

**MISSISSIPPI DEPARTMENT OF AGRICULTURE & COMMERCE  
REQUEST FOR QUOTES-FORMAL (RFQF)**

**SOLICITATION NUMBER: 1401-20-R-RFQF-00001**

**Invitation for Formal Quote RFx # 3140002021**

**DESCRIPTION:                   80,000 lb. GVW Heavy-Duty 5Axle  
Conventional Scale Test Truck With a  
Kanawha Body and Crane System.**

**OFFER DUE DATE AND TIME:   November 21, 2019 at 2:00 PM**

Quotes for the services specified will be received by the Mississippi Department of Agriculture & Commerce at the below specified location until the time and date cited. Quotes received by the correct time and date will be opened.

**Quote Submittal Location:**

**Mississippi Dept. of Agriculture & Commerce  
Attn: Hewitt Pittman, Purchasing Director  
121 North Jefferson Street  
Jackson, MS 39201**

Quotes must be in the actual possession of the Purchasing Department of The Mississippi Department of Agriculture & Commerce on or prior to the time and date, and at the location indicated above. Late quotes will not be considered. Any costs associated with the putting together of this Quote will be at the sole expense of the Contractor. See Quote Submission Requirement Section for items to include in the Quotes. Failure to meet Quote requirements may be grounds for disqualification.

**All bids submitted shall be in compliance with all conditions set forth herein. The bid procedures followed by this office will be in accordance with these conditions. Therefore all bidders are strongly encouraged to carefully read and understand the entire solicitation prior to submitting a bid.**

## **1.0 Introduction**

The Mississippi Department of Agriculture and Commerce, hereinafter referred to as (“Department”) is soliciting quotes from all persons or entities interested in entering into a reverse auction and contract with the Department for the purpose of purchasing an 80,000 lb. GVW heavy duty five axle conventional scale test truck with a Kanawha body and crane system. The Department will award this contract in full or part to the qualified person or entity that is awarded the reverse auction that is most advantageous to the Department, and the taxpayers of this state. Any cost associated with the putting together this Quote or live auction response will be at the sole expense of the Contractor.

The Mississippi Department of Agriculture and Commerce reserves the right to reject any and/or all Quotes, to waive any informality in Quotes, and unless otherwise specified by the Quotes, to accept any items on the Quotes. All purchases by the Mississippi Department of Agriculture and Commerce are dependent upon availability of funds.

The specifications, including experience and qualifications requirements, the terms and conditions provided in the Quote, hereby become part of the final contract awarded to the successful Contractor. The Department retains the right to include in the contract the specifications and terms and conditions in part or in full as listed in the Quote package which it deems necessary for the successful completion of the project.

In accordance to state and federal law, the solicitation includes an E-Verify Section.

## **2.0 General Conditions**

It is the responsibility of the prospective Contractors to review the entire solicitation packet and to notify The Mississippi Department of Agriculture and Commerce if the specifications and instructions are formulated in a manner which would unnecessarily restrict competition. Any protest, concerns or questions concerning the specifications, instructions or solicitation procedures must be received in writing by The Mississippi Department of Agriculture and Commerce not less than 72 hours prior to the time and date set for the solicitation opening.

Any requests or questions concerning this quote and reverse auction solicitation or the quote / reverse auction process must be in writing and addressed to:

Hewitt Pittman, Purchasing Director  
Mississippi Department of Agriculture and Commerce  
P.O. Box 1609  
Jackson, Mississippi 39215 – 1609

### **OR**

Hewitt Pittman, Purchasing Director  
Mississippi Department of Agriculture and Commerce  
121 North Jefferson Street

Jackson, Mississippi 39201

FAX NUMBER (601) 354-6502

Email Address – [hewitt@mdac.ms.gov](mailto:hewitt@mdac.ms.gov)

Bids and/or Quotes may be submitted through the State of Mississippi's e-procurement system (MAGIC), or in person by submission of a paper bid to the Mississippi Department of Agriculture and Commerce, Office of Purchasing on the date and time set forth on page 1 of this solicitation. All prices and notations must be printed in ink or typewritten on the paper bids. No erasures permitted. Errors may be crossed out and corrections printed in ink or typewritten adjacent and must be initialed, in ink, by the person signing bid. Responding Contractors/Vendors must provide a written quote on forms approved by the agency or through the State of Mississippi's e-procurement system (MAGIC) along with any other requested documentation, with the initial response. Vendor must Price each item separately. Unit prices shall be shown. Bid prices must be net.

To submit bids electronically, bidders must ensure they are registered in the MAGIC system and have received a login, password, and supplier number and that all technical requirements have been met.

Sealed formal quotes must be received by the Mississippi Department of Agriculture and Commerce at the address and time set forth on page 1 of the Request for Formal Quote (RFQF). The Formal Quotes along with independent market data will be used to determine market pricing and set the auction parameters (e.g., Start Price) for the reverse auction.

No Quote shall be altered or amended after the specified time for opening of Quotes. All prices and notations on paper quotes must be printed in ink or typewritten. No erasures are permitted. Errors may be crossed out and corrections printed in ink or typewritten adjacent and must be initialed, in ink, by the person signing the quote.

If a bidder is unwilling or unable to participate through MAGIC, a Mississippi Department of Agriculture and Commerce (MDAC) representative can enter the Vendor's bid(s) manually (i.e. Surrogate bidding).

