



**STATE OF MISSISSIPPI
DEPARTMENT OF CORRECTIONS
TOMMY TAYLOR
COMMISSIONER**

**Audrey McAfee
Deputy Administrator**

**Technology and Program Services
(601) 359-5636**

INVITATION FOR BIDS

IFB NUMBER: 3160003552

SMART NUMBER: 1551-20-R-IFBD-00007

To Provide: Interstate and Intrastate Prisoner Transport

Issue Date: March 31, 2020

CLOSING LOCATION

Mississippi Department of Corrections
301 N. Lamar Street
Jackson, MS 39201

BID COORDINATOR

Takesha Darby
(601) 359-5294
tdarby@mdoc.state.ms.us

CLOSING DATE AND TIME

Bids must be received by 10:00 a.m., April 30, 2020

SECTION 1

1.1 Bid Acceptance Period

For consideration, vendors must submit written bids either electronically via Mississippi's Accountability System for Government Information and Collaboration (MAGIC) or by mailing and/or hand-delivering an original and two (2) copies of the Bid Form, three (3) copies total, shall be signed and submitted in a sealed envelope to 301 N. Lamar Street, Jackson, Mississippi 39201, no later than the time and date specified for receipt of Bids. Timely submission of the Bid Form is the responsibility of the Bidder. Bids received after the specified timeframe shall be rejected in writing immediately and maintained in the agency procurement file. The envelope or package shall be marked with the Bid opening date and time, and the number of the invitation for bid. The time and date of receipt shall be indicated on the envelope or package by the bid coordinator. Each page of the Bid Form and all attachments shall be identified with the name of the Bidder. Failure to submit a Bid on the Bid Form provided shall be considered just cause for rejection of the Bid. Modifications or additions to any portion of the procurement document may be cause for rejection of the Bid. The Mississippi Department of Corrections reserves the right to decide, on a case-by-case basis, whether to reject a Bid with modifications or additions as non-responsive. As a precondition to Bid acceptance, the Mississippi Department of Corrections may request the Bidder to withdraw or modify those portions of the Bid deemed non-responsive that do not affect quality, quantity, price or delivery of the service.

1.1.1 Timeline

Invitation for Bid Issue Date:	March 31, 2020
2 nd Newspaper Advertisement Date:	April 7, 2020
Questions and Requests for Clarification Deadline:	April 17, 2020 no later than 4:00 p.m.
Anticipated Posting of Written Answers to Questions:	April 22, 2020
Bid Package Submission Deadline:	April 30, 2020 no later than 10:00 a.m.
Bid Opening:	May 1, 2020 at 10:00 a.m.
Anticipated Date of the Notice of Intent to Award:	May 12, 2020
Anticipated Post-Award Debriefing Request Due Date:	May 15, 2020 by 4:00 p.m.
Anticipated Post-Award Debriefing Held by Date:	May 20, 2020 by 4:00 p.m.
Anticipated Protest Deadline Date:	May 21, 2020 no later than 4:00 p.m.
Anticipated Deadline to submit contract to Office of Personal Service Contract Review:	June 3, 2020 by 5:00 p.m.
Anticipated Public Procurement Review Board Monthly Meeting:	July 1, 2020 at 9:00 a.m.
Anticipated Contract Start Date:	July 1, 2020

1.1.2 Late Submissions

A Bid received at the place designated in the solicitation for receipt of Bids after the exact time specified for receipt will not be considered unless it is the only Bid received, or it is received before award is made and was sent by registered or certified mail not later than the fifth (5th) calendar day before the date specified for receipt of Bids. It must be determined by the Mississippi Department of Corrections that the late receipt was due solely to mishandling by the Mississippi Department of Corrections after receipt at the specified address.

The only acceptable evidence to establish the date of mailing of a late Bid is the U.S. Postal Service postmark on the wrapper or on the original receipt from the U.S. Postal Service. If the postmark does not show a legible date, the contents of the envelope or package shall be processed as if mailed late. "Postmark" means a printed, stamped, or otherwise placed impression, exclusive of a postage meter impression, that is readily identifiable without further action as having been supplied and affixed by the U.S. Postal Service on the date of mailing. Bidders should request postal clerks to place a hand cancellation postmark (often called a bull's eye) on both the receipt and the envelope or wrapper.

The only acceptable evidence to establish the time of receipt at the office identified for Bid Opening is the time and date stamp of that office on the Bid wrapper or other documentary evidence of receipt used by that office.

1.2 Expenses Incurred in Preparing Bid

The Mississippi Department of Corrections accepts no responsibility for any expense incurred by the Bidder in the preparation and presentation of a Bid. Such expenses shall be borne exclusively by the Bidder.

1.3 Bid Form

All pricing must be submitted on the Bid Form (**Attachment B**). Failure to complete and/or sign the Bid Form may result in the Bidder being determined nonresponsive.

1.3.1 Bidder Certification

The Bidder agrees that submission of a signed Bid Form is certification that the Bidder will accept an award made to it as a result of the submission.

1.4 Registration with Mississippi Secretary of State

By submitting a Bid, the Bidder certifies that it is registered to do business in the State of Mississippi as prescribed by the Mississippi Secretary of State or, if not already registered, that it will do so within seven (7) business days of being offered an award. Sole proprietors are not required to register with the Mississippi Secretary of State.

1.5 Debarment

By submitting a Bid, the Bidder certifies that it is not currently debarred from submitting Bids for contracts issued by any political subdivision or agency of the State of Mississippi or Federal government and that it is not an agent of a person or entity that is currently debarred from submitting Bids for contracts issued by any political subdivision or agency

of the State of Mississippi.

1.6 Additional Information

Questions about the procurement document must be submitted in writing to Takesha Darby via email to tdarby@mdoc.state.ms.us. Bidders are cautioned that any statements made by contact person that materially change any portion of the Bid document shall not be relied upon unless subsequently ratified by a formal written amendment to the Bid document. All questions and requests for clarifications must be submitted by the deadline specified in Section 1.1.1 and made in writing. The person submitting the question or request for clarification is responsible for its timely delivery. All questions, request for clarifications, and answers received by the deadline shall be published on the Mississippi Procurement Opportunity Search Portal and on the agency website (<http://www.dfa.ms.gov/dfa-offices/personal-service-contract-review/>) in a manner that all will be able to view.

1.6.1 MAGIC Supplier (Vendor) Registration

The State of Mississippi has established the eProcurement system to streamline interactions between vendors and State government entities that purchase goods and services, and provide vendors the ability to register, get information on upcoming bids, and respond to bids electronically, and receive purchase orders electronically.

To determine whether you are a registered supplier (converted vendor) in MAGIC, go to the MAGIC Vendor Information (<http://merlin.state.ms.us/merlin/predef.nsf/MAGICVendorInfo?OpenForm>) page and follow the steps below:

- Enter the **first five characters** of your **Vendor Name** or your **11 digit SAAS Vendor Number**
- **Click Submit**

If you are a converted vendor, you will see your MAGIC Vendor Number, SAAS Vendor Number, Vendor Name, City, State, and Zip displayed. If your vendor information does not exist in MAGIC, you will see “The query you submitted returned no records.”

Converted vendors need to submit an email via mash@dfa.ms.gov to request a MAGIC User ID and Password. Enter “Vendor ID Request” as the email Subject, and include the following information in your email:

- MAGIC Vendor Number
- Vendor Name
- Contact Name
- Contact Email Address
- Contact Phone Number

If you are not a registered supplier and you wish to do business with the State of Mississippi, go to the website below to complete the online registration process:

https://sus.magic.ms.gov/sap/bc/webdynpro/sapsrm/wda_e_suco_sreg?sap-client=100#

If you attempt to complete the registration process and you are already a converted vendor in MAGIC, you will receive a duplicate error message. Please call the MMRS Call Center at (601) 359-1343, Option 2 for assistance in locating your vendor information.

A supplier contact change can be requested by completing the Supplier/Grantee Self-Service Request for Change form at the website below, and submitting the form by clicking on the Submit button in the upper right hand corner of the form. You can also fax the form to: (601) 359-6551.

<http://www.dfa.ms.gov/media/1688/state-of-mississippi-supplier-form-extended.pdf>

For additional MAGIC Supplier information, training and access to forms, go to the following website: <http://www.dfa.ms.gov/dfa-offices/mmrs/mississippi-suppliers-vendors/>

If you have a problem with any of the web addresses above, go to <http://www.dfa.ms.gov/>, click on “**DIRECT LINKS**” at the top of the screen, locate the **Vendor Services** section and click on “**MAGIC Vendor Services**”.

Instructions are provided in the “**MAGIC Supplier Self-Service Reference Guide**” and there are e-learning tutorial courses designed to assist vendors with navigating the MAGIC system. The courses can be found at: <http://www.dfa.ms.gov/dfa-offices/mmrs/mississippi-suppliers-vendors/>, click on “**Supplier Training**”, then select “**LOG800 Supplier Registration Course**” or “**LOG820 Supplier Self-Service Course**”.

1.7 Type of Contract

Compensation for services will be in the form of a Fixed-Price Contract.

1.8 Written Bids

All Bids shall be in writing.

1.9 Amendments to Invitations for Bids

Amendments to Invitation for Bids shall be sent to all prospective bidders known to have received an Invitation for Bids. The amendments will also be posted publicly on the Mississippi Contract/Procurement Opportunity Search Portal website and the Mississippi Department of Corrections website. The amendment shall reference the portions of the Invitation for Bids it amends. Amendment acknowledgement forms shall be obtained from the agency via verbal or electronic request. Bidders shall acknowledge receipt of any amendment to this 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 acknowledgement must be received by the Mississippi Department of Corrections by the time and at the place specified for receipt of bids.

