

Feel Free to Use

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- ▣ OSP uses this language to make sure bidders know what is expected of them.
- ▣ “Proprietary information submitted in response to this (RFP/IFB) will be processed in accordance with applicable State of Arkansas procurement procedures. Bids and documents pertaining to the (RFP/IFB) become the property of the State and shall be open to public inspection subsequent to bid opening. It is the responsibility of the Vendor to identify all proprietary information. **The vendor must submit one complete copy of the response from which any proprietary information has been removed, i.e., a redacted copy.** The redacted copy should reflect the same pagination as the original, show the empty space from which information was redacted, and should be submitted on a CD or flash drive. Except for the redacted information, the redacted copy **must** be identical to the original hard copy. The vendor is responsible for ensuring the redacted copy on CD/flash drive is protected against restoration of redacted data. **The redacted copy will be open to public inspection under the Freedom of Information Act (FOIA) without further notice to the vendor. If you do not send a redacted copy your entire proposal will be open to public inspection with the exception of financial data (other than pricing).** If the State of Arkansas deems redacted information to be subject to the FOIA the vendor will be contacted prior to sending out the information.”

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- ▣ If we do not have a redacted copy on file and we receive an FOI request for a bid, we send the bidder an e-mail saying:
- ▣ “An FOIA request has been made requesting copies of your submitted proposal for bid # _____. If you believe that there are portions of your bid response that should not be released because it may give competitive advantage, you must specifically identify those portions of the bid response and state, in writing, your reasons for believing that the release of this information will give competitive advantage. Our office will then make a determination as to whether the information should be released pursuant to the laws governing the Freedom of Information Act. If you are willing to have your entire bid response released, please inform us of this as well, in writing.
- ▣ We would appreciate your written response no later than (date).”

Further Reading

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- ▣ *Freedom of Information Handbook*, 14th Ed., Dec. 2009
- ▣ Watkins & Peltz, *The Arkansas Freedom of Information Act* (4th Ed., 2004)
- ▣ Arkansas Attorney General's website,
www.ag.arkansas.gov
- ▣ *Dept. of Fin. & Admin. v. Pharmacy Assocs.*, 333 Ark. 451 (1998).

Review

- ❑ A request to inspect and copy records cannot be denied because the requestor refuses to commit his or her request to writing.
- ❑ A request to inspect and copy records may be denied if the requestor is a citizen of another state.
- ❑ The fact that a governmental agency possesses a document does not automatically make it a public record under the Freedom of Information Act.
- ❑ The Freedom of Information Act is to be liberally interpreted and any exemptions to release documents are to be narrowly construed.
- ❑ If a Freedom of Information Act request is made for a bidder's offering, confidential information must be redacted before any copies of bids can be made available.
- ❑ You are not required to create a document that does not already exist in order to satisfy a Freedom of Information Act request.