

# REQUEST FOR PROPOSALS

**RFP #3120001243**

To Provide: **Waste Collection and Disposal**

For: **Capitol Complex (Jackson, MS), State Service Center (Hattiesburg, MS) &  
Eldon Langston Bolton Building (Biloxi, MS)**

Issue Date: 09/07/2017

Pre-Proposal Conference: 09/15/2017, 3:00 p.m., 13<sup>th</sup> Floor Woolfolk Building



## Office of Capitol Facilities

Department of Finance and Administration

501 North West Street, Suite 2001-A

Jackson, MS 39201

### Contact

Alison Bradford, Bureau Director

Phone: (601) 359-5066

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E-Mail: [Alison.Bradford@dfa.ms.gov](mailto:Alison.Bradford@dfa.ms.gov)

**Bids Due: 10/06/2017 at 2:00:00 p.m.**

## **SECTION 1**

### **1.1 Proposal Acceptance Period**

The Original shall be signed and submitted in a sealed envelope or package to 501 North West Street, Suite 2001-A, Jackson, MS 39201 no later than the time and date specified for receipt of proposals. Timely submission of the proposal is the responsibility of the vendor. Proposals received after the specified time shall be rejected and returned to the vendor unopened. The envelope or package shall be marked with the proposal opening date and time, and the RFP number to prevent premature opening by the Department of Finance and Administration, Office of Capitol Facilities. The time and date of receipt will be marked on the outside of the envelope or package by the Department of Finance and Administration, Office of Capitol Facilities. Failure to submit pricing on the proposal form provided or to include required documents may be cause for rejection of the proposal as non-responsive. The Department of Finance and Administration, Office of Capitol Facilities may, but is not obligated to, consider the omission of any information requested as an informality, or irregularity, when in their opinion the omitted information does not alter the amounts contained in the submitted proposal, or place other vendors at a disadvantage.

### **1.2 Timeline**

- Request for Proposals (RFP) Issue Date: 09/07/2017
- Pre-Proposal Conference Date: 09/15/2017, 3:00 p.m. CST
- Questions to Office of Capitol Facilities: 09/21/2017, 5:00 p.m. CST
- Anticipated Posting of Written Answers to Questions: 09/28/2017, 5:00 p.m. CST
- Proposal Package Submission Deadline: 10/06/2017, 2:00 p.m. CST
- Anticipated Notice of Intent to Award: 10/09/2017, 5:00 p.m. CST
- Anticipated Post-Award Debriefing Request Date: 10/12/2017, 5:00 p.m. CST
- Post-Award Debriefing Held By Date: 10/13/2017, 5:00 p.m. CST
- Protest Deadline Date: 10/16/2017, 5:00 p.m. CST

### **1.3 Rejection of Proposals**

Proposals which do not conform to the requirements set forth in this Request for Proposals may be rejected by the Department of Finance and Administration, Office of Capitol Facilities. Proposals may be rejected for reasons which include, but are not limited to the following:

- (1) The proposal contains unauthorized amendments to the requirements of the Request for Proposals.
- (2) The proposal is conditional.
- (3) The proposal is incomplete or contains irregularities which make the proposal indefinite or ambiguous.
- (4) The proposal is received late.

- (5) The proposal is not signed by an authorized representative of the vendor.
- (6) The proposal contains false or misleading statements or references.
- (7) The proposal does not offer to provide all services required by the Request for Proposal.

**1.4 Expenses Incurred**

The Department of Finance and Administration, Office of Capitol Facilities accepts no responsibility for any expense incurred by the vendor in the preparation or presentation of a proposal. Such expenses shall be borne exclusively by the vendor.

**1.5 Cost Proposal Form**

All pricing must be submitted on the cost proposal form (Attachment A). Failure to complete and/or sign the proposal form may result in the vendor being deemed nonresponsive. The vendor agrees that submission of a signed proposal form is certification that the vendor will accept an award made to it as a result of the submission and agrees to all contract terms and conditions in the attached proposed form of contract (Attachment D). No oral proposals will be considered.

**1.6 Proprietary Information**

The vendor should mark any and all pages of the proposal considered to be proprietary information which may remain confidential in accordance with Mississippi Code Annotated §§ 25-61-9 and 79-23-1 (1972, as amended). Any pages not marked accordingly will be subject to review by the general public after award of the contract. Requests to review the proprietary information will be handled in accordance with applicable legal procedures.

