

REQUEST FOR QUALIFICATIONS

RFQ Number: RFQ.08.02.2017.447
To Provide: Policy Director
Contract Services (Contract Worker)
Issue Date: 08/02/2017

CLOSING LOCATION
Mississippi State Hospital
3550 Old Hwy 468 W
Whitfield, MS 39193

REQUEST FOR QUALIFICATIONS COORDINATOR

Craig Kittrell, Support Services Director

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CLOSING DATE AND TIME

Qualifications must be received by:
2:00 P.M. Central Time, August 29, 2017

SECTION 1

1.1 Qualifications Acceptance Period

The original and one (1) copy of the statement of qualifications, two (2) copies total, shall be signed and submitted in a sealed envelope or package to PO Box 1, 3550 Old Hwy 468 W., Whitfield, MS 39193 no later than the time and date specified for receipt of statements of qualifications. Timely submission is the responsibility of the respondent. Statements of qualifications received after the specified time shall be rejected and returned to the respondent unopened. The envelope or package shall be marked with the Request for Qualifications opening date and time, and the number of the Request for Qualifications. The time and date of receipt shall be indicated on the envelope or package by Purchasing/Procurement Office (Bldg.93, 3550 Hwy 468 West, Whitfield, MS 3919. Each page of the statement of qualifications and all attachments shall be identified with the name of the respondent. Modifications or additions to any portion of the procurement document may be cause for rejection of the statement of qualifications. Mississippi State Hospital reserves the right to decide, on a case-by-case basis, whether to reject a statement of qualifications with modifications or additions as non-responsive. As a precondition to statement of qualifications acceptance, Mississippi State Hospital may request the respondent to withdraw or modify those portions of the statement of qualifications deemed non-responsive that do not affect quality, quantity, price, or delivery of the service.

1.1.1 Timeline

- 1) Ad appears in the newspaper - 08/02/17 and 08/09/2017
- 2) Deadline for final questions - 08/22/2017
- 3) Proposals due - 08/29/2017 – 2 P.M. Central Time
- 4) Proposals evaluated and scored - 08/31/2017 (subject to change)
- 5) Debriefing request due - 09/08/2017
- 6) Offerors notified of intent to award - 09/01/2017 (subject to change)
- 7) Deadline for protest to award - 09/15/2017 (2 P.M. Central Time)
- 8) Contract projected start date - 01/01/2018

Mississippi State Hospital reserves the right to amend and/or change the above schedule of events, as it deems necessary.

1.1.2 Late Submissions

A statement of qualifications received at the place designated in the solicitation for receipt of statements of qualifications after the exact time specified for receipt will not be considered unless it is the only statement of qualifications received, or it is received before award is made and was sent by registered or certified mail not later than the fifth (5th) calendar day before the date specified for receipt of statements of qualifications. It must be determined by Mississippi State Hospital that the late receipt was due solely to mishandling by Mississippi State Hospital after receipt at the specified address.

The only acceptable evidence to establish the date of mailing of a late statement of qualifications 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. Respondents 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 opening of statements of qualifications is the time and date stamp of that office on the statement of qualifications wrapper or other documentary evidence of receipt used by that office.

1.2 Expenses Incurred in Preparing Statement of Qualifications

Mississippi State Hospital accepts no responsibility for any expense incurred by the respondent in the preparation and presentation of a statement of qualifications. Such expenses shall be borne exclusively by the respondent.

1.3 Registration with Mississippi Secretary of State

By submitting a statement of qualifications, the respondent 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.

(This section applies only to independent contractors)

1.4 Debarment

By submitting a statement of qualifications, the respondent certifies that it is not currently debarred from submitting statements of qualifications 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 statements of qualifications for contracts issued by any political subdivision or agency of the State of Mississippi.

1.5 Additional Information

Questions about the contract portions of the procurement document must be submitted in writing to Craig Kittrell at PO Box 1 Whitfield, MS 39193 / Fax - 601-351-8554 / or email - craig.kittrell@msh.state.ms.us. Questions concerning the technical portions of the procurement document should be directed to Craig Kittrell at PO Box 1 Whitfield, MS 39193 / Fax - 601-351-8554 / or email - craig.kittrell@msh.state.ms.us. Respondents are cautioned that any statements made by contact persons that cause a material change to any portion of the procurement document shall not be relied upon unless subsequently ratified by a formal written amendment to the procurement document.

1.6 Type of Contract

This contract is for the purpose of hiring a contract worker to provide policy subject matter expert services. Compensation for services will be a firm fixed price set by the agency.

1.7 Written Statement of Qualifications

All statements of qualifications shall be in writing.

1.8 Acknowledgment of Amendments

The respondent shall acknowledge of the receipt of amendments when issued.

SECTION 2

2.1 Compensation for Services

Compensation for services will be a firm fixed price at the rate of \$26.92 per hour, not to exceed 40 hours per week unless approved by the Mississippi State Hospital Support Services Director. The total contract amount shall not exceed \$56,000 per year.

2.2 Purpose

The Mississippi State Hospital is seeking to establish a contract for hiring a contract worker that will lead and direct the hospital's policy management division. These services will include working with hospital divisions to promote best practices and in writing, revising, implementing, and evaluating the efficiency of policies and procedures in all areas. It is understood that any contract resulting from RFQ.08.02.2017.447 requires approval by the Mississippi Department of Mental Health Board and the Mississippi Personal Service Contract Review Board. If any contract resulting from RFQ.08.02.2017.447 is not approved by the Mississippi Department of Mental Health Board and/or the Mississippi Personal Service Contract Review Board, it is void and no payment shall be made.

