



<b>Solicitation/Event#:</b> EV00000489		<b>Solicitation/Event Issue Date:</b> 6/11/2024	
<b>DUE DATES AND TIME (CENTRAL STANDARD TIME):</b>			
<b>Bid Response Must be Received by:</b> 1:00 p.m. on 7/12/2024 <sup>1</sup>			
<b>Request for administrative review:</b> 1:00 p.m. on 6/14/2024			
<b>Last Day to Submit Questions:</b> 1:00 p.m. on 6/28/2024			
<b>CONTRACT TYPE:</b>		<input type="checkbox"/> Statewide <input checked="" type="checkbox"/> Agency    Agency Name/Number: OSDE/26500	
<b>EVENT TYPE:</b> <input checked="" type="checkbox"/> Request for Proposal <input type="checkbox"/> Request for Quote <input type="checkbox"/> Invitation to Bid			
<b>Does this purchase have IT components?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
<b>Terms regarding sensitive data will be included in the Contract including, but not limited to:</b> HIPAA _____    CJIS _____ FERPA _____    OTHER _____ 1075 _____    N/A <u>  X  </u>			
<b>Will federal funds be utilized for this purchase?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
<b>SUBMIT BID TO:</b> Submissions must be submitted via the <a href="#">Oklahoma Supplier Portal</a>		<b>CONTRACTING OFFICER:</b> Name: Darlene Saltzman Email: Darlene.saltzman@omes.ok.gov Phone:	

<sup>1</sup> Amendments may change the Bid Response Due Date (read “Amendments” in these Bidder Instructions)  
04/19/2023

## State of Oklahoma Bidder Instructions

Pursuant to Oklahoma Attorney General Opinion No. 06-23, any Bidder that has assisted in preparing the Solicitation or developing the procurement terms, either directly or indirectly, is precluded from being awarded the Contract.

### 1 Introduction

These Bidder Instructions are not part of the Contract; however, compliance with these Instructions is material to the determination of whether a Bid is responsive. Failure to comply may result in rejection of a bid. Bid requirements are altered only by written Amendment; verbal communications from any source are of no effect. In no event shall the Bidder's failure to read and understand a term, condition or requirement in any of the documents provided by the State constitute grounds for a claim after award of the Contract. *A submitted Bid is rendered as a legal offer and is required to be in strict conformity with these Bidder Instructions.*

### 2 Definitions

The following terms, when used in these Bidder Instructions, shall have the following meanings:

- 2.1 **Amendment** means a written change, addition, correction or revision to Solicitation Documents and its terms, conditions or requirements by the State.
- 2.2 **Bid** means an offer a Bidder submits in response to the Solicitation.
- 2.3 **Bidder** means an individual or business entity that submits a Bid in response.
- 2.4 **Bid Packet** means the order described in these Bidder Instructions in which all Bidders shall insert the relevant sections of a Bid, and which shall be the format for all submitted Bids.
- 2.5 **Mandatory Provision** means whenever the terms "shall," "must," "will," or "is required" are used.
- 2.6 **Permissible Provision** means whenever the terms "can," "may," or "should" are used.
- 2.7 **OAC** means the Oklahoma Administrative Code.
- 2.8 **Value-Added** means any goods and/or services that a Bidder provides to other customers that a Bidder wishes to offer to the State that are in addition to those required by Attachment A.

### 3 Communications and Questions

- 3.1 The Contracting Officer listed on the Bidder Instructions Cover Page is the only individual the Bidder should communicate with regarding any questions or issues with the

Acquisition. *Communication with any other stakeholders at the State may result in disqualification.*

### 3.2 General Questions from bidders

A. Questions should be concise, identify the relevant document, include specific section references and avoid use of tables or special formatting (use simple lists).

