Request for Proposal
to
Perform Bacteriological Analysis in Support
of Mississippi's Beach Monitoring Program

Mississippi Department of Environmental Quality
515 East Amite Street
Jackson, MS 39201

Contact Person: Brad Ware
601-961-5107

INVITATION: Written proposals subject to the conditions herein stated and attached hereto, will be received at this office until Friday, September 4, 2015 at 3:00 p.m. for furnishing the services as described below for the Mississippi Department of Environmental Quality ("MDEQ").

DESCRIPTION: MDEQ is hereby requesting written proposals to provide professional laboratory services for bacteriological analysis in support of Mississippi's Beach Monitoring Program.

The contract to be awarded will require services by one selected contractor. The contractor shall designate one person who will be responsible for management oversight of all activities required to fulfill the specifications of said contract. This individual shall be vested with the authority to make decisions and commitments on behalf of the contractor during performance of the contract.

Inquiries regarding this Request for Proposal ("RFP") must be directed to:

Brad Ware at the following email address: Brad_Ware@deq.state.ms.us

Proposals must be received by Friday, September 4, 2015 at 3:00 p.m. and submitted to:

Mississippi Department of Environmental Quality
Attn: Brad Ware
RFP to Perform Bacteriological Analysis in Support of Mississippi's Beach Monitoring Program
515 East Amite Street
Jackson, MS 39201
(601) 961-5107

Mississippi Department of Environmental Quality
515 East Amite Street
Jackson, Mississippi 39201

1.0 SPECIFICATIONS, TERMS AND CONDITIONS FOR PERFORMING BACTERIOLOGICAL ANALYSIS IN SUPPORT OF MISSISSIPPI'S BEACH MONITORING PROGRAM

1.1 General Statement:

MDEQ is seeking individuals with abilities, qualifications and experience in the areas detailed in this section.

The purpose of this RFP is to solicit proposals to provide professional laboratory services for bacteriological analysis in support of Mississippi's Beach Monitoring Program. It will be necessary for a coastal area laboratory to support the bacteriological analysis for MDEQ's Beach Monitoring Program, because the required method must be completed within the six hour holding time. Due to the distribution and number of sites the contract laboratory must be located within a thirty (30) mile radius of Biloxi, MS. As such, MDEQ is requesting proposals for laboratory analysis of bacteriological samples. Occasionally repeat sampling will occur on the weekends, including holiday weekends between Memorial Day and Labor Day. The contract laboratory must be available for weekend and holiday analysis.

In 2000, the Federal Beach Environmental Assessment and Coastal Health Act (BEACH Act) was signed into law and requires the State of Mississippi to monitor coastal waters and notify public users of possible coastal recreation concerns. Under the BEACH Act, Mississippi monitors twenty-one (21) public beach stations along the Mississippi Gulf Coast for the pathogen enterococci. These data provides MDEQ with its primary source of monitoring beach water quality for the protection of swimmers using the Mississippi beaches.

1.2 Detailed Minimum Work Specifications to be included in the Proposal:

The Contractor shall perform the following tasks, but not limited to, the following:

1) The contractor will analyze weekly samples from each of Mississippi's twenty-one (21) beach locations for enterococci. Should the sample exceed the Beach Action Value ("BAV") set by MDEQ, additional samples will be collected and delivered to the contract laboratory for analysis until the BAV has not exceeded two samples in a row. Occasional weekend analysis will be required, including holiday weekends between Memorial Day and Labor Day. MDEQ also collects quality assurance samples including both field blanks and field duplicates 10% of the time that require analysis.

2) The contractor will maintain laboratory facilities, trained personnel, equipment and supplies at a sufficient level to meet the bacteriological analytical needs of the MDEQ Beach Monitoring Program.
3) The contractor will maintain a quality assurance program as outlined in Section 9020 of The Standards Methods of Examination of Water and Wastewater (22nd Edition).

4) The contractor will analyze all water samples for enterococci using the membrane filter procedure USEPA Method 1600: Enterococci in Water by Membrane Filtration Using membrane-Enterococcus Indoxyl-β-D-Glucoside Agar (mEI) December 2009.

5) The contractor will provide results, in an electronic format provided by MDEQ, to designated MDEQ personnel as soon as results are available but no later than twenty-four (24) hours after receipt of samples via electronic transmission. Any corrected data must be provided within three (3) days of sample receipt.