2.3 Scope of Services

The Contract Worker will perform work on-site in the Support Services Division under the direction of the Support Services Director. The contract worker will lead and direct the hospital's policy division. These services will include working with all divisions of the hospital to promote best practices and subject matter policies expect services. The respondent shall provide leadership in performance improvement as it relates to policy development and maintenance of policies, writing and developing new policies, assisting hospital department directors in writing, revising, implementing, and evaluating the efficiencies of policies, researching state and federal laws and regulations, licensing and accreditation standards, and other projects related to contracts and civil commitment laws. The minimum educational requirements are a bachelor's degree from an accredited four-year college or university. Preference will be given to individuals who have legal education and experience.

2.3.1 Job Duties (Attachment C – Contract Worker)

- 1) Assisting division and department directors in writing, revising, implementing and evaluating the efficiency of policies and procedures.

- 2) Writing and developing new policy, and other duties as assigned by the Support Services Director and/or Hospital Director.
- 3) Researching state and federal laws and regulations, licensing and accreditation standards and regulations and any other sources as may be pertinent to policies and other projects (e.g. contracts, civil commitment laws, etc.) as assigned by the Support Services Director and/or Hospital Director.
- 4) Providing leadership in performance improvement as it relates to policy development and maintenance of policy which shall include identifying opportunities for improvement, then planning and implementing corrective action and evaluating results.
- 5) Attending training and supervision sessions to advance knowledge, skills and maintain professional licensure. Attending required facility training.
- 6) Providing training as a tool to achieve departmental / divisional and overall hospital goals and objectives (e.g. making presentation, policy process, contract process, etc.)
- 7) Collaborating with other administrative and clinical staff to meet facility goals and objectives.
- 8) Review contracts as assigned.
- 9) Comply with hospital policies, plans and decisions, as well as promotes and supports high standards of confidentiality, with no incidents or reports of non-support. examples of behaviors that demonstrate non-support include, but are not limited to the following: (a) makes intentionally non-supportive statements about organization's activities and/or decisions; (b) talks in a manner that is discourteous to the public; (c) makes misleading comments or statements; (d) refuses to assist or is uncooperative with other staff member goals, deadlines or directives of the work unit; (e) releases agency information without authorization; and (f) does not accept or follow instructions and does not refrain from contentious arguments and insubordinate conduct with rating supervisors, co-workers or customers.
- 10) Adhere to all policies and procedures as outlined in the Contract Workers Handbook. Failure to adhere to policies and standards of conduct may result in immediate termination of contract by hospital. However, compliance does not create a property right of continued employment.

Contract Worker may be terminated with or without cause and with or without advance notice.

2.3.2 Performance Indicators

- 1) Reviewing contracts within 5 working days when requested.
- 2) Timely submission of status reports, reports of problems or trends, and other reports as requested by the Support Services Director or Hospital Director which will not exceed 5 working days when requested.
- 3) Submit policies for review to the MSH Executive Committee within 7 working days when requested.

2.3.3 Pre-Contract Requirements

- 1) Will provide copies of all valid education requirements, licenses, and certificates required for performance of the work.
- 2) Will submit to a tuberculosis (TB) test and/or chest x-ray.
- 3) Will submit to background checks and fingerprinting for any relevant criminal activity. Negative results of a background check or fingerprinting can result in dismissal or refusal to contract.
- 4) Will submit to a drug and alcohol test. In addition, random, for cause, post-accident/incident, and follow-up drug and alcohol screening may be conducted on existing contract worker. Refusal to submit to a test may result in dismissal or refusal of a contract. Person found to have used illegal drugs may have contract terminated or refused a contract. Persons found to have improperly used prescription drugs may have contract terminated or refused a contract. Persons found to be under the influence of alcohol while at work or during a pre-contract screening may have contract terminated or refused a contract.

2.4 Term

The term of the contract shall be for a period of 60 months/4 years with 1 year optional renewal. Upon written agreement of both parties at least 60 days prior to each contract anniversary date, the contract may be renewed by Mississippi State Hospital for the period of five (5) successive one-year period(s) under the same prices, terms, and conditions as in the original contract subject to approval by the PSCRB. The total number of renewal years permitted shall not exceed four (4) years with a one (1) year optional renewal.

2.4.1 Multi-Term Contracts

Unless otherwise provided by law, a contract for services may be entered into for a period of time not to exceed four (4) years with an option to renew for one (1) year, provided the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and funds are available for the first fiscal period at the time of contracting. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds.

2.4.1.1 Requirements

- a) Contract will be for a period of one (1) year with four (4) additional renewal years and, not to exceed 40 hours average per week.
- b) A unit/hourly price shall be given for each service, and that unit/hourly price shall be the same throughout the contract.
- c) A multi-term contract will be canceled if funds are not appropriated or otherwise made available to support the continuation of performance in any fiscal period succeeding the first; however, this does not affect either the State's right or the contractor's rights under any termination clause in the contract.
- d) The Procurement Officer must notify the contractor on a timely basis that the funds are or are not available for the continuation of the contract for each succeeding fiscal period.
- e) A multi-term contract may be awarded whether to require insurance in the procurement and should consult with its agency legal counsel regarding its obligations.)

SECTION 3

3.1 Insurance

Insurance is not required for this procurement. This contract is for the purpose of hiring a contract worker.

SECTION 4

4.1 Written Statements of Qualifications Shall Contain the Following Minimum Information

- 1) The name of the respondent, the location of the respondent's principal place of business and, if different, the place of performance of the proposed contract;
- 2) The age of the respondent's business and average number of employees over a previous period of time, as specified in the Request for Qualifications; 1 (except when respondent is a contract worker as defined in accordance with Section 3-101.04)
- 3) The qualifications, including licenses, certifications, education, skills, and experience of all persons who would be assigned to provide the required services; and,
- 4) A listing of other contracts under which services similar in scope, size, or discipline to the required services were performed or undertaken within a previous period of

time, as specified in the Request for Qualifications.

