



Mississippi Development Authority
501 North West Street
Jackson, MS 39201

Request for Proposal to Provide
Investment Recruitment Services in Korea

RFP#: KOR1282017

Date: December 8, 2017

Mississippi Development Authority
501 North West Street
Jackson, MS 39201-1001

1. INVITATION:

Written proposals subject to the conditions therein stated and attached hereto, will be received at 501 N. West Street, Woolfolk Building, Suite 419, Jackson, MS 39201 until Thursday, January 4, 2017 at 2:00 P.M., CST for providing the services as described below for the Mississippi Development Authority (MDA).

2. DESCRIPTION:

The MDA is seeking a professional services contractor to provide attraction of inbound investment on behalf of Mississippi firms and the MDA for the purpose of expanding foreign direct investment from Korea. Under MDA policy guidance, independent contractors currently operate foreign offices (either directly or by contract with consultants or representatives) in the South America (Chile) and Japan. These offices provide an array of services related to expanding existing exports and/or the recruitment of inbound investment to Mississippi. Proposals are sought from qualified Proposers to provide investment recruitment services in Korea.

The major focus of the Korea services is promoting Mississippi as a site for foreign investment, offering in-country assistance to MDA staff and its economic development partners in Mississippi, and recruiting companies to directly invest in Mississippi. Special emphasis in recruitment identification and qualification of investment prospects, will be given to target sectors including automotive component assembly and supply, aerospace component assembly and supply, Korean SME's (first-time investors and suppliers of large investors), energy (Korean firms seeking fuel sources, research and development, and production), and advanced manufacturing in general.

The MDA operates its international representative programs on the basis of very high quality services. International representatives are expected to take the necessary time and due diligence with each foreign investment prospect, offering the highest quality of service including fluent language and cultural immersion within the market.

3. EVALUATION PROCEDURE AND FACTORS TO BE CONSIDERED IN THE EVALUATION PROCESS:

MDA seeks to make award to the Offeror(s) that demonstrate the most advantageous combination of capability, qualifications, experience, and price. The evaluation process and factors set forth herein as Attachment "A" reflect MDA's determination of the evaluation method, information, and criteria that will best assist MDA in making this selection. Generally, Step I is to determine the responsiveness of the proposal. Step II evaluation factors are scored numerically.

4. ALL PROPOSALS SUBMITTED IN RESPONSE TO THIS REQUEST SHALL BE IN WRITING.

5. OFFERORS MAY DESIGNATE THOSE PORTIONS OF THE PROPOSALS WHICH CONTAIN TRADE SECRETS OR OTHER PROPRIETARY DATA WHICH MAY REMAIN CONFIDENTIAL IN ACCORDANCE WITH SECTION 25-61-9 AND 79-23-1 OF THE MISSISSIPPI CODE:

Inquiries regarding this Request for
Proposal may be mailed to:

Attn: Tricia Shannon/Kathy Roberts
Mississippi Development Authority
P O Box 849
Jackson, MS 39205-0849

Proposals and attachments must be
submitted to:

Attn: Tricia Shannon/Kathy Roberts
Mississippi Development Authority
501 N. West Street, Woolfolk Bldg., Suite 1500
Jackson, MS 39201 USA

Or
501 N. West Street, Woolfolk Bldg., Suite 1500
Jackson, MS 39201
Or
Email: procurement@mississippi.org

6. SPECIFICATIONS / SCOPE OF WORK:

The specification/Scope of Work MDA is seeking is in Attachment "B".

7. TYPE OF CONTRACT:

The MDA is requesting proposals for a firm fixed price contract(s) for services.

8. TERM AND EXTENSION OF CONTRACTS:

The MDA anticipates awarding one (1) contract for the services outlined herein with an anticipated start date of the contract(s) being April 1, 2018 with a duration of 3 years extending to March 31, 2021. MDA shall have the option to renew the Contract two additional, 1-year terms. If both parties agree to an extension of the contract(s), the renewal(s) would be under the same fixed unit prices, terms and conditions as the original contract(s).

9. REJECTION OF PROPOSALS:

Proposals, which do not conform to the requirements set forth in this RFP, may be rejected by MDA. Proposals may be rejected for reasons that include, but are not limited to, the following:

- A. The proposal contains unauthorized amendments to the requirements of the RFP;
- B. The proposal is conditional;
- C. The proposal is incomplete or contains irregularities which make the proposal indefinite or ambiguous;
- D. The proposal is not received by the deadline;
- E. The proposal is not signed by an authorized representative of the party;
- F. The proposal contains false or misleading statements or references.

10. ACCEPTANCE OF PROPOSALS:

MDA reserves the right, in its sole discretion, to waive minor irregularities in proposals. A minor irregularity is a variation of the RFP, which does not affect the funding request, or give one party an advantage or benefit not enjoyed by other parties, or adversely impact the interest of MDA. Waivers, when granted, shall in no way modify the RFP requirements or excuse the party from full compliance with the RFP specifications and other contract requirements, if the party is awarded the contract.

11. DISPOSITION OF PROPOSALS:

All submitted proposals become the property of MDA.

12. COMPETITIVE NEGOTIATION:

The bidding method to be used is a competitive negotiation from which MDA is seeking the best combination of price, experience and quality of service. Discussions may be conducted with Proposers who submit proposals determined to be reasonably susceptible of being selected for award. Likewise, MDA also reserves the right to accept any proposal as submitted to contract award, without substantive negotiation of offered terms, services or prices. Therefore, all parties are advised to propose their most favorable terms initially.

13. RFP DOES NOT CONSTITUTE ACCEPTANCE OF OFFER:

The release of the RFP does not constitute an acceptance of any offer, nor does such release in any way obligate MDA to award funds. MDA reserves the rights to accept, reject, or negotiate any or all offers on the basis of the evaluation criteria contained within this RFP. The final decision to award funds to any party rests solely with MDA.

14. EXCEPTIONS AND DEVIATIONS:

Proposers taking exception to any part or section of the solicitation shall indicate such exceptions on the proposal and shall be fully described. Failure to indicate any exception will be interpreted as the Proposer's intent to comply fully with the requirements as written. Conditional or qualified Proposers, unless specifically allowed, shall be subject to rejection in whole or in part.

15. NONCONFORMING TERMS AND CONDITIONS:

A proposal, which includes terms and conditions not conforming to the terms and conditions in the RFP, is subject to rejection as non-responsive. MDA reserves the right to permit the Proposer to withdraw nonconforming terms and conditions from its proposal prior to a determination by MDA of non-responsiveness based on the submission of nonconforming terms and conditions.

16. PROPOSAL ACCEPTANCE PERIOD:

The original and seven (7) copies (8 copies total) of the proposal and all attachments shall be signed and submitted in a **sealed envelope or package** to Mississippi Development Authority, Attn: Tricia Shannon/Kathy Roberts, 501 N. West Street, Woolfolk Building, Suite 1500, Jackson, MS 39201 no later than 2:00 P.M. Central Time on Thursday, January 4, 2018. Timely submission of the proposal is the responsibility of the Proposer. Offers received after the specified time shall be rejected and returned to the Proposer unopened. **The envelope or package shall be marked "Mississippi Development Authority Advertising Services RFP#KOR12/8/2017 " in the lower left hand corner.** Each page of the proposal and all attachments shall be identified with the name of the Proposer.

17. EXPENSES INCURRED IN PREPARING OFFERS:

MDA accepts no responsibility for any expense incurred by the Proposer in the preparation and presentation of an offer. Such expenses shall be borne exclusively by the Proposer.

18. ADDITIONAL INFORMATION:

Questions concerning the RFP document must be submitted in writing to Mississippi Development Authority, Attn: Tricia Shannon, 501 N. West Street, Woolfolk Building, Suite 1500, Jackson, MS 39201 or via email to procurement@mississippi.org. Questions will be received through Tuesday, December 19, 2017, at 2:00 P.M. CST. Responses to all questions will be posted to the MDA website, as an amendment to the RFP by Thursday, December 21, 2017, at 2:00 P.M. CST. Proposers are cautioned that any statements made by the contact person that materially change any portion of the RFP shall not be relied upon unless subsequently ratified by a formal written amendment to this RFP.

