

REQUEST FOR PROPOSAL



State Board of Education

Strategic Planning and Performance Scorecard

RFX No. 3120003030

Submission Deadline Date: December 27, 2024

Table of Contents

SECTION 1. INTRODUCTION AND OVERVIEW	5
1.1 Purpose and Goals.....	5
SECTION 2. PLAN TO ACHIEVE THE SCOPE OF SERVICES	5
2.1 Scope of Services	5
2.2 Contractor Prerequisites.....	7
2.3 Deliverables	8
2.4 Price.....	8
SECTION 3. REQUEST FOR RECONSIDERATION.....	8
3.1 Agency Decision on Request for Reconsideration	9
SECTION 4. REFERENCES	9
SECTION 5. MINIMUM QUALIFICATIONS	9
5.1 Questions and Answers.....	10
5.2 Acknowledgment of Amendments	10
5.3 Cost of Proposal Preparation.....	11
5.4 Right to Reject, Cancel and/or Issue Another Solicitation.....	11
5.5 Contract and Property Rights.....	11
5.6 Registration with Mississippi Secretary of State.....	11
5.7 Debarment	11
5.8 State Approval	11
SECTION 6. PROCUREMENT OF CONTRACTS.....	11
6.1 Restrictions on Communications with the MDE Staff.....	11
6.2 Submission Requirements	12
6.3 Confidential or Trade Secret.....	13
6.4 Proposal Submission Period.....	14
6.5 Proposal Exclusion.....	15

6.6	Important Tentative Dates.....	15
6.7	Acceptance of Proposals.....	15
6.8	Disposition of Proposal.....	15
6.9	Modification or Withdrawal of a Proposal	15
6.10	Rejection of Proposals.....	16
6.11	Corrections and Clarifications.....	16
6.12	Proposal Evaluation	16
	SECTION 7. PUBLIC RECORDS.....	18
7.1	Deadlines for Production of Public Records Tolled	18
7.2	Delay of Procurement Process Not Required	18
7.3	Efficient Administration of Agency Obligations.....	18
	SECTION 8. CONTRACT AWARD	18
8.1	Right of Negotiation.....	19
8.2	The Mississippi Department of Education	19
8.3	Management Responsibilities of Personnel and Administration	19
8.4	Memorandum of Understanding.....	19
8.5	Ethics.....	19
8.6	Termination in Event of Employment	19
	Appendix A – Proposal Cover Sheet	20
	This Page Intentionally Left Blank	21
	Appendix B – Standard Terms and Conditions	22
	Appendix C - References	34
	Appendix D - REFERENCE SCORE SHEET.....	35
	Appendix E – ACKNOWLEDGEMENT OF AMENDMENT.....	36
	Appendix G – RELEASE OF PROPOSAL AS PUBLIC RECORD	38
	Appendix H – CONTRACTS.....	39
	Appendix I – COST DATA/BUDGET	41

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SECTION 1. INTRODUCTION AND OVERVIEW

1.1 Purpose and Goals

The Mississippi Department of Education (MDE) Office of the State Superintendent issues this Request for Proposal to solicit offers from qualified, experienced, and responsible sound Offerors to develop a comprehensive strategic plan and performance scorecard for the MS State Board of Education. Proposing vendors must have the proven ability to perform all core services requested in this solicitation. A more detailed listing of services is contained in the **Scope of Services (2.1)**.

The objective of this solicitation is to establish a clear roadmap that aligns with the mission, goals and evolving priorities, while providing measurable indicators to track progress and ensure accountability.

The State Board of Education approved the last major update to its strategic plan in November 2018. Since that time, the plan has been refined with updated strategies in November 2019, and revised outcomes in September 2021. As the education landscape evolves, the current and future challenges must be considered and addressed to ensure that the strategic plan remains relevant.

All contract awards are at the discretion of the State Board of Education (SBE). The contract will be awarded for a one-year term. Each year of the contract will be reviewed to ensure services will be continued annually and shall be contingent upon successful completion of the services in the preceding year's contract, availability of funding and a performance-based evaluation. This solicitation and any resulting contract(s) shall be governed by the applicable provisions of *the State Board of Education Contract Policies* and if required, *the Mississippi Public Procurement Review Board (PPRB), Office of Personal Service Contract Review (OPSCR) Rules and Regulations*, a copy of which is available at 501 N. West Street, Jackson, Mississippi 39201 for inspection or visit [PPRB/OPSCR Rules and Regulations](#). The contract Standard Terms and Conditions (STC) has been included as Appendix B for your review and acceptance. If the Vendor objects to any of the Standard Terms and Conditions, the objection may be considered as an adequate cause for rejection without further negotiations.

A copy of this solicitation, including all appendices and any subsequent amendments, including the Question and Answer amendment, if issued, will be posted on the MDE [website](#) under "Public Notice" Request for Applications, Qualifications, and Proposals section. It is the sole responsibility of all interested vendors to monitor the website for updates regarding this procurement.

SECTION 2. PLAN TO ACHIEVE THE SCOPE OF SERVICES

2.1 Scope of Services

The scope of services outlines the activities and deliverables required for developing a comprehensive strategic plan and performance scorecard for the organization. The objective is to create a dynamic, forward-looking plan that aligns with the organization's mission and addresses current and future educational challenges.

The contractor should submit a detailed plan with a 2- phase approach that contemplates a one-year engagement to accomplish the work outlined below. The response should include a timeline of the work and deliverables to be completed in each year.

1. Project Initiation and Planning

- **Kick-off Meeting:** Conduct a project initiation meeting with key SBE and Board Designees clarify objectives, timelines, and roles.
- **Project Work Plan:** Develop a detailed project work plan that outlines milestones, timelines, deliverables, and communication protocols.
- **Stakeholder Identification:** Identify and document key stakeholders (internal and external) to ensure broad engagement and input throughout the process.

2. Environmental Scan and Data Collection

- **Review of Existing Documentation:** Analyze current strategic plans, performance data, and any other relevant documents to understand the organization's context.
- **SWOT Analysis (Strengths, Weaknesses, Opportunities, Threats):** Conduct an analysis to assess internal capabilities and external challenges.
- **Environmental Scan:** Perform a comprehensive scan of the current educational landscape, including trends, regulations, and technological advancements affecting the state of Mississippi.
- **Stakeholder Surveys/Interviews:** Collect input from key stakeholders (board members, educators, policymakers, students, and community members) through surveys, focus groups, or interviews.

3. Strategy Development

- **Mission and Vision Review:** Facilitate discussions with leadership to revisit or reaffirm the organization's mission, vision, and core values.
- **Goal Setting:** Establish long-term strategic goals based on collected data, stakeholder input, and the organization's vision.
- **Strategy Formulation:** Develop key strategies and initiatives that address identified needs and opportunities, including those related to educational outcomes, workforce readiness, and technology integration.

4. Performance Scorecard Development

- **KPI Identification:** Develop Key Performance Indicators (KPIs) for each strategic goal, ensuring they are measurable and aligned with the organization's mission.
- **Scorecard Design:** Create a performance scorecard that visually tracks progress toward strategic goals. The scorecard should include metrics, targets, timelines, and responsibilities for monitoring and reporting.
- **Data Collection Mechanisms:** Identify or create systems for ongoing data collection to measure the effectiveness of strategies and track KPIs.

5. Stakeholder Engagement and Workshops

- **Stakeholder Workshops:** Facilitate workshops with board members, educators, and community leaders to gather feedback on the draft strategic plan and performance scorecard.
- **Engagement Plan:** Develop a stakeholder engagement plan to ensure continued involvement throughout the process, from strategy formulation to final approval.
- **Feedback Incorporation:** Revise the strategic plan and scorecard based on stakeholder input and feedback received during workshops.

6. Drafting and Finalizing the Strategic Plan

- **Draft Strategic Plan:** Develop a detailed draft of the strategic plan that includes the mission, vision, strategic goals, key initiatives, and performance scorecard.
- **Review and Revision:** Present the draft to the leadership team for review and make necessary revisions based on feedback.
- **Final Strategic Plan:** Finalize the strategic plan, ensuring it is a clear, actionable document that includes timelines, responsible parties, and measures for ongoing evaluation.

7. Final Presentation and Handover

- **Presentation to the Board:** Present the final strategic plan and performance scorecard to the board for approval.
- **Documentation Handover:** Provide all final documents, including the strategic plan, performance scorecard, implementation roadmap, and monitoring plan, in both electronic and print formats.
- **Training Session:** Conduct a training session for staff on how to use and monitor the performance scorecard to ensure proper implementation.

