



Solicitation#: 4350000012

Solicitation Issue Date: 7/8/20

DUE DATES AND TIME (CENTRAL STANDARD TIME):

Bid Response:
3:00 p.m. on 8/19/20²

Questions:
3:00 p.m. on 7/22/20

CONTRACT TYPE:

Agency:

Statewide:

Agency Name/Number Oklahoma Lottery Commission / 435

SOLICITATION TYPE:

Request for Proposal

Request for Quote

Invitation to Bid

Information technology Bidder Instructions are applicable:

Yes **No**

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

HIPAA _____ **CJIS** _____

FERPA _____ **OTHER** X _____

1075 _____

RETURN SEALED BID TO:

OMESCPeBID@omes.ok.gov

CONTRACTING OFFICER:

Name: Richard Williams

Email: Richard.Williams@omes.ok.gov

² Amendments may change the Bid Response Due Date (read “Amendments” in these Bidder Instructions)

Oklahoma Office of Management and Enterprise Services Bidder Instructions

Information related to the Bid submission process is contained in these Bidder Instructions. **Prospective Bidders are urged to read the documents provided by the State 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.
- 1.2 **Amendment** means a written change, addition, correction or revision to terms, conditions or requirements 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; 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. Bid 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 a term, condition or requirement in any of the documents provided by the State constitute grounds for a claim after award of the Contract.

3 Communications and Questions

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. Information Technology Bids

- i If information technology Bidder Instructions are applicable (see Bidder Instructions Cover Page), Bidder may submit general questions concerning Contract or Bid specifications online. Questions received via any other means will not be addressed.
- ii Registration with the State of Oklahoma for wiki access is located at <https://omes.ok.gov/forms/wiki-enrollment-it-procurement>. Access should be requested at least five (5) business days prior to the Questions Due Date. The State is not responsible for a Bidder's lack of access to the wiki.

C. Non-Information Technology Bids

If information technology Bidder Instructions are not applicable (see Bidder Instructions Cover Page), Bidder may submit general questions concerning Contract or Bid specifications 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 Contract or Bid 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 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

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 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 260:115-3-9³. 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 Content

Unless otherwise provided in Section Four of a Bidder's response, 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 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.

³ OAC 260:115-3-9 is located at

http://www.oar.state.ok.us/oar/codedoc02.nsf/frmMain?OpenFrameSet&Frame=Main&Src=_75tnm2shfcdnm8pb4dthj0chedppmcbq8dtmmak3lctijjrgcln50ob7ckj42tbkdt374obdcli00

- B.** The Bid will be evaluated using a best value criteria, based on the following:
- i. Bidder responses to requirements set forth in subsection C below.
 - ii. Single bidder as referenced in Section 8.1.E.
 - iii. With a significant level of sales coming from the sale of instant tickets, the Oklahoma Lottery requires that the vendor must operate instant ticket distribution centers in more than four U.S. jurisdictions.
 - iv. Response length not to exceed 125 pages in length and submitted electronically
 - v. Pricing
- C.** Bids will be scored across the categories below that impact the day-to-day operations, the ability to increase sales and the opportunity to deliver a stronger brand. Some sections will have specific delivery requirements and other sections will be evaluated on the ability of the Bidder to maximize the impact to the Oklahoma Lottery's sales and profits.

Unless noted otherwise, the information is required to be inserted pursuant to Section 8.2.H below:

- i.** Bidder Introduction
- ii** Implementation Information
- iii** Facilities and Disaster Recovery Information
- iv** Central Gaming System Information
- v** Hardware Requirement Conformity Information
- vi** Retailer Solution Information
- vii** Telecommunication Systems Information
- viii** Instant Category Management
- ix** In-State Staffing
- x** Corporate Support
- xi** Development
- xii** Liquidated Damages
- xiii** Added-Value
- xiv** Other contract options for foreseeable systems not included in base price

C.1: INTRODUCTION

Bidder must demonstrate an understanding of the Oklahoma Lottery's market position and potential opportunity to increase sales and profits in an incredibly competitive market.

Bidder must demonstrate expertise in the field of Lottery with a significant demonstration of expertise surrounding instant tickets. Currently the Oklahoma Lottery generates over 70% of sales from the sale of instant tickets.

Bidder must demonstrate the strength of its position in the marketplace, its focus on future expansion and its commitment to financial responsibility, security and integrity as it relates to a long-term commitment from the Oklahoma Lottery.

