



Mississippi Emergency Management Agency
#1MEMA Drive
Pearl, MS 39208

Invitation for Bids
to Provide
Standby Support for Water Pumps and Wastewater Pumps

IFB NO. 082916

Contact Person: Edward Williams, Branch Director
(601) 933-6390
FAX: (601) 933-6630
ewilliams@mema.ms.gov

**INSTRUCTIONS AND SPECIAL CONDITIONS FOR INVITATION TO PROVIDE
WATER PUMPS AND WASTEWATER SERVICES**

INVITATION: Sealed bids to supply and install water pumps and wastewater pumps must be received by the Mississippi Emergency Management Agency (MEMA) Office of Support Services, at 1 MEMA Drive, Pearl, MS 39288, **no later than 10 a.m. Central Time, September 22, 2016. Bid submissions received after the deadline will not be considered and will be returned unopened.** Bids received on time shall be opened in the presence of two or more agency procurement officials and opened publically.

Attached to these instructions and special conditions for this Invitation for Bids No. 082916, and fully incorporated as part of this invitation are:

1. General Conditions
2. Bid Specifications
3. Bid Form
4. Bid Execution Page
5. Pumps Cost Spreadsheet

NOTE: Any conversation with any employee of MEMA is not authorized, nor is MEMA responsible for information provided by an employee except as detailed below.

It shall be incumbent upon the Bidder to understand the attached specifications.

DESCRIPTION: The Mississippi Emergency Management Agency (MEMA) is inviting written bids to provide a contract for standby water pumps and related wastewater services as needed in the event of a natural or man-made disaster.

The Mississippi Emergency Management Agency logistics branch manages the flow of commodities and goods, along with other resources during the response to a disaster to help meet the needs and requirements of a disaster response. The vendor will be responsible for supplying, deploying and installing water pumps and providing related wastewater services on a stand-by basis to emergency disaster areas, to include state, county, tribal and municipal governmental entities within the State of Mississippi.

Consider using additional language to explain the purpose of the need for water pumps: **Flood Control** is vitally important to any society. It is the process of preventing and reducing the possibility or long term effects of heavy water movement. Floods can happen as a result of hurricanes, tsunamis, high tide, or severe rainfall from tropical storms. To combat floods, dams, levees, and flood barriers are used to stop water from moving any further. Sometimes temporary measures are used with sandbags, bunds, or aqua-fences until a permanent solution can be determined.

Quantities of all commodities and supplies bid will be purchased at bid price by the Agency during such period on an "as needed" basis. **These prices will remain in effect from October 1, 2016 through June 30, 2017.** Purchases from alternate accepted bids will be purchased only

under circumstances wherein the primary bidder is not able to deliver such supply or commodity. All materials have to pass certain specifications. A bid bond or performance bond is not required.

The original and three (3) copies of the bid and all attachments (four (4) copies total) along with one electronic copy of the bid, saved as a .pdf file and stored on a CD or USB flash drive, shall be signed and submitted in a sealed envelope or package.

The envelope shall be clearly marked "Sealed Bid" and show the bid number, region vendor is submitting bid to service, bid opening date and time in the lower left hand corner on the outside of the envelope. Each page of the bid and attachments shall be identified with the name of the offeror. Bids must be submitted in writing to the following address:

Bid No.082916, _____Region
Edward Williams, Branch Director
#1 MEMA Drive
Pearl, MS 39208

BASIS OF AWARD: The award will be made to the lowest three responsive and responsible bidders by region. Vendor will place an 'X' on the line next to the region(s) they plan to service and submit this page with their bid. Vendor may submit multiple bids. If vendor submits more than one bid, vendor must submit a separate bid for each region the vendor is bidding in response to this IFB.

_____ **North Region:** Alcorn, Benton, Calhoun, Carrol, Chickasaw, Choctaw, Clay, Coahoma, Desoto, Grenada, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Montgomery, Oktibbeha, Panola, Pontotoc, Prentiss, Quitman, Tallahatchie, Tate, Tippah, Tishomingo, Tunica, Union, Webster, Yalobusha

_____ **Central Region:** Attala, Bolivar, Claiborne, Clarke, Copiah, Hinds, Holmes, Humphreys, Issaquena, Jasper, Kemper, Lauderdale, Leake, Leflore, Madison, Neshoba, Newton, Noxubee, Rankin, Scott, Sharkey, Simpson, Smith, Sunflower, Warren, Washington, Winston, Yazoo

_____ **South Region:** Adams, Amite, Covington, Forrest, Franklin, George, Greene, Hancock, Harrison, Jackson, Jefferson, Jefferson Davis, Jones, Lamar, Lawrence, Lincoln, Marion, Pearl River, Perry, Pike, Stone, Walthall, Wayne, Wilkinson

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Inquiries regarding this Invitation for Bids must be directed to:

Edward Williams, Branch Director
Mississippi Emergency Management Agency
#1 MEMA Drive
Pearl, MS 39208
601-933-6390
ewilliams@mema.ms.gov *

Bids and attachments must be submitted to:

Edward Williams, Branch Director
Mississippi Emergency Management Agency
#1 MEMA Drive
Pearl, MS 39208
601-933-6390
ewilliams@mema.ms.gov

*If no response is received to an email inquiry after two (2) working days, please direct all questions to the telephone number listed.

