

**MISSISSIPPI DEPARTMENT OF REVENUE**

**Request for Proposal**

**#2017-05**

**Transfer Pricing Analysis**

**PROPOSALS DUE NO LATER THAN:**

**August 25, 2017**

**Procurement Department**

**August 3, 2017**

**RFP Response Checklist**

RFP Response Checklist: These items should be included in your response to RFP No. **2017-05**.

|  |  |
| --- | --- |
| \_\_\_\_\_ | 1. One clearly marked original response and 4 identical copy/copies of the complete proposal. Label the front and spine of the three-ring loose-leaf binder with the Contractor name and RFP number. Include the items listed below inside the binder. Please DO NOT include a copy of the RFP in the binder. |
| \_\_\_\_\_ | 1. Certification to sign on behalf of the company |
|  |  |
| \_\_\_\_\_ | 1. Proposal Form with point-by point response to Technical Specifications |
| \_\_\_\_\_ | 1. References |
| \_\_\_\_\_ | 1. Acknowledgement of Amendments |
| \_\_\_\_\_ | 1. Secretary of State Acknowledgement |
| \_\_\_\_\_ | 1. Conflict of Interest Disclosure Statement |

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**MISSISSIPPI DEPARTMENT OF REVENUE**

**REQUEST FOR PROPOSAL**

**TRANSFER PRICING SERVICES**

**1.0 Purpose**

The Department of Revenue (referred to as “MDOR” or “Department”) hereby solicits proposals using the competitive sealed proposal process. This process will allow us to assess prospective proposers on capability as well as price to establish a contract with a qualified agency to procure transfer pricing analysis and services for the Mississippi Department of Revenue.

We are tasked with promptly and efficiently administering the tax laws for the State of Mississippi including examining the accuracy of income tax return filings for taxpayers. To attain this promptness and efficiency, the agency may utilize contingency fee contracts for the fiscal year beginning July 1, 2017 and ending June 30, 2018. All proposals submitted in response to this solicitation must conform to the requirements and specifications outlined within this document and any applicable amendments.

The contract to be awarded will be a contingency fee agreement as authorized by SB 2973 and will require services to be performed by one selected contractor. The contractor will designate one person who will be responsible for all activities required to fulfill the specifications of said contract. This individual shall be vested with the authority to make decisions and commitments on behalf of the contractor during performance of the contract.

**2.0 Characteristics of Work**

Contractor will provide Intercompany Transfer Pricing Analysis and Transfer Pricing Analysis Reports prepared consistent with the provisions of the Internal Revenue Code Section 482 and the regulations promulgated thereunder. These reports are needed to identify profit shifting via intercompany transactions. Contractor will also provide training to MDOR staff and any expert witnesses for Board of Tax Appeal hearings and litigation in the event of a lawsuit.

DOR acknowledges that strict adherence to the provisions of IRC Section 482 and its regulations requires complete facts and the documentation, and that any transfer pricing reports submitted by the vendor will be consistent with those provisions to the extent possible and necessary based upon the facts and circumstances of each taxpayer.

**3.0 General Terms of Contract**

The term of the contract shall be from September 1, 2017, through June 30, 2018, with an option to renew for two (2) additional twelve (12) month periods provided, however, any contract extension shall be under the same prices, terms and conditions as in the original contract. Revenue to be included in the computation of the contingency fee due must be received by the MDOR by August 15 following the end of the contract. This shall be agreed upon, in writing, between the State and the Contractor.

If MDOR chooses to exercise its option to extend the contract for an additional year, revenue to be included in the computation of the contingency fee due for the extended year will only include revenue received by August 15 the following year. For example, if MDOR chooses to extend the contract to include the period of July 1, 2018 to June 30, 2019, only revenue received by August 15, 2019 will be included in the computation of the contingency fee due to the winning vendor. If the contract is not extended, no further payments will be made under the contracted contingency arrangement after August 15, 2018. This would not preclude the parties from entering into a separate contract for other work which was not performed between the start of the contract to June 30, 2018.

To the extent clauses outlining termination methods within this RFP do not state otherwise, the winning vendor will receive compensation for work performed up to the date of effective termination. The computation for the contingency fee will be calculated using the amount collected by MDOR up to 46 days after the effective date of termination. Such compensation will not be based on any other factors unless accepted by MDOR as a result of a Deviation or Exception pursuant to Section 7.18. MDOR defines the amount collected for purposes of computing the contingency fee as the total payment of tax, penalty and interest received associated with the IRC Section 482 adjustments.

**4.0 Relationship of Parties**

It is expressly understood and agreed that MDOR enters into a contract with a Contractor based on the purchase of professional services and not based on an employer-employee relationship. For all purposes under the Contract:

A. The Contractor represents that it has, or will secure, at its own

expense, applicable personnel who shall be qualified to perform the duties required to be performed under the Contract. Such personnel shall not be deemed in any way, directly or indirectly, expressly, or by implication, to be employees of MDOR.

B. Any person employed by the Contractor to perform the services hereunder shall be the employee of the Contractor, who shall have the sole right to hire and discharge its employee.

C. The Contractor shall pay, when due, all salaries and wages of its employees, and it accepts exclusive responsibility for the payment of Federal Income Tax, State Income Tax, Social Security, Unemployment Compensation, and any other withholdings that may be required.

**5.0 Procurement Time Line**

It is our intent to follow the schedule below in the execution of this request for proposal; however, MDOR reserves the right to amend and/or change the below schedule of events, as it deems necessary.

**A.** Request for Proposal Issue Date: 8/8/2017

**B.** First Publication: 8/8/2017

**C.** Second Publication: 8/15/2017

**D.** Deadline for Submission of Questions: 8/22/2017; 5:00 pm CST

**E.** Last Day Answers Posted to Website: 8/25/2017

**F.** Proposal Packet Submission Deadline: 8/25/2017; 12:00 pm CST

**G.** Award Notification: 8/31/2017

**H.** Protest Deadline: 9/7/2017; 12:00 pm CST

**I.** Projected Contract Date: Upon approval

**6.0 Eligibility Requirements**

**6.1 Qualification of Proposer**

The proposer may be required before the award of any contract to show to the complete satisfaction of MDOR that it has the necessary personnel and ability to provide the service specified therein in a satisfactory manner. The proposer shall be required to give a past history and references in order to satisfy MDOR in regard to the proposer’s qualifications. MDOR may make reasonable investigations deemed necessary and proper to determine the ability of the proposer to perform the work, and the proposer shall furnish to MDOR all information for this purpose that may be requested. MDOR reserves the right to reject any proposal if the evidence submitted by, or investigation of, the proposer fails to satisfy MDOR that the proposer is properly qualified to carry out the obligations of the contract and to complete the work described therein. Qualifications will be based on the provisions of the following subsections under Eligibility Requirements 6.0.

