered public records under FOIA.

G. If a Prospective Contractor deems part of the information contained in a response not to be a public record, the Prospective Contractor should submit one (1) complete copy of the submission documents from which any proprietary or confidential information has been redacted in their proposal.

H. Except for the redacted information, the redacted copy **must** be identical to the original copy, reflecting the same pagination as the original and showing the space from which information was redacted.

I. The Prospective Contractor is responsible for identifying all proprietary information and for ensuring the electronic copy is protected against restoration of redacted data.

J. The redacted copy will be open to public inspection under the FOIA without further notice to the Prospective Contractor.

K. Documents simply marked "Confidential" and not properly redacted will not be considered redacted for the purpose of FOIA.

L. If a redacted copy of the submission documents is not provided with Prospective Contractor's response, a copy of the non-redacted documents may be released.

M. If the State deems redacted information to be subject to a public record request under FOIA, the State will endeavor to notify the Prospective Contractor prior to release of the redacted record.

N. The State has no liability to a Prospective Contractor with respect to the disclosure of Prospective Contractor's confidential or proprietary information ordered by a court of competent jurisdiction pursuant to FOIA or other applicable law.

4.6 DHS TERMS

A. The Contractor **shall** be fully responsible for all work performed under the contract.

B. The Contractor may, with the prior written consent of DHS, enter into written subcontract(s) for performance of certain of its functions under the contract. No subcontract under this contract **shall** in any way relieve the Contractor of any responsibility for performance of its duties.

C. The Contractor agrees that all subcontracts **shall** adhere to applicable DHS policies.

D. Unless otherwise approved by DHS, the Contractor **shall** give DHS immediate notice in writing by electronic mail and accompanying certified mail of any action or suit filed and prompt notice of any claim made against the Contractor or any subcontractor which may result in litigation related in any way to the contract or DHS. Prompt notice **shall** be defined as notification provided to DHS within five (5) calendar days following a claim made against the Contractor or any subcontractor.

E. The Contractor will not be liable for delay in performing under the contract if the delay arises out of causes beyond the control and without the fault or negligence of the Contractor.

F. The Contractor, its officers, and employees of the Contractor or subcontractor, in the performance of the resulting contract, **shall** act in an independent capacity and not as officers or employees of DHS. DHS will exercise no managerial responsibility over the Contractor nor will the resulting contract be construed as a partnership or joint venture between the Contractor or any subcontractor and DHS or the State of Arkansas.

G. The Contractor hereby represents and warrants to DHS that as of the execution date of a resulting contract:

   1. The Contractor has been duly organized and is validly existing and in good standing under the laws of the State of Arkansas, with the power, authority, and legal right to enter into a resulting contract.

   2. There are no proceedings or investigations pending or threatened, before any court, regulatory body, administrative agency, or other governmental instrumentality having jurisdiction over the Contractor or its properties (i) seeking to prevent the consummation of any of the transactions contemplated by a resulting contract; or (ii) seeking any determination or ruling that might materially and adversely affect the Contractor's performance of its obligations hereunder, or the validity or enforceability of a resulting contract.

   3. All approvals, authorizations, consents, orders, or other actions of any person or of any governmental body or official required to be obtained on or prior to the date hereof in connection with the execution and delivery of a resulting contract and the performance of the services contemplated by a resulting contract and the fulfillment of the terms hereof have been obtained.

   4. The Contractor and the Contractor's executive officers have not been the subject of any proceedings under the United States Bankruptcy Code.

H. The Contractor **shall** in all other respects comply with State and federal laws, regulations, policies, manuals, executive orders, and other official issuances that apply to the Contractor's performance under a resulting contract.

   1. If a newly enacted statute, regulation, policy, or executive order requires a change to the contract or any attachment thereof, the Contractor **shall** deem this contract and any attachment to be automatically amended to comply with the newly enacted statute or regulation as of its effective date.

   2. The Contractor and State will subsequently cooperate in good faith to amend the contract to comply as mandated through either a change order or amendment, whichever is deemed necessary under applicable laws and/or rules.

I. In the event of any dispute concerning the State's performance under the contract, the Contractor **shall** notify the DHS Division Director in writing of any disputes or controversies including, without limitation, controversies based upon breach of contract, mistake, misrepresentation, or other cause for contract modification or recession.

