

**Mississippi Department of Finance and Administration**

**OFFICE OF PROCUREMENT  
AND CONTRACTS**

**INVITATION FOR BIDS**

**HVAC AIR FILTER SERVICES AND SUPPLIES**

**CAPITOL COMPLEX AND MUSEUMS**

**RFx #: 3160005839**

**May 12, 2023**

Contact information for this Invitation for Bids:

HVAC Air Filter Services and Supplies IFB  
c/o DFA - Office of Procurement and Contracts  
501 North West Street  
Suite 1301-A Woolfolk Building  
Jackson, Mississippi 39201  
[procurement@dfa.ms.gov](mailto:procurement@dfa.ms.gov)

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## SECTION 1. INTRODUCTION AND OVERVIEW

### 1.1 Purpose and Goals

The Mississippi Department of Finance and Administration (DFA) Office of Procurement and Contracts issues this Invitation for Bids (IFB) to solicit offers from responsible vendors to establish fixed price contract for a Heating Ventilation and Air Conditioning (HVAC) Air Filter Services and Supplies for twenty-four\* (24) specific properties owned and operated by the State of Mississippi. Twenty-one (21) buildings are located in Jackson, MS, two (2) buildings are located in Hattiesburg, MS and one (1) building is located in Biloxi, MS (see Section 3).

*\*This number does not include Alternate Bid locations. There are three (3) Alternate Bid locations.*

DFA requests bids from experienced, responsible and financially sound organizations that have the proven capability and qualifications to provide the services as detailed in Section 3, **Scope of Services**, of this IFB.

The awarded contract will be for three (3) years with two (2) optional renewal years to be exercised at the discretion of DFA. The effective date of this contract will be September 1, 2023 This IFB and any resulting contract shall be governed by the applicable provisions of the *Mississippi Public Procurement Review Board (PPRB) Office of Personal Service Contract Review Rules and Regulations (OPSCR)*, a copy of which is available at 501 N. West Street, Suite 701E, Jackson, Mississippi 39201 for inspection or at <https://www.dfa.ms.gov/personal-service-contract-review>. A draft copy of the contract has been included as Appendix D for your review.

A copy of this IFB, including all appendices and attachments, and any subsequent amendments, including the Question and Answer amendment, if issued, will be posted to the DFA website at <https://www.dfa.ms.gov/bids-and-rfps-notices> under “Active Procurements”. It is the responsibility of all interested vendors to monitor the website for updates regarding this procurement.

### 1.2 Important Dates

<b>May 12, 2023</b>	Invitation for Bids released
<b>May 26, 2023</b>	Questions Due to DFA by 2:00 pm
<b>June 2, 2023</b>	Responses to questions to be posted
<b>June 14, 2023</b>	Bids submission deadline by 2:00 PM CST
<b>June 14, 2023</b>	Bid Opening at 2:15 PM CST
<b>June 26, 2023</b>	Notice of Intent to Award distributed
<b>June 26, 2023</b>	Notice of Contract Award published
<b>July 7, 2023</b>	PPRB Submission Deadline
<b>August 8, 2023</b>	PPRB Meeting

*NOTE: Adjustments to the schedule may be made as deemed necessary by the Office of Procurement and Contracts.*

### 1.3 Questions and Answers

Bidders should download the “Question and Answer” template from the DFA website at <https://www.dfa.ms.gov/procurement-contracts>. Questions must be submitted on the referenced template and should be submitted via email to [procurement@dfa.ms.gov](mailto:procurement@dfa.ms.gov) with a subject line: “Questions – HVAC Filter Services and Supplies (RFX #: 3160005839)”. Questions must be received no later than **2:00 PM CST, on May 26, 2023**, to ensure a response by DFA. Responses to questions will be posted to the DFA website at <https://www.dfa.ms.gov/bids-and-rfps-notices> under “Active Procurements” as an amendment to the IFB on **June 2, 2023**. Questions received after **May 26, 2023**, may be considered for response, although there is no guarantee as to if or when a response will be provided. It is the Bidder’s sole responsibility to regularly monitor the website for amendments and/or announcements concerning this IFB.

### 1.4 Acknowledgement of Amendments

DFA reserves the right to amend this IFB at any time. Should an amendment to the IFB be issued, it will be posted to the DFA website at <https://www.dfa.ms.gov/bids-and-rfps-notices> under “Active Procurements”. Bidders must acknowledge receipt of any amendment to the IFB by signing and returning the amendment. The acknowledgment must be included in the bid submission. Please monitor the website for amendments to the IFB. **DFA responses to questions will be treated as amendments to the IFB and will require acknowledgment.**

### 1.5 Bid Submission Requirements

Bids may be submitted in paper format, or they may be submitted via the State of Mississippi’s Accountability System for Governmental Information and Collaboration (MAGIC).

If submitting in paper, an original bid shall be signed and submitted with section components clearly tabbed as follows:

1. Appendix A – Bid Cover Sheet with copy of all required license(s) or permit(s), if required;
2. Appendix B – Bid Form with Attachment for Section 2, Minimum Qualifications;
  - a. Bid Form Pricing shall be submitted in excel format on the USB drive. Excel Bid Form Pricing sheet will be posted to the DFA website <https://www.dfa.ms.gov/bids-and-rfps-notices>.
3. Appendix C – References; and,
4. Signed Acknowledgment of Amendments (if any).

Bidder shall also submit one (1) copy of the bid on a USB drive in a single, searchable document in Microsoft Word or Adobe Acrobat (PDF) format.

If submitting via MAGIC, the bids shall follow the same format as specified above and documents are required in a searchable Microsoft Office<sup>®</sup> format, preferably in Word<sup>®</sup> or Adobe Acrobat (PDF) format.

If the Bid contains confidential information, whether submitted in paper or electronically, one (1) redacted, electronic copy of the complete Bid, including all attachments, shall be submitted in a Microsoft Office<sup>®</sup> format, preferably in Word<sup>®</sup> or Adobe Acrobat (PDF) format.

Any redacted copies should be submitted on a USB drive in a single, searchable document in Microsoft Word or Adobe Acrobat (PDF) format. The USB drive shall be clearly labeled "REDACTED COPY".

If a redacted copy is not submitted, DFA shall consider the entire Bid to be a public record. The redacted copy should also identify which section or information has been redacted and the Bidder shall provide the specific statutory authority for the exemption. Per Mississippi Code Annotated §25-61-9(7), the type of service to be provided, the price to be paid and the term of the contract cannot be deemed confidential.

The redacted copy shall be considered public record and immediately released, without notification to Bidder, pursuant to any request under the Mississippi Public Records Act, Miss. Code Ann. §§25-61-1 *et seq.* and Miss. Code Ann. §79-23-1. Redacted copies shall also be used/released for any reason deemed necessary by DFA, including but not limited to, submission to the PPRB, posting to the Transparency Mississippi website, etc.