**6.2 References**

As part of its proposal, each proposer must furnish contact information of at least four (4) current references. The reference information should include the contact person, address and phone number for each contract with their largest clients of similar size and scope of services, as specified in this RFP. “Largest client” is determined by the revenue paid by the client to the proposer over the past five year period. Failure to list a qualifying client may result in rejection of prospective proposer’s proposal. MDOR will contact these clients as references to evaluate the quality of the proposer’s past work and management capabilities. Reference information must be provided as part of the packet submitted for consideration.

References must report the vendor to be of good reputation in providing applicable services. Although MDOR requires the provision of a minimum of four (4) references, proposer may submit as many references as desired. References will be contacted in order listed until at minimum two (2) references have been interviewed. Proposers are encouraged to submit additional references to ensure that at least two (2) references are available for interview. It is the responsibility of the proposer to verify before submitting their proposal that contact information is correct and current for each reference. MDOR will not seek to correct erroneous contact information or track down references. MDOR staff must be able to contact two references for a proposal to be found responsive.

Reference means a particular state or entity that has utilized the same or similar services. MDOR does not consider each person at a state or entity as a separate reference for this purpose.

**6.3 Business Longevity**

Each proposer must have been in business a minimum of five (5) years prior to submission of its proposal. “In business” shall include any similar business requiring similar skills as well as specific services requested in this RFP. Please indicate the length of time you have been in business providing professional services as specified in the Technical Proposal in Attachment A. Business longevity information must be provided as part of the proposal packet submitted for consideration.

**6.4 Registration with Mississippi Secretary of State**

By submitting a proposal, the proposer certifies it is registered to do business with the State of Mississippi through Secretary of State or, if not already registered, that it will do so within seven (7) business days of being notified by MDOR that it has been awarded the contract. Please complete the Secretary of State Acknowledgement form included in Attachment A.

**7.0 Procurement Methodology**

**7.1 Approach**

It is understood that all proposals are submitted on the basis of complying with the provisions, terms and specifications set out herein, provided that you can do so under the various government rulings and directives now in effect or which may be issued during the period of the contract. MDOR reserves the right to waive minor technicalities on proposal forms and specifications that can be waived or corrected without prejudice to other proposers when it is in the best interest of MDOR. MDOR reserves the right to reject any and all proposals, to waive any minor informality in the proposals, and, unless otherwise specified by the proposers, to accept any items on the proposal.

The proposer understands that the Department of Revenue is an equal opportunity employer and maintains a policy that prohibits unlawful discrimination based on race, color, creed, sex, age, national origin, physical handicap, disability, or any other consideration. The proposer will strictly adhere to this policy in its employment practices and provision of services.

**7.2 Proposer Rules of Procurement**

All proposals shall be binding for a minimum of forty-five (45) days after opening.

* 1. **Procedure for Answering Questions**

1. All questions concerning this Request for Proposal or the proposal process must be submitted by email to:

[BidQuestions@dor.ms.gov](mailto:BidQuestions@dor.ms.gov)

1. Questions and requests for clarification must be submitted via email during normal business hours by the deadline reflected in Section 5.0, Procurement Time Line. Questions received after this time will not be considered.
2. All questions and answers shall be treated as amendments to the RFP. See Section 7.6 below. Therefore, all questions received by MDOR in a timely manner will be answered and issued in the form of amendments to each vendor that received the RFP. Additionally, the questions and answers will be published on the MDOR website ([www.dor.ms.gov](http://www.dor.ms.gov)) in a manner that all proposers will be able to view by the date and time reflected in Section 5.0, Procurement Time Line.
3. It shall be incumbent upon all Proposers to understand the provisions of the scope of services and to obtain clarification by the time reflected in Section 5.0, Procurement Time Line. Proposers are responsible for following up to see that any correspondence or communications are properly received.
4. MDOR will not be bound by any verbal or written information that is not contained within this RFP unless formally noticed and issued by:

Tonya Davis, MDOR Director of Purchasing

Email: [tonya.davis@dor.ms.gov](mailto:tonya.davis@dor.ms.gov)

**7.4 Proposal Modification or Withdrawal**

No proposals shall be modified after the specified time for the opening. If a proposal is withdrawn after opening, the proposer will be removed from the list of eligibles for a period of six (6) months. A proposer may withdraw a proposal prior to the time set for the opening by simply making a request in writing to MDOR; no explanation is required. No partial withdrawals are permitted after the time and date set for the opening; only complete withdrawals are permitted. No late proposals, modifications or withdrawals will be considered unless receipt would have been timely but for the action or inaction of MDOR personnel directly involved with the procurement activity.

**7.5 Negotiation Rights**

Discussions may be conducted with proposers who submit proposals determined to be reasonably susceptible of being selected for award, but proposals may be accepted without such discussions.

**7.6 Amendments to the RFP**

Amendments to the RFP will be identified as such. An amendment will reference the portion of the RFP that it amends. Amendments will be sent to all prospective proposers that received an RFP. Each such vendor shall acknowledge receipt of amendments by completing and signing the Acknowledgement of Amendments form included in Attachment A hereto. The Purchasing Division of MDOR will post the Amendment by number on MDOR website [www.dor.ms.gov](http://www.dor.ms.gov) in a manner all proposers will be able to view. Respondents shall rely only on communication from the Purchasing Division of MDOR in submitting proposals and obtaining amendments. The MDOR’s Purchasing Division shall not be bound by any oral communications; proposers who rely upon any oral communications regarding the proposal do so at their own risk.