C.2: IMPLEMENTATION

The Oklahoma Lottery is in a critical period of sales growth, retail expansion and consumer engagement. Proposals must demonstrate a commitment to not disrupting the day-to-day operations of the Lottery and retail network in the smallest possible scenarios. Bidder must submit its preferred method and timeline for implementation within the required deadline.

C.3: FACILITIES & DISASTER RECOVERY

Bidder must detail its in-state commitment to operating a central point of service that includes all personnel, sales and technical support, instant ticket distribution and all other administrative functions. Bidder must provide a safe and secure facility for all instant games, ticket stock and Lottery hardware. Bidder will not be required to co-locate with the Oklahoma Lottery but it must be located in the Oklahoma City metro area.

Bidder must also illustrate its commitment to disaster recovery to include all business continuity planning, system backups, fail-over sites, emergency preparedness and data center duplication. A short description of the primary data center and its connection to secondary and tertiary sites is required.

C.4: CENTRAL GAMING SYSTEM

Bidder must illustrate a wide range of features and capabilities to not only accommodate the current lineup of Oklahoma Lottery products but to enable the Lottery to expand their product portfolio in a timely fashion. All game functionality must be compliant with MUSL Rule 2.

Required: All instant ticket processing, Powerball, Mega Millions, Lotto America, Lucky For Life, Pick 3 and Cash 5 games, a terminal based instant ticket portfolio, coupon validation (both paper and digital) and all applicable marketing promotions.

Bidder must demonstrate the ability to integrate with 3rd party applications with software change tracking procedures in a timely fashion. All 3rd party applications must be compliant with MUSL Rule 2.

Required: Internal Control System (via Spectra Systems), in-lane draw games, instant ticket sales via single ticket activation and all game validation functionality (via InComm).

Bidder must demonstrate the ability to offer software enhancements that provide key business intelligence to the Lottery Commission, stronger offerings to consumers, critical sales metrics to retailers and sales support staff and secure data to the Lottery's Security team.

Required:

- Business Intelligence and Analytics Tool: allows Lottery to transform data into information that can be used to make stronger business decisions.

- Consumer Enhancement (#1): electronic play slips; Lottery desires to eliminate all paper play slips from retail network and allow players to interface with the gaming system digitally.
- Consumer Enhancement (#2): electronic ticket checkers; Lottery desires to provide a real-time ticket checker connected to the CGS via its consumer app and website with manual entry and scanning with full integration into existing infrastructure / technology.
- Consumer Enhancement (#3): provide real-time integrations utilizing modern technologies (REST, Soap, etc.) for retailer location searches and remaining prizes via the OLC website or app.
- Transaction Analysis Tools: Authorized Lottery personnel shall be able to research transactions and operations as required to include detailed records of sales, validations, rejected claims, terminal outages, login information, type of play and system events. Reports on transaction log entries must allow standard queries and sorting of data. Research into transaction data up to one year old should not require the loading of archived data. Lottery also requires a near real-time feed to the ICS to include periodic checkpoints to ensure system balancing. Bidder must also be able to provide audit files to the Lottery within 5 minutes following the close of sales for any game and prior to any drawing.
- Ticket Security Tools: Authorized Lottery personnel must be supplied with the ability to track all ticket stock, the ability to investigate and verify damaged and altered tickets and data that can link winning tickets to selling terminals. If applicable, data must be encrypted, tools must be under physical and operational control by Lottery personnel and must abide by all MUSL rules.

Bidder must demonstrate the ability to integrate value-added elements or 3rd party partners including but not limited to digital advertising displays at retail, sales automation and routing tools, payment providers, digital service providers, game providers, competitor systems, sports betting solutions, iLottery solutions and point-of sale integrations.

Required: debit, credit and mobile pay solutions; fully integrated, Lottery controlled digital display advertising program at retail.

C.5: HARDWARE REQUIREMENTS

In order to maintain the current momentum of business, the Oklahoma Lottery has the following hardware requirements over the course of the contract. Proposals must detail the baseline functionality of all required hardware, a proposed implementation schedule along with a proposed equipment refreshment schedule over the minimum 10-year contract period. Bidders are required to offer an optimized solution to minimize Lottery cost and manpower. All software interfaces should promote the highest level of retailer and consumer usability while maximizing the speed of transaction. New or refurbished equipment is acceptable.