Modifications or additions to any portion of the procurement document may be cause for rejection of the bid. DFA reserves the right to decide, on a case-by-case basis, whether to reject a bid with modifications or additions as non-responsive. As a precondition to bid acceptance, DFA may request the Bidder to withdraw or modify those portions of the bid deemed non-responsive that do not affect quality, quantity, price, or delivery of the service. The IFB issued by DFA is the official version and will supersede any conflicting IFB language subsequently submitted in bids.

All documentation submitted in response to this IFB and any subsequent requests for information pertaining to this IFB shall become the property of DFA and will not be returned to the Bidder.

Failure to provide all requested information and in the required format may result in disqualification of the bid. DFA has no obligation to locate or acknowledge any information in the bid that is not presented under the appropriate outline and/or in the proper location according to the instructions herein.

Bids must be submitted in writing using the attached forms and if submitted by U.S. Mail or delivery, must be submitted to the following address:

**HVAC Air Filter Services and Supplies IFB  
c/o DFA - Office of Procurement and Contracts  
501 North West Street  
Suite 1301-A Woolfolk Building  
Jackson, Mississippi 39201**

To prevent opening by unauthorized individuals, the bid, including any and all attachments, must be sealed in one package. The outside cover of the package containing the sealed bids **shall be labeled:**

**BID – DO NOT OPEN**

**RFx #: 3160005839**

**Bid Opening: June 14, 2023, at 2:15 PM CST**

Each page of the bid form and all attachments shall be identified with the name of the Bidder. Failure to submit a bid on the bid form provided may be considered just cause for rejection of the bid.

The Bidder is responsible for ensuring that the sealed bid is delivered by the required time and to the required location and assumes all risks of delivery. A facsimile bid shall not be accepted. Each bid should be signed in ink by an official authorized to bind the Bidder to the bid provisions. Bids and modifications thereof received by DFA after the time set for receipt or any location other than that set forth above shall be considered late and shall not be considered for award.

### **1.5.1 Bid Submission Period**

**Sealed bids shall be submitted to DFA's Office of Procurement and Contracts no later than 2:00 PM Central Standard Time (CST), June 14, 2023.** Timely submission of the bid package is the responsibility of the Bidder. Any bid received after the deadline will be considered late and will be rejected and returned to the Bidder unopened and will not be considered for award. The Bidder shall be notified as soon as practicable if their bid was rejected and the reason for such rejection.

It is suggested that if a bid is mailed to DFA, it should be posted in certified mail with a return receipt requested. A bid received at the place designated in the solicitation for receipt of bids after the exact time specified for receipt shall not be considered unless it is determined by DFA that the late receipt was due solely to mishandling by DFA after receipt at the specified address. DFA will not be responsible for mail delays or lost mail.

### **1.6 Public Opening**

The Office of Procurement & Contracts shall hold a public opening of sealed bids at 2:15 PM CST, Friday, June 14, 2023. The bids shall be opened in a designated conference room. Bidders are invited to come in person for the opening or call into a conference line. Participation information regarding the bid opening shall be released to all responding Bidders.

### **1.8 Cost of Bid Preparation**

All costs incurred by the Bidder in preparing and delivering its bid, making presentations, and any subsequent time and travel to meet with DFA regarding its bid shall be borne exclusively at the Bidder's expense.

### **1.9 Right to Reject, Cancel and/or Issue another IFB**

DFA specifically reserves the right to reject any or all bids received in response to this IFB, cancel the IFB in its entirety, or issue another IFB.

## **1.10 Registration with Mississippi Secretary of State**

By submitting a bid, the Bidder certifies that it is registered to do business in the State of Mississippi as prescribed by Mississippi law and the Mississippi Secretary of State or, if not already registered, that it will do so within seven (7) business days of being notified by the DFA Office of Procurement and Contracts that it has been awarded a contract.

## **1.11 Debarment**

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

## **1.12 Right to Consider Historical Information**

DFA reserves the right to consider historical information regarding the Bidder, whether gained from the Bidder's bid, conferences with the Bidder, references, or any other source during the evaluation process. This may include, but is not limited to, information from any state or federal regulatory entity.

## **1.13 Documentation of Award**

Upon the determination of the lowest cost bid, a written Notice of Intent to Award will be issued. The notice of intended contract award shall be made by e-mail with reply confirmation to the winning Bidder. Unsuccessful Bidders shall be notified in the same manner after the award has been accepted or declined. The Notice of Intent to Award will also be posted to the DFA website and the Mississippi Contract/Procurement Opportunity Search Portal.

## **1.14 State Approval**

It is understood that this contract may require approval by the PPRB. If required and if this contract is not approved, it is void and no payment shall be made hereunder. Every effort shall be made by DFA to facilitate rapid approval and a start date consistent with the proposed schedule.

## **SECTION 2. MINIMUM QUALIFICATIONS**

The following minimum qualifications are mandatory. If, in the opinion of the Office of Procurement and Contracts, the Bidder fails to prove that bidding company meets any of these minimum qualifications, the bid will be disqualified from further consideration. Please provide a detailed justification for each of the following as an attachment to Appendix B, **Bid Form**.

1. The Bidder shall document a minimum of three (3) years of successful previous experience providing Air Filter Services and Supplies at one or more properties of comparable, cumulative size. Bidder shall include contact reference(s) including square footage and description of property maintained for validation of such experience on References Form (Appendix C). DFA reserves the right to contact submitted references, at DFA's discretion. All information received from those clients, if contacted, must verify that a high level of satisfaction was provided in that service trade.
2. The Bidder shall be in compliance with Mississippi Code Annotated § 79-4-15.01 regarding authorization to transact business in Mississippi.
3. The Bidder shall maintain, at its own expense, workers' compensation insurance which shall fully comply with the Mississippi Workers' Compensation Law. Certificates of insurance shall be included in the bid submission.
4. The Bidder shall maintain, at its own expense, Owners Bodily Injury/Property Damage Liability Insurance. Contractor shall maintain for the duration of this contract, a policy of owner's protective bodily injury liability in limits of \$300,000 for each person and \$300,000 for each occurrence, and owners' protective property damage liability in the limits of \$100,000 for each occurrence; \$1,000,000 aggregate. This shall protect the owner against all claims for injury to persons or property on which claims may arise from any and/all operations under this contract. The State of Mississippi shall be a certificate holder for this policy of insurance.

