**INVITATION FOR BIDS**

**Statewide Training Program**

**And**

**Short Courses for Water Operators**



**Mississippi State Department of Health**

**Bureau of Public Water Supply**

**570 East Woodrow Wilson Avenue, Suite U-232**

**Jackson, MS 39215**

**Contact: Christi Brantley**

[**christi.brantley@msdh.ms.gov**](mailto:christi.brantley@healthyms.com)

**Date: June 18, 2015**

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# Section 1 – Purpose

The Mississippi State Department of Health (MSDH) is inviting bids from qualified organizations to conduct a statewide training program for water operators of Mississippi’s public water systems. Additionally, the contractor will conduct two one-week waterworks operator short courses per year to prepare waterworks operators to take the Mississippi State Department of Health’s waterworks operator certification examinations.

# Section 2 – Timeline

|  |  |
| --- | --- |
| Invitation for Bids (IFB) Issue Date: | June 18, 2015 |
| Questions to MSDH Deadline: | July 6, 2015 |
| Bid Submission Deadline: | July 8, 2015 (5 PM CST) |
| Bid Opening: | July 9, 2015 |
|  |  |

MSDH reserves the right to amend and adjust this schedule, as it deemsnecessary.

# Section 3 - MSDH Contact and Questions/Requests for Clarification

**3.1** All questions and requests for clarification must be directed by email to:

**Christi Brantley, Director**

**Training and Monitoring Branch**

**Bureau of Public Water Supply**

**Mississippi State Department of Health**

Email: [**christi.brantley@msdh.ms.gov**](mailto:christi.brantley@msdh.ms.gov)

**3.2** Questions and requests for clarification must be submitted via email by the deadline reflected in Section 2.

**3.3** The MSDH will not be bound by any verbal or written information that is not contained within this IFB unless formally noticed and issued by the contact person.

**3.4** MSDH reserves the right to amend this IFB at any time prior to the date for bid submittal. If amended within five (5) days of the submittal date, the submittal date will be adjusted.

# Section 4 – Scope of Services and Contract Deliverables

Devise a written bid that clearly and fully explains how the contractor will complete the items listed below.

**4.1** The contractor will develop a training program that is geographically distributed throughout the state of Mississippi.

**4.2** The contractor will make all arrangements related to conducting the statewide training program to include, but not limited to, conducting six (6) one-day (six hours of training per session) training sessions statewide, submitting Waterworks Operator Training Submittal Form, MSDH Form 457, to the Bureau of Public Water Supply for training approval and inclusion into MSDH’s training calendar 45 days prior to the training session and reporting CEU hours for entry into the Operator Database in a timely manner. The MSDH will have input in the selection of topics and speakers for CEU classes, especially the CEU classes offered at short courses.

**4.3** The contractor will provide all training aids (audio-visual, etc.) required for the training program. The contractor will make all necessary local arrangements for each training session to include rental space when necessary. All training materials needed for effective participation will be provided by the contractor.

**4.4** The contractor will provide MSDH with a report of activities conducted under this contract. The report will include, but not be limited to, details of training sessions conducted, number of attendees and related problems that occurred during or as part of the training session and the solution. A training program evaluation form will be developed and used by the contractor. The form will be provided to each attendee at the end of each training session. A consolidated report will be submitted to MSDH for review along with the report.

**4.5** Two one-week waterworks operator short courses per year will be conducted by the contractor to prepare waterworks operators to take the MSDH waterworks operator certification examinations. The locations of the short courses will be determined by the MSDH.

**4.6** The contractor will make all arrangements related to conducting these short courses to include, but not limited to, securing adequate training and testing facilities at each short course, establishing and providing an approved advertising program for notifying water operators and water systems of scheduled short courses, establishing and conducting registration activities for the short course and certification exam. The facilities must be able to accommodate separate classes for Classes A, B, C and two classes for D. There must also be adequate space for administering the certification exam.

**4.7** All necessary training aids for instructors such as video projectors, projection screens, computers, white boards, etc. will be provided by the contractor. Any aids needed to assist in administering the certification exam such as overhead projectors, whiteboards, etc. will also be provided by the contractor.