Bidders participating in person by surrogate bidding must so indicate in their response to the initial Request for Quote-Formal (RFQF).

Failure to examine any drawings, specifications, and instructions will be at bidder's risk.

Price each item separately. Unit prices shall be shown. Bid prices must be net.

It is understood that reference to available specifications shall be sufficient to make the terms of such specifications binding on the bidder.

Bidders must furnish all information requested in the bid specifications. Further, when required, each bidder must submit for bid evaluation cuts, sketches, descriptive literature and technical specifications covering the product offered. Reference to literature submitted with a previous bid or on file with will not satisfy this provision.

Samples of items, when requested, must be furnished free of expense, and if not destroyed in testing will, upon request, be returned at the bidder's expense. Request for the return of samples must be made within ten (10) days following opening bids. Each individual sample must be labeled with bidder's name, manufacturer's brand name and number, State of Mississippi commodity number, bid number and item reference.

Time of performance. The number of calendar days in which delivery will be made after receipt of order shall be indicated in the bid specifications

Quote submissions will be evaluated and suppliers will be prequalified to participate in the reverse auction. The Mississippi Department of Agriculture and Commerce reserves the right to extend the auction date and or time if necessary to complete prequalification. An invite notice to participate in the reverse auction will be sent to qualifying Contractors / Vendors.

The agency will review the results of the auction and make a determination in a timely manner. No award will be made either stated or implied at the formal quote opening or reverse auction. No contracts and or purchases will be made or entered into automatically as a result from the (RFQF) or reverse auction. After the close of the quote opening the Quotes will be considered to be in the evaluation / prequalification process and will not be available for review by the Contractors. Questions will not be answered as a result of telephone inquiries.

It is understood that reference to available specifications shall be sufficient to make the terms of such specifications binding on the bidder. Bidders must furnish all information requested in the bid specifications. Further, when required, each bidder must submit for bid evaluation cuts, sketches, descriptive literature and technical specifications covering the product offered.

Invoices are to be mailed to: Mississippi Department of Agriculture & Commerce  
Attention: Hewitt Pittman  
P. O. Box 1609  
Jackson, MS 39215

Payment will be made 45 (forty-five) days after completion (approved and accepted) and an original invoice is submitted for payment.

**\*\* ALL QUOTES MUST BE SIGNED BY A PERSON HAVING THE LEGAL AUTHORITY TO BIND THEIR FIRM IN A CONTRACT.**

If the agency is closed for any reason, including but not limited to: acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations superimposed after the fact, fire, earthquakes, floods, or other natural disasters (the "Force Majeure Events"), which closure prevents the opening of solicitations at the date and time, all solicitations received shall be opened on the next business day that the agency shall be open. The new date and time of the solicitation opening, as determined in accordance with this paragraph, shall not be advertised, and all Vendors/Contractors, upon submission of a solicitation, shall be deemed to have knowledge of and shall have agreed to the provisions of this paragraph. Solicitations shall be received by the agency until the new date and time of the solicitation opening as set forth herein. **The agency shall not be held responsible for the receipt of any solicitation for which the delivery was attempted and failed due to the closure of the agency as a result of a Force**

**Majeure Event.** Each Vendor/Contractor shall be required to ensure the delivery and receipt of its solicitation by the agency prior to the new date and time of the live auction or solicitation opening.

### 3. Instructions and Special Conditions

#### Reverse Auction Process.

1. HB 1109 of the 2017 Regular Session, effective January 1<sup>st</sup>, 2018 has mandated reverse auctions to be the primary method to receive competitive bids within the State of Mississippi. A reverse auction is a real-time electronic procurement practice in which suppliers compete online to bid freely on specified items within an allotted timeframe. Prices will be entered into a secure web-based procurement portal in decrements. The vendor with lowest price, meeting bid specifications, in most cases will be awarded a contract. Reverse auctions will not be used for any public contracts for design or construction of public facilities, including buildings, roads and bridges.

The State of Mississippi requires vendors to register in MAGIC (Mississippi Accountability System for Government Innovation and Collaboration) to compete for bid opportunities published by State agencies conducted via reverse auction. State of Mississippi Supplier Registration. The registration is free of charge, and vendors receive the pleasantries of automatic email notifications of all Mississippi bid opportunities for selected product categories. Current vendors, who have completed registration prior to January 1<sup>st</sup>, 2018, will not have to re-register to participate.

In addition to the registration, all bidders will be required to confirm compliance with all administrative and technical requirements prior to the start date and time of the reverse auction. All reverse auctions conducted by State agencies will specify the time and date of when the auction will take place within the bid proposal. Proposals will contain item specifications, and the estimated time to enter pricing. Pricing decrements will be set and sellers compete to offer lower bids than their competitors. At the expiration of the auction, bids will rank from highest to lowest. The buyer may award the contract to the vendor with the highest ranking bid (lowest price) that meets specs.