### **SECTION 3. SCOPE OF SERVICES**

The purpose of this agreement is to state and define the terms and conditions under which the contractor shall provide full comprehensive HVAC services to meet the current and future needs to the DFA for all facilities listed in Section 3.1 **Location Section**. The Successful bidder shall have the following responsibilities at the stated locations:

1. Successful Bidder shall install, own and maintain the air filters and all required equipment\*;
2. Disposable filters shall be used at all locations, unless specified by DFA;
3. Locations and filter specifications are stated in Appendix A, Bid Form;
4. Successful Bidder shall provide a manager to oversee the implementation and maintenance of the air filter system program;
5. In the event of system failure which requires immediate attention, Contractor shall have a manager on-site at DFA within one (1) hour;
6. Service calls to DFA shall be performed by a manager;
7. Successful Bidder shall be responsible for following service schedule (schedule approved by DFA) and call back visits as requested by DFA;
8. For any filters not already owned by DFA, the successful Bidder shall be responsible for ordering and transporting all filters to the proper DFA location on an as needed basis. Bulk storage of Bidder owned filters on-site at DFA will not be allowed;
9. Successful Bidder shall provide operating and service training to specified DFA personnel as requested. This includes applicable Operation and Maintenance (O&M) manuals;
10. Successful Bidder shall provide as-needed visits to service the Air Filter Program to address problems that may occur between weekly system checks.
11. The Successful Bidder will be responsible for submitting a service calendar/schedule every year of service dates to DFA, Office of Capitol Facilities within the first sixty (60) days of the contract start date. Bidder will edit and resubmit calendar/schedule as necessary each year.
12. Submitted air filter calendar/schedule shall be in excel format.
13. Successful Bidder shall be responsible for updating and making programmatic suggestions to DFA to improve DFA's HVAC systems.

*\*Contractor must first utilize onsite, DFA owned filters in appropriate and specified buildings prior to using Contractor owned filters. The contractor will coordinate DFA owned, onsite filter use with the Office of Capitol Facilities staff. When utilizing DFA owned filters, Contractor will be compensated for service costs only.*

### 3.1 Locations

Building locations and specifications are located on the Bid Form.

	<b>Building</b>	<b>Address</b>
<b>Biloxi</b>	1. E.L. Bolton Building - Biloxi	1141 Bayview Ave, Biloxi, MS 39530
<b>Hattiesburg</b>	2. Hattiesburg Service Center #1	5110 US-49 North Hattiesburg, MS 39401
	3. Hattiesburg Service Center #2	5110 US-49 North Hattiesburg, MS 39401
<b>Jackson</b>	4. Central High School Building	359 N. West St.
	5. Governor Mansion	300 E. Capitol Street
	6. New Capitol	400 High Street
	7. Robert E. Lee Building	239 N. Lamar Street
	8. Capers	100 S. State Street
	9. Heber Ladner Building	401 Mississippi Street
	10. Woolfolk Building	501 N. West Street
11. William Winter Building	200 North Street	
12. 620 North Street Building	620 North Street	
13. 660 North Street Building	660 North Street	
14. 700 North State Street Building	700 N. State Street	

15. Walter Sillers Building	550 High Street
16. Nunnelee Building	515 E. Amite Street
17. GM&O and Depot	618 E. Pearl Street
18. New Records Center/Naval Reserve	181 S. Jefferson Street
19. Old Capitol Museum	100 N. State Street
20. Two Mississippi Museums	222 North Street #1206 & #2205
21. Gartin Justice Building	450 High Street
22. Robert Clark Building	301 N. Lamar Street
23. Mississippi Federation of Women's Clubs Building	Corner of N. State Street and E. Woodrow Wilson Avenue
24. Woolfolk North Building	350 High Street

Alternate Bid Locations		
Jackson, MS	Sun and Sands Building	401 N. Lamar Street
	War Memorial Building	120 N. State Street
	Robert E. Lee Building* (upgraded specs)	239 N. Lamar Street

*\*DFA anticipates the Robert E. Lee building HVAC systems will be upgraded during the term of this contract.*

### 3.2 Background Checks

Contractor shall provide to DFA a list of names and driver's license numbers for any and all crew members who will provide services at certain contract locations. Background checks shall be performed by the Department of Public Safety (DPS) and must be completed prior to any services being performed at the Governor's Mansion or New Capitol Building. Should new members be added to the crew during the contract term, Contractor shall provide immediate notice to DFA including the necessary information in order for DPS to complete the background checks. **Crew members will not be allowed on the Governor's**

**Mansion or New Capitol grounds without a completed background check by the Mississippi Department of Public Safety.**

### **3.3 Service Hours**

Service hours shall be conducted in coordination with the Office of Capitol Facilities.

### **3.4 Records and Information**

All records and information provided by DFA to the Contractor are the sole property of the DFA and shall be returned to the DFA within thirty (30) days of the termination date of this Contract.

### **3.5 Transition Plan**

Upon contract term exhaustion or termination of this Contract, the Contractor shall cooperate with the DFA and the new Contractor during the transition of the DFA's business to the new Contractor. Upon request from the DFA, the Contractor shall provide all DFA information maintained by the Contractor in a time frame specified by the DFA.

## **SECTION 4. PROCUREMENT METHODOLOGY**

### **4.1 Restrictions on Communications with DFA Staff**

The contact person for this IFB is Matthew Nassar. At no time shall any Bidder or its personnel contact, or attempt to contact, any DFA staff regarding this IFB except Matthew Nassar in the Office of Procurement and Contracts. All correspondence should be sent to [procurement@dfa.ms.gov](mailto:procurement@dfa.ms.gov).

### **4.2 Acceptance of Bids**

After receipt of the bids, DFA reserves the right to award the contract based on the terms, conditions, and premises of the IFB and the bid of the selected company without negotiation.

All bids properly submitted shall be accepted by DFA. After review DFA may request necessary amendments from all Bidders, reject any or all bids received, or cancel this IFB, according to the best interest of DFA and the State of Mississippi.

DFA also reserves the right to waive minor irregularities in bids providing such action is in the best interest of DFA and the State of Mississippi. A minor irregularity is defined as a variation of the IFB which does not affect the price of the bid or give one party an advantage or benefit not enjoyed by other parties, or adversely impact the interest of DFA.

Where DFA may waive minor irregularities as determined by DFA, such waiver shall in no way modify the IFB requirements or excuse the Bidder from full compliance with the IFB specifications and other contract requirements should the Bidder be awarded the contract.

DFA reserves the right to exclude any and all non-responsive bids from any consideration for contract award. DFA shall award a firm fixed-price contract to the Bidder whose offer is responsive to the solicitation and is most advantageous to DFA and the State of Mississippi in price, quality, and other factors considered.

### **4.3 Disposition of Bid**

The bid submitted by the successful Bidder shall be incorporated into and become part of the resulting contract. All bids received by DFA shall upon receipt become and remain the property of DFA. DFA shall have the right to use all concepts contained in any bid and this right shall not affect the solicitation or rejection of the bid.

### **4.4 Modification or Withdrawal of a Bid**

Prior to the bid due date, a submitted bid may be withdrawn by submitting a written request for its withdrawal to DFA, signed by the Bidder.

A Bidder may submit an amended bid before the due date for receipt of bids. Such amended bids shall be a complete replacement for a previously submitted bid and shall be clearly identified as such. DFA shall not merge, collate, or assemble bid materials.

Unless requested by DFA, no other amendments, revisions, or alterations to bids shall be accepted after the bid due date.

Any submitted bid shall remain a valid bid for one hundred eighty (180) calendar days from the bid due date.

