



ELLISVILLE STATE SCHOOL

Request for Proposal

RFP: 3140003171

TO PROVIDE: Waste Management Services

ISSUE DATE: August 8, 2022

CLOSING LOCATION

Ellisville State School – Administration 1 Building Conference Room

1101 Highway 11 South

Ellisville, MS 39437

IFB COORDINATOR

Channon Cuevas, Contract Analyst

Telephone: (601) 477-5615

Fax: (601) 477-5710

Email: channon.cuevas@ess.ms.gov

TECHNICAL CONTACT

Name: Otis Parker / James Patano

Telephone: Otis (601) 477-5836 / James (228) 867-1489

Email: Otis.parker@ess.ms.gov / jpatano@smrc.ms.gov

CLOSING DATE AND TIME

Proposals must be received by 12:00 PM CST, September 27, 2022

1. General Information

- 1.1 In accordance with 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 St. Suite 701E, Jackson, MS 39201 for inspection or downloadable at www.dfa.ms.gov. Ellisville State School (ESS) will receive written sealed proposals for the waste management services described in the following specifications. Contractor shall understand that any eventual contract resulting from this Request for Proposals, shall be governed by the Mississippi Public Review Board Office of Personal Service Contract Review Rules and Regulations.
- 1.2 Written sealed proposals must be received not later than, 12:00 PM CST, September 27, 2022. Any proposal received after the time and date set for receipt of proposals is late. Any withdrawal or modification of a proposal received after the time and date set for opening of the proposals at the place designated for opening is late. No late proposal, late modification, or late withdrawal will be considered unless receipt would have been timely but for the action of Ellisville State School personnel.
- 1.3 The Request for Proposal (RFP) coordinator is as listed below and any questions concerning the RFP document or the RFP process should be submitted in writing.

Channon Cuevas, Contract Analyst
1101 Highway 11 South
Ellisville, MS 39437
(601) 477-5615
(601) 477-5810 / Fax
Channon.cuevas@ess.ms.gov

- 1.4 Offerors shall contact the Technical Contacts to set up an appointment for on-site visits. Each Offeror shall have the responsibility to inspect proposed work sites prior to submitting a proposal. It shall be understood that site visits do not constitute a pre-proposal conference and that any questions will have to be submitted in writing by the assigned deadline.
- 1.5 Tie Proposals. Low tie proposals shall be awarded as specified in paragraph 3-202.14 of the Mississippi Office of Personal Service Contract Review Procurement Regulations.
- 1.6 Mistakes in Proposals. Mistakes in proposals submitted shall be determined and resolved as specified in paragraph 3-202.12 of the Mississippi Office of Personal Service Contract Review Procurement Regulations.
- 1.7 Proposal Modification and Withdrawal. Proposals may be modified or withdrawn by written notice to the RFP Coordinator, prior to the time and date set for proposal opening.

2. Purpose/Background

2.1 Purpose

The Ellisville State School (ESS) issues this Request for Proposals (RFP) to solicit proposals from qualified, experienced, responsible, and financially sound Offerors to provide waste management services for non-hazardous solid waste, which comply with all applicable regulations to include Federal, State, Local, DOT, and EPA to properties owned and operated by Ellisville State School. Offerors are required to supply the number and sized dumpsters as specified in the RFP “Work Plan”, Attachment B. These services may be provided at some or all locations, as requested for the Ellisville State School main campus, Ellisville, MS, its satellite location at South MS Regional Center, Long Beach, MS and affiliated Community Homes and Programs located in Sumrall, Prentiss, Lumberton, Ellisville, Waynesboro, Richton, Wiggins, Poplarville, Biloxi, Gautier, Magee and Brookhaven, MS.

Offeror must understand that all locations listed may not require service at the time of contracting, but ESS reserves the right to add or delete service for any location at any time during the term of the contract, addition and/or deletions will be at the rate as proposed in Attachment C of the RFP.

2.2 Background

Ellisville State School is a state operated regional program providing comprehensive services to persons with intellectual and developmental disabilities. The program is under the jurisdiction of the Mississippi Board of Mental Health. Administratively, it is in the Bureau of Intellectual and Developmental Disabilities division of the Mississippi Department of Mental Health. Ellisville State School offers services to people in a residential setting and provides an array of programs and services in the community through the Community Services System. Ellisville State School serves people on the main campus’ and additional persons in the community. It is the goal of Ellisville State School to provide each person with the appropriate services so that each will develop to the maximum of his or her potential. The program desires through treatment and training to place each person in his or her least restrictive environment. This goal is consistent with state and national policy regarding service programs for persons with intellectual and developmental disabilities.

3. RFP Timeline

Request for Proposal Issue Date	August 8, 2022
Deadline to submit questions	August 22, 2022, 2:00 PM CST
Anticipated answers to questions	August 29, 2022
Proposal Submission Deadline	September 27, 2022, 12:00 pm CST
Anticipated Notice of Intent to	October 19, 2022

Award	
DMH Board Meeting	November 17, 2022
PPRB meeting / Contract Award	January 4, 2023
Contract Start Date	March 1, 2023

Note: Adjustments to the schedule may be made via addendum to the RFP as deemed necessary by Ellisville State School.

3.1 Questions and Answers

Offerors should download the “Question and Answer” template from DFA website at <http://www.dfa.ms.gov/dfa-offices/procurement-contracts/>. Questions must be submitted on the referenced template and should be submitted via email to channon.cuevas@ess.ms.gov with a subject line: “Questions – Waste Management Services (RFP # 3140003171)”. Questions must be received no later than **2:00 PM CST, on August 22, 2022**, to ensure a response by ESS. Responses to questions will be posted to the ESS website, <http://www.ess.ms.gov>, and Mississippi Contract/Procurement Opportunity Search Portal website. Questions received after August 22, 2022, may be considered for response, although there is no guarantee as to if or when a response will be provided.

It is the Offeror’s sole responsibility to regularly monitor the website for amendments and/or announcements concerning this RFP.

4. Term

- 4.1 The period of performance shall be for two (2) years, beginning March 1, 2023 and ending February 28, 2025. Upon written agreement of both parties at least sixty (60) days prior to each contract anniversary date, the contract may be renewed by the Agency for a period of three (3) successive one (1) year period under the same prices, terms and conditions as in the original contract subject to approval by the PPRB. The total number of renewal years permitted shall not exceed three (3).

5. Definitions

- 5.1 RFP – Request for Proposal
- 5.2 Offeror – An individual or company that submits or intends to submit a proposal in response to the “Request for Proposal”
- 5.3 ESS - Ellisville State School
- 5.4 SMRC – South Mississippi Regional Center
- 5.5 Must/Mandatory/Required – A requirement that must be met in order for a proposal to receive consideration
- 5.6 Contract – The written agreement resulting from this “Request for Proposal” executed by the Agency and the Contractor
- 5.7 Solicitation – The “Request for Proposal” or any part thereof.
- 5.8 Contractor – An individual or company with which a written agreement is executed.

- 5.9 DOT – Department of Transportation
- 5.10 EPA – Environmental Protection Agency

6. Terms and Conditions

- 6.1 It is the intent of ESS to procure professional waste management services for the types and quantities listed in the Request for Proposal, however quantities may be increased or decreased accordingly if the needs of ESS require such a change. Contract awards shall be a requirement contract as defined in paragraph 3-501.05.3 of the Mississippi Office of Personal Service Contract Procurement Regulations and therefore quantities of ESS service requirements will be considered indefinite, no specific quantity of services are guaranteed. ESS shall procure all waste management services, covered by the Request for Proposal, for the awarded vendor, however, ESS reserves the right to take proposals separately if a particular quantity requirement arises which exceeds ESS's normal requirements or an amount specified herein the RFP. It shall be understood that ESS is exempted from procuring under the eventual contract when (1) services provided under this contract will not meet a nonrecurring, special need of ESS and (2) services are performed incidental to the State of Mississippi's own programs that can satisfy the need.
- 6.2 Failure to examine any drawings, specifications, and instructions will be at Offeror's risk. It shall be incumbent upon the Offeror to understand the specifications. Any request for clarification shall in writing and shall be submitted to the RFP Coordinator not later than, 2:00 PM CST, August 22, 2022.
- 6.3 If any questions or responses require revision to the solicitation as originally published, such revisions will be by formal amendment only. If the solicitation includes a contact person, Offerors are cautioned that any oral or written representation made by this or any person that appear to change materially any portion of the solicitation shall not be relied upon unless subsequently ratified by a written amendment to this solicitation issued by the RFP Coordinator. For determination as to whether any representation made requires that an amendment be issued, contact the RFP Coordinator.
- 6.4 It is the intent of the specifications to obtain a product and/or service that will adequately meet the needs of the user while promoting the greatest extent of competition that is practicable. It is the responsibility of the prospective Offeror to notify ESS if the specifications, terms or conditions are formulated in a manner that would unnecessarily restrict competition. Any protest or question concerning the request for proposal document or proposal procedures must be received by the RFP Coordinator not later than 4:00 PM CST, August 22, 2022.
- 6.5 The minimum specifications stated herein are used to set a standard and in no case are used with the intention to discriminate against any prospective Offeror. Offerors should submit detailed descriptions, manufacturer names, models and literature of the product and services they propose to furnish.

- 6.6 Only one proposal, per line item, per Offeror. This means that only a single proposal will be accepted from each Offeror for each line item requested. Alternate proposals unless specifically requested will not be considered.
- 6.7 Prices proposed shall be firm fixed prices that shall be firm for entirety of the contract including renewal periods. Adjustments will only be allowed for the addition and/or deletion of services by ESS at the same fixed unit prices as originally offered and accepted. No other price adjustment will be allowed during the term of the contract.
- 6.8 Invoices are to be submitted as one monthly invoice to include all locations by detailing dumpster location, dumpster/container size and frequency of service.
- 6.9 Invoices are to be billed to:
- Ellisville State School
1101 Highway 11 South
Ellisville, MS 39437
Attn: Accounts Payable
- 6.10 No proposal shall be altered or amended after the final specified time for opening proposals. Request for Proposals and modifications or corrections thereof received after the closing time specified will not be considered.
- 6.11 No proposal amendment will be issued within a period of five (5) working days prior to the time and date set for a proposal opening. Should it become necessary to issue an amendment within the five (5) day period prior to a proposal opening, the proposal opening date will be reset giving Offerors sufficient time to answer the amendment.
- 6.12 Offerors shall acknowledge receipt of any amendment to the solicitation by signing and returning the amendment/s with the proposal, by identifying the amendment number and date in the space provided for this purpose on the proposal form, or by letter. The acknowledgement must be received by the Ellisville State School by the time and at the place specified for receipt of proposals.
- 6.13 If purchase orders or contracts are canceled because of the awarded Offeror's failure to perform or request for an unspecified price increase, that vendor shall be removed from our vendors list for a period of no less than twenty-four (24) months.
- 6.14 Offeror understands that ESS is an equal opportunity employer and therefore, maintains a policy which prohibits unlawful discrimination based on race, color, creed, sex, age, national origin, physical handicap, disability, genetic information, or any other consideration made unlawful by Federal, State or Local Laws. All such discrimination is unlawful and the Contractor agrees during the term of the agreement that the Offeror will strictly adhere to this policy in its employment practices and provision of services. The Contractor shall comply with and all activities under this agreement shall be subject

to, all applicable Federal, State of Mississippi, and Local laws and regulations, as now existing and as may be amended or modified.

- 6.15 It is expressly understood and agreed that the obligation of ESS to proceed under any eventual agreement is conditioned upon the appropriation of funds by the Mississippi State Legislature and the receipt of state and/or federal funds. If the funds anticipated for the continuing fulfillment of the agreement are, at any time, not forthcoming or insufficient, either through the failure of the federal government to provide funds or of the State of Mississippi to appropriate funds or the discontinuance or material alteration of the program under which funds were provided or if funds are not otherwise available to the State, the State shall have the right upon ten (10) days written notice to the Contractor, to terminate this agreement without damage, penalty, cost or expenses to the State of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.
- 6.16 Ellisville State School reserves the right to reject any and all proposals in whole or in part and unless otherwise specified by the Offerors, to award items, parts of items or by any group of items on the proposal. ESS also reserves the right to cancel the solicitation in whole or in part when it is determined that such action is in the best interest of ESS. Also, the right is reserved to waive minor informalities which do not affect the price, quantity, quality, delivery, or contractual conditions of the services being procured. If the Offeror fails to state the time within which proposals must be accepted, it is understood and agreed that Ellisville State School shall have sixty (60) days from the proposal opening day to accept and issue and intent to award.
- 6.17 It is the intent of ESS to procure only the products and services that meet the minimum standards stated herein. Alternates will be considered only if deviations to those standards are fully substantiated and submitted by potentially responsive sources denoting their equality to standards proposed, along with adequate documentation; including specifications, and construction/design details along with proposal for evaluation and approval.
- 6.18 All products and services proposed must equal or exceed specifications listed. The absence of detail specifications or the omission of detail description shall be recognized as meaning only the best commercial practices are to prevail and that only first quality services, materials and workmanship are to be used. All equipment proposed, if applicable, shall be new and of current production, latest design and construction.
- 6.19 Proposal openings will not be conducted open to the public. They will serve only to open the proposals. No discussion will be entered into with any vendor as to the quality or provisions of the specifications, and no award will be made either stated or implied at the proposal opening.
- 6.20 The successful Offeror will, upon termination of agreement, on the date agreed upon by both parties, disconnect, disassemble, crate, insure and ship all owned equipment,

covered by any eventual agreement, to a destination designated by the owner to no cost or expense to Ellisville State School.