2. A Request for Quotes Formal (RFQF) - shall be advertised in accordance with Section 3.106.05.4 of Mississippi Procurement Manual. The Department shall advertise for 14 consecutive days in accordance with Section 31-7-13(c)(i)(1) of the Miss. Code Ann. Responses to the RFQF will be due not less than, but can be more than the 8th working day after the last day of advertisement. Bid opportunities may be found on the MS Procurement Portal, (RFx) Procurement Opportunities or by searching in MAGIC. Once the responses have been received and the Opening Date has been reached, the Department will review the submissions to qualify bidders and determine a starting price for reverse auction items. Anyone can participate in the pre-qualifying RFQF. Only bidders who submit a qualifying response to the RFx (RFQF) are invited to participate in the Reverse Auction. The reverse auction will occur only after the purchasing agent has had sufficient time to prequalify the suppliers.

3. Responses to the RFQF will be reviewed by the Department for responsiveness to specifications. Price quotes received will be evaluated in conjunction with other market research to determine the starting price for the Auction.
4. Responses to the RFQF will be reviewed by the Department for responsiveness to specifications. Price quotes received will be evaluated in conjunction with other market research to determine the starting price for the Auction.
5. The Department will accept bidder responses in MAGIC who have qualified meeting RFx specifications. Bidders not meeting specifications will not be allowed to participate in the Auction.
6. After prequalification of the Contractor's / Vendor's, the RFQF will be turned into a Reverse Auction (RA). Once qualified, the Department will notify the vendor of Qualification and the date of the Live Auction via email. After receiving the confirmation email, bidders should review/ensure technical requirements for MAGIC have been met or confirm participation in person
  - a. To participate in the reverse auction (RA) Contractors / Vendors must ensure they are registered in the MAGIC, system and have received a login, password, and supplier number and that all technical requirements have been met.
  - b. In order to participate in the reverse auction the following technical requirements are necessary:
    - Acceptable Internet Browser(s)
      - Microsoft Internet Explorer (IE) version 11
      - Google Chrome with a Chrome extension called "IE Tab Extension" installed/enabled

(Note: Pop-up blocker must be turned off.)
  - c. Vendors who are new to MAGIC may visit the Vendor Information page on DFA's Web Site, or register online, Vendor Registration. To log into MAGIC, open the following URL: <https://portal.magic.ms.gov/irj/portal> .
  - d. Passwords must be at least 8 characters long. Passwords must contain at least one uppercase letter. Passwords must contain at least one number.
  - e. Complete step by step instructions for the Reverse Auction Bidder's Guide can be found on the Vendor Information page of DFA's Website.
  - f. If a Contractor / Vendor are unwilling or unable to participate through MAGIC, a representative can enter the Vendor's bid(s) manually (i.e. Surrogate bidding). Bidders participating in person by surrogate bidding must so indicate in their response to the initial Request for Quote-Formal (RFQF). If a vendor is requesting Surrogate bidding, sufficient notice of 72 hours is required to make arrangements to accommodate the Contractor / Vendor.

- g. The Auction time may be extended at the discretion of the Department. Examples of reasons to extend an auction include, but are not limited to, technical difficulties experienced by the Department or bidder, the need to pause the Auction, or bids placed within the last few moments of bidding.
- h. Communication with bidders participating electronically during the Auction may be done via the Live Chat Feature. The Department has the ability to send messages to particular bidders or broadcast to all bidders. Bidders can ONLY communicate with the Department, not other bidders.
- i. Bidders may be removed from a Live Auction for improper conduct, including but not limited to profanity, threats, consistently entering erroneous or extremely low bids, or other disruptive behavior.
- j. Time of performance. The number of calendar days in which delivery will be made after receipt of order shall be indicated in the bid specifications.

### 3. BID SUBMISSION

- a. When submitting a bid electronically, the authorized signature may be typed or be an electronic signature.
- b. Bids and modifications or corrections received after the closing time specified will not be considered.
- c. When submitting the response to the RFQF in MAGIC, bidder must ensure all questions have been answered within the RFQF and all proposed items in bid have a response.
- d. Bidders submitting paper responses should submit responses to the Mississippi Department of Agriculture & Commerce by the response deadline.

- 4. **ACCEPTANCE OF BIDS** the Mississippi Department of Agriculture & Commerce reserves the right to reject any and all bids, to waive any informality in bids and unless otherwise specified by the bidders, to accept any items on the bid. The State reserves the right to modify or cancel in whole or in part its Invitation for Bids. If a bidder fails to state the time within which a submitted will expire, it is understood and agreed that the Department shall have 60 days to accept.

- 5. **ERROR IN BID** If a vendor is participating in a Live Auction, the vendor can notify Department in the event of an erroneous bid via the chat message feature. Erroneous bids, where the mistake is apparent to Department, may be deleted during the live auction.

- 6. **SPECIAL DISCOUNT PERIOD** Time in connection with a special discount offered will be computed from date of delivery at destination or from the date correct invoices are received, if the latter date is later than the date of delivery. Cash discounts will not be considered in the award process.