8. Implementation and Monitoring Plan

- **Implementation Roadmap:** Develop a roadmap that outlines the steps needed to implement the strategic plan, including timelines, resources, and responsibilities.
- **Monitoring and Reporting Mechanism:** Create a process for regularly monitoring progress on the strategic plan and scorecard, including tools for tracking KPIs and reporting results to stakeholders.
- **Review and Adjustment Protocol:** Establish a protocol for reviewing and adjusting the strategic plan and performance scorecard as needed to respond to changing conditions or emerging challenges.

2.2 Contractor Prerequisites

To effectively implement and achieve the services required for updating the strategic plan and performance scorecard, the following are required. Staff with experience in managing similar strategic projects, with strong organizational and communication skills. Staff with a proven track record in strategic planning within the education sector. Staff skilled in data analysis. Staff with expertise in developing KPIs and performance tracking systems. Staff with strong communication skills with experience engaging diverse groups. Staff with excellent writing and editing skills, with experience drafting professional documents.

2.3 Deliverables

6 Months	<ul style="list-style-type: none"> • Project Work Plan • SWOT Analysis and Environmental Scan Report • Stakeholder Engagement Plan • Draft Strategic Plan and Performance Scorecard • Final Strategic Plan and Performance Scorecard • Final Presentation and Training by August 1
6 Months	<ul style="list-style-type: none"> • Implementation Roadmap • Monitoring and Reporting Protocols

2.4 Price

By submitting a proposal, the Offeror certifies that the price submitted was independently arrived at without collusion.

Because of the scope of this project, we believe it should be possible for different Offerors to arrive at vastly differing estimates of resources required. It is anticipated that this shall allow the Offeror to explain exactly what the State shall receive for this amount of funds and shall allow evaluators to determine the best proposals based upon the plan of action and the description of what the State shall receive in exchange for this amount. The highest score is assigned to the lowest cost proposed. All other Offerors score will be based upon a budget formula approved by the State.

SECTION 3. REQUEST FOR RECONSIDERATION

Any potential Offeror has an opportunity to request that the MDE reconsider the terms of the solicitation. Any such request shall be filed with the MDE’s Office of Procurement, attention Monique Corley, Director and the Director of OPSCR **within three business days following the date of the public notice**. It shall be the sole responsibility of the requesting vendor to ensure the request is timely received by all required parties. Failure to timely request reconsideration in compliance with this Section results in waiver of any claim regarding the terms of the solicitation.

The request shall contain the following:

- requesting vendor’s name, a single contact person and all contact information for the contact person
- the RFX number of the solicitation, and the date the proposal was issued
- the request shall identify which of these rules and regulations the requesting vendor believes to have been violated by the solicitation, as written
- the request may not be based on anything other than the solicitation document and these rules and regulations
- exhibits shall not be included with the request. Rather, the requesting vendor shall clearly identify the section(s) of the solicitation document at issue in its request
- the request shall not be supplemented

3.1 Agency Decision on Request for Reconsideration

The MDE shall consider whether the solicitation document, as written, contains the violation alleged by the requesting potential Offeror and issue a written response to the request. The Agency's discretion to make subjective decisions in response to a request for reconsideration is limited only by the requirement that such discretion be supported by a legitimate business reason and exercised in a manner that is fair to all potential bidders.

The MDE's decision shall be issued in a sufficient amount of time for the requesting Offeror to consider the MDE response in preparation of its proposal, even if this requires the proposal submission deadline to be amended. If the MDE decision is issued less than 14 days prior to the proposal submission deadline, the MDE shall make a written determination that the amount of time allotted between the issuance of the MDE decision, and the proposal submission deadline is reasonable under the circumstances.

SECTION 4. REFERENCES

The Program Office staff and the Office of Procurement must be able to contact two (2) trade references, if required, within five (5) business days of proposal opening to ensure the Offeror is responsible, if the MDE requires additional information. (See Appendix D)

1. List up to a minimum of three (3) clients, including government clients, for whom your company has performed services similar to those requested in this solicitation. The Offeror must provide sufficient client detail to demonstrate it has significant experience in working with programs similar to scope of this solicitation.

For each client, the list must specify:

- a. Client name, include contact person, title (director or administrator etc.), location address, e-mail address, and phone number;
- b. The type of work your company provided to the client; and
- c. Contract dates (beginning and end dates) your company provided services to the client.

SECTION 5. MINIMUM QUALIFICATIONS

The following minimum qualifications are mandatory. If, in the opinion of the MDE, the Offeror fails to prove that the proposing company meets any of these **minimum qualifications**, the proposal will be disqualified from further evaluation. It is the responsibility of the Offeror to submit a complete proposal on or before the submission deadline. Contractor must have at least 5 years' experience in strategic planning and performance management with other educational organizations. The contractor should provide information that demonstrates ability to engage and collaborate with a wide array of stakeholders. The ability to research and analyze data to determine trends and to establish a performance tracking system.

1. The Offeror must provide:
 - a. Evidence and proof that the vendor is in good standing with Mississippi Code Annotated § 79-4-15.01 regarding authorization to transact business in Mississippi.
 - b. The age of the Offeror's business and average number of employees for the past **five (5) years**,

- c. Offerors must list their principals, parent organizations, and subsidiary organizations in their proposal or qualification. Principals shall include founder, investors, owner, co-owners, CEO, Chief, etc.
 - d. The abilities, qualifications, and experiences of all persons who would be assigned to provide required services,
 - e. The required references as noted in Section 3 – References, and
 - f. The Offeror must provide a detailed plan describing how the scope of services will be planned, implemented, achieved, and the reports provided that will give the MDE the support and results required to verify services were accomplished and complete.
2. The Vendor shall provide all services directly related to this contract from an office(s) located in the United States. Indicate your agreement with this requirement and identify any locations outside the State of Mississippi in which you propose to provide the services described in this solicitation.
 3. Include in your responses the total number of years in business and the company's experience related to the scope of work.
 4. If federal funds are allocated for payment, Offeror must verify its business is not debarred.
 5. Awarded vendor must agree to secure a performance bond for 100% of the awarded annual contract amount. The original performance bond is due within ten (10) days of execution of the contract and prior to commencement of services. For multi-year awards, **a performance bond is due to the program office contact each year prior to the commencement of services.** The performance bond shall not be waived or negotiated.

5.1 Questions and Answers

Questions must be submitted to lewashington@mdek12.org and must be received no later than **Monday, December 23, 2024, by 2:00 PM CST**, to ensure a response by the MDE. Responses to questions will be posted to the MDE website at <https://www.mdek12.org/PN/RFP> under "Public Notice" Request for Applications, Qualifications, and Proposals section as an amendment to the solicitation on **Tuesday, December 24, 2024**. Questions received after **the deadline** will not be considered for a response. It is the Offeror's sole responsibility to regularly monitor the website for amendments and/or announcements concerning this solicitation.

5.2 Acknowledgment of Amendments

The MDE reserves the right to amend this solicitation at any time. Should an amendment to the solicitation be issued, it will be posted to the MDE website at <https://www.mdek12.org/PN/RFP> under "Public Notice" Request for Applications, Qualifications, and Proposals section. Offerors must acknowledge receipt of any amendment to the solicitation by signing and returning the amendment acknowledgment form. **The amendment acknowledgment form must be included in the proposal submission.** Please monitor the website or emails for amendments to the solicitation. The MDE responses to questions will be treated as amendments to the solicitation and will require acknowledgment. It is the Offeror's sole responsibility to monitor MDE website or emails for amendments to this solicitation.

5.3 Cost of Proposal Preparation

All costs incurred by the Offeror in preparing and delivering its proposal, making presentations, and any subsequent time and travel to meet with the MDE regarding its proposal shall be borne exclusively at the Offeror's expense.

5.4 Right to Reject, Cancel and/or Issue Another Solicitation

The MDE specifically reserves the right to reject in whole or in part for proposals received in response to the solicitation, cancel the solicitation in its entirety, or issue another solicitation when in the best interest of the MDE.

5.5 Contract and Property Rights

Contract rights do not vest in any party until a contract is legally executed. The MDE is under no obligation to award a contract following issuance of this solicitation.

Property rights do not inure to any offeror until such time as services have been provided under a legally executed contract. No party responding to this RFP has a legitimate claim of entitlement to be awarded a contract or to the provision of work thereunder. MDE is under no obligation to award a contract and may terminate a legally executed contract at any time.

