

# **INVITATION FOR BIDS**

IFB Number: 3160003963

**Provide DNA Testing Services for MSFL**

## **CLOSING LOCATION**

Mississippi Department of Public Safety, Procurement Department  
1900 E. Woodrow Wilson Boulevard, 4<sup>th</sup> Floor, Room 402,  
Jackson, MS 39216

## **BID COORDINATOR**

Betsy Toles  
Procurement Department

Telephone: 601-987-1467 or 601-987-1305

Fax: 601-987-1442

E-mail: [btoles@dps.ms.gov](mailto:btoles@dps.ms.gov) or [stoaster@dps.ms.gov](mailto:stoaster@dps.ms.gov)

## **CLOSING DATE AND TIME**

Bids must be received by 10:30 A.M., December 4, 2020

# SECTION 1

## 1.1 Bid Acceptance Period

The original and 1 copy of the bid, 2 copies total, shall be signed and submitted in a sealed envelope or package to Betsy Toles or Sonya Toaster, Mississippi Department of Public Safety, Procurement Department, 4<sup>th</sup> Floor, Room 402, 1900 East Woodrow Wilson Boulevard, Jackson, MS 39216 no later than the time and date specified for receipt of bids. Timely submission of the bid is the responsibility of the bidder. Bids received after the specified time shall remain sealed, unopened and be maintained as a part of the procurement file. The envelope or package shall be marked with the bid opening date and time, and the number of the invitation for bid. The time and date of receipt shall be indicated on the envelope or package by Procurement. Each page of the bid and all attachments shall be identified with the name of the bidder. Modifications or additions to any portion of the procurement document may be cause for rejection of the bid. The Mississippi Department of Public Safety (MDPS) reserves the right to decide, on a case-by-case basis, whether to reject a bid with modifications or additions as non-responsive. As a precondition to bid acceptance, the MDPS may request the bidder to withdraw or modify those portions of the bid deemed non-responsive that do not affect quality, quantity, price, or delivery of the service.

### 1.1.1 Timeline

Task	Date
Advertisement Dates for IFB	October 30, 2020; November 6, 2020
Receive Questions & Answers for Clarification Dates	Starting 8:00 a.m., Friday, October 30, 2020 to Friday, November 13, 2020 at 5:00 p.m. Please email questions to <a href="mailto:btoles@dps.ms.gov">btoles@dps.ms.gov</a> or <a href="mailto:stoaster@dps.ms.gov">stoaster@dps.ms.gov</a>
Respond in Writing to Clarification	Tuesday, November 17, 2020
Bid Submission Deadline	No later than 10:30 a.m., Friday, December 4, 2020
Anticipated Bid Opening	December 4, 2020
Anticipated Intent to award Notification Date:	December 11, 2020
Anticipated Post-Award Debriefing Request Deadline:	December 18, 2020
Anticipated Protest Deadline:	December 23, 2020

**Note: MDPS reserves the right to adjust the Procurement Schedule as it deems necessary.**

### **1.1.2 1.1.2 Late Submissions**

A bid received at the place designated in the solicitation for receipt of bids after the exact time specified for receipt will not be considered unless it is the only bid received, or it is received before award is made and was sent by registered or certified mail not later than the fifth <sup>(5th)</sup> calendar day before the date specified for receipt of bids. It must be determined by the MS Department of Public Safety that the late receipt was due solely to mishandling by the MS Department of Public Safety after receipt at the specified address

The only acceptable evidence to establish the date of mailing of a late bid is the U.S. Postal Service postmark on the wrapper or on the original receipt from the U.S. Postal Service. If the postmark does not show a legible date, the contents of the envelope or package shall be processed as if mailed late. "Postmark" means a printed, stamped, or otherwise placed impression, exclusive of a postage meter impression, that is readily identifiable without further action as having been supplied and affixed by the U.S. Postal Service on the date of mailing. Bidders should request postal clerks to place a hand cancellation postmark (often called a bull's eye) on both the receipt and the envelope or wrapper.

The only acceptable evidence to establish the time of receipt at the office identified for bid opening is the time and date stamp of that office on the bid wrapper or other documentary evidence of receipt used by that office.

## **1.2 Expenses Incurred Preparing Bid**

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

## **1.3 Bid**

All pricing must be submitted on the bid (**Attachment B**). Failure to complete and/or sign the bid may result in the bidder being determined nonresponsive.

### **1.3.1 Bidder Certification**

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

## **1.4 Registration with Mississippi Secretary of State**

By submitting a bid, the bidder certifies that it is registered to do business in the State of Mississippi as prescribed by the Mississippi Secretary of State or, if not already registered, that it will do so within seven (7) business days of being offered an award. Sole proprietors are not required to register with the Mississippi Secretary of State.

## **1.5 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 or Federal government 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.

## **1.6 Additional Information**

Questions about this contract portions of the procurement document must be submitted in writing to Betsy Toles or Sonya Toaster at [btoles@dps.ms.gov](mailto:btoles@dps.ms.gov) or [stoaster@dps.ms.gov](mailto:stoaster@dps.ms.gov). Questions concerning the technical portions of the procurement document should be directed to Betsy Toles or Sonya Toaster at [btoles@dps.ms.gov](mailto:btoles@dps.ms.gov) or [stoaster@dps.ms.gov](mailto:stoaster@dps.ms.gov). Bidders are cautioned that any statements made by contact persons that cause a material change to any portion of the bid document shall be relied upon unless subsequently ratified by a formal written amendment to the bid document.

Questions, requests for clarification, and answers will be published on the Department of Public Safety website [www.dps.ms.gov](http://www.dps.ms.gov) in a manner that all bidders will be able to view by the date and time reflected in Section 1.1.1.

## **1.8 Type of Contract**

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

## **1.9 Written Bid**

All bids shall be in writing.

## **1.10 Acknowledge 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 acknowledgement must be received by the MS Dept. of Public Safety by the time and at the place specified for receipt of bids.

## **SECTION 2**

### **2.1 Purpose**

The MDPS is seeking to establish a contract for DNA testing services for MSFL.