2.0 PROPOSAL REQUIRMENTS AND EVALUATION PROCESS:

2.1 Offeror's Written Proposal Shall Contain the Following Minimum Information:

(1) The RFP shall be limited to no more than a total of 20 typed pages including contents pages, supporting appendices and resumes (includes every printed page except front and back cover and transmittal letter). Paper size shall be "8 1/2 x 11." Typeface shall not be smaller than a font size of 10. Any information contained on pages that exceed the page limit will not be evaluated. The applicant must submit an original and three (3) copies of the RFP to MDEQ on or before the above specified time and date. An authorized representative of the applicant must sign the original.

(2) name of offeror, location of offeror's principal place of business, and the place of performance of the proposed contract;

(3) age of offeror's business and the average number of employees over the past three (3) years;

(4) resume' listing abilities, qualifications and experience of all individuals who will be assigned to provide the required services;

(5) listing of three (3) contracts under which services similar in scope, size, or discipline were performed or undertaken, including at least two (2) references for current contracts or those awarded during the past three (3) years. Include the names and addresses of the projects, the scope of the project, and the names and telephone numbers of the clients for reference purposes.

(6) a plan to include personnel, equipment, facilities, and financial resources to perform the required tasks described in Section 1.2 above, detailing as is practical explaining how the services will be performed;

(7) an estimate of price per sample; and

(8) Attachment A of this RFP.

2.2 Evaluation Process

Proposals will be evaluated as described in this section. Interviews may be conducted with the individuals with the highest scored proposals. The award will be made for the proposal that provides the best combination of quality of service, experience, schedule, and price. The criteria and the level of importance associated with each criterion are as follows:

A. The overall quality of the proposed plan for performing the required services – the plan should reflect an understanding of the project and its objective. Consideration will be given to the completeness of the response to the specific requirements of the solicitation. ***(Critical)***

B. Proposer's ability to perform the services as reflected by technical training and education, general experience, specific experience in providing the required services, and the qualifications and abilities of personnel proposed to be assigned to perform the services. ***(Very Important)***

C. The personnel, equipment, facilities, and financial resources to perform the services currently available or demonstrated to be made available at the time of the contracting. ***(Important)***

D. A record of past performance of similar work. ***(Important)***

E. Price committed to MDEQ. ***(Important)***

The score will be indicative of the degree of compliance of the proposal in meeting each component of the requirements in this RFP. Individuals must, upon request of MDEQ, furnish satisfactory evidence of their ability to provide services in accordance with the terms and conditions of these requirements. MDEQ may obtain information about the individuals' ability to meet requirements through reference checks or any other means available.

3.0 INSURANCE REQUIREMENTS

The CONTRACTOR represents that it will maintain Worker's Compensation Insurance as prescribed by law which shall inure to the benefit of the CONTRACTOR's personnel, as well as comprehensive General Liability in an amount no less than $500,000.00 combined single limit and Employee Fidelity Bond Insurance. The CONTRACTOR shall comply with applicable federal, state and local laws and regulations.

4.0 PERIOD OF PERFORMANCE

The contract may be renewed at the discretion of the agency upon written notice to Contractor prior to the expiration of the period of performance under the same prices,

terms, and conditions as in the original contract. The total number of renewal years permitted shall not exceed four (4).

5.0 COMPENSATION FOR SERVICES WILL BE IN THE FORM OF A PER SAMPLE RATE PRICE AGREEMENT

Compensation for services shall be limited to estimated costs to complete work as described in the proposal. MDEQ reserves the right to negotiate with the Contractor a modification to address any unforeseen conditions that may arise after execution of the award.

6.0 REJECTION OF PROPOSALS

Proposals which do not conform to the requirements set forth in this RFP may be rejected by MDEQ. Proposals may be rejected for reasons which include, but are not limited to, the following:

(1) the proposal contains unauthorized amendments to the requirements of the RFP;

(2) the proposal is conditional;

(3) the proposal is incomplete or contains irregularities which make the proposal indefinite or ambiguous;

(3) the proposal is received late;

(4) the proposal is not signed by an authorized representative of the party;

(5) the proposal contains false or misleading statements or references; and,

(6) the proposal does not offer to provide all services required by the RFP.

