

**INVITATION FOR BIDS**

IFB RFX Number: 3160007164

Procurement Modernization Advisory Council Consulting  
Services

Issue Date: January 31, 2025

**CLOSING TIME AND DATE**

Bids must be received by:  
3:00 PM CST, February 14, 2025

**CLOSING LOCATION**

Mississippi Department of Information Technology Services  
3771 Eastwood Drive  
Jackson, Mississippi 39211

**BID COORDINATOR**

Lori Adams, Accounting Specialist  
Telephone: (601) 432-8045  
E-mail: [lori.adams@its.ms.gov](mailto:lori.adams@its.ms.gov)

## **GENERAL INSTRUCTIONS**

### **Section 1 – Background, Authority, and Purpose**

The State of Mississippi is embarking on a transformative initiative to modernize its IT procurement framework. This effort aims to address existing challenges such as inefficiencies, complex compliance requirements, and lack of alignment with technological advancements. Governed by Mississippi Code Annotated Section 25-53-1 et seq. and the ITS Procurement Manual, the state's current system has successfully provided transparency and fairness. However, as technology evolves and stakeholder expectations grow, the need for a more agile, efficient, and future-ready procurement process has become evident.

The Mississippi Department of Information Technology Services (ITS) is the lead agency and will drive this effort. The Procurement Modernization Advisory Council (PMAC) will serve as an entity to provide ideas, feedback, and drive momentum. The council includes representatives from core and extended state agencies, and is tasked with evaluating the current procurement landscape, identifying opportunities for reform, and recommending actionable strategies.

To ensure the success of this initiative, the PMAC seeks to engage a consultant who will serve as a critical partner. The consultant will facilitate discussions, manage project logistics, and deliver well-researched recommendations for modernizing the state's procurement framework. By enabling the state to adopt best practices, streamline operations, and harness innovation, this engagement will lay the groundwork for transformative change in Mississippi's IT procurement processes.

### **Section 2 – Timeline**

- Invitation for Bid Issue Date: January 31, 2025
- Questions and Requests for Clarification to Agency Deadline: February 7, 2025, 3:00 CST
- Anticipated Posting of Written Answers to Questions: February 10, 2025, 3:00 PM CST
- Bid Package Submission Deadline: February 14, 2025, 3:00 PM CST
- Bid Opening: February 14, 2025, 3:00 PM CST
- Anticipated Date of the Notice of Intent to Award: February 20, 2025, 3:00 PM CST

### **Section 3 – Contact and Questions/Requests for Clarification**

**3.1** Bidders must carefully review this solicitation, the contract, risk management provisions, and all attachments for defects, questionable, or objectionable material. Following review, vendors may have questions to clarify or interpret the 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 2. All questions and requests for clarifications must be directed by email to:

Lori Adams, Accounting Specialist  
 Telephone: (601)432-8045  
 E-mail: lori.adams@its.ms.gov

**3.2** Vendors should enter “IFB RFX Number 3160007164 - 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:

	<b>IFB Section, Page Number</b>	<b>Vendor Question/Request for Clarification</b>
1.		

**3.3** 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 2.

**3.4** 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.

**3.5** 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.

**3.6** No Pre-Bid Conference, Tour, or Site Visit will be held for this IFB.

**3.7 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 shall acknowledge receipt of any amendment to the solicitation in writing 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. Each bidder shall submit the written acknowledgment of every amendment to the agency on or before the submission deadline (at 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.

**3.8** 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.

**3.9** 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.

#### **Section 4 – Scope of Work**

**4.1** Contractor shall provide services, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:

**4.1.1 Policy and Procedure Analysis:** Conduct a thorough examination of Mississippi Code Annotated Section 25-53-1 et seq. to identify provisions that impede procurement efficiency. The consultant will analyze existing statutory language, pinpoint ambiguities, and recommend changes to align with modern practices.

Review the ITS Procurement Manual and internal procedures, focusing on operational efficiency, state requirements, redundancies, and other obstacles that hinder the state's ability to procure IT solutions efficiently.

Benchmark Mississippi's procurement framework against best practices from states. Identify successful strategies these states have implemented to address challenges similar to those faced by Mississippi, such as reducing procurement timelines and enhancing vendor collaboration.

Assess compliance requirements, including legal, procedural, and technical obligations, to ensure that proposed recommendations meet statutory mandates while enabling greater flexibility.

**4.1.2 Stakeholder Engagement:** Design an inclusive engagement strategy to ensure active participation from core PMAC members, extended members, and external stakeholders such as vendors, industry associations, and technology experts.

Facilitate workshops and focus groups that address key pain points, including compliance burdens, inefficiencies, and vendor concerns. The consultant will ensure that discussions are data-driven and aligned with the state's strategic objectives.

Develop and distribute surveys to collect quantitative and qualitative insights from a broad spectrum of stakeholders. For example, surveys may assess vendor satisfaction, agency compliance challenges, and opportunities to adopt automation in procurement processes.

Consolidate stakeholder feedback into actionable insights, ensuring that all recommendations reflect the diverse needs and priorities of Mississippi's procurement ecosystem.

**4.1.3 Develop Recommendation:** Collaborate closely with ITS, in conjunction with PMAC members, to develop a phased modernization roadmap. Each phase will include specific milestones, detailed timelines, and measurable outcomes.

Propose updates to procurement policies, such as adopting agile procurement frameworks that prioritize efficient approaches to technology acquisition.

Recommend leveraging technology to streamline workflows. For example, implementing e-procurement platforms that integrate response submittal, contract management, vendor evaluation, and compliance tracking in a single system.

Address specific challenges identified during the engagement process, such as improving consistency in solicitation formats across agencies, enhancing vendor transparency, and minimizing redundancies in the evaluation process.

Develop legislative proposals that outline necessary statutory amendments. For example, introducing flexible contract terms that accommodate emerging technologies or adopting negotiation-based procurement models to improve outcomes.

**4.1.4 Documentation and Reporting:** Collect comprehensive records of all PMAC activities, including meeting agendas, minutes, and follow-up actions. The consultant will ensure that all documentation is accessible and aligned with the state's governance standards.

Produce an interim report summarizing the results of the gap analysis, stakeholder feedback, and initial recommendations as detailed below. The report will serve as a checkpoint to align the council's work with its objectives.

Deliver a final comprehensive report that consolidates all findings, recommendations, and implementation strategies. The report will include an executive summary for policymakers and in-depth sections for operational teams, complete with charts, graphs, and data visualizations to support decision-making.

**4.1.5 Logistics and Project Management:** In conjunction with ITS, coordinate and schedule monthly PMAC meetings, ensuring that discussions remain focused on achieving project milestones.

At the direction of ITS, serve as the primary liaison between PMAC leadership and external stakeholders, maintaining clear and consistent communication throughout the project.

Monitor progress against project timelines and provide regular updates to ITS leadership, identifying potential risks and recommending corrective actions as needed.

**4.1.6 Deliverables:** The consultant will deliver the following outputs, ensuring that each deliverable is actionable, data-driven, and aligned with the project's objectives:

**4.1.6.1 Gap Analysis Report:** A detailed assessment of Mississippi's procurement framework, identifying areas of inefficiency and misalignment with best practices. Include detailed case studies from other states illustrating how their reforms improved efficiency and vendor satisfaction. Identify procurement efficiency challenges such as delays in contract approvals or misaligned vendor evaluation criteria and provide recommendations with potential solutions.

**4.1.6.2 Stakeholder Feedback Report:** A comprehensive synthesis of feedback from PMAC members, agency leaders, and external experts. Segment feedback into actionable themes, such as compliance challenges, automation opportunities, and vendor transparency concerns. Visual representations of stakeholder input, such as heatmaps showing areas of consensus or disagreement.

**4.1.6.3 Modernization Roadmap:** A phased plan for implementing procurement reforms, outlining short-term, medium-term, and long-term objectives. Include cost estimates, required resources, and timelines for each phase. Define measurable KPIs to track progress, such as reductions in procurement cycle time or increases in vendor participation.

**4.1.6.4 Policy and Legislative Recommendations:** Detailed proposals for updating statutory language, simplifying compliance requirements, and enabling greater flexibility in procurement processes. Include analyses of potential impacts, risks, and mitigation strategies.

