

INVITATION FOR BIDS

IFB Number: 3160008100

To Provide: Monitoring Services

Issue Date: July 15, 2026

CLOSING LOCATION

Mississippi Department of Environmental Quality

515 East Amite Street

Jackson, MS 39201

Or Electronically in MAGIC

BID COORDINATOR

Regina Cochran, Accounting

Telephone: (601) 961-5201

Fax: (601) 961-5715

E-mail: procurement@mdeq.ms.gov

CLOSING DATE AND TIME

Bids must be received by 3:00 p.m. CST

August 31, 2026

SECTION 1

1.1 Bid Acceptance Period

The original bid form shall be signed and submitted in a sealed envelope or package to the Mississippi Department of Environmental Quality (MDEQ) no later than the time and date specified for receipt of bids. Timely submission of the bid is the responsibility of the bidder. Failure to submit a timely bid may be considered just cause for rejection of the bid.

The envelope or package shall be marked with the bid opening date and time, and the RFx number of the IFB. The time and date of receipt shall be indicated on the envelope or package when received by MDEQ. Each page of the bid form and all attachments shall be identified with the name of the bidder. Failure to submit a bid on the bid form provided may be considered just cause for rejection of the bid. Modifications or additions to any portion of the bid document may be cause for rejection of the bid.

MDEQ reserves the right to decide, on a case-by-case basis, whether to reject a bid with modifications or additions as non-responsive. As a pre-condition to bid acceptance, MDEQ may request the bidder to withdraw or modify those portions of the bid deemed non-responsive that do not affect quality, quantity, price, or delivery of the service. *(Non-responsive portions of the bid that do not affect service quality, quantity, price or delivery may be, for example, clauses that specify the state in which litigation is to be brought or that provide for high interest charges for late payment.)*

The bid shall be limited to no more than a total of thirty (30) typed pages including contents pages, supporting appendices, and resumes. Paper size shall be 8 1/2" x 11". Text shall not be smaller than a font size of 12. Alternatively, electronic bids may be submitted to Mississippi's Accountability System for Government Information and Collaboration (MAGIC) RFx Number 3160008100 by the date and time specified herein. The original must be signed by an authorized representative of the bidder. MDEQ will receive bids offered from organizations having specific experience and qualifications in the area identified in this solicitation. For consideration, bids must contain evidence of the organization's experience and abilities in the specified area and other disciplines directly related to the proposed service. Other information required by MDEQ is included herein. Unless otherwise stated, all bidders shall provide profiles and resumes of the staff to be assigned to the project, references, illustrative examples of similar work performed, and any other information that clearly demonstrates the bidder's expertise in the area of this solicitation.

The original Bid and all attachments shall be signed and submitted in a sealed envelope or package to:

Bid for Marine Debris Removal-Round Island
Mississippi Department of Environmental Quality
Attn: Regina Cochran
515 East Amite Street
Jackson, Mississippi 39201

1.1.1. Timeline

- Invitation for Bid (IFB) Issue Date: July 15, 2026
- Optional Pre-bid Meeting: July 29, 2026 at 10:00 AM CST via Webinar
- Questions to MDEQ Deadline: August 12, 2026
- Anticipated Posting of Response to Inquiries/Amendments: August 19, 2026
- Bid Package Submission Deadline: August 31, 2026 at 3:00 pm CST
- Anticipated Notice of Intent to Award: September 18, 2026
- Anticipated Post-Award Debriefing Request Date: September 23, 2026
- Post-Award Debriefing Held by Date: September 25, 2026

1.1.2. Late Submissions

Bids received after the specified time shall be rejected. The only acceptable evidence to establish the time of receipt at the office identified for bid opening is the time and date stamp of that office on the bid wrapper or other documentary evidence of receipt used by that office. **MDEQ will not be responsible for delayed or lost mail received after the deadline.**

1.2 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*.

1.3 Bid Form

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

1.3.1 Bidder Certification

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

1.4 Debarment

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

1.5 Additional Information

Questions about the contract provisions or technical portions of the procurement document must be submitted in writing no later than the date and time specified for Questions to Regina Cochran at procurement@mdeq.ms.gov. Bidders are cautioned that any statements made verbally by any person shall not be relied upon unless subsequently ratified by a formal written amendment to the bid document.

1.6 Acknowledgement of Amendments

Bidders shall acknowledge receipt of any amendment to the solicitation by signing and returning the amendment with the bid. The acknowledgement shall be submitted to MDEQ. Each bidder shall submit a written acknowledgement of every amendment to

MDEQ on or before the submission deadline.

1.7 Type of Contract

Compensation for services will be in the form of firm fixed-price rates provided in response to this IFB.

1.8 Written Bids

All bids shall be in writing.

1.9 Disposition of Bids

All submitted Bids become the property of the State of Mississippi.

1.10 Proprietary Information

The bidder should mark any and all pages of the proposal considered to be proprietary information which may remain confidential in accordance with Miss. Code Ann. §§ 25-61-9 and 79-23-1. The provisions of the Contract which contain the professional services provided, any unit prices contained within the Contract; 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 and shall be available for examination, copying, or reproduction in accordance with Miss. Code Ann. § 25-9-120 and the Mississippi Public Records Act. Any pages not marked accordingly will be subject to review by the general public after award of the Contract. Material so designated shall accompany the proposal and shall be readily separable from the proposal in order to facilitate public inspection of the non-confidential portion of the proposal. Public requests to review records with information marked as proprietary will be handled in accordance with the requirements of Miss. Code Ann. § 25-61-9.

1.11 Contract Rights

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

1.12 Property Rights

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 IFB has a legitimate claim of entitlement to be awarded a contract or to the provision of work thereunder. MDEQ is under no obligation to award a contract and may terminate a legally executed contract at any time.

SECTION 2

2.1 Purpose

MDEQ is soliciting bids, subject to the conditions stated herein and attached hereto, from organizations licensed to do business in the State of Mississippi to assist MDEQ with marine debris removal services to support the Reducing Marine Debris Impacts on Birds and Sea Turtles Project (“the Project”). The purpose of the Project as approved in the Regionwide TIG final PR/EA 1 (“the Plan”), is to support the restoration of natural resources and services injured or lost as a result of the Deepwater Horizon (DWH) oil spill, which occurred on or about April 20, 2010, in the Gulf of America.