Required:

Retailer Terminals

Current in Field: 2,000

Additional Required: up to 500

Misc: All terminals must be able to communicate with Carmanah and ProLite jackpot signs and include a compliment of standard peripherals such as ticket checkers, digital displays, printers and scanners

Self-Service Kiosks

Current in Field: 260
Additional Required: up to 200

Misc: All kiosks must be able to process all forms of payment including debit, credit and mobile pay

Digital Advertising Retailer Displays

Current in Field: 1,200
Additional Required: up to 300

Misc: Includes software to operate program in real-time; unlimited file exchange and replacement / maintenance costs

Electronic Instant Ticket Dispensers

Current in Field: 0
Additional Required: up to 150, 20+ game dispensers

Misc: Retailer demand will require this offering to be delivered at the initial on-set of the contract

C.6: RETAILER SOLUTIONS

Bidder must offer flexible and customizable retailer solution capabilities that demonstrates a broad range of service and functionality.

Required:

Field Sales Analytics and Reporting Tool – Lottery requires all field sales support personnel (Both bidder and OLC employed) to utilize a mobile sales analysis platform to make stronger, real-time decisions about the business model of each individual retailer.

Retailer Accessible Sales Portal – Lottery requires (via website) a retailer-based accessible portal for all corporate accounting divisions requiring daily, weekly and monthly reporting.

Electronic Instant Ticket Dispenser Reporting – Lottery requires, in addition to the hardware, a reporting system that supplies real-time inventory and sales reporting based on instant ticket distribution through the supplied dispensers.

Route Management System: Lottery requires bidder to supply route management software that will enable the field sales team to better visit stores on a daily basis in the most efficient way possible.

C.7: TELECOMMUNICATIONS

Bidder must describe a communications network that creates the strongest solution to deliver across a statewide retail network. Solutions must offer the least intrusive footprint at retail locations while maintaining the highest level of speed of service.

C.8: INSTANT CATEGORY MANAGEMENT

Bidder must present a full service offering that covers all elements of delivering instant tickets across a retailer network to include, but not limited to...

- Instant ticket printing, packaging and transport for delivery to OK site.
- Unique printing options that enhance product such as specialty inks, specialty papers and specialty packaging.
- Instant ticket packing, sorting and shipping to retail network on a daily basis from OK site.
- Instant ticket return and destruction process.
- Call center operational plan for daily phone calls to and from Lottery retailers to aid in effective product delivery to stores; plans must include a predictive ordering system that is capable of operating independent of the central gaming system and can exchange data through standard interfaces.
- Provide an instant distribution program that has the flexibility to supplement the other business needs of the Lottery such as point-of-sale distribution, bin-count and plan-o-gram initiatives and generic sales calls to retailers dealing with opportunities not related to inventory.
- With a significant level of sales coming from the sale of instant tickets, the Oklahoma Lottery requires that the bidder must show they operate instant ticket distribution centers in more than four U.S. jurisdictions.

C.9: IN-STATE STAFFING

Bidder must display and detail an organizational infrastructure along with an organizational flowchart that delivers the following services to the Lottery available on a daily basis...

Executive Team: detail senior management team and primary roles.

Telemarketing & Warehouse Team: detail # of FTEs, roles and any related bonus structure tied to sales. All telemarketing and warehouse positions are guaranteed, immediately replaceable / hireable upon vacancy and cannot be reduced in number regardless of any fluctuations in business.

Field Sales Team: detail # of FTE's dedicated to assist the retail network along with a territory coverage outline for the state, roles, target salaries and the bonus structure tied to sales performance. Include all details surrounding its supplied vehicle program. All dedicated sales positions are guaranteed, immediately replaceable / hireable upon vacancy and cannot be reduced in number regardless of any fluctuations in business.

Field Tech Team: detail # of FTE's dedicated to assist the retail network along with a territory coverage outline for the state, roles, target salaries and the bonus structure tied to sales performance. Include all details surrounding its supplied vehicle program.

Operations & Development Team: detail # of FTEs and its respective job functions

Sales Analysis Team: detail # of FTEs and its respective job functions

Administrative Team: detail # of FTEs and its respective job functions

C.10: CORPORATE SUPPORT

Bidder must illustrate the various resources available to the Lottery as needed to assist in driving incremental sales to include, but not limited to...