**4.8** A written report following each short course using a format approved by the MSDH will be provided by the contractor. The report will accompany payment requests to the MSDH. It will include the number of attendees at the short course by Class and the number taking the certification exam. Any fees associated with ordering certification exams will be paid by the contractor. Each payment will be for the pro rata share of the annual work required by the contract. Review sessions between the MSDH and contractor will be conducted by the contractor following each short course to assess the contract’s progress, make plans for the next short course and make adjustments as necessary.

# Section 5- Minimum Bidder Qualifications to be Deemed Responsible

**5.1** Contractor must have been in business and provided training services similar in requirements and scale to those described in this IFB for a minimum of five years.

**5.2** The MSDH will receive bids from those having specific experience and qualifications in the area identified in the solicitation. For consideration, bids for the project must contain evidence of the proposer’s experience and abilities in the specified area related to the proposed service. Other information required by the MSDH may be included elsewhere in the solicitation. Unless otherwise stated, all bidders shall provide profiles and resumes of the staff to be assigned to the project, references, examples of similar work performed, and any other information that clearly demonstrates the bidder’s expertise in the area of the solicitation.

# Section 6- Bid Submission Requirements

**6.1 Submission Format**

The written bid package must be sealed and must contain the following:

**6.1.1** Bid Cover Sheet (Attachment A)

**6.1.2** Bid Form (Attachment B) – Include a firm fixed price for performing the services over a maximum of two year contract period. (Offerors shall furnish an itemized breakdown of their price by contract year, and state the factors considered for calculating the price). Failure to complete and/or sign the bid form may result in bidder being determined nonresponsive.

**6.1.3** General Background Information- Describe your organization/ program, existing services and proposed services for the Bureau of Public Water Supply in the following sequence:

**1.** Include the name of the Offeror, the location of the Offeror’s principal place of business and, if different, the place of performance of the proposed contract;

**2.** Include the age of the Offeror’s business and the average number of employees over the past three (3) years;

**3.** Include a listing of equipment, software, technical material and facilities currently available or demonstrated to be made available to the Offeror for performing the required services.

**4.** Include resume’ listing abilities, qualifications and experience of all individuals who will be assigned to provide the required services;

**6.1.4** Service Capabilities- Provide a narrative describing your organization’s capabilities and plans for accomplishing the service under this contract. Provide sufficient detail to enable MSDH to make a determination as to:

**1.** The overall approach to be employed in providing the service; including a plan giving as much detail as practical explaining how the services will be performed;

**2.** Your ability to carry out the objectives. Include a project work plan detailing information such as project critical tasks, milestones, the time frames for completion; budget and all other processes to be employed in delivery of services. Be sure to also include all other projected non-labor, direct and indirect costs;

**3.** Include a brief description of similar contracts completed (if any) and references for each of these contracts to include a current point of contact with phone number;

**4.** Include a listing of contracts with MSDH performed or undertaken within the past five (5) years with services similar in scope, size, or discipline to include a written self-assessment of the Offeror’s level of performance under these contracts;

**5.** The following activities are to be included in the narrative for the bid submission. Please provide detail as to the methods to be employed to meet these tasks. This information, along with the IFB and the submitted bid will be part termed as “Additional Contractual Terms” in the executed contract. The contractor will be bound to all terms as delineated in the IFB, their bid and the executed contract.

**a.** Task one-Develop and conduct a statewide training program for Mississippi waterworks operators.

**b.** Task two- Conduct two one-week waterworks operator short courses per year.

**6.1.5** Cost Summary and Budget Narrative- List and explain the costs for the proposed project, detailing the rate structure and provide detailed information in narrative form discussing the proposed budget.

**6.2 Submission Requirements**

**6.2.1 All Bids Submitted in Response to this Invitation shall be in Writing.**

**6.2.2** The original bid package and two copies of the bid package shall be signed and submitted in a sealed envelope or package to 570 East Woodrow Wilson Avenue, Suite U-232, Jackson, MS 39215 no later than **5:00 PM CST, July 8, 2015.** (Also see, 6.2.6)

**6.2.3** Timely submission of the bid package is the responsibility of the bidder. Bids received after the specified time will be rejected and returned to the bidder unopened.