The purpose of this monitoring project is to remove marine debris from Round Island, which was created in 2016 using beneficial-use sediment material and has been identified as a debris hotspot due to the known presence and regular accumulation of marine debris. Round Island provides nesting and foraging habitat for birds and is located near documented Kemp's ridley sea turtle foraging habitat, as indicated by a high concentration of telemetry reports in the surrounding area from the State of the World's Sea Turtles mapper.

Project Area

The project area (**Figure 1**) includes the upland areas of the “new” Round Island, comprised of approximately 76 acres of beaches, dunes, and scrub-shrub vegetation. The interior portion of the island is an active beneficial-use dredge disposal site and is excluded from the scope of this contract. The project area does not include any in-water removal activities or any beach cleanup activities on the southern portion of “original” Round Island.



Figure 1. Project Area

2.2 Scope of Work

MDEQ is requesting cost quotes for five (5) cleanup events at Round Island within the project area over a five-year period of performance. The Contractor will coordinate with MDEQ for data collection activities. Offerors shall outline costs for all tasks described below on a per-event basis.

2.2.1 Specific tasks for **Marine Debris Removal Services** include the following:

- Coordinate with MDEQ to schedule and conduct five (5) annual cleanup events at Round Island over the period of performance. The following scheduling requirements apply:
 - Cleanup events shall be scheduled between November 1 and March 31 to: (1) avoid conflicts with sea turtle and shorebird nesting seasons; (2) maximize debris capture following the Atlantic hurricane season (June-November); and (3) take advantage of seasonally lower tides that maximize accessible beach area. MDEQ may authorize events outside this window on a case-by-case basis.
 - Prior to each event, the Contractor shall submit a proposed event date and access/logistics plan to MDEQ for review and approval no less than fourteen (14) days in advance.
- Conduct recurring debris removal operation within the project area during each cleanup event as follows:
 - Recurring cleanup events shall be focused on removal of debris of any size (surface level or slightly embedded) within the project area.
 - Debris removed during these events shall be primarily collected by hand. Mechanical equipment (skid-steer loader or equivalent) may be used if larger pieces of debris are encountered.
- Transport collected debris back to the mainland and dispose of it properly in accordance with all applicable local, state, and federal regulations. Documentation of disposal (e.g., weight tickets, disposal facility receipts) shall be retained and provided to MDEQ upon request.
 - Note: If hazardous materials are encountered during cleanup activities (e.g., petroleum containers, pressurized cylinders, or materials exhibiting characteristics of hazardous waste), the Contractor shall cease handling of that material and notify MDEQ immediately. Disposal of hazardous materials is outside the scope of this contract; MDEQ will coordinate appropriate handling separately.
- Monitor and track the amount and type of debris collected during each cleanup event in accordance with the Monitoring and Adaptive Management Plan (MAM Plan) for this project, as attached to the Regionwide TIG Final RP/EA 1, and any supplemental tracking guidance provided by MDEQ. Item type data shall be collected using the EPA's Escaped Trash Assessment Protocol (ETAP) application or equivalent format as directed by MDEQ. Following each annual cleanup event,

the Contractor shall provide MDEQ with the following deliverables within (30) days of each event:

- Raw ETAP data spreadsheet documenting all debris items collected.
- Annual field summary report including all parameters identified in **Table 1** below, a brief narrative description of site conditions and activities, and any observations relevant to future event planning (e.g., notable debris types or accumulation patterns, access challenges, wildlife observations).

Parameters	Data Metrics	Year 1	Year 2	Year 3	Year 4	Year 5
Debris removal events	Duration (hours)					
	Participants (count)					
Debris removed	Number (count) of items, by type ¹					
	Quantity (total weight, lbs)					
	Quantity (total volume, ft ³)					
Qualitative visual assessment of re-accumulation of debris (at time of event)	Low (1), medium (2), or high (3)					

¹Details on the specific debris removed (e.g., traps, plastics, nets, fishing line, bottles, straws, etc.) will be documented according to the EPA's Escaped Trash Assessment Protocol (ETAP).

2.2.2 Additional Considerations

- Round Island is an offshore island accessible only by vessel. The Contractor is responsible for providing all vessel transportation for personnel equipment, and debris to and from Round Island. The following requirements apply:
 - All vessels shall be appropriate for shallow-draft conditions in the Mississippi Sound. Given the absence of maintained navigation channels to the island and the prevalence of low water levels during target cleanup window (November-March), the Contractor shall verify vessel draft requirements in advance of each event.
 - Vessel(s) must be capable of transporting mechanical equipment (e.g., skid-steer loader or equivalent) if mechanical removal is anticipated for a given cleanup event.

2.2.3 Wildlife Protective Measures:

- Round Island provides habitat for multiple federally listed species, including sea turtles, shorebirds, and colonial waterbirds. Section 7 consultation under the Endangered Species Act has been completed for the Project, and protective measures are required of the Contractor and all associated personnel as conditions of that consultation. All contractor personnel shall be briefed by MDEQ on these requirements prior to the first field event.

2.3 Period of Performance

The period of performance of any contract awarded pursuant to this project is expected to commence upon execution by both parties and continue for a period of five (5) years.

2.4 Qualifications

Offeror(s) shall be licensed to do business in the State of Mississippi and shall demonstrate experience conducting marine debris removal or coastal cleanup operations, including experience with both hand collection and mechanical removal methods. Offeror(s) shall have access to shallow-draft vessel(s) suitable for operations in the Mississippi Sound, with the capability to transport mechanical equipment (e.g., skid-steer loader or equivalent) to an offshore island location. Offeror(s) shall demonstrate familiarity with federal Endangered Species Act requirements applicable to coastal and marine environments, including protective measures for sea turtles, shorebirds, and manatees, and shall have demonstrated experience with proper waste transport and disposal in accordance with all applicable local, state, and federal regulations.

2.5 Term Renewal of Contract

The contract may be renewed at the discretion of MDEQ for a period of five (5) successive one-year periods under the same prices, terms, and conditions as in the original contract. The total number of renewal years permitted shall not exceed five (5) years.

2.6 Minority and Women Businesses

MDEQ's policy is to promote participation of Minority Business Enterprises (MBE) and Women Business Enterprises (WBE) in the contracts let by MDEQ. The intent of the

following provision is to encourage contractors to involve such businesses in a meaningful role in the provision of services under this IFB.