**4.1.6.5 Meeting Agendas and Minutes:** Contractor is expected to attend five in-person PMAC meetings at ITS to comprehensively document all activities, including agendas, minutes, and follow-up actions. Other engagement activity can be conducted remotely. At the direction of ITS, clear agendas for every PMAC meeting, detailing topics to be discussed and expected outcomes. In conjunction with ITS, detailed minutes summarizing key points, decisions, and follow-up actions, ensuring transparency and accountability

**4.1.6.6 Final Comprehensive Report:** A high-quality, user-friendly Word document consolidating all findings, analyses, and recommendations. A high-quality, user-friendly PowerPoint deck presenting all findings, analyses, and recommendations. Include supplementary materials such as templates for procurement solicitations or guidelines for e-procurement implementation.

**4.2** The Contractor shall:

- 4.2.1** Assign a Contractor Account Representative to work directly with the Contracting Agency Representative.
- 4.2.2** Ensure all Contractor personnel have visible identification at all times. Contractor identification badges as well as personal identification of the individual employee may be required and clearly visible while on state property.
- 4.2.3** The state facilities is non-smoking; the Contractor and its personnel must adhere to this requirement. The use of tobacco products is prohibited.
- 4.2.4** It is illegal to have in one's possession any illegal drug or alcoholic beverage while on state property.
- 4.2.5** The Contractor's employees should refrain from using foul, abusive, or profane language on state property.
- 4.2.6** Contractors are required to sign-in and sign-out at most state facilities. Security provisions for all state facilities must be strictly observed.
- 4.2.7** Abide by all State and/or agency policies, procedures, ordinances, and/or laws pertaining to the Contracting Agency's operation at all times. Deviations from these policies by the Contractor or its personnel will not be tolerated and will be considered grounds for contract termination.
- 4.2.8** Perform all services provided in the contract between the bidder/Vendor and the Contracting Agency 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.

## **Section 5 - Basis for Award**

**5.1** 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.

**5.2 Minor Informalities and Irregularities.** 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 of the services being procured and if doing so does not create an unfair advantage for any bidder. If insufficient information is submitted by a bidder with the bid for the agency to properly evaluate the bid/offer, the Agency has the right to require such additional information as it may deem necessary after the submission deadline (the time and date set for receipt of bids), provided that the information requested does not create an unfair advantage for any bidder

**5.3** All bids which are determined to be responsive, responsible, and/or acceptable will continue 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.

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

## **Section 6 – Minimum Bidder Qualifications**

The vendor must have:

**6.1 Prior Experience:** Contractor must have been in business and provided services similar in requirements and scale to those described in this IFB for a minimum of 3 years. Contractor must have familiarity with the unique challenges and constraints of public sector procurement (e.g., budget limitations, political pressures, regulatory compliance), working with government agencies at the federal, state, or local level, understanding of public policy and legislative processes, conducting process and procedure gap analysis, report writing and presentations.



**6.2** A minimum score of six (6) on the Reference Score Sheet (Attachment D) from reference interviews by agency staff with two (2) bidder references (Attachment C) (for a total minimum scoring requirement of twelve (12) points), as well as all other requirements of this IFB.

**6.3** The bidder may be required before the award of any contract to show to the complete satisfaction of the agency that it has the necessary facilities, ability, and financial resources to provide the service specified therein in a satisfactory manner. The bidder may also be required to give a history and references in order to satisfy the agency in regard to the bidder's qualifications. The agency may make reasonable investigations deemed necessary and proper to determine the ability of the bidder to perform the work, and the bidder shall furnish to the agency all information for this purpose that may be requested. The agency reserves the right to reject any bid if the evidence submitted by, or investigation of, the bidder fails to satisfy the agency that the bidder is properly qualified to carry out the obligations of the contract and to complete the work described therein. Evaluation of the bidder's qualifications shall include:

1. the ability, capacity, skill, and financial resources to perform the work or provide the service required;
2. the ability of the bidder to perform the work or provide the service promptly or within the time specified, without delay or interference;
3. the character, integrity, reputation, judgment, experience, and efficiency of the bidder; and,
4. the quality of performance of previous contracts or services.

## **Section 7 – Duration**

The estimated period of performance of any contract resulting from this IFB is tentatively scheduled to begin on or about March 5, 2025, and to end on September 5, 2025. The agency reserves the right to renew the contract for up to 6 additional months at the sole discretion of the Agency.

## **Section 8 – Bid Submission Requirements**

### **8.1 Submission Format**

#### **8.1.1 Bid Cover Sheet (Attachment A)**

**8.1.2 Bid Form (Attachment B)** - all pricing must be submitted on the bid form. Failure to complete and/or sign the bid form may result in bidder being determined nonresponsive.

**8.1.3 References (Attachment C)** - each bidder must furnish a listing of **at least** three (3) 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. Agency staff 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. Agency staff will not track down references. Bidders should verify before submitting their bid that the contact person and phone number are correct for each reference. **Agency staff must be able to reach two (2) references for a bidder within two (2) business days of bid opening to be considered responsive. Further, the bidder must score a minimum of six (6) points on each Reference Score Sheet which will be used by the agency staff when interviewing the two (2) references (for a total minimum scoring requirement of twelve (12) points) to be considered responsive and/or responsible.** (See Section 6.5 and Attachments C and D.) Only bidders who are found responsive and/or responsible will have their bids considered. Bidder may submit as many references as desired. Agency staff will begin contacting references at the top of the list and will continue down the list until they have completed Reference Score Sheets for two (2) references. After two (2) score sheets are completed, the reference check process will end.

## **8.2 Submission Requirements**

**8.2.1** The Bidder is required to submit one response of the complete bid, including all Attachments, on a USB flash drive or via email at lori.adams@its.ms.gov. Bidder's documents must be in Microsoft Office 2016 or higher format and/or PDF format, as appropriate. If PDF format is submitted, the file must be searchable.

Also, in addition to the complete unredacted version of the bid, the bidder shall also submit a copy of the bid with information the bidder deems confidential commercial and financial information and/or trade secrets in accordance with Miss. Code Ann. Sec 25-61-9, 75-26-1 through 75-26-19, and/or 79-23-1 redacted in black.

**8.2.2** The sealed envelope/package or email shall be marked with the bid opening date and time, and the number of the invitation for bids 3:00 PM CST, February 14, 2025; IFB Number 3160007164. Bids are subject to rejection unless submitted with the information included on the outside the sealed bid envelope/package or within the email.

**8.2.3** Sealed bids should be mailed or hand-delivered to and labeled as follows:

IFB Procurement Modernization Advisory Council Consulting Services  
IFB RFx Number 3160007164

Opening Date: 3:00 PM CST, February 14, 2025  
Mississippi Department of Information Technology Services  
Attention: Lori Adams, Accounting Specialist  
3771 Eastwood Drive  
Jackson, Mississippi 39211  
SEALED BID – DO NOT OPEN

- 8.2.4** All bid packages must be received by the agency no later than 3:00 PM CST, February 14, 2025. Bids submitted via facsimile (fax) machine **will not** be accepted. All risk of late arrival due to unanticipated delay – whether delivered by hand, U.S. Postal Service, courier or other delivery service or method – is entirely on the vendor. All vendors are urged to take the possibility of delay into account when submitting a bid.
- 8.2.5** Timely submission of the bid package is the responsibility of the bidder. Bids received after the specified time will be rejected and maintained unopened in the procurement file. 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 has been determined by the agency that the late receipt was due solely to mishandling by the agency after receipt at the specified address.
- 8.2.6** The time and date of receipt will be indicated on the sealed bid envelope/package or email by agency staff. 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.
- 8.2.7** Each page of the bid form and all attachments shall be identified with the name of the bidder.
- 8.2.8** Failure to submit a bid on the bid form provided will be considered cause for rejection of the bid. **Modifications or additions to any portion of the bid document may be cause for rejection of the bid.** The agency reserves the right to decide, on a case-by-case basis, whether to reject a bid with modifications or additions as non-responsive.
- 8.2.9** Bidders taking exception to any part or section of the solicitation shall indicate such exceptions on the IFB Exception(s) form, **Attachment G**. Failure to indicate any exception will be interpreted as the bidder's intent to comply fully with the requirements as written. Conditional or qualified bids, unless specifically allowed, shall be subject to rejection in whole or in part. The bid must contain a high degree of acceptance of contract terms and conditions listed in **Attachment E and F** of this IFB.
- 8.2.10** 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 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 of non-responsiveness based on the submission of nonconforming terms and conditions.

