

Notice of Intent to Certify Sole Source

To: Interested Parties

From: David C. Johnson 

CC: ITS Project Number 48035

Date: March 12, 2024

Re: Sole Source Certification Number 4617 to provide Software AG licenses and maintenance for the Mississippi Department of Information Technology Services (ITS)

Contact Name: Matthew Livingston

Contact Phone Number: 601-432-8244

Contact E-mail Address: Matthew.Livingston@its.ms.gov

Sole Source Certification Award Details

Regarding Information Technology Services (ITS) Sole Source Certification Number 4617 for the Mississippi Department of Information Technology Services (ITS), please be advised that ITS intends to award Software AG USA, Inc. as the sole source provider of Software AG licenses and maintenance through June 30, 2025, in an amount not to exceed \$210,978.00. If ITS opts to renew the Software AG licenses and maintenance, this sole source certification shall be valid through June 30, 2027. Please be advised that ITS will determine if additional licenses or maintenance are within scope during the certification period and may increase the spending authority accordingly. Should Software AG USA, 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 B: 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 Statewide Payroll and Human Resources Systems (SPAHRs) was custom written using the Natural programming language, while Adabas provides the database management system for SPAHRs Data. The system, built on Natural and Adabas, faces a complex replacement due to the high cost and time required to rewrite code and migrate data. While originally planned for decommissioning, the migration has been indefinitely postponed, necessitating continued support for Software AG products (and associated technical support) through FY25, and therefore, Adabas and Natural are necessary.

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

The Software AG product suite provides the underlying database management and associated programming language for mainframe applications running on the Statewide Payroll and Human Resources Systems (SPAHRs). Adabas uniquely demands fewer CPU resources than other mainframe database management systems and provides flexibility without having to rewrite application code or database design. In addition, ITS receives associated tools for data backup operations, interactive menus for analyzing data and performance metrics, and supplies security for applications written in Natural.

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:

Software AG, the parent company of Software AG USA, Inc., is the developer and either the original manufacturer or authorized licensor of each of the licensed Products. Software AG USA, Inc. is, to the best of their knowledge, the only company in the United States authorized to provide the maintenance support services to ITS. The Vendor's sole source certification letter is included as Attachment A.

Schedule

Task	Date
First Advertisement Date	03/12/24
Second Advertisement Date	03/19/24
Response Deadline From Objectors	03/26/24 at 3:00 P.M. Central Time
Notice of Award/No Award Posted	Not before 03/27/24

Project Details

ITS issued RFP No. 1460 in December 1988 for the establishment of a general Software AG Adabas Data Base Management System bid consisting of compatible Adabas support products for the State Data Center. An award was made to the Software AG USA, Inc. Since 2008, ITS has certified this software as Sole Source. Most recently, in June 2022, ITS issued Sole Source No. 4481, receiving no objections.

The current Master License Agreement with Software AG USA, Inc expires June 30, 2024. ITS has spent to date a total lifecycle cost of \$15,158,975.00.

Submission Instructions and Format of Response from Objecting Parties

Interested parties who have reason to believe that the Software AG 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 Software AG USA, 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, March 26, 2024, at 3:00 p.m. (Central Time) to Matthew Livingston at Matthew.Livingston@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 Matthew Livingston 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. 4617-48035
Accepted until March 26, 2024 @ 3:00 p.m.,
ATTENTION: Matthew Livingston**

If you have any questions concerning the information above or if we can be of further assistance, please contact Matthew Livingston at 601-432-8244 or via email at Matthew.Livingston@its.ms.gov.

Attachment A: Vendor Correspondence

Attachment B: Sole Source Procurement Overview



Software AG USA, Inc.
11951 Freedom Drive
Suite 410
Reston, Virginia 20190
Phone: +1-703-860-5050
www.softwareag.com/us

March 7, 2024

Jay Barksdale
Technology Consultant
MS Department of Information Technology Services
3771 Eastwood Drive
Jackson, MS 39211

Dear Mr. Barksdale:

We understand that Mississippi Department of Information Technology Services ("MS ITS") is contemplating a maintenance renewal for software from Software AG USA, Inc.

In connection with your proposed transaction, this letter shall serve as written confirmation that Software AG, the parent company of Software AG USA, Inc., is the developer and either the original manufacturer or authorized licensor of each of the Licensed Products. Software AG USA, Inc. is, to the best of our knowledge, the only company in the United States authorized to provide the maintenance support services to MS ITS under a Software License Agreement between Software AG and MS ITS.

We look forward to continuing to work with you. Please feel free to contact us if you have any questions or concerns regarding this matter.

Sincerely,

Bernine Knox
Associate General Counsel

Attachment B

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 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 A*.

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 \$75,000 (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

Attachment B

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.

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.