

INVITATION FOR BIDS

IFB Number: 3160006113

To Provide: Customized Testing and Reporting Services for MSFL

CLOSING LOCATION

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

BID COORDINATOR

Britney Wesley or Sonya Toaster
Procurement Department

Telephone: 601-987-1407 or 601-987-1305

Fax: 601-987-1442

E-mail: bjwesley@dps.ms.gov or stoaster@dps.ms.gov

CLOSING DATE AND TIME

Bids must be received by 10:00 A.M., CST October 12, 2023

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 Britney Wesley or Sonya Toaster, Mississippi Department of Public Safety, Procurement Department, 4th 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. Bids submitted via facsimile (fax), or email will not be accepted.

1.1.1 Timeline

Task	Date
Advertisement Dates for IFB	August 29, 2023; September 5, 2023
Receive Questions & Answers for Clarification Dates	Starting 8:00 a.m. CST, Tuesday August 29, 2023, to Monday, September 18, 2023, at 5:00 p.m. CST. Please email questions to bjwesley@dps.ms.gov or stoaster@dps.ms.gov
Respond in Writing to Clarification	Monday, September 25, 2023
Bid Submission Deadline	No later than 10:00 a.m. CST Thursday, October 12, 2023
Bid Opening Date	Thursday, October 12, 2023
Anticipated Award notification date	Thursday, October 19, 2023
Debriefing deadline	Thursday, October 26, 2023
No-Protest date and time	Tuesday October 31, 2023, 5:00 PM.CST
Anticipated Contract Start Date	December 18,2023

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

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 (5th) calendar day before the date specified for receipt of bids. It must be determined by the Mississippi Department of Public Safety that the late receipt was due solely to mishandling by the Mississippi 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.

1.1.3 Contact and Questions/Requests for Clarification

Bidders must carefully review this solicitation, risk management provisions, and all attachments for defects, questionable, or objectionable material. Following review, vendors may have questions to clarify or interpret the Information for Bid (IFB) in order to submit the best bid possible. To accommodate the questions and requests for clarifications, vendors shall submit any such question via email by the deadline reflected in Section 1. All questions and requests for clarifications must be directed by email to:

Britney Wesley or
(601) 987-1407
bjwesley@dps.ms.gov

or

Sonya Toaster
(601)987-1305
stoaster@dps.ms.gov

- Vendors should enter “IFB RFX 3160006113” Questions” as the subject for the email. Question submittals should include a reference to the applicable IFB section and be submitted in the format shown below:

	IFB Section, Page Number	Vendor Question/Request for Clarification
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1.		
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- Official responses will be provided only for questions submitted as described above and only to clarify information already included in the IFB. The identity of the organization submitting the question(s) will not be revealed. All questions and answers will be published on the Mississippi Contract/Procurement Opportunity Search Portal website and the agency's website as an amendment to the IFB by the date and time reflected in Section 1.
- The agency will not be bound by any verbal or written information that is not contained within this IFB unless formally noticed and issued by the contact person as an IFB amendment. Bidders are cautioned that any statements made by agency personnel that materially change any portion of the bid document shall not be relied upon unless subsequently ratified by a formal written amendment to the bid document.
- All vendor communications regarding this IFB must be directed to the Bid Coordinator. Unauthorized contact regarding the IFB with other employees of the agency may result in the vendor being disqualified, and the vendor may also be suspended or disbarred from the State.

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 Acknowledgement of Amendments

Should an amendment to the IFB be issued, it will be posted on the Mississippi Contract/Procurement Opportunity Search Portal website and the agency's website in a manner that all bidders will be able to view. Further, bidders must acknowledge receipt of any amendment to the solicitation by signing and returning the amendment with the bid package, by identifying the amendment number and date in the space provided for this purpose on the bid form, or by letter. The acknowledgment should be received by the agency by the time, date, and at the place specified for receipt of bids. It is the bidder's sole responsibility to monitor the websites for any updates or amendments to the IFB.