**8.2.11** 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.

**8.2.12** 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.

## **Section 9 – Bidder Certification**

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

## **Section 10 – Debarment**

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

## **Section 11 – 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 Mississippi law and the Mississippi Secretary of State or, if not already registered, that it will do so within seven (7) business days of being notified by the agency that it has been selected for contract award.

## **Section 12 – Insurance, Bonds, or Other Sureties**

**12.1** Each successful bidder shall, at its own expense, obtain and maintain insurance, bond, or other surety which shall include the following types and coverage limits:

**12.1.1 Comprehensive General Liability or Professional Liability** insurance, with minimum limits of \$500,000.00 per occurrence.

**12.2** Additionally:

**12.2.1** In no event shall the requirement for an insurance, bond, or other surety be waived.

**12.2.2** All insurances policies will list the State of Mississippi as an additional insured.

- 12.2.3** All insurance policies shall be issued by companies authorized to do business under the laws of the State of Mississippi, meaning insurance carriers must be licensed or hold a Certificate of Authority from the Mississippi Department of Insurance.
- 12.2.4** Contractor shall submit to Agency a certificate of insurance and/or bond which outlines the coverage and limits defined in the procurement and contract. There are no provisions for exceptions to this requirement. Failure to provide the certificates of insurance may be cause for your bid to be declared non-responsive or for your contract to be cancelled.
- 12.2.5** Contractor shall obtain at Contractor's expense the insurance and/or bond requirements specified in the procurement and contract prior to performing under this Contract, and Contractor shall maintain the required insurance and/or bond coverage throughout the duration of this Contract and all warranty periods. There are no provisions for exceptions to this requirement.
- 12.2.6** Contractor shall not commence work under this contract until it obtains all insurance and/or bond required under this provision and furnishes a certificate or other form showing proof of current coverage to the State. After work commences, the Contractor will keep in force all required insurance and/or bond until the contract is terminated or expires.
- 12.2.7** Contractor shall submit renewal certificates as appropriate during the term of the contract.
- 12.2.8** Contractor shall instruct the insurers to provide the Agency advance notice of any insurance cancellation.
- 12.2.9** Contractor shall ensure that should any of the above described policies be cancelled before the expiration date thereof, or if there is a material change, potential exhaustion of aggregate limits or intent not to renew insurance and/or bond coverage(s), that written notice will be delivered to the Agency Chief Procurement Officer.
- 12.2.10** There shall be no cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance and/or bond coverage(s) to Agency. Any failure to comply with the reporting provisions of this clause shall constitute a material breach of Contract and shall be grounds for immediate termination of this Contract by Agency.

## **Section 13 – Bid Opening**

Bid opening will be on Friday, February 14, 2025 at 3:00 pm CST.

## **Section 14 – Award Notification**

Award(s) for this procurement will be posted on the Mississippi Contract/Procurement Opportunity Search Portal website and the agency website at <http://its.ms.gov>. Bidders will be notified via e-mail of the awards.

## **Section 15 – Procurement Methodology**

### **15.1 Restrictions on Communications with Agency and Agency Staff**

At no time shall any bidder or its personnel contact, or attempt to contact, any agency staff regarding this IFB except the contact person as set forth and, in the manner, prescribed in Section 3.

### **15.2 Bidder Investigations**

Before submitting a bid, each bidder shall make all investigations and examinations necessary to ascertain all site conditions and requirements affecting the full performance of the contract and to verify any representations made by the agency upon which the bidder will rely. If the bidder receives an award as a result of its bid submission, failure to have made such investigations and examinations will in no way relieve the bidder from its obligation to comply in every detail with all provisions and requirements of the contract documents, nor will a plea of ignorance of such conditions and requirements be accepted as a basis for any claim whatsoever for additional compensation.

### **15.3 Expenses Incurred in the Procurement Process**

All parties participating in the procurement process with regard to this solicitation shall bear their own costs of participation, pursuant to Section 1.4.4 of the Public Procurement Review Board Office of Personal Service Contract Review Rules and Regulations.

### **15.4 Independent Price Determination**

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

used to calculate the prices bid. The prices quoted shall be inclusive of, but not limited to the following: all required labor and supervision; all required equipment/material; all required insurance, bond, or other surety; all required overhead; all required profit; all required vehicles; all required fuel and mileage; all required training; all required business and professional licenses, certifications, fees, or permits; and, any and all other costs]. All pricing should include all associated costs with no additional or hidden fees.

### **15.5 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.

### **15.6 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.

### **15.7 Reconsiderations**

Vendors who would like to request reconsideration of the terms of the solicitation should reference PPRB OPSCR Rules and Regulations Rule 5.2.4. Also, ITS may cancel the solicitation or reject any bid submitted if ITS determines it is in the agency's best interest to do so.

### **Section 16 – Required Contract Terms and Conditions**

Any contract entered into with the Contracting Agency pursuant to this IFB shall have the required clauses found in Attachment E and those required by the *PPRB OPSCR Rules and Regulations* as updated and replaced by PPRB. The agency discourages exceptions from these required clauses. Such exceptions may cause a bid to be rejected as non-responsive. Bids which condition the bid based upon the State accepting other terms and conditions not found in the IFB, or which take exception to the State's terms and conditions, may be found non-responsive, and no further consideration of the bid will be given.

### **Section 17 – Optional Contract Terms and Conditions**

Any contract entered into with the Contracting Agency pursuant this IFB may have, at the discretion of the Contracting Agency, the optional clauses found in Attachment F and those within the *PPRB OPSCR Rules and Regulations* as updated and replaced by PPRB. The agency discourages exceptions from these optional clauses. Such exceptions may cause a bid to be rejected as non-responsive. Bids which condition the bid based upon the State accepting other terms and conditions not found in the IFB, or which take exception to the State's terms and conditions, may be found non-responsive, and no further consideration of the bid will be given.

### **Section 18 – 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 <http://www.its.ms.gov> and on the Mississippi Contract/Procurement Opportunity Search Portal website.

### **Section 19 – Attachments**

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

**Attachment A**

**BID COVER SHEET**

Bids are to be submitted via email at [lori.adams@its.ms.gov](mailto:lori.adams@its.ms.gov), U.S. Mail, postage prepaid or by personal delivery as listed below, on or before 3:00 PM CST, February 14, 2025.

PLEASE MARK YOUR ENVELOPE:

IFB Procurement Modernization Advisory Council Consulting Services  
IFB RFX Number 3160007164  
Opening Date: 3:00 PM CST, February 14, 2025  
Mississippi Department of Information Technology Services  
Attention: Lori Adams, Accounting Specialist  
3771 Eastwood Drive  
Jackson, Mississippi 39211  
SEALED BID – DO NOT OPEN

**Name of Company:** ASI Government, LLC \_\_\_\_\_

**Quoted By:** Mark Attwa \_\_\_\_\_

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

**Address:** 13873 Park Center Road, 129s \_\_\_\_\_

**City/State/Zip:** Herndon, VA 20171 \_\_\_\_\_

**Telephone:** 703.253.6634 \_\_\_\_\_

**Fax Number:** 703.997.0533 \_\_\_\_\_

**E-Mail Address:** mark.attwa@asigovt.com \_\_\_\_\_

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

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

What year was your company started? 1996 \_\_\_\_\_

How many years has the firm been in business of performing the services called for in this IFB?  
29 \_\_\_\_\_

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

13873 Park Center Road, 129s, Herndon, VA 20171; Place of Incorporation: Virginia\_\_\_\_\_

If your company is not physically located within the vicinity, how will you supply Consulting Services to the agency?

ASI has successfully performed the required work remotely for various state and federal agencies. We will support work on-site at your facilities on an as-needed basis. \_\_\_\_\_

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. No \_\_\_\_\_

Is your company licensed and/or certified to provide Consulting Services as required by any and all applicable Federal and State law(s)? Yes \_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

For how many customers has your company provided Consulting Services in the past two years?  
38 \_\_\_\_\_

What is the largest customer your company has provided Consulting Services for in the past two years? US Department of Homeland Security \_\_\_\_\_

\_\_\_\_\_

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

ASI Government, LLC (ASI) was created in 1996 and is one of the first companies built exclusively to help state and federal government agencies achieve better acquisition outcomes. ASI is a major thought leader on government procurement and continues to lead as the source of unparalleled perspective and insight on trends and developments shaping how government acquires private sector capability to achieve outcomes. ASI routinely publishes acquisition topics in GovExec including recent articles on "Teaching Digital Buyers to Transform Acquisition and Innovation by and For the Government." ASI also plays leading roles in the acquisition initiatives and conferences of the National Contract Management Association (NCMA), Professional Services Council (PSC), ACT-IAC (American Council for Technology and Industry Advisory Council), and others. For example, ASI led the government-industry ACT-IAC initiative to develop the Periodic Table of Acquisition Innovations (PTAI), now hosted on the GSA Acquisition Gateway: [Acquisition Gateway](#).

