

**MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY  
REQUEST FOR STATEMENT OF QUALIFICATIONS**

**Request for Statement of Qualifications for Professional Engineering Services to  
Provide the Mississippi Department of Environmental Quality with  
On-site Engineering Services and Personnel**

The Mississippi Department of Environmental Quality (“MDEQ”) hereby solicits written Statements of Qualifications (“SOQ”) from qualified organizations, companies or individuals to provide professional engineering services to provide on-site personnel support to meet MDEQ water program needs. MDEQ is seeking a contractor to perform the activities as listed below for a limited time and agreed upon level of effort for this contract. The contractor selected must successfully negotiate a contract with MDEQ. No minimum order or work is guaranteed. If the selected contractor is unsuccessful in negotiating a contract or does not maintain the minimum requirements, MDEQ at its discretion may select the next ranked contractor for contract negotiation. Contract may be extended annually thereafter for a total period up to five years.

**SOQs shall be submitted by 3:00 p.m. CST, Thursday, September 3, 2015, to:**

**SOQ to Aid MDEQ by Providing On-site Professional Engineering Services and Personnel to Aid the Office of Pollution Control, Office of Land and Water, and Office of Restoration to Support Water Program Implementation Activities**

**Mississippi Department of Environmental Quality**

**Attn: Brad Ware**

**515 East Amite Street**

**Jackson, Mississippi 39201**

MDEQ will receive SOQs from offerors having specific experience and qualifications in the area identified in this solicitation. For consideration, SOQs for the project must contain evidence of the offeror’s experience and abilities in the specified area and other disciplines directly related to the proposed service. Other information required by MDEQ is included herein. Unless otherwise stated, all offerors shall provide profiles and resumes of the staff to be assigned to the project, references, illustrative examples of similar work performed, and any other information that clearly demonstrates the offeror’s expertise in the area of this solicitation.

The SOQ shall be specific and sufficiently detailed to satisfy the requirements set forth in this solicitation. MDEQ will make award to the applicant whose statements, in the opinion of MDEQ, best conforms to this solicitation and is most advantageous to the State of Mississippi and MDEQ.

**I. Scope of Work**

The services under this scope of work provide needed support to multiple Offices and Divisions within MDEQ. Within this Scope of Work, duties described below support water program needs in the Office of Pollution Control, the Office of Restoration, and the Office

of Land and Water. This contract will be managed by the Office of Pollution Control's Surface Water Division.

The Surface Water Division within MDEQ is responsible for implementation of the following surface water programs: Water Quality Standards, Non-Point Source, Basin Management, Total Maximum Daily Load ("TMDL") and Modeling, and the State Revolving Fund ("SRF") programs. Support for these programs involve knowledge of environmental water pollution regulations, engineering calculations, understanding of the water quality assessment process, familiarity with various on-site customized MDEQ data systems, understanding of federal and state granting and reporting requirements, knowledge of geographic information systems ("GIS") and current applications and uses of such data in existing water programs, and computer skills. MDEQ utilizes customized on-site data systems and servers to support water program needs thus necessitating much of the work to be performed at MDEQ offices. Information and work for MDEQ is expected to be held confidential.

MDEQ will make award to the selected applicant whose offer conform to this solicitation and is most advantageous to MDEQ based on the following factors:

A. General Experience

- 1) The information provided in the SOQ will be evaluated and assigned a score based on the experience of the key personnel in supporting core water program implementation activities as described in this Scope of Work. Successful experience by key personnel with a variety of water program experience, grant and project management, contract development, knowledge of federal and state reporting requirements, water quality assessment experience, understanding of SRF policies and procedures, and proficiency in maintaining and developing georeferenced data sets for use in GIS will also be considered. Provide background supportive of qualifications each key personnel that will be involved.
- 2) Demonstrated performance on contracts and/or subcontracts performed during the past three years, including active contracts and subcontracts, in the areas of quality of products or services; timeliness of performance; cost control; and customer satisfaction. Applicant must provide MDEQ authority to contact applicant's references. Applicant should discuss performance on contracts and subcontracts that are of a type of work similar to the requirements of the Scope of Work.

B. Grant Management and Contract Management Support

- 1) Demonstrated ability to provide, as required on-site professional engineering services related to the procurement of other engineering services including, but not limited to, solicitation of services, development and review of Request for Proposals ("RFP") and Request for Qualifications ("RFQ"), participation in the engineering contractor procurement process as technical advisor, monitoring

contractor performance, reviewing invoices and insuring consistency with federal grant requirements.

