



Mississippi Development Authority  
501 North West Street  
Jackson, MS 39201

Request for Proposal to Provide

Mississippi Development Authority Advertising Services

RFP#: ADV05172016

Date: April 27, 2016

Mississippi Development Authority  
501 North West Street  
Jackson, MS 39201-1001

**1. INVITATION:**

Written proposals subject to the conditions therein stated and attached hereto, will be received at 501 N. West Street, Woolfolk Building, Suite 1500, Jackson, MS 39201 until Tuesday, May 17, 2016 at 2:00 P.M., CST for providing the services as described below for the Mississippi Development Authority (MDA).

**2. DESCRIPTION:**

The MDA is seeking a professional services contractor(s) to serve as the agency of record for Economic Development marketing and advertising / Tourism marketing and advertising. The nature of the services is that customarily performed by an advertising, public relations and marketing company.

**3. EVALUATION PROCEDURE AND FACTORS TO BE CONSIDERED IN THE EVALUATION PROCESS:**

MDA seeks to make award to the Offeror(s) that demonstrate the most advantageous combination of capability, qualifications, experience, and price. The evaluation process and factors set forth herein as Attachment "A" reflect MDA's determination of the evaluation method, information, and criteria that will best assist MDA in making this selection. Generally, Step I is to determine the responsiveness of the proposal. Step II evaluation factors are scored numerically.

**4. ALL PROPOSALS SUBMITTED IN RESPONSE TO THIS REQUEST SHALL BE IN WRITING.**

**5. OFFERORS MAY DESIGNATE THOSE PORTIONS OF THE PROPOSALS WHICH CONTAIN TRADE SECRETS OR OTHER PROPRIETARY DATA WHICH MAY REMAIN CONFIDENTIAL IN ACCORDANCE WITH SECTION 25-61-9 AND 79-23-1 OF THE MISSISSIPPI CODE:**

Inquiries regarding this Request for  
Proposal may be mailed to:

Attn: Mike McCollough  
Mississippi Development Authority  
P O Box 849  
Jackson, MS 39205-0849

Or

501 N. West Street, Woolfolk Bldg., Suite 1500  
Jackson, MS 39201

Or

Email: [procurement@mississippi.org](mailto:procurement@mississippi.org)

Proposals and attachments must be  
submitted to:

Attn: Mike McCollough  
Mississippi Development Authority  
501 N. West Street, Woolfolk Bldg., Suite 1500  
Jackson, MS 39201 USA

## **6. SPECIFICATIONS / SCOPE OF WORK:**

The specification/Scope of Work MDA is seeking is in Attachment "B".

## **7. TYPE OF CONTRACT:**

The MDA is requesting proposals for a firm fixed price contract(s) for services.

## **8. TERM AND EXTENSION OF CONTRACTS:**

The MDA anticipates awarding up to three (3) contracts for the services outlined herein with an anticipated start date of the contract(s) being August 1, 2016. The initial term of the contract(s) shall be 24 months extending to July 31, 2018 with the option of two additional, one (1) year terms for a possible total contract term of four (4) years. If both parties agree to an extension of the contract(s), the renewal(s) would be under the same fixed unit prices, terms and conditions as the original contract(s).

## **9. REJECTION OF PROPOSALS:**

Proposals, which do not conform to the requirements set forth in this RFP, may be rejected by MDA. Proposals may be rejected for reasons that include, but are not limited to, the following:

- A. The proposal contains unauthorized amendments to the requirements of the RFP;
- B. The proposal is conditional;
- C. The proposal is incomplete or contains irregularities which make the proposal indefinite or ambiguous;
- D. The proposal is not received by the deadline;
- E. The proposal is not signed by an authorized representative of the party;
- F. The proposal contains false or misleading statements or references.

## **10. ACCEPTANCE OF PROPOSALS:**

MDA reserves the right, in its sole discretion, to waive minor irregularities in proposals. A minor irregularity is a variation of the RFP, which does not affect the funding request, or give one party an advantage or benefit not enjoyed by other parties, or adversely impact the interest of MDA. Waivers, when granted, shall in no way modify the RFP requirements or excuse the party from full compliance with the RFP specifications and other contract requirements, if the party is awarded the contract.

## **11. DISPOSITION OF PROPOSALS:**

All submitted proposals become the property of MDA.

## **12. COMPETITIVE NEGOTIATION:**

The bidding method to be used is a competitive negotiation from which MDA is seeking the best combination of price, experience and quality of service. Discussions may be conducted with Proposers

who submit proposals determined to be reasonably susceptible of being selected for award. Likewise, MDA also reserves the right to accept any proposal as submitted to contract award, without substantive negotiation of offered terms, services or prices. Therefore, all parties are advised to propose their most favorable terms initially.

### **13. RFP DOES NOT CONSTITUTE ACCEPTANCE OF OFFER:**

The release of the RFP does not constitute an acceptance of any offer, nor does such release in any way obligate MDA to award funds. MDA reserves the rights to accept, reject, or negotiate any or all offers on the basis of the evaluation criteria contained within this RFP. The final decision to award funds to any party rests solely with MDA.

### **14. EXCEPTIONS AND DEVIATIONS:**

Proposers taking exception to any part or section of the solicitation shall indicate such exceptions on the proposal and shall be fully described. Failure to indicate any exception will be interpreted as the Proposer's intent to comply fully with the requirements as written. Conditional or qualified Proposers, unless specifically allowed, shall be subject to rejection in whole or in part.

### **15. NONCONFORMING TERMS AND CONDITIONS:**

A proposal, which includes terms and conditions not conforming to the terms and conditions in the RFP, is subject to rejection as non-responsive. MDA reserves the right to permit the Proposer to withdraw nonconforming terms and conditions from its proposal prior to a determination by MDA of non-responsiveness based on the submission of nonconforming terms and conditions.

### **16. PROPOSAL ACCEPTANCE PERIOD:**

The original and seven (7) copies (8 copies total) of the proposal and all attachments shall be signed and submitted in a **sealed envelope or package** to Mississippi Development Authority, Attn: Mike McCollough, 501 N. West Street, Woolfolk Building, Suite 1500, Jackson, MS 39201 no later than 2:00 P.M. Central Time on Tuesday, May 17, 2016. Timely submission of the proposal is the responsibility of the Proposer. Offers received after the specified time shall be rejected and returned to the Proposer unopened. **The envelope or package shall be marked "Mississippi Development Authority Advertising Services RFP#ADV05172016 " in the lower left hand corner.** Each page of the proposal and all attachments shall be identified with the name of the Proposer.