Specifically, ASI brings the following capabilities and experience:

- ASI brings 29 years of management consulting experience across 70 state and federal agencies dedicated solely to serving the acquisition community, including helping the government plan, develop, and execute more than \$100 billion in Organizational Conflict of Interest (OCI)-free acquisitions.
- ASI provides critical acquisition support to multiple states, including the State of North Carolina Department of Information Technology, the State of North Carolina Department of Health and Human Services, the District of Columbia, the State of Colorado, the State of New Mexico, and the State of Hawaii.
- Direct experience supporting large-scale acquisition transformation initiatives as follows:
  - ASI provides acquisition strategic planning and transformation support to the DHS Cybersecurity and Infrastructure Security Agency (CISA) Office to help create and implement CISA's first-ever procurement organization. ASI led an organization-wide assessment to determine the current state, desired future state, and path forward for CISA's new independent procurement office. The assessment included evaluation of CISA's processes and procedures, organizational structure, operations, and workforce. The assessment was comprised of 24 interviews with CISA stakeholders across the enterprise, a survey of Contracting Officer Representatives (CORs), and a quantitative spend analysis of CISA's contract portfolio. Based on the assessment findings, ASI developed an enterprise-wide strategic implementation plan to transform CISA's acquisition function. ASI is currently driving implementation of the acquisition strategic plan, including creating and implementing first-ever CISA acquisition process flows.
  - ASI currently supports the Department of Health and Human Services (HHS) National Institutes of Health (NIH) in the design and implementation of its strategy to transform its acquisition function NIH-wide. Two of the strategic initiatives ASI supports are focused on designing and implementing NIH's first-ever acquisition Communities of Practice, one for Contracting Officers and Contracting Specialists and the other for Contracting Officer Representatives.
  - ASI conducted a series of organizational efficiency and effectiveness studies for the Department of Homeland Security (DHS), Management Directorate (MGMT), Office of the Chief Procurement Officer (OCPO) in support of their acquisition transformation initiative. ASI documented the current state and created detailed process maps on critical branch/division tasks to identify potential pain points and potential areas for increased efficiency.
  - ASI assisted the Federal Deposit Insurance Corporation (FDIC) in evaluating and revising its acquisition policies and procedures to create a modern, efficient, and legally compliant procurement framework. ASI conducted a comprehensive study, analyzing the FDIC's Acquisition Policy Manual (APM), Acquisition Procedures, Guidance, and Information (PGI), and best practices from the Federal Acquisition Regulation (FAR), non-FAR, and commercial procurement models. The team interviewed 35 FDIC stakeholders from the Acquisition Services Branch, Legal Division, program offices, and risk offices to identify key challenges and opportunities. ASI

developed actionable 18 recommendations addressing these areas and led the revision and update of the FDIC's APM and PGI based on the accepted recommendations.

- ASI led an assessment of DHS Federal Emergency Management Administration's (FEMA's) Federal Insurance & Mitigation Administration (FIMA)'s acquisition function and developed and implemented the strategic plan, vision, and goals to improve acquisition and program management across FEMA. Based on a spend analysis and assessment findings, ASI developed an enterprise-wide strategic plan for improved acquisition performance, including strategies for contract consolidation and alignment of multi-year FIMA-wide acquisition portfolio with multi-year FIMA-wide strategic goals. Support also included assisting FIMA in establishing a first-ever Acquisition Community of Practice for FIMA CORs and Program Managers, along with an on-line portal consolidating key guidance, standard operating procedures, templates, and FAQs in one central place for easy access to resources and knowledge sharing. Overall results of ASI's support included 70% reduction in cycle time for critical acquisitions.
- We bring a dedicated Strategy and Organization Development Practice focused on hiring, developing, and retaining best-in-class practitioners in designing and implementing acquisition organizational transformation efforts. The practice is comprised of organizational development experts with PhD and Master's level degrees and certifications in Industrial-Organizational Psychology, Organization Development, Human-Centered Design, and Change Management, along with deep acquisition and IT acquisition experience at the state and federal levels. Our staff have deep expertise designing and implementing all aspects of acquisition organizational transformation including:
  - Acquisition policy and procedure analysis
  - Design of acquisition organizational assessments including survey and focus group design
  - Implementation of organizational assessments including surveys and focus groups
  - Analysis and synthesis of survey and focus group data
  - Design and implementation of stakeholder and leadership workshops to review synthesized findings
  - Drafting of organizational policy and strategy recommendations based on assessment findings

**Attachment B**

**BID FORM**

<b>Company</b>	<b>Contact Person</b>	<b>Telephone Number</b>
ASI Government, LLC	Mark Attwa	703.253.6634

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

1. All required equipment/material;
2. All required insurance, bond, or other surety;
3. All required overhead;
4. All required profit;
5. All required vehicles;
6. All required fuel and mileage;
7. All required labor and supervision;
8. All required business and professional certifications, licenses, permits, or fees; and,
9. Any and all other costs.

All pricing for Consulting Services should include all associated costs for the items with no additional or hidden fees.

<b>Deliverable Description</b>	<b>Cost</b>
Milestone 1: Gap Analysis Report (4.1.6.1)	\$9,430.00
Milestone 2: Stakeholder Feedback Report (4.1.6.2)	\$9,430.00
Milestone 3: Modernization Roadmap (4.1.6.3)	\$9,430.00
Milestone 4: Policy and Legislative Recommendations (4.1.6.4)	\$9,430.00
Milestone 5: Meeting Agendas and Minutes (4.1.6.5)	\$12,030.00
Milestone 6: Final Comprehensive Report (4.1.6.6)	\$9,430.00
<b>Professional Services Total Cost:</b>	\$59,180.00

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

1. That he/she has thoroughly read and understands the Invitation for Bids and Attachments thereto;
2. That the company meets all requirements and acknowledges all certifications contained in the Invitation for Bids and Attachments thereto;
3. That the company agrees to all provisions of the Invitation for Bids and Attachments thereto including, but not limited to, the Required and Optional Clauses to be included in any contract resulting from this IFB (Attachments E and F);
4. That the company will perform the services required at the prices quoted above;
5. That, to the best of its knowledge and belief, the cost or pricing data submitted is accurate,

complete, and current as of the submission date;

6. The Contractor represents that its workers are licensed, certified and possess the requisite credentials to Consulting Services; and,
7. **NON-DEBARMENT:** By submitting a bid, the bidder certifies that it is not currently debarred from submitting bids for contracts issued by any political subdivision or agency of the State of Mississippi and that it is not an agent of a person or entity that is currently debarred from submitting bids for contracts issued by any political subdivision or agency of the State of Mississippi.
8. **CERTIFICATION OF INDEPENDENT PRICE DETERMINATION:** By submitting a bid, the bidder certifies that the prices submitted in response to the solicitation have been arrived at independently and without any consultation, communication, or agreement with any other bidder or competitor for the purpose of restricting competition.
9. **OFFEROR'S REPRESENTATION REGARDING CONTINGENT FEES:** By responding to this solicitation, the offeror represents that it has not retained any person or agency on a percentage, commission, or other contingent arrangement to secure this contract. If the offeror cannot make such a representation, a full and complete explanation shall be submitted in writing [with the offeror's response.
10. **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 other contingent fee, except as disclosed in the Contractor's bid.
11. **REPRESENTATION REGARDING GRATUITIES:** Offeror represents that it has not, is not, and will not offer, give, or agree to give any employee or former employee of Agency a gratuity or offer of employment in connection with any approval, disapproval, recommendation, development, or any other action or decision related to the solicitation and resulting contract. Offeror further represents that no employee or former employee of [Agency] has or is soliciting, demanding, accepting, or agreeing to accept a gratuity or offer of employment for the reasons previously stated; any such action by an employee or former employee in the future, if any, will be rejected by offeror. Offeror further represents that it is in compliance with the Mississippi Ethics in Government laws, codified at Mississippi Code Annotated §§ 25-4-101 through 25-4-121, and has not solicited any employee or former employee to act in violation of said law.
12. **PROPERTY RIGHTS.** Property rights do not inure to any bidder until such time as services have been provided under a legally executed contract. No party responding to this IFB has a legitimate claim of entitlement to be awarded a contract or to the provision of work thereunder. The Agency is under no obligation to award a contract and may terminate a legally executed contract at any time.

