

STATE OF MISSISSIPPI DEPARTMENT OF EDUCATION	TOPIC: CONTRACTS
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## CONTRACT PROCUREMENT PROCEDURES

The Mississippi Department of Education’s (Department) Contract Procurement Policy set forth herein applies to the procurement, management, and control of all commodities, technology, equipment, furniture, personal and real property, construction and repairs, and personal and professional services with any funds by the Department. These procedures shall apply to all expenditures of public funds irrespective of their source. Violation of these regulations shall carry such penalties as may be applicable under state laws. In the event of a conflict, the guidelines of the grant, gift, or self-generated funds shall prevail.

The Department shall ensure contracts are procured by obtaining adequate and reasonable competition, with the exception of sole-source and emergency procurement as defined below. Generally, the total amount of the contract shall be used to determine the appropriate method for procurement of services.

The awarding office shall be responsible for being aware of all applicable regulations and rules governing the procurement of services, as well as ensuring that these procedures are followed in the procurement process. Contracting for services shall be governed by the applicable rules and regulations promulgated by the Public Procurement Review Board (PPRB), as well as the policies and procedures approved by the MDE.

The Mississippi Department of Finance and Administration through the Public Procurement Review Board (PPRB) and its relevant offices shall promulgate rules to govern personal and professional contract processes, the procurement of commodities, equipment, furniture, printing, construction, repair, fleet and personal and real property to ensure stringent controls are implemented as internal controls for the procurement of contracts.

The Office of Information Technology Services (ITS) prescribes the policies that govern the purchase of products and services related to technology. The MDE shall comply with all applicable policies and procedures set forth by ITS and other relevant agency and state statute.

The MDE shall ensure contracts are procured by obtaining adequate and reasonable competition, except for sole-source and emergency procurements as defined below. Generally, the total amount of the contract shall be used to determine the appropriate method and purview for the procurement.

The Attorney General’s Office approves contracts for outside legal counsel.

In accordance with Department and PPRB rules and regulations, the following methods of source selection will be used for procuring vendor services for the Department:

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- Written Quotes – Agency provides description of service and the vendor sets the price as the lowest and best bid is awarded.
- PPRB Preapproved Vendor List (PVL) – Established list of providers of various personal and professional services for set prices with which state agencies may contract without bidding or prior approval from the PPRB.
- Competitive Sealed Bids – is a process of inviting and obtaining bids from competing sources in response to an advertised competitive specification.

The types of Competitive Sealed Bids for the Department are:

- Invitation for Bids (IFB) – Agency provides required specifications as the vendor submits specifications along with cost as the lowest, responsible, and responsive is awarded.
- Request for Proposals (RFP) – Agency provides the outcome and deliverables needed for a service as the vendor provides a demonstration of their ability to perform the work along with cost to accomplish outcome; award is based on weighted criteria.

*Considerations:*

- factors other than price alone are critical
  - requirements are highly technical
  - proposer develops and provide ideas or solution
  - agency has a complex need that is difficult to specify
  - flexibility is needed to allow vendors an opportunity to revise an initial submission
- Request for Qualifications (RFQ) – Agency provides scope or outcome for services as the contractor provides qualifications and demonstration of their ability to perform the work along with cost; award is based on weighted criteria.

*Considerations:*

- critical factor is the vendor’s qualification or specialized experience
  - no plan is needed
  - a professional service organization prohibits members from bidding
- Request for Applications (RFA) – Agency specifies price and requirements for services as the contractor submits experience and qualifications; award is based on weighted criteria.

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The following methods shall be utilized in procuring contractual services:

**Commodities, Equipment, Furniture, Printing, Construction, Fleet and Personal and Real Property:**

Thresholds:

- Up to \$5,000
- \$5,000.01 - \$50,000
- \$50,000.01 - \$75,000
- Over \$75,000

Procurement Methods:

- One (1) Quote
- Two (2) written quotations
- Three (3) written quotations
- Invitation for Bid
- Reverse Auction

**Personal and Professional Services**

Independent Contractor Thresholds:

- Up to \$10,000
- \$10,000.01 - \$49,999
- \$50,000 - \$75,000
- Over \$75,000

Procurement Methods:

- Two (2) written quotations (RFQuote)  
Contract, if required by vendor
- Three (3) written quotations (RFQuote)
- Invitation for Bids
- Request for Proposals
- Request for Qualifications
- PPRB Preapproved Vendor Lists
- Invitation for Bids
- Request for Proposals
- Request for Qualifications
- PPRB Preapproved Vendor Lists
- Invitation for Bids
- Request for Proposals
- Request for Qualifications
- PPRB Preapproved Vendor Lists

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Contract Worker Thresholds:

- Under \$75,000
- Over \$75,000

Procurement Methods:

- Contact the Office of Human Resources
- Request for Applications

**Technology Products and Services**

- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li>• Up to \$5,000</li> <li>• \$5,000.01 - \$50,000</li> <li>• \$50,000.01 - \$75,000</li> <li>• Over \$75,000</li> </ul> | <ul style="list-style-type: none"> <li>• One (1) written quotation</li> <li>• Two (2) written quotations</li> <li>• Three (3) written quotations</li> <li>• ITS Lead</li> </ul> |
|---|---|

A competitive procurement is required once a vendor’s cumulative total of multiple contracts or purchases exceeds the threshold between awarding offices within the agency for the same service or product. All contracts, including technology contracts \$50,000 or more shall be approved by the Mississippi Board of Education (Board). Additionally, contracts \$75,000 or more shall be approved by ITS and the PPRB for personal and professional services, commodities, equipment, furniture, printing, construction, repair, fleet and personal and real property prior to the Department awarding a contract. The awarding office shall present and answer questions before the SBE and PPRB boards, if applicable.

The Office of Procurement and the Office of Compliance will review all contracts for the Department and before the State Board of Education approves any contract. The review will be made to determine if the contract is complete, in compliance with Department, ITS, and PPRB policies, and if regulatory approval authority is required.

Procurement will send the contract to the necessary regulatory agencies. Specifically, the review will consist of, but not be limited to:

- Appropriate method of source selection
- Adequate description of services
- Inclusion of all required sections, terms and conditions
- Reasonable and sufficient justification of budget
- Regulatory approvals

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- Department approvals

### CONTRACTS EXEMPT FROM APPROVAL BY THE PPRB

The following contracts are exempt from approval by the PPRB:

Unless otherwise ordered by regulation of the PPRB, the following listed items are exempt from the competitive bid process and do not require approval of the OPTFM except as may be required when submitting an Inventory Deletion Form.

- OPTFM state purchasing contracts
- State-adopted textbooks
- Transfer, sale or exchange of property between state agencies
- Mississippi Industries for the Blind or Prison
- Perishable food for school lunch programs
- Library books and reference materials

By authority of the Mississippi Legislature, service contracts which do not exceed \$75,000.00 do not require approval of the PPRB. Contracts which do not exceed \$75,000.00 shall follow the procedures set forth in Section 3-205 (Small Purchases). The following are exempt from the purview of the PPRB in accordance with Mississippi Code Annotated § 27-104-7(2)(f) and as determined by the PPRB when performing duties for which they are licensed or certified.

- Contracts between State agencies under the purview of the PPRB
- Computer or information technology-related services governed by the Mississippi Department of Information Technology Services (ITS)
- Personal service contracts entered into by the Mississippi Department of Transportation
- Contracts exempt by legislative statutory authority
- Contracts for equipment repairs governed by Mississippi Code Annotated 31-7-13
- Contracts to manage trust funds by the Board of Trustees of the Public Employees' Retirement System
- Personal service contracts entered into by the individual state institutions of higher learning
- Accountant
- Engineer
- Architect
- Attorney
- Utility rate expert services
- Auditor

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- Actuary

*While the above contracts are exempt from the PPRB approval, the awarding office is responsible for ensuring that these contracts comply with the Department's internal review and approval procedures.*

#### CONTRACTS EXEMPT FROM APPROVAL BY THE ITS

The following procurements do not require ITS approval. Because of potential impact on technology infrastructure, notification to ITS is required in some cases, as noted below:

- Specialized medical or scientific products whose primary purpose is other than information technology.
- Computer supplies
- Computer accessories
- Computer furniture
- Technology Reference Manual: hardcopy or electronic
- Electronic or online publication of state-published documents (static without functionality)
- Online Research or Educational Material (standard "off the shelf" delivery of static information without customization or interactive functionality)
- Radio/TV broadcast or reception equipment (e.g., one-way transmission)
- Microfilm and other analog image storage media
- Digital cameras and self-contained surveillance equipment (Surveillance systems which have assigned IP addresses or network connections requires ITS purview)
- Technology products or services issued by a State agency, institution, governmental entities, instruments, by peer, affiliated organizations, or contract employees

#### METHODS OF SOURCE SELECTION

The Competitive Seal Bid policies and procedures below shall be followed in determining the methods of source selection to be used in procuring vendor services for personal and professional services only.

#### INVITATION FOR BID (IFB) - See ATTACHMENT A

Invitation for Bids means all documents, whether attached or incorporated by reference, utilized for soliciting competitive bids. Bids shall be defined as an offer submitted by a prospective contractor in response to an Invitation for Bids.

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When a determination is made that an IFB procurement is best suited for a particular service a reverse auction is the preferred method of procurement.

When a determination is made that an IFB procurement is best suited for a particular service and has been exempt from a reverse auction. An IFB shall be issued in accordance with PPRB regulations process as specified in the OPSCR Rules and Regulations. The IFB template can be found on the Procurement contract website.

The IFB shall include the following:

- Instructions and information to bidders concerning the bid submission requirements, including the time and date set for receipt of bids, the address of the office to which bids are to be delivered, the maximum time for bid acceptance by the State, reverse auctions instructions and any other special information;
- Purchase description, delivery or performance schedule, and such inspection and acceptance requirements as are not included in the purchase description; and, contract terms and conditions, including warranty and bonding or other security requirements, as applicable.

The IFB shall be reviewed and approved by the Director of Procurement and Compliance Officer (OPSCR upon request) prior to distribution to potential vendors. The bid may be Mississippi Accountability System for Government Information and Collaboration (MAGIC) number as assigned by the Procurement Office.

