**REOUEST FDR INVITATION FDR BIDS**

## IFB- RFX 3160003182

TO PR OVIDE: PROFESSIONAL NURSING AND CNA SERVICES ISSUE DATE:

**CLOSING LOCATION**

Boswell Regional Center 1049 Simpson Hwy 149/ PO Box 128 Magee MS, 39111

**IFB COORDINATDR**

## Benjie Purser/Purchasing Director

## Telephone: (601)867-5000

Fax: (601) 867-5017

E-Mail: bpurser@boswell.state.ms.us

**TECHNICAL CONTACT**

## Wanda Davis DON

## Telephone: (601) 867-5000

Email: Wanda.Davis@boswell.state.ms.us

**CLOSING DATE AND TIME**

## Bids must be received by 2:00 p.m. (CST) on 10/31/19

Boswell Regional Center Invitation for Sealed Bids: For Nursing and CNA Services BIO FILE: 09.24.2019.3382 RFX: 3160003182

September 9, 2019

Section -1: Information For Bidders

* + 1. In accordance with the rules and regulations of the Mississippi Public Procurement Review Board Office of Personal Service Contract Review (OPSCR), Boswell Regional Center (BRC) will receive sealed bids and award a contract for the Nursing and Certified Nursing Assistant (CNA) services described in the following specifications. Bidders shall understand that any eventual contract resulting from this Invitation for Bid 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
    2. Sealed bids (2 each paper copies) must be received not later than 2:00 P.M., Thursday, October 31, 2019, at Boswell Regional Center, by hand delivery at Business Services Building or by mail delivery at PO Box 128 Magee MS, 39111. Bidders must also submit a bid on line in the State of Mississippi electronic procurement system, Magic. In order to submit an on line bid, bidders must be registered as a vendor in Magic and have an ID Number and Password assigned. Bidders can obtain help with registration and on line bidding by calling (601) 359-1343 or at [www.dfa.ms.](http://www.dfa.ms/)gov/mmrs.
    3. Opportunities for on-site visits at Boswell Regional Center to discuss bid specifications and inspect work sites, products or equipment will be made by appointment only. Arrangements may be made by contacting Benjamin Purser, Purchasing Director, Boswell Regional Center, P.O. Box 128/ 1049 Simpson Hwy 149 Magee MS, 39111 or at (601) 867-5000. Final questions shall be submitted to the IFB Coordinator in writing and are due by 10/14/19.
    4. . The term of the contract shall be for a period of the remaining of FY20 ending on 6/30/20 for the services as specified in this request for sealed bids. The estimated start date for this contract will be 11/15/19.

1. It is our intent to procure professional nursing and CNA services, for BRC for the types and Quantities listed in this request for sealed bids. Contract awards shall be requirement contracts as defined by paragraph 3-501.05.3 of the Mississippi Public Procurement Review Board Office of Personal Service Contract Review Regulations; and therefore, quantities of BRC service requirements will be considered indefinite, no specific quantity of services are guaranteed. BRC shall order all nursing and CNA services covered by this IFB from the awarded vendors; however, BRC reserves the right to take bids separately if a particular quantity requirement arises which exceeds BRC's normal requirements or an amount specified herein this IFB. It shall be understood that BRC is exempted from ordering under the eventual contract when (1) services provided under this contract will not meet a nonrecurring, special need of BRC and (2) services are performed incidental to the State of Mississippi's own programs that can satisfy the need.
2. Failure to examine any drawings, specifications, and instructions will be at bidder's risk. It shall be incumbent upon the bidder to understand the specifications. Any request for clarifications shall be in writing and shall be submitted to our purchasing office at least seven (7) days prior to the time and date set for the bid opening.
3. If any questions or responses require revision to the solicitation as originally published, such revisions will be by formal amendment only. If the solicitation includes a contact person, bidders are cautioned that any oral or written representation made by this or any person that appear to change materially any portion of the solicitation shall not be relied upon unless subsequently ratified by a written amendment to this solicitation issued by the BRC Purchasing Office. For determination as to whether any representation made requires that an amendment be issued, contact the BRC Purchasing Office at (601) 867-5000. Ext 75013
4. It is the intent of the specifications to obtain a product and/or service that will adequately meet the needs of the user while promoting the greatest extent of competition that is practicable. It is the responsibility of the prospective bidder to notify Boswell Regional Center if the specifications, terms or conditions are formulated in a manner that would unnecessarily restrict competition. Any protest or question concerning the bid invitation or bid procedures must be received in the Boswell Regional Center Purchasing Office not less than ten (10) working days prior to the time and date set for the bid opening.
5. The minimum specifications stated herein are used to set a standard and in no case are used with the intention to discriminate against any prospective bidder. Bidders should submit detailed descriptions, manufacturer names models and literature of the product and services they propose to furnish.
6. Questions or problems arising from bid procedures or subsequent order and delivery of services procedures should be directed to Benjamin Purser, Purchasing Director, Boswell Regional Center, P.O. Box 128 , Magee MS, 39111, (601) 867-5000. Ext 75013
7. Only one bid, per line item, per bidder. This means that only a single bid will be accepted from each bidder for each line item requested. Alternate bids unless specifically requested will not be considered.
8. Prices quoted shall be fixed and firm for the term of the contract . Bidder shall utilize the procurement schedule provided in this document to submit pricing.
9. Invoices are to be billed to Boswell Regional Center, P.O. Box 128, Magee MS, 39111, Attn: Accounts

Payable.