- 6.21 The Ellisville State School accepts no responsibility for any expenses incurred by the Offeror in the preparation and presentation of a proposal. Such expenses shall be borne exclusively by the Offeror.
- 6.22 The Offeror agrees that submission of a signed proposal form is certification that the Offeror will accept an award made to it as a result of the submission.
- 6.23 Before submitting a proposal, each Offeror shall make all investigations and examinations necessary to ascertain all site conditions and requirements affecting the full performance of the contract and to verify any representations made by ESS upon which the Offeror will rely. If the Offeror receives an award as a result of its submission, failure to have made such investigations and examinations will in no way relieve the Offeror from its obligation to comply in every detail with all provisions and requirements of the contract documents, nor will a plea of ignorance of such conditions and requirements be accepted as a basis for any claim whatsoever by the contract for additional compensation.
- 6.24 ESS may conduct discussions with Offerors after initial proposals are classified. Those Offerors that submit proposals that are classified as acceptable or potentially acceptable may be scheduled for discussion or ESS may chose to accept proposals without discussions. Discussions will be held to promote understanding of ESS requirements and the Offeror's proposal, facilitate arriving at a contract that will be most advantageous to ESS taking into consideration established evaluation factors; and to determine in greater detail Offeror's qualifications.
- 6.25 ESS shall own all documents, files, reports, work papers and working documentation, electronic or otherwise, created in connection with the project services covered by the agreement resulting from this RFP, except for the Offeror's internal administrative and quality assurance files and internal project correspondence. The Offeror shall deliver such documents and work papers to ESS upon termination or completion of agreement. The foregoing notwithstanding, the Offeror shall be entitled to retain as set of such work papers for its files. Offeror shall be entitled to use such work papers only after receiving written permission from ESS and subject to any copyright protections.
- 6.26 Offerors taking exception to any part or section of the solicitation (RFP) shall indicate such exceptions in their proposal. Failure to indicate any exception will be interpreted as the Offeror's intent to fully comply with the requirements as written. Conditional or qualified offers, unless specifically allowed, shall be subject to rejection in whole or in part.
- 6.27 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.

The term “employee” as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, “status verification system” means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor agrees to maintain records of such compliance. Upon request of the State and after approval of the Social Security Administration or Department of Homeland Security when required, Contractor agrees to provide a copy of each verification. Contractor further represents and warrants that any person assigned to perform services hereinafter meets the employment eligibility requirements of all immigration laws. The breach of this agreement may subject Contractor to the following: (1) termination of the Agreement and ineligibility for any state or public contract in Mississippi for up to three (3) years, with notice of such cancellation/termination being made public, or (2) the loss of any license, permit, certification or other document granted to Contractor by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year, or both. (3) In the event of such termination/cancellation, 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.

- 6.28 The contract shall be governed by and construed in accordance with 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. The Contractor shall comply with applicable Federal, State and Local laws and regulations.
- 6.29 Offerors shall understand that Ellisville State School is tobacco-free facility. The use of tobacco products is prohibited.
- 6.30 Offerors shall be registered with the Mississippi Secretary of State’s Office as a Business Provider in good standing to provide services in the State of Mississippi.
- 6.31 The eventual contract awarded as a result of the RFP must be approved by the Mississippi Board of Mental Health.
- 6.32 Offerors must be registered as a vendor with Mississippi’s Accountability System for Government Information and Collaboration (MAGIC) prior to submission of a proposal. Offerors may go online to <https://www.dfa.ms.gov/dfa-offices/mmrs/mississippi-suppliers-vendors/>, to register or call (601) 359-1343 for assistance with registering.
- 6.33 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 27-10-151 et. Seq. Unless exempted from disclosed due to a court issued protective order, this contract is required to be posted to the Department of Finance and Administration’s independent agency

contract website for public access at <http://www.transparency.mississippi.gov>. information identified by the Contractor as trade secrets, or other proprietary information including confidential vendor information, or any other information which is required confidential by stat or federal law or outside the applicable freedom of information statutes, will be redacted.

- 6.34 It is expressly understood that Mississippi law requires that the provisions of this contract which contain the commodities purchases 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.
- 6.35 An Offeror, successful or unsuccessful, may request a post-award debriefing, in writing, by U.S. Mail or electronic submission. The written request must be received by the ESS Contract Analyst within three (3) business days of notification of the contract award. A post-award debriefing is a meeting or other form of communication and not a hearing; therefor legal representation is not required. A debriefing typically occurs within three (3) business days of receipt of the request. If an Offeror prefers to have legal representation present, the Offeror must notify the ESS Director in writing and identify its attorney by name, address, and telephone number. ESS will schedule and/or suspend and reschedule the meeting at a time when a Representative of the Office of the Mississippi Attorney General can be present. For additional information regarding debriefing, as well as the information that may be provided and excluded, please see section 7-114 through section 7-114-.07 of the Mississippi Personal Service Contract Review Board Rules and Regulations.
- 6.36 Vendor shall sign and return, with proposal, the Certifications and Assurance form provided as Attachment A.

7. Insurance

The Contractor shall maintain at its own expense, throughout the entire term of the contract, the following insurance:

- a. General Liability with a minimum coverage of \$1,000,000.00
- b. Motor Vehicle coverage with a minimum coverage of \$500,000.00
- c. Motor Vehicle Property Damage coverage with a minimum coverage of \$250,000.00
- d. Workers' Compensation insurance to comply with Mississippi Workers' Compensation Law.

In no event shall the requirement for an insurance, bond, or other surety be waived.

- All insurances policies will list the Ellisville State School as an additional insured.
- All insurance policies shall be issued by companies authorized to do business under the laws of the State of Mississippi, meaning insurance carriers must be licensed or hold a Certificate of Authority from the Mississippi Department of Insurance.
- Contractor shall submit to Agency within fourteen (14) days of notification of intent to award, a certificate of insurance and/or bond which outlines the coverage and limits defined in the procurement and contract. There are no provisions for exceptions to this requirement. Failure

to provide the certificates of insurance within fourteen (14) day period may be cause for your bid to be declared non-responsive or for your contract to be cancelled.

- Contractor shall obtain at Contractor's expense the insurance and/or bond requirements specified in the procurement and contract prior to performing under this Contract, and Contractor shall maintain the required insurance and/or bond coverage throughout the duration of this Contract and all warranty periods. There are no provisions for exceptions to this requirement.
- Contractor shall not commence work under this contract until it obtains all insurance and/or bond required under this provision and furnishes a certificate or other form showing proof of current coverage to the State. After work commences, the Contractor will keep in force all required insurance and/or bond until the contract is terminated or expires.
- Contractor shall submit renewal certificates as appropriate during the term of the contract.
- Contractor shall instruct the insurers to provide the Agency thirty (30) days advance notice of any insurance cancellation.
- Contractor shall ensure that should any of the above described policies be cancelled before the expiration date thereof, or if there is a material change, potential exhaustion of aggregate limits or intent not to renew insurance and/or bond coverage(s), that written notice will be delivered to the Agency Chief Procurement Officer.
- There shall be no cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance and/or bond coverage(s) to Agency. Any failure to comply with the reporting provisions of this clause shall constitute a material breach of Contract and shall be grounds for immediate termination of this Contract by Agency.

8. Scope of Work/Service Requirements

8.1 Contractor will ensure that all solid general waste and construction waste at all locations of Ellisville State School, as required, is collected, contained, transported, tracked (as applicable) and disposed in a manner that reduces environmental impact, is safe, is economical and complies with all applicable laws and regulations. The primary methods of collection shall be front end loader and roll off containers. The written proposal should be such that it explains clearly and completely how the Offeror will meet the following requirements:

- A. The Contractor agrees to remove all construction waste and solid general waste for Ellisville State School locations, to an approved (permitted and licensed) landfill or disposal site off and away from the ESS locations.
- B. The Contractor will base charges for the solid general waste removal services on a firm fixed monthly charge based on the waste container size and pick up frequency.
- C. The Contractor will furnish all necessary labor, vehicles, equipment and material required to perform all required solid waste management services for ESS.
- D. Contractor will maintain all Contractor owned waste containers so that they are free from insects, vermin and offensive odors. All spillage of any material adjacent to containers which result from the lack of care, handling or dumping of containers will be cleaned up by the Contractor. Construction containers of an approved type,

manufactured entirely of metal, capable of containing refuse, and preventing easy access by vermin or animals, will be furnished by the Contractor. It is the responsibility of the proposed contractor to maintain, clean and disinfect the supplied containers complying with all existing requirements of Federal, State, County and Local health laws and regulations to include the replacement of any damaged or broken parts. All waste containers provided under this contract shall be designed for easy use, meet all applicable standards and/or regulations, and shall be approved by ESS prior to being placed at any ESS location.

- E. ESS will contact the successful contractor when a contractor owned dumpster or container needs cleaning. The contractor will call the designated ESS representative within twenty-four (24) hours to schedule the date and time a dumpster will be cleaned or replaced. The contractor will inform the ESS designee when a dumpster has been cleaned or replaced as requested.
- F. The location of the waste containers, size of containers and frequency of waste pick up will be according to the attached "Work Plan" Attachment B. Which will be made a part of any contract. Vendor shall understand that ESS reserves the right to change container sizes, types, pick up frequency, and add or delete containers as the needs of ESS require and pricing shall be adjusted accordingly based on individual line pricing shown on "Proposal Form", Attachment C.
- G. The Contractor will be responsible for all set up costs to include placement of dumpsters and other supplies or equipment needed to perform the services required by this RFP.
- H. The Contractor will perform all services during the hours of 7:00 am to 5:00 pm CST unless a change of these hours has been agreed upon and approved by the contractor and ESS. The contractor will perform these services in a manner to avoid inconvenience to facilities employees, residents or visitors.
- I. The Contractor will maintain a regular (not less than twice each year) and systematic inspection of the services performed to assure that all services are conforming to contract terms. The Contractor will make written recommendations to reduce program costs and/or improve execution of the contract by either party.
- J. The Contractor will act as an Independent Contractor while performing the services required and will employ and direct its own personnel as required to include the securing of any and all permits. The Contractor will exercise full and complete authority over its personnel and will comply with all Workers Compensation, Employer Liability, General Liability Insurance and other Federal, State, County and Municipal laws, ordinances, rules and regulations required of an employer to include the making of all reports and remitting all required withholdings from compensation.

- K. The Contractor will not change any pick-up schedule without prior written approval of the designated ESS Appointed Authority. Contractor will be provided advance notice of change to the designated ESS Authorized Authority.
- L. Contractor shall promptly make payment of all taxes, licenses, assignments, contributions, damages, penalties, and interest thereon, when and as the same may lawfully be due the United States Government and any political subdivisions thereof, The State of Mississippi, or any County, Municipality, Board, Department, Commission, or political subdivision thereof, by reason of and directly connected with the performance of said contract or any part thereof as provided by and Federal Code, Mississippi Code and applicable statute or other authority for full duration of the contract.
- M. Upon termination of the Contract, vendor shall remove all vendor owned equipment in a manner that is orderly and does not disrupt service to any ESS location and based on a time frame agreed upon by both parties.
- N. Vendor shall minimally meet all standards of responsibility as stated at paragraph 3-102.09.2 of the Mississippi Office of Personal Service Contract Review Rules and Regulations.

9. Proposal Format

- 9.1 All proposals submitted in response to this request shall be in writing.
- 9.2 Offeror shall submit proposal and copies in individual binders/folders or report covers which contain subject divider tabs for each required section and pages shall be numbered. **Vendor shall ensure that their company name, logo or other identifying markings are only included on the cover page, Attachment H, of the proposal and no other pages to help facilitate blind evaluation of proposals as required by the State of Mississippi Personal Services Procurement Rules and Regulations. Failure to comply with this requirement may result in rejection of proposal.**
 - 9.2.1 Required Sections of Proposal
 - a. Management Summary: Provide a letter indicating the underlying philosophy of the firm in providing the service.
 - b. Proposal: Describe in detail how the service will be provided. Include a description of major tasks and subtasks.
 - c. Corporate experience and capacity: Describe the experience of the firm in providing the service, give number of years that the service has been delivered, and provide a statement on the extent of any corporate expansion required to handle the service.
 - d. Acceptance of conditions: Indicate any exceptions to the general terms and conditions of the proposal documents and to insurance, bonding and any other requirements listed.

- e. Additional data: Provide any additional information that will aid in evaluation of the response.
- f. Cost data: Estimate the annual cost of the service. Cost data submitted at this stage is binding, but is subject to being negotiated down if your firm is chosen as a finalist. Include the number of personnel proposed to be assigned to the contract and the total estimated cost of the labor portion of the contract (include a sample staffing chart). Identify all non-labor costs and their estimated totals.

9.3 Offerors must submit one original unredacted proposal and three (3) redacted copies of the proposal in a **sealed** envelope with Offeror's name and address on outside of the envelope. Offeror must also write the time, date of the proposal opening, RFP number and proposal title (Waste Management Services) on the outside lower left corner of the envelope. Proposal should also include the following information:

- a. The age of the respondent's business and average number of employees over a previous period of five (5) years.
- b. The qualifications, including licenses, certifications, education, skills, and experience of all persons who would be assigned to provide the required services; and,
- c. A listing of other contracts under which services similar in scope, size, or discipline to the required services were performed or undertaken within a previous period of five (5) years;
- d. A plan giving as many details as is practical explaining how the services will be performed.

9.4 Offeror must submit summary pricing on the proposal pricing form provided in the proposal package as Attachment C. Pricing shall be submitted as a firm fixed price for the entire contract period included renewal periods.

9.5 Offeror must provide references using the Reference Form on Attachment G. The Offeror must document, through their references, they have the experience required to meet the minimum vendor requirements. ESS must be able to complete two (2) reference checks for each category for a proposal within five (5) business days of proposal opening to be considered responsive.

- 1. List the three largest waste management clients for whom you are providing (or have provided) services like those requested in this RFP.
 - a. Client name, include the name, title, address, email address, and telephone number of a person whom we may contact to confirm as needed;
 - b. How long has the company been providing waste management services for this client;
 - c. Then number of annual pickups provided to the client;
 - d. The number of staff utilized;
 - e. Did you provide this client with a project/contract manager.

2. List three governmental waste management services clients for whom you are providing (or have provided) services comparable to those requested in this RFP.
 - i. Client name, include the name, title, address, email address, and telephone number of a person whom we may contact to confirm as needed;
 - ii. How long has the company been providing waste management services for this client;
 - iii. Then number of annual pickups provided to the client;
 - iv. The number of staff utilized;
 - v. Did you provide this client with a project/contract manager.

9.6 Proposals must be submitted in writing using the attached forms and hand delivered or mailed to:

Ellisville State School
Attn: Channon Cuevas, Contract Analyst
1101 Highway 11 South
Ellisville, MS 39437
Contracts Office, Administration 1 Building

10. Evaluation Procedure

10.1 Step One:

Proposals will be reviewed to assure compliance with the minimum specifications. Proposals that do not comply with the minimum specifications will be rejected immediately, receiving no further consideration.

