

# Invitation for Bids No. 2018-01

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Election Services for PERS Board Positions

June 1, 2018





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## Section I - Transmittal Letter

**To:** Interested Vendors  
**Date:** June 1, 2018  
**Re:** Transmittal Letter

The Public Employees' Retirement System of Mississippi (PERS) invites bids for blended election services for the PERS Board positions representing State Employees and Retirees. The schedule of events for this solicitation is:

- |    |                              |               |           |
|----|------------------------------|---------------|-----------|
| 1. | Invitation for Bids Released | June 1, 2018  |           |
| 2. | Bids Due                     | July 3, 2018  | 5:00 p.m. |
| 3. | Evaluation of Bids           | July 5, 2018  |           |
| 4. | Completion of Contract       | June 30, 2019 |           |

All questions related to this invitation for bids should be submitted via email to Greg Jacobs (e-mail below) in the PERS Accounting Department by 5 p.m. Friday, June 15, 2018. Answers will be posted to the PERS website by 5 p.m. Tuesday, June 19, 2018. Please visit [www.pers.ms.gov](http://www.pers.ms.gov) to find any questions and answers published. An acknowledgment of receipt of the questions and answers must be submitted with the bid package if questions and answers are published. Bidders are cautioned that any statements made by contact persons that cause a material change to any portion of the bid document shall not be relied upon unless subsequently published on the PERS website.

Bids must be submitted to the mailing address below. Please mark your envelope as a sealed bid.

Public Employees' Retirement System of Mississippi  
Accounting Department  
Attention: Greg Jacobs  
429 Mississippi Street  
Jackson, Mississippi 39201-1005  
[gjacobs@pers.ms.gov](mailto:gjacobs@pers.ms.gov)  
(800) 444-7377, *toll free*  
(601) 359-2269, *direct*

Material not in accordance with specifications returned at vendor's expense. Postmarks will not be considered – bids must be in the PERS office by 5:00 p.m. Tuesday, July 3, 2018.

## **Section II - General Information**

### **Statement of Understanding**

The Public Employees' Retirement System (PERS) of Mississippi is seeking to establish a contract for blended election services for two elections. The two elections are for State Employee Representative and Retiree Representative positions on the PERS of Mississippi Board of Trustees. The election services required include:

- Secure handling of confidential election participant information
- Printing and mailing of election information packages
- Toll-free telephone customer assistance available to participants provided by vendor
- Vote collection and tabulation from telephone responses
- Vote collection and tabulation from mailed paper ballots
- Vote collection and tabulation from secure internet site provided by the vendor
- Assurance that each participant is allowed only one vote using only one of three methods
- Certification of election results and overnight shipping of results to PERS
- Reporting of election statistics to PERS

### **Conference or Visit**

The selected vendor is required to telephone conference with PERS or to make an onsite visit to the PERS office located at 429 Mississippi Street in Jackson, Mississippi. This conference or visit must occur within five business days of bid award. The date and time of this meeting must be coordinated with the following PERS representative:

Davetta Lee  
Counsel and Policy Advisor  
(601) 359-9516

### **Hours of Operation**

The Public Employees' Retirement System's normal hours of operation are CDT 8:00 a.m. to 5:00 p.m. The vendor must adhere to the hours of operation to accommodate effective and timely communications.

### **Data Security**

Because of the sensitive information involved in elections, the vendor must provide security throughout the election process to ensure the confidentiality and safety of this information. The vendor will be given a partial Social Security number and most recent home address for each participant. The vendor must provide a secured portal or FTP website that utilizes HTTPS SSL encryption for the transfer of our data file. This file will be in ASCII standard fixed length format. A signed confidentiality agreement from the vendor will be required before any transfer of data occurs. The vendor must destroy all data files supplied by PERS 90 days after the PERS Board of Trustees has certified the election results. PERS must receive written confirmation of this destruction.

### **Confidentiality Agreement**

The selected vendor will be required to complete a confidentiality agreement, guaranteeing that the confidentiality of all PERS-related data and information will be safeguarded. The agreement is included in Attachment C.