1.6.1

Bidder must provide a signed Acknowledgements of IFB Amendment(s), Questions, and Answer document(s), and/or Summary of Pre-Bid Conference, Tour, or Site Visit, if any were issued/posted on the Mississippi Contract/Procurement Opportunity Search Portal website and the agency's website.

1.6.2

The IFB is comprised of the base IFB document, any attachments, any amendments issued prior to the submission deadline, and any other documents released before contract award.

1.7 Type of Contract

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

1.8 Written Bid

All bids shall be in writing.

1.9 Rejection of Bids

A bid response that includes terms and conditions that do not conform to the terms and conditions in the IFB document is subject to rejection as non-responsive. Further, submission of a bid form that is not complete and/or signed is subject to rejection as non-responsive. The agency reserves the right to permit the bidder to withdraw nonconforming terms and conditions from its bid response prior to a determination by the agency staff of non-responsiveness based on the submission of nonconforming terms and conditions. Furthermore, if a bidder's price is substantially higher than those of other bidders, meaning those in excess of a twenty-five percent (25%) differential, the bidder's price will be deemed non-responsive.

1.10 Withdrawal of Bids

If the price bid is substantially lower than those of other bidders, a mistake may have been made. A bidder may withdraw its bid from consideration if certain conditions are met:

- (1) The bid is submitted in good faith.
- (2) The price bid is substantially lower than those of other bidders because of a mistake.
- (3) The mistake is a clerical error, not an error of judgment; and,
- (4) Objective evidence drawn from original work papers, documents, and other materials used in the preparation of the bid demonstrates clearly that the mistake was an unintentional error in arithmetic or an unintentional omission of a quantity of labor or material.

To withdraw a bid that includes a clerical error after bid opening, the bidder must give notice in writing to the agency of claim of right to withdraw a bid. Within two (2) business days after the bid opening, the bidder requesting withdrawal must provide to the agency all original work papers, documents, and other materials used in the preparation of the bid.

A bidder may also withdraw a bid, prior to the time set for the opening of bids, by simply making a request in writing to the agency. No explanation is required.

No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other work for the person to whom the contract is awarded, or otherwise benefit from the contract.

No partial withdrawals of a bid are permitted after the time and date set for the bid opening; only complete withdrawals are permitted.

SECTION 2

2.1 Purpose

The MDPS is seeking to establish a contract for customized testing and reporting services for forensic drug testing of plant material on behalf of the Mississippi Forensics Laboratory (MSFL). It is understood that any contract resulting from 3160006113 requires approval by the Public Procurement Review Board. If any contract resulting from 3160006113 is not approved by the Public Procurement Review Board, it is void and no payment shall be made.

2.2 Scope of Services

The Contractor will perform the following services upon request of the Mississippi Forensics Laboratory (MSFL), in fulfillment the purposes of this contract:

Vendor Requirement Bid Specifications:

- Contractor laboratory will personally transport drug samples from Law Enforcement Agencies to the contractor laboratory facility. Contractor shall not utilize a subcontractor for transportation services.
- The minimum vendor laboratory licensure requirement is Mississippi Department of Health - Mississippi Medical Cannabis Program – Testing Facility
- ISO 17025:2017 by ANAB accreditation in the discipline of Seized Drugs is preferred but not required.

- Vendor shall hold/maintain licensure by U.S. Drug Enforcement Administration.
- Vendor shall provide an example of testing capabilities as it pertains to the differentiation of Marijuana from Hemp as it relates to the Mississippi Code 1972 Annotated § 69-25-203(g) and the ability to obtain an accurate weight of analyzed specimens.
- The vendor laboratory shall conduct in-house Proficiency Testing and Quality Assurance Programs, with ability to present documentation upon demand.
- All forensic testing services to be performed on site at the Contractor's laboratory facilities. Vendor laboratory shall not utilize a subcontractor for Marijuana/Hemp differentiation and identification.
- The contractor shall not subcontract and will perform all work with their own personnel and equipment, unless expressly written in the response to bid.
- Expert Witness Testimony available with experience in forensic seized drugs cases.
- Vendor has a LIMS system for report delivery to forensic clients.
- Report minimum requirement – Name of Facility with contact information, name of analyst certifying report, weight, substance(s) identified, client contact information, case and sample unique identifier, suspect name, and testing performed including testing methods.

