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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 42455

**Date:** September 14, 2016

**Re:** Sole Source Certification Number 3902 for OPINIATOR software and maintenance for Rest Areas for the Mississippi Department of Transportation (MDOT)

**Contact Name:** Patti Irgens

**Contact Phone Number:** 601-432-8223

**Contact E-mail Address:** Patti.Irgens@its.ms.gov

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### Sole Source Certification Award Details

Regarding Information Technology Services (ITS) Sole Source Certification Number 3902 for OPINIATOR software and maintenance for Rest Areas for the Mississippi Department of Transportation (MDOT), please be advised that ITS intends to award Oberon3, Inc., as the sole source provider of OPINIATOR software and maintenance through June 30, 2020, in an amount not to exceed \$46,600.00. 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 OPINIATOR software will provide feedback in real time from rest area visitors at the point of experience. The OPINIATOR Driver Feedback Program for Rest Areas works on all phones types and devices (smartphones, older cell phones, landlines and all web enable devices. OPINIATOR is not an app that needs to be downloaded, making it very convenient for all guests to respond and thus provides a higher response rate for MDOT. Visitors will be able to give feedback on a device they are comfortable with, in a language they prefer (English or Spanish), and an input type they are familiar with.**

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

**The OPINIATOR Driver Feedback Program for Rest Areas provides a closed loop survey. This will allow for the rest area operators to document and date stamp the action taken against any survey or any incident. That will allow MDOT to track and audit all operators and guarantee rest area performance improvements.**

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:

**Oberon3, Inc. has full right to license the software package OPINIATOR and is the sole provider of OPINIATOR software and maintenance. The vendor’s sole source certification letter is included as Attachment B.**

**Schedule**

<b>Task</b>	<b>Date</b>
First Advertisement Date	09/13/2016
Second Advertisement Date	09/20/2016
Response Deadline From Objectors	09/28/16, at 3:00 P.M. Central Time
Notice of Award/No Award Posted	Not before 09/29/2016

**Project Details**

The OPINIATOR Driver Feedback Program will provide the State feedback in real time at the point of visitor experience, triggering alerts immediately for any issues. The software will record and report staff actions, allow for smart social media postings and provide skip logic across all input types. Spanish and English inputs supported, along with SMS, Phone or Web input. The program does not require disparate business systems or that those providing feedback download an application to do so.

**Submission Instructions and Format of Response from Objecting Parties**

Interested parties who have reason to believe that the OPINIATOR software licenses and 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 Oberon3, 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 Wednesday, September 28, 2016, at 3:00 p.m. (Central Time) to Patti Irgens at [Patti.Irgens@its.ms.gov](mailto:Patti.Irgens@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 Patti Irgens 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. 3902-42445**  
**Accepted September 28, 2016 @ 3:00 p.m.,**  
**ATTENTION: Patti Irgens**

If you have any questions concerning the information above or if we can be of further assistance, please contact Patti Irgens at 601-432-8223 or via email at [Patti.Irgens@its.ms.gov](mailto:Patti.Irgens@its.ms.gov).