A. Offeror's and Offeror's subcontractors will abide by the following steps to encourage participation by MBE and WBE:

1. Including MBE and WBE on solicitation lists;
2. Assuring that MBE and WBE are solicited whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into small tasks or quantities to permit maximum participation of MBE and WBE;
4. Establishing delivery schedules, where the requirements of the work permits, which will encourage participation by MBE and WBE;
5. Using the services and assistance of the Small Business Administration and the Office of Minority Business Enterprise of the U.S. Department of Commerce or Mississippi Development Authority's Minority Business Small Business Development Division (Mississippi Procurement Technical Assistance Program), as appropriate; OR satisfying the self-certification requirements of this section where appropriate, and
6. Including these steps in any subcontracts awarded under this contract.

B. If applicable, Offeror shall supply MDEQ with proof of Offeror's and Offeror's subcontractor's minority status by providing the following prior to contract execution:

1. Certification by the Small Business Administration;
2. Certification by the Mississippi Development Authority's Minority Business Certification Program; or
3. Self-Certification through Notarized affidavit of the MBE/WBE documenting that said business is:
 - a. Wholly owned or majority controlled by a minority or woman; and
 - b. Has been doing business in Mississippi for a period of at least six months prior to the provision of work under this contract.

SECTION 3

3.1 Bid Evaluation

This IFB sets forth the evaluation criteria to be used. No criteria will be used in an evaluation that is not set in this IFB. Only bidders who are found responsive and responsible will have their bids considered. The contract will be awarded to the lowest responsible/responsive bidder whose bid meets the requirements and criteria set forth in this IFB.

3.1.1 Responsive Bidder

Bidder must submit bid which conforms in all material respect to this IFB, as determined by MDEQ. Bids will be reviewed to ensure compliance with the Mandatory Requirements of this IFB. Any offeror who does not supply this information and/or meet these requirements will be deemed non-responsive.

3.1.2 Nonconforming Terms and Conditions

A bid response which includes terms and conditions that do not conform to the terms and conditions in the IFB is subject to rejection as non-responsive. MDEQ reserves the right to permit the bidder to withdraw nonconforming terms and conditions prior to a determination of non-responsiveness.

3.1.3 Conditioning Bid Upon Other Awards

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

3.1.4 Mandatory Requirements

The bid package must be sealed and must contain all of the following items and information to be deemed responsive:

A. Company Information: Bidder must provide the information below in the following manner:

Bidder's company name:	
The place of performance:	
All appropriate company contact information, including the following: Company's Physical Address for place of performance and Principal Place of Business (if different): Designated company contact: Contact's e-mail address: Contact's phone number:	
Bidder's Unique Entity Identifier (UEI)	

number:	
The age of Bidder's business:	
The average number of employees over the past three (3) years:	

- B. Project Plan Management: Provide a summary discussing the project management approach that the offeror's Project team will take to achieve the tasks described in the Scope of Work and course of action necessary for completion of the Scope of Work in accordance with the anticipated Period of Performance.
- C. Price: Provide rates for the services to be performed under this IFB. Please provide this information by filling out the Bid Form attached as Attachment A.
- D. Project Team, Resources and Résumés: Provide the following information:
1. Provide resumes of all persons who would be assigned to provide the required services, including, but not limited to, their respective backgrounds, experience, Project responsibilities, licenses, certifications, education, and skills.
 2. Provide information on the bidder's access to or ability to obtain the equipment, facilities and financial resources to perform the work.
 3. Provide the name of any company or individual anticipated to be used as a *subcontractor* on this Project, as well as that subcontractor's duties on the Project. If subcontractors have not yet been identified but bidder has certain duties that it anticipates subcontracting, bidder shall delineate that scope of work to be subcontracted. Also, bidder should be aware that all subcontractors must be approved by MDEQ.
- E. Experience with Projects of Similar Scope and References: Provide the following information:
1. A record of at least ten (10) projects of similar size and scope completed by the proposed Project Team within the past five (5) years;
 2. For each project identified, identify which member(s) of the proposed Project Team participated and what role they served; and
 3. Each referenced project shall include the following:
 - a. The name,
 - b. telephone number, and
 - c. email address of a responsible individual who may be contacted for a reference.
- F. Professional Certifications, Licensures, and Registrations:
1. Provide copies of the professional licenses/registrations for all entities that

comprise the Project Team, as applicable.

2. Provide a list of individuals and their professional license, certification, or registration numbers for the persons identified in the Project Team, as applicable.

This information required in this Section will not be included in the Bid's thirty (30) page limit.

- G. Certificate of Good Standing: Provide proof from the Office of the Secretary of State of the State of Mississippi demonstrating that bidder is in good standing to do business in Mississippi, which will not be included in the Bid's thirty (30) page limit.
- H. MBE/WBE: Bidder must complete and attach the MBE/WBE Solicitation Form, which is attached hereto as Attachment B. Any documentation submitted under this Section is not included in the thirty (30) page limit of the Bid.
- I. Offeror's Affidavit: Bidder must execute, notarize, and attach the Offeror's Affidavit to its Bid, which will not be included in the Bid's thirty (30) page limit. A copy of the Offeror's Affidavit is attached hereto as Attachment C.
- J. Acknowledgement of Amendments: Bidder shall acknowledge receipt of any amendment to this IFB by signing and returning the amendment with its Bid. Such acknowledgement must be received by MDEQ by the time and at the place specified for receipt of bids. Any documentation submitted under this Section is not included in the thirty (30) page limit of the Bid.

3.1.5 Responsible Bidder

Bidder must have capability in all respects to fully perform the contract requirements with integrity and reliability, which will assure good faith performance, as determined by MDEQ.

3.1.6 Minimum Qualifications to be Deemed Responsible

Factors to be considered in determining whether the standard of responsibility has been met include whether a prospective Contractor has:

- A. Available the appropriate financial, material, equipment, facility, and personnel resources and expertise, or the ability to obtain them, necessary to indicate its capability to meet all contractual requirements;

Provide the information required in Section 3.1.4(D) of this IFB.

- B. A satisfactory record of performance;

Provide the information required in Section 3.1.4(E) of this IFB.

- C. A satisfactory record of integrity;

Provide the information required in Section 3.1.4(E) of this IFB. MDEQ may contact project references as necessary to determine a satisfactory record of integrity.