Dates of Publication for this Invitation for Bids:

September 2, 2016
September 9, 2016

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GENERAL CONDITIONS

ALL BIDS SUBMITTED MUST BE IN COMPLIANCE WITH THE GENERAL CONDITIONS SET FORTH HEREIN. ALL OFFERORS ARE OBLIGATED TO READ, UNDERSTAND AND AGREE TO THESE CONDITIONS WHEN SUBMITTING A BID IN ORDER FOR A BID TO BE CONSIDERED RESPONSIBLE.

- I. ACKNOWLEDGMENT OF AMENDMENTS.** Amendments modifying plans and/or specifications may be issued if time permits. Should it become necessary to issue an amendment within the three-day period prior to the bid opening, the bid date will be reset giving offerors ample time to answer the amendment. When replying to a bid invitation on which an amendment has been issued, the offeror shall execute the Acknowledgement of Amendments/Addendums page as well as the Offeror Execution Page which indicates that provisions of the amendment have been noted and that the bid is being offered in compliance therewith. Failure to make this statement may result in the bid being rejected as not being in accordance with the revised specifications or plans. The acknowledgment must be received by the MEMA by the time and at the place specified for receipt of bids.
- II. ALTERNATIVE BIDS.** Alternative bids unless specifically requested will not be considered. An alternate is considered to be a bid that does not comply with the minimum provisions of the specification.
- III. 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 offeror shall comply with applicable federal, state and local laws and regulations.
- IV. ANTI-ASSIGNMENT/SUBCONTRACTING.** The offeror shall not assign, subcontract, or otherwise transfer this agreement, in whole or 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.
- V. AVAILABILITY OF FUNDS.** It is expressly understood and agreed that the obligation of the state to proceed under this agreement is conditioned upon the appropriate 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 re, 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 alternation of the program under which funds were provided or if funds are not otherwise available to the state, the state 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 state of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.
- VI. AWARD OF CONTRACT.** The award, if made, will be made by MEMA within 60 days after opening the bid. The purchase must be approved by the Office of Purchasing and Travel prior to an award by MEMA. Orders placed by an offeror prior to the receipt of a

- purchase order and execution of a contract will be at the offeror's "OWN RISK" and MEMA will not be held liable for such action.
- VII. BIDDING BY STATE EMPLOYEES.** Bidding by state employees is prohibited. It is unlawful for any state official or employee to bid on, or sell, or offer for sale, any merchandise equipment or material, or similar commodity to the State of Mississippi during the tenure of his office or employment, or for the period prescribed by law thereafter, or to have any interest in the selling of the same to the State.
- VIII. BOUND BY BID.** Unless otherwise specified, all formal bids shall be binding for a minimum of sixty (60) days after opening. If a bid is withdrawn after opening, Offeror may be removed from the list of eligible offerors for a period of twelve (12) months.
- IX. CANCELLATION.** Any Contract or item award may be cancelled for cause by either party with the giving of 30 days written notice of intent to cancel. Cause for MEMA to cancel shall include, but is not limited to, cost exceeding current market prices for comparable purchase; request for increase in prices during the period of the Contract; or failure to perform to Contract conditions. The Contractor shall be required to honor all purchase orders that were prepared and dated prior to the date of expiration or cancellation if received by the Contractor within a period of 30 days following the date of expiration or cancellation. Cancellation by MEMA does not relieve the Contractor of any liability arising out of a default or nonperformance. Cause for the Contractor to cancel shall include, but it not limited to, the item(s) being discontinued and unavailable from the manufacturer.
- X. COMPLIANCE WITH LAWS.** Contractor understands that the MEMA 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.
- XI. CONTINGENT FEES.** Contingent fees prohibited. Offeror 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 bid.
- XII. EXPENSES INCURRED IN PREPARING BID.** MEMA accepts no responsibility for any expense incurred by the offeror in the preparation and presentation of a bid. Such expenses shall be borne exclusively by the offeror.
- XIII. DEBARMENT.** By submitting a bid, the offeror certifies that it is not currently debarred from submitting proposals or bids for contracts issued by any political subdivision or agency of the state of Mississippi and that it is not an agency of a person or entity that is currently debarred from submitting proposals or bids for contracts issued by a political subdivision or agency of the state of Mississippi.
- XIV. DISPOSITION OF BIDS.** All submitted bids become the property of the State of Mississippi.
- XV. EQUAL EMPLOYMENT OPPORTUNITY.** This purchase will be subject to the provisions of Executive Order 11246 if it is not otherwise exempt. Except in contracts exempted in accordance with Section 204 of the Executive Order 11246, as Amended, all Government contracting agencies shall include in every Government contract hereafter entered into the following provision. During the performance of the contract, the contractor agrees as follows:

