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## Notice of Intent to Certify Sole Source

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**To:** Interested Parties  
**From:** Craig P. Orgeron, Ph.D.   
**CC:** ITS Project Number 42278  
**Date:** October 6, 2015  
**Re:** Sole Source Certification Number 3813 Developer Support and Licensing for Donated Foods Software  
**Contact Name:** Paula Conn  
**Contact Phone Number:** 601-432-8046  
**Contact E-mail Address:** Paula.Conn@its.ms.gov

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### Sole Source Certification Award Details

Regarding Information Technology Services (ITS) Sole Source Certification Number 3813 for Simmons Computing Services developer support and licensing of the Donated Foods Software for the Mississippi Department of Education (MDE), please be advised that ITS intends to award license and support of the Donated Foods Software to Simmons Computing Services (herein after referred to as "Simmons") as the sole source provider of developer support and licensing through July 31, 2018, in an amount not to exceed \$40,000.00 per year with the amount for Fiscal Year 2016 totaling \$34,692.21. The total not-to-exceed lifecycle cost is \$114,692.21. For an explanation regarding Mississippi state law, policy, and procedures for sole source procurements, refer to Attachment C: Sole Source Procurement Overview.

### Sole Source Criteria

1. The product or services being purchased must perform a function for which no other product or source of services exist:

**The Donated Foods Software was custom developed to meet the needs of MDE and MDE has made a business decision to continue using it.**

**The customer's sole source certification request is included as Attachment A.**

2. The purchaser must be able to show specific business objectives that can be met only through the unique product or services:

**The Simmons custom developed software product specifically conforms to the rules and regulations involved with State administration of the USDA Donated Foods Program. No off-the-shelf commodity accounting system meets those requirements.**

**The customer's sole source certification request is included as Attachment A.**

3. The product or services must be available only from the manufacturer and not through resellers who could submit competitive pricing for products or services:

**The Donated Foods Software currently in use at MDE is a proprietary product developed and owned by Simmons Computing Service Inc. As such, Simmons Computing Service Inc. is the only source for Support and Licensing of this product. The continuation of support and licensing services is required for continued use, support, warranty and software revisions.**

**The vendor's sole source certification letter is included as Attachment B.**

### **Schedule**

Task	Date
First Advertisement Date	September 22, 2015
Second Advertisement Date	September 29, 2015
Response Deadline From Objectors	October 20, 2015, at 3:00 P.M. Central Time
Notice of Award/No Award Posted	Not before October 21, 2015

### **Project Details**

In the fall of 2000, ITS and MDE issued RFP No. 3165 for the acquisition of software, services, and technical support necessary for the implementation of an automated Web-based software package for the Office of Child Nutrition's (OCN) United States Department of Agriculture (USDA) Commodity Program (Donated Food). The award for the software package as a result of RFP No. 3165 was made to Simmons Computing Services.

In February of 2001, ITS, MDE, and Simmons Computing Service, Inc. executed a Software License and Maintenance Agreement. MDE's OCN continues to receive Donated Food as part of the USDA Commodity Program and as such continues to use the software package developed and owned by Simmons Computing Service, Inc. MDE has made a business decision to continue the use of this software through, at least, the end of Fiscal Year 2018 and requires developer support and licensing for the software. Simmons Computing Service, Inc. has documented that they are the sole provider of developer support and licensing of this product.

### **Submission Instruction and Format of Response from Objecting Parties**

Interested parties who have reason to believe that the manufacturer direct maintenance should not be certified as a sole source should provide information in the following format for the state to use in determining whether or not to proceed with awarding the Sole Source contract to Simmons Computing Service, Inc.

#### **1.1 Interested Party Information**

- 1.1.1 Contact Name, Phone Number and email address
- 1.1.2 Company Website URL, if applicable
- 1.2 Objection to Sole Source Certification
  - 1.2.1 Interested parties must present specific objections to the Sole Source certification using the criteria listed above.
  - 1.2.2 A statement regarding the Interested Party's capabilities as related to this Sole Source Certification Request.
- 1.3 Comments will be accepted at any time prior to Tuesday, October 20, 2015, at 3:00 p.m. (Central Time) to Paula Conn at [Paula.Conn@its.ms.gov](mailto:Paula.Conn@its.ms.gov) or at the Mississippi Department of Information Technology Services, 3771 Eastwood Drive, Jackson, Mississippi 39211. Responses may be delivered by hand, via regular mail, overnight delivery, e-mail, or by fax. Fax number is (601) 713-6380. ITS WILL NOT BE RESPONSIBLE FOR DELAYS IN THE DELIVERY OF RESPONSES. It is solely the responsibility of the Interested Parties that responses reach ITS on time. Interested Parties may contact Paula Conn to verify the receipt of their Responses. Responses received after the deadline will be rejected.
- 1.4 Interested Party responses should include the following information:

**SUBMITTED IN RESPONSE TO  
Sole Source Certification No. 3813-42278  
Accepted October 20, 2015 @ 3:00 p.m.,  
ATTENTION: Paula Conn**

If you have any questions concerning the information above or if we can be of further assistance, please contact Paula Conn at 601-432-8046 or via email at [Paula.Conn@its.ms.gov](mailto:Paula.Conn@its.ms.gov).

