

Issuing Date: **UPDATE AS OF MAY 28, 2010 (AMENDED TIMELINE)**

Issuing Agency: Board of Trustees of State Institutions of Higher Learning

Point of Contact: Cheryl Mowdy

Send Proposals to: Mississippi Institutions of Higher Learning
3825 Ridgewood Road, Room
Jackson, MS 39211

Prospective Offerors who receive this document from the Board of Trustees of State Institutions of Higher Learning (IHL) or from a source other than the Point of Contact, and who wish to assure receipt of any addendums related to this RFP, should contact the Point of Contact and provide their COMPANY name, contact name, email address, and mailing address so that amendments to the RFP or other communication can be sent.

Questions concerning specifications in this Request for Proposal must be submitted in writing via mail, facsimile, or by email to the Point of Contact and will be accepted until May 26, 2010 at 5:00 p.m. Answers to all substantive questions will be distributed to all offerors who are known to have received a copy of the RFP. The Institutions of Higher Learning encourages participation of qualified local minority businesses and qualified local small business enterprises for the procurement of goods and services.

Closing Date and Time: June 11, 2010 at 5:00 p.m.

I. Introduction

The Board of Trustees of State Institutions of Higher Learning (IHL) is issuing this Request for Proposal (RFP) to accept written proposals to provide Third Party Administrator (TPA) services for Flexible Spending Account Plans, to include medical and dependent daycare reimbursement, in accordance with Section 125 of the Internal Revenue Code of 1986 for the central office of the Mississippi Institutions of Higher Learning, eight state universities within the State of Mississippi, and The University of Mississippi Medical Center consisting of approximately 21,250 employees who qualify for benefits.

Agencies that will participate include: the central office of the Mississippi Institutions of Higher Learning, Alcorn State University, Delta State University, Jackson State University, Mississippi State University, Mississippi University for Women, Mississippi Valley State University, The University of Mississippi, The University of Mississippi Medical Center, and The University of Southern Mississippi. Companies submitting proposals are to treat each entity stated above as a block of business for the purpose of this proposal request and for census information. Each entity will maintain separate enrollment, billing, responsibility for fee payment, and administrative processes. In essence, the bid is

Board of Trustees of State Institutions of Higher Learning
Request for Proposal (RFP)
Flexible Spending Account Program
Third Party Administration Services

based on the group's volume but administrative services shall be provided separately for each individual agency.

Currently each state agency is individually contracted with a TPA for administrative services. The majority of these contracts will expire December 31, 2010. The vendor awarded the contract pursuant this RFP will be required to perform TPA administrative service beginning Plan Year January 1, 2011.

Agency Profiles

Mississippi Institutions of Higher Learning

The Executive Office is located in Jackson and employs approximately 110 benefit eligible employees.

Alcorn State University

The main campus is located Lorman with branch campuses in Natchez and Vicksburg. The University employs approximately 790 benefit eligible employees.

Delta State University

The campus is located in Cleveland and employs approximately 550 benefit eligible employees.

Jackson State University

The campus is located in Jackson and employs approximately 1,508 benefit eligible employees.

Mississippi State University

The main campus is located in Starkville with off-campus centers in Meridian, Mississippi State University Extension Service offices in 82 counties, and 10 Mississippi Agricultural and Forestry Experiment Station branch stations. The University employs approximately 4,624 benefit eligible employees.

Mississippi University for Women

The campus is located in Columbus and employs approximately 361 benefit eligible employees.

Mississippi Valley State University

The campus is located in Itta Bena and employs approximately 650 benefit eligible employees.

The University of Mississippi

The main campus is located in Oxford with branch campuses at Southaven, Tupelo, Grenada, and Booneville. The University employs approximately 2,500 benefit eligible employees.

**Board of Trustees of State Institutions of Higher Learning
Request for Proposal (RFP)
Flexible Spending Account Program
Third Party Administration Services**

The University of Mississippi Medical Center

The medical center is located in Jackson and employs approximately 7,857 benefit eligible employees.

