

Request for Proposal
ACTUARIAL CONSULTING SERVICES
September 28, 2010

1. Introduction

The Board of Trustees of State Institutions of Higher Learning (IHL), through the Office of Risk Management (RM), is seeking a vendor to provide actuarial consulting services. The RM administers the IHL Self-Insured Workers' Compensation Plan (WC Plan), the IHL Self-Insured Tort Plan (Tort Plan) and the IHL Self-Insured Unemployment Plan (UE Plan). IHL desires to contract with an actuary specializing in providing actuarial consulting services to large self-insured plans and having prior experience directly related to the type of services which IHL requires.

The WC Plan and the UE Plan currently consist of the following members: 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, The University of Southern Mississippi and the Board of Trustees of State Institutions of Higher Learning. The WC Plan currently purchases excess insurance for claims above \$1,000,000.

The Tort Plan currently consists of the following members: Alcorn State University, Delta State University, Jackson State University, Mississippi State University, Mississippi University for Women, Mississippi Valley State University, The University of Mississippi (excluding The University of Mississippi Medical Center except for the automobile exposure), The University of Southern Mississippi and the Board of Trustees of State Institutions of Higher Learning. The Tort Plan currently purchases automobile liability coverage.

2. Purpose

The actuary shall provide actuarial consulting services for IHL on behalf of the WC Plan, the Tort Plan and the UE Plan. These services include, but are not limited to, preparing an annual actuarial analysis of each plan at the end of IHL's fiscal year and determining annual premium assessments for each member no later than March 15th of each year. To perform these services, the actuary must possess resources, flexibility, innovation, and commitment to service. To this end, IHL requires that the actuary have the capabilities, expertise, and service commitment to excel in all areas of services requested in this RFP.

3. Agreement

The term of the Agreement shall be January 1, 2011 through December 31, 2013. Thereafter, the Agreement may be extended by mutual agreement of both

parties evidenced in writing. The Agreement may be terminated by either party, with or without cause at any time, upon thirty (30) days prior written notice.

4. Scope of Services

A. WC Plan and Tort Plan

1. Perform an independent annual actuarial analysis of both the WC Plan and the Tort Plan following the June 30th close of each fiscal year. The analysis should include but not necessarily be limited to an estimate of the ultimate claims liability as well as recommendations for future funding. Review and, as needed, revise the incurred but not reported claim (IBNR) updates on a quarterly basis. This will include preparation of written reports or letters documenting the analysis and presentation of results to IHL. Results shall be delivered to IHL within twenty-one (21) days of receipt of all data from IHL.
2. Calculate the annual assessments for each member no later than March 15th of each year. IHL does not use standard insurance workers' compensation rating codes. IHL uses an assessment methodology on both plans which utilizes its members' actual expense and loss experience in establishing annual assessments.
3. Calculate future annual assessments for a three year period for each member when requested. This is for budgeting purposes. IHL uses an assessment methodology which utilizes its members' actual expense and loss experience in establishing annual assessments and budget estimates.
4. Address IHL, the Mississippi Workers' Compensation Commission, the Mississippi Tort Claims Board, the State Legislature, and others as requested.
5. If requested by IHL, review reports submitted by the third party claims administrator and make suggestions on the format and content of the reports, with the overall purpose of making the reports useful and meaningful to the Director of Risk Management (RM), IHL and the Actuary.
6. If requested by IHL, provide such advice and consultative services regarding issues and matters of impact or interest to IHL, for which the consultant has the technical capability to render such services.
7. Maintain full and accurate records with respect to these plans. Additionally, at the request of IHL, the actuary shall provide IHL all

spreadsheets, assumptions, and calculations upon completion of any project at the end of the Agreement term in a format acceptable to IHL. Upon termination of this Agreement, the Actuary shall fully cooperate with IHL and the new actuary during the transition to the new actuary. The Actuary shall provide such explanation of the information provided as to facilitate a smooth transition.