#### B. Method for Submission of Questions

Bidder should submit general questions concerning Contract or Bid specifications or requirements via the portal [Supplier Portal \(oklahoma.gov\)](https://www.oklahoma.gov) in addition to the Contracting Officer's email address shown on the Bidder Instructions Cover Page. Questions received via any other means will not be addressed. Questions may be submitted as soon as the solicitation is posted. You are encouraged to submit your questions as soon as possible to allow adequate time for answers.

### 3.3 Clarification Questions from the State

The State reserves the right to request clarifications of Bid information or to conduct discussions for the purpose of clarification with any or all Bidders. The purpose of any such discussion shall be to ensure full understanding of the Bid. If clarifications are made because of such discussion, the Bidder(s) shall submit such clarifications in writing to the Contracting Officer. Bidder answers that are outside scope of the clarification questions shall be disregarded. Oral explanations or instructions provided to a potential Bidder are not binding.

## 4 Bidder Request for Administrative Review

4.1 A Bidder that believes the Contract or Bid requirements or specifications, or Bid Response Due Date, are unnecessarily restrictive or limit competition may email a request for administrative review to the Contracting Officer. A request received via any other means will not be addressed. The State shall promptly respond in writing to each written administrative review request, and where appropriate, issue a revision, substitution or clarification through an Amendment. Requests for administrative review shall include the reason for the request, supported by information, and any proposed changes.

4.2 If a Bidder fails to notify the Contracting Officer of an ambiguity, conflict, discrepancy, omission or other error in any of the documents provided by the State that is known to Bidder, or that reasonably should be known by Bidder, the Bidder accepts the risk of submitting a Bid and, if awarded the Contract, shall not be entitled to additional compensation, relief or time by reason of the error or its later correction.

## 5 **Amendments to the Solicitation**

- 5.1 Any Amendment shall be set forth at the same online link as the Solicitation.
- 5.2 It is the Bidder's responsibility to check the State's website frequently for any possible Amendments that may be issued. The State is not responsible for the Bidder's failure to review any amendment documents required to complete a Bid.

## 6 **Preparation of the Bid**

- 6.1 The Bid is **required** to be structured into separate, labelled and easily identifiable sections using the Bid Packet format provided below. A Bid submitted using any other format may not be accepted. The Bid Packet should not contain duplicative content amongst multiple sections. Any section of the Bid Packet that is not applicable to the Bidder shall contain a page that reads "Not Applicable," "N/A" or similar notation.
- 6.2 Reference to literature submitted with a previous Bid shall not satisfy a specification or requirement associated with the present Bid. Any previous solicitation or resultant contract shall not be depended upon, perceived or interpreted to have any relevance to the present Bid.
- 6.3 All costs incurred by the Bidder for Bid preparation and participation shall be the sole responsibility of the Bidder and the Bidder shall not be reimbursed for any such costs. By submitting a Bid, Bidder agrees not to make any claims for damages or have any rights to damages in connection with the Bid.
- 6.4 For consistency of contract structure, certain State terms may be marked "Intentionally Omitted." If so, no response is expected.

## 7 **Required Bid Format**

### 7.1 **Section One: Cover Page**

Provide a dated cover page or transmittal letter that identifies the Solicitation and the Bidder and provides Bidder contact information.

### 7.2 **Section Two: Executive Summary and Company Information**

The Bidder's executive summary shall be inserted in this section using Exhibit 1: Bidder response Worksheet, Executive Summary and Company Information. This includes marketing information, information for a designated contact person to receive official notices, approvals and requests, general company information and other similar resources the Bidder wishes to provide. The following company information is required to be included in the Section:

- a. Length of time the Bidder has been in business.
- b. A brief description of the company.
- c. Company size and organization.
- d. The number of years the Bidder has been providing products and/or services of the type requested.
- e. The core competency of the company.

- f. Number of clients.
- g. Average client size (i.e., employee count) and
- h. Locations where the Bidder's solution has been deployed.