19. ACKNOWLEDGMENT OF AMENDMENTS:

Proposers shall acknowledge receipt of any amendment to the solicitation by signing and returning the amendment with the proposal, by identifying the amendment number and date in the space provided for this purpose on the proposal form, or by letter. The acknowledgment must be received by MDA by the time and at the place specified for receipt of proposals.

20. DEBARMENT:

By submitting a proposal, the Proposer certifies that it is not currently debarred from submitting proposals for contracts issued by any political subdivision or agency of the State of Mississippi or the U.S. Federal government and that it is not a person or entity which is currently debarred from submitting proposals for contracts issued by any political subdivision or agency of the State of Mississippi or the Federal government.

21. RIGHT TO POST-AWARD DEBRIEFING:

A vendor, successful or unsuccessful, may request a post-award debriefing. See Attachment "C" for specific procedures to request a debriefing.

22. BID PROTEST PROCEDURES:

Bid protest procedures can be found in Attachment "D".

23. RELEASE OF BIDDING DOCUMENTS:

To improve the efficiency of the evaluation and award process, the MDA shall restrict the availability of proposals, scoring information, evaluation documents, emails or any other documentation related to the review and/or evaluation of proposals prior to contract award.

24. TERMS AND CONDITIONS:

By submitting a proposal in response to this RFP, the Proposer agrees to be bound by the General Terms and Conditions contained in this RFP in Attachment "E".

25. EMPLOYEES NOT TO BENEFIT:

I (we) hereby certify that if the contract is awarded to our firm, partnership, or corporation, no employee of MDA, or members of his/her family, including spouse, parents or children has received or been promised, directly or indirectly, any financial benefit, by way of fee, commission, finder's fee, political contribution or any similar form of remuneration on account of the act of awarding and/or executing this Contract. See Submission Form page 8.

26. CONFLICTS OF INTEREST:

The Proposer [] is [] is not aware of any information bearing on the existence of any potential organizational conflict of interest. See Submission Form page 8.

27. CERTIFICATION OF INDEPENDENT PRICE DETERMINATION:

The bidder / proposer certifies the prices submitted in response to the solicitation have been arrived at independently and without, the purpose of restricting competition, any consultation, communication, or agreement with any other bidder or competitor relating to those prices, the intention to submit a bid, or the methods or factors used to calculate the prices bid. See Submission Form page 8.

28. OFFICE AND STAFF LOCATION REQUIREMENT:

Each advertising agency submitting a proposal must have an office in the Jackson Metropolitan area (tri – county area of Hinds, Madison and Rankin), or be willing to establish such an office with all staff who would perform the services during the contract term. Each Proposer must certify they will have a Jackson Metropolitan office. See Submission Form page 9.

29. THE FOLLOWING RESPONSE FORMAT SHALL BE USED FOR ALL SUBMITTED PROPOSALS:

- A. Completed and signed *Request for Proposal Submission Form* (pg. 6 - 8 in this RFP).
- B. Management Summary: Provide a statement indicating the underlying philosophy of the Proposer in providing the service.
- C. Proposal: Describe in detail how the service will be provided. Include a description of major tasks and subtasks. A timeline for execution shall be included in this section.
- D. Corporate experience and capacity.
- E. Personnel and resume(s) of those who will be involved in the service delivery.
- F. References and client information: Give at least three references for contracts of similar size and scope, including at least two references from current contracts or in the past three years. Include the name of the organization, the length of the contract, a brief summary of the work, and the name and telephone number of a responsible contact person.
- G. Acceptance of conditions: Indicate any exceptions to the General Terms and Conditions of the proposal document and any other requirements listed.
- H. Additional data: Provide any additional information that will aid in evaluation of the response.
- I. Cost data: Cost data submitted at this stage is not binding and is subject to negotiation if your proposal is chosen as a finalist. Include the number of personnel to be assigned to the contract and the hourly rates associated with those positions (include a sample staffing chart). For evaluation purposes, Proposals must also include a single blended hour rate. Hourly rates shall include all overheads, direct, indirect, fringe and other miscellaneous expenses. International travel expenses will be reimbursed at actual cost, if a travel budget is provided and prior approval was obtained from MDA. All other travel expenses are considered routine, will not require prior approval, and will be reimbursed at actual cost. Lodging arrangements will be the responsibility of the successful Proposer.

**MISSISSIPPI DEVELOPMENT AUTHORITY
REQUEST FOR PROPOSAL FOR
MISSISSIPPI DEVELOPMENT AUTHORITY ADVERTISING SERVICES
SUBMISSION FORM**

RFP # KOR1282017

Company _____

Address _____

Contact Person _____

Telephone Number _____

Email _____

NOTE: It is the Proposer's responsibility to provide adequate information in their proposal package to enable MDA to ensure the proposal meets the required criteria. Items listed in the package shall be in the same order as listed in the specifications. Failure to do so could result in the rejection of the proposal.

EMPLOYEES NOT TO BENEFIT: Per page 5 #25. Proposer certifies Employees Not to Benefit.

Indicate: Yes [] No []

CONFLICTS OF INTEREST: Per page 6 #26. Proposer is / is not aware of Conflicts of Interest.

Indicate: Is [] Is Not []

PROSPECTIVE CONTRACTOR'S REPRESENTATION REGARDING CONTINGENT FEES: Per Attachment E, page 2, #4. Proposer has / has not retained anyone to secure this contract.

Indicate: Has [] Has Not []

CERTIFICATION OF INDEPENDENT PRICE DETERMINATION: Per page 6 #27. Proposer certifies independent price determination.

Indicate Yes [] No []

CERTIFICATION OF OFFICE AND STAFF LOCATION: Per page 6 #28. Proposer certifies Office and Staff in the Jackson Metropolitan area.

Indicate Yes [] No []

COLLUSION

I certify that this offer is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting an offer for the same services, materials, supplies, or equipment and is in all respects fair and without collusion or fraud. I understand collusive bidding is a violation of State of Mississippi and U.S. Federal laws and can result in fines, prison sentences, and civil damage awards. I hereby certify that the responses to the above representations, certifications, and other statements are accurate and complete. I agree to abide by all conditions of the proposal and certify that I am authorized to sign for my company.

Signature Date: _____

Name (Printed): _____

Title: _____

Signature: _____

Attachment A

EVALUATION PROCEDURE AND FACTORS TO BE CONSIDERED IN THE EVALUATION PROCESS

- Step I is not scored and does not result in a ranking of Proposers. Rather, Step I is used to determine the responsiveness of the Proposer to the minimum information required for their proposal to continue on to Step II. Written proposals that include the minimum information required in this Solicitation will move on to Step II of the evaluation. Those written proposals that do not include the minimum information required in this Solicitation will be rejected immediately and will receive no further consideration. The minimum information required for Step I is set forth in Section A below.
- Step II is an evaluation of the Proposer's written proposal. Written proposals will be scored using the evaluation criteria set forth in Section B below.
- Each Offeror's Total Step II score will be ranked to determine the ranking of Offerors.
- MDA will make every reasonable effort to ensure consistency of the evaluation panel throughout the evaluation process. However, the MDA reserves the right to make substitutions and/or changes to the evaluation panel as contingencies, availability of personnel, or the needs of the MDA may require.

MDA reserves the right, but is not required, to conduct discussions with responsible Offerors whose proposals are determined to be reasonably susceptible to being selected for award. The discussion shall be for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Revision of proposals may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. Based on total points received in Step II all Offerors who are determined to be reasonably susceptible to being selected for award may be contacted for a best and final offer. As discussions and/or requests for best and final offers are not required, Proposers must take care to ensure that their initial written submissions respond fully to the requirements of the solicitation, are competitively priced and provide all information Proposers want to submit for consideration.