1. No bid shall be altered or amended after the final specified time for opening bids. Request for bids and modifications or corrections thereof received afle1 ll1e final closing time specified will not be considered.
2. No bid addendum will be issued within a period of five (5) working days prior to the time and date set for the initial bid opening. Should it become necessary to issue an amendment within the five day period prior to the bid opening, the bid opening date will be reset giving bidders sufficient time to answer the addendum.
3. If purchase orders or contracts are canceled because of the awarded vendor's failure to perform or request for an unspecified price increase, that vendor shall be removed from our bidder's list for a period of no less than twenty-four (24) months.
4. The bidder understands that Boswell Regional Center 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 the contractor agrees during the term of the agreement that the contractor will strictly adhere to this policy in its employment practices and provision of products and services. The 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.
5. It is expressly understood and agreed that the obligation of Boswell Regional Center to proceed under any eventual 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 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 BRC, BRC shall have the right upon ten (10) days written notice to the vendor, to terminate this agreement without damage, penalty, cost *or* expenses to Boswell Regional Center of any kind whatsoever . The effective date of termination shall be as specified in the notice of termination.
6. Boswell Regional Center reserves the right to reject any and all bids in whole or in part and unless otherwise specified by the bidders, to award items, parts of items or by any group of items on the bid. Also the right is reserved to waiver minor informalities which do not affect the price, quantity, quality, delivery, or contractual conditions of the services being procured. BRC also reserves the right to cancel the solicitation in whole or in part when it is determined to be in the best interest of BRC. If the bidder fails to state the time with which the bids must be accepted, it is understood and agreed that Boswell Regional Center shall have sixty (60) days, from the bid opening date, to accept.
7. Award criteria. Award will be a Single award made based on the lowest and best bid price overall. All Awards shall be based on the standard hourly rate for each bidder. BRC shall give preference to in state Vendors as allowed by Mississippi State Code 31-7-47. Factors to be considered in determining the best bid include: (1) Bid price for the standard hourly rate (2) Conformity to Specifications (3) Responsibility of Bidder (4) Responsiveness of Bidder. All participating vendors will be notified of BRC's intent to award a contract. In addition, BRC will identify the selected vendor and the notice of award will made available to the public.

21 . It is the intent of Boswell Regional Center to procure only the products and services that meet the minimum standards stated herein. Alternates will be considered only if deviations to those standards are fully substantiated and submitted by potentially responsive sources denoting their equality to standards proposed, along with adequate documentation; including specifications, and construction details along with bid for evaluation and approval.

1. All products and services bid must equal or exceed specifications listed. The absence of detail specifications or the omission of detail description shall be recognized as meaning only the best commercial practices are to prevail and that only first quality services, materials and workmanship are to be used. All equipment bid, if applicable, shall be new and of current production, latest design and construction.
2. Bid openings will be conducted open to the public . However, they will serve only to open the bids. No discussion will be entered into with any vendor as to the quality or provisions of the specifications, and no award will be made either stated or implied at the bid opening. All bidders are invited and encouraged to attend the bid opening to review the submitted bids. After the close of the bid opening meeting and prior to award, the bids will be considered to be in the evaluation process and will not be available for review by bidders. Non-participants will be prohibited from obtaining any information relative to the bid until after the official award has been made.
3. The successful vendor will ensure that any written material prepared, after award, by the vendor in response to the requirements of this solicitation shall be thoroughly researched for accuracy of content, shall be grammatically correct and not contain spelling errors, shall be submitted in a format approved by the designated BRC Project Officer, and shall be submitted in a draft form for advance review and comment by the project officer. The cost of correcting grammatical errors or other revisions required to bring written materials into compliance with the solicitation requirements shall be borne by the successful vendor. BRC may waive requirements if it is determined to be in the best interest of Boswell Regional Center. This clause applies to reports and any written document submitted by the

successful vendor(s) after a contract has been awarded and not prior to a bid being submitted or as part of a bid submission.

1. The successful vendor shall irrevocably transfer, assign, set over, and convey to Boswell Regional Center all rights, title, and interest, including the sole exclusive and complete copyright interest, in any and all copy-rightable works created pursuant to any contract awarded as result of this bid invitation. The vendor further agrees to execute such documents as BRC may request to effect such transfer or assignment. Further the vendor agrees that the rights granted to BRC by this paragraph are irrevocable. The vendor's remedy in the event of termination of or dispute over any agreement entered into as a result of this solicitation shall not include any right to rescind, terminate, or otherwise revoke or invalidate in any way the rights conferred pursuant to the provisions of this paragraph. Similarly, no termination of any agreement entered into as result of this solicitation shall have the effect of rescinding, terminating, or otherwise invalidating the rights acquired pursuant to the provisions of this paragraph. BRC may waive this requirement if it is determined to be in the best interest of the hospital.
2. The successful vendor will, upon termination of agreement, on the date agreed upon by both parties, disconnect, disassemble, crate, insure and ship all owned equipment, covered by any eventual agreement, to a destination designated by the owner at no cost to BRC, if applicable.
3. The successful vendor must without limiting its obligations or liabilities and at its own expense, provide and maintain throughout the contract term, Comprehensive General Liability Insurance in an amount not less than $1,000,000.00 inclusive per occurrence insuring against bodily injury, personal injury and property damage. All required insurance will be endorsed to provide BRC with 30 days advance notice of cancellation or material change. The contractor must provide a Certificate of Insurance which is completed, certified by the original signature of an insurance company authorized to do business in Mississippi. The vendor must provide a Certificate of Insurance, showing BRC as certificate holder and additional insured under the contractor's general liability policy for the work to be performed, within seven (7) working days after notice of BRC intent to award a contract. Vendor shall also maintain in effect throughout the contract period workers' compensation insurance sufficient to meet or exceed the statutory minimum requirements of the State of Mississippi, as/if required by law, covering all persons performing work under this contract. The vendor shall be prepared *to* provide evidence of required worker's compensation insurance upon request by BRC at any during the contract period.
4. Boswell Regional Center accepts no responsibility for any expenses incurred by the bidder in the preparation and presentation of a bid. Such expenses shall be borne exclusively by the bidder.

29. The bidder should mark any and all pages of the bid considered to be proprietary information. Any pages not marked accordingly will be subject to review by the general public after award of the contract. Requests to review the proprietary information will be handled in accordance with applicable legal procedures. Section 25-61-9 and 79-23-1 of the Mississippi Code shall be used in determining proper procedures for this paragraph.