#### ADVERTISEMENT

When the anticipated expenditure is less than \$75,000, public notice of the IFB shall be publicized on the following:

- a newspaper published in the county or municipality in which the agency is located,
- Mississippi Contract/Procurement Opportunity Search portal, and
- MDE website.

Advertisement of Invitation of Bids in the newspaper shall be published once each week for two consecutive weeks with the second notice being published on or after the seventh (7<sup>th</sup>) calendar day after publication of the first notice. For publication on the Mississippi Contract/Procurement Opportunity Search Portal, the advertising time shall be concurrent with a newspaper publication and shall run for fourteen (14) consecutive days. The date set for bid opening shall be included in the advertisement.

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*Note: Due dates cannot fall on a weekend, holiday, or day following a state or legal holiday.*

The following is a suggested guide for the legal advertisement:

The *{name of the entity}* will accept sealed bids until *{time of bid opening}*, *{day of the week}*, *{month}*, *{date}*, *{year}* for the purpose of the following: *{name of service to be procured}*, *{bid MAGIC number, if applicable}*. Detailed specifications may be obtained by contacting *{name of contact person}* at *{telephone number}* or at *{physical mailing address}*.

If applicable, the Procurement Office will contact the newspaper, submit to the Mississippi Procurement Technical Assistance Program on the same day, if applicable, post the IFB to the Department website under the Public Notice section and will have the IFB removed after the bid deadline.

#### PRE-BID CONFERENCE

Pre-bid conferences may be conducted to explain the procurement requirements. The conference date and time shall be announced in the bid to all prospective bidders. The conference should be held long enough after the IFB has been issued to allow bidders to become familiar with it but sufficiently before bid opening to allow consideration of the conference results in preparing bids. Nothing stated at the pre-bid conference shall change the IFB unless a change is made by written amendment as provided in the PPRB regulations. A recording and summary of the conference shall be posted and supplied to all prospective bidders known to have received an IFB. If a transcript is made, it shall be of public record.

#### RECEIPT OF BIDS

Any bid received in the Office of Procurement or submitted electronically after the time and date set for receipt of bids is late. Any withdrawal or modification of a bid received after the time and due date set for opening of bids at the place designated for opening is late. No late bid, late modification, or late withdrawal will be considered unless receipt would have been timely but for the inaction of Department personnel.

A Register of Bids shall be prepared which shall include the name of each bidder, the number of modifications received, if any, and a description sufficient to identify the type of bid. Bids shall be unconditionally accepted without alteration or correction, except as authorized in the PPRB regulations.

Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards or contracts based on such bid mistakes shall be permitted in accordance with the PPRB



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regulations.

### OPENING AND RECORDING

Bids and modifications shall be opened publicly, in the presence of two or more individuals, at the time, date, and place designated in the Invitation for Bids. The name of each bidder, the bid price, and such other information as is deemed appropriate by the Agency Procurement Officer, shall be read aloud or otherwise made available. Such information also may be recorded at the time of bid opening; that is, the bids may be tabulated, or a bid abstract made. The names of required witnesses shall also be recorded at the opening. The opened bids shall be available for inspection by participants except to the extent the bidder designates trade secrets or other proprietary data to be confidential. Material so designated shall accompany the bid and shall be readily separable from the bid in order to facilitate public inspection of the nonconfidential portion of the bid. Prices and makes and models or catalog numbers of the items offered, deliveries, and terms of payment shall be publicly available at the time of bid opening regardless of any designation to the contrary. Bids shall be available for inspection at any time subsequent to the awarding of the contract affected by those bids.

### AWARD

The contract shall be awarded with reasonable promptness by written notice to the lowest responsible bidder whose bids meets the requirements and criteria set forth in the IFB. Negotiations shall be done in accordance with PPRB rules and regulations. Written notice of award shall be sent to the successful bidder by the awarding office. Notice of award shall be made available to the public.

When it is considered impractical to initially prepare a definitive purchase description to support an award based on price, a multi-step sealed bid may be issued requesting the submission of unpriced offers. Another IFB would follow, which would be limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation. Multi-step bidding shall be performed in accordance with PPRB rules and regulations.

### PROCUREMENT OF PERSONAL AND PROFESSIONAL SERVICES

For contracts in excess of \$75, 000 for personal or professional services that will not be procured as an Invitation for Bid, a Petition for Relief from Bidding as a Procurement Method shall be submitted to PPRB for review and approval. The Petition for Relief from Bidding as a Procurement Method Form and a draft copy of the Request for Bids shall be submitted to OPSCR for review at least thirty (30) calendar days prior to the PPRB meeting. Please review PPRB's meeting and contract submission deadline dates at Department of Finance and Administration's website. The

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PPRB shall approve a Petition for Relief from Bidding as a Procurement Method Form to move the procurement forward to the advertisement. Therefore, the awarding office should present any contract in excess of \$75,000 to the Office of Procurement in sufficient time to be reviewed.

It is the responsibility of the awarding office to meet the time frames necessary for Petition for Relief from Bidding as a Procurement Method and to secure the appropriate approvals by the State Board of Education prior to a submission of a contract to PPRB for placement on their board agenda. Timelines for submission of contracts in order to meet deadlines for the SBE Board and PPRB meetings can be found on the Procurement website.

INVITATION FOR BIDS (IFB) - See ATTACHMENT A

Please see Invitation for Bid above. The bid process is the same with the exception of the bid must be advertised at least thirty (30) days and as shown below.

#### ADVERTISEMENT

When the anticipated expenditure is more than \$75,000, public notice of the IFB shall be publicized on the following:

- a newspaper published in the county or municipality in which the agency is located,
- Mississippi Contract/Procurement Opportunity Search portal, and
- MDE website.

REQUEST FOR PROPOSALS AND REQUEST FOR QUALIFICATIONS (Over \$75,000) (RFP/RFQ) - See ATTACHMENT B

Request for Proposal - A Proposal is a document submitted by the offeror to be used as the basis for negotiations for entering into a project. The selection of a contractor is made on performance rather than price alone and may require an outline of details such as the vendor's qualifications and experience and the identifications of problems and proposed solutions in addition to details of price.

Request for Qualifications (RFQ) - A Statement of Qualifications (SOQ) is a document submitted by the offeror to be used as the basis for a determination that the offeror is qualified or has specialized expertise to perform the scope of work or services required by the agency.

When a determination is made that a competitive sealed proposal or qualification procurement method is best suited for a particular service, a solicitation for an RFP or RFQ shall be issued in accordance with PPRB regulation process as specified in the OPSCR Manual.

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The following policies and procedures shall govern the RFP/RFQ procurement:

A contract may be entered into by an RFP/RFQ when the use of an IFB is determined to be either not practicable or not advantageous to the State of Mississippi (State). A Petition for Relief from Bidding as a Procurement Method Form shall be completed and approved by PPRB to proceed with advertisement. Proposals and qualifications shall be solicited and shall be reviewed and approved by the Director of Procurement, Compliance Officer, and PPRB prior to distribution to potential service providers or vendors.

The RFP/RFQ templates can be found at the Procurement website in this section for Bid Checklist and Forms.

The RFP/RFQ shall include the following:

- Instructions and information to offerors concerning the proposal or qualifications submission requirements, including the time and date set for receipt of offers, the address of the office to which offerors are to be delivered, the maximum time for proposal or qualification acceptance by the State;
- a statement that discussions may be conducted with offerors who submit proposals or qualifications determined to be reasonably susceptible of being selected for award, but that proposal or qualification may be accepted without such discussions; and
- a statement of when and how price should be submitted.

The RFP/RFQ shall also include the following:

- type of services required;
- a description of the work involved;
- an estimate of when and for how long the services will be required;
- the type of contract to be used;
- a date by which proposals or qualifications for the performance of the services shall be submitted;
- a statement that the proposals or qualifications shall be in writing;
- a statement that offerors may designate those portions of the proposals or qualifications which contain trade secrets or other proprietary data which may remain confidential in accordance with §§ 25-61-9 and 79-23-1, Mississippi Code of 1972, Annotated;
- a statement of the minimum information that the proposals or qualifications shall contain, including:
  - The name of the offeror, the location of the offeror's principal place of business and, if different, the place of performance of the proposed contract;
  - The age of the offeror's business and average number of employees over a previous

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- period of time, as specified in the RFP;
- The abilities, qualifications, and experience of all persons who would be assigned to provide the required services;
- A listing of other contracts under which services similar in scope, size, or discipline to the required services were performed or undertaken within a previous period of time, as specified in the RFP; and,
- a plan giving as much detail as is practical explaining how the services will be performed.
- decide the factors to be used in the evaluation and selection process and their relative importance.

#### ADVERTISEMENT

When the anticipated expenditure is more than \$75,000, public notice of the RFP or RFQ shall be publicized on the following:

- a newspaper published in the county or municipality in which the agency is located,
- Mississippi Contract/Procurement Opportunity Search portal, and
- MDE website.

Advertisement of RFPs and RFQs shall be published once each week for two consecutive weeks with the second notice being published on or after the seventh (7<sup>th</sup>) calendar day after publication of the first notice. For publication on the Mississippi Contract/Procurement Opportunity Search Portal, the advertising time shall be concurrent with a newspaper publication and shall run for fourteen (14) consecutive days. The notice shall be posted at least thirty-one (31) days before the date that proposals or qualifications are due unless a shorter time is deemed necessary for a particular procurement as determined in writing to the PPRB.

*Note: Due dates cannot fall on a weekend, holiday, or day following a state or legal holiday.*

The following is a suggested guide for the legal advertisement:

The *{name of the entity}* will accept proposals or qualifications until *{time of bid opening}*, *{day of the week}*, *{month}*, *{date}*, *{year}* for the purpose of the following: *{name of service to be procured}*, and *{bid MAGIC number}*. Detailed specifications may be obtained by contacting *{name of contact person}* at *{telephone number}* or at *{physical mailing address}*.

The Procurement Office will contact the newspaper, post the RFP or RFQ to the Department website under the Public Notice section and will have the RFP or RFQ removed after the proposal deadline.