B. UE Plan

1. Perform an annual actuarial analysis of the UE Plan following the June 30th close of each fiscal year. The analysis should include but not necessarily be limited to an estimate of the required funding to cover the expected UE Plan's liabilities, as well as recommendations for future funding. This will include preparation of written reports or letters documenting the analysis and presentation of results to IHL. Results shall be delivered to IHL within twenty-one (21) days of receipt of all data from IHL.
2. Calculate the annual assessments for each member no later than March 15th each year. IHL uses an assessment methodology which utilizes its members' actual expense and loss experience in establishing annual assessments.
3. Calculate future annual assessments for a three year period for each member when requested. IHL uses an assessment methodology which utilizes its members' actual expense and loss experience in establishing annual assessments and budget estimates.
4. Address IHL, the Mississippi Department of Employment Security, the State Legislature, and others as requested.
5. If requested by IHL, provide such advice and consultative services regarding issues and matters of impact or interest to IHL, for which the consultant has the technical capability to render such services.
6. Maintain full and accurate records with respect to this plan. Additionally, at the request of IHL, the actuary shall provide IHL all spreadsheets, assumptions, and calculations upon completion of any project at the end of the Agreement term in a format acceptable to IHL. Upon termination of this Agreement, the Actuary shall fully cooperate with IHL and the new actuary during the transition to the new actuary. The Actuary shall provide such explanation of the information provided as to facilitate a smooth transition.

Mississippi Public Records Act

Any proposal, including accompanying attachments, is subject to the “Mississippi Public Records Act of 1983,” codified as Section 25-61-1 et seq., Mississippi Code Annotated (1983) and exceptions found in Section 79-23-1 of the Mississippi Code.

Instructions to Actuaries

Your response to this RFP must be submitted via e-mail, in CD format, or hard copy. Repeat each question followed by your response. Questions and answers must be in the same order as found in the RFP. The information contained in your response to this RFP will be used by IHL in determining whether or not you will be selected. Your response will be an integral part of your Agreement if you are selected. Please provide complete answers and explain all issues in a concise, direct manner. “Will discuss” and “will consider” are not acceptable answers. All information requested is considered important. If you have additional information you would like to provide, include it as an appendix to your response.

FAILURE TO PROVIDE ANY OF THE REQUESTED INFORMATION HEREIN MAY RESULT IN DISQUALIFICATION OF YOUR RESPONSE.

Important Dates:

September 28, 2010	RFP released
October 12, 2010 (must be received by 3:00 p.m. CST)	Prospective actuaries submit questions and advise of intent to bid
October 19, 2010	Responses to questions released to all actuaries that have advised of intent to bid
November 9, 2010 (must be received by 3:00 p.m. CST)	Proposals due
December 7, 2010	Actuary selected
January 1, 2011	Effective date of contract

Proposals are due at the Office of Insurance and Risk Management on November 9, 2010 by 3:00 p.m. Central Standard Time. **Any proposal received after the deadline will not be considered.**

Note: IHL reserves the right to adjust this schedule as it deems necessary.

Submissions may be submitted via e-mail, in CD format, or hard copy. If submitting electronically, the response must be in Word or PDF format. If mailing a CD or hard copy, address to Cliff Tucker, Director of Risk Management, IHL Office of Risk Management, 3825 Ridgewood Road, Suite 429, Jackson, MS 39211. Please enclose 3 copies if sending hard copy. If sending via e-mail, send to ctucker@mississippi.edu. If sending via e-mail, send to (601) 432-6986.

Questions regarding the RFP should be submitted in writing electronically, hard copy or facsimile by October 12, 2010, 3:00 p.m. Central Standard Time.

Intent to Bid

In order to provide all actuaries with copies of responses to all significant questions answered by IHL during the solicitation, potential actuaries are asked to submit their questions and Intent to Bid, or if they do not have questions, submit an Intent to Bid by October 12, 2010, 3:00 p.m. Central Standard Time. Intent to Bid Questions should be submitted electronically, in writing or facsimile. Central Standard Time.. Your correspondence should indicate your organization's primary contact, direct telephone number of contact, the contact's fax number, and the contact's e-mail address.

Corrections and Clarifications

IHL reserves the right to request clarifications or corrections to proposals, reject any and all proposals, or cancel the RFP in its entirety at IHL's sole discretion. Any proposal received which does not meet the "Instructions to Actuaries" of this RFP may be considered to be "non-responsive" and may be rejected.

Right of Negotiation

Discussions and negotiations regarding price and other matters may be conducted with actuaries who submit proposals. Proposal(s) may be accepted without such discussions. **IHL reserves the right to further clarify and/or negotiate with the actuaries on any matter submitted.** IHL also reserves the right to move to the next best proposal if negotiations do not lead to a final Agreement with the best proposal.