### **17. EXPENSES INCURRED IN PREPARING OFFERS:**

MDA accepts no responsibility for any expense incurred by the Proposer in the preparation and presentation of an offer. Such expenses shall be borne exclusively by the Proposer.

### **18. ADDITIONAL INFORMATION:**

Questions concerning the RFP document must be submitted in writing to Mississippi Development Authority, Attn: Mike McCollough, 501 N. West Street, Woolfolk Building, Suite 1500, Jackson, MS

39201 or via email to [procurement@mississippi.org](mailto:procurement@mississippi.org). Questions will be received through Monday, May 09, 2016, at 2:00 P.M. CST. Responses to all questions will be posted to the MDA website, as an amendment to the RFP by Tuesday, May 10, 2016, at 2:00 P.M. CST. Proposers are cautioned that any statements made by the contact person that materially change any portion of the RFP shall not be relied upon unless subsequently ratified by a formal written amendment to this RFP.

**19. ACKNOWLEDGMENT OF AMENDMENTS:**

Proposers shall acknowledge receipt of any amendment to the solicitation by signing and returning the amendment with the proposal, by identifying the amendment number and date in the space provided for this purpose on the proposal form, or by letter. The acknowledgment must be received by MDA by the time and at the place specified for receipt of proposals.

**20. DEBARMENT:**

By submitting a proposal, the Proposer 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 the U.S. Federal government and that it is not a person or entity which is currently debarred from submitting proposals for contracts issued by any political subdivision or agency of the State of Mississippi or the Federal government.

**21. RIGHT TO POST-AWARD DEBRIEFING:**

A vendor, successful or unsuccessful, may request a post-award debriefing. See Attachment "C" for specific procedures to request a debriefing.

**22. BID PROTEST PROCEDURES:**

Bid protest procedures can be found in Attachment "D".

**23. RELEASE OF BIDDING DOCUMENTS:**

To improve the efficiency of the evaluation and award process, the MDA shall restrict the availability of proposals, scoring information, evaluation documents, emails or any other documentation related to the review and/or evaluation of proposals prior to contract award.

**24. TERMS AND CONDITIONS:**

By submitting a proposal in response to this RFP, the Proposer agrees to be bound by the General Terms and Conditions contained in this RFP in Attachment "E".

**25. EMPLOYEES NOT TO BENEFIT:**

I (we) hereby certify that if the contract is awarded to our firm, partnership, or corporation, no employee of MDA, or members of his/her family, including spouse, parents or children has received or been promised, directly or indirectly, any financial benefit, by way of fee, commission, finder's fee, political

contribution or any similar form of remuneration on account of the act of awarding and/or executing this Contract. See Submission Form page 8.

## 26. CONFLICTS OF INTEREST:

The Proposer [ ] is [ ] is not aware of any information bearing on the existence of any potential organizational conflict of interest. See Submission Form page 8.

## 27. CERTIFICATION OF INDEPENDENT PRICE DETERMINATION:

The bidder / proposer certifies the prices submitted in response to the solicitation have been arrived at independently and without, 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. See Submission Form page 8.

## 28. OFFICE AND STAFF LOCATION REQUIREMENT:

Each advertising agency submitting a proposal must have an office in the Jackson Metropolitan area (tri – county area of Hinds, Madison and Rankin), or be willing to establish such an office with all staff who would perform the services during the contract term. Each Proposer must certify they will have a Jackson Metropolitan office. See Submission Form page 9.

## 29. THE FOLLOWING RESPONSE FORMAT SHALL BE USED FOR ALL SUBMITTED PROPOSALS:

- A. Completed and signed *Request for Proposal Submission Form* (is included in this RFP).
- B. Completed and signed acknowledgment for all addendums (if addendums were issued).
- C. Proposal as required in Attachment "A" Step I and Step II.
- D. Acceptance of conditions: Indicate any exceptions to the General Terms and Conditions of the proposal document and any other requirements listed.
- E. Additional data: Provide any additional information that will aid in evaluation of the response.
- F. Cost data: **Proposals must include a single blended hour rate for evaluation purposes in Attachment A Step II.**

While cost data submitted at this stage is not necessarily binding, proposers should submit their best offer. Cost data may be subject to negotiation if your proposal is chosen as a finalist. Include the number of personnel to be assigned to the contract, titles of the disciplines of work and the hourly rates associated with those disciplines (include a sample staffing chart). Hourly rates shall include all overheads, direct, indirect, fringe and other miscellaneous expenses.

Printing and production costs (inclusive of electronic production and retouching) will be billed by the ad agency as pass-through costs with no mark-up. All media placements will be paid by MDA with a maximum 13% commission on the actual net cost of the ad. The proposer will be required to submit

the billing from the media outlet as proof of actual cost for the ad. The proposer must indicate the commission percentage to be charged for media buys in this section on a separate line.

Do not include estimated travel expenses in the Proposal's Cost Data section. However, travel expenses must be preapproved by the MDA and will be reimbursed at actual cost not to exceed those limits set by the Mississippi Department of Finance & Administration for all State agencies. Proposer will be required to follow State travel policy with regard to allowable expenses. Lodging arrangements will be the responsibility of the successful Proposer.

The below format should be used to summarize the cost data and must be submitted as a single page (or 2 if needed) in the proposal and identified as "Cost Data". This Cost Data page must be the last page in your proposal.

