Bidder Instructions Cover Page

Solicitation#: 1600000051 **Solicitation Issue Date:** February 21, 2020

DUE DATES AND TIME (CENTRAL STANDARD TIME):

Bid Response Due:
3:00 p.m. on 3/18/2020[1]

Request for administrative review:
3:00 p.m. on 2/27/2020

Questions:
3:00 p.m. on 3/5/2020

CONTRACT TYPE:

Agency: [X] **Statewide:** [ ]

Agency Name/Number: Oklahoma Department of Commerce (ODOC)/16000

SOLICITATION TYPE:

[X] **Request for Proposal** [ ] **Request for Quote** [ ] **Invitation to Bid**

Information technology Bidder Instructions are applicable:

[ ] **Yes** [X] **No**

Terms regarding sensitive data will be included in the Contract including, but not limited to:

HIPAA _____ **CJIS** _____

FERPA _____ **OTHER** _____

1075 _____

RETURN SEALED BID TO:	**CONTRACTING OFFICER:**
Office of Management and Enterprise Services ATTN: Sheri Diehm 5005 N. Lincoln Blvd. Oklahoma City, OK 73105	**Name:** Sheri Diehm **Email:** sheri.diehm@omes.ok.gov **Phone No.** 405-365-1964

[1] Amendments to the Solicitation may change the Bid Response Due Date (read "Solicitation Amendments" in these Bidder Instructions)

Information related to the Bid submission process is contained in these Bidder Instructions. **Prospective Bidders are urged to read the Solicitation and these Bidder Instructions carefully. Failure to do so shall be at the Bidder's risk.**

1 Definitions

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

1.1 **Alternate Bid** means a Bid which contains an intentional substantive variation to a basic provision, specification, term or condition of the Solicitation.

1.2 **Amendment** means a written change, addition, correction or revision to the Solicitation by the State agency issuing the Solicitation.

1.3 **BAFO** means a best and final offer requested by the State agency issuing the Solicitation.

1.4 **Bid** means an offer a Bidder submits in response to the Solicitation.

1.5 **Bidder** means an individual or business entity that submits a Bid in response to the Solicitation.

1.6 **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.

1.7 **OAC** means the Oklahoma Administrative Code.

2 Instructions Compliance

These Bidder Instructions are not part of the Contract resulting from the Solicitation; however, compliance with these Instructions is material to the determination of whether a Bid is responsive. Terms, requirements and specifications may be stated or phrased differently than in a previous solicitation irrespective of past interpretations, practices or customs. Solicitation requirements are altered only by written Amendment and verbal communications from any source whatsoever are of no effect. In no event shall the Bidder's failure to read and understand any term or condition in the Solicitation or related documents constitute grounds for a claim after award of the Contract.

3 Communications and Questions Concerning Solicitation

The Contracting Officer listed on the Bidder Instructions Cover Page is the only individual the Bidder should contact, or communicate with, regarding any questions or issues with the Solicitation or a Bid. Failure to comply with this requirement may result in the Bid being considered non-responsive or not considered for further evaluation.

3.1 General Questions

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

B. **Non-Information Technology Bids**

If information technology Bidder Instructions are not applicable (see Bidder Instructions Cover Page), Bidder may submit general questions concerning the specifications of the Solicitation at the Contracting Officer's email address shown on the Bidder Instructions Cover Page. Questions received via any other means will not be addressed.

3.2 Clarification Questions

The State reserves the right, at its sole discretion, 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 put such clarifications in writing. Bidder answers that are outside scope of the clarification questions shall be disregarded. Oral explanations or instructions provided to a potential Bidder is not binding.

4 Administrative Review

4.1 A Bidder that believes the Solicitation requirements or specifications, or Bid Response Due Date, are unnecessarily restrictive or limit competition may submit a request for administrative review, in writing, to the Contracting Officer. 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 of technical or contractual requirements 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 error, ambiguity, conflict, discrepancy, omission or other error in the Solicitation known to Bidder, or that reasonably should have been 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 Solicitation Amendments

5.1 Any Solicitation 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 to the Solicitation that may be issued. The State is not responsible for the Bidder's failure to download any amendment documents required to complete a Bid.