Notwithstanding the determination of the Offeror(s) and/or Awardee(s) as set forth herein, MDA reserves the right prior to execution of any contract to require the Offeror(s) and/or Awardee(s) to provide any and all such information as the MDA deems necessary or proper to determine that the Offeror(s) and/or Awardee(s) are sufficiently responsible and has and can maintain all the necessary facilities, management capability, personnel, technical capability, financial resources, and integrity to ensure successful performance of any resulting contract(s). MDA may make such investigations deemed necessary and proper. MDA reserves the right to reject any offer if the evidence submitted by, or investigation of the Offeror(s) and/or Awardee(s) fails to satisfy MDA that the Offeror(s) and/or Awardee(s) are responsible and properly qualified to carry out the obligations of the contract(s).

A. Step I Minimum Information Required

Each Proposer shall include the following as part of its written proposal. Each proposer shall include the attached checklist (Attachment F) identifying the page number where each of the minimum information required identified below is located in the proposal.

- (1.) the name of the Offeror, the location of the Offeror's principal place of business and, if different, the place of performance of the proposed contract;
- (2.) the age of the Offeror's business and average number of employees over the past 3 years;
- (3.) the abilities, qualifications, and experience of all persons who would be assigned to provide the required services;
- (4.) a listing of other contracts under which services similar in scope, size, or discipline to the required services were performed or undertaken within the past 3 years;
- (5.) A plan giving as much details as is practical explaining how the services will be performed.

Any proposal that fails to include any of the above information will be rejected immediately and will receive no further consideration by MDA.

B. Step II – Evaluation of Written Proposals - Evaluation Factors and Their Relative Importance (Total of 100 points available)

MDA shall evaluate those written proposals determined in Step I to be eligible for consideration in Step II. Written proposals shall be reviewed and scored in accordance with the following criteria, the relative significance of which is stated, for how well the proposals demonstrate the following in Step II:

- (1.) The overall quality of the proposed plan for performing the required services (VERY IMPORTANT 25 pts.).
- (2.) Proposer's ability to provide the required services as reflected/evidenced by technical training and education, general experience, specific experience in providing the required services, and the qualifications and abilities of personnel proposed to be assigned to perform the services. (IMPORTANT 20 pts.).
- (3.) The personnel, equipment, facilities, and financial resources to perform the services currently available or demonstrated to be made available at the time of contracting (MODERATELY IMPORTANT 10 pts.).
- (4.) A record of past performance of similar work (MODERATELY IMPORTANT 10 pts.).
- (5.) Price (CRITICAL 35 PTS.).

C. Award Decision

The Offeror(s) who receives the highest total score of all Offerors from Step II should be the Awardee(s) based upon offering the most advantageous combination of capability, qualifications, experience, and price as evaluated in accordance with the terms of this solicitation. If Step II scores are compiled and a tie occurs between the leading proposals which results in the agency being unable to clearly determine which proposer(s) should be the awardee(s), a separate three (3) person evaluation panel will be selected to score the proposals who are tied. After the tied proposals are rescored the Offeror(s) who receives the highest total score from Step II should be the Awardee(s).

D. Contract Negotiations

The MDA Procurement Officer will contact the Offeror(s) determined to be the Awardee(s) and attempt to negotiate an agreement(s) that are acceptable to both parties.

Attachment B

SPECIFICATION, TERMS AND CONDITIONS FOR PROFESSIONAL CONSULTING SERVICES:

- 1) **General Statement:** The Mississippi Development Authority requests proposals for services of providing a Project Management Office (PMO) for the Mississippi Development Authority.
- 2) **Specifically, MDA requests the following services to be provided:**
 - a) **Adherence to U.S. Department of Housing and Urban Development (HUD) Regulations and Program Requirements**
 - i) **Review and understand traditional CDBG program compliance issues, Public laws 109-148 and 109-234 which represent the appropriation of federal Community Development Block Grant dollars, the myriad of waivers and action plan amendments and HUD's guidance on these dollars as well as applicable state laws and regulations. Understand the provisions of PL 109-148 including the requirements related to fair housing, nondiscrimination, labor standards and the environment. Ensure compliance with all applicable requirements.**
- 3) **Assess the capabilities of prospective sub grantees, prior to distribution of CDBG funding, to ensure the ability to meet national objectives. Perform steps to identify specific, logical connections to a national objective for each activity including steps to verify the eligibility of proposed activities as well as steps to evaluate the prospective sub-grantee's overall organizational capacity.**
- 4) **Prepare unique written agreements for each sub-grantee that is a concise statement of the relationship and the conditions under which funds are provided. Each agreement will include a description of the work to be performed, a schedule for completing the work and a budget. These items shall be written in sufficient detail to provide a sound basis for the grantee to effectively monitor performance under the agreement. It will include a statement of the intent of the grant, provide key information, general provisions, scope of work, program requirements, performance indicators and benchmarks, documentation for pre-award, post-award actions such as payment, documentation and end-of-award activities, closeout, audit and continuing responsibilities. Each agreement will specify the particular records the sub grantee must maintain and the particular reports the sub grantee must submit in order to assist the grantee in meeting its recordkeeping and reporting requirements.**
- 5) **Conduct periodic training for sub grantees on compliance issues including national CDBG program and local administrative practices.**
- 6) **Ensure that all sub grantees comply with all regulations governing their administrative, financial and programmatic operations and achieve their performance objectives on schedule and within budget.**
- 7) **Provide support of the Authority's management system that involves an ongoing process of planning, implementation, communication and follow-up. The objectives for programmatic/contractual oversight and monitoring will be:**
 - a) **To determine if a sub grantee is carrying out its program as described in its Sub grantee agreement**
 - b) **To determine if a sub grantee is carrying out its scope of work in a timely manner**

- c) To determine if a sub grantee is conducting the project with adequate control over program and financial performance and in a way that minimizes the opportunity for fraud, waste and abuse
 - d) To assess if the sub grantee has a continuing capacity to carry out the approved project
 - e) To identify problem areas and assist the sub grantee in complying with the program requirements
 - f) To provide adequate follow-up measures to ensure that performance and compliance deficiencies are corrected and not repeated
- 8) Report any identified or suspected instances of non-compliance with applicable laws, rules and policies to the Authority.
- 9) Ensure grantees comply with the requirements of the Secretary of Labor in accordance with Davis-Bacon Act, Work Hours and Safety Standards Act, the Copeland "Anti-Kickback" Act, Fair Housing and Equal Opportunity Standards and all other applicable federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this contract.
- 10) Perform oversight of the distribution of funds. This will include two key components with the first being documentation compliance. All documentation that supports activity expenditures must accompany every request for payment. An internal financial management team will collect, scan and then review for completeness, compliance and accuracy all pay request documents. Because of the requirements of the Office of Management and Budget (OMB), draw down timing management is another key component of the distribution oversight. Significant penalties are imposed on grantees when federal funds remain undistributed longer than the regulations allow. Avoid any loss of funding by implementing a monitoring system that tracks the time lapse between draw down and disbursement and warns the program manager of any potential issues.
- 11) Document Control and Management
- a) Provide sufficient, appropriate document control and management to meet the financial and documentation requirements for CDB Grants. At a minimum, the following records would be required from each grant or program manager:
 - i) Records providing full description of each activity
 - ii) Records verifying that activity meets national and grant objectives
 - iii) Records related to demonstrating eligibility of activities
 - iv) Records required to document activity related to real property
 - v) Records documenting compliance with the fair housing and equal opportunity requirements
 - vi) Financial records and reports required by the program
 - vii) Performance reports required by the program
 - viii) Records supporting any specific requirements of the grant
- 12) Program Development and Support
- a) Monitor performance of each grant using the reporting and performance benchmarks that are established. Provide analysis of key performance indicators to each other to provide insight into issues or performance problems that may be occurring.
- 13) Policy Development and Review
- a) Develop and monitor required policies for each grant agreement.