The University of Southern Mississippi

The main campus is located in Hattiesburg with five teaching and research sites on the Mississippi Gulf Coast. The University employs approximately 2,300 benefit eligible employees.

II. Purpose

The selected offeror shall provide third party administrative services in accordance with provisions of this RFP. Services will include, but are not limited to, maintain procedures, resources, and controls for processing medical and dependent daycare reimbursement claim requests in an efficient and accurate manner; successfully disburse claim payments; and maintain membership records. Responsibilities also include, preparation and distribution of weekly, monthly, and annual reports; and conduct audits to ensure that only eligible claims have been honored and to correct any miscalculations or disparities. The selected TPA shall maintain a knowledgeable staff to provide reliable and professional customer service to plan participants.

III. Contract Period

The initial contract that results from this RFP shall be for a two-year period beginning Plan Year January 1, 2011 and will end December 31, 2012 with the run-out administrative period (during which report will also be provided) ending on or before June 30, 2012.

IV. Scope of Services

Offeror understands that scope of services entails administrative functions only and does not include the selling of related products. The TPA's responsibility shall include, but not be limited to, the following:

1. Account Management

- a. Provide comprehensive implementation services and support during the initial transition and continue to provide ongoing account management services;
- b. Participate in Benefit Fairs and Open Enrollment at each agency;
- c. Prepare marketing, training, and enrollment materials; provide staff at each location to educate and assist employees with the enrollment process during the implementation phase; and ensure that all

Board of Trustees of State Institutions of Higher Learning
Request for Proposal (RFP)
Flexible Spending Account Program
Third Party Administration Services

correspondence is accurate and free of typographical and mathematical errors and is distributed in a timely manner;

- d. Accept enrollment and deduction information in paper form or via electronic transmittal;
- e. Prepare, distribute, and collect responses from an on-line annual customer satisfaction survey and provide all agencies with results;
- f. Monitor bank account balance to ensure sufficient funds are available for claim payments and administrative fees;
- g. Perform non-discrimination testing annually; provide results in aggregate to each agency and results for each employer to the respective agency;
- h. Process claim requests in accordance with the plan design and Internal Revenue Code; TPA shall be knowledgeable of regulations, rules, and guidance issued by the IRS; must communicate with each agency new IRS regulations, rules, or guidance that affect flexible spending account administration;
- i. Communicate and consistently apply deadlines for all submissions and claims payments;
- j. Provide an annual report no later than December 1 of each plan year that tracks contributions, reimbursements, and account balances for each participant in the dependent daycare plan. The report shall include: agency name, participant name, identification number, annual election, year-to-date contributions, year-to-date reimbursement, and account balance.
- k. Each plan year provide annual reports no later than December 1 of the current plan year and February 1 and April 1 for the previous plan year that tracks contributions, reimbursements, and account balances for each participant in the medical reimbursement plan. The report shall include: agency name, participant name, identification number, annual election, year-to-date contributions, year-to-date reimbursement, and account balance.
- l. Provide written correspondence, via U.S. postal service, to plan participants with outstanding account balances no later than December 5 for medical reimbursement and dependent care accounts and by February 15 for medical reimbursement accounts;

Board of Trustees of State Institutions of Higher Learning
Request for Proposal (RFP)
Flexible Spending Account Program
Third Party Administration Services

2. HIPAA Compliance

- a. Establish practices and procedures to ensure that personal health insurance is handled, received, maintained, and transmitted in a secure manner that is compliant with HIPAA security provisions;
- b. Develop and institute a method to identify, evaluate, and eliminate any potential breach of policy or procedure in the handling, receipt, maintenance, and transmission of personal health information, in both electronic and non-electronic formats; establish protocol for rectifying security threats; and determine the manner by which the participant and respective agency will be contacted with expenses for all correspondence payable by the TPA;
- c. Enact measures to maintain, transmit, and destroy personal health information and personal data in a manner that renders the information and data unusable, unreadable, and indecipherable to unauthorized personnel;
- d. Ensure measures are in place to use and disclose the minimum amount of personal health information and sensitive, personal information in the processing of claim, whenever possible.