   1. Pending final determination of any controversy hereunder, the Contractor **shall** proceed diligently with the performance of the resulting contract and in accordance with DHS instructions.

4.7 CERTIFICATION REGARDING LOBBYING:

A. The Contractor **shall** comply with Public Law 101-121, section 319 (31 U.S.C. § 1352) for an award in excess of $100,000.00 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 the awarding of any federal contract, grant, loan, or cooperative agreement.

B. If the Contractor has paid or will pay for lobbying using funds other than federal appropriated funds, Standard Form-LLL (Disclosure of Lobbying Activities) **shall** be completed and included as an attachment to the resulting contract.

4.8 CERTIFICATION REGARDING DEBARMENT

The Contractor, as a lower tier recipient of $25,000.00 or more in federal funds, **shall** comply with Executive Order 12549 (Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions).

4.9 CERTIFICATION REGARDING EMPLOYMENT PRACTICES

A. In order to comply with the provision of Act 954 of 1977, relating to unfair employment practices, a Contractor agrees that:

   1. The Contractor **shall not** discriminate against any employee or applicant for employment because of race, sex, color, age, religion, handicap, or national origin.

   2. In all solicitations or advertisements for employees, the Contractor **shall** state that all qualified applicants **shall** receive consideration without regard to race, color, sex, age, religion, handicap, or national origin.

   3. The Contractor **shall** furnish such relevant information and reports as requested by the Human Resources Commission for the purpose of determining compliance with the statute.

   4. Failure of the Contractor to comply with the statute, the rules and regulations promulgated thereunder, and this nondiscrimination clause **shall** be deemed a breach of contract and it may be cancelled, terminated, or suspended in whole or in part.

B. The Contractor **shall** include the provisions of above items (1) through (4) in every subcontract so that such provisions **shall** be binding upon such subcontractor or Contractor.

4.10 LIMITATION OF LIABILITY

A. DHS will demonstrate reasonable care but will not be liable in the event of loss, destruction, or theft of Contractor-owned equipment or software and technical and business or operations documents to be delivered or to be used in the installation of deliverables and services. The Contractor **shall** retain total liability for equipment, software and technical and business or operations documents. DHS **shall not** at any time be responsible for or accept liability for any Contractor-owned items.

B. All limitations in the resulting contract are only to the extent such limitations do not impose an unlawful indemnification on the State.

C. Notwithstanding any other limitation provisions, the Contractor **shall** be liable for any other direct loss or damage to the State caused by the gross negligence, intentional or willful misconduct, fraudulent act, recklessness, or other tortious conduct of the Contractor or Contractor's employees or agents during its performance under the resulting Contract.

D. Notwithstanding any other limitation provisions, the Contractor **shall** be liable for any direct loss to the State for bodily injury, death, or damage to property of the State caused by the negligence, intentional or willful misconduct, fraudulent act, recklessness, or other tortious conduct of the Contractor or Contractor's employees or agents during its performance under the resulting contract.

E. Notwithstanding any other limitation provisions, the Contractor **shall** be liable for any penalties, sanctions, and disallowances assessed against DHS by Federal authorities of noncompliance with Federal regulations and standards as a result of conduct of the Contractor or the Contractor's employees or agents during its performance under the resulting contract.

F. The Contractor's liability for damages to DHS **shall** be limited to the value of the resulting contract or $5,000,000, whichever is greater.

   1. The foregoing limitation of liability **shall not** apply to claims for:

      a. Infringement of United States patent, copyright, trademarks, or trade secrets;

      b. To claims for personal injury or damage to property caused by the Contractor's gross negligence or willful misconduct;

      c. To claims covered by other specific provisions of the resulting contract calling for damages;

      d. To court costs or attorney's fees awarded by a court in addition to damages after litigation based on the resulting contract; or

      e. Any penalties, sanctions, or disallowances assessed against the State by Federal authorities due to the Contractor's or its subcontractors' noncompliance with Federal laws, regulations, or standards.

G. The Contractor and DHS **shall not** be liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages.

   1. In the event that either party to the resulting contract deems it necessary to take legal action to enforce any provision of the contract and DHS prevails, the Contractor **shall** pay all expenses of such action, including attorney's fees and costs at all stages of litigation as set by the court or hearing officer.