- Marketing Support
- Game Design
- Research & Analytics
- Draw Game Development
- Strategic Initiatives
- Business Development
- Security
- Technical Support
- Help Line Support

C.11: DEVELOPMENT

Bidder must illustrate its capability to deliver all types of games and promotions across all Lottery categories (new and existing game changes). Capabilities must also address creating, modeling, testing and implementing all work required for both central gaming system and all applicable windows-based applications. They also must demonstrate its ability to deliver requirements in a timely manner. Plans must also highlight the testing environment available to the Lottery for final game change approvals.

C.12: LIQUIDATED DAMAGES

Bidder must create a schedule of available liquidated damages based on unforeseen changes in the business. The Lottery only requires that System Outages be included in the penalty detail.

C.13: ADDED-VALUE

As referenced in section 8.2.J, Bidder must detail additional elements of the proposal that will be available to the Lottery at no additional charge (i.e. beyond the base price) and not included in Section 1 – 10. Elements can include, but is not limited to;

- Mobile Applications
 - Digital Offerings
 - Licensing Offerings
 - Instant Ticket printing options
 - Promotion and Prize enhancements
 - Additional Personnel and Training
- D.** As referenced in Section 8.2.H, a VPAT and Security Certification and Accreditation Assessment are required to be included in the Bid.
- E.** The Oklahoma Lottery believes that doing business with a single bidder is the most strategic and effective way to achieve its goals. Therefore, the Lottery will only accept bids from full-service bidders. Split bids or joint proposals from more than one gaming bidder will not be accepted.
- F.** As referenced in Section 8.2.I, pricing shall be proposed as follows:
- i** Percentage of gross sales
 - ii** If other services included in Other Contract Options (Subsection C.14), these shall not be included in the “base price” evaluation and shall be listed in the Other Contract Options (Subsection C.14) to be negotiated on an as-needed basis during the life of the contract if not presented as firm pricing in the response.
 - iii.** Pricing Terms
- The Oklahoma Lottery will only evaluate pricing based on a fixed percent of gross sales that will be billed weekly and paid within 30 days through the State of Oklahoma. Pricing must include all the following goods and services:
- All instant ticket printing, packaging, shipping, warehousing, distribution, validation, tracking and reporting. The Oklahoma Lottery reserves the right to end an instant game at any time with no additional cost incurred. This does not include printing options that fall outside the base contract elements which will be mutually agreed to upon enacting the contract option.
 - All system and game development; the Lottery will not pay any development fees for required system and game changes and on any new development that generates revenue for the vendor. Also includes all system maintenance and any windows-based updates. Charges for contract options can include a development fee if mutually agreed upon.
 - Paper Stock and all associated printing, packaging and shipping costs for the following items:
 - Playslips

- Instant games
- Terminal and vending machine paper
- In-lane draw and instant game tickets
- Salaries, benefits and bonus programs for all vendors' employees.
- ICS third party contract – OLC will maintain all necessary ICS equipment while Vendor will maintain and pay the annual contract.
- All hardware detailed in the base contract including all maintenance, service and replacement costs.
- All software services including licensing fees and annual maintenance contracts.

iv. Additional Contract Pay Terms

The Oklahoma Lottery will accept proposals that outline additional pricing models to include only the following contracts elements:

- Transaction and Swipe fees to service and maintain the use of cashless payment across the network.
- A bonus structure that incentivizes the vendor based on an increase in sales year over year.

v. OTHER CONTRACT OPTIONS

Bidder must list all currently available or foreseeable options not included in the base price, including additional hardware and software services, which would allow the Lottery to explore adding at a later date during the contract period. Pricing can be specified or listed as “to be determined”.

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.
- ii** Completed “Certification for Competitive Bid and Contract” form.
- 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 Bidder 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 Amendment, if any, by inserting the 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 260:115-3-9⁴ 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, resumes, pricing, marketing materials, business references, Voluntary Product Accessibility Templates, additional terms proposed by a Bidder and subcontractor information

⁴ OAC 260:115-3-9 is located at http://www.oar.state.ok.us/oar/codedoc02.nsf/frmMain?OpenFrameSet&Frame=Main&Src=_75tnm2shfcdnm8pb4dthj0chedppmcbq8dtmmak31ctijjrgcln50ob7ckj42tbkdt374obdcli00

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 or conditions provided by the State 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”. 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 provided by the State 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 ANY STATE TERMS OR CONDITIONS, 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 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 any Contract and Bid specifications and requirements.
- 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** 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.