6 Confidentiality Request

Unless otherwise specified in the Oklahoma Open Records Act, Central Purchasing Act, or other applicable law, documents and information a Bidder submits as part of or in connection with a Bid are public records and subject to disclosure after contract award pursuant to OAC 260:115-3-9[2]. However, a public Bid opening does not make the Bid immediately accessible to the public. 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, information in the Bid determined to be confidential by the State Purchasing Director or delegate. Typically, a properly submitted confidentiality claim of a potential awardee is reviewed and determined prior to award; a properly submitted confidentiality claim of a non-awarded Bidder is reviewed and determined only when responding to an open records request concerning the Bid. Additional information regarding information considered confidential by a Bidder is provided in Section 8.2.C below.

7 Acceptance of Solicitation Content

Unless otherwise provided in Section Four of a Bidder's response to the Solicitation, 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 Solicitation Upon award of a contract to the successful Bidder, such terms and conditions, as may be amended by the Bid after negotiation, shall become contractual obligations between the parties.

8 Required Bid Structure

8.1 Preparation of Bid

A. 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 should not contain duplicative content. Any section of the Bid Packet that is not applicable to the Bid shall have a page inserted to denote the section is not applicable. For instance, if business references are not required, the Bid should contain a page after the "Business References" section heading that reads "Not Applicable", "N/A" or some similar notation.

B. The Bid will be evaluated using a best value criteria, based on the following:

[2] OAC 260:115-3-9 is located at http://www.oar.state.ok.us/oar/codedoc02.nsf/frmMain?OpenFrameSet&Frame=Main&Src=_75tnm2shfcdnm8pb4dthj0chedppmcbq8dtmmak31ctijujrgcln50ob7ckj42tbkdt374obdcli00

1. Ability to perform the tasks set forth in the Statement of Work set forth in this RFP.
2. Responses to requirements set forth in of this RFP.
3. Cost (Statement of Work)

C. In showing the ability of the Bidder to meet or exceed Solicitation specifications and requirements referenced in subsection 8.2.H, the Bid must reflect for each requirement on Exhibit 1 of Attachment A to the Solicitation whether the requirement is met by an out-of-the-box solution or whether the requirement necessitates customization to the Bidder's proposed solution.

D. As referenced in subsection 8.2.H, e.g., a VPAT; Security Certification and Accreditation Assessment; service level agreements and proposed first draft of Statement of Work, including data migration from the existing system, are required to be included in the Bid.

E. Pricing shall be proposed as follows:

i Deliverable-based pricing with proposed milestones and associated payments;
ii Hourly rates and roles for additional professional services in connection with the Project including, without limitation, maintenance and support services and enhancement services to the extent not included in a mutually agreed Statement of Work;
iii Subscription and/or other pricing for post-warranty ongoing maintenance and support; and
iv Value-added items may be included.

F. Business references are required to establish that a Bidder has successful implementation experience.

G. Three years of audited financial statements are required to be included in the Bid.

H. The following additional company information is required to be included in the Bid:

i Length of time the Bidder has been in business;
ii A brief description of the company;
iii Company size and organization;
iv The number of years the Bidder has been providing software of the type requested in the Solicitation;
v The core competency of the company (i.e., software, hardware, imaging, etc.);
vi User Group meetings or conferences and the location of meetings in the past;
vii Number of employees allocated strictly for research;
viii Number of employees allocated strictly for support;
ix Number of clients;
x Average client size (i.e., employee count); and
xi Locations where the Bidder's web-based solution has been deployed.

I. If a third-party vendor 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:

i Company history;

ii Relationship to Bidder;
iii Clients for which the two entities have worked together; and
iv 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.

J. The Bid shall be submitted on a thumb drive. A hard copy of the Bid is not required.

8.2 Bid Packet Format

A. Section One: Cover Page

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

B. Section Two: Required Forms, Certifications and Disclosures

i Completed "Responding Bidder Information" form set forth and accompanying required documentation. See attachment A.

ii Completed "Certification for Competitive Bid and Contract" form. See attachment A.

iii Bidder shall additionally provide in this section of its Bid, disclosure of (1) 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); (2) 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; (3) the name of any officer, director or agent of the Bidder who is also an employee of the State of Oklahoma or any of its agencies; (4) 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 (5) 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, at the sole discretion of the State, be grounds for rejection of the Bid or partial or whole termination of the Contract.

iv Certificate of Insurance and Workers' Compensation form.

v Completed Vendor Payee form.

vi Any information requested in connection with a Solicitation regarding subcontractors a Bidder proposes to use in performance of the resulting contract.

vii Signed Amendment(s), if any, located at the same online link as the Solicitation.