### 7.3 Section Three: Required Forms, Certifications and Disclosures

- a. Completed "Responding Bidder Information" form set forth and accompanying required documentation. Insert in this section using CP-Form 076.
- b. Completed "Certification for Competitive Bid and Contract" form. Insert in this section using CP-Form 004.
- c. Disclosure of:
  - i. any public contract terminated by a governmental entity or suits or claims against the Bidder for failure to perform in connection with a public contract (including any company which a Bidder has merged with or acquired that will be performing services or providing products if awarded the Contract);
  - ii. Any contractual relationship or any other relevant contact with any State personnel or another Bidder or Supplier involved in the development of a Bidder's response to the Solicitation.
  - iii. The name of any officer, director or agent of the Bidder who is also an employee of the State or any of its agencies.
  - iv. The name of any state employee who owns, directly or indirectly, an interest of five percent (5%) or more in the Bidder firm or any of its branches; and
  - v. Any activity or interest that conflicts or may conflict with the best interest of the State, including but not limited to any person or entity currently under contract with or seeking to do business with the State, its employees or any other third-party individual or entity awarded a contract with the State. Any conflict of interest shall, in the sole discretion of the State, be grounds for rejection of the Bid or partial or whole termination of the Contract.
- d. A copy of the Bidder's Certificate of Insurance to the standards set forth in Attachment B, Section 8, State General Terms.

### 7.4 Section Four: Bid Portions Requested to be Held Confidential

- a. All material submitted by a Bidder becomes the property of the State. No portion of a Bid shall be considered confidential after award of the Contract except, pursuant to 74 O.S. § 85.10. Any portion of the Bid requested to be held confidential shall be listed in this section for review. Do not duplicate listed documents in this section, simply provide a list of documents or sections of documents requested to be confidential.
- b. For each portion of the Bid listed as considered confidential, the Bidder must identify the specific information considered confidential and fully comply with **OAC 260:115-3-9<sup>2</sup> which additionally requires a Bidder to enumerate the specific grounds, based on applicable laws which support treatment of the information as exempt from disclosure and explain why disclosure is not in the best interest of the public.**

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<sup>2</sup> OAC 260:115-3-9 is located at <https://oklahoma.gov/omes/legal/rules/260-115-3-9.html>

Additional information regarding information considered confidential by a Bidder is provided in Section 6 above.

- c. A Bid marked in total as proprietary and/or confidential will not be considered confidential.
- d. **ANY INFORMATION MARKED AS CONFIDENTIAL AND EMBODIED ELSEWHERE IN A BID RATHER THAN LISTED IN THIS SECTION OF THE BID PACKET WILL NOT BE CONSIDERED CONFIDENTIAL AND WILL BE SUBJECT TO DISCLOSURE WITHOUT FURTHER REVIEW. THE STATE HAS NO RESPONSIBILITY TO INDEPENDENTLY REVIEW AN ENTIRE BID FOR A CONFIDENTIALITY CLAIM. LIKEWISE, CONFIDENTIALITY CLAIMS OF A BIDDER WILL NOT BE CONSIDERED IF A BID DOES NOT COMPLY WITH REQUIREMENTS OF OAC 260:115-3-9 AND THE INFORMATION WILL BE SUBJECT TO DISCLOSURE PURSUANT TO STATE LAW.**
- e. Certain items will never be deemed confidential under the Oklahoma Open Records Act. The following is a non-exhaustive list of items that are not confidential:
  - a. Price
  - b. References
  - c. Individual's names