**1.7 Registration with Mississippi Secretary of State**

By submitting a proposal, the vendor certifies that it is registered to do business in the State of Mississippi as prescribed by the Mississippi Secretary of State or, if not already registered, that it will do so within seven (7) business days of being offered an award. Sole proprietors are not required to register with the Mississippi Secretary of State.

**1.8 Debarment**

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

**1.9 Competitive Proposals**

Discussions may be conducted with vendors who submit proposals determined to be reasonably susceptible of being selected for award. Likewise, the Office of Capitol

Facilities also reserves the right to accept any proposal as submitted for contract award, without substantive negotiation of proposed terms, services or prices. For these reasons, all parties are advised to propose their most favorable terms initially.

#### **1.10 Additional Information**

#### **1.11 Form of Contract**

Contract shall be a firm fixed-price agreement Department of Finance and Administration Personal Services Contract (Attachment D).

## **SECTION 2**

#### **2.1 Purpose**

The Department of Finance and Administration, Office of Capitol Facilities is seeking to establish a contract for Waste Collection & Disposal at the Capitol Complex (Jackson, MS), State Service Center (Hattiesburg, MS), and Eldon Langston Bolton Building (Biloxi, MS). It is understood that any contract resulting from RFP #3120001243 requires approval by the Personal Services Contract Review Board. If any contract is not so approved, it is void and no payment shall be made.

#### **2.2 Scope of Services**

The work shall consist of providing, maintaining and pickup of non-hazardous trash from specified locations in Jackson, Hattiesburg and Biloxi, Mississippi on a scheduled basis.

##### **2.2.1 Capitol Complex (Jackson, MS)**

Dumpsters of size as specified shall be provided at the following locations and picked up at the frequency identified:

- Central High School Office Building: (1) 8 cubic yard dumpster, 5 pickups per week
- Robert E. Lee Office Building: (1) 8 cubic yard dumpster, 5 pickups per week
- Robert G. Clark, Jr. Office Building: (1) 8 cubic yard dumpster, 3 pickups per week
- E.T. Woolfolk Office Building: (3) 8 cubic yard dumpsters, 5 pickups per week
- Walter Sillers Office Building: (1) 30 cubic yard roll-off dumpster, 2 pickups per week (Note: In addition to normal non-hazardous trash, this dumpster will be utilized for landscape debris, minor demolition and construction waste.)

- 700 State Street Office Building: (1) 8 cubic yard dumpster, 3 pickups per week
- 620 North Street Office Building: (1) 8 cubic yard dumpster, 5 pickups per week
- Mississippi Museums: (1) 8 cubic yard dumpster, 3 pickups per week
- William Winter Office Building: (1) 8 cubic yard dumpster, 3 pickups per week
- Charlotte Capers Office Building: (1) 8 cubic yard dumpster, 3 pickups per week
- 515 E. Amite Street Office Building: (1) 8 cubic yard dumpster, 3 pickups per week
- Naval Reserve Record Center: (1) 8 cubic yard dumpster, 3 pickups per week
- DFA Grounds / Carpentry Shops: (2) 30 cubic yard roll-off dumpster, 3 pickups per week (Note: In addition to normal non-hazardous trash, these dumpsters will be utilized for landscape debris, minor demolition and construction waste.)

#### **2.2.2 State Service Center (Hattiesburg, MS)**

One 8 cubic yard dumpster shall be provided with 3 pickups per week.

#### **2.2.3 Eldon Langston Bolton Building (Biloxi, MS)**

Two 8 cubic yard dumpsters shall be provided with 5 pickups per week.

#### **2.2.4 Additional Pickups**

Additional pickups for listed dumpsters that the Owner determines have become necessary during the term of the contract will be added on the basis of unit prices identified on the proposal form. Annual contract amount shall include cost for up to 106 additional 8 cubic yard dumpster pickups and up to 52 additional 30 cubic yard dumpster pickups.

#### **2.2.5 Additional Dumpsters**

Additional dumpsters that the Owner determines have become necessary during the term of the contract will be added on the basis of unit prices identified on the proposal form. Annual contract amount shall include cost for one additional 8 cubic yard dumpsters provided with 3 pickups per week for up to 12 months and not to exceed 4 additional 30 cubic yard dumpsters delivered to any location in the Capitol Complex for up to 9 business days per instance with pickup at end of each use.