1. Bidders shall acknowledge receipt of any amendment to the solicitation by signing and returning the amendment with the bid, by identifying the amendment number and date in the space provided for this purpose on the bid form, or by letter. The acknowledgment must be received by Boswell Regional Center by the time and at the place specified for receipt of bids.
2. Bidder will provide at least three(3) references for contracts to provide services of similar size and scope to those specified in this bid invitation. References must include at least two (2) references for current contracts or those awarded within the past three years. Include the name of referenced organization, telephone number, start date of services, and the name of a responsible contact person. Reference information must be provided as a part of the bid package submitted for consideration. References must not be managed or owned by the parent company or organization of the submitting vendor. References must report the vendor to be of good reputation in providing applicable services as determined, by BRC. **List references on ATTACHMENT - A.**
3. YEARS IN BUSINESS: Indicate the length of time you have been providing the same or similar services to those specified in this bid invitation on **ATTACHMENT - A.**
4. Bids (1 copy) must be submitted signed and sealed with bidder's name and address on outside of envelope, and the time **(2:00 P.M.),** date of the bid opening **(October 31, 2019),** and bid file number **(09.24.2019.3382}** on the outside lower left corner of the envelope. Bid prices must be submitted on the form(s) provided in the bid package. All bids must be submitted in writing.
5. The successful vendor(s) shall enter into a contract which is substantially the same as the sample contract and its general terms and conditions attached as **ATTACHMENT ·B.** The total contract shall consist of this invitation for bid, the proposed bid offer from vendor and the standard sample contract shown as **ATTACHMENT - B.** No other documents shall be a part of the formal contractual agreement. In no event is a vendor to submit its own standard contract terms and conditions in response to this solicitation. The Bidder may submit exceptions to term and conditions listed in **ATTACHMENT - B,** and BRC will review requested exceptions and accept or reject exceptions at its sole discretion and as approved by the Mississippi Office of Personal Service Contract Review Board. This contract shall take priority over any other agreements that may be signed separately in conjunction with this invitation for bid, to include third party agreements.
6. Change To Invitation To Bid. Prospective Bidders shall not change or alter this bid invitation in any way. Award will be based on acceptance of this invitation in its entirety and vendor shall respond solely utilizing this IFB document as required.
7. Negotiation Delay. If a written agreement cannot be negotiated within thirty (30) days of notification of the successful bidder(s), BRC may at its sole discretion at any time thereafter, terminate negotiations with that bidder and either negotiate a contract with the next qualified bidder or choose to terminate the IFB process and not enter into a contract with any of the bidders.
8. The vendor agrees that submission of a signed bid form is certification that the vendor will accept an award made to it as a result of the submission.
9. Before submitting a bid, each bidder shall make all investigations and examinations necessary to ascertain all site conditions and requirements affecting the full performance of the contract and to verify any representations made by BRC upon which the bidder will rely. If the bidder receives an award as a result of its bid submission, failure to have made such investigations and examinations will in no way relieve the bidder from its obligation to comply in every detail with all provisions and requirements of the contract documents, nor will a plea of ignorance of such conditions and requirements be accepted be accepted as a basis for any claim whatsoever by the contract for additional compensation.
10. Taxes. Boswell Regional Center is exempt from federal excise taxes and state and local sales or use taxes and bidders must quote prices which do not include such taxes. Evidence of exemption will be furnished upon request. Contractors making improvement to, additions to or repair work on real property on behalf of Boswell Regional Center are liable for any applicable sales or use taxes on purchase of tangible personal property for use in connection with eventual contract. Contractors are likewise liable for any applicable use tax on personal property furnished to them by BRC for use in connection with their contracts. Contractors shall be liable for all personal property taxes that become due as a result of any awarded contract related to this Invitation for Bid.
11. The following schedule will be followed in the execution of this invitation for bids

A September 13, 2019: Bid is issued to newspaper

* 1. September 19, 2019 and September 26, 2019: Bid ad is published in the newspaper
  2. October 14, 2019: Deadline for questions from vendors

0. October 31, 2019: Bid is opened

E. November 15, 2019: Projected contract start date

**NOTE:** BRC reserves the right to amend and/or change the above schedule of events as it deems necessary.

1. Tie Bids. Low tie bids shall be awarded as specified in paragraph 3-202. 14 of the State of Mississippi Personal Service Contract Procurement Regulations.
2. Mistakes in Bids. Mistakes in bids submitted shall be determined and resolved as specified in paragraph 3-202. 12 of the State of Mississippi Office of Personal Service Contract Review Procurement Regulations.
3. Bid modification and withdrawal. Bids may be modified or withdrawn by written notice received in BRC Purchasing Office prior to the time and date set for bid opening.
4. Late Bids. Any bid received after the time and date set for receipt of bids is late. Any withdrawal or modification of a bid received after the time and date set for opening of bids at the place designated

for opening is late. No late bid, late modification, or late withdrawal will be considered unless receipt would have been timely but for the action or inaction of state personnel directly serving Boswell Regional Center. The only acceptable evidence to establish the date of mailing shall be the U.S. Postal Service postmark or other Courier Service postmark and if the postmark is not legible, the bid package or envelope shall be processed if mailed late. Bidders submitting late bids which shall not be considered for award shall be so notified as practicable .

46 . All vendors shall sign, complete and return the Certifications and Assurances Form, **ATTACHMENT**-c.