SECTION 2

2.1 Purpose

The Mississippi Department of Corrections (MDOC) is requesting bids from qualified private transportation entities to provide interstate and intrastate prisoner transport services as per the scope of services. Prisoner transport services will be provided for persons held by out-of-state jurisdictions who are escapees, have violated the terms of their parole or probation, or for some other reason must be returned to MDOC. On occasion, MDOC may request intrastate transport services. MDOC does not guarantee any minimum number of transports, transport miles or dollar amount of services for any contract resulting from this Invitation for Bids.

2.2 Scope of Services

The Contractor must utilize the most economical mode of transportation for returning offenders to Mississippi, while not compromising the safety and security of the public, the rights of the offender(s) being returned, nor enhancing the risk of escape of the offender while in transit/Contractor's custody. Contractor will provide safe, secure and reliable ground and air prisoner transportation services as authorized by MDOC.

The Contractor must provide means for MDOC to submit transportation requests to Contractor, to include email address, fax number, online and toll-free telephone number. When submitting requests online, the Contractor's online system must require a username and password login to submit transportation requests for security purposes. Contractor shall pickup and transport male and female offenders to the designated location no later than the time indicated in the transport request. Within twenty-four (24) hours of receiving the transport request, Contractor will provide a response with a quote and the quote will be reviewed by MDOC for approval.

MDOC will notify Contractor of an impending transport at least ninety-six (96) hours before the transport is required. In the case of a Rapid Prisoner Movement, notification time would be forty-eight (48) hours. The inmate's return to the agency will be within 24 hours.

The Contractor must provide 24 hours advance notice to the holding facility prior to pickup of the offender. If a transportation request for a release date cannot be accomplished on a specific date, the Contractor is responsible for making other arrangements with the holding facility. The Contractor is responsible for making requests and receiving approval for extensions to timeframes and making any related holding/custody arrangements, directly with MDOC personnel requesting transport. The Contractor must provide confirmation of receipt of transportation request to MDOC personnel requesting transport.

The Contractor shall ensure that only physically able staff that have been properly trained and certified will provide continuous security and control over transported prisoners. In assuming custody of such prisoners, Contractor's agents shall perform their responsibilities for security and control of prisoners in accordance with all state and federal requirements. This includes compliance with the Interstate Transportation of Dangerous Criminals Act of 2000. In the event that there are no written policies or procedures, Contractor shall follow reasonable, customary operating procedures.

Male and female prisoners shall be separated while being transported. Contractor shall provide duly qualified female agents when transporting female prisoners. Additionally, prisoners under the age of 18 shall be separated from prisoners over the age of 18 while being transported.

The Contractor shall maintain documentation for all prisoners transported, including but not limited to: (1) Prisoner Receipt Forms, (2) Personal Property Control Forms, (3) Medical Information Forms, and (4) Evidence Processing Forms.

The Contractor agrees to transport a small amount of prisoner property with each prisoner. Due to space constraints on transportation vehicles the property must be limited generally to what can be placed in a medium-sized garbage bag 12x12x36 and cannot exceed ten (10) pounds in weight. The Contractor cannot transport electronic equipment (to include phones or pagers), fragile property, foodstuffs, weapons or excessive legal paperwork. MDOC must arrange shipment of excess property prior to pick-up.

Agents of the Contractor shall assume custody of such prisoners from authorized agents of MDOC, at the location of incarceration determined by the parties to be suitable for such purpose, to transport such prisoners to their destination or other specified location. Upon arrival, Contractor shall surrender custody of such prisoners to MDOC or to the law enforcement agency as designated by MDOC. MDOC shall have the right to cancel its pickup order within twenty-four (24) hours after placing the order. **Any cancellation may be made only with the consent of the Contractor, except for cancellations deemed necessary by MDOC to protect staff, prisoners, or the public against exposure to the coronavirus/COVID-19.**

In the event of unusual incidents, emergencies, and/or controversial situations that arise in the performance of services, Contractor's agents shall report such incidents to MDOC in accordance with MDOC's directives. For purpose of this paragraph "unusual incident, emergency, or controversial situations" include, but are not limited to, any act of violence by a prisoner or any other breach of security, any excessive delay in the transportation of a prisoner, any medical condition of a prisoner or other passenger requiring emergency medical treatment, any mechanical failure that would normally require formal reports to the cognizant regulatory agency and any refusal of law enforcement agencies to release a prisoner to Contractor as authorized or directed by MDOC.

Prisoner Security: While in the custody of the Contractor, MDOC prisoners will be secured with appropriate restraining devices as approved by MDOC. These devices, to be provided by the Contractor, include handcuffs, waist chains and leg irons to restrain prisoners. All restraining devices are to be employed just prior to accepting custody and removed only after the receiving agency has applied similar restraints or prisoners are placed in a secure location.

At least two (2) officers shall be assigned to each vehicle transporting prisoners. Prior to accepting custody of any prisoner, a photograph of the prisoner is to be taken by the Contractor for identification purposes and is to be attached to the prisoner transport order

which contains a complete physical description. This is to minimize the probability of prisoner mix-up at the holding agency and provide a complete physical detail, in the event of a major incident. Prior to accepting custody of prisoners, a thorough search is to be performed by the Contractor to preclude the possibility of concealment of contraband items. All prisoner property is to be searched by the Contractor at the holding agency to preclude concealment of contraband items.

To ensure that prisoners are surrendered by the Contractor to the custody of MDOC or its duly authorized agents, corroborative identification of MDOC personnel designated to accept custody of the prisoners shall be presented to the Contractor's personnel at the place and time of surrender of custody. The Contractor shall not surrender custody of prisoners without first verifying the identification (i.e., badges and picture identification cards) of persons to whom custody of prisoners is being transferred. In addition, the successful Contractor shall abide to the Standards for Private Entities Providing Prisoner or Detainee Services – 28 C.F.R., Part 97, attached hereto as "Attachment E".

Transportation Vehicles: The Contractor's transportation vehicles must meet minimum standards, including but not limited to the following:

- A. Contractor shall maintain a fleet of vehicles (with list provided) compliant with all applicable United States Department of Transportation (USDOT) regulations sufficient to accomplish the services required by the State. Each vehicle shall be properly secured by:
 - a. A biddle guard to separate offenders from transportation officers and to protect transportation officers from offenders.
 - b. Welded steel security screening covering vehicle windows and doors in passenger compartment to prevent escape.
 - c. Vehicle doors of passenger compartment which cannot be opened from the interior but accessible only on the exterior by officer.
- B. Vehicles shall meet basic standards of safety, including but not limited to:
 - a. Evidence of regular service/maintenance as recommended by the manufacturer's recommendation or standard for useful life of the vehicle.
 - b. Vehicle must be properly equipped for emergencies (e.g., communications equipment capable of immediate notice to emergency services in the area of operation, fire extinguishing equipment, medical emergency kits, and equipment or tools for emergency extrication of passengers.
 - c. Vehicles' fuel reservoirs shall meet current industry standards for protection against rupture, explosion, or ignition, which includes covering to reduce likelihood of rupture from foreign objects.
 - d. Vehicle drive shafts shall have protection brackets to hold shaft in place in the event of separation from the universal joint.
 - e. The Contractor must provide appropriately designed vehicles for the number of people being transported.
 - f. The vehicle must have properly operating air conditioning and heating.
- C. Contractor must provide a standard passenger sedan, station wagon, or van with a biddle guard separating the front and rear passenger area, used for the transportation of prisoners.

- D. Any Contractor employees other than the driver must ride in the front seat or appropriate caged area facing, at an angle that allows visual contact with prisoners. Contractor employee shall not ride in the prisoner compartment.
- E. Contractor must comply with all pertinent provisions of the USDOT, Federal Motor Carrier Safety Administration (FMCSA) 49 C.F.R., Parts 385, 390-396, U.S. Department of Justice regulations 28 C.F.R., Part 97 created pursuant to passage of the “Interstate Transportation of Dangerous Criminals Act of 2000”, known as “Jeanna’s Act”, and all other pertinent federal regulations. The successful bidder will be required to have or obtain satisfactory “Carrier Safety Rating” from the FMCSA prior to the commencement of the resulting contract.
- F. Vehicles operating under this solicitation must be designed to carry more than eight people, including the driver, and must have a USDOT and Motor Carrier (MC) number.
- G. Bidder must submit USDOT and MC number. MDOC will verify the validity using the FMCSA website. Bidder must also provide photographs of all vehicles to be used under this solicitation.

Air Transportation: Air transport must only be used in extreme circumstances to be determined and approved in writing by MDOC in advance due to high costs.

Meals: Prisoners, in transit, are to receive three (3) meals per 24 hours during transport. Each meal must satisfy the nutritional and caloric recommendations set forth in the dietary reference intakes approved by the National Research Council. The current edition of “The Dietary Guidelines for Americans” by the U.S. Department of Health and Human Services and Department of Agriculture shall be followed for menu planning.

- A. Breakfast – when travel begins at or before 6:00 a.m. on the first day of travel or extends beyond 9:00 a.m. on the last day of travel and for any intervening days.
- B. Lunch – when travel begins at or before 10:00 a.m. on the first day of travel or extends beyond 2:00 p.m. on the last day of travel and for any intervening days.
- C. Dinner – when travel begins at or before 4:00 p.m. on the first day of travel or extends beyond 8:00 p.m. on the last day of travel and for any intervening days.

