



# REQUEST FOR QUALIFICATIONS

To provide Technical Assistance Services

RFx Number: 3140003185

Due by: October 27, 2022, at 1 pm CST

Mississippi Emergency Management Agency

#1 MEMA Drive

Pearl, MS 39208

Contact Person: Sallie Sones, Contract Officer

(601) 933-6381

Email: [ssones@mema.ms.gov](mailto:ssones@mema.ms.gov)

## SECTION 1

### 1.1 General Statement

The Mississippi Emergency Management Agency (hereinafter MEMA) is seeking to contract with one or more vendors for the purpose of securing a contract for the provision of technical assistance following natural or man-made disasters. Additional information may be obtained by written request from Sallie Sones, Contracts Officer, MEMA, #1 MEMA Drive, Pearl, MS 39208 or at [ssones@mema.ms.gov](mailto:ssones@mema.ms.gov).

#### 1.1.1 Timeline

<b>Request for Qualifications (RFQ) Issue Date:</b>	<b>September 12, 2022</b>
<b>Qualifications Submission Deadline:</b>	<b>October 27, 2022, at 1:00 pm CST</b>
<b>Notice of Intent to Award:</b>	<b>November 18, 2022, at 10:00 am CST</b>
<b>Debrief Deadline:</b>	<b>November 23, 2022, at 1 pm CST</b>
<b>Protest Deadline:</b>	<b>December 1, 2022, at 1 pm CST</b>

#### 1.1.2 Late Submissions

Qualifications received at the place designated in the solicitation for receipt of qualifications packet after the exact time specified for receipt will not be considered unless it is the only packet received or it is received before award is made and was sent by registered or certified mail not later than the fifth (5) calendar day before the date specified for receipt of the qualifications packet. It must be determined by MEMA that the late receipt was due solely to mishandling by MEMA after receipt at the specified address.

The only acceptable evidence to establish the date of mailing of a late packet is the U.S. Postal Service postmark on the wrapper or on the original receipt from the U.S. Postal Service. If the postmark does not show a legible date, the contents of the envelope or package shall be processed as if mailed late. "Postmark" means a printed, stamped or otherwise placed impression exclusive of a postage meter impression that is readily identifiable without further action as having been supplied and affixed by the U.S. Postal Service on the date of mailing. Vendors should request postal clerks to place a hand cancellation postmark (often called a bull's eye) on both the receipt and the envelope or package.

The only acceptable evidence to establish the time of receipt at the office identified for opening the qualifications packet is the time and date stamp of that office on the envelope, package or other documentary evidence or receipt used by that office.

## 1.2 Rejection of Statement of Qualifications

MEMA reserves the right to decide on a case-by-case basis, whether to reject a packet with modifications or additions as non-responsive. Qualification packets may be rejected for reasons which include, but are not limited to, the following:

- A. The statement of qualifications contains unauthorized amendments to the requirements of the Request for Qualifications.
- B. The statement of qualifications is conditional.
- C. The statement of qualifications is incomplete or contain irregularities which make the state of qualifications indefinite or ambiguous.
- D. The statement of qualifications is received late.
- E. The statement of qualifications is not signed by an authorized representative of the party.
- F. The statement of qualifications contains false or misleading statements or references.
- G. The statement of qualifications does not offer to provide all services required by the Request for Qualifications.
- H. The statement of qualifications does not contain the required attachments.

## 1.3 Statement of Qualifications Submission

The original and three (3) copies of the statement of qualifications and all attachments (see listing below) shall be signed and submitted in a sealed envelope or package to the address listed below *no later than 1 pm Central Standard Time, October 27, 2022.*

Mississippi Emergency Management Agency  
Attention: Sallie Sones, Contracts Officer  
#1 MEMA Drive  
Pearl, MS 39208  
Request for Qualifications for Technical Assistance Program  
RFx: 3140003185  
Opening Date: October 27, 2022, at 1:00 PM CST  
SEALED STATEMENT OF QUALIFICATIONS PACKAGE – DO NOT OPEN

Please make sure all submitted packets are adequately sealed and unable to be reviewed prior to the proposal opening time. No electronic or facsimile copies of the proposals will be accepted. Should you have questions regarding how to register as a vendor or submit your proposal, please contact Sallie Sones at 601-933-6381 or at [ssones@memas.ms.gov](mailto:ssones@memas.ms.gov). Timely submission of the statement of qualifications is the responsibility of the offeror. Offers received after the specified time above shall be rejected and returned to the offeror unopened.

**The envelope or package shall be clearly marked as “Sealed Statement of Qualifications” and show the RFx number and opening date and time in the left-hand corner on the outside of the envelope or package.** The time and date of receipt shall be indicated on the envelope or package by the MEMA Contract Officer.

#### **1.4 Expenses Incurred in Preparing Qualifications Packet**

MEMA accepts no responsibility for any expense incurred by the bidder in the preparation and presentation of a qualifications packet. Such expenses shall be borne exclusively by the bidder.

#### **1.5 Proprietary Information**

The respondent should mark any and all pages of the statement of qualifications considered to be proprietary information which may remain confidential in accordance with Mississippi Code Annotated §§ 25-61-9 and 79-23-1 (1972, amended). Any pages not marked accordingly will be subject to review by the public after award of the contract. Requests to review the proprietary information will be handled in accordance with applicable legal procedures.

#### **1.6 Registration with Mississippi Secretary of State**

By submitting a statement of qualifications, the respondent certifies that it is registered to do business in the State of Mississippi as prescribed by the Mississippi Secretary of State or, if not already registered, that it will do so within seven (7) days of being offered an award. Sole proprietors are not required to register with the Mississippi Secretary of State. **Please make sure that your company is registered with the Secretary of State's Office and in "Good Standing".**

#### **1.7 Debarment**

By submitting a statement of qualifications, the respondent 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.

#### **1.8 Competitive Qualifications**

Discussions may be conducted with respondents who submit qualifications determined to be reasonably susceptible of being selected for award. Likewise, MEMA also reserves the right to accept any qualifications as submitted for contract award, without substantive negotiation of proposed terms, services, or prices. For these reasons, all parties are advised to propose their most favorable terms initially.