It is understood that any contract resulting from 3160003963 requires approval by the Public Procurement Review Board. If any contract resulting from 3160003963 is not approved by the Public Procurement Review Board, it is void and no payment shall be made.

## 2.2 Specifications DNA Testing

The Mississippi Forensics Laboratory is seeking to procure DNA Testing on behalf of the State of Mississippi.

**Promptly enter acceptable profiles into CODIS** - successfully processing a sample through the Vendor laboratory the first time (minimized repeat testing, re-amplifications, re-injections etc.)

Successfully processing samples:

- Simplifies data review
- Ensures samples move through the Vendor laboratory as a group that can then be easily returned to the State for hit confirmation. This will:
  - Expedite hit confirmation
  - Simplify tracking of the profile and physical sample
  - Avoids excess sample consumption
- Reporting data that is easy to review and includes:
  - Data packages which are complete and easy to navigate and review
  - Profiles that do not require interpretation which include:
    - Correct allele calls
    - No questionable data
    - High signal to noise ratio
    - No artifacts (pull-up, spikes, excess stutter)
    - No chance of allelic drop-out
    - No composite profiles

Reporting profiles that are not rejected by the State and returned to the Vendor for retesting.

2. **Save work for the State** - The purpose is to reduce work for the State by having the Vendor Laboratory complete as much work for the State as possible. This includes:
  - Comprehensible data review
  - Returning samples and profile data in the same order they were received by the Vendor
  - Testing all samples and obtaining profiles (even for the difficult samples)  
Any situation that creates additional work for the State (e.g. retesting failed samples, having to do data interpretation verses data review, or extra handling of the physical sample) does not meet program goals.
3. **Minimize failed samples** - It is important that all samples be typed successfully by the Vendor. If the State receives a failed sample they have to locate the sample, retest the sample, and confirm that the profiles are the same (if a partial profile was obtained by the Vendor). When a Vendor reports a failed sample goals #1 and #2 are not met and it causes more work for the State.

**Scope**

The Mississippi Forensics Laboratory is requesting bids to procure DNA sample analysis services on behalf of the State. MSFL will select one vendor to award the contract to provide testing services.

**Description, Estimated Test Quantities, and Period of Performance**

Kit and Platform	Sample Description	Est. Qty.
AmpFLSTR Identifiler Amplification Kit® ABI 3130 or 3130XL Genemapper ID Version 3.2.1 -----OR----- AmpFLSTR Globalfiler Amplification Kit® ABI 3500 or 3500XL	Approximately 15,244 samples are Bode Buccal Collector or cotton Tip swabs Each sample will include a Bode buccal collector or cotton tip swabs packaged in an envelope labeled with a bar-code bearing an unique number. Samples are considered to be of high quality, and all of the samples should yield profiles consistent with specifications of the delivery order.	15,244

**1. Shipping Labels**

The Vendor shall provide preprinted shipping labels and shipping containers to the State.

**2. Shipping Rate**

It is anticipated that the State will ship the bulk of the samples at the beginning of the contract and any remaining samples on a regular basis.

**3. Shipping Notification**

The Vendor shall immediately (within one business day) notify the State via e-mail each time a shipping container under this task order is received by the Vendor. The Vendor shall examine the shipping container and notify the State by phone or e-mail (unless otherwise specified) immediately upon discovery of any damage to the shipping container that would compromise the integrity of the samples.

#### **4. Chain of Custody**

The Vendor shall maintain a complete electronic chain of custody for all samples starting with the unique identifier on the overnight shipping label on the shipping container. The chain of custody shall also include the unique identifier on the overnight shipping label used when sending samples to and from the State.

#### **5. Manifest Reconciliation**

The Vendor shall electronically compare the manifest with the samples received by the Vendor and notify the State by phone and e-mail (unless otherwise specified) immediately upon discovery of any discrepancy. Sample seals shall be checked for seal integrity and the Vendor shall notify the State by phone and e-mail (unless otherwise specified) immediately upon discovery of any sample received open (and not resealed with tape).

#### **6. Sample Number Verification**

The Vendor shall compare the exterior (on packaging) and interior (on sample) labels associated with the sample and notify the State by phone or e-mail immediately upon discovery of any discrepancy.

#### **7. Sample Consumption**

No more than 50% of a sample shall be consumed by the Vendor without written permission of the Mississippi Forensics Laboratory.

#### **8. Confidentiality**

No identification information about the sample other than the unique identification number may be recorded by the Vendor. Any "outside" inquiries related to the processing of samples submitted by the State shall be immediately reported to the State. No information regarding the processing of samples submitted by the Mississippi Forensics Laboratory shall be provided to any party outside the State.

#### **9. Testing Location**

Samples shall only be tested at the Vendor laboratory location approved by the Mississippi Forensics Laboratory.

#### **10. Sample Processing Order**

The samples shall be processed in the following order: Samples with the oldest date of receipt by the Vendor shall be analyzed first. Upon request by the State, the Vendor shall test a sample out of receipt order.

#### **11. Batch Composition**

Samples shall be tested, reported and returned in batches consistent with the way the samples were shipped. Samples within a batch shall be tested and reported in numerical order (with the exception of retesting).

## 12. Sample Identification

The samples shall be identified throughout the testing process with the State unique identification number. The Vendor may utilize their barcode so long as that barcode is associated with one and only one State unique identification number.

## 13. Testing Procedures

Procedures, policies, and methods used by the Vendor will be such that promote the successful profiling of samples the first time through the laboratory (without re-injections, re-testing and additional sample consumption) and will provide data that is the least complicated for the State to review.

