

REQUEST FOR PROPOSALS

**Bid #06-2020
Instructional Supplies and Software
2020**

**Hattiesburg Public School District
Attn: Eunice Coleman, Purchasing Clerk
301 Mamie Street
Hattiesburg, MS 39401**

Contact:

**Mrs. Carrie Hornsby, Director of Federal Programs
Phone: 601-582-5078 Fax: 601-582-6666
Email: carrie.hornsby@hattiesburgpsd.com**

Due Date: April 21, 2020 by 9:00 a.m.

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PROPOSAL TRANSMITTAL FORM

Instructional Supplies and Software 2020

Name of Vendor: _____

Contact Person: _____

Title: _____

Location of Vendor's Principal Place of Business:

Location of Place of Performance (if different from above):

Phone Number: _____ **Fax Number:** _____

Mailing Address: _____

By my signature below, I hereby represent that I am authorized to and do bind the offering vendor to the provisions of the attached proposal. The undersigned offers and agrees to perform the specified personal and professional services in accordance with provisions set forth in the Request for Proposals (RFP). Furthermore, the undersigned fully understands and assures compliance with the Conditions of Solicitation and Standard Terms and Conditions contained in the RFP. The undersigned is fully aware of the evaluation criteria to be utilized in awarding the contract.

Authorized Signature

Date

Proposal Due Date: April 21, 2020, 9:00 a.m., Central Time (CST)

Hattiesburg Public School District, Attn: Ms. Eunice Coleman

Instructional Supplies and Software 2020

See page number [6] for delivery addresses

REQUEST FOR PROPOSALS – HATTIESBURG PUBLIC SCHOOL DISTRICT

The Hattiesburg Public School District is requesting sealed request for proposals (RFP) from qualified vendors in the area of instructional materials/supplies and online software. The instructional materials and online software may include print materials, textbooks, workbooks, resources, and online learning programs that meet the Mississippi State Standards. Professional development services should be included as well if needed. Specific services requested include, but are not limited to:

- * Standards-based aligned lessons for ELA and Math in grades K-8
- * K-8 online learning program designed to provide blended instruction for ELA and Math
- * Progress monitoring for K-8 ELA and Math
- * Online capability to create individualized learning paths in ELA and Math
- * Online program compatible with other educational systems used in HPSPD
- * Evidence of effectiveness in other Mississippi school districts
- * Professional development as needed
- * Other as determined by administration

A. REQUEST FOR INFORMATION

Questions concerning the RFP should be sent to:

Mrs. Carrie Hornsby, at carrie.hornsby@hattiesburgpsd.com

The deadline for submitting written questions by email is Tuesday, April 14, 2020, at 10:00 a.m. All responses to written questions and changes to specification requirements will be communicated via e-mail to the person submitting questions.

All questions, comments, and requests for clarifications must be in writing. Only written response to written communication shall be considered official and binding upon HPSPD. HPSPD reserves the right, as its sole discretion, to determine appropriate and adequate responses to the written comments, questions, and request for clarification.

A list of questions, if any, will be compiled and the responses will be sent to all bidders with email addresses on file by Thursday, April 16, 2020.

B. DUE DATES FOR PROPOSAL

One (1) **original** proposal and four (4) copies must be received by 9:00 a.m. Central Time (CST) on April 21, 2020, at the following address based upon the delivery method used:

Hand Deliver Proposals to: Eunice Coleman
Hattiesburg Public School District
301 Mamie Street
Hattiesburg, MS 39401

Mail or Ship Proposals to: Eunice Coleman
Hattiesburg Public School District
301 Mamie Street
Hattiesburg, MS 39401

Bidders have an option to submit proposals electronically. Any bidder preferring to submit their bid electronically rather than a sealed bid can do so by submitting the bid at www.centralbidding.com. For questions relating to the electronic bidding process, please call Central Bidding at 225-810-4814. Electronic submittal of bids is not required.

C. RESPONSIBILITY OF THE OFFERING VENDOR

- Ensure that the competitive proposals are delivered by the deadline and assumes all risks of delivery.
- Upon receipt, the sealed proposals will be stamped and dated.
- Proposals and modifications received at 301 Mamie Street, Hattiesburg, MS after the time designated in the RFP will be considered **late** and will not be accepted or considered for award.
- Incomplete proposals will not be evaluated and will not be returned for revisions. No late, faxed or emailed copies will be accepted.
- Proposals that do not include the required number of copies will not be evaluated.
- The proposal transmittal form must be signed by an authorized official to bind the offering vendor to the proposal provisions.