Cost of Proposal Preparation

All costs incurred by the actuaries in preparing and delivering their proposals and any subsequent time and travel to meet with IHL regarding the proposal shall be borne at the actuaries' expense.

Duration of Proposal

Within the proposal, it shall be stated that the proposal is valid for at least 90 days subsequent to the date of submission. The proposal shall become part of the Agreement in the event that the Agreement is awarded to your organization.

Statement of Compliance

Contained in this RFP are an Agreement and a Statement of Compliance. Please carefully review the Statement of Compliance and Agreement and include a Statement of Compliance signed by an officer, principal or owner of the firm with your completed proposal. **PROPOSALS WILL NOT BE ACCEPTED WITHOUT A SIGNED STATEMENT OF COMPLIANCE.**

IHL reserves the right to reject any or all responses submitted with or without cause.

Questionnaire

1. State the full name and home office address of your organization. Describe your organizational structure (e.g., publicly held corporation, private non-profit, partnership, etc.). If it is incorporated, include the state in which it is incorporated.
2. 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. Provide the number of graduates from the IHL system universities employed at the office to service IHL, by university. Provide a list of all employees in your organization by title, indicating race and sex.
3. List the name, title, mailing address, telephone number, facsimile number, and e-mail address of the contact person for this proposal.
4. Do you currently have an office in the State of Mississippi? If so, provide the address, general functions of the office and number of full-time employees.
5. List the name and occupation of those individuals serving on your organization's board of directors, and list the name of any entity or person owning 10% or more of your organization. Provide the number of graduates from the IHL system universities involved in the ownership, by university.
6. How long has your organization been providing actuarial consulting services to self-insured workers' compensation plans?
7. How long has your organization been providing actuarial consulting services to self-insured tort claim plans?
8. How long has your organization been providing actuarial consulting services to self-insured unemployment claim plans?
9. List the office that will service this account. If it is located at a different address than the home office, provide the complete address, phone number, and facsimile number for this office.
10. Provide the name(s) of the actuary(s) to perform the work for this account and a brief statement regarding qualifications to provide the needed services.
11. Provide a complete resume for each professional staff person that will be assigned to render services to this account, including detailed information on any special training or designations. Identify the actuary who will serve as the primary contact for the account.

12. Address in detail how the firm will provide access of the actuary(s) to IHL. It is essential that IHL have prompt and direct access throughout the Agreement period.
13. Do you publish newsletters and other informative publications that are routinely provided to your clients? Have you prepared reviews of topics related to workers' compensation plans that are routinely provided to your clients? Please provide sample copies.
14. Describe your ability to assist in policy issues regarding workers' compensation, tort claims and unemployment claims.
15. Detail your ability to monitor regulatory and legislative developments at both the state and federal level and how will this be communicated to the IHL.
16. Explain in detail your ability to provide the experience and expertise in preparing the actuarial analyses and funding recommendations for the IHL Workers' Compensation Plan.
17. Provide the amount of experience you have in developing workers' compensation assessments.
18. Explain in detail your ability to provide the experience and expertise in preparing the actuarial analyses and funding recommendations for the IHL Tort Claims Plan.
19. Provide the amount of experience you have in developing tort assessments.
20. Explain in detail your ability to provide the experience and expertise in preparing the actuarial analyses and funding recommendations for the IHL Unemployment Plan.
21. Provide the amount of experience you have in developing unemployment assessments.
22. List three current governmental clients for whom you are providing services similar to those requested in this RFP. For each client, the list must specify the type of work performed by your firm, the size of the client's group and the period of time retained as a client. For each governmental client, include the name, title, address, facsimile number, phone number and e-mail address of a contact person whom we may contact as a reference.
23. List three current non-governmental clients for whom you are providing services similar to those requested in this RFP. For each client, the list must specify the type of work performed by your firm, the size of the client's group and the period of time retained as a non-governmental client. For each client, include the name, title, address, facsimile number, phone number and e-mail address of a contact person whom we may contact as a reference.

24. Has your organization ever been involved in a lawsuit involving any area covered by this RFP? If yes, provide details including dates and outcomes.
25. During the past five years, has your organization, related entities, principals or officers ever been a party in any material civil or criminal litigation whether directly related to this RFP or not? If so, provide details including dates and outcomes.