D. Qualified legally to contract with the State; and

Provide certification that the offeror is not currently debarred from contracting with the State, by providing a completed Offeror's Affidavit as required by this IFB. Also provide a certificate of Good Standing as required by this IFB.

E. Supplied all necessary information in connection with the inquiry concerning responsibility.

The burden is on the prospective bidder to thoroughly demonstrate its responsibility in the above-listed categories. Any bidder to be deemed non-responsible will be rejected.

3.2 Pre-Submittal Conference

An optional pre-submittal conference will be held at the time specified in the IFB via the following online webinar/meeting:

Please join my meeting from your computer, tablet or smartphone.

<https://meet.goto.com/197629525> meet.goto.com

You can also dial in using your phone.

Access Code: 197-629-525

United States: +1 (872) 240-3212

The purpose of the pre-submittal conference is to allow potential offerors an opportunity to present questions to staff and obtain clarification of the procurement requirements. Minutes of the conference will be published.

3.3 Bid Opening

Bids shall be opened in the presence of two or more MDEQ officials after the deadline for submissions. Bids will not be opened publicly. The name of each bidder, the bid, and such other information as is deemed appropriate by MDEQ will be recorded. This information shall be available to the public via a Public Records request.

3.4 Award

A contract will be awarded within ninety (90) days by written notice to the responsive/responsible bidder whose bid meets the requirements and criteria set forth in this IFB. Should there be any reason why the contract cannot be awarded within ninety (90) days after bid opening, the time may be extended by written mutual agreement between MDEQ and the successful bidder. Being a Contractor in no way guarantees any specified amount of work under this IFB and any resulting contract.

3.4.1 Notification

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

SECTION 4

4.1 Post-Award Vendor Debriefing

A bidder, successful or unsuccessful, may request a post-award debriefing, in writing, by U.S. mail or electronic submission to Regina Cochran at procurement@mdeq.ms.gov. The written request must be received by MDEQ within three (3) business days of notification of the intent to award. A post-award debriefing is a meeting and not a hearing; therefore, legal representation is not required. A debriefing is anticipated to occur within three (3) business days of receipt of the request. If a bidder prefers to have legal representation present, the bidder must notify MDEQ in writing and identify its attorney by name, address, and telephone number. MDEQ will schedule and/or suspend and reschedule the meeting at a time when legal counsel can be present.

For additional information regarding Post-Award Debriefing, as well as the information that may be provided and excluded, please see section 5.6.2, Debriefing, of the *Public Procurement Review Board Office of Personal Service Contract Review Rules and Regulations*.

4.2 Required Contract Terms and Conditions

Offeror's Bid and any subsequently awarded Contract are subject to the Standard Contract Terms and Conditions, a copy of which is attached hereto as Attachment D and fully incorporated herein by reference, and any additional terms and conditions included in the subsequently awarded contract.

4.3 Mississippi Contract/Procurement Opportunity Search Portal

This IFB, and the questions and answers concerning this IFB, are posted on the Contract/Procurement Opportunity Search Portal.

4.4 Attachments

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

Attachment A – Bid Form

Attachment B – MBE/WBE Solicitation Form

Attachment C - Offeror's Affidavit

Attachment D – Standard Contract Terms and Conditions

Attachment A

**Monitoring Services
Bid Form**

Schedule of Price

Note: Bid prices should be lump sum and shall include sales tax and all other applicable taxes and fees. Per item bid amounts may be averaged to determine the lowest bid for all services requested.

MARINE DEBRIS REMOVAL, DISPOSAL, AND MONITORING

Price per Event

(x 5 events) = Total

Name of Company: _____

Signature: _____

Company Representative: _____

The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into a Contract with Mississippi Department of Environmental Quality (hereinafter called "MDEQ") in the form included in the Invitation for Bids to perform all Work as specified or indicated in the Invitation for Bids for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Invitation for Bids.

Bidder accepts all of the terms and conditions of the Invitation for Bids. This Bid will remain subject to acceptance for ninety (90) days after the Bid deadline or for such longer period of time that Bidder may agree to in writing upon request of MDEQ.

Bidder has reviewed the requirements to bid this Project and become familiar with and is satisfied as to the general, local, and site conditions that may affect cost, progress, and performance of the Scope of Work.

Bidder is familiar with and is satisfied as to all laws and regulations that may affect cost, progress, and performance of the Scope of Work.

The Invitation for Bids is generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Scope of Work for which this Bid is submitted.

ATTACHMENT B
MBE/WBE Solicitation Form

- 1. Provide the following information for all MBE/WBE firms that were solicited for participation in the offeror's response to this IFB:**

Entity Name	Address	Phone Number and/or e-mail address	Certifying Agency/ Entity/Program	Has the listed MBE/WBE been selected for participation for these requested services? Please indicate by stating either Yes or No below.

- 2. Select one the following:**

- ☐ The bidder is a MBE/WBE firm and at least one or more MBE/WBE firms were solicited and selected for the proposed contract, as indicated above. Prior to contract execution, the bidder shall supply MDEQ with proof of bidder's and bidder's subcontractor's MBE/WBE status by providing the documentation required in this IFB.
- ☐ The bidder is a MBE/WBE firm and no other MBE/WBE firms were solicited for the proposed contract. Prior to contract execution, the bidder shall supply MDEQ with proof of bidder's MBE/WBE status by providing the documentation required in this IFB.
- ☐ The bidder is not a MBE/WBE firm. However, at least one or more MBE/WBE firms were solicited and selected, as indicated above, for the proposed contract. Prior to contract execution, the bidder shall supply MDEQ with proof of bidder's subcontractor's MBE/WBE status by providing the documentation required in this IFB.
- ☐ The bidder is not a MBE/WBE firm. However, at least one or more MBE/WBE firms were solicited (but not selected), as indicated above, for the proposed contract.
- ☐ The prime firm submitting for the proposed contract is not a MBE/WBE firm and no MBE/WBE firms were solicited for the proposed contract. If so, please explain.

ATTACHMENT C
OFFEROR'S AFFIDAVIT
NON-COLLUSION AND CONFLICT OF INTEREST AFFIDAVIT

State of _____

County of _____

I, _____, individually, and in my official capacity as _____ of _____ (offeror), being first duly sworn on oath, depose and state the following on behalf of the company:

The Offeror represents as a part of such Offeror's Bid that such Offeror has not retained any person or agency on a percentage, commission, or other contingent arrangement to secure this Contract.