**7.7 Opening Procedures**

Proposals will not be opened publicly. Proposals will be made available for inspection

only after award of contract.

**7.8 Competitive Negotiation**

The bidding method to be used is that of competitive negotiation from which MDOR is seeking the best combination of price, experience and quality of service. Discussions may be conducted with offerors who submit proposals determined to be reasonably susceptible of being selected for award. Likewise, MDOR also reserves the right to accept any proposal as submitted for contract award, without substantive negotiation of offered terms, services or prices. For these reasons, all parties are advised to propose their most favorable terms initially.

**7.9 Evaluation**

An evaluation committee will review and assess all responsive proposals submitted. To be considered responsive to the RFP, each proposal must be complete, contain accurate information and contain the minimum expected components described in the RFP. If the proposal is incomplete, contains inaccurate information, or fails to contain the minimum expected components of the RFP, it may be deemed unresponsive and may not be considered for award.

The award will be made to the responsible offeror whose proposal is determined to be the most advantageous to the State, taking into consideration price and the evaluation factors set forth below. The factors and the level of importance associated with each factor are listed. The factors for selecting the best proposal are the following:

1. Contractor’s plan for providing the required service as evidenced by the responses and any materials submitted under the Technical Proposal. **(25%)**

1. Contractor’s record of past performance of similar work as exhibited by its references from other entities serviced within the past five (5) years and other documentation related to contractor’s capabilities. **(25%)**
2. Training and experience of Contractor’s personnel as well as equipment, and facilities to perform the services. **(20%)**
3. Price/Contingency Percentage. Any contract will have a maximum cost of the lesser of the cap as listed based for the Option selected by MDOR or a contingency percentage. The score will be based on the contingency percentage only. **(30%)**

The score will be based on a 100 point scale, with each factor having the percentage of the total 100 points available as listed. The total score will be determined according to the degree of compliance made in the proposal in meeting each component of the responsibilities and requirements in this RFP. Prospective contractors must furnish, upon request of MDOR, satisfactory evidence of their ability to provide services in accordance with the terms and conditions in Appendix A.

MDOR may obtain information about the prospective contractor’s ability to meet requirements through references not provided by the proposer, or any other means available. MDOR Executive Staff reserves the right to make the final determination as to the prospective contractors’ ability to meet requirements, including any information the agency may have regarding services provided to MDOR previously and the proposer’s

responsiveness to issues and concerns.

**7.10 Approval Process**

An evaluation committee will review and score each responsive proposer using the scoring criteria. The name of each responsive proposer that is recommended for funding will be forwarded to the Commissioner of the Mississippi Department of Revenue or his designee for award subject to final approval by Personal Service Contract Review Board (PSCRB).

**7.11 Award Notice**

The award, if made, will be by MDOR’s evaluation committee within forty-five (45) days after the proposal opening. After MDOR makes the award, official notification will be sent to all participating vendors along with an accompanying analysis describing why the contract was awarded to the particular vendor. Notice of award shall be made available to the public. MDOR will not respond to telephone calls requesting the information. All awards shall be subject to **final** approval by Personal Service Contract Review Board (PSCRB).

**7.12 Incurring Costs**

Actions taken by or expenses incurred by the proposers in responding to this RFP, before the receipt of the official notification of award or in anticipation of a contract will be at the proposer’s own risk, and MDOR will not assume any liability for any such actions.

**7.13 Right to Protest**

Any actual or prospective proposer or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the Commissioner of the Mississippi Department of Revenue. The protest shall be submitted in writing within seven (7) days after notification is received. The written protest letter shall contain an explanation of the basis of the protest. A protest is considered submitted when received by the Director of Purchasing or Commissioner of the Mississippi Department of Revenue. To expedite the handling of the protest, the envelope should be labeled “Protest”. Protest filed after normal business hours on the seventh day will not be considered.

**7.14** **Post-Award 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 Purchasing of the MDOR 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 Purchasing of the MDOR in writing and identify its attorney by name, address and telephone number.

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 Debriefing, of the *Personal Service Contract Review Board’s Rules and Regulations.*

**7.15 Proposal Ownership**

All proposals become MDOR property. Proposals will be made available for inspection only after award of contract. For this reason, proprietary material should be clearly labeled as such. The classification of an entire proposal as proprietary or trade secret is not acceptable and may result in rejection of the proposal. Request to review proprietary information will be handled in accordance with state law and applicable procedures. All disclosures of proposal information to interested parties will be made in compliance with MDOR policies and procedures established in accordance with the Mississippi Public Records Act of 1983 defined in Section 26-61-1 et seq., of the Mississippi Code and exceptions found in Section 25-61-9 and 79-23-1.

**7.16 Proprietary Information**

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

**7.17 Partial Proposals Prohibited**

Proposals submitted must be all or none. Proposals will not be accepted for any part of the total. However, should the proposer choose not to submit pricing for all Options, this will not be considered a partial proposal so long as all other requirements are met. The Department will only choose to contract for one option. Thus, the proposer may be removing itself as a candidate if the Department chooses an option for which it fails to submit pricing.

**7.18 Exceptions and Deviations**

Proposers taking exception to any part or section of the solicitation shall indicate such exceptions on the proposal form and shall fully describe said exception. Failure to indicate any exception will be interpreted as the proposer’s intent to comply fully with the requirements as written. Conditional or qualified proposers, unless specifically allowed, shall be subject to rejection in whole or in part.

**7.19 Compensation for Services**

Compensation for services will be in the form of a contingency price agreement based on a percentage of collections resulting from the services provided herein. Four options are to be proposed with a cap for each option as listed in the proposal form. This compensation will be the only amount paid to the Contractor for all services performed and materials provided under the agreement. Payment by taxpayers must be received by August 15 after the contract ends to be included in the percentage calculated for payment to the Contractor.

**7.20 Conflict of Interest**

All proposals must be accompanied by a statement disclosing (1) any involvement, financial or otherwise, that an employee, officer, or agent of MDOR may have in the proposing organization, and (2) any involvement, financial or otherwise, that any employee, officer of any other governmental agency may have in the proposing organization. Disclosure statement form included in Attachment A.