The Bidder shall acknowledge agreement with each Solicitation Amendment, if any, by inserting the Solicitation Amendment in this section, signed by or on behalf of the Bidder.

C. Section Three: Bid Portions Requested to be Held Confidential

i If the Bid Packet contains information the Bidder believes to be confidential, the Bid Packet shall be conspicuously marked on the outside to indicate it contains information considered confidential.

ii Any portion of the Bid that the Bidder requests be held confidential shall be inserted in this section and the Bidder must specifically identify, on each page, the specific information considered confidential and otherwise fully comply with OAC 260:115-3-9[3] 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. Additional information regarding information considered confidential by a Bidder is provided in Section 6 above.

iii A Bid marked in total, as proprietary and/or confidential shall not be considered confidential. Likewise, unless specifically referenced otherwise in a Solicitation, resumes, pricing, marketing materials, business references, Voluntary Product Accessibility Templates, additional terms proposed by a Bidder and subcontractor information are not confidential and are not exempt from disclosure under the Oklahoma Open Records Act. The foregoing list is intended to address information often marked confidential that is not exempt from disclosure and is not an exhaustive list.

iv **ANY INFORMATION MARKED AS CONFIDENTIAL AND EMBODIED ELSEWHERE IN A BID RATHER THAN INSERTED 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.**

D. Section Four: Requested Exceptions to Terms

i Any requested exception or revision to terms associated with the Solicitation shall be inserted in this section using the table provided at the end of these Bidder Instructions. If no exceptions or revisions are requested, the Bid should reflect that by either submitting the table with no additions to it or by marking the table "N/A".

[3] OAC 260:115-3-9 is located at http://www.oar.state.ok.us/oar/codedoc02.nsf/frmMain?OpenFrameSet&Frame=Main&Src=_75tnm2shfcdnm8pb4dthj0chedppmcbq8dtmmak31ctijujrgcln50ob7ckj42tbkdt374obdcli00

Each requested exception or revision shall identify (i) the document and section reference of the specific affected term and (ii) either that the term is inapplicable and should be intentionally omitted or offer alternative language if the Bidder is requesting revision of the term. Some examples are provided on the table for illustrative purposes only and, if not deleted in a submitted Bid, will be disregarded.

ii A clarification question is not an exception and any clarification included in this section will be disregarded.

iii If the Bid contains a copy of existing terms between the Bidder and the State that the Bidder believes are applicable to the Acquisition, the Bidder need not take exceptions to the General Terms; however, the remainder of terms and contents of a document related to the Solicitation including, without limitation, all attachments, appendices and exhibits remain applicable and are not supplanted by such existing terms. Therefore, any exception to portions of the Solicitation or other related documents, other than General Terms must be included in this section as an exception.

iv **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 THE PROVIDED TABLE WILL NOT BE CONSIDERED. LIKEWISE, AN EXCEPTION EXPRESSING ONLY GENERAL DISAGREEMENT WITH A TERM OR A GENERAL EXCEPTION TO A SOLICITATION, WITHOUT SUGGESTED ALTERNATIVE WORDING OR IDENTIFYING THAT THE TERM SHOULD BE INTENTIONALLY OMITTED, WILL NOT BE CONSIDERED.**

E. Section Five: Additional Bidder Terms

Any additional terms that the Bidder requests be applicable to the Contract shall be inserted in this section and shall be provided in Word format. **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.

F. Section Six: Existing Terms between Bidder and State

A copy of any existing terms, mutually executed by the Bidder and the State, that the Bidder believes are applicable to the Acquisition shall be inserted in this section. Any existing terms not submitted in this section of the Bid shall not be considered.

G. Section Seven: Executive Summary

The Bidder's executive summary shall be inserted in this section. Marketing information, general company information and other similar information should be included in the executive summary and should not be included in other sections of the Bid.

H. Section Eight: Response to Solicitation Specifications and Requirements

i The portion of the Bid to be inserted in this section shows the ability of the Bidder to meet or exceed Solicitation specifications and requirements in Exhibit 1.

ii If a VPAT is required, the URL link to the Bidder's VPAT shall be inserted in this section at the Bid Packet page referencing the VPAT.

iii If an information technology Security Certification and Accreditation Assessment is required, the completed Assessment shall be inserted in this section at a Bid Packet page referencing the Security Accreditation Assessment. The Assessment is located online at https://omes.ok.gov/sites/g/files/gmc316/f/SecurityCertification-R_0.xlsx.

iv 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.

v 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.