1. Any protest by a responsive Bidder must be timely and in conformance with instructions set forth in this bid invitation. The protest period for responsive Bidders shall begin on the day following the issuance of the notice of intent to award contract and end 4:30 P.M. on the **seventh day** following issuance of the notice. Protests must be written and must include the name and address of the protestor and the IFB number. It must also include a statement of grounds for protest, including appropriate supporting exhibits, and it must specify the ruling requested from BRC. The protest must be delivered to the BRC IFB coordinator. Protests received after the deadline will not be accepted.
2. 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 the Contractor's choice. The State may, at its sole discretion, require the Contractor to submit invoices and supporting documentation electronically 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 . Contractor agrees to accept all payments in United States Currency via the State of Mississippi's electronic payment and remittance vehicle. Boswell Regional Center 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 Mississippi State Hospital within forty-five (45) days of receipt of invoice. Mississippi Code Annotated 31-7-301 et seq. Please see **ATTACHMENT - D** for applicable rules and the signature page which must be signed and returned with your bid.
3. Bidder shall understand that Boswell Regional Center became a tobacco-free facility, effective June 30, 2008. The use of tobacco products by patients, employees, visitors, vendors, and contractual staff is prohibited.
4. 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 verification. Contractor further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws. The breach of this agreement may subject Contractor to the following: (a) termination of this contract and ineligibility for any state or public contract in Mississippi for up to three (3) years, with notice of such cancellation/termination being made public, (b) the loss of any license, permit, certification or other document granted to Contractor by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year; or (c) both. In the event of such cancellations/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.
5. The contract may be cancelled by BRC in whole or in part by written notice of default to the Contractor upon non-performance, violation of contract terms, delivery failure, bankruptcy or insolvency, or the making of an assignment for the benefit of creditors. An award may then be made to the next low bidder, or when time is of the essence, similar commodities and/or service may be purchased on the open market. In either event, the defaulting Contractor (or his/her surety) shall be liable to BRC for cost to BRC in excess of the defaulted contract price. Lack of knowledge by the Contractor will in no way be a cause for relief from responsibility.
6. The eventual contract resulting from this IFB shall be governed by and construed in accordance with the laws of the State of Mississippi, excluding its conflicts of laws provision, 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.
7. Bidders shall be registered with the Mississippi Secretary of State's Office as a business provider in good standing to provide services in the State of Mississippi as required by Mississippi State Code 79- 4-15.01. If not already registered, at the time bid is submitted, Bidders understands that they must do so within seven (7) working days of being offered an award. This requirement does not apply to Sole Proprietors and BRC reserves right to request documentation of bidder's business status.
8. **Order To Stop Work:** The Chief Procurement Officer, may, by written order to the contractor at any time, and without notice to any surety, require the contractor to stop all or any part of the work called for by this contract. This order shall be for a specified period not exceeding 90 days after the order is delivered to the contractor, unless the parties agree to any further period. Any such order shall identified specifically as a stop work order issued pursuant to this clause. Upon receipt of such an order the contractor shall forthwith comply with its terms and take all reasonable steps to minimize the occurrence of costs allocable to 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:
   1. cancel the stop work order; or,
   2. terminate the work covered by such order as provided in the Termination for Default Clause or the Termination for Convenience Clause of this contract.

**Cancellation Or Expiration Of The Order:** If a stop work order is issued under this clause is cancelled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, the contractor shall have the right to resume work. An appropriate adjustment shall be made in the delivery schedule or contractor price, or both, and the contract shall be modified in writing accordingly, if:

1. the stop work order results in an increase in the time required for, or in the contractor's properly allocable to, the performance of any part of this contract; and,
2. the contractor asserts a claim for such an adjustment within 30 days after the end of the period of work stoppage; provided that, if the Chief Procurement Officer decides 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.

**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.

**Adjustments of Price:** Any adjustment in price made pursuant to this clause shall be determined in accordance with the price adjustment clause of this contract.

1. This contract, including any accompanying exhibits, attachments, and appendices, is subject to the "Mississippi Public Records Act of 1983," and its exceptions. See Mississippi Code Annotated 25-61-1 *et* seq., and Mississippi Code Annotated 79-23-1.. In addition, this contract is subject to the provisions of the Mississippi Accountability and Transparency Act of 2008. Mississippi code annotated 27-104- 151 et seq. Unless exempted from disclosure due to a court-issued protective order, a copy of this executed contract is required to be posted to the Department of Finance and Administration's independent agency contract website for public access at [http://www](http://www/).transparency .mississippi.gov. Information identified by the Contractor as trade secrets, or other proprietary information including confidential vendor information, or any other information which is required confidential by state for federal law or outside the applicable freedom of information statutes, will be redacted.
2. 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.
3. 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 BRC Director 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 five (5) business days of receipt of the request. If a bidder prefers to have legal representation present, the bidder must notify the BRC Director in writing and identify its attorney by name, address, and telephone number. BRC will schedule and/or suspend and reschedule the meeting at a time when a Representative of the Office of the Mississippi Attorney General can be present. For additional information regarding post-award debriefing, as well as the information that may be provided and excluded, please see section 7-114 through section 7114.07 of the Mississippi Personal Service Contract Review Board Rules and Regulations.
4. Order of service utilization. Boswell Regional Center shall utilize the services of the lowest bidder, for CNAs, LPNs and/or RNs the lowest bidder for the contract shall be the awarded vendor. If the lowest overall bidder cannot meet the needs of Boswell Regional Center, then the designated BRC Officer shall proceed to the second lowest bidder, for the nursing category required, in an attempt to procure needed nursing services. The BRC Officer shall proceed in order of bids from lowest to highest until nursing needs are met for a qualified, competent worker who possesses the required knowledge and skills.
5. Recognized Holidays. BRC shall only pay holiday rates for the following major holidays: Independence Day (July 4th). Christmas Day (December 25th), Thanksgiving Day (Fourth Thursday in November), and New Year’s Day (January 1st).No other holidays will be paid at the vendor's holiday rate to include any additional days as may be declared by the Governor of Mississippi or the President of the United States of America.
6. 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.

Section ·II

Service Requirement Specifications

1. Purpose. Boswell Regional Center seeks to contract with One vendor for CNA, LPN and/or RNs, to provide professional temporary nursing services to BRC
2. Background. Boswell Regional Center is a mental health facility for the State of Mississippi Department of Mental Health It is located about one mile North West of Magee, Mississippi. BRC was established in 1976. Boswell Regional Center is spread out over the surrounding towns Magee, Mendenhall, Taylorsville, Bay Springs, New Hebron, Hazlehurst, Wesson, and Brookhaven. The operational divisions of BRC are IDD
3. Scope. The services to be provided under the eventual contracts awarded from this IFB shall be provided for all BRC locations as needed.
4. *Vendor* Tasks & Requirements
   1. Successful vendor shall provide professional temporary CNA, LPN and/or RN nursing services to BRC as specified. Services shall be available for the days and times as specified for BRC and on an occasional basis to supplement staffing levels of the designated by BRC. BRC complies with all federal and state licensure/certification regulations. All licensed nursing personnel, to include vendor personnel, shall work under the direction of the BRC Director of Nursing or an authorized representative to ensure proper completion of the tasks assigned under an eventual awarded contract. All nursing services shall be performed in a professional manner in accordance with accepted and recognized treatment practices. (ALL)

B. Successful vendor shall designate a contact person available twenty four (24) hours daily as needed for communication with BRC.