Scope of Work

- Complete list of Forensic Seized Drug Identification capabilities – used to compare the scope of testing offered by prospective vendors.
- Must have documentable record of ability to handle routine and nonroutine specimens of plant material.
- Result Reporting - require submission of an example of reports with bid response.
- Complete Internal Chain of Custody – confirmed by laboratory site inspection if desired by bidder.
- Standard Operating Procedures – the laboratory should have documented SOP's available to support specimen handling, analytical procedures, Quality Control procedures and maintenance records of analytical instrumentation.
- Specimen Storage – the laboratory must secure and maintain the specimen until return to the submitting agency in such a manner to prevent contamination and degradation.
- Confidentiality – the contractor will be required to use reasonable care to protect the confidentiality of the clients.
- True forensic testing – utilization two different analytical techniques or analysis performed by similar analytical methods on two separate specimen aliquots.

Analytical Capabilities

- Gas and Liquid Chromatography with multiple detectors (GC/FID, GC/MS, HPLC/UV)
- GC/MS
- LC/MS
- LC/MS/MS

Key

ANAB - ANSI National Accreditation Board
DEA – U.S Drug Enforcement Administration
GC/MS – Gas Chromatography/Mass Spectrometry
GC/FID – Flame Ionization Detector
HPLC – High Performance Liquid Chromatography
LC/MS – Liquid Chromatography/Mass Spectrometry

I. SERVICE AND SUPPLIES REQUIREMENTS

The successful contractor MUST:

1. Agree to perform only those tests ordered.
2. Agree to provide laboratory results within 21 to 30 days.
3. The Vendor shall only test items submitted from Mississippi Law Enforcement Agencies.
4. The Vendor shall provide the following testing:
 - Marijuana/Hemp differentiation as it relates to the Mississippi Code 1972 Annotated § 69-25-203(g). Must identify the plant Cannabis Sativa L. with the ability to determine whether delta-9-tetrahydrocannabinol (THC) concentration is greater than three tenths percent (%0.3) on a dry weight basis.
 - Vendor shall provide a net weight of each item of plant material tested.
 - Vendor shall provide a gross weight when all individual items are not tested.

 - Vendor shall work only submitted case with a total net weight of plant material in excess of 30 grams.
 - Vendor shall follow the following sampling guidelines:
 - A. Plant material samples will only be combined when they are not in a closed condition. Example - Plastic bag containing multiple open plastic bags containing plant material may be combine for one net weight. Plastic bag containing multiple closed plastic bags containing plant material will not be combined for a net weight.
 - B. A maximum of three individual items will be sampled. The individual samples with the greatest net weight will be analyzed.
5. Agree to provide services without regard to race, color, age, sex, national origin, religion, citizenship, disability, sexual orientation, or veteran status, or any other legally protected status.
6. Client support, expert services, and a seized drug analyst available daily to answer client questions via phone and/or email and support testimony needs.
7. The Vendor is required to procure professional liability coverage in the amount of \$1,000,000 per occurrence for each year of the contract and offer proof of such coverage.

II REPORTS AND RECORDS REQUIREMENTS

The successful contractor MUST:

1. Agree to maintain records in such form and for such duration as may be required

by federal, state, and local statutes and regulations.