### **2.3 Term**

The term of contract shall be for a period of 3 years. Upon written agreement of both parties at least 90 days prior to each contract anniversary date, the contract may be renewed by the Department of Finance and Administration, Office of Capitol Facilities for additional successive one-year periods under the same prices, terms and conditions as in the original contract subject to approval by PSCRB. The total number of renewal years permitted shall not exceed two.

## **SECTION 3**

### **5.1 Insurance**

The successful vendor shall maintain insurance which, at a minimum, shall include the following types of insurance and coverage limits. 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. The Department of Finance and Administration, Office of Capitol Facilities reserves the right to request from carriers, certificates of insurance regarding the required coverage.

**3.1.1 Workers' Compensation** – as required by the State of Mississippi

**3.1.2 Comprehensive General of Commercial Liability**

Provide at least \$500,000 each occurrence for bodily injury, personal injury, accidental death, and property damage with the State of Mississippi added as an additional insured.

**3.1.3 Motor Vehicle Liability Insurance**

Provide covering all vehicles, owned or otherwise, used in the contract work with limits of at least \$500,000 per occurrence for injuries including accidental death to any person and subject to the same limit for each person for any one accident involving two or more persons with the State of Mississippi added as an additional insured.

**3.1.4 Motor Vehicle Property Damage**

Provide covering all property damage by vehicle with limits of \$250,000 with the State of Mississippi added as an additional insured.

## **SECTION 4**

### **4.1 Written Proposals Shall Contain the Following Minimum Information**

- (1) The name of the vendor, the location of the vendor's principal place of business and, if different, the place of performance of the proposed contract; and,
- (2) A plan giving as many details as is practical explaining how the services will be performed; and,
- (3) The qualifications, including licenses, certifications, education, skills, and experience of all persons who would be assigned to provide the required services; and,
- (4) The age of the vendor's business and average number of employees over the previous 5 years; and,
- (5) A listing of other contracts under which services similar in scope, size, or discipline to the required services were performed or undertaken within the last 5 years.

### **4.2 Evaluation Procedure**

#### **4.2.1 Step One:**

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

##### **(1) Responsive Vendor:**

Vendor must submit a proposal which conforms in all material respects to this Request for Proposals, RFP #3120001243, as determined by the Department of Finance and Administration, Office of Capitol Facilities.

##### **(2) Responsible Vendor:**

Vendor 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 the Department of Finance and Administration, Office of Capitol Facilities.

#### **4.2.2 Step Two:**

Proposals that satisfactorily complete Step One will be reviewed and analyzed to determine if the proposal adequately meets the needs of the Department of Finance and Administration, Office of Capitol Facilities. Factors to be considered are as follows:

- (1) The plan for performing the required services (15%);
- (2) Ability to perform the services as reflected by technical training and education, general experience, specific experience in providing the

- required services, and the qualifications and abilities of personnel proposed to be assigned to perform the services (10%);
- (3) The personnel, equipment, and facilities to perform the services currently available or demonstrated to be made available at the time of contracting (10%);
  - (4) A record of past performance of similar work (15%); and,
  - (5) Price (50%)

#### **4.2.3 Step Three:**

The Department of Finance and Administration, Office of Capitol Facilities will confirm that vendor will accept an award made to it as a result of the submission and agrees to all contract terms and conditions in the attached proposed form of contract (Attachment D) or seek best and final offers from vendors with proposals determined to be reasonably susceptible of being selected for award.

### **4.3 The Following Response Format Shall Be Used for All Submitted Proposals:**

- (1) Letter of Interest: Provide a cover letter indicating the underlying philosophy of the firm in providing the service.
- (2) Work Plan: Describe in detail how the service will be provided. Include a description of major tasks and sub-tasks.
- (3) Personnel: Attach resumes' of all those who will be involved in the delivery of service (from principals to field technicians) that include their experience in this area of service delivery. Indicate the level of involvement by principals of the firm in the day-to-day operation of the contract.
- (4) 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.
- (5) References: Give at least three (3) references for contracts of similar size and scope, including at least two (2) references for current contracts or those awarded during the past three (3) years. Include the name of the organization, the length of the contract, a brief summary of the work, and the name, telephone and e-mail address of a responsible contact person (Attachment C).
- (6) Cost Proposal Form: Completed, signed and dated form must be submitted with proposal (Attachment A).
- (7) Certifications and Assurances Form: Completed, signed and dated form must be submitted with proposal (Attachment B)

### **4.4 Nonconforming Terms and Conditions**

A proposal response that includes terms and conditions that do not conform to the terms and conditions in the proposal document and/or attached form of contract is subject to rejection as non-responsive. The Department of Finance and Administration, Office of



Capitol Facilities reserves the right to permit the respondent to withdraw nonconforming terms and conditions from its proposal prior to a determination of non-responsiveness based on the submission of nonconforming terms and conditions.