1. Successful vendor shall provide qualified LPNs, RNs and CNAs for assignment in BRC as shown in the procurement schedule. (AS SPECIFIED)
2. Successful vendor shall provide copy of current license, registration, or certification as applicable, for each vendor employee who is assigned to any BRC site. Licenses must be on file with the appropriate division prior to the vendor employees' assignment. Vendor shall be responsible for ensuring that any nurse assigned under this contract is properly licensed by the State of Mississippi. Vendor nurses shall be in good standing and have no restrictions on their nursing license by the Board of Nursing. (ALL)
3. Successful vendor shall ensure each vendor employee has results of an annual TB test on file and also evidence of current CPR certification must be on file prior to assignment. (ALL)
4. Successful vendor shall provide orientation for all vendor employees which shall include a competency checklist showing competence in oxygen administration, glucose monitoring, medication administration and facility information, etc., as required by BRC sites.(ALL) SEE ATTACHED 3-F
5. Successful vendor shall ensure that each of its assigned vendor employees is identified by a name and photo ID badge worn by the employee at all times while on assignment at BRC. Vendor(s) shall also ensure that vendor employee is properly attired and adheres to the dress code of the BRC division to which they are assigned. (ALL)
6. Successful Vendor shall understand that any personnel assigned to BRC, pursuant to this agreement shall, for all purposes, be considered employees of the Vendor only. The Vendor shall assume sole and exclusive responsibility for the payment of wages and benefits to nurses providing services under this agreement, maintaining workers' compensation and all other insurance required by this agreement, withholding federal taxes and state taxes, FICA, unemployment insurance, and all other employer's federal and state income taxes on behalf of its contract employees as required by all applicable laws. (ALL)
7. Successful vendor shall ensure that vendor employees fully comply with the policies and procedures of the division to which they are assigned. Vendor employees will also be required to comply with applicable standards of practice, and all applicable regulations as now existing and as may be modified or amended. Successful vendor shall demonstrate a capability to meet applicable regulations and bid requirements prior to being awarded a contract. (ALL)
8. Nurses assigned to all BRC locations shall have no documented evidence of variations in clinical practice, must have demonstrated skill in care documentation in accordance with established nursing standards, must be flexible, and have good communication skills. RNs assigned BRC must also have demonstrated expertise in delivery of direct patient care and supervision/direction of LPNs, and Direct Care Staff. Any Vendor staff nurse failing to meet specified clinical requirements shall not be allowed to begin assigned shift and the event will be reco1ded as an event of vendor cancellation by all BRC locations. (AS SPECIFIED)
9. BRC shall reserve the right to cancel or change a request for nursing services upon a minimum of one (1) hour advance notice prior to the beginning of a scheduled shift. It shall be the responsibility of the Vendor to contact vendor nurses prior to the reporting time and communicating such change or cancellation. Successful Vendor shall be required to provide BRC with a minimum four (4) hour notice of cancellation prior to the beginning of a scheduled shift. BRC reserves the right to cancel a vendor nurse request and the basis of cancellation will include but not be limited to patient acuity and census regardless of vendor affiliation. Successful Vendor have the understood responsibility to provide alternate staff with equivalent credentials/experience to BRC at the time of cancellation. The party requesting to cancel a request for service, within the established time frame, shall not be assessed any charges, fees or penalties as a result of canceling a request for nursing services. (ALL)
10. Vendor nurses shall be required to return to the appropriate BRC location within twenty four hours to correct any problem arising from a previous shift and any payment due for services rendered shall be withheld until problem is resolved to the satisfaction of BRC. To allow for expedient completion of medical record deficiencies, Vendor shall establish a policy and procedures to notify the designated BRC Director of Nursing in writing (e-mail is acceptable) when Vendor staff, assigned to BRC, are no longer employed by the Vendor. (ALL)
11. BRC shall only pay vendor nurses for hours actually worked during a shift. Vendor nurses shall work as scheduled unless they are relieved of their obligation to complete the shift by the designated BRC representative and in which case the vendor nurse shall be paid for the actual hours worked without additional fees or penalties to BRC. (ALL)
12. Successful vendor shall provide the required number of qualified nurses during the shifts required, seven days per week as needed, weekends as needed, and during holidays as needed. Frequent failure to comply with this requirement, despite status as the low bid provider, shall be grounds for termination of contract and/or utilization of an alternate contract vendor as determined necessary solely by BRC.
13. Vendor shall screen all vendor personnel before making assignment, to BRC, in order to determine the qualifications and competence of vendor employees. Vendor shall ensure that assigned vendor employees are free of clinically apparent communicable diseases . Vendor shall ensure that vendor employees have no previous criminal convictions for abuse, mistreatment or neglect of others. (ALL)
14. If, in the professional judgment of the BRC Director of Nursing, Nurse Supervisor or Charge Nurse, a vendor nursing employee referred by the Vendor is deemed to be incompetent (does not possess the required knowledge and skills) , negligent, or has engaged in misconduct, BRC may require the vendor employee not to be placed or to leave the BRC facility site immediately, if already in place. BRC shall inform the Vendor of this action immediately following action. BRC shall only be obligated to pay vendor for actual hours worked by released vendor nurse. (ALL)
15. Overtime shall be defined as those hours worked in excess of forty (40) hours in a one week pay period. For all vendor nursing personnel who work over forty (40) hours in a one week pay period, BRC may be billed at the vendor's bid overtime rate. If the vendor's pay period differs from BRC's pay period, the Vendor agrees to be responsible for monitoring vendor nurses hours and shall agree to schedules which will limit the amount of overtime worked in the Vendor's defined pay period. The Vendor agrees to inform BRC that an overtime situation may occur, before the two parties agree to place a specific nurse at BRC. (ALL)
16. Successful Vendor shall contact BRC locations at least four (4) hours before the start of a scheduled shift in the event that Vendor's employee will not be reporting as scheduled or if the Vendor was unable to fill a request. Vendor shall establish a communication system with designated BRC Nursing staff to communicate what steps have been taken to problem solve unfilled shifts due to Vendor staff calling in or not arriving as scheduled. (ALL)
17. Successful Vendor shall maintain a current listing of all nurses designated by BRC as "Do Not Return". BRC nurses discharged from any BRC location for any reason shall not be eligible for placement at BRC in any vendor nursing position. BRC reserves the sole right to grant a placement exception as approved by BRC Nursing Executive. Any attempt by the Vendor, to place an ineligible nurse will be considered a violation of contract. (ALL)
18. Vendor performance and/or practice deficits noted with Vendor staff shall be documented and forwarded to the Vendor and BRC Director of Nursing. Recurrent instances of substandard clinical performance may, at BRC’s sole discretion, result in probationary status for the Vendor. Vendors in probationary status must submit a corrective action plan to BRC outlining steps to taken to correct deficits, within thirty (30) days of written notification. BRC reserves the right to suspend all activity with any Vendor in probationary status.
19. Successful Vendors shall ensure that any nurse assigned to any division of BRC is not also being assigned to work in a BRC division for another Vendor at any time during the contract period.
20. Reporting Requirements. Vendor shall be required to submit monthly reports detailing the total number of requests for nurses and CNAs, made by each BRC location and provided by vendor. All Reports shall be made to the BRC Director of Nursing and shall be signed by an authorized representative of the vendor.
21. Period of Performance Vendor shall provide required services for the remaining year for FY20 beginning on approximately November 15, 2019-June 30, 2020