7.0 INFORMALITIES AND IRREGULAITIES

MDEQ has 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 MDEQ to properly evaluate the bid, MDEQ 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.

8.0 DISPOSITION OF PROPOSALS

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

9.0 COMPETITIVE NEGOTIATION

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

10.0 RFP DOES NOT CONSTITUTE ACCEPTANCE OF OFFER

The release of the Request for Proposal does not constitute an acceptance of any offer, nor does such release in any way obligate MDEQ to execute a contract with any other party. MDEQ 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 MDEQ.

11.0 EXCEPTIONS AND DEVIATIONS

Offerors taking exception to any part or section of the solicitation shall indicate such exceptions in the proposal and shall be fully described. 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.

12.0 NONCONFORMING TERMS AND CONDITIONS

A proposal that includes terms and conditions that do not conform to the terms and conditions in the Request for Proposal is subject to rejection as non-responsive. MDEQ reserves the right to permit the offeror to withdraw nonconforming terms and conditions from its proposal prior to a determination by the MDEQ of non-responsiveness based on the submission of nonconforming terms and conditions.

13.0 PROPOSAL ACCEPTANCE PERIOD

The original and three (3) copies of the proposal (four (4) copies total) shall be signed and submitted in a sealed package to *Brad Ware, MDEQ, Request for Proposal to Perform Bacteriological Analysis in Support of Mississippi's Beach Monitoring Program, 515 E. Amite Street, Jackson, Mississippi 39201* no later than Friday, September 4, 2015 at 3:00 p.m. Timely submission of the proposal is the responsibility of the offeror. Proposals received after the specified time, shall be rejected and returned to the offeror unopened. The time and date of receipt shall be indicated on the envelope or package by MDEQ.

14.0 EXPENSES INCURRED IN PREPARING OFFERS

MDEQ accepts no responsibility for any expense incurred by the offeror in the

preparation and presentation of an offer. Such expenses shall be borne exclusively by the offeror.

15.0 PROPRIETARY INFORMATION

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

16.0 RESPONSE TO INQUIRIES

All questions regarding this RFP must be submitted in writing to the above address. Inquiries may also be submitted via email to **brad_ware@deq.state.ms.us** or by **fax at (601) 961-5715** and must be received by 5:00 p.m. CST, Friday, August 28, 2015. Questions submitted after this date will not be considered. MDEQ answers will be provided in writing and transmitted via email or fax. Only answers transmitted in this manner will be considered official and valid by MDEQ. No negotiations, decisions, or actions shall be initiated by any bidder as a result of any verbal discussion with any State or Agency representative. Offerors are cautioned that any statements made by MDEQ that materially change any portion of the Request for Proposal shall not be relied upon unless subsequently ratified by a formal written amendment to the Request for Proposal.

17.0 DEBARMENT

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

18.0 POST-AWARD DEBRIEFING

18.1 Debriefing Request

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

18.2 Additional Information Regarding Post-Award Debriefing

Additional information regarding post-award debriefing may be found in Section 7-112 of the *Personal Service Contract Review Board Rules and Regulations* which may be found at *http://www.mspb.ms.gov.*

19.0 REQUIRED CLAUSES FOR PROCUREMENT

19.1 Acknowledgment of Amendments

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

19.2 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.

19.3 Prospective Contractor's Representation Regarding Contingent Fees *(Attachment A for this RFP.)*

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

19.4 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:

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

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

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

19.5 E-Payment

CONTRACTOR agrees to accept all payments in United States currency via the State of Mississippi's electronic payment and remittance vehicle. MDEQ 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).

19.6 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 proposal.

19.7 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 Service Contract Review Board Rules and Regulations*.

20.0 STANDARD TERMS AND CONDITIONS WHICH MAY BE INCLUDED IN ANY CONTRACT AWARDED FROM THIS RFP

20.1 Employment Status

The CONTRACTOR shall, during the entire term of this contract, be construed to be an independent contractor. Nothing in this contract is intended to nor shall be construed to create an employer-employee relationship, or a joint venture relationship. The CONTRACTOR represents that it is qualified to perform the duties to be performed under this contract and that it has, or will secure, if needed, at its own expense, applicable personnel who are qualified to perform the duties required under this contract. Such personnel shall not be deemed in any way, directly or indirectly, expressly or by implication, to be employees of MDEQ.