#### **1.9 Acknowledgement of Amendments**

Respondents shall acknowledge receipt of any amendment to the solicitation by signing and returning the amendment with the qualifications packet by identifying the amendment numbers and date in the space provided for this purpose of the bid form, or

by letter. The acknowledgement must be received by MEMA by the time and at the place specified for receipt of bids as noted in Section 1.1 and Section 1.1.1.

### **1.10 Compensation for Services**

Compensation for services will be in the form of a firm fixed-price agreement.

### **1.11 Written Statement of Qualifications**

All statements shall be in writing.

## **SECTION 2**

### **2.2 Detailed Minimum Specifications**

The proposal should be such that it clearly and fully explains how the offeror will provide the following services.

1. Advise, plan and work with MEMA personnel and the MEMA Executive Management staff regarding all requests made by FEMA.
2. Guide and assist in gathering documentation upon FEMA audit requests including submission of documentation into the FEMA Grants Portal.
3. Assist MEMA in financial analysis, grant reporting, cash and data management, funding redundancy strategy, cost matching planning and strategy, reporting, and proper documentation maintenance.
4. Provide MEMA with guidance and support regarding communications with FEMA personnel
5. Rapid deployment to affected areas for assistance due to the aftermath of natural or man-made disaster.
6. Conduct final inspections in conjunction with the closeout of FEMA Programs.
7. Resolve appeals.

The offeror should have knowledge of the following programs: Community Development Block Grants (CDBG), Hazard Mitigation Grant Program (HMGP), Pre-Disaster Mitigation (PDM), and the Emergency Management Performance Grant (EMPG).

The offeror should have at least one (1) year COVID-19 experience within the unique changes in disaster management and relief, ten (10) years minimum experience in working with natural disaster management and relief, such as tornadoes, hurricanes, floods, etc., and ten (10) years minimum working knowledge and experience of Federal Emergency Management Agency (FEMA) laws, rules, regulations, and requirements. The offeror should have a good standing relationship with FEMA employees, representatives, and members of management.

The offeror should have at least five (5) years minimum experience in providing recommendations for database tracking of commodities from receiving to delivery to end

user as meet with FEMA Public Assistance requirements. This will coincide with commodities provided, by MEMA and FEMA, to areas that have been affected by natural or man-made disasters through the agency's emergency transportation program and base camp set-up as overseen by the MEMA Logistics Department.

The written qualifications shall be such that it clearly and fully explains how the offeror will meet the stated requirements as well as illustrating the offerors' ability to work along with the MEMA Executive Management staff and all MEMA personnel to provide technical assistance within the workload that is generated following an emergency, whether it is a natural or man-made disaster or an epidemic.

### **2.3 Personnel**

Offeror and any assistant(s) they employ shall perform all the services required hereunder. All personnel engaged in the work shall be fully qualified to the satisfaction of MEMA and shall be authorized as permitted under federal, state and local law to perform such services. Should the offeror subcontract with another vender for assistance in providing the services mentioned in Section 2.2, the subcontractor shall not submit their invoices directly to MEMA as the offeror shall include these expenses in their request for payment submitted to MEMA. The time and resources spent on this project by any subcontractor shall be reimbursed through the offeror and not MEMA. MEMA reserves the right to reject any contractor employee or subcontractor personnel utilized by the offeror.

### **2.4 Minimum Information That Shall Be Contained in the Statement of Qualifications**

- A. Name of the offeror, location of the offeror's principal place of business and the place of performance of the proposed contract.
- B. Age of offeror's business and the average number of employees over the past three (3) years.
- C. Resume listing abilities, qualifications, and experience of all individuals who will be assigned to provide the required services.
- D. A listing of three (3) contracts under which services similar in scope or discipline were performed or undertaken, including a least three (3) references for current contracts or those awarded during the past three (3) years. *See Attachment F to list names, addresses and phone numbers of the client's the offeror has worked with as well as a brief scope of work completed for the client.*
- E. A plan giving as much detail as is practical explaining how the services will be performed.
- F. An estimate of price.

## 2.5 Qualifications Submission Requirements

As a precondition to acceptance of the offeror's packet, MEMA may request the bidder to withdraw or modify those portions of the packet deemed non-responsive that do not affect quality, quantity, price, or delivery of the service. Qualification packets are to be submitted in two (2) separate submissions.

There should be one (1) original and three (3) copies of the submission for the cost factors. This submission **should not** reveal any identifying markers of the offeror's company information i.e., company name and address, subcontractor's information, if the offeror uses a subcontractor, employee names, etc. This includes no use of company logos, watermarks, initials that the offeror uses to refer to their corporation, business cards, weblinks of any kind and no photos of any kind.

There should be one (1) original and three (3) copies of the submission for the management factors. All company information can be shown in this submission **but only** within this submission. Each page of the qualifications packet for management factors shall be identified with the name of the offeror.

## 2.6 Terms

Upon written agreement of both parties, at least sixty (60) days prior to the contract anniversary date, the contract may be renewed by MEMA for a period of one (1) year under the same prices, terms, and conditions as in the original contract. The total number of renewal years permitted shall not exceed four (4).

# SECTION 3

## 3.1 Insurance

The successful offeror shall be required to procure and maintain workers' compensation insurance which shall insure to the benefit of all offeror's personnel provided hereunder and errors and omission/professional liability coverage with minimum limits of \$1,000,000.00 (One Million Dollars) per occurrence for the duration of the contract and offer proof of such coverage. All general liability or professional liability insurance will provide coverage to MEMA as an additional insured. Offeror shall also be required to show proof of liability for injury to include automobile coverage. MEMA reserves the right to request from carriers Certificate of Insurance (COI) regarding the required coverage. Insurance carriers must be licensed or hold a Certificate of Authority from the Mississippi Department of Insurance. Should the certificate expire during the term of the contract, it is the responsibility of the vendor to provide copies of the current insurance certificate to MEMA within five (5) working days.

## **SECTION 4**

### **4.1 Qualifications of Offeror**

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

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

An evaluation committee made up of qualified MEMA staff or other qualified individuals as selected by MEMA shall review and evaluate all replies. The evaluation committee will have only the response to the solicitation to review for selection of finalist. It is therefore important that respondents emphasize specific information pertinent to the work.