#### **4.5 Rejection of Bids**

A bid response that includes terms and conditions that do not conform to the terms and conditions specified within this IFB document is subject to rejection as non-responsive. Further, submission of a bid form that is not complete and/or signed is subject to rejection as non-responsive. DFA staff reserves the right to permit the Bidder to withdraw nonconforming terms and conditions from its bid response prior to a determination by DFA staff of non-responsiveness based on the submission of nonconforming terms and conditions. Any bid which is conditioned upon receiving award of both the particular contract being solicited and another Mississippi contract shall be deemed non-responsive and will be rejected.

#### **4.6 Alternate Bids**

Each Bidder, its subsidiaries, affiliates, or related entities shall be limited to one (1) bid which is responsive to the requirements of this IFB. Failure to submit a responsive bid may result in the rejection of the Bidder's bid. Submission of more than one (1) bid by a Bidder may, at the discretion of DFA, result in the summary rejection of all bids submitted. A Bidder's bids shall not include variable or multiple pricing options.

#### **4.7 Bid Opening**

Bids will be publicly opened. Information related to the opening will be released to all responding Bidders. The opening will include opening, reading, and listing the bid price on each bid only. No discussions will be entered into with any Bidder as to the quality or provisions of the specifications and no award will be made, either stated or implied, at the bid opening.

#### **4.8 Corrections and Clarifications**

The Office of Procurement and Contracts reserves the right to request clarifications or corrections to bids. Any bid received which does not meet any of the requirements of this IFB, including clarification or correction requests, may be considered non-responsive and eliminated from further consideration.

#### **4.9 Bid Evaluation**

As part of the bid evaluation, minor informalities, which are matters of form rather than substance evident from the bid document, or insignificant mistakes, may be waived or corrected by the Bidder at the discretion of the Office of Procurement and Contracts in compliance with Section 3-202.12.4.1 of the *OPSCR Rules and Regulations*. After a determination that respondents meet the Minimum Qualifications, the contract will be awarded to the responsive and responsible Bidder who submitted the lowest bid in the format required.

1. Responsive Bidder

In order to be deemed responsive, Bidder must submit a bid which conforms in all material respects to this IFB as determined by the DFA Office of Procurement and Contracts. The submitted bid must include the **Bid Cover Sheet** (Appendix A), **Bid Form** with supporting documentation (Appendix B) and **References** (Appendix C) along with all required attachments and other documents which conform in all material respects to this IFB, as determined by the DFA Office of Procurement and Contracts.

2. Responsible Bidder

Bidder must have the capability in all respects to fully perform the contract requirements with integrity and reliability which will assure good faith performance, as determined by DFA. Bidder shall also meet the minimum qualifications in order to be deemed responsible. If a Bidder does not meet the minimum qualifications, the bid will be rejected.

#### **4.10 Post-Award Vendor Debriefing**

Agencies are encouraged to exchange information with vendors in an effort to build and strengthen business relationships and improve the procurement process between vendors and the State. To further this effort, agencies shall establish vendor debriefing procedure(s) and inform vendors at the time of procurement of the right to request a debriefing and the deadline to file a request. At a minimum, debriefing should occur before expiration of the protest period, within three (3) business days after the vendor request and prior to submission of the contract packet to the PPRB. Agencies shall submit with the contract approval request, documentation signed by their agency head or his or her designee, reporting the number of vendor debriefings requested and conducted. This information may be included as part of the protest correspondence required in Section 7-113 (Protest of Solicitations or Awards).

##### **4.10.1 Debriefing Request**

A vendor, successful or unsuccessful, may request a post-award vendor debriefing, in writing, by U.S. mail or electronic submission, to be received by the agency within three (3) business days of notification of the contract award. A vendor debriefing is a meeting and not a hearing; therefore, legal representation is not required. If a vendor prefers to have legal representation present, the vendor shall notify the agency and identify its attorney. The agency shall be allowed to schedule and/or suspend and reschedule the meeting at a time when a representative of the Office of the Mississippi Attorney General can be present.

##### **4.10.2 When Debriefing Should Be Conducted**

Unless good cause exists for delay, the debriefing should occur within three (3) business days after receipt of the vendor request and may be conducted during a face-to-face meeting, by telephonic or video conference, or by any other method acceptable to the agency. The Chief Procurement Officer or designee should chair the meeting, and where practicable, include other staff with direct knowledge of the procurement.

##### **4.10.3 Information to be Provided**

At a minimum, the debriefing information shall include the following:

1. The agency's evaluation of significant weaknesses or deficiencies in the vendor's bid, bid, or qualifications, if applicable;
2. The overall evaluated cost or price, and technical rating, if applicable, of the successful vendor(s) and the debriefed vendor;
3. The overall ranking of all vendors, when any ranking was developed by the agency during the selection process;
4. A summary of the rationale for award; and,
5. Reasonable responses to relevant questions about selection procedures contained in the solicitation, applicable regulations, and other applicable authorities that were followed.

#### **4.10.4 Information Not To Be Provided**

The debriefing shall not include point-by-point comparisons of the debriefed vendor's bid, bid, or qualification with those of other offering vendors. Any written request by a vendor for nondisclosure of trade secrets and other proprietary data is subject to the provisions of Mississippi Code Annotated §§ 25-61-9 and 79-23-1 and §§ 75-26-1 through 75-26-19.

#### **4.10.5 Summary**

An official summary of the debriefing shall be included in the contract file.

#### **4.10.6 Pre-Award Vendor Debriefing**

Nothing in these regulations requires or prohibits pre-award vendor debriefing.

#### **4.11 Protest of Solicitation or Awards**

1. Interested Party means an actual or prospective Bidder or Bidder that may be aggrieved by the solicitation or award of a contract, or by the protest.
2. Protestor means any actual or prospective Bidder or Bidder who is aggrieved in connection with the solicitation or the award of a contract and who files a protest.
3. Special Assistant Attorney General shall mean the individual assigned by the Attorney General to provide legal assistance to the Department of Finance and Administration.

##### **4.11.1 Procedure for Filing Protests**

Any actual or prospective Bidder or Bidders who are aggrieved in connection with the solicitation or award of a contract may protest to DFA's Office of Procurement and Contracts with a copy to the Director of OPSCR. The protest shall be submitted in writing within seven (7) calendar days of the award or within seven (7) calendar days of the solicitation posting if the protest is based on the solicitation.

A protest is considered filed when received by the Office of Procurement and Contracts. Protests filed after the seven (7) day period shall not be considered.

The Chief Procurement Officer shall submit a copy of the protest to the OPSCR for review within three (3) business days of receipt of a written protest. OPSCR shall forward a copy of the protest to the Special Assistant Attorney General.

To file a protest directly to the PPRB, the aggrieved party shall file a protest with OPSCR within seven (7) calendar days after the aggrieved party knew or should have known of the facts and circumstances upon which the protest is based, but in no event later than within seven (7) calendar days of the solicitation posting or award.

#### **4.11.2 Content of Protest**

To expedite handling of protests, the envelope should be labeled "Protest". The written protest shall include as a minimum the following:

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

#### **4.11.3 Protest Decision**

If the protest is not resolved by mutual agreement, the Agency Head shall promptly issue a decision in writing. The decision shall: (a) state the reasons for the action taken; and (b) inform the protestor of the right to administrative review. A copy of the decision shall be mailed or otherwise furnished in writing immediately to the protestor and any other interested party.