**7.21 Contract**

Award will not be final until MDOR and the proposer have negotiated and executed a written contractual agreement and this agreement is approved by the Personal Services Contract Review Board. If a contract is awarded, the selected proposer will be required to comply with the terms and conditions, in Appendix A, that will be a part of the contract. The resulting contract shall be governed by the applicable provisions of the Mississippi Personal Service Contact Review Board Rules and Regulations, a copy of which is available at 210 East Capitol Suite 800, Jackson, MS 39201 for inspection, or downloadable at <https://www.mspb.ms.gov>.

**8.0 Submission Procedures**

**8.1 Procedures for Submitting Proposal**

1. Proposals must be written and formatted based on the forms furnished by MDOR, or they may not be considered. Letters will not be considered a part of your proposal. Facsimile transmissions will not be accepted. Failure to submit a proposal in the manner specified will be considered cause for rejection of proposal.
2. Proposals should be typed and single-sided; not handwritten. The proposal shall be signed by a company official with authorization to bind contractor to its provisions and submitted in a sealed envelope or package no later than the time indicated in Section 5.0 Procurement Time Line.
3. Unless submitted in the Mississippi Accountability System Government Information and Collaboration (MAGIC) system, a packet must be delivered by the time indicated for submission in Section 5.0 of the Procurement Time Line. It must be labeled as noted in (E.) below. Proposals not properly marked and opened by mail personnel prior to the opening will be rejected. If submitted in MAGIC documents must be signed and scanned in as an attachment.
4. MDOR reserves the right to decide, on a case-by-case basis, whether to reject with exceptions, modifications or additions outside the parameters set by this RFP, including specifications, as nonresponsive.
5. Sealed proposals should be hand delivered (strongly encouraged) or mailed and labeled as follows:

Mississippi Department of Revenue

Attention: Purchasing Department

Proposal #\_\_\_\_\_\_\_\_

500 Clinton Center Dr

Clinton MS 39056

SEALED PROPOSAL – DO NOT OPEN

OR

Mississippi Department of Revenue

Attention: Purchasing Department

Proposal #\_\_\_\_\_\_\_\_

P O Box 22828

Jackson, MS 39225

SEALED PROPOSAL – DO NOT OPEN

1. The parties submitting proposals are responsible for ensuring they are delivered by the required time assuming all risk of delivery. MDOR will not be responsible for mail delays or lost mail. Delays due to system down time or weather will be reviewed on a case by case basis and the proposer should notify MDOR Purchasing Director of such occurrences. Proposals and modifications or corrections thereof received after the closing time specified will not be considered. Any proposal received subsequent to the specified date and time will be returned to the prospective contractor unopened.

**8.2 Submission Format**

The Proposal package must be sealed and must contain the following (located in Attachment A):

1. Certification to sign on behalf of the company
2. Proposal Form
3. References
4. Acknowledgement of Amendments
5. Secretary of State Acknowledgement
6. Conflict of Interest Disclosure Statement
7. Technical Proposal

**9.0 Responsibilities & Duties**

**9.1 MDOR Responsibilities**

1. MDOR provides state corporate income tax data for all requested corporate taxpayers. MDOR will request return information from the taxpayer and provide to the Contractor once a contract is agreed upon and confidentiality agreements are executed. Federal Tax information is not provided.
2. MDOR reviews audit leads and selects taxpayers to be included in Audit and Legal Analysis Summary Report.
3. MDOR selects taxpayers to be included in Transfer Pricing Analysis Reports.
4. MDOR will review form letters or other communication provided by Contractor and make changes as needed prior to MDOR mailing.
   1. **Contractor Responsibilities**
5. Provide audit leads. This information shall initially be provided ranking the companies with the highest recommended IRC § 482 tax adjustments to the lowest recommended IRC § 482 tax adjustments. MDOR will consider the recommendation of the Contractor as to other factors which may relate to the priority of audit leads.
6. Provide Audit and Legal Analysis Summary Reports. This will include the initial basis for the potential adjustment for taxpayers selected by the MDOR from the audit leads.
7. Contractor will provide draft Information Document Requests as well as analysis of documents and responses received.
8. Contractor will provide a Transfer Pricing Analysis Report for taxpayers designated by the MDOR from the taxpayers included in the Audit and Legal Analysis Summary Reports. This will include any and all information needed to satisfy the requirements under IRC § 482 and the Mississippi Code. This report will be in a form to submit as evidence in administrative hearings or trials in court. The report should contain all of the information necessary to support the tax adjustments based on IRC Section 482. It can be an accumulation of numerous documents related to the adjustment, but should also include an expert’s summary of the proposed adjustment that may be used in administrative hearings or court.

MDOR acknowledges that strict adherence to the provisions of IRC (1986) Section 482 and its regulations requires complete facts and the documentation, and that reports will be consistent with those provisions, to the extent possible, and necessary, based upon the facts and circumstances of each taxpayer.

1. Contractor will provide audit and litigation support for all actions taken on the taxpayers designated for a Transfer Pricing Analysis Report. This shall include providing an expert witness at the Board of Tax Appeals and court.
2. Contractor will train MDOR employees on Transfer Pricing Analysis methods and provide assistance in reviewing and responding to taxpayer transfer pricing studies and other taxpayer correspondence. On-the-job training of MDOR dedicated staff assigned to work with the Contractor in the course of an audit and other types of training will qualify as responsive to this RFP. However, training provided in a classroom type atmosphere to MDOR staff may result in higher evaluation score using the criteria listed in Section 7.9 of this RFP.

**Appendix A**

**Terms and Conditions**

**Debarment**

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

**Required Clauses for Procurement**

**Applicable Law** (also included in any contract awarded under this RFP)

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.

**Availability of Funds** (also included in any contract awarded under this RFP)

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

**Procurement Regulations** (also included in any contract awarded under this RFP)

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>.

**Compliance with Laws** (also included in any contract awarded under this RFP)

Contractor understands that the MDOR 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.

**Stop Work Order** (also included in any contract awarded under this RFP)

(1) *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:

(a) cancel the stop work order; or,

(b) terminate the work covered by such order as provided in the Termination for Default clause or the Termination for Convenience clause of this contract.