## 7. AWARD

- a. Contracts and purchases will be made or entered into with the lowest responsible bidder meeting specifications, except as otherwise specified in the bid specifications. Where more than one item is specified in the specifications, the Department reserves the right to determine the low bidder either on the basis of the individual item(s) or on the basis of all items included in its Invitation for Bids, or as expressly provided in the Department's Invitation for Bids.
  - b. Unless the bidder specified otherwise in the bid, the State may accept any item or group of items of any kind.
  - c. A written purchase order or contract award furnished to the successful bidder within the time of acceptance specified in the Invitation for Bid results in a binding contract without further action by either party.
  - d. The contract shall consist solely of these General Conditions, the Instructions and Special Conditions, the successful bidder's bid, and the written purchase order or contract award. The contract shall not be assignable in whole or in part without the written consent of the Department.
8. **INSPECTION** Final inspection and acceptance or rejection may be made at delivery destination, but all materials and workmanship shall be subject to inspection and test at all times and places, and when practicable. During manufacture, the right is reserved to reject articles which contain defective material and workmanship. Rejected material shall be removed by and at the expense of the contractor promptly after notification or rejection. Final inspection and acceptance or rejection of the materials or supplies shall be made as promptly as practicable, but failure to inspect and accept or reject materials or supplies shall not impose liability on the Department or any subdivision thereof for such materials or supplies as are not in accordance with the specification. In the event necessity requires the use of materials or supplies not conforming to the specification, payment therefore may be made at a proper reduction in price.
9. **TAXES** the Department is exempt from federal excise taxes and state and local sales or use taxes and bidders must quote prices which do not include such taxes. Exemption certificates will be furnished upon request. Contractors making improvements to, additions to or repair work on real property on behalf of the Department are liable for any applicable sales or use tax on purchase of tangible personal property for use in connection with the contracts. Contractors are likewise liable for any applicable use tax on tangible personal property furnished to them by the Department for use in connection with their contracts.
10. **GIFTS, REBATE, GRATUITIES** Acceptance of gifts from bidders is prohibited. No officer or employee of the Department, nor any head of any state department, institution or agency, nor any employee of any state department, institution or agency charged with responsibility of initiating requisitions, shall accept or receive, directly or indirectly, from any person, firm or corporation to whom any contract for the purchase



of materials, supplies, or equipment for the State of Mississippi may be awarded, by rebate, gifts, or otherwise, any money or anything of value whatsoever, or any promise, obligation or contract for future rewards or compensation.

Bidding by state employees is prohibited. It is unlawful for any state official or employee to bid on, or sell, or offer for sale, any merchandise equipment or material, or similar commodity to the State during the tenure of his or her office or employment, or for the period prescribed by law thereafter, or to have any interest in the selling of the same to the State.

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 or proposal.
12. **REPRESENTATION REGARDING GRATUITIES** The bidder, offeror, or Contractor represents that it has not violated, is not violating, and promises that it will not violate the prohibition against gratuities set forth in Section 6-204 (Gratuities) of the *Mississippi Personal Service Contract Review Rules and Regulations*.
13. **CERTIFICATION OF INDEPENDENT PRICE DETERMINATION** The bidder certifies that the prices submitted in response to the solicitation have been arrived at independently and without, for the purpose of restricting competition, any consultation, communication, or agreement with any other bidder or competitor relating to those prices, the intention to submit a bid, or the methods or factors used to calculate the prices bid.
14. **PROSPECTIVE CONTRACTOR'S REPRESENTATION REGARDING CONTINGENT FEES** The prospective Contractor represents as a part of such Contractor's bid or proposal that such Contractor has/has not (*use applicable word or words*) retained any person or agency on a percentage, commission, or other contingent arrangement to secure this contract.
15. **ACKNOWLEDGMENT OF ADDENDA.** Addenda modifying plans and/or specifications may be issued if time permits. No addendum will be issued within a period of two (2) working days prior to the time and date set for the bid opening. Should it become necessary to issue an addendum within the two (2) day period prior to the bid opening, the bid date will be reset to a date not less than five (5) working days after the date of the addendum, giving bidders ample time to comply with the addendum. When replying to a bid request on which an addendum has been issued, and the specifications require acknowledgement, the bid shall indicate that provisions of the addendum have been noted and that the bid is being offered in compliance therewith. Failure to make this statement may result in the bid being rejected as not being in accordance with the revised specifications or plans. Bidders shall acknowledge receipt of any addenda to the solicitation by signing and returning the addenda with the bid, by identifying the addenda number and date in the space provided for this purpose on the bid form, or by letter. The acknowledgment must be received by the *Department* by the time and at the place specified for receipt

of bids.

16. **NONRESPONSIVE BIDS** Nonresponsive bids will not be considered. A non-responsive bid is considered to be a bid that does not comply with the minimum provisions of the specification. Any bidder found to repeatedly offer alternated products that are not compliant with specifications in an attempt to obtain a contract on the basis of pricing only will be disqualified from bidding for a period of 24 months.
17. **SPECIFICATION CLARIFICATION** It shall be incumbent upon all bidders to understand the provisions of the specifications and to obtain clarification prior to the time and date set for the live auction or bid opening. Such clarification will be answered only in response to a written request submitted in the specified amount of time set by the OPTFM. The OPTFM reserves the right to specify a time frame in which clarification request shall be made.
18. **BID INFORMATION** Bid information and documents may be examined pursuant to the Mississippi Public Records Act of 1983, MS Code 25-61-1 et seq.
19. **PRECEDENCE** bids shall be made and the contract shall be entered into in accordance with the General Conditions as hereinafter amended and modified. Should a conflict exist between the General Conditions and the Instructions and Special Conditions, the Instructions and Special Conditions shall take precedence.
20. **COMPETITION** There is no federal or state laws that prohibit bidders from submitting a bid lower than a price or bid given to the U.S. Government. Bidders may bid lower than U.S. Government contract price without any liability as the State is exempt from the provisions of the Robinson-Patman Act and other related laws. In addition, the U.S. Government has no provisions in any of its purchasing arrangements with bidders whereby a lower price to the State must automatically be given to the U.S. Government. 14. **WAIVER** OPTFM reserves the right to waive any General Condition, Special Condition, or minor specification deviation
21. **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 *Department* shall result in the immediate termination of this agreement.
22. **CONFIDENTIALITY** Notwithstanding any provision to the contrary contained herein, it is recognized that *Department* 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 *Department* pursuant to the agreement and designated by the Contractor in writing as trade secrets or other proprietary confidential information, *Department* shall follow the provisions of Mississippi Code Annotated §§ 25-61-9 and 79-23-1 before disclosing such information. The *Department* shall not be liable to the Contractor for disclosure of information required by court order or required by law.