4.2 Minimum Qualifications

The minimum educational requirements are a bachelor's degree from an accredited four-year college or university. Preference will be given to individuals who have legal education and experience.

4.2.1 Responsive Respondent

Respondent must submit statement of qualifications which conforms in all material respects to this Request for Qualifications, RFQ.08.02.2017.447 as determined by Mississippi State Hospital.

4.2.2 Responsible Respondent

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

4.3 Nonconforming Terms and Conditions

A statement of qualifications that includes terms and conditions that do not conform to the terms and conditions in the Request for Qualifications is subject to rejection as non-responsive. Mississippi State Hospital reserves the right to permit the respondent to withdraw nonconforming terms and conditions from its statement of qualifications response prior to a determination by Mississippi State Hospital of non-responsiveness based on the submission of nonconforming terms and conditions.

4.4 Conditioning Statement of Qualifications Upon Other Awards

Any statement of qualifications 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.

4.5 Evaluation Procedure

4.5.1 Evaluation Factors

- 1) Legal Education, Licenses and/or Certifications (Weight of Factor 20%)
- 2) Years of experience in policy and legal work for psychiatric hospitals (Weight of Factor 20%)
- 3) Experience in writing and developing psychiatric hospitals and long term care facilities policies and procedures (Weight of Factor 20%)
- 4) Experience with researching state and federal laws and regulations, licensing and accreditation standards for psychiatric hospitals and long term care facilities (Weight of Factor 20%)
- 5) Experience with supervising and training staff on policies and procedures from a legal perspective (Weight of Factor 20%)

4.5.2 Submission Format

- 1) Name of respondent
- 2) Education, Licenses and/or Certifications (copies provided for documentation)
- 3) Years of experience in policy and legal work for psychiatric hospitals (Listing of other contracts with similar scope, size, or discipline)
- 4) Experience in writing and developing psychiatric hospitals and long term care facilities policies and procedures
- 5) List experience with researching state and federal laws and regulations, licensing and accreditation standards for psychiatric hospitals and long term care facilities
- 6) List experience with supervising and training staff on policies and procedures from a legal perspective

4.6 Award

The contract will be awarded by written notice, within seven (7) days, to the highest ranked respondent whose statement of qualifications meets the requirements and criteria set forth in this Request for Qualifications.

4.6.1 Notification

All participating vendors will be notified of Mississippi State Hospital intent to award a contract. In addition, Mississippi State Hospital will identify the selected vendor. Notice of award is also made available to the public.

SECTION 5

5.1 Post-Award Vendor Debriefing

A respondent, 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 Director of Mississippi State Hospital within three (3) business days of notification of the contract 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 respondent prefers to have legal representation present, the respondent must notify the Director of Mississippi State Hospital in writing and identify its attorney by name, address, and telephone number. Mississippi State Hospital will schedule and/or suspend and reschedule the meeting at a time when a Representative of the Office of the Mississippi Attorney General can be present.

For additional information regarding 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 respondent or contractor who is aggrieved in connection with this solicitation or the outcome of the Request for Qualifications may file a protest with

the Request for Qualifications Coordinator, Craig Kittrell, Support Services Director. The protest shall be submitted on or before 2 P.M. Central Time, September 15, 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 respondent or an individual authorized to sign contracts on behalf of the protesting respondent, and contain a statement of the reason(s) for protest, citing the law(s), rule(s) or regulation(s), and/or procedure(s) on which the protest is based. The written protest letter shall contain an explanation of the specific basis for the protest. The protesting respondent must provide facts and evidence to support the protest. A protest is considered filed when received by the Request for Qualifications Coordinator, Craig Kittrell, Support Services Director, via either U.S. mail, postage prepaid, or personal delivery. Protests filed after 2 P.M. Central Time, September 15, 2017, will not be considered.

5.3 Required Contract Terms and Conditions

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

5.4 Optional Contract Terms and Conditions

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

5.5 Mississippi Contract/Procurement Opportunity Search Portal

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

5.6 Attachments

The attachments to this Request for Qualifications are made a part of this Request for Qualifications as if copied herein in words and figures. Attachments include: A - Certifications and Assurances, B - Contract Worker Contract, C - Contract Worker, D - Optional Clauses

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

1. That he/she has thoroughly read and understands this Request for Qualifications, RFQ.08.02.2017.447, and the attachments herein;
2. That the company/contract worker meets all requirements and acknowledges all certifications contained in this Request for Qualifications, RFQ.08.02.2017.447, and the attachments herein;
3. That the company/contract worker agrees to all provisions of this Request for Qualifications, RFQ.08.02.2017.447, and the attachments herein;

4. That the company/contract worker has, or will secure, at its own expense, applicable personnel who shall be qualified to perform the duties required to be performed under this Request for Qualifications.

Printed Name:

Signature/Date:



Personal Service Contract Review Board
Form PSCRB-006
RFP/RFQ EVALUATION FACTOR SCORING SHEET

Using the table below, provide a list of the evaluation factors used in scoring the procurement, the total number of points available for each factor, and the number of points awarded to each respondent for each evaluation factor. The total number of points awarded to each respondent should be provided at the bottom of this table. This scoring sheet must be submitted to the Personal Service Contract Review Board with contracts that use an RFQ as a procurement method. If sub-categories are utilized in addition to the required factors below, a definition of the evaluation factor(s) and an explanation for the assigned weight(s) should be provided as well.