(2) *Cancellation or Expiration of the Order*: If a stop work order issued under this clause is 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:

(a) the stop work order results in an increase in the time required for, or in Contractor’s properly allocable to, the performance of any part of this contract; and,

(b) 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.

(3) *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.

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

**Representation Regarding Contingent Fees** (also included in any contract awarded under this RFP)

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

**Representation Regarding Gratuities** (also included in any contract awarded under this RFP)

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

**Acknowledgment of Amendments**

Offerors shall acknowledge receipt of any amendment to the solicitation by signing and returning the amendment with the proposal, by identifying the amendment number and date in the space provided for this purpose on the proposal, or by letter. The acknowledgment must be received by MDOR by the time and at the place specified for receipt of proposals.

**Certification of Independent Price Determination**

The offeror certifies that the prices submitted in response to the solicitation have been arrived at independently and without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to those prices, the intention to submit a proposal, or the methods or factors used to calculate the prices proposed.

**Prospective Contractor’s Representation Regarding Contingent Fees (To be placed in prospective Contractor’s response bid or proposal.)**

The prospective Contractor represents as a part of such Contractor’s bid or proposal that such Contractor has/has not (use applicable word or words) retained any person or agency on a percentage, commission, or other contingent arrangement to secure this contract.

**E-Payment** (also included in any contract awarded under this RFP)

Contractor agrees to accept all payments in United States currency via the State of Mississippi’s electronic payment and remittance vehicle. MDOR 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. Miss. Code Annotated § 31-7-305.

**E-Verification** (also included in any contract awarded under this RFP)

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. Miss. Code Annotated. §§ 71-11-1 et seq. The term “employee” as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, “status verification system” means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor agrees to maintain records of such compliance. Upon request of the State and after approval of the Social Security Administration or Department of Homeland Security when required, Contractor agrees to provide a copy of each such verification. Contractor further represents and warrants that any person assigned to perform services hereafter meets the employment eligibility requirements of all immigration laws. The breach of this agreement may subject Contractor to the following:

(1) termination of this contract for services and ineligibility for any state or public contract in Mississippi for up to three (3) years with notice of such cancellation/termination being made public;

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

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

**Transparency** (also included in any contract awarded under this RFP)

This contract, including any accompanying exhibits, attachments, and appendices, is subject to the “Mississippi Public Records Act of 1983,” and its exceptions. See Miss. Code Annotated §§ 25- 61-1 et seq., and Miss. Code Annotated § 79-23-1. In addition, this contract is subject to the provisions of the Mississippi Accountability and Transparency Act of 2008. Miss. 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.

**Trade Secrets, Commercial and Financial Information** (also included in any contract awarded under this RFP)

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.

**Paymode** (also included in any contract awarded under this RFP)

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.

**STANDARD TERMS AND CONDITIONS INCLUDED IN ANY CONTRACT AWARDED UNDER THIS RFP INCLUDE:**

**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.

**Antitrust**

By entering into a contract, Contractor conveys, sells, assigns, and transfers to the MDOR all rights, titles, and interest it may now have, or hereafter acquire, under the antitrust laws of the United States and the State that relate to the particular goods or services purchased or acquired by the MDOR under said contract.

**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.

**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.

**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.

**Change in Scope of Work**

The MDOR may order changes in the work consisting of additions, deletions, or other revisions within the general scope of the contract. No claims may be made by Contractor that the scope of the project or of Contractor’s services has been changed, requiring changes to the amount of compensation to Contractor or other adjustments to the contract, unless such changes or adjustments have been made by written amendment to the contract signed by the MDOR and Contractor. If Contractor believes that any particular work is not within the scope of the project, is a material change, or will otherwise require more compensation to Contractor, Contractor must immediately notify the MDOR in writing of this belief. If the MDOR believes that the particular work is within the scope of the contract as written, Contractor will be ordered to and shall continue with the work as changed and at the cost stated for the work within the contract.

**Confidentiality**

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

**Contractor Personnel**

The MDOR 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 MDOR reasonably rejects staff or subcontractors, Contractor must provide replacement staff or subcontractors satisfactory to the MDOR in a timely manner and at no additional cost to the MDOR. The day-to-day supervision and control of Contractor’s employees and subcontractors is the sole responsibility of Contractor.

**Failure to Deliver**

In the event of failure of Contractor to deliver services in accordance with the contract terms and conditions, the MDOR, 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 MDOR may have.

**Failure to Enforce**

Failure by the MDOR 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 MDOR to enforce any provision at any time in accordance with its terms.

**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.

**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.

**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 MDOR, and the MDOR shall be at no time legally responsible for any negligence or other wrongdoing by Contractor, its servants, agents, or employees. The MDOR 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 MDOR shall not provide to Contractor any insurance coverage or other benefits, including Worker’s Compensation, normally provided by the State for its employees.

**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.

**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 Contractor: name, title, Contractor, address

For the agency:

Mississippi Department of Revenue

Herb Frierson, Commissioner

P O Box 22828

Jackson MS 39225

**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 MDOR and agreed to by Contractor.

**Ownership of Documents and Work Papers**

MDOR 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 MDOR 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 MDOR and subject to any copyright protections.

**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.

**Recovery of Money**

Whenever, under the contract, any sum of money shall be recoverable from or payable by Contractor to MDOR, the same amount may be deducted from any sum due to Contractor under the contract or under any other contract between Contractor and MDOR. The rights of MDOR are in addition and without prejudice to any other right MDOR may have to claim the amount of any loss or damage suffered by MDOR on account of the acts or omissions of Contractor.

**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.

**Termination for Convenience**

1. *Termination*. The Agency Head or designee may, then the interests of the State so require, terminate this contract in whole or in part, for the convenience of the State. The Agency Head or designee shall give written notice of the termination to the Contractor specifying the part of the contract terminated and when termination becomes effective.
2. *Contractor's Obligations*. Contractor shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination 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.