### **Expenses Incurred in Preparing Bid**

PERS accepts no responsibility for any expense incurred by the bidder in the preparation and presentation of a bid. Such expenses shall be done exclusively by the bidder.

**Bid Form**

All pricing must be submitted on the Bid Form for Election Services (Attachment B). Failure to complete and/or sign the bid form may result in the bidder being determined nonresponsive.

**Bid 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.

**PERS Board Election Schedule – State Employee Representative****Term ends 12/31/18**

Aug 14, 2018	Deadline for preparation of official ballot
Aug 28, 2018	Board approval of ballot at regularly scheduled meeting
Sept 7, 2018	Deadline to mail ballots
Oct 8, 2018	Deadline for receipt of ballots/votes
Oct 23, 2018	Board approval of election results at regularly scheduled meeting
Nov 2, 2018	Deadline for swearing in of new Board member

**Runoff (if necessary)**

Nov 06, 2018	Ballots mailed
Dec 07, 2018	Deadline for receipts of ballots/votes
Dec 18, 2018	Board approval of election results at regularly scheduled meeting
Dec 28, 2018	Deadline for swearing in of new Board member

**PERS Board Election Schedule – Retiree Representative**

The Retiree Representative's term expires June 30, 2019, and the election will follow a similar schedule beginning February 12, 2019. The ballots and results will be presented during the PERS Board meetings in February and April 2019 on the fourth Tuesday. If a runoff is necessary, the Board will approve the runoff results during the June Board meeting on June 25, 2019.

## Section III - Specifications

### Election Ballot Package

Contractor shall provide the design, layout, and printing of the election packages. Each package will contain voting instructions, voter specific personal identification numbers (PIN), candidate biographies, and the ballot. The ballot may be designed as a separate sheet, postcard, or perforated removable portion of the voting instructions and candidate biographies. The return mailing address should be printed on the ballot card or return envelope provided by the contractor. The PERS logo shall be included in the election package. The 3 colors used for voting instructions will be black, Pantone Blue 302 (or CMYK 100, 25, 0, 50), and Pantone Green 392 (or CMYK 7, 0, 100, 49). Each candidate biography will be text only (no photos) and is limited based on space available and the number of candidates. The size of paper and number of pages in the ballot package is subject to the number of approved candidates. Contractor's design and layout sample is subject to PERS' approval.

### Mailing Services

Contractor shall provide mailing services and packaging materials for the ballot package, including provision of such services and materials for a runoff election. **Postage will not be included in the bid for election services. PERS will provide the funds necessary for all postage charges. Postage is considered a pass-through cost for the purpose of this invitation for bids, but the election services vendor must facilitate a postage permit account to handle postage costs associated with the election. Invoicing for postage costs will be separate from invoicing for election services.**

The vendor is responsible for management and reporting of mail activity related to the elections. The outbound election materials will be sent using a presorted standard rate of postage. The reply mail activity will be sent using a first-class rate. Any replacement ballots will be sent using a first-class rate. Contractor shall ensure all mailings take place according to the election schedule agreed upon by PERS prior to commencement of each election. The contractor shall provide U. S. Postal Service receipts verifying quantities of mailed pieces and applicable rates for all mailing activity associated with PERS elections.

### Voter Tracking System

The Contractor shall develop a voter tracking system that will provide a barcode scanning system for return ballots and Personal Identification Numbers (PIN) for online and telephone ballots for tracking and control purposes. All bar code and PIN numbers must be randomly generated and must not reflect any personal data.

### Paper Ballot Voting

The Contractor shall process ballots for the primary election and for a runoff (if necessary). Punch-hole ballots will not be accepted. The ballots must be counted by an automated system. The Contractor will be required to receive and organize ballots that are returned as undeliverable and provide a list of those undeliverable addresses to PERS. The Contractor shall establish controls to assure that each voter may only cast one eligible vote for the board seat. The first vote tabulated is the vote to be counted. Election materials must be stored at the Contractor's off-site facility during the election cycle and maintained for 90 days after the Board of Trustees has certified the election results.