Section - Ill

Procurement Schedule – BRC Bid File: 09.24.2019.3382 Nursing and Certified Nursing Assistant Services

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Line No. | | Qty | | Description: Registered Nurse RN | | Bid Price($} |
| 1. | | Open - As Needed | | Successful Vendor(s) shall provide professional temporary RN nursing services to the BRC locations at the discretion of the BRC Director of Nursing at the locations needed. Successful nursing agencies shall provide nursing coverage on an occasional basis to supplement staffing levels in the BRC locations. BRC complies with all federal, state and local licensure/certification regulations.  Nursing Personnel must have the following:  High School Diploma or GED  Graduation from a state approved/ accredited nursing program and/or college or university  Valid RN license in the State of Mississippi (in good standing)  Two years of experience as a practicing RN  Ability to administer prescribed medication and medical treatments following standard nursing procedures.  Ability to assess and monitor physical and/or mental conditions of patients/clients.  Ability to maintain effective communication with patients, families, and members of the health care staff.  Ability to provide documentation, prepare reports, and maintain patient/client records, including necessary computer skills.  Ability to participate in the defining, interpreting, and implementing standards, policies, and procedures which affect the delivery of nursing care services.  Ability to participate in regular in-service training.  Other RN skills as required | | $ |
| Standard Hourly Rate -RN  $ |
| Overtime Hourly Rate -RN  $ |
| Holiday Hourly Rate -RN |
| Line No. | | Qty | | Description: Licensed Practical Nurse LPN | | Bid Price{$) | |
| 2. | | Open - As Needed | | Successful Vendor(s) shall provide professional temporary LPN nursing services to the BRC locations at the discretion of the BRC Nursing Management at the locations needed. Successful nursing agencies shall provide nursing coverage on an occasional basis to supplement staffing levels in the BRC locations. BRC complies with all federal, state and local licensure/certification regulations.  Nursing Personnel must have the following:  High School Diploma or GED  Graduation from a state approved/ accredited nursing program and/or college or university  Valid LPN license in the State of Mississippi (in good standing)  One year of experience as a practicing LPN.  Ability to administer prescribed medication and medical treatments following standard nursing procedures.  Ability to monitor physical and/or mental conditions of patients/clients  Ability to maintain effective communication with patients, families, and members of the health care staff.  Ability to provide documentation, prepare reports, and maintain patient/client records, including necessary computer skills.  Other LPN Skills, as required. | | $ | |
| Standard Hourly Rate - LPN  $ | |
| Overtime Hourly Rate -LPN  $ | |
| Holiday Hourly Rate - LPN | |

|  |  |  |  |
| --- | --- | --- | --- |
| Line No. | Qty | Description: Certified Nursing Assistant CNA | Bid Prices ($) |
| 3. | Open -As Needed | Successful Vendor(s) shall provide professional temporary CNA nursing services to the BRC locations at the discretion of the BRC Director of Nursing at the locations needed. Successful nursing agencies shall provide nursing coverage on an occasional basis to supplement staffing levels in the BRC locations. BRC complies with all federal, state and local licensure/certification regulations.  Nursing Personnel must have the following:  High School Diploma or GED  Valid CNA license in the State of Mississippi (in good standing)  Ability to participate in act ivies with parents/clients.  Ability to assist residents in all areas of physical care and hygiene.  Ability to perform housekeeping duties.  Ability to write non-technical reports and participate in training sessions, including necessary computer skills.  Ability to stand for long periods of time and perform physically demanding tasks to include lifting or repositioning patients.  Other CAN skills, as required. | $ |
| Standard Hourly Rate - CNA  $ |
| Overtime Hourly Rate - CNA  $ |
| Holiday Hourly Rate - CNA |

SERVICE HOURS LISTED ABOVE ARE ESTIMATES AND ARE SUBJECT TO CHANGE

BIDS WILL BE OPENED: 2:00 P.M. October 31, 2019 , at The Dexter Building, Boswell Regional Center.

I certify that I am authorized to enter into a binding contract, if this bid is accepted. By signing below, the undersigned agrees to all terms and conditions of the Invitation For Bid, including attachments and exhibits, in whole and with exception of those amendments as acknowledged in writing to bidder and signed by a duly authorized agent of BRC.