#### **7.5 Section Five: Requested Exceptions to Terms**

- a. Any requested exception or revision to terms or conditions provided by the State shall be redlined **in Word format using track changes**. If no exceptions or revisions are requested, the Bid should reflect that by inserting a page to denote this section is not applicable.
- b. The State will not accept any exceptions or revision to the language found in Attachment A, this language is designated as non-negotiable.
- c. A clarification question is not an exception and any clarification included in this section will be disregarded.
- d. Requested exceptions must not be in excess of 10% of the terms and conditions provided by the State in the Solicitation. If requested exception are in excess of 10% it may result in disqualification from evaluation.
- e. **THE STATE HAS NO RESPONSIBILITY TO INDEPENDENTLY REVIEW AN ENTIRE BID FOR EXCEPTIONS AND ANY EXCEPTION EMBODIED IN ANOTHER SECTION OF THE BID OR IN A FORMAT OTHER THAN TRACK CHANGES IN WORD FORMAT WILL NOT BE CONSIDERED. LIKEWISE, AN EXCEPTION EXPRESSING ONLY GENERAL DISAGREEMENT WITH A TERM OR A GENERAL EXCEPTION TO ANY STATE TERMS OR CONDITIONS, WITHOUT SUGGESTED**

**ALTERNATIVE WORDING OR IDENTIFYING THAT THE TERM SHOULD BE INTENTIONALLY OMITTED, WILL NOT BE CONSIDERED.**

**7.6 Section Six: Additional Bidder Terms**

Any additional terms that the Bidder requests to be applicable to the Contract shall be inserted in this section and shall be provided **in Word** format. The Bidder must review terms before submitting to make changes that contradict the terms and conditions included in the Solicitation. If the Bidder desires any contradicting terms to govern, such changes must be memorialized in the Requested Exceptions in Section Four. Failure to provide Additional Bidder Terms that have not been harmonized to NOT conflict with the terms and conditions in the Solicitation without a documented exception request may result in disqualification from receiving an award.

**THE STATE HAS NO RESPONSIBILITY TO INDEPENDENTLY REVIEW AN ENTIRE BID FOR ADDITIONAL TERMS AND ANY SUCH TERMS NOT SUBMITTED IN THIS SECTION OF THE BID SHALL NOT BE CONSIDERED.**

Should a Bidder be awarded a Contract, neither the State nor a customer shall be required to execute additional documents not included in a Bid. For example, if a Bidder typically uses an ordering document in connection with an acquisition, the ordering document template shall be included in the Bid. The State expressly rejects any terms found in documents not attached to the Bid Response including but not limited to, terms and conditions located at provided in hyperlinks.

**7.7 Section Seven: Response to Specifications and Requirements**

- a. The portion of the Bid to be inserted in this section shows the ability of the Bidder to meet or exceed any Acquisition specifications such as Mandatory or Non-Mandatory specifications and requirements found in Attachment A. Please include timelines on deliverables when applicable.
- b. Unless otherwise specified in the Solicitation, (i) manufacturers' names, brand names, information, and/or catalog numbers listed in a specification are for informational purposes and not intended to limit competition and (ii) a Bidder may offer any brand for which it is an authorized representative, which meets or exceeds the specification for any item(s).
- c. Bidder shall offer new items of current design and technology unless the State specifies older models or versions, or used, reconditioned, or remanufactured products are acceptable. Warranties in either case should be the same. The Bid is required to state the manufacturer's name and number. The Bid shall also explain in detail how a

proposed equivalent will meet the specifications and should not be considered an exception

- d. If an information technology VPAT is required, the URL link to the Bidder's VPAT shall be inserted in this section at a Bid Packet page referencing the VPAT.
- e. If an information technology Security Certification and Accreditation Assessment is required (Required if data is being accessed, processed, transferred or stored), the completed Assessment shall be inserted in this section at a Bid Packet page referencing the Security Accreditation Assessment. Bidder may also submit Standardized Information Gathering (SIG), Consensus Assessment Initiative Questionnaire (CAIQ), FedRamp and/or State Ramp Certifications in lieu of the Security Certification and Accreditation Assessment.
- f. If service level agreements are required, the proposed service level agreements shall be inserted in this section at a Bid Packet page referencing the proposed Service Level Agreements.
- g. If a Statement of Work is required, the proposed draft shall be inserted in this section at a bid packet page referencing the proposed Statement of Work.