D. SCOPE OF WORK AND RESPONSIBILITIES

Hattiesburg Public School District is seeking proposals for instructional supplies and online software (See above). The supplies and software will be needed at seven schools in HPSD.

Background

Schools to be served: Grace Christian Elementary, Hawkins Elementary, Rowan Elementary, Thames Elementary, Woodley Elementary, Lillie Burney STEAM Academy, N.R. Burger Middle School.

Grace Christian Elementary – 350 students
Hawkins Elementary – 320 students
Rowan Elementary – 400 students
Thames Elementary – 425 students
Woodley Elementary – 450 students
Lillie Burney STEAM Academy – 325 students
N.R. Burger Middle – 600 students

Scope of Services

The Hattiesburg Public School District expects the selected vendor to provide instructional materials and online software that meets the following:

- * Standards-based aligned lessons for ELA and Math in grades K-8
- * K-8 online learning program designed to provide blended instruction for ELA and Math
- * Progress monitoring for K-8 ELA and Math
- * Online capability to create individualized learning paths in ELA and Math
- * Online program compatible with other educational systems used in HPSPD
- * Evidence of effectiveness in other Mississippi school districts
- * Professional development as needed
- * Other as determined by administration

E. TIME FRAME

The contract will become effective on the date it is signed by all parties and will end no later than June 15, 2021. This contract may be extended for an additional year per extension for up to two additional years at the sole discretion of the Hattiesburg Public School District and the grantor agency (Mississippi Department of Education). A contract will be awarded to the vendor whose proposal is determined to be the most advantageous to the district, taking into consideration the price and the evaluation factors set forth in the RFP.

F. TYPE OF CONTRACT

It is anticipated that this contract will be a fixed price contract with payment made upon completion of tasks identified within the proposal.

G. CONTRACTOR REQUIREMENTS

The contractor will be responsible for all tasks required to complete the project as described in the Scope of Work.

H. FORMAT AND PROCEDURE FOR DELIVERY OF PROPOSAL

The proposal will consist of seven parts: Part I – Proposal Transmittal Form; Part II – Vendor Profile; Part III – Proposed Plan; Part IV – Budget; Part V – Standard Terms and Conditions; Part VI – Prospective Contractor's Representation Regarding Contingent Fees Form and Part VII – Proprietary Information Form.

- **Part I** is the Proposal Transmittal Form, which shall serve as the cover page of the offering vendor's proposal. The offering vendor shall complete the form and attach to the proposal in response to the RFP.

- **Part II** is the Vendor Profile, which shall provide satisfactory evidence of the vendor's capability to manage and coordinate the types of activities and to provide the services described in this RFP in a timely manner. Special attention should be given to the qualifications listed in the Qualifications section of this RFP. A discussion shall include a description of the vendor's background and relevant experience as related to the described activities. A description and details of the relevant experience shall be included. A minimum of three (3) references and resumes of all personnel to be assigned to the project shall be provided. References will be contacted and interviewed according to services provided. Samples of previous work may be included.
- **Part III** is the Proposed Plan Proposal that shall provide a detailed plan describing how the services will be performed to meet the requirements of the RFP. The description shall encompass the requirements of Part I and Part II of this RFP. The proposal must detail the number of staff proposed, include a detailed plan of how each will be included in the process, and provide documentation of each staff member's expertise in the content area assigned. The proposal shall include a detailed timeline of services that is prepared and organized in a clear and concise manner and is easily understandable. The proposal shall address the tasks to be accomplished, processes to be undertaken to accomplish those tasks and a proposed timeline for completion. Examples of materials that demonstrate the quality of work completed by the vendor on similar projects should be included. Offering vendors must designate those portions of the proposals which contain trade secrets or other proprietary data which may remain confidential in accordance with Sections 25-61-9 and 79-23-1 of the Mississippi Code.
- **Part IV** is the Budget that shall include the cost proposal and must encompass all requirements of this RFP. In order to be considered, vendors must submit a proposal that includes the budget narrative/cost proposal that addresses all costs for services, expenses, and products specified in the RFP. The budget narrative is a maximum cost. The HPSPD will not pay any costs above this amount. A detailed budget narrative shall be included. Indirect costs will not be allowed. The budget narrative should include all costs associated with the project. A unit price at a full day's rate shall be given for each service and such unit price shall be the same throughout the proposal. The Budget Summary form shall be completed and shall accompany the proposal.
- **Part V** is the Standard Terms and Conditions section where the Vendor shall indicate agreement with the terms and conditions as set forth on page number [16-23] of the RFP. If the Vendor objects to any of the terms and conditions, the Vendor shall so state and shall indicate any revisions desired by the Vendor. Please note that any revisions may be considered adequate cause for rejection of the proposal.
- **Part VI** is the Prospective Contractor's Representation Regarding Contingent Fees Form which must be completed and attached to the proposal in response to the RFP.
- **Part VII** is the Proprietary Information Form which must be completed and attached to the proposal in response to the RFP.