14) Support of Program and Financial Compliance Requirements

- a) Assist the Authority in support of program and financial compliance requirements. Identify applicable compliance requirements, and as requested, provide resources to work on any compliance issues that are identified during program management. Assist in the preparation of financial reports for compliance with grant reporting requirements including the review and set up of proper accounting records and documentation.

15) Communications

- a) Provide accurate, timely information to appropriate individuals, departments and agencies.

16) Internal Communication

- a) Monitor certain key indicators at the request of the Authority:
 - i) Status by grant, including monitoring of the budget, schedule and performance metrics
 - ii) Issues impacting each grant, including reported problems, lagging performance, communication issues, etc., and the actions being taken to resolve them
 - iii) Identification of risks associated with each grant and the actions being taken to mitigate, avoid or reduce them
 - iv) Deliverables completed to date and those scheduled for completion
 - v) Resources available to deliver services, including staff, technology and budget; identify restraints affecting delivery and institute corrective action
- b) Informal communication will be frequent and will also include telephone calls and emails.

17) External Communication

- (1) Provide information for the Authority to utilize in external communication, a critical part of this process. Provide the Authority with current status reports on a regular basis.
- (2) Assist the Authority in support of external communications to include design and publish packets, reports and presentations for legislative and congressional constituents. Assist in planning, publicizing and delivering news releases and conferences and provide web content for the Authority website.

18) Support of Monitoring Plans and Execution

- a) Ensure that all stakeholders, including the program manager, are aware of and compliant with any regulatory requirements associated with CDBG funds. Monitor the action and communication plans associated with each grant to ensure that all key performance indicators are being properly monitored and that issues are addressed quickly and resolved effectively.
- b) Ensure timely submission of required reporting including financial reports, performance reports, resolution of findings, resolution of recommended changes, implementation of policies and resolution of issues affecting performance.

- c) As requested by the Authority, conduct desk reviews of the documentation supporting the program reports for accuracy and compliance. Develop compliance checklists for program managers to assist with their compliance with the program requirements.

- d) Ensure proper documentation at all levels, not only for the proper dissemination of information, but also to serve as a historical reference for post-project reviews.

19) Support of Program Operations, as required

- a) Provide any operational support as requested by the Authority, including full project management, policy development or other support and consulting roles. Provide resources to quickly and effectively provide operational and managerial services at all levels of the programs to the Authority.

20) Program Management Team Support.

- a) As requested by the Authority, provide additional resources to any program team member or program grant to appropriately and timely respond to program management needs.

21) IT Oversight and System Development

- a) Perform comprehensive monitoring of all existing systems, connections and automated processes currently deployed amongst the grant programs. Provide IT developers to respond timely to development needs on the existing systems as well as any systems previously implemented.

22) Training/Outreach Support

- a) Train and develop team members to meet performance objectives and ensure compliance. When major changes in program policy or requirements occur, prepare the necessary training materials and program to effectively communicate the changes.

23) Change Control

- a) Maintain and monitor the established change management process that contributes to the achievement of a project's objectives. Modify the process, as needed, communicating and documenting the process. Ensure that any changes are properly researched and evaluated.

24) Environmental Review Process

- a) Ensure that each program being funded complies with 24 CFR Part 58, Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities (see specifically 24 CFR 58.18). In addition to outlining required procedures for assessing the environmental impacts of the proposed action, Part 58 specifies procedures that must be followed in releasing HUD funds to project sponsors (see Subpart H of Part 58). Part 58 also requires that the actions of project sponsors during project implementation are monitored and the environmental requirements on which the grant of HUD funds is conditioned (24 CFR 58.18(a)(1) is enforced.

- b) Prepare general guidance for project sponsors that (1) list the basic elements of an environmental assessment, (2) address common misconceptions about the environmental review process, and (3) list sources of critical information.
- c) Our evaluation of each environmental review package will include the following basic steps:
- d) Initial review of the package to assess its completeness and to identify significant environmental issues
- e) Preparation of initial written comments on components of the environmental review that must be added or strengthened
- f) Inspection of the proposed site and its surroundings to check the accuracy of the environmental review
- g) Preparation of additional written comments on any inaccuracies identified during the site inspection
- h) Review of the environmental review package as revised by the project sponsor
- i) Preparation of suggested "conditions of approval" to be added to the final environmental assessment prior to approval by the Authority. If our site inspection suggests that wetland delineation or other specialized study submitted by a project sponsor is inaccurate, this will be included in written comments. However, independent wetland delineation will not be performed unless the Authority requests this as an additional service.
- j) Performance of lead-based paint identification, remediation, and inspection activities as needed for covered structures.

25) Oversight of Sub grantee Contracts

- a) Assist the Authority in assuring that the sub grantees comply with all regulations governing their administrative, financial and programmatic operations, and to ensure that the sub grantees achieve their performance objectives on schedule and within budget.
- b) Review and ensure compliance with state and federal procurement statutes and regulations specifically with regards to CDBG funding.
- c) Ensure appropriate permitting for environmental (including lead-based paint, wetlands and floodplain), drainage, SWPPP, building and others have been acquired; plans comply with latest IBC; mitigation elements noted in environmental assessments are included in construction; and the construction bid documents are organized in a manner, consistent with all state requirements for bidding and construction. Below is a list of standard services that would be provided during the bid and award phases for each workforce housing project to ensure compliance:
- d) Document publication of advertisement for construction bid for each project
- e) Attend pre-bid conferences for each project
- f) Work with the design consultant to track bid addenda
- g) Provide oversight and direction for any pre-qualification of contractors/suppliers for alternative delivery approaches for construction
- h) Attend bid openings

- i) Review all bid tabulates and evaluation of bids from developer and design consultant
 - j) Review and approve recommendation for award of contract
- 26) Ensure a project inspector participates in the bid ready document review process along with required reviews of plans and specifications where applicable. These responsibilities carrying over to the construction phase services. The inspector would collect all appropriate information and record documents to meet the standards set forth by CDBG and the Authority at the onset of every project. This includes the review and submittal of recommendations for approval of CDBG cash requests.
- a) Perform the following inspection services during installation of housing:
 - i) Attend pre-construction and project start
 - ii) Assurance that all appropriate bonding and insurance is in place
 - iii) Review and provide recommendation for approval of monthly CDBG requests for cash reimbursements. This would include associated contractor's pay requests
 - iv) Monitor and collect documentation to support Davis-Bacon Act requirements
 - v) Submit properly completed and compliant CDBG cash requests to the Authority
 - vi) Track construction expenditure of CDBG funds
 - vii) Review all construction change orders for compliance
 - viii) Perform periodic site observations on weekly basis. This would not be performed as a comprehensive or detailed inspection but only to validate and track work progress
 - ix) Attend site walk-through for substantial completion and closeout of projects
 - x) Review project punch list for closeout operations
 - xi) Review design consultant record drawings and documents for conformity at closeout
 - xii) Maintain proper files for all project documents for each assigned project
- 27) Coordinate with the Authority to identify the critical performance benchmarks for each project so progress can be tracked, communicated and assessed at any time. Ensure all project information is available at all times in one comprehensive, user-friendly electronic environment. Financial information will include:
- a) The overall status of the sub grantees' CDBG funds, showing cumulative amounts for CDBG funds approved to date, program income received to date, actual disbursements to date, CDBG funds on hand at time of request, and requests previously submitted but not disbursed.
 - b) For each activity or budget category the budgeted amount, the CDBG funds drawn to date, the grant funds expended to date, and the current request for payment. Source documentation will be requested to support the expenditures claimed by sub grantees. From this information, determine the sub grantees' rates of spending in their various activity areas or budget categories and whether they are using their program income in a timely fashion and drawing down appropriate amounts of grant funds.
- 28) Provide OnBase® training and user guides to sub grantees, as needed.
- 29) Eligibility Verification
- a) Ensure that applicants (and tenants) participating in a covered program meet stated eligibility requirements for the respective program. Ensure applicant files are complete and maintained in the document control and management system (i.e., OnBase®). Perform reviews of appropriate

supporting documentation and perform site visits, as necessary. Ensure applicants are compliant with Stafford Act requirements and Area Median Income (AMI) restrictions.