3. Online Services

- a. Provide and administer a dedicated website with 24/7 access for participants to obtain plan benefits, individual account information, and claim status, to include detailed information on claims received, pending, and processed; and to provide administrators with access to participant account information and agency reports; online shall include:

Claim Status:

- 1) Participant name
- 2) Individual identification number
- 3) Plan Year
- 4) Type of Account (medical or dependent daycare)
- 5) Date claim was received
- 6) Type of claim (e.g. medical, dental, vision, etc)
- 7) Amount requested for reimbursement
- 8) Claim status (e.g. in process, pending information, closed, etc)

Account Information:

- 1) Participant name
- 2) Individual identification number
- 3) Plan Year

Board of Trustees of State Institutions of Higher Learning
Request for Proposal (RFP)
Flexible Spending Account Program
Third Party Administration Services

- 4) Type of Account (medical or dependent daycare)
- 5) Annual election
- 6) Contributions (by pay period)
- 7) Reimbursement paid and date of posted
- 8) Account balance

b. Maintain an on-line system that is capable of receiving claim submissions.

4. Customer Service

- a. Provide participants with toll-free telephone access to customer service representatives between the hours of 8:00 a.m. – 5:00 p.m. Monday – Friday;
- b. Provide customer service representatives access to individual account and claims information; make sure measures are in place to verify the caller's identity and to ensure that only participants or an individual authorized by the participant receives account and claims information.

V. Plan Design I

Plan Design I for administration of claim payments for flexible spending account plans without the implementation of debit cards.

- a. Receive claim requests in electronic and non-electronic formats; review claims requests to ensure appropriate documentation is provided to substantiate the request;
- b. Process claims requests in a consistent and timely manner;
- c. Process claim payments on a weekly basis; remit reimbursements via direct deposit into the participant's bank account; notify participant and agency, in writing and by telephone, for payments returned on invalid accounts;
- d. Monitor individual participant account activity to ensure reimbursements do not exceed contributions for dependent daycare accounts and that total claims paid do not exceed annual elections for medical reimbursement and dependent daycare accounts; update online account as defined in Section IV(3)(a);
- e. Individual participant account information shall be updated on the TPA website within 2 days of processing administrative action: claims receipt, processing, and payment;
- f. The Plan has a "Grace Period", for Medical Reimbursement Plans only, in which participants are allowed to receive reimbursements from previous plan year contributions for expenses incurred through March 15 of the

Board of Trustees of State Institutions of Higher Learning
Request for Proposal (RFP)
Flexible Spending Account Program
Third Party Administration Services

current plan year. Participants with a balance remaining from the previous plan year, who elected participation in the next plan year, will be first reimbursed for the previous plan year for any eligible medical expenses incurred during the "Grace Period";

- g. All medical and dependent daycare reimbursement requests must be submitted by April 15;
- h. Responsible for COBRA administration; process and mail COBRA Continuation of Coverage form upon receipt of termination/status change notice from agency; create and maintain database of COBRA participants, to include ; calculate, prepare, and mail monthly invoices; collect payments; send expiration/cancellation of coverage notice via mail;

COBRA Participant Database:

- 1) Participant name
- 2) Individual identification number
- 3) Plan Year
- 4) COBRA notification date
- 5) Mailing address
- 6) Date signed COBRA form is received
- 7) Billing Date
- 8) Date payment is received
- 9) COBRA expiration date

VI. Plan Design II

Plan Design II is for administration of claim payments for flexible spending account plans that permit utilization of debit cards.