### **4.2 Evaluation Procedure**

#### **Step 1**

Statements of qualifications will be reviewed to assure compliance with the minimum specifications. Statements of qualifications that do not comply with the minimum specifications will be rejected immediately, receiving no further consideration. Offeror must submit a statement of qualifications which conforms in all material respects to this Request for Qualifications, RFX 3140003185, as determined by MEMA. Offeror must have capacity in all respects to perform fully the contract requirements and the integrity and reliability which will assure good faith performance as determined by MEMA.



## Step 2

Statements of qualifications that satisfactorily complete Step 1 and demonstrates a proposal that reflects an understanding of the project, its objectives and ability to perform the required services as well as showcases a complete response to the specific requirements of this solicitation will be reviewed and scored by the following criteria.

### 1. Cost Factors – 51 Points

The ability of sufficient financial resources to meet all obligations will be considered in this criterion. The following are factors that will be scored and the maximum number of points that can be awarded.

- A. Cost of goods to be provided or services to be performed – **40 Points**
  - a. Relative cost: How does the cost compare to other similarly scored proposals or qualifications? **35 Points**
  - b. Full explanation: Is the price and its component charges, fees, etc. adequately explained or documented? **5 Points**
- B. Assurances of performance – **5 Points**
  - a. Are suitable bonds and registration with the Secretary of State’s Office provided? **2 Points**
  - b. Does the qualification include quality control and assurance programs? **3 Points**
- C. Offeror’s financial stability and strength: Does the offeror have sufficient financial resources to meet its obligations? **6 Points**

### 2. Management Factors – 49 Points

The ability to provide the required services as reflected/evidenced by qualifications and a record of the offeror’s past performance of similar work noted in the statement of qualifications. Documentation of personnel, equipment, facilities and financial resources to perform the services available or demonstrated in the statement of qualifications made readily available at the time of contracting will be considered in this criterion. The following are factors that will be scored and the maximum number of points that can be awarded.

- A. Project management: **5 Points**
  - a. Is there a project management plan? **5 Points**
- B. History and experience in performing the work: **20 Points**
  - a. Does the offeror document a record of reliability of timely delivery and on-time and on-budget implementation? **5 Points**
  - b. Does the offeror demonstrate a track record of service as evidenced by on-time, on-budget and contract compliance performance? **5 Points**
  - c. Does the offeror document industry or program experience? **5 Points**
  - d. Does the offeror have a record of poor business ethics? **5 Points**
- C. Availability of personnel, facilities, equipment and other resources: **10 Points**
  - a. To what extent does the offeror rely on in-house resources vs. contracted

resources? **5 Points**

b. Is the availability of in-house and contract resources documented? **5 Points**

**D. Qualification and experience of personnel: 14 Points**

a. Documentation of experience in performing similar work by employees and when appropriate, sub-contractors? **7 Points**

b. Does the offeror demonstrate cultural sensitivity in hiring and training staff?  
**7 Points**

#### **4.3 Statement of Qualifications Requirements**

The following response format shall be used for all submitted statement of qualifications. Please note all information on the attachments must be completed. Incomplete or unsigned attachments within this statement of qualifications will be rejected.

*Reminder: the cost submission packet **should not** have any company identifying markers.*

- Statement of Qualifications Cover Sheet – Attachment A
- Statement of Qualifications Questionnaire – Attachment B
- Bid Form – Attachment C
- Authorization and Acknowledgements Form – Attachment D
- Certification and Assurances Form – Attachment E
- References – Attachment F
- Copy of applicable insurance certification (Certificate of Insurance) and proof of registration and “good standing” with the Secretary of State’s Office.
- Provide a management summary statement indicating the underlying philosophy of the offeror in providing the service.
- Attach resumes of all personnel who will be involved in the management of this statement of qualifications that include their experience in the area of service and level of involvement by principals of the offeror in the day-to-day operation of the contract.

### **SECTION 5**

#### **5.1 Post-Award Vendor Debriefing**

A respondent, successful or unsuccessful, may request a post-award debriefing, in writing, by U.S. mail or electronic submission. The written request must be received by the Executive Director of MEMA within three (3) business days of notification of the intent to award contract. A post-award vendor debriefing is a meeting and not a hearing; therefore, legal representation is not required. A debriefing typically occurs within three (3) business days of receipt of the request. If a respondent prefers to have legal representation present, the respondent must notify the Executive Director of MEMA in writing and identify its attorney by name, address, and telephone number. The agency will 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.

For additional information regarding Post-Award Vendor Debriefing, as well as the information that may be provided and excluded, please see Section 7-113 through 7-113.07, Post-Award Vendor Debriefing, of the *PPRB OPSCR Rules and Regulations* as updated and replaced by PPRB.

## **5.2 Protests**

Any actual or prospective respondent who is aggrieved in connection with this solicitation or the outcome of this Request for Qualifications may file a protest with Sallie Sones, Contract Officer. The protest shall be submitted within seven (7) calendar days of notification of the intent to award contract or on or before 1:00 PM CST on December 1, 2022, in writing after such aggrieved person or entity knows or should have known of the facts giving rise thereto. The written protest letter shall contain an explanation of the specific basis for the protest. All protests must be in writing, dated, signed by the respondent or an individual authorized to sign contracts on behalf of the protesting respondent, and contain a statement of the reason(s) or procedure(s) on which the protest is based. The protesting respondent must provide facts and evidence to support the protest. A protest is considered filed when received by Sallie Sones, Contract Officer via either U.S. mail, postage prepaid, or by personal delivery. **Protests filed after 1:00 PM CST on December 1, 2022, will not be considered.**

## **5.3 Optional Contract Terms and Conditions**

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

## **5.4 Agency Website**

This Request for Qualifications, questions and answers concerning this Request for Qualifications, and Notice of Intent to Award will be posted on the agency website at <http://www.msema.org> and on the Mississippi Contract/Procurement Opportunity Search Portal website.