30) Engineering and Construction Management

- a) Provide survey, engineering and construction oversight for flood zone determinations, elevation certificates, construction inspections for loan approval and disbursement and inspections for building code compliance and HUD quality standards.

31) Property Management Operations

- a) Implement all program property and tenant policies including communications and receipt of records from applicants, coordinate on-site inspections to confirm HUD Housing Quality Standards, assist applicants with tenant income verification, occupancy and leasing questions, provide support for monitoring and reporting, and manage continued landlord and tenant requirements with program obligations throughout the term of affordability including the resolution of default issues.

32) Oversight of Overall Program

- a) Provide project management for all disaster recovery programs.
- b) Coordinate the efforts of monitoring the compliance over environmental, construction, financial and HUD regulations.
- c) Project performance benchmarks and updated budget comparisons will be established to measure progress and compliance with critical objectives in mind. Critical stages will be identified and a monitoring checkpoint established to ensure follow up. Communication plan will be developed to match the program's objectives and will include a formal structure for regular reporting, performance milestones, project-wide meetings and policies on information for the community and press.
- d) Assist in the preparation and then disseminate policy memoranda related to program requirements and implementation.

33) Reporting

- a) Provide status reports on a regular basis to keep the Authority informed of the project progress. As requested, meet with the Authority to discuss the status of the project, applicant concerns, and any other issues that may have arisen during the administration of the program. Provide the Authority with project progress reports on demand, as well as access to the project management system, so the project can be monitored. Report information will include project activity deemed critical by the Authority.
- b) In addition to keeping the Authority informed of the progress with each project, compile and review information necessary to prepare reports required under HUD regulations.

34) Closeout

- a) Ensure that all closeout forms are completed as required. OMB Circular No. 133 compliant documents and reports will be maintained and provided in order to satisfy HUD and other federal audit requirements resulting in an audit ready financial report of all activities of the grantee and Sub-grantee including electronic copies of all supporting documents.
- b) As part of the closeout, provide the state with all the necessary server hardware and server software to manage the developed technology. The transfer of user software would include 10 concurrent OnBase® user licenses. Should the state require more licenses, additional concurrent licenses can be purchased directly from OnBase® and ERSI as well as yearly maintenance options.

35) Transition

- a) It is the intent of the Authority that the Contractor will develop and reduce to writing, in consultation with the Authority, a plan to transition the activities covered under this Contract to the Authority to the extent possible. This transition plan should create the processes and procedures required to responsibly transition project management oversight, document control and maintenance, monitoring, regulatory compliance, and eligibility verification to the Authority. During the term of the Contract, the Contractor shall place emphasis on closing out projects and programs in accordance with federal and state guidelines. The Contractor shall provide whatever personnel and resources are required to accomplish the goals set forth in this Paragraph.

Attachment C

Mississippi Development Authority Procedures for filing a post-award vendor debriefing

1. A vendor, successful or unsuccessful, may request a post-award debriefing, in writing, by U.S. mail or electronic submission, to be received by MDA within three (3) business days of notification of the contract award. A vendor debriefing is a meeting and not a hearing; therefore, legal representation is not required. If a vendor prefers to have legal representation present, the vendor must notify the MDA and identify its attorney. The MDA shall be allowed to schedule and/or suspend and reschedule the meeting at a time when a representative of the Office of the Mississippi Attorney General can be present.
2. Unless good cause exists for delay, the debriefing should occur within five (5) business days after receipt of the vendor request and may be conducted during a face-to-face meeting, by telephonic or video conference, or by any other method acceptable to the MDA. The MDA Procurement Officer shall chair the meeting, and where practicable, include other staff with direct knowledge of the procurement.
3. At a minimum, the debriefing shall include the following:
 - a) The MDA's evaluation of significant weaknesses or deficiencies in the vendor's bid or proposal, if applicable;
 - b) The overall evaluated cost or price, and technical ranking, if applicable, of the successful vendor(s) and the debriefed vendor;
 - c) The overall ranking of all vendors, when any ranking was developed by the MDA during the selection process;
 - d) A summary of the rationale for award; and,
 - e) Reasonable responses to relevant questions about selection procedures contained in the solicitation, applicable regulations, and other applicable authorities that were followed.
4. Information MDA will not provide in a debriefing is: The debriefing shall not include point-by-point comparisons of the debriefed vendor's bid, proposal, or SOQ with those of other offering vendors. Any written request by a vendor for nondisclosure of trade secrets and other proprietary data is subject to the provisions of Mississippi Code Annotated §§ 25-61-9 and 79-23-1.

Attachment D

Mississippi Development Authority Policy and Procedures for Protest of RFP, IFB, RFQ or Any other Competitive Procurement Process

(A) Right to Protest

Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the Executive Director of the agency. The protest shall be submitted in writing within ten (10) calendar days after such aggrieved person knows or should have known of the facts giving rise thereto. If the tenth (10th) day falls on a weekend or State holiday the deadline shall be extended to the next business day.

(B) Authority to Resolve Protests

The Executive Director or a designee shall have the authority to settle and resolve a protest of an aggrieved bidder, offeror, or contractor, actual or prospective, concerning the solicitation or award of a contract.

(C) Decision

The agency shall have ten (10) business days to conduct an investigation into the claims made by the aggrieved and shall issue a written response to the aggrieved. The agency, at its discretion, may solicit an outside entity to assist with or conduct the investigation if it is determined by the agency such action is necessary. In the event the agency solicits an outside entity to assist or conduct the investigation the agency shall have an additional five (5) business days to conduct the investigation.

(D) Notice of Decision

A copy of the decision under Section (C) of this policy shall be mailed or otherwise furnished to the protestant within the defined time period.

(E) Finality of Decision

A decision under Section (C) of this policy shall be final and conclusive.

(F) Stay of Procurements During Protests

The Executive Director or his designee shall have the right to suspend the process in the event of a timely protest under Section (A) of this document. Suspension of the process is at the discretion of the agency and will be considered upon receipt by the agency of a protest.

Filing of Protest

(A) When Filed

Protests shall be made in writing to the Executive Director, and shall be filed in duplicate within ten (10) calendar days after the protestor knows or should have known of the facts giving rise thereto. A protest is considered filed when received by the Executive Director. Protests filed after the ten (10) day period shall not be considered.

(B) Subject to Protest

A protest must state all grounds upon which the protesting party asserts that the solicitation or award was improper. Issues not raised by the protesting party in the protest are deemed waived. Protests may be filed on the basis of the following:

1. Failure to follow established policies and/or procedures regarding procurement as outlined in (i) MDA policies or procedures, (ii) MDA rules for procurement, (iii) PSCRB Rules and Regulations, and/or (iv) competitive bid documents (i.e. RFP, IFB, RFQ, etc.) as applicable;

2. Errors in computing scores which contributed to the selection of an Offeror other than the lowest and best bidder; or
3. Documented conflict of interest on the part of an evaluator.

(C) Not Subject to Protest

Protests shall not be accepted by the agency where the subject of the protest is:

1. Evaluation Committee members (unless the protest is based on a documented conflict of interest);
2. The professional judgment of the Evaluation Committee including, but not limited to, the scoring by an evaluator;
3. Location of oral presentations (when required);
4. Time of oral presentations (when required);
5. Late submission of proposal;
6. Modification of any portion of the RFP when done in accordance with policy and process as outlined in (i) MDA policies or procedures, (ii) MDA rules for procurement, (iii) PSCRB Rules and Regulations, and/or (iv) competitive bid documents (i.e. RFP, IFB, RFQ, etc.) as applicable;
7. MDA's assessment of its own needs/requirements regarding the subject of the procurement.