**4.5 Conditioning Proposal Upon Other Awards**

Any proposal which is conditioned upon receiving award of both the particular contract being solicited and another Mississippi contract shall be deemed non-responsive and not acceptable.

**4.6 Award**

Award shall be made to the responsible respondent whose proposal is determined to be the most advantageous to the State taking into consideration price and the evaluation factors set forth in the Request for Proposals. No other factors or criteria shall be used in the evaluation.

**4.7 Notice of Intent to Award**

Notice of Intent to Award, subject to approval of PSCRB, shall be made to the winning vendor in writing and shall be posted on the Department of Finance and Administration website within three days of receipt of proposals.

## **SECTION 5**

**5.1 Post-Award Vendor Debriefing**

A responding vendor, 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 Executive Director of the Department of Finance and Administration within three (3) business days of notification of intent to award. A post-award debriefing is a meeting and not a hearing; therefore, legal representation is not required. A debriefing typically occurs within five (5) business days of receipt of the request. If a vendor prefers to have legal representation present, the vendor must notify the Executive Director in writing at the time of request and identify its attorney by name, address, and telephone number. The Department of Finance and Administration will schedule any debriefing at which vendor will have legal representation present at a time when a representative of the Office of the Mississippi Attorney General can be present.

For additional information regarding Post-Award Debriefing, as well as the information that may be provided and excluded, please see Section 7-114 through 7-114.07, Post-Award Vendor Debriefing, of the *Personal Service Contract Review Board's Rules and Regulations*.

## **5.2 Protest of Award**

Any actual or prospective responding vendor or contractor who is aggrieved in connection with this solicitation or the outcome of the Request for Proposals may file a protest with the Department of Finance and Administration Purchasing Director. The protest shall be submitted on or before 5:00 p.m. CST, October 16, 2017, 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 responding vendor or an individual authorized to sign contracts on behalf of the protesting responding vendor, 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 responding vendor must provide facts and evidence to support the protest. A protest is considered filed when received by the Purchasing Director via either U.S. mail, postage prepaid, or personal delivery. Protests filed after 5:00 p.m. CST, October 16, 2017 will not be considered.

## **5.3 Contract Terms and Conditions**

Contract terms and conditions shall be limited to those as included in the Department of Finance and Administration Personal Services Contract (Attachment D).

## **5.4 Mississippi Contract / Procurement Opportunity Search Portal**

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

**ATTACHMENT A**  
**COST PROPOSAL FORM**  
**FOR**  
**WASTE COLLECTION AND DISPOSAL SERVICES**

I propose to complete all work included in the scope of work identified in the Request for Proposals for the specified term of 3 years for the sum of:

**BASE BID:**

\$\_\_\_\_\_ PER MONTH X 12 = \$\_\_\_\_\_ PER YEAR X 3 YEARS FOR A TOTAL OF:  
\_\_\_\_\_ Dollars (\$\_\_\_\_\_) (written out carries) for the 3 YEAR TERM

Base bid above shall include the provision of the following dumpsters, at the stipulated locations picked up on the schedule indicated:

- **Central High School Office Building:** (1) 8 cubic yard dumpster, 5 pickups per week
- **Robert E. Lee Office Building:** (1) 8 cubic yard dumpster, 5 pickups per week
- **Robert G. Clark, Jr. Office Building:** (1) 8 cubic yard dumpster, 3 pickups per week
- **E.T. Woolfolk Office Building:** (3) 8 cubic yard dumpsters, 5 pickups per week
- **Walter Sillers Office Building:** (1) 30 cubic yard roll-off dumpster, 2 pickups per week
- **700 State Street Office Building:** (1) 8 cubic yard dumpster, 3 pickups per week
- **620 North Street Office Building:** (1) 8 cubic yard dumpster, 5 pickups per week
- **Mississippi Museums:** (1) 8 cubic yard dumpster, 3 pickups per week
- **William Winter Office Building:** (1) 8 cubic yard dumpster, 3 pickups per week
- **Charlotte Capers Office Building:** (1) 8 cubic yard dumpster, 3 pickups per week
- **515 E. Amite Street Office Building:** (1) 8 cubic yard dumpster, 3 pickups per week
- **Naval Reserve Record Center:** (1) 8 cubic yard dumpster, 3 pickups per week
- **DFA Grounds / Carpentry Shops:** (2) 30 cubic yard roll-off dumpster, 3 pickups per week
- **State Service Center (Hattiesburg, MS):** (1) 8 cubic yard dumpster, 3 pickups per week.
- **Eldon Langston Bolton Building (Biloxi, MS):** (2) 8 cubic yard, 5 pickups per week.