Blended Hourly Rate \$ \_\_\_\_\_

Media Buy Commission \_\_\_\_\_%

Discipline	Hourly Rate

**MISSISSIPPI DEVELOPMENT AUTHORITY**  
**REQUEST FOR PROPOSAL FOR**  
**MISSISSIPPI DEVELOPMENT AUTHORITY ADVERTISING SERVICES**  
**SUBMISSION FORM**

**RFP # ADV05172016**

Company \_\_\_\_\_

Address \_\_\_\_\_

Contact Person \_\_\_\_\_

Telephone Number \_\_\_\_\_

Email \_\_\_\_\_

**NOTE: It is the Proposer's responsibility to provide adequate information in their proposal package to enable MDA to ensure the proposal meets the required criteria. Items listed in the package shall be in the same order as listed in the specifications. Failure to do so could result in the rejection of the proposal.**

**EMPLOYEES NOT TO BENEFIT: Per page 5 #25. Proposer certifies Employees Not to Benefit. Indicate: Yes [ ] No [ ]**

**CONFLICTS OF INTEREST: Per page 6 #26. Proposer is / is not aware of Conflicts of Interest. Indicate: Is [ ] Is Not [ ]**

**PROSPECTIVE CONTRACTOR'S REPRESENTATION REGARDING CONTINGENT FEES: Per Attachment E, page 2, #4. Proposer has / has not retained anyone to secure this contract. Indicate: Has [ ] Has Not [ ]**

**CERTIFICATION OF INDEPENDENT PRICE DETERMINATION: Per page 6 #27. Proposer certifies independent price determination. Indicate Yes [ ] No [ ]**

**CERTIFICATION OF OFFICE AND STAFF LOCATION: Per page 6 #28. Proposer certifies Office and Staff in the Jackson Metropolitan area.**

Indicate Yes [ ] No [ ]

**COLLUSION**

I certify that this offer is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting an offer for the same services, materials, supplies, or equipment and is in all respects fair and without collusion or fraud. I understand collusive bidding is a violation of State of Mississippi and U.S. Federal laws and can result in fines, prison sentences, and civil damage awards. I hereby certify that the responses to the above representations, certifications, and other statements are accurate and complete. I agree to abide by all conditions of the proposal and certify that I am authorized to sign for my company.

Signature Date: \_\_\_\_\_

Name (Printed): \_\_\_\_\_

Title: \_\_\_\_\_

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

# Attachment A

## EVALUATION PROCEDURE AND FACTORS TO BE CONSIDERED IN THE EVALUATION PROCESS

- Step I is not scored and does not result in a ranking of Proposers. Rather, Step I is used to determine the responsiveness of the Proposer to the minimum information required for their proposal to continue on to Step II. Written proposals that include the minimum information required in this Solicitation will move on to Step II of the evaluation. Those written proposals that do not include the minimum information required in this Solicitation will be rejected immediately and will receive no further consideration. The minimum information required for Step I is set forth in Section A below.
- Step II is an evaluation of the Proposer's written proposal. Written proposals will be scored using the evaluation criteria set forth in Section B below.
- Each Offeror's Total Step II score will be ranked to determine the ranking of Offerors.
- MDA will make every reasonable effort to ensure consistency of the evaluation panel throughout the evaluation process. However, the MDA reserves the right to make substitutions and/or changes to the evaluation panel as contingencies, availability of personnel, or the needs of the MDA may require.

MDA reserves the right, but is not required, to conduct discussions with responsible Offerors whose proposals are determined to be reasonably susceptible to being selected for award. The discussion shall be for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Revision of proposals may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. Based on total points received in Step II all Offerors who are determined to be reasonably susceptible to being selected for award may be contacted for a best and final offer. As discussions and/or requests for best and final offers are not required, Proposers must take care to ensure that their initial written submissions respond fully to the requirements of the solicitation, are competitively priced and provide all information Proposers want to submit for consideration.

Notwithstanding the determination of the Offeror(s) and/or Awardee(s) as set forth herein, MDA reserves the right prior to execution of any contract to require the Offeror(s) and/or Awardee(s) to provide any and all such information as the MDA deems necessary or proper to determine that the Offeror(s) and/or Awardee(s) are sufficiently responsible and has and can maintain all the necessary facilities, management capability, personnel, technical capability, financial resources, and integrity to ensure successful performance of any resulting contract(s). MDA may make such investigations deemed necessary and proper. MDA reserves the right to reject any offer if the

evidence submitted by, or investigation of the Offeror(s) and/or Awardee(s) fails to satisfy MDA that the Offeror(s) and/or Awardee(s) are responsible and properly qualified to carry out the obligations of the contract(s).

**A. Step I Minimum Information Required**

Each Proposer shall include the following as part of its written proposal. Each proposer shall include the attached checklist (Attachment F) identifying the page number where each of the minimum information required identified below is located in the proposal.

- (1) the name of the Offeror, the location of the Offeror's principal place of business and, if different, the place of performance of the proposed contract;
- (2) the age of the Offeror's business and average number of employees over the past 3 years;
- (3) the abilities, qualifications, and experience of all persons who would be assigned to provide the required services;
- (4) a listing of other contracts under which services similar in scope, size, or discipline to the required services were performed or undertaken within the past 3 years;
- (5) A plan giving as much details as is practical explaining how the services will be performed.

Any proposal that fails to include any of the above information will be rejected immediately and will receive no further consideration by MDA.

**B. Step II – Evaluation of Written Proposals - Evaluation Factors and Their Relative Importance (Total of 100 points available)**

MDA shall evaluate those written proposals determined in Step I to be eligible for consideration in Step II. Written proposals shall be reviewed and scored in accordance with the following criteria, the relative significance of which is stated, for how well the proposals demonstrate the following in Step II:

- (1) The Plan for performing the required services. *A detailed narrative including ideas, procedures, strategies, action plans, milestones, and timelines that will be utilized to achieve the specific outcomes identified in the solicitation for services.* (Important 20 pts.).
- (2) Proposer's ability to perform the services as reflected by technical training and education, general experience, specific experience in providing the required services, and the qualifications and abilities of personnel proposed to be assigned to perform the services. *A detailed narrative which demonstrates the skills, expertise, means, capability and capacity to successfully perform the services identified in the solicitation, including certifications, demonstrated proficiency, competencies, and records of past*

*performance of proposed staff that will be assigned to perform the services. This includes the ability of the Proposer to provide a work product that is legally defensible.*

(Very Important 20 pts.).