COST QUOTATION

ACTUARIAL CONSULTING SERVICES

Our organization's unit rates and maximum project fees to provide the requested services to IHL are as follows:

HOURLY RATES BY POSITION:

Position	Year 1	Year 2	Year 3
Senior Actuary			
Staff Assistant			
Clerical			

MAXIMUM FEES BY PROJECT:

Project	Year 1	Year 2	Year 3
<u>Actuarial Analyses</u> - IHL Self-Insured Workers' Compensation Plan			
<u>Development of Assessments</u> - IHL Self-Insured Workers' Compensation Plan			
<u>Development of future estimates of annual assessments</u> – IHL Self-Insured Workers' Compensation Plan			
<u>Actuarial Analyses</u> - IHL Self-Insured Tort Claims Plan			
<u>Development of Assessments</u> - IHL Self-Insured Tort Claims Plan			
<u>Development of future estimates of annual assessments</u> - IHL Self-Insured Tort Claims Plan			
<u>Actuarial Analyses</u> - IHL Self-Insured Unemployment Plan			
<u>Development of Assessments</u> - IHL Self-Insured Unemployment Plan			
<u>Development of future estimates of annual assessments</u> – IHL Self-Insured Unemployment Plan			

All rates and maximum fees are guaranteed through the term of the Agreement.

Signed

Organization

Title

Date

Statement of Compliance and Standard Agreement

This section contains a copy of IHL's Agreement for actuarial consulting services and a copy of the Statement of Compliance.

Statement of Compliance

Proposer 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 90 days subsequent to the due date of submission.
2. That IHL reserves the right to correct and clarify this RFP. Any corrections and clarifications will be sent to all that have provided written notice of intent to bid.
3. 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 which does not comply with the Instructions to Actuaries may be considered to be "non-responsive" and be disqualified.
4. That IHL reserves the right to further clarify and/or negotiate with the "proposer evaluated best" following completion of the evaluation of proposals 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 proposer.
5. That all costs incurred in preparing and delivering the proposal, and any subsequent time and travel to meet with IHL regarding the proposal, shall be borne at the submitting party's expense.
6. That the actuary hereby agrees that it shall not make any delegation of its duties unless authorized in writing by the RM prior to any such delegation. It is further mutually understood and agreed by both parties that IHL is free to contract with other actuaries to perform similar and like services as those contained in this RFP. Payment for work performed by the actuary shall not be affected by this provision.
7. That all documents submitted to IHL shall become documents of IHL and shall become subject to the Mississippi Public Records Act of 1983. IHL has the right 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.

Name

Title

Signature

Consulting Actuarial Firm Name

Date

**Mississippi Board of Trustees State Institutions of Higher Learning (IHL)
Professional Personal Services Contract with Independent Contractor**

(This contract must be attached to a completed Contract Approval/Routing Form prior to work commencing.)

IHL Contract Number: _____

CONTRACTOR: _____ **Phone Number:** _____

Address: _____

City: _____ **State:** _____ **Zip Code:** _____

U.S. Citizen: Yes NO If no, Country of Citizenship: _____ and Residence: _____

If no, are you a non-resident alien? _____ Visa Type: _____ Resident Alien: _____

Incorporated: Yes NO Small Business, Minority, Woman-Owned? (Circle all applicable)

U.S. Social Security Number or U.S. Federal Tax Identification Number: _____

STATEMENT OF WORK:

IHL has determined that these services are essential and could not satisfactorily be performed by IHL Executive Office employees. Therefore, the CONTRACTOR noted above will perform the services and/or tasks as follows: The actuary shall provide actuarial consulting services for IHL on behalf of the WC Plan, the Tort Plan and the UE Plan. These services include, but are not limited to, preparing an annual actuarial analysis of each plan at the end of IHL's fiscal year, determining annual premium assessments for each member no later than March of each year and preparing for budget purposes estimates of future assessments.

CONTRACTOR shall provide the following: _____

(Please reference attachment if additional space required. Any attachment is incorporated into this contract.)

Contract Begin Date: January 1, 2011 **Contract Completion Date:** December 31, 2013

CONSIDERATION AND COMPENSATION: Account to be Charged: _____

Rate of Pay:(indicate hourly, daily, scheduled deliverables/tasks, total project, etc.) \$ _____
(If charged to a Corporation for National and Community Service Grant, consultant daily rate cannot exceed \$540.)