**UNIT PRICES:**

\_\_\_\_\_ Dollars (\$\_\_\_\_\_) PER ADDITIONAL 8 CUBIC YARD PICKUP  
\_\_\_\_\_ Dollars (\$\_\_\_\_\_) PER ADDITIONAL 30 CUBIC YARD PICKUP  
\_\_\_\_\_ Dollars (\$\_\_\_\_\_) PER MONTH FOR ADDITIONAL 8 CUBIC  
YARD DUMPSTER PROVIDED WITH 3 PICKUPS PER WEEK  
\_\_\_\_\_ Dollars (\$\_\_\_\_\_) PER ADDITIONAL 30 CUBIC YARD  
DUMPSTER FOR UP TO 9 BUSINESS DAY USE WITH PICKUP AT END OF EACH USE

**ADDENDA ACKNOWLEDGMENT:** (if any)

No. \_\_\_\_\_

No. \_\_\_\_\_

No. \_\_\_\_\_

No. \_\_\_\_\_

**ACCEPTANCE:**

I certify that I have thoroughly read, understand, and agree to all provisions of this Request for Proposals and the attachments herein, that the company meets all requirements and acknowledges all certifications herein, has, or will secure, all applicable personnel who shall be qualified to perform the duties required to be performed, and will perform, without delay, the services required at the prices quoted, and am authorized to enter into a binding contract if this proposal is accepted.

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

Name / Title: (Printed) \_\_\_\_\_

Name of Business: \_\_\_\_\_ (as recorded at the Secretary of State)

Physical Street Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Mailing Address: (if different) \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

**ATTACHMENT B**  
**CERTIFICATIONS AND ASSURANCES**

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

**1. REPRESENTATION REGARDING CONTINGENT FEES**

Vendor represents that it has not retained any person or agency upon an agreement or understanding for a commission, percentage, brokerage, fee or other contingent arrangement to secure this contract.

**2. REPRESENTATION REGARDING GRATUITIES**

Vendor 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 Services Contract Review Board Rules and Regulations.

**3. CERTIFICATION OF INDEPENDENT PRICE DETERMINATION**

Vendor 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 Vendor or competitor relating to those prices, intention to submit a proposal, or the methods or factors used to calculate price.

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

Name/Title: (printed) \_\_\_\_\_

**ATTACHMENT C**  
**REFERENCES**

**Reference #1:**

Client Name / Location: \_\_\_\_\_

Services Provided: \_\_\_\_\_

Dates of Service: \_\_\_\_\_

Contact:

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

Phone: \_\_\_\_\_ E-Mail: \_\_\_\_\_

**Reference #2:**

Client Name / Location: \_\_\_\_\_

Services Provided: \_\_\_\_\_

Dates of Service: \_\_\_\_\_

Contact:

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

Phone: \_\_\_\_\_ E-Mail: \_\_\_\_\_

**Reference #3:**

Client Name / Location: \_\_\_\_\_

Services Provided: \_\_\_\_\_

Dates of Service: \_\_\_\_\_

Contact:

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

Phone: \_\_\_\_\_ E-Mail: \_\_\_\_\_

The vendor may submit as many references as desired by submitting as many additional copies of this Attachment C, References, as needed. The Department of Finance and Administration will begin contacting references at the top of the list and will continue down the list until at least three contacts have been reached.

## ATTACHMENT D

### (UTILIZE FOR INDEPENDENT CONTRACTOR PERSONAL SERVICES CONTRACTS GREATER THAN \$75,000.00)

#### PERSONAL SERVICE CONTRACT

This Personal Service Contract is made by and between the Department of Finance and Administration, a state agency, (the "DFA") whose address is 501 North West Street, Suite 1301 Woolfolk Building, Jackson, Mississippi 39201 and \_\_\_\_\_, (the "Contractor") whose address is \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, under the following terms and conditions:

1. **Scope of Services:** *(Insert the scope of services to be performed by Contractor)*  
The Contractor will provide services as specified in the *(Request for Proposal, Invitation for Bid, etc...)* (hereinafter referred to and attached as Exhibit "A"), and the *(Proposal Bid, etc...)* by Contractor dated *(insert date)* (hereinafter referred to and attached as Exhibit "B").
2. **Contract Term:** *(May be entered into for a period of time, not to exceed four (4) years, with an option to renew for one (1) year.)*
3. **Consideration:** *(Insert payment amount, schedule of payments, etc...)*
4. **E-Payment:** The Contractor agrees to accept all payments in United States currency via the State of Mississippi's electronic payment and remittance vehicle. The DFA agrees to make payment in accordance with Mississippi law on "Timely Payments for Purchases by Public Bodies", Section 31-7-301, et seq. of the 1972 Mississippi Code Annotated, as amended, which generally provides for payment of undisputed amounts by the agency within forty-five (45) days of receipt of the invoice.
5. **Paymode:** Payments by state agencies using the Statewide Accounting System shall be made and remittance information provided electronically as directed by the State. These payments shall be deposited into the bank account of the Contractor's choice. The State, may at its sole discretion, require the Contractor to submit invoices and supporting documentation electronically at any time during the term of this Agreement. The Contractor understands and agrees that the State is exempt from the payment of taxes. All payments shall be in United States currency.
6. **Availability of Funds:** It is expressly understood and agreed that the obligation of the DFA 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 DFA, the DFA shall have the right upon ten (10) working days written notice to the Contractor, to terminate this Agreement without damage, penalty, cost or expenses to the DFA of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.

7. **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 Contractor agrees that the DFA or any of its 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 kept by the Contractor for a period of three (3) years after final payment 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.
8. **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 said state. The Contractor shall comply with applicable federal, state, and local laws and regulations.
9. **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. The Contractor shall not assign, subcontract or otherwise transfer in whole or in part, its right or obligations under this Agreement without prior written consent of the DFA, which the DFA may, in its sole discretion, approve or deny without reason. Any attempted assignment or transfer without said consent shall be null and void. No such approval by the DFA of any subcontract shall be deemed in any way to provide for the incurrence of any obligation of the DFA 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.
10. **Compliance with Laws:** The Contractor understands that the DFA is an equal opportunity employer and therefore maintains a policy which prohibits unlawful



discrimination based on race, color, creed, sex, age, national origin, physical handicap, disability, genetic information, or any other consideration made unlawful by federal, state, or local laws. All such discrimination is unlawful and the Contractor agrees during the term of the Agreement that the Contractor will strictly adhere to this policy in its employment practices and provision of services. The Contractor shall comply with, and all activities under this 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. **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 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.
12. **E-Verification:** If applicable, the Contractor represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act of 2008, Section 71-11-1, *et seq.* of the Mississippi Code Annotated (1972, as amended), and will register and participate in the status verification system for all newly hired employees. The term "employee" as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. The Contractor agrees to maintain records of such compliance and, upon request of the State and approval of the Social Security Administration or Department of Homeland Security, where required, to provide a copy of each such verification to the State. The Contractor further represents and warrants that any person assigned to perform services hereafter meets the employment eligibility requirements of all immigration laws of these warranties, the breach of which may subject the Contractor to the following:  
  
(1) termination of this 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;

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

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

13. **Independent Contractor Status:** The Contractor shall, at all times, be regarded as and shall be legally considered an Independent Contractor and shall at no time act as an agent for the DFA. Nothing contained herein shall be deemed or construed by the DFA, Contractor, or any third party as creating the relationship of principal and agent, master and servant, partners, joint ventures, employer and employee, or any similar such relationship between the DFA and Contractor. Neither the method of computation of fees or other charges, nor any other provision contained herein, nor any acts of the DFA or Contractor hereunder creates, or shall be deemed to create a relationship other than the independent relationship of the DFA and Contractor. Contractor's personnel shall not be deemed in any way, directly or indirectly, expressly or by implication, to be employees of the DFA. No act performed or representation made, whether oral or written, by the Contractor with respect to third parties shall be binding on the DFA. Neither the Contractor nor its employees shall, under any circumstances, be considered servants, agents, or employees of the DFA; and the DFA shall at no time be legally responsible for any negligence or other wrongdoing by the Contractor, its servants, agents, or employees. The DFA shall not withhold from the contract payments to Contractor any federal or state unemployment taxes, federal or state income taxes, Social Security tax, or any other amounts for benefits to Contractor. Further, the DFA shall not provide to Contractor any insurance coverage or other benefits, including Worker's Compensation, normally provided by the DFA for its employees.
14. **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, state and/or the DFA revisions of any applicable laws or regulations make changes in this Agreement necessary.
15. **Procurement Regulations:** The contract shall be governed by the applicable provisions of the *Mississippi Personal Service Contract Review Board Rules and Regulations*, a copy of which is available at 210 East Capitol Street, Suite 800, Jackson, Mississippi 39201, for inspection or downloadable at [www.mspb.ms.gov](http://www.mspb.ms.gov).
16. **Representation Regarding Contingent Fees:** The Contractor represents that it has not retained a person to solicit or secure a DFA contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except as disclosed in the Contractor's bid or proposal.