5.6 Registration with Mississippi Secretary of State

By submitting a proposal, the Offeror certifies that it is registered to do business in the State of Mississippi as prescribed by Mississippi law and the Mississippi Secretary of State.

5.7 Debarment

By submitting a proposal, the Offeror certifies that it is not currently debarred from submitting proposals for contracts issued by any political subdivision or agency of the State of Mississippi or Federal Government and that it is not an agent of a person or entity that is currently debarred from submitting proposals for contracts issued by any political subdivision or agency of the State of Mississippi.

5.8 State Approval

It is understood that this contract may require approval by the SBE/PPRB. If required and if this contract is not approved, it is void and no payment shall be made hereunder. Every effort shall be made by the MDE to facilitate rapid approval and a start date consistent with the proposed schedule; however please note the schedule is tentative.

SECTION 6. PROCUREMENT OF CONTRACTS

6.1 Restrictions on Communications with the MDE Staff

At no time shall any Offeror or its personnel, contact or attempt to contact, any MDE staff regarding this solicitation except the contact specified in the Questions and Answers Section. **Should it be determined that any Offeror has attempted to communicate or has communicated with any MDE employee outside of the Office of the Superintendent**

regarding this solicitation, the MDE, at its discretion, may disqualify the Offeror from submitting a proposal in response to this SOLICITATION.

6.2 Submission Requirements

For proposals that are shipped/mailed, the proposal shall be submitted in one original notebook binder using the Required Format in the section below. For proposals that are submitted in the Mississippi Accountability Governmental Information Collaboration System (MAGIC), the proposal shall be submitted using the Required Format in the section below.

Each page of the proposal must be numbered. Multiple page attachments and samples should be numbered internally within each document and not necessarily numbered in the overall page number sequence of the entire proposal. The intent of this requirement is for the Offeror to submit all information in a manner that it is clearly referenced and easy to locate.

The Offeror shall provide the required format for shipping/ mailing responses as follows:

- a. An original hard copy of the proposal shall include all components and attachments required below. A USB shall include the original copy of the proposal. The searchable Microsoft Office® format, preferably in Word® or Portable Document Format (PDF®) shall be included in the side pocket of the original notebook in the format as indicated below.

Required Format:

The Offeror shall provide the following:

- a. one (1) original signed copy of the complete proposal including all attachments.

Section components must be clearly distinguished as follow:

1. COVER PAGE - Proposal Cover Sheet (Appendix A)

2. COMPONENT 1 – PLAN OF ACTION

- a. **Tab 1 – Production/Detailed Service Plan** shall provide clear and concise plan of action to encompass the minimum qualifications, implementation, deliverables, and expected outcomes/results to achieve the scope of work. Any required information that is omitted and not addressed in the minimum qualifications section will disqualify submission and will not be considered for an award.

3. COMPONENT 2 - ADMINISTRATION

- a. **Tab 2 – Resume(s) for Key Personnel** must include qualifications and experiences for all key personnel assigned to this project.
- b. **Tab 3 – References** must meet the requirements as set forth in the References section. (See Section 3)

4. COMPONENT 3 – PRICE

- a. **Tab 4 – Price/Budget**

5. COMPONENT 4 – OTHER

- a. **Tab 5** – Any additional relevant information (not to exceed five (5) pages).
- b. **Tab 6** – Signed Contingent Fee/Acknowledgement of Amendments, if applicable.

If you have additional information you would like to provide, include it as the **Component Section** of your proposal. Failure to provide all requested information and in the required format may result in disqualification of the Proposal. All requested information is considered important. The MDE has no obligation to locate or acknowledge any information in the proposal that is not presented under the appropriate outline and in the proper location according to the instructions herein.

Unsolicited modifications or additions to any portion of the procurement document may be a cause for rejection of the Proposal. The MDE reserves the right to decide, on a case-by-case basis, whether to reject a proposal with unsolicited modifications or additions as non-responsive. As a precondition to proposal acceptance, the MDE may request the Offeror to withdraw or modify those portions of the proposal deemed non-responsive that do not affect quality, quantity, price, or delivery of the service. The solicitation issued by the MDE is the official version and will supersede any conflicting solicitation language subsequently submitted in proposals.

6.3 Confidential or Trade Secret

If the proposal contains **confidential or trade secret, commercial, and financial information**, one (1) additional *confidential or trade electronic copy* of the complete proposal including all attachments shall be submitted in a searchable Microsoft Office® format, preferably in Word® or Portable Document Format (PDF).

The one (1) additional electronic copy shall be labeled “Redacted” CONFIDENTIAL Proposal and must be submitted with the response by the deadline date for submission. The Offeror shall identify and redact trade secret, commercial, and financial information which shall remain confidential throughout the original proposal or the **MDE shall consider the entire Proposal to be public record.** Per Mississippi Code Annotated §25-61-9(7), the type of service to be provided, the price to be paid and the term of the contract cannot be deemed confidential.

The **“Redacted” CONFIDENTIAL Proposal** shall be considered public record and immediately released, without notification to Offeror, pursuant to any request under the Mississippi Public Records Act, Miss. Code Ann. §25-61-1 *et seq.* and Miss. Code Ann. §79-23-1. **If a “Redacted” CONFIDENTIAL Proposal is not received, the original copy shall be used and released for any reason deemed necessary by the MDE, including but not limited to, submission to the PPRB, posting to the Transparency Mississippi website, releasing due to a Public Records Request, etc.**

The Offeror may be subject to exclusion if the MDE or the PPRB determines that redactions made by the Offeror were made in bad faith in order to prohibit public access to the portions of the proposal which are not subject to Mississippi Code Annotated §§ 25-61-9, 75-26-1 through 75-26-19, and/or 79-23-1.

All documentation submitted in response to this solicitation and any subsequent requests for information pertaining to this solicitation shall become the property of the MDE and will not be returned to the Offeror.

6.4 Proposal Submission Period

A signed proposal packet shall be submitted electronically via the [Mississippi Accountability Governmental Information Collaboration System \(MAGIC\)](#) no later than **Friday, December 27, 2024** by 2:00 PM Central Standard Time (CST). Proposals shall be submitted electronically in the Mississippi Accountability Governmental Information Collaboration System (MAGIC). Please visit and register at DFA: Mississippi Suppliers (Vendors) ([ms.gov](#)). If assistance is required, contact MASH help desk at 601-359-1343 at least 72 hours in advance of the due date for submission. Proposals received after the time designated in the solicitation shall be considered late and shall not be considered for award.

OR

Shipping instructions are provided below:

An original signed proposal packet **with number (5) copies** shall be shipped/mailed and received in a sealed envelope at the MDE no later than **Friday, December 27, 2024 by 2:00 PM Central Standard Time (CST)**.

The **return address label** must be visible on the **outside of the sealed shipping envelope** and shall include the name of the **individual/entity submitting the response**. Any deviation from these instructions may result in disqualification of the response proposal and shall not be considered for an award.

Ship To:

MONIQUE CORLEY
Office of Procurement
The Mississippi Department of Education
State Board of Education Strategic Planning and Performance Scorecard
RFX# 3120003030
359 North West Street
Jackson, Mississippi 39201

Timely submission of the proposal package is the sole responsibility of the Offeror. It is suggested that if the proposal is shipped to the MDE, it should be tracked to require an MDE mailroom staff signature and request a return receipt/notice with signature. *Any proposal shipped or mailed **MUST** be verified, date and time stamped, and recorded by an **MDE mailroom staff**.* The time and date of the receipt will be indicated on the sealed proposal envelope or package by the MDE mailroom staff. The only acceptable evidence to establish the time of receipt at the MDE will be identified by the time and date stamp of the MDE mailroom staff on the proposal wrapper or other documentary evidence of receipt used by the mailroom.

Packages that are received in person by the Offeror or a representative will NOT be opened. Packages received by shipping/mail without the appropriate acceptance by the MDE mailroom staff or is received and recorded AFTER the submission deadline will NOT be considered for an award.

The MDE will not be responsible for delivery delays or lost packets. All risk of late arrival due to unanticipated delays – whether delivered by shipping or electronic method – is entirely on the Offeror. All Offerors are urged to take the possibility of delay into account when submitting the proposal and submit the packet electronically via [MAGIC](#). The Offeror shall be notified as soon as practicable if their proposal was rejected and the reason for such rejection.

6.5 Proposal Exclusion

Any Offeror submitting a proposal in which has contracted with the MDE failed to satisfactorily perform services required under any contract shall exclude the vendor from this and future contract award. The MDE shall use written documentation and/or the annual performance evaluation to support disqualifying the vendor as non-responsible.