- A. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contract will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applications for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- B. The contractor will, in all solicitations or advancements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- C. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of Sept. 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- D. The contractor will comply with all provision of Executive Order No. 11246 of Sept. 24, 1965, and the rules and regulations and relevant orders of the Secretary of Labor.
- E. The contractor will furnish all information and reports required by Executive Order No. 11246 of Sept. 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- F. In the event of the contractor's noncompliance with the nondiscrimination clauses of the contract or with any such rules, regulations or orders, the contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.
- G. The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of Sept. 24, 1965, so that such provisions will be binding upon each subcontractor or offeror. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the even the contractor becomes involved in, or is threatened with, litigation with a subcontractor or offeror as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States. [Sec. 202 amended by EO 11375 of Oct. 13, 1967, 32 FR 14303, 3 CFR, 1966-1970 Comp., p. 684, EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230].

XVI. GIFTS, REBATES, GRATUITIES. Acceptance of gifts from contractors is prohibited. No officer or employee of the Office of Procurement and Contracts, no head of any state department, institution or agency, nor any employee of any state department, institution or agency charged with responsibility of initiating requisitions, shall accept or receive, directly or indirectly, from any person, firm or corporation to whom any contract for the purchase of

materials, supplies, or equipment for the state of Mississippi may be awarded, rebate, gifts, or otherwise, any money or anything of value whatsoever, or any promise, obligation or contract for future rewards or compensation.

XVII. INFORMATION ON BID RESULTS. Bid files may be examined during normal working hours by bid participants. Nonparticipants will be prohibited from obtaining any information relative to the bid until the official award has been made. MEMA reserves the right to restrict the availability of the bids during the evaluation process so as to improve the efficiency of the valuation and award process.

XVIII. OFFERING BY STATE EMPLOYEES. Offering by state employees is prohibited. It is unlawful for any state official or employee to propose on, or sell, or offer for sale, any merchandise equipment or material, or similar commodity to the state of Mississippi during the tenure of his office or employment, or for the period prescribed by law thereafter, or to have any interest in the selling of the same to the state.

XIX. PREPARATION OF BIDS

- A. Failure to examine any drawings, specifications, and instructions will be at offeror's risk.
- B. All prices and notations must be printed in ink or typewritten. No erasures permitted. Errors may be crossed out and corrections printed in ink or typewritten adjacent, and must be initialed in ink by person signing bid.
- C. Brand Names: Any reference to brand names and numbers in the Invitation for Bid is descriptive, but not restrictive, unless otherwise specified. Bids on equivalent items meeting the standards of quality thereby indicated will be considered, unless otherwise specified, providing the bid clearly describes the article offered and how it differs from the referenced brands. If equipment or supplies of another brand or of other construction than that specified herein is offered by offeror, such offeror shall set forth in his bid a detailed statement indicating wherein each item offered deviates from these specifications. Unless the offeror specifies otherwise in the bid, it is understood that the offeror is offering a referenced brand item as specified in the Invitation for Bids. MEMA reserves the right to determine whether a substitute offer is equivalent to and meets the standard of quality indicated by the brand name referenced, and MEMA may require a offeror offering a substitute to supply additional descriptive material and a sample. When merchandise received from a successful offeror is not considered an equal by the requester, it will be returned to the offeror, shipping charges collect.
- D. Specification: It is understood that reference to available specifications shall be sufficient to make the terms of such specifications binding on the contractor.
- E. Information and Descriptive Literature: Offerors must furnish all information requested in the spaces provided on the bid form. Bid samples or descriptive literature should not be submitted unless expressly requested and that, regardless of any attempt by a offeror to condition the bid, unsolicited bid samples or descriptive literature which are submitted at the offeror's risk will not be examined or tested and will not be deemed to vary any of the provisions of the Invitation for Bids. Further, any sample submitted will be returned only at the offeror's expense. It should also be known that when samples are requested, it may be necessary that the sample be damaged or destroyed in the process of evaluation, in which case neither the state nor the purchasing agency shall be responsible for reimbursement to the offeror.

XX. PROCUREMENT REGULATIONS. The Office of Purchasing, Travel and Fleet Management ("OPTFM") shall supervise the procurement of all commodities, equipment, and printing by state agencies and shall, upon receipt of Request for Authority to Purchase, P-1, ascertain that all aspects of the purchase are in compliance with state statutes. The

OPTFM shall have the authority to solicit additional quotes if, upon reviewing the P-1, there is reason to believe that the bids received by the requesting agency are not competitive.