9.1.1 Responsive Respondent

Respondent must submit a proposal which conforms in all material respects to this Request for Proposals, RFP 3140003171 as determined by Agency.

9.1.2 Responsible Respondent

Respondent must have capability in all respects to perform fully the contract requirements and the integrity and reliability which will assure good faith performance, as determined by Agency.

10.2 Step Two:

Proposals that satisfactorily complete Step One will be reviewed and analyzed to determine if the proposal adequately meets the needs of Agency. Factors to be considered are as follows:

Price - 35 points (35%)

*The percentage assigned is mandatory and should be objectively scored.

Technical factors (Proposed methodology) - 25 points (25%)

- a. Does the offeror's proposal or qualification demonstrate a clear

understanding of the scope of work and related objectives? – 10 points (10%)

- b. Is the offeror's proposal or qualification complete and responsive to the specific RFP or RFQ requirements? - 5 points (5%)
- c. Has the past performance of the offeror's proposed methodology been documented? - 5 points (5%)
- d. Does the offeror's proposal or qualification use innovative technology and techniques? - 5 points (5%)

*The percentage assigned is at the Evaluation Committee's discretion.

Management factors (Factors that will require the identity of the offeror to be revealed must be submitted separately from other factors)- 40 points (40%)

(a) Project management: 10 points (10%)

- a. How well does the proposed scheduling timeline meet the needs of the soliciting agency? 5 points (5%)
- b. Is there a project management plan? 5 points (5%)

(b) History and experience in performing the work: 20 points (20%)

- a. Does the offeror document a record of reliability of timely delivery and on- time and on-budget implementation? 5 points (5%)
- b. Does the offeror demonstrate a track record of service as evidenced by on- time, on-budget, and contract compliance performance? 5 points (5%)
- c. Does the offeror document industry or program experience? 5 points (5%)
- d. Does the offeror have a record of poor business ethics? 5 points (5%)

(c) Availability of personnel, facilities, equipment and other resources: 5 points (5%)

- a. To what extent does the offeror rely on in-house resources vs. contracted resources? 2.5 points (2.5%)
- b. Are the availability of in-house and contract resources documented? 2.5 points (2.5%)

(d) Qualification and experience of personnel: 5 points (5%)

- a. Documentation of experience in performing similar work by employees and when appropriate, sub-contractors? 2.5 points (2.5%)
- b. Does the offeror demonstrate cultural sensitivity in hiring and training staff? 2.5 points (2.5%)

*The percentage assigned is at the Evaluation Committee's discretion

10.3 Step Three:

The Agency Executive Director or his/her designee will contact the respondent with the proposal which best meets Agency needs (based on factors evaluated in Step Two) and attempt to negotiate an agreement that is deemed acceptable to both parties.

11. Award

Award shall be made to the responsible respondent with the highest evaluation score and found to be the most advantageous to the Agency, taking into consideration price and evaluation factors set forth in the Request for Proposal. No other factors or criteria shall be used in the evaluation.

11.1 Award Notification

All participating vendors will be notified of the Agency's intent to award a contract. In addition, the Agency will identify the selected Vendor. Notice of award shall also be made available to the public.

12. Protest of Award

Any actual or prospective respondent or contractor who is aggrieved in connection with this solicitation or the outcome of the Request for Proposals may file a protest with the Proposal Coordinator, Channon Cuevas, Ellisville State School Chief Procurement Officer. The protest shall be submitted on or before Wednesday, October 19, 2022, 4:00 PM CST, in writing after such aggrieved person or entity knows or should have known of the facts giving rise thereto. All protests must be in writing, dated, signed by the respondent or an individual authorized to sign contracts on behalf of the protesting respondent, and contain a statement of the reason(s) for protest, citing the law(s), rule(s) or regulation(s), and/or procedure(s) on which the protest is based. The written protest letter shall contain an explanation of the specific basis for the protest. The protesting respondent must provide facts and evidence to support the protest. A protest is considered filed when received by the Proposal Coordinator, Channon Cuevas, Ellisville State School Contract Analyst, via either U.S. mail, postage prepaid, or personal delivery, at Ellisville State School, 1101 Highway 11 South, Ellisville, Mississippi 39437. Protests filed after 4:00 PM CST, October 19, 2022 will not be considered.

13. Required Contract Terms and Conditions

Any contract entered into between a Contracting Agency and a vendor/respondent shall include the required clauses found in **Attachment D** and those required by the *Public Procurement Review Board's Office of Personal Service Contract Review's Rules and Regulations* as updated.

14. Optional Contract Terms and Conditions

Any contract entered into between a Contracting Agency and a vendor/respondent may have, at the discretion of the Contracting Agency, the optional clauses found in **Attachment E** and those within the *Public Procurement Review Board's Office of Personal Service Contract Review's Rules and Regulations* as updated.

15. Mississippi Contract/Procurement Opportunity Search Portal

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

16. Attachments

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

17. Mandatory E-Payment Rule/Paymode – Authorization and Acknowledgement

- 17.1 Payments by State Agencies using the State’s accounting system shall be made and remittance information provided electronically as directed by the State. These payments shall be deposited into the bank account of the Contractor’s choice. The State may, at its sole discretion, require the Contractor to electronically submit invoices and supporting documentation electronically at any time during the term of this agreement. Contractor understands and agrees that the State is exempt from the payment of taxes. All payments shall be in United States Currency via the State of Mississippi’s electronic payment and remittance vehicle. Ellisville State School agrees to make payment in accordance with Mississippi law on “Timely Payments of Purchases by Public Bodies,” which generally provides for payment of undisputed amounts by Ellisville State School within forty-five (45) days of receipt of invoice. Miss. Code Annotated 31-7-301 et seq. See Attachment F.

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

1. That he/she has thoroughly read and understands this Request for Proposals, RFP 3140003171 and the attachments herein;
2. That the company meets all requirements and acknowledges all certifications contained in this Request for Proposals, RFP 3140003171, and the attachments herein;
3. That the company agrees to all provisions of this Request for Proposals, RFP 3140003171, and the attachments herein;
4. That the company has, or will secure, at its own expense, applicable personnel who shall be qualified to perform the duties required to be performed under this Request for Proposals.

Printed Name: _____

Title: _____

Signature: _____

Date: _____

ATTACHMENT A

Certifications and Assurances

I/We make the following certifications and assurances as a required element of the offer to which it is attached, of the understanding that the truthfulness of the facts affirmed here and the continued compliance with these requirements are conditions precedent to the award or continuation of the related contract(s):

1. REPRESENTATION REGARDING CONTINGENT FEES

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

2. REPRESENTATION REGARDING GRATUITIES

The Respondent or Contractor represents that it **has/has not** violated, is not violating, and promises that it will not violate the prohibition against gratuities set forth in Section 6-204 (Gratuities) of the Mississippi Public Procurement Review Board's Office of Personal Service Contract Review's Rules and Regulations.

3. CERTIFICATION OF INDEPENDENT PRICE DETERMINATION

The respondent certifies that the prices submitted in response to the solicitation **have/have not** been arrived at independently and without, for the purpose of restricting competition, any consultation, communication, or agreement with any other respondent or competitor relating to those prices, the intention to submit a proposal, or the methods or factors used to calculate price.

4. PROSPECTIVE CONTRACTOR'S REPRESENTATION REGARDING CONTINGENT FEES

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

Name/Title: _____

Signature/Date: _____

Note: Please be sure to circle the applicable word or words provided above. Failure to circle the applicable word or words and/or to sign the proposal form may result in the proposal being rejected as nonresponsive. Modifications or additions to any portion of this proposal document may be cause/or rejection of the proposal

ATTACHMENT B

Work Plan

This work plan shall provide the pickup schedule/frequency of non-hazardous trash from the following locations as needed. (Note: Not all locations will have containers/dumpster at the time of contracting, but ESS reserves the right to add or delete containers at any listed as needed. The proposed amount for each container shall be added or deleted according to the unit price as proposed as required.)

Building	Address	Number of Containers	Pick up Frequency	Container Size
ESS Campus	1101 Highway 11 South Ellisville, MS 39437	22	3 times a week	8 cu. Yd.
ESS Campus	1101 Highway 11 South Ellisville, MS 39437	5	Once Weekly	4 cu. Yd.
ESS Campus	1101 Highway 11 South Ellisville, MS 39437	1	As needed	30/40 cu. Yd.
ESS/SMRC Campus	1170 West Railroad St. Long Beach, MS 39560	9	Twice a week	8 cu. Yd.
Lumberton Community Homes	1116 W. Main Ave. Lumberton, MS 39455	2	Once Weekly	8 cu. Yd.
Richton Community Homes	Bridgedale Community Home 200 Gertrude Ave. <u>Richton, MS 39476</u> Somerset Community Home 580 Cypress St. N <u>Richton, MS 39476</u>	2	Once Weekly	8 cu. Yd.
Prentiss Community Homes	Stonebriar Community Home 1482 Sebron St. <u>Prentiss, MS 39474</u> Willow Bend Community Home 1484 Sebron St. <u>Prentiss, MS 39474</u>	2	Once Weekly	8 cu. Yd.
Sumrall Community Homes	Douglas Graham Community Home 4759 Hwy 589 <u>Sumrall, MS 39482</u> Brookwood Community Home 10 Legion Lake Road <u>Sumrall, MS 39482</u>	2	Once Weekly	8 cu. Yd.

Ellisville Community Homes	107 Cleveland St. Ellisville, MS 39437	2	Once Weekly	8 cu. Yd.
Waynesboro Community Homes	Pinecrest Community Home 277 Ramey Lane <u>Waynesboro, MS 39367</u> Woodland Heights 60 Joe Jordan Drive <u>Waynesboro, MS 39367</u>	2	Once Weekly	8 cu. Yd.
Poplarville Community Homes	1303 South Shivers Street <u>Poplarville, MS 39470</u> 1501 South Shivers Street <u>Poplarville, MS 39470</u>	2	Once Weekly	8 cu. Yd.
Wiggins Community Homes	500 Harrison Street <u>Wiggins, MS 39577</u> 509 Strapp Street <u>Wiggins, MS 39577</u>	2	Once Weekly	8 cu. Yd.
Gautier Community Homes	218 Graveline Road Gautier, MS 39553	2	Once Weekly	8 cu. Yd.
Biloxi Community Homes	280 Tara Lane <u>Biloxi, MS 39531</u> 2050 Lawrence Ave. <u>Biloxi, MS 39531</u>	2	Once Weekly	8 cu. Yd.
Richton Meaningful Day Center	101 Front Street Richton, MS 39476	1	Once Weekly	8 cu. Yd.
Prentiss Meaningful Day Center	1822 Columbia Ave. Prentiss, MS 39474	1	Once Weekly	8 cu. Yd.
Lumberton Meaningful Day Center	309 W. Main Lumberton, MS 39455	1	Once Weekly	8 cu. Yd.
Sumrall MIDD Workshop	4858 Highway 589 Sumrall, MS 39482	1	Once Weekly	8 cu. Yd.
Wiggins Workshop Golden Magnolia Enterprises	1620 West Central Ave. Wiggins, MS 39577	1	Once Weekly	8 cu. Yd.
Waynesboro Special Touch Program	909 Robinson St. Waynesboro, MS 39367	1	Once Weekly	8 cu. Yd.
Biloxi Workshop Biloxi Industries	2766 Fernwood Rd. Biloxi, MS 39530	1	Once Weekly	8 cu. Yd.

Magee Support Coordination	720B 3 rd Street SW Magee, MS 39111	1	Once Weekly	8 cu. Yd.
Brookhaven Support Coordination	1385 Johnny Johnson Dr. Brookhaven, MS 39601	1	Once Weekly	8 cu. Yd.

4.2 Additional Pickups

ESS reserves the right to request additional pickups from the contractor during the term of the contract. The cost of the additional pickups will be based on the contractor's submitted proposed monthly rate. The additional cost will be added to the total cost of the contract. The cost of the additional pickups may be annual and recurring, or a one (1) time request as needed.

4.3 Additional Dumpsters (Containers)

The Contractor will be required to provide the dumpster size as specified above for each building. ESS reserves the right to request additional dumpsters from the contractor during the term of the contract. The cost of the additional dumpsters will be based on the contractor's submitted proposed monthly rate.

ATTACHMENT C
Proposal Form

Locations currently being serviced	Qty.	Container Size	Dump Frequency	Proposed Monthly Rate	Addition/Deletion (monthly rate)
ESS Campus	22	8 cu. yd	Three times weekly		
ESS Campus	5	4 cu. yd	Once Weekly		
ESS Campus	1	30/40cu. yd	Monthly Rent (if applicable)		
ESS Campus		30/40 cu. yd	Dump Rate per pull		
ESS Campus		30/40 cu. yd	Land Fill Fee /if applicable		
Sumrall Community Homes	2	8 cu. yd	Once Weekly		
SMRC Long Beach Campus	9	8 cu. Yd.	Twice Weekly		
Poplarville Community Homes	2	8 cu. Yd	Once Weekly		
Gautier Community Homes	1	8 cu. Yd	Once Weekly		
Wiggins Community Homes	2	8 cu. Yd.	Once Weekly		
Biloxi Community Homes	1	8 cu. Yd.	Once Weekly		
Biloxi Industries	1	8 cu. Yd.	Once Weekly		
Estimated monthly total for locations currently being serviced					

Locations currently NOT being serviced, one or more may require service at any time during the contract period.	Qty.	Container Size	Dump Frequency	Proposed Monthly Rate	Addition/Deletion (Monthly Rate)
*Lumberton Community Homes	1	8 cu. Yd	Once Weekly		
*Richton Community Homes	1	8 cu. yd	Once Weekly		
*Prentiss Community Homes	1	8 cu. yd	Once Weekly		
*Ellisville Community Homes	1	8 cu. Yd	Once Weekly		
*Waynesboro Community Homes	1	8 cu. Yd.	Once Weekly		
*Lumberton Meaningful Day Center	1	4 cu. Yd.	Once Weekly		
*Richton Meaningful Day Center	1	4 cu. Yd	Once Weekly		
*Prentiss Meaningful Day Center	1	4 cu. Yd.	Once Weekly		
*Sumrall MIDD Workshop	1	4 cu. Yd.	Once Weekly		
*Wiggins Workshop Golden Magnolia Enterprises	1	8 Cu. Yd.	Once Weekly		
*Waynesboro Special Touch	1	8 Cu. Yd.	Once Weekly		
*Brookhaven Support Coordinator	1	4 Cu. Yd.	Once Weekly		
*Magee Support Coordinator	1	4 Cu. Yd	Once Weekly		

NOTE:

Total monthly fee shall be adjusted according to the locations to received containers/dumpsters.

