

REQUEST FOR QUALIFICATIONS

RFQ Number: RFQ 3140000926

To Provide: Medical and Psychological Consulting Services

Issue Date: April 13, 2017

CLOSING LOCATION

Mississippi Department of Rehabilitation Services
1281 Highway 51 North
Madison, Mississippi 39110

REQUEST FOR QUALIFICATIONS COORDINATOR

Rebecca E. Henley, Director of Policy and Contracts

Telephone: (601) 853-5245

Email: rehenley@mdrs.ms.gov

CLOSING DATE AND TIME

Qualifications must be received by May 5, 2017, 5:00 PM CST.

SECTION 1

1.1 Qualifications Acceptance Period

The original and 1 copy of the statement of qualifications, 2 copies total, shall be signed and submitted in a sealed envelope or package to 1281 Highway 51 North, Madison, Mississippi 39110 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 the Director of Policy and Contracts. 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. The Mississippi Department of Rehabilitation Services (MDRS) 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, MDRS 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

- Request for Qualifications (RFQ) Issue Date: **April 13, 2017**
- Deadline for Vendor Questions to MDRS: **April 26, 2017, 5:00 PM CST**
- Anticipated Posting of Written Answers to Questions: **April 28, 2017, 5:00 PM CST**
- Application Submission Deadline: **May 5, 2017, 5:00 PM CST**
- Selection Completed: **Prior to May 15, 2017**

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 MDRS that the late receipt was due solely to mishandling by MDRS 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

MDRS 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.

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 or technical portions of the procurement document must be submitted in writing to Rebecca E. Henley, Director of Policy and Contracts at Post Office Box 1698, Jackson, Mississippi 39215-1698 or rehenley@mdrs.ms.gov. 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

Compensation for services will be in the form of a firm fixed-price agreement where the pricing has been set by MDRS.

1.7 Written Statement of Qualifications

All statements of qualifications shall be in writing.

SECTION 2

2.1 Compensation for Services

The compensation for services will be as follows:

- Case Rating and Consultation:
 - Thirty Dollars (\$30.00) per non-CDR case
 - Fifty Two Dollars (\$52.00) per CDR case
- Determination Signing:
 - Three Dollars and Seventy Five Cents (\$3.75) per end line case review/signature
- Rating Correction:
 - MDRS will make no payment to the Contractor for correction or completion of errors or omissions found in found in a quality assurance review process or by other administrative review.
- Other Activities:
 - Fifty Eight Dollars (\$58.00) per hour.
 - Other activities include training beyond two hours per month, preparing and presenting training, and any other administratively requested or required activity other than case rating or determination signing.
 - Any hours related to the activity of training as stated above must be approved by the Director of the DDS program, in consultation with the Executive Director, prior to such hours being incurred. Approval must be documented in writing and signed by the DDS Director and the Contractor. Any training hours not approved by the DDS Director prior to such hours being incurred may be deemed by MDRS as ineligible for payment.

- In special situations and with prior approval by MDRS, MDRS will reimburse costs, at state rates, of travel expenses incurred by the Contractor when performing “other activities”, including Fifty Eight Dollars (\$58.00) per hour for travel time. Total time spent performing “other activities”, including travel time, shall not exceed eight (8) hours per day.

2.2 Purpose

The Mississippi Department of Rehabilitation Services is seeking to establish a contract for consulting medical and psychological services mainly to be performed at the MDRS State Office Complex located in Madison, Mississippi. The Consulting Specialists will carry out the prescribed procedures relating to a part of the documentation requirements necessary in completing disability determinations on applications for Social Security Disability Benefits. It is understood that any contract resulting from RFQ 3140000926 requires approval by the Personal Service Contract Review Board. If any contract resulting from RFQ 3140000926 is not approved by the Personal Service Contract Review Board, it is void and no payment shall be made.

2.3 Scope of Services

In carrying out the responsibilities of a consulting specialist, the Consultant will provide services including, but not limited to:

- Determination of the severity of impairments by reviewing and evaluating medical evidence obtained in conjunction with applications for disability benefits under provisions of the Social Security Act. This includes written evaluations and completion of specified forms as required by Social Security regulations.
- Review of case records and provide written evaluation of the adequacy of documentation and make recommendations for further development.
- Review of and signed execution of completed determinations.
- Upon request, assist in rebuttal preparations by providing analysis on relevant medical issues.
- Maintenance of an accuracy rate of 95% or higher.
- Attend, watch, prepare or present, without compensation, up to two (2) hours per month of required training for SSA and MDRS in program and administrative policy. May also participate in other activities (excluding case ratings or determination signing) as requested by MDRS Administration including but not limited to preparation/presentation of training, discussion of program and/or administrative issues, etc.