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### PRE-PROPOSAL CONFERENCE

Pre-proposal conferences may be conducted to explain the procurement requirements. The conference shall be announced in the RFP or RFQ. The conference should be held long enough after the RFP or RFQ has been issued to allow offerors to become familiar with it but sufficiently before the proposal or qualification opening to allow consideration of the conference results in preparing proposals or qualifications. Nothing stated at the pre-proposal conference shall change the RFP or RFQ unless a change is made by written amendment as provided in the PPRB regulations. A recording and summary of the conference shall be posted as an amendment and supplied to all prospective offerors known to have received an RFP or RFQ. If a transcript is made, it shall be of public record. The pre-proposal shall:

- be held at least fifteen (15) days after the RFP or RFQ has been issued;
- the program office facilitator shall serve as the Chair;
- maintain attendance sheet;
- provide the questions and answers to offerors known to have received an RFP or RFQ; and
- prepare Acknowledgement of Amendments and/or pre-proposal link, if required, for posting to the Mississippi Procurement Portal and the Department’s website.

### RECEIPT OF OFFERS

Any proposal or qualification received in the Office of Procurement or submitted electronically after the time and date set for receipt of proposals or qualifications is late. Any withdrawal or modification of a proposal or qualification received after the established due date at the place designated for receipt of proposals or qualifications is late. No late proposal, late qualification, late modification, or late withdrawal will be considered unless receipt would have been timely but for the action or inaction of Department personnel.

### OPENING AND RECORDING

The assigned designee will open the proposal or qualification responses at the time coordinated with the Office of Procurement. Proposals, qualifications or modifications shall be time and date-stamped upon receipt in the Office of Procurement by the mailroom or submitted electronically and held in a secure place until the established due date.

A Register of Proposals or Qualifications shall be prepared which shall include the number of modifications received, if any, and a description sufficient to identify the service offered. The Director of Procurement or designee will assign each submitted proposal or qualification an identifying letter, number or combination thereof, without revealing the name of the offeror who submitted each proposal or qualification. The Director of Procurement or designee shall keep the

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names of the offerors and their identifying number, letters or combination thereof, in a sealed location until factors not requiring knowledge of the offeror have been evaluated and scored. If the offeror is revealed before such time, the procurement process shall be terminated and resolicited.

Proposals or qualifications shall be unconditionally accepted without alteration or correction, except as authorized in the PPRB regulations.

Correction or withdrawal of inadvertently erroneous information before or after award, or cancellation of awards or contracts based on such mistake shall be permitted in accordance with the PPRB regulations.

### EVALUATION

The evaluation factors shall be approved by the Public Procurement Review Board in the same way the decision to solicit the procurement through an RFP or RFQ was approved. The RFP or RFQ shall state all of the approved evaluation factors, and their relative importance.

When determining the weights and importance of each evaluation factor, price as an individual evaluation factor shall be given the highest criteria weighting and at least thirty-five percent (35%) out of the one hundred percent (100%) total weight of all the other evaluation factors. The evaluation shall be based on the evaluation factors set forth in the RFP or RFQ.

The evaluation process shall be based on the evaluation factors set forth in the RFP or RFQ. Evaluations shall be performed using a standard, 100-point scoring scale. Factors not specified in the RFP or RFQ shall not be considered. The following, as appropriate to the individual circumstances, shall be used as criteria for evaluating RFPs and RFQs. These factors are not intended to be limiting or all inclusive:

#### Technical factors (Proposed methodology)

- (a) Does the offeror's proposal or qualification demonstrate a clear understanding of the scope of work and related objectives?
- (b) Is the offeror's proposal or qualification complete and responsive to the specific RFP or RFQ requirements?
- (c) Has the past performance of the offeror's proposed methodology been documented?
- (d) Does the offeror's proposal or qualification use innovative technology and techniques?

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Cost factors (Factors shall be submitted separately from other factors unless specifically approved by the Public Procurement Review Board):

- (a) Cost of goods to be provided or services to be performed:
  - a. Relative cost: How does the cost compare to other similarly scored proposals or qualifications?
  - b. Full explanation: Is the price and its component charges, fees, etc. adequately explained or documented?
- (b) Assurances of performance:
  - a. If required, are suitable bonds, warranties or guarantees provided?
  - b. Does the proposal or qualification include quality control and assurance programs?
- (c) Offeror's financial stability and strength: Does the offeror have sufficient financial resources to meet its obligations?

Management factors (Factors that will require the identity of the offeror to be revealed shall be submitted separately from other factors):

- (a) Project management:
  - a. How well does the proposed scheduling timeline meet the needs of the soliciting agency?
  - b. Is there a project management plan?
- (b) History and experience in performing the work:
  - a. Does the offeror document a record of reliability of timely delivery and on-time and on-budget implementation?
  - b. Does the offeror demonstrate a track record of service as evidenced by on-time, on-budget, and contract compliance performance?
  - c. Does the offeror document industry or program experience?
  - d. Does the offeror have a record of poor business ethics?
- (c) Availability of personnel, facilities, equipment and other resources:
  - a. To what extent does the offeror rely on in-house resources vs. contracted resources?
  - b. Is the availability of in-house and contract resources documented?
- (d) Qualification and experience of personnel:
  - a. Documentation of experience in performing similar work by employees and when appropriate, sub-contractors?
  - b. Does the offeror demonstrate cultural sensitivity in hiring and training staff?

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### EVALUATION COMMITTEE

An evaluation committee shall be appointed by the awarding office with assistance of the Director of Procurement, if needed, any time an RFP or RFQ is utilized in procuring services. The committee should be majority external members comprised of a minimum of five (5) individuals. Director's supervising more than one program is considered a program office. It is recommended that the program office make certain alternates are available, if needed. The selected members will review the RFP or RFQ, the proposals or qualifications received in response to the RFP or RFQ and prepare an evaluation committee report for award.

Interviews/Presentations may be conducted during the Management Phase of the process with a number of offerors that are classified as acceptable. If interviews/presentations are conducted the offerors shall be interviewed by the same committee who review and score the proposals based on a predetermined criteria.

The evaluators should be mostly external evaluators who are qualified and have knowledge or expertise of the contract requirements. If necessary, the committee may use an advisor to give opinions on evaluating the proposals or qualifications. Advisors shall mean those individuals who provide such significant input to members of the evaluation committee that the advisor's opinions are fundamental in shaping the committee members evaluation of the submitted proposal or qualification.

Each evaluator and advisor shall sign the following forms: Conflict of Interest, Facilitator/Evaluator Guidelines, Statement of Confidentiality, and End of Review. The members shall have no personal, financial or familial interest in any of the contract offerors, or principal thereof, to be evaluated. The awarding office is responsible for assuring a conflict of interest does not exist with each evaluator or advisor.

The names of the evaluation committee shall not be publicly disclosed until their evaluation report is published. Where evaluation committee members are not public employees, those member's names, educational and professional qualifications, and practical experience, that were the basis for the appointment shall be made public. Public employee's names and job titles shall be made public.

The awarding office will designate a staff member to be accessible to the evaluation committee during the evaluation process, should questions regarding the proposal requirements arise. The Director of Procurement will monitor the evaluation process to ensure that procurement policies and procedures are followed . If any proposal is rejected, the Director of Procurement and the

Legal department, if necessary, will complete and sign the Proposals Not Evaluated Form.



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Proposals or Qualifications should be reviewed and scored by the evaluators. At the end of the evaluation, the committee and program contact shall submit an evaluation report to the Director of Procurement prior to the completion of the End of Review. The report shall list the names of all potential offerors who submitted proposals or qualifications and shall summarize the proposals or qualifications of each offeror.

The report shall:

- rank offerors in order of evaluation;
- recommend the selection of an offeror or offerors, as appropriate, for a contract;
- be clear in the reasons why the offeror or offerors have been selected among others considered; and
- detail the terms, conditions scope of services, fees and other matters to be incorporated into the contract.

The report shall be available to the public at least forty-eight (48) hours before the awarding of the contract.

The report shall be maintained in the Procurement file. This shall include an analysis describing why the personal or professional services contract was awarded, renewed or amended.

As provided in the RFP or RFQ, discussions may be conducted by the evaluation committee with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements.

The awarding office is responsible for submitting the tally of final scores, summary score and vendor score sheets to the Procurement Office for review, certifying evaluator scores and confirming the recommendation for award. After confirmation of recommended award, the awarding office shall mail award and non-award notices to each vendor, submit to Procurement a board item, if applicable, a Contract Justification and all required forms for review and approval by the Director of Procurement and the Compliance Officer. Additionally, the Chief of Operations will review and approve packet prior to placement on the SBE board agenda. Please review the Timelines for the Submission of Contracts for SBE approval.

### AWARD

Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the State taking into consideration price and the evaluation factors set forth in the RFP or RFQ. No other factors or criteria shall be used in the evaluation. Written notice of

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award shall be sent to all offerors.

The awarding office shall:

- notify the Office of Procurement at the onset of the development of an RFP or RFQ and submit names for the evaluation committee members;
- appoint program contact to facilitate and monitor evaluation at all times;
- establish evaluation factors and evaluation weights;
- submit a completed Petition for Relief from Bidding as a Procurement Method Form, draft RFP or RFQ, contract and advertisement letter. Templates are posted on the Procurement website using the format provided and submit documents to the Office of Procurement for review;
- attend PPRB session to defend the release of an RFP or RFQ;
- revise RFP or RFQ, and Letter of Advertising as recommended by OPSCR;
- be responsible for assisting evaluators with evaluation report;
- be responsible for mailing letters of notification to any non-responsive applicants advising their proposal has been declared non-responsive;
- submit tally and vendor score sheets, notification of award and non-award to the Procurement Office for validation;
- contact the vendor for negotiation, if required;
- pick-up all proposals from the Office of Procurement after the evaluation report is finalized.
- forward the contract packet to the Office of Procurement for successful candidates receiving a contract; and
- maintain copies of the approved RFP or RFQ, screen shot from the MDE website documenting the posting of the RFP or RFQ, all applications and supporting documents that are received, letters sent to the non-responsive applicants, executed contracts, and all selection documents.