6.6 Important Tentative Dates

Monday, December 9, 2024	Request for Proposal advertise date
Monday, December 23, 2024	Deadline to submit questions and request for clarification
Tuesday, December 24, 2024	Responses to questions and request for clarification posted
Friday, December 27, 2024	Proposal submission deadline by 2:00 PM CST
Thursday, January 16, 2025	State Board of Education (SBE) Meeting
Thursday, February 6, 2025	Contract effective date

6.7 Acceptance of Proposals

After receipt of the proposals, the MDE reserves the right to award the contract based on the terms, conditions, premises of the solicitation, and the proposal of the selected company without negotiation.

All properly submitted proposals shall be accepted by the MDE. After the compliance review or evaluating of proposals, the MDE may request necessary amendments from all Offerors, reject any or all proposals received, or cancel this solicitation, according to the best interest of the MDE and the State of Mississippi.

The MDE also reserves the right to waive minor irregularities in proposals providing such action is in the best interest of the MDE and the State of Mississippi. A minor irregularity is defined as a variation of the solicitation which does not affect the price of the proposal or give one party an advantage or benefit not enjoyed by other parties, or adversely impacts the interest of the MDE. Where the MDE may waive minor irregularities as determined by the MDE, such waiver shall in no way modify the solicitation requirements or excuse the Offeror from full compliance with the solicitation specifications and other contract requirements should the Offeror be awarded the contract.

The MDE reserves the right to exclude any and all non-responsive proposals from any consideration for contract award. The MDE shall award a contract to the Offeror whose proposal is responsive to the solicitation and is most advantageous to the MDE, the SBE, and the State of Mississippi in price, quality, and other factors considered.

6.8 Disposition of Proposal

The proposal submitted by the successful Offeror shall be incorporated into and become part of the resulting contract. All proposals received by the MDE shall upon receipt become and remain the property of the MDE. The MDE shall have the right to use all concepts contained in any proposal and this right shall not affect the solicitation or rejection of the proposal.

6.9 Modification or Withdrawal of a Proposal

Prior to the proposal submission deadline, a submitted proposal may be withdrawn by submitting a written request for its withdrawal to the MDE, signed by the Offeror.

A proposal may submit an amended proposal before the proposal submission deadline. Such amended proposals shall be a complete replacement for a previously submitted proposal and shall be clearly identified as such. The MDE shall not merge, collate, or assemble proposal materials.

Unless requested by the MDE, no other amendments, revisions, or alterations to proposals shall be accepted after the proposal submission deadline. Any submitted proposal shall remain a valid proposal for one hundred eighty (180) calendar days from the proposal submission deadline.

6.10 Rejection of Proposals

A proposal response that includes terms and conditions that do not conform to the terms and conditions specified within this solicitation is subject to rejection as non-responsive. Further, submission of a proposal that is not complete and/or unsigned is subject to rejection as non-responsive. The MDE reserves the right to permit the Offeror to withdraw nonconforming terms and conditions from its proposal response prior to a determination by the MDE of non-responsiveness based on the submission of nonconforming terms and conditions. Additional reasons for rejecting a proposal include:

1. The proposal contains unauthorized amendments to the requirements of the solicitation;
2. The proposal is conditional;
3. The proposal is incomplete or contains irregularities, which make the proposal indefinite or ambiguous;
4. The proposal did not follow submission requirement;
5. The proposal cover sheet does not have an original or electronic authentication signature by the authorized representative;
6. The proposal contains false or misleading statements or references;
7. The Offeror is determined to be non-responsive;
8. The products or service item offered in the proposal is unacceptable by reason of its failure to meet the requirements of the specifications or permissible alternates or other acceptable criteria set forth in the solicitation;
9. The proposal is received late. Late proposals shall be maintained unopen in the procurement file;
10. The Offeror or representative emails the proposal response packet to an MDE staff;
11. The Offeror has filed business bankruptcy, been implicated in fraud and/or been debarred within the past seven (7) years;
12. The Offeror did not perform prior MDE services in an honorable and/or proper like manner;
13. The Offeror currently indebted to the State;
14. Objection with the Standard Terms and Conditions; or
15. In person delivery of proposal.

6.11 Corrections and Clarifications

The MDE reserves the right to request clarifications or corrections to proposals after the response has met the submission requirements and the response is deemed responsible for an award. Any proposal received which does not meet the requirements of this solicitation will be considered non-responsive and eliminated from further consideration.

6.12 Proposal Evaluation

All proposals received in response to this solicitation by the stated deadline will receive a comprehensive, fair, and impartial evaluation. An evaluation committee will evaluate the proposals using a two or three-phase process, consisting of Compliance, and Analysis, and Finalist

phases. A **100-point scoring scale** will be used in the evaluation process for proposals determined to be in compliance and responsive to the solicitation. For proposals ultimately determined to be finalists, Offerors must meet a minimum score of 80% and the additional points will be added based on presentations. The evaluation of any proposal may be suspended and/or terminated at the MDE's discretion at any point during the evaluation process at which the MDE determines that said proposal and/or Offeror fails to meet any of the mandatory requirements as stated in this solicitation, the proposal is determined to contain fatal deficiencies to the extent that the likelihood of selection for contract negotiations is minimal, or the MDE and/or the SBE receives reliable information that would make contracting with the Offeror impractical or otherwise not in the best interests of the SBE and/or the State of Mississippi.

The evaluation process, including evaluation factors and weights are described below:

Compliance Phase - In this pass or fail phase of the evaluation process, all proposals received will be reviewed by the procurement officer and/or designee to determine if the following mandatory requirements of this solicitation have been satisfied:

1. Proposal received by submission deadline;
2. Required proposal submission format followed;
3. Minimum Qualifications met;
4. Proposal Cover Sheet (Appendix A);
5. Production/Detailed Service Plan;
6. Resumes for Key Personnel;
7. References;
8. Cost Data; and
9. All Required Signed Forms (if applicable).

Failure to comply with these requirements may result in the proposal being eliminated from further consideration. Offerors passing the Compliance Phase will be evaluated further.

Weight –The Compliance Phase is a pass or fail phase of the evaluation.

Analysis Phase – In this phase of the evaluation process, the evaluation committee will score proposals to determine a numerical score for each qualified Offeror. Numerical scores will be calculated based on the following criteria. Evaluation factors are listed below in order of their relative importance and weight:

1. **Price (Weight/Value – at least 35 %)** – The highest score is assigned to the lowest cost proposed. All other Offerors score will be based upon a budget formula approved by the State.
2. **Plan of Action (Weight/Value – 40%)** –
 - a. **30%** - The quality and completeness of the Offeror's solutions and action plans for providing the core services identified in the solicitation, demonstrating responsiveness, understanding, effectiveness, efficiency, and value to the SBE in a proposed approach;
 - b. **10%** - Provide a documented record of past performance of providing similar services.
3. **Management (Weight/Value – 25%)** – Possess personnel, equipment, and facilities to provide timely services; the ability to technically implement all services listed in this solicitation with qualified and experienced staff; references align with the services required.

4. Upon completion of the Analysis Phase, the evaluation committee's average score will determine if a finalist will move to the Finalist Phase (presentations). If presentations are not included within this solicitation, the finalist with the highest or highest to lowest ranking average score will be the Awarded Vendor(s) after completion of the Analysis Phase.

Upon completion of the evaluation of proposals, the evaluation committee's average score will determine the top scoring proposal(s) and the Program Office will make a recommendation to the SBE as to the proposal deemed most advantageous to the State and to authorize the issuance of an Intent to Award contract notification to the selected vendor and authorize contract negotiations with the selected vendor, if applicable. Subsequent to authorization by the SBE, all participating vendors will be notified in writing of the contract award.

SECTION 7. PUBLIC RECORDS

7.1 Deadlines for Production of Public Records Tolled

When the MDE is preparing or conducting a competitive procurement, the time limitations for producing public records regarding the procurement **shall be tolled until the MDE determines it will not issue the procurement, cancels the procurement, or issues a notice naming its intended awardee. Mississippi Code Annotated § 25-61-5(4).**

7.2 Delay of Procurement Process Not Required

There is no requirement the MDE must delay any aspect of the procurement process due to an outstanding request for public records.

7.3 Efficient Administration of Agency Obligations

The MDE has the discretion under the PPRB rules and regulations to require vendors responding to an MDE solicitation to take any action necessary for the efficient and effective administration of the MDE's procurement and obligations under the *Mississippi Public Records Act*, unless such action directly violates the *Mississippi Public Records Act*.