A decision on a protest shall be made by the Agency Head or PPRB as expeditiously as possible after receiving all relevant, requested information. If a protest is sustained, the available remedies include, but are not limited to, cancellation or revision of the solicitation in accordance with Section 5-204 (REMEDIES PRIOR TO AN AWARD) or cancellation of the contract in accordance with Section 5-205 (REMEDIES AFTER AN AWARD) of the *PPRB OPSCR Rules and Regulations*.

A decision shall be final and conclusive, unless fraudulent, or any person adversely affected by the decision appeals administratively to the PPRB.

The Agency Head shall refuse to decide any protest when a matter involved is the subject of a proceeding before the PPRB or has been decided on the merits by the Board. If an action concerning the protest has commenced in court, the Agency Head or PPRB shall not act on the protest. This section shall not apply where the Board or a court requests, expects, or otherwise expresses interest in the decision of the Agency Head or PPRB.

On any direct protest, the PPRB shall decide whether the solicitation or award was in accordance with the Constitution, statutes, rules and regulations, and the terms and conditions of the solicitation. The proceeding shall be de novo. Any prior determinations by administrative officials shall not be final or conclusive. A determination of an issue of fact by the PPRB shall be final and conclusive unless arbitrary, capricious, fraudulent, or clearly erroneous.

#### **4.11.4 Stay of Solicitation or Award**

In the event of a timely protest, the agency shall not proceed further with the solicitation or with the award of the contract until the PPRB approves the determination that continuation of the solicitation or award of the contract without delay is necessary to protect substantial interests of the State.

#### **4.11.5 Right to Appeal**

Any person adversely affected by the protest decision of an Agency Head may appeal administratively to the PPRB.

For an appeal under this section, the aggrieved person shall file an appeal within seven (7) calendar days of receipt of a Protest Decision.

#### **4.11.6 Protest Bond**

Protests shall be accompanied by a bond for two hundred and fifty thousand dollars and zero cents (\$250,000.00) or the price of the contract whichever is lower. The protest bond shall be maintained through final resolution, whether at the agency level, through the PPRB, or through a court of competent jurisdiction.

DFA shall return a protest bond if (1) the protesting Bidder withdraws its protest or (2) the bond is ordered to be returned by a court of competent jurisdiction. In the event DFA finds that a Bidder's protest has no merit, DFA shall at its own discretion retain all or a percentage of the submitted bond.

## **SECTION 5. BID COVER SHEET**

All requested information shall be completed on Appendix A, **Bid Cover Sheet**. Failure to complete and/or sign the bid cover sheet may result in the Bidder being determined nonresponsive.

## **SECTION 6. BID FORM**

All pricing should be submitted on Appendix B, **Bid Form**. Pricing will only be accepted on the bid form. Failure to complete and/or sign the bid form may result in the Bidder being determined nonresponsive.

## **SECTION 7. REFERENCES**

Each Bidder must furnish at least three (3) trade references who are familiar with the Bidder's abilities related to the services being procured with this IFB. These references will be used to determine the Bidder's ability to perform the services. Bidders should verify before submitting their bid that the contact person and phone number are correct for each reference. DFA staff must be able to reach two (2) references for a Bidder within two (2) business days of bid opening to be considered responsive. The reference information should be submitted on Appendix C, **References**. DFA reserves the right to check references at DFA's discretion.

## Appendix A - Bid Cover Sheet

The Office of Procurement and Contracts is currently accepting bids for Air Filter Services and Supplies. Bids are to be submitted as directed in Section 1.6, *Bid Submission Requirements*, of this IFB, on or before June 14, 2023 by 2:00 PM CST.

<b>Name of Company</b>	
<b>Company Representative</b>	
<b>Company Representative Title</b>	
<b>Mailing Address</b>	
<b>Mailing City, State, Zip</b>	
<b>Telephone:</b>	
<b>E-Mail Address:</b>	

*Please identify the Office/Branch which will provide services for the Department of Finance and Administration if different from above:*

<b>Office Contact Person</b>	
<b>Office Contact Person Telephone Number</b>	
<b>Office Contact Person Email Address</b>	
<b>Physical Address</b>	
<b>City, State, Zip</b>	
<b>Mailing Address</b>	
<b>City, State, Zip</b>	

Are you currently registered as a Supplier in MAGIC? \_\_\_ YES \_\_\_ NO

If known, what is your supplier number? \_\_\_\_\_

Are you currently registered with PayMode? \_\_\_ YES \_\_\_ NO

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

- What year was your company established? \_\_\_\_\_
- How many years and/or months has your company been in the business of performing the services procured by this IFB? \_\_\_\_\_
- Is your company currently for sale or involved in any transaction to expand or to become acquired by another business entity? If yes, please discuss the impact both in organizational and directional terms.

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- How many accounts of comparable, cumulative type and/or size of operation has your company provided these services for in the past three (3) years?

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- Has your company ever been involved in a lawsuit involving any area covered by the IFB? If yes, provide details including dates and outcomes.

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

## Appendix B - Bid Form

Company Name: \_\_\_\_\_

Excel Bid Form Pricing sheets may be downloaded from DFA's website <https://www.dfa.ms.gov/bids-and-rfps-notices>.

Bid Form Pricing sheet shall be submitted in excel format on the USB drive. Excel Bid Form Pricing sheet will be posted to the DFA website <https://www.dfa.ms.gov/bids-and-rfps-notices>.

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

1. That the Bidder has thoroughly read and understands the IFB, Appendices and Attachments thereto;
2. That the Bidder meets all requirements and acknowledges all certifications contained in the IFB, Appendices and Attachments thereto;
3. That the Bidder agrees to all provisions of the IFB, Appendices and Attachments thereto including, but not limited to, the Draft Contract (Appendix D);
4. That the Bidder has read the attached Draft Contract (Appendix D) and agrees to sign a similar contract;
5. That the Bidder has read the required clauses indicated by the blue, italic font in the attached Draft Contract (Appendix D) and agrees to sign a contract containing those clauses without modification;
6. That the Bidder will perform the services required at the prices quoted above;
7. That the Bidder has submitted copies of the required licenses as referenced on Appendix A, Bid Cover sheet;
8. That the Bidder has submitted copies of the required insurance certificates to meet the Minimum Qualifications as stated in Section 2, Minimum Qualifications and should Bidder be awarded the contract, will add the State of Mississippi as an additional insured;
9. That the pricing submitted will remain firm for the contract term; and,
10. That the company is licensed or authorized to provide the proposed services in the State of Mississippi.
11. 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.
12. **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.
13. **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.

14. 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 not retained any person or agency on a percentage, commission, or other contingent arrangement to secure this contract.
15. 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 other contingent fee, except as disclosed in the Contractor's bid or proposal.
16. 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 Office of Personal Service Contract Review Rules and Regulations as updated and replaced by PPRB.
17. PRICE ADJUSTMENT - A price adjustment may be allowed in the event unanticipated market disruptions occur such that the originally bid rates submitted by the Contractor in response to Invitation for Bids RFX: #3160005839, are no longer viable for the provision of services required by the Contracting Agency.