23. **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.*
24. **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: (1) is rightfully known to the recipient prior to negotiations leading to this agreement, other than information obtained in confidence under prior engagements; (2) is generally known or easily ascertainable by nonparties of ordinary skill in the business of the customer; (3) is released by the disclosing party to any other person, firm, or entity (including governmental agencies or bureaus) without restriction; (4) is independently developed by the recipient without any reliance on confidential information; (5) is or later becomes part of the public domain or may be lawfully obtained by the State or Contractor from any nonparty; or, (6) is disclosed with the disclosing party's prior written consent.
25. **ERRORS IN EXTENSION** If the unit price and the extension price are at variance, the unit price shall prevail.
26. **LATE SUBMISSIONS** A bid received at the place designated in the solicitation for receipt of bids after the exact time specified for receipt will not be considered unless it is the only bid received, or it is received before award is made and was sent by registered or certified mail not later than the fifth calendar day before the date specified for receipt of bids. It must be determined by the *Department* that the late receipt was due solely to mishandling by the *Department* after receipt at the specified address. The only acceptable evidence to establish the date of mailing of a late bid is the U.S. Postal Service postmark on the wrapper or on the original receipt from the U.S. Postal Service. If the postmark does not show a legible date, the contents of the envelope or package shall be processed as if mailed late. "Postmark" means a printed, stamped, or otherwise placed impression, exclusive of a postage meter impression, that is readily identifiable without further action as having been supplied and affixed by the U.S. Postal Service on the date of mailing. Bidders should request postal clerks to place a hand cancellation postmark (often called a bull's eye) on both the receipt and the envelope or wrapper. The only acceptable evidence to establish the time of receipt

at the office identified for bid opening is the time and date stamp of that office on the bid wrapper or other documentary evidence of receipt used by that office.

27. **NONCONFORMING TERMS AND CONDITIONS** A bid response that includes terms and conditions that do not conform to the terms and conditions in the bid document is subject to rejection as non-responsive. The *Department* reserves the right to permit the bidder to withdraw nonconforming terms and conditions from its bid response prior to a determination by the *Department* of non-responsiveness based on the submission of nonconforming terms and conditions.
28. **QUALIFICATIONS OF BIDDERS** The bidder may be required before the award of any contract to show to the complete satisfaction of the *Department* that it has the necessary facilities, ability, and financial resources to provide the service specified therein in a satisfactory manner. The bidder may also be required to give a past history and references in order to satisfy the *Department* in regard to the bidder's qualifications. The *Department* may make reasonable investigations deemed necessary and proper to determine the ability of the bidder to perform the work, and the bidder shall furnish to the *Department* all information for this purpose that may be requested. The *Department* reserves the right to reject any bid if the evidence submitted by, or investigation of, the bidder fails to satisfy the *Department* that the bidder is properly qualified to carry out the obligations of the contract and to complete the work described therein. Evaluation of the bidder's qualifications shall include:
- (1) the ability, capacity, skill, and financial resources to perform the work or provide the service required;
  - (2) the ability of the bidder to perform the work or provide the service promptly or within the time specified, without delay or interference;
  - (3) the character, integrity, reputation, judgment, experience, and efficiency of the bidder; and,
  - (4) the quality of performance of previous contracts or services.
29. **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.

#### **4. Contract Terms**

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. **AVAILABILITY OF FUNDS** It is expressly understood and agreed that the obligation of the Department 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 Department, the Department 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 Department of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.

3. **COMPLIANCE WITH LAWS** Contractor understands that the Department 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.
4. **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 § 31-7-305.
5. **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:
  - (1) 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;

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

6. **TRANSPARENCY.** This contract, including any accompanying exhibits, attachments, and appendices, is subject to the “Mississippi Public Records Act of 1983,” and its exceptions. See Mississippi Code Annotated §§ 25-61-1 *et seq.*, and Mississippi Code Annotated § 79-23-1. In addition, this contract is subject to the provisions of the Mississippi Accountability and Transparency Act of 2008. Mississippi Code Annotated §§ 27-104-151 *et seq.* Unless exempted from disclosure due to a court-issued protective order, a copy of this executed contract is required to be posted to the Department of Finance and Administration’s independent agency contract website for public access at <http://www.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.
7. **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.
8. **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.
9. **ANTITRUST** By entering into a contract, Contractor conveys, sells, assigns, and transfers to the *Department* 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 *Department* under said contract.

