

State of Mississippi

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State Veterans Affairs Board

REQUEST FOR PROPOSAL PROPOSAL NUMBER 1731-16-R-RFPR-00002 (Food Service Management at the Veterans Nursing Home in Collins, Jackson, Kosciusko and Oxford)

INVITATION: Written proposals subject to the conditions herein stated and attached hereto, will be received in this office until **May 2, 2016** at 11:00 a.m. local time for furnishing the services described below for the State Veterans Affairs Board.

I. DESCRIPTION: The State Veterans Affairs Board (SVAB) is hereby requesting written proposals to provide food service at the State Veterans Homes in Jackson, Collins, Kosciusko, and Oxford. Each Home is a 150 bed skilled care veterans nursing homes. Each home has an equipped kitchen.

The State Veterans Affairs Board will receive proposals from offerors having specific experience and qualifications in the area identified in the solicitation. For consideration, proposals for the project must contain evidence of the offerors' experience and abilities in the specified area and other disciplines directly related to the proposed service. Other information required by the State Veterans Affairs Board may be included elsewhere in the solicitation. Unless otherwise stated, all offerors shall provide references and any other information that clearly demonstrates the offerors' expertise in the area of the solicitation.

It is our intent to purchase food service management services for the types and quantities listed in this request for proposal; however, quantities may be increased or decreased accordingly if the needs of the SVAB require such a change.

A selection committee shall review and evaluate all replies. The selection committee will have only the response to the solicitation to review for selection of finalists. It is therefore important that respondents emphasize specific information pertinent to the work. Evaluation of the responses will be based on the following criteria:

- A. The overall quality of the proposed plan for performing the required services. (20%).

- B. Understanding of the project and its objectives. (10%).
- C. The degree of completeness of response to the specific requirements of the solicitation (10%)
- D. Offeror's ability to provide the required services as reflected/evidenced by qualifications. This includes the ability of the Offeror to provide a work product that is legally defensible (10%)
- E. The personnel, equipment, and financial resources to perform the services currently available or demonstrated to be made available at the time of contracting (10%)
- F. A record of past performance of similar work (20%)
- G. Price. (20%)

All items must equal or exceed specifications listed. The absence of detail specifications of the omission of detail description shall be recognized as meaning that only the best commercial practices are to prevail and that only first quality service, materials and workmanship are to be used.

II. COMMITMENT OF THE STATE OF MISSISSIPPI: The Agency reserves the right to withdraw this Proposal Request at any time and for any reason. Receipt of proposal materials by the Agency or submission of proposal(s) confers no rights upon the offeror nor obligates the SVAB in any manner.

Any contract(s) based on this Request for Proposal may or may not be awarded. Any contract(s) resulting in an award from this Request for Proposal is/are invalid until properly approved and executed by the SVAB. Any agreements shall be construed and interpreted in accordance with the laws of the State of Mississippi.

III. SPECIFICATIONS: The following services will be provided by the Offeror and its staff:

- 1. Regulations and Standards: The Contractor will adhere to all federal and state regulations and standards that govern SVAB and which are applicable to the State Veterans Homes:
 - A. The vendor will adhere to all regulations and standards that govern SVAB:
 - (1) U.S. Department of Veterans Affairs;
 - (2) Mississippi Department of Health, Division of Licensure and Certification Nursing Home Regulations;
 - (3) Rules, Regulations, and Minimum Standards For Institutions

For The Aged Or Infirm

(4) SVAB Policies and Procedures.

2. Nourishments

A. Food and drink items will be requisitioned by SVAB Nursing Staff for feeding to residents between meals. Procedures will be agreed upon by vendor and SVAB.

B. SVAB reserves the right to make additions and deletions to the nourishment list. Items to be available include, but are not limited to:

(1) Coffee and Decaffeinated Coffee;

(2) Tea;

(3) Sugar and artificial sweeteners;

(4) Fruit Juices;

(5) Soups;

(6) Cheese;

(7) Crackers;

(8) Cookies;

(9) Peanut Butter;

(10) Fresh fruit;

(11) Bread;

(12) Lunch meat and meat spreads;

(13) Cereals, dry and instant hot;

(14) Condiments;

(15) Ice Cream.

C. The vendor's dietitians will develop a weekly nourishment calendar appropriate for diets of residents in each nursing home.

3. Medication-Treatment Products

- A. Food items used as medicine or to administer medications will be available for each home.
- B. Items include, but are not limited to:
 - (1) Fruit Juices;
 - (2) Applesauce;
 - (3) Bran;
 - (4) Drink Mix.

4. Supplements

- A. The vendor will establish a formulary of commercial dietary supplements with input from SVAB staff.
- B. Supplements will be supplied based on physicians' orders and nutritional needs of residents,

5. Scope of Service

A. Resident Meals

1. The Respondent is responsible for the planning, preparation, service and delivery (carts taken to each wing) of all resident meals (3 times per day unless specified by physician orders) that meet or exceed the caloric intake required and in compliance with physician orders. For noon and evening meals, at least two entrée options and at least three side items will be available. Residents will select entree and sides items on the day prior to meal. Veterans Affairs Board staff will be responsible for recording selected meal items on a ticket (tickets/tablet service with meal options available will be supplied by Food Service Staff) for each residents for the noon and evening and submitting the ticket to Food Service staff the day prior to the meal being prepared. At least two dessert options will be available for the noon and evening meals.

2. Breakfast: Breakfast shall include, but not be limited to, a meat and biscuits seven days a week.

3. Desserts, to include pies and cakes, will be available for lunch and diner seven days a week.

4.

B. Programmatic/Recreational Meals

1. Vendor will provide meals for resident recreational activities based on a selection of set menus provided by the vendor. Examples: picnics, sack lunches, cookouts.
2. These meals will replace a meal on the seasonal cycle menu.
3. These meals will include all paper goods, disposable utensils, etc. as well as food.
4. Vendor will provide special theme meals for all residents each month. Schedules shall be coordinated with the SVAB Activities Department.
5. Vendor will provide birthday cake, ice cream, disposable plates and utensils for all residents once per month. This will be coordinated with the SVAB Activities Department. The vendor will establish and publish a reasonable "cut-off" time for final changes before special events other than birthdays and theme meals.
5. These meals are to be included in the guaranteed meal price.
6. Vendor will provide sack lunches for residents as necessary for medical appointments.
7. Vendor will allow residents to set menu for one meal per month. Vendor will confer with the Resident's Council at each home to determine the menu.