## **5.6 Attachments**

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

**Attachment A**

**STATEMENT OF QUALIFICATIONS COVER SHEET**

Statement of qualifications are to be submitted as listed below, on or before 1:00 PM CST, October 27, 2022.

PLEASE MARK YOUR ENVELOPE:

Request for Qualifications for Technical Assistance Services  
Request for Qualifications RFX Number 3140003185  
Opening Date: 1:00 PM CST, October 27, 2022  
Mississippi Emergency Management Agency  
Attention: Sallie Sones, Contract Officer  
#1 MEMA Drive  
Pearl, Mississippi 39208  
SEALED QUALIFICATIONS – DO NOT OPEN

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

**Quoted By:** \_\_\_\_\_

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

**Address:** \_\_\_\_\_

**City/State/Zip:** \_\_\_\_\_

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

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

**E-Mail Address:** \_\_\_\_\_

**Name and phone number of Company Representative to be contacted by Agencies seeking to contract for services pursuant to this Request for Qualifications:**

\_\_\_\_\_

**Attachment B**

**STATEMENT OF QUALIFICATIONS QUESTIONNAIRE**

**Please answer the following questions regarding your company:**

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

How many years has the firm been in business of performing the services called for in this Request for Qualifications?

\_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

If your company is not physically located within the vicinity, how will you supply technical assistance services to the agency?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Is your company currently for sale or involved in any transaction to expand or to become acquired by another business entity? If yes, please discuss the impact both in organizational and directional terms. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Is your company licensed and/or certified to provide technical assistance services as required by any and all applicable Federal and State law(s)?

\_\_\_\_\_

List all licenses or permits your company possesses that are applicable to performing the services required in this Request for Qualifications.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

For how many customers has your company provided technical assistance services in the past two years?

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What is the largest customer your company has provided technical assistance services for in the past two years?

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

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**Attachment C**

**BID FORM**

<b>Company</b>	<b>Contact Person</b>	<b>Telephone Number</b>

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

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

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

<b>Unit Description</b>	<b>Unit Price</b>

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

1. That he/she has thoroughly read and understands the Invitation for Bids and Attachments thereto.
2. That the company meets all requirements and acknowledges all certifications contained in the Invitation for Bids and Attachments thereto.
3. That the company agrees to all provisions of the Invitation for Bids and Attachments thereto including, but not limited to, the Optional Clauses to be included in any contract resulting from this IFB (Attachment I).
4. That the company will perform the services required at the prices quoted above.
5. That, to the best of its knowledge and belief, the cost or pricing data submitted is accurate, complete, and current as of the submission date.
6. The Contractor represents that its workers are licensed, certified and possess the requisite credentials to provide technical services; and,

7. **NON-DEBARMENT:** By submitting a bid, the bidder certifies that it is not currently debarred from submitting bids for contracts issued by any political subdivision or agency of the State of Mississippi and that it is not an agent of a person or entity that is currently debarred from submitting bids for contracts issued by any political subdivision or agency of the State of Mississippi.
8. **INDEPENDENT PRICE DETERMINATION:** The bidder certifies that the prices submitted in response to the solicitation have been arrived at independently and without, for the purpose of restricting competition, any consultation, communication, or agreement with any other bidder or competitor relating to those prices, the intention to submit a bid, or the methods or factors used to calculate the prices bid/offered.
9. **PROSPECTIVE CONTRACTOR'S REPRESENTATION REGARDING CONTINGENT FEES:** The prospective contractor represents as a part of such Contractor's bid that such Contractor *has not* retained any person or agency on a percentage, commission, or other contingent arrangement to secure this contract.
10. **REPRESENTATION REGARDING CONTINGENT FEES:** Contractor represents that it *has not* retained a person to solicit or secure a State contract upon an agreement or understanding for a commission, percentage, brokerage, or other contingent fee, except as disclosed in the Contractor's bid.
11. **REPRESENTATION REGARDING GRATUITIES:** 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 *PPRB OPSCR Rules and Regulations*.

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

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

**Date:** \_\_\_\_\_

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

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



**Attachment D**

**AUTHORIZATION AND ACKNOWLEDGEMENTS**

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

1. That he/she has thoroughly read and understands this Request for Qualifications, RFX 3140003185, and the attachments herein.
2. That the company meets all requirements and acknowledges all certifications contained in this Request for Qualifications, RFX 3140003185, and the attachments herein.
3. That the company agrees to all provisions of this Request for Qualifications, RFX 3140003185, and the attachments herein.
4. That the company can and will meet all required laws, regulations, and /or procedures related to confidentiality and represents that its workers are licensed, certified, and possess the requisite credentials to perform the transition services; and
5. That the company has, or will secure, at its own expense, applicable personnel who shall be qualified to perform the duties required to perform under this Request for Qualifications.
6. That the company understands that should an amendment to this RFX be issued, it will be posted on the MEMA website ([www.msema.org](http://www.msema.org)) in a manner that all proposers will be able to view. Proposers shall acknowledge receipt of any amendment to the solicitation by signing and returning the amendment with the statement of qualifications, by identifying the amendment numbers and date in the space provided for this purpose of this form. The acknowledgement must be received by MEMA by the time and at the place specified for receipt of statement of qualifications. **It is the company's sole responsibility to monitor the website for amendments to the RFX.**

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

**Signature and Date:** \_\_\_\_\_

**Name and Title:** \_\_\_\_\_

**Attachment E**

**CERTIFICATIONS AND ASSURANCES**

I/We make the following certifications and assurances as a required element of the offer to which it is attached, of the understanding that the truthfulness of the facts affirmed here and the continued compliance with these requirements are conditions precedent to the award or continuation of the related contract(s) by **circling** the applicable word or words in each paragraph below.

**1. Representation Regarding Contingent Fees.**

Contractor represents that it **HAS** or **HAS NOT** retained a person to solicit or secure a State contract upon an agreement or understanding for a commission, percentage, brokerage, or other contingent fee, except as disclosed in the Contractor's bid.

**2. Representation Regarding Gratuities.**

Contractor represents that it **HAS** or **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 *PPRB OPSCR Rules and Regulations*.