2.4 Term

The term of the contract shall be for a period of one (1) year. Upon written agreement of both parties at least fifteen (15) days prior to each contract anniversary date, the contract may be renewed by MDRS for a period of three (3) 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 three.

SECTION 3

3.1 Insurance

The successful vendor shall maintain workers' compensation insurance as required by the State of Mississippi which shall inure to the benefit of all the Contractor's personnel provided hereunder. The Mississippi Department of Rehabilitation Services reserves the right to request from carriers, certificates of insurance regarding the required coverage. Insurance carriers must be licensed or hold a Certificate of Authority from the Mississippi Department of Insurance.

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;
- 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

A Medical Consultant (MC) or Psychological Consultant (PC) is a member of the DDS or SSA team that makes disability determinations. The MC and PC provide expertise in evaluating medical issues.

- An MC must be an acceptable medical source identified in the first or third through fifth options below. MCs who are not physicians are limited to evaluating the impairments for which they are qualified. The MC must meet any appropriate qualifications for his or her specialty. Acceptable medical sources are:
 - Licensed physicians (medical or osteopathic doctors);
 - Licensed or certified psychologists. Included are school psychologists, or other licensed or certified individuals with other titles who perform the same function as a school psychologist in a school setting, for purposes of establishing intellectual disability, learning disabilities, and borderline intellectual functioning only;
 - Licensed optometrists, for purposes of establishing visual disorders (except, in the U.S. Virgin Islands, licensed optometrists, for the measurement of visual acuity and visual fields only); and
 - Licensed podiatrists, for purposes of establishing impairments of the foot, or foot and ankle, depending on whether the State in which the podiatrist practices permits the practice of podiatry on the foot only, or the foot and ankle.
- The PC is a psychologist with the same responsibilities as an MC but the PC only evaluates mental impairments in cases where there is evidence of a mental impairment. The PC must be a qualified psychologist. For disability program purposes, a psychologist is qualified if he or she:

- is licensed or certified as a psychologist at the independent practice level of psychology by the State in which he or she practices; and
- possesses a doctorate degree in psychology from a program in clinical psychology of an educational institution accredited by an organization recognized by the Council for Higher Education Accreditation, formerly the Council on Post-Secondary Accreditation; or
- is in a national register of health service providers in psychology which the Commissioner of Social Security deems appropriate; or
- possesses two years of supervised clinical experience as a psychologist, at least one year of which is post masters degree.

4.2.1 Responsive Respondent

Respondent must submit statement of qualifications which conforms in all material respects to this Request for Qualifications, RFQ 3140000926, as determined by MDRS.

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 MDRS.

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. The Mississippi Department of Rehabilitation Services reserves the right to permit the respondent to withdraw nonconforming terms and conditions from its statement of qualifications response prior to a determination by the Mississippi Department of Rehabilitation Services 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

Each Statement of Qualification shall be evaluated and scored as follows:

- Interview or Performance Evaluation [20 points]
 - Performance evaluations shall only be allowed when an applicant has previously performed medical or psychological consulting services of this type for the Office of Disability Determination Services in MDRS.
- Work History and Experience [30 points]

4.5.2 Submission Format

The application package must be sealed and must contain the following:

- Statement of Qualifications Cover Sheet (**Attachment A**);
- Authorization and Acknowledgements Form (**Attachment B**) – The Consulting Specialist Services Contract Rate **MUST** be accepted as indicated by the applicant's signature. Failure to complete and/or sign this form may result in the individual being

determined nonresponsive.

- Certifications and Assurances Form (**Attachment C**);
- Statement of Qualifications Form (**Attachment D**) – At the top of the form, the vendor should indicate the category of consulting for which he or she qualifies and is applying (may apply/qualify for more than one category).
- Written resume or vitae indicating the individual's education and work experience;
- The applicable certification(s) and/or license(s) from the applicable certifying authority; and
- Copy of applicable Insurance Certificate.