I. Section Nine: Pricing

Pricing associated with the Bid shall be inserted in this section and shall be in the required structure set forth above in Section 8.1, 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: Additional Company Information

Any additional required company information shall be inserted in this section.

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 RULES⁵ INCLUDING WITHOUT LIMITATION OAC 260:115-3-7 AND 260:115-3-11⁶. A submitted Bid is rendered as a legal offer and is required to be in strict conformity with these Bidder Instructions.

9.2 Due to the COVID 19 outbreak, a Bid shall be submitted via email to OMESCPeBid@omes.ok.gov. In person, commercial carrier or facsimile submittals shall not be accepted. The email Bid shall contain the Solicitation Number, Bid Response Due Date and Time in the subject line of the email. The State is not responsible for incorrect link information or inability to access a submitted Bid.

9.3 Due to the COVID 19 outbreak, this subsection is intentionally omitted.

9.4 Due to the COVID 19 outbreak, this subsection is intentionally omitted.

9.5 Unless otherwise specified, (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). Bidder shall offer new items of current design and technology unless a document provided by the State in connection with 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

⁵ Oklahoma Administrative Code Title 260, Chapter 115 is located at http://www.oar.state.ok.us/oar/codedoc02.nsf/frmMain?OpenFrameSet&Frame=Main&Src=_75tnm2shfcdnm8pb4dthj0chedppmcbq8dtmmak31ctijjrgcln50ob7ckj42tbkdt374obdcli00

⁶ 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=_75tnm2shfcdnm8pb4dthj0chedppmcbq8dtmmak31ctijjrgcln50ob7ckj42tbkdt374obdcli00

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.

- 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 provided by the State are estimates and are not guaranteed to be purchased.
- 9.7** Unless specified 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 Manual⁷.
- 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 Bid.
- 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 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, the Bidder shall submit a written withdrawal request to the State Purchasing Director in accordance with OAC 260:115-3-13⁸ except that the request shall be emailed to the email address listed in Section 9 above, due to the COVID 19 outbreak.
- 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

⁷ Statewide Accounting Manual is located at <https://omes.ok.gov/sites/g/files/gmc316/f/StatewideAccountingManual.pdf>.

⁸ OAC 260:115-3-13 is located at

http://www.oar.state.ok.us/oar/codedoc02.nsf/frmMain?OpenFrameSet&Frame=Main&Src=_75tnm2shfcdnm8pb4dthj0chedppmcbq8dtmmak3lctijjrgcln50ob7ckj42tbkdt374obdcli00.

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 IN THE SUBJECT LINE OF THE EMAIL.**

- 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 in the subject line of the email. If more than one Alternate Bid is submitted, the identification in the email subject line 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 unless the State Purchasing Director has authorized acceptance of Bids due to a significant error or incident that occurred which affected the receipt of a Bid.**⁹ Failure to comply with these Bidder Instructions may result in the Bid being disqualified from evaluation. Unless opened for identification, Bids received late will be returned unopened in a timely manner.
- 11.2** A Bid may be rejected when the Bidder imposes terms or conditions that would modify requirements 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)¹⁰.
- 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 or terms on the State shall result in a determination of non-responsiveness of the Bid.
- 11.4** Whenever the terms “shall”, “must”, “will”, or “is required” are used, the specification being referred to is a mandatory specification. Failure to meet any mandatory specification may cause rejection of a Bid.
- 11.5** Whenever the terms “can”, “may”, or “should” are used, 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

Due to the COVID 19 outbreak, there will be no physical Bid openings at this time. Public Bid openings will be conducted on a per request basis via Zoom provided the Contracting Officer receives a written request no later than forty-eight (48) hours prior to the Bid Response Due Date and Time. Zoom information will be provided to anyone requesting a public Bid Opening.

13 Evaluation

- 13.1** A responsive Bid will proceed to the evaluation process. Unless specified that “best value” criteria will be used to determine award, Bids shall be evaluated on “lowest and best” criteria.

⁹ OAC 260:115-3-11

¹⁰ 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=_75tnm2shfcdnm8pb4dthj0chedppmcbq8dtmmak3lctijjrgcln50ob7ckj42tbkdt374obdcli00_

- 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 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 Requirements 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 requirements herein. Any information offered outside the scope of the BAFO request will not be considered and will be disregarded.

15 Award of Contract

- 15.1 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.

BID PACKET SECTION FOUR: REQUESTED EXCEPTIONS TO TERMS

| 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. |
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