**6.2.4** The time and date of receipt will be indicated on the envelope or package by MSDH staff.

**6.2.5** All bid packages must be received by MSDH no later than **5:00 PM CST, July 8, 2015.** Bids submitted via facsimile (faxes) **will not** be accepted. It is suggested that if a bid is mailed to MSDH, it should be posted in certified mail with a return receipt requested. **MSDH will not be responsible for mail delays or lost mail.**

**6.2.6** Sealed, written bids should be mailed or hand-delivered to and labeled as follows:

**Statewide Training Program and Short Courses**

**Mississippi State Department of Health**

**Bureau of Public Water Supply**

**Attention: Christi Brantley**

**570 East Woodrow Wilson Avenue, Suite U-232**

**Jackson, MS 39215**

**SEALED BID- DO NOT OPEN**

# Section 7- Proposer Certification

The bidder agrees that submission of a signed bid form is certification that the bidder will accept an award made to it as a result of the submission.

# Section 8- Debarment

By submitting a bid, the bidder certifies that it is not currently debarred or suspended from submitting bids for contracts issued by an 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 bids for contracts issued by any political subdivision or agency of the State of Mississippi.

# Section 9- Registration with Mississippi Secretary of State

By submitting a bid, the bidder certifies that it is registered to do business with the Mississippi Secretary of State or, if not already registered, that it will do so within seven business days of being notified by the MSDH of the pending contract award.

# Section 10- Award

**10.1** The MSDH will award the bid to the lowest and best bidder who meets all required specifications. Factors to be used in determining the winning bid include: price, conformity with specifications and responsibility of the bidder.

**10.2** Bidder will be notified via e-mail of the award. Additionally, a letter will be sent to the winning bidder.

**10.3** Compensation for services will be in the form of a firm fixed price agreement.

# Section 11- Procurement Methodology

**11.1 Restrictions on Communication with MSDH Staff**

At no time shall any bidder or its personnel contact, or attempt to contact, any MSDH staff regarding this IFB except the contact person as set forth in Section 3.

**11.2 Cost of Preparing Bid**

The MSDH accepts no responsibility for any expense incurred by any bidder in the preparation of a bid. Such expenses shall be borne exclusively by the bidder.

**11.3 Disposition of Bids**

All submitted bids become the property of the State of Mississippi.

**11.4 Rejection of Bids**

**11.4.1** A bid that includes terms and conditions that do not conform to the terms and conditions in the IFB document is subject to rejection as non-responsive. Further, submission of a bid form that is not complete and/or signed is subject to rejection as nonresponsive. The MSDH reserves the right to permit the bidder to withdraw nonconforming terms and conditions from its bid prior to a determination by the MSDH of non-responsiveness based on the submission of nonconforming terms and conditions.

**11.4.2** MSDH reserves the right to waive minor defects or variations of a bid from the exact requirements of the specifications that do not affect the price, quality, quantity, delivery, or performance time of the services being procured. If insufficient information is submitted by a bidder with the bid for the MSDH to properly evaluate the bid, the MSDH has the right to require such additional information as it may deem necessary after the time set for receipt of bids, provided that the information requested does not change the price, quality, quantity, delivery, or performance time of the services being procured.

**11.4.3** Any bidder or bid, which does not follow the general instructions as delineated in the IFB, may be rejected.

**11.5 Exceptions and Deviations**

Any bidder taking exception to any part or section of the IFB shall indicate such exceptions on the bid and should be fully described. Failure to indicate any and all exceptions will be interpreted as the bidder’s intent to comply fully with the requirements as written. Conditional or qualified offers, unless specifically allowed, shall be subject to rejection in whole or in part.

**11.6 Withdrawal of Bid**

A bidder may withdraw a bid, prior to the time set for the opening of bids by submitting a written request to the MSDH.

**11.7 Amendment to Bid**

Amendments, revisions and/or alterations to bids may be made and submitted to Christi Brantley; however, none shall be accepted after the bid due date has past.