Not all locations will require containers/dumpsters. Agency reserves the right to add or delete as needed according to the addition/deletion rate provided.

All rates quoted herein are guaranteed throughout the term of the contract.

By submission of this proposal form, we hereby certify that the prices submitted in response to the RFP have been arrived at independently and without, for the purposes of restricting competition, any

consultation, communication, or agreement with any other Offeror or competitor relating to those prices, the intention to submit a proposal, or the methods of factors used to calculate the prices proposed. By submission of this proposal, we hereby certify that we have not retained any person or agency on a percentage, commission, or other contingent arrangement to secure this contract.

Name

Date

Title

Company

Locations marked * do NOT currently have containers/dumpsters.

ATTACHMENT D

REQUIRED CLAUSES FOR SERVICE CONTRACTS RESULTING FROM THIS RFP

1. Applicable Law: The contract shall be governed by and construed in accordance with the laws of the State of Mississippi, excluding its conflicts of laws provisions, and any litigation with respect thereto shall be brought in the courts of the State. Contractor shall comply with applicable federal, state, and local laws and regulations.
2. 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.
3. Availability of Funds: It is expressly understood and agreed that the obligation of the Agency to proceed under this agreement is conditioned upon the appropriation of funds by the Mississippi State Legislature and the receipt of state and/or federal funds. If the funds anticipated for the continuing fulfillment of the agreement are, at any time, not forthcoming or insufficient, either through the failure of the federal government to provide funds or of the State of Mississippi to appropriate funds or the discontinuance or material alteration of the program under which funds were provided or if funds are not otherwise available to the Agency, the Agency shall have the right upon ten (10) working days written notice to Contractor, to terminate this agreement without damage, penalty, cost or expenses to the Agency of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.
4. Compliance with Laws: Contractor understands that the State of Mississippi is an equal opportunity employer and therefore, maintains a policy which prohibits unlawful discrimination based on race, color, creed, sex, age, national origin, physical handicap, disability, genetic information, or any other consideration made unlawful by federal, state, or local laws. All such discrimination is unlawful and Contractor agrees during the term of the agreement that Contractor will strictly adhere to this policy in its employment practices and provision of services. Contractor shall comply with, and all activities under this agreement shall be subject to, all applicable federal, State of Mississippi, and local laws and regulations, as now existing and as may be amended or modified.
5. 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.*
6. E-Verification: If applicable, Contractor represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act of 2008, and will register and participate in the status verification system for all newly hired employees. Mississippi Code Annotated §§ 71-11-1 *et seq.* The term "employee" as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor agrees to maintain records of such compliance. Upon request of the State and after approval of the Social Security Administration or Department of Homeland Security when required, Contractor agrees to provide a copy of each such verification. Contractor further represents and warrants that any person assigned to perform services hereafter meets the employment eligibility requirements of all immigration laws. The breach of this agreement may subject Contractor to the following:

- a. 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;
- b. the loss of any license, permit, certification or other document granted to Contractor by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year; or,
- c. both.

In the event of such cancellation/termination, Contractor would also be liable for any additional costs incurred by the State due to Contract cancellation or loss of license or permit to do business in the State.

7. Insurance The Contractor shall maintain at its own expense, throughout the entire term of the contract, the following insurance:

- a. General Liability with a minimum coverage of \$1,000,000.00
- b. Motor Vehicle coverage with a minimum coverage of \$500,000.00
- c. Motor Vehicle Property Damage coverage with a minimum coverage of \$250,000.00
- d. Workers' Compensation insurance to comply with Mississippi Workers' Compensation Law.

Additionally:

- In no event shall the requirement for an insurance, bond, or other surety be waived.
- All insurance policies will list the Ellisville State School as an additional insured.
- All insurance policies shall be issued by companies authorized to do business under the laws of the State of Mississippi, meaning insurance carriers must be licensed or hold a Certificate of Authority from the Mississippi Department of Insurance.
- Contractor shall submit to Agency within fourteen (14) days of notification of intent to award, a certificate of insurance and/or bond which outlines the coverage and limits defined in the procurement and contract. There are no provisions for exceptions to this requirement. Failure to provide the certificates of insurance within fourteen (14) day period may be cause for your bid to be declared non-responsive or for your contract to be cancelled.
- Contractor shall obtain at Contractor's expense the insurance and/or bond requirements specified in the procurement and contract prior to performing under this Contract, and Contractor shall maintain the required insurance and/or bond coverage throughout the duration of this Contract and all warranty periods. There are no provisions for exceptions to this requirement.
- Contractor shall not commence work under this contract until it obtains all insurance and/or bond required under this provision and furnishes a certificate or other form showing proof of current coverage to the State. After work commences, the Contractor will keep in force all required insurance and/or bond until the contract is terminated or expires.
- Contractor shall submit renewal certificates as appropriate during the term of the contract.
- Contractor shall instruct the insurers to provide the Agency thirty (30) days advance notice of any insurance cancellation.
- Contractor shall ensure that should any of the above described policies be cancelled before the expiration date thereof, or if there is a material change, potential exhaustion of aggregate limits or intent not to renew insurance and/or bond coverage(s), that written notice will be delivered to the Agency Chief Procurement Officer.
- There shall be no cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance and/or bond coverage(s) to Agency. Any failure to comply with the reporting provisions of this clause shall constitute a material breach of Contract and shall be grounds for immediate termination of this Contract by Agency.

8. Paymode: Payments by state agencies using the State's accounting system shall be made and remittance information provided electronically as directed by the State. These payments shall be deposited into the bank account of Contractor's choice. The State may, at its sole discretion, require Contractor to electronically submit invoices and supporting documentation at any time during the term of this Agreement. Contractor understands and agrees that the State is exempt from the payment of taxes. All payments shall be in United States currency.
9. Procurement Regulations: The contract shall be governed by the applicable provisions of the *PPRB OPSCR Rules and Regulations*, a copy of which is available at 501 North West Street, Suite 701E, Jackson, Mississippi 39201 for inspection, or downloadable at <http://www.DFA.ms.gov>.
10. Renewal of Contract: Upon written agreement of both parties at least sixty (60) days prior to each contract anniversary date, the contract may be renewed by the Agency for a period of three (3) successive one-year period(s) under the same prices, terms, and conditions as in the original contract. The total number of renewal years permitted shall not exceed three (3).
11. 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.
12. 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 *PPRB OPSCR Rules and Regulations*.
13. Stop Work Order:
 - a. *Order to Stop Work:* The Chief Procurement Officer, may, by written order to Contractor at any time, and without notice to any surety, require Contractor to stop all or any part of the work called for by this contract. This order shall be for a specified period not exceeding 90 days after the order is delivered to Contractor, unless the parties agree to any further period. Any such order shall be identified specifically as a stop work order issued pursuant to this clause. Upon receipt of such an order, Contractor shall forthwith comply with its terms and take all reasonable steps to minimize the occurrence of costs allocable to the work covered by the order during the period of work stoppage. Before the stop work order expires, or within any further period to which the parties shall have agreed, the Chief Procurement Officer shall either:
 - 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 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.

14. 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.

15. 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 (in fixed-price contracts, "Termination for Convenience," in cost-reimbursement contracts, "Termination"). (As used in this Paragraph of this clause, the term "subcontractor" means subcontractor at any tier).

- 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 of the State, be the same as if the notice of termination had been issued pursuant to such clause.
- f. *Additional Rights and Remedies.* The rights and remedies provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

- 16. Termination Upon Bankruptcy: This contract may be terminated in whole or in part by Agency upon written notice to Contractor, if Contractor should become the subject of bankruptcy or receivership proceedings, whether voluntary or involuntary, or upon the execution by Contractor of an assignment for the benefit of its creditors. In the event of such termination, Contractor shall be entitled to recover just and equitable compensation for satisfactory work performed under this contract, but in no case shall said compensation exceed the total contract price.
- 17. 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.
- 18. Transparency: This contract, including any accompanying exhibits, attachments, and appendices, is subject to the "Mississippi Public Records Act of 1983," and its exceptions. See Mississippi Code Annotated §§ 25-61-1 *et seq.* and Mississippi Code Annotated § 79-23-1. In addition, this contract is subject to the provisions of the Mississippi Accountability and Transparency Act of 2008. Mississippi Code Annotated §§ 27-104-151 *et seq.* Unless exempted from disclosure due to a court-issued protective order, a copy of this executed contract is required to be posted to the Mississippi Department of Finance and Administration's independent agency contract website for public access at <http://www.transparency.mississippi.gov>. Information identified by Contractor as trade secrets, or other proprietary information, including confidential vendor information or any other information which is required confidential by state or federal law or outside the applicable freedom of information statutes, will be redacted.

ATTACHMENT E

OPTIONAL CLAUSES FOR USE IN SERVICE CONTRACTS RESULTING FROM THIS RFP

1. Anti-assignment/Subcontracting: Contractor acknowledges that it was selected by the State to perform the services required hereunder based, in part, upon Contractor's special skills and expertise. Contractor shall not assign, subcontract, or otherwise transfer this agreement, in whole or in part, without the **prior** written consent of the State, which the State may, in its sole discretion, approve or deny without reason. Any attempted assignment or transfer of its obligations without such consent shall be null and void. No such approval by the State of any subcontract shall be deemed in any way to provide for the incurrence of any obligation of the State in addition to the total fixed price agreed upon in this agreement. Subcontracts shall be subject to the terms and conditions of this agreement and to any conditions of approval that the State may deem necessary. Subject to the foregoing, this agreement shall be binding upon the respective successors and assigns of the parties.
2. Antitrust: By entering into a contract, Contractor conveys, sells, assigns, and transfers to the Agency all rights, titles, and interest it may now have, or hereafter acquire, under the antitrust laws of the United States and the State that relate to the particular goods or services purchased or acquired by the Agency under said contract.
3. 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.
4. Authority to Contract: Contractor warrants: (a) that it is a validly organized business with valid authority to enter into this agreement; (b) that it is qualified to do business and in good standing in the State of Mississippi; (c) that entry into and performance under this agreement is not restricted or prohibited by any loan, security, financing, contractual, or other agreement of any kind; and, (d) notwithstanding any other provision of this agreement to the contrary, that there are no existing legal proceedings or prospective legal proceedings, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under this agreement.
5. Change in Scope of Work: The Agency may order changes in the work consisting of additions, deletions, or other revisions within the general scope of the contract. No claims may be made by Contractor that the scope of the project or of Contractor's services has been changed, requiring changes to the amount of compensation to Contractor or other adjustments to the contract, unless such changes or adjustments have been made by written amendment to the contract signed by the Agency and Contractor.

If Contractor believes that any particular work is not within the scope of the project, is a material change, or will otherwise require more compensation to Contractor, Contractor must immediately notify the Agency in writing of this belief. If the Agency believes that the particular work is within the scope of the contract as written, Contractor will be ordered to and shall continue with the work as changed and at the cost stated for the work within the contract.

6. Claims Based on a Procurement Officer's Actions or Omissions:
 - a. *Notice of Claim*. If any action or omission on the part of a Chief Procurement Officer or designee of such officer requiring performance changes within the scope of the contract constitutes the basis for a claim by Contractor for additional compensation, damages, or an extension of time for completion, Contractor

shall continue with performance of the contract in compliance with the directions or orders of such officials, but by so doing, Contractor shall not be deemed to have prejudiced any claim for additional compensation, damages, or an extension of time for completion; provided:

i. Contractor shall have given written notice to the Chief Procurement Officer or designee of such officer:

- (1) prior to the commencement of the work involved, if at that time Contractor knows of the occurrence of such action or omission;
- (2) within 30 days after Contractor knows of the occurrence of such action or omission, if Contractor did not have such knowledge prior to the commencement of the work; or,
- (3) within such further time as may be allowed by the Chief Procurement Officer in writing.

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

ii. The notice required by subparagraph (a) of this paragraph describes, as clearly as practicable at the time, the reasons why Contractor believes that additional compensation, damages, or an extension of time may be remedies to which Contractor is entitled; and,

iii. Contractor maintains and, upon request, makes available to the Chief Procurement Officer within a reasonable time, detailed records to the extent practicable, of the claimed additional costs or basis for an extension of time in connection with such changes.

b. *Limitation of Clause.* Nothing contained herein shall excuse Contractor from compliance with any rules of law precluding state officers and Contractors from acting in collusion or bad faith in issuing or performing change orders which are clearly not within the scope of the contract.

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

7. Information Designated by Contractor as Confidential: Any disclosure of those materials, documents, data, and other information which Contractor has designated in writing as proprietary and confidential shall be subject to the provisions of Mississippi Code Annotated §§ 25-61-9 and 79-23-1. As provided in the contract, the personal or professional services to be provided, the price to be paid, and the term of the contract shall not be deemed to be a trade secret, or confidential commercial or financial information.

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

8. Confidentiality: Notwithstanding any provision to the contrary contained herein, it is recognized that Agency is a public agency of the State of Mississippi and is subject to the Mississippi Public Records Act. Mississippi Code Annotated §§ 25-61-1 *et seq.* If a public records request is made for any information provided to Agency pursuant to the agreement and designated by the Contractor in writing as trade secrets or other proprietary confidential information, Agency shall follow the provisions of Mississippi Code Annotated §§ 25-61-9 and 79-23-1 before disclosing such information. The Agency shall not be liable to the Contractor for disclosure of information required by court order or required by law.

9. Contractor Personnel: The Agency shall, throughout the life of the contract, have the right of reasonable rejection and approval of staff or subcontractors assigned to the work by Contractor. If the Agency reasonably rejects staff or subcontractors, Contractor must provide replacement staff or subcontractors satisfactory to

the Agency in a timely manner and at no additional cost to the Agency. The day-to-day supervision and control of Contractor's employees and subcontractors is the sole responsibility of Contractor.