Payment Terms: _____

Services shall not exceed: \$ _____ Expenses shall not exceed: \$ _____

Nature of Expenses: _____

Signed original invoices referencing the IHL contract number should be submitted to the following address:

Mississippi Board of Trustees State Institutions of Higher Learning
Attention: Accounts Payable
3825 Ridgewood Road
Jackson, MS 39211-6453

IHL EXECUTIVE OFFICE CONTACT:

Name: Cliff Tucker **Phone Number:** 601.432.6688

CONTRACTOR Certification: I agree to the terms noted above and to the general terms and conditions referenced in Appendix A. I am an independent CONTRACTOR for the IHL; therefore, the IHL is not liable for Social Security Contributions pursuant to Section 418, 42 U.S. Code. Furthermore, IRS Form 1099 will be forwarded at the end of the calendar year if total payments exceed \$600.

Signature of CONTRACTOR: _____ Date: _____

The Mississippi Board of Trustees Institutions of Higher Learning acceptance of contract:

_____ Date: _____

Commissioner (or approved designee)

**Mississippi Board of Trustees State Institutions of Higher Learning
Professional Personal Services Contract with Independent Contractor
Appendix A-General Terms and Conditions**

- 1. INDEPENDENT CONTRACTOR:** The CONTRACTOR will act as an independent contractor under this contract, and neither the CONTRACTOR nor any employee or agent of the CONTRACTOR is an employee of the IHL Executive Office. Nothing contained herein shall be deemed or construed by the IHL Executive Office, the 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 IHL Executive Office and the Contractor. Neither the method of computation of fees or other charges, nor any other provision contained herein, nor any acts of the IHL Executive Office or the CONTRACTOR hereunder, create or shall be deemed to create a relationship other than the independent relationship of the IHL Executive Office and the CONTRACTOR. CONTRACTOR's personnel shall not be deemed in any way, directly or indirectly, expressly or by implication, to be employees of the State. IHL Executive Office shall be at no time legally responsible for any negligence or other wrongdoing by the CONTRACTOR, its servants, agents, or employees. The IHL Executive Office shall not withhold from the contract payments to the CONTRACTOR any federal or State unemployment taxes, federal or State income taxes, Social Security tax, or any other amounts for benefits to the CONTRACTOR. Further, the IHL Executive Office shall not provide to the CONTRACTOR any insurance coverage or other benefits, including Workers' Compensation, normally provided by the State for its employees. The CONTRACTOR will provide the services and achieve the results specified by the IHL, free from the direction or control of the IHL as to means and methods of performance. It is mutually understood and agreed by both parties that this is not an exclusive consulting contract. IHL is free to contract with other professionals to perform similar and like services as those contained in this contract. Payment for work performed by the Actuary shall not be affected by this provision.
- 2. INSURANCE.** The CONTRACTOR, as an independent CONTRACTOR, will be required to procure and maintain Comprehensive General Liability insurance and Commercial Auto Liability insurance. The CONTRACTOR shall be required to provide a Certificate of Coverage mailed to the Board of Trustees of State Institutions of Higher Learning, Office of Insurance & Risk Management, 3825 Ridgewood Road, Suite 429, Jackson, MS, 39211. The Certificate of Coverage should, at a minimum, contain the name of the carrier, effective and expiration dates of coverage, a description of the covered perils, the amount of coverage by peril, the name and mailing address of the insurance company, and the name and mailing address of the insurance agent. The Certificate of Coverage must name the Board of Trustees of State Institutions of Higher Learning as an additional insured. The Comprehensive General Liability coverage and the Commercial Auto Liability coverage shall be a minimum amount of One Million Dollars (\$1,000,000) per occurrence and One Million Dollars (\$1,000,000) annual aggregate through an insurance company with a Best rating of A- or higher and a financial size Class X or higher approved by the Mississippi Department of Insurance.
- 3. NONRESIDENT ALIEN.** If the CONTRACTOR is a nonresident alien performing services in the United States or its territories, the CONTRACTOR agrees that proof of visa status (I-94 Form) documenting authorization to receive payment for work performed will be provided to the IHL prior to payment by the IHL.
- 4. AUTHORITY TO CONTRACT.** The CONTRACTOR warrants (a) is authorized 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, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under this agreement.
- 5. ACCESS TO RECORDS.** The CONTRACTOR shall maintain books, records, documents, and other evidence and accounting procedures and practices to sufficiently reflect properly all costs of whatever nature claimed to have been incurred in the

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Professional Personal Services Contract with Independent Contractor**

Appendix A-General Terms and Conditions

performance of the Contract. The IHL, any sponsor, the state of Mississippi, or the Comptroller General of

the United States or their authorized representatives shall have access to the books, documents, papers, and records of the CONTRACTOR which are directly pertinent to the Contract for the purpose of making audit, examination, excerpts and transcripts. Such books and records shall be maintained by the CONTRACTOR for three years from the date of the completion of work. CONTRACTOR is responsible for any audit discrepancies involving deviation from the terms of the Contract and for any commitments or expenditures in excess of amounts authorized by the IHL.