Contractor shall be responsible for all costs associated with transporting prisoners, except medical costs. The expenses shall include, but not limited to, food and lodging.

In the event of delays, including inclement weather or mechanical malfunctions, requiring lodging for prisoners, the Contractor shall arrange secure lodging of prisoners in their custody with the appropriate local detention facility. The Contractor shall be responsible for all prisoner costs related to such delays.

Medical Criteria for Transporting Prisoners:

- A. The Contractor must obtain prisoner medical information prior to transport and require the holding facility to supply such information on a standardized form and provide a written release. The release must authorize the transport of the prisoner by motor vehicle and certify that prisoner condition does not present any hazard to himself or herself or

to any other person during travel or while temporarily incarcerated enroute. The Contractor must comply with the Health Insurance Portability and Accountability Act (HIPPA).

- B. As seemingly minor medical conditions can worsen or require immediate medical attention during extended ground trips, Contractor has the right to refuse to transport persons with medical conditions, when there is a risk of acute or chronic medical condition(s) worsening as a result of motor vehicle transport. When medical condition of the prisoner is prohibitive to ground transport, Contractor will offer the requesting agency escorted transport by commercial air, at applicable rates, if a written release for such travel is available from licensed medical personnel.
- C. Medical conditions that exclude persons from ground transport eligibility include, but are not limited to, the following (provided the requirements of Section D below are complied with):
 - a. Cardiovascular problems requiring medication or prescribed procedures.
 - b. Diabetics whereby prescribed medication must be injected and/or refrigerated.
 - c. Epilepsy whereby seizure activity is not adequately controlled.
 - d. Pregnancy after second trimester
 - e. Fractured bones requiring casts or braces designed to immobilize injured areas.
 - f. Critical wounds.
 - g. Communicable diseases or any other medical condition that may place the passenger, transport personnel and other passengers at risk.
 - h. HIV positive or AIDS.
- D. The following procedures must be complied with prior to transporting any persons in the above categories:
 - a. The name of the Contractor and assigned staff members who completed the transportation service.
 - b. The full name and department identification number of the inmate(s) being transported by the Contractor.
 - c. Date(s) of service, from “date of custody” is assumed to “date of delivery”.
 - d. Location of pickup and delivery point (State, City, and Facility).
 - e. Billed amount per offender.
 - f. Total amount due.

Medical costs incurred during transport, including, but not limited to, pharmaceuticals, physical examination, or hospital stay are to be billed to the offender. The Contractor shall be authorized to obtain emergency and/or routine medical treatment for prisoners whenever deemed necessary. All such expenditures shall be reported to MDOC in detail. Contractor will not be liable for medical costs associated with pre-existing medical conditions while in Contractor’s custody.

2.3 Multi-Year Contract

The period of performance of services shall begin on July 1, 2020 and shall end no later than June

30, 2024 with an option to renew for one year beginning July 1, 2024 and ending June 30, 2025.

2.3.1.1 Requirements

- a) Services are based on the contractor's ability to meet the needs of the agency.
- b) A unit price shall be given for each service, and that unit price shall be the same throughout the contract.
- c) A multi-year contract will be canceled if funds are not appropriated or otherwise made available to support the continuation of performance in any fiscal period succeeding the first; however, this does not affect either the State's right or the contractor's rights under any termination clause in the contract.
- d) The Procurement Officer must notify the contractor on a timely basis that the funds are or are not available for the continuation of the contract for each succeeding fiscal period.
- e) A multi-year contract may be awarded at the discretion of the Mississippi Department of Corrections.

2.4 Multiple Award

MDOC reserves the right to make multiple awards to more than one bidder for services under this solicitation to ensure the availability of adequate prisoner transport services to meet the agency's needs.

SECTION 3

3.1 Insurance

- A. Without limiting any liabilities or other obligations of Contractor, the Contractor shall provide and maintain insurance coverage with forms and insurers acceptable to MDOC, until all obligations under the contract are satisfied, as follows:
 - a. **Worker's Compensation Insurance** to cover obligations imposed by Federal and State Statutes having jurisdiction of its employees engaged in the performance of the services, and Employers' Liability insurance with a minimum limit of one hundred thousand dollars (\$100,000). Evidence of qualified self-insured status shall also suffice for this section.
 - b. **Comprehensive General Liability** – including coverage for professional/law enforcement liability, contractual liability, death, bodily injury, personal injury including false arrest, detention, malicious prosecution, libel, slander, defamation of character, violations of the right of privacy, negligent acts, errors and omissions attributable to the Contractor in an amount not less than one million five hundred thousand dollars (\$1,500,000) per occurrence. This comprehensive general liability coverage may be provided by a combination of two or more policies.
 - c. **Comprehensive Automobile Liability** with a combined single limit for bodily injury and property damage of not less than one million five hundred thousand

dollars (\$1,500,000) each occurrence with respect to Contractor vehicles (whether owned, hired, non-owned), assigned to or utilized in the performance of this contract.

- B. The policies required shall name Mississippi Department of Corrections as the Certificate Holder.
- C. Failure on the part of the Contractor to procure and maintain the required liability insurance and provide proof thereof to MDOC within thirty (30) days following the commencement of a new policy period, shall constitute a material breach of the contract upon which MDOC may immediately terminate the Contract. Prior to the effective date of the Contract, the Contractor shall furnish MDOC with an appropriately executed certificate of insurance. Such certificate shall identify the Contract and contain provisions that coverage afforded under the policies shall not be canceled, terminated or materially altered until at least thirty (30) days prior written notice has been given to MDOC.
- D. A copy of the Bidder's insurance certificates must be provided with the bid.

SECTION 4

4.1 Bid Evaluation

Bids will be evaluated based on the requirements set forth in IFB No. 3160003552, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the Bid price and be considered in evaluation for award shall be objectively measurable where possible. This Invitation for Bids sets forth the evaluation criteria to be used. No criteria will be used in an evaluation that is not set forth in this Invitation for Bids. Only Bidders who are found responsive and responsible will have their Bids considered.

4.1.1 Responsive Bidder

Bidder must submit Bid which conforms in all material respects to this Invitation for Bids, 3160003552, as determined by MDOC.

4.1.2 Minimum Qualifications to be Deemed Responsive

In order to be deemed responsive the vendor must:

- Submit Attachment A – Bid Cover Sheet in its entirety, signed by authorized representative

- Submit Attachment B – Bid Form in its entirety, signed by authorized representative
- Submit Attachment C - References
- Submit Attachment D – Certifications and Assurances, signed by authorized representative
- Submit a copy of the Bidder's insurance certificates
- Submit E-Verification Registration
- Submit W-9 Form, signed by authorized representative
- Submit Mississippi Secretary of State Registration, if applicable. If not applicable, specify why.

4.1.3 These minimum qualifications are in addition to a minimum score of 15 on the Reference Score Sheet (**Attachment F**) from reference interviews by the Mississippi Department of Corrections with three (3) Bidder/contractor references (for a total maximum score of 21), as well as all other requirements of this Invitation for Bids.

4.1.4 Nonconforming Terms and Conditions

A Bid response that includes terms and conditions that do not conform to the terms and conditions in the Bid document is subject to rejection as non-responsive. The Mississippi Department of Corrections reserves the right to permit the Bidder to withdraw nonconforming terms and conditions from its Bid response prior to a determination by the Mississippi Department of Corrections of non-responsiveness based on the submission of nonconforming terms and conditions.

4.1.5 Conditioning Bid Upon Other Awards

Any Bid which is conditioned upon receiving award of both the particular contract being solicited and another Mississippi contract shall be deemed non-responsive and not acceptable.

4.1.6 Bid Submission Format

The Bid package must be sealed and must contain the following:

- Bid Cover Sheet (**Attachment A**)
- Bid Form (**Attachment B**)
- References (**Attachment C**)
- Certifications and Assurances (**Attachment D**)
- Insurance Certificates
- E-Verification Registration
- W-9 Form
- Mississippi Secretary of State Registration, if applicable. If not applicable, specify why.
- All documentation required in Section 4.1.8 must be identified and provided as additional attachments to the Bid packet.

4.1.7 Responsible Bidder

Bidder must have capability in all respects to perform fully the contract requirements and the integrity and reliability which will assure good faith performance, as determined by Mississippi Department of Corrections.

4.1.8 Minimum Qualifications to be Deemed Responsible

- Vendor must submit assurances and/or certifications to support it operates under the Motor Carrier Act and has a valid USDOT and MC number to operate as a “Passenger Carrier for Hire” for interstate operations.
- Vendor must provide an equipment/transportation vehicle summary that will be used in performance of vendor responsibilities under this solicitation to include vehicle make, model, USDOT and MC numbers, VIN, tag number, odometer reading, compliance with all Federal guidelines and regulations with respect to locks, windows, seatbelts, biddle guard, heating and air conditioning in the prisoner areas, recent vehicle inspections, and the like.
- Vendor shall submit proposed plan for providing services to include customary transportation protocol for offender meal breaks, restroom breaks, overnight housing, hygiene, and the like.
- Vendor shall submit lists and resumes of key staff and supervisory personnel.
- Vendor must submit assurances and certifications for officers assigned to perform transport duties under this solicitation to reflect officer training in security and control of prisoners in accordance with all Federal and State requirements to include compliance with the Interstate Transportation of Dangerous Criminals Act of 2000. Vendor should include copies of applicable written policies and procedures, in particular, policies surrounding restraints and their use, use of force, and incident management.
- Vendor shall submit Organizational Chart

These minimum qualifications are in addition to a minimum score of 15 on the Reference Score Sheet (**Attachment F**) from reference interviews by the Mississippi Department of Corrections with three (3) Bidder/contractor references (for a total maximum score of 21), as well as all other requirements of this Invitation for Bids.