10. Copyrights: Contractor agrees that Agency shall determine the disposition of the title to and the rights under any copyright by Contractor or employees on copyrightable material first produced or composed under this agreement. Further, Contractor hereby grants to Agency a royalty-free, nonexclusive, irrevocable license to reproduce, translate, publish, use and dispose of, and to authorize others to do so, all copyrighted (or copyrightable) work not first produced or composed by Contractor in the performance of this agreement, but which is incorporated in the material furnished under the agreement. This grant is provided that such license shall be only to the extent Contractor now has, or prior to the completion of full final settlements of agreement may acquire, the right to grant such license without becoming liable to pay compensation to others solely because of such grant.
11. Debarment and Suspension: Contractor certifies to the best of its knowledge and belief, that it:
 - a. 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;
 - b. 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;
 - c. 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;
 - d. 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 (b) and (c) of this certification; and,
 - e. 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.
12. Disclosure of Confidential Information: In the event that either party to this agreement receives notice that a third party requests divulgence of confidential or otherwise protected information and/or has served upon it a subpoena or other validly issued administrative or judicial process ordering divulgence of confidential or otherwise protected information that party shall promptly inform the other party and thereafter respond in conformity with such subpoena to the extent mandated by law. This section shall survive the termination or completion of this agreement. The parties agree that this section is subject to and superseded by Mississippi Code Annotated §§ 25-61-1 *et seq.*
13. Exceptions to Confidential Information: Contractor and the State shall not be obligated to treat as confidential and proprietary any information disclosed by the other party ("disclosing party") which:
 - a. is rightfully known to the recipient prior to negotiations leading to this agreement, other than information obtained in confidence under prior engagements;
 - b. is generally known or easily ascertainable by nonparties of ordinary skill in the business of the customer;
 - c. is released by the disclosing party to any other person, firm, or entity (including governmental agencies or bureaus) without restriction;
 - d. is independently developed by the recipient without any reliance on confidential information;
 - e. is or later becomes part of the public domain or may be lawfully obtained by the State or Contractor from any nonparty; or,
 - f. is disclosed with the disclosing party's prior written consent.

14. Errors in Extension: If the unit price and the extension price are at variance, the unit price shall prevail.
15. Failure to Deliver: In the event of failure of Contractor to deliver services in accordance with the contract terms and conditions, the Agency, after due oral or written notice, may procure the services from other sources and hold Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies that the Agency may have.
16. Failure to Enforce: Failure by the Agency at any time to enforce the provisions of the contract shall not be construed as a waiver of any such provisions. Such failure to enforce shall not affect the validity of the contract or any part thereof or the right of the Agency to enforce any provision at any time in accordance with its terms.
17. Final Payment: Upon satisfactory completion of the work performed under this contract, as a condition before final payment under this contract, or as a termination settlement under this contract, Contractor shall execute and deliver to the Agency a release of all claims against the State arising under, or by virtue of, the contract, except claims which are specifically exempted by Contractor to be set forth therein. Unless otherwise provided in this contract, by state law, or otherwise expressly agreed to by the parties in this contract, final payment under the contract or settlement upon termination of this contract shall not constitute waiver of the State's claims against Contractor under this contract.
18. 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.
19. HIPAA Compliance: Contractor agrees to comply with the "Administrative Simplification" provisions of the Health Insurance Portability and Accountability Act of 1996, including electronic data interchange, code sets, identifiers, security, and privacy provisions, as may be applicable to the services under this contract.
20. Indemnification: To the fullest extent allowed by law, Contractor shall indemnify, defend, save and hold harmless, protect, and exonerate the agency, its commissioners, board members, officers, employees, agents, and representatives, and the State of Mississippi from and against all claims, demands, liabilities, suits, actions, damages, losses, and costs of every kind and nature whatsoever including, without limitation, court costs, investigative fees and expenses, and attorney's fees, arising out of or caused by Contractor and/or its partners, principals, agents, employees and/or subcontractors in the performance of or failure to perform this agreement. In the State's sole discretion upon approval of the Office of the Mississippi Attorney General, Contractor may be allowed to control the defense of any such claim, suit, etc. In the event Contractor defends said claim, suit, etc., Contractor shall use legal counsel acceptable to the Office of the Mississippi Attorney General. Contractor shall be solely responsible for all costs and/or expenses associated with such defense, and the State shall be entitled to participate in said defense. Contractor shall not settle any claim, suit, etc. without the concurrence of the Office of the Mississippi Attorney General, which shall not be unreasonably withheld.

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

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

Scope of Indemnification: Provided that the State promptly notifies Contractor in writing of any alleged infringement claim of which it has knowledge, Contractor shall defend, at its own expense, the State against, and pay all costs, damages and attorney fees that a court finally awards for infringement based on the programs and deliverables provided under this agreement.

23. Integrated Agreement/Merger: This agreement, including all contract documents, represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations or agreements, irrespective of whether written or oral. This agreement may be altered, amended, or modified only by a written document executed by the State and Contractor. Contractor acknowledges that it has thoroughly read all contract documents and has had the opportunity to receive competent advice and counsel necessary for it to form a full and complete understanding of all rights and obligations herein. Accordingly, this agreement shall not be construed or interpreted in favor of or against the State or Contractor on the basis of draftsmanship or preparation hereof.

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

25. No Limitation of Liability: Nothing in this agreement shall be interpreted as excluding or limiting any tort liability of Contractor for harm caused by the intentional or reckless conduct of Contractor or for damages

incurred through the negligent performance of duties by Contractor or the delivery of products that are defective due to negligent construction.

26. Notices: All notices required or permitted to be given under this agreement must be in writing and personally delivered or sent by certified United States mail, postage prepaid, return receipt requested, to the party to whom the notice should be given at the address set forth below. Notice shall be deemed given when actually received or when refused. The parties agree to promptly notify each other in writing of any change of address.

For the Agency:	For Contractor:
Channon Cuevas, Contract Analyst	
Ellisville State School	
1101 Highway 11 South	
Ellisville, MS 39437	

27. Non-solicitation of Employees: Each party to this agreement agrees not to employ or to solicit for employment, directly or indirectly, any persons in the full-time or part-time employment of the other party until at least six (6) months after this agreement terminates unless mutually agreed to in writing by the State and Contractor.
28. Oral Statements: No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in this contract. All modifications to the contract must be made in writing by the Agency and agreed to by Contractor.
29. Ownership of Documents and Work Papers: Agency shall own all documents, files, reports, work papers and working documentation, electronic or otherwise, created in connection with the project which is the subject of this agreement, except for Contractor's internal administrative and quality assurance files and internal project correspondence. Contractor shall deliver such documents and work papers to Agency upon termination or completion of the agreement. The foregoing notwithstanding, Contractor shall be entitled to retain a set of such work papers for its files. Contractor shall be entitled to use such work papers only after receiving written permission from Agency and subject to any copyright protections.
30. Patents and Royalties: Contractor covenants to save, defend, keep harmless, and indemnify the Agency and all of its officers, departments, agencies, agents, and employees from and against all claims, loss, damage, injury, fines, penalties, and cost--including court costs and attorney's fees, charges, liability, and exposure, however caused--for or on account of any copyright or patented or unpatented invention, process, or article manufactured or used in the performance of the contract, including its use by the Agency. If Contractor uses any design, device, or material covered by patent or copyright, it is mutually agreed and understood without exception that the contract price includes all royalties or costs arising from the use of such design, device, or materials in any way in the work.
31. Quality Control: Contractor shall institute and maintain throughout the contract period a properly documented quality control program designed to ensure that the services are provided at all times and in all respects in accordance with the contract. The program shall include providing daily supervision and conducting frequent inspections of Contractor's staff and ensuring that accurate records are maintained describing the disposition of all complaints. The records so created shall be open to inspection by the Agency.
32. 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.

33. Recovery of Money: Whenever, under the contract, any sum of money shall be recoverable from or payable by Contractor to the Agency, the same amount may be deducted from any sum due to Contractor under the contract or under any other contract between Contractor and the Agency. The rights of the Agency are in addition and without prejudice to any other right the Agency may have to claim the amount of any loss or damage suffered by the Agency on account of the acts or omissions of Contractor.
34. Requirements Contract: During the period of the contract, Contractor shall provide all the service described in the contract. Contractor understands and agrees that this is a requirements contract and that the Agency shall have no obligation to Contractor if no services are required. Any quantities that are included in the scope of work reflect the current expectations of the Agency for the period of the contract. The amount is only an estimate and Contractor understands and agrees that the Agency is under no obligation to Contractor to buy any amount of the services as a result of having provided this estimate or of having any typical or measurable requirement in the past. Contractor further understands and agrees that the Agency may require services in an amount less than or in excess of the estimated annual contract amount and that the quantity actually used, whether in excess of the estimate or less than the estimate, shall not give rise to any claim for compensation other than the total of the unit prices in the contract for the quantity actually used.
35. Right to Audit: Contractor shall maintain such financial records and other records as may be prescribed by the Agency or by applicable federal and state laws, rules, and regulations. Contractor shall retain these records for a period of three years after final payment, or until they are audited by the Agency, whichever event occurs first. These records shall be made available during the term of the contract and the subsequent three-year period for examination, transcription, and audit by the Mississippi State Auditor's Office, its designees, or other authorized bodies.
36. 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.
37. Severability: If any part of this agreement is declared to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision of the agreement that can be given effect without the invalid or unenforceable provision, and to this end the provisions hereof are severable. In such event, the parties shall amend the agreement as necessary to reflect the original intent of the parties and to bring any invalid or unenforceable provisions in compliance with applicable law.
38. State Property: Contractor will be responsible for the proper custody and care of any state-owned property furnished for Contractor's use in connection with the performance of this agreement. Contractor will reimburse the State for any loss or damage, normal wear and tear excepted.
39. Third Party Action Notification: Contractor shall give the customer prompt notice in writing of any action or suit filed, and prompt notice of any claim made against Contractor by any entity that may result in litigation related in any way to this agreement.
40. Unsatisfactory Work. If, at any time during the contract term, the service performed or work done by Contractor is considered by the Agency to create a condition that threatens the health, safety, or welfare of

the citizens and/or employees of the State of Mississippi, Contractor shall, on being notified by the Agency, immediately correct such deficient service or work. In the event Contractor fails, after notice, to correct the deficient service or work immediately, the Agency shall have the right to order the correction of the deficiency by separate contract or with its own resources at the expense of Contractor.

41. Waiver: No delay or omission by either party to this agreement in exercising any right, power, or remedy hereunder or otherwise afforded by contract, at law, or in equity shall constitute an acquiescence therein, impair any other right, power or remedy hereunder or otherwise afforded by any means, or operate as a waiver of such right, power, or remedy. No waiver by either party to this agreement shall be valid unless set forth in writing by the party making said waiver. No waiver of or modification to any term or condition of this agreement will void, waive, or change any other term or condition. No waiver by one party to this agreement of a default by the other party will imply, be construed as or require waiver of future or other defaults.
42. Assignment and Transfer: Neither this Agreement nor any right or obligation hereunder may be assigned by any Party without the prior written consent of the other Parties, and any attempted assignment without the required consents shall be void.
43. This agreement is governed by the terms and conditions of Section 6032 of the Deficit Reduction Act of 2005 known as the False Claims Recovery Act, included in their entirety, by reference.

ATTACHMENT F

**MISSISSIPPI DEPARTMENT OF FINANCE AND ADMINISTRATION ADMINISTRATIVE RULE
FOR MANDATORY ELECTRONIC PAYMENT OF VENDORS AND ELECTRONIC INVOICING
BY VENDORS**

Vendor Name ("Vendor"): _____

Vendor has received a copy of the "Mississippi Department of Finance and Administration Administrative Rule on Mandatory Electronic Payment of Vendors."

Vendor understands that ESS is an agency of the State of Mississippi, and as such, its payments are processed by the Mississippi Department of Finance and Administration ("DFA").

Vendor agrees to one of the following:

- a) Within 60 days, enroll in the State of Mississippi E-Payment vehicle, currently Paymode™, for the receipt of payment from the State of Mississippi.
- b) Obtain an exemption from DFA before providing any good or services which may be billable to MSH.

Vendor understands that payment will not be received from the ESS until enrollment in Paymode™ is complete, or an exemption is granted by DFA.

Signature

Printed Name

Title

Date

MISSISSIPPI DEPARTMENT OF FINANCE AND ADMINISTRATION
ADMINISTRATIVE RULE
MANDATORY ELECTRONIC PAYMENT OF VENDORS

I. General Purpose.

- A. The Mississippi Department of Finance and Administration (DFA) serves as the primary executive branch agency for fiscal management. Under §7-7-41, the State Fiscal Officer has the authority to prescribe rules and regulations concerning the issuance of warrants and other forms of payments for all departments, institutions and agencies of the state. This rule, unless otherwise noted, is to set as the standard that vendors of the State of Mississippi shall be paid electronically and shall be provided the supporting remittance detail by electronic means.
- B. This rule is a means for reducing the costs to produce paper warrants and remittance advices. The State has documented significant savings in the move to electronic payment and remittance. The State avoids the costs associated with printing, sorting, distributing, copying, and mailing warrants. Additionally, the State has determined that there are reduced opportunities for fraud and lost payments under this means of payment and remittance.
- C. Vendors benefit by receiving notification of pending deposits of funds and have options for interfacing the remittance data from the State into their accounts receivable systems.

II. Definitions.

- A. ACH: Automated Clearing House. Affiliated with the U.S. Treasury and the Federal Reserve System and used as the conduit for electronic payments and collections.
- B. EFT: Electronic Funds Transfer. Electronic Funds Transfer (EFT) provides for electronic payments and collections. EFT is safe, secure, efficient, and less expensive than paper check payments and collections. Issuance costs for EFT payments are approximately 80% less than the cost to issue the same payment on a paper warrant. EFT transactions use the ACH network associated with the Federal Reserve System.
 - 1. The State of Mississippi uses "standard EFT" for transferring funds to employee bank accounts for direct deposit of payroll payments and for some transfers to checking accounts of State agencies.
 - 2. The State uses expanded EFT in the transfer of funds and remittance information using PayMode™. The State has established PayMode™ as the default payment method for those payments and transfers requiring supporting remittance information.
- C. E-payment vehicle: Tool that captures the payment and remittance information and pushes it electronically to the designated vendor from the source system (MAGIC). The ACH is used to move the funds while a proprietary system is used to provide access to supporting remittance data and notification of the availability of funds to the State's vendors.
- D. Existing Agreements: Individual agreements in place for the acceptance of electronic payments prior to the implementation of this policy.
- E. PayMode™: A Bank of America product, PayMode™ is the State's present e- payment vehicle.
- F. MAGIC: Mississippi Accountability System for Government Information and Collaboration, the successor system for SAAS and SPAHRS.
- G. Vendor payments: Payments initiated and approved by State Agencies for various goods and

services or as used to transfer funds to other governing authorities such as school districts, cities, and counties.