- i. Receive claim requests in electronic and non-electronic formats; review claims requests to ensure appropriate documentation is provided to substantiate the request;
- j. Process claims requests in a consistent and timely manner;
- k. Process claim payments on a weekly basis; remit reimbursements via direct deposit into the participant's bank account for participant's who decline the use of debit cards and for receipt of hardcopy claims; notify participant and agency, in writing and by telephone, for payments returned on invalid accounts;
- l. Maintain records of debit card usage that require substantiation; collect overpayment for unsubstantiated claims and payments made for ineligible

Board of Trustees of State Institutions of Higher Learning
Request for Proposal (RFP)
Flexible Spending Account Program
Third Party Administration Services

expenses; place debit cards on hold for improper usage; release hold on debit cards when account is in balance and errors corrected;

- m. Monitor individual participant account activity to ensure reimbursements do not exceed contributions for dependent daycare accounts and that total claims paid do not exceed annual elections for medical reimbursement and dependent daycare accounts; update online account as defined in Section IV(3)(a);
- n. Individual participant account information shall be updated on the TPA website within 2 days of processing administrative action: claims receipt, processing, and payment;
- o. The Plan has a "Grace Period", for Medical Reimbursement Plans only, in which participants are allowed to receive reimbursements from previous plan year contributions for expenses incurred through March 15 of the current plan year. Participants with a balance remaining from the previous plan year, who elected participation in the next plan year, will be first reimbursed for the previous plan year for any eligible medical expenses incurred during the "Grace Period";
- p. All medical and dependent daycare reimbursement requests must be submitted by April 15;
- q. Responsible for COBRA administration; process and mail COBRA Continuation of Coverage form upon receipt of termination/status change notice from agency; create and maintain database of COBRA participants, to include ; calculate, prepare, and mail monthly invoices; collect payments; send expiration/cancellation of coverage notice via mail;

COBRA Participant Database:

- 1) Participant name
- 2) Individual identification number
- 3) Plan Year
- 4) COBRA notification date
- 5) Mailing address
- 6) Date signed COBRA form is received
- 7) Billing Date
- 8) Date payment is received
- 9) COBRA expiration date

VII. General Instructions

- 1. In preparing your response to any RFP question or request for information, you shall repeat each question followed by your response. Questions and answers shall

**Board of Trustees of State Institutions of Higher Learning
Request for Proposal (RFP)
Flexible Spending Account Program
Third Party Administration Services**

be in the same order as found in the RFP. Provide complete answers and explain all issues in a concise, direct manner. All information requested is considered important. If you have additional information you would like to provide, include it in the back of your response as an appendix. All documentation submitted in response to this RFP and any subsequent requests for information pertaining to this RFP will become the property of IHL and will not be returned to the bidder.

The information contained in your response to this RFP will be used by IHL in determining if your COMPANY will be selected. The proposal will become an integral part of the contract and IHL will expect all representations made in the proposal to have been made by the TPA and to be honored by the TPA. As such, it is imperative that the proposal be prepared by the TPA. If you cannot provide a direct response for some reason (e.g. your company does not collect or furnish certain information), please indicate the reason rather than providing general information that fails to answer the question.

FAILURE TO PROVIDE ALL INFORMATION REQUESTED AND IN THE MANNER REQUESTED MAY RESULT IN DISQUALIFICATION OF YOUR BID.

2. Timetable

The following is an outline of dates in the TPA selection process. Dates are subject to change. Notification of any changes will be provided in the writing to all TPAs that have provided notice of intent to bid.

May 20, 2010	RFP released Intent to Bid and all questions regarding the RFP due by 5:00 p.m. June 2, 2010 (Central Standard Time)
June 2, 2010 June 11, 2010	Response to questions sent Proposals due by 5:00 pm (Central Standard Time)
July, 2010	On-site review of finalists' claims files and operations (at Point of Contact's discretion)
August 2010	Award Notification
January 1, 2011	Agreement(s) effective

All organizations responding to this RFP will be notified in writing of the outcome of the process as soon as it is determined.

3. Intent to Bid and Submission of Proposal

- a. All potential TPAs are strongly urged to indicate in writing their intention to bid by **June 2, 2010**. Only those bidders that provide

**Board of Trustees of State Institutions of Higher Learning
Request for Proposal (RFP)
Flexible Spending Account Program
Third Party Administration Services**

notification of intent to bid will receive copies of responses to questions, changes, and updates. Your notification of intent to bid shall contain:

- 1) COMPANY certification that your organization meets or exceeds the minimum required qualifications outlined in VIII
 - 2) Your organization's primary contact's name, title, address, telephone number, fax number, and email address
 - b.** The proposal shall be submitted in Word and received at the address given below **no later than 5:00 p.m. (Central Standard Time) on June 11, 2010.**
 - c. The successful proposal(s) will be incorporated into the resulting Agreement(s). The proposals are subject to the "Mississippi Public Records Act of 1983", codified as section 25-61-1 et seq., Mississippi Code Annotated.
4. Communication

IHL shall be bound only by written responses to written questions concerning the RFP. All communication in reference to this RFP, including submission of the intent to bid, questions regarding this RFP, and the TPA's proposal shall be addressed in writing to:

Cheryl Mowdy

Email for questions and notice of intent to bid: rfptpa@mississippi.edu

Mailing address and labeling instructions for RFPs:

Mississippi Institutions of Higher Learning
RFP Submission - Attention: Cheryl Mowdy
3825 Ridgewood Road, Room 409
Jackson, MS 39211

5. **IHL MAY AWARD ALL OR PART OF THE SERVICES CONTAINED IN THIS RFP. IHL RESERVES THE RIGHT TO REJECT ANY OR ALL RESPONSES TO THIS RFP.**

VIII. Minimum Required Qualifications to Respond

The TPA shall have a minimum of five (5) years of experience providing FSA administrative services, for both medical reimbursement and dependent daycare plans, to clients with participation of at least 3,000 participants.

The administrator shall be licensed and authorized to conduct business in the State of Mississippi and in accordance with applicable state laws.

Board of Trustees of State Institutions of Higher Learning
Request for Proposal (RFP)
Flexible Spending Account Program
Third Party Administration Services

IX. Compliance

The offeror agrees to adhere to all of the conditions and requirements set forth below in addition to the IHL RFP:

1. That the attached proposal is valid for at least thirty-days subsequent to the due date of submission. The proposal shall become part of the ensuing Agreement in the event that the Agreement is awarded to your organization.
2. That IHL reserves the right to correct and clarify this RFP. Any corrections and clarifications will be sent to all bidders that have provided written notice of intent to bid.
3. That IHL reserves the right to consider any information at its disposal, whether gained from the offeror's proposal, question and answer conferences, references or any other source.
4. That IHL reserves the right to request clarifications or corrections to proposals. IHL reserves the right to reject any or all proposals, select or reject any, all, or none of the services discussed in this RFP, or cancel the RFP in its entirety at IHL's sole discretion. Any proposal received that does not meet the General Instructions (Section VII) may be considered to be "non-responsive" and may be disqualified.
5. That IHL reserves the right to further clarify and/or negotiate with the "offeror evaluated best" following completion of the evaluation of proposals but prior to Agreement execution, if such is deemed necessary by IHL. IHL also reserves the right to move to the next best proposer if negotiations do not lead to a final Agreement with the best offeror.
6. That all costs incurred by the offeror in preparing and delivering their proposal, and any subsequent time and travel to meet with IHL regarding the proposal shall be borne at the offeror's expense.
7. That any action at law, suite in equity, or judicial proceeding for the enforcement of the Agreement or for any breach thereof, shall be instituted only in the courts of the State of Mississippi.
8. The TPA shall maintain full and accurate records with respect to all matters covered under this RFP. IHL shall have free access at all proper times to such records, and the right to examine and audit the same and to make transcripts there from, and to inspect all data, documents, proceedings, and activities pertaining to the audit.
9. That all documents submitted to IHL shall become documents of IHL and shall become subject only to the Mississippi Public Records Act of 1983. IHL has the right

**Board of Trustees of State Institutions of Higher Learning
Request for Proposal (RFP)
Flexible Spending Account Program
Third Party Administration Services**

to use any and all ideas or adaptations of the ideas contained in any proposal received in response to the RFP. Selection or rejection of the proposal will not affect this right.

X. Required Contents of the Proposal

The offeror shall submit the following.

