


Notice of Intent to Certify Sole Source

To: Interested Parties
From: Craig P. Orgeron, Ph.D. 
CC: ITS Project Number 44321
Date: September 11, 2018
Re: Sole Source Certification Number 4125 for the Micro Focus software licenses, maintenance, and support for the Mississippi Department of Transportation (MDOT)
Contact Name: Chris Grimmer
Contact Phone Number: 601-432-8208
Contact E-mail Address: chris.grimmer@its.ms.gov

Sole Source Certification Award Details

Regarding Information Technology Services (ITS) Sole Source Certification Number 4125 for the Mississippi Department of Transportation (MDOT), please be advised that ITS intends to award the Micro Focus software licenses, support, and maintenance to Cogsdale Corporation (Cogsdale) as the sole source provider of the software licenses, support, and maintenance through June 30, 2019, at a total not-to-exceed cost of \$30,157.58. For an explanation regarding Mississippi state law, policy and procedures for sole source procurements, refer to Attachment D: 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 Financial Management System (FMS), Performance Series, used by MDOT is a proprietary system developed by Cogsdale Corporation for MDOT. The Micro Focus product suite provides the COBOL back-end support of the FMS. MDOT has used Micro Focus as the back-end to MDOT's FMS since July of 1998 when the FMS was implemented. MDOT recently migrated the FMS back-end from server express version 4 to server express version 5. In order to complete the migration, MDOT had to stand up a new production environment with server express version 5 and run it concurrently with the version 4 environment. Upon completion of the migration, MDOT requested that the old version 4 licenses be converted to the new version 5 environment to provide MDOT with room for growth. Since MDOT has made a business decision to continue using the FMS, MDOT would like to co-term the support and maintenance for the new version 5 licenses and the newly

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

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

MDOT's FMS provides core business functionality for the agency. In addition to general accounting, the application includes functionality for purchasing, accounts payable, asset management, travel and labor, cost allocation, budget preparation, and project and grant accounting. The FMS interfaces with the State's Enterprise Resource Planning system, MAGIC. Based on MDOT's business decision to continuing using the FMS, MDOT requires software licenses, support, and maintenance for the Micro Focus back-end. The customer's sole source certification request is included as Attachment A.

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

Cogsdale Corporation is the sole source provider of the technical services for integrating the Micro Focus programs with Cogsdale's software products currently used by MDOT. The vendor's sole source certification letter is included as Attachment B.

Schedule

Task	Date
First Advertisement Date	09/11/18
Second Advertisement Date	09/18/18
Response Deadline From Objectors	09/25/18, at 3:00 P.M. Central Time
Notice of Award/No Award Posted	Not before 09/26/18

Project Details

In 1998, ITS, on behalf of MDOT, issued RFP Number 2692 for development and implementation of a financial management system. KPMG Peat Marwick was the awarded vendor to provide the software licenses and maintenance from a successful implementation. Also in 1998, Micro Focus acquired Intersolv Inc. and the combined business was renamed Merant. When the original Micro Focus software maintenance term expired in August 2000, MDOT utilized the then current Sole Source certification process to purchase Micro Focus software maintenance from Merant at a two year cost of \$23,289.50. In 2001, Micro Focus demerged from Merant and once again became Micro Focus. In 2002, MDOT secured the services of Micro Focus to provide software licenses and maintenance for three years at a cost of \$25,170.20. Continuing to utilize then current Sole Source certification procedures, MDOT extended the software licenses and maintenance with Micro Focus every three years at a total cost of \$179,811.47. Micro Focus and Cogsdale entered into an agreement for Cogsdale to be the sole source provider of the technical services for the Micro Focus software product and its associated proprietary software components. MDOT made a business decision to continue the use of this software and associated maintenance. Using the current sole source certification process, ITS issued Sole Source Certification Number 4059 in January 2018, for MDOT to purchase a server license and support and maintenance for a total of \$127,390.00. With the continued software licenses, support, and maintenance services, the amount paid to Merant, Micro Focus, and now to Cogsdale, to date is \$355,661.17.

Submission Instructions and Format of Response from Objecting Parties

Interested parties who have reason to believe that the software licenses, support, 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 Cogsdale Corporation.

- 1.1 Interested Party Information
 - 1.1.1 Contact Name, Phone Number and email address
 - 1.1.2 Company Website URL, if applicable
- 1.2 Objection to Sole Source Certification
 - 1.2.1 Interested parties must present specific objections to the Sole Source certification using the criteria listed above.
 - 1.2.2 A statement regarding the Interested Party's capabilities as related to this Sole Source Certification Request.
- 1.3 Comments will be accepted at any time prior to Tuesday, September 25, 2018, at 3:00 p.m. (Central Time) to Chris Grimmer at chris.grimmer@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 Chris Grimmer 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. 4125-44321
Accepted until September 25, 2018 @ 3:00 p.m.,
ATTENTION: Chris Grimmer**

If you have any questions concerning the information above or if we can be of further assistance, please contact Chris Grimmer at 601-432-8208 or via email at chris.grimmer@its.ms.gov.