4.1.9 References

Each Bidder must furnish a listing of **at least** three (3) trade references along with the contact person, address, and phone number for each. These references must be familiar with the Bidder’s abilities in the areas involved with this solicitation. The Mississippi Department of Corrections will use these references to determine the Bidder’s ability to perform the services. It is the responsibility of the Bidder to ensure that the reference contact information is correct and current. Bidders should verify before submitting their Bid that the contact person and phone number are correct for each reference. The Bidder may submit as many references as desired. The Mississippi Department of Corrections will begin contacting references at the top of the list and will continue down the list until three (3) contacts have been reached.

References must be listed on **Attachment C**.

4.2 Bid Opening

Bid Opening will be open to the public; however, this will include opening, reading aloud, and listing the Bid price on each Bid only. No discussions will be entered into with any Bidder as to the quality or provisions of the specifications and no award will be made, either stated or implied at the Bid Opening.

4.3 Award

The contract will be awarded by written notice to the lowest responsible Bidder whose Bid meets the requirements and criteria set forth in this Invitation for Bids.

4.3.1 Notification

All participating vendors will be notified of the Mississippi Department of Corrections intent to award a contract. In addition, the Mississippi Department of Corrections will identify the selected vendor. Notice of award is also made available to the public.

4.3.2 Contract Management

If the Contractor fails to adhere to the Interstate and Intrastate Prisoner Transport services schedule, or if the Contractor fails to satisfactorily provide the prescribed service to all or any service area, the Contracting Agency will inform the Contractor, and the Contractor shall complete corrective action within twenty-four (24) hours. No payment shall be made to the Contractor until all deficiencies have been corrected. If the Contractor exhibits a pattern of non-performance as shown by repeated deficiencies, the Contracting Agency may terminate the contract without further obligation to the Contractor. (Contracting Agency may elect to use the form included as **Exhibit I**, Interstate and Intrastate Prisoner Transport Service Contract Discrepancy Report.)

SECTION 5

5.1 Post-Award Vendor Debriefing

A Bidder, successful or unsuccessful, may request a post-award debriefing, in writing by U. S. Mail or electronic submission. The written request must be received by the Chief Procurement Officer of the Mississippi Department of Corrections within three (3) business days of notification of the contract award. A post-award debriefing is a meeting and not a hearing; therefore, legal representation is not required. A debriefing typically occurs within three (3) business days of receipt of the request. If a Bidder prefers to have legal representation present, the Bidder must notify the Chief Procurement Officer of the Mississippi Department of Corrections in writing and identify its attorney by name, address, and telephone number. The Mississippi Department of Corrections will schedule and/or suspend and reschedule the meeting at a time when a Representative of the Office of the Mississippi Attorney General or MDOC Legal Department can be present.

For additional information regarding Post-Award Debriefing, as well as the information that may be provided and excluded, please see Section 7-113 through 7-113.07, Post-Award Vendor Debriefing, of the *Mississippi Public Procurement Review Board's Office of Personal Service Contract Review Rules and Regulations*.

5.2 Protest of Award

Any actual or prospective Bidder or contractor who is aggrieved in connection with this solicitation or the outcome of the Invitation for Bids may file a protest with the Chief Procurement Officer. The protest shall be submitted on or before 4:00 p.m., May 21, 2020 in writing after such aggrieved person or entity knows or should have known of the facts giving rise thereto. All protests must be in writing, dated, signed by the Bidder or an individual authorized to sign contracts on behalf of the protesting Bidder, and contain a statement of the reason(s) for protest, citing the law(s), rule(s) or regulation(s), and/or procedure(s) on which the protest is based. The written protest letter shall contain an explanation of the specific basis for the protest. The protesting Bidder must provide facts and evidence to support the protest. A protest is considered filed when received by the Chief Procurement Officer, via either U.S. mail, postage prepaid, or personal delivery. Protests filed after 4:00 p.m., May 21, 2020 will not be considered.

5.3 Required Contract Terms and Conditions

Any contract entered into between MDOC and a Vendor/Bidder shall include the required clauses, attached hereto as “**Attachment G**”, required by the *Mississippi Public Procurement Review Board’s Office of Personal Service Contract Review Rules and Regulations* as updated and replaced by PPRB.

5.4 Optional Contract Terms and Conditions

Any contract entered into between MDOC and a Vendor/Bidder may include the clauses available for use in service contracts, attached hereto as “**Attachment H**”, authorized by the *Mississippi Public Procurement Review Board’s Office of Personal Service Contract Review Rules and Regulations* as updated and replaced by PPRB.

5.5 Mississippi Contract/Procurement Opportunity Search Portal

This Invitation for Bids, and the questions and answers concerning this Invitation for Bids, are posted on the Contract/Procurement Opportunity Search Portal.

5.6 Attachments

The attachments to this Invitation for Bids are made a part of this Invitation for Bids as if copied herein in words and figures.

ATTACHMENT A

Bid Cover Sheet

The Mississippi Department of Corrections is seeking to establish a contract with a qualified private transportation entity to provide interstate and intrastate prisoner transport services as per the scope of services located in Section 2.2.

Bids are to be submitted as listed below, on or before 10:00 a.m., April 30, 2020.

PLEASE MARK YOUR ENVELOPE:

Opening Date: 10:00 a.m., May 1, 2020
Mississippi Department of Corrections
ATTN: Takesha Darby
301 N. Lamar Street
Jackson, MS 39201

SEALED BID – DO NOT OPEN

Name of Company: _____

Quoted By: _____

Signature: _____

Address: _____

City/State/Zip Code: _____

Company Representative: _____

Telephone: _____

Fax: _____

E-Mail: _____

FEI/FIN # (if company, corporation, or partnership):	
SS# (if individual):	

In addition to providing the above contact information, please answer the following questions regarding your company:

What year was your company started? _____

How many years and/or months has your company been in the business of performing the services called for in this Invitation for Bids? _____

Please provide the physical location and mailing address of your company's home office, principal place of business, and place of incorporation.

Is your company currently for sale or involved in any transaction to expand or to become acquired by another business entity? If yes, please discuss the impact both in organizational and directional terms.

List all licenses or permits your company possesses that are applicable to performing the services required in this Invitation for Bids.

How many customers has your company provided interstate and/or intrastate prisoner transport services for within the past two (2) years?

Please provide the dates, size of area maintained, and annual amount billed for ground transportation and associated medical services for three (3) typical customers for which interstate and/or intrastate prisoner transport services were provided within the past year.

Describe any specific services which your company offers along with any specialized experience, certification, and/or education of your current staff.

ATTACHMENT B

Bid Form for Interstate and Intrastate Prisoner Transport

Company	Company Representative	Telephone

The pricing quoted must be inclusive of, but not limited to the following:

- All required equipment and materials
- All required insurance
- All required overhead
- All required profit
- All required transportation
- All required labor
- All required business and professional licenses, permits, fees, etc. (if any); and
- Any and all other costs associated with performing the services

Pricing Structure: Contractor agrees to furnish services specified in this Bid at the rate indicated below, for the entire duration of any resulting Contract. Any cost or incidental expenses not shown on this document will be the responsibility of the vendor. All pricing must include any and all charges as part of the rate per mile.

Service type available: Interstate ☐ Intrastate ☐ Both ☐

CATEGORY OF SERVICE	COST
Same Day Pickup	\$ _____ per mile
Adult Male Prisoner	\$ _____ per mile
Adult Female Prisoner	\$ _____ per mile
Male Prisoner Underage 18	\$ _____ per mile
Female Prisoner Underage 18	\$ _____ per mile
Mentally Ill Transport	\$ _____ per mile
Medical Transport	\$ _____ per mile
Medical Transport: Wheelchair, special condition, or modification, etc.	\$ _____ per mile
Discount for multiple prisoners (if more than one prisoner is picked-up/dropped-off at same location or proximity of another location)	\$ _____ per prisoner
Penalty for cancelled Trip (if cancelled by MDOC outside allowable period)	\$ _____ per trip
Any other fees – list and provide rate per unit	
Any other miscellaneous charges – list and provide rate per unit and not-to-exceed limits where applicable	

By signing below, the Company Representative certifies that he/she has authority to bind the company, and further acknowledges on behalf of the company:

1. That he/she has thoroughly read and understands this Invitation for Bids, 3160003552, and the attachments herein.
2. That the entity meets all requirements and acknowledges all certifications contained in this Invitation for Bids, 3160003552, and the attachments herein.
3. That the company agrees to all provisions of this Invitation for Bids, 3160003552, and the attachments herein; including, but not limited to, the required and optional clauses to be included in any contract resulting from this Invitation for Bids as referenced in **Attachments G and H**.
4. That the company will perform, without delay, the services required at the prices quoted in this **Attachment B**.
5. That, to the best of its knowledge and belief, the cost or pricing data submitted is accurate, complete, and current as of the submission date.
6. That the company has, or will secure, at its own expense, applicable personnel who shall be qualified to perform the duties required to be performed under this Invitation for Bids.

Printed Name: _____

Signature/Date: _____

ATTACHMENT C

References

Reference 1

Name of Company: _____
Dates of Service: _____
Contact Person: _____
Address: _____
City/State/Zip: _____
Telephone: _____
Fax: _____

Reference 2

Name of Company: _____
Dates of Service: _____
Contact Person: _____
Address: _____
City/State/Zip: _____
Telephone: _____
Fax: _____

Reference 3

Name of Company: _____
Dates of Service: _____
Contact Person: _____
Address: _____
City/State/Zip: _____
Telephone: _____
Fax: _____

The Bidder may submit as many references as desired by submitting as many additional copies of this Attachment C, References, as needed. The Mississippi Department of Corrections will begin contacting references at the top of the list and will continue down the list until three (3) contacts have been reached. See Section 4.1.9 of this Invitation for Bids.