- Attachment A: Customer Sole Source Certification Request
- Attachment B: Vendor Correspondence
- Attachment C: Sole Source Procurement Overview

## Sole Source Certification Request

<b>Project Title:</b> <b>Simmons Computing Services</b>		<b>Stimulus (ARRA) Funds? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></b>	
<b>Customer Contact Information</b>			
<b>Agency/Public University:</b> MDE <b>Address:</b> 359 N West Street Jackson, MS 39201		<b>Contact Person:</b> Margaret White <b>Phone:</b> 601-576-4973 <b>Fax:</b> <b>Email Address:</b> MWhite@MDE.k12.ms.us	
<b>MAGIC Customer Number</b> (only required from state agencies): 1201-04-2701		<b>Division/Dept:</b> <b>Handmail:</b> <input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>Project Summary Narrative Description of Project</b> (include details of original acquisition if applicable): <i>Renewal of recurring Maintenance and Support of "Donated Food Software" utilized by the Office of Child Nutrition.</i>			
<b>ITS Acquisition Approval (CP-1) should be effective through this date</b> (Please allow time for all vendor invoices to be paid):			
<b>Cost Estimates</b>	<b>Fiscal Year</b>	<b>Initial Costs</b>	<b>Ongoing Costs</b>
	2016	\$0	\$34,692.21
	2017	\$0	\$40,000.00
	2018	\$0	\$40,000.00
	<b>Total</b>	<b>\$0</b>	<b>\$114,692.21</b>
		<b>Time Constraints</b> Item Needed by: 31 AUG 2015 Funds Expire: N/A	
		<b>Anticipated Lifecycle of Products/System</b> (i.e. estimated years of effective use):	
Discuss Funding (e.g. how much of needed funding is definite; total project budget; any matching or other non state funds) <b>Funding is part of Annual Operating Plan for the Office of Child Nutrition.</b>			
<b>Acquisition Details</b>			
<b>Items Requested</b>	<b>Quantity</b>	<b>Description</b>	<b>Building Location(s)</b>
<b>Describe platform &amp; infrastructure</b> (connectivity; software/hardware platforms; utilization of State Data Center resources: mainframe, eGovernment portal, payment engine, document management, hosting). For equipment or hosting outside the State Data Center, attach justification: <i>Application is hosted by MDE OTSS to facilitate critical application interfaces to other Office of Child Nutrition and OTSS web applications (MSIS, OCeAN, etc.)</i>			
<b>Progress to Date:</b> What has been done related to this project, including any communication with ITS staff (data/voice/procurement/other)? <i>Emails with Paula Conn who informs us on ITS Standard Operating Process/Procedures for Sole Source Certifications.</i>			
<b>Sole Source Certification</b> Note: Certification must be renewed for each revision or continuation of previous Sole Source Approvals.			
<b>Specific business requirements to be met by the requested products or services:</b> <i>The Simmons custom developed software product specifically conforms to the rules and regulations involved with State administration of the USDA Donated Foods Program and as such cannot be treated as an off the shelf commodity like many accounting systems.</i>			
<b>Explain why these products or services are the only ones that can meet your needs</b> (include unique features/special functionality): <i>The Donated Foods Software was custom developed to meet the needs of MDE and MDE has made a business decision to continue using it.</i>			
<b>Explain why the source is the only entity that can provide the products or services</b> (Include other products/vendors researched or evaluated): <i>The Donated Foods Software currently in use at Mississippi is a proprietary product developed and owned by Simmons Computing Service Inc. As such, Simmons Computing Service Inc. is the "sole source" for License, Support, and Service of this product. The continuation of license and support services is required for continued use, support, warranty and software revision updates.</i>			
<b>Explain why the amount to be expended for the services is reasonable:</b>			
<b>Explain what your agency did to obtain the best possible price for the services:</b>			
<b>Vendor's Certification of Sole Source attached:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		<b>Vendor's proposal submitted:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
<b>MAGIC Vendor Code(s)</b> Vendor must be in MAGIC before a CP-1 can be issued.			
<b>Place Order To</b> <b>Vendor Name:</b> Simmons Computing Services <b>Vendor Address:</b>		<b>Remit To</b> <b>Vendor Name:</b> Simmons Computing Services <b>Vendor Address:</b>	

By my signature, I certify that, to the best of my professional knowledge: the requested product or services are a sole source as outlined in the ITS Procurement Handbook, Rule 207.2:013-030 Procurement Types: Sole Source, and as outlined in Mississippi Code annotated Section 31-7-13. In addition, I acknowledge that there is a charge for ITS procurement services associated with this request which will be billed to the requestor by ITS and that my agency/public university is responsible for these charges/costs.