1. Submit a sealed Technical Proposal, to include 1 original and 10 copies.
2. Provide the name, title, address, telephone number, email address, and facsimile number of the contact person for this proposal. The contact person shall be the officer of the organization in a position to address any clarifications and concerns in a prompt and accurate manner. All communications from the Point of Contact during this process will be directed solely to this individual.
3. Restate each item listed in Sections IV (Scope of Service), V (Plan Design I), and VI (Plan Design II) and describe in detail how your organization will provide each service if selected as TPA. Include other services your organization offers that are not listed.
4. Restate each item listed in Section VIII (Minimum Required Qualifications) of the RFP and describe how your organization and personnel meet or exceed the required minimum qualifications.
5. Offer shall provide a written statement that it does not and will not discriminate against any person, employee, or applicant for employment, because of race, creed, color, religion, sex, national origin, ancestry, age or disability.

XI. Contract Clauses

1. Key Personnel

The personnel listed below are considered essential to the work being performed hereunder. Prior to removing, replacing, or diverting any of the specified individuals, the COMPANY shall notify the Board reasonably in advance and shall submit justification, including proposed substitutions, in sufficient detail to permit evaluation of the impact on this contract. No replacement shall be made by the COMPANY without the written consent of the Board or the Board staff. The Board or Board staff must ratify in writing the change. Key personnel for this contract include:

2. Employment Status

The COMPANY shall, during the entire term of this contract, be construed to be an independent contractor. Nothing in this contract is intended to nor shall be

Board of Trustees of State Institutions of Higher Learning
Request for Proposal (RFP)
Flexible Spending Account Program
Third Party Administration Services

construed to create an employer-employee relationship, or a joint venture relationship.

The COMPANY represents that it is qualified to perform the duties to be performed under this contract and that it has, or will secure, if needed, at its own expense, applicable personnel who are qualified to perform the duties required under this contract. Such personnel shall not be deemed in any way, directly or indirectly, expressly or by implication, to be employees of the Board. The COMPANY shall have the sole right to hire and discharge any person(s) assigned by the COMPANY to perform services.

The COMPANY shall pay when due, all salaries and wages to any person(s) assigned by the COMPANY to perform services. The COMPANY accepts exclusive responsibility for the payment of federal income tax, state income tax, social security, unemployment compensation and any other withholdings that may be required. Neither the COMPANY nor any person(s) assigned by the COMPANY are entitled to state retirement or leave benefits.

It is further understood that the consideration expressed herein constitutes full and complete compensation for all services and performances hereunder, and that any sum due and payable to the COMPANY shall be paid as a gross sum with no withholdings or deductions being made by the Board for any purpose from said contract sum except as permitted in Paragraph 15, Termination and Part II Work Statement.

3. Ownership of Documents and Work Products

The working papers prepared in conjunction with the services under this contract constitute confidential information and will be retained by the COMPANY in accordance with its policies and procedures. The COMPANY will provide the Board the right of access these records as necessary.

The COMPANY is prohibited from use of the above described information and/or materials without the express written approval of the Board.

4. Record Retention and Access to Records

At the conclusion of the audit, the COMPANY will maintain possession and make available to the Board any financial records, supporting documents, statistical records and all other records pertinent to the services performed by the COMPANY under this contract in accordance with the policies and procedures or professional regulatory requirements. These records will be maintained for at least five (5) years; however, if any litigation or other legal action, by or on behalf of the State has begun that is not completed at the end of the five (5) year period, or if audit findings, litigation or other legal action has not been resolved at the end of the five (5) year period, the records shall be retained until resolution.

**Board of Trustees of State Institutions of Higher Learning
Request for Proposal (RFP)
Flexible Spending Account Program
Third Party Administration Services**

5. Modification or Amendment

The Board may, from time to time, request changes in the scope of services of the COMPANY to be performed. Such changes, including any increase or decrease in the amount of the COMPANY'S compensation, which are mutually agreed upon by and between the Board and the COMPANY shall be included in written amendments to this contract signed by all parties prior to the work being performed.

6. Assignment

The COMPANY shall not assign or otherwise transfer the obligations incurred on its part pursuant to the terms of this contract without the prior written consent of the Board. Any attempted assignment or transfer of its obligations without such consent shall be null and void. All obligations and duties of either party under this contract shall be binding on all successors in interest or assigns of such party.