ATTACHMENT D

Certifications and Assurances

Bidder makes the following certifications and assurances as a required element of the bid to which it is attached, of the understanding that the truthfulness of the facts affirmed here and the continued compliance with these requirements are conditions precedent to the award or continuation of the related Contract(s) by circling the applicable word or words in each paragraph below:

1. **REPRESENTATION REGARDING CONTINGENT FEES**

Bidder represents that it **has/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 bid.

2. **REPRESENTATION REGARDING GRATUITIES**

The bidder represents that it **has/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 Office of Personal Service Contract Review Rules and Regulations.

3. **CERTIFICATION OF INDEPENDENT PRICE DETERMINATION**

The bidder certifies that the prices submitted in response to the solicitation **have/have not** 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 price.

4. **PROSPECTIVE CONTRACTOR'S REPRESENTATION REGARDING CONTINGENT FEES**

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

Name/Title: _____

Signature/Date: _____

Note: Please be sure to **circle the applicable word or words on numbers 1 - 4** provided above. Failure to circle the applicable word or words and/or to sign the Bid Form may result in the Bid being rejected as nonresponsive. **Modifications or additions to any portion of this Bid document may be cause for rejection of the Bid.**

ATTACHMENT E

U.S. CODE OF FEDERAL REGULATIONS

Regulations most recently checked for updates: Mar 12, 2020

Title 28 Chapter I Part 97 - STANDARDS FOR PRIVATE ENTITIES PROVIDING PRISONER OR DETAINEE SERVICES

Collapse to view only § 97.1 - Purpose.

§ 97.1 - Purpose.

§ 97.2 - Definitions.

§ 97.11 - Pre-employment screening.

§ 97.12 - Employee training.

§ 97.13 - Maximum driving time.

§ 97.14 - Guard-to-prisoner ratio.

§ 97.15 - Employee uniforms and identification.

§ 97.16 - Clothing requirements for transported violent prisoners.

§ 97.17 - Mandatory restraints to be used while transporting violent prisoners.

§ 97.18 - Notification of local law enforcement prior to scheduled stops.

§ 97.19 - Immediate notification of local law enforcement in the event of an escape.

§ 97.20 - Standards to ensure the safety of violent prisoners during transport.

§ 97.22 - No pre-emption of federal, State, or local laws or regulations.

§ 97.24 - No civil defense created.

§ 97.30 - Enforcement.

§ 97.1 - Purpose.

This part implements the provisions of The Interstate Transportation of Dangerous Criminals Act of 2000, Public Law 106-560, 114 Stat. 2784 ([42 U.S.C. 13726b](#)) (enacted December 21, 2000) ("the Act"), to provide minimum security and safety standards for private companies that transport violent prisoners on behalf of State and local jurisdictions.

§ 97.2 - Definitions.

(a) *Crime of violence*. The term "crime of violence" has the same meaning as in section 924(c)(3) of title 18, United States Code. Section 924(c)(3) states that the term crime of violence means an offense that is a felony and has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or that by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

(b) *Private prisoner transport company*. The term "private prisoner transport company" ("company") means any entity, other than the United States, a State, or an inferior political subdivision of a State, that engages in the business of transporting for compensation individuals committed to the custody of any State or of an inferior political subdivision of a State, or any attempt thereof.

(c) *Violent prisoner*. The term "violent prisoner" means any individual in the custody of a State or an

inferior political subdivision of a State who has previously been convicted of or is currently charged with a crime of violence or any similar statute of a State or the inferior political subdivisions of a State, or any attempt thereof.

§ 97.11 - Pre-employment screening.

Private prisoner transport companies must adopt pre-employment screening measures for all potential employees. The pre-employment screening measures must include a background check and a test for use of controlled substances. The failure of a potential employee to pass either screening measure will act as a bar to employment.

(a) Background checks must include:

- (1) A fingerprint-based criminal background check that disqualifies persons with either a prior felony conviction or a State or Federal conviction for a misdemeanor crime of domestic violence as defined in [18 U.S.C. 921](#);
- (2) A Credit Report check;
- (3) A physical examination; and
- (4) A personal interview.

(b) Testing for controlled substances. (1) Pre-employment testing for controlled substances must be in accordance with applicable State law.

- (2) In the event that there is no applicable State law, pre-employment testing for controlled substances must be in accordance with the provisions of Department of Transportation regulations at [49 CFR 382.301](#) which will apply regardless of whether a private prisoner transport company is covered by Department of Transportation regulations.

(c) The criminal background check references in paragraph (a)(1) of this section may not be submitted directly to the FBI or any other Federal agency. The private prisoner transport companies must arrange the procedures for accomplishing the criminal background checks with their contracting governmental agencies. In the event that the private prisoner transport company is contracting with a privately run incarceration facility, and not directly with a governmental entity, the private prisoner transport company will have to make arrangements through the private incarceration facility to have the checks completed by the governmental entity ultimately requesting the transport.

§ 97.12 - Employee training.

Private prisoner transport companies must require the completion of a minimum of 100 hours of employee training before an employee may transport violent prisoners. Training must include instruction in each of these six areas:

- (a) Use of restraints;
- (b) Searches of prisoners;
- (c) Use of force, including use of appropriate weapons and firearms;
- (d) Cardiopulmonary resuscitation (CPR);
- (e) Map reading; and
- (f) Defensive driving.

§ 97.13 - Maximum driving time.

Companies covered under this part must adhere to the maximum driving time provisions applicable to commercial motor vehicle operators, as set forth in Department of Transportation regulations at [49 CFR 395.3](#) which will apply regardless of whether a private prisoner transport company is covered by Department of Transportation regulations.

§ 97.14 - Guard-to-prisoner ratio.

Companies covered under this part must adhere to certain minimum standards with respect to the number of employees required to monitor violent prisoners during transportation. Private prisoner transport companies must ensure that at least one guard be on duty for every six violent prisoners transported. This requirement does not preclude a contracting entity from establishing more stringent guard-to-prisoner ratios.

§ 97.15 - Employee uniforms and identification.

(a) *Employee uniforms.* Uniforms used by private prisoner transport companies must meet the following requirements:

- (1) Uniforms must be readily distinguishable in style and color from official uniforms worn by United States Department of Justice employees who transport violent offenders;
- (2) Uniforms must prominently feature a badge or insignia that identifies the employee as a prisoner transportation employee; and
- (3) Uniforms must be worn at all times while the employee is engaged in the transportation of violent prisoners.

(b) *Employee identification.* Identification utilized by private prisoner transport companies must meet the following requirements:

- (1) The identification credentials must clearly identify the employee as a transportation employee. The credentials must have a photograph of the employee that is at least one inch square, a printed personal description of the employee including the employee's name, the signature of the employee, and date of issuance; and
- (2) The employee must display proper identification credentials on his or her uniform and ensure that the identification is visible at all times during the transportation of violent prisoners.

§ 97.16 - Clothing requirements for transported violent prisoners.

Companies covered under this part must ensure that all violent prisoners they transport are clothed in brightly colored clothing that clearly identifies them as violent prisoners, unless security or other specific considerations make such a requirement inappropriate.

§ 97.17 - Mandatory restraints to be used while transporting violent prisoners.

Companies covered under this part must, at a minimum, require that violent prisoners be transported wearing handcuffs, leg irons, and waist chains unless the use of all three restraints would create a serious health risk to the prisoner, or extenuating circumstances (such as pregnancy or physical

disability) make the use of all three restraints impracticable.

§ 97.18 - Notification of local law enforcement prior to scheduled stops.

When transporting violent prisoners, private prisoner transport companies are required to notify local law enforcement officials 24 hours in advance of any scheduled stops in their jurisdiction. For the purposes of this part, a scheduled stop is defined as a predetermined stop at a State, local, or private correctional facility for the purpose of loading or unloading prisoners or using such facilities for overnight, meal, or restroom breaks. Scheduled stops do not include routine fuel stops or emergency stops.

§ 97.19 - Immediate notification of local law enforcement in the event of an escape.

Private prisoner transport companies must be sufficiently equipped to provide immediate notification to law enforcement in the event of a prisoner escape. Law enforcement officials must receive notification no later than 15 minutes after an escape is detected unless the company can demonstrate that extenuating circumstances necessitated a longer delay. In the event of the escape of a violent prisoner, a private prisoner transport company must:

- (a) Ensure the safety and security of the remaining prisoners;
- (b) Provide notification within 15 minutes to the appropriate State and local law enforcement officials;
- (c) Provide notification as soon as practicable to the governmental entity or the privately run incarceration facility that contracted with the transport company; and
- (d) Provide complete descriptions of the escapee and the circumstances surrounding the escape to State and local law enforcement officials if needed.

§ 97.20 - Standards to ensure the safety of violent prisoners during transport.