I. ACCEPTANCE OF PROPOSALS

The HPSPD 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 price of the proposal, or give one party an advantage or benefit not enjoyed by other parties, or adversely impacts the

interest of HPSPD. 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.

HPSPD reserves the right to award the proposal (or portions) to more than one vendor.

J. REJECTION OF PROPOSALS

Any proposal shall be rejected in whole or in part when it is determined to be in the best interest of the HPSPD. Reasons for rejecting a proposal include, but are not limited to:

1. The proposal contains unauthorized amendments to the requirements of the RFP.
2. The proposal is conditional.
3. The proposal is incomplete or contains irregularities, which make the proposal indefinite or ambiguous.
4. The proposal is not signed by an authorized representative of the party.
5. The proposal contains false or misleading statements or references.
6. The offering vendor is determined to be non-responsive.
7. The proposal price is clearly unreasonable.
8. The products or service item offered in the proposal is unacceptable by reason of its failure to meet the requirements of the specifications or permissible alternates or other acceptable criteria set forth in the RFP.
9. The required number of proposals was not submitted.

EXCEPTIONS:

The HPSPD reserves the right to reject any and all proposals, to negotiate with the best proposed offering vendor to address issues other than those described in the proposal, to award a contract to other than the low offering vendor, or not to make any award if it is determined to be in the best interest of the HPSPD.

K. DISPOSITION OF PROPOSALS

All submitted proposals become the property of HPSPD and will not be returned to the offering vendor.

L. CONDITIONS OF SOLICITATION

The release of the RFP does not constitute an acceptance of any offer, nor does such release in any way obligate the HPSPD to execute a contract with any other party.

The offering vendor shall assure compliance with the following conditions of solicitation:

1. Any proposal submitted in response to the RFP shall be in writing.

2. The HPSD will not be liable for any costs associated with the preparation of proposals or negotiations of contract incurred by any party.
3. The award of a contract for any proposal is contingent upon the following:
 - Favorable evaluation of the proposal,
 - Approval of the proposal by the HPSD
 - Successful negotiation of any changes to the proposal as required by HPSD
 - HPSD Board of Trustees approval
4. Likewise, the HPSD also reserves the right to accept any proposal as submitted for contract award, without substantive negotiation of offered terms, services, or prices. Therefore, all parties are advised to propose their most favorable terms initially. Discussions may be conducted with offering vendors who submit proposals determined to be reasonably susceptible of being selected for the award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements, but proposals may be accepted without such discussions.
5. Any proposal received after the time and date set for receipt of proposals is late. Any withdrawal or modification of a proposal received after the time and date set for receipt of proposals at the place designated for receipt is late. No late proposal, late modification, or late withdrawal will be considered.
6. 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 Hattiesburg Public School District by the time and at the place specified for receipt of bids.
7. 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 bid prices.
8. HPSD reserves the right to cancel the contract, at any time, with ten days prior written notice. The contract awarded under this Request for Proposal (RFP) is contingent on the availability of funds to HPSD for this project. In the event funds are not available, any contract resulting from this RFP will become void immediately.
9. HPSD reserves the right to award the entire contract to one vendor or to award the separate contracts based on the rubrics (disciplines) to multiple vendors based on the outcome of the evaluation process.
10. Contract Agreement – The successful contractor(s) will be required to enter into an Agreement with HPSD for the completion of this project. Where no formal contract is required, the specifications of this proposal and the purchase order issued to the

contractor will serve as the contract, with all terms of this proposal presumed to be integrated into the purchase order. Any contract approved must include meeting all requirements submitted as part of the proposal.