LIST OF EVALUATION OF FACTORS	DEFINITION OF FACTORS	Weight of Factor (percentage)	EXPLANATION OF WEIGHT ASSIGNED	Respondents/Points Awarded				
Education, Licenses and/or Certifications	Bachelor 2.5, Master/Professional in law 7.5, MS Attorney license 10 (Provide copies of all ed/lic/cert at the same time of RFQ.)	20%	Bachelor 2.5, Law Degree 7.5, MS Attorney license 10 Total = 20					
Years of experience	Years of experience in policy and legal work for psychiatric hospitals	20%	Per Yr. + 5 Total = 20					
Writing and developing policies and procedures	Experience in writing and developing psychiatric hospitals and long term care facilities policies and procedures	20%	Writing policies 10 Developing policies 10 Total = 20					
Law and regulation research	Experience with researching state and federal laws and regulations, licensing and accreditation standards for psychiatric hospitals and long term care facilities	20%	Researching laws 10 Researching reg., lic., acc. 10 Total = 20					
Supervising and training	Experience with supervising and training staff on policies and procedures from a legal perspective	20%	Per Yr. + 5 Total = 20					



Personal Service Contract Review Board
Form PSCRB-006
RFP/RFQ EVALUATION FACTOR SCORING SHEET

Total for Technical										
Price proposal	Pricing set by agency Firm fixed price \$26.92 per hour not to exceed \$56,000 per year	0								
Total Points Awarded		100%							100	

ATTACHMENT A

Certifications and Assurances

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

1. REPRESENTATION REGARDING CONTINGENT FEES

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

2. REPRESENTATION REGARDING GRATUITIES

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

3. CERTIFICATION OF INDEPENDENT PRICE DETERMINATION

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

4. PROSPECTIVE CONTRACTOR'S REPRESENTATION REGARDING CONTINGENT FEES

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

Name/Title: _____

Signature/Date: _____

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



AGREEMENT BETWEEN MISSISSIPPI STATE HOSPITAL of

Whitfield Mississippi (MSH) and _____.

This agreement is entered into by Mississippi State Hospital, hereafter called "Hospital" whose address is Post Office Box 157-A, 3550 Highway 468 West, Whitfield, Mississippi

and _____, hereinafter called "Contract Worker" for the provision of services as set out herein. The term "Hospital" includes Whitfield Medical Surgical Hospital, Jaquith Nursing Home, Oak Circle Center, and other programs and divisions of Mississippi State Hospital.

NOW THEREFORE, the parties agree to the terms and considerations herein.

1. CONTRACT WORKER

Contract Worker does not carry the status of a state service or a non-state service employee of the State of Mississippi, but rather is a contractual worker and has no property right to his or her job and may be terminated with or without cause and without due process by the hospital. Hospital agrees to compensate Contract Worker as outlined in Attachment A, which is attached hereto and made a part of as if fully copied herein. These funds shall be paid directly to the Contract Worker by Hospital. No funds shall be paid on behalf of the Contract Worker into any Government Employee Deferred Compensation Plan. Hospital or its subordinate programs shall not provide to the Contract Worker insurance coverage under the State and School Employee Health Insurance Plan or other benefits normally provided by the state for its employees, with the exception of workers compensation and the employer share under the Federal Insurance Contributions Act (FICA).

2. SCOPE OF WORK

Contract Worker agrees to provide services to the Hospital as described, and under the conditions as set out in Attachment A which is attached hereto and made a part of as if fully copied herein.

3. PERIOD OF AGREEMENT

Performance of the services will begin on or about _____ and will end on or about _____.

4. RESERVATION OF RIGHT

Any and all forms, reports, designs, and other materials prepared by Contract Worker for Hospital shall be used by Hospital and Mississippi Department of Mental Health only for its own internal operations. Hospital retains all rights and interest in said reports.

5. 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 hereto shall be brought in the courts of the State. The Contract Worker shall comply with applicable federal, state, local laws and regulations.

6. AVAILABILITY OF FUNDS

It is expressly understood and agreed that the obligation of the Hospital 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 Hospital, the Hospital shall have the right upon ten (10) working days written notice to Contract Worker, to terminate this agreement without damage, penalty, cost or expenses to the State of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.

7. REPRESENTATION REGARDING CONTINGENT FEES

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

8. REPRESENTATION REGARDING GRATUITIES

The bidder, offeror, or Contract Worker 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 Procurement Regulations*.

9. PROCUREMENT REGULATIONS

The contract shall be governed by the applicable provisions of the *Mississippi Personal Services Contract Review Board Regulations*, copy of which is available at 210 East Capitol, Suite 800, Jackson, Mississippi 39201 for inspection, or downloadable at <http://www.mspsb.ms.gov>.

10. 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.

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 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 Contract Worker 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. COMPLIANCE WITH LAWS

The Contract Worker understands that the Hospital 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 and the Contract Worker agrees during the term of the agreement that the Contract Worker will strictly adhere to this policy in its employment practices and provisions of services. The Contract Worker 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, as well as in accordance with the standards of the Joint Commission (JC).

13. HIPAA

Contract Worker agrees to comply with the Final Omnibus Rule of the Health Insurance Portability and Accountability Act of 1996 and any amendments there too, including electronic data interchange, code sets, identifiers, security, and privacy provisions, as may be applicable to the service under this contract."

14. TERMINATION

Contract Worker may be terminated with or without cause and with or without advance notice.

15. TERMINATION FOR CONVENIENCE

(a) *Termination.* The Hospital Director 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 Hospital Director or designee shall give written notice of the termination to Contract Worker specifying the part of the contract terminated and when termination becomes effective.