- XXI. BID OPENINGS.** Bid openings will be conducted open to the public. However, they will serve only to open, read and tabulate the bid price on each bid. No discussion will be entered into with any offeror as to quality or provisions of the specifications and no award will be made either stated or implied at the bid opening.
- XXII. REJECTION OF BIDS.** MEMA reserves the right to reject any or all bids.
- XXIII. IFB DOES NOT CONSTITUTE ACCEPTANCE OF OFFER.** The release of this Invitation for Bids does not constitute an acceptance of any offer, nor does such release in any way obligate MEMA to execute a contract with any other party. MEMA reserves the right to accept, reject, or negotiate any or all offers on the basis of the evaluation criteria contained within this document. The final decision to execute a contract with any party rests solely with MEMA.
- XXIV. SPECIFICATION CLARIFICATION.** Inquiries pertaining to IFBs must include the IFB number and opening date. It shall be incumbent upon all offerors to understand the provisions of the specification and to obtain clarification from the MEMA Office of Support Services prior to the time and date set for the bid opening. Such clarification will be answered only in response to a written request. No clarification will be offered as a response to a telephone request.
- XXV. SUBSTITUTIONS DURING CONTRACT.** During the term of a contract if adequate documentation is provided that supports the claim that the contract item(s) are not available, then items which meet the minimum specifications may be substituted if approved by the Office of Support Services and are deemed to be in the best interest of MEMA.
- XXVI. TAXES.** MEMA is exempt from Federal excise taxes and state and local sales or use taxes and offerors must quote prices which do not include such taxes. Exemption certificates will be furnished upon request. Contractors making improvements to, additions to or repair work on real property on behalf of MEMA are liable for any applicable sales or use tax on purchase of tangible personal property for use in connection with the contracts. Contractors are likewise liable for any applicable use tax on tangible personal property furnished to them by MEMA for use in connection with their contracts.
- XXVII. TRADE SECRETS, COMMERCIAL AND FINANCIAL INFORMATION.** Material designated as trade secret, proprietary, or confidential which accompanies the bid shall be clearly identified and readily separable from the bid in order to facilitate public inspection of the non-confidential portion of the bid. Prices and makes and models or catalog numbers of the items, offered, deliveries, and terms of payment shall be publically available at the time of bid opening regardless of any designation to the contrary. The procurement officer shall examine the bids to determine the validity of any requests for nondisclosure of trade secrets and other proprietary data identified in writing in accordance with Miss. Code § 25-61-1 *et seq.* If the parties do not agree as to the disclosure of data, the Procurement Officer shall inform the offerors in writing what portions of the bids will be disclosed and that, unless the offeror procures a court order protecting the information, the bids will be so disclosed.
- XXVIII. UNTIMELY BID SUBMISSIONS.** Timely submission of the bid is the responsibility of the offeror. Bids will not be accepted or considered after the time specified in the Invitation for Bids Instructions and Special Conditions. Bids received after the submission deadline will be returned unopened, provided that a return address is visible.
- XXIX. WAIVER.** MEMA reserves the right to waive any general conditions or any minor technicalities on bids and specifications when it is in the best interest of MEMA, but MEMA is in no way required to waive said general conditions or minor technicalities. This waiver

may be made so long as such waiver is not given so as to deliberately favor any single offeror and would have the same effect on all offerors.

1. SPECIFICATIONS, TERMS AND CONDITIONS FOR WATER PUMPS:

A. General Statement. All services listed in this statement are to be performed by contractor unless otherwise noted. MEMA is desirous of securing water pumps, and wastewater services related to the needed water pumps on an emergency standby contract basis following natural and man-made disasters. Application for the pumps will be used for emergency mobile pump station(s), flood control and other applications. Additional information may be obtained by written request from Edward Williams, Office of Support Services Branch Director, MEMA, #1 MEMA Drive, Pearl, MS 39208, ewilliams@mema.ms.gov.

B. Detailed Minimum Specifications:

The term of the contract shall be for a period of one year with the option to renew for one additional 12-month period. Offer shall devise a written bid proposal that will illustrate its ability to provide a turnkey operation from deployment of equipment and personnel to demobilization, also including a lease of equipment only. A purchase order will be provided to vendor based on the requirement of the event to include required equipment. The vendor must be able to provide contracted assets and service to the requested location in Mississippi within 24-48 hours notice or less.

- i. **Delivery and Pick-Up Cost:** The vendor should submit a zone based pricing map that provides flat rate zone charges within the state of Mississippi. If the turnkey option is not selected delivery charge shall include one day technical support for site design/pump placement, pump operability, operability troubleshooting, and user instruction and training.
- ii. **Technician Service Charge:** The vendor should include by region and per pump a non-emergency (scheduled) technician service that would cover preventive maintenance such as oil changes, diagnostics, and vendor recommended service intervals.
- iii. **Emergency/On-Demand Technician Service Charge:** Vendor should include by zone and per pump and emergency/on-demand service charge. Vendor must specify zone response times to emergency call. Vendor must provide Emergency/24-hour contact information and numbers.
- iv. **Personnel Cost:** Vendor to provide charges for permanent on-site technician as listed below:

Technician (On-Site only):
 \$ _____ per/hour.