4.6 Award

The contract will be awarded by written notice, within fifteen days, to the highest ranked respondents 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 the Mississippi Department of Rehabilitation Services intent to award a contract. In addition, the Mississippi Department of Rehabilitation Services will identify the selected vendors. 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 the Mississippi Department of Rehabilitation Services 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 MDRS in writing and identify its attorney by name, address, and telephone number. MDRS 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, Rebecca E. Henley, Director of Policy and Contracts. The protest shall be submitted on or before May 19, 2017, 5:00 PM CST, in writing after such aggrieved person or entity knows or should have known of the facts giving rise thereto. All protests must be in writing, dated, signed by the respondent or an individual authorized to sign contracts on behalf of the protesting respondent, and contain a statement of the reason(s) for protest, citing the law(s), rule(s) or regulation(s), and/or procedure(s) on which the protest is based. The written protest letter shall contain an explanation of the specific basis for the protest. The protesting respondent must provide facts and evidence to support the protest. A protest is considered filed when received by the Request for Qualifications Coordinator, Rebecca E. Henley, Director of Policy and Contracts, via either U.S. mail, postage prepaid, or personal delivery. Protests filed after May

19, 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 E** 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 within the *Personal Service Contract Review Board's Rules and Regulations* as updated. Any contract entered into with MDRS pursuant to a vendor being placed on the Qualified Consultant List shall have the terms and conditions as shown in the Consultant Contract Template for Independent Contractors which may be found online at: <http://www.mdrs.ms.gov>.

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.

ATTACHMENT A

Statement of Qualifications Cover Sheet

The Mississippi Department of Rehabilitation Services (hereinafter “MDRS,” “Agency” or “State”) is soliciting applications from experienced professional physicians and psychologists to provide the services of qualified consulting medical and psychological specialists for its Office of Disability Determination Services. The Consulting Specialists will carry out the prescribed procedures relating to a part of the documentation requirements necessary in completing disability determinations on applications for Social Security Disability Benefits.

Applications are to be submitted as listed below, on or before 5:00 PM CST, Friday, May 5, 2017.

PLEASE MARK YOUR ENVELOPE:

Mississippi Department of Rehabilitation Services
Attention: Rebecca E. Henley, Director of Policy and Contracts
1281 Highway 51 North
Madison, Mississippi 39110
Request for Qualifications for Consultant Services
RFQ No. 3140000926
Consultant Category: _____ **
Opening Date: 5:15 PM CST, May 5, 2017
SEALED APPLICATION PACKAGE – DO NOT OPEN

*** List either “medical” or “psychological” as the consultant category.*

Company Name: _____

Address: _____

City/State/Zip: _____

Telephone: _____

Fax Number: _____

E-Mail Address: _____

Printed Name of Authorized Signer: _____

Signature and Date: _____

ATTACHMENT B

Authorization and Acknowledgements

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

1. That he/she has thoroughly read and understands this Request for Qualifications, RFQ 3140000926, and the attachments herein;
2. That the company meets all requirements and acknowledges all certifications contained in this Request for Qualifications, RFQ 3140000926, and the attachments herein;
3. That the company agrees to all provisions of this Request for Qualifications, RFQ 3140000926, and the attachments herein;
4. That the company agrees to and will perform the services required at the rates indicated in Section 2.1 (Compensation for Services) of this Request for Qualifications, RFQ 3140000926, including travel costs;
5. That the company can and will meet all required laws, regulations, and/or procedures related to confidentiality and represents that its workers are licensed, certified, and possess the requisite credentials to perform consultant services; and
6. That the company has, or will secure, at its own expense, applicable personnel who shall be qualified to perform the duties required to be performed under this Request for Qualifications.

Company Name: _____

Name and Title: _____

Signature and Date: _____

ATTACHMENT C

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.

Company Name: _____

Name and Title: _____

Signature and 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.

ATTACHMENT D

Statement of Qualifications Questionnaire

Service Category—Applicant must mark each category for which he or she wishes to be considered.

☐ Medical Consultant

☐ Psychological Consultant

Please answer the following questions regarding your qualifications and experience:

Provide the age of your business as well as the number of years your company has been performing medical/psychological services. Does your company have a specific area of expertise in the field, and if so, how many years of experience?

Please provide the average number of employees maintained by your business over the past year.

List all degrees and specialized education of all persons who would be assigned to provide the required services requested in this RFQ. Please provide the name of the schools as well as the dates of graduation.

List all licenses, permits and/or certifications of all persons who would be assigned to provide the required services requested in this RFQ. Additionally, please provide copies of all applicable licenses, permits and/or certifications with the submission packet.

Has your company had any prior experience evaluating Social Security disability eligibility claims? If yes, list any other contracts, providing the name of your previous employers and the number years these services were provided.

Company Name: _____

Services are typically provided at the MDRS facility located in Madison, Mississippi. What is the availability of all persons who would be assigned to provide the required services to travel to this facility on a regular basis? If this is not a viable option, please detail the distance that your company is willing to travel in order to provide these services.