C. Cafeteria: Resident, Family Member, Employee and Guest Dining

1. Meal service will be available in the cafeteria for all three meals.
2. Vendor must provide written explanation of service options and a fixed price for each meal pursuant to C1.

D. Catering

1. Vendor will be notified by SVAB at least 5 days prior to the event to be catered.
2. Vendor will charge SVAB at cost for food, supplies and labor used.
3. Charges for catering events are to be billed on separate invoices referencing event and approved SVAB purchase order number.
4. Catered events will be conducted in an efficient, professional manner without adversely affecting the food service for residents.

5. Vendor has the right to establish a maximum number of events to be handled at one time.
6. Vendor will establish menus and fixed prices for SVAB to choose from for catered events.

E. Additive Alternate: In addition to the plan for performance and price for services specified in this RFP, Offerors should provide the price and plan for performance for the following proposed services. The SVAB reserves the right not to include the following services in the awarded contract.

1. Station for omelets and eggs cooked to order, for breakfast seven days a week.
2. Soup and Salad Station available with lunch and dinner seven days a week.
3. Short Order Meals- The Respondent will have qualified staff available from 7:00 am until 7:00 pm to prepare short order meals as requested by residents. Short order meals shall include those mutually agreed upon by both parties: i.e., Hamburgers, Hotdogs, Grilled Cheese Sandwiches, Ham and Cheese Sandwiches. Short Order Meal service for residents should be included in the Daily Charge Per Resident Per Meal.

6. Quality Management/Performance Improvement Requirements

- A. Performance standards as stated in the SVAB/Vendor contract may be measured through unannounced Environment of Care inspections conducted by SVAB staff.
 - (1) Compliance with sanitation, safety and acceptable levels of service will be monitored.
 - (2) If compliance is deficient, SVAB will notify the vendor. Penalties may be assessed if applicable.
- B. When compliance rates fall below the expected standard, the vendor must submit a written corrective action plan to SVAB within ten (10) days of notification of deficiency.
- C. The corrective action must include:
 - (1) Flow to correct the deficiency for residents affected.
 - (2) Flow to identify those residents potentially affected by the same deficiency.

- (3) How to prevent the deficiency from recurring.
 - (4) How the vendor will monitor and ensure compliance with the corrective action plan and prevent the same deficiency from recurring.
- D. Vendor shall develop and implement the plan of correction for survey deficiencies; SVAB must approve the plan of correction before implementation.
- E. SVAB and other regulatory agencies will at all times have access to the premises to inspect and ensure that property furnished is being maintained, used properly and accounted for.
- F. Audit of meal tickets and dietary orders monthly and upon request. Results of audit shall be reported promptly to the Home's Administrator.

7. Penalties

- A. If at any time SVAB assesses that performance standards are not being met, a penalty may be assessed.
- B. The penalty will be 1 ½ % of weekly billings until performance standards are met with a minimum penalty of 1 ½ % of billing for the week immediately following discovery of noncompliance by SVAB staff.
- C. If SVAB purchasing office and vendor do not agree, the matter will be referred to the SVAB Director for a final decision.
 - (1) If vendor is found to be out of compliance, penalty will be assessed as in item B above.
 - (2) If vendor is found to be in compliance, no penalty will be assessed.
- D. Penalty will be assessed for non-timely corrective action.
- E. If a citation from a MDH, VA or other survey results in monetary fine attributed to vendor, vendor will pay the fine.
- F. SVAB will not pay for any food items that are spoiled or unwholesome at the time of delivery, do not meet specifications for food components or menu items, or do not otherwise meet requirements of this contract.
- G. Vendor shall pay any claims due to vendor negligence or non-compliance with regulations for the 3 year period for which records are subject to review by the MDFI or USDA.

8. Sanitation and Safety

- A. Vendor is responsible for safety, sanitation and maintenance in the following areas:
 - (1) Physical plant of kitchen and dining room, including food service equipment, as well as dishes, dinnerware, serving platters and utensils.
 - (2) Food supply and storage, handling during preparation, transportation and service.
 - (3) Personal hygiene of food service employees.

9. Personnel

- A. SVAB reserves the right of final interview and approval for all management personnel. If at any time a vacancy occurs in the senior management team, the vacancy must be filled within 30 days or penalties may be assessed.
- B. Vendor will furnish sufficient on-site qualified personnel to ensure that the food service program is operated according to MDH and VA quality food service standards and personal conduct standards acceptable to SVAB. This requirement includes, but is not limited to, a fulltime qualified registered dietitian.
- C. The vendor will pay these employees.
- D. These employees are subject to the vendor's direct supervision and approval and are members of the vendor's staff.
- E. Personnel policies will be those of the vendor.
- F. In addition to on-site personnel, sufficient personnel must be employed by the vendor's company to keep the food service operation current on new food products, menu ideas, appropriate research and new food production equipment and methods.
- G. Consultation with vendor supervisory and technical staff may be requested and utilized by SVAB administration for proper functioning of the food service program.
- H. The vendor must have access to qualified replacement personnel to ensure continuity of service in the event of a strike, resignation, dismissal or illness of on-site personnel.
- I. The expense of temporary employees will be borne entirely by the vendor.
- J. The vendor agrees not to hire any SVAB employees without the express written approval of SVAB Director.

- K. Should labor problems arise to the extent that legal advice and assistance are necessary, such expense will be borne by the vendor.
 - L. Vendor will be responsible for the cost of background checks on each employee. Each employee must submit fingerprints for submission to the MS State Board of Health.
 - M. Vender will be responsible for the Tuberculosis Skin test of each employee.
10. Billing
- A. Vendor will submit a weekly bill to SVAB within three (3) days after the end of each week.
 - B. Vendor will submit final bills for the SVAB fiscal year (July 1 through June 30) by August 10 each year.
 - C. Each bill will show a breakdown by homes of charges and an overall summary.
 - D. Vendor will maintain documentation to support costs.
11. Financial Records/Monthly Report
- A. Vendor will utilize generally accepted accounting principles and practices in the maintenance of financial records for the food service operation.
 - B. Vendor will permit SVAB or other regulatory agencies to:
 - (1) Audit its accounts
 - (2) Verify all reports, records and data
 - (3) Obtain other desired information by direct reference to ledgers, correspondence, memoranda and any other records pertinent to food service operation.
 - C. Vendor will submit detailed information to SVAB as requested regarding the following:
 - (1) Nourishment;
 - (2) Medication;
 - (3) Special events;

(4) Catering;

(5) Commodity activity.

12. Food Service Facility, Equipment, Supplies, Services Provided by SVAB

A. All food production and food service facilities, as equipped and ready to operate.

(1) Such fixtures and equipment must be maintained in a manner that is acceptable to regulatory agencies.