- a. MSFL expects a level of performance such that the Vendor successfully processes a sample through the Vendor laboratory the first time (minimized repeat testing, re-amplifications, re-injections etc.)
- b. Changes affecting the State's sample processing shall not be implemented unless approved by the State's technical leader in writing ten working days prior to the processing of samples.
- c. The Vendor shall provide documentation for these changes to the State. When a procedural change is requested, the State will review the Vendor's validation studies and reports. The State will also consider the impact that the proposed change will have on the State's laboratory process. The State may also want to inspect the approved process in the Vendor's laboratory prior to its implementation. The State's written approval will include an implementation date. Procedural changes shall not be utilized prior to the implementation date.
- d. Vendor shall provide copies of standard operating procedures and quality assurance documents that apply to the receipt and analysis of samples for evaluation by the State prior to award of the contract for verification. This process will be reviewed during the procurement process prior to the award of the contract and throughout the life of the contract. Please note that the most current standard operating procedures and quality assurance documents should be listed in your proposal with the proposed plan for performing the required services as listed under Step II in this RFP. Electronic copies will be acceptable once the vendor is awarded the contract.
- e. If at any time in the testing process following award the State determines that a procedure is inadequate for the processing of the State's samples, the Vendor shall implement and validate a procedure that is acceptable to the State.
- f. In addition, the Vendor shall not place samples from any other contract on a plate containing samples from any source other than the State.
- g. The Vendor shall use an amplification reaction volume of 12.5ul or greater using the manufacturer's suggested concentrations of reaction components. A failed sample is defined as one that does not yield an acceptable profile according to the technical specifications.
- h. All analyses shall be performed by the Vendor utilizing only commercially available NDIS approved PCR kits and components. Allelic ladders shall be used directly from the



manufacturer's kit and shall not be re-amplified. Primers shall be used in the concentration provided by the manufacturer and shall not be diluted.

#### **14. Notification of Testing Issues**

The Vendor shall, within five working days of occurrence, provide to the State, in writing, any problem and associated corrective action regarding samples from the State. If an issue is discovered which requires corrective action, the Vendor shall demonstrate the extent of the issue and identify all affected samples/profiles and provide corrective action.

#### **15. Notification of Staffing Changes**

The State shall be notified in writing when the following staffing changes are made:

Vendor Point of Contact

Project Manager

Technical Leader

Laboratory Director

#### **16. Automation**

Vendors are required to have the extraction, amplification, and analysis procedures to be automated to the extent possible based on current technology. If a vendor does not have the extraction and amplification processes automated, they must have a documented witnessing procedure of all sample transfers.

#### **17. Spiking/Enriching**

Spiking or enriching a sample shall not be acceptable.

#### **18. Controls**

All controls shall be associated with every sample. That is, each sample used in reporting shall have an acceptable extraction positive, extraction negative, amplification positive, amplification negative and ladder associated with each locus. Controls shall be disbursed throughout a plate of samples. That is, controls shall not be grouped together at the beginning, middle or the end of a plate. If a sample is rerun then all controls shall be rerun. The extraction controls [positive and negative] should be run with every extraction set of samples. An extraction set is defined as those samples extracted by one person at the same time with the same set of reagents. The following controls shall be run:

##### **a. Amplification positive**

Name: 9947A.

When introduced: at amplification.

Considered acceptable when: produces correct alleles and meets reporting guidelines below.

1. Location on analysis: within sample plate
2. Location in data files: determined by Vendor must be consistent.

b. Amplification negative

Name: determined by Vendor.

When introduced: at amplification.

Considered acceptable when there is no data. However, the dye blob or primer peak shall be present in the analysis software. Alternatively the Vendor laboratory can provide documentation which clearly demonstrates the dye blob (i.e. a screen shot of the gel depicting the dye blob). The State will approve the documentation of the dye blob prior to the processing of the samples. The data generated by the genetic analysis software) should be free of potential alleles above noise (this may be below the minimum RFU threshold). Location on analysis: within sample plate and on each gel if multiple gels are run from a single plate.

Location in data files: determined by Vendor must be consistent.

c. Extraction positive

Name: Mississippi extraction positive sample: One Mississippi extraction positive sample must be **attempted** in each run. The sample will be introduced at the extraction stage. This sample will be provided by the State.

When introduced: when extracting samples.

Considered acceptable when: produces correct alleles and meets reporting guidelines below.

Location on analysis: determined by Vendor - must be consistent.

Location in data files: determined by Vendor - must be consistent.

d. Extraction negative

Name: Determined by Vendor must be consistent.

When introduced: when extracting the State's samples.

Considered acceptable when there is no data. However, the dye blob or primer peak shall be present in genetic analysis software. Alternatively the Vendor laboratory can provide documentation which clearly demonstrates the dye blob (i.e. a screen shot of the gel depicting the dye blob). The State will approve the documentation of the dye blob prior to the processing of the samples. The data from the genetic analysis software should be free of potential alleles above noise (this may be below the minimum RFU threshold).

Location on analysis: determined by Vendor - must be consistent.

Location in data files: determined by Vendor - must be consistent.

e. Ladder

Name: Determined by Vendor must be consistent.

When introduced: upon analysis

Considered acceptable when: all appropriate peaks are present and correctly labeled

Location on analysis: determined by Vendor - must be consistent.

Location in data files: determined by Vendor - must be consistent.

Controls shall be directly associated (same data file) with their corresponding samples. Data files or raw data files are defined as the genetic analysis software files containing samples and all associated controls. In addition, the Vendor shall use a "plate fingerprinting" system to uniquely identify a 96-well plate. This mechanism shall involve the strategic placement of known controls on a 96-well plate such that any plate mix-up can be detected.

## 19. Data Analysis

All reported profiles shall be interpreted in duplicate independently by qualified analysts. All profiles shall be reported accurately. The use of expert systems rather than qualified analysts must be approved in writing by the State prior to implementation, and the expert systems must be validated by the Vendor and approved by National DNA Index System. Upon approval, some of the data presentation parameters may be modified to ensure proper allele calls. Internal size standard shall have the 75 - 450bp peaks correctly identified for all reported samples, ladders and controls. If expert systems are used please list this information in your proposal with the proposed plan for performing the required services as listed under Step II in this RFP.