I. Section Nine: Pricing (include in Statement of Work)

i Pricing associated with the Bid shall be inserted in this section, separate from the Statement of Work and shall be in the required structure set forth above in Section 8.1, H., Section i, if any.

J. 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.

K. Section Eleven: Financial Information

Any required financial and associated information shall be inserted in this section.

L. Section Twelve: Business References

Any required business references and associated information shall be inserted in this section.

M. Section Thirteen: Project Capability Plan

Project Capability Plan shall be inserted in this section.

N. Section Fourteen: Evidence of Ability to meet requirements (no more than three pages)

Evidence of Ability to meet requirements (no more than three pages) shall be inserted in this section.

O. Section Fifteen: Additional Requirements as stated in Exhibit 1 of Attachment A, in number seven.

9 Submission of Bid

9.1 **IT IS THE BIDDER'S SOLE RESPONSIBILITY TO SUBMIT INFORMATION IN THE BID AS REQUESTED AND IN COMPLIANCE WITH THE OKLAHOMA CENTRAL PURCHASING ACT AND ASSOCIATED OAC TITLE 260 RULES[4] INCLUDING WITHOUT LIMITATION OAC 260:115-3-7 AND 260:115-3-11[5].** A submitted Bid is rendered as a legal offer and is required to be in strict conformity with these Bidder Instructions.

9.2 A Bid shall be submitted in a single envelope, package or container and shall be sealed. E-mailed or facsimile Bid submittals shall not be accepted. **THE BID SHALL BE LABELLED TO THE ATTENTION OF THE CONTRACTING OFFICER IDENTIFIED ON THE BIDDER INSTRUCTIONS COVER PAGE AND THE SOLICITATION NUMBER AND BID RESPONSE DUE DATE AND TIME ARE REQUIRED TO BE ON THE FACE OF THE SINGLE ENVELOPE, PACKAGE OR CONTAINER.** The legal name and complete address of the Bidder shall be placed in the upper left corner of the single envelope, package or container.

9.3 Each Bidder must submit two (2) copies of the Bid and is highly encouraged to submit its Bid on a thumb drive in "a machine readable" format, meaning the Bid can be automatically read and processed by a computer. One (1) copy of the Bid shall be marked as the original and will be considered the official Bid for all purposes, provided however, should the copy marked as original be lost, damaged or destroyed, the second copy will then be considered the official Bid. Thus, it is imperative that the two Bid copies are identical. The State shall have no liability or responsibility for any difference between the two Bid copies. All Bids shall be legibly written or typed. Unnecessarily elaborate brochures or other presentations beyond those necessary to present a complete and effective Bid are not desired.

9.4 Pursuant to OAC 260:115-3-7, in addition to other instructions pertaining to samples, if the Solicitation requires or allows submission of a sample with a Bid, the cost associated with the sample shall be paid by the Bidder. Any sample must be received no later than the Bid Response Due Date and Time and each sample must be identified by Bidder name, Bidder address, Solicitation Number and Bid Response Due Date and Time on both the sample container and the sample shipping container. If return of a sample is stipulated in a Bid, if not destroyed by testing, the sample may be returned at the Bidder's expense except the State Purchasing Director may retain a sample submitted by a successful Bidder to ensure products or items delivered meet the Solicitation specifications.

9.5 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

[4] Oklahoma Administrative Code Title 260, Chapter 115 is located at http://www.oar.state.ok.us/oar/codedoc02.nsf/frmMain?OpenFrameSet&Frame=Main&Src=_75tnm2shfcdnm8pb4dthj0chedppmcbq8dtmmak31ctijujrgcln50ob7ckj42tbkdt374obdcli00

[5] OAC 260:115-3-7 and OAC 260:115-3-11 are located at http://www.oar.state.ok.us/oar/codedoc02.nsf/frmMain?OpenFrameSet&Frame=Main&Src=_75tnm2shfcdnm8pb4dthj0chedppmcbq8dtmmak31ctijujrgcln50ob7ckj42tbkdt374obdcli00

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). Bidder shall offer new items of current design and technology unless the Solicitation specifies older models or versions, or used, reconditioned, or remanufactured products are acceptable. Warranties in either case should be the same. However, if a Bid is based on equivalent products, the Bid is required to state the manufacturer's name and number. The Bid shall also explain in detail the reason(s) why the proposed equivalent will meet the specifications and not be considered an exception thereto. Reference to literature submitted with a previous Bid shall not satisfy a specification or requirement of the Solicitation 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 Solicitation.