**3. Independent Price Determination.**

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

**4. Prospective Contractor's Representation Regarding Contingent Fees.**

The prospective contractor represents as a part of such Contractor's statement of qualifications that such Contractor **HAS** or **HAS NOT** retained any person or agency on a percentage, commission, or other contingent arrangement to secure this contract.

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

**Signature and Date:** \_\_\_\_\_

**Name and Title:** \_\_\_\_\_

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

**Attachment F**

**REFERENCES**

Respondent may submit as many references as desired by submitting as many additional copies of Attachment C, References, as deemed necessary. References will be contacted in order listed until two references have been interviewed and Reference Score Sheets completed for each of the two references. No further references will be contacted; however, respondents are encouraged to submit additional references to ensure that at least two references are available for interview. Agency staff must be able to contact three references to be considered responsive no later than November 4, 2022.

**REFERENCE 1**

**Name of Company:** \_\_\_\_\_  
**Dates of Service:** \_\_\_\_\_  
**Contact Person:** \_\_\_\_\_  
**Address:** \_\_\_\_\_  
**City/State/Zip:** \_\_\_\_\_  
**Telephone Number:** \_\_\_\_\_  
**E-mail:** \_\_\_\_\_

**REFERENCE 2**

**Name of Company:** \_\_\_\_\_  
**Dates of Service:** \_\_\_\_\_  
**Contact Person:** \_\_\_\_\_  
**Address:** \_\_\_\_\_  
**City/State/Zip:** \_\_\_\_\_  
**Telephone Number:** \_\_\_\_\_  
**E-mail:** \_\_\_\_\_

**REFERENCE 3**

**Name of Company:** \_\_\_\_\_  
**Dates of Service:** \_\_\_\_\_  
**Contact Person:** \_\_\_\_\_  
**Address:** \_\_\_\_\_  
**City/State/Zip:** \_\_\_\_\_  
**Telephone Number:** \_\_\_\_\_  
**E-mail:** \_\_\_\_\_

## Attachment G

### REQUIRED CLAUSES FOR SERVICE CONTRACTS RESULTING FROM THIS REQUEST FOR QUALIFICATIONS

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 the State. Contractor shall comply with applicable federal, state, and local laws and regulations.
2. Availability of Funds. It is expressly understood and agreed that the obligation of the Agency 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 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 Agency, the Agency 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 Agency of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.
3. Compliance with Laws. Contractor understands that the State of Mississippi 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.
4. 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 § 31-7-301 et. seq.*
5. E-Verification. If applicable, Contractor represents and warrants that is 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 of 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.

6. 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.
7. Procurement Regulations. The contract shall be governed by the applicable provisions of the *PPRB OPSCR Rules and Regulations*, a copy of which is available at 501 North West Street, Suite 701E, Jackson, Mississippi 39201 for inspection, or downloadable at <http://www.DFA.ms.gov>.
8. Representation Regarding Contingent Fees. Contractor represents that is 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 statement of qualifications.
9. Representation Regarding Gratuities. The Contractor represents that is as not violated, is not violating, and promises that is will not violate the prohibition against gratuities set forth in Section 6-204 (Gratuities) of the *PPRB OPSCR Rules and Regulations*.

10. Stop Work Order.

- a. *Order to Stop Work:* The Chief 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 Chief 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 Chief 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. *Adjustment 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.

11. 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.

12. 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 Chief 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 good and services.

- d. *Excuse for Nonperformance or Delay 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"). (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 (d) (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.
13. *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.

14. *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.
15. *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 Mississippi 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.
16. *Approval.* It is understood that if this contract requires approval by the Public Procurement Review Board and/or the Mississippi Department of Finance and Administration Office of Personal Service Contract Review and this contract is not approved by the PPRB and/or OPSCR, it is void and no payment shall be made hereunder.

## **ATTACHMENT H**

### **Required Federal Procurement Clauses as This Contract is Eligible for Reimbursement from the Federal Emergency Management Agency**

**1. Access**

MEMA, the subgrantees (counties and communities), the Federal Emergency Management Agency (FEMA), the Controller General of the United States and any other duly authorized representatives to any of these bodies shall have access to any and all books, documents, papers and records of the contractor which are directly pertinent to this specific contract for the purpose of making audit, examination, excerpts and transcripts.

**2. Byrd Anti-Lobbying Amendment**

The Contractor shall certify that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C 1352. The contract shall also disclose any lobbying with non-federal funds that take place in connection with obtaining any federal award. The Contractor shall require all subcontractors to submit these same certifications. The Contractor shall adhere to mandatory standards and policies on energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

**3. Clean Air and Water Acts Compliance**

At all times, the Contractor shall be in compliance with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857(h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order No. 11738 and Environmental Protection Agency (EPA) regulations (40 CFR, Part 15).

**4. Energy Efficiency**

The Contractor shall adhere to mandatory standards and policies on energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

**5. Procurement of Recovered Materials**

In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the produce cannot be acquired:

- a. competitively within a timeframe providing for compliance with the contract performance schedule.
- b. meeting contract performance requirements
- c. at a reasonable price.

Information about his requirement, along with a list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines website <https://www.epa.gov/smm/comprehensiveprocurement-guideline-cpg-program>.

## 6. **Suspension and Debarment**

- A. This contract is a covered transaction for purposes of 2CFR Pt. 180 and 2 CFR Pt. 3000. As such the Contractor is required to verify that none of the Contractor, its principals (defined at 2CFR § 180.995) or its affiliates (defined at 2 CFR § 180.905) are excluded (defined 2 CFR § 180.940) or disqualified (defined 2 CFR § 180.935).
- B. The Contractor must comply with 2 CFR Pt. 180, Subpart C and 2 CFR Pt. 3000, Subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- C. This certification is a material representation of fact relied upon by MEMA. If it is later determined that the Contractor did not comply with 2 CFR Pt. 180, Subpart C and 2 CFR Pt. 3000, Subpart C, in addition to remedies available to MEMA, the federal government may pursue available remedies, including but not limited to, suspension and/or debarment.
- D. The respondent or proposer agrees to comply with the requirements of 2 CFR Pt. 180, Subpart C and 2 CFR Pt. 3000, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The respondent or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

## 7. **Retention of Records**

The Contractor shall retain all records associated with this contract for three (3) years after MEMA or the subgrantees (counties and communities) make final payments and all other pending matters are closed.