2. Agree to maintain the confidentiality of information contained in the report.

2.2.1 The Contractors shall:

- Assign a Contractor Account Representative to work directly with the Contracting Agency Representative.
- All state facilities are non-smoking; the Contractor and its personnel must adhere to this requirement. The use of tobacco products is prohibited, except within designated smoking areas.
- It is illegal to have in one's possession any illegal drug or alcoholic beverage while on state property.
- The Contractor's employees should refrain from using foul, abusive, or profane language on state property.
- The MDPS reserves the right to inspect and search all Contractor personnel and/or vehicles anytime while on facility grounds.
- Contractors are required to sign-in and sign-out at most state facilities. Security provisions for all state facilities must be strictly observed.
- Be responsible for all damages and shall be held responsible for replacing or repairing any damage due to negligence on the part of the Contractor or Contractor personnel to any person(s) and/or property. The Contractor shall replace and repair any damage to any building or property, including but not limited to the replacement of any cracked or broken concrete (sidewalks, curbs, etc.) caused by on-site activities. Contracting Agency may withhold payment or make such deductions as deemed necessary to ensure reimbursement or replacement for loss or damage to property.
- Exercise precautions at all times for the protection of persons (including employees) and property. The Contractor shall make such investigations to enable them to fully understand the facilities, difficulties, and restrictions attending the execution of the work on-site. The project shall at all times be properly supervised and adequately manned by an experienced crew of appropriate size. All work shall be accomplished by skilled workers familiar with and trained to do this type of work. Workers shall be qualified to operate and/or use the equipment necessary to accomplish this work. The Contractor shall be responsible for the supervision and direction of the work performed by its personnel. The Contractor shall be responsible for instructing its personnel in all safety measures. All equipment used by the Contractor shall be maintained in safe operating condition at all times and be free from defects or wear that may in any way constitute a hazard to any person or persons on state property. All incidents involving agency property or personnel shall be reported to the designated agency contact immediately upon occurrence.
- Abide by all State and/or agency policies, procedures, ordinances, and/or laws pertaining to the Contracting Agency's operation at all times, including but not limited to the items listed above. Deviations from these policies by the Contractor or its personnel will not be tolerated and will be considered grounds for contract termination.

- Perform all services provided in the contract between the bidder/vendor and MDPS in accordance with customary and reasonable industry standards as well as in strict conformance to all laws, statutes, and ordinances and the applicable rules, regulations, methods and procedures of all government boards, bureaus, offices, and other agents. The Contractor shall be responsible for the complete performance of all work; for the methods, means, and equipment used; and for furnishing all materials, tools, apparatus, and property of every description used in connection therewith. No statement within this IFB shall negate compliance with any applicable governing regulation. The absence of detail specifications or the omission of detail description shall be recognized as meaning that only the best commercial practices are to prevail, and that only first quality materials and workmanship are to be used.

2.2.2 The Contractors shall also:

- Administer and maintain all employment and payroll records, payroll processing, and payment of payroll checks and taxes, including the deductions required by state, federal, and local laws such as social security and withholding taxes for their business and employees.
- Make all unemployment compensation contributions as required by federal and state law(s) and process claims as required for their business and employees.
- Perform a background check and/or drug screening prior to placement if requested by the Contracting Agency and verify and/or provide the results; and,
- Replace immediately, at no additional expense to the Contracting Agency, any employee not performing satisfactorily.

2.3 Term

The term of the contract shall be for a period of 12 months. Upon written agreement of both parties at least 90 days prior to each contract anniversary date, the contract may be renewed by the MDPS for a period of 4 successive one-year periods(s) under the same prices, terms, and conditions in the original contract subject to approval by PPRB. The total number of renewal years permitted shall not exceed 4. Contract renewals will be evaluated based on the availability of funds, changes in program direction, ability of the contractor to meet scheduled deliveries and milestones in a satisfactory manner and satisfactorily performing all duties of the contract. There will be approximately 4000 samples. The sample will consist of mainly plastic bags of plant material. The total term length of the resulting contract shall not exceed four years with yearly renewal option.

2.3.1 Multi-Term Contracts

Unless otherwise provided by law, a contract for services may be entered for one-year multi-term with an option of four yearly renewals 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 unit price shall be given for each service, and that unit price shall be in the same throughout the contract.
- This 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.
- 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.
- A multi-term contract may be awarded to the bidder whose submit the lowest and best bid. To determine which bid is the lowest, MDPS will take the sum of each bidder subtotal price. Since bid is being awarded to lowest and best bid, Bidder must bid on all items. Failure to bid on all items will cause for rejection of bid.