#### SMALL PURCHASES (Less Than \$75,000)

Any procurement for personal or professional services not exceeding \$75,000.00, except for sole-source and emergency purchases are considered small purchases. However, procurement requirements, including the total funds to be extended, shall neither be artificially divided nor shall the extent of the service required be underestimated so as to constitute a purchase under \$75,000.

#### REQUEST FOR PROPOSALS OR QUALIFICATIONS (Less than \$75,000) - See ATTACHMENT C

When a determination is made that a competitive sealed proposals or qualifications procurement

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method is best suited for a particular service, an RFP or RFQ shall be issued. Single or multiple awards may be made depending upon the number of respondents needed by the agency to provide the service.

The following policies and procedures shall govern the procurement process for independent contracts greater than \$10,000 but not exceeding \$75,000.

The RFP and RFQ shall be reviewed and approved by the Director of Procurement and Compliance Officer prior to distribution to potential service providers or vendors.

The RFP or RFQ shall include, but is not limited to, the following information:

- A description of the services to be provided;
- The minimum qualifications required, such as education, license(s), certification(s), experience, special skills needed to perform the services, the capacity and capability to perform the services within a relevant deadline, and the past record of performance with respect to such factors as control of costs, quality of work, and ability to meet schedules and deadlines;
- The manner in which the RFP or RFQ will be evaluated, including the relative weight to be given to each qualification criterion, if not equal in weight;
- An estimate of when and for how long the services will be required;
- The type of contract to be used;
- The deadline and manner the RFP or RFQ are to be submitted;
- The required form and content of the RFP or RFQ;
- The method through which a price will be determined;
- The deadline for submission of questions and posting of answers, if applicable;
- Information regarding the pre-conference, if applicable;
- Information regarding discussions with acceptable respondents, if applicable; and,
- A statement of minimum information that the RFP or RFQ should contain, including:
  - The name of the respondent, the location of the respondent's principal place of business and, if different, the place of performance of the proposed contract;
  - The age of the respondent's business and average number of employees over a previous period of time, as specified in the RFQ, except when respondent is a contract worker;
  - The qualifications, including licenses, certifications, education, skills, and experience of all persons who would be assigned to provide the required services; and,
  - A listing of other contracts under which services similar in scope, size, or discipline to the required services were performed or undertaken within a previous period of

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- time, as specified in the RFP or RFQ.
- a plan giving as much detail as is practical explaining how the services will be performed.

#### REQUEST FOR APPLICATIONS (RFA) - See ATTACHMENT D

Contract worker is a worker under contract with the Department who meets the requirements for an applicant under the Internal Revenue Code. Under these regulations, the usual common law rules are applicable to determine and require a contract worker is an employee and not an independent contractor, requiring evidence of lawful behavior controls, lawful financial control

and lawful relationship of the parties. Single or multiple contract awards for an RFA may be made depending upon the number of respondents needed by the agency to provide the service.

The following policies and procedures shall govern the procurement process for contract workers that exceed \$75,000 per fiscal year. Contract workers that do not exceed \$75,000 per fiscal year shall be processed in Human Resources (HR).

Applications shall be solicited through a Request for Applications (RFA). The RFA shall be reviewed by the Director of Procurement prior to distribution to potential service provider(s). The RFA template can be found at the Procurement website.

The RFA shall include the following:

- Job Duties;
- Minimum Qualifications;
- Rate of pay per hour and maximum number of hours for the contract period;
- Selection process; and,
- Instructions for applying.

The rate of pay per hour shall be computed according to the Contract Worker Rate of Pay Determination Form as provided by the Office of Procurement. Supporting documentation to support the rate of pay shall be provided to the Procurement Office.

Choices include:

- Comparable position on the Mississippi State Personnel Board's website as demonstrated through the characteristics and examples of work outlined in the job description;
- Obtain salary data from MSIS for school personnel, i.e., superintendents, teachers, administrators, federal program directors, counselors; and,

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- Obtain salary data from private industry performing comparable services.

### ADVERTISEMENT

When the anticipated expenditure is more than \$75,000, public notice of the RA shall be publicized on the following:

- a newspaper published in the county or municipality in which the agency is located,
- Mississippi Contract/Procurement Opportunity Search portal, and
- MDE website.

Advertisement of RFAs shall be published once each week for two consecutive weeks with the second notice being published on or after the seventh (7<sup>th</sup>) calendar day after publication of the first notice. For publication on the Mississippi Contract/Procurement Opportunity Search Portal, the advertising time shall be concurrent with a newspaper publication and shall run for fourteen (14) consecutive days. The solicitation shall be posted to include a question and answer section, in accordance with the Department’s procurement guidelines, as well as include a reasonable due date for receipt of responses.

*Note: Due dates cannot fall on a weekend, holiday, or day following a state or legal holiday.*

The following is a suggested guide for the legal advertisement:

*The {name of the entity} will accept applications until {time of bid opening}, {day of the week}, {month}, {date}, {year} for the purpose of the following: {name of service to be procured}, and {bid MAGIC number}. Detailed specifications may be obtained by contacting {name of contact person} at {telephone number} or at {physical mailing address}.*

The Procurement Office will contact the newspaper, post the RFA to the Department website under the Public Notice section and will have the RFA removed after the application deadline.

### RECEIPT OF APPLICATIONS

Any packet received in the Office of Procurement or submitted electronically after the time and date set for receipt of packets is late. Any withdrawal or modification of a packet received after the established due date at the place designated for receipt of packets is late. No late packet, late modification, or late withdrawal will be considered unless receipt would have been timely but for the action or inaction of Department personnel.

### OPENING AND RECORDING

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Packets shall not be opened publicly but shall be opened in the presence of a procurement staff and one (1) or more program staff. Electronic submissions shall be opened by the Office of Procurement and transferred to the program office responsible for the solicitation. A Register of Respondents shall be prepared which shall include the name of each respondent, the number of modifications received, if any, and a description sufficient to identify the qualifications submitted.

### EVALUATION

The awarding office will also designate a staff member to be accessible to the evaluation committee during the evaluation process, should questions regarding the RFP/RFQ/RFA (solicitation) requirements arise. Procurement will designate one staff member to monitor the evaluation process, to ensure that procurement policies and procedures are followed. The assigned procurement staff and awarding office shall pre-screen each packet prior to the evaluation process to determine if any should be rejected. If any packet is to be rejected, the awarding office shall complete the Proposal/Applications Not Evaluated Form. The form shall be signed by the awarding office Bureau Director or above and submitted to Procurement at least two days prior to the commencement of the evaluation. The Procurement Director or designee will review the form and supporting documentation to confirm if they are in agreement that the packets shall not be evaluated based on the criteria stated in the solicitation.

### EVALUATION COMMITTEE

The committee should be majority external members comprised of a minimum of five (5) individuals. It is recommended that alternates are available to prevent a delay with the evaluation process. The Office of Procurement is available to assist the awarding offices with the selection of the evaluation committee using qualified internal and external evaluators who have knowledge or expertise of the RFA requirements. Each evaluator shall sign the following forms: Conflict of Interest, Evaluator Guidelines, Statement of Confidentiality, and End of Review. The awarding office is responsible for assuring a conflict of interest does not exist with each evaluator. The evaluation committee will review the packets received in response to the solicitation and evaluate each packet according to the selection criterion. For each contract worker position to be filled, or positions if more than one is needed, the same person or committee shall evaluate and interview all applications.

Interviews/Presentations may be conducted with a number of applicants to be specified by the awarding office or the Agency Head's designee(s), or the evaluation committee, from the list of offerors or applicants classified as acceptable. If interviews/presentations are conducted, after all interviews are completed, the applicants interviewed shall be evaluated by the same committee based on the solicitation's predetermined criteria for interviews/presentations.

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Once evaluated, all applications shall be classified as either acceptable or unacceptable. For packets classified as unacceptable, the offeror or applicant shall be promptly notified in writing of the classification of the packet as unacceptable and the reasons therefor. A copy of the notification letter shall be kept in the procurement file.

The awarding office is responsible for submitting the tally of final scores, summary score and vendor score sheets to the Procurement Office for review, certifying evaluator scores and confirming the recommendation for award. After confirmation of recommended award, the awarding office shall mail award and non-award notices to each vendor, submit to Procurement a board item, if applicable, a Contract Justification, and all required forms for review by the contract analyst, Director of Procurement and the Compliance Officer. Additionally, for contracts over \$50,000, the Chief of Operations will review and approve packet prior to SBE board item agenda placement. Please review the timelines for the submission of contracts for SBE approval.

#### AWARD

Notification that the contract has been awarded shall be promptly given in writing to all applicants whose applications were classified as acceptable. A copy of each notification letter shall be kept in the procurement file. A notice of award shall be made available to the public and shall be accompanied by an analysis as to why the personal or professional services contract was awarded, renewed, or amended.

The awarding office shall:

- Submit a draft of the RFA, contract and advertisement letter based upon the templates posted on the Office of Procurement’s website using the information provided and send to the Office of Procurement for approval.
- After opening of the RFA, review the for responsiveness (e.g., does proposals meet the specifications?)
- If required, complete an Applications Not Evaluated Form
- Send letters of notification to any non-responsive applicants advising their application has been declared non-responsive;
- Convene an evaluation committee to review all responsive applications and select the highest-ranking applications to recommend to their Director;
- Submit tally and vendor score sheets, notification of award and non-award to the Procurement Office for validation;
- Forward the contract packet to the Office of Procurement for all successful candidates receiving a contract; and
- Maintain copies of the approved RFA, screen shot from the MDE website documenting the posting of the RFA, all applications and supporting documents that are received,

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letters sent to the non-responsive applicants, executed contracts, and all selection documents.

*The process and advertisement below are additional requirements for contract workers exceeding \$75,000.*

OPSCR shall review and approve RFA packet prior to the advertisement. The procurement shall publicize on the Mississippi Contract/Procurement Opportunity Search Portal in accordance with Mississippi Code Annotated § 25-53-151 and in employment section of a newspaper. The publication shall include the deadline and manner for submitting applications.