9.6 Bids shall remain a firm offer for a minimum of one hundred twenty (120) days after the Bid Response Due Date. Any usage amounts set forth in the Solicitation are estimates and are not guaranteed to be purchased.

9.7 Unless the Solicitation specifies otherwise, a 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.

9.8 In accordance with 74 O.S. §85.40, all travel expenses to be incurred by Supplier in performance of the Contract shall be included in the total Bid price/contract amount. 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[6].

9.9 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.

9.10 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 Solicitation

9.11 For consistency of contract structure, certain State terms may be marked "Intentionally Omitted". If so, no response is expected.

9.12 After review of a Bidder's submitted documents and information, the State may require additional terms related to a Solicitation in which customer data will be accessed, processed or stored by a Supplier.

9.13 Each Bid is required to include relevant information for a designated contact to receive notice, approvals and requests allowed or required by the terms of the Contract.

10 Bid Withdrawal, Bid Change and Alternate Bid

10.1 Except as authorized by the State Purchasing Director after proof by the Bidder that a significant error by the Bidder exists in the Bid, a Bid may not be withdrawn after the Bid Response Due Date and Time. If the Bidder wishes to withdraw a Bid prior to the Bid Response Due Date and Time,

[6] Statewide Accounting Manual is located at https://omes.ok.gov/sites/g/files/gmc316/f/StatewideAccountingManual.pdf.

the Bidder shall submit a written withdrawal request to the State Purchasing Director in accordance with OAC 260:115-3-13[7].

10.2 Except as requested by the State, a Bid may not be changed after the Bid Response Due Date and Time. If the Bidder needs to change a submitted Bid prior to the Bid Response Due Date and Time, the Bidder shall withdraw the originally submitted Bid and a new Bid shall be submitted to the State by the Bid Response Due Date and Time in accordance with Section 9 and include the following statement on the superseding Bid cover page: **"THIS BID SUPERSEDES THE BID PREVIOUSLY SUBMITTED" AND "SUPERSEDING BID" MUST APPEAR ON THE FACE OF THE SINGLE ENVELOPE, PACKAGE, OR CONTAINER.**

10.3 A Bidder may submit one or more Alternate Bids. Any Alternate Bid submitted shall be a complete Bid and shall be clearly identified as an Alternate Bid on the (i) upper left corner of a single envelope, package, or container in which the Alternate Bid is submitted and (ii) Alternate Bid Cover Page. If more than one Alternate Bid is submitted, the identification on the envelope, package or container shall refer to Alternate Bid 1, Alternate Bid 2, etc.

11 Bid Rejection

11.1 The Bidder's failure to submit required information may cause its Bid to be rejected. Additionally, a Bid received after the Bid Response Due Date and Time **SHALL BE DEEMED NON-RESPONSIVE AND SHALL NOT BE CONSIDERED**. Failure to comply with these Bidder Instructions or Solicitation requirements may result in the Bid being disqualified from evaluation.

11.2 A Bid may be rejected when the Bidder imposes terms or conditions that would modify requirements of the Solicitation or limit the Bidder's liability to the State. Other possible reasons for rejection of Bids are listed in OAC 260:115-3-5 and 260:115-7-32(h)[8].

11.3 Attempts to impose unacceptable conditions on the State or impose alternative terms not in the best interest of the State shall not be tolerated. Continued attempts to impose unacceptable conditions

[7] OAC 260:115-3-13 is located at http://www.oar.state.ok.us/oar/codedoc02.nsf/frmMain?OpenFrameSet&Frame=Main&Src=_75tnm2shfcdnm8pb4dthj0chedppmcbq8dtmmak31ctijujrgcln50ob7ckj42tbkdt374obdcli00.

[8] OAC 260:115-3-5 and 260:115-7-32 is located at: http://www.oar.state.ok.us/oar/codedoc02.nsf/frmMain?OpenFrameSet&Frame=Main&Src=_75tnm2shfcdnm8pb4dthj0chedppmcbq8dtmmak31ctijujrgcln50ob7ckj42tbkdt374obdcli00_

or terms on the State shall result in a determination of non-responsiveness of the Bid due to lack of compliance with the terms and conditions of negotiation or the Solicitation.

11.4 Whenever the terms "shall", "must", "will", or "is required" are used in the Solicitation, the specification being referred to is a mandatory specification of the Solicitation. Failure to meet any mandatory specification may cause rejection of a Bid.