6. **OWNERSHIP OF WORK PRODUCTS.** Any discovery, patent, copyright, invention, work papers, software, software applications, written materials, publications, data, information, by-product or end-product arising as a direct result of the performance of this Contract shall be the sole property of the IHL. The CONTRACTOR shall deliver such documents and work papers to IHL upon termination or completion of this Agreement if requested by IHL. The foregoing notwithstanding, the CONTRACTOR shall be entitled to retain a set of such work papers for its files. The CONTRACTOR shall be entitled to use such work papers only after receiving written permission from IHL.
7. **TERMINATION.** Either the IHL or the CONTRACTOR may terminate its obligations under this Contract by giving the other party at least 10 days prior written notice of such termination, specifying the intended date of termination; provided, however, that, upon request from the IHL, the CONTRACTOR shall continue performance until the IHL can find a replacement CONTRACTOR or for an additional thirty (30) days after the specified termination date, whichever is the shorter time period. Upon termination, an equitable settlement shall be made for actual costs incurred by the CONTRACTOR up to the date of termination.
8. **IHL EXECUTIVE OFFICE EMPLOYEES.** The CONTRACTOR will not hire any employee of the IHL Executive Office to perform any services covered by this agreement without prior written approval from IHL Executive Office Human Resources Department.
9. **CONFIDENTIAL INFORMATION.** In connection with the contract hereunder, the IHL and the CONTRACTOR shall be free to exchange such technical information and know-how as may be necessary to carry out the objective of the agreement. Neither party shall be required to disclose to the other party technical information and know-how which it received in confidence from a third party or which is developed for a third party under conditions giving rise to an obligation or confidentiality. Employees of the IHL Executive Office performing services hereunder shall enter into confidentiality agreements should such exchange of information be needed to conduct the project. The IHL shall have the appropriate individuals execute said agreements and provide copies to the CONTRACTOR. The CONTRACTOR shall have the appropriate individuals execute said agreements and provide copies to the IHL.

Notwithstanding any provision to the contrary contained herein, it is recognized that the IHL is a public agency of the State of Mississippi and is subject to the Mississippi Public Records Act, section 25-61-1, et seq., Miss. Code Ann. If a public records request is made for any information provided to the IHL pursuant to this agreement, the IHL shall promptly notify the disclosing party of such request. The disclosing party shall promptly institute appropriate legal proceedings to protect its information. No party to this agreement shall be liable to the other party for disclosures of information required by Court order or required by law.
10. **ACKNOWLEDGEMENT OF SPONSORSHIP.** The CONTRACTOR agrees that, in any publication, acknowledgement shall be made of sponsorship by the IHL and/or other sponsor by use of the following statement "This work was performed under the sponsorship of the Mississippi Board of Trustees State Institutions of Higher Learning. This work does not necessarily represent the views of the IHL or the sponsoring agency." If the publication is copyrighted, the statement "Reproduction of this article, with the customary credit to the source, is permitted," shall be added. With the exception of acknowledging sponsorship of research, the name of the IHL may not be used in publications, news releases, advertising, speeches, technical papers,

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Appendix A-General Terms and Conditions

photographs, and other releases of information regarding this Contract or data developed under this Contract without written approval of the IHL.