## 20. Data Presentation Parameters

The reported profiles shall have the following characteristics:

- a. Alleles in ladders, positive controls and samples shall have a signal at least 3X that of background. The State will not be measuring the signal to noise ratio for every sample. However, if the State feels that background is excessive, the Vendor laboratory shall be prepared to demonstrate signal to noise contract compliance if requested.
- b. Peak shape shall be symmetrical, wider at the base than at the peak, height greater than the width, bell shaped, and devoid of split peaks.
- c. Min. Peak Height:     150 RFU for heterozygote alleles and ladder  
                                  600 RFU for homozygote alleles  
                                  175 RFU for ILS
- d. Maximum peak height shall not exceed the maximum detection threshold of the instrument. The State may elect to accept data with a higher maximum peak height after reviewing the Vendor's validation experiments.

- e. Heterozygote allele peak height ratio shall be within 50%. If sample is retested and peak height ratio at the same location is still less than 50% the Vendor shall provide supporting documentation for the imbalance. The run data shall be provided in a manner such that all data is provided in the data package of the reported profile. This means that State will be able to evaluate all data associated with the profile without going back to previously submitted data packages. Screen shots of the first analysis (containing the ladder that was used and the sample) will be acceptable. The screen shots shall be of both the entire sample and ladder and an enlargement of the locus of interest. The Vendor shall provide the State with a proposed method of reporting and documentation and the State will notify the Vendor of the approved method of reporting documentation.
- f. Spikes shall not be acceptable in the allele calling region.
- g. Extraneous peaks shall not be acceptable in the allele calling region.
- h. Stutter called by the genetic analysis software set at 20% shall not be acceptable. Stutter values in genetic analysis software shall be those established by the Vendor validation studies or alternatively those values published by Applied Biosystems.
- i. Mixtures: Any sample profile that appears to be a mixture is unacceptable, and shall be retested.
- j. A called by the genetic analysis software set at 20% shall not be acceptable. Sample exhibiting excessive -A (in several markers and in excess of 15%) shall be retested by re-amplifying after adjusting the template concentration before analysis.
- k. Tri-alleles: Shall be re-extracted and the profile verified. Upon reporting, the State shall be provided with data from both runs documenting the tri-allelic profile in the same manner as the alleles with confirmed imbalance.
- l. Microvariants and off-ladder alleles: The Vendor shall provide the State with a list of proposed microvariant and off ladder alleles (above, below and within the ladder). All microvariant and off ladder allele containing samples shall be retested beginning with the re-amplification of the sample and documentation provided in the same manner as the confirmed imbalances and tri-alleles. MSFL expects a level of performance that ensures no profiles are ever rejected by the State. (MSFL defines a rejected profile as a profile that cannot be imported into NDIS for any reason, including incorrect controls, inadequate data quality, incomplete paperwork, or improperly formatted CMF files.) MSFL expects 100% contract compliance. MSFL also expects that data quality will be such that the State can find no problems during their 100% data review. Samples that do not meet the reporting criteria shall be repeated. Documentation shall be provided that indicates which samples did not meet reporting criteria, why the samples(s) did not meet reporting criteria, what actions will be taken, and the results of those subsequent actions. The Vendor shall retest any sample that the State determines to be of poor quality.

## 21. Retesting

The Vendor shall adhere to all of the specifications in MSFL 's technical specifications.  
*The analysis of a specimen shall not be considered complete until genotypes for all*

*Expanded CODIS core STR loci and all Globalfiler or Identifiler kit loci have been generated and accepted by MSFL. For samples not yielding a complete profile the Vendor shall retest the sample a minimum of two times, altering conditions within the boundaries of the laboratories written Standard Operating Procedures, as necessary, to produce a complete profile. **NOTE: MSFL will only pay for complete profiles or profiles that have been retested at least twice as outlined above.** The failure cannot be attributed to an error or omission on the part of the Vendor (e.g. failed ladder or control).*

## 22. Data Reporting

- a. This data should include but not be limited to - raw data electropherograms showing the primer peaks and internal size standard, quantitation results. No composite profiles (instances where the expanded CODIS core loci are created from more than the minimum multiplex data file because one or more of the loci do not meet reporting criteria) shall be reported. All data and all associated controls from failed samples shall be provided to the State separate from reported profiles. This data shall include but not be limited to genetic analysis software files, Excel files and CMF files.
- b. Prior to reporting profiles, the Vendor shall perform a limited contamination quality assurance check by electronically comparing the reported profiles to a database of employee and contamination profiles observed in the Vendor laboratory. Vendor laboratories MAY NOT search profiles from the State against any other profiles they have in their computer systems. No composite profiles (instances where all STR loci are created from more than two multiplex data file because one or more of the loci do not meet reporting criteria) should be reported.
- c. All reported peaks shall be labeled with the appropriate allele call for upload into CODIS.
- d. Non-reported samples shall not be intermixed in reported data files for the State's review.
- e. Data from all sample runs shall be provided to the State.
- f. No more than 20% of the reported genetic analysis software files shall have less than 5 sample profiles.
- g. The number of samples (complete expanded loci profile) in a reported batch (data package) shall be approximately 500.
- h. The following documentation shall be provided/associated with the reported profiles: On Compact Disc:
  - Raw Data Files
  - Genetic analysis software files:
    - All of the data (both good and bad) shall be reported. In addition, there should be a file that contains only the samples being reported in the CMF and the associated controls and ladders.
  - Electronic Chain of Custody.
  - CMF file ready for import into CODIS.
  - Hard Copy and/or Electronic (as specified by the State):

- Documentation describing which runs the sample was in. This can be a separate spreadsheet or incorporated with the summary table. The samples shall be in numerical order.
  - Summary table for the data being reported in the CMF file, to include the specimen ID and profile. The samples shall be in numerical order.
  - Hand generated laboratory notes/worksheets.
  - Report of confirmed unusual profiles such as imbalance, microvariants and tri-alleles.
  - List of failed samples along with reason for failure and documentation of efforts taken to obtain a successful profile.
- i. Import files shall be in a CMF file that shall not require any alteration by the State in order to upload into CODIS. The State will provide the Vendor their ORI number. The Vendor shall include any additional data in the CMF file provided to the Vendor or requested by the State.
- j. Data and data files shall be electronically reported in the following format:
1. There shall be the following subdirectories:
    - i. One containing all data.