#### ADVERTISEMENT

Advertisement of RFAs shall be published once each week for two consecutive weeks with the second notice being published on or after the seventh (7<sup>th</sup>) calendar day after publication of the first notice. For publication on the Mississippi Contract/Procurement Opportunity Search Portal, the advertising time shall be concurrent with a newspaper publication and shall run for fourteen (14) consecutive days. The date set for bid opening shall be included in the advertisement.

#### WRITTEN QUOTATIONS

Any procurement for an independent contract for personal or professional services, except for sole-source purchases or emergency, are considered a small purchase and may be made by obtaining a written quote of an Invitation for Bid (IFB). The procurement shall not be artificially divided nor underestimated to constitute a small purchases procurement. Program offices soliciting services by written quotations shall provide vendors the same identical information and requirements by using the MDE Request for Quote Form found on the Bid Checklist and Forms page. The written quote, for maintenance or off the shelf products and services, shall be procured for one fiscal year, unless renewal options are provided in the original request for quote. If a renewal option was not included, a competitive procurement is required for a new contract for the same services.

#### Less than \$10,000

Contracts \$10,000 or less may be procured by soliciting two (2) written quotation without a contract.

#### \$10,000.01 - \$49,999



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Contracts over \$10,000 may be procured by soliciting three (3) written quotation and an MDE contract.

All quotes shall be requested on the MDE Quote Form and compatible and responses shall be received by cost proposal, on company letterhead, signed, dated and identifiable to be valid. Written quotes shall, at a minimum, contain:

- MDE terms of the agreement
- MDE description of services
- Services offered by the vendor to the agency
- Questions and Answer
- Name, address, and telephone number of the offeror
- A statement of price by the Vendor
- Signed by the Vendor

Award shall be made to the vendor offering the lowest bid or cost proposal. Specifications that include complex scopes will require advertising of an IFB, RFP, or RFQ to award a contract.

#### Greater than \$50,000

Contracts greater than \$50,000 shall be procured by utilizing a competitive method. (See above IFB, RFP, RFQ, or PVL). Contracts Worker contracts greater than \$75,000 shall be procured by utilizing a competitive RFA.

#### ITS

The following thresholds represent purchases with a total life cycle cost for products and services:

#### \$.01 - \$75,000

Technology purchase requests that do not exceed \$75,000 require a Request for Quote process and approval from the Office of Procurement.

#### \$75,000 or more

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The Office of Procurement will work in collaboration with the Program Office and ITS to procure the products/services requested for services over \$75,000. Any technology purchase requests for services that exceed \$50,000 require approval from the MDE State Board of Education (SBE). Any technology purchase for services that exceeds \$1,000,000 require approval from the SBE and the Mississippi Department of Information Technology Services Board.

#### PREAPPROVED VENDOR LIST

The PPRB has established preapproved vendor list for use by entities under PPRB purview. The preapproved vendor list shall is posted on the OPSCR webpage. The agency should locate the preapproved vendor list for the selected service in the region where the service is to be provided. The agency is encouraged, but not required, to contact the lowest bidder first. Once a vendor is selected, the agency and the vendor should finalize the negotiable terms. Any additional terms or change in non-negotiable terms, such as the scope of services, may not be used.

#### SOLE-SOURCE PROCUREMENT

Sole-source procurements are limited to procurements in which the State Superintendent of Education determines in writing that only one source is available that can provide the required personal or professional service. These provisions apply to all sole-source procurements, regardless of the value of the procurement.

Sole-source procurement is not permissible unless a service is available from only a single vendor. The determination as to whether a procurement shall be made as a sole source shall be made and approved by the State Superintendent of Education. Such determination and the basis therefor shall be in writing, signed by the State Superintendent of Education and maintained in the procurement file. The State Superintendent of Education may specify the application of such determination and the duration of its effectiveness.

If a binding, valid court order has been issued mandating that a particular source or provider shall be used for the required service, a copy of the applicable court order shall be attached to the State Superintendent of Education's written determination and included in all future sole-source contract submissions for the particular personal or professional service referenced in the court order.

The State Superintendent of Education shall conduct negotiations, as appropriate, as to price, delivery, and terms. If the contract amount is greater than \$75,000, the contract shall be forwarded to the PPRB for approval prior to any services being rendered.

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Any agency alleging to have a sole source for any personal or professional service shall have the terms of the proposed contract for the service published on the Mississippi Contract/Procurement Opportunity Search Portal website for at least fourteen (14) consecutive days, unless the agency has a binding, valid court order. Publication of a sole-source award shall include, but is not limited to, the following information:

- (a) The personal or professional service offered in the contract;
- (b) An explanation of why the personal or professional service is the only one that can meet the needs of the agency;
- (c) An explanation of why the source is the only person or entity that can provide the required personal or professional service;
- (d) An explanation of why the amount to be expended for the personal or professional service is reasonable;
- (e) The efforts that the agency made to obtain the best possible price for the personal or professional service; and
- (f) Instructions for filing objections with current contact information for the agency that published the proposed sole-source contract and the PPRB.

If any person or entity objects and proposes that the personal or professional service is not a sole-source service and that the service can be provided by another person or entity, the objecting person or entity shall notify the agency that published the proposed sole-source contract and the PPRB in writing with a detailed explanation of why the personal or professional service is not a sole-source service. The objection shall be submitted to the agency within seven (7) calendar days of the last date on the Mississippi Contract/Procurement Opportunity Search Portal website. The review of objection to Sole-Source Determination will be according to the PPRB rules and regulations.

Technology services for sole-source award must be submitted to ITS for review and approval of the request.

### EMERGENCY PROCUREMENT

If an emergency exists in regard to the procurement of technology services or personal or professional services so that the delay incident to undertaking a competitive procurement would threaten the health or safety of any person, or the preservation or protection of property, then the State Superintendent of Education may make an emergency procurement. Emergency procurements shall be made with such competition as is practicable under the circumstances.

The State Superintendent of Education shall make a written determination of the conditions and circumstances of the emergency, including a detailed description of the events leading up to the

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situation, the negative impact to the agency if the procurement of services is required to be competitively bid, and the basis for the selection of the particular contractor. The written determination shall be signed by the State Superintendent of Education and maintained in the procurement file. The term of an emergency contract shall not exceed one year.

Emergency procurement shall be limited to those personal or professional services necessary to meet the emergency. The term of an emergency contract shall be limited to the time necessary to meet the emergency, but in no circumstance, shall the term exceed one year.

The PPRB will submit a quarterly report of all emergency contracts to the Chairs of the Accountability, Efficiency and Transparency (AET) Committees of the Senate and House of Representatives.

#### GENERAL PROVISIONS FOR PERSONAL SERVICE CONTRACTING

The following policies and procedures shall govern the procurement of personal and professional service contracts:

A contractual agreement is required for any commodity or service being purchased by the agency through bidding or negotiations. Payment for any commodity or services shall not be processed without a contractual agreement.

All contracts shall include a list of contract specifications or deliverables. These may be incorporated from the scope of work included through negotiations or in the Solicitations of Bids, Applications, Proposals, or Statements of Qualifications. This list should be used as evaluation criteria when monitoring contract performance in accordance with the Contract Administration section below. The description of services to be performed should be result-oriented, not procedure-oriented, and should at a minimum include the following:

- What service is to be performed;
- When the service is to be performed;
- How frequently the service is to be performed;
- Where the service is to be performed;
- How much the service will cost; and
- Why the service is necessary.

Mandatory clauses have been established to be included in all contracts. In addition, certain clauses are required to be included in the Solicitation of Bids, Proposals, or Statement of Qualifications. Alternative clauses are available for use in contracts and the Solicitation of Bids, Proposals or Statement of Qualifications and can be found at the Procurement website.

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Solicitation may be canceled, or any or all responses to the solicitation may be rejected in whole or in part as may be specified in the solicitation, when it is in the best interest of the State. The reasons shall be made part of the contract file.

The awarding office and Director of Procurement shall make a written determination of a non-responsive bidder, offeror, or respondent. The unreasonable failure of a bidder, offeror, or respondent to promptly supply information in connection with an inquiry with respect to the bid specifications may be grounds for a determination of a non-response with respect to such bidder, offeror, or respondent.

Information furnished by a bidder, offeror, or respondent shall not be disclosed outside the Department, except as provided in § 25-61-9, Mississippi Code of 1972, Annotated.

A contractor shall, when requested by the Department, submit cost or pricing data and shall certify that, to the best of its knowledge and belief, the cost or pricing data submitted is accurate, complete and current as of a mutually determined specified date.

Subject to the limitations of this section, any type of contract, which will promote the best interest of the State, may be used. A cost reimbursement contract may be used only when a written determination is made by the awarding office that such contract is to be less costly to the State than any other type or that it is impracticable to obtain the services required except under such a contract.

Unless otherwise provided by law, a contract for services may be entered into for a period of time not to exceed five (5) years provided the term of the contract and conditions of the renewal or extension, if any, are included in the solicitation and funds are available for the first fiscal period at the time of contracting. Contracts shall include the renewal clause upon execution of the contract to exercise the option. A contract modification will not be granted to include the renewal clause after execution of the contract. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds.

An incremental award is an award of portions of a definite quantity requirement to more than one contractor. Each portion is for a definite quantity and the sum of the portions is the total definite quantity required. An incremental award may be used only when awards to more than one bidder or offeror for different amounts of the same items are necessary to obtain the total quantity or the required delivery.

A multiple award is an award of an indefinite quantity contract for services to more than one bidder, offeror, or respondent when the State is obligated to order all of its actual requirements

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for the specified supplies or services from those contractors. The obligation to order the State’s actual requirements is limited by § 75-2-306, Mississippi Code of 1972, Annotated.

The Department 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 or to be awarded by the Department.

The Department may, at reasonable times and places, audit the books and records of any contractor or subcontractor pursuant to Section 3-602 (Right to Audit Records) of PPRB’s Regulations.

Legal and contractual remedies, to include debarment and suspensions, shall be conducted in accordance with state law and PPRB regulations, as applicable.

The determinations required by PPRB regulations are final and conclusive unless they are clearly erroneous, arbitrary, capricious, or contrary to law.

When, for any reason collusion or other anticompetitive practices are suspected among any bidders, offerors, or respondents a notice of the relevant facts shall be transmitted to the Attorney General.