SECTION 8. CONTRACT AWARD

Funds and awards are subject to appropriations by the state/federal government. This is a multi-term contract that will be awarded contingent on availability of funds. The one (1) year contract is contingent of continuation of services required and funding.

All contracts will be awarded contingent upon appropriations, proper implementation of the proposed project implementation, completion, and submission of all required documentation. Funding to eligible vendors is subject to the SBE and PPRB approvals, if applicable. **The Mississippi Department of Education reserves the right to negotiate award amounts with all potential Offerors.**

The RFP, its amendments, the offeror's proposal, and the Best and Final Offer (BAFO), if applicable, shall be incorporated into the successful offeror(s)' contract.

8.1 Right of Negotiation

Discussions and negotiations regarding price and other matters may be conducted with a proposer who submits a proposal determined to have reasonable likelihood of being selected for award, but a proposal may be accepted without such discussions. The SBE reserves the right to further clarify and/or negotiate with the proposer evaluated best following completion of the evaluation of proposals but prior to contract execution, if deemed necessary by the SBE. The SBE also reserves the right to move to the next best proposer if negotiations do not lead to an executed contract with the best proposer. The SBE reserves the right to further clarify and/or negotiate with the proposer on any matter submitted.

8.2 The Mississippi Department of Education

The specific responsibilities of the MDE are stated below.

- Provide a contact person to work with the contractor to ensure quality control
- Review and approve timeframes and work plans
- Provide available information to assist the contractor

8.3 Management Responsibilities of Personnel and Administration

Except where expressly provided otherwise herein, each party shall bear its own cost incurred in performing its responsibilities hereunder. The contractor shall provide one person who shall be responsible for all activities required to fulfill said contract. This individual shall be invested with the authority to make decisions and commitments on behalf of the contracted party during the performance of the solicitation.

The MDE shall also designate one representative who shall act as the primary contact for this office. This representative shall be responsible for conferring all parties necessary to resolve unanticipated issues or requirements that might occur during the course of the solicitation.

8.4 Memorandum of Understanding

The execution of a Memorandum of Understanding (MOU) shall be required prior to the release of any student level data by the Mississippi Department of Education. Failure to adhere to the provisions of the MOU may result in termination of the contract and/or may result in denial of subsequent renewal requests.

8.5 Ethics

In compliance with State law, a Contractor who is employed by a public entity agrees to make arrangements with his/her employer to take the appropriate leave (annual, professional, compensatory, etc.) during the period of service covered by this contract. Contractor also agrees not to utilize resources of the public employer to perform the services pursuant to this contract. Prior to execution of this contract, Contractor must submit to the MDE a Certification (on the MDE form) executed from his/her employer whereby the public employer acknowledges that it is aware of its employee working for the MDE.

8.6 Termination in Event of Employment

Contract shall be terminated immediately if Contractor becomes an employee of the MDE and is only subject to payment of services prior to effective date of employment at the MDE.

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Appendix A – Proposal Cover Sheet

Company/Name: _____

Proposals must be submitted as directed in the **Proposal Submission Requirements** on or before the submission deadline specified in the solicitation.

Company Representative and Title	
Mailing Address	
City, State, Zip	
Telephone:	
E-Mail Address:	

Please identify the Office/Branch which will provide services for the MDE if different from above:

Contact Person and Title	
Telephone Number	
Email Address	
Physical Address	
City, State, Zip	
Mailing Address	
City, State, Zip	

1. Are you currently registered as a Supplier in MAGIC? ____ YES ____ NO
2. If known, what is your supplier number? _____
3. Are you currently registered with PayMode? ____ YES ____ NO
4. Are you a minority owned company? ____ YES ____ NO

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

- That the Offeror will perform the services required at the prices stated in their proposal.
- That the pricing submitted will remain firm for the contract term.
- That, to the best of its knowledge and belief, the cost or pricing data submitted is accurate, complete, and current as of the submission date.
- That the company is licensed or authorized to provide the proposed services in the State of Mississippi.
- The Offeror indicates and is in agreement with the Standard Terms and Conditions as set forth above. If the Offeror objects to any of the Standard Terms and Conditions, the objection may be considered as an adequate cause for rejection without further negotiations.
- The State of Mississippi utilizes the Mississippi Accountability System for Government Information and Collaboration (MAGIC) system to manage contracts. Additionally, electronic payments are issued through an electronic portal called [PayMode](#). In order to do business with the State of Mississippi, all Suppliers must be registered with both systems. By submitting a proposal, the Offeror certifies it is registered with both systems and if not already registered, will do so within seven (7) business days of being notified by the MDE that it has been awarded a contract.

Authorized Signature: _____ Date: _____

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Appendix B – Standard Terms and Conditions

Certain terms and conditions are required for contracting. Therefore, the Offeror shall assure agreement and compliance with the following standard terms and conditions.

1. ACKNOWLEDGMENT OF AMENDMENTS

[Bidders, Offerors, Applicants] shall acknowledge receipt of any amendment to the [PROPOSAL, RFP, RFQ, RFA] in writing. The acknowledgement shall be signed and submitted as an attachment to the proposal. Each [bidder, Offeror, applicant] shall submit a written acknowledgement of every amendment to the MDE on or before the submission deadline.

2. ACCEPTANCE PERIOD

The electronic copy of the response (proposal, bid, or application) shall be signed and submitted as required in the instructions provided in the solicitation no later than the time and date specified for receipt of responses. Timely submission of the response is the responsibility of the bidder.

3. ACCESS TO RECORDS

Contractor agrees that the MDE, or any of its duly authorized representatives, at any time during the term of this agreement, shall have access to, and the right to audit and examine any pertinent books, documents, papers, and records of Contractor related to Contractor's charges and performance under this agreement. Such records shall be kept by Contractor for a period of three (3) years after final payment under this agreement, unless the MDE authorizes their earlier disposition. Contractor agrees to refund to the MDE any overpayment disclosed by any such audit. However, if any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of 3-year period, the records shall be retained until completion of the action and resolution of all issues which arise from it.

4. ANTI-ASSIGNMENT/SUBCONTRACTING

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

5. APPLICABLE LAW

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

6. APPROVAL

It is understood that if this contract requires approval by the Public Procurement Review Board ("PPRB") and/or the Mississippi Department of Finance and Administration Office of Personal Service Contract Review ("OPSCR") and this contract is not approved by the PPRB and/or OPSCR, it is void and no payment shall be made hereunder.

7. ATTORNEY'S FEES AND EXPENSES

In the event Contractor defaults on any obligations under this Agreement, Contractor shall pay to the MDE all costs and expenses, without limitation, incurred by the MDE in enforcing this

Agreement or reasonably related to enforcing this Agreement. This includes but is not limited to investigative fees, court costs, and attorneys' fees. Under no circumstances shall the MDE be obligated to pay attorneys' fees or legal costs to Contractor.

8. AUTHORITY OF SIGNATORY

Contractor acknowledges that the individual executing the contract on behalf of the MDE is doing so in his or her official capacity only. To the extent any provision contained in the contract exceeds the signatory's authority, Contractor agrees that it will not look to that individual in his or her personal capacity or otherwise seek to hold him or her individually liable for exceeding such authority.

9. AUTHORITY TO CONTRACT

Contractor warrants: (1) that it is a validly organized business with valid authority to enter into this agreement; (2) that it is qualified to do business and in good standing in the State of Mississippi; (3) that entry into and performance under this agreement is not restricted or prohibited by any loan, security, financing, contractual, or other agreement of any kind; and, (4) notwithstanding any other provision of this agreement to the contrary, that there are no existing legal proceedings or prospective legal proceedings, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under this agreement.

10. AVAILABILITY OF FUNDS

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

11. BACKGROUND CHECKS

Contractor and/or its employees represents neither has ever been convicted or pled guilty or entered a plea of nolo contendere to a felony in any court of the state of Mississippi, another state, or in federal court in which public funds were unlawfully taken, obtained or misappropriated in the abuse of misuse of any office or employment or money coming into its hands by virtue of any office or employment. Contractor and/or its employees agrees to an initial criminal background check to be performed as well as subsequent criminal background checks that may be necessary and all charges associated with these criminal background checks will be the responsibility of Contractor, if applicable. Any disqualifying information received from the criminal background check will render this agreement null and void.

12. BOARD APPROVAL

It is understood that if this contract requires approval by the Mississippi State Board of Education, and this contract is not approved by the Mississippi State Board of Education, it is void and no payment shall be made hereunder.