## **2.3 Term**

The term of the contract shall be for a period of 48 months. Upon written agreement of all parties and prior to each contract anniversary date, the contract may be renewed by the MDPS for a period of a 1 year period under the same prices, terms, and conditions as in the original contract subject to approval by the Public Procurement Review Board (PPRB). The total term length of the resulting contract shall not exceed four years with an option to renew for one-year.

### **2.3.1 Multi-Term Contracts**

Unless otherwise provided by law, a contract for services may be entered into for a period of time not to exceed four (4) years with an option to renew for one (1) year, provided the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and funds available for the first fiscal period at the time of contracting. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds.

#### **2.3.1.1 Requirements**

- a) Provide DNA Testing for the Mississippi DNA Laboratory.
- b) A unit price shall be given for each service, and that unit price shall be in the same throughout the contract.
- c) A multi-term contract will be canceled if funds are not appropriated or otherwise made available to support the continuation of performance in any fiscal period succeeding the first; however, this

does not affect either the State's right or the contractor's rights under any termination clause in the contract.

- d) The Procurement Officer must notify the contractor on a timely basis that the funds are or are not available for the continuation of the contract for each succeeding fiscal period.
- e) A multi-term contract may be awarded by one contract or multiple contracts to bidders who submit the lowest and best bid. To determine which bid(s) are the lowest, MDPS will take the sum of each bidder subtotal price. Since bid is being awarded to lowest and best bid(s), Bidders must bid on all items. Failure to bid on all items will be cause for rejection of bid.

### **SECTION 3**

#### **3.1**

#### **Insurance**

The successful vendors shall maintain at least the minimum level of worker's compensation insurance, comprehensive general liability or professional liability insurance, with minimum limits of \$1,000,000.00 per occurrence. All workers' compensation, comprehensive general liability, professional liability insurance and fidelity bond insurance will provide coverage to the MS Department of Public Safety as an additional insured. The MS Department of Public Safety reserves the right to request from carriers, certificates of insurance regarding the required coverage. Insurance carriers must be licensed or hold a Certificate of Authority from the Mississippi Department of Insurance. The vendors shall be prepared to provide evidence of required insurance upon request by the MS Department of Public Safety at any point during the contract period and should consult with legal counsel regarding its obligations.

### **SECTION 4**

#### **4.1 Bid Evaluation**

Bids will be evaluated based on the requirements set forth in 3160003963, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable where possible. This Invitation for Bids sets forth the evaluation criteria to be used. No criteria will be used in an evaluation that is not set forth in this Invitation for Bids. Only bidders who are found responsive and responsible will have their bids considered.

##### **4.1.1 Responsive Bidder**

Bidders must submit bid which conforms in all material respects to this Invitation for Bid, 3160003963, as determined by the MS Department of Public Safety.

#### **4.1.2 Minimum Qualifications to be Deemed Responsive**

Bidders must have been in business and providing DNA testing similar in requirements and scale to those described in this Invitation for Bid for a minimum of five (5) years and have performed DNA testing at least 50 times in the past 5 years.

Bidders must maintain a pool of qualified workers to fill the requests from MDPS.

The bidders must provide three references that the vendor has contracts with providing the same scope of services.

By submitting a bid, the bidders certify that it is registered to do business with the Mississippi Secretary of State or, if not already registered, that it will do so within seven (7) business days of being notified by MDPS that it has been placed on the preapproved list.

#### **4.1.3 Minimum Qualifications**

These minimum qualifications are in addition to a minimum score of seven on the Reference Score Sheet (*Attachment E*) from reference interviews by the MS Department of Public Safety with three bidder/contractor references (for a total minimum score of (twenty-one), as well as all other requirements of this Invitation for Bids. (*See Attachments C and E*)

#### **4.1.4 Nonconforming Terms and Conditions**

A bid response that includes terms and conditions that do not conform to the terms and conditions in the bid document is subject to rejection as non-responsive. The MDPS reserves the right to permit the respondent to withdraw nonconforming terms and conditions from its bid response prior to a determination by the MDPS of non-responsiveness based on submission of nonconforming terms and conditions.

#### **4.1.5 Conditioning Bid Upon Other Awards**

Any bid which is conditioned upon receiving award of both the particular contract being solicited and another Mississippi contract shall be deemed non-responsive and not acceptable.

#### **4.1.6 Bid Submission Format**

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

- Bid Cover Sheet (**Attachment A**)
- Bid (**Attachment B**)
- References (**Attachment C**)
- Certifications and Assurances (**Attachment D**)



#### **4.1.7 Responsible Bidder**

Bidders must have capability in all respects to perform fully the contract requirements and the integrity and reliability which will assure good faith performance, as determined by MS Department of Public Safety.

#### **4.1.8 References**

Each bidder must furnish a listing of **at least** three trade references along with the contact person, address, and phone number for each. These references must be familiar with the bidder's abilities in the areas involved with this solicitation. The MS Department of Public Safety will use these references to determine the bidder's ability to perform the services. It is the responsibility of the bidders to ensure that the reference contact information is correct and current. Bidders should verify before submitting their bid that the contact person and phone number are correct for each reference. The bidders may submit as many references as desired. The MS Department of Public Safety will begin contacting references at the top of the list and will continue down the list until three contacts have been reached.

References must be listed on **Attachment C**.

#### **4.2 Bid Opening**

Bid opening will be open to the public; however, this will include opening, reading aloud, and listing the bid price on each bid only. No discussions will be entered into with any bidder as to the quality or provisions of the specifications and no award will be made, either stated or implied at the bid opening.

**Due to COVID-19, please notify us by December 2, 2020 via email to Betsy Toles or Sonya Toaster if you are planning to attend the bid opening so that we can make preparations.**

#### **4.3 Award**

The MDPS intends to award one contract. Contract will be awarded to the lowest responsible bidder per DNA Testing and that meets the requirements and criteria set forth in this Invitation for Bids within [7] business days.

##### **4.3.1 Notification**

All participating vendors will be notified of the MS Department of Public Safety's intent to award a contract. In addition, the MS Department of Public Safety will identify the selected vendor. Notice of award is also made available to the public.