SECTION 3

3.1 Insurance

The successful vendor 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 vendor 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 Section 4 - Basis for Award

- All bids will be reviewed first to determine whether a vendor is responsive, responsible, and/or acceptable. Requirements are not assigned a point percentage and/or score but are instead simply recorded as PASS or FAIL. Bids with errors that do not alter the substance of the bid can be accepted, and the Agency Chief Procurement Officer may allow the bidder to correct the problem prior to review as long as the irregularities are insignificant mistakes that can be waived or corrected without prejudice to other bidders.
- The agency has the right to waive minor defects or variations of a bid from the exact requirements of the specifications that do not affect the price, quality, quantity, delivery, or

performance time of the services being procured. If insufficient information is submitted by a bidder with the bid for the agency to properly evaluate the bid, the agency has the right to require such additional information as it may deem necessary after the time set for receipt.

- All bids which are determined to be responsive, responsible, and/or acceptable will continue on to the price bid or cost evaluation. The lowest cost bid will receive the maximum 100 points allocated to cost. The point allocations for cost on the other bids will be evaluated according to the following formula: Price of the lowest responsive and responsible bid divided by the price of the responsive and responsible bid being rated times the maximum 100 points allocated for cost equal the awarded points.

4.1.1 Award

The agency intends to award one contract to provide the services described in this IFB to the lowest responsible and responsive bidder.

4.1.2 Responsive Bidder

Bidder must submit bid which conforms in all material respects to this Invitation for Bids, 3160006113, as determined by the MS Department of Public Safety.

4.1.3 Responsible Bidder

Bidder 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.

4.1.4 Minimum Qualifications to be Deemed Responsive

- Bidder must have been in business and providing the services listed in IFB or in requirements and scale to those described in this Invitation for Bid for a minimum of three (3) years.
- Bidder must maintain a pool of qualified workers to fill the requests from MDPS.
- The bidder must provide three references that the vendor has contracts with providing the same scope of services.

4.2 References

These minimum qualifications are in addition to a minimum score of six 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 (eighteen), as well as all other requirements of this Invitation for Bids. (See **Attachments C** and **E**.)

Each bidder must furnish the contact person, address, and phone number for each reference. 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 bidder 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 bidder 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**.

4.3 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 MSPS of non-responsiveness based on submission of nonconforming terms and conditions.

4.4 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.

4.4.1

As a precondition to bid acceptance, the agency 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.

4.4.2

Any bidder claiming that its response contains information exempt from the Mississippi Public Records Act (Miss. Code Ann. §§ 25-61-1 *et seq.* and 79-23-1), shall segregate and mark the information as confidential and provide the specific statutory authority for the exemption.

4.4.3 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**)

4.5 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.

4.6 Award Notification

Award(s) for this procurement will be posted on the Mississippi Contract/Procurement Opportunity Search Portal website and the agency website at <https://www.dps.ms.gov/>. Bidders will be notified via e-mail of the awards. Additionally, a letter will be sent to all bidders.

4.3.2 Contract Management

If the Contractor fails to adhere to the janitorial 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

A bidder, 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 a bidder prefers to have a legal representation present, the bidder 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 7-113.03, Post-Award Vendor Debriefing, of the Mississippi Office of Personal Service 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 Bid Coordinator, Britney Wesley, or Sonya Toaster, and the Commissioner of the MS Department of Public Safety. The protest shall be submitted on or before October 31,

2023, 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 Bid Coordinator, Britney Wesley, Sonya Toaster, and the Commissioner of the MS Department of Public Safety, via either U.S. mail, postage prepaid, or personal delivery. Protests filed after October 31, 2023, 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 PPRB Office of Personal Service 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 PPRB 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.

5.1.5 Agency Website

This IFB, questions and answers concerning this IFB, and the Notice of Intent to Award will be posted on the agency website at <https://www.dps.ms.gov/> and on the Mississippi Contract/Procurement Opportunity Search Portal website.

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.