# Section 12- Conditions Regarding Program Funding

**12.1** An agency or organization choosing to develop a bid with the intent of subcontracting services to other providers should identify such intent in the bid submission, and if selected, must provide the names of the other providers to MSDH upon request.

**12.2** If selected, the contractor must agree to MSDH oversight/monitoring and to provide documentation as requested to MSDH regarding the project.

**12.3** It is the intent of MSDH to enter into a 24 month contract with the option to renew for one year. The contract may be renewed at the discretion of the agency upon written notice to Contractor at least sixty (60) days prior to the contract anniversary date for a period of one (1) successive year under the same prices, terms, and conditions as in the original contract.

**12.4** MSDH reserves the right to terminate any contract at any time subject to specifics, which will be delineated in the contract at the time of execution and may avail itself of all remedies available to protect its interests. Payment for services will be on a cost-reimbursement basis. Payment will be requested by submission of an invoice documenting services of any contract provided. Any request for payment must comply with MSDH and the state of Mississippi accounting requirements. At the end of the contract period, MSDH may, at its discretion, renew the contract.

# Section 13- Proprietary Confidentiality

The bidder should mark any and all pages of the bid considered to be proprietary information which may remain confidential in accordance with Mississippi Code Annotated §§ 25-61-9 and 79-23-1. For all procurement contracts awarded by state agencies, the provisions of the 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, coping, or reproduction in accordance with Mississippi Code Annotated § 25-9-120 and the Mississippi Public Records Act. 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.

# Section 14- Required Clauses for Procurement

**14.1 Acknowledgement of Amendments**

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

**14.2 Independent Price Determination**

By submitting a bid, the bidder certifies that the prices submitted in response to the solicitation have been arrived at independently and without any consultation, communication, or agreement with any other bidder or competitor relating to those prices, the intention to submit a bid, or the methods or factors used to calculate the prices bid.

**14.3 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 that such Contractor has/ has not (*please circle applicable word or words*) retained any person or agency on a percentage, commission, or other contingent arrangement to secure this contract.

**14.4 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.

**14.5 E-Verification**

If applicable, Contractor represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act of 2008, and will register and participate in the status verification system for all newly hired employees. Mississippi Code Annotated §§ 71-11-1 *et seq*. The term “employee” as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, “status verification system” means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor agrees to maintain records of such compliance. Upon request of the State and after approval of the Social Security Administration or Department of Homeland Security when required, Contractor agrees to provide a copy of each such verification. Contractor further represents and warrants that any person assigned to perform services hereafter meets the employment eligibility requirements of all immigration laws. The breach of this agreement may subject Contractor to the following:

1. termination of this contract for services and ineligibility for any state or public contract in Mississippi for up to three (3) years, with notice of such cancellation/termination being made public,
2. the loss of any license, permit, certification or other document granted to Contractor by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year, or
3. both. In the event of such termination/cancellation, 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.

**14.6 Representation Regarding Contingent Fees**

The 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 other contingent fee, except as disclosed in the Contractor’s bid.

* 1. **Representation Regarding Gratuities**

The 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 Contract Review Board Rules and Regulations.*

Section 15- Post Award Debriefing

**15.1 General Statement**

In an effort to build and strengthen business relationships and improve the procurement process between vendors and the State, post-award debriefing is available. The following information may be disclosed during post-award debriefing in accordance with Section 7-112.03 of the *Personal Service Contract Review Board Rules and Regulations:*

1. The agency’s evaluation of significant weaknesses or deficiencies in the vendor’s bid or proposal, if applicable;
2. The overall evaluated cost or price, and technical rating, if applicable, or the successful vendor(s) and the debriefed vendor;
3. The overall ranking of all vendors, when any ranking was developed by the agency during the selection process;
4. A summary of the rationale for award; and,
5. Reasonable responses to relevant questions about selection procedures contained in the solicitation, applicable regulations, and other applicable authorities that were followed.

**15.2 Debriefing Request**

A vendor, successful or unsuccessful, may request a post-award vendor debriefing, in writing, by U.S. mail or electronic submission, to be received by the MSDH within three (3) business days of notification of the contract award. A vendor debriefing is a meeting and not a hearing; therefore, legal representation is not required. If a vendor prefers to have legal representation present, the vendor must notify the MSDH and identify its attorney. The agency shall be allowed to 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.