Company Name: _____

ATTACHMENT E

Required Clauses for Service Contracts Resulting from this RFQ

1. Applicable Law. The contract shall be governed by and construed in accordance with the laws of the State of Mississippi, excluding its conflicts of laws, provisions, and any litigation with respect thereto shall be brought in the courts of the State. Contractor shall comply with applicable federal, state, and local laws and regulations.
2. Availability of Funds. It is expressly understood and agreed that the obligation of the Agency to proceed under this agreement is conditioned upon the appropriation of funds by the Mississippi State Legislature and the receipt of state and/or federal funds. If the funds anticipated for the continuing fulfillment of the agreement are, at any time, not forthcoming or insufficient, either through the failure of the federal government to provide funds or of the State of Mississippi to appropriate funds or the discontinuance or material alteration of the program under which funds were provided or if funds are not otherwise available to the Agency, the Agency shall have the right upon ten (10) working days written notice to Contractor, to terminate this agreement without damage, penalty, cost or expenses to the Agency of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.
3. Compliance with Laws. Contractor understands that the Agency is an equal opportunity employer and therefore, maintains a policy which prohibits unlawful discrimination based on race, color, creed, sex, age, national origin, physical handicap, disability, genetic information, or any other consideration made unlawful by federal, state, or local laws. All such discrimination is unlawful and Contractor agrees during the term of the agreement that Contractor will strictly adhere to this policy in its employment practices and provision of services. Contractor shall comply with, and all activities under this agreement shall be subject to, all applicable federal, State of Mississippi, and local laws and regulations, as now existing and as may be amended or modified.
4. E-Payment. Contractor agrees to accept all payments in United States currency via the State of Mississippi's electronic payment and remittance vehicle. The agency agrees to make payment in accordance with Mississippi law on "Timely Payments for Purchases by Public Bodies," which generally provides for payment of undisputed amounts by the agency within forty-five (45) days of receipt of invoice. Mississippi Code Annotated § 31- 7-305.
5. E-Verification. If applicable, Contractor represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act of 2008, and will register and participate in the status verification system for all newly hired employees. Mississippi Code Annotated §§ 71-11-1 *et seq.* The term "employee" as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor agrees to maintain records of such compliance. Upon request of the State and after approval of the Social Security Administration or Department of Homeland Security when required, Contractor agrees to provide a copy of each such verification. Contractor further represents and warrants that any person assigned to perform services hereafter meets the employment eligibility requirements of all immigration laws. The breach of this agreement may subject Contractor to the following:
 - a. termination of this contract for services and ineligibility for any state or public contract in Mississippi for up to three (3) years with notice of such cancellation/termination being made

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

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

6. Paymode. Payments by state agencies using the State's accounting system shall be made and remittance information provided electronically as directed by the State. These payments shall be deposited into the bank account of Contractor's choice. The State may, at its sole discretion, require Contractor to electronically submit invoices and supporting documentation at any time during the term of this Agreement. Contractor understands and agrees that the State is exempt from the payment of taxes. All payments shall be in United States currency.
7. 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, Suite 800, Jackson, Mississippi 39201 for inspection, or downloadable at <http://www.mspb.ms.gov>.
8. Representation Regarding Contingent Fees. Contractor represents that it has not retained a person to solicit or secure a state contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except as disclosed in Contractor's statement of qualifications.
9. Representation Regarding Gratuities. 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*.
10. Stop Work Order.
 - a. *Order to Stop Work:* The Procurement Officer, may, by written order to Contractor at any time, and without notice to any surety, require Contractor to stop all or any part of the work called for by this contract. This order shall be for a specified period not exceeding 90 days after the order is delivered to Contractor, unless the parties agree to any further period. Any such order shall be identified specifically as a stop work order issued pursuant to this clause. Upon receipt of such an order, Contractor shall forthwith comply with its terms and take all reasonable steps to minimize the occurrence of costs allocable to the work covered by the order during the period of work stoppage. Before the stop work order expires, or within any further period to which the parties shall have agreed, the Procurement Officer shall either:
 - i. cancel the stop work order; or,
 - ii. terminate the work covered by such order as provided in the Termination for Default clause or the Termination for Convenience clause of this contract.
 - b. *Cancellation or Expiration of the Order:* If a stop work order issued under this clause is canceled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, Contractor shall have the right to resume work. An appropriate adjustment shall be made in the delivery schedule or Contractor price, or both, and the contract shall be modified in writing accordingly, if:

- i. the stop work order results in an increase in the time required for, or in Contractor's cost properly allocable to, the performance of any part of this contract; and,
 - ii. Contractor asserts a claim for such an adjustment within 30 days after the end of the period of work stoppage; provided that, if the 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.