### Interactive Voice Response (Telephone Voting)

The Contractor shall provide an option to vote by telephone for the primary election and later for a runoff (if necessary). The Contractor shall provide an option to vote by Interactive Voice Response (telephone voting) that has 99% uptime and is available 24 hours a day, seven days a week to eligible voting

members. The Contractor shall establish controls to assure that each voter may only cast one eligible vote for the board seat. The first vote tabulated is the vote to be counted. All voice mail scripts shall be pre-approved by PERS.

### **Internet Voting**

Contractor shall process votes submitted online for the primary election and later for a runoff (if necessary). The Contractor shall provide a secure website where the participant will log in using an assigned identification number generated by the Contractor. The secure site shall be available 24 hours a day, seven days a week, with 99% up-time. PERS will approve the website text and application prior to going live. The Contractor shall establish controls to ensure that only one eligible vote for the board seat is counted. The first vote received is the vote to be counted.

### **Customer Service Toll-Free Line**

The Contractor shall provide a toll-free number with voice response access that has 99% uptime and is available 24 hours a day, seven days a week to eligible voting members. Contractor shall provide a Personal Identification Number (PIN) to all voting members to enable them to receive general election information and request a duplicate ballot package. The Contractor shall provide customer service representatives to answer questions regarding the voting methods or to request replacement ballots Monday through Friday between 8:00 a.m. and 5:00 p.m. Central Time (CT), excluding State Holidays. Contractor shall provide adequate incoming lines to achieve PERS' goal of an average queue of less than three (3) minutes.

### **Tally the Votes**

The Contractor shall tally votes from eligible voting members according to the rules specified in the voting instructions within the ballot package and as agreed upon by Contractor and PERS. The mail ballots must be counted by an automated system.

The Contractor shall review and process damaged paper ballots in situations where the voter's intention is clear, but the ballot is not suitable for the automated system.

The Contractor shall ensure that vote tally takes place according to the Election Schedule.

Contractor shall provide PERS with a hard copy report representing the final vote by the following deadlines:

State Representative Election: October 15, 2018 for the primary election and December 13, 2018 for a runoff election

Retiree Election: April 15, 2019 for the primary election and June 17, 2019 for a runoff election

### **Runoff Election**

In the event of a runoff election, Contractor must print and mail a ballot package containing the ballot and candidate biographies for the candidates that received the most votes. Contractor shall provide voters the same voting options and services provided for the primary election.

### **Assumptions for Bid Costing**

Vendors should assume the following when preparing bid calculations:

- We estimate approximately 28,000 participants in the State Representative election and 108,000 participants in the Retiree Representative election. Use these numbers for bid costs.
- We estimate there will be up to 7 candidates in the primary elections. Assume this number of candidates. Candidate biographies are text only and will be limited based on available space and

the number of candidates. Assume that candidate biographies will be 125 words or less. We assume there will be a primary and a runoff in each election. Provide costs for each election.

- Historical data in elections show 30% total response or voter turnout. Assume this response in these elections.
- Historical data shows that of the total vote response, the method used by voters is 88% mail-in ballot, 7% internet ballot, and 5% telephone ballot. Assume this voter response distribution in these elections.
- Historical data shows that our address file required 1,500 address corrections needed for deliverable pieces in the most recent Retiree Representative election. Assume this many corrections needed, but please detail the cost per address correction.
- Historical data shows approximately 200 replacement ballots during the most recent Retiree Representative election. Assume this number for costing, but please detail the cost per replacement ballot.

#### **Section IV - Submission of Bids**

Bids must be delivered no later than the date and hour indicated in the Transmittal Letter on page 3 of the IFB and only to the following address:

Public Employees' Retirement System of Mississippi  
Accounting Department  
Attention: Greg Jacobs  
429 Mississippi Street  
Jackson, Mississippi 39201-1005

Bid must include (1) a Letter of Transmittal, (2) a Bid Form for Election Services (Attachment B), (3) completed Confidentiality Agreement (Attachment C), (4) sample Election Package as described in Section V, and (5) Reference List.

If questions are submitted by potential bidders, the Acknowledgement of Amendments Form and the questions and answers will be posted to the PERS website. The Acknowledgement of Amendments Form must be submitted with the bid proposal if made available.