The Contractor shall provide a market analysis regarding the viability of the originally bid rates and rates the Contractor contends would be viable under the current market conditions. Additionally, the Contractor shall provide cost or pricing data as required by DFA and any documentation or information as required by DFA to support the request for a price, including but not limited to justification as stated in MS Code Section 37-7-13.n.ii and as applicable in PPRB-OPSCR Rules and Regulations 3-401.

At its discretion, DFA will determine whether a price adjustment will be allowed, the amount of the price adjustment, and the duration of the price adjustment. Any price adjustment made under this provision should be limited to only that which is required to accommodate the precipitating market disruption. No price adjustment request shall exceed 5% of the originally bid service and supply rate, per contract year.

18. By submitting a bid, the Bidder certifies that it is registered to do business in the State of Mississippi as prescribed by Mississippi law and the Mississippi Secretary of State or, if not already registered, that it will do so within seven (7) business days of being notified by the DFA Office of Procurement and Contracts that it has been awarded a contract.
19. The State of Mississippi utilizes the Mississippi Accountability System for Government Information and Collaboration (MAGIC) system to manage contracts. Additionally, electronic payments are issued through an electronic portal called PayMode. In order to do business with the State of Mississippi, all Suppliers must be registered with both systems. By submitting a bid, the Bidder certifies that it is registered with both systems or if not already registered, that it will do so within seven (7) business days of being notified by the DFA Office of Procurement and Contracts that it has been awarded a contract.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Appendix C - References**

Company Name: \_\_\_\_\_

<i>Client Name</i>	
<i>Contact Name and Title</i>	
<i>Contact Telephone Number</i>	
<i>Email Address</i>	
<i>Services Provided/Square footage</i>	
<i>Dates of Service</i>	
<i>Client Name</i>	
<i>Contact Name and Title</i>	
<i>Contact Telephone Number</i>	
<i>Email Address</i>	
<i>Services Provided/Square Footage</i>	
<i>Dates of Service</i>	
<i>Client Name</i>	
<i>Contact Name and Title</i>	
<i>Contact Telephone Number</i>	
<i>Email Address</i>	
<i>Services Provided/Square Footage</i>	
<i>Dates of Service</i>	

*Additional references can be provided on a separate page.*

**Appendix D – Draft Contract**

***Draft HVAC Air Filter Services and Supplies Contract***



**STATE OF MISSISSIPPI**  
GOVERNOR TATE REEVES

**DEPARTMENT OF FINANCE AND ADMINISTRATION**

LIZ WELCH  
EXECUTIVE DIRECTOR

**PERSONAL SERVICES EMERGENCY CONTRACT**

This Personal Services Emergency Contract (Contract) is made by and between the State of Mississippi Department of Finance and Administration (DFA), Office of Capitol Facilities (Office) and \_\_\_\_\_. (Contractor) effective on the 1<sup>st</sup> day of September, under the following terms and conditions under which the Contractor agrees to provide services to DFA.

**1. Scope of Services**

- A.** Successful Bidder shall install, own and maintain the air filters and all required equipment\*;
- B.** Disposable filters shall be used at all locations, unless specified by DFA;
- C.** Locations and filter specifications are stated in Appendix A, Bid Form;
- D.** Successful Bidder shall provide a manager to oversee the implementation and maintenance of the air filter system program;
- E.** In the event of system failure which requires immediate attention, Contractor shall have a manager on-site at DFA within one (1) hour;
- F.** Service calls to DFA shall be performed by a manager;
- G.** Successful Bidder shall be responsible for following service schedule (schedule approved by DFA) and call back visits as requested by DFA;
- H.** For any filters not already owned by DFA, the successful Bidder shall be responsible for ordering and transporting all filters to the proper DFA location on an as needed basis. Bulk storage of Bidder owned filters on-site at DFA will not be allowed;
- I.** Successful Bidder shall provide operating and service training to specified DFA personnel as requested. This includes applicable Operation and Maintenance (O&M) manuals;
- J.** Successful Bidder shall provide as-needed visits to service the Air Filter Program to address problems that may occur between weekly system checks.
- K.** The Successful Bidder will be responsible for submitting a service calendar/schedule every year of service dates to DFA, Office of Capitol Facilities within the first sixty (60) days of the contract start date. Bidder will edit and resubmit calendar/schedule as necessary each year.
- L.** Submitted air filter calendar/schedule shall be in excel format.

- M. Successful Bidder shall be responsible for updating and making programmatic suggestions to DFA to improve DFA's HVAC systems.

*\*Contractor must first utilize onsite, DFA owned filters in appropriate and specified buildings prior to using Contractor owned filters. The contractor will coordinate DFA owned, onsite filter use with the Office of Capitol Facilities staff. When utilizing DFA owned filters, Contractor will be compensated for service costs only.*

## 2. **Contract Term**

- A. The effective date of this Contract will be September 1, 2023. This Contract's term will be for three (3) years with two (2) optional one-year renewals to be exercised at the discretion of DFA. By March 1, 2026, DFA will notify the Contractor, in writing, of DFA's intent as to renewal of the Contract.
- B. All records and information provided by DFA to the Contractor are the sole property of the DFA and shall be returned to the DFA within thirty (30) days of the termination date of this Contract.
- C. Upon termination of this Contract, the Contractor shall cooperate with the DFA and the new Contractor during the transition of the DFA's business to the new Contractor. Upon request from the DFA, the Contractor shall provide all DFA information maintained by the Contractor in a time frame specified by the DFA.

## 3. **Consideration**

The total sum to be paid to the Contractor under the terms of the contract for the initial period shall not exceed \$\_\_\_\_\_. The DFA agrees to compensate the Contractor for services approved by the DFA and performed by the Contractor under the terms of this Contract as follows:

- A. The fees listed in **Exhibit A – Pricing** shall constitute the entire compensation due to the Contractor for services and all of the Contractor's obligations hereunder regardless of the difficulty, materials, or equipment required. The DFA shall not provide any prepayments or initial deposits in advance of services being rendered. Payment for any and all services provided by the Contractor to the DFA shall be made only after said services have been duly performed and properly invoiced. The fees listed in **Exhibit A – Pricing** of this contract are firm for the duration of this contract and are not subject to escalation for any reason, unless this Contract is duly amended.
- B. The Contractor must submit all invoices, in a form acceptable to the DFA (provided that such acceptance will not be unreasonably withheld) with all the necessary supporting documentation, prior to any payment to the Contractor. No additional compensation will be provided by the DFA for any expense, cost, or fee not specifically authorized by this Contract, or by written authorization from the DFA.
- C. The payment of an invoice by the DFA shall not prejudice the DFA's right to object or question any invoice or matter in relation thereto. Such payment by the DFA shall neither be construed as acceptance of any part of the work or service provided nor as

an approval of any costs invoiced therein. The Contractor's invoice or payment may be subject to further reduction for amounts included in any invoice or payment theretofore made which are determined by the DFA, on the basis of audits, not to constitute allowable costs.