Any person assigned by the CONTRACTOR to perform the services hereunder shall be the employee of the CONTRACTOR, who shall have the sole right to hire and discharge its employee. If the CONTRACTOR is notified within the first eight (8) hours of

assignment that the person is unsatisfactory, the CONTRACTOR will not charge MDEQ for those hours.

The CONTRACTOR shall pay when due, all salaries and wages of its employees and it accepts exclusive responsibility for the payment of federal income tax, state income tax, social security, unemployment compensation and any other withholdings that may be required.

It is further understood that the consideration expressed herein constitutes full and complete compensation for all services and performances hereunder, and that any sum due and payable to the CONTRACTOR shall be paid as a gross sum with no withholdings or deductions being made by MDEQ for any purpose from said contract sum except as permitted in paragraph, Termination.

20.2 Ownership of Documents and Work Products

All data collected by the CONTRACTOR and all documents, notes, programs, databases (and all application thereof), files, reports, studies, and/or other material collected and prepared by the CONTRACTOR in connection with this contract, whether completed or in progress, shall be the property of MDEQ. MDEQ hereby reserves all rights to the databases and all application thereof and to any and all information and/or materials prepared in connection with this contract.

The CONTRACTOR is prohibited from use of the above described information and/or materials without the express written approval of MDEQ.

In the event the CONTRACTOR notifies MDEQ in writing that it believes certain work products are exempt from disclosure under the Mississippi Public Records Act, MDEQ agrees to comply with the applicable provisions of Mississippi Code Annotated Sections 25-61-1, et seq. and 49-17-39, including, but not limited to, notifying the CONTRACTOR in the event a request is made for disclosure of work products the CONTRACTOR maintains are exempt from disclosure and obtaining a determination from the appropriate authority regarding whether the work products are exempt from disclosure.

20.3 Record Retention and Access to Records

The CONTRACTOR shall maintain and make available to MDEQ, any financial records, supporting documents, statistical records and all other records pertinent to the services performed under this contract. These records shall be maintained for at least three (3) years; however, if any litigation or other legal action, by or on behalf of MDEQ has begun that is not completed at the end of the three (3) year period, or if audit findings, litigation or other legal action has not been resolved at the end of the three (3) year period, the records shall be retained until resolution.

20.4 Modification or Amendment

The CONTRACTOR affirms that it has read and understands the clauses contained herein. No prior terms varying or contradicting this agreement exist. The CONTRACTOR agrees

that this contract constitutes the entire agreement between the parties. Modification, changes or amendments to this contract may be made upon mutual agreement of the parties hereto. However, any change, supplement, modification or amendment of any term, provision or condition of this contract must be in writing and signed by both parties hereto.

20.5 Assignment

The CONTRACTOR shall not assign or otherwise transfer the obligation incurred on its part pursuant to the terms of this contract without the prior written consent of MDEQ. Any attempted assignment or transfer of its obligations without such consent shall be null and void. All obligations and duties of either party under this contract shall be binding on all successors in interest or assigns of such party.

20.6 Waiver

Failure of either party hereto to insist upon strict compliance with any of the terms, covenants and conditions hereof shall not be deemed a waiver or relinquishment of any similar right or power hereunder at any subsequent time or of any other provision hereof, nor shall it be construed to be a modification of the terms of this contract.

20.7 Availability of Funds

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

20.8 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.

20.9 Governing Law

This contract shall be construed and governed in accordance with the laws of the State of Mississippi and venue for the resolution of any dispute shall be Jackson, Hinds County, Mississippi. The CONTRACTOR expressly agrees that under no circumstances shall MDEQ be obligated to pay an attorney's fee or the cost of legal action to the CONTRACTOR.

20.10 Severability

If any term or provision of this contract is prohibited by the laws of the State of Mississippi or declared invalid or void by a court of competent jurisdiction, the remainder of the contract shall be valid and enforceable to the fullest extent permitted by law.