11. The HPSPD will be responsible for:

- a. Providing a contact person to work with the successful contractor(s) to ensure quality control,
- b. Provide and approve time frames, work plans supported by approved purchase orders, and
- c. Provide available information to assist the contractor.

M. QUALIFICATIONS

The offering vendor shall provide the following minimum information:

- The name of the offering vendor, the location of the offering vendor's principal place of business and, if different, the place of performance of the proposed contract;
- The age of the offering vendor's business and average number of employees over the past three years, as specified in the Request for Proposal;
- 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 three years, as specified in the Request for Proposal; and,
- A plan giving as much detail as is practical explaining how the services will be performed.

N. CRITERIA FOR EVALUATION OF PROPOSALS

The HPSPD reserves the right to accept, reject, or negotiate any or all offers on the basis of the evaluation criteria contained within this document. The final decision to execute a contract with any party rests solely with the HPSPD.

Proposals submitted by the specified time and containing the seven parts described in the Format and Procedure for Delivery of Proposal section shall be evaluated by an Evaluation Committee selected by the HPSPD. The specific criteria that will be used in evaluating the merits of the proposals are listed below. The criteria are weighted to yield a total of 100 points and shall include the following:

1. Products Offered— 30 points
2. Program Operations – 25 points
3. Record of Past Performance – 30 points
4. Cost Effectiveness – 15 points

Awards shall be made to the responsible offering vendor whose proposal is determined to be the most advantageous to the HPSPD, taking into consideration the price and the evaluation factors set forth. Results of the evaluation and the recommendation of the evaluation team will be forwarded to the superintendent for approval.

***Vendors are allowed to submit proposals for partial services if not able to offer services for all areas indicated.**

RFP Scoring Rubric

Proposal Number _____ Company Name _____

Evaluation of proposals will be based upon the following criteria. Maximum points for each category are indicated. Vendors must include supporting evidence for each of the requirements listed below in their responses. If the specific requirement does not apply to the particular product / material / resource proposed, please indicate as non-applicable (N/A).

1. PRODUCTS OFFERED			
Requirement	Evidence	30	
<ul style="list-style-type: none"> Standards-based aligned lessons in ELA and Math for grades K-8 (print materials) Online learning program designed to provide blended instruction in ELA and Math for grades K-8 Ability to progress monitor in ELA and Math in grades K-8 (print and online) Compatibility with current district programs 			
2. PROGRAM OPERATIONS			
Requirement	Evidence	25	
<ul style="list-style-type: none"> Adequacy of resources Delivery protocol and timelines Professional development offered Ongoing program support Instructional reports offered 			
3. RECORD OF PAST PERFORMANCE			
Requirement	Evidence	30	
<ul style="list-style-type: none"> Prior experience and success rate working in HPSD or other similar districts Integrity (products have been used in similar Mississippi school districts) Numbers of years in business Quality and completeness of proposal Organizational structure 			
4. COST EFFECTIVENESS			
Requirement	Evidence	15	
<ul style="list-style-type: none"> Total cost of proposal Service and support cost with detailed description of the rate of products/services Reasonableness of cost 			

Total 100 _____

Reviewer: _____

Date of review: _____

O. STANDARD TERMS AND CONDITIONS

Certain terms and conditions are required for contracting. Therefore, the offering vendor shall assure agreement and compliance with the following standard terms and conditions.

1. ACCESS TO RECORDS

The Contractor agrees that the HPSD, Mississippi Department of Education, United States Department of Education, the Comptroller General of the United States, or any of its duly authorized representatives at any time during the term of this agreement, shall have access to, and the right to audit and examine any pertinent books, documents, papers, and records of Contractor related to this specific contract for the purpose of making audit, examination, excerpts, or transcriptions. Such records shall be kept by Contractor for a period of three (3) years after final payments and all other pending matters are closed under this agreement. Contractor agrees to refund to the HPSD any overpayment disclosed by any such audit. However, if any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of 3-year period, the records shall be retained until completion of the action and resolution of all issues which arise from it.