(2) Any replacement of equipment that wears out as a result of normal wear will be provided through negotiation between SVAB and vendor.

B. Pest control

C. Preventive maintenance, repair and replacement of existing equipment owned by SVAB.

D. All utilities

E. Local phone service

13. Equipment, Supplies, Service to be Provided by Vendor.

A. Routine cleaning of food preparation, service area and office areas occupied by vendor.

B. Cleaning of resident cafeteria tables, chairs, walls, draperies, blinds, windows and floors.

C. Supplies used in food production and service to residents and employees and for catered events,

D. Replacement of all small supply items due to wear and tear or damage due to negligence on the vendor's part.

E. Napkins and condiments for meal services.

F. Cleaning and fireproofing hoods and ducts.

G. Maintenance, repairs and replacement of equipment owned by vendor.

H. Building/facilities renovation to accommodate new systems or changes implemented by vendor upon review and approval by the SVAB Director.

- I. Repair, replacement and/or payment for damage to SVAB property caused by vendor/contractor negligence.
 - J. Long distance telephone service/fax, computer lines.
 - K. Pumping out grease pit quarterly or as needed.
 - L. Provide for storage and disposal of used cooking oil.
14. Communication and Computer Access
- A. Vendor will provide its own long distance/fax telephone service.
 - B. SVAB will provide modem quality lines through the SVAB telephone switch for external electronic communication and connectivity.
 - C. Vendor will provide their own PCs, printers, software and any other hardware/software necessary for connection and communication (e-mail, time, reports, etc.) to the vendor's home office.
15. RAW FOOD SPECIFICATIONS
- A. The following specifications establish minimum qualities acceptable to SVAB in the procurement of raw foods by the successful vendor: Bidders must furnish with the bid a complete list of the grades and qualities of raw food to be used.
 - (1) Canned Fruits: USDA Grade A or Fancy
 - (2) Dairy Products: USDA Grade A
 - (3) Eggs: USDA Grade A Large Whole Fresh Eggs (fresh, frozen pure whole eggs, The only additives acceptable are milk, salt and citric acid to maintain and preserve quality preparation, with citric acid added to preserve color. Salmonella negative as determined by the USDA method of analysis. Product shall be fresh, frozen, pasteurized and homogenized.
 - (4) Frozen fruits and frozen juices: USDA Grade A
 - (5) Frozen vegetables: USDA Grade A or Fancy
 - (6) Canned vegetables: USDA Grade A or Fancy
 - (7) Fresh Produce/Fruits: US or No. 1, USDA Grade A
 - (8) Spices and seasonings: Shall be prepared in accordance with best

commercial practices, under strict sanitary conditions from clean, sound, true products and made from which no portion of any volatile or other flavoring principle has been removed, and shall be free from artificial coloring, adulterants and impurities.

- B. Meat and Poultry: All meat to be US Domestic and must have the official inspection mark of the USDA and/or MDAC.
 - (1) Beef for Dry Roasting: USDA Choice
 - (2) Beef for Pot Roasting/Braising: USDA Good
 - (3) Ground Beef: Made from 70/30 USDA Choice beef not to exceed 30% trimmable fat. Prepared beef thoroughly blended prior to grinding. Initial grinding through a plate having 1/8 inch holes in diameter. Shall not contain organ meats. Ground beef packed immediately upon conclusion of grinding and quick frozen. USDA or MDAC official inspection mark required.
- C. Textured Vegetable Protein: Its use in casseroles and ground meat entrees may not exceed 15% of total unit weight per portion.
- D. USDA Foods donated by the US Department of Agriculture shall be used in accordance with standard menu practices based upon availability.

III. PROPOSAL INSTRUCTIONS

1. Term

- A. Period of contract: July 1, 2016 through June 30, 2020.
- B. SVAB reserves the right to renegotiate the contract for one additional year.

- 2. Price shall be a fixed **Daily Charge Per Resident**. The daily resident count shall be determined based on the morning census, excluding those residents designated for tube feeding that day ("Tube Feeder Resident"), as per the Quality Assurance Monitor RN Supervisor Report (the "Morning Census Report"), which shall list each resident present at the respective VA Home as of the time of the census plus any Tube Feeder Resident that received an ordered meal during that day, plus any resident that was not included on the morning census but arrives or returns to the respective VA Home during that day and receives an ordered meal. The daily resident count will not be decreased due to any resident leaving the VA Home, for any reason, after the morning census is generated. The VA Home administrator, or his/her designee, shall provide the vendor a copy of the

Morning Census Report each day.

3. Daily Resident meal price will include three (3) meals per day or as required by the diet type [*i.e., Insulin dependent diabetic (4-6 meals per day), post-gastrectomy (6 meals per day), hypoglycemic (6 meals per day)*] and the cost of nourishments, medication-treatment foods and supplements.
4. Substitutes of similar nutritional value shall be available and offered to residents who refuse food served. Substitutes will be included in the daily charge per resident. There will be no additional charge for substitution.
5. Submit a complete list of nourishments, medication-treatment foods, and supplements that will be offered. SVAB reserves the right to make additions and deletion to this list. The cost of these items must be included in the daily charge per resident.
6. The vendor must state how he will set the guaranteed price to be charged to SVAB for each meal during a successive fiscal year. Prices must be firm for each fiscal year.
 - A. The price must not increase more than the percentage of change in the Consumer Price Index for all Urban Consumers as published by the Bureau of Labor Statistics.
 - B. Vendor must state how yearly increases will be calculated.
7. The vendor must state the method to be used for pricing catered events.
8. The vendor must state a fixed price for employee, family and guest meals.
9. The vendor must state the operation plan for the SVAB employee, family member and guest meal plan in detail.
10. The vendor must provide a description of its purchasing system.
11. The vendor must provide detailed information on its in-service training and orientation program
12. Documentation of Successful Operations
 - A. The vendor must provide documentation of successful experience in managing all aspects of a Food Service Department. This should include documentation of successful management and consulting experience in a public sector facility environment, similar in size and nature to the homes, for a minimum of ten (10) years.
 - B. The vendor must provide documentation of its record. This should include

descriptions of at least five (5) current projects similar to the one proposed in this RFP, including the name(s) and telephone number of the person(s) most familiar with the contractor's performance under the contract.