- (3.) The personnel, equipment, and facilities to perform the services currently available or demonstrated to be made available at the time of contracting. A detailed narrative which demonstrates the possession of adequate personnel, equipment and facilities to perform the services identified in the solicitation. *The narrative should also include statements regarding the respondent's commitment and the staff's availability to perform the services identified in the solicitation within the timeframe specified in the solicitation.* (Very Important 20 pts.).
- (4.) A record of past performance of similar work. *A detailed narrative providing written evidence of the successful completion of previous work that is of the same type or closely resembles the services identified in the solicitation.* (Important 10 pts.).
- (5.) Price. Provide the documentation and the methodology for the blended hourly rate submitted and the assessment of fees which will be charged to complete the services identified in the solicitation. The pricing structure should conform to the specifications contained in the solicitation. *The proposal received which has the lowest proposed blended hourly rate will receive the maximum points and the remaining Offerors will be given a pro rata score as their blended hourly rate compares to the lowest proposed blended hourly rate.* (Critical 25 pts.).
- (6.) Media Buy Commission Rate. All media placements will be paid by MDA with a maximum commission rate of 13% commission on the actual net cost of the ad. The submitted commission rate should reflect the commission amount the agency of record will charge to obtain media placements on behalf of MDA. *The proposal received which has the lowest proposed Media Buy Commission Rate will receive the maximum points and the remaining Offerors will be given a pro rata score as their rate compares to the lowest proposed rate. Any proposer who quotes higher than 13% will receive zero points.* (Important 5 points).

### **C. Award Decision**

The Offeror(s) who receives the highest total score of all Offerors from Step II should be the Awardee(s) based upon offering the most advantageous combination of capability, qualifications, experience, and price as evaluated in accordance with the terms of this solicitation. If Step II scores are compiled and a tie occurs between the leading proposals which results in the agency being unable to clearly determine which proposer(s) should be the awardee(s), a separate three (3) person evaluation panel will be selected to score the proposals who are tied. After the tied proposals are rescored the Offeror(s) who receives the highest total score from Step II should be the Awardee(s).

### **D. Contract Negotiations**

The MDA Procurement Officer will contact the Offeror(s) determined to be the Awardee(s) and attempt to negotiate an agreement(s) that are acceptable to both parties.

## Attachment B

### ECONOMIC DEVELOPMENT

#### SPECIFICATIONS / SCOPE OF WORK FOR PROFESSIONAL ADVERTISING SERVICES:

The services will include, but not be limited to:

- A. Successful promotion of MDA's Mission: MDA's mission is to foster a strong State economy and vibrant communities through innovation, use of talent and resources to improve our citizens' lives.
- B. Identifying the State's brand position as a choice business location for new investment and existing industry. MDA Divisions and Core Areas of Focus are: Global Business (Recruitment), Trade, Existing Industry and Business (Retention, Expansion, and Small Business Assistance), Minority and Small Business Development, Workforce Development, Energy and Natural Resources, Community Services (Community Development), Asset Development, Disaster Recovery, Creative Economy and other ongoing initiatives as opportunities emerge.
- C. Required Advertising Mediums: MDA's Scope of Work for economic development marketing encompasses both print and digital platforms, including website development, social media strategies and implementation, video work for key branding and special projects, translation needs for foreign languages, marketing brochures for current and new initiatives, booklets and reports, trade show display design and assistance, other promotional and advertising collateral materials, other emerging needs or opportunities which arises from market driven factors.
- D. Performing digital services such as social media and web design and providing account management liaison, coordination and supervision throughout. Current websites are: [www.Mississippi.org](http://www.Mississippi.org), [www.aerospacemississippi.org](http://www.aerospacemississippi.org), <http://auvsi.mississippi.org>.
- E. Advertising support for additional initiatives which may arise during the terms of the Contract. MDA is the State of Mississippi's lead economic development agency, thus advertising agency support to proactively pursue emerging opportunities is required. Large economic development projects can potentially alter the overall scope of work, and the proposer selected will be required to support MDA in the recruitment of economic development projects. The overall scope of work can also change depending upon market shifts with State, workforce, or industry needs which may occur during the terms of the Contract. MDA requires the proposer to be responsive and adaptable in the recruitment of economic development projects and in addressing shifts in market conditions.
- F. Additional marketing services which may include the preparation of collateral materials, services for the planning of merchandising programs, direct response advertising services, sales promotion and research services.
- G. Developing and recommending marketing objectives and strategies.
- H. Preparing and presenting advertising media plans.
- I. Implementing approved plans through the creation of copy, artwork and scripts.

- J. Placing and tracking of media placement and media buys: The proposer will need to secure bonus placements when available at negotiated reduced rates. This includes, but is not limited to, online, television, radio, print, (i.e., newspaper, trade publications) etc.
- K. Providing, supporting and pitching story ideas, project announcements, etc., to various media outlets.
- L. Supervising the production of finished advertising materials and the placement of such materials in the media.
- M. Development and implementation of direct marketing programs.
- N. Timeliness in Response: MDA is often on the front line of announcements, projects, etc. on behalf of the State of Mississippi. Public relations, advertising, audio/visual, marketing, planning needs, etc. are often needed in a timely fashion as last-minute needs arise. The proposer/s will be required to be responsive and provide services as quickly as practicable.
- O. Other outreach initiatives as determined by the Mississippi Development Authority.

## **TOURISM**

### **SPECIFICATIONS / SCOPE OF WORK FOR PROFESSIONAL ADVERTISING SERVICES:**

The services will include, but not be limited to:

- A. Successful promotion of MDA-Tourism's Mission: Tourism's mission is to create economic growth and opportunity through the promotion and development of Mississippi as a tourism destination. MDA Tourism's mission also provides leadership and direction for the Mississippi Tourism Industry by fostering awareness of the industry's significance to enhance the image of Mississippi and the quality of life for Mississippians.
- B. Identifying Mississippi as a choice location for tourism and recreation in order to increase visitation. Tourism Program Areas and Core Areas of Focus: Consumer (Heritage, Culture, Music, Trails, Outdoor, and Sports), Trade (Group Travel, Meeting & Convention), International, Film and other ongoing initiatives as opportunities emerge.
- C. Implements and develops annual multidisciplinary strategic marketing and communications plan which includes traditional communications and advertising, digital and social marketing, publication development, cooperative promotions, consumer fulfillment, public relations, international marketing, tourism product development, offering capabilities and expertise in every communication discipline.
- D. Both print and digital platforms, including website development, video work for key branding and special projects, translation needs for foreign languages, marketing brochures for current and new initiatives, booklets and reports, trade show display design and assistance, other promotional and advertising collateral materials, other emerging needs or opportunities which arise from market driven factors.