**15.3 When Requested Debriefing Will Be Conducted**

Unless good cause exists for delay, the debriefing will occur within five (5) business days after receipt of the vendor request and may be conducted during a face-to-face meeting, by telephonic or video conference, or by any other method acceptable to the MSDH.

**15.4 Additional Information Regarding Post-Award Debriefing**

Additional information regarding post-award debriefing may be found in Section 7-113 of the *Personal Service Contract Review Board Rules and Regulations* which may be found at http://www.mspb.ms.gov.

# Section 16- Required Terms and Conditions

Any contract entered into with MSDH may have the clauses found in **Attachment C** and those required by the *Mississippi Personal Service Contract Review Board’s Rules and Regulations* as updated.

# Section 17- Attachments

The attachments to this IFB are made a part of this IFB as if copied herein in words and figures.

# Attachment A – Bid Cover Sheet

MSDH invites your bid for conducting a statewide training program and short courses for Mississippi’s waterworks operators.

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

Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

Contact Person: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Phone Number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Electronic Mail: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Note: It is the bidder’s responsibility to provide adequate information in their bid package to ensure that the bid meets the required MSDH criteria. Items listed in the package shall be in the same order as listed in the specifications. Failure to do so can result in the rejection of the submission.**

# Attachment B- Bid Form for Statewide Training Program and Short Courses

**Total projected cost to MSDH for completion of this project in accordance with all specifications:** $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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 Invitation for Bids and Attachments thereto;
2. That the company meets all requirements contained in the Invitation for Bids thereto;
3. That the company agrees to all provisions of the Invitation for Bids and Attachments thereto including, but not limited to, the Standard Terms and Conditions to be included in any contract resulting from this IFB (Attachment C);
4. That the company will perform the services requested at the price quoted above;
5. That, to the best of its knowledge and belief, the cost or pricing data submitted is accurate, complete, and current as of the submission date;
6. That this bid has been submitted without prior understanding, agreement, or connection with any corporation, firm, or person submitting a bid for the same services, materials, supplies, or equipment and is in all respects fair and without collusion or fraud. I understand that collusive bidding is a violation of state and federal laws and can result in fines, prison sentences, and civil damage awards;
7. That this bid’s representations, certifications, and other statements are accurate and complete;
8. That the company agrees to adhere to all applicable Federal and State laws specifically set out in the contract and/or referenced to in the contractual agreement as well as any requirements such as reporting or monitoring that the contract may employ;
9. That neither the owners, directors, officers, nor employees of your company or program are currently employed by MSDH, nor have been employed by MSDH within the last 12 months prior to submission of your bid;
10. **Employees Not to Benefit** – The bidder certifies that no MSDH employee, member of his/her family, including spouse, parents or children has received or been promised, directly or indirectly, any financial benefit, by way of fee, commission, finder’s fee, political contribution or any similar form of remuneration on account of the act of awarding and/or executing this the contract that may result from the IFB.
11. **NON-Debarment** – By submitting a bid, the bidder certifies that it is not currently debarred from submitting bids 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 bids for contracts issued by any political subdivision or agency of the State of Mississippi.
12. **Independent price Determination** – The bidder certifies that the prices submitted in response to the solicitation have been arrived at independently and without, for the purpose of restricting competition, any consultation, communication, or agreement with any other bidder, proposer or competitor relating to those prices, the intention to submit a bid or proposal, or the methods or factors used to calculate the prices bid/ offered.
13. **Prospective Contractor’s Representation Regarding Contingent Fees**- The prospective contractor represents as a part of such Contractor’s bid or proposal that such Contractor has/ has not (*please circle applicable word or words*) retained any person or agency on a percentage, commission, or other contingent arrangement to secure this contract.
14. **Representation Regarding Contingent Fees**- The Contractor represents that it has/has not (*please circle applicable word or words*) retained a person to solicit or secure a State contract upon an agreement or understanding for a commission, percentage, brokerage, or other contingent fee, except as disclosed in the Contractor’s bid or proposal.
15. **Representation Regarding Gratuities**- The bidder, offeror, or contractor represents that it has not violated, is not violating, and promises that it will not violate the prohibition against gratuities set forth in Section 6-204 (Gratuities) of the *Mississippi Personal Contract Review Board Rules and Regulations.*