**Company Name:** ASI Government, LLC\_\_\_\_\_

**Printed Name of Representative:** Mark Attwa\_\_\_\_\_

**Date:** 02/14/2025\_\_\_\_\_

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

**Note:** Failure to sign the bid form may result in the bid being rejected as non-responsive. Modifications or additions to any portion of this bid document may be cause for rejection of the bid.



## Attachment C

### REFERENCES

Bidder may submit as many references as desired by submitting as many additional copies of Attachment C, References, as deemed necessary. References will be contacted in order listed until two references have been interviewed and Reference Score Sheets completed for each of the two references. No further references will be contacted; however, bidders are encouraged to submit additional references to ensure that at least two references are available for interview. Agency staff must be able to contact two references within two (2) business days of bid opening to be considered responsive or no later than February 3, 2025.

#### REFERENCE 1

**Name of Company:** Department of Homeland Security (DHS), Office of Chief Procurement Office (OCPO)

**Dates of Service:** 10/2021-1/2023

**Person:** Polly Hall

**Address:** 1880 2nd Street SW

**City/State/Zip:** Washington, DC/ 20024

**Telephone Number:** NA

**Cell Number:** 202-868-0562

**E-mail:** [polly.hall@hq.dhs.gov](mailto:polly.hall@hq.dhs.gov)

**Alternative Contact Person (optional):** \_\_\_\_\_

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

**Cell Number:** \_\_\_\_\_

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

#### REFERENCE 2

**Name of Company:** Department of Health and Human Services (DHHS) National Institutes of Health (NIH) \_\_\_\_\_

**Dates of Service:** 9/2022-9/2024 (Initial contract); 9/2024-2/2026 (current contract) \_\_\_\_\_

**Contact Person:** Johnny Reid \_\_\_\_\_

**Address:** 9000 Rockville Pike \_\_\_\_\_

**City/State/Zip:** Bethesda, Maryland 20892 \_\_\_\_\_

**Telephone Number:** 301-594-4828 \_\_\_\_\_

**Cell Number:** 734-679-8565 \_\_\_\_\_

**E-mail:** johnnie.reid@nih.gov \_\_\_\_\_

**Alternative Contact Person (optional):** \_\_\_\_\_

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

**Cell Number:** \_\_\_\_\_

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

#### REFERENCE 3

**Name of Company:** Department of Homeland Security (DHS) Cybersecurity and Infrastructure Security Agency (CISA) \_\_\_\_\_

**Dates of Service:** 8/2021-8/2024 (Initial Contract); 8/2024-8/2026 (current contract) \_\_\_\_\_

**Contact Person:** Kristen Kilby \_\_\_\_\_  
**Address:** 1616 Fort Myer Drive \_\_\_\_\_  
**City/State/Zip:** Arlington, VA, 22209 \_\_\_\_\_  
**Telephone Number:** 202-510-4473 \_\_\_\_\_  
**Cell Number:** 202-510-4473 \_\_\_\_\_  
**E-mail:** Kristen.Kilby1@mail.cisa.dhs.gov \_\_\_\_\_  
**Alternative Contact Person (optional):** \_\_\_\_\_  
**Telephone Number:** \_\_\_\_\_  
**Cell Number:** \_\_\_\_\_  
**E-mail:** \_\_\_\_\_

#### REFERENCE 4

**Name of Company:** Department of Homeland Security (DHS) Transportation Security Administration (TSA) \_\_\_\_\_  
**Dates of Service:** 11/2019-1/2021 (Initial contract); 11/2022-10/2026 (current contract) \_\_\_\_\_  
**Contact Person:** Niki French \_\_\_\_\_  
**Address:** 6595 Springfield Center Dr \_\_\_\_\_  
**City/State/Zip:** Springfield, VA 22150 \_\_\_\_\_  
**Telephone Number:** 571-227-3695 \_\_\_\_\_  
**Cell Number:** 202-738-8515 \_\_\_\_\_  
**E-mail:** Nicole.D.French@tsa.dhs.gov \_\_\_\_\_  
**Alternative Contact Person (optional):** Benjamin Terrell \_\_\_\_\_  
**Telephone Number:** 571-565-0124 \_\_\_\_\_  
**Cell Number:** 571-565-0124 \_\_\_\_\_  
**E-mail:** Benjamin.terrell@tsa.dhs.gov \_\_\_\_\_

#### Reference 5

**Name of Company:** Federal Deposit Insurance Corporation (FDIC), Division of Administration (DOA), Acquisition Services Branch  
**Dates of Service:** 7/2021-8/2022\_\_  
**Contact Person:** Quyen Diep  
**Address:** 3501 Fairfax Dr \_\_\_\_\_  
**City/State/Zip:**  
Arlington/VA/22226  
**Telephone Number:** (571) 345-6453  
**Cell Number:** NA  
**E-mail:** qdiep@fdic.gov  
**Alternative Contact Person (optional):** Hamilton Jackson  
**Telephone Number:** 703-562-6134  
**Cell Number:** NA  
**E-mail:** hamjackson@fdic.gov

**Attachment D  
References Score Sheet  
IFB 3160007164  
IFB Procurement Modernization Advisory Council Consulting Services  
TO BE COMPLETED BY AGENCY STAFF ONLY**

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

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

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

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

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

Able to provide Consulting Services services when you called?	Yes	No
Satisfied with the Consulting Services services provided? If no, please explain.	Yes	No
Vendor easy to work with in scheduling Consulting Services services?	Yes	No
Was the Consulting Services 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

Bidder must have a minimum of 6 “yes” answers on the questions above from two references (total of 12 “yes” answers) to be considered responsible and for its bid to be considered.

**Score:** Pass/Fail

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

A “yes” to the above question may result in an automatic disqualification of the provided reference; therefore, resulting in a score of zero as responses to previous questions become null and void.

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

\_\_\_\_\_

**Called by:** \_\_\_\_\_  
Signature Title Date

## Attachment E

### REQUIRED CLAUSES FOR SERVICE CONTRACTS RESULTING FROM THIS IFB

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 Mississippi.
2. Approval: It is understood that if this contract requires approval by the Public Procurement Review Board (“PPRB”) and/or the Mississippi Department of Finance and Administration Office of Personal Service Contract Review (“OSPSCR”) and this contract is not approved by the PPRB and/or OPSCR, it is void and no payment shall be made hereunder.
3. Availability of Funds: It is expressly understood and agreed that the obligation of the Department of Information Technology Services, (ITS), to proceed under this agreement is conditioned upon the appropriation of funds by the Mississippi State Legislature and the receipt of appropriated state funds. If the funds anticipated for the continuing time fulfillment of the agreement are, at any time, not forthcoming or insufficient, regardless of the source of funding, the ITS shall have the right upon 10 business days written notice to Contractor, to terminate this agreement without damage, penalty, cost or expenses to ITS of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.
4. Compliance with Equal Opportunity in Employment Policy: Contractor understands that ITS 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.
5. Compliance with Laws: 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.
6. Contract Rights: Contract Rights Contract rights do not vest in any party until a contract is legally executed. ITS is under no obligation to award a contract following issuance of this solicitation.
7. E-Payment: Contractor agrees to accept all payments in United States currency via the State of Mississippi’s electronic payment and remittance vehicle. ITS 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.*.

8. E-Verification: If applicable, Contractor represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act and will register and participate in the status verification system for all newly hired employees. Mississippi Code Annotated §§ 71-11-1 and 71-11-3. Contractor agrees to provide a copy of each verification upon request of the Agency subject to approval by any agencies of the United State Government. 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 clause may subject Contractor to the following:
- a. termination of this contract and exclusion pursuant to Chapter 15 of the *Public Procurement Review Board Office of Personal Services Rules and Regulations*;
  - 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; or,
  - c. both.

In the event of such 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.