ACKNOWLEDGEMENT OF AMENDMENTS:

Bidders shall acknowledge the receipt of amendments by placing an "X" by each amendment number received – Section

No. 1 ( ) Section No. 2 ( ) Section No. 3. ( )

Vendor's Quotation No.. Date

Name Of Company Telephone

Address

City / State / Zip Code

By Title

(Signature)

We submit the above prices on behalf of (Vendor) and agree to provide services within days from receipt of order or notice to proceed. Unless notified to the contrary, this offer is good for 60 days from the date of the bid opening. In submitting the above bid, it is expressly agreed that upon proper acceptance of any or all items by the Boswell Regional Center, a contract shall hereby be created only after a written purchase order or contract award notice is mailed or otherwise furnished to the successful bidder within the time of acceptance specified above without further action by either party. The contract shall not be assignable by the vendor in whole or in part without the written consent of Boswell Regional Center.

Benjamin Purser

Purchasing Director

**REFERENCE PAG E - ATTACH MENT: A**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Company Name | Contact Person | Telephone | Address | Date of Last service/ Sale |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |

Note: All references will be contacted and they must report the bidder to be in good reputation in providing services the same as those requested in this IFB.

THE SAME AS THOSE REQUESTED IN THIS IFB.

YEARS IN BUSINESS

Indicate the length of time you have been in business providing the services requested in this invitation for bid: \_\_\_\_\_\_\_\_\_\_\_Years

and Months

# ATTACH M ENT - B

SAMPLE BRC PERSONAL SERVICE AG REEMENT

This agreement is entered into by Boswell Regional Center, hereafter called "BRC" whose address is PO Box 128, 1049 Simpson Highway 149, Magee, Mississippi 39111 and

Hereinafter called "Independent Contractor" for the provision of services as set out herein.

NOW THEREFORE, the parties agree to the terms and conditions herein.

* + 1. INDEPENDENT CONTRACTOR

Neither Independent Contractor nor its employees shall under any circumstances, be considered servants or agents of the BRC or any of its subordinate programs and BRC or any of its subordinate programs shall be at no time legally responsible for any negligence or other wrongdoing by the Independent Contractor or its servants, or agents. BRC agrees to compensate as outlined in Attachment A, which is attached hereto and made a part of as if fully copied herein. These funds shall be paid directly to the Independent Contractor by BRC. BRC or any of its subordinate programs shall not withhold from the Independent Contractor payments for any federal or state unemployment taxes, federal or state income taxes, Federal Insurance Contributions Act (FICA) withholdings, or any other amounts for benefits to Independent Contractor.

Further, BRC or its subordinate programs shall not provide to Independent Contractor any insurance coverage or other benefits including Workers Compensation, normally provided by the state for its employees.

* + 1. SCOPE OF WORK

Independent Contractor agrees to provide services to BRC as described, and under the conditions, as set out in Attachment A which is attached hereto and made a part of as if fully copied herein.

* + 1. PERIOD OF AGREEMENT

Performance of the services will begin on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and will end

on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

* + 1. RESERVATION OF RIGHT

Any and all forms, reports, designs, and other materials prepared by Independent Contractor for BRC shall be used by BRC only for its own internal operations. BRC retains all rights and interest in said reports.

* + 1. 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 hereto shall be brought in the courts of the state. The Independent Contractor shall comply with applicable federal and state local laws and regulations.

* + 1. AVAILABILITY OF FUNDS

It is expressly understood and agreed that the obligation of BRC 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 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 altercation of the program under which funds were provided or if funds are not otherwise available to BRC, BRC shall have the right upon ten (10) working days written notice to the Independent 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.

* + 1. REPRESENTATION REGARDING CONTINGENT FEES

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

* + 1. 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.

* + 1. 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.](http://www.DFA.ms.gov/)

* + 1. TRADE SECRETS, COMMERCIAL AND FINANCIAL INFORMATION

It is expressly understood that Mississippi law requires that the provisions or 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.

11. TRANSPARENCY

This contract, including any accompanying exhibits, attachments, and appendices, is subject to the "Mississippi Public Records Act of 1983," and its exceptions. See Mississippi Code Annotated §§ 25-61-1*et seq.* and Mississippi Code Annotated § 79-23-1. In addition, this contract is subject to the provisions of the Mississippi Accountability and Transparency Act of 2008. Mississippi Code Annotated §§ 27-104-151 *et seq.* Unless exempted from disclosure due to a court-issued protective order, a copy of this executed contract is required to be posted to the Department of Finance and Administration's independent agency contract website for public access at [http://www](http://www/).transparency.mississippi .gov. Information identified by Independent 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 beredacted.

1. COMPLIANCE WITH LAWS

The Independent Contractor understands that the Hospital is an equal opportunity employer and therefore maintains a policy which prohibits unlawful discrimination based on race, color, creed, sex, age, national origin, religion, physical handicap, disability, genetic information, or any other consideration made unlawful and the Independent Contractor agrees during the term of the agreement that the Independent Contractor will strictly adhere to this policy in its employment practices and provisions of services. The Independent 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.

1. HIPAA

Independent Contractor agrees to comply with the Final Omnibus Rule of the Health Insurance Portability and Accountability Act of 1996 and any amendments there too, including electronic data interchange, code sets, identifiers, security, and privacy provisions, as may be applicable to the service under this contract."

1. TERMINATION FOR CONVENIENCE
2. *Termination.* The BRC Director 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 BRC Director or designee shall give written notice of the termination to Independent Contractor specifying the part of the contract terminated and when termination becomes effective.
3. *Independent Contractor Obligations.* Independent Contractor shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination Independent Contractor will stop work to the extent specified. Independent Contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work. Independent Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The BRC Director or designee may direct Independent Contractor to assign Independent Contractor right, title, and interest under

terminated orders or subcontracts to the State. Independent Contractor must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.

15. TERMINATION FOR DEFAULT

1. *Default .* If Independent 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 BRC Director or designee may notify Independent 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 BRC Director or designee, such officer may terminate Independent 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, BRC Director or designee may procure similar supplies or services in a manner and upon terms deemed appropriate by BRC Director or designee. Independent 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. Independent Contractor's *Duties .* Notwithstanding termination *of* the contract and subject to any directions from the procurement officer, Independent Contractor shall take timely, reasonable, and necessary action to protect and preserve property in the possession of Independent 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 Independent Contractor such sums as BRC Director 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, Independent 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 Independent Contractor to make progress in the prosecution of the work hereunder which endangers such performance) if Independent Contractor has notified BRC Director or designee within 15 days after the cause of the delay and the failure arises out of causes such 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, Independent 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 Independent Contractor to meet the contract requirements. Upon request of Independent Contractor, BRC Director 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, Independent 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").
5. *Erroneous Termination for Default.* If, after notice of termination of Independent Contractor's right to proceed under the provisions of this clause, it is determined for any reason that the contract was not in default under the provisions of this clause, or that the delay was excusable under the provisions of Paragraph (4) (Excuse for Nonperformance or Delayed Performance) of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of the State, be the same as if the notice of termination had been issued pursuant to such clause.