##### **4.3.2 Contract Management**

If the Contractor fails to adhere to the DNA testing service schedule, or if the Contractor fails to satisfactorily provide the prescribed service to all or any service area, the Contracting Agency will inform the Contractor, and the Contractor shall complete corrective action within twenty-four (24) hours. No payment shall be made to the Contractor until all deficiencies have been corrected. If the Contractor exhibits a pattern of non-performance as

shown by repeated deficiencies, the Contracting Agency may terminate the contract without further obligation to the Contractor.

## SECTION 5

### 5.1 Post-Award Vendor Debriefing

Bidders, successful or unsuccessful, may request a post-award debriefing, in writing, by U.S. mail or electronic submission. The written request must be received by the Commissioner of the MS Department of Public Safety and a copy submitted to the Procurement Division within three (3) business days of notification of the contract award. A post-award debriefing is a meeting and not a hearing; therefore, legal representation is not required. A debriefing typically occurs within five (5) business days of receipt of the request. If bidders prefer to have a legal representation present, the bidders must notify the Commissioner of the MS Department of Public Safety in writing and identify its attorney by name, address and telephone number. The MS Department of Public Safety will schedule and/or suspend and reschedule the meeting at a time when a Representative of the Office of the Mississippi Attorney General or a Representative of the MS Department of Public Safety's Legal Division can be present.

For additional information regarding Post-Award Debriefing, as well as the information that may be provided and excluded, please see Section 7-113 through 7-113.01, Post-Award Vendor Debriefing, of the *Office of Personal Services Contract Review Rules and Regulations*.

### 5.2 Protest of Award

Any actual or prospective bidder or contractor who is aggrieved in connection with this solicitation or the outcome of the Invitation for Bids may file a protest with the Commissioner of the MS Department of Public Safety. The protest shall be submitted on or before December 23, 2020 at 5:00 p.m. local time, in writing after such aggrieved person or entity know or should have known of the facts giving rise thereto. All protests must be in writing, dated signed by the bidder or an individual authorized to sign contracts on behalf of the protesting bidder, and contain a statement of the reason(s) for protest. The protesting bidder must provide facts and evidence to support the protest. A protest is considered filed when received by the Commissioner of the MS Department of Public Safety, with a copy to bid coordinator, Betsy Toles, Sonya Toaster, and via either U.S. mail, postage prepaid, or personal delivery. Protests filed after December 23, 2020 5:00 p.m. local time will not be considered.

### 5.3 Required Contract Terms and Conditions

Any contract entered into between a Contracting Agency and a vendor/bidder shall include the required clauses found in **Attachment F** and those required by the *Office of Personal Services Contract Review Rules and Regulations* as updated.

#### **5.4 Optional Contract Terms and Conditions**

Any contract entered into between a Contracting Agency and a vendor/bidder may have, at the discretion of the Contracting Agency, the optional clauses found in **Attachment G** and those within the *Office of Personal Service Contract Review Rules and Regulations* as updated.

#### **5.5 Mississippi Contract/Procurement Opportunity Search Portal**

This Invitation for Bids, and the questions and answers concerning this Invitation for Bids, are posted on the Contract/Procurement Opportunity Search Portal and the MDPS website <https://www.dps.ms.gov/>.

#### **5.6 Attachments**

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

#### **5.7 Requirements Contract**

During the period of the contract, Contractor shall provide all the service described in the contract. Contractor understands and agrees that this is a requirements contract and that the Agency shall have no obligation to Contractor if no services are required. Any quantities that are included in the scope of work reflect the current expectations of the Agency for the period of the contract. The amount is only an estimate and Contractor understands and agrees that the Agency is under no obligation to Contractor to buy any amount of the services as a result of having provided this estimate or of having any typical or measurable requirement in the past. Contractor further understands and agrees that the Agency may require services in an amount less than or in excess of the estimated annual contract amount and that the quantity actually used, whether in excess of the estimate or less than the estimate, shall not give rise to any claim for compensation other than the total of the unit prices in the contract for the quantity actually used.

**ATTACHMENT A**

**Bid Cover Sheet**

The Mississippi Department of Public Safety is seeking to establish a contract for DNA Testing Services for the Mississippi DNA Laboratory (MSFL). Bids are to be submitted as listed below, on or before 10:30 A.M. December 4, 2020.

PLEASE MARK YOUR ENVELOPE:

IFB 3160003963  
Opening Date: December 4, 2020  
Mississippi Department of Public  
Safety  
Attention: Betsy Toles and Sonya Toaster  
1900 E. Woodrow Wilson Boulevard, 4<sup>th</sup> Floor, Room 402  
Jackson, MS 39216

**SEALED BID — DO NOT OPEN**

**Name of Company:** \_\_\_\_\_

**Quoted By:** \_\_\_\_\_

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

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

**City/State/Zip Code:** \_\_\_\_\_

**Company Representative:** \_\_\_\_\_

**Telephone:** \_\_\_\_\_

**Fax:** \_\_\_\_\_

**E-mail:** \_\_\_\_\_

<b>FEI/FIN # (if company, corporation or partnership):</b>	
<b>SS# (if individual):</b>	

**In addition to providing the above contact information, please answer the following questions regarding your company:**

What year was your company started? \_\_\_\_\_

How many years and/or months has your company been in the business of performing the services called for in this Invitation for Bids? \_\_\_\_\_

Please provide the physical location and mailing address of your company's home office, principal place of business, and place of incorporation. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If your company is not physically located in the region, how will you supply DNA testing to the Mississippi Department of Public Safety? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Is your company currently for sale or involved in any transaction to expand or to become acquired by another business entity? If yes, please discuss the impact both in organizational and directional terms. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

List all licenses or permits your company possesses that are applicable to performing the services required in this Invitation for Bids. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

For how many customers has your company provided DNA testing service in the past two (2) years? Please include the dates, the size of the area maintained, and the annual amount of the billing to each customer. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

What is the largest customer your company has provided DNA testing service for in the past two (2) years? Please include the annual amount of the billing. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Describe any specific service which your company offers along with any specialized experience, certification, and/or education of your current staff. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Attachment B**

**Bid for DNA Testing Services for MSFL**

<b>Company</b>	<b>Company Representative</b>	<b>Telephone</b>

The pricing quoted must be inclusive of, but not limited to the following:

- All required equipment and materials
- All required insurance
- All required overhead
- All required profit
- All required transportation
- All required labor
- All required business and professional licenses, permits, fees, etc. (if any)
- Any and all other costs associated with performing the services

**Bid Form -Bid# 3160003932**

**Date: December 4, 2020 – Time: 10:30 A.M. (CST)**

The pricing must include ALL associated costs with no additional or hidden fees.