The Department may contract with state agency/Institutions of Higher Learning (IHL) employees who have been classified under Fair Labor Standards Act (FLSA) as non-eligible (exempt) employees by their primary employer. These individuals will be required to produce proof of their FLSA classification from their primary employer prior to contract execution. It will be the responsibility of the awarding office to obtain the classification from the potential contractor and to maintain in the contract file. If there is a need to contract with an individual who has been classified for FLSA purposes as an eligible (non-exempt) state agency/IHL employee, the awarding office will be required to obtain approval from the State Superintendent of Education or designee on a case-by-case basis prior to contract execution.

Compensation for preparation time for trainers is discouraged; however, the allowance of such will be considered on an individual basis and shall be approved by the State Superintendent of Education or designee. Prep time shall be specifically identified in the contract and the awarding office is responsible for ensuring its proper use.

CONTRACT PACKAGE

The requesting office should evaluate the available resources within the Department before determining whether or not to contract for services. If staff is available to perform the task then

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the requesting office should seek the services internally. However, if the service cannot be performed by department staff, then steps shall be taken to procure the services with a contract.

The Internal Revenue Service (IRS) has established rules and regulations concerning the classification of contractual workers. IRS classification of contractual personnel shall be determined by completing the Independent Contractor versus Contract Worker Checklist. Following the determination of the contractor's classification, the appropriate contract package should be prepared and submitted to Procurement for review and approval. All forms necessary for the completion of the contract package can be found on the Procurement website.

The required standard terms and conditions are included in the contract templates. No clauses should be added, deleted or altered without the prior approval of the Director of Procurement or Legal.

If federal funds are utilized, complete the Catalog of Federal Domestic Assistance (CFDA) Number, Title of Federal Program, and Federal Award Number sections of the template.

#### Independent Contractor

The following items should be submitted as part of the contract package:

1. Contract Justification – Independent Contractor
2. If IFB, RFP, RFQ, or Written Quotations process was used to select contractor attach:
3. Contract
4. MDE Request for Quote Form – Written Quotations
5. Requisition with supplier number, completed and signed
6. Board item, if required
7. Form W-9, completed by independent contractor
8. Vendor registered in MAGIC
9. Certification of PERS Service Retirement Form
10. Debarment Verification Form
11. Mississippi Secretary of State Registration Verification
12. Employee vs. Independent Contractor Determination Questionnaire – Complete this form if independent contractor is a PERS retiree. This will delay the approval process as the form is submitted to PERS for their determination of the retiree's status.
13. Certification of School District – Complete this form if independent contractor is a school district or public entity employee.

#### Independent Contractor Modification

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Modifications shall not grant extra compensation, fee, or allowance to any contractor after service is rendered or contract is made, unless contemplated within the contract itself or unless the scope of services is increased. The extension of a contract is considered a modification wherein the specified contractual services have not been completed by the end date stipulated in the original terms of the contract. Modification cannot be made to expired contracts.

The following items should be submitted as part of the contract package:

1. Contract Justification – Independent Contractor Modification/Renewal
2. Requisition with supplier number, completed with the amount of increase/decrease and signed
3. Contract Modification Signature Page and Budget Summary Page with the revised contract amounts included
4. Board item, if required
5. Employee vs. Independent Contractor Determination Questionnaire - Complete this form if independent contractor is a PERS retiree. This will delay the approval process as the form is submitted to PERS for their determination of the retiree's status.

#### Contract Worker

The following items should be submitted as part of the procurement contract package:

1. Contract Justification – Contract Worker
2. Contract
3. HR signed Background Acknowledgement and Authorization to Release Information
4. Board item, if required

Documents required for processing in HR:

1. Background Acknowledgement and Authorization to Release Information
2. Certification of School District - Complete this form if contract worker is a school district or public entity employee. Travel Guidelines, if travel is included in the contract
3. Form W-4, completed by contract worker
4. State Withholding Form
5. Certification of PERS Service Retirement Form
6. PERS Form 4B, complete if contractor worker is a retiree

\* If the Form I-9 is required, it should not be submitted to Procurement until the awarding office has been notified of approval to obtain signatures from contractor. Upon signature from



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contractor, awarding office should obtain identification documents as outlined in the Form I-9 and submit to Procurement for final signature and execution of contract.

A new I-9 is required if a break in service occurs. A break in service is defined as a contract expiring without a new contract executed by the end date of the current contract.

### Contract Worker Modification

Modifications shall not grant extra compensation, fee, or allowance to any contractor after service is rendered or contract is made, unless contemplated within the contract itself or unless the scope of services is increased. The extension of a contract is considered a modification wherein the specified contractual services have not been completed by the end date stipulated in the original terms of the contract. Modification cannot be made to expired contracts.

The following items should be submitted as part of the contract package:

1. Contract Justification – Contract Worker Modification/Renewal
2. Contract Modification Signature Page and Contract Budget Summary with the revised contract amounts included
3. Board item, if required

Procurement is responsible for reviewing the contract package and determining compliance with Board and PPRB policies and procedures.

Once the contract packet is approved by Procurement, the requesting office will be sent the approved contract justification by email and notified to obtain final signatures on one (1) original contract. The contract shall be signed by the Contractor, Chief Officer or State Superintendent, and the Director of Procurement. The contract is not valid until it is signed by all parties. If required, a Form I-9 for contract workers, along with copies of required identification, should be submitted at this time for E-Verify purposes. Once the contract is signed and approved in the Statewide Payroll and Human Resource System (SPAHRs), Procurement will send the contract worker packet to the Accounting Office for payment processing. A scanned copy of the signed contract will be returned to the awarding office. The awarding office shall maintain one copy of the contract for their files and a copy should be given to the contractor. For independent contracts, the awarding office shall submit a requisition and supporting document to the purchasing office for processing of a purchase order.

### PAYMENTS – Accounting

Each contract, irrespective of how the contract was procured, should identify the following terms and conditions relating to payments for services:

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- Payment schedule and invoicing
- Terms
- Retainage (if applicable)
- Final payment
- Penalties (if applicable)
- MAGIC contract number

The contract shall indicate the schedule on which the independent contractor is to invoice the Department (monthly, quarterly, upon completion of work, etc.) and what form the invoice should take (line-item or lump-sum). Also, the type of documentation necessary for approval of the invoice

(invoices from third parties, time sheets, etc. or perhaps the level of completion of the project) shall be made part of the contract. At no time should the contractor simply invoice the Department without a basis for the payment to be remitted. Invoices shall include detailed description of services rendered during the period for which the independent contractor is requesting payment. Generally, independent contractors receive payment upon completion of the work specified in the contract.

The contract should provide for terms of payment by the Department (net 45 days, etc.). A penalty clause for late receipt of deliverables could be included and the terms for the final payment may stipulate the Department shall approve the finished product.

Furthermore, the contract should indicate if any retainage is applicable. If so, a percentage or firm dollar amount should be indicated. Each invoice should indicate the gross amount of the invoice, then a line item with retainage that would be deducted to arrive at the amount to be paid. The retainage would be held until the Department has possession of the finished product and the contractor submits an invoice for the final amount.

In lieu of, or in addition to retainage, the contract could place certain criteria on the final payment. These criteria could deal with prompt delivery of the product, the adequacy of the product, etc. An invoice should accompany the delivery of the finished product. This invoice shall be marked "Final" by the contractor.

Contract worker payments will be made on a bi-weekly delayed payment schedule. Invoices shall be received two (2) business days after the end of each two-week period. Invoices shall include detailed description of services rendered during each day for which the contractor is requesting payment. Independent contractor payments are made in accordance with the terms of the contract. Invoices shall include a detailed description of services rendered during the period for which the contractor is requesting payment.

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Finally, the contract may need to include penalty clauses for breach and/or anticipatory break of contract. A definition of each of these terms and criteria for determining each should be included in the contract. Either could occur through actions of the contractor or inaction of the contractor, based on completion points.

A copy of all payment records will be maintained in the Accounting's contract file. The awarding office shall maintain up-to-date records of all disbursements made under contracts in each office.

### CORRESPONDENCE

A copy of any correspondence relative to the contract shall be retained in the awarding office's contract file. The contract number should be indicated on all correspondence.

### CONTRACT CLOSEOUT PROCESS

The closeout process is to be an accounting by the contractor to the Department. The awarding office shall utilize the closeout process to ensure that the Department has received the goods and services identified in the contract prior to the payment of the final invoice.

If the contract has been a line-item budget, the closeout would encompass verification that the budget has not been exceeded by line-item and/or in total. The closeout would also include verification that the required documentation is on file for all payments and that reimbursement has not or will not be made to the contractor for costs that are unallowable.

After the closeout has been accomplished, an approved invoice marked final will be transmitted to Accounting for payment. Instructions to the Purchasing Office to de-obligate any remaining balance on the contract shall be forwarded to the Office of Procurement. The final invoice shall be transmitted to accounting as quickly as possible. However, it shall be submitted within 30 days after the end of the contract.

### CONTRACT ADMINISTRATION

All contracts shall be monitored by the awarding office at least monthly to confirm acceptable performance, timely fulfillment of deliverables and compliance with terms of the agreement. Monitoring shall include, but not be limited to:

- Review and approval of contract deliverables
- Compliance with contractual terms
- Coordination of the flow of information between the parties
- Response to requests of the contractor

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- Monitoring of disbursements against the contract budget
- Monitoring of actual progress against work schedules.
- Coordination of furnishing the necessary materials
- Recommendation of no cost modifications
- Recommendation of modifications involving increased costs
- De-obligating funds by year-end-close out
- Contract Worker Performance Review

For contract worker contracts, a performance review should be done biannually by the awarding office. The Contract Worker Performance Review Form can be located on the Procurement website. More information relative to contract worker contracts may be found in our MDE website.

#### E-VERIFY

Pursuant to the Mississippi Employment Protection Act, all Mississippi employers are required to register with and use the federal government’s E-Verify System to determine that individuals hired as employees are legal citizens or legally authorized to work in the United States.