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

Offeror has not either directly or indirectly entered into any agreement, participated in any collusion; or otherwise taken any action in restraint of free competitive bidding in connection with this Contract; nor have any of its corporate officers or principal owners.

Except as noted hereafter, it is further certified that said legal entity and its corporate officers, principal owners, managers, auditors, and others in a position of administering governmental funds:

- a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any governmental department or agency;
- b) Have not within a three-year period preceding this Bid been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction;
- c) Have not within a three-year period preceding this Bid been convicted of or had a civil judgment rendered against them for violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- d) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in b) and c) above; and
- e) Have not within a three-year period preceding this Bid had one or more public transactions (Federal, State or local) terminated for cause or default.

The Offeror further certifies, to the best of his or her knowledge and belief, that:

- a) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Contract, Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions will be completed and submitted.

The Offeror hereby certifies that, to the best of its knowledge and belief, there are no present or currently planned interests (financial, contractual, organizational, or otherwise) relating to the work to be performed under any contract or task order resulting from this IFB that would create any actual or potential conflict of interest (or apparent conflicts of interest) (including conflicts of interest for immediate family members: spouses, parents, children) that would impinge on its ability to render impartial, technically sound, and objective assistance or advice or result in it being given an unfair competitive advantage. In this clause, the term "potential conflict" means reasonably foreseeable conflict of interest. The offeror further certifies that it has and will continue to exercise due diligence in identifying and removing or mitigating, to the State's satisfaction, such conflict of interest (or apparent conflict of interest). The offeror further certifies that it has no conflict of interest with respect to MDEQ or the Project (as defined in the IFB).

All of the foregoing and attachments (when indicated) is true and correct.

Offeror's Name: _____ IFB Title: _____

Signature: _____ By (Print Name): _____

Title: _____

SWORN TO AND SUBSCRIBED before me, this the ____ day of _____, 20____.

NOTARY PUBLIC

My Commission Expires:

[SEAL]

ATTACHMENT D
STANDARD CONTRACT TERMS AND
CONDITIONS

1. Applicable Law. The contract shall be governed by and construed in accordance with the laws of the State of Mississippi, excluding its conflicts of laws provisions, and any litigation with respect thereto shall be brought in the courts of Mississippi.
2. Approval. It is understood that this contract requires approval by the Public Procurement Review Board (“PPRB”) and/or the Department of Finance and Administration Office of Personal Service Contract Review (“OPSCR”), and if this contract is not approved by PPRB and/or OPSCR, it is void and no payment shall be made hereunder.
3. Availability of Funds. It is expressly understood and agreed that the obligation of MDEQ to proceed under this agreement is conditioned upon the appropriation of funds by the Mississippi State Legislature and receipt of the appropriated funds. If the funds anticipated for the continuing fulfillment of the agreement are, at any time, not forthcoming or insufficient, regardless of the source of funding, MDEQ shall have the right upon 10 business days written notice to Contractor, to terminate this agreement without damage, penalty, cost or expenses to MDEQ of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.
4. Representation Regarding Contingent Fees. By executing the contract the contractor represents that it has not retained any person or agency on a percentage, commission, or other contingent arrangement to secure this contract. If the contractor cannot make such a representation, a full and complete explanation shall be submitted in writing with the offeror’s response to the Agency prior to contract execution.
5. 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 MDEQ 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 MDEQ 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.
6. Procurement Regulations. This contract shall be governed by the applicable provisions of the 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 bidder or 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.

7. Compliance with Laws. Contractor shall comply with, and all activities under this agreement shall be subject to, all applicable federal, state, and local laws and regulations, as now existing and as may be amended or modified.

8. Stop Work Order. MDEQ 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 MDEQ. 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 MDEQ. Upon expiration of the stop work order, Contractor shall resume providing the services which were subject to the stop work order, unless MDEQ has terminated that part of the agreement or terminated the agreement in its entirety. MDEQ is not liable for payment for services which were not rendered due to the stop work order.

9. 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 "Timely Payments for Purchases by Public Bodies" laws, which generally provide for payment of undisputed amounts by the Agency within 45 calendar days of receipt of invoice. Mississippi Code Annotated § 31-7-301, *et seq.*

10. E-Verification. If applicable, Contractor represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act and will register and participate in the status verification system for all newly hired employees. Mississippi Code Annotated §§ 71-11-1 and 71-11-3. Contractor agrees to provide a copy of each verification upon request of MDEQ 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 clause 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 termination, Contractor would also be liable for any additional costs incurred by the Agency due to Contract cancellation or loss of license or permit to do business in the state.

11. 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 at the Agency for examination, inspection, or reproduction by the public. The contractor acknowledges and agrees that MDEQ 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.*

12. Paymode. Payments by MDEQ using the state's accounting system shall be made and remittance information provided electronically as directed by the state and deposited into the bank account of Contractor's choice. MDEQ 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.

13. Contract Assignment and Subcontracting. Contractor acknowledges that it was selected by MDEQ 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 MDEQ, which may, in its sole discretion, approve or deny without reason. Any attempted assignment or transfer of Contractor's obligations hereunder without such consent of MDEQ shall be null and void. Approval of a subcontract by MDEQ shall not be deemed to be approval of the incurrence of any obligation of MDEQ. Subcontracts shall be subject to the terms and conditions of this agreement and to any conditions of approval that MDEQ may deem necessary. Subject to the foregoing, this agreement shall be binding upon the respective successors and assigns of the parties.

14. Antitrust. By entering into this Contract, Contractor conveys, sells, assigns, and transfers to MDEQ all rights, titles, and interest it may now have, or hereafter acquire, under the antitrust laws of the United States and the State that relate to the services purchased or acquired by MDEQ under this Contract.

15. Attorney's Fees and Expenses. In the event Contractor defaults on any obligations under this Agreement, Contractor shall pay to MDEQ all costs and expenses, without limitation, incurred by MDEQ 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 MDEQ be obligated to pay any attorney's fees or legal costs to Contractor.

16. 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 .

