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## Notice of Intent to Certify Sole Source

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**To:** Interested Parties  
**From:** David C. Johnson  
**CC:** ITS Project Number 46543  
**Date:** July 13, 2021  
**Re:** Sole Source Certification Number 4406 to provide Developer Support and Licensing Renewal for Donated Foods Software for the Mississippi Department of Education (MDE)  
**Contact Name:** Evan Thiemann  
**Contact Phone Number:** 601-432-8065  
**Contact E-mail Address:** [evan.thiemann@its.ms.gov](mailto:evan.thiemann@its.ms.gov)

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### **Sole Source Certification Award Details**

Regarding Information Technology Services (ITS) Sole Source Certification Number 4406 for the Mississippi Department of Education (MDE), please be advised that ITS intends to award Simmons Computing Services, Inc. (Simmons) as the sole source provider of Developer Support and Licensing Renewal for Donated Foods Software through July 31, 2022 in an amount not to exceed \$50,125.00. The State intends to competitively re-procure a new food distribution system by July 31, 2022. If the competitive procurement is not complete by July 31, 2022, then this Sole Source certification is valid until a new vendor is selected and conversion is completed but shall not go beyond July 31, 2024 without recertification. Please be advised that ITS will determine if additional support is within scope during the certification period and may increase the spending authority accordingly. Should Simmons Computing Services, Inc. change their name during this certification period, then ITS will determine if a recertification is necessary. 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:

**In 2011, the Donated Foods Software was custom developed to meet the needs of MDE. The software allows State Agency and organization users to enter (United States Department of Agriculture) USDA Donated Foods survey information, submit annual USDA Donated Foods orders, as well as track order allocations, purchases, shipments, and receipts at contract distributor warehouses. The software also maintains the Planned Assistance Level for each organization indicating**

**entitlement levels. MDE has made a business decision to continue using it. The customer's sole source certification request is included as Attachment A.**

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

**Simmons Computing Services custom developed software product specifically to conform to the rules and regulations involved with State administration of the USDA Donated Foods Program and as such cannot be treated as an off the shelf commodity like many accounting systems. The software interfaces with the USDA's Web Based Supply Chain Management (WBSCM) System, and was developed to conform with the Code of Federal Regulations Title 7 Part 250 DONATION OF FOODS FOR USE IN THE UNITED STATES, ITS TERRITORIES AND POSSESSIONS AND AREAS UNDER ITS JURISDICTION. 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:

**The Donated Foods Software currently in use at MDE is a proprietary product developed and owned by Simmons Computing Service, Inc. As such, Simmons Computer Service, Inc. is the only source for support, licensing, and software revisions of this product. The Vendor's sole source certification letter is included as Attachment B.**

### Schedule

Task	Date
First Advertisement Date	07/13/21
Second Advertisement Date	07/20/21
Response Deadline From Objectors	07/27/21 at 3:00 P.M. Central Time
Notice of Award/No Award Posted	Not before 07/28/21

### Project Details

In the Fall of 2000, ITS issued RFP No. 3165 on behalf of MDE for the acquisition of software, services, and technical support necessary for the implementation of an automated Web-based software package for the Office of Child Nutrition's (OCN) United States Department of Agriculture (USDA) Commodity Program (Donated Food). The award for the software package as a result of RFP No. 3165 was made to Simmons Computing Service, Inc. In February of 2001, ITS, MDE, and Simmons Computing Service, Inc. executed a Software License and Maintenance Agreement.

MDE's OCN continues to receive Donated Food as part of the USDA Commodity Program and continues to use the software package developed and owned by Simmons Computing Service, Inc. In 2014, using then current sole source procedures, MDE certified Simmons developer support and licensing as a sole source for three years. With the 2015 change in Mississippi statute regarding sole source procedures, in October 2015, ITS issued Sole Source Certification Number 3813 for Developer Support and Licensing for Donated Foods Software. With no objections or responses received, Simmons was certified as the sole source provider. MDE made a business decision to continue the use of this software through the end June 30, 2021. In July of 2018, ITS issued Sole Source Cortication Number 4117. Again, ITS received no objections or responses. In June 2019, ITS issued Sole Source Number 4215 for modifications to the Donated Food Software for MDE and received no objections. With this renewal, MDE has spent to date \$462,051.41

## Submission Instructions and Format of Response from Objecting Parties

Interested parties who have reason to believe that the Developer Support and Licensing Renewal for Donated Foods Software should not be certified as a sole source should provide information in the following format for the state to use in determining whether or not to proceed with awarding the Sole Source contract to Simmons Computing Services, Inc.

### 1.1 Interested Party Information

1.1.1 Contact Name, Phone Number and email address

1.1.2 Company Website URL, if applicable

### 1.2 Objection to Sole Source Certification

1.2.1 Interested parties must present specific objections to the Sole Source certification using the criteria listed above.

1.2.2 A statement regarding the Interested Party's capabilities as related to this Sole Source Certification Request.

1.3 Comments will be accepted at any time prior to Tuesday, July 27, 2021, at 3:00 p.m. (Central Time) to Evan Thiemann at [evan.thiemann@its.ms.gov](mailto:evan.thiemann@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 Evan Thiemann 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. 4406-46543  
Accepted until July 27, 2021 @ 3:00 p.m.,  
ATTENTION: Evan Thiemann**

If you have any questions concerning the information above or if we can be of further assistance, please contact Evan Thiemann at 601-432-8065 or via email at [evan.thiemann@its.ms.gov](mailto:evan.thiemann@its.ms.gov).