11.5 Whenever the terms "can", "may", or "should" are used in the Solicitation, the specification being referred to is a desirable item and failure to provide any item so termed shall not be cause for rejection of a Bid.

12 Bid Public Opening

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

13 Evaluation

13.1 A responsive Bid will proceed to the evaluation process. Unless the Solicitation specifies that "best value" criteria will be used to determine award, Bids shall be evaluated on "lowest and best" criteria.

13.2 Pursuant to OAC 260:115-7-32, Bidder past performance as a Supplier may be considered when evaluating a Bid.

13.3 Pursuant to 74 O.S. §85.44E, a Bid submitted by a service-disabled veteran business that does business in Oklahoma or maintains an Oklahoma office or place of business will be given a three-percentage point bonus preference in scoring the Bid.

13.4 The State reserves the right to require interviews, demonstrations, clarifications and additional documentation from any or all responding Bidders. Each Bidder should be prepared to participate in oral presentations and demonstrations to define the Bid, to introduce the Bidder's team and to respond to questions regarding the Bid if required by the State prior to award.

14 Competitive Negotiations of Offers

14.1 The State reserves the right to negotiate with none or one or more Bidders responding to the Solicitation and may negotiate any or all content of the Bid to obtain the best value for the State. Negotiations may be conducted in person, in writing or by electronic means and shall only be conducted with potentially acceptable Bids.

14.2 Negotiations could entail discussions on products, services, pricing, contract terminology or any other issue material to an award decision or that may mitigate the State's risks. The State shall consider all issues arising from the Bid to be negotiable and will not be artificially constrained by internal corporate policies. In the event of prolonged contract negotiations due to the number and/or significance of exceptions taken, lack of Bidder responsiveness or other failure to close contract negotiations that are not caused by the State, the State may, in its discretion, offer a successful Bidder a shorter contract term.

14.3 Firms that contend a lack of flexibility because of corporate policy on a particular negotiation item shall face a significant disadvantage and may not be considered.

14.4 Terms, conditions, prices, methodology, or other features of the Bid may be subject to negotiations and subsequent revision. As part of the negotiations, the Bidder may be required to submit

supporting financial, pricing, and other data in order to allow a detailed evaluation of the feasibility, reasonableness, and acceptability of the Bid.

14.5 The requirements of the Solicitation and any terms marked as non-negotiable after the section title shall not be negotiable and shall remain unchanged unless the State determines that a change in such requirements or terms is in the best interest of the State.

14.6 The State may request a BAFO and shall determine the scope and subject of any BAFO request. However, the Bidder should not expect an opportunity to otherwise strengthen its Bid and should submit its best Bid based on the terms and conditions set forth in the Solicitation. Any information offered outside the scope of the BAFO request will not be considered and will be disregarded.

15 Award of Contract

15.1 As specified in a Solicitation, the State may award the contract to more than one Bidder by awarding the contract(s) by item or groups of items or may award the contract on an all or none basis, whichever is deemed to be in the best interest of the State.

15.2 In order to receive an award or payments from the State, a Bidder must be registered **as both a Bidder and as a Supplier** and must maintain the registration prior to any Contract renewal term. The registration process may be completed electronically at the following link: https://omes.ok.gov/services/purchasing/vendor-registration.

15.3 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 or from securing a sub-contractor that has provided such services.

15.4 Prior to award, the State may choose to request information from the Bidder to demonstrate its financial status and performance. If the Bidder is a subsidiary of another entity, the last three years audited financial statements of three years tax returns for the parent company 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.

15.5 A notice of award may be in the form of a purchase order or other payment mechanism or in the form of a mutually executed contract resulting from the Solicitation.

BID PACKET SECTION FOUR: REQUESTED EXCEPTIONS TO TERMS
SOLICITATION NO. 1600000051

Term & Section	**Language**
General Terms, Pricing (Section 5.2, pg. 7) **EXAMPLE**	Section 5.2 is deleted in its entirety and replaced with the following: Pursuant to 74 O.S. §85.40, all travel expenses of Supplier must be included in the total Acquisition price. Travel expenses include, but are not limited to, lodging, transportation and meal expenses.
Information Technology Terms, Appendix 1, Data Security (Section B.2, pg. 12) **EXAMPLE**	Section B.2 shall be modified to add the following: Customer is responsible for Personal Data encryption when solely in the Customer's possession.
Information Technology Terms, Source Code Escrow (Section 9, pg. 5) **EXAMPLE**	Section 9 is deleted in its entirety.