17. Change in Scope of Work. MDEQ may order changes in the services consisting of additions, deletions, or other revisions within the general scope of work 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 MDEQ and Contractor. If Contractor believes that any particular work is not within the scope of the Project, is a material change, or will otherwise require more compensation to Contractor, Contractor must immediately notify MDEQ in writing of this belief. If MDEQ believes that the particular work is within the scope of the Contract as written, Contractor will be ordered to and shall continue with the work as changed and at the cost stated for the services within the Contract.

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

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

- (1) Contractor shall have given written notice to the chief procurement officer or designee of such officer:
 - (i) prior to the commencement of the work involved, if at that time Contractor knows of the occurrence of such action or omission;
 - (ii) within 30 days after Contractor knows of the occurrence of such action or omission, if Contractor did not have such knowledge prior to the commencement of the work; or,
 - (iii) within such further time as may be allowed by the chief procurement officer in writing; and
- (2) The notice required by subparagraph (1) of this paragraph shall state that Contractor regards the act or omission as a reason which may entitle Contractor to additional compensation, damages, or an extension of time; and the chief procurement officer or designee of such officer, upon receipt of such notice, may rescind such action, remedy such omission, or take such other steps as may be deemed advisable in the discretion of the chief procurement officer or designee of such officer;
- (3) The notice required by subparagraph (1) of this paragraph describes, as clearly as practicable at the time, the reasons why Contractor believes that additional compensation, damages, or an extension of time may be remedies to which Contractor is entitled; and,
- (4) Contractor maintains and, upon request, makes available to the chief procurement officer within a reasonable time, detailed records to the extent practicable, of the claimed additional costs or basis for an extension of time in connection with such changes.

B. *Limitation of Clause.* Nothing contained herein shall excuse Contractor from compliance with any rules of law precluding state officers and Contractors from acting in collusion or bad faith in issuing or performing change orders which are clearly not within the scope of the Contract.

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

19. Confidential Information. “Confidential Information” shall mean: (a) those materials, documents, data, and other information which Contractor has designated in writing as proprietary and confidential; and, (b) all data and information which Contractor acquires as a result of its contact with and efforts on behalf of the customer and any other information designated in writing as confidential by the State. Each party to this contract agrees to the following:

- (1) to protect all confidential information provided by one party to the other;
- (2) to treat all such confidential information as confidential to the extent that confidential treatment is allowed under state and/or federal law; and,
- (3) except as otherwise required by law, not to publish or disclose such information to any third party without the other party’s written permission; and
- (4) to do so by using those methods and procedures normally used to protect the party’s own confidential information.

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 MDEQ may result in the immediate termination of this contract.

20. Confidentiality. MDEQ is a public agency of the State of Mississippi and is subject to the Mississippi Public Records Act of 1983. Mississippi Code Annotated §§ 25-61-1, *et seq.* If a public records request is made for any information provided to MDEQ by Contractor, MDEQ shall follow the 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 a trade secret or confidential commercial and financial information. MDEQ shall not be liable to the Contractor for disclosure of information required by court order or required by law.

21. Contractor Personnel. MDEQ 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 MDEQ reasonably rejects staff or subcontractors, Contractor shall provide replacement staff or subcontractors satisfactory to MDEQ in a timely manner and at no additional cost to MDEQ. The day-to-day supervision and control of Contractor’s employees and subcontractors is the sole responsibility of Contractor.

22. Project Team/Personnel Changes. Personnel identified by Contractor in its offer/proposal/bid as Project Team members are expected to perform the services prescribed under this contract. Contractor is required to provide MDEQ with written notification of any Project Team personnel changes within forty-eight (48) hours of such change. Prior written approval by MDEQ must be obtained before any replacement personnel can perform services under this Contract.

23. Quality Control. Contractor shall institute and maintain throughout the contract period a properly documented quality control program designed to ensure that the services are provided at all

times and in all respects in accordance with the contract. The program shall include providing supervision and conducting frequent inspections of Contractor's staff and ensuring that accurate records are maintained describing the disposition of all complaints. The records so created shall be open to inspection by MDEQ.

24. Copyrights. Contractor agrees that the rights and title to any copyrightable material first produced under this agreement belongs to MDEQ. Contractor hereby grants to MDEQ 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 regardless of whether it was first produced under this 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 .

25. Exclusion or Debarment. By submitting a bid, proposal, qualification, or application in response to this solicitation, the bidder or offeror certifies that it is not currently excluded or debarred from future contract awards by any political subdivision or agency of any state, federal, local, or county government. Bidder or offeror further certifies that it is not an agent of any such person or entity. Bidder or offeror certifies that it has not, in the five-year period preceding its offer, been convicted of or had a civil judgment rendered against it for commission of a fraud or criminal offense in connection with obtaining, attempting to obtain, or performance of a public contract; violation of antitrust laws; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property. Bidder or offeror certifies that it is not presently indicted or otherwise criminally or civilly charged with the commission of any of the acts listed herein. Bidder or offeror certifies that, within the past five (5) years, it has not had a contract with a governmental entity terminated due to the bidder or offeror's failure to perform, default, or any other action or inaction by the bidder or offeror.

26. Failure to Deliver. In the event of failure of Contractor to deliver services in accordance with the Contract terms and conditions, MDEQ, 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 MDEQ may have.

27. Failure to Enforce Does Not Constitute Waiver. Failure by MDEQ, at any time to enforce the provisions of this Contract shall not be construed as a waiver of any such provisions. Such failure to enforce shall not affect the validity of this Contract or any part thereof or the right of MDEQ to enforce any provision at any time in accordance with its terms.

28. Final Payment. Upon satisfactory completion of the work performed under this Contract, as a condition before final payment under this Contract, or as a termination settlement under this Contract, Contractor shall execute and deliver to MDEQ a release of all claims against the State arising under, or by virtue of, the Contract, except claims which are specifically exempted by Contractor to be set forth therein. Unless otherwise provided in this Contract, by state law, or otherwise expressly agreed to by the parties in this Contract, final payment under the Contract or settlement upon termination of this Contract shall not constitute waiver of the State's claims against Contractor under this Contract.

29. Force Majeure. Each party shall be temporarily excused from performance for any period and to the extent that it is prevented from performing any obligation or service, in whole or in part, as a result of causes beyond the reasonable control and without the fault or negligence of such party and/or its subcontractors. Such acts shall include without limitation acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations superimposed after the fact, fire, earthquakes, floods, or other natural disasters (“force majeure events”). When such a cause arises, Contractor shall notify the Agency in writing at its earliest reasonable opportunity 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. MDEQ may exercise any rights it has under the contract which are available when neither party is in default.