11. Termination for Convenience.

- a. *Termination.* The Agency Head or designee may, when the interests of the State so require, terminate this contract in whole or in part, for the convenience of the State. The Agency Head or designee shall give written notice of the termination to Contractor specifying the part of the contract terminated and when termination becomes effective.
- b. *Contractor's Obligations.* Contractor shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination Contractor will stop work to the extent specified. Contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work. Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The Agency Head or designee may direct Contractor to assign Contractor's right, title, and interest under terminated orders or subcontracts to the State. Contractor must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.

12. Termination for Default.

- a. *Default.* If Contractor refuses or fails to perform any of the provisions of this contract with such diligence as will ensure its completion within the time specified in this contract or any extension thereof, or otherwise fails to timely satisfy the contract provisions, or commits any other substantial breach of this contract, the Agency Head or designee may notify Contractor in writing of the delay or nonperformance and if not cured in ten (10) days or any longer time specified in writing by the Agency Head or designee, such officer may terminate Contractor's right to proceed with the contract or such part of the contract as to which there has been delay or a failure to properly perform. In the event of termination in whole or in part, the Agency Head or designee may procure similar supplies or services in a manner and upon terms deemed appropriate by the Agency Head or designee. Contractor shall continue performance of the contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services.
- b. *Contractor's Duties.* Notwithstanding termination of the contract and subject to any directions from the procurement officer, Contractor shall take timely, reasonable, and necessary action to protect and preserve property in the possession of Contractor in which the State has an interest.
- c. *Compensation.* Payment for completed services delivered and accepted by the State shall be at the contract price. The State may withhold from amounts due Contractor such sums as the Agency Head or designee deems to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders and to reimburse the State for the excess costs incurred in procuring similar goods and services.
- d. *Excuse for Nonperformance or Delayed Performance.* Except with respect to defaults of subcontractors, Contractor shall not be in default by reason of any failure in performance of this contract in accordance with its terms (including any failure by Contractor to make progress in

the prosecution of the work hereunder which endangers such performance) if Contractor has notified the Agency Head or designee within 15 days after the cause of the delay and the failure arises out of causes such as: acts of God; acts of the public enemy; acts of the State and any other governmental entity in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. If the failure to perform is caused by the failure of a subcontractor to perform or to make progress, and if such failure arises out of causes similar to those set forth above, Contractor shall not be deemed to be in default, unless the services to be furnished by the subcontractor were reasonably obtainable from other sources in sufficient time to permit Contractor to meet the contract requirements. Upon request of Contractor, the Agency Head or designee shall ascertain the facts and extent of such failure, and, if such officer determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, Contractor's progress and performance would have met the terms of the contract, the delivery schedule shall be revised accordingly, subject to the rights of the State under the clause entitled in fixed-price contracts, "Termination for Convenience". (As used in this Paragraph of this clause, the term "subcontractor" means subcontractor at any tier).

- e. *Erroneous Termination for Default.* If, after notice of termination of Contractor's right to proceed under the provisions of this clause, it is determined for any reason that the contract was not in default under the provisions of this clause, or that the delay was excusable under the provisions of Paragraph (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.
13. Termination Upon Bankruptcy. This contract may be terminated in whole or in part by Agency upon written notice to Contractor, if Contractor should become the subject of bankruptcy or receivership proceedings, whether voluntary or involuntary, or upon the execution by Contractor of an assignment for the benefit of its creditors. In the event of such termination, Contractor shall be entitled to recover just and equitable compensation for satisfactory work performed under this contract, but in no case shall said compensation exceed the total contract price.
14. 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.
15. Transparency. This contract, including any accompanying exhibits, attachments, and appendices, is subject to the "Mississippi Public Records Act of 1983," and its exceptions. See Mississippi Code Annotated §§ 25-61-1 *et seq.* and Mississippi Code Annotated § 79-23-1. In addition, this contract is subject to the provisions of the Mississippi Accountability and Transparency Act of 2008. Mississippi Code Annotated §§ 27-104-151 *et seq.* Unless exempted from disclosure due to a court-issued protective order, a copy of this executed contract is required to be posted to the Department of Finance and Administration's independent agency contract website for public access at <http://www.transparency.mississippi.gov>. Information identified by Contractor as trade secrets, or other proprietary information, including confidential vendor information or any other information which is required confidential by state or federal law or outside the applicable freedom of information statutes, will be redacted.