## **Section V - Preparation of Bid Response**

PERS reserves the right to disqualify any proposal that does not include the following required components:

### **Letter of Transmittal**

**Part 1** of the bid response must consist of a letter of transmittal signed by an individual authorized to bind the company contractually. The letter shall state that the proposal, including the prices, is valid for a period of ninety (90) days after the deadline for submission of proposals given in the Transmittal Letter and thereafter until the offeror withdraws it OR an agreement is made and approved OR the procurement is terminated, whichever first occurs. The letter shall also include the name, title, address, and telephone number of one or more individuals authorized to negotiate and sign a contract for the company.

### **Bid Form for Election Services**

**Part 2** of the bid response **must** include Attachment B (Bid Form for Election Services).

**Any item needed for the successful execution of election services for which no cost is stated in the Bid Form will be deemed to be included in the stated costs.**

### **Additional Costs**

PERS will not accept invoices for additional costs not outlined in the bid proposal without PERS management approval prior to the receipt of the invoice. Requests for approval of any additional costs for work performed that is outside the scope of the project as documented in the IFB must be submitted to PERS management along with written justification that the work to be completed is not within the scope of the IFB. PERS management approval must be granted prior to completion of the work associated with the additional costs.

### **Confidentiality Agreement**

**Part 3** of the bid response must include Attachment C (Confidentiality Agreement).

### **Sample Election Package**

**Part 4** of the bid response must include a Sample Election Package. Please provide a mockup of the materials described in the Bid Form for Election Services. This sample election package must meet the specifications established in Section III of the Invitation for Bids.

### **Reference List**

**Part 5** of the bid response must include a reference list. Provide a minimum of three (3) references from jobs of similar size and scope that bidder has performed within the last three years. References must include company name, address, contact person, and phone number. The list of references must be submitted with your bid package.

### **Acknowledgement of Amendments (As Necessary)**

If questions and answers are presented during the bid period, an Acknowledgement of Amendments Form will be provided on the PERS website on the Request for Proposal page. The acknowledgement form and all questions and answers will be posted by 5 p.m. Tuesday, June 19, 2018.

**PLEASE MARK YOUR ENVELOPE AS A SEALED BID.**

## **Section VI – Contracts**

This Invitation for Bids and the vendor's response will become an addendum to the Contract. Accordingly, the vendor selected will be contractually bound by its statements. In the event of a conflict in language between the documents referenced above, the provisions and requirements of the Contract shall govern. The Contract is provided as **Attachment A**.

### **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 Director of PERS within three (3) business days of notification of the contract award.

### **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 Bid Coordinator, Greg Jacobs. The protest shall be submitted on or before Thursday, July 12, 2018, 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 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.

## **Section VII - Bid Evaluation**

Bid award will be based on the vendor who meets the specifications at the lowest cost. Bid responses received that do not include a proposal as outlined in Section V - Preparation of Bid Response, will be disqualified.



## PERS Contract for Services

## Attachment A

This Contract ("Contract") is made by and between the Public Employees' Retirement System of Mississippi ("PERS") whose address is 429 Mississippi Street, Jackson, Mississippi 39201 and ("Contractor"), whose address is \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 2018, under the following terms and conditions:

1. **Scope of Services** The Contractor will provide election services in accordance with the specifications and requirements set out in the Invitation for Bids ("IFB") attached hereto. All services will be satisfactorily completed no later than June 30, 2019.
2. **Contract Term** The Contract period shall be from \_\_\_\_\_ through \_\_\_\_\_.
3. **Consideration** As consideration for the performance of this Contract, the Contractor shall be paid a fee not to exceed \_\_\_\_\_ in accordance with the terms of this Contract. The Contractor shall invoice PERS as outlined under paragraph 4 of this Contract. *{Further terms to be determined.}*
4. **E-Payment** The Contractor agrees to accept all payments in United States currency via the State of Mississippi's electronic payment and remittance vehicle. The DFA agrees to make payment in accordance with Mississippi law on "Timely Payments for Purchases by Public Bodies", Section 31-7-301, et seq. of the 1972 Mississippi Code Annotated, as amended, which generally provides for payment of undisputed amounts by the agency within forty-five (45) days of receipt of the invoice.
5. **Paymode** Payments by state agencies using the State's automated 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 Contract. The Contractor understands and agrees that the State is exempt from the payment of taxes. All payments shall be in United States currency.
6. **Payment of Taxes** The Contractor shall be liable for all taxes. PERS will not be responsible for paying any taxes, including but not limited to use, excise, personal property, or sales tax.
7. **Availability of Funds** It is expressly understood and agreed that the obligation of PERS to proceed under this Contract is conditioned upon the appropriation of funds by the Mississippi State Legislature and the receipt of state and/or federal funds. If the funds anticipated for the continuing fulfillment of the 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 PERS, PERS shall have the right upon ten (10) working days written notice to the Contractor, to terminate this Contract without damage, penalty, cost, or expenses to PERS of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination. PERS shall have the sole right to determine whether funds are available for the payments or performances due under this Contract.
8. **Representation Regarding Contingent Fees** The Contractor represents that it has not retained a person to solicit or secure a State contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except as disclosed in the Contractor's bid proposal.

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

**10. 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 venue for resolution of any dispute shall be Jackson, Hinds County, Mississippi. The Contractor shall comply with applicable federal, state, and local laws and regulations. The Contractor expressly agrees that under no circumstances shall PERS be obligated to pay an attorney's fee, prejudgment interest or the cost of legal action to the Contractor. Further, nothing in this Contract shall affect any statutory rights that PERS may have and such rights cannot be waived or limited by contract.

**11. Assignment** The Contractor shall not assign, subcontract, or otherwise transfer in whole or in part, its rights or obligations under this Contract without prior written consent of PERS. Any attempted assignment or transfer without said consent shall be void and of no effect.

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

**13. Transparency** This Contract, including any accompanying exhibits, attachments, and appendices, is subject to the "Mississippi Public Records Act of 1983," and its exceptions. See Miss. Code Ann. § 25-61-1 *et seq.*, (1972, as amended) and Miss. Code Ann. § 79-23-1 (1972, as amended). In addition, this Contract is subject to the provisions of the Mississippi Accountability and Transparency Act of 2008. Miss. Code Ann. § 27-104-151, *et seq.* (1972, as amended). Unless exempted from disclosure due to a court-issued protective order, a copy of this executed Contract is required to be posted to the Department of Finance and Administration's independent Agency contract website for public access at <http://www.transparency.mississippi.gov>. Information identified by the Contractor as trade secrets, or other proprietary information including confidential vendor information or any other information that is required confidential by state or federal law or outside the applicable freedom of information statutes, will be redacted.

**14. Employee Status Verification System** If applicable, the 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.* (1972, as amended) The term "employee" as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. The Contractor agrees to maintain records of such compliance. Upon request of the State and after approval of the Social Security Administration or Department of Homeland Security when required, the Contractor agrees to provide a copy of each such verification. The 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 which may subject the Contractor to the following:

(1) 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;

(2) the loss of any license, permit, certification, or other document granted to the Contractor by an Agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year; or,

(3) both (1) and (2).

In the event of such termination/cancellation, the Contractor shall 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.

**15. Independent Contractor** The Contractor shall perform all services as an Independent Contractor and shall at no time act as an agent for PERS. No act performed or representation made, whether oral or written, by the Contractor with respect to third parties shall be binding on PERS. Neither the Contractor nor its employees shall, under any circumstances, be considered servants, agents, or employees of PERS; and PERS shall at no time be legally responsible for any negligence or other wrongdoing by the Contractor, its servants, agents, or employees. It is expressly understood and agreed that PERS enters into this Contract with the Contractor based on the procurement of professional services and not based on an employer-employee relationship. For all purposes under this Contract, it is understood that the consideration expressed herein constitutes full and complete compensation for all services and performances hereunder, and that any sum due and payable to the Contractor shall be paid as a gross sum with no withholdings or deductions being made by PERS for any purpose from said Contract sum. The Contractor accepts exclusive responsibility for the payment of Federal Income Tax, State tax, Social Security, and any other withholdings that may be required.