30. Insurance. Contractor represents that it will maintain workers’ compensation insurance in compliance with Mississippi law which inure to the benefit of all Contractor’s personnel provided hereunder, comprehensive general liability or professional liability insurance with minimum limits as described below per occurrence, and fidelity bond insurance with minimum limits as described below. All general liability, professional liability, and fidelity bond insurance will provide coverage to MDEQ as an additional insured. MDEQ reserves the right to request from carriers, certificates of insurance regarding the required coverage. Insurance carriers shall be licensed or hold a Certificate of Authority from the Mississippi Department of Insurance.

- A. Workers’ Compensation and Employer’s Liability Insurance. This insurance shall protect Contractor against all claims under applicable State workers’ compensation laws. Contractor shall also be protected against claims for injury, disease, or death of employees, which, for any reason, may not fall within the provisions of a workers’ compensation law. The liability limits shall not be less than the required statutory limits for workers’ compensation and employer’s liability limits in the amount of One Million and 00/100 Dollars (\$1,000,000.00). Contractor shall supply MDEQ endorsements from its carriers evidencing waiver of subrogation in favor of MDEQ.
- B. Comprehensive General Liability Insurance. This insurance shall include bodily injury, property damage, contractual and other standard coverage contained in comprehensive general liability insurance, in an amount of not less than One Million and 00/100 Dollars (\$1,000,000.00) per occurrence and Two Million and 00/100 Dollars (\$2,000,000.00) aggregate.
- C. Auto Liability Insurance. This insurance shall be in the amount of not less than One Million and 00/100 Dollars (\$1,000,000.00) Combined Single Limit to protect it from any and all claims arising from the use of the following: (1) Contractor’s own automobiles and trucks; (2) hired and non-owned automobiles and trucks; and (3) automobiles and trucks owned by Contractors. The aforementioned is to cover use of automobiles and trucks on and off the site of the Project.
- D. Errors and Omissions/Professional Liability Coverage. This insurance shall be in the amount of not less than One Million and 00/100 Dollars (\$1,000,000.00) per occurrence or claim-based. If the Contractor has a claim-based policy for this liability coverage, the Contractor shall carry and maintain such policy for an additional six years after the expiration

or termination date of this Contract.

For all of the insurance coverage required in (A)-(C) of this Paragraph, MDEQ, MDEQ's Commissioners, officers, employees, agents, and representatives, and the State of Mississippi shall be named as additional insureds or loss payee on such policies as the circumstances may require. Contractor shall provide that the insureds thereon waive subrogation against the State of Mississippi and the said political subdivisions thereof. The parties (and their respective insurers) agree that Contractor's respective policies shall provide primary coverage before any applicable policy otherwise covering MDEQ and that any insurance covering MDEQ shall be excess coverage over Contractor's coverage. The policies shall also provide for all additional insureds to be provided with a minimum 30-day written notice prior to a cancellation or modification of each respective policy.

Upon execution of the Contract, Contractor shall promptly furnish MDEQ with endorsements showing the Contractor compliance with the insurance provisions of this paragraph. While Contractor shall provide MDEQ with endorsements as set forth in this paragraph, the failure to do so, or the failure of the endorsements or insurance provided to conform to the Agreement, does not constitute waiver or estoppels as to MDEQ of their respective legal and equitable rights, including but not limited to, the right to enforce the terms of the Contract. These contractual insurance provisions are intended to be, and shall be interpreted to be, separate and independent contractual obligations from the provisions addressing the indemnity of MDEQ by Contractor.

31. HIPAA Compliance. If requested by MDEQ, Contractor agrees to comply with the "Administrative Simplification" provisions of the Health Insurance Portability and Accountability Act of 1996, including electronic data interchange, code sets, identifiers, security, and privacy provisions, as may be applicable to the services under this Contract.

32. Indemnification. To the fullest extent allowed by law, Contractor shall indemnify, defend, save and hold harmless, protect, and exonerate MDEQ 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 attorneys' 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 MDEQ's sole discretion, upon approval of the Office of the Mississippi Attorney General and MDEQ, 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 MDEQ. Contractor shall be solely responsible for all costs and/or expenses associated with such defense, and MDEQ 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 MDEQ, which shall not be unreasonably withheld.

33. Infringement Indemnification. Contractor warrants that the materials and deliverables provided to MDEQ under this agreement, and their use by MDEQ, 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 MDEQ the right to continue using such items without additional cost to the Agency. Should Contractor fail to obtain for MDEQ 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 MDEQ to discontinue using such items, in which case Contractor will refund to MDEQ the fees previously paid by MDEQ for the items the customer may no longer use, and shall compensate MDEQ 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 MDEQ to discontinue said use.

Scope of Indemnification: Provided that MDEQ promptly notifies Contractor in writing of any alleged infringement claim of which it has knowledge, Contractor shall defend, indemnify, and hold harmless MDEQ 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 MDEQ's sole discretion, upon approval of the Office of the Mississippi Attorney General and MDEQ, 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 MDEQ. Contractor shall be solely responsible for all costs and/or expenses associated with such defense, and MDEQ 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 MDEQ, 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 MDEQ. Nothing contained herein shall be deemed or construed by MDEQ, 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 MDEQ and Contractor. Neither the method of computation of fees or other charges, nor any other provision contained herein nor any acts of MDEQ or Contractor hereunder creates or shall be deemed to create a relationship other than the independent relationship of MDEQ and Contractor. Contractor's personnel shall not be deemed in any way, directly or indirectly, expressly or by implication, to be employees of MDEQ. Neither Contractor nor its employees shall, under any circumstances, be considered servants, agents, or employees of MDEQ, and MDEQ shall be at no time legally responsible for any negligence or other wrongdoing by Contractor, its servants, agents, or employees. MDEQ 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, MDEQ shall not provide to Contractor any insurance coverage or other benefits, including Workers' Compensation, normally provided by MDEQ for its employees.