Per Diem Rate for Meals (Established by Mississippi Department of Finance and Administration for locations in Mississippi) (Overnight):

\$ _____

* **Note:** Written approval from the MEMA procurement officer is required for any costs above the State rates.

- v. Support equipment: The vendor will provide a cost breakdown that would include all pipes, hoses or any other pump type specific equipment which contributes to pump output, efficiency, safety and mission.
- vi. Turnkey Operation: Turnkey being defined as pump (s), ancillary equipment, personnel to operate the equipment and delivery and pickup of equipment when the operation is completed. The vendor will provide a cost breakdown to include delivery, offload, setup, 24 hour personnel cost broken down by hourly rate and daily per diem (the State Rate for the area in Mississippi will be utilized) fuel cost, light tower, demobilization and list additional equipment requirements.

The term of the contract shall be for a period of one year with the option to renew for one additional 12-month period, conditioned upon the receipt of state and/or federal funds and satisfactory performance during prior contract terms as determined by MEMA's Executive Director. The initial term of the contract shall begin October 1, 2016 and end no later than close of business June 31, 2017.

2. OFFEROR'S WRITTEN BID SHALL CONTAIN THE FOLLOWING MINIMUM INFORMATION:

- A. Name of the offeror, location of the offeror's principal place of business, and the place of performance of the proposed contract;
- B. A plan explaining how the water pumps will be installed and monitored; and,
- C. An estimate of price. Each bid price is to include and furnish all equipment as well as installation.

3. INSURANCE REQUIREMENTS: The successful offeror shall be required to procure and maintain workers' compensation insurance which shall inure to the benefit of all Offeror's personnel provided hereunder and errors and omissions/professional liability coverage with minimum limits of \$1,000,000.00 (One Million Dollars) per occurrence for the duration of the contract and offer proof of such coverage. All general liability or professional liability insurance will provide coverage to MEMA as an additional insured. Offeror shall also be required to show proof of liability for injury to include automobile coverage. MEMA reserves the right to request from carriers certificates of insurance regarding the required coverage. Insurance carriers must be licensed or hold a Certificate of Authority from the Mississippi Department of Insurance. Should the certificate expire during the term of the contract, it is the responsibility of the vendor to provide copies of the current insurance certificate to MEMA within five (5) working days.

4. **RENEWAL OF CONTRACT:** Upon written agreement of both parties at least sixty (60) days prior to the contract anniversary date, the contract may be renewed by MEMA for a period of one (1) year under the same prices, terms, and conditions as in the original contract. The total number of renewal years permitted shall not exceed one (1).
5. **REJECTION OF BIDS:** Bids which do not conform to the requirements set forth in this IFB may be rejected by MEMA. Bids may be rejected for reasons which include, but are not limited to, the following:
 - A. The bid contains unauthorized amendments to the requirements of the IFB;
 - B. The bid is conditional;
 - C. The bid is incomplete or contain irregularities which make the bid indefinite or ambiguous;
 - D. The bid is received late;
 - E. The bid is not signed by an authorized representative of the party;
 - F. The bid contains false or misleading statements or references; and,
 - G. The bid does not offer to provide all services required by the IFB.
6. **INFORMALITIES AND IRREGULARITIES:** MEMA reserves the right, in its sole discretion, to waive minor irregularities in bids. A minor irregularity is a variation of the IFB which does not affect the price of the bid, or give one party an advantage or benefit not enjoyed by other parties, or adversely impact the interest of MEMA. Waivers, when granted, shall in no way modify the IFB requirements or excuse the party from full compliance with the IFB specifications and other contract requirements, if the party is awarded the contract. This clause in no way requires MEMA to waive minor irregularities.
7. **EXCEPTIONS AND DEVIATIONS:** Offerors taking exception to any part or section of the solicitation shall clearly indicate such exceptions on the bid, and shall be fully described in a way as to make said exceptions and deviations conspicuous to the reviewing panel. Failure to indicate any exception will be interpreted as the offeror'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.
8. **NONCONFORMING TERMS AND CONDITIONS:** A bid that includes terms and conditions that do not conform to the terms and conditions in the Invitation for Bids is subject to rejection as non-responsive. MEMA reserves the right to permit the offeror to withdraw the nonconforming terms and conditions from its bid proposal prior to a determination by MEMA of non-responsiveness based on the submission of nonconforming terms and conditions.
9. **BID PROPOSAL ACCEPTANCE PERIOD:** The original and three (3) copies of the bid and all attachments (four (4) copies total) along with one electronic copy of the bid, saved as a .pdf file and stored on a CD or USB flash drive, shall be signed and submitted

in a sealed envelope or package to Edward Williams, Branch Director, #1 MEMA Drive, Pearl, MS 39208 no later than **10 a.m. Central Standard Time, September 22, 2016**. To ensure that all submitted bids are adequately sealed and unable to be reviewed prior to the bid proposal opening time, no electronic or facsimile copies of bids will be accepted. Offerors shall also submit the bid through the State of Mississippi online financial program the Mississippi Accountability System for Government Information and Collaboration (MAGIC).