#### **7.8 Section Eight: Pricing (Will not be held Confidential)**

- a. Pricing associated with the Bid shall be inserted in this section using Exhibit 2 Price.
- b. In accordance with 74 O.S. § 85.40, all travel expenses to be incurred by Supplier in performance of the Contract shall be included in the total Bid price. Travel expenses include, but are not limited to, transportation, lodging and meals. Examples of other miscellaneous travel expenses are referenced in §10.14 of the Statewide Accounting Manual<sup>3</sup>.
- c. A Bid containing early payment discounts may be evaluated when making an award. If a Bidder wishes to offer an early payment discount, the Bid must include available discount percentages for no less than ten (10) days payment, increasing in five (5) day increments up to thirty (30) days. The discount percentages shall be expressed in a half or whole percentage, with the minimum discount percentage being 0.5%. The State is not obligated to utilize an offered discount.
- d. Bids shall remain a firm offer for a minimum of one hundred twenty (120) days after the Bid Response Due Date. Any usage amounts provided by the State are estimates and are not guaranteed to be purchased.
- e. Unless specified otherwise, the Bidder shall submit a firm, fixed price for the term, including optional renewal terms, of the Contract. The Bidder guarantees unit prices to be correct.

#### **7.9 Section Nine: Financial Information (Confidential under Title 51 O.S. § 24A.3.d)**

If requested, bidder shall submit up to the last three years audited financial statements and up to three years tax returns. in this section. This Section shall be deemed confidential for purposes of the Oklahoma Open Records Act. If the Bidder is a

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<sup>3</sup> Statewide Accounting Manual is located at <https://oklahoma.gov/content/dam/ok/en/omes/documents/StatewideAccountingManual.pdf>



subsidiary of another entity, the last three years audited financial statements and three years tax returns for the parent company may also be required. The State reserves the right, in its sole discretion, to determine a Bidder's financial status and to withhold award to a Bidder who is not deemed financially responsible.

**7.10 Section Ten: Offer of Value-Added Products and/or Services**

If a Bid includes an offer of value-added products and/or services, such offer shall be inserted in this section and include associated pricing and any other information relevant to such value-added offer. However, the State is not obligated to purchase value-added products or services.

**7.11 Section Eleven: Business References**

If requested, in this section, provide three (3) business references from clients for whom Bidder has provided similar services to establish a successful implementation experience. Business references must include customer contact information including email and phone number. The State is not responsible for references that do not respond.

**7.12 Section Twelve: Third Party Vendor Information**

If a third-party vendor or subcontractor is included as part of a submitted Bid, the following information is required to be included in the Bid for each such third-party vendor.

- a. Company history.
- b. Relationship to Bidder.
- c. Clients for which the two entities have worked together; and
- d. Products and/or services proposed to be provided by the third-party vendor and how those products and/or services interface with the Bidder's solution.

**8. Submission of Bid**

**8.1** A Bid shall be submitted solely via the Supplier Portal. The entire Bid must be submitted by the Bid Response Due Date and Time. A Bid emailed directly to or cc'd to the Contracting Officer will not be reviewed by the Contracting Officer. In person, commercial carrier or facsimile submittals shall not be accepted. Receipt of the Bid by the State is the responsibility of the Bidder. The Supplier Portal is located here: [Supplier Portal \(oklahoma.gov\)](https://supplierportal.oklahoma.gov) You can submit a bid as a bidder or as a Supplier. For help with the portal, please reach out to [supplier.registration@omes.ok.gov](mailto:supplier.registration@omes.ok.gov)

**8.2** All Bids shall be firm representations that the responding Bidder has carefully investigated and will comply with all State terms and conditions relating to the Contract. Upon award of a contract, such terms and conditions, as may be amended by the Bid after negotiation, shall become contractual obligations between the parties.