- E. Performing digital services such as web design and providing account management liaison, coordination and supervision throughout. Current websites: [www.visitMississippi.org](http://www.visitMississippi.org) and [www.mscreativeeconomy.com](http://www.mscreativeeconomy.com).
- F. Advertising support for additional initiatives which may arise during the terms of the Contract. MDA-Tourism is the State of Mississippi tourism agency thus advertising agency support to proactively pursue emerging opportunities is required. The overall scope of work can also change depending upon market shifts with State, product, or industry needs which may occur during the terms of the Contract. MDA-Tourism requires the proposer/s to be responsive and adaptable in increasing visitation and in addressing shifts in market conditions.
- G. Additional marketing services which may include the preparation of collateral materials, services for the planning of merchandising programs, direct response advertising services, sales promotion and research services.
- H. Developing and recommending marketing objectives and strategies.
- I. Preparing and presenting comprehensive advertising media plans.
- J. Implementing approved plans through the creation of copy, artwork and scripts.
- K. Supervising the production of finished advertising materials and the placement of such materials in the media.
- L. Development and implementation of direct marketing programs.
- M. Other outreach initiatives as determined by the Mississippi Development Authority.

# Attachment C

## **Mississippi Development Authority Procedures for filing a post-award vendor debriefing**

1. A vendor, successful or unsuccessful, may request a post-award debriefing, in writing, by U.S. mail or electronic submission, to be received by MDA within three (3) business days of notification of the contract award. A vendor debriefing is a meeting and not a hearing; therefore, legal representation is not required. If a vendor prefers to have legal representation present, the vendor must notify the MDA and identify its attorney. The MDA shall be allowed to schedule and/or suspend and reschedule the meeting at a time when a representative of the Office of the Mississippi Attorney General can be present.
2. Unless good cause exists for delay, the debriefing should occur within five (5) business days after receipt of the vendor request and may be conducted during a face-to-face meeting, by telephonic or video conference, or by any other method acceptable to the MDA. The MDA Procurement Officer shall chair the meeting, and where practicable, include other staff with direct knowledge of the procurement.
3. At a minimum, the debriefing shall include the following:
  - a) The MDA's evaluation of significant weaknesses or deficiencies in the vendor's bid or proposal, if applicable;
  - b) The overall evaluated cost or price, and technical ranking, if applicable, of the successful vendor(s) and the debriefed vendor;
  - c) The overall ranking of all vendors, when any ranking was developed by the MDA during the selection process;
  - d) A summary of the rationale for award; and,
  - e) Reasonable responses to relevant questions about selection procedures contained in the solicitation, applicable regulations, and other applicable authorities that were followed.
4. Information MDA will not provide in a debriefing is: The debriefing shall not include point-by-point comparisons of the debriefed vendor's bid, proposal, or SOQ with those of other offering vendors. Any written request by a vendor for nondisclosure of trade secrets and other proprietary data is subject to the provisions of Mississippi Code Annotated §§ 25-61-9 and 79-23-1.

# **Attachment D**

## **Mississippi Development Authority Policy and Procedures for Protest of RFP, IFB, RFQ or Any other Competitive Procurement Process**

### **(A) Right to Protest**

Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the Executive Director of the agency. The protest shall be submitted in writing within ten (10) calendar days after such aggrieved person knows or should have known of the facts giving rise thereto. If the tenth (10th) day falls on a weekend or State holiday the deadline shall be extended to the next business day.

### **(B) Authority to Resolve Protests**

The Executive Director or a designee shall have the authority to settle and resolve a protest of an aggrieved bidder, offeror, or contractor, actual or prospective, concerning the solicitation or award of a contract.

### **(C) Decision**

The agency shall have ten (10) business days to conduct an investigation into the claims made by the aggrieved and shall issue a written response to the aggrieved. The agency, at its discretion, may solicit an outside entity to assist with or conduct the investigation if it is determined by the agency such action is necessary. In the event the agency solicits an outside entity to assist or conduct the investigation the agency shall have an additional five (5) business days to conduct the investigation.

### **(D) Notice of Decision**

A copy of the decision under Section (C) of this policy shall be mailed or otherwise furnished to the protestant within the defined time period.

### **(E) Finality of Decision**

A decision under Section (C) of this policy shall be final and conclusive.

### **(F) Stay of Procurements During Protests**

The Executive Director or his designee shall have the right to suspend the process in the event of a timely protest under Section (A) of this document. Suspension of the process is at the discretion of the agency and will be considered upon receipt by the agency of a protest.

## **Filing of Protest**

### **(A) When Filed**

Protests shall be made in writing to the Executive Director, and shall be filed in duplicate within ten (10) calendar days after the protestor knows or should have known of the facts giving rise

thereto. A protest is considered filed when received by the Executive Director. Protests filed after the ten (10) day period shall not be considered.

**(B) Subject to Protest**

A protest must state all grounds upon which the protesting party asserts that the solicitation or award was improper. Issues not raised by the protesting party in the protest are deemed waived. Protests may be filed on the basis of the following:

1. Failure to follow established policies and/or procedures regarding procurement as outlined in (i) MDA policies or procedures, (ii) MDA rules for procurement, (iii) PSCRB Rules and Regulations, and/or (iv) competitive bid documents (i.e. RFP, IFB, RFQ, etc.) as applicable;
2. Errors in computing scores which contributed to the selection of an Offeror other than the lowest and best bidder; or
3. Documented conflict of interest on the part of an evaluator.

**(C) Not Subject to Protest**

Protests shall not be accepted by the agency where the subject of the protest is:

1. Evaluation Committee members (unless the protest is based on a documented conflict of interest);
2. The professional judgment of the Evaluation Committee including, but not limited to, the scoring by an evaluator;
3. Location of oral presentations (when required);
4. Time of oral presentations (when required);
5. Late submission of proposal;
6. Modification of any portion of the RFP when done in accordance with policy and process as outlined in (i) MDA policies or procedures, (ii) MDA rules for procurement, (iii) PSCRB Rules and Regulations, and/or (iv) competitive bid documents (i.e. RFP, IFB, RFQ, etc.) as applicable;
7. MDA's assessment of its own needs/requirements regarding the subject of the procurement.