- 11. 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. The CONTRACTOR shall comply with applicable federal, state, and local laws and regulations. If a court determines that any provision of this contract is not enforceable against IHL, the CONTRACTOR agrees that the individual signing this agreement on behalf of IHL is not personally responsible or liable for any of the obligations and duties contained herein.
- 12. IDEMNIFICATION.** To the fullest extent allowed by law, the CONTRACTOR shall indemnify, defend, save and hold harmless, protect, and exonerate IHL, its Commissioner, 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, attorney's fees, arising out of or caused by the CONTRACTOR and/or its partners, principals, agents, employees and/or Subcontractors in the performance of or failure to perform this agreement. In IHL's sole discretion, the CONTRACTOR may be allowed to control the defense of any such claim, suit, etc. In the event the CONTRACTOR defends said claim, suit, etc., the CONTRACTOR shall use legal counsel acceptable to IHL; the CONTRACTOR shall be solely responsible for all costs and/or expenses associated with such defense, and IHL shall be entitled to participate in said defense. The CONTRACTOR shall not settle any claim, suit, etc., without IHL's concurrence, which IHL shall not unreasonably withhold.
- 13. CONFLICT OF INTEREST.** The CONTRACTOR affirms that, to the best of his/her knowledge, there exists no actual or potential conflict between CONTRACTOR's family, business, or financial interests and his/her services under this Contract, and, in the event of change in either his/her private interests or service under this Contract, he/she will inform the IHL regarding possible conflict of interest that may arise as a result of such change.
- 14. AVAILABILITY OF FUNDS AND EXPENDITURE APPROVAL.** It is expressly understood and agreed that the obligation of IHL to proceed under this Agreement is conditioned upon the appropriation of funds by the Mississippi State Legislature and the receipt of state and/or federal funds. If the funds anticipated for the continuing fulfillment of the Agreement are at any time not forthcoming or insufficient, either through the failure of the federal government to provide funds or of the State of Mississippi to appropriate funds or the discontinuance or material alteration of the program under which the funds were provided or if funds are not otherwise available to IHL, IHL shall have the right upon ten (10) working days written notice to the CONTRACTOR, to terminate this Agreement without damage, penalty cost, or expense to IHL of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.
- 15. 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 be valid and enforceable to the fullest extent permitted by law.
- 16. TOTAL AGREEMENT.** The Contract consists of and precedence is hereby established by the order of the following documents incorporated herein: (1) This Contract signed by both parties including IHL's Request for Proposal (RFP) entitled "Request for Proposal for Actuarial Consulting Services, September 28, 2010" is attached hereto and incorporated fully herein by reference, and (2) The Actuary's response to the RFP attached hereto and incorporated fully herein by reference. Therefore, the language in this Contract, including IHL's RFP, shall govern over any inconsistency between the language in this Contract, including IHL's RFP, and the Actuary's response to the RFP. This Contract contains the entire agreement between the parties, superseding any prior or concurrent agreements as to the services being provided, and no oral or written terms or conditions that are not

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Appendix A-General Terms and Conditions

contained in this Contract shall be binding. This Contract may not be changed except by mutual agreement of the parties. Any such change shall be reduced to writing and signed by both parties.

- 17. CONTRACT CHANGES.** The IHL may, at any time, by written order, make changes within the general scope of the contract or any of its task orders as to the services or work to be performed. If such changes cause an increase or a decrease in the CONTRACTOR's cost or time required to perform any services under this contract or assigned task orders, whether or not changed by an order, the IHL shall make an equitable adjustment and modify this contract, or the appropriate task order, in writing. The CONTRACTOR must assert any claim for adjustment under this clause in writing within thirty (30) days from the date the CONTRACTOR received the IHL's notification of change, unless the IHL grants additional time before the date of final payment. No services for which the CONTRACTOR will charge any additional compensation shall be furnished without the prior written authorization of the IHL.
- 18. ASSIGNMENT/TRANSFER/SUBCONTRACTING.** The CONTRACTOR shall not assign, transfer, subcontract, or otherwise give to or impose on any other party any obligation or right of the CONTRACTOR under this Contract, without prior written consent of the IHL.
- 19. THIRD PARTY ACTION NOTIFICATION.** The CONTRACTOR shall give the IHL prompt notice in writing of any action or suit filed, and prompt notice of any claim made against the CONTRACTOR by any entity that may result in litigation related in any way to this contract.
- 20. NOTICE.** Any notice required or permitted to be given under this contract shall be in writing and sent by certified United States mail, postage prepaid, return receipt requested, to IHL by writing the Mississippi Institutions of Higher Learning, Attention: Office of Contracts and Grants Compliance, 3825 Ridgewood Road, Suite 417, Jackson, MS 39216 or to the CONTRACTOR by writing _____

The parties agree to promptly notify each other of any change of address.

CONTRACTOR signature when form is faxed

Signature and Date (I agree to the terms of the contract included in pages 1 through 4)