**Termination for Default**

1. *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 procurement officer 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 procurement officer may procure similar supplies or services in a manner and upon terms deemed appropriate by the Agency Head or designee. Contractor shall continue performance of the contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services.
2. *Contractor's Duties.* Notwithstanding termination of the contract and subject to any directions from the procurement officer, Contractor shall take timely, reasonable, and necessary action to protect and preserve property in the possession of Contractor in which the State has an interest.
3. *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.
4. *Excuse for Nonperformance or Delayed Performance*. Except with respect to defaults of subcontractors, Contractor shall not be in default by reason of any failure in performance of this contract in accordance with its terms (including any failure by Contractor to make progress in the prosecution of the work hereunder which endangers such performance) if Contractor has notified the Agency Head or designee within 15 days after the cause of the delay and the failure arises out of causes such as: acts of God; acts of the public enemy; acts of the State and any other governmental entity in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. If the failure to perform is caused by the failure of a subcontractor to perform or to make progress, and if such failure arises out of causes similar to those set forth above, Contractor shall not be deemed to be in default, unless the services to be furnished by the subcontractor were reasonably obtainable from other sources in sufficient time to permit Contractor to meet the contract requirements. Upon request of Contractor, the Agency Head or designee shall ascertain the facts and extent of such failure, and, if such officer determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, Contractor's progress and performance would have met the terms of the contract, the delivery schedule shall be revised accordingly, subject to the rights of the State under the clause entitled (in fixed-price contracts, "Termination for Convenience," in cost-reimbursement contracts, "Termination"). (As used in this Paragraph of this clause, the term "subcontractor" means subcontractor at any tier).
5. *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.
6. *Additional Rights and Remedies*. The rights and remedies provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

**Termination upon Bankruptcy**

This contract may be terminated in whole or in part by MDOR 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 benefits 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.

**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.

**Unsatisfactory Work**

If, at any time during the contract term, the service performed or work done by Contractor is considered by MDOR 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 MDOR, immediately correct such deficient service or work. In the event Contractor fails, after notice, to correct the deficient service or work immediately, MDOR shall have the right to order the correction of the deficiency by separate contract or with its own resources at the expense of Contractor.

**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.

**Compliance With IRS Safeguards**

1. Performance

In performance of this contract, the contractor agrees to comply with and assume responsibility for compliance by his or her employees with the following requirements:

(1) All work will be done under the supervision of the contractor or the contractor's employees.

(2) The contractor and the contractor’s employees with access to or who use FTI must meet the background check requirements defined in IRS Publication 1075.

(3) Any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material will be treated as confidential and will not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Disclosure to anyone other than an officer or employee of the contractor will be prohibited.

(4) All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output will be given the same level of protection as required for the source material.

(5) The contractor certifies that the data processed during the performance of this contract will be completely purged from all data storage components of his or her computer facility, and no output will be retained by the contractor at the time the work is completed. If immediate purging of all data storage components is not possible, the contractor certifies that any IRS data remaining in any storage component will be safeguarded to prevent unauthorized disclosures.

(6) Any spoilage or any intermediate hard copy printout that may result during the processing of IRS data will be given to the agency or his or her designee. When this is not possible, the contractor will be responsible for the destruction of the spoilage or any intermediate hard copy printouts, and will provide the agency or his or her designee with a statement containing the date of destruction, description of material destroyed, and the method used.

(7) All computer systems receiving, processing, storing or transmitting FTI must meet the requirements defined in IRS Publication 1075. To meet functional and assurance requirements, the security features of the environment must provide for the managerial, operational, and technical controls. All security features must be available and activated to protect against unauthorized use of and access to Federal Tax Information.

(8) No work involving Federal Tax Information furnished under this contract will be subcontracted without prior written approval of the IRS.

(9) The contractor will maintain a list of employees authorized access. Such list will be provided to the agency and, upon request, to the IRS reviewing office.(10) The agency will have the right to void the contract if the contractor fails to provide the safeguards described above.

1. Criminal/Civil Sanctions

(1) Each officer or employee of any person to whom returns or return information is or may be disclosed will be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as $5,000 or imprisonment for as long as 5 years, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized further disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than $1,000 with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRCs 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.

(2) Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of the contract. Inspection by or disclosure to anyone without an official need-to-know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as $1,000 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee [United States for Federal employees] in an amount equal to the sum of the greater of $1,000 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. These penalties are prescribed by IRC 7213A and 7431 and set forth at 26 CFR 301.6103(n)-1.

(3) Additionally, it is incumbent upon the contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than $5,000.

(4) Granting a contractor access to FTI must be preceded by certifying that each individual understands the agency’s security policy and procedures for safeguarding IRS information. Contractors must maintain their authorization to access FTI through annual recertification. The initial certification and recertification must be documented and placed in the agency's files for review. As part of the certification and at least annually afterwards, contractors must be advised of the provisions of IRCs 7431, 7213, and 7213A (see *Exhibit 4, Sanctions for Unauthorized Disclosure*, and *Exhibit 5, Civil Damages for Unauthorized Disclosure*). The training provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches. (See Section 10) For both the initial certification and the annual certification, the contractor must sign, either with ink or electronic signature, a confidentiality statement certifying their understanding of the security requirements.

1. Inspection

The IRS and the Agency, with 24 hour notice, shall have the right to send its inspectors into the offices and plants of the contractor to inspect facilities and operations performing any work with FTI under this contract for compliance with requirements defined in IRS Publication 1075. The IRS’ right of inspection shall include the use of manual and/or automated scanning tools to perform compliance and vulnerability assessments of information technology (IT) assets that access, store, process or transmit FTI. On the basis of such inspection, corrective actions may be required in cases where the contractor is found to be noncompliant with contract safeguards.

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| **Appendix B**  **MISSISSIPPI DEPARTMENT OF REVENUE (MDOR)**  **Confidentiality of Information** |

**Purpose** To define the confidentiality of all information within the Department of

Revenue (MDOR)

**General** All information within the MDOR is to be held in the strictest confidence. No employee of the MDOR is authorized to divulge any return information without the prior approval of the Commissioner or the director of a division, as applicable.

State law provides penalties for conviction of unauthorized disclosures of data from tax returns and related return information.

In addition to the other penalties, employees are also subject to dismissal from employment with the MDOR for a breach of agency security or confidentiality.