The Contractor represents that it is qualified to perform the duties to be performed under this Contract and that it has, or will secure, if needed, at its own expense, applicable personnel who shall be qualified to perform the duties required under this Contract. Such personnel shall not be deemed in any way, directly or indirectly, expressly or by implication, to be employees of PERS. Any person assigned by the Contractor to perform the services hereunder shall be the employee of the Contractor, who shall have the sole right to hire and discharge its employee. PERS may, however, direct the Contractor to replace any of its employees under this Contract. The Contractor will be responsible for the behavior of all its employees and subcontractors while on the premises of PERS. Any employee or subcontractor of the Contractor acting in a manner determined by the administration of that location to be detrimental, abusive, or offensive to any of the staff will be asked to leave the premises and may be suspended from further work on the premises. All employees and subcontractors of the Contractor who will be working at such locations shall be covered by the Contractor's comprehensive general liability insurance policy. The Contractor shall pay when due, all salaries and wages of its employees and it accepts exclusive responsibility for the payment of federal income tax, state income tax, social security, unemployment compensation, and any other withholdings that may be required. Neither the Contractor nor its employees are entitled to state retirement or leave benefits.

#### **16. 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.

## **17. Termination for Convenience**

(a) *Termination.* The Agency Head or designee may, when the interests of the State so require, terminate this contract in whole or in part, for the convenience of the State. The Agency Head or designee shall give written notice of the termination to Contractor specifying the part of the contract terminated and when termination becomes effective.

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

## **18. Termination for Default**

(a) *Default.* If Contractor refuses or fails to perform any of the provisions of this contract with such diligence as will ensure its completion within the time specified in this contract or any extension thereof, or otherwise fails to timely satisfy the contract provisions, or commits any other substantial breach of this contract, the Agency Head or designee may notify Contractor in writing of the delay or nonperformance and if not cured in ten (10) days or any longer time specified in writing by the Agency Head or designee, such officer may terminate Contractor's right to proceed with the contract or such part of the contract as

to which there has been delay or a failure to properly perform. In the event of termination in whole or in part, the Agency Head or designee may procure similar supplies or services in a manner and upon terms deemed appropriate by the Agency Head or designee. Contractor shall continue performance of the contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services.

(b) *Contractor's Duties.* Notwithstanding termination of the contract and subject to any directions from the procurement officer, Contractor shall take timely, reasonable, and necessary action to protect and preserve property in the possession of Contractor in which the State has an interest.

(c) *Compensation.* Payment for completed services delivered and accepted by the State shall be at the contract price. The State may withhold from amounts due Contractor such sums as the Agency Head or designee deems to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders and to reimburse the State for the excess costs incurred in procuring similar goods and services.

(d) *Excuse for Nonperformance or Delayed Performance.* Except with respect to defaults of subcontractors, Contractor shall not be in default by reason of any failure in performance of this contract in accordance with its terms (including any failure by Contractor to make progress in the prosecution of the work hereunder which endangers such performance) if Contractor has notified the Agency Head or designee within 15 days after the cause of the delay and the failure arises out of causes such as: acts of God; acts of the public enemy; acts of the State and any other governmental entity in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. If the failure to perform is caused by the failure of a subcontractor to perform or to make progress, and if such failure arises out of causes similar to those set forth above, Contractor shall not be deemed to be in default, unless the services to be furnished by the subcontractor were reasonably obtainable from other sources in sufficient time to permit Contractor to meet the contract requirements. Upon request of Contractor, the Agency Head or designee shall ascertain the facts and extent of such failure, and, if such officer determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, Contractor's progress and performance would have met the terms of the contract, the delivery schedule shall be revised accordingly, subject to the rights of the State under the clause entitled "Termination for Convenience."

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

(f) *Additional Rights and Remedies.* The rights and remedies provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

**19. Termination upon Bankruptcy** This contract may be terminated in whole or in part by PERS 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.