- C. The vendor must provide a copy of the most recent financial statement and/or audit report.
 - D. A list of all current and former contracts within the past three (3) years, including those with school breakfast/lunch programs.
13. Documentation of Personnel:
- A. The vendor must provide brief resume of experience of key members of the firm and a representative sample of experiential resumes for personnel having worked with government/state institutions and/or nursing homes of 100 beds or more.
 - B. The vendor must provide a list of corporate staff and all on-site management personnel that will be assigned to this contract. Include resumes, as well as, a list of specific duties and responsibilities of each. The vendor must also provide an on-site organizational chart that will be utilized at each Home under this contract.
 - C. The vendor must have a qualified dietary manager for the duration of the contract. It is mandatory that the vendor assign the individual filling this position for a minimum of 12 consecutive months. The vendor must also employ a registered dietician at each Home, who will work a minimum for twenty (20) hours per week.
 - D. Vendor shall include the proposed salary range and benefits for each discipline.
14. The vendor will provide a description of how Resident's council and Resident Food Satisfaction Surveys will be utilized in the management for the food service program.
15. The contractor must describe an ability to provide uninterrupted regulation approved food service in the event of an emergency, power failure or disaster.
16. The vendor shall provide that this proposal has the signature of an official authorized to bind the offering vendor for at least sixty (60) days.
17. SVAB reserves the right to reject any and all proposals in portion or in its entirety.
18. The Proposal Form provided in the RFP must be included in each proposal.

IV. ISSUING OFFICE: This Request for Proposals is being issued by the State Veterans

Affairs Board of the State of Mississippi. All inquiries, except for questions regarding proposal procedures, must be made in writing to:

Mr. Eric Jordan, Director of Operations
State Veterans Affairs Board
3466 Highway 80 East
Pearl, Mississippi 39288
(601) 576-4850
FAX (601) 576-4868

- V. MINIMUM REQUIREMENTS:** WHEREAS, The Board desires to have the Service undertake to furnish food service management for the residents at the veteran nursing homes under the control of the Board.

Any contract resulting from this proposal will be for the period from July 1, 2016 through June 30, 2020.

1. Offeror to provide:
 - A. Worker's Compensation insurance, sufficient under the laws of the State of Mississippi, covering all persons employed by the Service engaged in the performance of the work under contract with the State Veterans Affairs Board.
 - B. Comprehensive General Liability insurance, including blanket Contractual Liability coverage, with maximum limit of \$1,000,000 combined single limit for bodily injury and for property damage per occurrence for personal injury or death, and damage to property arising directly from the performance of contract.
 - C. In addition, the proposed vendor will provide an endorsement to all policies to name SVAB as an additional insured, waive subrogation and provide a hold harmless agreement in favor of SVAB.
 - D. Proof of all coverage shall be provided to SVAB.
 - E. Vendor will prepare and submit all applicable tax reports and applicable taxes collected from all cash sales derived from the food service operation (cafeteria sales) to the appropriate local, state and federal authorities.
 - F. Vendor will be responsible for collecting, depositing and accounting for monies collected from cash sales.

- VI. ENTIRE AGREEMENT:** Any contract, resulting for this Request for Proposals,

represents the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior negotiations, representations, or agreements, either verbal or written, between the parties hereto relating to the subject matter hereof and shall be independent of and have not effect upon any other contract. A record of formal contract negotiations between the contractual parties will be prepared by the State Veterans Affairs Board and will become a permanent part of the State Veterans Affairs Board's minutes.

The successful Contractor(s) must not commence any billable work until a valid contract has been executed and signed in duplicate – with an original delivered to each party.

1.0 RENEWAL OF CONTRACTS

The contract may be renewed at the discretion of the agency upon written notice to the contractor at least 60 days prior to the contract anniversary date for a period of one year under the same prices, terms, and conditions as in the original contract. The total number of renewal years permitted shall not exceed one.

2.0 TYPE OF CONTRACT

COMPENSATION FOR SERVICES WILL BE IN THE FORM OF A DAILY CHARGE PER RESIDENT (as defined in Section III, paragraph 2.). Include a breakdown of the costs (labor cost, raw food cost, etc.) which is included in the daily rate.

3.0 REJECTION OF PROPOSALS

Proposals which do not conform to the requirements set forth in this RFP may be rejected by SVAB. 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;
- (4) the proposal is received late;
- (5) the proposal is not signed by an authorized representative of the party;
- (6) the proposal contains false or misleading statements or references; and
- (7) the proposal does not offer to provide all services required by the RFP.

4.0 ACCEPTANCE OF PROPOSALS

SVAB reserves the right, in its sole discretion, to waive minor irregularities in proposals. A

minor irregularity is a variation of the RFP which does not affect the price of the proposal, or give one party an advantage or benefit not enjoyed by other parties, or adversely impact the interest of SVAB. Waivers, when granted, shall in no way modify the RFP requirements or excuse the party from full compliance with the RFP specifications and other contract requirements, if the party is awarded the contract.

5.0 DISPOSITION OF PROPOSALS

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

6.0 COMPETITIVE NEGOTIATION

The bidding method to be used is that of competitive negotiation from which SVAB 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, SVAB also reserves the right to accept any proposal as submitted for contract award, without substantive negotiation of offered terms, services or prices. For these reasons, all parties are advised to propose their most favorable terms initially.

7.0 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 SVAB to execute a contract with any other party. SVAB 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 SVAB.

8.0 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.

9.0 NONCONFORMING TERMS AND CONDITIONS

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

10.0 PROPOSAL ACCEPTANCE PERIOD

The original of the proposal and all attachments shall be signed and submitted in a sealed envelope or package to Mr. Eric Jordan, P.O. Box 5947, Pearl, MS 39208; or physical address of 466 Highway 80 East, Pearl, MS 39208, no later than 11:00 a.m. on Wednesday, April 4, 2012. Timely submission of the proposal is the responsibility of the offeror. Offers received after the specified time shall be rejected and returned to the offeror unopened. The envelope or package shall be marked with the proposal opening date and time and the number of the request for proposal. The time and date of receipt shall be indicated on the envelope or package by the

SVAB Business Office. Each page of the proposal and all attachments shall be identified with the name of the offeror.

11.0 EXPENSES INCURRED IN PREPARING OFFERS

SVAB 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.

12.0 PROPRIETARY INFORMATION

The offeror/proposer should mark any and all pages of the proposal considered to be proprietary information which may remain confidential in accordance with Section 25-61-9 and 79-23-1 of the Mississippi Code. 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.

13.0 ADDITIONAL INFORMATION

Questions about this Request for Proposal must be submitted in writing no later than March 26, 2012, to Eric Jordan at P.O. Box 5947, Pearl, MS 39288; or physical address of 3466 Highway 80 East, Pearl, MS 39288; fax number 601-576-4868. Offerors are cautioned that any statements made by the contact person 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.