(b) *Contract Worker's Obligations.* Contract Worker shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination Contract Worker will stop work to the extent specified. Contract Worker shall also terminate outstanding orders and subcontracts as they relate to the terminated work. Contract Worker shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The Hospital Director or designee may direct Contract Worker to assign Contract Worker's right, title, and interest under terminated orders or subcontracts to the State. Contract Worker must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.

16. TERMINATION FOR DEFAULT

(a) *Default.* If Contract Worker 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 Hospital Director or designee may notify Contract Worker in writing of the delay or nonperformance and if not cured in ten (10) days or any longer time specified in writing by the Hospital Director or designee, such officer may terminate Contract Worker'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 Hospital Director or designee may procure similar supplies or services in a manner and upon terms deemed appropriate by the Hospital Director or designee. Contract Worker shall continue performance of the contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services.

(b) *Contract Worker's Duties.* Notwithstanding termination of the contract and subject to any directions from the procurement officer, Contract Worker shall take timely, reasonable, and necessary action to protect and preserve property in the possession of Contract Worker in which the State has an interest.

(c) *Compensation.* Payment for completed services delivered and accepted by the State shall be at the contract price. The State may withhold from amounts due Contract Worker such sums as the Hospital Director or designee deems to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders and to reimburse the State for the excess costs incurred in procuring similar goods and services.

(d) *Excuse for Nonperformance or Delayed Performance.* Except with respect to defaults of subcontractors, Contract Worker shall not be in default by reason of any failure in performance of this contract in accordance with its terms (including any failure by Contract Worker to make progress in the prosecution of the work hereunder which endangers such performance) if Contract Worker has notified the Hospital

Director 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, Contract Worker 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 Contract Worker to meet the contract requirements. Upon request of Contract Worker, the Hospital Director or designee shall ascertain the facts and extent of such failure, and, if such officer determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, Contract Worker'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").

(e) *Erroneous Termination for Default.* If, after notice of termination of Contract Worker'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.

(f) *Additional Rights and Remedies.* The rights and remedies provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

17. TERMINATION UPON BANKRUPTCY

This contract may be terminated in whole or in part by the Hospital upon written notice to Contract Worker, if Contract Worker should become the subject of bankruptcy or receivership proceedings, whether voluntary or involuntary, or upon the execution by Contract Worker of an assignment for the benefit of its creditors. In the event of such termination, Contract Worker 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.

18. E-VERIFICATION

Contract Worker represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act 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. Contract Worker 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, Contract Worker agrees to provide a copy of each such verification. Contract Worker 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 Contract Worker to the following:

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

19. ANTI-ASSIGNMENT/SUBCONTRACTING

The Contract Worker acknowledges that it was selected by the Hospital to perform the services required hereunder based, in part, upon the Contract Worker's special skills and expertise. The Contract Worker shall not assign, subcontract, or otherwise transfer this agreement in whole or in part without the prior written consent of the Hospital, which the Hospital 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 Hospital of any subcontract shall be deemed in any way to provide for the incurrence of any obligation of the Hospital 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 Hospital may deem necessary. Subject to the foregoing, this agreement shall be binding upon the respective successors and assigns of the parties.

20. STOP WORK ORDER

(a) **Order to Stop Work:** The Procurement Officer, may, by written order to Contract Worker at any time, and without notice to any surety, require Contract Worker 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 Contract Worker, 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, Contract Worker shall forthwith comply with its terms and take all reasonable steps to minimize the occurrence of costs allocable to the work covered by the order during the period of work stoppage. Before the stop work order expires, or within any further period to which the parties shall have agreed, the Procurement Officer shall either:

- (1) cancel the stop work order; or,
- (2) terminate the work covered by such order as provided in the Termination for Default clause or the Termination for Convenience clause of this contract.

(b) **Cancellation or Expiration of the Order:** If a stop work order issued under this clause is canceled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, Contract Worker shall have the right to resume work. An appropriate adjustment shall be made in the delivery schedule or Contract Worker price, or both, and the contract shall be modified in writing accordingly, if:

(1) the stop work order results in an increase in the time required for, or in Contract Worker's properly allocable to, the performance of any part of this contract; and,

(2) Contract Worker asserts a claim for such an adjustment within 30 days after the end of the period of work stoppage; provided that, if the Procurement Officer decides that the facts justify such action, any such claim asserted may be received and acted upon at any time prior to final payment under this contract.

(c) **Termination of Stopped Work:** If a stop work order is not canceled and the work covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop work order shall be allowed by adjustment or otherwise.

21. APPROVAL

It is understood that this contract requires approval by the Mississippi Personal Service Contract Review Board. If this contract is not approved, it is void and no payment shall be made hereunder.

22. INFORMATION DESIGNATED BY CONTRACT WORKER AS CONFIDENTIAL

Any disclosure of those materials, documents, data, and other information which Contract Worker 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 Contract Worker or its subcontractor shall rest with Contract Worker. Disclosure of any confidential information by Contract Worker or its subcontractor without the express written approval of the Hospital shall result in the immediate termination of this agreement.

23. CONFIDENTIALITY

Notwithstanding any provision to the contrary contained herein, it is recognized that the Hospital 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

Hospital pursuant to the agreement and designated by the Contract Worker in writing as trade secrets or other proprietary confidential information, The Hospital shall follow the provisions of Mississippi Code Annotated §§ 25-61-9 and 79-23-1 before disclosing such information. The Hospital shall not be liable to

the Contract Worker for disclosure of information required by court order or required by law.

