

March 5, 2024

VIA EMAIL

Ms. Kim White

Public Records Officer/Technology Consultant

Mississippi Department of Information Technology Services

3771 Eastwood Drive

Jackson, Mississippi 39211

Kim.White@its.ms.gov

Open.Records@its.ms.gov

VIA EMAIL

Mr. David Gilbert

Public Records Requests

Gainwell Technologies, LLC

5615 High Point Drive

Irving, Texas 75038

PublicRecordsRequests@Gainwelltechnologies.com

and

c/o Mr. Timothy L. Sensing

tsensing@watkinseager.com

Re: Notice of Intent to Seek Protective Order – RFP No. 4243 (Gainwell request)

Dear All:

FEI.com, Inc. d/b/a FEI Systems received notice on March 4, 2024 from the Mississippi Department of Information Technology Services (“ITS”) that Gainwell Technologies (“Gainwell”) submitted a supplemental and/or amended request to obtain records maintained by ITS related to RFP No. 4243 (the “RFP”). This firm has been retained by FEI Systems to respond to this request. A copy of the ITS notification email and attached correspondence from Mr. Sensing is attached. A detailed description of the records requested by Mr. Sensing on behalf of Gainwell is found in item Nos. 1-17 of the attached letter from Mr. Sensing.

Kim White
David Gilbert
Timothy Sensing
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FEI Systems submitted a bid in response to the RFP. Therefore, its information is subject to Gainwell's request. FEI Systems has reviewed Gainwell's request and determined that the information Gainwell seeks includes FEI Systems' trade secret, confidential, and proprietary information, including without limitation sensitive financial and costs information, information regarding its internal policies and procedures, and technical, personnel and staffing information (collectively, the "Confidential Information"). The Confidential Information is exempt from the Mississippi Public Records Act of 1983 and should not be disclosed by ITS. *See, Miss. Code Ann.* §§ 25-61-9(1) and 79-23-1.

Given the confidential and proprietary nature of the Confidential Information, FEI Systems hereby gives notice to ITS and Gainwell that, within 14 days of the date of this letter, it intends to seek a protective order from the Hinds County Chancery Court preventing the disclosure of its Confidential Information unless the request for Confidential Information is withdrawn or modified.

Pursuant to *Miss. Code Ann* §§ 25-61-9(7), FEI Systems respectfully requests that ITS publish this notice on the Mississippi Procurement Portal as soon as possible.

Sincerely,



John P. Sneed

JPS/mmk

cc: Charles E. Cowan

enclosure

John Sneed

From: Kim White <Kim.White@its.ms.gov>
Sent: Monday, March 4, 2024 5:08 PM
To: frank.persinger@feisystems.com
Cc: PublicRecordsRequests@gainwelltechnologies.com; John Sneed; Tim Sensing
Subject: RE: Project 48173 - Public Records Request - RFP 4243
Attachments: Amended Request 2024-03-04 Gainwell Records Request re RFQ 4243.pdf

<<< EXTERNAL SENDER: This email is from someone outside WCCC's email system. Do not click links, open attachments, or provide your user ID/password unless you trust the source and know the contents are safe.>>>

Gainwell Technologies, LLC has amended their public records request to include items listed in the attached letter.

Thank you,

From: Kim White <Kim.White@its.ms.gov>
Sent: Tuesday, February 27, 2024 12:30 PM
To: frank.persinger@feisystems.com
Cc: PublicRecordsRequests@gainwelltechnologies.com
Subject: RE: Project 48173 - Public Records Request - RFP 4243

Please notify ITS by today, February 27, 2024, if you intend to file a petition for a protective order.

Thank you,

From: Kim White <Kim.White@its.ms.gov>
Sent: Monday, February 26, 2024 2:46 PM
To: frank.persinger@feisystems.com
Cc: PublicRecordsRequests@gainwelltechnologies.com
Subject: RE: Project 48173 - Public Records Request - RFP 4243

Please notify ITS by tomorrow, February 27, 2024, if you intend to file a petition for a protective order.

Thank you,

From: Kim White <Kim.White@its.ms.gov>
Sent: Friday, February 23, 2024 11:17 AM
To: frank.persinger@feisystems.com
Cc: PublicRecordsRequests@gainwelltechnologies.com
Subject: RE: Project 48173 - Public Records Request - RFP 4243

According to USPS, the Third Party notice was delivered on February 20, 2024. Please notify ITS by February 27, 2024, if you intend to file a petition for a protective order. The deadline to file a petition in Chancery Court is March 12, 2024.

Filing the petition for protective order on or before **twenty-one days from the date of delivery of this notice as established by the United States Postal Service's records** per the ITS Public Records Policy.

In accordance with ITS's Public Records Policy, you must provide ITS with **14 days'** notice of the petition for protective order, including the reasons for the petition, prior to filing your petition in Chancery Court. The notice and reasons for the protective order **must** be posted on the Mississippi procurement portal for a minimum of seven (7) days **before** filing the petition seeking the protective order in chancery court."

Thank you,

From: Kim White <Kim.White@its.ms.gov>
Sent: Thursday, February 15, 2024 11:43 AM
To: frank.persinger@feisystems.com
Cc: PublicRecordsRequests@gainwelltechnologies.com
Subject: Project 48173 - Public Records Request - RFP 4243

Please see the attached Third Party Notification and public records request from Gainwell Technologies regarding information related to RFP 4243. A copy of this notification will be sent to you through USPS certified mail.