14.0 DEBARMENT

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

15.0 REQUIRED CLAUSES TO BE INCLUDED IN RESPONSE PROPOSAL

15.1 APPLICABLE LAW

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

15.2 AVAILABILITY OF FUNDS

It is expressly understood and agreed that the obligation of the [State] to proceed under this agreement is conditioned upon the appropriation of funds by the Mississippi State Legislature and the receipt of state and/or federal funds. If the funds anticipated for the continuing fulfillment of the agreement are, at any time, not forthcoming or insufficient, either through the failure of the federal government to provide funds or of the State of Mississippi to appropriate funds or the discontinuance or material alteration of the program under which funds were provided or if funds are not otherwise available to the [State], the [State] shall have the right upon ten (10) working days written notice to Contractor, to terminate this agreement without damage, penalty, cost or expenses to the [State] of

any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.

15.3 PROCUREMENT REGULATIONS

The contract shall be governed by the applicable provisions of the *Mississippi Personal Service Contract Review Board Rules and Regulations*, a copy of which is available at 210 East Capitol, Suite 800, Jackson, Mississippi 39201 for inspection, or downloadable at <http://www.mspb.ms.gov>.

15.4 COMPLIANCE WITH LAWS

Contractor understands that the [State] 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.

15.5 STOP WORK ORDER

(1) Order to Stop Work: The procurement officer, may, by written order to Contractor at any time, and without notice to any surety, require Contractor to stop all or any part of the work called for by this contract. This order shall be for a specified period not exceeding 90 days after the order is delivered to Contractor, unless the parties agree to any further period. Any such order shall be identified specifically as a stop work order issued pursuant to this clause. Upon receipt of such an order, Contractor shall forthwith comply with its terms and take all reasonable steps to minimize the occurrence of costs allocable to the work covered by the order during the period of work stoppage. Before the stop work order expires, or within any further period to which the parties shall have agreed, the procurement officer shall either:

(a) cancel the stop work order; or,

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

(2) Cancellation or Expiration of the Order: If a stop work order issued under this clause is canceled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, Contractor shall have the right to resume work. An appropriate adjustment shall be made in the delivery schedule or Contractor price, or both, and the contract shall be modified in writing accordingly, if:

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

(b) Contractor asserts a claim for such an adjustment within 30 days after the end of the period of work stoppage; provided that, if the procurement officer decides that the facts justify such action,

any such claim asserted may be received and acted upon at any time prior to final payment under this contract.

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

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

15.6 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 bid or proposal.

15.7 PROSPECTIVE CONTRACTOR'S REPRESENTATION REGARDING CONTINGENT FEES (Note: This clause shall be completed and conspicuously placed within the response bid or proposal).

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

15.8 REPRESENTATION REGARDING GRATUITIES

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

15.9 PROSPECTIVE CONTRACTOR'S REPRESENTATION REGARDING CONTINGENT FEES (Note: This clause shall be completed and conspicuously placed within the response bid or proposal).

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

15.10 ACKNOWLEDGMENT OF AMENDMENTS

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

15.11 CERTIFICATION OF INDEPENDENT PRICE DETERMINATION (Note: This clause shall be completed and conspicuously placed within the response bid or proposal).

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

15.12 E-PAYMENT

Contractor agrees to accept all payments in United States currency via the State of Mississippi's electronic payment and remittance vehicle. The agency agrees to make payment in accordance with Mississippi law on "Timely Payments for Purchases by Public Bodies," which generally provides for payment of undisputed amounts by the agency within forty-five (45) days of receipt of invoice. Miss. Code Ann. § 31-7-305 (1972, as amended).

15.13 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:

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

15.14 TRANSPARENCY

This contract, including any accompanying exhibits, attachments, and appendices, is subject to the "Mississippi Public Records Act of 1983," and its exceptions. See Miss. Code Ann. §§ 25-61-1 et seq., (1972, as amended) and Miss. Code Ann. § 79-23-1 (1972, as amended). In addition, this contract is subject to the provisions of the Mississippi Accountability and Transparency Act of 2008. Miss. Code Ann. §§ 27-104-151 et seq. (1972, as amended). Unless exempted from disclosure due to a court-issued protective order, a copy of this executed contract

is required to be posted to the Department of Finance and Administration's independent agency contract website for public access at <http://www.transparency.mississippi.gov>. Information identified by Contractor as trade secrets, or other proprietary information, including confidential vendor information, or any other information which is required confidential by state or federal law or outside the applicable freedom of information statutes, will be redacted.

15.15 TRADE SECRETS, COMMERCIAL AND FINANCIAL INFORMATION

It is expressly understood that Mississippi law requires that the provisions of this contract which contain the commodities purchased or the personal or professional services provided, the price to be paid, and the term of the contract shall not be deemed to be a trade secret or confidential commercial or financial information and shall be available for examination, copying, or reproduction.

15.16 PAYMODE

Payments by state agencies using the State's accounting system shall be made and remittance information provided electronically as directed by the State. These payments shall be deposited into the bank account of Contractor's choice. The State may, at its sole discretion, require Contractor to electronically submit invoices and supporting documentation at any time during the term of this Agreement. Contractor understands and agrees that the State is exempt from the payment of taxes. All payments shall be in United States currency.

15.17 POST-AWARD VENDOR DEBRIEFING

Vendors have the right to request a debriefing. Requests for debriefing shall be made within three business days of the opening of proposals. Debriefing shall take place within five business days of the request.

16.0 STANDARD TERMS AND CONDITIONS WHICH SHALL BE INCLUDED IN ANY CONTRACT AWARDED FROM THIS RFP

16.1 APPLICABLE LAW

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

16.2 AVAILABILITY OF FUNDS

It is expressly understood and agreed that the obligation of the State to proceed under this agreement is conditioned upon the appropriation of funds by the Mississippi State Legislature and the receipt of state and/or federal funds. If the funds anticipated for the continuing fulfillment of the agreement are, at any time, not forthcoming or insufficient, either through the failure of the federal government to provide funds or of the State of Mississippi to appropriate

funds or the discontinuance or material alteration of the program under which funds were provided or if funds are not otherwise available to the [State], the [State] shall have the right upon ten (10) working days written notice to Contractor, to terminate this agreement without damage, penalty, cost or expenses to the [State] of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.

16.3 COMPLIANCE WITH LAWS

Contractor understands that the [State] 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.