- Attachment A: Customer Sole Source Certification Request
- Attachment B: Cogsdale Corporation Correspondence
- Attachment C: Micro Focus (US), Inc. Correspondence
- Attachment D: Sole Source Procurement Overview



3771 Eastwood Drive
Jackson, Mississippi 39211
Phone 601-432-8000 Fax 601-713-638C

Sole Source Certification Request

Project Title: MicoFocus Maintenance Renewal			Stimulus (ARRA) Funds? Yes No <u>X</u>	
Customer Contact Information				
Agency/Public University: MS Department of Transportation Address: 401 North West Street Jackson, MS 39201		Contact Person: Bo Dickerson Phone: 601-359-7483 Email Address: bdickerson@mdot.ms.gov		
MAGIC Customer Number (only required from state agencies): 7000000251		Division/Dept: Handmail: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
Project Summary Narrative Description of Project (include details of original acquisition if applicable): MicroFocus software licenses and maintenance for 1 year. This software is used for MDOT's COBOL maintenance on the back end of our Financial Management System (FMS).				
ITS Acquisition Approval (CP-1) should be effective through this date (Please allow time for all Vendor invoices to be paid): June 30, 2019				
Cost Estimates Fiscal Year	Initial Costs	Ongoing Costs	Time Constraints Item Needed by: 6/1/18 Funds Expire: 6/30/19	Anticipated Lifecycle of Products/System (i.e. estimated years of effective use): 1 year
FY2019		\$30,157.58	Discuss Funding (e.g. how much of needed funding is definite; total project budget; any matching or other non-state funds): Funding is definite.	
Total		\$30,157.58		
Acquisition Details				
Items Requested	Quantity	Description		Building Location(s)
Software License, Support, and Maintenance	1	Used for COBOL maintenance of the FMS		
Describe platform & infrastructure (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: COBOL Maintenance for FMS				
Progress to Date: What has been done related to this project, including any communication with ITS staff (data/voice/procurement/other)? Contacted Vendor and received updated quote and Sole Source Certification Letter.				
Sole Source Certification Note: Certification must be renewed for each revision or continuation of previous Sole Source Approvals.				
Specific business requirements to be met by the requested products or services: MDOT's FMS provides core business functionality for the agency. In addition to general accounting, the application includes functionality for purchasing, accounts payable, asset management, travel and labor, cost allocation, budget preparation, and project and grant accounting. The FMS interfaces with the State's Enterprise Resource Planning system, MAGIC. Based on MDOT's business decision to continuing using the FMS, MDOT requires software licenses, support, and maintenance for the Micro Focus back-end.				
Explain why these products or services are the only ones that can meet your needs (include unique features/special functionality): The Financial Management System (FMS), Performance Series, used by MDOT is a proprietary system developed by Cogsdale Corporation for MDOT. The Micro Focus product suite provides the COBOL back-end support of the FMS. MDOT has used Micro Focus as the back-end to MDOT's FMS since July of 1998 when the FMS was implemented. MDOT recently migrated the FMS back-end from server express version 4 to server express version 5. In order to complete the migration, MDOT had to stand up a new production environment with server express version 5 and run it concurrently with the version 4 environment. Upon completion of the migration, MDOT requested that the old version 4 licenses be converted to the new version 5 environment to provide MDOT with room for growth. Since MDOT has made a business decision to continue using the FMS, MDOT would like to co-term the support and maintenance for the new version 5 licenses and the newly converted licenses.				
Explain why the source is the only entity that can provide the products or services (Include other products/Vendors researched or evaluated): Cogsdale Corporation is the sole source provider of the technical services for integrating the Micro Focus programs with Cogsdale's software products currently used by MDOT.				
Vendor's Certification of Sole Source attached: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Vendor's proposal submitted: <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: 3100027826		Remit To: 3100027826		
Vendor Name: Cogsdale Corporation		Vendor Name: Cogsdale Corporation		
Vendor Address: 62117 Collection Center Drive, Chicago, IL 60693-0621		Vendor Address: 62117 Collection Center Drive, Chicago, IL 60693-0621		

By my signature, I certify that, to the best of my professional knowledge: (1) the requested product or services perform a significant function or provide a service for which no other product or source of services exists; (2) my agency/institution has a business need for these unique functions of services; and (3) there are no other parties who could provide the product or services. 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/institution is responsible for these charges/costs.

Melinda L. McGrath, Exec. Director
Name (Agency Head or Institution CIO) Title

Melinda L. McGrath 9/6/18
Signature Date

www.cogsdale.com

3 Lower Malpeque Road
Charlottetown, PE C1E 1R4

0: 800 533 9690

August 17, 2018

To Whom It May Concern,

I am commercial counsel for Cogsdale Corporation ("Cogsdale"), a division of N. Harris Computer Corporation. Please be advised that Cogsdale is the sole source provider of the technical services for the MICRO FOCUS software product and its associated proprietary software components.

There is an agreement between Cogsdale and MICRO FOCUS for the provision of these technical services, which includes Tier 1 and Tier 2 level support.

Cogsdale does not use other services providers, distributors, or resellers for the provision of technical services for the MICRO FOCUS software. Cogsdale is not obligated to provide their proprietary goods and services to any other company or entity for such a purpose.

This letter does not provide a sole source legal opinion on behalf of Cogsdale for the products and services that are referenced herein as they relate to your State's, County's or City's sole source rules, regulations and laws.

Sincerely,



Julie Geoffroy
Commercial Counsel

Phone: 613-226-5511 ext. 2073
Fax: 613-226-3377
Email: jgeoffroy@harriscomputer.com

COGSDALE



July 7, 2018

Chris Grimmer, PMP
Technology Consultant
MS Department of Information Technology Services
601-432-8208 | www.its.ms.gov
3771 Eastwood Drive
Jackson, MS 39211

Dear Chris,

The purpose of this letter is to confirm that Cogsdale Corporation has created and/or modified the Performance Series application using Micro Focus proprietary software, and may distribute such application to third parties pursuant to its agreement with Micro Focus.

Regards,

A handwritten signature in black ink, appearing to read "Courtney Wood".

Courtney Wood

Date:

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).

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 D: 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.