**4. Background Checks**

Contractor shall provide to DFA a list of names and driver’s license numbers for any and all crew members who will provide services at the certain contract locations. Background checks shall be performed by the Department of Public Safety (DPS) and must be completed prior to any services being performed at the Governor’s Mansion or New Capitol Building. Should new members be added to the crew during the contract term, Contractor shall provide immediate notice to DFA including the necessary information in order for DPS to complete the background checks. **Crew members will not be allowed on the Governor’s Mansion or New Capitol grounds without a completed background check by the Mississippi Department of Public Safety.**

**5. Locations**

Building locations and specifications to be serviced:

	<b>Building</b>	<b>Address</b>
<b>Biloxi</b>	1. E.L. Bolton Building - Biloxi	1141 Bayview Ave, Biloxi, MS 39530
<b>Hattiesburg</b>	2. Hattiesburg Service Center #1	5110 US-49 North Hattiesburg, MS 39401
	3. Hattiesburg Service Center #2	5110 US-49 North Hattiesburg, MS 39401
<b>Jackson</b>	4. Central High School Building	359 N. West St.
	5. Governor Mansion	300 E. Capitol Street
	6. New Capitol	400 High Street
	7. Robert E. Lee Building	239 N. Lamar Street

8. Capers	100 S. State Street
9. Heber Ladner Building	401 Mississippi Street
10. Woolfolk Building	501 N. West Street
11. William Winter Building	200 North Street
12. 620 North Street Building	620 North Street
13. 660 North Street Building	660 North Street
14. 700 North State Street Building	700 N. State Street
15. Walter Sillers Building	550 High Street
16. Nunnelee Building	515 E. Amite Street
17. GM&O and Depot	618 E. Pearl Street
18. New Records Center/Naval Reserve	181 S. Jefferson Street
19. Old Capitol Museum	100 N. State Street
20. Two Mississippi Museums	222 North Street #1206 & #2205
21. Gartin Justice Building	450 High Street
22. Robert Clark Building	301 N. Lamar Street

	23. Mississippi Federation of Women's Clubs Building	Corner of N. State Street and E. Woodrow Wilson Avenue
	24. Woolfolk North Building	350 High Street

Alternate Bid Locations		
Jackson, MS	Sun and Sands Building	401 N. Lamar Street
	War Memorial Building	120 N. State Street
	Robert E. Lee Building (upgraded specs)	239 N. Lamar Street

**6. Availability of Funds**

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

**7. Service Hours**

Service hours shall be conducted in coordination with the Office of Capitol Facilities.

**8. Records and Information**

All records and information provided by DFA to the Contractor are the sole property of the DFA and shall be returned to the DFA within thirty (30) days of the termination date of this Contract.

**9. Transition Plan**

Upon contract term exhaustion or termination of this Contract, the Contractor shall cooperate with the DFA and the new Contractor during the transition of the DFA's business to the new Contractor. Upon request from the DFA, the Contractor shall provide all DFA information maintained by the Contractor in a time frame specified by the DFA.

**10. E-Payment**

Contractor agrees to accept all payments in United States currency via the State of Mississippi's electronic payment and remittance vehicle. The agency agrees to make payment in accordance with Mississippi law on "Timely Payments for Purchases by Public Bodies," which generally provides for payment of undisputed amounts by the agency within forty-five (45) days of receipt of invoice. Mississippi Code Annotated § 31-7-301 *et seq.*

**11. Paymode**

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

**12. Recovery of Money**

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

**13. Applicable Law**

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

**14. Compliance with Laws**

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

**15. Force Majeure**

Each party shall be excused from performance for any period and to the extent that it is prevented from performing any obligation or service, in whole or in part, as a result of

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

**16. Anti-Assignment/Subcontracting**

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

**17. Confidentiality**

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

**18. Disclosure of Confidential Information**

In the event that either party to this Contract 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 Contract. The parties agree that this section is subject to and superseded by Mississippi Code Annotated §§ 25-61-1 *et seq.*

Any liability resulting from the wrongful disclosure of confidential information on the part of Contractor or its subcontractor shall rest with Contractor. Disclosure of any

confidential information by Contractor or its subcontractor without the express written approval of the Agency shall result in the immediate termination of this contract.

**19. Transparency**

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

**20. Contractor Personnel**

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

**21. Independent Contractor**

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 DFA. Nothing contained herein shall be deemed or construed by DFA, 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 DFA and Contractor. Neither the method of computation of fees or other charges, nor any other provision contained herein, nor any acts of DFA or Contractor hereunder creates, or shall be deemed to create a relationship other than the independent relationship of DFA and Contractor. Contractor’s personnel shall not be deemed in any way, directly or indirectly, expressly or by implication, to be employees of DFA. No act performed or representation made, whether oral or written, by the Contractor with respect to third parties shall be binding on the DFA. Neither the Contractor nor its employees shall, under any circumstances, be considered servants, agents, or employees of the DFA; and the DFA shall at no time be legally responsible for any negligence or other wrongdoing by the Contractor, its servants, agents, or employees. DFA shall not withhold from the Contract payments to Contractor any federal or state unemployment taxes, federal or state income taxes, Social Security tax, or any other amounts for benefits to Contractor. Further, DFA shall not provide to Contractor any insurance coverage or other benefits, including Workers’ Compensation, normally provided by DFA for its employees.

**22. E-Verification**

If applicable, Contractor represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act of 2008, and will register and participate in the status verification system for all newly hired employees. Mississippi Code Annotated §§ 71-11-1 *et seq.* The term “employee” as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, “status verification system” means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor agrees to maintain records of such compliance. Upon request of the State and after approval of the Social Security Administration or Department of Homeland Security when required, Contractor agrees to provide a copy of each such verification. Contractor further represents and warrants that any person assigned to perform services hereafter meets the employment eligibility requirements of all immigration laws. The breach of this Contract may subject Contractor to the following: (i) termination of this Contract for services and ineligibility for any state or public contract in Mississippi for up to three (3) years with notice of such cancellation/termination being made public; (ii) the loss of any license, permit, certification or other document granted to Contractor by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year; or, (iii) both. In the event of such 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.

**23. Authority to Contract**

Contractor warrants: (a) that it is a validly organized business with valid authority to enter into this Contract; (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 Contract is not restricted or prohibited by any loan, security, financing, contractual, or other contract of any kind; and, (d) notwithstanding any other provision of this Contract 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 Contract.

**24. Debarment and Suspension**

The Contractor certifies to the best of its knowledge and belief, that it: (i) 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; (ii) 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; (iii) 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; (iv) 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 three (3) of this certification; and, (v) Has not, within a three-year period preceding this proposal, had one or more public transactions (Federal, State, or local) terminated for cause or default.

**25. Modification or Renegotiation**

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

**26. Procurement Regulations**

This 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 [www.DFA.ms.gov](http://www.DFA.ms.gov).

