

Notice of Intent to Certify Sole Source

To: Interested Parties
From: Craig P. Orgeron, CPM, Ph.D.
CC: ITS Project Number 48269
Date: October 9, 2024
Re: Sole Source Certification Number 4633 to provide Ground Penetrating Radar (GPR) Analysis Software for the Mississippi Department of Transportation (MDOT)
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 4633 for the Mississippi Department of Transportation (MDOT), please be advised that ITS intends to award Kontur US Inc., as the sole source provider of Ground Penetrating Radar (GPR) Analysis Software through December 31, 2025, in an amount not to exceed \$10,000.00. If MDOT opts to renew Ground Penetrating Radar (GPR) Analysis Software, this sole source certification shall be valid through December 31, 2027. Please be advised that ITS will determine if additional software licenses, enhancements, upgrades, or support are within scope during the certification period and may increase the spending authority accordingly. Should Kontur US 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 Kontur Ground Penetrating Radar (GPR) system software is proprietary and the Kontur GPR collection device is the only 3-D single unit ten channel multi-frequency traffic speed GPR capable of producing high-resolution 3D GPR across an entire lane width. The Kontur GPR device is exclusively utilized by the vendor who collects this type of GPR data concurrent with collecting other pavement performance data. Without this software, MDOT is unable to review the data acquired. GPR is analogous to taking an x-ray of the roadbed beneath the pavement. Kontur allows for both high resolution and depth of analysis and combines the different frequencies into an analysis file. Kontur's one-of-a-kind GPR array, which

is comprised of ten coupled GPR devices, provides coverage across a lane in one pass at highway speed and produces a true 3-D image of the underlying pavement structure. The proprietary software allows a seamless three-dimensional representation of subsurface conditions while allowing for a GPR analysis for an entire corridor in a matter of minutes versus weeks with other vendors.

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

Analyzing GPR data with the Kontur software will allow MDOT to better understand the underlying structure of pavement and detect anomalies so that MDOT can design the most appropriate and cost-effective treatment for a project. MDOT is also part of several pooled fund studies that are focused on better understanding the structural capacity and health below the pavement. This software will enhance MDOT’s participation and ability to leverage the lessons learned from these studies.

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:

Kontur, Inc. is the only GPR manufacturer in the world that offers step frequency, multi-channel antenna array GPR systems. There are no resellers in the Americas. Kontur systems collect data in a proprietary file format with the extension .3dra. This file format is for sole use with Kontur Examiner Specialist and cannot be accessed with other software platforms. The Vendor’s sole source certification letter is included as Attachment A.

Schedule

Task	Date
First Advertisement Date	10/09/24
Second Advertisement Date	10/15/24
Response Deadline From Objectors	10/23/24 at 3:00 P.M. Central Time
Notice of Award/No Award Posted	Not before 10/24/24

Project Details

The Mississippi Department of Transportation (MDOT) is looking to procure this software to meet their stated mission of providing a safe intermodal transportation network. To date, Kontur has provided MDOT with a trial license of their software to view and analyze data provided to MDOT through ARRB Systems as a temporary solution, with the data collection effort funded through two mechanisms; the first being a Transportation Pooled Fund (TPF) using federal research dollars where MDOT works with ARRB to collect an agreed-upon set of routes based on funding contribution. The second way MDOT has received the data is ARRB as a sub-consultant on the current pavement data collection contract (funded through MDOT’s Planning Division) with the data received on the interstate system received through that contract. The GPR data has served as an ‘add-on’ since they’ve integrated that system into this primary data collection vehicle, and any data received from either contract mechanism moving forward will also include GPR data with will require this software license to analyze that data.

Submission Instructions and Format of Response from Objecting Parties

Interested parties who have reason to believe that the Ground Penetrating Radar (GPR) Analysis 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 Kontur US 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, October 23, 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:

<p style="text-align: center;">SUBMITTED IN RESPONSE TO Sole Source Certification No. 4633-48269 Accepted until October 23, 2024 @ 3:00 p.m., ATTENTION: Matthew Livingston</p>

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



Kontur US, Inc.
1 Pequot Ave, 2nd FL
Port Washington, NY 11050

September 23, 2024

Reference: 3D-RADAR US, Inc. Sole Source Provider Certification

Dear Mr. Livingston,

Please allow this letter to certify that Kontur US, Inc. is the sole source US distributor for its parent Norwegian company, Kontur AS, the manufacturer of the Kontur 3 dimensional GPR systems and Examiner software. We are the originators and manufacturers of the technology, and it is not available from any other source.

Please feel free to contact me with any questions.

Sincerely,

A handwritten signature in black ink that reads "Kent R Martin".

Kent R Martin,
President
Kontur US, Inc.

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 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.