(D) Form

Protest should be hand-delivered or mailed to the Executive Director's Office. The envelope should be labeled "Protest." The written protest shall include as a minimum the following:

1. The name and address of the protestor;
2. Appropriate identification of the procurement;
3. A statement of reasons for the protest; and,
4. Supporting exhibits, evidence, or documents to substantiate any claims unless not available within the filing time in which case the expected availability date shall be indicated.

(E) Requested Information; Time for Filing

Any additional information requested by the agency from the protester shall be submitted within the time period established by the agency. Failure to comply expeditiously with a request for information by the agency may result in resolution of the protest without consideration of any information which is untimely filed pursuant to such request.

(F) Making Information on Protests Available

The agency shall upon written request make available to any interested party information submitted that bears on the substance of the protest except where information is proprietary, confidential, or otherwise permitted or required to be withheld by law or regulation. Persons who wish to keep such information submitted by them confidential should so request by specifically identifying such information within documents submitted, and indicating on the front page of each document that it contains such information. The availability of such information to third parties shall be in compliance with Mississippi Public Records Act, Miss. Code Ann. 25-61-1, *et seq.*

Effect of Judicial or Administrative Proceedings

In the event an ongoing protest becomes the subject of a legal proceeding, the agency shall suspend its investigation pending the outcome of any proceeding. The Executive Director or his designee shall not act on the protest, but refer the protest to the agency's legal counsel.

EXHIBIT E
GENERAL TERMS AND CONDITIONS

1. NOTICES

All notices required or permitted to be given under this Contract must be in writing and personally delivered or sent by certified United States mail, postage prepaid, return receipt requested, to the party to whom the notice should be given at the address set forth below. Notice shall be deemed given when actually received or when refused. The parties agree to promptly notify each other in writing of any changes of address.

For the Contractor:

Name, Title, Contractor, and Address

For the MDA:

Michael J. McGrevey, Deputy Director
Mississippi Development Authority
501 N. West Street, Suite 419
Jackson, MS 39201.

2. APPLICABLE LAW

The contract shall be governed by and construed in accordance with the laws of the State of Mississippi, excluding its conflicts of laws, provisions, and any litigation with respect thereto shall be brought in the courts of the State. Contractor shall comply with applicable federal, state, and local laws and regulations.

3. AVAILABILITY OF FUNDS

It is expressly understood and agreed that the obligation of the State to proceed under this contract is conditioned upon the appropriation of funds by the Mississippi State Legislature and the receipt of state and/or federal funds. If the funds anticipated for the continuing fulfillment of the contract are, at any time, not forthcoming or insufficient, either through the failure of the federal government to provide funds or of the State of Mississippi to appropriate funds or the discontinuance or material alteration of the program under which funds were provided or if funds are not otherwise available to the [State], the [State] shall have the right upon ten (10) working days written notice to Contractor, to terminate this contract without damage, penalty, cost or expenses to the [State] of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.

4. REPRESENTATION REGARDING CONTINGENT FEES

Contractor represents that it has not retained a person to solicit or secure a state contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except as disclosed in Contractor's bid or proposal.

5. REPRESENTATION REGARDING GRATUITIES

The bidder, offeror, or Contractor represents that it has not violated, is not violating, and promises that it will not violate the prohibition against gratuities set forth in Section 6-204 (Gratuities) of the Mississippi Personal Service Contract Review Board Rules and Regulations.

6. PROCUREMENT REGULATIONS

The contract shall be governed by the applicable provisions of the Mississippi Personal Service Contract Review Board Rules and Regulations, a copy of which is available at 210 East Capitol, Suite 800, Jackson, Mississippi 39201 for inspection, or downloadable at <http://www.mspb.ms.gov>.

7. TRADE SECRETS, COMMERCIAL AND FINANCIAL INFORMATION

It is expressly understood that Mississippi law requires that the provisions of this contract which contain the commodities purchased or the personal or professional services provided, the price to be paid, and the term of the contract shall not be deemed to be a trade secret or confidential commercial or financial information and shall be available for examination, copying, or reproduction.

8. COMPLIANCE WITH LAWS

Contractor understands that the [State] is an equal opportunity employer and therefore, maintains a policy which prohibits unlawful discrimination based on race, color, creed, sex, age, national origin, physical handicap, disability, genetic information, or any other consideration made unlawful by federal, state, or local laws. All such discrimination is unlawful and Contractor agrees during the term of the contract that Contractor will strictly adhere to this policy in its employment practices and provision of services. Contractor shall comply with, and all activities under this contract shall be subject to, all applicable federal, State of Mississippi, and local laws and regulations, as now existing and as may be amended or modified.

9. STOP WORK ORDER

- a. *Order to Stop Work:* The Procurement Officer, may, by written order to Contractor at any time, and without notice to any surety, require Contractor to stop all or any part of the work called for by this contract. This order shall be for a specified period not exceeding 90 days after the order is delivered to Contractor, unless the parties agree to any further period. Any such order shall be identified specifically as a stop work order issued pursuant to this clause. Upon receipt of such an order, Contractor shall forthwith comply with its terms and take all reasonable steps to minimize the occurrence of costs allocable to the work covered by the order during the period of work stoppage. Before the stop work order expires, or within any further period to which the parties shall have agreed, the Procurement Officer shall either:
 - i. cancel the stop work order; or,

- ii. terminate the work covered by such order as provided in the Termination for Default clause or the Termination for Convenience clause of this contract.
- b. *Cancellation or Expiration of the Order:* If a stop work order issued under this clause is canceled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, Contractor shall have the right to resume work. An appropriate adjustment shall be made in the delivery schedule or Contractor price, or both, and the contract shall be modified in writing accordingly, if:
 - i. the stop work order results in an increase in the time required for, or in Contractor's cost properly allocable to, the performance of any part of this contract; and,
 - ii. Contractor asserts a claim for such an adjustment within 30 days after the end of the period of work stoppage; provided that, if the Procurement Officer decides that the facts justify such action, any such claim asserted may be received and acted upon at any time prior to final payment under this contract.
- c. *Termination of Stopped Work:* If a stop work order is not canceled and the work covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop work order shall be allowed by adjustment or otherwise.
- d. *Adjustments of Price:* Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment clause of this contract.

10. E-PAYMENT

Contractor agrees to accept all payments in United States currency via the State of Mississippi's electronic payment and remittance vehicle. The agency agrees to make payment in accordance with Mississippi law on "Timely Payments for Purchases by Public Bodies," which generally provides for payment of undisputed amounts by the agency within forty-five (45) days of receipt of invoice. Mississippi Code Annotated § 31-7-305.

11. E-VERIFICATION

If applicable, contractor represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act of 2008, and will register and participate in the status verification system for all newly hired employees. Mississippi Code Annotated §§ 71-11-1 et seq. The term "employee" as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor agrees to

maintain records of such compliance. Upon request of the State and after approval of the Social Security Administration or Department of Homeland Security when required, Contractor agrees to provide a copy of each such verification. Contractor further represents and warrants that any person assigned to perform services hereafter meets the employment eligibility requirements of all immigration laws. The breach of this contract may subject Contractor to the following:

- i. termination of this contract for services and ineligibility for any state or public contract in Mississippi for up to three (3) years with notice of such cancellation/termination being made public;
- ii. the loss of any license, permit, certification or other document granted to Contractor by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year; or,
- iii. both in the event of such cancellation/termination, Contractor would also be liable for any additional costs incurred by the State due to Contract cancellation or loss of license or permit to do business in the State.

12. TRANSPARENCY

This contract, including any accompanying exhibits, attachments, and appendices, is subject to the "Mississippi Public Records Act of 1983," and its exceptions. See Mississippi Code Annotated §§ 25-61-1 et seq. and Mississippi Code Annotated § 79-23-1. In addition, this contract is subject to the provisions of the Mississippi Accountability and Transparency Act of 2008. Mississippi Code Annotated §§ 27-104-151 et seq. Unless exempted from disclosure due to a court-issued protective order, a copy of this executed contract is required to be posted to the Department of Finance and Administration's independent agency contract website for public access at <http://www.transparency.mississippi.gov>. Information identified by Contractor as trade secrets, or other proprietary information, including confidential vendor information or any other information which is required confidential by state or federal law or outside the applicable freedom of information statutes, will be redacted.