**Federal Tax** Since federal information is used by the MDOR, you are advised that

**Information** unauthorized disclosure of information may subject you to federal

**(FTI)** prosecution under the Internal Revenue Code. Federal law provides for both civil and criminal penalties for conviction of unauthorized disclosure of any federal tax return and return information data.

It shall be unlawful for any person willfully to disclose to any person any return or return information acquired by him or another person. Any violation of this shall be a felony punishable by a fine in any amount not exceeding $5,000 or imprisonment of not more than 5 years, or both, together with the cost of prosecution.

It shall be unlawful for any person willfully to inspect any return information acquired by such person or another person. Any violation shall be punishable upon conviction by a fine in any amount not exceeding $1,000, or imprisonment of not more than 1 year, or both, together with the cost of prosecution.

**Definitions** **Return-** The term “return” means any tax information return, declaration of estimated tax, or claim for refund required by, or provided for or permitted under, the provisions of the federal or state statutes and any amendment or supplement thereof, including supporting schedules attachments or lists which are supplemental to, or part of the return filed.

**Return Information**- The term “return information” means a taxpayer’s identity, the nature, source, or amount of his income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, over assessments, or tax payments, whether the taxpayer’s return was, is being, or will be examined or subject to other investigation or processing, or any other data, received by, recorded by, prepared by, furnished to, or collected by the IRS or the MDOR with respect to a return or with respect to the determination of the existence, or possible existence, of liability (or the amount thereof) of any person for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense, and any part of any written determination or any background file document relating to such written determination which is not open to the public inspection, but such term does not include data in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

As an employee of\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ working on assignment for the MS Dept of Revenue, I have read and agree to abide by the policies stated above.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Signature** **Date**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Printed Name**

**Attachment A**

**Proposal Package**

**Transfer Pricing Services**

*Be sure to answer and complete each question as requested. All responses must follow the instructions provided. This requirement is a precondition to scoring.*

**Certification**

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

1. That he/she has thoroughly read and understands the terms and conditions in Appendix A, instructions and specifications for the Request for Proposal and Attachments.
2. The company meets all requirements and acknowledges all certifications contained in the RFP and Attachments.
3. The company agrees to all provisions of the RFP and Attachments
4. The company will perform the services required at the prices quoted on the proposal form.
5. The company 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 the contractor’s proposal.

*[Please execute and return with Proposal Materials.]*

Company:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Signature\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Title:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Printed Name:

**Proposal Form**

Proposal Number**:**\_\_\_\_\_\_\_\_\_

Gentlemen:

Pursuant to the advertisement for proposal to be received, I/We \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_located at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

do submit our proposal. This proposal is made without collusion on the part of any person, firm or corporation. All requirements in Section 9.2 of the RFP including training and providing audit leads are still applicable but the number of Transfer Pricing Analysis Reports will be limited as detailed below for each option. Due to the statutory language appropriating funds for the payment of these services, the percentage contingency fee listed below may not exceed ten percent (10%).

Option A: Transfer Pricing Analysis Reports – 12 Reports

**Percentage Contingency Fee** \_\_\_\_\_\_\_\_\_\_%

The maximum payment for this option would be $1,000,000.00.

(Also note on Proposal Form in Attachment A).

Option B: Transfer Pricing Analysis Reports – 9 Reports

**Percentage Contingency Fee** \_\_\_\_\_\_\_\_\_\_%

The maximum payment for this option would be $750,000.00.

(Also note on Proposal Form in Attachment A).

Option C: Transfer Pricing Analysis Reports – 6 Reports

**Percentage Contingency Fee** \_\_\_\_\_\_\_\_\_\_%

The maximum payment for this option would be $500,000.00.

(Also note on Proposal Form in Attachment A).

Option D: Transfer Pricing Analysis Reports – 3 Reports

**Percentage Contingency Fee** \_\_\_\_\_\_\_\_\_\_%

The maximum payment for this option would be $250,000.00.

(Also note on Proposal Form in Attachment A).

Exceptions and/or Deviations to terms and conditions? Yes\_\_\_ No\_\_\_

**(If yes, please list separately in detail per 7.18 of the RFP.)**

………………………………………………………………………………………………

Company:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Signature:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Printed name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Title:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Phone:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

E-mail Address\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**References**

**REFERENCE #1**

Name of Company:

Contact Person:

Address:

City/State/Zip:

Telephone Number:

Cell Number:

E-mail:

Alternative Contact Person (optional):

Telephone Number:

Cell Number:

E-mail:

**REFERENCE #2**

Name of Company:

Contact Person:

Address:

City/State/Zip:

Telephone Number:

Cell Number:

E-mail:

Alternative Contact Person (optional):

Telephone Number:

Cell Number:

E-mail:

**REFERENCE #3**

Name of Company:

Contact Person:

Address:

City/State/Zip:

Telephone Number:

Cell Number:

E-mail:

Alternative Contact Person (optional):

Telephone Number:

Cell Number:

E-mail:

**REFERENCE #4**

Name of Company:

Contact Person:

Address:

City/State/Zip:

Telephone Number:

Cell Number:

E-mail:

Alternative Contact Person (optional):

Telephone Number:

Cell Number:

E-mail:

**REFERENCE #5**

Name of Company:

Contact Person:

Address:

City/State/Zip:

Telephone Number:

Cell Number:

E-mail:

Alternative Contact Person (optional):

Telephone Number:

Cell Number:

E-mail:

**REFERENCE #6**

Name of Company:

Contact Person:

Address:

City/State/Zip:

Telephone Number:

Cell Number:

E-mail:

Alternative Contact Person (optional):

Telephone Number:

Cell Number:

E-mail:

**Acknowledgement of Amendments**

Please sign and print at the appropriate statement.

I acknowledge receipt of all amendments associated with **Proposal** **#\_\_\_\_\_\_\_\_\_\_.**

They are as follows:

1.

2.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Printed Name Company Name**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Signature**

There were no amendments associated with **Proposal #\_\_\_\_\_\_\_\_\_\_\_\_\_\_.**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Printed Name Company Name**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Signature**

**Secretary of State Acknowledgement**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, acknowledges that we

(Vendor Name)

\_\_\_\_\_\_\_\_ are registered with the Secretary of State’s Office.