**(D) Form**

Protest should be hand-delivered or mailed to the Executive Director's Office. The envelope should be labeled "Protest." The written protest shall include as a minimum the following:

1. The name and address of the protestor;
2. Appropriate identification of the procurement;
3. A statement of reasons for the protest; and,
4. Supporting exhibits, evidence, or documents to substantiate any claims unless not available within the filing time in which case the expected availability date shall be indicated.

**(E) Requested Information; Time for Filing**

Any additional information requested by the agency from the protester shall be submitted within the time period established by the agency. Failure to comply expeditiously with a request for information by the agency may result in resolution of the protest without consideration of any information which is untimely filed pursuant to such request.

**(F) Making Information on Protests Available**

The agency shall upon written request make available to any interested party information submitted that bears on the substance of the protest except where information is proprietary, confidential, or otherwise permitted or required to be withheld by law or regulation. Persons who wish to keep such information submitted by them confidential should so request by specifically identifying such information within documents submitted, and indicating on the front page of each document that it contains such information. The availability of such information to third parties shall be in compliance with Mississippi Public Records Act, Miss. Code Ann. 25-61-1, *et seq.*

**Effect of Judicial or Administrative Proceedings**

In the event an ongoing protest becomes the subject of a legal proceeding, the agency shall suspend its investigation pending the outcome of any proceeding. The Executive Director or his designee shall not act on the protest, but refer the protest to the agency's legal counsel.

# Attachment E

## GENERAL TERMS AND CONDITIONS:

### 1. NOTICES

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

For the Contractor:

\_\_\_\_\_  
Name, Title, Contractor, and Address

For the MDA:

Pamela Weaver, Chief Marketing Officer  
Mississippi Development Authority  
501 N. West Street, 15th Floor  
Jackson, MS 39201-1001.

### 2. APPLICABLE LAW

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

### 3. AVAILABILITY OF FUNDS

It is expressly understood and agreed that the obligation of the [State] to proceed under this agreement is conditioned upon the appropriation of funds by the Mississippi State Legislature and the receipt of state and/or federal funds. If the funds anticipated for the continuing fulfillment of the agreement are, at any time, not forthcoming or insufficient, either through the failure of the federal government to provide funds or of the State of Mississippi to appropriate funds or the discontinuance or material alteration of the program under which funds were provided or if funds are not otherwise available to the [State], the [State] 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 [State] of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.

#### **4. 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.

#### **5. 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 Personal Service Contract Review Board Rules and Regulations.

#### **6. PROCUREMENT REGULATIONS**

The contract shall be governed by the applicable provisions of the Mississippi Personal Service Contract Review Board Rules and Regulations, a copy of which is available at 210 East Capitol, PSCRB Rules and Regulations Page 138 Effective Date 4/15/2016 Suite 800, Jackson, Mississippi 39201 for inspection, or downloadable at <http://www.mspb.ms.gov>.

#### **7. 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.

#### **8. COMPLIANCE WITH LAWS**

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

all applicable federal, State of Mississippi, and local laws and regulations, as now existing and as may be amended or modified.

## 9. STOP WORK ORDER

- a. *Order to Stop Work:* The Procurement Officer, may, by written order to Contractor at any time, and without notice to any surety, require Contractor to stop all or any part of the work called for by this contract. This order shall be for a specified period not exceeding 90 days after the order is delivered to Contractor, unless the parties agree to any further period. Any such order shall be identified specifically as a stop work order issued pursuant to this clause. Upon receipt of such an order, Contractor shall forthwith comply with its terms and take all reasonable steps to minimize the occurrence of costs allocable to the work covered by the order during the period of work stoppage. Before the stop work order expires, or within any further period to which the parties shall have agreed, the Procurement Officer shall either:
  - i. cancel the stop work order; or,
  - ii. terminate the work covered by such order as provided in the Termination for Default clause or the Termination for Convenience clause of this contract.
  
- b. *Cancellation or Expiration of the Order:* If a stop work order issued under this clause is canceled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, Contractor shall have the right to resume work. An appropriate adjustment shall be made in the delivery schedule or Contractor price, or both, and the contract shall be modified in writing accordingly, if:
  - i. the stop work order results in an increase in the time required for, or in Contractor's cost properly allocable to, the performance of any part of this contract; and,
  - ii. Contractor asserts a claim for such an adjustment within 30 days after the end of the period of work stoppage; provided that, if the Procurement Officer decides that the facts justify such action, any such claim asserted may be received and acted upon at any time prior to final payment under this contract.

- c. *Termination of Stopped Work:* If a stop work order is not canceled and the work covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop work order shall be allowed by adjustment or otherwise.
- d. *Adjustments of Price:* Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment clause of this contract.

## 10. E-PAYMENT

Contractor agrees to accept all payments in United States currency via the State of Mississippi's electronic payment and remittance vehicle. The agency agrees to make payment in accordance with Mississippi law on "Timely Payments for Purchases by Public Bodies," which generally provides for payment of undisputed amounts by the agency within forty-five (45) days of receipt of invoice. Mississippi Code Annotated § 31-7-305.

## 11. E-VERIFICATION

If applicable, contractor represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act of 2008, and will register and participate in the status verification system for all newly hired employees. Mississippi Code Annotated §§ 71-11-1 et seq. The term "employee" as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor agrees to maintain records of such compliance. Upon request of the State and after approval of the Social Security Administration or Department of Homeland Security when required, Contractor agrees to provide a copy of each such verification. Contractor further represents and warrants that any person assigned to perform services hereafter meets the employment eligibility requirements of all immigration laws. The breach of this agreement may subject Contractor to the following:

- a. termination of this contract for services and ineligibility for any state or public contract in Mississippi for up to three (3) years with notice of such cancellation/termination being made public;
- b. the loss of any license, permit, certification or other document granted to Contractor by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year; or,
- c. both

In the event of such cancellation/termination, Contractor would also be liable for any additional costs incurred by the State due to Contract cancellation or loss of license or permit to do business in the State.