13. CERTIFICATION OF INDEPENDENT PRICE DETERMINATION

Contractor certifies that the price submitted was independently arrived at without any consultation, communication, or agreement with any other Offeror or competitor for the purpose of restricting competition.

14. CHANGES IN SCOPE OF WORK

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

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

15. COMPLIANCE WITH EQUAL OPPORTUNITY IN EMPLOYMENT POLICY

Contractor understands that the MDE is an equal opportunity employer and therefore, maintains a policy which prohibits unlawful discrimination based on race, color, creed, sex, age, national origin, physical handicap, disability, genetic information, or any other consideration made unlawful by federal, state, or local laws. All such discrimination is unlawful and Contractor agrees during the term of the agreement that Contractor will strictly adhere to this policy in its employment practices and provision of services.

16. COMPLIANCE WITH LAWS

contractor shall comply with, and all activities under this agreement shall be subject to, all applicable federal, State of Mississippi, and local laws and regulations, as now existing and as may be amended or modified.

17. CONFIDENTIALITY

The MDE is a public agency of the State of Mississippi and is subject to the *Mississippi Public Records Act of 1983*. Miss. Code Ann. §§ 25-61-1 *et seq.* If a public records request is made for any information provided to the MDE by Contractor, the MDE shall follow provisions of Mississippi Code Annotated §§ 25-61-9 and 79-23-1 before disclosing such information – unless Contractor has previously indicated the information is not trade secret or confidential commercial and financial information. The MDE shall not be liable to the Contractor for disclosure of information required by court order or required by law.

18. CONTRACT ASSIGNMENT AND SUBCONTRACTING

Contractor acknowledges that it was selected by the MDE to perform the services required hereunder based, in part, upon Contractor's special skills and expertise. Contractor shall not assign, subcontract, or otherwise transfer this agreement, in whole or in part, without the prior written consent of the MDE, which may, in its sole discretion, approve or deny without reason. Any attempted assignment or transfer of Contractor's obligations hereunder without consent of the MDE shall be null and void.

Subcontracts shall be subject to the terms and conditions of this agreement and to any conditions of approval that the MDE may deem necessary. Subject to the foregoing, this agreement shall be binding upon the respective successors and assigns of the parties.

MDE reserves the right to request changes in personnel assigned to the project. The MDE Project Manager must pre-approve any changes in key personnel through the contract term. Substitutions are not permitted without written approval of the MDE Program Project Manager.

19. CONTRACT RIGHTS

Contract rights do not vest in any party until a contract is legally executed. The MDE is under no obligation to award a contract following issuance of this solicitation.

20. CONTRACTOR PERSONNEL

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

Contractor agrees that, at all times, the employees of contractor furnishing or performing any of the services specified under this agreement shall do so in a proper, workmanlike, and dignified manner.

21. COPYRIGHTS

Contractor agrees the MDE shall determine the disposition of the title to and the rights under any copyright by Contractor or employees on copyrightable material first produced or composed under this agreement. Further, Contractor hereby grants to the MDE a royalty-free, nonexclusive, irrevocable license to reproduce, translate, publish, use and dispose of, and to authorize others to do so, all copyrighted (or copyrightable) work not first produced or composed by Contractor in the performance of this agreement, but which is incorporated in the material furnished under the agreement. This grant is provided that such license shall be only to the extent Contractor now has, or prior to the completion of full final settlements of agreement may acquire, the right to grant such license without becoming liable to pay compensation to others solely because of such grant. Contractor further agrees that all material produced and/or delivered under this contract will not, to the best of Contractor's knowledge, infringe upon the copyright or any other proprietary rights of any third party. Should any aspect of the materials become, or in Contractor's opinion be likely to become, the subject of any infringement claim or suit, Contractor shall procure the rights to such material or replace or modify the material to make it non-infringing.

22. DEBARMENT AND SUSPENSION

Contractor certifies to the best of its knowledge and belief, that it:

- (1) is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transaction by any federal department or agency or any political subdivision or agency of the State of Mississippi;
- (2) has not, within a three year period preceding this qualification, been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction;
- (3) has not, within a three year period preceding this qualification, been convicted of or had a civil judgment rendered against it for a violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (4) is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of these offenses enumerated in paragraph two (2) and (3) of this certification; and,

(5) has not, within a three year period preceding this qualification, had one or more public transactions (federal, state, or local) terminated for cause or default.

23. DISCLOSURE OF CONFIDENTIAL INFORMATION

In the event that either party to this agreement receives notice that a third-party has served upon it a subpoena or other validly issued administrative or judicial process ordering divulgence of the other party's data or other confidential or otherwise protected information, the party subject to the subpoena or other legal process shall promptly inform the other party at the earliest reasonable opportunity, unless prohibited by law from doing so. Thereafter, the party subject to the legal process shall respond to the extent mandated by law. This section shall survive the termination or completion of this agreement. The parties agree that this section is subject to and superseded by Miss. Code Ann. §§ 25-61-1 *et seq.*

24. E-PAYMENT

Contractor agrees to accept all payments in United States currency via the State of Mississippi's electronic payment and remittance vehicle. The agency agrees to make payment in accordance with Mississippi law on "Timely Payments for Purchases by Public Bodies," which generally provides for payment of undisputed amounts by the agency within forty-five (45) days of receipt of invoice. Mississippi Code Ann. § 31-7-301 *et seq.*

25. E-VERIFICATION

If applicable, Contractor represents and warrants that it will ensure its compliance with the *Mississippi Employment Protection Act* and will register and participate in the status verification system for all newly hired employees. Mississippi Code Ann. §§ 71-11-1 and 71-11-3. Contractor agrees to provide a copy of each verification upon request of the MDE subject to approval by any agencies of the United States Government. Contractor further represents and warrants that any person assigned to perform services hereafter meets the employment eligibility requirements of all immigration laws. The breach of this agreement may subject Contractor to the following:

- (1) termination of this contract and exclusion pursuant to Chapter 15 of the Public Procurement Review Board Office of Personal Service Contract Review Rules and Regulations;
- (2) the loss of any license, permit, certification or other document granted to Contractor by an agency, department or governmental entity for the right to do business in Mississippi; or,
- (3) both. In the event of such cancellation/termination, Contractor would also be liable for any additional cost incurred by the State due to Contract cancellation or loss of license or permit to do business in the state.

26. ENTIRE AGREEMENT

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

27. EXCEPTIONS TO CONFIDENTIAL INFORMATION

Contractor and the State shall not be obligated to treat as confidential and proprietary any information disclosed by the other party ("disclosing party") which:

- (1) Is rightfully known to recipient prior to negotiations leading to this agreement, other than information obtained in confidence under prior engagements;
- (2) is generally known or easily ascertainable by nonparties of ordinary skill in the business of the customer;
- (3) is released by the disclosing party to any other person, firm, or entity (including governmental agencies or bureaus) without restriction;
- (4) is independently developed by the recipient without any reliance on confidential information;
- (5) is or later becomes part of the public domain or may be lawfully obtained by the State or Contractor from any nonparty; or,
- (6) is disclosed with the disclosing party's prior written consent.

28. EXCEPTIONS TO SOLICITATION

Offerors taking exception to any part of the solicitation shall clearly indicate such exceptions in its offer. Failure to indicate any exception will be interpreted as the Offeror's intent to comply fully with the requirements as written. Conditional or qualified offers, unless specifically allowed, shall be subject to rejection in whole or in part.

29. EXPENSES INCURRED IN THE PROCUREMENT PROCESS

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

30. FAILURE TO DELIVER

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

31. FAILURE TO ENFORCE DOES NOT CONSTITUTE WAIVER

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

32. FORCE MAJEURE

Each party shall be excused from performance for any period and to the extent that it is prevented from performing any obligation or service, in whole or in part, as a result of cause beyond the reasonable control and without the fault or negligence of such party and/or its subcontractors. Such acts shall include without limitation acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations superimposed after the fact, fire, earthquakes, floods or other natural disasters ("force majeure events"). When such a cause arises, Contractor shall notify the MDE immediately in writing of the cause of its inability to perform, how it affects its performance, and the anticipated duration of the inability to perform. All parties shall make reasonable efforts to minimize the impact of the force majeure event on contract performance. The MDE may exercise any rights it has under the contract which are available when neither party is in default. Delays in delivery or in meeting completion dates due to force majeure events shall automatically extend

such dates for a period equal to the duration of the delay caused by such events, unless the MDE determines it to be in its best interest to terminate this agreement.