17. **Representation Regarding Gratuities:** The Bidder, Offeror, or Contractor represents that it has not violated, is not violating, and promises that it will not violate the prohibition against gratuities set forth in Section 6-204 (Gratuities) of the *Mississippi Personal Service Contract Review Board Rules and Regulations*.
18. **Termination for Convenience:**
- (1) **Termination.** The DFA may, when the interests of the DFA so require, terminate this contract in whole or in part, for the convenience of the DFA. The DFA shall give written notification of the termination to the Contractor specifying the part of the contract terminated and when the termination becomes effective.
  - (2) **Contractor's Obligations.** The 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. The Contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work. The Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The DFA may direct the Contractor to assign the Contractor's right, title, and interest under terminated orders or subcontracts to the DFA. The Contractor must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.
19. **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 within this contract, or any extension thereof, otherwise fails to timely satisfy the contract provisions, or commits any other substantial breach of this contract, the DFA may notify the Contractor in writing of the delay or nonperformance and if not cured within ten (10) days or any longer time specified in writing by the DFA, the DFA may terminate the Contractor's right to proceed with the contract or such part of the contract as to which there has been delay or failure to properly perform. In the event of termination in whole or in part, the DFA may procure similar supplies or services in a manner and upon terms deemed appropriate by the DFA. The 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 DFA, the Contractor shall take timely,

reasonable, and necessary action to protect and preserve property in the possession of the Contractor in which the DFA has an interest.

- (3) *Compensation.* Payment for completed services delivered and accepted by the DFA shall be at the contract price. The DFA may withhold from amounts due the Contractor such sums as the DFA deems to be necessary to protect the DFA against loss because of outstanding liens or claims of former lien holders and to reimburse the DFA 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, the 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 the Contractor has notified the DFA 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 make progress, and if such failure arises out of causes similar to those set forth above, the 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 the Contractor to meet the contract requirements. Upon request of the Contractor, the DFA 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, the 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 DFA 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 DFA, 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 under this clause are in addition to any other rights and remedies provided by law or under this contract.

20. **Stop Work Order:**

- (1) *Order to stop work.* The DFA, may by written order to the Contractor at any time, and without notice to any surety, require the Contractor to stop all or any part of the work called for by this contract. This order shall be for a specified period not exceeding 90 days after the order is delivered to the 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, the Contractor shall forthwith comply with its terms and take all reasonable steps to minimize the occurrence of costs allocable to work covered by the order during the period of work stoppage. Before the stop work order expires, or within any further period to which the parties shall have agreed, the DFA shall either:
- (a) cancel the stop work order; or,
  - (b) terminate the work covered by such order as provided in the "Termination for Default" clause or the "Termination for Convenience" clause of this contract.
- (2) *Cancellation or Expiration of the Order.* If a stop work order issued under this clause is cancelled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, the Contractor shall have the right to resume work. An appropriate adjustment shall be made in the delivery schedule or Contractor price, or both, and the contract shall be modified in writing accordingly, if:
- (a) the stop work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and,
  - (b) the Contractor asserts a claim for such an adjustment within 30 days after the end of the period of work stoppage; provided that, if the DFA decides that the facts justify such action, any such claim asserted may be received and acted upon at any time prior to final payment under this contract.
- (3) *Termination of Stopped Work.* If a stop work order is not cancelled and the work covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop work order shall be allowed by adjustment or otherwise.

- (4) *Adjustments of Price.* Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the "Price Adjustment" clause of this contract.