Attachment A: Customer Sole Source Certification Request

Attachment B: Vendor Correspondence

Attachment C: Sole Source Procurement Overview



## Sole Source Certification Request

<b>Project Title:</b>		Simmons Computing Services				
<b>Contact Information</b>						
<b>Agency/Institution:</b>		MS Department of Education		<b>Contact Person:</b> Scott Clements / Gwenyth O'Quine		
<b>Mailing Address:</b>		359 N. West Street, Jackson, MS 39201		<b>Phone Number:</b> 601-576-4992		
				<b>Email Address:</b> goquine@mdek12.org		
<b>MAGIC Customer #:</b> (Only required from state agencies.)			1201-04-2701		<b>Division/Dept:</b>	
<b>Project Summary</b>						
<b>Description of Project:</b> (Include details of original acquisition if applicable)		Renewal of recurring Maintenance and Support of "Donated Foods Software" utilized by the Office of Child Nutrition.				
<b>ITS Acquisition Approval (CP-1) should be effective through this date:</b>						
<b>Cost Estimates (Maximum allowed duration is 3 years per request/project)</b>						
<b>Fiscal Year</b>		<b>Initial Costs</b>	<b>Ongoing Costs</b>	<b>Time Constraints</b>		<b>Estimate the Anticipated Lifecycle or Years of Product/System's Effective Use:</b>
FY	2022	\$0.00	\$50,125.00	Item Needed by:	August 1, 2021	
FY				Funds Expire:	July 31, 2022	One year, valid until the new RFP is awarded and implemented.
FY				<b>Other Important Deadline(s):</b> (e.g. current contract/CP-1 expiration dates)		
<b>Total Estimated Project Cost:</b>		\$50,125.00		CP1 expires 31 JUL 2021		
<b>Funding Source:</b>		100% Federal Funds - State Administrative Expense				
<b>Discuss Funding:</b> (e.g. fund number; how much of needed funding is definite; total project budget; any matching or other non-state funds)		Fund number is 5320100000. Funding is part of Annual Operating Plan for the Office of Child Nutrition.				
<b>Acquisition Details</b>						
<b>Item or Part Number</b>		<b>Quantity</b>	<b>Description</b>		<b>Building Location(s)</b>	
DF10		1	Software Use License plus support		500 Greymont Ave, Suite F, Jackson, MS	
<b>Describe Platform and Infrastructure:</b> Where does your agency plan to house or host the requested equipment or service? What resources currently available through ITS are needed (network connectivity, cloud computing/storage, colocation, business resiliency, etc.)? <b>NOTE: For equipment or services outside of current ITS available contracts and resources, justification must be attached.</b>						
Application is hosted by MDE OTSS to facilitate critical application interfaces to other Office of Child Nutrition and OTSS web applications.						
<b>Sole Source Certification - Certification must be renewed for each revision or continuation of previous Sole Source Approvals.</b>						
<b>Explain why these products or services are the only ones that can meet your needs:</b> (Include specific functionality or special features that make this product or service unique.)		In 2011, the Donated Foods Software was custom developed to meet the needs of MDE. The software allows state agency and organization users to enter USDA Donated Foods survey information, submit annual USDA Donated Foods orders, as well as track order allocations, purchases, shipments, and receipts at contract distributor warehouses. The software also maintains the Planned Assistance Level for each organization indicating entitlement levels. No other service or software is currently available that would serve the same purpose or provide the same functionality. MDE has made a business decision to continue using it.				
<b>Specific business requirements to be met by the products/services:</b> (e.g. intended use, how it helps accomplish a task, etc.)		Simmons Computing Services custom developed software product specifically to conform to the rules and regulations involved with State administration of the USDA Donated Foods Program and as such cannot be treated as an off the shelf commodity like many accounting systems. The software interfaces with the USDA's Web Based Supply Chain Management (WBSCM) System. The software was developed to conform with the Code of Federal Regulations Title 7 Part 250 DONATION OF FOODS FOR USE IN THE UNITED STATES, ITS TERRITORIES AND POSSESSIONS AND AREAS UNDER ITS JURISDICTION.				
<b>Explain why this is the only entity that can provide the products/services:</b> (Include other products/vendors researched or evaluated.)		The Donated Foods Software currently in use at MDE is a proprietary product developed and owned by Simmons Computing Service, Inc. As such, Simmons Computer Service, Inc. is the only source for support, licensing, and software revisions of this product.				

If for services or installations (not a product) the following two questions must be addressed.

Vendor's proposal submitted:  Yes  No (select only one) Vendor's Certification of Sole Source attached:  Yes  No

**MAGIC Vendor Code(s) - Vendor must be in MAGIC before a CP-1 can be issued.**

Place Order To Vendor Code:	Vendor Name:	Simmons Computer Services	Remit To Vendor Code:	Vendor Name:	Simmons Computer
	Vendor Address:	13 Old Niskayuna Road, Loudonville, NY 12211		Vendor Address:	13 Old Niskayuna Road, Loudonville, NY 12211

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.

John Kraman, CIO  
Name and Title (Agency Head/Institution President/CIO)

  
Signature

7/8/21  
Date



13 Old Niskayuna Road  
Loudonville, NY 12211  
(518) 436-0129  
[corp@simmonscs.com](mailto:corp@simmonscs.com)  
[www.simmonscs.com](http://www.simmonscs.com)

April 15, 2021

Donna Stubbs  
Department of Education  
Child Nutrition Program  
359 N. West Street  
PO Box 771  
Jackson, MS 39205-0771

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



**IT'S TIME TO RENEW!**

Dear Donna:

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

Renewal cost for license/support services of your Donated Foods Software is \$50,125. This annual fee is payable in full by the onset of the contract [2021-08-01]. The license/support contract will commence August 1, 2021 and continue through July 31, 2022. Invoice and terms and conditions of services are attached.

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

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

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

Sincerely,

Stephen Simmons  
President



## Attachment C

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.

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.