Should you have questions regarding how to register as a vendor or submit your bid, please contact Edward Williams at 601-933-6390 or ewilliams@mema.ms.gov. Timely submission of the bid proposal is the responsibility of the offeror. Offers received after the specified time shall be rejected and returned to the offeror unopened.

The envelope or package shall be clearly marked as "Sealed Bid" and show the bid number, bid opening date and time in the lower left hand corner on the outside of the envelope. The time and date of receipt shall be indicated on the envelope or package by the MEMA Purchasing Office. Each page of the bid and attachments shall be identified with the name of the offeror.

10. **ADDITIONAL INFORMATION:** Questions about the Invitation for Bids document must be submitted in writing to Edward Williams, Branch Director, MEMA at #1 MEMA Drive, Pearl, MS 39208; email ewilliams@mema.ms.gov. Offerors are cautioned that any statements made by the contact person that materially change any portion of the Invitation for Bids shall not be relied upon unless subsequently ratified by a formal written amendment to the Invitation for Bids. **Questions about the invitation for bids document will not be accepted after 12:00 p.m. Central Standard Time, September 14, 2016.**
11. **RELEASE OF INFORMATION REGARDING PROCUREMENT RESULTS:** All documents relating to this procurement shall be released to the public as specified below in compliance with Rule 1-301.01 of the Mississippi Public Records Act of 1983. Miss. Code Ann. § 25-61-1 *et seq.* (1972, as amended).
- A. Businesses or Persons Who Submitted Bids for this IFB**
- Information pertaining to the results of any procurement may be reviewed subsequent to the time of the bid proposal opening. MEMA restricts the availability of the bids prior to contract award so as to improve the efficiency of the evaluation and award process.
- B. Businesses or Persons Not Participating in this Procurement**
- Businesses or persons not participating in the process will not be permitted access to any applicable file until after an award is made. After the award is made, all information and documents applicable to the awarded contract shall be made available to any business or person; provided, however, no information specified by a participant and approved by the Procurement Officer as proprietary information shall be available to any business or person without a written request.

C. Proprietary Information

When MEMA receives a request to release information properly designated as confidential or proprietary by an offeror, MEMA shall give the owner of this information a reasonable time to obtain a court order protecting the information as confidential. If MEMA receives a court order pursuant to Miss. Code Ann. § 25-61-9 within this time, it must then notify the requestor that the information is protected by court order and cannot be furnished.

D. Procurement Document Review Restrictions

MEMA hereby reserves its right to restrict procurement document review to the MEMA premises during normal working hours of 8:00 a.m. to 5:00 p.m. Monday through Friday, excluding state holidays. In any instance that MEMA does agree to copy or duplicate such a record it shall be at the requestors expense in accordance with the MEMA Public Record Request Policy found at 31 Admin. Code Pt. 201, R. 3.1-3.7.

12. REQUIRED CLAUSES FOR PROCUREMENT

A. Acknowledgment of Amendments

Offerors 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 MEMA by the time and at the place specified for receipt of bids.

B. 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 bid, or the methods or factors used to calculate the prices bid.

C. 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 the contract.

D. 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. Miss. Code Ann. § 31-7-305 (1972, as amended).

E. 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. Miss. Code Ann. §§ 71-11-

1 *et seq.* (1972, as amended). 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:

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

F. Representation Regarding Contingent Fees

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

G. 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.

13. REQUIRED FEDERAL PROCUREMENT CLAUSES AS THIS CONTRACT MAY BE ELIGIBLE FOR REIMBURSEMENT FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY

A. Access

MEMA, the subgrantees, FEMA, the Comptroller General of the United States, and any other duly authorized representatives to any of these bodies shall have access to any and all books, documents, papers, and records of the contractor which are directly pertinent to this specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

B. Byrd Anti-Lobbying Amendment

Contractor shall certify that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S. C. 1352. Contractor shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal Award. Contractor shall require all subcontractors to submit these same certifications. Contractor shall adhere to mandatory standards and policies on energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

C. Clean Air and Water Acts Compliance

At all times the Contractor shall be in compliance with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857(h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).

D. Debarment and Suspension

Contractor shall not subcontract with any parties listed on the government wide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), "Debarment and Suspension."

E. Energy Efficiency

Contractor shall adhere to mandatory standards and policies on energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

F. Procurement of Recovered Materials

Contractor shall comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered material practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

G. Retention of Records

Contractor shall retain all records associated with this contract for three (3) years after MEMA make final payments and all other pending matters are closed.