9. Insurance, Bond, or Other Surety: Contractor represents that it will, at its own expense, obtain and maintain insurance, bond, or other surety which shall include at a minimum, the following types and coverage limits:
- a. **Comprehensive General Liability or Professional Liability** insurance, with minimum limits of \$[ 500,000.00] per occurrence.

(Subcontractor) The Contractor is responsible for ensuring that any subcontractors provide adequate insurance and/or bond coverage for the activities arising out of subcontracts.

Additionally:

- In no event shall the requirement for an insurance, bond, or other surety be waived.
- All insurances policies will list the State of Mississippi as an additional insured.
- All insurance policies shall be issued by companies authorized to do business under the laws of the State of Mississippi, meaning insurance carriers must be licensed or hold a Certificate of Authority from the Mississippi Department of Insurance.
- Contractor shall submit to Agency a certificate of insurance and/or bond which outlines the coverage and limits defined in the procurement and contract. There are no provisions for exceptions to this requirement. Failure to provide the certificates of insurance may be cause for your bid to be declared non-responsive or for your contract to be cancelled.
- Contractor shall obtain at Contractor's expense the insurance and/or bond requirements specified in the procurement and contract prior to performing under this Contract, and Contractor shall maintain the required insurance and/or bond coverage throughout the

duration of this Contract and all warranty periods. There are no provisions for exceptions to this requirement.

- Contractor shall not commence work under this contract until it obtains all insurance and/or bond required under this provision and furnishes a certificate or other form showing proof of current coverage to the State. After work commences, the Contractor will keep in force all required insurance and/or bond until the contract is terminated or expires.
- Contractor shall submit renewal certificates as appropriate during the term of the contract.
- Contractor shall instruct the insurers to provide the Agency advance notice of any insurance cancellation.
- Contractor shall ensure that should any of the above described policies be cancelled before the expiration date thereof, or if there is a material change, potential exhaustion of aggregate limits or intent not to renew insurance and/or bond coverage(s), that written notice will be delivered to the Agency Chief Procurement Officer.
- There shall be no cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance and/or bond coverage(s) to Agency. Any failure to comply with the reporting provisions of this clause shall constitute a material breach of Contract and shall be grounds for immediate termination of this Contract by Agency.

10. Paymode: Payments by state agencies using the State's accounting system shall be made and remittance information provided electronically as directed by the State and deposited into the bank account of Contractor's choice. The Agency 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.

11. Procurement Regulations: This solicitation and the contract shall be governed by the applicable provisions of the *PPRB OPSCR Rules and Regulations*, a copy of which is available on the Mississippi Department of Finance and Administration's website ([www.dfa.ms.gov](http://www.dfa.ms.gov)). Any bidder responding to a solicitation for personal and professional services and any contractor doing business with a state Agency is deemed to be on notice of all requirements therein.

12. Property Rights. Property rights do not inure to Contractor until such time as services have been provided under a legally executed contract. Contractor has no legitimate claim of entitlement to the provision of work hereunder and acknowledges that the Agency may terminate this contract at any time for its own convenience

13. Representation Regarding Contingent Fees: By executing the contract, the Contractor represents that it has not retained any person or agency on a percentage, commission, or other contingent arrangement to secure this contract. If the Contractor cannot make such a representation, a full and complete explanation shall be submitted in writing to the Agency prior to

contract execution.

14. Representation Regarding Gratuities: Contractor represents that it has not, is not, and will not offer, give, or agree to give any employee or former employee of Agency a gratuity or offer of employment in connection with any approval, disapproval, recommendation, development, or any other action or decision related to the solicitation and resulting contract. Contractor further represents that no employee or former employee of Agency has or is soliciting, demanding, accepting, or agreeing to accept a gratuity or offer of employment for the reasons previously stated; any such action by an employee or former employee in the future, if any, will be rejected by Contractor. Contractor further represents that it is in compliance with the Mississippi Ethics in Government laws, codified at Mississippi Code Annotated §§ 25-4-101 through 25-4-121, and has not solicited any employee or former employee to act in violation of said law.
15. Stop Work Order. The Agency may, by written order to Contractor at any time, require Contractor to stop all or any part of the work called for by this contract. This order shall be for a period of time specified by the Agency. Upon receipt of such an order, Contractor shall forthwith comply with its terms and take all reasonable steps to minimize any further cost to the Agency. Upon expiration of the stop work order, Contractor shall resume providing the services which were subject to the stop work order, unless the Agency has terminated that part of the agreement or terminated the agreement in its entirety. The Agency is not liable for payment for services which were not rendered due to the stop work order.
16. Termination for Convenience. The Agency may, when the interests of the Agency so require, terminate this contract in whole or in part, for the convenience of the Agency. The Agency shall give written notice of the termination to Contractor specifying the part of the contract terminated and when termination becomes effective. 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 complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.
17. Termination for Default. If the Agency gives the Contractor a notice that the personal or professional services are being provided in a manner that is deficient, the Contractor shall have 30 days to cure the deficiency. If the Contractor fails to cure the deficiency, the Agency may terminate the contract for default and the Contractor will be liable for the additional cost to the Agency to procure the personal and professional services from another source. Termination under this paragraph could result in Contractor being excluded from future contract awards pursuant to Chapter 15 of the Public Procurement Review Board Office of Personal Service Contract Review Rules and Regulations. Any termination wrongly labelled termination for default shall be deemed a termination for convenience.
18. Required Public Records and Transparency: Upon execution of a contract, the provisions of the contract which contain the personal or professional services provided, the unit prices, the

overall 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 pursuant to Mississippi Code Annotated § 25- 61-9(7). The contract shall be posted publicly on [www.transparency.ms.gov](http://www.transparency.ms.gov) and shall be available for at the Agency for examination, inspection, or reproduction by the public. The Contractor acknowledges and agrees that the Agency and this contract are subject to the Mississippi Public Records Act of 1983 codified at Mississippi Code Annotated §§ 25-61-1, et seq. and its exceptions, Mississippi Code Annotated § 79-23-1, and the Mississippi Accountability and Transparency Act of 2008, codified at Mississippi Code Annotated §§ 27-104-151, et seq.

19. No Limitation of Liability: Nothing in this agreement shall be interpreted as excluding or limiting any tort liability of Contractor for harm arising out of the Contractor's or its subcontractors' performance under this agreement.



## Attachment F

### OPTIONAL CLAUSES FOR USE IN SERVICE CONTRACTS RESULTING FROM THIS IFB

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

1. Antitrust: By entering into a contract, Contractor conveys, sells, assigns, and transfers to the Agency all rights, titles, and interest it may now have, or hereafter acquire, under the antitrust laws of the United States and the State that relate to the particular goods or services purchased or acquired by the Agency under said contract.
2. Attorney's Fees and Expenses: Subject to other terms and conditions of this agreement, in the event Contractor defaults in any obligations under this agreement, Contractor shall pay to the State all costs and expenses (including, without limitation, investigative fees, court costs, and attorney's fees) incurred by the State in enforcing this agreement or otherwise reasonably related thereto. Contractor agrees that under no circumstances shall the customer be obligated to pay any attorney's fees or costs of legal action to Contractor.
3. Authority to Contract: Contractor warrants: (a) that it is a validly organized business with valid authority to enter into this agreement; (b) that it is qualified to do business and in good standing in the State of Mississippi; (c) that entry into and performance under this agreement is not restricted or prohibited by any loan, security, financing, contractual, or other agreement of any kind; and, (d) notwithstanding any other provision of this agreement to the contrary, that there are no existing legal proceedings or prospective legal proceedings, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under this agreement.
4. Change in Scope of Work: The Agency may order changes in the work consisting of additions, deletions, or other revisions within the general scope of the contract. No claims may be made by Contractor that the scope of the project or of Contractor's services has been changed, requiring changes to the amount of compensation to Contractor or other adjustments to the

contract, unless such changes or adjustments have been made by written amendment to the contract signed by the Agency and Contractor.

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

5. Claims Based on a Procurement Officer's Actions or Omissions:

a. *Notice of Claim.* If any action or omission on the part of a Chief Procurement Officer or designee of such officer requiring performance changes within the scope of the contract constitutes the basis for a claim by Contractor for additional compensation, damages, or an extension of time for completion, Contractor shall continue with performance of the contract in compliance with the directions or orders of such officials, but by so doing, Contractor shall not be deemed to have prejudiced any claim for additional compensation, damages, or an extension of time for completion; provided:

i. Contractor shall have given written notice to the Chief Procurement Officer or designee of such officer:

- (1) prior to the commencement of the work involved, if at that time Contractor knows of the occurrence of such action or omission;
- (2) within 30 days after Contractor knows of the occurrence of such action or omission, if Contractor did not have such knowledge prior to the commencement of the work; or,
- (3) within such further time as may be allowed by the Chief Procurement Officer in writing.