## **12. TRANSPARENCY**

This contract, including any accompanying exhibits, attachments, and appendices, is subject to the "Mississippi Public Records Act of 1983," and its exceptions. See Mississippi Code Annotated §§ 25-61-1 et seq. and Mississippi Code Annotated § 79-23-1. In addition, this contract is subject to the provisions of the Mississippi Accountability and Transparency Act of 2008. Mississippi Code Annotated §§ 27-104-151 et seq. Unless exempted from disclosure due to a court-issued protective order, a copy of this executed contract is required to be posted to the Department of Finance and Administration's independent agency contract website for public access at <http://www.transparency.mississippi.gov>. Information identified by Contractor as trade secrets, or other proprietary information, including confidential vendor information or any other information which is required confidential by state or federal law or outside the applicable freedom of information statutes, will be redacted.

## **13. PAYMODE**

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

#### 14. TERMINATION FOR CONVENIENCE

- a. *Termination.* The Agency Head or designee may, when the interests of the State so require, terminate this contract in whole or in part, for the convenience of the State. The Agency Head or designee shall give written notice of the termination to Contractor specifying the part of the contract terminated and when termination becomes effective.
- b. *Contractor's Obligations.* Contractor shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination Contractor will stop work to the extent specified. Contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work. Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The Agency Head or designee may direct Contractor to assign Contractor's right, title, and interest under terminated orders or subcontracts to the State. Contractor must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.

#### 15. TERMINATION FOR DEFAULT

- a. *Default.* If Contractor refuses or fails to perform any of the provisions of this contract with such diligence as will ensure its completion within the time specified in this contract or any extension thereof, or otherwise fails to timely satisfy the contract provisions, or commits any other substantial breach of this contract, the Agency Head or designee may notify Contractor in writing of the delay or nonperformance and if not cured in ten (10) days or any longer time specified in writing by the Agency Head or designee, such officer may terminate Contractor's right to proceed with the contract or such part of the contract as to which there has been delay or a failure to properly perform. In the event of termination in whole or in part, the Agency Head or designee may procure similar supplies or services in a manner and upon terms deemed appropriate by the Agency Head or designee. Contractor shall continue performance of the contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services.
- b. *Contractor's Duties.* Notwithstanding termination of the contract and subject to any directions from the procurement officer, Contractor shall take timely, reasonable,

and necessary action to protect and preserve property in the possession of Contractor in which the State has an interest.

- c. *Compensation.* Payment for completed services delivered and accepted by the State shall be at the contract price. The State may withhold from amounts due Contractor such sums as the Agency Head or designee deems to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders and to reimburse the State for the excess costs incurred in procuring similar goods and services.
  
- d. *Excuse for Nonperformance or Delayed Performance.* Except with respect to defaults of subcontractors, Contractor shall not be in default by reason of any failure in performance of this contract in accordance with its terms (including any failure by Contractor to make progress in the prosecution of the work hereunder which endangers such performance) if Contractor has notified the Agency Head or designee within 15 days after the cause of the delay and the failure arises out of causes such as: acts of God; acts of the public enemy; acts of the State and any other governmental entity in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. If the failure to perform is caused by the failure of a subcontractor to perform or to make progress, and if such failure arises out of causes similar to those set forth above, Contractor shall not be deemed to be in default, unless the services to be furnished by the subcontractor were reasonably obtainable from other sources in sufficient time to permit Contractor to meet the contract requirements. Upon request of Contractor, the Agency Head or designee shall ascertain the facts and extent of such failure, and, if such officer determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, Contractor's progress and performance would have met the terms of the contract, the delivery schedule shall be revised accordingly, subject to the rights of the State under the clause entitled (in fixed-price contracts, "Termination for Convenience," in cost-reimbursement contracts, "Termination"). PSCRB Rules and Regulations Page 142 Effective Date 4/15/2016 (As used in this Paragraph of this clause, the term "subcontractor" means subcontractor at any tier).
  
- e. *Erroneous Termination for Default.* If, after notice of termination of Contractor's right to proceed under the provisions of this clause, it is determined for any reason that the contract was not in default under the provisions of this clause, or that the delay

was excusable under the provisions of Paragraph (4) (Excuse for Nonperformance or Delayed Performance) of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of the State, be the same as if the notice of termination had been issued pursuant to such clause.

- f. *Additional Rights and Remedies.* The rights and remedies provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

#### **16. TERMINATION UPON BANKRUPTCY**

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

#### **17. MODIFICATION OR RENEGOTIATION**

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

#### **18. CHANGE IN SCOPE OF WORK**

The MDA 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 the Contractor that the scope of the project or of the Contractor's services has been changed, requiring changes to the amount of compensation to the Contractor, or other adjustments to the Contract, unless such changes or adjustments have been made by written amendment to the Contract signed by the MDA and the Contractor.

If the 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 the Contractor, the Contractor must immediately notify the MDA in writing of this belief. If the MDA believes that the particular work is within the scope of the Contract as written, the Contractor will be ordered to and shall continue with the work as changed and at the cost stated for the work within the Scope of Services

**19. ANTI-ASSIGNMENT/SUBCONTRACTING**

The Contractor acknowledges that it was selected by the MDA to perform the services required hereunder based, in part, upon the Contractor's special skills and expertise. The Contractor shall not assign, subcontract or otherwise transfer this Contract in whole or in part without the prior written consent of the MDA, which the MDA 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 MDA of any subcontract shall be deemed in any way to provide for the incurrence of any obligation of the MDA in addition to the total fixed price agreed upon in this Contract. Subcontracts shall be subject to the terms and conditions of this Contract and to any conditions of approval that the MDA may deem necessary. Subject to the foregoing, this Contract shall be binding upon the respective successors and assigns of the parties.

**20. INTEREST OF THE CONTRACTOR AND THE CONTRACTOR'S EMPLOYEES**

The Contractor covenants that neither it nor its employees presently have any interest and will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract. The Contractor further covenants that in the performance of this Contract, no person having such interest will be employed.

**21. CONFIDENTIAL INFORMATION**

Notwithstanding any provision to the contrary contained herein, it is recognized that Mississippi Development Authority is a public agency of the State of Mississippi and is subject to the Mississippi Public Records Act. Mississippi Code Annotated §§ 25-61-1 et seq. If a public records request is made for any information provided to Mississippi Development Authority pursuant to the contract and designated by the Contractor in writing as trade secrets or other proprietary confidential information, Mississippi

Development Authority shall follow the provisions of Mississippi Code Annotated §§ 25-61-9 and 79-23-1 before disclosing such information. The Mississippi Development Authority shall not be liable to the Contractor for disclosure of information required by court order or required by law.