13. PAYMODE

Payments by state agencies using the State's accounting system shall be made and remittance information provided electronically as directed by the State. These payments shall be deposited into the bank account of Contractor's choice. The State may, at its sole discretion, require Contractor to electronically submit invoices and supporting documentation at any time during the term of this Contract. Contractor understands and agrees that the State is exempt from the payment of taxes. All payments shall be in United States currency.

14. TERMINATION FOR CONVENIENCE

- a. *Termination.* The Agency Head or designee may, when the interests of the State so require, terminate this contract in whole or in part, for the convenience of the State. The Agency Head or designee shall give written notice of the termination to Contractor specifying the part of the contract terminated and when termination becomes effective.
- b. *Contractor's Obligations.* Contractor shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination Contractor will stop work to the extent specified. Contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work. Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The Agency Head or designee may direct Contractor to assign Contractor's right, title, and interest under terminated orders or subcontracts to the State. Contractor must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.

15. TERMINATION FOR DEFAULT

- a. *Default.* If Contractor refuses or fails to perform any of the provisions of this contract with such diligence as will ensure its completion within the time specified in this contract or any extension thereof, or otherwise fails to timely satisfy the contract provisions, or commits any other substantial breach of this contract, the Agency Head or designee may notify Contractor in writing of the delay or nonperformance and if not cured in ten (10) days or any longer time specified in writing by the Agency Head or designee, such officer may terminate Contractor's right to proceed with the contract or such part of the contract as to which there has been delay or a failure to properly perform. In the event of termination in whole or in part, the Agency Head or designee may procure similar supplies or services in a manner and upon terms deemed appropriate by the Agency Head or designee. Contractor shall continue performance of the contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services.
- b. *Contractor's Duties.* Notwithstanding termination of the contract and subject to any directions from the procurement officer, Contractor shall take timely, reasonable, and necessary action to protect and preserve property in the possession of Contractor in which the State has an interest.
- c. *Compensation.* Payment for completed services delivered and accepted by the State shall be at the contract price. The State may withhold from amounts due Contractor such sums as the Agency Head or designee deems to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders and to reimburse the State for the excess costs incurred in procuring similar goods and services.
- d. *Excuse for Nonperformance or Delayed Performance.* Except with respect to defaults of subcontractors, Contractor shall not be in default by reason of any failure in performance of this contract in accordance with its terms (including any failure by Contractor to make

progress in the prosecution of the work hereunder which endangers such performance) if Contractor has notified the Agency Head or designee within 15 days after the cause of the delay and the failure arises out of causes such as: acts of God; acts of the public enemy; acts of the State and any other governmental entity in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. If the failure to perform is caused by the failure of a subcontractor to perform or to make progress, and if such failure arises out of causes similar to those set forth above, Contractor shall not be deemed to be in default, unless the services to be furnished by the subcontractor were reasonably obtainable from other sources in sufficient time to permit Contractor to meet the contract requirements. Upon request of Contractor, the Agency Head or designee shall ascertain the facts and extent of such failure, and, if such officer determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, Contractor's progress and performance would have met the terms of the contract, the delivery schedule shall be revised accordingly, subject to the rights of the State under the clause entitled (in fixed-price contracts, "Termination for Convenience," in cost-reimbursement contracts, "Termination"). PSCRB Rules and Regulations Page 142 Effective Date 4/15/2016 (As used in this Paragraph of this clause, the term "subcontractor" means subcontractor at any tier).

- e. *Erroneous Termination for Default.* If, after notice of termination of Contractor's right to proceed under the provisions of this clause, it is determined for any reason that the contract was not in default under the provisions of this clause, or that the delay was excusable under the provisions of Paragraph (4) (Excuse for Nonperformance or Delayed Performance) of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of the State, be the same as if the notice of termination had been issued pursuant to such clause.
- f. *Additional Rights and Remedies.* The rights and remedies provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

16. TERMINATION UPON BANKRUPTCY

This contract may be terminated in whole or in part by [agency] upon written notice to Contractor, if Contractor should become the subject of bankruptcy or receivership proceedings, whether voluntary or involuntary, or upon the execution by Contractor of an assignment for the benefit of its creditors. In the event of such termination, Contractor shall be entitled to recover just and equitable compensation for satisfactory work performed under this contract, but in no case shall said compensation exceed the total contract price.

17. MODIFICATION OR RENEGOTIATION

This Contract may be modified only by written agreement signed by the parties hereto. The parties agree to renegotiate the contract if Federal and/or State revisions of any applicable laws or regulations make changes in this Contract necessary.

18. CHANGE IN SCOPE OF WORK

The MDA may order changes in the work consisting of additions, deletions, or other revisions within the general scope of the Contract. No claims may be made by the Contractor that the scope of the project or of the Contractor's services has been changed, requiring changes to the amount of compensation to the Contractor, or other adjustments to the Contract, unless such changes or adjustments have been made by written amendment to the Contract signed by the MDA and the Contractor.

If the Contractor believes that any particular work is not within the scope of the project, is a material change, or will otherwise require more compensation to the Contractor, the Contractor must immediately notify the MDA in writing of this belief. If the MDA believes that the particular work is within the scope of the Contract as written, the Contractor will be ordered to and shall continue with the work as changed and at the cost stated for the work within the Scope of Services

19. ANTI-ASSIGNMENT/SUBCONTRACTING

The Contractor acknowledges that it was selected by the MDA to perform the services required hereunder based, in part, upon the Contractor's special skills and expertise. The Contractor shall not assign, subcontract or otherwise transfer this Contract in whole or in part without the prior written consent of the MDA, which the MDA may, in its sole discretion, approve or deny without reason. Any attempted assignment or transfer of its obligations without such consent shall be null and void. No such approval by the MDA of any subcontract shall be deemed in any way to provide for the incurrence of any obligation of the MDA in addition to the total fixed price agreed upon in this Contract. Subcontracts shall be subject to the terms and conditions of this Contract and to any conditions of approval that the MDA may deem necessary. Subject to the foregoing, this Contract shall be binding upon the respective successors and assigns of the parties.

20. INTEREST OF THE CONTRACTOR AND THE CONTRACTOR'S EMPLOYEES

The Contractor covenants that neither it nor its employees presently have any interest and will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract. The Contractor further covenants that in the performance of this Contract, no person having such interest will be employed.

21. CONFIDENTIAL INFORMATION

Notwithstanding any provision to the contrary contained herein, it is recognized that Mississippi Development Authority is a public agency of the State of Mississippi and is subject to the Mississippi Public Records Act. Mississippi Code Annotated §§ 25-61-1 et seq. If a public

records request is made for any information provided to Mississippi Development Authority pursuant to the contract and designated by the Contractor in writing as trade secrets or other proprietary confidential information, Mississippi Development Authority shall follow the provisions of Mississippi Code Annotated §§ 25-61-9 and 79-23-1 before disclosing such information. The Mississippi Development Authority shall not be liable to the Contractor for disclosure of information required by court order or required by law.

"Confidential Information" shall mean (a) those materials, documents, data, and other information which the Contractor has designated in writing as proprietary and confidential, and (b) all data and information which the Contractor acquires as a result of its contact with and efforts on behalf of the Mississippi Development Authority and any other information designated in writing as confidential by the Mississippi Development Authority. Each party to this Contract agrees to protect all confidential information provided by one party to the other; to treat all such confidential information as confidential to the extent that confidential treatment is allowed under State and/or Federal law and, except as otherwise required by law, not to publish or disclose such information to any third party without the other party's written permission, and to do so by using those methods and procedures normally used to protect the party's own confidential information. Any liability resulting from the wrongful disclosure of confidential information on the part of the Contractor or its Subcontractor shall rest with Contractor. Disclosure of any confidential information by the Contractor or its Subcontractor(s) without the express written approval of the Mississippi Development Authority shall result in the immediate termination of this Contract.