This notice shall state that Contractor regards the act or omission as a reason which may entitle Contractor to additional compensation, damages, or an extension of time. The Chief Procurement Officer or designee of such officer, upon receipt of such notice, may rescind such action, remedy such omission, or take such other steps as may be deemed advisable in the discretion of the Chief Procurement Officer or designee of such officer;

ii. The notice required by subparagraph (a) of this paragraph describes, as clearly as practicable at the time, the reasons why Contractor believes that additional compensation, damages, or an extension of time may be remedies to which Contractor is entitled; and,

iii. Contractor maintains and, upon request, makes available to the Chief Procurement Officer within a reasonable time, detailed records to the extent practicable, of the claimed additional costs or basis for an extension of time in connection with such changes.

b. *Limitation of Clause.* Nothing contained herein shall excuse Contractor from compliance with any rules of law precluding state officers and Contractors from acting in collusion or

bad faith in issuing or performing change orders which are clearly not within the scope of the contract.

c. *Adjustment of Price.* Any adjustment in the contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment clause of this contract.

6. Information Designated by Contractor as Confidential: Any disclosure of those materials, documents, data, and other information which Contractor has designated in writing as proprietary and confidential shall be subject to the provisions of Mississippi Code Annotated §§ 25-61-9 and 79-23-1. As provided in the contract, the personal or professional services to be 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.

Any liability resulting from the wrongful disclosure of confidential information on the part of Contractor or its subcontractor shall rest with Contractor. Disclosure of any confidential information by Contractor or its subcontractor without the express written approval of the Agency shall result in the immediate termination of this agreement.

7. Confidentiality: Notwithstanding any provision to the contrary contained herein, it is recognized that Agency is a public agency of the State of Mississippi and is subject to the Mississippi Public Records Act. Mississippi Code Annotated §§ 25-61-1 *et seq.* If a public records request is made for any information provided to 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 of information required by court order or required by law.

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

9. Copyrights: Contractor agrees that Agency shall determine the disposition of the title to and the rights under any copyright by Contractor or employees on copyrightable material first produced or composed under this agreement. Further, Contractor hereby grants to Agency a royalty-free, nonexclusive, irrevocable license to reproduce, translate, publish, use and dispose of, and to authorize others to do so, all copyrighted (or copyrightable) work not first produced or composed by Contractor in the performance of this agreement, but which is incorporated in the material furnished under the agreement. This grant is provided that such license shall be only to the extent Contractor now has, or prior to the completion of full final settlements of agreement may acquire, the right to grant such license without becoming liable to pay compensation to others solely because of such grant.

10. Debarment and Suspension: Contractor certifies to the best of its knowledge and belief, that it:
- a. 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;
  - b. has not, within a three year period preceding this proposal, been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction;
  - c. has not, within a three year period preceding this proposal, been convicted of or had a civil judgment 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;
  - d. 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 (b) and (c) of this certification; and,
  - e. has not, within a three year period preceding this proposal, had one or more public transactions (federal, state, or local) terminated for cause or default.
11. Disclosure of Confidential Information: In the event that either party to this agreement receives notice that a third party requests divulgence of confidential or otherwise protected information and/or has served upon it a subpoena or other validly issued administrative or judicial process ordering divulgence of confidential or otherwise protected information that party shall promptly inform the other party and thereafter respond in conformity with such subpoena to the extent mandated by law. This section shall survive the termination or completion of this agreement. The parties agree that this section is subject to and superseded by Mississippi Code Annotated §§ 25-61-1 *et seq.*.
12. Exceptions to Confidential Information: Contractor and the State shall not be obligated to treat as confidential and proprietary any information disclosed by the other party ("disclosing party") which:
- a. is rightfully known to the recipient prior to negotiations leading to this agreement, other than information obtained in confidence under prior engagements;
  - b. is generally known or easily ascertainable by nonparties of ordinary skill in the business of the customer;
  - c. is released by the disclosing party to any other person, firm, or entity (including governmental agencies or bureaus) without restriction;
  - d. is independently developed by the recipient without any reliance on confidential information;
  - e. is or later becomes part of the public domain or may be lawfully obtained by the State or Contractor from any nonparty; or,
  - f. is disclosed with the disclosing party's prior written consent.

13. Errors in Extension: If the unit price and the extension price are at variance, the unit price shall prevail.
14. Failure to Deliver: In the event of failure of Contractor to deliver services in accordance with the contract terms and conditions, the Agency, after due oral or written notice, may procure the services from other sources and hold Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies that the Agency may have.
15. Failure to Enforce: Failure by the Agency at any time to enforce the provisions of the contract shall not be construed as a waiver of any such provisions. Such failure to enforce shall not affect the validity of the contract or any part thereof or the right of the Agency to enforce any provision at any time in accordance with its terms.
16. Final Payment: Upon satisfactory completion of the work performed under this contract, as a condition before final payment under this contract, or as a termination settlement under this contract, Contractor shall execute and deliver to the Agency a release of all claims against the State arising under, or by virtue of, the contract, except claims which are specifically exempted by Contractor to be set forth therein. Unless otherwise provided in this contract, by state law, or otherwise expressly agreed to by the parties in this contract, final payment under the contract or settlement upon termination of this contract shall not constitute waiver of the State's claims against Contractor under this contract.
17. 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.
18. HIPAA Compliance: Contractor agrees to comply with the "Administrative Simplification" provisions of the Health Insurance Portability and Accountability Act of 1996, including electronic data interchange, code sets, identifiers, security, and privacy provisions, as may be applicable to the services under this contract.
19. Indemnification: To the fullest extent allowed by law, Contractor shall indemnify, defend, save and hold harmless, protect, and exonerate the agency, its commissioners, board members, officers, employees, agents, and representatives, and the State of Mississippi from

and against all claims, demands, liabilities, suits, actions, damages, losses, and costs of every kind and nature whatsoever including, without limitation, court costs, investigative fees and expenses, and attorney's fees, arising out of or caused by Contractor and/or its partners, principals, agents, employees and/or subcontractors in the performance of or failure to perform this agreement. In the State's sole discretion upon approval of the Office of the Mississippi Attorney General, Contractor may be allowed to control the defense of any such claim, suit, etc. In the event Contractor defends said claim, suit, etc., Contractor shall use legal counsel acceptable to the Office of the Mississippi Attorney General. Contractor shall be solely responsible for all costs and/or expenses associated with such defense, and the State shall be entitled to participate in said defense. Contractor shall not settle any claim, suit, etc. without the concurrence of the Office of the Mississippi Attorney General, which shall not be unreasonably withheld.

20. Independent Contractor Status: Contractor shall, at all times, be regarded as and shall be legally considered an independent contractor and shall at no time act as an agent for the State. Nothing contained herein shall be deemed or construed by the State, Contractor, or any third party as creating the relationship of principal and agent, master and servant, partners, joint ventures, employer and employee, or any similar such relationship between the State and Contractor. Neither the method of computation of fees or other charges, nor any other provision contained herein, nor any acts of the State or Contractor hereunder creates, or shall be deemed to create a relationship other than the independent relationship of the State and Contractor. Contractor's personnel shall not be deemed in any way, directly or indirectly, expressly or by implication, to be employees of the State. Neither Contractor nor its employees shall, under any circumstances, be considered servants, agents, or employees of the agency, and the Agency shall be at no time legally responsible for any negligence or other wrongdoing by Contractor, its servants, agents, or employees. The Agency shall not withhold from the contract payments to Contractor any federal or state unemployment taxes, federal or state income taxes, Social Security tax, or any other amounts for benefits to Contractor. Further, the Agency shall not provide to Contractor any insurance coverage or other benefits, including Worker's Compensation, normally provided by the State for its employees.