10. **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.
11. **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.
12. **CHANGE IN SCOPE OF WORK** The *Department* 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 *Department* 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 *Department* in writing of this belief. If the *Department* 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.
13. **CONFLICT OF INTEREST** Operator shall notify the Commission of any potential conflict of interest resulting from the representation of or service to other clients. If such conflict cannot be resolved to the Commission's satisfaction, the Commission reserves the right to terminate this Contract.
14. **CONTRACTOR PERSONNEL** The *Department* 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 *Department* reasonably rejects staff or subcontractors, Contractor must provide replacement staff or subcontractors satisfactory to the *Department* in a timely manner and at no additional cost to the *Department*. The day-to-day supervision and control of Contractor's employees and subcontractors is the sole responsibility of Contractor.
15. **COPYRIGHTS** Contractor agrees that *Department* 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 *Department* 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.

16. **DEBARMENT AND SUSPENSION** Contractor certifies to the best of its knowledge and belief, that it:
- (1) is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transaction by any federal department or agency or any political subdivision or agency of the State of Mississippi;
  - (2) has not, within a three year period preceding this proposal, been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction;
  - (3) has not, within a three year period preceding this proposal, been convicted of or had a civil judgment rendered against it for a violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - (4) is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of these offenses enumerated in paragraphs two (2) and (3) of this certification; and,
  - (5) 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.
17. **FAILURE TO DELIVER** In the event of failure of Contractor to deliver services in accordance with the contract terms and conditions, the *Department*, 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 *Department* may have.
18. **FAILURE TO ENFORCE** Failure by the *Department* 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 *Department* to enforce any provision at any time in accordance with its terms.
19. **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.

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, 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 State. 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 State's concurrence, which the State shall not unreasonably withhold.
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 *Department*, and the *Department* shall be at no time legally responsible for any negligence or other wrongdoing by Contractor, its servants, agents, or employees. The *Department* 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 *Department* shall not provide to Contractor any insurance coverage or other benefits, including Worker's Compensation, normally provided by the State for its employees.
22. **INSURANCE** Contractor represents that it will maintain workers' compensation insurance which shall inure to the benefit of all Contractor's personnel provided hereunder, comprehensive general liability or professional liability insurance, with minimum limits of \$ 1,000,000 per occurrence and fidelity bond insurance with minimum limits of \$25,000. All general liability, professional liability and fidelity bond insurance will provide coverage to the *Department* as an additional insured. The *Department* reserves the right to request from carriers, certificates of insurance

regarding the required coverage. Insurance carriers must be licensed or hold a Certificate of Authority from the Mississippi Department of Insurance.

23. **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.
24. **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.
25. **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 Department:	Hewitt Pittman	(Name)
	Director of Purchasing	(Title)
	P. O. Box 1609	(Address)
	Jackson, MS 39215	

For the Contractor	_____	(Name)
	_____	(Title)
	_____	(Address)
	_____	

26. **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 *Department* and agreed to by Contractor.
27. **OWNERSHIP OF DOCUMENTS AND WORK PAPERS** *Department* 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 *Department* 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 *Department* and subject to any copyright protections.

28. **PATENTS AND ROYALTIES** Contractor covenants to save, defend, keep harmless, and indemnify the *Department* 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 *Department*. 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.
29. **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 *Department*.
30. **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.
31. **RIGHT TO AUDIT** Contractor shall maintain such financial records and other records as may be prescribed by the *Department* 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 *Department*, 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.
32. **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.
33. **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.

34. 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.
35. 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.
36. UNSATISFACTORY WORK If, at any time during the contract term, the service performed or work done by Contractor is considered by the *Department* 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 *Department*, immediately correct such deficient service or work. In the event Contractor fails, after notice, to correct the deficient service or work immediately, the *Department* shall have the right to order the correction of the deficiency by separate contract or with its own resources at the expense of Contractor.
37. 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.
38. TERMINATION The Department may terminate this Contract with or without cause upon ten (10) days written notice to the Contractor. The Contractor may terminate this Contract with cause upon sixty (60) days written notice to the Department.
39. TERMINATION FOR CONVENIENCE
- (1) 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 the Contractor specifying the part of the contract terminated and when termination becomes effective.

- (2) **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 the 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 Department/State. Contractor must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.

#### 40. TERMINATION FOR DEFAULT

- (1) **Default.** If the 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.
- (2) **Contractor's Duties.** Notwithstanding termination of the contract and subject to any directions from the Procurement Officer, Contractor shall take timely, reasonable, and necessary action to protect and preserve property in the possession of the Contractor in which the state has an interest.
- (3) **Compensation.** Payment for completed services delivered and accepted by the Department shall be at the contract price. The Department may withhold from amounts due the 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.
- (4) **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 the 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 goods or services to be furnished by the subcontractor were reasonably obtainable from other sources in sufficient time to permit the Contractor to meet the contract requirements. Upon request of Contractor, the Agency Head or designee shall ascertain 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.)

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

(6) 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.

41. TERMINATION UPON BANKRUPTCY This contract may be terminated in whole or in part by the Department 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.