14. STANDARD TERMS AND CONDITIONS WHICH WILL BE INCLUDED IN ANY CONTRACT AWARDED FROM THIS IFB

A. APPLICABLE LAW

The contract shall be governed by and construed in accordance with the laws of the State of Mississippi, excluding its conflicts of laws, provisions, and any litigation with respect thereto shall be brought in the courts of the State. Contractor shall comply with applicable federal, state, and local laws and regulations.

B. AVAILABILITY OF FUNDS

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

C. PROCUREMENT REGULATIONS

The contract shall be governed by the applicable provisions as set forth in the Mississippi Procurement Manual, a copy of which is available at 501 North West Street, Jackson, MS 39201 for inspection, or downloadable at <http://www.dfa.ms.gov/dfa-offices/purchasing-travel-and-fleet-management/purchasing-and-travel/procurement-manual/>.

D. CONFIDENTIALITY

Notwithstanding any provision to the contrary contained herein, it is recognized that MEMA 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.* (1972, as amended). If a public records request is made for any information provided to MEMA pursuant to the agreement, MEMA 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 agreement shall be liable to the other party for disclosures of information required by court order or required by law.

E. STOP WORK ORDER

- 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:

- i. cancel the stop work order; or,
 - ii. terminate the work covered by such order as provided in the 'Termination for Default Clause' or the 'Termination for Convenience Clause' of this contract.
- 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:
- i. 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,
 - ii. Contractor asserts a claim for such an adjustment within 30 days after the end of the period of work stoppage; provided that, if the procurement officer decides that the facts justify such action, any such claim asserted may be received and acted upon at any time prior to final payment under this contract.
- 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 the contract.

F. COMPLIANCE WITH LAWS

Contractor understands that the MEMA 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.

G. ANTI-ASSIGNMENT/SUBCONTRACTING

Contractor acknowledges that it was selected by the MEMA 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 MEMA, which the MEMA 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 MEMA 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 MEMA may deem necessary. Subject to the foregoing, this agreement shall be binding upon the respective successors and assigns of the parties.

H. ANTITRUST

By entering into a contract, Contractor conveys, sells, assigns, and transfers to the MEMA 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 MEMA under said contract.

I. APPROVAL

It is understood that the Contract is void and no payment shall be made in the event that the Office of Purchasing and Travel of the Mississippi Department of Finance and Administration or the Public Procurement Review Board does not approve this contract.

J. 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.

K. 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.

L. CHANGE IN SCOPE OF WORK

The MEMA 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 MEMA 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 MEMA in writing of this belief. If the MEMA 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.

M. CONTRACTOR PERSONNEL

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

N. FAILURE TO DELIVER

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

O. FAILURE TO ENFORCE

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

P. 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 MEMA 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 MEMA determines it to be in its best interest to terminate the agreement.

Q. INDEMNIFICATION

To the fullest extent allowed by law, Contractor shall indemnify, defend, save and hold harmless, protect, and exonerate the MEMA, 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.

R. 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 MEMA. Nothing contained herein shall be deemed or construed by the MEMA, 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 MEMA and Contractor. Neither the method of computation of fees or other charges, nor any other provision contained herein, nor any acts of the MEMA or Contractor hereunder creates, or shall be deemed to create a relationship other than the independent relationship of the MEMA 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 MEMA; and the MEMA shall be at no time legally responsible for any negligence or other wrongdoing by Contractor, its servants, agents, or employees. The MEMA 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 MEMA shall not provide to Contractor any

insurance coverage or other benefits, including Workers' Compensation, normally provided by the State for its employees.

S. 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.

T. 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: Edward Williams, Branch Director
Mississippi Emergency Management Agency
#1 MEMA Drive
Pearl, MS 39208

U. 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 MEMA and agreed to by Contractor.

V. OWNERSHIP OF DOCUMENTS AND WORK PAPERS

The MEMA 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 MEMA 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 MEMA and subject to any copyright protections.

W. 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 MEMA 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.

X. RECOVERY OF MONEY

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

Y. 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.

Z. 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.

AA. TERMINATION FOR CONVENIENCE

(1) *Termination.* The Procurement Officer of the MEMA 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 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 Procurement Officer may direct Contractor to assign Contractor's right, title, and interest under terminated orders or subcontracts to the MEMA. Contractor must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.

BB. 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 MEMA 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 MEMA shall be at the contract price. The MEMA 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 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.

CC. TERMINATION UPON BANKRUPTCY

This contract may be terminated in whole or in part by MEMA upon written notice to Contractor, if Contractor should become the subject of bankruptcy or receivership proceedings, whether voluntary or involuntary, or upon the execution by Contractor of an assignment for the benefit of its creditors. In the event of such termination, Contractor shall be entitled to recover just and equitable compensation for satisfactory work performed under this contract, but in no case shall said compensation exceed the total contract price.

DD. THIRD PARTY ACTION NOTIFICATION

Contractor shall give MEMA 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

EE. TRANSPARENCY

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 Ann. §§ 25-61-1 *et seq.* (1972, as amended) and Miss. Code Ann. § 79-23-1 (1972, as amended). In addition, this contract is subject to the provisions of the Mississippi Accountability and Transparency Act of 2008. Miss. Code Ann. §§ 27-104-151 *et seq.* (1972, as amended). 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.