(£) *Additional Rights and Remedies.* The rights and remedies provided in this clause are in addition

*to* any other rights and remedies provided by law or under this contract. 16. TERMINATION UPON BANKRUPTCY

This contract may be terminated in whole or in part by BRC upon written notice to Independent Contractor, if Independent Contractor should become the subject of bankruptcy or receivership proceedings, whether voluntary or involuntary, or upon the execution by Independent Contractor of an assignment for the benefit of its creditors. In the event of such termination, Independent 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.

1. 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.

1. E-VERIFICATION

Independent Contractor represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act 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 . Independent 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 . Independent 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 Independent Contractor to the following:

* 1. termination of this Agreement and ineligibility for any state or public contract in Mississippi for up to three (3) years with notice of such cancellation/termination being made public;
  2. the loss of any license, permit, certification or other document granted to Independent 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 termination/cancellation, Independent 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.

1. ANTI-ASSIGNMENT/SUBCONTRACTING

The Independent Contractor acknowledges that it was selected by BRC to perform the services required hereunder based, in part, upon the Independent

Contractor's special skills and expertise. The Independent Contractor shall not assign, subcontract, or otherwise transfer this agreement in whole or in part without the prior written consent of BRC, which BRC 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 BRC of any subcontract shall be deemed in any way to provide for the incurrence of any obligation of BRC 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 BRC may deem necessary. Subject to the foregoing, this agreement shall be binding upon the respective successors and assigns of the parties.

20. 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 par ties 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:

1. cancel the stop work order; or,
2. 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 anytime

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.

21. 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 Independent Contractor's choice. The State may, at its sole discretion, require Independent 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.

1. 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.

1. AUTHORITY TO CONTRACT

Independent 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.

1. CHANGE IN SCOPE OF WORK

BRC 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 Independent Contractor that the scope of the project or of Independent Contractor's services has been changed, requiring changes to the amount of compensation to Independent Contractor or other adjustments to the contract, unless such changes or adjustments have been made by written amendment to the contract signed by BRC and Independent Contractor. If Independent 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 Independent Contractor, Independent Contractor must immediately notify BRC in writing of this belief. If BRC believes that the particular work is within the scope of the contract as written, Independent Contractor will be ordered to and shall continue with the work as changed and at the cost stated for the work within the contract.

25. INFORMATION DESIGNATED BY CONTRACTOR AS CONFIDENTIAL

Any disclosure of those materials, documents, data, and other information which Independent 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 Independent Contractor or its subcontractor shall rest with Independent Contractor. Disclosure of any confidential information by Independent Contractor or its subcontractor without the express written approval of BRC shall result in the immediate termination of this agreement.

1. CONFIDENTIALITY

Notwithstanding any provision to the contrary contained herein, it is recognized that BRC 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 BRC pursuant to the agreement and designated by the Contractor in writing as trade secrets or other proprietary confidential information, BRC shall follow the provisions of Mississippi Code Annotated §§ 25-61-9 and 79-23-1 before disclosing such information. BRC shall not be liable to the Independent Contractor for disclosure of information required by court order or required by law.

1. CONTRACTOR PERSONNEL

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

1. DEBARMENT AND SUSPENSION

Independent 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,

1. Has not, within a three year period preceding this proposal, ha d one or more public transaction s (federal, state, or local) terminated for cause or default.
2. 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.*

1. EXCEPTIONS TO CONFIDENTIAL INFORMATION

Independent 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 lea ding 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,

(f) is disclosed with the disclosing party's prior written consent.

1. FAILURE TO DELIVER

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

1. FAILURE TO ENFORCE

Failure by BRC 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 Hospital to enforce any provision at any time in accordance with its terms.

*lndepende11I Contractor* - *April 20 l 8 Revision*

1. 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, and acts *of* war, epidemics, and 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.

34. INDEMNIFICATION

To the fullest extent allowed by law, Independent 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 tees and expenses, and

attorney's fees, arising out of or caused by Independent 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, Independent Contractor may be allowed to control the defense of any such claim, suit, etc. In the event Independent Contractor defends said claim, suit, etc., Independent Contractor shall use legal counsel acceptable to the State. Independent 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. Independent Contractor shall not settle any claim, suit, etc. without the State's concurrence, which the State shall not unreasonably withhold.

1. INDEPENDENT CONTRACTOR STATUS

Independent 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, Independent 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 Independent Contractor.

Neither the method of computation of fees or other charges, nor any other provision contained herein, nor any acts of the State or Independent Contractor hereunder creates, or shall be deemed to create a relationship other than the independent relationship of the State and Independent Contractor. Independent Contractor's personnel shall not be deemed in any way, directly or indirectly, expressly or by implication, to be employees of the State. Neither Independent Contractor nor its employees shall, under any circumstances, be considered servants, agents, or employees of BRC and BRC shall be at no time legally responsible for any negligence or other wrongdoing by Independent Contractor, its servants, agents, or employees. BRC shall not withhold from the contract payments to Independent Contractor any federal or state unemployment taxes, federal or state income taxes, Social Security tax, or any

other amounts for benefits to Independent Contractor . Further, BRC shall not provide to Independent Contractor any insurance coverage or other benefits, including Worker's Compensation, normally provided by the State for its employees.

1. MODIFICATION OR RENEGOTIATION

This agreement may be modified only by written agreement signed by the par ties 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.

1. NO LIMITATION OF LIABILITY

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

1. 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 BRC or Independent Contractor and agreed to by the other party in the contract.

1. RECOVERY OF MONEY

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

1. STATE PROPERTY

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

1. THIRD PARTY ACTION NOTIFICATION

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