Companies covered under this section must comply with applicable State and federal laws that govern the safety of violent prisoners during transport. In addition, companies covered under this section are to ensure that:

- (a) Protective measures are in place to ensure that all vehicles are safe and well-maintained;
- (b) Vehicles are equipped with efficient communications systems that are capable of immediately notifying State and local law enforcement officials in the event of a prisoner escape;
- (c) Policies, practices, and procedures are in effect to ensure the health and physical safety of the prisoners during transport, including a first-aid kit and employees who are qualified to dispense medications and administer CPR and emergency first-aid;
- (d) Policies, practices, and procedures are in effect to prohibit the mistreatment of prisoners, including prohibitions against covering a prisoner's mouth with tape, the use of excessive force, and sexual misconduct;
- (e) Policies, practices, and procedures are in effect to ensure that juvenile prisoners are separated from adult prisoners during transportation, where practicable;
- (f) Policies, practices, and procedures are in effect to ensure that female prisoners are separated from male prisoners during transportation, where practicable;

(g) Policies, practices, and procedures are in effect to ensure that female guards are on duty to supervise the transportation of female violent prisoners, where practicable;

(h) Staff are well trained in the handling and restraint of prisoners, including the proper use of firearms and other restraint devices, and have received specialized training in the area of sexual harassment; and

(i) Private transport companies are responsible for taking reasonable measures to insure the well being of the prisoners in their custody including, but not limited to, necessary stops for restroom use and meals, proper heating and ventilation of the transport vehicle, climate-appropriate uniforms, and prohibitions on the use of tobacco, in any form, in the transport vehicle.

§ 97.22 - No pre-emption of federal, State, or local laws or regulations.

The regulations in this part implement the Act and do not pre-empt any applicable federal, State, or local law that may impose additional obligations on private prisoner transport companies or otherwise regulate the transportation of violent prisoners. All federal laws and regulations governing interstate commerce will continue to apply to private prisoner transport companies including, but not limited to: federal laws regulating the possession of weapons, Federal Aviation Administration or Transportation Security Administration rules and regulations governing travel on commercial aircraft, and all applicable federal, State, or local motor carrier regulations. The regulations in this part in no way pre-empt, displace, or affect the authority of States, local governments, or other federal agencies to address these issues.

§ 97.24 - No civil defense created.

The regulations in this part on private prisoner transport companies are not intended to create a defense to any civil action, whether initiated by a unit of government or any other party. Compliance with the regulations in this part is not intended to and does not establish a defense against an allegation of negligence or breach of contract. Regardless of whether a contractual agreement establishes minimum precautions, the companies affected by the regulations in this part will remain subject to the standards of care that are imposed by constitutional, statutory, and common law upon their activities (or other activities of a similarly hazardous nature).

§ 97.30 - Enforcement.

Any person who is found in violation of the regulations in this part will:

(a) Be liable to the United States for a civil penalty in an amount not to exceed \$10,000 for each violation;

(b) Be liable to the United States for the costs of prosecution; and

(c) Make restitution to any entity of the United States, of a State, or of an inferior political subdivision of a State, that expends funds for the purpose of apprehending any violent prisoner who escapes from a prisoner transport company as the result, in whole or in part, of a violation of the regulations in this part promulgated pursuant to the Act.

ATTACHMENT F

Reference Score Sheet

**TO BE COMPLETED BY MISSISSIPPI DEPARTMENT OF
CORRECTIONS ONLY**

Bidder Name: _____

Reference Name: _____

Person Contacted, Title/Position: _____

Date/Time Contacted: _____

Service From/To Dates: _____

Confirmed vendor provided interstate and/or intrastate prisoner transport services.	Yes	No
Satisfied with vendors ability to provide interstate and/or intrastate prisoner transport services. If no, please explain.	Yes	No
Vendor easy to work with in scheduling interstate and/or intrastate prisoner transport services.	Yes	No
Were interstate and/or intrastate prisoner transport services completed on time and within budget?	Yes	No
Vendor listened when you had an issue and readily offered a solution? (If never had an issue, please check here ____.)	Yes	No
Would you enter into a contract with them again?	Yes	No
Would you recommend them?	Yes	No

Each “yes” is one (1) point; each “no” is zero (0) points. Bidder must have a minimum score of 15 from three (3) references (maximum total of 21 points) to be considered responsible and for its Bid to be considered.

Score: _____

Do you have any business, professional or personal interest in the Bidder’s organization? If yes, please explain.	Yes	No
---	-----	----

Called by: _____

Notes: _____

ATTACHMENT G

Required Clauses in Contracts for Services

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.

APPROVAL

It is understood that if this contract requires approval by the Public Procurement Review Board and/or the Mississippi Department of Finance and Administration Office of Personal Service Contract Review, and this contract is not approved by the PPRB and/or OPSCR, it is void and no payment shall be made hereunder.

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 Agreement. Contractor understands and agrees that the State is exempt from the payment of taxes. All payments shall be in United States currency.

TERMINATION FOR CONVENIENCE

- (1) *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. Contractor may terminate this contract in whole or in part for convenience of Contractor by providing thirty (30) days written notice to the Agency Head or designee.
- (2) *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.

TERMINATION FOR DEFAULT

- (1) *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.
- (2) *Contractor's Duties.* Notwithstanding termination of the contract and subject to any directions from the Chief 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.
- (3) *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.
- (4) *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").

(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 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 a termination for convenience.
- (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.

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.

AVAILABILITY OF FUNDS

It is expressly understood and agreed that the obligation of the [State] to proceed under this agreement 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 time 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 [State], the [State] shall have the right upon ten (10) working days written notice to Contractor, to terminate this agreement 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.

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 agreement 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 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.

PROCUREMENT REGULATIONS

The contract shall be governed by the applicable provisions of the *Mississippi Public Procurement Review Board Office of Personal Service Contract Review Rules and Regulations*, a copy of which is available at 501 North West Street, Suite 701E, Jackson, Mississippi 39201 for inspection, or downloadable at <http://www.DFA.ms.gov>.

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.

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 Public Procurement Review Board Office of Personal Service Contract Review Rules and Regulations*.

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.

STOP WORK ORDER

(1) *Order to Stop Work:* The Chief 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 Chief Procurement Officer 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 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:
- (a) 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,
 - (b) Contractor asserts a claim for such an adjustment within 30 days after the end of the period of work stoppage; provided that, if the Chief 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.
- (3) *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.
- (4) *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.

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 § 31-7-301 *et seq.*

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 agreement may subject Contractor to the following:

- (1) 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;
- (2) 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,
- (3) 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.

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 Mississippi 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.

ATTACHMENT H

Clauses Available for Use in Service Contracts

These are discretionary and the agency is neither required to use them nor prohibited from using others which are not included in this attachment.

ANTI-ASSIGNMENT/SUBCONTRACTING

Contractor acknowledges that it was selected by the State to perform the services required hereunder based, in part, upon Contractor's special skills and expertise. Contractor shall not assign, subcontract, or otherwise transfer this agreement, in whole or in part, without the prior written consent of the State, which the State 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 State of any subcontract shall be deemed in any way to provide for the incurrence of any obligation of the State in addition to the total fixed price agreed upon in this agreement. Subcontracts shall be subject to the terms and conditions of this agreement and to any conditions of approval that the State may deem necessary. Subject to the foregoing, this agreement shall be binding upon the respective successors and assigns of the parties.

ANTITRUST

By entering into a contract, Contractor conveys, sells, assigns, and transfers to the [agency] all rights, titles, and interest it may now have, or hereafter acquire, under the antitrust laws of the United States and the State that relate to the particular goods or services purchased or acquired by the [agency] under said contract.

APPROVAL

It is understood that this contract requires approval by the Public Procurement Review Board. If this contract is not approved, it is void and no payment shall be made hereunder.

ATTORNEY'S FEES AND EXPENSES

Subject to other terms and conditions of this agreement in the event Contractor defaults in any obligations under this agreement, Contractor shall pay to the State all costs and expenses (including, without limitation, investigative fees, court costs, and attorney's fees) incurred by the State in enforcing this agreement or otherwise reasonably related thereto. Contractor agrees that under no circumstances shall the customer be obligated to pay any attorney's fees or costs of legal action to Contractor.

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.

CHANGE IN SCOPE OF WORK

The [agency] 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 Contractor that the scope of the project or of Contractor's services has been changed, requiring changes to the amount of compensation to Contractor or other adjustments to the contract, unless such changes or adjustments have been made by written amendment to the contract signed by the [agency] and Contractor.

If 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 Contractor, Contractor must immediately notify the [agency] in writing of this belief. If the [agency] believes that the particular work is within the scope of the contract as written, Contractor will be ordered to and shall continue with the work as changed and at the cost stated for the work within the contract.

CLAIMS BASED ON A CHIEF PROCUREMENT OFFICER'S ACTIONS OR OMISSIONS

(1) **Notice of Claim.** If any action or omission on the part of a Chief Procurement Officer or designee of such officer requiring performance changes within the scope of the contract constitutes the basis for a claim by Contractor for additional compensation, damages, or an extension of time for completion, Contractor shall continue with performance of the contract in compliance with the directions or orders of such officials, but by so doing, Contractor shall not be deemed to have prejudiced any claim for additional compensation, damages, or an extension of time for completion; provided:

(a) Contractor shall have given written notice to the Chief Procurement Officer or designee of such officer:

- i. prior to the commencement of the work involved, if at that time Contractor knows of the occurrence of such action or omission;
- ii. within 30 days after Contractor knows of the occurrence of such action or omission, if Contractor did not have such knowledge prior to the commencement of the work; or,

111. within such further time as may be allowed by the Chief Procurement Officer in writing.