16.4 E-PAYMENT

Contractor agrees to accept all payments in United States currency via the State of Mississippi's electronic payment and remittance vehicle. The agency agrees to make payment in accordance with Mississippi law on "Timely Payments for Purchases by Public Bodies," which generally provides for payment of undisputed amounts by the agency within forty-five (45) days of receipt of invoice. Mississippi Code Annotated § 31-7-305.

16.5 E-VERIFICATION

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

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

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

(3) both. In the event of such 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.

16.6 PAYMODE

Payments by state agencies using the State's accounting system shall be made and remittance information provided electronically as directed by the State. These payments shall be deposited into the bank account of Contractor's choice. The State may, at its sole discretion, require Contractor to electronically submit invoices and supporting documentation at any time during the term of this Agreement. Contractor understands and agrees that the State is exempt from the payment of taxes. All payments shall be in United States currency.

16.7 PROCUREMENT REGULATIONS

The contract shall be governed by the applicable provisions of the Mississippi Personal Service Contract Review Board Rules and Regulations, a copy of which is available at 210 East Capitol, Suite 800, Jackson, Mississippi 39201 for inspection, or downloadable at <http://www.mspb.ms.gov>.

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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.

16.9 REPRESENTATION REGARDING GRATUITIES

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

16.10 STOP WORK ORDER

(1) Order to Stop Work: The Procurement Officer, may, by written order to Contractor at any time, and without notice to any surety, require Contractor to stop all or any part of the work called for by this contract. This order shall be for a specified period not exceeding 90 days after the order is delivered to Contractor, unless the parties agree to any further period. Any such order shall be identified specifically as a stop work order issued pursuant to this clause.

Upon receipt of such an order, Contractor shall forthwith comply with its terms and take all

reasonable steps to minimize the occurrence of costs allocable to the work covered by the order during the period of work stoppage. Before the stop work order expires, or within any further period to which the parties shall have agreed, the Procurement Officer shall either:

(a) cancel the stop work order; or,

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

(2) *Cancellation or Expiration of the Order:* If a stop work order issued under this clause is canceled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, Contractor shall have the right to resume work. An appropriate adjustment shall be made in the delivery schedule or Contractor price, or both, and the contract shall be modified in writing accordingly, if:

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

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

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

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

16.11 TERMINATION UPON BANKRUPTCY

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

16.12 TERMINATION FOR CONVENIENCE

(1) *Termination.* The Agency Head or designee may, when the interests of the State so require, terminate this contract in whole or in part, for the convenience of the State. The Agency Head or designee shall give written notice of the termination to Contractor specifying the part of the contract terminated and when termination becomes effective.

(2) *Contractor's Obligations.* Contractor shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination Contractor will stop work to the extent specified. Contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work. Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The Agency Head or designee may direct Contractor to assign Contractor's right, title, and interest under terminated orders or subcontracts to the State. Contractor must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.

16.13 TERMINATION FOR DEFAULT

(1) *Default.* If Contractor refuses or fails to perform any of the provisions of this contract with such diligence as will ensure its completion within the time specified in this contract or any extension thereof, or otherwise fails to timely satisfy the contract provisions, or commits any other substantial breach of this contract, the Agency Head or designee may notify Contractor in writing of the delay or nonperformance and if not cured in ten (10) days or any longer time specified in writing by the Agency Head or designee, such officer may terminate Contractor's right to proceed with the contract or such part of the contract as to which there has been delay or a failure to properly perform. In the event of termination in whole or in part, the Agency Head or designee may procure similar supplies or services in a manner and upon terms deemed appropriate by the Agency Head or designee. Contractor shall continue performance of the contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services.

(2) *Contractor's Duties.* Notwithstanding termination of the contract and subject to any directions from the procurement officer, Contractor shall take timely, reasonable, and necessary action to protect and preserve property in the possession of Contractor in which the State has an interest.

(3) *Compensation.* Payment for completed services delivered and accepted by the State shall be at the contract price. The State may withhold from amounts due Contractor such sums as the Agency Head or designee deems to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders and to reimburse the State for the excess costs incurred in procuring similar goods and services.

(4) *Excuse for Nonperformance or Delayed Performance.* Except with respect to defaults of subcontractors, Contractor shall not be in default by reason of any failure in performance of this contract in accordance with its terms (including any failure by Contractor to make progress in the prosecution of the work hereunder which endangers such performance) if Contractor has notified the Agency Head or designee within 15 days after the cause of the delay and the failure arises out of causes such as: acts of God; acts of the public enemy; acts of the State and any other governmental entity in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. If the failure to perform is caused by the failure of a subcontractor to perform or to make progress, and

if such failure arises out of causes similar to those set forth above, Contractor shall not be deemed to be in default, unless the services to be furnished by the subcontractor were reasonably obtainable from other sources in sufficient time to permit Contractor to meet the contract requirements. Upon request of Contractor, the Agency Head or designee shall ascertain the facts and extent of such failure, and, if such officer determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, Contractor's progress and performance would have met the terms of the contract, the delivery schedule shall be revised accordingly, subject to the rights of the State under the clause entitled (in fixed-price contracts, "Termination for Convenience," in cost-reimbursement contracts, "Termination").

(As used in this Paragraph of this clause, the term "subcontractor" means subcontractor at any tier).

(5) *Erroneous Termination for Default.* If, after notice of termination of Contractor's right to proceed under the provisions of this clause, it is determined for any reason that the contract was not in default under the provisions of this clause, or that the delay was excusable under the provisions of Paragraph (4) (Excuse for Nonperformance or Delayed Performance) of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of the State, be the same as if the notice of termination had been issued pursuant to such clause.

(6) *Additional Rights and Remedies.* The rights and remedies provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

16.14 TRADE SECRETS, COMMERCIAL AND FINANCIAL INFORMATION

It is expressly understood that Mississippi law requires that the provisions of this contract which contain the commodities purchased or the personal or professional services provided, the price to be paid, and the term of the contract shall not be deemed to be a trade secret or confidential commercial or financial information and shall be available for examination, copying, or reproduction.

16.15 TRANSPARENCY

This contract, including any accompanying exhibits, attachments, and appendices, is subject to the "Mississippi Public Records Act of 1983," and its exceptions. See Mississippi Code Annotated §§ 25-61-1 *et seq.* and Mississippi Code Annotated § 79-23-1. In addition, this contract is subject to the provisions of the Mississippi Accountability and Transparency Act of 2008. Mississippi Code Annotated §§ 27-104-151 *et seq.* Unless exempted from disclosure due to a court-issued protective order, a copy of this executed contract is required to be posted to the Department of Finance and Administration's independent agency contract website for public access at <http://www.transparency.mississippi.gov>. Information identified by Contractor as trade secrets, or other proprietary information, including confidential vendor information or any other

information which is required confidential by state or federal law or outside the applicable freedom of information statutes, will be redacted.