## **5. Specifications - 80,000 GVW TEST SCALE TRUCK**

The following are the suggested minimum specifications for one (1) or more new 2020 Scale Test Truck(s) equipped with tag and pusher axles. All bids must be equal in performance and quality pursuant to the bid specifications below, which are not intended to exclude any manufacturer's standard deviation. Any reference to manufacture's make or series of equipment stated in the following specifications is intended only to establish an acceptable standard and is not intended to limit the bidding. The Mississippi Department of Agriculture is acting under the authority of Section 31-7-13, Miss. Code of 1972 Amended, and reserves the right to reject any and all bids.

### **A. VOCATIONAL DIMENSIONS**

New & Unused 2020 conventional chassis

268" wheelbase, with 303" BOC to end of frame

**B. ENGINE & EQUIPMENT**

450 Engine Horsepower or greater

1650 lb/ft Torque or greater

12 Liter engine displacement or greater

Air Compressor 18.7 CFM or greater

Air Cleaner: 10 in dry-type mounted under the hood with filter restriction indicator

2-Speed fan hub

1440 sq/in Cooling module or greater

CARB Idle emissions required

Exhaust: 2017 EPA; vertical

Jump start terminals under the hood

Engine block heater (120-volt minimum)

Fuel/water separator: 2017 Emissions

200 AMP Alternator minimum

(3) or more batteries – 2000 CCA dual purpose or greater

12-Volt light system with circuit protection

12-Volt Starter

Body builder harness to end of frame

Exhaust brake

Engine shutdown timer disabled

68 MPH road speed

**C. TRANSMISSION & EQUIPMENT**

Allison 4500 RDS series 6-speed with PTO provisions series fully automatic transmission (AMT's will not be accepted)

Transmission PTO Rear Support Spring(s)

Heavy Duty Driveline with center bearings required: Dana Spicer SPL250XL or Meritor MXL18 equivalent. Inter-axle driveline Dana Spicer 1SPL170XL or Meritor MXL 17

Torque converter

Factory Installed PTO with engine idle shut off disabled (must be **Chelsea 280GCFJPB5RK**)

**D. FRONT AXLE & EQUIPMENT**

Set Back Front Axle

Dana Spicer, Meritor or equivalent Front axles rated at 20k or greater

Front Brakes 20k or greater

Front Drums 20k or greater

Front Hubs 20k or greater

Front auto slack adjusters

20k. or greater Taper-leaf front springs

Front shock absorbers

Dual power steering gears 20k or greater

Power steering cooler

**E. REAR AXLE & EQUIPMENT**

46k or greater Rear axle, Dana Spicer, Meritor or the equivalent w/heavy-wall housing with pump

Rear axle ratio: 4.56 or performance ratio

Dual rear brakes 46k or greater

Driver controlled differential locks (inter-axle and forward rear axle)

Hub package for dual rear axles rated 46k

Rear auto slack adjusters

Heavy Duty spring brake 3030 high output dual or equivalent

Bendix or Meritor 6S/6M Anti-lock brake system or greater

Rear Suspension: rated at 46k or greater (Air Ride Suspension)

**F. TIRES & WHEELS**

Front tires: Goodyear 425/65R22.5 or equivalent, rated at 68mph

Rear tires: Goodyear or equivalent (11R22.5 16PR)

Front wheels & Rear wheels: Polished Aluminum (22.5x12.25)

**G. FRAME & EQUIPMENT**

11 5/8" x 3 7/8" x 3/8" Steel frame or equivalent

Full insert for 11 5/8 (double frame for durability purposes)



Huck Bolt Fasteners throughout frame (where possible)

Heavy Duty Steel Bumper with Center Cast iron tow

Two removable front tow hooks

Square end of frame

#### **H. FUEL TANK(S) & EQUIPMENT**

Dual RH and LH 100 Gallon aluminum fuel tanks or greater (with anti-siphon device or locking caps)

10 Gallon or bigger DEF tank; Driver side mounted

#### **I. CAB & EQUIPMENT**

Aluminum or Steel Cab with Rust preventive procedures

120" BBC or greater; extended cab preferred (no exceptions)

Heater with integral defroster and A/C

Adjustable telescoping tilt steering column

Heavy Duty Bulkhead doors for Aluminum Cabs or equivalent in Steel Cabs

Air Ride Cab; Air Cab Mounts

Noise Reduction Package

Exterior visor

Three spare switches wired to power

Rubber Fender extensions to accommodate front steer tires

Cup holder

Voltmeter

DEF fluid level gauge

Air ride driver seat with armrest

Air ride seat with armrest (rider-seat)

AM/FM/WB/USB/BT Radio

Cab access grab handles, LH & RH

Air horn

Mud flaps

Floor mats

One or two piece windshield

Electric LH and electric RH door window

Roof mounted marker lights  
LED Turn signals/Side markers/Stop lights/Tail lights/Head lights  
Circuit breakers replacing all but 5-amp fuses  
Bendix AD-IS air dryer, heated (or equivalent)  
Auto moisture drain valve with pull cable drain  
Backup Alarm: must meet SAE J994 & OSHA requirements  
Rear suspension dump valve w/cab mounted control switch  
PTO air control: On dash w/indicator light  
Cruise control  
Dual (LH & RH) convex mirrors (fender mounted)  
Dual (LH & RH) powered and heated mirrors  
Mirror brackets: 8-1/2 foot load width  
Electric door locks  
Vinyl flooring  
Safety Equipment: fire extinguisher and reflector kit