24. DEBARMENT AND SUSPENSION

Contract Worker certifies to the best of its knowledge and belief, that it:

- (a) is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transaction by any federal department or agency or any political subdivision or agency of the State of Mississippi;
- (b) has not, within a three year period preceding this proposal, been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction;
- (c) has not, within a three year period preceding this proposal, been convicted of or had a civil judgment rendered against it for a violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (d) is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of these offenses enumerated in paragraphs two (2) and (3) of this certification; and,
- (e) has not, within a three year period preceding this proposal, had one or more public transactions (federal, state, or local) terminated for cause or default.

25. 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, Contract Worker 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.

26. 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.

27. 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 Hospital or Contract Worker and agreed to by the other party in the contract.

28. STATE PROPERTY

Contract Worker will be responsible for the proper custody and care of any state-owned property furnished for Contract Worker used in connection with the performance of this agreement. Contract Worker will reimburse the State for any loss or damage, normal wear and tear excepted.

29. THIRD PARTY ACTION NOTIFICATION

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

30. 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 Contract Worker: Name: _____ Title: _____

Address: _____

For the Hospital: Name: James G. Chastain Title: Hospital Director

Address: Post Office Box 157-A, Whitfield, Mississippi
3550 Highway 468 West, Whitfield, Mississippi

31. INTEGRATED AGREEMENT/MERGER

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

James G. Chastain
Director
Mississippi State Hospital

Date

Contract Worker

Date

ATTACHMENT C

Contract Worker

The Contract Worker will provide services at the hourly rate of \$ 26.92, not to exceed 40 hours per week. However, if for some reason, the Contract Worker, who is considered a non-exempt employee as defined under the Fair Labor Standards Act (FLSA), works in excess of 40 hours in a workweek, he/she will be paid at an overtime rate of one and one half times his/her regular rate of pay. The work week will begin on Saturday and end on Friday. This time shall be flexible, within a 24 hour period. The contract will not exceed \$ 56,000 per year .

Characteristics of Work:

The Contract Worker will perform work on-site in the Support Services Division under the direction of the Support Services Director. The contract worker will lead and direct the hospital's policy division. These services include working with all divisions of the hospital to promote best practices and subject matter policies expect services. The Contract Worker shall provide leadership in performance improvement as it relates to policy development and maintenance of policies, writing and developing new policies, assisting hospital department directors in writing, revising, implementing, and evaluating the efficiencies of policies, researching state and federal laws and regulations, licensing and accreditation standards, and other projects related to contracts and civil commitment laws.

Job Duties:

- 1) Assisting division and department directors in writing, revising, implementing and evaluating the efficiency of policies and procedures.
- 2) Writing and developing new policy, and other duties as assigned by the Support Services Director and/or Hospital Director.
- 3) Researching state and federal laws and regulations, licensing and accreditation standards and regulations and any other sources as may be pertinent to policies and other projects (e.g. contracts, civil commitment laws, etc.) as assigned by the Support Services Director and/or Hospital Director.
- 4) Providing leadership in performance improvement as it relates to policy development and maintenance of policy which shall include identifying opportunities for improvement, then planning and implementing corrective action and evaluating results.

- 5) Attending training and supervision sessions to advance knowledge, skills and maintain professional licensure. Attending required facility training.
- 6) Providing training as a tool to achieve departmental / divisional and overall hospital goals and objectives (e.g. making presentation, policy process, contract process, etc.)
- 7) Collaborating with other administrative and clinical staff to meet facility goals and objectives.
- 8) Review contracts as assigned.
- 9) Comply with hospital policies, plans and decisions, as well as promotes and supports high standards of confidentiality, with no incidents or reports of non-support. examples of behaviors that demonstrate non-support include, but are not limited to the following: (a) makes intentionally non-supportive statements about organization's activities and/or decisions; (b) talks in a manner that is discourteous to the public; (c) makes misleading comments or statements; (d) refuses to assist or is uncooperative with other staff member goals, deadlines or directives of the work unit; (e) releases agency information without authorization; and (f) does not accept or follow instructions and does not refrain from contentious arguments and insubordinate conduct with rating supervisors, co-workers or customers.
- 10) Adhere to all policies and procedures as outlined in the Contract Workers Handbook. Failure to adhere to policies and standards of conduct may result in immediate termination of contract by hospital. However, compliance does not create a property right of continued employment. Contract Worker may be terminated with or without cause and with or without advance notice.

Performance Indicators:

- 1) Reviewing contracts within 5 working days when requested.
- 2) Timely submission of status reports, reports of problems or trends, and other reports as requested by the Support Services Director or Hospital Director which will not exceed 5 working days when requested.
- 3) Submit policies for review to the MSH Executive Committee within 7 working days when requested.

Pre-Contract Requirements:

- 1) Will provide copies of all valid education requirements, licenses, and certificates required for performance of the work.
- 2) Will submit to a tuberculosis (TB) test and/or chest x-ray.
- 3) Will submit to background checks and fingerprinting for any relevant criminal activity. Negative results of a background check or fingerprinting can result in dismissal or refusal to contract.
- 4) Will submit to a drug and alcohol test. In addition, random, for cause, post-accident/incident, and follow-up drug and alcohol screening may be conducted on existing contract worker. Refusal to submit to a test may result in dismissal or refusal of a contract. Person found to have used illegal drugs may have contract terminated or refused a contract. Persons found to have improperly used prescription drugs may have contract terminated or refused a contract. Persons found to be under the influence of alcohol while at work or during a pre-contract screening may have contract terminated or refused a contract.