ATTACHMENT A

Bid Cover Sheet

The Mississippi Department for Public Safety is seeking to establish a contract for Customized Testing and Reporting Services of Forensic Drug Testing at our Forensic Laboratory. Bids are to be submitted as listed below, on or before 10:00 A.M. CST October 12, 2023.

PLEASE MARK YOUR ENVELOPE:

IFB 3160006113
Opening Date: October 12, 2023
Mississippi Department of
Public Safety
Attention: Britney Wesley or Sonya Toaster
1900 E. Woodrow Wilson Boulevard, 4th 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: _____

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

Name and phone number of Company Representative to be contacted by Agencies seeking to contract for services pursuant to this IFB:

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 provide Customized Testing and Reporting services to the Mississippi Forensics Laboratory?

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 the requested service in this IFB 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 Customized Testing and Reporting assessment services 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. _____

List all the equipment that your company has available or that is intended to be used to perform the services required in this Invitation for Bids. _____

OWNED EQUIPMENT					
Year	Make	Model	ID#	Capacity	Description

RENTED/LEASED EQUIPMENT					
Year	Make	Model	ID#	Capacity	Description

Attachment B

Bid for Customized Testing and Reporting Services for MSFL

Company	Company Representative	Telephone

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.

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

Customized Testing and Reporting Services for the MS Department of Public Safety, MS
Forensic Laboratory

RFX# 3160006113

Date: October 12, 2023 – Time: 10:00 A.M. (CST)

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

*(Detailed Description of services can be found in
Section 2.2 of this IFB)*

BID FORM (Part one)

Description	Price
Customized Testing and Reporting Services, Annually Total	\$ _____

Bid Form (Part Two)

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, 3160006113, and the attachments herein.
2. That the company meets all requirements and acknowledges all certifications contained in this Invitation for Bids, 3160006113, and the attachments herein.
3. That the company agrees to all provisions of this Invitation for Bids, 3160006113, and the attachments herein.
4. That the company will perform, without delay, the services required at the prices quoted in this Attachment B.
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: _____

Reference 2

Name of Company: _____
Dates of Services: _____
Contact Person: _____
Address: _____
City/State/Zip: _____
Telephone: _____
Fax: _____

Reference 3

Name of Company: _____
Dates of Services: _____
Contact Person: _____
Address: _____
City/State/Zip: _____
Telephone: _____
Fax: _____

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 4.2 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 Office of Personal Service Contract Review Board 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 Customized Testing and Reporting services when you called them.	Yes	No
Satisfied with the Customized Testing and Reporting services provided? If no, please explain.	Yes	No
Vendor easy to work with in scheduling services?	Yes	No
Was the Customized Testing and Reporting services 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 “6” from three references (total of “18” 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 Agency 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 Rules and Regulations*, a copy of which is available 501 North West Street, Suite 701E, Jackson, Mississippi 39201 for inspection, or downloadable at <http://www.DFA.ms.gov>.
8. 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.
9. Representation Regarding Gratuities. 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 Public Procurement Review Board Office of Personal Service Contract Review Rules and Regulations*.
10. 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 Contractor to stop all or any part of the work called for by this contract. This order shall be for a specified period not exceeding 90 days after the order is delivered to Contractor unless the parties agree to any further period. Any such order shall be identified specifically

as a stop work order issued pursuant to this clause. Upon receipt of such an order, Contractor shall forthwith comply with its terms and take all reasonable steps to minimize the occurrence of costs allocable to the work covered by the order during the period of work stoppage. Before the stop work order expires, or within any further period to which the parties shall have agreed. The Procurement Officer shall either:

- i. cancel the stop work order; or,
 - ii. terminate the work covered by such order as provided in the Termination for Default clause or the Termination for Convenience clause of this contract.
- 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.

11. 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 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.

12. 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.

13. 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.
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.
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.
16. 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 acknowledgement must be received by the MDPS by the time and at the place specified for receipt of bids.
17. 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.

ATTACHMENT G

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

1. 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.

2. 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.

3. 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.

4. 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.
5. 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.
6. 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.
7. 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 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.
8. Waiver. No delay or omission by either party to this agreement in excising 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 avoid, 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.