## 8. **DHS Seal, Logo, and Flags**

The Contractor shall not use the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

9. **Compliance with Federal Law, Regulations and Executive Orders**

This is an acknowledgement that FEMA financial assistance will be used to fund the contract. The Contractor will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.

10. **No Obligation by Federal Government**

The federal government is not a party to this contract and is not subject to any obligations or liabilities to the non-federal entity, Contractor or any other party pertaining to any matter resulting from the contract.

11. **Program Fraud and False or Fraudulent Statements or Related Acts**

The Contractor acknowledges that 31 U.S.C (Administrative Remedies for False Claims and Statements) applies to its actions pertaining to the contract.

12. **Compliance with the Contract Work Hours and Safety Standards Act**

(1) Overtime requirements. No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section, the Contractor, and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The Mississippi Emergency Management Agency shall upon its own action or upon written requisites of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contractor Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contract or subcontract for

unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

13. **Davis-Bacon Act**

The Contractor shall comply with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR Part 5) in so far as it may apply to this contract.

## ATTACHMENT I

### Optional Clauses for Use in Service Contracts Resulting from This Request for Qualifications

1. Anti-assignment/Subcontracting. Contractor acknowledges that it was selected by the State to perform the services required hereunder based, in part, upon Contractor's special skills and expertise. Contractor shall not assign, subcontract, or otherwise transfer this agreement, in whole or in part, without the prior written consent of the State, which the State may, in its sole discretion, approve or deny without reason. Any attempted assignment or transfer of its obligations without such consent shall be null and void. No such approval by the State of any subcontract shall be deemed in any way to provide for the incurrence of any obligation of the State in addition to the total fixed price agreed upon in this agreement. Subcontracts shall be subject to the terms and conditions of this agreement and to any conditions of approval that the State may deem necessary. Subject to the foregoing, this agreement shall be binding upon the respective successors and assigns of the parties.
2. Attorney's Fees and Expenses. Subject to other terms and conditions of this agreement, in the event Contractor defaults in any obligations under this agreement, Contractor shall pay to the State all costs and expenses (including, without limitation, investigative fees, court costs, and attorney's fees) incurred by the State in enforcing this agreement or otherwise reasonably related thereto. Contractor agrees that under no circumstances shall the customer be obligated to pay any attorney's fees or costs of legal action to Contractor.
3. Authority to Contract. Contractor warrants: (a) that it is a validly organized business with valid authority to enter into this agreement; (b) that it is qualified to do business and in good standing in the State of Mississippi; (c) that entry into and performance under this agreement is not restricted or prohibited by any loan, security, financing, contractual, or other agreement of any kind; and, (d) notwithstanding any other provision of this agreement to the contrary, that there are no existing legal proceedings or prospective legal proceedings, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under this agreement.
4. Change in Scope of Work. The Agency may order changes in the work consisting of additions, deletions, or other revisions within the general scope of the contract. No claims may be made by Contractor that the scope of the project or of Contractor's services has been changed, requiring changes to the amount of compensation to Contractor or other adjustments to the contract, unless such changes or adjustments have been made by written amendment to the contract signed by the Agency and Contractor. If Contractor believes that any particular work is not within the scope of the project, is a material change, or will otherwise require more compensation to Contractor, Contractor must immediately notify the Agency in writing of this belief. If the Agency believes that the particular work is within the scope of the contract as written, Contractor will be

ordered to and shall continue with the work as changed and at the cost stated for the work within the contract.

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

- a. *Notice of Claim.* If any action or omission on the part of a Chief Procurement Officer or designee of such officer requiring performance changes within the scope of the contract constitutes the basis for a claim by Contractor for additional compensation, damages or an extension of time for completion, Contractor shall continue with performance of the contract in compliance with the directions or orders of such officials, but by so doing, Contractor shall not be deemed to have prejudiced any claim for additional compensation, damages, or an extension of time for completion; provided:
  - i. Contractor shall have given written notice to the Chief Procurement Officer or designee of such officer:
    - (1) prior to the commencement of the work involved, if at that time Contractor knows of the occurrence of such action or omission.
    - (2) within 30 days after Contractor knows of the occurrence of such action or omission, if Contractor did not have such knowledge prior to the commencement of the work; or,
    - (3) within such further time as may be allowed by the Chief Procurement Officer in writing.This notice shall state that Contractor regards the act or omission as a reason which may entitle Contractor to additional compensation, damages, or an extension of time. The Chief Procurement Officer or designee of such officer, upon receipt of such notice, may rescind such action, remedy such omission, or take such other steps as may be deemed advisable in the discretion of the Chief Procurement Officer or designee of such officer.
  - ii. the notice required by subparagraph (a) of this paragraph describes, as clearly as practicable at the time, the reasons why Contractor believes that additional compensation, damages, or an extension of time may be remedies to which Contractor is entitled; and,
  - iii. Contractor maintains and, upon request, makes available to the Chief Procurement Officer within a reasonable time, detailed records to the extent practicable, of the claimed additional costs or basis for an extension of time in connection with such changes.
- b. *Limitation of Clause.* Nothing contained herein shall excuse Contractor from compliance with any rules of law precluding state officers and Contractor from acting in collusion or bad faith in issuing or performing change orders which are clearly not within the scope of the contract.
- c. *Adjustment of Price.* Any adjustment in the contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment clause of this contract.