Printed Name: _____

Signature / Date _____

ATTACHMENT D

Optional Clauses for Use in Service Contracts Resulting from this RFQ

1. **Anti-assignment/Subcontracting.** Contractor acknowledges that it was selected by the State to perform the services required hereunder based, in part, upon Contractor's special skills and expertise. Contractor shall not assign, subcontract, or otherwise transfer this agreement, in whole or in part, without the prior written consent of the State, which the State may, in its sole discretion, approve or deny without reason. Any attempted assignment or transfer of its obligations without such consent shall be null and void. No such approval by the State of any subcontract shall be deemed in any way to provide for the incurrence of any obligation of the State in addition to the total fixed price agreed upon in this agreement. Subcontracts shall be subject to the terms and conditions of this agreement and to any conditions of approval that the State may deem necessary. Subject to the foregoing, this agreement shall be binding upon the respective successors and assigns of the parties.
2. **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.
3. **Attorney's Fees and Expenses.** Subject to other terms and conditions of this agreement, in the event Contractor defaults in any obligations under this agreement, Contractor shall pay to the State all costs and expenses (including, without limitation, investigative fees, court costs, and attorney's fees) incurred by the State in enforcing this agreement or otherwise reasonably related thereto. Contractor agrees that under no circumstances shall the customer be obligated to pay any attorney's fees or costs of legal action to Contractor.
4. **Authority to Contract.** Contractor warrants: (a) that it is a validly organized business with valid authority to enter into this agreement; (b) that it is qualified to do business and in good standing in the State of Mississippi; (c) that entry into and performance under this agreement is not restricted or prohibited by any loan, security, financing, contractual, or other agreement of any kind; and, (d) notwithstanding any other provision of this agreement to the contrary, that there are no existing legal proceedings or prospective legal proceedings, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under this agreement.
5. **Information Designated by Contractor as Confidential.** Any disclosure of those materials, documents, data, and other information which Contractor has designated in writing as proprietary and confidential shall be subject to the provisions of Mississippi Code Annotated §§ 25-61-9 and 79-23-1. As provided in the contract, the personal or professional services to be provided, the price to be paid, and the term of the contract shall not be deemed to be a trade secret, or confidential commercial or financial information.

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

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

6. **Confidentiality.** Notwithstanding any provision to the contrary contained herein, it is recognized that Agency is a public agency of the State of Mississippi and is subject to the Mississippi Public Records Act. Mississippi Code Annotated §§ 25-61-1 et seq. If a public records request is made for any information provided to Agency pursuant to the agreement and designated by the Contractor in writing as trade secrets or other proprietary confidential information, Agency shall follow the provisions of Mississippi Code Annotated §§ 25-61-9 and 79-23-1 before disclosing such information. The Agency shall not be liable to the Contractor for disclosure of information required by court order or required by law.
7. **Contractor Personnel.** The Agency shall, throughout the life of the contract, have the right of reasonable rejection and approval of staff or subcontractors assigned to the work by Contractor. If the Agency reasonably rejects staff or subcontractors, Contractor must provide replacement staff or subcontractors satisfactory to the Agency in a timely manner and at no additional cost to the Agency. The day-to-day supervision and control of Contractor's employees and subcontractors is the sole responsibility of Contractor.
8. **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 statement of qualifications, 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 statement of qualifications, 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 statement of qualifications, had one or more public transactions (federal, state, or local) terminated for cause or default.
9. **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.

10. 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
11. Errors in Extension. If the unit price and the extension price are at variance, the unit price shall prevail.
12. Failure to Deliver. In the event of failure of Contractor to deliver services in accordance with the contract terms and conditions, the Agency, after due oral or written notice, may procure the services from other sources and hold Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies that the Agency may have.
13. Failure to Enforce. Failure by the Agency at any time to enforce the provisions of the contract shall not be construed as a waiver of any such provisions. Such failure to enforce shall not affect the validity of the contract or any part thereof or the right of the Agency to enforce any provision at any time in accordance with its terms.
14. Final Payment. Upon satisfactory completion of the work performed under this contract, as a condition before final payment under this contract, or as a termination settlement under this contract, Contractor shall execute and deliver to the Agency a release of all claims against the State arising under, or by virtue of, the contract, except claims which are specifically exempted by Contractor to be set forth therein. Unless otherwise provided in this contract, by state law, or otherwise expressly agreed to by the parties in this contract, final payment under the contract or settlement upon termination of this contract shall not constitute waiver of the State's claims against Contractor under this contract.

15. **Force Majeure.** Each party shall be excused from performance for any period and to the extent that it is prevented from performing any obligation or service, in whole or in part, as a result of causes beyond the reasonable control and without the fault or negligence of such party and/or its subcontractors. Such acts shall include without limitation acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations superimposed after the fact, fire, earthquakes, floods, or other natural disasters ("force majeure events"). When such a cause arises, Contractor shall notify the State immediately in writing of the cause of its inability to perform, how it affects its performance, and the anticipated duration of the inability to perform. Delays in delivery or in meeting completion dates due to force majeure events shall automatically extend such dates for a period equal to the duration of the delay caused by such events, unless the State determines it to be in its best interest to terminate the agreement.
16. **HIPAA Compliance.** Contractor agrees to comply with the "Administrative Simplification" provisions of the Health Insurance Portability and Accountability Act of 1996, including electronic data interchange, code sets, identifiers, security, and privacy provisions, as may be applicable to the services under this contract.
17. **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.
18. **Independent Contractor Status.** Contractor shall, at all times, be regarded as and shall be legally considered an independent contractor and shall at no time act as an agent for the State. Nothing contained herein shall be deemed or construed by the State, Contractor, or any third party as creating the relationship of principal and agent, master and servant, partners, joint ventures, employer and employee, or any similar such relationship between the State and Contractor. Neither the method of computation of fees or other charges, nor any other provision contained herein, nor any acts of the State or Contractor hereunder creates, or shall be deemed to create a relationship other than the independent relationship of the State and Contractor. Contractor's personnel shall not be deemed in any way, directly or indirectly, expressly or by implication, to be employees of the State. Neither Contractor nor its employees shall, under any circumstances, be considered servants, agents, or employees of the Agency, and the Agency shall be at no time legally responsible for any negligence or other wrongdoing by Contractor, its servants, agents, or employees. The Agency shall not withhold from the contract payments to Contractor any federal or state unemployment taxes,