- 2) Demonstrated ability to provide engineering and administrative support for the management and required reporting of state and federal grants (specifically Clean Water Act Sections 106, 205, 319 and 104(b)(3)). Demonstrated ability to develop, submit, and receive grant awards/applications, develop scopes of work, negotiate specific grant conditions with the grantor, track and coordinate compliance with grant milestones, and submit interim and final reports.
- 3) Demonstrated experience in understanding MDEQ's statutory requirements, state policies and procedures. SOQ should further demonstrate knowledge of MDEQ's organization, functional responsibilities, and key support personnel.

C. Water Quality Assessment Process Knowledge

- 1) Demonstrated understanding of water quality assessment process, statutory requirements, federal Section 305(b) and 303(d) guidance, EPA's Integrated Reporting Guidance, and MDEQ's Consolidated and Listing Methodology. SOQ should further demonstrate knowledge of the history of MDEQ's Section 305(b) and 303(d) programs along with an understanding of Mississippi's Section 303(d) list consent decree.
- 2) Demonstrated expertise in interpreting surface water quality physical, chemical, and biological community data. SOQ should further demonstrate knowledge of MDEQ's index of biological integrity for wadeable streams the Mississippi Benthic Index of Stream Quality ("MBISQ").
- 3) Demonstrated expertise in the development of Stressor Identification analyses and reports following EPA's Causal Analysis/Diagnosis Decision Information System ("CADDIS") approach.
- 4) Demonstrated understanding of the development of Quality Assurance Project Plans ("QAPP") following EPA's federal guidelines along with knowledge in developing Data Quality Objectives ("DQO") for environmental studies.
- 5) Demonstrated experience in performing data quality assurance/quality control evaluation and developing final Quality Assurance reports.
- 6) Demonstrated experience in performing water quality data assessment in support of environmental permitting processes.
- 7) Demonstrated experience in design and implementation of water quality monitoring plans and activities.

- 8) Demonstrated experience sufficient to provide subject matter expertise to technical working groups focused on data interpretation and in support of numeric nutrient criteria and MDEQ's Nutrient Technical Advisory Group.
- 9) Demonstrated experience in development of environmental success stories in compliance with EPA's required program reporting conditions for Non-Point Source and Basin Management programs.

D. CDBG-DR and Special Projects

- 1) Ability to review, provide resolution of comments, eligibility determinations, and approval of Community Development Block Grant – Disaster Recovery (“CDBG-DR”) funded project documents including subgrant agreements, plans, specifications, contract documents, change orders, record drawings, closeout documents, requests for cash, invoices and other required documents for water and wastewater construction projects related to damages caused by Hurricane Katrina.
- 2) Demonstrated experience in development of and/or review, resolution of comments, eligibility determinations, and approval of funded Special Project documents including subgrant agreements, plans, specifications, contract documents, change orders, closeout documents, requests for cash, invoices, and other required documents for construction projects for restoration or remediation.
- 3) Demonstrated experience in analyzing federal grant program laws and related regulations and successfully managing and implementing those programs.

E. Knowledge and experience with MDEQ surface water customized on-site data systems: Environmental Surface Water Portal for Information Repository and Exchange (“enSPIRE”), Ecological Data Assessment System (“EDAS”), Assessment Database (“ADB”), Laboratory Information Management System (“LIMS”), Loan Information Control System (“LICS”), and Grant Information Control System (“GICS”).

- 1) Ability to support MDEQ's customized on-site surface water quality data base enSPIRE. SOQ should further demonstrate knowledge and understanding of the core reference tables within enSPIRE and the development of characteristic codes for data elements.
- 2) Demonstrated experience with Data Assessment, providing subject matter expertise to develop customized queries and enhanced functionality in support of developing automated surface water data assessment tools.
- 3) Ability to support MDEQ's on-site customized EDAS data system that houses biological community data. SOQ should further demonstrate knowledge of biological data elements.

- 4) Ability to support MDEQ's on-site LIMS system that stores and tracks data analyzed by MDEQ laboratory with specific knowledge of developing assessment codes in support of data migration from LIMS to enSPIRE.
- 5) Ability to support MDEQ's on-site data system LICS.
- 6) Ability to support MDEQ's on-site data system GICS.