**J. PAINT**

Color: Silver

**K. PUSHER & TAG AXLE EQUIPMENT**

**All Proposals must include Pusher & Tag equipment below:**

- One (1) pusher axle (13,000 lb. or greater) equipped w/airlift axle suspension and Bendix or Meritor brakes
- One (1) tag axle (13,000 lb. or greater) equipped w/airlift axle suspension and Bendix or Meritor brakes
- ABS or limited quick release valve controlled, steerable pusher & tag axles
- Locking pusher/tag kit (cab mounted switches to lock pusher & tag axles in up position)
- Steerable Pusher: 295/75R22.5
- Steerable Tag: 295/75R22.5

**L. Warranties:**

All bids must state warranty coverage. All warranties below should be included in the bid price.

- A Full 3- year / unlimited miles warranty covering transmission.
- Full 2 year / 250,000 Mile, Engine, and After-treatment (Emissions) warranty.

- Full 1-year / 100,000-mile base vehicle warranty coverage that covers all major components on the truck.
- Winning bidder must furnish a detailed listing of warranty coverage offered.

**M. Delivery Requirements:**

FOB Mississippi Department of Agriculture and Commerce no later than June 30, 2020.

**Final axle and frame setup to be determined and coordinated with successful cab & chassis bidder engineers.**

**Must be compliant with all current D.O.T. guidelines for safe highway use.**

**Literature:**

Company literature regarding the quoted vehicle must be submitted with the quote for evaluation purposes.

**6. Specifications - 6,000 LB. Capacity Kanawha Boom Assembly and Van Body**

A full hydraulic lifting, lowering and traversing crane that is operated by an air shift power take off unit running a hydraulic pump that provides power to two hydraulic motors. The in and out hydraulic motor has a pilot check valve that controls movement prohibiting unwanted travel. The up/down motor operates a double link chain two point pick up assembly. This motor has a pressure release, spring applied fail-safe brake system that locks equipment in any position that the operator requires. The hydraulic fluid reservoir is located on the outside of the van body to allow for cooling and eliminate the possibility of tank overflow on floor surface. (Note: all chains associated with the lift assembly must be hardened steel.)

Boom System is to be totally independent from the van body. Crane to be supported by six (6) each 3" x 3" steel support posts, supporting 8" channel runways. These posts have welded cross supports and be welded to the load floor plates that are welded to the cross members. Hand held, control handle with a flexible cable and redundant back up system.

Van body to be (24) twenty four feet long, Width of van body is 102", the required BOC (Back of Cab) to ROF (Rear of Frame) is 303", to accommodate twelve 1,000 lb. test weights, twenty 500 lb. test weights, ten 50 lb. test weights, a 1,000 lb. motorized weight mover, and a 5,000 lb. motorized test cart. Test weight and equipment dimensions will be provided upon request. Body constructed of fiberglass reinforced plywood with two rear swing open doors and double bar latches on each door, drivers side front door with pull out steps. Note: the overall height is not to exceed be 13 feet. Hardware is to be proven galvanized.

Metal tread plate flooring, welded to 12" spaced cross members, except at rear of load supporting area and these are on 6" centers. Rear controlled interior lights/flood lights for nighttime use and grab handles at all doors.

Vehicle body must meet D.O.T. regulations, including rear bumper with built in steps, all lighting, mud and debris flaps.

Spreader bar is to be engineered to perform the following: load and unload the test cart, 1,000 lb. weight mover, all test weights, and 50 lb. weight basket; and separate the test weights to facilitate livestock scale testing.

Motorized test cart and motorized weight mover retainer system must be built to position and secure devices. The motorized test cart retainer has wheel chocks, a front hold down (operated from the rear of the unit) and a rear ratchet binder, for total security. The motorized weight mover is secured with one floor mounted ratchet binder.

Unit is to be engineered to work with customer's existing 22,500 lb. of test weights, 1,000 lb. motorized weight mover and 5,000 lb. motorized test cart.

The 1,000 lb. motorized weight mover shall be stored in front of the main weight box. It shall be loaded and unloaded by the main hydraulic boom system without unloading the test weights.

A weight box will be required to hold the 50 lb. test weights. The weight box shall be designed to be loaded and unloaded by the main hydraulic boom system.

The portion of the main weight box storing the 500 lb. test weights shall provide spaces to keep them separated during transit.

Two (2) Rawson Koenig 36" x 18" (or equivalent quality) locking equipment boxes shall be mounted inside the van body in such a manner to not obstruct crane system or equipment.

Invitation for Quote Form Formal (RFQF)  
RF x # 3140002021  
Mississippi Department of Agriculture & Commerce

NAME OF COMPANY \_\_\_\_\_

COMPLETE ADDRESS \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CONTACT PERSON \_\_\_\_\_

TITLE \_\_\_\_\_

TELEPHONE NUMBER \_\_\_\_\_

FAX NUMBER \_\_\_\_\_

E-MAIL \_\_\_\_\_

SIGNATURE \_\_\_\_\_

Total for Truck: \_\_\_\_\_

Total for Kanawha Body  
and Crane System: \_\_\_\_\_

Grand Total: \_\_\_\_\_

Time of Performance \_\_\_\_\_