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

Printed name of Representative: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

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

*Note: Please be sure to* ***circle the applicable word or words*** *on numbers 13 (Prospective Contractor’s Representation Regarding Contingent Fees) and 14 (Representation Regarding Contingent Fees) above. Failure to circle the applicable word or words and/or to sign the bid form may result in the bid being rejected as nonresponsive. Modifications or additions to any portion of this bid document may be cause for rejection of the bid.*

# Attachment C- Standard Terms and Conditions Included in Any Contract Awarded from this IFB

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. The 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 MSDH 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 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 state, MSDH shall have the right upon ten (10) working days written notice to the Contractor, to terminate this agreement without damage, penalty, cost or expenses to the MSDH of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.
3. 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>.
4. Compliance with Laws. The Contractor understands that the MSDH is an equal opportunity employer and therefore, maintains a policy that prohibits unlawful discrimination based on race, color, creed, sex, age, national origin, physical handicap, disability, genetic information or any other consideration made unlawful by federal, state or local laws. All such discrimination is unlawful and the Contractor agrees during the term of the agreement that they will strictly adhere to this policy in its employment practices and provision of services. The Contractor shall comply with, and all activities under this agreement shall be subject to, all applicable federal, state of Mississippi, and local laws and regulations, as now existing and as may be amended or modified.
5. Stop Work Order.
   1. *Order to Stop Work*: The procurement officer, may, by written order to the contractor at any time and without notice to any surety require the contractor to stop all or any part of the work called for by this contract. This order shall be for a specified period not exceeding 90 days after the order is delivered to the contractor, unless the parties agree to any further period. Any such order shall be identified specifically as a stop work order issued pursuant to this clause. Upon receipt of such an order, the contractor shall forthwith comply with its terms and take all reasonable steps to minimize the occurrence of costs allocable to the work covered by the order during the period of work stoppage. Before the stop work order expires, or within any further period to which the parties shall have agreed, the procurement officer shall either:
      1. cancel the stop work order; or,
      2. terminate the work covered by such order as provided in the Termination for Default Clause of the Termination for Convenience Clause of this contract.
   2. *Cancellation or Expiration of the Order*: If a stop work order is issued under this clause is cancelled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, the contractor shall have the right to resume work. An appropriate adjustment shall be made in the delivery schedule or contractor price, or both, and the contract shall be modified in writing accordingly, if:
      1. the stop work order results in an increase in the time required for, or in the contractor’s properly allocable to, the performance of any part of this contract; and,
      2. 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 cancelled and the work covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop work order shall be allowed by adjustment or otherwise.
   4. *Adjustments of Price*: Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment clause of this contract.

1. 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. The personal or professional services to be provided, the price to be paid, and the term of the contract shall not be deemed to be a trade secret, or confidential commercial or financial information.
2. 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.
3. Confidentiality. Notwithstanding any provision to the contrary contained herein, it is recognized that MSDH is a public agency of the State of Mississippi and is subject to the Mississippi Public Records Act, Mississippi Code Annotated §§ 25-61-1 *et seq.* If a public records request is made for any information provided to MSDH pursuant to the agreement, MSDH shall promptly notify the disclosing party of such request and will respond to the request only in accordance with the procedures and limitations set forth in applicable law. The disclosing party shall promptly institute appropriate legal proceedings to protect its information. No party to the agreements shall be liable to the other party for disclosures of information required by court order or required by law.
4. Approval. It is understood that Contract is void and no payment shall be made in the event that the Personal Service Contract Review Board does not approve this contract.
5. Anti-Assignment/ Subcontracting. Contractor acknowledges that it was selected by the MSDH 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 MSDH, which the MSDH 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 MSDH 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 MSDH may deem necessary. Subject to the foregoing, this agreement shall be binding upon the respective successors and assigns of the parties.
6. Antitrust. By entering into a contract, Contractor conveys, sells, assigns, and transfers to the MSDH all rights, titles, and interest it may now have, or hereafter acquire, under the antitrust laws of the United States and the State of Mississippi that relate to the particular goods or services purchased or acquired by the MSDH under said contract.
7. 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.
8. 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 an 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.
9. Changes in Scope of Work. The MSDH 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 MSDH 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 MSDH in writing of this belief. If the MSDH 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 scope of service.