<b>Description</b>	<b>Qty (estimated)</b>	<b>Price Per Test</b>
DNA Testing	15,244	\$

By signing below, the Company Representative certifies that he/she has authority to bind the company, and further acknowledges on behalf of the company:

1. That he/she has thoroughly read and understands this Invitation for Bids, 3160003963, and the attachments herein;
2. That the company meets all requirements and acknowledges all certifications contained in this Invitation for Bids, 3160003963, and the attachments herein;
3. That the company agrees to all provisions of this Invitation for Bids, 3160003963, and the attachments herein;
4. That the company will perform, without delay, the services required at the prices quoted in this Attachment B; and
5. This is the best of its knowledge and belief the cost or pricing data submitted is accurate, complete, and current as of the submission date.
6. That the company has, or will secure, at its own expense, applicable personnel who shall be qualified to performed under this Invitation for Bids.

Printed Name: \_\_\_\_\_

Signature/Date: \_\_\_\_\_



**Attachment C**

**Reference 1**

**Name of Company:** \_\_\_\_\_  
**Dates of Services:** \_\_\_\_\_  
**Contact Person:** \_\_\_\_\_  
**Address:** \_\_\_\_\_  
**City/State/Zip:** \_\_\_\_\_  
**Telephone:** \_\_\_\_\_  
**Fax:** \_\_\_\_\_  
**Type of DNA Testing** \_\_\_\_\_  
**Description of the services and quantity of work performed** \_\_\_\_\_

**Reference 2**

**Name of Company:** \_\_\_\_\_  
**Dates of Services:** \_\_\_\_\_  
**Contact Person:** \_\_\_\_\_  
**Address:** \_\_\_\_\_  
**City/State/Zip:** \_\_\_\_\_  
**Telephone:** \_\_\_\_\_  
**Fax:** \_\_\_\_\_  
**Type of DNA Testing** \_\_\_\_\_  
**Description of the services and quantity of work performed** \_\_\_\_\_

**Reference 3**

**Name of Company:** \_\_\_\_\_  
**Dates of Services:** \_\_\_\_\_  
**Contact Person:** \_\_\_\_\_  
**Address:** \_\_\_\_\_  
**City/State/Zip:** \_\_\_\_\_  
**Telephone:** \_\_\_\_\_  
**Fax:** \_\_\_\_\_  
**Type of DNA Testing** \_\_\_\_\_  
**Description of the services and quantity of work performed** \_\_\_\_\_

The bidder may submit as many references as desired by submitting as many additional copies of this Attachment C, References, as needed. The Mississippi Department of Public Safety will begin contacting references at the top of the list and will continue down the list until 3 contacts have been reached. See Section 4.1.8 of this Invitation for Bids.

## Attachment D

### Certifications and Assurances

I/We make the following certifications and assurances as a required element of the bid to which it is attached, of the understanding that the truthfulness of the facts affirmed here and the continued compliance with these requirements are conditions precedent to the award or continuation of the related contract(s) by circling the applicable word or words in each paragraph below:

1. REPRESENTATION REGARDING CONTINGENT FEES

Contractor represents that it has/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.

2. REPRESENTATION REGARDING GRATUITIES

The bidder or Contractor represents that it has/has not violated, is not violating, and promises that it will not violate the prohibition against gratuities set forth in Section 6204 (Gratuities) of the Mississippi Public Procurement Review Office of Personal Service Contract Review Rules and Regulations.

3. CERTIFICATION OF INDEPENDENT PRICE DETERMINATION

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

4. PROSPECTIVE CONTRACTOR'S REPRESENTATION REGARDING CONTINGENT FEES

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

Name/Title: \_\_\_\_\_

Signature/Date: \_\_\_\_\_

*Note: Please be sure to **circle the applicable word or words** provided above. Failure to circle the applicable word or words and/or to sign the bid may result in the bid being rejected as nonresponsive. **Modifications or additions to any portion of this bid document may be cause for rejection of the bid.***

**ATTACHMENT E**

**Reference Score Sheet**

**TO BE COMPLETED BY MISSISSIPPI DEPARTMENT OF PUBLIC SAFETY ONLY**

Bidder Name: \_\_\_\_\_

Reference Name: \_\_\_\_\_

Person Contacted, Title/Position: \_\_\_\_\_

Date/Time Contacted: \_\_\_\_\_

Service From/To Dates: \_\_\_\_\_

Able to provide DNA testing when you called	Yes	No
Satisfied with the DNA testing provided? If no, please explain.	Yes	No
Vendor easy to work with in scheduling DNA testing?	Yes	No
Was the DNA testing completed on time and within budget?	Yes	No
Vendor listened when you had an issue and readily offered a solution? (If never had an issue, please check here_____.)	Yes	No
Would you enter into a contract with them again?	Yes	No
Would you recommend them?	Yes	No

Each “yes” is one point(s); each “no” is zero point(s). Bidder must have a minimum score of “7” from three references (total of “21” points) to be considered responsible and for its bid to be considered.