(Attach proof)

\_\_\_\_\_\_\_\_ are not registered with the Secretary of State’s Office.

We, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Vendor Name)

\_\_\_\_\_\_\_ will register before the start of the contract and provide proof.

\_\_\_\_\_\_\_ will not register.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_

Signature Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Printed Name

**Conflict of Interest**

**Disclosure Statement**

Conflict of Interest – Involvement, financial or otherwise, that an employee, officer, or agent of MDOR may have in the proposing organization; and any involvement, financial or otherwise, that any employee, officer of any other governmental agency may have in the proposing organization.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, acknowledges that we

(Vendor Name)

\_\_\_\_\_\_\_\_ do not have a conflicting interest to report.

\_\_\_\_\_\_\_\_ do have a conflicting interest (please disclose below).

Describe the Nature of the Conflicting Interest:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_

**Signature Date**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Printed Name**

**Technical Proposal:** The following documents and responses will be included in the Technical Proposal and tabbed as such in the order given below.

**1. Letter of Introduction:**  An individual authorized to legally bind the Contractor must submit and sign a Letter of Introduction. The person who signs the letter will be considered the contact person for all matters pertaining to the Offer unless the Contractor designates another person in writing. The letter should include a very brief overview of what your company has to offer and why you think your company should be selected as the Contractor to provide the services relative to the RFP.

**2. Executive Summary:** The Contractor must prepare an Executive Summary to include a more detailed overview of the services of its offering. This will include a general description about the company, including the nature of the business, years in operation, number of employees, types of services offered and any experience in similar situations. The Contractor should include statements that demonstrate the understandings of services required as noted in the Section 1.0 Purpose, Section 2.0 Characteristics of Work, and Section 9.2 Contractor Responsibilities.

**3. Business and Directory Information:** Contractor must provide the following:

1. Name of Business (Official Name and D/B/A)
2. Business Headquarters (include Address, Telephone, and Facsimile)
3. If a Division or Subsidiary of another organization provide the name and address of the parent
4. Billing address
5. Name of Chief Executive Officer
6. Customer Contact (include name, title, address, telephone, toll-free number, facsimile and e-mail)
7. Company web site
8. Type of Organization (i.e. Sole Proprietor, Corporation, Partnership, etc. –should be the same as on the Taxpayer ID Form)
9. Length of time in business
10. Annual Sales (for the two most recently completed Fiscal Years)
11. Number of full-time employees (average from the two most recent Fiscal Years)
12. Type of and description of business
13. State of incorporation, state of formation or state of organization
14. Identify and specify the location(s) and telephone numbers of the major offices and other facilities that relate to the Contractor’s performance under the terms of the RFP

**4. Technical Approach** (Plan to Address the Services Required by the Agency)

**4.1** How do you propose to administer and manage our contract including communication and remitting reports?

* 1. How do you propose to train the MDOR staff?
  2. How do you propose to create the Audit Lead list?

**4.4** What information and documents do you propose to provide with the Audit and Legal Analysis Summary Report?

**4.5** What information and documents do you propose to provide with the Transfer Pricing Analysis Report?

**4.6** What additional services, if any, above the minimum requirements in the RFP will you provide?

**5. Technical Experience:** The Contractor must provide the following information regarding its experience:

* 1. Provide information regarding the Contractor’s organization, staffing pattern, staffing qualifications and management support that will enhance the ability of the Contractor to provide services.
  2. Number of years’ experience with providing types of services specified in Section 1.0 Purpose, Section 2.0 Characteristics of Work, and Section 9.2 Contractor Responsibilities.
  3. Include information supporting a history of the quality of the services the Contractor has provided.

**6. Personnel:**  The Contractor must provide resumes for all key personnel, including the account manager, who will be involved in providing the services contemplated by this RFP. Resumes must include the full name, education background, and years of experience and employment history particularly as it relates to the scope of services specified herein.

**7. Financial Capacity Information:** At its option, Contractor may submit either a comparative audit, which would include data from prior year and the year previous to that, audits for the past two (2) years if a comparative is not available, or end of year financial statements for the last two (2) years if an audit has not occurred. Contractor may also be required to provide additional financial information upon request. If Contractor cannot provide either type of documents, the proposal will still be considered responsive and responsible. However, please be aware that each proposal will be evaluated utilizing the criteria listed in Section 7.9 based on the information provided by the proposer. Therefore, failure to provide these documents may result in a lower evaluation score.

**8. Cost:** Please identify your percentage contingency fee for the detailed options. All options have a maximum price, require the training of MDOR staff, and require audit leads to be generated as well as audit and legal analysis summaries. Revenue to be included in the computation of the contingency fee due must be received by the MDOR by August 15 following the end of the contract.

Option A: Transfer Pricing Analysis Reports – 12 Reports

**Percentage Contingency Fee** \_\_\_\_\_\_\_\_\_\_%

The maximum payment for this option would be $1,000,000.00.

(Also note on Proposal Form in Attachment A).

Option B: Transfer Pricing Analysis Reports – 9 Reports

**Percentage Contingency Fee** \_\_\_\_\_\_\_\_\_\_%

The maximum payment for this option would be $750,000.00.

(Also note on Proposal Form in Attachment A).

Option C: Transfer Pricing Analysis Reports – 6 Reports

**Percentage Contingency Fee** \_\_\_\_\_\_\_\_\_\_%

The maximum payment for this option would be $500,000.00.

(Also note on Proposal Form in Attachment A).

Option D: Transfer Pricing Analysis Reports – 3 Reports

**Percentage Contingency Fee** \_\_\_\_\_\_\_\_\_\_%

The maximum payment for this option would be $250,000.00.

(Also note on Proposal Form in Attachment A).

The number of Transfer Pricing Analysis Reports listed under each option are the minimum number of reports required. Vendor may submit additional Audit and Legal Analysis Summaries and Transfer Pricing Analysis Reports beyond the minimum requirement for each option at the agreement of both parties should the vendor believe that such additional summaries and reports will result in additional collection opportunities. However, at no time shall the payment exceed the maximum payment listed for whichever option is selected by the Department.