17.0 ADDITIONAL STANDARD TERMS AND CONDITIONS WHICH WILL BE INCLUDED IN ANY CONTRACT AWARDED FROM THIS RFP

17.1 ANTI-ASSIGNMENT/SUBCONTRACTING

Contractor acknowledges that it was selected by the State to perform the services required hereunder based, in part, upon Contractor's special skills and expertise. Contractor shall not assign, subcontract, or otherwise transfer this agreement, in whole or in part, without the prior written consent of the State, which the State may, in its sole discretion, approve or deny without reason. Any attempted assignment or transfer of its obligations without such consent shall be null and void. No such approval by the State of any subcontract shall be deemed in any way to provide for the incurrence of any obligation of the State in addition to the total fixed price agreed upon in this agreement. Subcontracts shall be subject to the terms and conditions of this agreement and to any conditions of approval that the State may deem necessary. Subject to the foregoing, this agreement shall be binding upon the respective successors and assigns of the parties.

17.2 ANTITRUST

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

17.3 APPROVAL

It is understood that this contract requires approval by the Personal Service Contract Review Board. If this contract is not approved, it is void and no payment shall be made hereunder.

17.4 ATTORNEYS' FEES AND EXPENSES

Subject to other terms and conditions of this agreement, in the event Contractor defaults in any obligations under this agreement, Contractor shall pay to the State all costs and expenses (including, without limitation, investigative fees, court costs, and attorney's fees) incurred by the State in enforcing this agreement or otherwise reasonably related thereto. Contractor agrees that under no circumstances shall the customer be obligated to pay any attorney's fees or costs of legal action to Contractor.

17.5 AUTHORITY TO CONTRACT

Contractor warrants: (a) that it is a validly organized business with valid authority to enter into this agreement; (b) that it is qualified to do business and in good standing in the State of Mississippi; (c) that entry into and performance under this agreement is not restricted or prohibited by any loan, security, financing, contractual, or other agreement of any kind; and, (d) notwithstanding any other provision of this agreement to the contrary, that there are no existing legal proceedings or prospective legal proceedings, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under this agreement.

17.6 CHANGE IN SCOPE OF WORK

The SVAB may order changes in the work consisting of additions, deletions, or other revisions within the general scope of the contract. No claims may be made by Contractor that the scope of the project or of Contractor's services has been changed, requiring changes to the amount of compensation to Contractor or other adjustments to the contract, unless such changes or adjustments have been made by written amendment to the contract signed by the SVAB and Contractor.

If Contractor believes that any particular work is not within the scope of the project, is a material change, or will otherwise require more compensation to Contractor, Contractor must immediately notify the SVAB in writing of this belief. If the SVAB believes that the particular work is within the scope of the contract as written, Contractor will be ordered to and shall continue with the work as changed and at the cost stated for the work within the contract.

17.7 CONFIDENTIALITY

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

17.8 CONTRACTOR PERSONNEL

The SVAB shall, throughout the life of the contract, have the right of reasonable rejection and approval of staff or subcontractors assigned to the work by Contractor. If the SVAB reasonably rejects staff or subcontractors, Contractor must provide replacement staff or subcontractors satisfactory to the SVAB in a timely manner and at no additional cost to the SVAB. The day-to-day supervision and control of Contractor's employees and subcontractors is the sole responsibility of Contractor.

17.9 FAILURE TO DELIVER

In the event of failure of Contractor to deliver services in accordance with the contract terms and conditions, the SVAB, after due oral or written notice, may procure the services from other sources and hold Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies that the SVAB may have.

17.10 FAILURE TO ENFORCE

Failure by the SVAB at any time to enforce the provisions of the contract shall not be construed as a waiver of any such provisions. Such failure to enforce shall not affect the validity of the contract or any part thereof or the right of the SVAB to enforce any provision at any time in accordance with its terms.

17.11 FORCE MAJEURE

Each party shall be excused from performance for any period and to the extent that it is prevented from performing any obligation or service, in whole or in part, as a result of causes beyond the reasonable control and without the fault or negligence of such party and/or its subcontractors. Such acts shall include without limitation acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations superimposed after the fact, fire, earthquakes, floods, or other natural disasters ("force majeure events"). When such a cause arises, Contractor shall notify the State immediately in writing of the cause of its inability to perform, how it affects its performance, and the anticipated duration of the inability to perform. Delays in delivery or in meeting completion dates due to force majeure events shall automatically extend such dates for a period equal to the duration of the delay caused by such events, unless the State determines it to be in its best interest to terminate the agreement.

17.12 INDEMNIFICATION

To the fullest extent allowed by law, Contractor shall indemnify, defend, save and hold harmless, protect, and exonerate the agency, its commissioners, board members, officers, employees, agents, and representatives, and the State of Mississippi from and against all claims, demands, liabilities, suits, actions, damages, losses, and costs of every kind and nature whatsoever including, without limitation, court costs, investigative fees and expenses, and attorney's fees, arising out of or caused by Contractor and/or its partners, principals, agents, employees and/or subcontractors in the performance of or failure to perform this agreement. In the State's sole discretion, Contractor may be allowed to control the defense of any such claim, suit, etc. In the event Contractor defends said claim, suit, etc., Contractor shall use legal counsel acceptable to the State. Contractor shall be solely responsible for all costs and/or expenses associated with such defense, and the State shall be entitled to participate in said defense. Contractor shall not settle any claim, suit, etc. without the State's concurrence, which the State shall not unreasonably withhold.

17.13 INDEPENDENT CONTRACTOR STATUS

Contractor shall, at all times, be regarded as and shall be legally considered an independent contractor and shall at no time act as an agent for the State. Nothing contained herein shall be

deemed or construed by the State, Contractor, or any third party as creating the relationship of principal and agent, master and servant, partners, joint ventures, employer and employee, or any similar such relationship between the State and Contractor. Neither the method of computation of fees or other charges, nor any other provision contained herein, nor any acts of the State or Contractor hereunder creates, or shall be deemed to create a relationship other than the independent relationship of the State and Contractor. Contractor's personnel shall not be deemed in any way, directly or indirectly, expressly or by implication, to be employees of the State. Neither Contractor nor its employees shall, under any circumstances, be considered servants, agents, or employees of the SVAB, and the SVAB shall be at no time legally responsible for any negligence or other wrongdoing by Contractor, its servants, agents, or employees. The SVAB shall not withhold from the contract payments to Contractor any federal or state unemployment taxes, federal or state income taxes, Social Security tax, or any other amounts for benefits to Contractor. Further, the SVAB shall not provide to Contractor any insurance coverage or other benefits, including Worker's Compensation, normally provided by the State for its employees.