This notice shall state that Contractor regards the act or omission as a reason which may entitle Contractor to additional compensation, damages, or an extension of time. The Chief Procurement Officer or designee of such officer, upon receipt of such notice, may rescind such action, remedy such omission, or take such other steps as may be deemed advisable in the discretion of the Chief Procurement Officer or designee of such officer;

- (b) The notice required by subparagraph (a) of this paragraph describes, as clearly as practicable at the time, the reasons why Contractor believes that additional compensation, damages, or an extension of time may be remedies to which Contractor is entitled; and,
 - (c) Contractor maintains and, upon request, makes available to the Chief Procurement Officer within a reasonable time, detailed records to the extent practicable, of the claimed additional costs or basis for an extension of time in connection with such changes.
- (2) **Limitation of Clause.** Nothing contained herein shall excuse Contractor from compliance with any rules of law precluding state officers and Contractors from acting in collusion or bad faith in issuing or performing change orders which are clearly not within the scope of the contract.
 - (3) **Adjustment of Price.** Any adjustment in the contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment clause of this contract.

INFORMATION DESIGNATED BY CONTRACTOR AS CONFIDENTIAL

Any disclosure of those materials, documents, data, and other information which Contractor has designated in writing as proprietary and confidential shall be subject to the provisions of Mississippi Code Annotated §§ 25-61-9 and 79-23-1. As provided in the contract, the personal or professional services to be 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.

Any liability resulting from the wrongful disclosure of confidential information on the part of Contractor or its subcontractor shall rest with Contractor. Disclosure of any confidential information by Contractor or its subcontractor without the express written approval of the [agency] shall result in the immediate termination of this agreement.

CONFIDENTIALITY

Notwithstanding any provision to the contrary contained herein, it is recognized that [agency] 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 [agency] pursuant to the agreement and designated by the Contractor in writing as trade secrets or other proprietary confidential information, [agency] shall follow the

provisions of Mississippi Code Annotated §§ 25-61-9 and 79-23-1 before disclosing such information. The [agency] shall not be liable to the Contractor for disclosure of information required by court order or required by law.

CONTRACTOR PERSONNEL

The [agency] shall, throughout the life of the contract, have the right of reasonable rejection and approval of staff or subcontractors assigned to the work by Contractor. If the [agency] reasonably rejects staff or subcontractors, Contractor must provide replacement staff or subcontractors satisfactory to the [agency] in a timely manner and at no additional cost to the [agency]. The day-to-day supervision and control of Contractor's employees and subcontractors is the sole responsibility of Contractor.

COPYRIGHTS

Contractor agrees that [agency] shall determine the disposition of the title to and the rights under any copyright by Contractor or employees on copyrightable material first produced or composed under this agreement. Further, Contractor hereby grants to [agency] 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. This grant is 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.

DEBARMENT AND SUSPENSION

Contractor certifies to the best of its knowledge and belief, that it:

- (1) is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transaction by any federal department or agency or any political subdivision or agency of the State of Mississippi;
- (2) has not, within a three-year period preceding this proposal, been convicted of or had a civil judgment rendered against it 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;
- (3) has not, within a three-year period preceding this proposal, been convicted of or had a civil judgment rendered against it for a violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (4) is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of these offenses enumerated in

paragraphs two (2) and (3) of this certification; and,

- (5) has not, within a three-year period preceding this proposal, had one or more public transactions (federal, state, or local) terminated for cause or default.

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 Annotated §§ 25-61-1 *et seq.*

EXCEPTIONS TO CONFIDENTIAL INFORMATION

Contractor and the State shall not be obligated to treat as confidential and proprietary any information disclosed by the other party ("disclosing party") which:

- (1) is rightfully known to the recipient prior to negotiations leading to this agreement, other than information obtained in confidence under prior engagements;
- (2) is generally known or easily ascertainable by nonparties of ordinary skill in the business of the customer;
- (3) is released by the disclosing party to any other person, firm, or entity (including governmental agencies or bureaus) without restriction;
- (4) is independently developed by the recipient without any reliance on confidential information;
- (5) is or later becomes part of the public domain or may be lawfully obtained by the State or Contractor from any nonparty; or,
- (6) is disclosed with the disclosing party's prior written consent.

ERRORS IN EXTENSION

If the unit price and the extension price are at variance, the unit price shall prevail.

FAILURE TO DELIVER

In the event of failure of Contractor to deliver services in accordance with the contract terms and conditions, the [agency], after due oral or written notice, may procure the services from other sources and hold Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies that the [agency] may have.

FAILURE TO ENFORCE

Failure by the [agency] at any time to enforce the provisions of the contract shall not be construed as a waiver of any such provisions. Such failure to enforce shall not affect the validity of the contract or any part thereof or the right of the [agency] to enforce any provision at any time in accordance with its terms.

FINAL PAYMENT

Upon satisfactory completion of the work performed under this contract, as a condition before final payment under this contract, or as a termination settlement under this contract, Contractor shall execute and deliver to the [agency] a release of all claims against the State arising under, or by virtue of, the contract, except claims which are specifically exempted by Contractor to be set forth therein. Unless otherwise provided in this contract, by state law, or otherwise expressly agreed to by the parties in this contract, final payment under the contract or settlement upon termination of this contract shall not constitute waiver of the State's claims against Contractor under this contract.

FORCE MAJEURE

Each party shall be excused from performance for any period and to the extent that it is prevented from performing any obligation or service, in whole or in part, as a result of causes beyond the reasonable control and without the fault or negligence of such party and/or its subcontractors. Such acts shall include without limitation acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations superimposed after the fact, fire, earthquakes, floods, or other natural disasters ("force majeure events"). When such a cause arises, Contractor shall notify the State immediately in writing of the cause of its inability to perform, how it affects its performance, and the anticipated duration of the inability to perform. Delays in delivery or in meeting completion dates due to force majeure events shall automatically extend such dates for a period equal to the duration of the delay caused by such events, unless the State determines it to be in its best interest to terminate the agreement.

HIPAA COMPLIANCE

Contractor agrees to comply with the "Administrative Simplification" provisions of the Health Insurance Portability and Accountability Act of 1996, including electronic data interchange, code sets, identifiers, security, and privacy provisions, as may be applicable to the services under this contract.

INDEMNIFICATION

To the fullest extent allowed by law, Contractor shall indemnify, defend, save and hold harmless, protect, and exonerate the agency, its commissioners, board 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 attorney's fees,

arising out of or caused by 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 upon approval of the Office of the Mississippi Attorney General, Contractor may be allowed to control the defense of any such claim, suit, etc. In the event Contractor defends said claim, suit, etc., Contractor shall use legal counsel acceptable to the Office of the Mississippi Attorney General. 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. Contractor shall not settle any claim, suit, etc. without the concurrence of the Office of the Mississippi Attorney General, which shall not be unreasonably withheld.

INDEPENDENT CONTRACTOR STATUS

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 State. Nothing contained herein shall be deemed or construed by the State, Contractor, or any third party as creating the relationship of principal and agent, master and servant, partners, joint ventures, employer and employee, or any similar such relationship between the State and Contractor. Neither the method of computation of fees or other charges, nor any other provision contained herein, nor any acts of the State or Contractor hereunder creates, or shall be deemed to create a relationship other than the independent relationship of the State and Contractor. Contractor's personnel shall not be deemed in any way, directly or indirectly, expressly or by implication, to be employees of the State. Neither Contractor nor its employees shall, under any circumstances, be considered servants, agents, or employees of the [agency], and the [agency] shall be at no time legally responsible for any negligence or other wrongdoing by Contractor, its servants, agents, or employees. The [agency] shall not withhold from the contract payments to Contractor any federal or state unemployment taxes, federal or state income taxes, Social Security tax, or any other amounts for benefits to Contractor. Further, the [agency] shall not provide to Contractor any insurance coverage or other benefits, including Worker's Compensation, normally provided by the State for its employees.

INFRINGEMENT INDEMNIFICATION

Contractor warrants that the materials and deliverables provided to the customer under this agreement, and their use by the customer, will not infringe or constitute an infringement of any copyright, patent, trademark, or other proprietary right. Should any such items become the subject of an infringement claim or suit, Contractor shall defend the infringement action and/or obtain for the customer the right to continue using such items. Should Contractor fail to obtain for the customer the right to use such items, Contractor shall suitably modify them to make them non-infringing or substitute equivalent software or other items at Contractor's expense. In the event the above remedial measures cannot possibly be accomplished, and only in that event, Contractor may require the customer to discontinue using such items, in which case Contractor will refund to the customer the fees previously paid by the customer for the items the customer may no longer use, and shall compensate the customer for the lost value of the infringing part to the phase in which it was used, up to and including the contract price for said phase. Said refund shall be paid within ten (10) working days of notice to the customer to discontinue said use. Scope of Indemnification: Provided that the State promptly notifies Contractor in writing of any alleged infringement claim of which it has knowledge, Contractor shall defend, at its own expense, the State against, and pay all costs, damages and attorney fees that a court finally awards for infringement based on the programs and deliverables provided under this agreement.

INSURANCE

A. Without limiting any liabilities or other obligations of Contractor, the Contractor shall provide and maintain insurance coverage with forms and insurers acceptable to MDOC, until all obligations under the contract are satisfied, as follows:

a. Worker's Compensation Insurance to cover obligations imposed by Federal and State Statutes having jurisdiction of its employees engaged in the performance of the services, and Employers' Liability insurance with a minimum limit of one hundred thousand dollars (\$100,000). Evidence of qualified self insured status shall also suffice for this section.

b. Comprehensive General Liability – including coverage for professional/law enforcement liability, contractual liability, death, bodily injury, personal injury including false arrest, detention, malicious prosecution, libel, slander, defamation of character, violations of the right of privacy, negligent acts, errors and omissions attributable to the Contractor in an amount not less than one million five hundred thousand dollars (\$1,500,000) per occurrence. This comprehensive general liability coverage may be provided by a combination of two or more policies.

c. Comprehensive Automobile Liability with a combined single limit for bodily injury and property damage of not less than one million five hundred thousand dollars (\$1,500,000) each occurrence with respect to Contractor vehicles (whether owned, hired, non-owned), assigned to or utilized in the performance of this contract.