20. **Modification or Renegotiation** This Contract may be modified, altered, or changed only by written agreement signed by the parties hereto. The parties agree to renegotiate the agreement if federal or state revisions of any applicable laws or regulations make changes in this Contract necessary.

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

22. **Ownership of Documents and Work Papers** PERS shall own all documents, files, reports, work papers, and working documentation, electronic or otherwise, whether completed or in progress, created in connection with this Contract, except for the Contractor's internal administrative and quality assurance files and internal project correspondence. The Contractor shall destroy or deliver such documents and work papers to PERS upon termination or completion of the Contract.

23. **Indemnification** To the fullest extent allowed by law, the Contractor shall indemnify, defend, save and hold harmless, protect, and exonerate PERS, its officers, employees, agents, and representatives, and the State of Mississippi from and against all claims, demands, liabilities, suits, actions, damages, losses, and costs of every kind and nature whatsoever, including, without limitation, court costs, investigative fees and expenses, and attorneys' fees, and claims for damage arising out of or caused by the Contractor and/or its partners, principals, agents, employees and/or subcontractors in the performance of or failure to perform this Contract.

24. **Third Party Action Notification** The Contractor shall notify PERS in writing within five (5) business days of its receipt of liquidation or receivership proceedings or within five (5) business days of its receipt of notification of any action or suit being filed or any claim being made against Contractor or PERS by any entity that may result in litigation related in any way to this Contract and/or which may affect the Contractor's performance under this Contract. Failure of the Contractor to provide such written notice to PERS shall be considered a material breach of this Contract, and PERS may, at its sole discretion, pursue its rights as set forth in the Termination clauses herein and any other remedies it may have at law or in equity.

25. **Notices** All notices required or permitted to be given under this Contract must be in writing and personally delivered or sent by facsimile provided that the original of such notice is sent by certified United States mail postage prepaid, return receipt requested, or by overnight courier with signed receipt, 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 the Contractor:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

For PERS:

Attn: Ray Higgins  
Executive Director  
429 Mississippi Street  
Jackson, MS 39201

26. **Severability** If any term or provision of this Contract is prohibited by the laws of this State of Mississippi or declared invalid or void by a court of competent jurisdiction, the remainder of this Contract shall not be affected thereby and each term and provision of this Contract shall be valid and enforceable to the fullest extent permitted by law.

27. **Failure to Enforce** Failure by PERS, 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 PERS to enforce any provision at any time in accordance with its terms.

28. **Priority** The Contract consists of this agreement with exhibits, the IFB, and the bid submitted by the Contractor. Any ambiguities, conflicts, or questions of interpretation of this Contract shall be resolved by first, reference to this agreement and attached appendices and, if still unresolved, by reference to the IFB and, if still unresolved, by reference to the bid. Omission of any term or obligation from this agreement shall not be deemed an omission from this Contract if such term or obligation is provided for elsewhere in this Contract.

29. **Sovereign Immunity** By entering into this Contract with the Contractor, PERS and the State of Mississippi does, in no way, waive its sovereign immunities or defenses, as provided by law.

30. **Confidential Information** The Contractor shall treat all PERS data and information to which it has access by its performance under this Contract as confidential and shall not disclose such data or information to a third party without specific written consent of PERS. The Contractor shall protect such personal and confidential information against unauthorized use, disclosure, modification, or loss. All data files and information submitted by PERS will remain the property of PERS. All data files or information supplied by PERS and any duplicates or printouts made by the Contractor shall be destroyed by the Contractor and written confirmation of said destruction by the Contractor to PERS must be received no later than 30 days after manufacturing and shipping of this project is completed. This provision shall survive the termination or completion of this Contract and shall continue in full force and effect and shall be binding upon the Contractor and its agents, employees, successors, assigns, subcontractors or any party or entity claiming an interest in this Contract on behalf of, or under the rights of the Contractor following any termination or completion of the Contract. Any breach of this provision may result in termination of the Contract and demand for return of all personal information. The Contractor agrees to indemnify and hold harmless PERS for any damages related to the Contractor's unauthorized use or disclosure of personal or confidential information.

31. **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.

This Contract has been entered into and executed by the parties hereto as of the day and year first above written.