33. INDEMNIFICATION

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

34. INDEPENDENT CONTRACTOR STATUS

Contractor shall, at all times, be regarded as and shall be legally considered an independent contractor and shall at no time act as an agent for the MDE. Nothing contained herein shall be deemed or construed by the MDE, Contractor, or any third party as creating the relationship of principal and agent, master and servant, partners, joint ventures, employer and employee, or any similar such relationship between the MDE and Contractor. Neither the method of computation of fees or other charges, nor any other provision contained herein, nor any acts of the MDE or Contractor hereunder creates or shall be deemed to create a relationship other than the independent relationship of the MDE and Contractor.

Contractor's personnel shall not be deemed in any way, directly or indirectly, expressly or by implication, to be employees of the MDE. Neither Contractor nor its employees shall, under any circumstances, be considered servants, agents, or employees of the MDE, and the MDE shall be at no time legally responsible for any negligence or other wrongdoing by Contractor, its servants, agents, or employees.

The MDE shall not withhold from the contract payments to Contractor any federal or state unemployment taxes, federal or state income taxes, Social Security tax, or any other amounts for benefits to Contractor. Further, the MDE shall not provide to Contractor any insurance coverage or other benefits, including Workers' Compensation, normally provided by the MDE for its employees.

35. INFORMATION DESIGNATED BY AGENCY AS CONFIDENTIAL

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

36. INFORMATION DESIGNATED BY CONTRACTOR AS CONFIDENTIAL

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

professional services to be provided, the price to be paid, and the term of the contract shall not be deemed to be a trade secret, or confidential commercial or financial information.

37. INFRINGEMENT INDEMNIFICATION

Contractor warrants that the materials and deliverables provided to the MDE under this agreement, and their use by the MDE, will not infringe or constitute an infringement of any copyright, patent, trademark, or other proprietary right. Should any such items become the subject of an infringement claim or suit, Contractor shall defend the infringement action and/or obtain for the MDE the right to continue using such items without additional cost to the Agency. Should Contractor fail to obtain for the MDE the right to use such items, Contractor shall suitably modify them to make them non-infringing or substitute equivalent software or other items at Contractor's expense.

In the event the above remedial measures cannot possibly be accomplished, and only in that event, Contractor may require the MDE to discontinue using such items, in which case Contractor will refund to the MDE the fees previously paid by the MDE for the items the customer may no longer use, and shall compensate the MDE for the lost value of the infringing part to the phase in which it was used, up to and including the contract price for said phase. Said refund shall be paid within 10 business days of notice to the MDE to discontinue said use.

Scope of Indemnification: Provided that the MDE promptly notifies Contractor in writing of any alleged infringement claim of which it has knowledge, Contractor shall defend, indemnify, and hold harmless the MDE against any such claims, including but not limited to any expenses, costs, damages and attorney fees that a court finally awards for infringement based on the programs and deliverables provided under this agreement.

In the MDE's sole discretion, upon approval of the Office of the Mississippi Attorney General and the MDE, Contractor may be allowed to control the defense of any such claim, suit, etc. In the event Contractor defends said claim, suit, etc., Contractor shall use legal counsel acceptable to the Office of the Mississippi Attorney General and the MDE. Contractor shall be solely responsible for all costs and/or expenses associated with such defense, and the MDE shall be entitled to participate in said defense. Contractor shall not settle any claim, suit, etc. without the concurrence of the Office of the Mississippi Attorney General and the MDE, which shall not be unreasonably withheld.

38. LEGAL AND TECHNICAL SUPPORT

Contractor shall utilize its knowledge and understanding of applicable legal standards and comply with recognized professional standards and generally accepted measurement principles applicable to assessments and uses of the type described in this contract, including but not limited to standards relating to validity and reliability. Contractor shall consult with the MDE concerning its implementation of the requirements of this section. In the event of a challenge in which the validity or reliability of the use of an assessment developed under this contract is an issue (other than a challenge based on infringement of copyright or other proprietary rights of a third party), Contractor shall cooperate with the MDE and/or the State of Mississippi in the defense of the assessment and shall provide reasonable technical and legal support with regard to Contractor's activities under this contract without additional charges to the MDE or the State.

39. MODIFICATION OR RENEGOTIATION

The parties agree to renegotiate the agreement in good faith if federal and/or state revisions to any applicable laws or regulations make changes in this agreement necessary. This agreement may be modified only by written agreement signed by the parties hereto and approval by the SBE and Public Procurement Review Board, if required.

40. NO LIMITATION OF LIABILITY

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

41. ORAL STATEMENTS

No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in this contract. All modifications to the contract shall be made in writing by the MDE, agreed to by Contractor and approved by the SBE and Public Procurement Review Board, if required.

42. PAYMODE

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

43. PRICE ADJUSTMENT

- (1) **Price Adjustment Methods.** Any adjustments in contract price, pursuant to a clause in this contract, shall be made in one or more of the following ways:
- a. must be stated in the solicitation describing the method in which any price adjustment will be calculated, the triggering event which makes the price adjustment clause to be enacted.
 - b. by agreement on a fixed price adjustment before commencement of the Additional performance;
 - c. by unit prices specified in the contract;
 - d. by the costs attributable to the event or situation covered by the clause, plus appropriate profit or fee, all as specified in the contract; or,
 - e. by the price escalation clause.
- (2) **Submission of Cost or Pricing Data.** Contractor shall provide cost or pricing data for any price adjustments.

44. PRICE CERTIFICATION

Any Offeror submitting a response to this solicitation agrees and certifies that it will honor its pricing and all terms and conditions herein for the duration of the contract term described in this solicitation. By submitting a response hereto, Offeror agrees to accept a contract pursuant to the requirements of Section 14.15 of the Public Procurement Review Board Office of Personal Service Contract Review Rules and Regulations if so requested by the procuring Agency.

45. PROCUREMENT REGULATIONS

The contract shall be governed by the applicable provisions of the *Mississippi Public Procurement Review Board Office of Personal Service Contract Review Rules and Regulations*, a copy of which is available on the Mississippi Department of Finance and Administration's website (www.dfa.ms.gov). Any Offeror responding to a solicitation for personal and professional services

and any contractor doing business with a state Agency is deemed to be on notice of all requirements therein.

46. PROPERTY RIGHTS

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

47. RECOVERY OF MONEY

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

48. RENEWAL OF CONTRACT

The contract may be renewed at the discretion of the MDE for the term specified in the solicitation under the same prices, terms, and conditions as in the original contract. The total number of renewal years permitted shall not exceed the term specified in the solicitation.

49. REPRESENTATION REGARDING CONTINGENT FEES

Contractor represents that it has not retained a person to solicit or secure a State contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except as disclosed in Contractor's bid or qualification packet.

50. REPRESENTATION REGARDING GRATUITIES

Contractor represents that it has not, is not, and will not offer, give, or agree to give any employee or former employee of the MDE a gratuity or offer of employment in connection with any approval, disapproval, recommendation, development, or any other action or decision related to the solicitation and resulting contract. Contractor further represents that no employee or former employee of the MDE has or is soliciting, demanding, accepting, or agreeing to accept a gratuity or offer of employment for the reasons previously stated; any such action by an employee or former employee in the future, if any, will be rejected by contractor. Contractor further represents that it is in compliance with the Mississippi Ethics in Government laws, codified at Mississippi Code Annotated §§ 25-4-101 through 25-4-121, and has not solicited any employee or former employee to act in violation of said law.

51. REQUIRED PUBLIC RECORDS AND TRANSPARENCY

Upon execution of a contract, the provisions of the contract which contain the personal or professional services provided, the unit prices, the overall price to be paid, and the term of the contract shall not be deemed to be a trade secret or confidential commercial or financial information pursuant to Mississippi Code Annotated § 25-61-9(7). The contract shall be posted publicly on www.transparency.ms.gov and shall be available for at the Agency for examination, inspection, or reproduction by the public. The contractor acknowledges and agrees that the MDE and this contract are subject to the Mississippi Public Records Act of 1983 codified at Mississippi Code Annotated §§ 25-61-1, et seq. and its exceptions, Mississippi Code Annotated § 79-23-1, and the *Mississippi Accountability and Transparency Act of 2008*, codified at Mississippi Code Annotated §§ 27-104-151, et seq.

52. RIGHT TO AUDIT

Contractor shall maintain such financial records and other records as may be prescribed by the MDE or by applicable federal and state laws, rules, and regulations. Contractor shall retain these records for a period of three years after final payment, or until they are audited by the MDE, whichever event occurs first. These records shall be made available during the term of the contract and the subsequent three-year period for examination, transcription, and audit by the Mississippi State Auditor's Office, its designees, or other authorized bodies.