#### TRANSPARENCY

Pursuant to the Mississippi Accountability and Transparency Act of 2008, (§ 27-104-3, Mississippi Code of 1972, as amended), DFA is required to post to a website electronic data and redacted copies of contracts for each grant, contract, or subcontract executed on or after July 1, 2008.

Disclosure of trade secrets or other proprietary information, including confidential vendor information, or any other information which is required confidential by state or federal law or outside the applicable freedom of information statutes is not required. Information for the website is furnished by state agencies.

#### ETHICS IN PUBLIC CONTRACTING FOR PERSONAL AND PROFESSIONAL SERVICES

Public employment is a public trust. It is the policy of the State of Mississippi to promote and balance the objective of protecting government integrity and the objective of facilitating the recruitment and retention of personnel needed by the State. Such policy is implemented by prescribing essential standards of ethical conduct without creating unnecessary obstacles to entering public service. Public employees shall discharge their duties impartially so as to assure fair competitive access to governmental procurement by responsible contractors. Moreover, they should conduct themselves in such a manner as to foster public confidence in the integrity of the State procurement organization. To achieve this, Department employees shall observe the ethical

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standards prescribed herein:

Any attempt to realize personal gain through public employment by conduct inconsistent with the proper discharge of the employee's duties is a breach of public trust.

Any effort to influence any public employee or contractor with the State, to breach the standards of ethical conduct is also a breach of ethical standards.

It shall be a breach of ethical standards for any employee to participate directly or indirectly in procurement when the employee knows that:

- The employee or any member of the employee's immediate family has a financial interest pertaining to the procurement.
- A business or organization in which the employee, or any member of the employee's immediate family, has a financial interest pertaining to the procurement.
- Any other person, business, or organization with which the employee or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.

The Department discourages any contracts with a relative of an employee. However, in situations where there is no potential of a conflict of interest and the need is justified for such a contract, approval by the State Superintendent of Education, or designee, is required. The awarding office is responsible for determining whether such a relationship exists with an employee.

It shall be a breach of this regulation for any person to offer, give, or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request. It shall further be a break for any person to influence the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or proposal, therefore.

It shall be a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a State contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, unless such an arrangement is fully disclosed in writing. Every person, before being awarded a State contract, shall represent, in writing, that such person has not retained anyone in violation of the above contingent fee section. Failure to do so constitutes a breach of ethical standards.

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Except as may be permitted by regulations or rulings of the Mississippi Ethics Commission, it shall be a breach of ethical standards for any employee who is participating directly or indirectly in the procurement process to become or be, while such an employee, the employee of any person contracting with the governmental body by whom the employee is employed. Additionally, § 25-4-105(3)(a), Mississippi Code of 1972, Annotated, states that “no public servant shall be a contractor, subcontractor or vendor with the governmental entity of which he/she is a member, officer, employee or agent, other than in his contract of employment; or have a material financial interest in any business which is a contractor, subcontractor or vendor with the governmental entity of which he/she is a member, officer, employee or agent.”

It shall be a breach of ethical standards for any former employee knowingly to act as a principal, or as an agent for anyone other than the State, in connection with any contract in which the employee participated personally and substantially while an employee, where the state is a part or has a direct and substantial interest.

It shall be a breach of ethical standard for any former employee, within one year after cessation of the former employee’s official responsibility, knowingly to act as a principal, or agent for anyone other than the State, in connection with any contract in matters which were within the former employee’s official responsibility, where the State is a party or has a direct or substantial interest.

It shall be a breach of ethical standards for a business in which an employee has a financial interest knowingly to act as a principal, or as an agent for anyone other than the State, in connection with any contract in which the employee either participates personally and substantially, or which is the subject of the employee’s official responsibility, where the State is a party or has a direct and substantial interest.

Department employees shall comply with § 25-4-105, Mississippi Code of 1972, Annotated, which states, “No public servant shall use his official position to obtain pecuniary benefit for himself other than that compensation provided for by law, or to obtain pecuniary benefit for any relative or any business with which he is associated.”

It shall be a breach of ethical standards for any employee or former employee knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person.

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## ATTACHMENT A

### INVITATION FOR BIDS Procedures

Visit the Procurement website to obtain the appropriate checklist that will include forms and templates needed to create the RFP or RFQ. Submitting a request to procurement shall contain the following:

- Submission Form
- Tentative Timeline
- Draft IFB
- Draft Contract
- Letter for Advertisement

#### PUBLIC NOTICE

Adequate public notice (advertisement) of the IFB shall be ascertained.

#### PRE-PROPOSAL CONFERENCES

Pre-proposal conferences may be conducted and any such conference should be held prior to submission of initial proposals

#### PROPOSAL PREPARATION TIME

Proposal preparation time shall be set to provide offerors a reasonable time to prepare their proposals.

#### FORM OF PROPOSAL

The manner in which the IFB is to be submitted, including any forms to be used, shall be included as part of the IFB.

#### CONTENT OF THE REQUEST FOR PROPOSAL

- ✓ Instructions and information to bidders concerning the bid submission requirements, including the time and date set for receipt of bids, the address of the office to which bids are to be delivered,
- ✓ the maximum time for bid acceptance by the State,

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- ✓ reverse auctions instructions and any other special information.

#### SPECIFICATIONS

- ✓ purchase description,
- ✓ delivery or performance schedule, and such inspection and acceptance requirements as are not included in the purchase description; and,
- ✓ contract terms and conditions, including warranty and bonding or other security requirements, as applicable.

#### PRE-BID CONFERENCE

If provided in the Invitation for Bids and as set forth in these regulations, discussions may be conducted with offerors. The discussions shall be for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Recording of the pre-conference must be included in the required amendment.

#### DETERMINATIONS REQUIRED

When an IFB is modified or withdrawn, or a bid is corrected, withdrawn, or the correction or withdrawal is denied, a written determination shall be prepared and maintained in the agency procurement file showing that relief was granted or denied in accordance with these regulations.

#### AWARD (Authorization needed from the Office of Procurement)

Award shall be made to the responsible offeror whose bid is determined in writing to be the most advantageous to the State taking into consideration price and specifications set forth in the IFB. No other factors shall be used.

Awarding office shall prepare written notices of award to all bidders and copies of such notices shall be maintained in the file and copies submitted to the Office of Procurement.



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## ATTACHMENT B

### REQUEST FOR PROPOSALS or QUALIFICATIONS Procedures

#### COMPETITIVE SEALED PROPOSALS or QUALIFICATIONS (Over \$75,000)

Visit the Procurement website to obtain the appropriate checklist that will include forms and templates needed to create the RFP or RFQ. Submitting a request to procurement shall contain the following:

- Submission Form
- Petition for Relief from Bidding as a Procurement Method Form
- Tentative Timeline
- Draft RFP or RFQ
- Facilitator Agreement

#### PUBLIC NOTICE

30 days is adequate public notice (advertisement) of the RFP or RFQ.

#### PRE-PROPOSAL CONFERENCES

Pre-proposal conferences may be conducted and any such conference should be held prior to submission of initial proposals. Recording of the pre-conference must be included in the required amendment.

#### PROPOSAL PREPARATION TIME

Proposal preparation time shall be set to provide offerors a reasonable time to prepare their proposals.

#### FORM OF PROPOSAL

The manner in which proposals are to be submitted, including any forms to be used, shall be included as part of the Request for Proposal or Qualifications.

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### CONTENT OF THE REQUEST FOR PROPOSAL

- Statement that discussions may be conducted with offerors who submit proposals determined to be reasonably susceptible of being selected for award, but that proposals may be accepted without such discussions;
- A statement of when and how price should be submitted; and

At least the following information:

- Type of services required;
- A description of the work involved;
- An estimate of when and for how long the services will be required;
- The type of contract to be used;
- A date by which proposals for the performance of the services shall be submitted;
- A statement that the proposals shall be in writing;
- A statement that offerors may designate those portions of the proposals which contain trade secrets or other proprietary data which may remain confidential
- A statement of minimum information that the proposal shall contain, including:
- The name of the offeror, the location of the offeror's principal place of business and, if different, the place of performance of the proposed contract;
- The age of the offeror's business and average number of employees over a previous period of time, as specified in the Request for Proposal;
- The abilities, qualifications, and experience of all persons who would be assigned to provide the required services;
- A listing of other contracts under which services similar in scope, size, or discipline to the required services were performed or undertaken within a previous period of time, as specified in the Request for Proposal; and,
- A plan giving as much details as is practical explaining how the services will be performed.
- The factors to be used in the evaluation and selection process and their relative importance.

### EVALUATION COMMITTEE

The committee should be majority external members comprised of a minimum of five (5) individuals. The same committee shall evaluate and interview all proposals and SOQs.

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## EVALUATION FACTORS

### Technical factors (Proposed methodology)

- Does the offeror's proposal or qualification demonstrate a clear understanding of the scope of work and related objectives?
- Is the offeror's proposal or qualification complete and responsive to the specific RFP or RFQ requirements?
- Has the past performance of the offeror's proposed methodology been documented?
- Does the offeror's proposal or qualification use innovative technology and techniques?

### Cost factors (Factors shall be submitted separately from other factors unless specifically approved by the Public Procurement Review Board):

- Cost of goods to be provided or services to be performed:
  - Relative cost: How does the cost compare to other similarly scored proposals or qualifications?
  - Full explanation: Is the price and its component charges, fees, etc. adequately explained or documented?
- Assurances of performance:
  - If required, are suitable bonds, warranties or guarantees provided?
  - Does the proposal or qualification include quality control and assurance programs?
- Offeror's financial stability and strength: Does the offeror have sufficient financial resources to meet its obligations?

### Management factors (Factors that will require the identity of the offeror to be revealed shall be submitted separately from other factors):

- Project management:
  - How well does the proposed scheduling timeline meet the needs of the soliciting agency?
  - Is there a project management plan?
- History and experience in performing the work:
  - Does the offeror document a record of reliability of timely delivery and on-time and on-budget implementation?
  - Does the offeror demonstrate a track record of service as evidenced by on-time, on-budget, and contract compliance performance?
  - Does the offeror document industry or program experience?
  - Does the offeror have a record of poor business ethics?