20.11 Disputes

Before pleading to any judicial system at any level, the CONTRACTOR must exhaust all administrative remedies. A written complaint must first be sent to the Executive Director of MDEQ. The decision of the Executive Director shall be reduced to writing and a copy thereof mailed or furnished to the CONTRACTOR. Pending non-resolution of the complaint at this point, successive administrative remedies will include bringing the complaint before the Mississippi Commission on Environmental Quality pursuant to Mississippi Code Annotated Section 49-17-35 (Rev. 2012), with appeals from the Commission's decision following procedures as outlined in Miss. Code Ann. Section 49-17-41 (Rev. 2012).

20.12 Compliance with Laws

The CONTRACTOR understands that MDEQ 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, 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 the CONTRACTOR 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.

20.13 Conflict of Interest

The CONTRACTOR shall immediately notify MDEQ in writing of any potential conflict of interest resulting from the representation of or service to other clients. If such conflict cannot be resolved to MDEQ's satisfaction, MDEQ reserves the right to terminate this contract per the paragraph, Termination for Convenience clause.

20.14 Insurance

The CONTRACTOR represents that it will maintain Worker's Compensation Insurance as prescribed by law which shall inure to the benefit of the CONTRACTOR's personnel, as well as comprehensive General Liability in an amount no less than $500,000.00 combined single limit and Employee Fidelity Bond Insurance. The CONTRACTOR shall comply with applicable federal, state and local laws and regulations.

20.15 Indemnification

To the fullest extent allowed by law, the CONTRACTOR shall indemnify, defend, save and hold harmless, protect, and exonerate MDEQ, 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 the CONTRACTOR and/or its partners, principals, agents, employees and/or Subcontractors in the performance of or failure to perform this agreement. In MDEQ's sole discretion, the CONTRACTOR may be allowed to control the defense of any such claim, suit, etc. In the event the CONTRACTOR defends said claim, suit, etc., the CONTRACTOR shall use legal counsel acceptable to MDEQ; the CONTRACTOR shall be solely responsible for all costs and/or expenses associated with such defense, and MDEQ shall be entitled to participate in said defense. The CONTRACTOR shall not settle any claim, suit, etc., without MDEQ's concurrence, which MDEQ shall not unreasonably withhold.

20.16 Subcontracts

The CONTRACTOR must obtain written approval from MDEQ by submitting Request to Subcontract for approval before subcontracting any portion of this contract. No such approval by MDEQ of any subcontract shall be deemed in any way to provide for the incurrence of any obligation of MDEQ in addition to the total fixed price agreed upon in this contract. All subcontracts shall be subject to the terms and conditions of this contract and to any conditions of approval that MDEQ may deem necessary.

20.17 Third Party Action Notification

The CONTRACTOR shall give MDEQ prompt notice in writing of any action or suit filed, and prompt notice of any claim made against the CONTRACTOR by any entity that may result in litigation related in any way to this contract.

20.18 Authority to Contract

The 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, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under this agreement.

20.19 Confidential Information

The CONTRACTOR shall treat all MDEQ data and information to which it has access by its performance under this contract as confidential to the extent that confidential treatment of same is required under federal and/or state law and shall not disclose such data or information to a third party without specific written consent of MDEQ. In the event that the

CONTRACTOR receives notice that a third party request divulgence of confidential or otherwise protected information and/or has served upon it a subpoena or other validly issued administrative or judicial process ordering divulgence of confidential or otherwise protected information, the CONTRACTOR shall promptly inform MDEQ and thereafter respond in conformity with such subpoena to the extent mandated by state or federal law. This section shall survive the termination or completion of this contract.

20.20 Captions

The captions or headings in this contract are for convenience only, and in no way define, limit or describe the scope or intent of any provision or section of this contract.

20.21 Contact Information

The contact information for contract administration matters is as follows:

For MDEQ:	Contact Name Address Phone No:
For CONTRACTOR:	Contact Name Address Phone No:

20.22 Notice

Any notice required or permitted to be given under this contract shall be in writing and sent by certified United States mail, postage prepaid, return receipt requested, to MDEQ by writing the Executive Director of the Mississippi Department of Environmental Quality. The parties agree to promptly notify each other of any change of address.