federal or state income taxes, Social Security tax, or any other amounts for benefits to Contractor. Further, the Agency shall not provide to Contractor any insurance coverage or other benefits, including Worker's Compensation, normally provided by the State for its employees.

19. **Integrated Agreement/Merger.** This agreement, including all contract documents, represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations or agreements, irrespective of whether written or oral. This agreement may be altered, amended, or modified only by a written document executed by the State and Contractor. Contractor acknowledges that it has thoroughly read all contract documents and has had the opportunity to receive competent advice and counsel necessary for it to form a full and complete understanding of all rights and obligations herein. Accordingly, this agreement shall not be construed or interpreted in favor of or against the State or Contractor on the basis of draftsmanship or preparation hereof.
20. **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.
21. **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.
22. **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 Contract Worker: *Name:* _____ *Title:* _____

Address: _____

For the Hospital: *Name:* _____ *Title:* _____

Address: Post Office Box 157-A, Whitfield, Mississippi
3550 Highway 468 West, Whitfield, Mississippi

23. **Non-solicitation of Employees.** Each party to this agreement agrees not to employ or to solicit for employment, directly or indirectly, any persons in the full-time or part-time employment of the other party until at least six (6) months after this agreement terminates unless mutually agreed to in writing by the State and Contractor.

24. **Oral Statements.** No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in this contract. All modifications to the contract must be made in writing by the Agency and agreed to by Contractor.
25. **Ownership of Documents and Work Papers.** Agency shall own all documents, files, reports, work papers and working documentation, electronic or otherwise, created in connection with the project which is the subject of this agreement, except for Contractor's internal administrative and quality assurance files and internal project correspondence. Contractor shall deliver such documents and work papers to Agency upon termination or completion of the agreement. The foregoing notwithstanding, Contractor shall be entitled to retain a set of such work papers for its files. Contractor shall be entitled to use such work papers only after receiving written permission from Agency and subject to any copyright protections.
26. **Priority.** The contract consists of this agreement with exhibits, the procurement RFQ (hereinafter referred to as RFQ and attached as Schedule and the statement of qualifications dated by CONTRACTOR NAME (hereinafter referred to as Statement of Qualifications and attached as Schedule). Any ambiguities, conflicts or questions of interpretation of this contract shall be resolved by first, reference to this agreement with exhibits and, if still unresolved, by reference to the RFQ and, if still unresolved, by reference to the Statement of Qualifications. Omission of any term or obligation from this agreement or attached Schedules shall not be deemed an omission from this contract if such term or obligation is provided for elsewhere in this contract.
27. **Quality Control.** Contractor shall institute and maintain throughout the contract period a properly documented quality control program designed to ensure that the services are provided at all times and in all respects in accordance with the contract. The program shall include providing daily supervision and conducting frequent inspections of Contractor's staff and ensuring that accurate records are maintained describing the disposition of all complaints. The records so created shall be open to inspection by the Agency.
28. **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.
29. **Recovery of Money.** Whenever, under the contract, any sum of money shall be recoverable from or payable by Contractor to the Agency, the same amount may be deducted from any sum due to Contractor under the contract or under any other contract between Contractor and the Agency. The rights of the Agency are in addition and without prejudice to any other right

the Agency may have to claim the amount of any loss or damage suffered by the Agency on account of the acts or omissions of Contractor.

30. **Right to Audit.** Contractor shall maintain such financial records and other records as may be prescribed by the Agency or by applicable federal and state laws, rules, and regulations. Contractor shall retain these records for a period of three years after final payment, or until they are audited by the Agency, whichever event occurs first. These records shall be made available during the term of the contract and the subsequent three-year period for examination, transcription, and audit by the Mississippi State Auditor's Office, its designees, or other authorized bodies.
31. **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.
32. **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.
33. **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.
34. **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.
35. **Unsatisfactory Work.** If, at any time during the contract term, the service performed or work done by Contractor is considered by the Agency to create a condition that threatens the health, safety, or welfare of the citizens and/or employees of the State of Mississippi, Contractor shall, on being notified by the Agency, immediately correct such deficient service or work. In the event Contractor fails, after notice, to correct the deficient service or work immediately, the Agency shall have the right to order the correction of the deficiency by separate contract or with its own resources at the expense of Contractor.
36. **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.

37. Requirements Contract. During the period of the contract, Contractor shall provide all the service described in the contract. Contractor understands and agrees that this is a requirements contract and that the Agency shall have no obligation to Contractor if no services are required. Any quantities that are included in the scope of work reflect the current expectations of the Agency for the period of the contract. The amount is only an estimate and Contractor understands and agrees that the Agency is under no obligation to Contractor to buy any amount of the services as a result of having provided this estimate or of having any typical or measurable requirement in the past. Contractor further understands and agrees that the Agency may require services in an amount less than or in excess of the estimated annual contract amount and that the quantity actually used, whether in excess of the estimate or less than the estimate, shall not give rise to any claim for compensation other than the total of the unit prices in the contract for the quantity actually used.