6. Confidentiality. Notwithstanding any provision to the contrary contained herein, it is recognized that Agency is a public agency of the State of Mississippi and is subject to the Mississippi Public Records Act. *Mississippi Code Annotated § 25-61-1 et. seq.* If a public records request is made for any information provided to Agency pursuant to the agreement and designated by the Contractor in writing as trade secrets or other proprietary confidential information, Agency shall follow the provisions of *Mississippi Code Annotated § 25-61-9 and § 79-23-1* before disclosing such information. The Agency shall not be liable to the Contractor for disclosure of information required by court order or required by law.
7. Contractor Personnel. The Agency shall, throughout the life of the contract, have the right of reasonable rejection and approval of staff or subcontractors assigned to the work by Contractor. If the Agency reasonably rejects staff or subcontractors, Contractor must provide replacement staff or subcontractors satisfactory to the Agency in a timely manner and at no additional cost to the Agency. The day-to-day supervision and control of Contractor's employees and subcontractors is the sole responsibility of Contractor.
8. Debarment and Suspension. Contractor certifies to the best of its knowledge and belief, that it:
  - a. is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transaction by any federal department or agency or any political subdivision or agency of the State of Mississippi.
  - b. has not, within a three-year period preceding this proposal, been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction.
  - c. has not, within a three-year period preceding this proposal, been convicted of or had a civil judgment rendered against it for a violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property.
  - d. is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of these offenses enumerated in paragraphs two (b) and (c) of this certification; and,
  - e. has not, withing a three-year period preceding this proposal, had one or more public transactions (federal, state, or local) terminated for cause or default.
9. Disclosure of Confidential Information. In the event that either party to this agreement received notice that a third-party requests divulgence of confidential or otherwise protected information and/or has served upon it a subpoena or other validly issued administrative or judicial process ordering divulgence of confidential or otherwise protected information that party shall promptly inform the other party and thereafter respond in conformity with such subpoena to the extent mandated by law. This section shall survive the termination or completion of this agreement. The parties agree that this section is subject to and superseded by *Mississippi Code Annotated § 25-61-1 et. seq.*



10. Exceptions to Confidential Information. Contractor and the State shall not be obligated to treat as confidential and proprietary, and information disclosed by the other party (“disclosing party”) which:
  - a. is rightfully known to the recipient prior to negotiations leading to this agreement, other than information obtained in confidence under prior engagements.
  - b. is generally known or easily ascertainable by nonparties of ordinary skill in the business of the customer.
  - c. is released by the disclosing party to any other person, firm, or entity including governmental agencies or bureaus) without restriction.
  - d. is independently developed by the recipient without any reliance on confidential information.
  - e. is or later becomes part of the public domain or may be lawfully obtained by the State or Contractor from any nonparty; or,
  - f. is disclosed with the disclosing party’s prior written consent.
11. Failure to Deliver. In the event of failure of Contractor to deliver services in accordance with the contract terms and conditions, the Agency, after due oral or written notice, may procure the services from other sources and hold Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies that the Agency may have.
12. Failure to Enforce. Failure by the Agency at any time to enforce the provisions of the contract shall not be construed as a waiver of any such provisions. Such failure to enforce shall not affect the validity of the contract or any part thereof or the right of the Agency to enforce any provision at any time in accordance with its terms.
13. Force Majeure. Each party shall be excused from performance for any period and to the extent that it is prevented from performing any obligation or service, in whole or in part, as a result of causes beyond the reasonable control and without the fault or negligence of such party and/or its subcontractors. Such acts shall include without limitation acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations superimposed after the fact, fire, earthquakes, floods, or other natural disasters (“force majeure events”). When such a cause arises, Contractor shall notify the State immediately in writing of the cause of its inability to perform, how it affects its performance, and the anticipated duration of the inability to perform. Delays in delivery or in meeting completion dates due to force majeure events shall automatically extend such dates for a period equal to the duration of the delay caused by such events, unless the State determines it to be in its best interest to terminate the agreement.
14. Indemnification. To the fullest extent allowed by law, Contractor shall indemnify, defend, save and hold harmless, protect, and exonerate the agency, its commissioners, board members, officers, employees, agents, and representatives, and the State of Mississippi from and against all claims, demands, liabilities, suits, actions, damages, losses, and costs of every kind and nature whatsoever including, without limitation, court costs, investigative fees and expenses, and attorney’s fees, arising out of or caused by Contractor and/or its partners, principal, agents, employees and/or subcontractors in the

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

15. Independent Contractor Status. Contractor shall, at all times, be regarded as and shall be legally considered an independent contractor and shall at no time act as an agent for the State. Nothing contained herein shall be deemed or construed by the State, Contractor or any third party as creating the relationship of principal and agent, master and servant, partners, joint ventures, employer, and employee, or any similar such relationship between the State and Contractor. Neither the method of computation of fees or other charges, nor any other provision contained herein, nor any acts of the State or Contractor hereunder creates or shall be deemed to create a relationship other than the independent relationship of the State and Contractor. Contractor's personnel shall not be deemed in any way, directly or indirectly, expressly or by implication, to be employees of the State. Neither Contractor nor its employees shall, under any circumstances, be considered servants, agents or employees of the agency and the Agency shall be at no time legally responsible for any negligence or other wrongdoing by Contractor, its servants, agents, or employees. The Agency shall not withhold from the contract payments to Contractor any federal or state unemployment taxes, federal or state income taxes social security tax, or any other amounts to benefits to Contractor. Further, the Agency shall not provide to Contractor any insurance coverage or other benefits, including worker's compensation, normally provided by the State for its employees.
16. Infringement Indemnification. Contractor warrants that the materials and deliverables provided to the customer under this agreement, and their use by the customer, will not infringe or constitute an infringement of any copyright, patent, trademark, or other proprietary right. Should any such items become the subject of an infringement claim or suit, Contractor shall defend the infringement action and/or obtain for the customer the right to continue using such items. Should Contractor fail to obtain for the customer the right to use such items, Contractor shall suitably modify them to make them non-infringing or substitute equivalent software or other items at Contractor's expense. In the event the above remedial measures cannot possibly be accomplished, and only in that event, Contractor may require the customer to discontinue using such items, in which case Contractor will refund to the customer the fees previously paid by the customer for the items the customer may no longer use, and shall compensate the customer for the lost value of the infringing part to the phase in which it was used, up to and including the contract price for said phase. Said refund shall be paid within ten (10) working days of notice to the customer to discontinue said use.
17. Integrated Agreement/Merger. This agreement, including all contract documents, represents the entire and integrated agreement between the parties hereto and supersedes

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

18. Modification or Renegotiation. This agreement may be modified only by written agreement signed by the parties hereto. The parties agree to renegotiate the agreement if federal and/or state revisions of any applicable laws or regulations make changes in this agreement necessary.
19. No Limitation of Liability. Nothing in this agreement shall be interpreted as excluding or limiting any tort liability of Contractor for harm caused by the intentional or reckless conduct of Contractor or for damages incurred through the negligent performance of duties by Contractor or the delivery of products that are defective due to negligent construction.
20. Notices. All notices required or permitted to be given under this agreement must be in writing and personally delivered or sent by certified United States mail, postage prepaid, return receipt requested, to the party to whom the notice should be given at the address set forth below. Notice shall be deemed given when actually received or when refused. The parties agree to promptly notify each other in writing of any change of address.