20.23 Termination

This contract may be terminated as follows:

A. Termination Upon Bankruptcy:

This contract may be terminated in whole or in part by MDEQ upon written notice to the CONTRACTOR, if the CONTRACTOR should become the subject of bankruptcy or receivership proceedings, whether voluntary or involuntary, or upon the execution by the CONTRACTOR of an assignment for the benefit of its creditors. In the event of such termination, the CONTRACTOR shall be paid an amount for satisfactory work completed on documents, services or materials collected and/or prepared by the CONTRACTOR in connection with this contract, but in no case shall it exceed the total consideration expressed in paragraph Consideration and Payment of this contract; or

B. Termination for Convenience:

MDEQ may terminate this contract for any reason after giving written notice to the CONTRACTOR of such termination and specifying the effective date thereof, at least ten (10) days before the effective date of such termination. The CONTRACTOR shall be paid an amount for satisfactory work completed on documents, services or materials collected and/or prepared by the CONTRACTOR in connection with this contract, but in no case shall it exceed the total consideration expressed in paragraph Consideration and Payment of this contract; or

C. Termination for Cause:

If, through any cause, the CONTRACTOR shall fail to fulfill in a timely and proper manner, as determined by MDEQ, its obligations under this contract, or if the CONTRACTOR shall violate any of the terms or conditions of this contract, and that breach continues for ten (10) days after the CONTRACTOR receives written notice from MDEQ, then MDEQ shall thereupon have the right to terminate this contract. In the event of such termination, the CONTRACTOR shall be entitled to receive just and equitable compensation for satisfactory work completed on documents, services or materials collected and/or prepared by the CONTRACTOR in connection with this contract. Such compensation shall be based upon the fees set forth in paragraph, Consideration and Payment, herein, but in no case shall said compensation exceed the total consideration expressed in paragraph 4 of this contract.

Notwithstanding the above, the CONTRACTOR shall not be relieved of liability to MDEQ by virtue of any breach of this contract by the CONTRACTOR, and MDEQ may withhold any payments to the CONTRACTOR for the purpose of set off until such time as the exact circumstances of the breach are determined. MDEQ may also pursue any remedy available to it in law or in equity.

20.24 Final Payment

Upon satisfactory completion of the work performed under this contract, as a condition before final payment under this contract or as a termination settlement under this contract, the CONTRACTOR shall execute and deliver to MDEQ a release of all claims, Release of Claims form, against MDEQ arising under, or by virtue of, this contract, except claims which are specifically exempted by the CONTRACTOR to be set forth therein. Unless otherwise provided in the contract, by state law or otherwise expressly agreed to by the parties in this contract, final payment under this contract or settlement upon termination of this contract shall not constitute waiver of MDEQ's claims against the CONTRACTOR or his sureties under this contract or applicable performance and payment bonds.

20.25 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 contingent fee, except as disclosed in the Service's bid or proposal.

20.26 Representation Regarding Gratuities

The CONTRACTOR represents that it has not violated, is not violating, and promises that it will not violate the prohibition against gratuities set forth in Section 6-204 (Gratuities) of the Mississippi Personal Service Contract Procurement Regulations.

20.27 Contract Changes

MDEQ may, at any time, by written order, make changes within the general scope of the contract or any of its Task Orders as to the services or work to be performed. If such changes cause an increase or a decrease in the CONTRACTOR's cost or time required to perform any services under this contract or assigned Task Orders, whether or not changed by any order, MDEQ shall make an equitable adjustment and modify this contract, or the appropriate Task Order, in writing. The CONTRACTOR must assert any claim for adjustment under this clause in writing within thirty (30) days from the date the CONTRACTOR received MDEQ's notification of change, unless MDEQ grants additional time before the date of final payment. No services for which the CONTRACTOR will charge an additional compensation shall be furnished without the written authorization of MDEQ.