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- Availability of personnel, facilities, equipment and other resources:
  - To what extent does the offeror rely on in-house resources vs. contracted resources?
  - Is the availability of in-house and contract resources documented?
- Qualification and experience of personnel:
  - Documentation of experience in performing similar work by employees and when appropriate, sub-contractors?
  - Does the offeror demonstrate cultural sensitivity in hiring and training staff?

The RFP or RFQ shall state the relative importance of price and other evaluation factors in terms weighted criterions. The evaluation shall be based on the evaluation factors set forth in the RFP or RFQ. Factors not specified in the RFP or RFQ shall not be considered.

The following factors shall be listed and shall be considered in conducting the evaluation. The relative importance of these and other factors will vary according to the type of services being procured.

The 5 minimum factors are:

- (1) the technical plan for performing the required services;
- (2) ability to perform the services as reflected by technical training and education, general experience, specific experience in providing the required services, and the qualifications and abilities of personnel proposed to be assigned to perform the services;
- (3) the personnel, equipment, and facilities to perform the services currently available or demonstrated to be made available at the time of contracting;
- (4) a record of past performance of similar work; and,
- (5) Cost Data. – shall be highest weighted points

#### Evaluation Scoring

Evaluations shall be performed using a standard, 100-point scoring scale.

*Example* of weighted score criteria:

- Proposed Plan – 30 points (30%)
- Ability to Perform Services – 10 points (10%)
- Personnel, Equipment, and Facilities – 15 points (15%)
- Price Proposal – 35 points (35%)
- Record of Past Performance – 10 points (10%)
- Total Score = 100 points (100%)

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DISCUSSIONS WITH RESPONSIBLE OFFERORS AND REVISIONS TO PROPOSAL

If provided in the Request for Proposals or Qualifications and as set forth in these regulations, discussions may be conducted with responsible offerors who submit proposals or SOQs determined to be reasonably susceptible to being selected for award. The discussions shall be for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. In conducting discussions, agencies should be cautious to not disclose information derived from competing offers. Offerors should be accorded fair and equal treatment with respect to any opportunity for discussion. Revision of proposals may be permitted after submissions and prior to award for the purpose of obtaining best and final offers.

DETERMINATIONS REQUIRED

When an RFP or RFQ is modified or withdrawn, or a proposal is corrected, withdrawn, or the correction or withdrawal is denied, a written determination shall be prepared and maintained in the agency procurement file showing that relief was granted or denied in accordance with these regulations.

AWARD (Authorization needed from the Office of Procurement)

Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the State taking into consideration price and the evaluation factors set forth in the Request for Proposals. No other factors or criteria shall be used in the evaluation.

Written notice of award shall be sent to all offerors and copies of such notices shall be maintained in the file and copies submitted to the Office of Procurement.

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## ATTACHMENT C

### REQUEST FOR PROPOSALS or QUALIFICATIONS Procedures

#### COMPETITIVE SEALED PROPOSALS or QUALIFICATIONS (Less Than \$75,000)

Visit the [Procurement website](#) to obtain the appropriate checklist that will include forms and templates needed to create the RFP or RFQ. Submitting a request to procurement shall contain the following:

- Submission Form
- Tentative Timeline
- Draft RFP or RFQ
- Facilitator Agreement

#### PUBLIC NOTICE

Adequate public notice (advertisement) of the RFP or RFQ shall be ascertained.

#### PRE-PROPOSAL CONFERENCES

Pre-proposal conferences may be conducted and any such conference should be held prior to submission of initial proposals

#### PROPOSAL PREPARATION TIME

Proposal preparation time shall be set to provide offerors a reasonable time to prepare their proposals. Recording of the pre-conference must be included in the required amendment.

#### FORM OF PROPOSAL

The manner in which proposals are to be submitted, including any forms to be used, shall be included as part of the Request for Proposal or Qualifications.

#### CONTENT OF THE REQUEST FOR PROPOSAL

- Statement that discussions may be conducted with offerors who submit proposals determined to be reasonably susceptible of being selected for award, but that proposals may be accepted without such discussions;

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- A statement of when and how price should be submitted; and

At least the following information:

- Type of services required;
- A description of the work involved;
- An estimate of when and for how long the services will be required;
- The type of contract to be used;
- A date by which proposals for the performance of the services shall be submitted;
- A statement that the proposals shall be in writing;
- A statement that offerors may designate those portions of the proposals which contain trade secrets or other proprietary data which may remain confidential
- A statement of minimum information that the proposal shall contain, including:
  - The name of the offeror, the location of the offeror's principal place of business and, if different, the place of performance of the proposed contract;
  - The age of the offeror's business and average number of employees over a previous period of time, as specified in the Request for Proposal;
  - The abilities, qualifications, and experience of all persons who would be assigned to provide the required services;
  - A listing of other contracts under which services similar in scope, size, or discipline to the required services were performed or undertaken within a previous period of time, as specified in the Request for Proposal; and,
  - A plan giving as much details as is practical explaining how the services will be performed.
- The factors to be used in the evaluation and selection process and their relative importance.

#### EVALUATION COMMITTEE

The committee should be majority external members comprised of a minimum of five (5) individuals. The same committee shall evaluate and interview all proposals and SOQs.

#### CONDUCTING AN INTERVIEW

A Procurement Officer along with an office designee shall be invited to keep a record of the date, place, attendees, and a summary of the discussions of any such meeting and make it part of the procurement file.

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### EVALUATION FACTORS

The RFP or RFQ shall state the relative importance of price and other evaluation factors in terms weighted criteria. The evaluation shall be based on the evaluation factors set forth in the RFP or RFQ. Factors not specified in the RFP or RFQ shall not be considered.

The following factors shall be listed and shall be considered in conducting the evaluation. The relative importance of these and other factors will vary according to the type of services being procured.

The 5 minimum factors are:

- (1) the plan for performing the required services;
- (2) ability to perform the services as reflected by technical training and education, general experience, specific experience in providing the required services, and the qualifications and abilities of personnel proposed to be assigned to perform the services;
- (3) the personnel, equipment, and facilities to perform the services currently available or demonstrated to be made available at the time of contracting;
- (4) a record of past performance of similar work; and,
- (5) price – shall be highest weighted points, minimum of 35.

### Evaluation Scoring

Evaluations shall be performed using a standard, 100-point scoring scale.

*Example of weighted score criteria:*

- Proposed Plan – 20 points (30%)
- Ability to Perform Services – 20 points (20%)
- Personnel, Equipment, and Facilities – 15 points (15%)
- Price Proposal – 35 points (35%)
- Record of Past Performance – 10 points (10%)
- Total Score = 100 points (100%)

### DISCUSSIONS WITH RESPONSIBLE OFFERORS AND REVISIONS TO PROPOSAL

If provided in the Request for Proposals or Qualifications and as set forth in these regulations, discussions may be conducted with responsible offerors who submit proposals or SOQs determined to be reasonably susceptible to being selected for award. The discussions shall be for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. In conducting discussions, agencies should be cautious to not disclose information



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derived from competing offers. Offerors should be accorded fair and equal treatment with respect to any opportunity for discussion. Revision of proposals may be permitted after submissions and prior to award for the purpose of obtaining best and final offers.

DETERMINATIONS REQUIRED

When an RFP or RFQ is modified or withdrawn, or a proposal is corrected, withdrawn, or the correction or withdrawal is denied, a written determination shall be prepared and maintained in the agency procurement file showing that relief was granted or denied in accordance with these regulations.

AWARD (Authorization needed from the Office of Procurement)

Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the State taking into consideration price and the evaluation factors set forth in the Request for Proposals. No other factors or criteria shall be used in the evaluation.

Written notice of award shall be sent to all offerors and copies of such notices shall be maintained in the file and copies submitted to the Office of Procurement.

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## ATTACHMENT D

### REQUEST FOR APPLICATIONS (RFA) Procedures

#### COMPETITIVE APPLICATIONS

Visit the Procurement website to obtain the RFA checklist that will include forms and templates needed to create the RFA packets. Submitting packets to procurement shall contain the following:

- Submission Form
- RFA Tentative Timeline
- RFA
- Contractor Rate of Pay Form
- Facilitator Agreement

#### DETERMINATION OF PRICE

The rate of pay-per-hour shall be computed according to the Contract Worker Rate of Pay Determination Form as provided by the Office of Procurement. Supporting documentation to support the rate of pay shall be provided to the Office of Procurement as the determination may be used by one of the following comparative methods:

- Comparable position on the Mississippi State Personnel Board's website as demonstrated through the characteristics and examples of work outlined in the job description;
- Obtain salary data from MSIS for school personnel, i.e., superintendents, teachers, administrators, federal program directors, counselors; and,
- Obtain salary data from private industry performing comparable services.

#### CONTENT OF THE REQUEST FOR APPLICATIONS (RFA)

The RFA shall include, but is not limited to, the following information:

- Job Duties;
- Minimum Qualifications;
- Rate of pay per hour and maximum number of hours for the contract period;
- Selection process; and,
- Instructions for applying.

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PUBLIC NOTICE

Adequate public notice (advertisement) of the RFA

EVALUATION OF STATEMENTS OF QUALIFICATIONS

Selection criteria will be performed using a standard, 100 point scoring scale as follows:

- Special Experience points
- General Experience points
- Education points
- Certification/Licensure points
- Interviews points

EVALUATION COMMITTEE

The committee should be majority external members comprised of a minimum of five (5) individuals. The same person or committee shall evaluate and interview all applications.

INTERVIEWS WITH INDIVIDUAL RESPONDENTS

Interviews may only be held with the applicant whose RFA packets are classified as acceptable. The purpose of interviews is to determine in greater detail each respondent's qualifications.

CONDUCTING AN INTERVIEW

A Procurement Officer along with an office designee shall be invited to keep a record of the date, place, attendees, and a summary of the discussions of any such meeting and make it part of the procurement file.

AWARD

Award shall be made to the highest ranked applicant, or applicants, if multiple contracts are required based upon the needs of the agency.

Written notice of award shall be sent to all respondents and copies of such notices shall be maintained in the file. Notice of award shall be made available to the Office of Procurement and shall describe how the personal or professional services contract was awarded, renewed, or amended.