For the agency:           Sallie Sones, Contract Officer  
                                  Mississippi Emergency Management Agency  
                                  #1 MEMA Drive  
                                  Pearl, MS 39208

For the Contractor:   Name, Title  
                                  Contractor Name  
                                  Address  
                                  City, State, Zip

21. Non-solicitation of Employees. Each party to this agreement agrees not to employ or to solicit for employment, directly or indirectly, any persons in the full-time or part-time employment of the other party until at least six (6) months after this agreement terminates unless mutually agreed to in writing by the State and Contractor.
22. Oral Statements. No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in this contract. All modifications to the contract must be made in writing by the Agency and agree to by Contractor.

23. Ownership of Documents and Work Papers. Agency shall own all documents, files, reports, work papers and working documentation, electronic or otherwise, created in connection with the project, which is the subject of this agreement, except for Contractor's internal administrative and quality assurance files and internal project correspondence. Contractor shall deliver such documents and work papers to Agency upon termination or completion of the agreement. The foregoing notwithstanding, Contractor shall be entitled to retain a set of such work papers for its files. Contractor shall be entitled to use such work papers only after receiving written permission from Agency and subject to any copyright protections.
24. Price Adjustment.
- a. *Price Adjustment Methods.* Any adjustments in contract price, pursuant to a clause in this contract, shall be made in one or more of the following ways:
    - i. by agreement on a fixed price adjustment before commencement of the additional performance.
    - ii. by unit prices specified in the contract.
    - iii. by the costs attributable to the event or situation covered by the clause, plus appropriate profit, or fee, all as specified in the contract; or,
    - iv. by the price escalation clause.
  - b. *Submission of Cost or Pricing Data.* Contractor shall provide cost or pricing data for any price adjustments subject to the provision of Section 3-403 (Cost of Pricing Data) of the *PPRB OPSCR Rules and Regulations*.
25. Priority. The contract consists of this agreement with exhibits, the RFx NUMBER (hereinafter referred to as "RFQ" and attached as Attachment NUMBER), and the statement of qualifications dated DATE by VENDOR (hereinafter referred to as "statement of qualifications" and attached as Attachment NUMBER). Any ambiguities, conflicts, or questions of interpretation of this contract shall be resolved by first, reference to this agreement with exhibits and, if still unresolved, by reference to the RFQ and, if still unresolved, by reference to the statement of qualifications. Omission of any term or obligation from this agreement or attached Attachments NUMBER or NUMBER shall not be deemed an omission from this contract if such term or obligation is provided for elsewhere in this contract.
26. Record Retention and Access to Records. Provided Contractor is given reasonable advance written notice and such inspection is made during normal business hours of Contractor, the State or any duly authorized representatives shall have unimpeded, prompt access to any of Contractor's books, documents, papers, and/or records which are maintained or produced as a result of the project for the purpose of making audits, examinations, excerpts, and transcriptions. All records related to this agreement shall be retained by Contractor for three (3) years after final payment is made under this agreement and all pending matters are closed; however, if any audit, litigation or other action arising out of or related in any way to this project is commenced before the end of the three (3) year period, the records shall be retained for one (1) year after all issues arising out of the action are finally resolved or until the end of the three (3) year period, whichever is later.

27. Right to Audit. Contractor shall maintain such financial records and other records as may be prescribed by the Agency or by applicable federal and state laws, rules, and regulations. Contractor shall retain these records for a period of three years after final payment, or until they are audited by the Agency, whichever event occurs first. These records shall be made available during the term of the contract and the subsequent three-year period for examination, transcription, and audit by the Mississippi State Auditor's Office, its designees, or other authorized bodies.
28. Right to Inspect Facility. The State may, at reasonable times, inspect the place of business of a Contractor or any subcontractor which is related to the performance of any contract awarded by the State.
29. Severability. If any part of this agreement is declared to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision of the agreement that can be given effect without the invalid or unenforceable provision, and to this end the provisions hereof are severable. In such event, the parties shall amend the agreement as necessary to reflect the original intent of the parties and to bring any invalid or unenforceable provisions in compliance with applicable law.
30. State Property. Contractor will be responsible for the proper custody and care of any state-owned property furnished for Contractor's use in connection with the performance of this agreement. Contractor will reimburse the State for any loss or damage, normal wear and tear excepted.
31. Third Party Action Notification. Contractor shall give the customer prompt notice in writing of any action or suit filed, and prompt notice of any claim made against Contractor by any entity that may result in litigation related in any way to this agreement.
32. Unsatisfactory Work. If, at any time during the contract term, the service performed or work done by the Contractor is considered by the Agency to create a condition that threatens the health, safety, or welfare of the citizens and/or employees of the State of Mississippi, the Contractor shall, on being notified by the Agency, immediately correct such deficient service or work. In the event the Contractor fails, the Agency shall have the right to order the correction of the deficiency by separate contract or with its own resources at the expense of the Contractor.
33. Waiver. No delay or omission by either party to this agreement in exercising any right, power, or remedy hereunder or otherwise afforded by contract, at law, or in equity shall constitute an acquiescence therein, impair any other right, power or remedy hereunder or otherwise afforded by any means, or operate as a waiver of such right, power, or remedy. No waiver by either party to this agreement shall be valid unless set forth in writing by the party making said waiver. No waiver of or modification to any term or condition of this agreement will void, waive, or change any other term or condition. No waiver by one party to this agreement of a default by the other party will imply, be construed as or require waiver of future or other defaults.