INTEGRATED AGREEMENT/MERGER

This agreement, 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 agreement may be altered, amended, or modified only by a written document executed by the State and Contractor. 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 agreement shall not be construed or interpreted in favor of or against the State or Contractor on the basis of draftsmanship or preparation hereof.

LIQUIDATED DAMAGES

When Contractor is given notice of delay or nonperformance as specified in Paragraph (1) (Default) of the Termination for Default clause of this contract and fails to cure in the time specified, Contractor shall be liable for damages for delay in the amount of \$ _____ per calendar day from date set for cure until either the State reasonably obtains similar services if Contractor is terminated for default, or until Contractor provides the services if Contractor is not terminated for default. To the extent that Contractor's delay or nonperformance is excused under Paragraph (4) (Excuse for Nonperformance or Delayed Performance) of the Termination for Default clause of this contract, liquidated damages shall not be due the State. Contractor remains liable for damages caused other than by delay.

MODIFICATION OR RENEGOTIATION

This agreement may be modified 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.

NO LIMITATION OF LIABILITY

Nothing in this agreement shall be interpreted as excluding or limiting any tort liability of Contractor for harm caused by the intentional or reckless conduct of Contractor or for damages incurred through the negligent performance of duties by Contractor or the delivery of products that are defective due to negligent construction.

NOTICES

All notices required or permitted to be given under this agreement 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 change of address.

For Contractor: *name, title, Contractor, address*
For the agency: *name, title, agency, address*

NON-SOLICITATION OF EMPLOYEES

Each party to this agreement agrees not to employ or to solicit for employment, directly or indirectly, any persons in the full-time or part-time employment of the other party until at least six (6) months after this agreement terminates unless mutually agreed to in writing by the State and Contractor.

ORAL STATEMENTS

No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in this contract. All modifications to the contract must be made in writing by the [agency] and agreed to by Contractor.

OWNERSHIP OF DOCUMENTS AND WORK PAPERS

[Agency] 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 agreement, except for Contractor's internal administrative and quality assurance files and internal project correspondence. Contractor shall deliver such documents and work papers to [agency] upon termination or completion of the agreement. The foregoing notwithstanding, 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 [agency] and subject to any copyright protections.

PATENTS AND ROYALTIES

Contractor covenants to save, defend, keep harmless, and indemnify the [agency] and all of its officers, departments, agencies, agents, and employees from and against all claims, loss, damage, injury, fines, penalties, and cost--including court costs and attorney's fees, charges, liability, and exposure, however caused--for or on account of any copyright or patented or unpatented invention, process, or article manufactured or used in the performance of the contract, including its use by the [agency]. If Contractor uses any design, device, or material covered by patent or copyright, it is mutually agreed and understood without exception that the contract price includes all royalties or costs arising from the use of such design, device, or materials in any way in the work.

PRICE ADJUSTMENT

(1) Price Adjustment Methods. Any adjustments in contract price, pursuant to a clause in this contract, shall be made in one or more of the following ways:

- (a) by agreement on a fixed price adjustment before commencement of the additional performance;
- (b) by unit prices specified in the contract;
- (c) by the costs attributable to the event or situation covered by the clause, plus appropriate profit or fee, all as specified in the contract; or,
- (d) by the price escalation clause.

(2) Submission of Cost or Pricing Data. Contractor shall provide cost or pricing data for any price adjustments subject to the provisions of Section 3-403 (Cost or Pricing Data) of the Mississippi Public Procurement Review Board Office of Personal Service Contract Review Rules and Regulations.

PRIORITY

The contract consists of this agreement, the request for proposals [number] (hereinafter "RFP" and attached as Schedule []), and the response proposal by [Contractor] dated [date] (hereinafter "Proposal" and attached as Schedule []). Any ambiguities, conflicts or questions of interpretation of this contract shall be resolved by first, reference to this agreement and, if still unresolved, by reference to the RFP and, if still unresolved, by reference to the proposal. Omission of any term or obligation from this agreement or attached Schedules [] or [] shall not be deemed an omission from this contract if such term or obligation is provided for elsewhere in this contract.

QUALITY CONTROL

Contractor shall institute and maintain throughout the contract period a properly documented quality control program designed to ensure that the services are provided at all times and in all respects in accordance with the contract. The program shall include providing daily supervision and conducting frequent inspections of Contractor's staff and ensuring that accurate records are maintained describing the disposition of all complaints. The records so created shall be open to inspection by the [agency].

RECORD RETENTION AND ACCESS TO RECORDS

Provided Contractor is given reasonable advance written notice and such inspection is made during normal business hours of Contractor, the State or any duly authorized representatives shall have unimpeded, prompt access to any of 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. All records related to this agreement shall be retained by Contractor for three (3) years after final payment is made under this agreement 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.

RECOVERY OF MONEY

Whenever, under the contract, any sum of money shall be recoverable from or payable by Contractor to the [agency], the same amount may be deducted from any sum due to Contractor under the contract or under any other contract between Contractor and the [agency]. The rights of the [agency] are in addition and without prejudice to any other right the [agency] may have to claim the amount of any loss or damage suffered by the [agency] on account of the acts or omissions of Contractor.

RENEWAL OF CONTRACT

The contract may be renewed at the discretion of the agency upon written notice to Contractor at least [number] days prior to each contract anniversary date for a period of [number] successive one-year periods under the same prices, terms, and conditions as in the original contract. The total number of renewal years permitted shall not exceed [number].

Upon written agreement of both parties at least [number] days prior to each contract anniversary date, the contract may be renewed by the [agency] for a period of [number] successive one-year period(s) under the same prices, terms, and conditions as in the original contract. The total number of renewal years permitted shall not exceed [number].

REQUIREMENTS CONTRACT

During the period of the contract, Contractor shall provide all the service described in the contract. Contractor understands and agrees that this is a requirements contract and that the [agency] shall have no obligation to Contractor if no services are required. Any quantities that are included in the scope of work reflect the current expectations of the [agency] for the period of the contract. The amount is only an estimate and Contractor understands and agrees that the [agency] is under no obligation to Contractor to buy any amount of the services as a result of having provided this estimate or of having any typical or measurable requirement in the past. Contractor further understands and agrees that the [agency] may require services in an amount less than or in excess of the estimated annual contract amount and that the quantity actually used, whether in excess of the estimate or less than the estimate, shall not give rise to any claim for compensation other than the total of the unit prices in the contract for the quantity actually used.

RIGHT TO AUDIT

Contractor shall maintain such financial records and other records as may be prescribed by the [agency] or by applicable federal and state laws, rules, and regulations. Contractor shall retain these records for 'a period of three years after final payment, or until they are audited by the [agency], whichever event occurs first. These records shall be made available during the term of the contract and the subsequent three-year period for examination, transcription, and audit by the Mississippi State Auditor's Office, its designees, or other authorized bodies.

RIGHT TO INSPECT FACILITY

The State 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 State.

SEVERABILITY

If any part of this agreement is declared to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision of the agreement 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 agreement as necessary to reflect the original intent of the parties and to bring any invalid or unenforceable provisions in compliance with applicable law.

STATE PROPERTY

Contractor will be responsible for the proper custody and care of any state-owned property furnished for Contractor's use in connection with the performance of this agreement. Contractor will reimburse the State for any loss or damage, normal wear and tear excepted.

THIRD PARTY ACTION NOTIFICATION

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

UNSATISFACTORY WORK

If, at any time during the contract term, the service performed or work done by Contractor is considered by the [agency] to create a condition that threatens the health, safety, or welfare of the citizens and/or employees of the State of Mississippi, Contractor shall, on being notified by the [agency], immediately correct such deficient service or work. In the event Contractor fails, after notice, to correct the deficient service or work immediately, the [agency] shall have the right to order the correction of the deficiency by separate contract or with its own resources at the expense of Contractor.

VARIATION IN QUANTITY

Upon the agreement of the parties, the quantity of services specified in this contract may be increased by a maximum of ten percent provided:

- (1) the unit prices will remain the same (except for any price adjustments otherwise applicable); and,
- (2) the Chief Procurement Officer makes a written determination that such an increase will either be more economical than awarding another contract, or that it would not be practical to award another contract.

WAIVER

No delay or omission by either party to this agreement 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 agreement 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 agreement will void, waive, or change any other term or condition. No waiver by one party to this agreement of a default by the other party will imply, be construed as or require waiver of future or other defaults.

EXHIBIT I

Interstate and Intrastate Prisoner Transport Contract Discrepancy Report

Prisoner Transport Entity located at: _____

Date and Time of Service: _____

Report Date: _____

Discrepancy or Problem: (Describe in detail; attach supporting document; include reference to specification requirement; and attach continuation sheet if necessary).

Name:	Signature:	Date:
_____	_____	_____

Contractor Response as to Cause, Corrective Action, and/or Actions to Prevent Recurrence: (Cite applicable existing or new Quality Control Program or Procedures; and attach continuation sheet if necessary).

Name:	Signature:	Date:
_____	_____	_____

Contracting Agency Evaluation and Action: (Partial or full acceptance, rejection, payment deduction, cure notice, show cause, termination, other; attach continuation sheet if necessary).

Name:	Signature:	Date:
_____	_____	_____