F. Microsoft Word and PC Knowledge/Skills

Microsoft Office is the software of choice for the agency. Work products may include tables, spreadsheets and numerous formatting issues. SOQ should demonstrate knowledge, skills, examples or training in this area.

G. Knowledge and Experience with MDEQ GIS protocols and systems

- 1) Demonstrated experience with developing and maintaining basic background GIS layers for visual use in ArcMap Basic.
- 2) Knowledge and experience necessary to perform geo-processing of information in support of TMDL program needs.
- 3) Knowledge and experience in generating Digital Elevation Model ("DEMs") and in delineating drainage areas.
- 4) Knowledge and experience in performing watershed spatial analyses using environmental data layers in support of TMDL, Basin Management, and Water Quality Assessment program needs.
- 5) Demonstrated experience in developing map products in support of program needs.
- 6) Demonstrated experience in using environmental GIS layers to define stream slopes, catchment areas, landuse/landcover percentages, soil types, road crossings, and population densities.
- 7) Knowledge and experience needed to provide GIS support to the Office of Land and Water to serve as spatial clearing house for information and to generate DEM rasters.
- 8) Demonstrated knowledge and experience in development, maintenance, and use of water resources data.
- 9) Ability to support development, maintenance, and use of MDEQ's on-site customized Mississippi Watershed Characterization and Ranking Tool.

- 10) Demonstrated knowledge and experience in the development of data services that can be consumed by MDEQ on-site GIS intranet based tools.

## II. Minimum Requirements

The minimum requirements, which must be satisfied on or before Thursday, September 3, 2015 and documented in the SOQ for an applicant to be considered, are as follows:

- A. The SOQ 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 12. 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 SOQ to MDEQ on or before the above specified time and date. An authorized representative of the applicant must sign the original.
- B. The SOQ shall include detailed information regarding the title of firm, staff, address, telephone, fax, and e-mail.
- C. The SOQ shall comprehensively address each of the factors described in paragraphs A-G under Scope of Work. The SOQ should be prepared in exactly the same order, using the same numbering system for all factors and subfactors. All material that is to be evaluated should be included within the proposal section for all individual factors/subfactors.
- D. Require applicants with a Professional Engineers license; knowledge of water quality assessment protocols; experience with in-house data systems (enSPIRE, EDAS, LIMS, ADB, LICS, and GICS); experience with in-house GIS products and data generation; experience in coastal block grant policies and procedures; experience with federal/state grant and contract management; and strong computer proficiency (network environment and Microsoft Word).
- E. Applicant will have to maintain a list of other clients for review by MDEQ and identify any potential conflicts of interest due to previous work or that may arise during the contract duration. Applicant must provide background on any affiliated companies or subcontracting operations/activities. Selected applicant must provide list of former or existing clients, including contact information.
- F. Applicant will be required to be onsite at MDEQ office a minimum of two days (16 hours) per week during active projects.
- G. MDEQ will provide office space, computer, printer and all other necessary office supplies and support for activities at MDEQ. Applicants expecting to perform any of the work outside of MDEQ's office will be required to provide their own equipment, supplies and necessary support within their proposed hourly rate. Access to email, internet, Microsoft Word and Excel is required.

Applicants that do not comply with these minimum requirements and/or do not satisfactorily document in the SOQ that they meet the minimum requirements will not be considered.

### III. Period of Performance

No minimum order or work is guaranteed. If one or more of the selected firms are unsuccessful in negotiating a contract or do not maintain the minimum requirements, MDEQ, at its discretion, may select the next ranked firm(s) for contract negotiation. Selected firms will be eligible for contract negotiation for one year and may be extended annually thereafter for a total period not to exceed five years.