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 law provisions, and any litigation with respect thereto shall be brought in the courts of the State. The Contractor shall comply with applicable federal, state, and local laws and regulations. In compliance with State law, the Contractor, if employed by a public entity, must make arrangements with his/her employer to take the appropriate leave (professional, etc.) during the period of service covered by the Contractor.

3. ASSIGNMENT

Contractor shall not assign or subcontract in whole or in part, its right or obligations under this agreement without prior written consent of the HPSD. Any attempted assignment without said consent shall be void and of no effect.

4. AUTHORITY TO CONTRACT

Contractor warrants (a) that it is a validly organized business with valid authority to enter into this agreement; (b) that it is qualified to do business and in good standing in the State of Mississippi; (c) that entry into and performance under this agreement is not restricted or prohibited by any loan, security, financing, contractual, or other agreement of any kind; and (d) notwithstanding any other provision of this agreement to the contrary, that there are no existing legal proceedings or prospective legal proceedings, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under this agreement.

5. COMPLIANCE WITH LAWS

The Contractor understands that the HPSD 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, or any other consideration made unlawful by federal,

state, or local laws. All such discrimination is unlawful and the Contractor agrees during the term of the agreement that the Contractor will strictly adhere to this policy in its employment practices and provision of services. The Contractor shall comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented by the Department of Labor. All activities under this agreement 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.

6. INDEPENDENT CONTRACTOR

The Contractor shall perform all services as an independent contractor and shall at no time act as an agent for the HPSD. No act performed or representation made, whether oral or written, by contractor with respect to third parties shall be binding on the HPSD.

7. COPYRIGHTS AND PATENTS

Contractor (i) agrees that the HPSD shall determine the disposition of the title to and the rights under any copyright or patent by Contractor or employees on copyrightable material first produced, composed, discovered or invented in the course of or under this agreement, and (ii) hereby grants to the HPSD a royalty free, nonexclusive, irrevocable license to reproduce, translate, publish, use and dispose of, and to authorize others to do so, all copyrighted or (copyrightable) work not first produced or composed by Contractor in the performance of this agreement, but which is incorporated in the material furnished under the agreement, provided that such license shall be only to the extent Contractor now has, or prior to the completion of full final settlements of agreement may acquire, the right to grant such license without becoming liable to pay compensation to others solely because of such grant.

Contractor further agrees that all material produced and/or delivered under this contract will not, to the best of the Contractor's knowledge, infringe upon the copyright, patent, or any other proprietary rights of any third party. Should any aspect of the materials become, or in the Contractor's opinion be likely to become, the subject of any infringement claim or suit, the Contractor shall procure the rights to such material or replace or modify the material to make it non-infringing.

8. DISCLOSURE OF CONFIDENTIAL INFORMATION

In the event that either party to this agreement receives notice that a third party requests divulgence of confidential or otherwise protected information and/or has served upon it a subpoena or other validly issued administrative or judicial process ordering divulgence of confidential or otherwise protected information that party shall promptly inform the other party and thereafter respond in conformity with such subpoena to the extent mandated by law. This section shall survive the termination or completion of this agreement. The parties agree that this section is subject to and superseded by Mississippi Code Ann. Section 25-61-1, *et seq.*

9. EXCEPTIONS TO CONFIDENTIAL INFORMATION

Contractor and the HPSD shall not be obligated to treat as confidential and proprietary any information disclosed by the other party ("the Disclosing Party") which (a) is rightfully known to the recipient prior to negotiations leading to this agreement, other than information obtained in confidence under prior engagements; (b) is generally known or easily ascertainable by non-parties of ordinary skill in the business of the customer; (c) is released by the Disclosing Party to

any other person, firm, or entity (including governmental agencies or bureaus) without restriction; (d) is independently developed by the recipient without any reliance on confidential information; (e) is or later becomes part of the public domain or may be lawfully obtained by the HPSPD or the Contractor from any non-party; or (f) is disclosed with the Disclosing Party's prior written consent.

10. MODIFICATION OR RENEGOTIATION

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

11. REPRESENTATION REGARDING CONTINGENT FEES

The 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 the Contractor's bid or proposal.