III. Requirements for Transitioning to E-payment Vehicle

- A. All existing vendors presently set up for payment through standard EFT, unless otherwise approved as an exemption, must be enrolled in PayMode™.
- B. All vendors established as new vendors in the State Magic System must be established for e-payment and remittance via PayMode™.
- C. All remaining MAGIC vendors, unless specifically exempted, must convert to PayMode™ on the schedule determined by DFA.
- D. To register for PayMode™, vendors should go to the Bank of America's TM enrollment website at <http://www.bankofamericacom/paymode/ms>.
 - I. Vendor must have a valid email address in order to enroll with PayMode™.
This email address can be obtained through one of the free email services such as Yahoo or Hotmail.
 - 2. Vendor must have access to a computer. As computers are generally accessible in all businesses as well as in Public Libraries or other public forms, no exemption will be granted for having only limited or no access to a computer.
 - 3. Vendor may request assistance in enrolling with the State's e-payment service provider by contacting mash@dfa.state.ms.us or by calling MASH at (601) 359-1343.

IV. Requirements for Transitioning to E-invoicing

- A. All vendors who contract with a state agency must agree to invoice the State electronically through PayMode™.
- B. To register for PayMode™ E-invoicing, vendors must first register with PayMode™ for E-payment.
- C. Vendors must then complete additional information on the PayMode™ website to enroll in E-invoicing.
- D. Vendors may request assistance in enrolling in PayMode™ E-invoicing by contacting PayMode™ Customer Support at 1-866-252-7366.

V. Exemptions

- A. The following are exempt from this rule:
 - 1. State employees as defined in §25-9-107;
 - 2. Contract workers - note that Independent Contractors are not exempt from this rule;
 - 3. Vendors specifically approved for "one of" payments using the specific vendor number designated for that purpose by the Office of Fiscal Management;
 - 4. Right-of-Way acquisition payments made by the Mississippi Department of

Transportation.

5. Debt service payments made by the Office of the State Treasurer;
 6. Tax payments to the IRS (standard EFT);
 7. Tax payments to the Mississippi State Tax Commission (standard EFT);
 8. Transfers to the Public Employees Retirement System of Mississippi (standard EFT);
 9. Transfers to the Mississippi Deferred Compensation and Trust/SBA (standard EFT);
 10. Vendors who apply for exemption and are approved by DFA.
- B. To apply for exemption, the vendor must submit a written application to:
Director, Office of Fiscal Management
Department of Finance and Administration
501 North West Street, Suite 1101B
Jackson, Mississippi 39201
- C. Application must detail the following:
1. Reason(s) exemption requested. This must be a narrative explanation of the reason for the request;
 2. Documentation of supporting cost and legal issues associated with the request for the exemption.
- D. DFA will issue a written determination within 10 business days of the receipt of the exemption request. The written determination of DFA will be considered the final determination.

ATTACHMENT G REFERENCES

Bidder may submit as many references as desired by submitting as many additional copies of Attachment G, References, as deemed necessary. References will be contacted in order listed until two references from each category have been interviewed and Reference Score Sheets completed for each of the two references. No further references will be contacted; however, bidders are encouraged to submit additional references to ensure that at least two references for each category are available for interview. Agency staff must be able to contact two references within five (5) business days of bid opening to be considered responsive or no later than October 4, 2022.

1. Largest clients currently servicing or have serviced.

REFERENCE 1

Name of Company: _____
Dates of Service: _____ No. of Annual Pickups _____
No. of Staff Utilized: _____ No. of Trucks Utilized: _____
Contact Person: _____
Address: _____
City/State/Zip: _____
Telephone Number: _____ Cell Number: _____
E-mail: _____
Alternative Contact Person (optional): _____
Telephone Number: _____ Cell Number: _____
E-mail: _____
Project/Contract Manager provided: Yes / No

REFERENCE 2

Name of Company: _____
Dates of Service: _____ No. of Annual Pickups _____
No. of Staff Utilized: _____ No. of Trucks Utilized: _____
Contact Person: _____
Address: _____
City/State/Zip: _____
Telephone Number: _____ Cell Number: _____
E-mail: _____
Alternative Contact Person (optional): _____
Telephone Number: _____ Cell Number: _____
E-mail: _____
Project/Contract Manager provided: Yes / No

REFERENCE 3

Name of Company: _____
Dates of Service: _____ No. of Annual Pickups _____
No. of Staff Utilized: _____ No. of Trucks Utilized: _____
Contact Person: _____
Address: _____
City/State/Zip: _____
Telephone Number: _____ Cell Number: _____

E-mail: _____
Alternative Contact Person (optional): _____
Telephone Number: _____ Cell Number: _____
E-mail: _____
Project/Contract Manager provided: Yes / No

2. Governmental clients currently servicing or have serviced.

REFERENCE 1

Name of Company: _____
Dates of Service: _____ No. of Annual Pickups _____
No. of Staff Utilized: _____ No. of Trucks Utilized: _____
Contact Person: _____
Address: _____
City/State/Zip: _____
Telephone Number: _____ Cell Number: _____
E-mail: _____
Alternative Contact Person (optional): _____
Telephone Number: _____ Cell Number: _____
E-mail: _____
Project/Contract Manager provided: Yes / No

REFERENCE 2

Name of Company: _____
Dates of Service: _____ No. of Annual Pickups _____
No. of Staff Utilized: _____ No. of Trucks Utilized: _____
Contact Person: _____
Address: _____
City/State/Zip: _____
Telephone Number: _____ Cell Number: _____
E-mail: _____
Alternative Contact Person (optional): _____
Telephone Number: _____ Cell Number: _____
E-mail: _____
Project/Contract Manager provided: Yes / No

REFERENCE 3

Name of Company: _____
Dates of Service: _____ No. of Annual Pickups _____
No. of Staff Utilized: _____ No. of Trucks Utilized: _____
Contact Person: _____
Address: _____
City/State/Zip: _____
Telephone Number: _____ Cell Number: _____
E-mail: _____
Alternative Contact Person (optional): _____
Telephone Number: _____ Cell Number: _____
E-mail: _____
Project/Contract Manager provided: Yes / No

ATTACHMENT H
Proposal Cover Page

Proposals are to be submitted as directed in Section 9, Proposal Format, of this RFP, on or before September 27, 2022, 12:00 PM CST.

Company Representative	
Company Representative Title	
Company Representative Mailing Address	
Company Representative Mailing City, State, Zip	
Company Representative Telephone Number	
Company Representative E-Mail Address	

Please identify the Office/Branch which will provide services for ESS if different from above:

Office Contact Person	
Office Contact Person Telephone Number	
Office Contact Person Email Address	
Office Contact Person Physical Address	
Office Contact Person City, State, Zip	
Office Contact Person Mailing Address	
Office Contact Person City, State, Zip	

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

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 Offeror will perform the services required at the prices stated in their proposal.
2. That the pricing submitted will firm for the contract term.
3. 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.

4. That the Offeror has submitted copies of the required insurance certificates to meet the minimum qualifications as stated in Section 7, and should the Offeror be awarded the contract, will add Ellisville State School as an additional insured.
5. That the company is licensed or authorized to provide the proposed services in the State of Mississippi.
6. The Ellisville State School 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™. To do business with the State of Mississippi, all Suppliers must be registered with both systems.

Signature: _____

Date: _____



Ellisville State School

Waste Management Services Draft Contract

This Personal Services Contract is made by and between Ellisville State School, a state Agency, hereinafter, “ESS” or “Agency” whose address is 1101 Highway 11 South, Ellisville, MS 39437 and “Contractor” hereinafter “Contractor whose address is TBD.

Commencing March 1, 2023, the Contractor shall provide services as they relate to Waste Management Services for the Agency.

1. The nature and scope of services shall be:

- a. Contractor will ensure that all solid general waste and construction waste at all locations of Ellisville State School, as required, is collected, contained, transported, tracked (as applicable) and disposed in a manner that reduces environmental impact, is safe, is economical and complies with all applicable laws and regulations. The primary methods of collection shall be front end loader and roll off containers. The written proposal should be such that it explains clearly and completely how the Offeror will meet the following requirements:
- b. The Contractor agrees to remove all construction waste and solid general waste for Ellisville State School locations, to an approved (permitted and licensed) landfill or disposal site off and away from the ESS locations.
- c. The Contractor will base charges for the solid general waste removal services on a firm fixed monthly charge based on the waste container size and pick up frequency.
- d. The Contractor will furnish all necessary labor, vehicles, equipment and material required to perform all required solid waste management services for ESS.
- e. Contractor will maintain all Contractor owned waste containers so that they are free from insects, vermin and offensive odors. All spillage of any material adjacent to containers which result from the lack of care, handling or dumping of containers will be cleaned up by the Contractor. Construction containers of an approved type, manufactured entirely of metal, capable of containing refuse, and preventing easy access by vermin or animals, will be furnished by the Contractor. It is the responsibility of the proposed contractor to maintain, clean and disinfect the supplied containers complying with all existing requirements of Federal, State, County and Local health laws and regulations to include the replacement of any damaged or broken parts. All waste containers provided under this

contract shall be designed for easy use, meet all applicable standards and/or regulations, and shall be approved by ESS prior to being placed at any ESS location.

- f. ESS will contact the successful contractor when a contractor owned dumpster or container needs cleaning. The contractor will call the designated ESS representative within twenty-four (24) hours to schedule the date and time a dumpster will be cleaned or replaced. The contractor will inform the ESS designee when a dumpster has been cleaned or replaced as requested.
- g. The location of the waste containers, size of containers and frequency of waste pick up will be according to the attached "Work Plan" Attachment B. Which will be made a part of any contract. Vendor shall understand that ESS reserves the right to change container sizes, types, pick up frequency, and add or delete containers as the needs of ESS require and pricing shall be adjusted accordingly based on individual line pricing shown on "Proposal Form", Attachment C.
- h. The Contractor will be responsible for all set up costs to include placement of dumpsters and other supplies or equipment needed to perform the services required by this RFP.
- i. The Contractor will perform all services during the hours of 7:00 am to 5:00 pm CST unless a change of these hours has been agreed upon and approved by the contractor and ESS. The contractor will perform these services in a manner to avoid inconvenience to facilities employees, residents or visitors.
- j. The Contractor will maintain a regular (not less than twice each year) and systematic inspection of the services performed to assure that all services are conforming to contract terms. The Contractor will make written recommendations to reduce program costs and/or improve execution of the contract by either party.
- k. The Contractor will act as an Independent Contractor while performing the services required and will employ and direct its own personnel as required to include the securing of any and all permits. The Contractor will exercise full and complete authority over its personnel and will comply with all Workers Compensation, Employer Liability, General Liability Insurance and other Federal, State, County and Municipal laws, ordinances, rules and regulations required of an employer to include the making of all reports and remitting all required withholdings from compensation.
- l. The Contractor will not change any pick-up schedule without prior written approval of the designated ESS Appointed Authority. Contractor will be provided advance notice of change to the designated ESS Authorized Authority.
- m. Contractor shall promptly make payment of all taxes, licenses, assignments, contributions, damages, penalties, and interest thereon, when and as the same may lawfully be due the United States Government and any political subdivisions thereof, The State of Mississippi, or any County, Municipality, Board, Department, Commission, or political subdivision

thereof, by reason of and directly connected with the performance of said contract or any part thereof as provided by and Federal Code, Mississippi Code and applicable statute or other authority for full duration of the contract.

- n. Upon termination of the Contract, vendor shall remove all vendor owned equipment in a manner that is orderly and does not disrupt service to any ESS location and based on a time frame agreed upon by both parties.
 - o. Vendor shall minimally meet all standards of responsibility as stated at paragraph 3-102.09.2 of the Mississippi Office of Personal Service Contract Review Rules and Regulations.
2. The location, frequency and type of services are to be as listed on Attachment B, of this contract. The Attachment B is made part of the contract by mention here.
 3. In Consideration for services provided, the Contractor shall be paid at the rates as provided on Attachment C, as required. The Agency reserves the right to add or delete services, at the rates as stated on Attachment C. Attachment C is made part of the contract by mention here. The maximum amount of the contract is \$_____
 4. The period of performance for this contract shall begin March 1, 2023 and end February 28, 2025. Upon written agreement of both parties at least sixty (60) days prior to each contract anniversary date, the contract may be renewed by the Agency for a period of three (3) successive one (1) year periods under the same proposal amounts, terms and conditions as in the original contract, subject to approval by the PPRB. The total number of renewal years permitted shall not exceed three (3).
 5. Assignment and Transfer: Neither this Agreement nor any right or obligation hereunder may be assigned by any Party without the prior written consent of the other Parties, and any attempted assignment without the required consents shall be void.
 6. This agreement is governed by the terms and conditions of Section 6032 of the Deficit Reduction Act of 2005 known as the False Claims Recovery Act, included in their entirety, by reference.
 7. 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.
 8. 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.
 9. Availability of Funds: It is expressly understood and agreed that the obligation of the Agency to proceed under this agreement is conditioned upon the appropriation of funds by the Mississippi State Legislature and the receipt of state and/or federal funds. If the funds anticipated for the continuing fulfillment of the

agreement are, at any time, not forthcoming or insufficient, either through the failure of the federal government to provide funds or of the State of Mississippi to appropriate funds or the discontinuance or material alteration of the program under which funds were provided or if funds are not otherwise available to the Agency, the Agency shall have the right upon ten (10) working days written notice to Contractor, to terminate this agreement without damage, penalty, cost or expenses to the Agency of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.