7. Waiver

Failure of either party hereto to insist upon strict compliance with any of the terms, covenants and conditions hereof shall not be deemed a waiver or relinquishment of any similar right or power hereunder at any subsequent time or of any other provision hereof, nor shall it be construed to be a modification of the terms of this contract.

8. Indemnification

The COMPANY agrees to indemnify, defend, save and hold harmless, the Board from and against all claims, demands, liabilities, suits, damages and costs of every kind and nature whatsoever, including court costs and attorney fees, arising out of or caused by a negligent or wrongful act of the COMPANY, its officers, employees and subcontractors in the performance of services under this contract.

9. Insurance

The COMPANY represents that it will maintain workers' compensation insurance as prescribed by law which shall inure to the benefit of the COMPANY'S personnel, as well as comprehensive general liability, or professional liability insurance and, where applicable, employee fidelity bond insurance. The COMPANY will, upon request, furnish the Board with a certificate of conformity providing the aforesaid coverage.

10. Governing Law

This contract shall be construed and governed in accordance with the laws of the State of Mississippi and venue for the resolution of any dispute shall be Jackson, MS in Hinds County, Mississippi. The COMPANY expressly agrees that under no circumstances shall the Board be obligated to pay an attorney's fee or the cost of legal action to the COMPANY.

**Board of Trustees of State Institutions of Higher Learning
Request for Proposal (RFP)
Flexible Spending Account Program
Third Party Administration Services**

11. Severability

If any term or provision of this contract is prohibited by the laws of the State of Mississippi or declared invalid or void by a court of competent jurisdiction, the remainder of the contract shall not be affected thereby and each term and provision of the contract(s) shall be valid and enforceable to the fullest extent permitted by law.

12. Compliance with Laws

The COMPANY shall comply in all material respects, with all applicable laws, regulations, policies, and procedures of the United States of America or any agency thereof, the State of Mississippi or any agency thereof and any local governments or political subdivision that may affect the performance of services under this contract. Specifically, but not limited to, the COMPANY shall not illegally discriminate against any employee nor shall any party be subject to illegal discrimination in the performance of this contract because of race, creed, color, sex, age, national origin or disability.

13. Employment Verification

COMPANY represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act, Section 71-11-1, et seq of the Mississippi Code Annotated (Supp 2008), and will register and participate in the status verification system for all newly hired employees. 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. COMPANY agrees to maintain records of such compliance and, upon request of the State and approval of the Social Security Administration or Department of Homeland Security, where required, to provide a copy of each such verification to the State. COMPANY further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Mississippi. COMPANY understands and agrees that any breach of these warranties may subject COMPANY to the following: (a) termination of this Agreement 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, or (b) the loss of any license, permit, certification or other document granted to COMPANY 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 termination/cancellation, COMPANY would also be liable for any additional costs incurred by the State due to contract cancellation or loss of license or permit.

Board of Trustees of State Institutions of Higher Learning
Request for Proposal (RFP)
Flexible Spending Account Program
Third Party Administration Services

thereupon have the right to terminate this contract. In the event of termination for cause by the Board, in addition to other remedies provided herein or available at law or in equity, the COMPANY shall bear all cost associated with the issuance of a new contract for audit services, including, but not limited to, the costs of reissuing another request for proposals and additional costs resulting from an acceleration of services necessary for the timely completion of such auditing services.

In the event of termination, the COMPANY will be entitled to payment for services in an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the COMPANY covered by the contract, less payments previously made. In no instance will a payment be made in excess of the contract amount. In addition, all finished or unfinished tests, surveys, checklists, forms, manuals, reports or other material prepared by the COMPANY under this contract shall become the property of the Board.

Notwithstanding the above, the COMPANY shall not be relieved of liability to the Board for damages sustained by the Board by virtue of any breach of this contract by the COMPANY, and the Board may withhold any payments to the COMPANY for the purpose of set off until such time as the exact amount of damages due the Board from the COMPANY are determined. The Board may also pursue any remedy available to it in law or in equity.