12. REPRESENTATION REGARDING GRATUITIES

The bidder, offering vendor, 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 7-204 (Gratuities) of the Mississippi Personal Service Contract Procurement Regulations.

13. AVAILABILITY OF FUNDS

It is expressly understood and agreed that the obligation of the HPSPD to proceed under this agreement is conditioned upon the appropriation of funds by the Mississippi State Legislature and receipt of state and/or federal funds. If the funds anticipated for the continuing fulfillment of the agreement 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 HPSPD, the HPSPD shall have the right upon ten (10) working days written notice to the Contractor, to terminate this agreement without damage, penalty, cost or expenses to the district of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.

14. STOP WORK ORDER

- (1) *Order to stop work.* The Purchasing Agent of HPSPD may by written order to the Contractor at any time, and without notice to any surety, require the 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 the 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, the Contractor shall forthwith comply with its terms and take all reasonable steps to minimize the occurrence of costs allocable to 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 Business Office of HPSPD shall either:
 - (a) cancel the stop work order; or

- (b) terminate the work covered by such order as provided in the Termination for Default Clause or the Termination for Convenience Clause of this contract.
- (2) *Cancellation or Expiration of the Order.* If a stop work order issued under this clause is cancelled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, the 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:
 - (a) the stop work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and
 - (b) the 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 of HPSPD 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.
- (3) *Termination of Stopped Work.* If a stop work order is not cancelled 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.
- (4) *Adjustment 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.

15. TERMINATION FOR DEFAULT

- (1) *Default.* If the 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 otherwise fails to timely satisfy the contract provisions, or commits any other substantial breach of this contract, the Purchasing Agent of HPSPD may notify the Contractor in writing of the delay or nonperformance and if not cured in ten days or any longer time specified in writing by the Purchasing Agent of HPSPD, such officer may terminate the 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 Purchasing Agent of HPSPD may procure similar supplies or services in a manner and upon terms deemed appropriate by the Purchasing Agent of HPSPD. The 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.
- (2) *Contractor's Duties.* Notwithstanding termination of the contract and subject to any directions from the Purchasing Agent of HPSPD, the Contractor shall take timely, reasonable, and necessary action to protect and preserve property in the possession of the Contractor in which the HPSPD has an interest.
- (3) *Compensation.* Payment for completed services delivered and accepted by the HPSPD shall be at the contract price. The HPSPD may withhold from amounts due the Contractor such sums as the Purchasing Agent of HPSPD deems to be necessary to protect the HPSPD against loss because of outstanding liens or

claims of former lien holders and to reimburse the HPSPD for the excess costs incurred in procuring similar goods and services.

- (4) *Excuse for Nonperformance or Delayed Performance.* Except with respect to defaults of Subcontractors, the 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 the Contractor to make progress in the prosecution of the work hereunder which endangers such performance) if the Contractor has notified the Purchasing Agent of HPSPD 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, the 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 the Contractor to meet the contract requirements.

Upon request of the Contractor, the Purchasing Agent of HPSPD 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, the 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 HPSPD under the clause entitled "Termination for Convenience." (As used in this Paragraph of this clause, the term "Subcontractor" means Subcontractor at any tier).

- (5) *Erroneous Termination for Default.* If, after notice of termination of the 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 HPSPD, be the same as if the notice of termination had been issued pursuant to such clause.
- (6) *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 FOR CONVENIENCE

- (1) *Termination.* The Purchasing Agent of HPSPD may, when the interests of the HPSPD so require, terminate this contract in whole or in part, for the convenience of the HPSPD. The Purchasing Agent of HPSPD shall give written notice of the termination to the Contractor specifying the part of the contract terminated and when termination becomes effective.

- (2) *Contractor's Obligations.* The Contractor shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination the Contractor will stop work to the extent specified. The Contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work. The Contractor shall settle the liabilities and claims arising out of the termination of subcontractors and orders connected with the terminated work. The Purchasing Agent of HPSD may direct the Contractor to assign the Contractor's right, title, and interest under terminated orders or subcontracts to the State. The Contractor must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.