### IV. Evaluation Procedure and Factors to Be Considered in the Evaluation Process

- A. *Qualifications of Offeror.* The offeror may be required before the award of any contract to show to the complete satisfaction of MDEQ that it has the necessary facilities, ability, and financial resources to provide the service specified therein in a satisfactory manner. The offeror may also be required to give a past history and references in order to satisfy MDEQ in regard to the offeror's qualifications. MDEQ may make reasonable investigations deemed necessary and proper to determine the ability of the offeror to perform the work, and the offeror shall furnish to MDEQ all information for this purpose that may be requested. MDEQ reserves the right to reject any offer if the evidence submitted by, or investigation of, the offeror fails to satisfy MDEQ that the offeror is properly qualified to carry out the obligations of the contract and to complete the work described therein. Evaluation of the offeror's qualifications shall include:
- 1) the ability, capacity, skill, and financial resources to perform the work or provide the service required;
  - 2) the ability of the offeror to perform the work or provide the service promptly or within the time specified, without delay or interference;
  - 3) the character, integrity, reputation, judgment, experience, and efficiency of the offeror; and,
  - 4) the quality of performance of previous contracts or services.
- B. *Determination of Responsiveness.* SOQs will be reviewed to assure compliance with the minimum requirements of this RFQ. Proposals that do not comply with the minimum requirements will be rejected immediately, receiving no further consideration, unless waived by MDEQ in accordance with Section VII, herein.
- C. *Evaluation Criteria.* SOQs that are deemed satisfactorily responsive pursuant to Section IV (B), above, will be reviewed/analyzed to determine if the proposal adequately meets MDEQ's needs. Factors to be considered as follows which are listed in the Minimum Requirements above:

1) General Experience	10 Points
2) Grant Management and Contract Support	15 Points
3) MDEQ Water Quality Assessment Process Knowledge	15 Points
4) Coastal CDBG-DR and Special Projects Knowledge	15 Points
5) Knowledge and Experience with MDEQ Data Systems	20 Points
6) Microsoft Word and PC Knowledge/Skills	05 Points
7) Knowledge and Experience with MDEQ GIS Systems	<u>20 Points</u>

Total 100 Points

**V. Insurance Requirements**

The successful offeror will be required to procure and maintain during the time of the contract Worker’s Compensation Insurance as prescribed by law which shall inure to the benefit of the offeror’s personnel and errors and omissions/professional liability coverage in the amount of \$1,000,000 per occurrence.

MDEQ, its Commissioners, Board Members, officers, employees, agents, and representatives, and the State of Mississippi and its elected and appointed officers, employees and agents shall be named as additional insureds on such policies. The successful offeror shall provide that the insureds thereon waive subrogation against the State of Mississippi and the said political subdivisions thereof. The successful offeror’s respective policies shall provide primary coverage before any applicable policy otherwise covering MDEQ, and any insurance covering MDEQ shall be excess coverage over the successful offeror’s coverage. Endorsements so stating shall be provided to MDEQ by the successful offeror. The policies shall also provide for all additional insureds to be provided with a minimum 30-day written notice prior to a cancellation or modification of each respective policy. While the successful offeror shall provide MDEQ with endorsements as set forth in this paragraph, the failure to do so, or the failure of the endorsements or insurance provided to conform to the contract, does not constitute waiver or estoppels as to MDEQ of their respective legal and equitable rights, including but not limited to, the right to enforce the terms of the contract. These contractual insurance provisions are intended to be, and shall be interpreted to be, separate and independent contractual obligations from the contractual provisions addressing the indemnity of MDEQ by the successful offeror. Upon execution of the Contract, the successful offeror shall promptly furnish MDEQ with certificates of insurance showing the successful offerors compliance with the insurance provisions of this paragraph.

**VI. Rejection of Statements of Qualifications**

SOQs that do not conform to the requirements set forth in this RFQ may be rejected by MDEQ. SOQs may be rejected for reasons that include, without limitation, the following:

- A. the SOQ contains unauthorized amendments to the requirements of the RFQ;
- B. the SOQ is conditional;
- C. the SOQ is incomplete or contains irregularities that make the proposal indefinite or ambiguous;
- D. the SOQ is received late;
- E. the SOQ is not signed by an authorized representative of the offeror;
- F. the SOQ contains false or misleading statements or references; or
- G. the SOQ does not offer to provide all services required by this RFQ.

**VII. Informalities and Irregularities**

MDEQ reserves the right, in its sole discretion, to waive minor defects or variations of a SOQ from the exact requirements set forth in this RFQ that do not give one offeror an advantage or benefit not enjoyed by other offerors, or that adversely impact the interest of MDEQ. If insufficient information is submitted by a offeror for MDEQ to properly evaluate the SOQ, MDEQ has the right to require such additional information as it may deem necessary after the time set for receipt of SOQs, provided that the information requested does not change the quality or performance time of the services being procured. Waivers, when granted, shall in no way modify the RFQ requirements or excuse an offeror from full compliance with the RFQ specifications and other contract requirements, if the offeror is awarded the contract.

**VIII. Disposition of Proposals**

All submitted SOQs become the property of the State of Mississippi. The SOQ's will not be held confidential and will be considered public information.