Score: \_\_\_\_\_

Do you have any business, professional or personal interest in the bidder’s organization? If yes, please explain.	Yes	No
---	-----	----

Called by: \_\_\_\_\_

Notes: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## ATTACHMENT F

### Required Clauses for Service Contracts Resulting from this Invitation for Bids

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.
2. Availability of Funds. It is expressly understood and agreed that the obligation of the Agency 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 Agency, the Agency 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 Agency of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.
3. Compliance with Laws. Contractor understands that the MDPS 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.
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 § 31-7-301 *et seq.*
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:

- a. termination of this contract for services and ineligibility for any state or public contract in Mississippi for up to three (3) years with notice of such cancellation/termination being made public;
  - b. the loss of any license, permit, certification or other document granted to Contractor by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year; or, both
  - c. 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.
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.
7. Procurement Regulations. The contract shall be governed by the applicable provisions of the *Mississippi Public Procurement Review Board Office of Personal Service Contract Review Board Rules and Regulations*, a copy of which is available at 501 North West Street, Suite 701E, Jackson, Mississippi 39201 for inspection, or downloadable at <http://www.DFA.ms.gov>.
8. Stop Work Order.
- a. *Order to Stop Work:* The Procurement Officer, may, by written order to contractor at any time, and without notice to any surety, require the contractor to stop all or any part of the work called for by this contract. This order shall be for a specified period not exceeding 90 days after the order is delivered to the Contractor, unless the parties agree to any further period. Any such order shall be identified specifically as a stop work order issued pursuant to this clause. Upon receipt of such an order, Contractor shall forthwith comply with its terms and take all reasonable steps to minimize the occurrence of costs allocable to the work covered by the order during the period of work stoppage. Before the stop work order expires, or within any further period to which the parties shall have agreed, the Procurement Officer shall either:
    - i. cancel the stop work order; or,

- ii. terminate the work covered by such order as provided in the Termination for Default clause or the Termination for Convenience clause of this contract.
- b. *Cancellation or Expiration of the Order:* If a stop work order issued under this clause is canceled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, Contractor shall have the right to resume work. An appropriate adjustment shall be made in the delivery schedule or Contractor price, or both, and the contract shall be modified in writing accordingly, if:
  - i. the stop work order results in an increase in the time required for, or in Contractor's cost properly allocable to, the performance of any part of this contract; and
  - ii. contractor asserts a claim for such an adjustment within 30 days after the end of the period of work stoppage; provided that, if the Procurement Officer decides that the facts justify such action, any such claim asserted may be received and acted upon at any time prior to final payment under this contract
- c. *Termination of Stopped Work:* If a stop work order is not canceled and the work covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop work order shall be allowed by adjustment or otherwise.
- d. *Adjustments of Price:* Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment clause of this contract.

9. Termination for Convenience

- a. *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.
- b. *Contractors 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 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.

10. Termination for Default

- a. *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.

- b. *Contractors 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.
- c. *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.
- d. *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". (As used in this Paragraph of this clause, the term "subcontractor" means subcontractor at any tier).
- e. *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.
- f. *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.

11. Termination Upon Bankruptcy. This contract may be terminated in whole or in part by agency 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.
12. 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.
13. 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.
14. Approval Clause  
It is understood that if this contract requires approval by the Public Procurement Review Board and/or the Mississippi Department of Finance and Administration Office of Personal Service Contract Review and this contract is not approved by the PPRB and/or OPSCR, it is void and no payment shall be made hereunder.
15. Acknowledgement of Amendments  
Bidders shall acknowledge receipt of any amendment to the solicitation by signing and returning the amendment with the bid, by identifying the amendment number and date in the space provided for this purpose on the bid form, or by letter. The acknowledgment must be received by the Mississippi Department of Public Safety by the time and at the place specified for receipt of bids.



## ATTACHMENT G

### Optional Clauses for Use in Service Contracts Resulting from this Request for Bid

1. Approval. It is understood that this contract requires approval by the Office of Personal Service Contract Review Board. If this contract is not approved, it is void and no payment shall be made hereunder.
2. 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 §§ 25-61-9 *et seq.* If a public records request is made for any information provided to Agency pursuant to the agreement and designated by the Contractor in writing as trade secrets or other proprietary confidential information, Agency shall follow the provisions of Mississippi Code Annotated §§ 25-61-9 and 79-23-1 before disclosing such information. The Agency shall not be liable to the Contractor for disclosure or information required by court or required by law.
3. Debarment and Suspension. Contractor certifies to the best of its knowledge and belief, that it:
  - (1) is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transaction by any federal department or agency or any political subdivision or agency of the State of Mississippi;
  - (2) has not, within a three-year period preceding this bid , been convicted of or had a civil judgement with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction.
  - (3) has not, within a three-year period preceding this bid , been convicted of or had a civil judgement rendered against it for a violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - (4) is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of these offenses enumerated in paragraphs two (2) and (3) of this certification; and,
  - (5) has not, within a three-year period preceding this bid , had one or more public transactions (federal, state, or local) terminated for cause or default.
4. Force Majeure. Each party shall be excused from performance for any period and to the extent that it is prevented from performing any obligation or service, in whole or in part, as a result of causes beyond the reasonable control and without the fault or negligence of such party and/or its subcontractors. Such acts shall include without limitation acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations superimposed after the fact, fire, earthquakes, floods, or other natural disasters (“force majeure events”). When such a cause arises, Contractor shall notify the 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.

5. Ownership of Documents and Work Papers. Agency 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 Agency 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 Agency and subject to any copyright protections.
6. 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-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-year period, whichever is later.
7. Right to Audit. Contractor shall maintain such financial records and other records as may be prescribed by the Agency or by applicable federal and state laws, rules, and regulations. Contractor shall retain these records for a period of three (3) years after final payment, or until they are audited by the Agency, whichever event occurs first. These records shall be made available during the term of the contract and the subsequent three-year period for examination, transcription, and audit by the Mississippi State Auditor's Office, its designees, or other authorized bodies.
8. Severability. If any part of this agreement is declared to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision of the agreement that can be given effect without the invalid or unenforceable provision, and to this end the provisions hereof are severable. In such event, the parties shall amend the agreement as necessary to reflect the original intent of the parties and to bring any invalid or unenforceable provisions in compliance with applicable law.

9. 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 hereunder or otherwise afforded by any means, or operate as a waiver of such right, power, or remedy. 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 part will imply, be construed as or require waiver of future or other defaults.