   2. Legal action **shall** include administrative proceedings.

4.11 SURVIVAL OF RIGHTS AND OBLIGATIONS

Contracting Parties' rights and obligations under the resulting contract **shall** survive and continue after the ending or expiration of the resulting contract term and **shall** bind the Parties and their legal representatives, successors, heirs, and assigns as allowed by state and federal laws and rules, unless otherwise approved by DHS.

4.12 PAYMENT AND INVOICE PROVISIONS

A. Payment will be made only after the Contractor has successfully satisfied the Department as to the reliability and effectiveness of the goods or services purchased as a whole.

B. The Contractor **shall** invoice the State as required by the Department and should not invoice the State in advance of delivery and acceptance of any commodities or services (Arkansas Code § 19-4-1206).

1. Invoices **must** be sent to the "Invoice To" point shown on the purchase order and will be paid in accordance with applicable State accounting procedures.
2. The Contractor should invoice the Department by an itemized list of charges. The Department's Purchase Order Number and/or the Contract Number should be referenced on each invoice.

C. The Contractor will be paid upon completion of all of the following:

1. Submission of an original and the specified number of copies of a properly itemized invoice in a format approved by DHS;
2. Delivery and DHS acceptance of the commodity, goods, or services; and
3. Proper and legal processing of the invoice by all necessary State agencies.

D. The Contractor **shall** bill all services rendered under a resulting contract as set out herein.

1. No services may be billed to a Medicaid Provider or to any other contract.
2. Payments will be made after services are provided based on the financial terms in the resulting contract.
   a. If the resulting contract is subject to Matching Requirements the Contractor **shall** certify the funds, property, goods, or services will be used to meet the match requirements of the resulting contract.
   b. Type(s) of Match: The matching requirement may be satisfied by any one or a combination of the following methods unless specific funding source restrictions apply:
      i. Cash Match: Cash will be obtained by the Contractor and will be applied against allowable costs covered by the resulting contract.
      ii. Donation of Property: Title to or the use of property or equipment has been donated by a public agency for the program(s) covered by the resulting contract.
         - If title to property is donated, match value is the fair market value of the property. If the use of the property or equipment is donated, match value is the fair rental value as determined by applicable DHS policy. These values will be used as matching of the payments.
      iii. Third Party In-Kind Contributions: Property, goods, or services have been donated by a non-federal agency for the programs(s) covered by the resulting contract without charge to the Contractor. 2 C.F.R. Part 200 **shall** be used to establish the basis of valuation.
      iv. Funds Transfer: Match funds will be submitted by a third party to DHS by check or money order under the terms of the resulting contract. Matching funds are to be received by DHS in an amount sufficient to match billing before the Contractor will be reimbursed for services.
   c. The Contractor **shall** certify that any funds to be donated under the resulting contract which are derived or come directly or indirectly from Federal or State funds, or any other contractor under contract to DHS, have been specifically listed as a source above.
   d. The Contractor **shall** certify that the matching arrangements comply with requirements established in 2 C.F.R Part 200 (Cost Sharing or Matching) and all applicable DHS policies.

E. The Contractor **shall** submit all billing invoices as required by the Contract and **shall not** withhold invoicing due to ongoing dispute(s) with DHS.

1. Any payments withheld by DHS due to unacceptable or insufficient performance **must not** be subject to late payment penalties, interest, or any other liability associated with late payment.
2. Any Corrective Action Plan (CAP) that is related to the dispute(s) will remain in place until all assessed penalties are received by DHS.
3. DHS may, at its sole discretion, release CAP(s) prior to receiving assessed penalties if it determines release to be in the State's best interest.

F. The Contractor **shall** submit all final billing invoices within sixty (60) days of contract expiration.

1. Any billings for services rendered during a particular state fiscal year which are not submitted within ninety (90) days of the end of the fiscal year will not be paid.
2. Payments for completed services or deliverables satisfactorily delivered to and approved by DHS **shall** be at the price according to the resulting contract.
3. Payment for partially completed services or deliverables satisfactorily delivered to and not yet approved by DHS **shall** be at a price mutually agreed upon by the Contractor and DHS.

G. Other sections of this Solicitation may contain additional requirements for invoicing.