FF. 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.

GG. UNSATISFACTORY WORK

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

HH. 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

15. ALL BIDS SUBMITTED IN RESPONSE TO THIS INVITATION SHALL BE IN WRITING.

- 16. POST-AWARD DEBRIEFING:** 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 MEMA 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 MEMA and identify its attorney.

17. **BID REVIEW SCHEDULE:** Unless otherwise indicated, the following bid proposal review schedule will be adhered to. Any protest or question concerning the evaluation or award must be received by the MEMA on or before the evaluation review deadline.

Deadline for Questions:	September 14, by 10 am
Bid Submissions Due:	September 22, by 10 am
Bid Opening:	September 22
Distribution of Apparent Award:	September 23

18. **CHECKLIST FOR SUBMITTING BID:**

- A. Completed and signed Invitation for Bids Form (3 pages)
- B. Signed Bid Execution Page
- C. Completed Water Pumps Spreadsheet (Attachment A)
- D. The original and three (3) copies of the bid and all attachments (four (4) copies total) along with one electronic copy of the bid, saved as a .pdf file and stored on a CD or USB flash drive.

INVITATION FOR BIDS FORM—PAGE 1 OF 3

**INVITATION FOR BIDS TO PROVIDE
WATER PUMPS AND WASTEWATER SERVICES**

This form is to be completed by all offerors and included in their submitted bid.

OFFEROR:	
CONTACT PERSON:	
PHONE NUMBER:	
EMAIL ADDRESS:	

INVITATION FOR BIDS FORM—PAGE 2 OF 3

EMPLOYEES NOT TO BENEFIT

I (we) hereby certify that if the contract is awarded to our firm, partnership, corporation, that no employee of MEMA or members 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 contract.

CONFLICTS OF INTEREST

The offeror [] is [] is not aware of any information bearing on the existence of any potential organizational conflict of interest.

REPRESENTATION REGARDING CONTINGENT FEES

The offeror [] has [] has not retained any person or agency on a percentage, commission, or other contingent arrangement to secure this contract.

REPRESENTATION REGARDING GRATUITIES

The offeror represents that it has not violated, is not violating, and promises that it will not violate the prohibition against gratuities set forth in Section 9.105, Gratuities, of the Mississippi Procurement Manual of the Office of Purchasing and Travel of the Mississippi Department of Finance and Administration.

CERTIFICATION OF INDEPENDENT PRICE DETERMINATION

The offeror certifies that the price submitted in response to the solicitation has been arrived at independently and without – for the purpose of restricting competition – 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 use to calculate the prices bid.

COLLUSION

I certify that this offer is made without prior understanding, agreement, or connection with any corporation, firm or person submitting an offer for the same services, materials, supplies or equipment, and is in all respects fair and without collusion or fraud. I understand collusive bidding is a violation of State and Federal laws and can result in fines, prison sentences, and civil damage awards.

ACCEPTANCE OF CONDITIONS

I certify that this bid indicates whether this offer takes any exceptions to the general terms and conditions of the bid document and to insurance, bonding, and any other requirement listed. If no exceptions are indicated in the offer, I certify that NO exceptions are taken to any of the terms and conditions of this bid document.

INVITATION FOR BIDS FORM—PAGE 3 OF 3

OFFEROR QUALIFIED TO TRANSACT BUSINESS

I certify that I am in compliance with Miss. Code Annotated § 79-4-15.01 regarding authorization to transact business in Mississippi. If a foreign corporation, meaning a corporation incorporated under a law other than the law of this State, I have provided a certificate of authority from the Mississippi Secretary of State.

PROPRIETARY INFORMATION

This bid

does does not contain proprietary information. If there is proprietary information contained in this quote it is clearly marked as propriety and can be found at _____.

I hereby certify that the responses to the above representations, certifications, and other statements are accurate and complete. I agree to abide by all conditions of the bid and certify that I am authorized to sign for my company.

Signature

Date

Name (Printed)

Title

**EMERGENCY STANDBY WATER PUMPS
INVITATION FOR BIDS NO. 082916
BIDDER EXECUTION PAGE**

Certification of Independent Price Determination – The Bidder certifies that the prices submitted in response to the Invitation for Bids have been arrived at independently and without (for the purpose of restricting competition) 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 in the Bid.

Bidder acknowledges the following contact information as true and correct. If at any time during the term of this contract this information changes, bidder will immediately notify the MEMA Purchasing Officer.

Company: _____

Contact: _____

Address: _____

Telephone: _____

Fax: _____

Email: _____

Bidder agrees to supply the products or services at the prices specified on the bid form in accordance with the terms, conditions and specifications contained in the Invitation for Bid Specifications and General Conditions.

Signature/Title

Date

Company