*Dr. Carey M. Wright / State Supt.*  
Name (Agency Head or Public University CIO)/Title

*Carey M. Wright* 10/3/15  
Signature Date



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May 29, 2015

Priscilla Ammerman  
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Child Nutrition Program  
359 N. West Street  
PO Box 771  
Jackson, MS 39205-0771

Tel: (601) 354-7015  
Fax: (601) 354-7595



## IT'S TIME TO RENEW!

Dear Priscilla:

Your license/support contract for Donated Foods will expire at the end of July.

Renewal cost for license/support services of your Donated Foods Software is \$34,692.21. This annual fee is payable in full prior to the onset of the contract. The license/support contract will commence August 1, 2015 and continue through July 31, 2016. An invoice and the terms and conditions of the services are attached.

The Donated Foods Software currently in use at Mississippi is a proprietary product developed and owned by Simmons Computing Service Inc. As such, Simmons Computing Service Inc. is the "sole source" for License, Support, and Service of this product. The continuation of license and support services is required for continued use, support, warranty and software revision updates.

The Simmons custom developed software product specifically conforms to the rules and regulations involved with State administration of the USDA Donated Foods Program and as such cannot be treated as an off the shelf commodity like many accounting systems.

If you have any questions, please do not hesitate to call.

Sincerely,

Steve Simmons

## Attachment C: Sole Source Procurement Overview

The acquisition of information technology for all state agencies and institutions of higher learning (IHLs) is within the scope of the ITS law, found in Mississippi Code Section 25-53-1, et seq., and the policies and procedures established in accordance with this statute, found in the ITS Procurement Handbook posted on the ITS website ([www.its.ms.gov](http://www.its.ms.gov)).

ITS enabling legislation requires that information technology hardware, software and services be acquired in a manner that insures the maximum of competition among all manufacturers and suppliers of such equipment and services. Accordingly, ITS promotes full and open competition through the issuance of open specifications and the objective evaluation of Interested Party proposals to determine the lowest and best offering to meet an agency's or public university's business requirements. True competition protects the integrity and credibility of purchasing in the public sector and is essential in providing best value and adequate contractual protection for the purchasing entity. In certain limited situations, information technology acquisitions may be sole-sourced.

ITS utilizes the provisions of Public Purchasing Law for Sole Source and Emergency procurements of information technology. Mississippi Public Purchasing Law (Mississippi Code Section 31-7-13) specifies that noncompetitive items available from one source only be exempted from bid requirements (sole-sourced). ITS statute, in Section 25-53-5 (p), permits ITS to utilize provisions in Public Purchasing Law or regulations, when applicable.

Per Public Purchasing law, acquisitions must meet the following criteria to be authorized as sole source:

1. The product or services being purchased must perform a function for which no other product or source of services exists,
2. The purchaser must be able to show specific business objectives that can be met only through the unique product or services, AND
3. The product or services must be available only from the manufacturer and NOT through resellers who could submit competitive pricing for the product or services. The vendor's correspondence regarding this criterion for this project is included as Attachment B.

By policy as documented in the ITS Procurement Handbook, acquisitions of IT services must include the following information to be authorized as sole source:

1. An explanation about why the amount to be expended is reasonable, and
2. An explanation regarding the efforts by the purchaser to obtain the best possible price.

For state agencies, approval of all technology purchases with a lifecycle cost of \$5,000 or less, including sole source purchases, has been delegated to the agency. The ITS Procurement Limits Policies for Agencies (a section in the ITS Procurement Handbook) require a minimum of two competitive written bids or proposals for technology purchases with a lifecycle cost over \$5,000 but not over \$50,000 (not over \$25,000 for projects funded by the American Recovery and Reinvestment Act). Since, for single source items, the procuring agency will be unable to obtain two written bids, ITS must certify all sole source acquisitions of information technology with a lifecycle cost greater than \$5,000.

Institutions of Higher Learning (IHLs) or public universities have been delegated the authority to certify sole source procurements up to \$250,000 lifecycle cost under the ITS Procurement Limits Policies for IHLs (a section in the ITS Procurement Handbook). For the certification of sole source procurements delegated to the CIOs at public universities, the public university must follow ITS' Sole Source Procedure, including advertisement of the intent to award as sole source. Institutions certifying a sole source purchase must ensure the criteria listed above are met and documented in writing by the institution and the Interested Party prior to certifying a product or service as sole source. Sole source documentation must be reviewed and approved by the IHL's CIO for any sole-source certification above \$5,000. All sole source documentation should be retained in the public university's procurement file. Sole source requests above \$250,000 lifecycle cost require ITS approval.

## **Attachment C: Sole Source Procurement Overview**

Other than the delegations outlined above, all sole source technology procurements must be certified by ITS. The customer's Sole Source Certification Request for this project is included as Attachment A.

ITS thoroughly reviews Sole Source Certification Requests, determining if competing products and/or services exist. If so, ITS conducts a competitive procurement. If ITS' review confirms the sole source, then a Sole Source advertisement is issued, giving other Interested Parties an opportunity to identify competing products and/or services. Based upon the results of the Sole Source advertisement, ITS will either certify the request as a sole source or conduct a competitive procurement.