17.14 NO LIMITATION OF LIABILITY

Nothing in this agreement shall be interpreted as excluding or limiting any tort liability of Contractor for harm caused by the intentional or reckless conduct of Contractor or for damages incurred through the negligent performance of duties by Contractor or the delivery of products that are defective due to negligent construction.

17.15 NOTICES

All notices required or permitted to be given under this agreement must be in writing and personally delivered or sent by certified United States mail, postage prepaid, return receipt requested, to the party to whom the notice should be given at the address set forth below. Notice shall be deemed given when actually received or when refused. The parties agree to promptly notify each other in writing of any change of address.

For the Contractor:
Name
Title
Contractor
Address

For the Agency
Randy Reeves
Executive Director
State Veterans Affairs Board
P.O. Box 5947
Pearl, MS 39288

17.16 ORAL STATEMENTS

No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in this contract. All modifications to the contract must be made in writing by the SVAB and agreed to by Contractor.

17.17 OWNERSHIP OF DOCUMENTS AND WORK PAPERS

The SVAB shall own all documents, files, reports, work papers and working documentation, electronic or otherwise, created in connection with the project which is the subject of this agreement, except for Contractor's internal administrative and quality assurance files and internal project correspondence. Contractor shall deliver such documents and work papers to SVAB upon termination or completion of the agreement. The foregoing notwithstanding, Contractor shall be entitled to retain a set of such work papers for its files. Contractor shall be entitled to use such work papers only after receiving written permission from SVAB and subject to any copyright protections.

17.18 RECORD RETENTION AND ACCESS TO RECORDS

Provided Contractor is given reasonable advance written notice and such inspection is made during normal business hours of Contractor, the State or any duly authorized representatives shall have unimpeded, prompt access to any of Contractor's books, documents, papers, and/or records which are maintained or produced as a result of the project for the purpose of making audits, examinations, excerpts, and transcriptions. All records related to this agreement shall be retained by Contractor for three (3) years after final payment is made under this agreement and all pending matters are closed; however, if any audit, litigation or other action arising out of or related in any way to this project is commenced before the end of the three (3) year period, the records shall be retained for one (1) year after all issues arising out of the action are finally resolved or until the end of the three (3) year period, whichever is later.

17.19 RECOVERY OF MONEY

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

17.20 RIGHT TO INSPECT FACILITY

The State may at reasonable times inspect the place of business of a Contractor or any Subcontractor which is related to the performance of any Contract awarded by the State.

17.21 STATE PROPERTY

Contractor will be responsible for the proper custody and care of any State-owned property furnished for Contractor's use in connection with the performance of this agreement. Contractor will reimburse the State for any loss or damage, normal wear and tear excepted.

17.22 THIRD PARTY ACTION NOTIFICATION

Contractor shall give SVAB prompt notice in writing of any action or suit filed, and prompt notice of any claim made against Contractor by any entity that may result in litigation related in any way to this agreement.

17.23 UNSATISFACTORY WORK

If at any time during the contract term, the service performed or work done by the Contractor is considered by SVAB to create a condition that threatens the health, safety, or welfare of the citizens and/or employees of the State of Mississippi, the Contractor shall, on being notified by SVAB, immediately correct such deficient service or work. In the event the Contractor fails, after notice, to correct the deficient service or work immediately, SVAB shall have the right to order the correction of the deficiency by separate contract or with its own resources at the expense of the Contractor.

17.24 WAIVER

No delay or omission by either party to this agreement in exercising any right, power, or remedy hereunder or otherwise afforded by contract, at law, or in equity shall constitute an acquiescence therein, impair any other right, power or remedy hereunder or otherwise afforded by any means, or operate as a waiver of such right, power, or remedy. No waiver by either party to this agreement shall be valid unless set forth in writing by the party making said waiver. No waiver of or modification to any term or condition of this agreement will void, waive, or change any other term or condition. No waiver by one party to this agreement of a default by the other party will imply, be construed as or require waiver of future or other defaults.

18.0 PAYMENTS

Payments will be made within 45 days (as per State Statute) after receipt of invoice. Invoices may be submitted monthly after the end of the period for which payment is being requested.

19.0 PROTEST

(1) The SVAB shall have authority to determine protests and other controversies of actual offerors in connection with the selection for award of the contract.

(2) Any actual offeror or contractor, who is aggrieved in connection with the selection for award of a contract, may file a protest with the SVAB. A protest must be filed promptly, and in any event, within (10) calendar days after such aggrieved person knows or should have known of the facts giving rise thereto. All protests must be written and explain the grievance.

(3) The SVAB shall promptly issue a decision in writing. A copy of that decision shall be mailed to the aggrieved party and shall state the reason(s) for the decision taken.

20.0. DURATION OF THE PROPOSAL

The Offeror agrees to be bound by its proposal for a period of sixty (60) days from closing date, during which time the State may request clarification of apparent errors for the purpose of evaluation. Amendments or clarifications requested by the State shall not affect the remainder of the proposal, but only that portion so amended or clarified.

21.0 RESTRICTIONS ON COMMUNICATION WITH SVAB STAFF

(1) From the issuance date of this Request for Proposals until a contractor is selected, and such selection is announced, Offerors are not allowed to communicate with any State Veterans Affairs Board member or staff except for the Executive Director of State Veterans Affairs Board, or his designee.

(2) For violation of the aforementioned provision, the State Veterans Affairs Board shall reserve the right to reject any proposal.

(3) In order to provide equal treatment to all Offerors, questions should be submitted in writing by **April 22, 2016**. Written responses will be provided to all recipients of this Request for Proposals in the form of addenda.

22.0 TIMETABLE:

In order to be considered, each offeror must be capable of meeting the following schedule:

(1) Open proposal duration: Commencing **April 7, 2016**.

(2) Closing date: All proposals must be received in the State Veterans Affairs Board office not later than 11:00 a.m. (CST) **on May 2, 2016**, at which time proposals will be opened. Any proposal(s) received after this time and/or at a different location will be rejected.

(3) The outside cover, void of logos or other business markings, of the envelope containing the proposal(s) shall be marked:

(Proposal) FOOD SERVICES
Mississippi State Veterans Affairs Board
(typed name of Offeror)

Announcement of the successful Offeror: The State Veterans Affairs Board will announce the successful Contractor not later than June 1, 2016.