17. E-VERIFICATION

The Contractor represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act, Mississippi Code Annotated §§ 71-11-1 and 71-11-3, and will register and participate in the status verification system for all newly hired employees. 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. The Contractor agrees to maintain records of such compliance and, upon request of the State, to provide a copy of each such verification to the State. The Contractor further represents and warrants that any person assigned to perform services hereafter meets the employment eligibility requirements of all immigration laws of these warranties, the breach of which may subject the Contractor to the following:

- a. termination of this Agreement 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;
- b. the loss of any license, permit, certification or other document granted to the Contractor by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year; or,
- c. both.

In the event of such termination/cancellation, the Contractor shall also be liable for any additional costs incurred by the HPSD due to contract cancellation or loss of license or permit.

18. EQUAL OPPORTUNITY EMPLOYER

The Contractor shall be an equal opportunity employer and shall perform to all affirmative action and other applicable requirements; accordingly, contractor shall neither discriminate nor permit discrimination in its operations or employment practices against any person or group of persons on the ground of race, color, religion, national origin, disability, or sex in any manner prohibited by law.

19. BOARD APPROVAL

It is understood that this contract is void and no payment shall be made in the event that the Board of Trustees does not approve this contract.

20. PERSONNEL

Contractor agrees that, at all times, the employees of contractor furnishing or performing any of the services specified under this agreement shall do so in a proper, workmanlike, and dignified manner.

21. CONFIDENTIALITY

The Contractor shall agree to assure the confidentiality of any records obtained from the HPSPD as required by state and federal privacy laws. No information, documents or other material provided to or prepared by the contractor deemed confidential by HPSPD pursuant to state and federal privacy laws, shall be made available to any person or organization without the prior approval of the HPSPD. Any liability resulting from the wrongful disclosure of confidential information on the part of the Contractor shall rest with the Contractor. This includes all student-related data and contractor is required to comply with all Family Educational Rights and Privacy Act (FERPA) provisions.

22. INDEMNIFICATION

To the fullest extent allowed by law, the Contractor shall indemnify, defend, save and hold harmless, protect and exonerate the members of the Mississippi Board of Education, the HPSPD, and its commission members, officers, employees, agents and representatives, and the State of Mississippi from and against all claims, demands, liabilities, suits, actions, damages, losses, and costs of every kind and nature whatsoever, including, without limitation, court costs, investigative fees and expenses, and attorneys' fees, arising out of or caused by the Contractor and/or its partners, principals, agents, employees and/or Subcontractors in the performance of or failure to perform this agreement. In the State's sole discretion, the Contractor may be allowed to control the defense of any such claim, suit, etc. In the event the Contractor defends said claim, suit, etc., the Contractor shall use legal counsel acceptable to the State; the Contractor shall be solely responsible for all costs and/or expenses associated with such defense, and the State shall be entitled to participate in said defense. The Contractor shall not settle any claim, suit, etc. without the HPSPD's concurrence, which the HPSPD shall not unreasonably withhold.

23. DEBARMENT AND SUSPENSION

The Contractor certifies that neither it nor its principals: (a) are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any federal department or agency; (b) have, within a three (3) year period preceding this agreement, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property; (c)

are presently indicted of or otherwise criminally or civilly charged by a governmental entity with the commission of fraud of a criminal offence in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property, and (d) have, within a three (3) year period preceding this agreement, had one or more public transaction (federal, state or local) terminated for cause or default. See Excluded Parties List System at www.epls.gov.

P. ROYALTIES AND PATENTS

The firm shall pay all royalties and license fees. The firm shall defend all suits or claims for infringement of any patent rights and shall hold the Hattiesburg Public School District harmless from such loss on account thereof.

Q. As a bidding vendor, we understand that all of these provisions must be strictly complied with in order to fulfill the contract.

FIRM _____

BY _____

TITLE _____

PART VI

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 () or has not () retained any person or agency on a percentage, commission, or other contingent arrangement to secure this contract.

Offering vendor Signature

Date

Title of Request for Proposal

*Please check appropriate response

PART VII

PROPRIETARY INFORMATION

The enclosed proposal does () or does not () contain trade secrets or other proprietary data which the offering vendor wishes to remain confidential in accordance with Section 25-61-9 and 79-23-1 of the Mississippi Code.

If the enclosed proposal does include pages that the offering vendor wishes to designate as proprietary, please list page numbers below.

Offering Vendor Signature

Date

Title of Request for Proposal

*Please check appropriate response