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



3771 Eastwood Drive  
 Jackson, Mississippi 39211  
 Phone 601-432-8000 Fax 601-713-6380

## Sole Source Certification Request

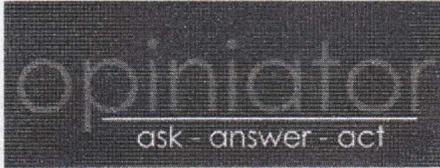
<b>Project Title:</b>		<b>Stimulus (ARRA) Funds? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></b>	
<b>Customer Contact Information</b>			
Agency/Public University: <b>Department of Transportation</b> Address: 401 North West Street, Jackson, MS 39201		Contact Person: <b>Bo Dickerson</b> Phone: <b>601-359-7483</b> Fax: Email Address: <b>dickerson@mdot.ms.gov</b>	
MAGIC Customer Number (only required from state agencies):		Division/Dept: Handmail: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<b>Project Summary Narrative Description of Project</b> (include details of original acquisition if applicable): Application that will allow the traveling public to provide feedback on Rest Areas throughout the State using their smartphone by scanning a bar-code located at each Rest Area.			
ITS Acquisition Approval (CP-1) should be effective through this date (Please allow time for all vendor invoices to be paid):			
Cost Estimates <i>Fiscal Year</i>	<i>Initial Costs</i>	<i>Ongoing Costs</i>	Time Constraints Item Needed by: Funds Expire:
FY 2017	\$2,400.00		Discuss Funding (e.g. how much of needed funding is definite; total project budget; any matching or other non state funds)
FY 17 – 20		\$14,400.00/yr	
<b>Total</b>		<b>\$46,600.00</b>	
<b>Acquisition Details</b>			
Items Requested	Quantity	Description	Building Location(s)
<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:			
<b>Progress to Date:</b> What has been done related to this project, including any communication with ITS staff (data/voice/procurement/other)?			
<b>Sole Source Certification</b> Note: Certification must be renewed for each revision or continuation of previous Sole Source Approvals.			
The business benefits are a composite of the following: <ul style="list-style-type: none"> <li>• Higher response rates from drivers – means statistically significant data can be used to make improvements</li> <li>• Immediate notification and connection to an unhappy customer driver - means no bad press</li> <li>• Improved Safety - the driver now has an easy way to report incidents, near misses or hazards - your exposure is now less and your assets are safer</li> <li>• Reduced compliance cost - the 'Verify' module enables tracking of all actions taken by staff to fix any issues</li> <li>• Reduced Maintenance Cost: On the spot feedback means your team can be alerted in seconds hence can fix the issue before the cost escalates or affects other visitors.</li> <li>• Reduced Admin Cost - no more printing, collecting, reviewing, analyzing or distributing comment card data, phone data, web data - this is done for you</li> <li>• Reduced site benchmarking cost - the analysis we provide benchmarks site performance, visitor satisfaction and staff performance</li> <li>• Reduced Research Cost - OPINIATOR can ask any question - including tourism, operational, strategic or demographic, so no separate studies are now required</li> </ul>			
<b>Explain why these products or services are the only ones that can meet your needs</b> (include unique features/special functionality): We know of no other technology that delivers the functional specifications of OPINIATOR. The vendor based this answer on their four years' experience in the facility feedback segment, yet not having come across a similar technology. Moreover this is the same conclusion reached by the DOT's in the states of MN, VA and FL plus the Department of Tourism in UT – where we have the state contract on single source as their procurement groups could not find an alternative.			
<b>Explain why the source is the only entity that can provide the products or services</b> (Include other products/vendors researched or evaluated): Oberon3, Inc. has full right to license the software package OPINIATOR and is the sole provider of OPINIATOR software and maintenance.			
Vendor's Certification of Sole Source attached: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Vendor's proposal attached: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
MAGIC Vendor Code(s) Vendor must be in MAGIC before a CP-1 can be issued.			
Place Order To Vendor Name: Vendor Address:		Remit To Vendor Name: Vendor Address:	

Attachment A

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.

Melinda McGrath, Executive Director  
Name (Agency Head or Public University CIO)/Title

 9/13/16  
Signature Date



**Oberon3 Inc**  
**Actionable Customer Feedback**

11307 NW College Dr  
Portland, OR 97229

[www.opinator.com](http://www.opinator.com)  
Tel: 503 567 2314  
Fax: 302 261 0764

5th May 2016

Mr. H Patterson  
State Maintenance Engineer  
Mississippi Department of Transportation  
401 NW Street  
Jackson, MS 39201

**Ref: OPINIATOR Driver Feedback Program for Rest Areas**

Dear Mr. Patterson,

Thank you for your email of 9<sup>th</sup> October 2015. You asked a series of questions and requested confirmation of pricing:

**Q1) Are you the sole source provider?**

We are the sole source provider.  
My company Oberon3, developed all the OPINIATOR software – and we own all the code.

**Q2) The product or services being purchased must perform a function for which no other product or source of services exists.**

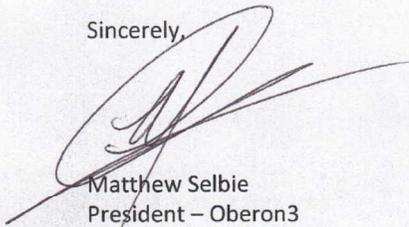
We know of no other technology that delivers the functional specifications of OPINIATOR.  
We base this answer on our four year experience in the facility feedback segment, yet not having come across a similar technology.  
Moreover this is the same conclusion reached by the DOT's in the states of MN, VA, KY and FL plus the Department of Tourism in UT – where we have the state contract on single source as their procurement groups could not find an alternative.

Attachment B

Any questions on this please let us know.

We look forward to starting to work with you on this program.

Sincerely,

A handwritten signature in black ink, appearing to be 'MS', with a long horizontal flourish extending to the right.

Matthew Selbie  
President – Oberon3

## **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.