10. Compliance with Laws: Contractor understands that the State of Mississippi is an equal opportunity employer and therefore, maintains a policy which prohibits unlawful discrimination based on race, color, creed, sex, age, national origin, physical handicap, disability, genetic information, or any other consideration made unlawful by federal, state, or local laws. All such discrimination is unlawful and Contractor agrees during the term of the agreement that Contractor will strictly adhere to this policy in its employment practices and provision of services. Contractor shall comply with, and all activities under this agreement shall be subject to, all applicable federal, State of Mississippi, and local laws and regulations, as now existing and as may be amended or modified.
11. 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.*
12. E-Verification: If applicable, Contractor represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act of 2008, and will register and participate in the status verification system for all newly hired employees. Mississippi Code Annotated §§ 71-11-1 *et seq.* The term "employee" as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor agrees to maintain records of such compliance. Upon request of the State and after approval of the Social Security Administration or Department of Homeland Security when required, Contractor agrees to provide a copy of each such verification. Contractor further represents and warrants that any person assigned to perform services hereafter meets the employment eligibility requirements of all immigration laws. The breach of this agreement may subject Contractor to the following:
 - a. 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;
 - b. the loss of any license, permit, certification or other document granted to Contractor by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year; or,
 - c. both.

In the event of such cancellation/termination, Contractor would also be liable for any additional costs incurred by the State due to Contract cancellation or loss of license or permit to do business in the State.

13. Insurance The Contractor shall maintain at its own expense, throughout the entire term of the contract, the following insurance:

- a. General Liability with a minimum coverage of \$1,000,000.00
- b. Motor Vehicle coverage with a minimum coverage of \$500,000.00
- c. Motor Vehicle Property Damage coverage with a minimum coverage of \$250,000.00
- d. Workers' Compensation insurance to comply with Mississippi Workers' Compensation Law.

In no event shall the requirement for an insurance, bond, or other surety be waived.

- All insurances policies will list the Ellisville State School as an additional insured.
- All insurance policies shall be issued by companies authorized to do business under the laws of the State of Mississippi, meaning insurance carriers must be licensed or hold a Certificate of Authority from the Mississippi Department of Insurance.
- Contractor shall submit to Agency within fourteen (14) days of notification of intent to award, a certificate of insurance and/or bond which outlines the coverage and limits defined in the procurement and contract. There are no provisions for exceptions to this requirement. Failure to provide the certificates of insurance within fourteen (14) day period may be cause for your bid to be declared non-responsive or for your contract to be cancelled.
- Contractor shall obtain at Contractor's expense the insurance and/or bond requirements specified in the procurement and contract prior to performing under this Contract, and Contractor shall maintain the required insurance and/or bond coverage throughout the duration of this Contract and all warranty periods. There are no provisions for exceptions to this requirement.
- Contractor shall not commence work under this contract until it obtains all insurance and/or bond required under this provision and furnishes a certificate or other form showing proof of current coverage to the State. After work commences, the Contractor will keep in force all required insurance and/or bond until the contract is terminated or expires.
- Contractor shall submit renewal certificates as appropriate during the term of the contract.
- Contractor shall instruct the insurers to provide the Agency thirty (30) days advance notice of any insurance cancellation.
- Contractor shall ensure that should any of the above described policies be cancelled before the expiration date thereof, or if there is a material change, potential exhaustion of aggregate limits or intent not to renew insurance and/or bond coverage(s), that written notice will be delivered to the Agency Chief Procurement Officer.
- There shall be no cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance and/or bond coverage(s) to Agency. Any failure to comply with the reporting provisions of this clause shall constitute a material breach of Contract and shall be grounds for immediate termination of this Contract by Agency.

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

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

- 16. Renewal of Contract:** Upon written agreement of both parties at least sixty (60) days prior to each contract anniversary date, the contract may be renewed by the Agency for a period of three (3) successive one-year period(s) under the same prices, terms, and conditions as in the original contract. The total number of renewal years permitted shall not exceed three (3).
- 17. 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.
- 18. 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 *PPRB OPSCR Rules and Regulations*.
- 19. Stop Work Order:**
- a. *Order to Stop Work:* The Chief Procurement Officer, may, by written order to Contractor at any time, and without notice to any surety, require Contractor to stop all or any part of the work called for by this contract. This order shall be for a specified period not exceeding 90 days after the order is delivered to Contractor, unless the parties agree to any further period. Any such order shall be identified specifically as a stop work order issued pursuant to this clause. Upon receipt of such an order, Contractor shall forthwith comply with its terms and take all reasonable steps to minimize the occurrence of costs allocable to the work covered by the order during the period of work stoppage. Before the stop work order expires, or within any further period to which the parties shall have agreed, the Chief Procurement Officer shall either:
 - 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 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.
- 20. 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.

21. 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 (in fixed-price contracts, "Termination for Convenience," in cost-reimbursement contracts, "Termination"). (As used in this Paragraph of this clause, the term "subcontractor" means subcontractor at any tier).

- 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 of the State, be the same as if the notice of termination had been issued pursuant to such clause.
- f. *Additional Rights and Remedies.* The rights and remedies provided in this clause are in addition to any other rights and remedies provided by law or under this contract.
22. Termination Upon Bankruptcy: This contract may be terminated in whole or in part by Agency upon written notice to Contractor, if Contractor should become the subject of bankruptcy or receivership proceedings, whether voluntary or involuntary, or upon the execution by Contractor of an assignment for the benefit of its creditors. In the event of such termination, Contractor shall be entitled to recover just and equitable compensation for satisfactory work performed under this contract, but in no case shall said compensation exceed the total contract price.
23. 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.
24. Transparency: This contract, including any accompanying exhibits, attachments, and appendices, is subject to the "Mississippi Public Records Act of 1983," and its exceptions. See Mississippi Code Annotated §§ 25-61-1 *et seq.* and Mississippi Code Annotated § 79-23-1. In addition, this contract is subject to the provisions of the Mississippi Accountability and Transparency Act of 2008. Mississippi Code Annotated §§ 27-104-151 *et seq.* Unless exempted from disclosure due to a court-issued protective order, a copy of this executed contract is required to be posted to the Mississippi Department of Finance and Administration's independent agency contract website for public access at <http://www.transparency.mississippi.gov>. Information identified by Contractor as trade secrets, or other proprietary information, including confidential vendor information or any other information which is required confidential by state or federal law or outside the applicable freedom of information statutes, will be redacted.
25. Anti-assignment/Subcontracting: Contractor acknowledges that it was selected by the State to perform the services required hereunder based, in part, upon Contractor's special skills and expertise. Contractor shall not assign, subcontract, or otherwise transfer this agreement, in whole or in part, without the **prior** written consent of the State, which the State may, in its sole discretion, approve or deny without reason. Any attempted assignment or transfer of its obligations without such consent shall be null and void. No such approval by the State of any subcontract shall be deemed in any way to provide for the incurrence of any obligation of the State in addition to the total fixed price agreed upon in this agreement. Subcontracts shall be subject to the terms and conditions of this agreement and to any conditions of approval that the State may deem necessary. Subject to the foregoing, this agreement shall be binding upon the respective successors and assigns of the parties.
26. 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.

27. Authority to Contract: Contractor warrants: (a) that it is a validly organized business with valid authority to enter into this agreement; (b) that it is qualified to do business and in good standing in the State of Mississippi; (c) that entry into and performance under this agreement is not restricted or prohibited by any loan, security, financing, contractual, or other agreement of any kind; and, (d) notwithstanding any other provision of this agreement to the contrary, that there are no existing legal proceedings or prospective legal proceedings, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under this agreement.

28. Change in Scope of Work: The Agency may order changes in the work consisting of additions, deletions, or other revisions within the general scope of the contract. No claims may be made by Contractor that the scope of the project or of Contractor's services has been changed, requiring changes to the amount of compensation to Contractor or other adjustments to the contract, unless such changes or adjustments have been made by written amendment to the contract signed by the Agency and Contractor.

If Contractor believes that any particular work is not within the scope of the project, is a material change, or will otherwise require more compensation to Contractor, Contractor must immediately notify the Agency in writing of this belief. If the Agency believes that the particular work is within the scope of the contract as written, Contractor will be ordered to and shall continue with the work as changed and at the cost stated for the work within the contract.

29. Claims Based on a Procurement Officer's Actions or Omissions:

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

ii. Contractor shall have given written notice to the Chief Procurement Officer or designee of such officer:

- (1) prior to the commencement of the work involved, if at that time Contractor knows of the occurrence of such action or omission;
- (2) within 30 days after Contractor knows of the occurrence of such action or omission, if Contractor did not have such knowledge prior to the commencement of the work; or,
- (3) within such further time as may be allowed by the Chief Procurement Officer in writing.

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

- iii. The notice required by subparagraph (a) of this paragraph describes, as clearly as practicable at the time, the reasons why Contractor believes that additional compensation, damages, or an extension of time may be remedies to which Contractor is entitled; and,
- iv. Contractor maintains and, upon request, makes available to the Chief Procurement Officer within a reasonable time, detailed records to the extent practicable, of the claimed additional costs or basis for an extension of time in connection with such changes.

- c. *Limitation of Clause.* Nothing contained herein shall excuse Contractor from compliance with any rules of law precluding state officers and Contractors from acting in collusion or bad faith in issuing or performing change orders which are clearly not within the scope of the contract.
- d. *Adjustment of Price.* Any adjustment in the contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment clause of this contract.

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

31. Debarment and Suspension: Contractor certifies to the best of its knowledge and belief, that it:

- a. 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;
- b. 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;
- c. 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;
- d. 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 (b) and (c) of this certification; and,
- e. 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.

32. Errors in Extension: If the unit price and the extension price are at variance, the unit price shall prevail.

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

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

35. Final Payment: Upon satisfactory completion of the work performed under this contract, as a condition before final payment under this contract, or as a termination settlement under this contract, Contractor shall execute and deliver to the Agency a release of all claims against the State arising under, or by virtue of, the contract, except claims which are specifically exempted by Contractor to be set forth therein. Unless otherwise provided in this contract, by state law, or otherwise expressly agreed to by the parties

in this contract, final payment under the contract or settlement upon termination of this contract shall not constitute waiver of the State's claims against Contractor under this contract.

36. 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.
37. Indemnification: To the fullest extent allowed by law, Contractor shall indemnify, defend, save and hold harmless, protect, and exonerate the agency, its commissioners, board members, officers, employees, agents, and representatives, and the State of Mississippi from and against all claims, demands, liabilities, suits, actions, damages, losses, and costs of every kind and nature whatsoever including, without limitation, court costs, investigative fees and expenses, and attorney's fees, arising out of or caused by Contractor and/or its partners, principals, agents, employees and/or subcontractors in the performance of or failure to perform this agreement. In the State's sole discretion upon approval of the Office of the Mississippi Attorney General, Contractor may be allowed to control the defense of any such claim, suit, etc. In the event Contractor defends said claim, suit, etc., Contractor shall use legal counsel acceptable to the Office of the Mississippi Attorney General. Contractor shall be solely responsible for all costs and/or expenses associated with such defense, and the State shall be entitled to participate in said defense. Contractor shall not settle any claim, suit, etc. without the concurrence of the Office of the Mississippi Attorney General, which shall not be unreasonably withheld.
38. Independent Contractor Status: Contractor shall, at all times, be regarded as and shall be legally considered an independent contractor and shall at no time act as an agent for the State. Nothing contained herein shall be deemed or construed by the State, Contractor, or any third party as creating the relationship of principal and agent, master and servant, partners, joint ventures, employer and employee, or any similar such relationship between the State and Contractor. Neither the method of computation of fees or other charges, nor any other provision contained herein, nor any acts of the State or Contractor hereunder creates, or shall be deemed to create a relationship other than the independent relationship of the State and Contractor. Contractor's personnel shall not be deemed in any way, directly or indirectly, expressly or by implication, to be employees of the State. Neither Contractor nor its employees shall, under any circumstances, be considered servants, agents, or employees of the agency, and the Agency shall be at no time legally responsible for any negligence or other wrongdoing by Contractor, its servants, agents, or employees. The Agency shall not withhold from the contract payments to Contractor any federal or state unemployment taxes, federal or state income taxes, Social Security tax, or any other amounts for benefits to Contractor. Further, the Agency shall not provide to Contractor any insurance coverage or other benefits, including Worker's Compensation, normally provided by the State for its employees.
39. Integrated Agreement/Merger: This agreement, including all contract documents, represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations or agreements, irrespective of whether written or oral. This agreement may be altered, amended, or modified only by a written document executed by the State and Contractor. Contractor acknowledges that it has thoroughly read all contract documents and has had the opportunity to receive competent advice

and counsel necessary for it to form a full and complete understanding of all rights and obligations herein. Accordingly, this agreement shall not be construed or interpreted in favor of or against the State or Contractor on the basis of draftsmanship or preparation hereof.

- 40. Modification or Renegotiation:** This agreement may be modified only by written agreement signed by the parties hereto. The parties agree to renegotiate the agreement if federal and/or state revisions of any applicable laws or regulations make changes in this agreement necessary.
- 41. Notices:** All notices required or permitted to be given under this agreement must be in writing and personally delivered or sent by certified United States mail, postage prepaid, return receipt requested, to the party to whom the notice should be given at the address set forth below. Notice shall be deemed given when actually received or when refused. The parties agree to promptly notify each other in writing of any change of address.

For the Agency:	For Contractor:
Channon Cuevas, Contract Analyst	
Ellisville State School	
1101 Highway 11 South	
Ellisville, MS 39437	

- 42. Non-solicitation of Employees:** Each party to this agreement agrees not to employ or to solicit for employment, directly or indirectly, any persons in the full-time or part-time employment of the other party until at least six (6) months after this agreement terminates unless mutually agreed to in writing by the State and Contractor.
- 43. Oral Statements:** No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in this contract. All modifications to the contract must be made in writing by the Agency and agreed to by Contractor.
- 44. Patents and Royalties:** Contractor covenants to save, defend, keep harmless, and indemnify the Agency and all of its officers, departments, agencies, agents, and employees from and against all claims, loss, damage, injury, fines, penalties, and cost--including court costs and attorney's fees, charges, liability, and exposure, however caused--for or on account of any copyright or patented or unpatented invention, process, or article manufactured or used in the performance of the contract, including its use by the Agency. If Contractor uses any design, device, or material covered by patent or copyright, it is mutually agreed and understood without exception that the contract price includes all royalties or costs arising from the use of such design, device, or materials in any way in the work.
- 45. Quality Control:** Contractor shall institute and maintain throughout the contract period a properly documented quality control program designed to ensure that the services are provided at all times and in all respects in accordance with the contract. The program shall include providing daily supervision and conducting frequent inspections of Contractor's staff and ensuring that accurate records are maintained describing the disposition of all complaints. The records so created shall be open to inspection by the Agency.
- 46. 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.