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RAY HIGGINS  
EXECUTIVE DIRECTOR  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

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*(Insert the name of the Contractor)*



## Bid Form for Election Services

**Attachment B**

Company	Contact Person	Telephone Number

I. Give brief description of materials and/or services bid

II. Pricing – Provide cost estimate on a per-participant basis using the assumptions given in Section III of the Invitation for Bids. This rate will be applied to the actual number of participants provided by PERS at the time of the election. Also, list any costs that would be identified as separate and not applicable to the per-participant rate.

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

- All required equipment/material
- All required insurance
- All required overhead
- All required profit

**The pricing must include all associated costs with no additional or hidden fees.**

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 the Invitation for Bids and Attachments;
2. That the company meets all requirements and acknowledges all certifications contained in the Invitation for Bids and Attachments;

3. That the company agrees to all provisions of the Invitation for Bids and Attachments;
4. That the company will perform the services required at the prices quoted above;
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 applicable personnel who shall be qualified to perform the duties required to be performed under this Invitation for Bids
7. **NON-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 or federal government.
8. **INDEPENDENT PRICE DETERMINATION** – The bidder certifies that the prices submitted in response to the solicitation have been arrived at independently and without, for the purpose of restricting competition, any consultation, communication, or agreement with any other bidder or competitor relating to those prices, the intention to submit a bid, or the methods or factors used to calculate the bid offered.
9. **PROSPECTIVE CONTRACTOR’S REPRESENTATION REGARDING CONTINGENT FEES** – The prospective contractor represents as a part of such Contractor’s bid or proposal that such Contractor has/has not (**please circle applicable word or words**) retained any person or agency on a percentage, commission, or other contingent arrangement to secure this contract.
10. **REPRESENTATION REGARDING CONTINGENT FEES** - The Contractor represents that it has/has not (**please circle applicable word or words**) retained a person to solicit or secure a State contract upon an agreement or understanding for a commission, percentage, brokerage, or other contingent fee, except as disclosed in the Contractor’s bid or proposal.
11. **REPRESENTATION REGARDING GRATUITIES** - The bidder, offeror, or contractor represents that it has not violated, is not violating, and promises that it will not violate the prohibition against gratuities set forth in Section 6-204 (Gratuities) of the *Mississippi Personal Service Contract Board Review Rules and Regulations*.

**Printed Name:** \_\_\_\_\_

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_



## Confidentiality Agreement

Attachment C

I, \_\_\_\_\_, \_\_\_\_\_, in order to  
*Name Title*

submit a bid on behalf of \_\_\_\_\_ (hereinafter, Vendor)  
for future election services to the Public Employees' Retirement System of Mississippi (PERS) do hereby  
acknowledge and agree to the following:

1. Certain confidential information will be made available by PERS to Vendor to enable Vendor to perform services necessary in order to prepare a proposal to PERS for printing and mailing the PERS Board Position election packets.
2. Mississippi law provides that PERS member records are confidential and the contents thereof shall not be disclosed without prior written consent of the individual to whom the record pertains. Vendor shall treat all PERS data and information to which it has access as confidential and shall not disclose such data or information to a third party without specific written consent of PERS. Vendor shall protect such personal and confidential information against unauthorized use, disclosure, modification or loss. This provision shall survive the termination or completion of any Contract and shall continue in full force and effect and shall be binding upon Vendor and its agents, employees, successors, assigns, subcontractors.
3. Vendor agrees to indemnify and hold harmless PERS for any damages related to Vendor's unauthorized use of personal or confidential information.
4. That all data and information, electronic or otherwise, provided, collected, or prepared by the Vendor pursuant to this Invitation for Bids or any related Contract and all documents, notes, files and all other materials collected, developed or prepared by Vendor pursuant to this Invitation for Bids or any related Contract shall be and shall remain the property of the PERS.
5. No later than 90 days after completion of election and reporting of election results to PERS, the vendor will destroy all data and information provided by PERS and provide written confirmation of said destruction to PERS .

Witness my signature this the \_\_\_\_\_ day of \_\_\_\_\_ 2018.

\_\_\_\_\_  
*Signature*