21. **Price Adjustment:**

- (1) *Price Adjustment Methods.* Any adjustment in contract price pursuant to a clause in this contract, shall be made in one or more of the following ways:
- (a) by agreement on a fixed price adjustment before commencement of the additional performance;
  - (b) by unit prices specified in the contract;
  - (c) by the costs attributable to the event or situation covered by the clause, plus appropriate profit or fee, all as specified in the contract; or,
  - (d) by the price escalation clause.
- (2) *Submission of Cost or Pricing Data.* The contractor shall provide cost or pricing data for any price adjustments subject to the provisions of Section 3-403 (Cost or Pricing Data) of the *Mississippi Personal Service Contract Review Board Rules and Regulations*.

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

23. **Ownership of Documents and Work Papers:** The DFA 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 the Contractor's internal administrative and quality assurance files and internal project correspondence. The Contractor shall deliver such documents and work papers to the DFA upon termination or completion of the Agreement. The foregoing notwithstanding, the Contractor shall be entitled to retain a set of such work papers for its files. The Contractor shall be entitled to use such work papers only after receiving written permission from the DFA and subject to any copyright protections.

24. **Indemnification:** To the fullest extent allowed by law, Contractor shall indemnify, defend, save and hold harmless, protect, and exonerate DFA, the State of Mississippi, its Commissioners, Board Members, officers, employees, agents, and representatives from and against all claims, demands, liabilities, suits, actions, damages, losses, and costs of every kind and nature whatsoever, including, without limitation, court costs, investigative fees and expenses, and attorneys' fees, arising out of or caused by Contractor's 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 liable for all reasonable 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.

25. **Third-Party Action Notification:** The Contractor shall give the DFA prompt notice in writing of any action or suit filed, and prompt notice of any claim made against the Contractor by any entity that may result in litigation related in any way to this Agreement.

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 Contractor:

Name  
Title  
Address  
City, State, & Zip Code

For the DFA:

Laura D. Jackson  
Executive Director  
Post Office Box 267  
Jackson, Mississippi 39205-0267

27. **Approval:** It is understood that this Contract requires approval by the Personal Service Contract Review Board. If this contract is not approved, it is void and no payment shall be made hereunder.
28. **Priority:** The contract consists of this Agreement, the request for proposal [number] (hereinafter "RFP" and attached as Schedule [ ]), and the response proposal by [Contractor] dated [date] (hereinafter "Proposal" and attached as Schedule [ ]). 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 or attached Schedules [ ] or [ ] shall not be deemed an omission from this contract if such term or obligation is provided for elsewhere in this contract.
29. **Change in Scope of Work:** The DFA may order changes in the work consisting of additions, deletions, or other revisions within the general scope of the contract. No claims may be made by Contractor that the scope of the project or of Contractor's services has been changed, requiring changes to the amount of compensation to the Contractor or other adjustments to the contract, unless such

changes or adjustments have been made by written amendment to the contract signed by the DFA and the Contractor.

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

30. **Contractor Personnel:** The DFA shall, throughout the life of the contract, have the right of reasonable rejection and approval of staff or Subcontractors assigned to the work by the Contractor. If the DFA reasonably rejects staff or Subcontractors, the Contractor must provide replacement staff or Subcontractors satisfactory to the DFA in a timely manner and at no additional cost to the DFA. The day-to-day supervision and control of the Contractor's employees and Subcontractors is the sole responsibility of the Contractor.
31. **Recovery of Money:** Whenever, under the contract, any sum of money shall be recoverable from or payable by the Contractor to the DFA, the same amount may be deducted from any sum due to the Contractor under the contract or under any other contract between the Contractor and the DFA. The rights of the DFA are in addition and without prejudice to any other right the DFA may have to claim the amount of any loss or damage suffered by the DFA on account of the acts or omissions of the Contractor.
32. **Failure to Enforce:** Failure by the DFA at any time to enforce the provisions of the contract shall not be construed as a waiver of any such provisions. Such failure to enforce shall not affect the validity of the contract or any part thereof or the right of the DFA to enforce any provision at any time in accordance with its terms.
33. **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.
34. **Termination Upon Bankruptcy:** This contract may be terminated in whole or in part by the DFA upon written notice to Contractor, if Contractor should become the subject of bankruptcy or receivership proceedings, whether voluntary or involuntary, or upon the execution by Contractor of an assignment for the benefit of its creditors. In the event of such termination, Contractor shall be entitled to recover just and equitable compensation for satisfactory work performed under



this contract, but in no case shall said compensation exceed the total contract price.

Witness our signatures, on the date first written.

(Insert Contractor)

Department of Finance and Administration

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

Name  
Title

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

Laura D. Jackson  
Executive Director