- 47. Recovery of Money:** Whenever, under the contract, any sum of money shall be recoverable from or payable by Contractor to the Agency, the same amount may be deducted from any sum due to Contractor under the contract or under any other contract between Contractor and the Agency. The rights of the Agency are in addition and without prejudice to any other right the Agency may have to claim the amount of any loss or damage suffered by the Agency on account of the acts or omissions of Contractor.
- 48. Requirements Contract:** During the period of the contract, Contractor shall provide all the service described in the contract. Contractor understands and agrees that this is a requirements contract and that the Agency shall have no obligation to Contractor if no services are required. Any quantities that are included in the scope of work reflect the current expectations of the Agency for the period of the contract. The amount is only an estimate and Contractor understands and agrees that the Agency is under no obligation to Contractor to buy any amount of the services as a result of having provided this estimate or of having any typical or measurable requirement in the past. Contractor further understands and agrees that the Agency may require services in an amount less than or in excess of the estimated annual contract amount and that the quantity actually used, whether in excess of the estimate or less than the estimate, shall not give rise to any claim for compensation other than the total of the unit prices in the contract for the quantity actually used.
- 49. Right to Audit:** Contractor shall maintain such financial records and other records as may be prescribed by the Agency or by applicable federal and state laws, rules, and regulations. Contractor shall retain these records for a period of three years after final payment, or until they are audited by the Agency, whichever event occurs first. These records shall be made available during the term of the contract and the subsequent three-year period for examination, transcription, and audit by the Mississippi State Auditor's Office, its designees, or other authorized bodies.
- 50. 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.
- 51. Severability:** If any part of this agreement is declared to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision of the agreement that can be given effect without the invalid or unenforceable provision, and to this end the provisions hereof are severable. In such event, the parties shall amend the agreement as necessary to reflect the original intent of the parties and to bring any invalid or unenforceable provisions in compliance with applicable law.
- 52. State Property:** Contractor will be responsible for the proper custody and care of any state-owned property furnished for Contractor's use in connection with the performance of this agreement. Contractor will reimburse the State for any loss or damage, normal wear and tear excepted.
- 53. Third Party Action Notification:** Contractor shall give the customer prompt notice in writing of any action or suit filed, and prompt notice of any claim made against Contractor by any entity that may result in litigation related in any way to this agreement.

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

55. Priority

The contract consists of this agreement including Attachments A, Certifications and Assurances, B, Work Plan, and C, Proposal Sheet. Any ambiguities, conflicts or questions of interpretation of this contract shall be resolved by first, reference to this agreement and, if still unresolved, by reference to the RFP and, if still unresolved, by reference to the proposal. Omission of any term or obligation from this agreement, attachments or exhibits shall not be deemed an omission from this contract if such term or obligation is provided for elsewhere in this contract.

All parties agree to the terms and conditions of this agreement by signature here.

Date

Contractor
Address
Address

Date

Agency Director
Ellisville State School

Date

Program Director
South Mississippi Regional Center

Date

Maintenance Director,
Ellisville State School

Date

Maintenance Director
South Mississippi Regional Center

Date

Contract Analyst
Ellisville State School

Date

Business Services Director
Ellisville State School

ATTACHMENT A

Certifications and Assurances

I/We make the following certifications and assurances as a required element of the offer to which it is attached, of the understanding that the truthfulness of the facts affirmed here and the continued compliance with these requirements are conditions precedent to the award or continuation of the related contract(s):

1. REPRESENTATION REGARDING CONTINGENT FEES

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

2. REPRESENTATION REGARDING GRATUITIES

The Respondent or Contractor represents that it **has/has not** violated, is not violating, and promises that it will not violate the prohibition against gratuities set forth in Section 6-204 (Gratuities) of the Mississippi Public Procurement Review Board's Office of Personal Service Contract Review's Rules and Regulations.

3. CERTIFICATION OF INDEPENDENT PRICE DETERMINATION

The respondent certifies that the prices submitted in response to the solicitation **have/have not** been arrived at independently and without, for the purpose of restricting competition, any consultation, communication, or agreement with any other respondent or competitor relating to those prices, the intention to submit a proposal, or the methods or factors used to calculate price.

4. PROSPECTIVE CONTRACTOR'S REPRESENTATION REGARDING CONTINGENT FEES

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

Name/Title: _____

Signature/Date: _____

Note:** Please be sure to **circle the applicable word or words** provided above. Failure to circle the applicable word or words and/or to sign the proposal form may result in the proposal being rejected as nonresponsive. **Modifications or additions to any portion of this proposal document may be cause/or rejection of the proposal

ATTACHMENT B
Work Plan

The scope of services or work plan shall consist of providing and maintaining the pickup and pickup schedule of non-hazardous trash from the following locations as needed. (Note: Not all locations will have containers/dumpster at the time of contracting, but ESS reserves the right to add or delete containers at any listed as needed. The proposed amount for each container shall be added or deleted according to the unit price as proposed as required.)

Building	Address	Number of Containers	Pick up Frequency	Container Size
ESS Campus	1101 Highway 11 South Ellisville, MS 39437	22	3 times a week	8 cu. Yd.
ESS Campus	1101 Highway 11 South Ellisville, MS 39437	5	Once Weekly	4 cu. Yd.
ESS Campus	1101 Highway 11 South Ellisville, MS 39437	1	As needed	30/40 cu. Yd.
ESS/SMRC Campus	1170 West Railroad St. Long Beach, MS 39560	9	Twice a week	8 cu. Yd.
Lumberton Community Homes	1116 W. Main Ave. Lumberton, MS 39455	2	Once Weekly	8 cu. Yd.
Richton Community Homes	Bridgedale Community Home 200 Gertrude Ave. <u>Richton, MS 39476</u> Somerset Community Home 580 Cypress St. N <u>Richton, MS 39476</u>	2	Once Weekly	8 cu. Yd.
Prentiss Community Homes	Stonebriar Community Home 1482 Sebron St. <u>Prentiss, MS 39474</u> Willow Bend Community Home 1484 Sebron St. <u>Prentiss, MS 39474</u>	2	Once Weekly	8 cu. Yd.
Sumrall Community Homes	Douglas Graham Community Home 4759 Hwy 589 <u>Sumrall, MS 39482</u> Brookwood Community Home	2	Once Weekly	8 cu. Yd.

	10 Legion Lake Road <u>Sumrall, MS 39482</u>			
Ellisville Community Homes	107 Cleveland St. Ellisville, MS 39437	2	Once Weekly	8 cu. Yd.
Waynesboro Community Homes	Pinecrest Community Home 277 Ramey Lane <u>Waynesboro, MS 39367</u> Woodland Heights 60 Joe Jordan Drive <u>Waynesboro, MS 39367</u>	2	Once Weekly	8 cu. Yd.
Poplarville Community Homes	1303 South Shivers Street <u>Poplarville, MS 39470</u> 1501 South Shivers Street <u>Poplarville, MS 39470</u>	2	Once Weekly	8 cu. Yd.
Wiggins Community Homes	500 Harrison Street <u>Wiggins, MS 39577</u> 509 Strapp Street <u>Wiggins, MS 39577</u>	2	Once Weekly	8 cu. Yd.
Gautier Community Homes	218 Graveline Road Gautier, MS 39553	2	Once Weekly	8 cu. Yd.
Biloxi Community Homes	280 Tara Lane <u>Biloxi, MS 39531</u> 2050 Lawrence Ave. <u>Biloxi, MS 39531</u>	2	Once Weekly	8 cu. Yd.
Richton Meaningful Day Center	101 Front Street Richton, MS 39476	1	Once Weekly	8 cu. Yd.
Prentiss Meaningful Day Center	1822 Columbia Ave. Prentiss, MS 39474	1	Once Weekly	8 cu. Yd.
Lumberton Meaningful Day Center	309 W. Main Lumberton, MS 39455	1	Once Weekly	8 cu. Yd.
Sumrall MIDD Workshop	4858 Highway 589 Sumrall, MS 39482	1	Once Weekly	8 cu. Yd.
Wiggins Workshop Golden Magnolia Enterprises	1620 West Central Ave. Wiggins, MS 39577	1	Once Weekly	8 cu. Yd.
Waynesboro Special Touch Program	909 Robinson St. Waynesboro, MS 39367	1	Once Weekly	8 cu. Yd.
Biloxi Workshop	2766 Fernwood Rd.	1	Once Weekly	8 cu. Yd.

Biloxi Industries	Biloxi, MS 39530			
Magee Support Coordination	720B 3 rd Street SW Magee, MS 39111	1	Once Weekly	8 cu. Yd.
Brookhaven Support Coordination	1385 Johnny Johnson Dr. Brookhaven, MS 39601	1	Once Weekly	8 cu. Yd.

4.2 Additional Pickups

ESS reserves the right to request additional pickups from the contractor during the term of the contract. The cost of the additional pickups will be based on the contractor's submitted proposed monthly rate. The additional cost will be added to the total cost of the contract. The cost of the additional pickups may be annual and recurring, or a one (1) time request as needed.

4.3 Additional Dumpsters (Containers)

The Contractor will be required to provide the dumpster size as specified above for each building. ESS reserves the right to request additional dumpsters from the contractor during the term of the contract. The cost of the additional dumpsters will be based on the contractor's submitted proposed monthly rate.

ATTACHMENT C
Proposal Form

Locations currently being serviced	Qty.	Container Size	Dump Frequency	Proposed Monthly Rate	Addition/Deletion (monthly rate)
ESS Campus	22	8 cu. yd	Three times weekly		
ESS Campus	5	4 cu. yd	Once Weekly		
ESS Campus	1	30/40cu. yd	Monthly Rent (if applicable)		
ESS Campus		30/40 cu. yd	Dump Rate per pull		
ESS Campus		30/40 cu. yd	Land Fill Fee /if applicable		
Sumrall Community Homes	2	8 cu. yd	Once Weekly		
SMRC Long Beach Campus	9	8 cu. Yd.	Twice Weekly		
Poplarville Community Homes	2	8 cu. Yd	Once Weekly		
Gautier Community Homes	1	8 cu. Yd	Once Weekly		
Wiggins Community Homes	2	8 cu. Yd.	Once Weekly		
Biloxi Community Homes	1	8 cu. Yd.	Once Weekly		
Biloxi Industries	1	8 cu. Yd.	Once Weekly		
Estimated monthly total for locations currently being serviced					

Locations currently NOT being serviced, one or more may require service at any time during the contract period.	Qty.	Container Size	Dump Frequency	Proposed Monthly Rate	Addition/Deletion (Monthly Rate)
*Lumberton Community Homes	1	8 cu. Yd	Once Weekly		
*Richton Community Homes	1	8 cu. yd	Once Weekly		
*Prentiss Community Homes	1	8 cu. yd	Once Weekly		
*Ellisville Community Homes	1	8 cu. Yd	Once Weekly		
*Waynesboro Community Homes	1	8 cu. Yd.	Once Weekly		
*Lumberton Meaningful Day Center	1	4 cu. Yd.	Once Weekly		
*Richton Meaningful Day Center	1	4 cu. Yd	Once Weekly		
*Prentiss Meaningful Day Center	1	4 cu. Yd.	Once Weekly		
*Sumrall MIDD Workshop	1	4 cu. Yd.	Once Weekly		
*Wiggins Workshop Golden Magnolia Enterprises	1	8 Cu. Yd.	Once Weekly		
*Waynesboro Special Touch	1	8 Cu. Yd.	Once Weekly		
*Brookhaven Support Coordinator	1	4 Cu. Yd.	Once Weekly		
*Magee Support Coordinator	1	4 Cu. Yd	Once Weekly		

NOTE:

Total monthly fee shall be adjusted according to the locations to received containers/dumpsters.

Not all locations will require containers/dumpsters. Agency reserves the right to add or delete as needed according to the addition/deletion rate provided.

All rates quoted herein are guaranteed throughout the term of the contract.

By submission of this proposal form, we hereby certify that the prices submitted in response to the RFP have been arrived at independently and without, for the purposes of restricting competition, any consultation, communication, or agreement with any other Offeror or competitor relating to those prices, the intention to submit a proposal, or the methods of factors used to calculate the prices proposed. By submission of this proposal, we hereby certify that we have not retained any person or agency on a percentage, commission, or other contingent arrangement to secure this contract.

Name

Date

Title

Company

Locations marked * do NOT currently have containers/dumpsters.

Evaluation Form

RFP 3140003171

RFP for Waste Management Services

VENDOR NUMBER _____

Step One: Did proposal meet the minimum specifications? _____ Yes _____ No (Proposal Format, Certifications, Insurance, References, Cover Letter, Redacted copies)

Comments: _____

Step Two: Rate the factors as stated in the RFP.

TOTAL POINTS: _____

LIST OF EVALUATION FACTORS	Maximum Score	Actual Score	COMMENTS
Price	35		
Technical Factors:			
Does the Offeror's proposal or qualifications demonstrate a clear understanding of the scope of work and related objectives?	10		
Is the Offeror's proposal or qualifications complete and responsive to the specific RFP requirements?	5		
Has the past performance of the Offeror's proposed methodology been documented?	5		
Does the Offeror's proposal or qualification use innovative technology and techniques?	5		
Management Factors:			
Project Management:			

How well does the proposed scheduling timeline meet the needs of the soliciting agency?	5		
Is there a project management plan?	5		
History and experience in performing the work:			
Does the Offeror document a record of reliability or timely delivery and on-time, on-budge, and contract compliance performance?	5		
Does the Offeror demonstrate a track record of service as evidenced by on-time, on-budget, and contract compliance?	5		
Does the Offeror document industry or program experience?	5		
Does the Offeror have a record of poor business ethics?	5		
Availability of Personnel, facilities, equipment and other resources:			
To what extent does the Offeror rely on in-house resources vs. contracted resources?	2.5		
Are the availability of in-house and contract resources documented?	2.5		
Qualification and Experience of Personnel:			
Documentation of experience in performing similar work by employees and when appropriate, sub-contractors?	2.5		
Does the Offeror demonstrate cultural snsitivity in hiring and training staff?	2.5		
Total Points Awarded	MAXIMUM POINTS 100	Total	

Evaluator's Name:_____ Job Title: _____

Signature: _____ Date: _____