20.28 Small, Minority and Women Businesses

It is the federal grantor agency's policy to award a fair share of contracts to small minority and women businesses. The CONTRACTOR shall ensure, to the fullest extent possible, that at least the applicable fair share objectives for supplies, equipment and services are made available to Minority Business Enterprises (MBE)/Women Business Enterprises (WBE). The CONTRACTOR shall also include in its bid for documents for Subcontractors the following fair share of objectives:

Equipment:	6.8% MBE and 5.1% WBE
Supplies:	7.7% MBE and 3.4% WBE
Services:	1.1% MBE and 2.2% WBE

CONTRACTORS awarded contracts with full or partial federal funding will abide by the following affirmative steps and will include this clause in any subcontracts at any tier:

A. Including small, minority and women businesses on solicitation lists;

B. Assuring that small, minority and women businesses are solicited whenever they are potential sources;

C. Dividing total requirements, when economically feasible, into small tasks or quantities to permit maximum participation of small, minority and women businesses;

D. Establishing delivery schedules, where the requirements of the work permits, which will encourage participation by small, minority and women businesses;

E. Using the services and assistance of the Small Business Administration and the Office of Minority Business Enterprise of the U. S. Department of Commerce, as appropriate; and

F. Including these steps in any subcontracts awarded under this contract.

20.29 Recycled Paper

Pursuant to EPA Order 1000.25, dated January 24, 1990, the CONTRACTOR agrees to use recycled paper for all reports which are prepared as a part of the contract and delivered to MDEQ. This requirement applies even when the cost of recycled paper is higher than that of virgin paper.

20.30 Hotel/Motel Fire Safety Act of 1990

If, in the course of this contract, the CONTRACTOR conducts meetings at hotels or motels, including, but not limited to, conferences, conventions, training sessions, and seminars, the CONTRACTOR shall conduct such meetings at hotels or motels that are in compliance with the Hotel and Motel Fire Safety Act of 1990 (P. L. 101-391). A list of certified hotels and motels will be provided upon the request of the CONTRACTOR. It is possible to have additional facilities added to the list if sufficient time is allowed.

20.31 Lobbying Disclosure Act of 1995

If the CONTRACTOR is an organization described in Section 501 (c) (4) of the Internal Revenue Code of 1986, then the CONTRACTOR warrants that it does not and will not, engage in lobbying activities prohibited by the Lobbying Disclosure Act of 1995.

The CONTRACTOR agrees to refrain from entering into any subcontract under this contract with any organization described in Section 501 (c) (4) of the Internal Revenue Code of 1986, unless such organization warrants that it does not, and will not, engage in lobbying activities prohibited by the Act as a special condition of this contract.

20.32 Stop Work Order

A. Order to Stop Work. MDEQ, 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 ninety (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, MDEQ shall either:

1) cancel the stop work order; or

2) terminate the work covered by such order as provided in paragraph 27 of this contract.

B. Cancellation or Expiration of the Order. If a stop work order issued under this clause is canceled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, the CONTRACTOR shall have the right to resume work. An appropriate adjustment shall be made in the delivery schedule or service 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 cost properly allocable to, the performance of any part of this contract; and

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

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

D. 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.

20.33 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 Street, Suite 800, Jackson, Mississippi, 39201 for inspection, or downloadable at http://www.mspb.ms.gov.

20.34 E-Payment

CONTRACTOR agrees to accept all payments in United States currency via the State of Mississippi's electronic payment and remittance vehicle. MDEQ 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).

20.35 E-Verify

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:

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 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.

20.36 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 Administrations 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.

20.37 Paymode

Payments by state agencies using the electronic payment system shall be made and remittance information provided electronically as directed by the State. These payments shall be deposited into the bank account of the CONTRACTOR'S choice. The State, may at its sole discretion, require the CONTRACTOR to submit invoices and supporting documentation electronically 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.

ATTACHMENT A

OFFEROR'S CERTIFICATION OF PROPOSAL SUBMISSION

Prospective Contractor's Representation Regarding Contingent Fees

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

Debarment

The prospective Contractor certifies as a part of such Contractor's proposal that such Contractor is not currently debarred from submitting proposals for contracts issued by any political subdivision or agency of the State and that it is not an agent of a person or entity that is currently debarred from submitting proposals for contract issued by any political subdivision or agency of the State.

By submission of this proposal, I have agreed to adhere to **all conditions and requirements**, as set forth in this MDEQ Request for Proposal. I further understand that failure to comply with all requirements and qualifications will result in disqualification of proposal relative to this procurement action. If inadequate, my proposal will not meet the proposal requirements and will be evaluated as "Not Meeting Specifications."

Estimate for Price of Attached Proposal

1. Price Per Sample:

To concur, sign below:

Offeror: _____ Date: _____

Authorized Signature: _____

Typed/Printed Name: _____ Title: _____