"Confidential Information" shall mean (a) those materials, documents, data, and other information which the Contractor has designated in writing as proprietary and confidential, and (b) all data and information which the Contractor acquires as a result of its contact with and efforts on behalf of the Mississippi Development Authority and any other information designated in writing as confidential by the Mississippi Development Authority. Each party to this Contract agrees to protect all confidential information provided by one party to the other; to treat all such confidential information as confidential to the extent that confidential treatment is allowed under State and/or federal law and, 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 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 the Contractor or its Subcontractor shall rest with Contractor. Disclosure of any confidential information by the Contractor or its Subcontractor(s) without the express written approval of the Mississippi Development Authority shall result in the immediate termination of this Contract.

## **22. OFFICIALS NOT TO BENEFIT**

No member of or delegate to the Congress of the United States of America, and no Resident Commission will be admitted to any share or part thereof or to any benefit to arise here from.

## **23. OWNERSHIP OF DOCUMENTS AND WORK PAPERS**

The MDA shall own all documents, files, reports, work papers and working documentation, electronic or otherwise, created in connection with the project which is the subject of this Contract, except for the Contractor's internal administrative and quality assurance files and internal project correspondence. The Contractor shall deliver such documents and work papers to MDA upon termination or completion of this Contract. The foregoing notwithstanding, the Contractor shall be entitled to retain a set of such work papers for its files. Contractor shall be entitled to use such work

papers only after receiving written permission from MDA and subject to any copyright protections.

#### **24. RECORD RETENTION AND ACCESS TO RECORDS**

Provided the Contractor is given reasonable advance written notice and such inspection is made during normal business hours of the Contractor, the MDA or any duly authorized representatives, shall have unimpeded, prompt access to any of the Contractor's books, documents, papers, and/or records which are maintained or produced as a result of the project for the purpose of making audits, examinations, excerpts, and transcriptions. The Contractor shall retain all records related to this Contract for three (3) years after final payment is made under this Contract and all pending matters are closed. However, if any audit, litigation or other action arising out of or related in any way to this project is commenced before the end of the three (3) year period, the records shall be retained for one (1) year after all issues arising out of the action are finally resolved or until the end of the three (3) year period, whichever is later.

#### **25. PERSONNEL**

The Contractor represents that it has, or will secure, at its own expense, all personnel required in performing the services under this Contract. Such personnel will not be employees of, or have any contractual relationship with the MDA. All of the services required hereunder will be performed by the Contractor under its supervision, and all personnel engaged in the work will be fully qualified and will be authorized or permitted under State and local law to perform such services.

#### **26. RIGHT TO INSPECT FACILITY**

The MDA 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 MDA.

#### **27. DISPUTES**

Any dispute concerning a question of fact under this Contract, which is not disposed of by agreement of the parties, shall be decided by the Executive Director of the MDA or his designee. This decision shall be reduced to writing and a copy thereof mailed or

furnished to the parties. Disagreement with such decision by either party shall not constitute breach under the terms of this Contract. Such disagreeing party shall be entitled to seek such other rights and remedies it may have at law or in equity.

**28. 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.

**29. 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.

**30. INDEMNIFICATION**

To the fullest extent allowed by law, the Contractor will indemnify, defend, save and hold harmless, protect, and exonerate the State of Mississippi and the MDA from and against all claims, demands, liabilities, suits, actions damages, losses, and any costs related thereto, including, without limitation, court costs, investigative fees and expenses, and attorneys' fees resulting from any negligent acts or misconduct of the Contractor, its agents, or employees.

**31. INTEGRATED AGREEMENT/MERGER**

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 MDA and the Contractor. The 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 MDA or the Contractor on the basis of draftsmanship or preparation hereof.

### **32. ORAL STATEMENTS**

No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in this Contract. The MDA must make all modifications to the Contract in writing.

### **33. THIRD PARTY ACTION NOTIFICATION**

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

### **34. INDEPENDENT CONTRACTOR STATUS**

The 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 MDA. Nothing contained herein shall be deemed or construed by the MDA, the Contractor, or any third party as creating the relationship of principal and agent, master and servant, partners, joint venturers, employer and employee, or any similar such relationship between the MDA and the Contractor. Neither the method of computation of fees or other charges, nor any other provision contained herein, nor any acts of the MDA or the Contractor hereunder, creates or shall be deemed to create a relationship other than the independent relationship of the MDA and the Contractor. Contractor's personnel shall not be deemed in any way, directly or indirectly, expressly or by implication, to be employees of the MDA. Neither the Contractor nor its employees shall, under any circumstances, be considered servants, agents, or employees of the MDA; and MDA shall be at no time legally responsible for any negligence or other wrongdoing by the Contractor, its servants, agents, or employees. The MDA shall not withhold from the contract payments to the Contractor any federal or Mississippi unemployment taxes,

federal or Mississippi income taxes, Social Security tax, or any other amounts for benefits to the Contractor. Further, the MDA shall not provide to the Contractor any insurance coverage or other benefits, including Workers' Compensation, normally provided by the State of Mississippi for its employees.

**35. NON-EXCLUSIVITY**

Nothing herein is intended nor shall be construed as creating any exclusive arrangement with the Contractor. This Contract shall not restrict the MDA from acquiring other services for projects specific in scope.

## Attachment F

### Minimum Information Checklist

Each proposer shall include the attached checklist identifying the page number where each of the minimum information required is located in the submitted proposal. This checklist shall be placed in front of the "Cost Data" page(s) in the proposal.

Included Write Y or N	Page Number	Minimum Information Required
		The name of the Offeror, the location of the Offeror's principal place of business and, if different, the place of performance of the proposed contract.
		The age of the Offeror's business and average number of employees over the past 3 years.
		The abilities, qualifications, and experience of all persons who would be assigned to provide the required services.
		A listing of other contracts under which services similar in scope, size, or discipline to the required services were performed or undertaken within the past 3 years.
		A plan giving as much details as is practical explaining how the services will be performed.