The following items have been requested for all bidders; **Technical and cost proposal – BAFO Documents – Evaluation Documents – Presentations and/or videos**

Pursuant to Miss. Code Ann. § 25-61-9(1) and the ITS Public Records Policy **you are hereby given notice**, that unless you file a petition seeking a protective order in accordance with Miss. Code Ann. § 25-61-9 and the ITS Public Records Policy, which includes filing the petition for protective order on or before **twenty-one days from the date of delivery of this notice as established by the United States Postal Service's records**; the information specified on the attached request **will be released** to the party requesting the information as required by law. ITS must also receive a copy of your filed petition for a protective order by the 21-day deadline.

Miss. Code Ann. § 25-61-9(7) requires that "any party seeking a protective order for a procurement contract awarded by state agencies shall give notice to and provide the reasons for the protective order to the party requesting the information in accordance with the Mississippi Rules of Civil Procedure. The notice and reasons for the protective order **must** be posted on the Mississippi procurement portal for a minimum of seven (7) days **before** filing the petition seeking the protective order in chancery court."

In accordance with ITS's Public Records Policy, you must provide ITS with **14 days'** notice of the petition for protective order, including the reasons for the petition, prior to filing your petition in Chancery Court.

Please call or email me if you have any questions.

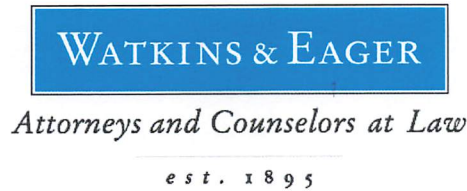
Thank you,

Kim White
Technology Consultant
MS Department of Information Technology Services
601-432-8211 | www.its.ms.gov



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Mailing Address:
P.O. Box 650
Jackson, Mississippi 39205
Telephone: (601) 965-1900
Facsimile: (601) 965-1901



Timothy L. Sensing
Direct Dial: (601) 965-1813
E-mail: tsensing@watkinseager.com

March 4, 2024

Via Electronic Mail

Mississippi Department of Information Technology Services
c/o Kim White, ITS Public Records Officer (kim.white@its.ms.gov)

Re: Public Records Request of Gainwell Technologies, LLC

Dear Public Records Officer:

We represent Gainwell Technologies, LLC and are writing to request that the Department of Information Technologies ("ITS") provide us with the following materials pursuant to the Mississippi Public Records Act (Miss. Code Ann. §25-61-1 *et seq.*).

1. Copies of all proposals including all attachments, supplements, follow-up bid clarifications, amended offers, best-and-final offers, or additional information provided regarding DOM's Request for Proposal #4243 ("RFP") submitted by all Offerors.
2. Copies of all written answers submitted by Offerors in response to written questions from ITS or its evaluators in connection with the RFP.
3. All analyses of any of the responses to the RFP prepared by ITS or received by ITS, including, but not limited to, summaries, evaluations, rankings, scoring sheets and drafts of the same.
4. All emails, text messages, instant messages or any other electronic communication or other correspondence and handwritten notes kept by and/or exchanged between reviewers, subject matter experts and/or consultants regarding the RFP or bidders in consideration of the responses to the RFP, including, but not limited to, notes related to subject matter, scores, rankings and opinions.
5. All emails, text messages, instant messages or any other electronic communication or other correspondence of any form between ITS, the Mississippi Division of Medicaid and any offeror or respondent to the RFP.
6. All written questions received regarding the RFP.
7. All documents regarding the procedures and process utilized in the consideration of the responses to the RFP.

8. All documents provided to reviewers to assist in review/scoring the RFP, including, but not limited to, training materials, educational materials and instructions.
9. Documents sufficient to identify the criteria and person involved in compiling the strengths/weaknesses details for each of the RFP bidders along with any formula utilized in connection to the comments/consideration that would affect the scoring either for raw score or weighted score.
10. All documents referring or referencing any of the responses to the RFP received by ITS.
11. All documents used or considered in any way in connection with the selection of the successful RFP bidder.
12. Documents sufficient to identify all individuals, including, but not limited to, consultants and subject matter experts, involved in the consideration of the responses to the RFP.
13. All correspondence, including e-mail correspondence, between ITS and its consultants and subject matter experts regarding the RFP.
14. All documents reflecting or regarding the utilization of any consultants or subject matter experts regarding the RFP in any respect, including, but not limited to, development of the RFP, evaluation of the applications received and scoring.
15. All documents regarding the process utilized in selecting the consultants and subject matter experts referred to in the proceeding request.
16. All documents regarding any failure by any of the RFP bidders to comply with any of the requirements, technical or otherwise, of the RFP.
17. Any recordings of Cognosante's demonstration or presentation to ITS, as well as all documents reflecting any communications about it.

As you know, Gainwell has limited time in which to decide whether it will file a formal protest to the RFP award. Therefore, please make every effort to produce these documents as quickly as possible. Gainwell would also be happy to accept the documents on a rolling basis as they are available.

Sincerely,

Watkins & Eager PLLC

/s/ Tim Sensing
Tim Sensing