**IX. RFQ Does not Constitute Acceptance of Offer**

The release of the RFQ does not constitute an acceptance of any offer, nor does such release in any way obligate MDEQ to execute a contract with any offeror. MDEQ reserves the right to accept, reject, or negotiate any or all offers on the basis of the evaluation criteria contained within this document. MDEQ reserves the right to negotiate final terms, including scope, a budget, rate sheet, contract type, and contract amount, with the successful submitter prior to the awarding of the contract. The final decision to execute a contract with any party rests solely with MDEQ.

**X. Nonconforming Terms and Conditions**

A SOQ that includes terms and conditions that do not conform to the terms and conditions in this RFQ 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 MDEQ of non-responsiveness based on the submission of nonconforming terms and conditions.

**XI. Proposal Acceptance Period**

The original and three (3) copies of the SOQ and all attachments shall be signed and submitted in a sealed envelope or package to:

**SOQ to Aid MDEQ for Professional Engineering Services to Provide On-site Professional Engineering Services and Personnel to Aid the Office of Pollution Control, Office of Land and Water, and Office of Restoration in Support Water Program Implementation Activities**

**Attn: Brad Ware  
515 East Amite Street  
Jackson, Mississippi 39201**

no later than three o'clock p.m. (3:00 p.m.) central standard time (CST) on Thursday, September 3, 2015. Timely submission of the SOQ is the responsibility of the offeror. SOQs received after the specified time shall be rejected and returned to the offeror unopened.

**MDEQ will not be responsible for delayed or lost mail received after the deadline. All packages received after this deadline will be returned unopened.**

**XII. Expenses Incurred in Preparing SOQs**

MDEQ accepts no responsibility for any expense incurred by the offeror in the preparation and presentation of an SOQ. Such expenses shall be borne exclusively by the offeror.

**XIII. Proprietary Information**

The offeror should mark any and all pages of the proposal considered to be proprietary information, which may remain confidential in accordance Miss. Code Ann. §§ 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.

**XIV. Additional Information**

All questions about this RFQ must be submitted in writing to the above address or via fax or email to Brad Ware at fax number (601) 961-5715 or [Brad\\_Ware@deq.state.ms.us](mailto:Brad_Ware@deq.state.ms.us) and must be received by MDEQ by 5:00 p.m. CST on Thursday, August 27, 2015. Offerors are cautioned that any statements made by any person shall not be relied upon unless subsequently ratified by a formal written response to the RFQ, such as an amendment or Response to Inquiries document.

**XV. Debarment**

By submitting an SOQ, the offeror certifies that it is not currently debarred from submitting documents in response to solicitations such as this RFQ or from entering any contracts with any political subdivision or agency of the State of Mississippi.

**XVI. Acknowledgement of Amendments or Addenda**

Offerors shall acknowledge receipt of any amendment or addendum to this RFQ by signing and returning the amendment or addendum with its SOQ, by identifying the amendment or addendum number and the date in writing. Such acknowledgement must be received by MDEQ by the time and at the place specified for receipt of SOQs.

**XVII. Contract Terms and Conditions**

Offeror's SOQ and any subsequently awarded contract are subject to the Standard Contract Terms and Conditions, a copy of which is attached hereto as Appendix "A".

**XVIII. Post-Award Debriefing**

A. 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.

B. 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>.

## APPENDIX A

### STANDARD CLAUSES:

The minimum standard clauses that will be included in the contract to be awarded subsequent to this SOQ.

#### 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.

#### 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.

#### 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.

#### 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.

#### 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.

#### 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.

#### 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.

#### 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.

#### 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.

#### 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.

#### 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).

#### 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, 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.

### 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.

### 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.

### 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.

### Subcontracts

The CONTRACTOR must obtain written approval from MDEQ by submitting Attachment , 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.

### 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.

### 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.

### 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.

### 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.

### Contact Information

The contact information for contract administration matters is as follows:

For MDEQ:	Mr. Brad Ware P.O. Box 2261 Jackson, MS 39225 Phone: 601-961-5107
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For CONTRACTOR:	Contact Name Title Address Address Phone:
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### 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.

### 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 4 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 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 4, 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.

### 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.

### 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 or proposal.

### 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 Review Board Rules and Regulations.

### 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.

### 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.

#### 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.

#### 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.

#### 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.

#### Stop Work Order

- C. 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.
- D. 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.
- E. 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.
- F. 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.

#### 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).

### 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.

### 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.

### 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.