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

36. Ownership of Documents and Work Papers. MDEQ shall own all documents, files, reports, work papers and working documentation, electronic or otherwise, created in connection with this project which is the subject of this agreement, except for Contractor's internal administrative

and quality assurance files and internal project correspondence. Contractor shall deliver such documents and work papers to MDEQ upon termination or completion of the agreement. The foregoing notwithstanding, Contractor shall be entitled to retain a set of such work papers for its files and shall obtain written permission from MDEQ to use such work papers, subject to any copyright protections.

37. Conflict of Interest. Contractor shall immediately notify MDEQ in writing of any interests (financial, contractual, organizational, or otherwise) relating to the services to be performed under this Contract that would create any actual or potential conflict of interest (or apparent conflicts of interest) (including conflicts of interest for immediate family members: spouses, parents, children) with respect to the MDEQ, or the Project that would impinge on Contractor's ability to render impartial, technically sound, and objective assistance or advice or result in it being given an unfair competitive advantage. In this clause, the term "potential conflict" means reasonably foreseeable conflict of interest. Contractor further certifies that it has and will continue to exercise due diligence in identifying and removing or mitigating, to MDEQ's satisfaction, such conflict of interest (or apparent conflict of interest). If such conflict cannot be resolved to MDEQ's satisfaction, MDEQ reserves the right to terminate this Contract per the Termination for Convenience clause of this Contract.

38. Price Adjustment. Any adjustments in price during the life of a contract is limited to the price adjustment methodology stated in the solicitation, or if the contract was not formally solicited, is limited to the methodology included in the contract at the time the contract was originally executed.

A price adjustment may be allowed in the event unanticipated market disruptions occur such that the unit prices bid by the Contractor in response to the solicitation are no longer viable for the provision of services required by MDEQ. The Contractor shall provide a market analysis regarding the viability of the originally bid rates and rates the Contractor contends would be viable under the current market conditions. The Contractor shall also provide any other support for the request for a price adjustment required by MDEQ. MDEQ has the sole discretion to determine whether a price adjustment will be allowed, the amount of the price adjustment, and the duration of the price adjustment. Any price adjustment made under this provision shall be limited to only that which is required to accommodate the precipitating market disruption. Under no circumstances shall a price adjustment result in the adjusted unit prices exceeding 110% of the original unit price. (For example, an original unit price of \$100.00 could be increased up to, but not to exceed, \$110.00 under this clause.) No price adjustment will be allowed other than as described in this paragraph. When preparing bids, proposals, or qualifications, Offerors shall assume no such price adjustment will occur during the life of the contract. Any approval of a price adjustment shall be contained in a duly executed written amendment to this Contract.

39. Price Certification. Any bidder or 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, bidder or 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.

41. Priority. The contract consists of this agreement, the RFx Number 3160008100, attached hereto as Attachment A, and the Contractor's bid, proposal or qualification submitted in response, attached hereto as Attachment B. Any ambiguities, conflicts, or questions of interpretation of this

contract shall be resolved first by reference to this agreement and, if still unresolved, by reference to Attachment A and, if still unresolved, by reference to Attachment B. Omission of any term or obligation from this agreement shall not be deemed an omission from this contract if such term or obligation is provided for elsewhere in this contract. MDEQ has discretion as to which documents to attach to the contract and what priority those documents should be assigned.

42. Record Retention and Access to Records. Contractor shall maintain such financial records and other records as may be prescribed by MDEQ or by applicable federal and state laws, rules, and regulations. Provided Contractor is given reasonable advance written notice and such inspection is made during normal business hours of Contractor, MDEQ or any duly authorized representatives shall have unimpeded, prompt access to any of Contractor's books, documents, papers, and/or records which are relevant to this agreement. All records related to this agreement shall be retained by Contractor for three years after final payment is made under this agreement and all pending matters are closed; however, if any audit, litigation or other action arising out of or related in any way to this project is commenced before the end of the three year period, the records shall be retained for one year after all issues arising out of the action are finally resolved or until the end of the three year period, whichever is later.

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

44. Right to Inspect Facility. MDEQ 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 MDEQ.

45. Right to Audit. Contractor shall maintain such financial records and other records as may be prescribed by MDEQ 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 MDEQ, 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 MDEQ, the Mississippi State Auditor's Office, and/or other entity of the state.

46. 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 Contract. Contractor will reimburse the State for any loss or damage, normal wear and tear excepted.

47. Severability. If any part of this Contract is declared to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision of the Contract 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 Contract as necessary to reflect the original intent of the parties and to bring any invalid or unenforceable provisions in compliance with applicable law.

48. Termination.

Termination for Convenience. MDEQ may, when the interests of the Agency so require, terminate this contract in whole or in part, for the convenience of the Agency. MDEQ 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 MDEQ 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, MDEQ may terminate the contract for default and the Contractor will be liable for the additional cost to MDEQ 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.

49. 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 Contract.

50. Unsatisfactory Work. If, at any time during the Contract term, the service performed or work done by Contractor is considered by MDEQ 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 MDEQ, immediately correct such deficient service or work. In the event Contractor fails, after notice, to correct the deficient service or work immediately, MDEQ shall have the right to order the correction of the deficiency by separate Contract or with its own resources at the expense of Contractor.

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

52. Entire Agreement. This contract, 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 contract may be altered, amended, or modified only by a written document executed by the MDEQ 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 contract shall not be construed or interpreted in favor of or against the MDEQ or Contractor on the basis of draftsmanship or preparation hereof.

53. 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 MDEQ, agreed to by Contractor, and approved by the Public Procurement Review Board, if required.

54. Modification or Renegotiation Required by Change in Law. The parties agree to renegotiate the Agreement in good faith if federal and/or state revisions of 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 Public Procurement Review Board, if required.

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

For Contractor: *[Name and Title] [Contact Information]*

For [Agency]:[Name & Title] [Contact Information]

56. Minor Informalities and Irregularities. MDEQ has the right to waive minor defects or variations of a bid from the exact requirements of the specifications that do not affect the price, quality, quantity, delivery, or performance of the services being procured and if doing so does not create an unfair advantage for any offeror. If insufficient information is submitted by a offeror for MDEQ to properly evaluate the offer, MDEQ has the right to require such additional information as it may deem necessary after the submission deadline, provided that the information requested does not change the price, quality, quantity, delivery, or performance time of the services being procured and such a request does not create an unfair advantage for any offeror. (Information requested may include, for example, a copy of business or professional licenses, or a work schedule.)