22. OFFICIALS NOT TO BENEFIT

No member of or delegate to the Congress of the United States of America, and no Resident Commission will be admitted to any share or part thereof or to any benefit to arise here from.

23. OWNERSHIP OF DOCUMENTS AND WORK PAPERS

The MDA shall own all documents, files, reports, work papers and working documentation, electronic or otherwise, created in connection with the project which is the subject of this Contract, except for the Contractor's internal administrative and quality assurance files and internal project correspondence. The Contractor shall deliver such documents and work papers to MDA upon termination or completion of this Contract. The foregoing notwithstanding, the Contractor shall be entitled to retain a set of such work papers for its files. Contractor shall be entitled to use such work papers only after receiving written permission from MDA and subject to any copyright protections.

24. RECORD RETENTION AND ACCESS TO RECORDS

Provided the Contractor is given reasonable advance written notice and such inspection is made during normal business hours of the Contractor, the MDA or any duly authorized representatives, shall have unimpeded, prompt access to any of the Contractor's books,

documents, papers, and/or records which are maintained or produced as a result of the project for the purpose of making audits, examinations, excerpts, and transcriptions. The Contractor shall retain all records related to this Contract for three (3) years after final payment is made under this Contract and all pending matters are closed. However, if any audit, litigation or other action arising out of or related in any way to this project is commenced before the end of the three (3) year period, the records shall be retained for one (1) year after all issues arising out of the action are finally resolved or until the end of the three (3) year period, whichever is later.

25. PERSONNEL

The Contractor represents that it has, or will secure, at its own expense, all personnel required in performing the services under this Contract. Such personnel will not be employees of, or have any contractual relationship with the MDA. All of the services required hereunder will be performed by the Contractor under its supervision, and all personnel engaged in the work will be fully qualified and will be authorized or permitted under State and local law to perform such service

26. RIGHT TO INSPECT FACILITY

The MDA may at reasonable times, inspect the place of business of a Contractor or any Subcontractor, which is related to the performance of any contract awarded by the MDA.

27. DISPUTES

Any dispute concerning a question of fact under this Contract, which is not disposed of by agreement of the parties, shall be decided by the Executive Director of the MDA or his designee. This decision shall be reduced to writing and a copy thereof mailed or furnished to the parties. Disagreement with such decision by either party shall not constitute breach under the terms of this Contract. Such disagreeing party shall be entitled to seek such other rights and remedies it may have at law or in equity.

28. WAIVER

No delay or omission by either party to this Contract in exercising any right, power, or remedy hereunder or otherwise afforded by contract, at law, or in equity shall constitute an acquiescence therein, impair any other right, power or remedy hereunder or otherwise afforded by any means, or operate as a waiver of such right, power, or remedy. No waiver by either party to this Contract shall be valid unless set forth in writing by the party making said waiver. No waiver of or modification to any term or condition of this Contract will void, waive, or change any other term or condition. No waiver by one party to this Contract of a default by the other party will imply, be construed as or require waiver of future or other defaults.

29. SEVERABILITY

If any part of this Contract is declared to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision of the Contract that can be given effect without the invalid or unenforceable provision, and to this end, the provisions hereof are severable. In such event, the parties shall amend the Contract as necessary to reflect the original intent of the parties, and to bring any invalid or unenforceable provisions in compliance with applicable law.

30. INDEMNIFICATION

To the fullest extent allowed by law, the Contractor will indemnify, defend, save and hold harmless, protect, and exonerate the State of Mississippi and the MDA from and against all claims, demands, liabilities, suits, actions damages, losses, and any costs related thereto, including, without limitation, court costs, investigative fees and expenses, and attorneys' fees resulting from any negligent acts or misconduct of the Contractor, its agents, or employees.

31. INTEGRATED AGREEMENT/MERGER

This Contract, including all contract documents, represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations, or agreements, irrespective of whether written or oral. This Contract may be altered, amended, or modified only by a written document executed by the MDA and the Contractor. The Contractor acknowledges that it has thoroughly read all Contract documents and has had the opportunity to receive competent advice and counsel necessary for it to form a full and complete understanding of all rights and obligations herein. Accordingly, this Contract shall not be construed or interpreted in favor of or against the MDA or the Contractor on the basis of draftsmanship or preparation hereof.

32. ORAL STATEMENTS

No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in this Contract. The MDA must make all modifications to the Contract in writing.

33. THIRD PARTY ACTION NOTIFICATION

Contractor shall give the MDA prompt notice in writing of any action or suit filed, and prompt notice of any claim against the Contractor by any entity that may result in litigation related in any way to this Contract.

34. INDEPENDENT CONTRACTOR STATUS

The Contractor shall, at all times, be regarded as and shall be legally considered an independent Contractor and shall at no time act as an agent for the MDA. Nothing contained herein shall be deemed or construed by the MDA, the Contractor, or any third party as creating the relationship

of principal and agent, master and servant, partners, joint venturers, employer and employee, or any similar such relationship between the MDA and the Contractor. Neither the method of computation of fees or other charges, nor any other provision contained herein, nor any acts of the MDA or the Contractor hereunder, creates or shall be deemed to create a relationship other than the independent relationship of the MDA and the Contractor. Contractor's personnel shall not be deemed in any way, directly or indirectly, expressly or by implication, to be employees of the MDA. Neither the Contractor nor its employees shall, under any circumstances, be considered servants, agents, or employees of the MDA; and MDA shall be at no time legally responsible for any negligence or other wrongdoing by the Contractor, its servants, agents, or employees. The MDA shall not withhold from the contract payments to the Contractor any federal or Mississippi unemployment taxes, federal or Mississippi income taxes, Social Security tax, or any other amounts for benefits to the Contractor. Further, the MDA shall not provide to the Contractor any insurance coverage or other benefits, including Workers' Compensation, normally provided by the State of Mississippi for its employees.

35. NON-EXCLUSIVITY

Nothing herein is intended nor shall be construed as creating any exclusive arrangement with the Contractor. This Contract shall not restrict the MDA from acquiring other services for projects specific in scope.

36. ACKNOWLEDGMENT OF AMENDMENTS

Bidders shall acknowledge receipt of any amendment to the solicitation by signing and returning the amendment with the bid, by identifying the amendment number and date in the space provided for this purpose on the bid form, or by letter. The acknowledgment must be received by the MDA at the time and place specified for receipt of bids.

37. CERTIFICATION OF INDEPENDENT PRICE DETERMINATION

The bidder certifies that the prices submitted in response to the solicitation have been arrived at independently and without, for the purpose of restricting competition, any consultation communication, or agreement with any other bidder or competitor relating to those prices, the intention to submit a bid, or the methods or factors used to calculate the prices bid.

38. PROSPECTIVE CONTRACTOR'S REPRESENTATION REGARDING CONTINGENT FEES

The prospective Contractor represents as a part of such Contractor's bid or proposal that such Contractor has/has not retained any person or agency on a percentage, commission, or other contingent arrangement to secure this contract

Attachment F

Minimum Information Checklist

Each proposer shall include the attached checklist identifying the page number where each of the minimum information required is located in the submitted proposal. This checklist shall be placed in front of the "Cost Data" page(s) in the proposal.

| Included Write Y or N | Page Number | Minimum Information Required |
|--------------------------|----------------|--|
| | | The name of the Offeror, the location of the Offeror's principal place of business and, if different, the place of performance of the proposed contract. |
| | | The age of the Offeror's business and average number of employees over the past 3 years. |
| | | The abilities, qualifications, and experience of all persons who would be assigned to provide the required services. |
| | | A listing of other contracts under which services similar in scope, size, or discipline to the required services were performed or undertaken within the past 3 years. |
| | | A plan giving as much details as is practical explaining how the services will be performed. |