53. RIGHT TO INSPECT FACILITY

The MDE may, at reasonable times, inspect the place of business of a Contractor or any subcontractor which is related to the performance of any contract awarded by the MDE.

54. SEVERABILITY

If any part of this agreement is declared invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision of the agreement that can be given effect without the invalid or unenforceable provision, and to this end the provisions hereof are severable. In such event, the parties shall amend the agreement as necessary to reflect the original intent of the parties and to bring any invalid or unenforceable provision in compliance with applicable law.

55. STATE PROPERTY

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

56. STOP WORK ORDER

The MDE may, by written order to Contractor at any time, require Contractor to stop all or any part of the work called for by this contract. This order shall be for a period of time specified by the MDE. Upon receipt of such an order, Contractor shall forthwith comply with its terms and take all reasonable steps to minimize any further cost to the MDE. Upon expiration of the stop work order, Contractor shall resume providing the services which were subject to the stop work order, unless the MDE has terminated that part of the agreement or terminated the agreement in its entirety. The MDE is not liable for payment for services which were not rendered due to the stop work order.

57. TERMINATION

Termination for Convenience. The MDE may, when the interests of the Agency so require, terminate this contract in whole or in part, for the convenience of the Agency. The MDE shall give written notice of the termination to Contractor specifying the part of the contract terminated and when termination becomes effective. Contractor shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination Contractor will stop work to the extent specified. Contractor shall complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.

Termination for Default. If the MDE gives the Contractor a notice that the personal or professional services are being provided in a manner that is deficient, the Contractor shall have 30 days to cure the deficiency. If the Contractor fails to cure the deficiency, the MDE may terminate the contract for default and the Contractor will be liable for the additional cost to the MDE to procure the personal and professional services from another source. Termination under this paragraph could result in Contractor being excluded from future contract awards pursuant to Chapter 15 of the Public Procurement Review Board Office of Personal Service Contract Review Rules and Regulations. Any termination wrongly labelled termination for default shall be deemed a termination for convenience.

58. TERMINATION UPON BANKRUPTCY

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

59. THIRD PARTY ACTION NOTIFICATION

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

60. TRADE SECRETS, COMMERCIAL AND FINANCIAL INFORMATION

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

61. UNSATISFACTORY WORK

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

End of this page

Appendix C - References

Client Name	
Contact Name and Title	
Contact Address	
Contact Telephone Number	
Email Address	
Type of work provided to the client	
Effective contract dates for the time frame services were/are being provided to client	

Client Name	
Contact Name and Title	
Contact Address	
Contact Telephone Number	
Email Address	
Type of work provided to the client	
Effective contract dates for the time frame services were/are being provided to client	

Client Name	
Contact Name and Title	
Contact Address	
Contact Telephone Number	
Email Address	
Type of work provided to the client	
Effective contract dates for the time frame services were/are being provided to client	

Appendix D - REFERENCE SCORE SHEET

Applicant Name:
Reference Name:
Person Contacted, Title/Position:
Date/Time Contacted:
Service From/To Dates:

Able to provide services when you called?	Yes	No
Satisfied with the services provided? If no, please explain.	Yes	No
Applicant easy to work with in scheduling services?	Yes	No
Was the service completed on time and within budget?	Yes	No
Applicant listened when issues were presented to resolve conflict? (If never had an issue, please check here ____.)	Yes	No
Would you hire them again?	Yes	No
Would you recommend them?	Yes	No

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

Score: Pass/Fail

Do you have any business, professional or personal interest with the applicant? If yes, please explain.	Yes	No
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A “yes” to the above question may result in an automatic disqualification of the provided reference; therefore, resulting in a score of zero as responses to previous questions become null and void.

Notes:

Program Director: _____
Signature
Title
Date

Appendix E – ACKNOWLEDGEMENT OF AMENDMENT

The Question-and-Answer and any other amendment shall be signed, if issued. The Question-and-Answer amendment will be posted on the MDE [website](#) under “Public Notice” Request for Applications, Qualifications, and Proposals section. It is the sole responsibility of all interested vendors to monitor the MDE website for updates regarding any amendment to the solicitations.

Note: *If questions are not received by the MDE an amendment will not be posted and the Acknowledgement of Amendment process shall be waived.*

Appendix F – ASSURANCES AND CERTIFICATION

REPRESENTATION REGARDING CONTINGENT FEES: Contractor represents that it has not retained a person to solicit or secure a state contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except as disclosed in Contractor’s bid or proposal.

REPRESENTATION REGARDING GRATUITIES: The bidder, Offeror, or Contractor represents that it has not violated, is not violating, and promises that it will not violate the prohibition against gratuities set forth in Section 6-204 (Gratuities) of the Mississippi Public Procurement Review Board Office of Personal Service Contract Review Rules and Regulations. 3.

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

PROSPECTIVE CONTRACTOR’S REPRESENTATION REGARDING CONTINGENT FEES: The prospective Contractor represents as a part of such Contractor’s bid or proposal that such Contractor has not retained any person or agency on a percentage, commission, or other contingent arrangement to secure this contract.

NON-DEBARMENT: This certification is a material representation of fact relied upon by the Contracting Agencies. If it is later determined that the Contractor did not comply with 2 C.F.R. part 180, subpart C, and 2 C.F.R. part 3000, subpart C, in addition to remedies available to DFA and other Contracting Agencies, the federal government may pursue available remedies, including but not limited to suspension and/or debarment.

I make the following certifications and assurances as a required element of this submission to which it is attached. The understanding that the truthfulness of the facts affirmed here and the continued compliance with these requirements are conditions precedent to the award or continuation of the related contract(s).

Name: _____

Title: _____

Signature: _____ Date: _____

Modifications or additions to any portion of this document may be cause for rejection of the bid

Appendix G – RELEASE OF PROPOSAL AS PUBLIC RECORD

Offerors **shall acknowledge** which of the following statements is applicable regarding release of its proposal as a public record. An Offeror may be deemed non-responsive if the Offeror does not acknowledge either statement, acknowledges both statements, or fails to comply with the requirements of the statement acknowledged.

Choose one:

_____ Along with a complete copy of its proposal, Offeror has submitted a second copy of the proposal in which all information Offeror deems to be confidential commercial and financial information and/or trade secrets is redacted in black. Offeror acknowledges that it may be subject to exclusion pursuant to Chapter 15 of the *PPRB OPSCR Rules and Regulations* if the MDE or the Public Procurement Review Board determine redactions were made in bad faith in order to prohibit public access to portions of the proposal which are not subject to Mississippi Code Annotated §§ 25-61-9, 75-26-1 through 75-26-19, and/or 79-23-1. Offeror acknowledges and agrees that the MDE may release the redacted copy of the proposal at any time as a public record without further notice to Offeror. An Offeror who selects this option but fails to submit a redacted copy of its proposal may be deemed non-responsive.

_____ Offeror hereby certifies that the complete unredacted copy of its proposal may be released as a public record by the MDE at any time without notice to Offeror. The proposal contains no information Offeror deems to be confidential commercial and financial information and/or trade secrets in accordance with Mississippi Code Annotated §§ 25-61- 9, 75-26-1 through 75-26-19, and/or 79-23-1. Offeror explicitly waives any right to receive notice of a request to inspect, examine, copy, or reproduce its bid as provided in Mississippi Code Annotated § 25-61-9(1)(a). An Offeror who selects this option but submits a redacted copy of its proposal may be deemed non-responsive.

Appendix H – CONTRACTS

The prospective contractor represents that contractor **does ()** or **does not ()** have a current contract with the Mississippi Department of Education.

The MDE has the right to review and align solicited services with a contractor’s current awarded contract for services to ensure conflicts and/or limitations do not exist. If conflicts and/or limitations exist, the MDE at its discretion may reject the Offeror’s proposal and the Offeror will not be considered for an award for this solicited service.

Potential contractors are required to provide a listing of each executed contract or contract applied, please provide the following:

Program Office Name	
Contract Service	
Contract Amount	\$
Contract Dates of Service	

Program Office Name	
Contract Service	
Contract Amount	\$
Contract Dates of Service	

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Appendix I – COST DATA/BUDGET

The vendor should refer to [Section 2.3 Deliverables](#) and provide line-item cost detail for all deliverables identified.

Attach Excel spreadsheet if necessary.