1. Contractor Personnel. The MSDH 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 MSDH reasonably rejects staff or subcontractors, Contractor must provide replacement staff or subcontractors satisfactory to the MSDH in a timely manner and at no additional cost to the MSDH. The day-to-day supervision and control of Contractor’s employees and subcontractors is the sole responsibility of Contractor.
2. Failure to Deliver. In the event of failure of Contractor to deliver services in accordance with the contract terms and conditions, the MSDH 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 MSDH may have.
3. Failure to Enforce. Failure by the MSDH 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 MSDH to enforce any provision at any time in accordance with its terms.
4. 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 MSDH 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 MSDH determines it to be in its best interest to terminate the agreement.
5. Indemnification. To the fullest extent allowed by law, Contractor shall indemnify, defend, save and hold harmless, protect, and exonerate the MSDH, 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 reasonably withhold.
6. 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 MSDH. Nothing contained herein shall be deemed or construed by the MSDH, Contractor, or any third party as creating the relationship of principal and agent, master and servant, partners, joint venturers, employer and employee, or any similar such relationship between the MSDH and Contractor. Neither the method of computation of fees or other charges, nor any other provision contained herein, nor any acts of the MSDH or Contractor hereunder creates, or shall be deemed to create a relationship other than the independent relationship of the MSDH 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 MSDH; and the MSDH shall be at no time legally responsible for any negligence or other wrongdoing by Contractor, its servants, agents, or employees. The MSDH 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 MSDH shall not provide to Contractor any insurance coverage or other benefits, including Workers’ Compensation, normally provided by the State for its employees.
7. 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.
8. 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: *name, title, agency, address*

1. 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 MSDH and agreed to by Contractor.
2. Ownership of Documents and Work Papers. The MSDH 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 MSDH 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 MSDH and subject to any copyright protections.
3. 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 MSDH 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.
4. Recovery of Money. Whenever, under the contract, any sum of money shall be recoverable from or payable by Contractor to MSDH, the same amount may be deducted from any sum due to Contractor under the contract or under any other contract between Contractor and MSDH. The rights of MSDH are in addition and without prejudice to any other right MSDH may have to claim the amount of any loss or damage suffered by MSDH on account of the acts or omissions of Contractor.
5. Right to Inspect Facility. The State, may at reasonable times, inspect the place of business of a Contractor or any subcontractors which is related to the performance of any contract awarded by the State.
6. 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.
7. Termination for Convenience.
   1. *Termination.* The Procurement Officer of the MSDH may, when the interests of the State so require, terminate this contract in whole or in part, for the convenience of the State. The Procurement Officer shall give written notice of the termination to 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 or 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 Procurement Officer may direct contractor to assign Contractor’s right, title, and interest under terminated orders or subcontracts to the MSDH. Contractor must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.
8. 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 of the MSDH 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 Procurement Officer, 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 Procurement Officer. 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 MSDH shall be at the contract price. The MSDH may withhold from amounts due Contractor such sums as the Procurement Officer 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 Procurement Officer 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 Procurement Officer shall ascertain the facts and extent of such failure, and, if such officer determines that any failure to perform was occasioned by 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 (d) (Excuse for Nonperformance of 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.
9. Third Party Action Notification. Contractor shall give MSDH 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.
10. Unsatisfactory Work. If at any time during the contract term, the service performed or work done by Contractor is considered by MSDH 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 MSDH, immediately correct such deficient service or work. In the event Contractor fails, after notice, to correct the deficient service or work immediately, MSDH shall have the right to order the correction of the deficiency by separate contract or with its own resources at the expense of Contractor.
11. 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.