**27. Representation Regarding Contingent Fees**

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

**28. Representation Regarding Gratuities**

The 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.

**29. Termination upon Bankruptcy**

This Contract may be terminated in whole or in part by DFA 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.

**30. 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.

**31. 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 Chief Procurement Officer, Contractor shall take timely, reasonable, and necessary action to protect and preserve property in the possession of Contractor in which the State has an interest.
- 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. (As used in this paragraph of this clause, the term "subcontractor" means a subcontractor at any tier).

- E. Erroneous Termination for Default. If, after notice of termination of Contractor's right to proceed under the provisions of this clause, it is determined for any reason that the Contract was not in default under the provisions of this clause, or that the delay was excusable under the provisions of Paragraph (D) (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 for the State, be the same as if the notice of termination had been issued pursuant to a termination for convenience.
- 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.

**32. Stop Work Order**

- A. 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 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 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 (i) cancel the stop work order; or (ii) terminate the work covered by such order as provided in the "Termination for Default" clause or the "Termination for Convenience" clause of this Contract.
- B. Cancellation or Expiration of the Order. If a stop work order issued under this clause is canceled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, Contractor shall have the right to resume work. An appropriate adjustment shall be made in the delivery schedule or Contractor price, or both, and the Contract shall be modified in writing accordingly, if: (i) the stop work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this Contract; and, (ii) Contractor asserts a claim for such an adjustment within 30 days after the end of the

period of work stoppage; provided that, if the 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.

- C. Termination of Stopped Work. If a stop work order is not canceled and the work covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop work order shall be allowed by adjustment or otherwise.
- D. Adjustment of Price. Any adjustment in Contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment clause of this Contract.

**33. Price Adjustment**

- A. A price adjustment may be allowed in the event unanticipated market disruptions occur such that the originally bid rates submitted by the Contractor in response to Invitation for Bids RFX: #3160005839, are no longer viable for the provision of services required by the Contracting Agency.

The Contractor shall provide a market analysis regarding the viability of the originally bid rates and rates the Contractor contends would be viable under the current market conditions. Additionally, the Contractor shall provide cost or pricing data as required by DFA and any documentation or information as required by DFA to support the request for a price, including but not limited to justification as stated in MS Code Section 37-7-13.n.ii and as applicable in PPRB-OPSCR Rules and Regulations Section 3-401.

At its discretion, DFA will determine whether a price adjustment will be allowed, the amount of the price adjustment, and the duration of the price adjustment. Any price adjustment made under this provision should be limited to only that which is required to accommodate the precipitating market disruption. No price adjustment request shall exceed 5% of the originally bid service and supply rate, per contract year.

**34. Oral Statements**

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

**35. Ownership of Documents and Work Papers**

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

**36. 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.

**37. Third-Party Action Notification**

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

**38. Indemnification**

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

**39. 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.

**40. Change in Scope of Work**

The DFA may order changes in the work consisting of additions, deletions, or other revisions within the general scope of the Contract. No claims may be made by Contractor that the scope of the project or of Contractor's services has been changed, requiring changes to the amount of compensation to the Contractor or other adjustments to the Contract, unless such changes or adjustments have been made by written amendment to the Contract signed by the DFA and the Contractor. If the Contractor believes that any particular work is not within the scope of the project, is a material change, or will otherwise require more compensation to Contractor, the Contractor must immediately notify the DFA in writing of this belief. If the DFA believes that the particular work is

within the scope of the Contract as written, Contractor will be ordered to and shall continue with the work as changed and at the cost stated for the work within the Contract.

**41. Attorney's Fees and Expenses**

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

**42. Failure to Enforce**

Failure by the DFA 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 DFA to enforce any provision at any time in accordance with its terms.

**43. Record Retention and Access to Records**

Provided Contractor is given reasonable advance written notice and such inspection is made during normal business hours of Contractor, the State or any duly authorized representatives shall have unimpeded, prompt access to any of Contractor's books, documents, papers, and/or records which are maintained or produced as a result of the project for the purpose of making audits, examinations, excerpts, and transcriptions. All records related to this agreement shall be retained by Contractor for three (3) years after final payment is made under this agreement and all pending matters are closed; however, if any audit, litigation or other action arising out of or related in any way to this project is commenced before the end of the three (3) year period, the records shall be retained for one (1) year after all issues arising out of the action are finally resolved or until the end of the three (3) year period, whichever is later.

**44. Right to Audit**

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

**45. Right to Inspect Facility**

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

**46. Severability**

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

**47. Insurance**

The Contractor shall, at its own expense, maintain workers' compensation insurance which shall fully comply with the Mississippi Workers' Compensation Law. The Contractor shall also maintain, at its own expense, a policy of owner's protective bodily injury liability in limits \$300,000 for each person and \$300,000 for each occurrence, and owners' protective property damage liability in limits of \$100,000 for each occurrence; \$1,000,000 aggregate. This shall protect the owner against all claims for injury to persons or property on which claims may arise from any and/all operations under this contract. The State of Mississippi shall be the certificate holder for this policy of insurance.

**48. Notices**

All notices required or permitted to be given under this Contract must be in writing and personally delivered or sent by certified United States mail postage prepaid, return receipt requested, to the party to whom the notice should be given at the address set forth in this section. 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.

If to DFA:

Attention: Matthew Nassar  
Department of Finance and Administration  
Office of Procurement and Contracts  
501 North West Street  
Suite 1301-A Woolfolk Building  
Jackson, Mississippi 39201

If to the Contractor:

TBD

**49. Priority**

The contract consists of this agreement including Exhibit A, **Pricing**, the Invitation for Bids for Air Filters Services and Supplies dated [date] (hereinafter "IFB" and attached as Exhibit B) the response proposal by the Contractor dated [date] (hereinafter "Proposal" and attached as Exhibit C) and. Any ambiguities, conflicts or questions of interpretation of this contract shall be resolved by first, reference to this agreement and, if still unresolved, by reference to the IFB and, if still unresolved, by reference to the Proposal. Omission of any term or obligation from this agreement or attached Exhibits A, B and C shall not be deemed an omission from this contract if such term or obligation is provided for elsewhere in this contract.

**Witness our signatures on the date first written.**

VENDOR

Department of Finance and Administration

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: Liz Welch

Title: \_\_\_\_\_

Title: Executive Director

Date: \_\_\_\_\_

Date: \_\_\_\_\_

DRAFT

**EXHIBIT A**  
***PRICING-TBD***

DRAFT

**EXHIBIT B**

**THE DEPARTMENT OF FINANCE AND ADMINISTRATION'S INVITATION FOR  
BIDS FOR AIR FILTER SERVICES AND SUPPLIES DATED  
MAY 12, 2023**

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**EXHIBIT C**

**THE CONTRACTOR'S RESPONSE TO THE DEPARTMENT OF FINANCE AND  
ADMINISTRATION'S INVITATION FOR BIDS FOR AIR FILTER SERVICES AND  
SUPPLIES DATED [Date]**

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