21. Infringement Indemnification: Contractor warrants that the materials and deliverables provided to the customer under this agreement, and their use by the customer, will not infringe or constitute an infringement of any copyright, patent, trademark, or other proprietary right. Should any such items become the subject of an infringement claim or suit, Contractor shall defend the infringement action and/or obtain for the customer the right to continue using such items. Should Contractor fail to obtain for the customer the right to use such items, Contractor shall suitably modify them to make them non-infringing or substitute equivalent software or other items at Contractor's expense. In the event the above remedial measures cannot possibly be accomplished, and only in that event, Contractor may require the customer to discontinue using such items, in which case Contractor will refund to the customer the fees previously paid by the customer for the items the customer may no longer use, and shall compensate the customer for the lost value of the infringing part to the phase

in which it was used, up to and including the contract price for said phase. Said refund shall be paid within ten (10) working days of notice to the customer to discontinue said use.

Scope of Indemnification: Provided that the State promptly notifies Contractor in writing of any alleged infringement claim of which it has knowledge, Contractor shall defend, at its own expense, the State against, and pay all costs, damages and attorney fees that a court finally awards for infringement based on the programs and deliverables provided under this agreement.

22. Integrated Agreement/Merger: This agreement, including all contract documents, represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations or agreements, irrespective of whether written or oral. This agreement may be altered, amended, or modified only by a written document executed by the State and Contractor. Contractor acknowledges that it has thoroughly read all contract documents and has had the opportunity to receive competent advice and counsel necessary for it to form a full and complete understanding of all rights and obligations herein. Accordingly, this agreement shall not be construed or interpreted in favor of or against the State or Contractor on the basis of draftsmanship or preparation hereof.

23. Liquidated Damages:

4-101.05 of the *PPRB OPSCR Rules and Regulations*.) When Contractor is given notice of delay or nonperformance as specified in Paragraph (1) (Default) of the Termination for Default clause of this contract and fails to cure in the time specified, Contractor shall be liable for damages for delay in the amount of \$[ 500.00] per calendar day from date set for cure until either the State reasonably obtains similar services if Contractor is terminated for default, or until Contractor provides the services if Contractor is not terminated for default. To the extent that Contractor's delay or nonperformance is excused under Paragraph (4) (Excuse for Nonperformance or Delayed Performance) of the Termination for Default clause of this contract, liquidated damages shall not be due the State. Contractor remains liable for damages caused other than by delay.

**OR**

Modification or Renegotiation: This agreement may be modified only by written agreement signed by the parties hereto. The parties agree to renegotiate the agreement if federal and/or state revisions of any applicable laws or regulations make changes in this agreement necessary.

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

For the Agency:	For Contractor:
[Name, Title]	[Name, Title]
[Agency Name]	[Contractor Name]
[Address]	[Address]
[City, State, Zip]	[City, State, Zip]

25. Non-solicitation of Employees: Each party to this agreement agrees not to employ or to solicit for employment, directly or indirectly, any persons in the full-time or part-time employment of the other party until at least six (6) months after this agreement terminates unless mutually agreed to in writing by the State and Contractor.
26. Oral Statements: No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in this contract. All modifications to the contract must be made in writing by the Agency and agreed to by Contractor.
27. 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.
28. Patents and Royalties: Contractor covenants to save, defend, keep harmless, and indemnify the Agency and all of its officers, departments, agencies, agents, and employees from and against all claims, loss, damage, injury, fines, penalties, and cost--including court costs and attorney’s fees, charges, liability, and exposure, however caused--for or on account of any copyright or patented or unpatented invention, process, or article manufactured or used in the performance of the contract, including its use by the Agency. If Contractor uses any design, device, or material covered by patent or copyright, it is mutually agreed and understood without exception that the contract price includes all royalties or costs arising from the use of such design, device, or materials in any way in the work.
29. Price Adjustment:
- a. *Price Adjustment Methods.* Any adjustments in contract price, pursuant to a clause in this contract, shall be made in one or more of the following ways:
    - i. by agreement on a fixed price adjustment before commencement of the additional performance;
    - ii. by unit prices specified in the contract;
    - iii. by the costs attributable to the event or situation covered by the clause, plus appropriate profit or fee, all as specified in the contract; or,
    - iv. by the price escalation clause.



- b. *Submission of Cost or Pricing Data.* Contractor shall provide cost or pricing data for any price adjustments subject to the provisions of Section 3-403 (Cost or Pricing Data) of the *PPRB OPSCR Rules and Regulations*.
30. Priority: The contract consists of this agreement with exhibits, the IFB [ ] (hereinafter referred to as "IFB" and attached as Schedule [ \_\_ ]), and the bid dated [date] by [Contractor Name] (hereinafter referred to as "Bid" and attached as Schedule [ \_\_ ]). Any ambiguities, conflicts or questions of interpretation of this contract shall be resolved by first, reference to this agreement with exhibits and, if still unresolved, by reference to the IFB and, if still unresolved, by reference to the Bid. Omission of any term or obligation from this agreement or attached Schedules [ \_\_ ] or [ \_\_ ] shall not be deemed an omission from this contract if such term or obligation is provided for elsewhere in this contract.
31. Quality Control: Contractor shall institute and maintain throughout the contract period a properly documented quality control program designed to ensure that the services are provided at all times and in all respects in accordance with the contract. The program shall include providing daily supervision and conducting frequent inspections of Contractor's staff and ensuring that accurate records are maintained describing the disposition of all complaints. The records so created shall be open to inspection by the Agency.
32. Record Retention and Access to Records: Provided Contractor is given reasonable advance written notice and such inspection is made during normal business hours of Contractor, the State or any duly authorized representatives shall have unimpeded, prompt access to any of Contractor's books, documents, papers, and/or records which are maintained or produced as a result of the project for the purpose of making audits, examinations, excerpts, and transcriptions. All records related to this agreement shall be retained by Contractor for three (3) years after final payment is made under this agreement and all pending matters are closed; however, if any audit, litigation or other action arising out of or related in any way to this project is commenced before the end of the three (3) year period, the records shall be retained for one (1) year after all issues arising out of the action are finally resolved or until the end of the three (3) year period, whichever is later.
33. Recovery of Money: Whenever, under the contract, any sum of money shall be recoverable from or payable by Contractor to the Agency, the same amount may be deducted from any sum due to Contractor under the contract or under any other contract between Contractor and the Agency. The rights of the Agency are in addition and without prejudice to any other right the Agency may have to claim the amount of any loss or damage suffered by the Agency on account of the acts or omissions of Contractor.
34. (See Section 3-501.05.3 (Requirements Contracts) of the *PPRB OPSCR Rules and Regulations*.) 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.

35. 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 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.
36. Right to Inspect Facility: The State may, at reasonable times, inspect the place of business of a Contractor or any subcontractor which is related to the performance of any contract awarded by the State.
37. 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.
38. State Property: Contractor will be responsible for the proper custody and care of any state-owned property furnished for Contractor's use in connection with the performance of this agreement. Contractor will reimburse the State for any loss or damage, normal wear and tear excepted.
39. Third Party Action Notification: Contractor shall give the customer prompt notice in writing of any action or suit filed, and prompt notice of any claim made against Contractor by any entity that may result in litigation related in any way to this agreement.
40. Unsatisfactory Work. If, at any time during the contract term, the service performed or work done by Contractor is considered by the Agency to create a condition that threatens the health, safety, or welfare of the citizens and/or employees of the State of Mississippi, Contractor shall, on being notified by the Agency, immediately correct such deficient service or work. In the event Contractor fails, after notice, to correct the deficient service or work immediately, the Agency shall have the right to order the correction of the deficiency by separate contract or with its own resources at the expense of Contractor.

41. Variations in Estimated Quantities:

Variation in Quantity: Upon the agreement of the parties, the quantity of services specified in this contract may be increased by a maximum of ten percent provided:

- a. the unit prices will remain the same (except for any price adjustments otherwise applicable); and,
- b. the Chief Procurement Officer makes a written determination that such an increase will either be more economical than awarding another contract, or that it would not be practical to award another contract.

OR

- a. the minimum quantity, if any, the State is obligated to order and Contractor to provide;
- b. whether there is a quantity the State expects to order and how this quantity relates to any minimum and maximum quantities that may be ordered under the contract;
- c. any maximum quantity the State may order and Contractor must provide; and,
- d. whether the State is obligated to order its actual requirements under the contract, or in the case of a multiple award as defined in Section 3-503 (Multiple Source Contracting) of the *PPRB OPSCR Rules and Regulations*, that the State will order its actual requirements from Contractors under the multiple award subject to any minimum or maximum quantity stated.

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