

Notice of Intent to Certify Sole Source

To: Interested Parties

From: Craig P. Orgeron, CPM Ph.D. ^{CPD}

CC: ITS Project Number 48385

Date: October 22, 2024

Re: Sole Source Certification Number 4637 to provide WinWam software licenses and maintenance, training, development and integration services for the Mississippi Department of Agriculture and Commerce (MDAC)

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 4637 for the Mississippi Department of Agriculture and Commerce (MDAC), please be advised that ITS intends to award Nover Engelstein & Associates, Inc., as the sole source provider of WinWam software licenses and maintenance, training, development, and integration services through November 30, 2027, in an amount not to exceed \$262,310.00. Please be advised that ITS will determine if additional software licenses, maintenance, training, development, or integration services are within scope during the certification period and may increase the spending authority accordingly. Should Nover Engelstein & Associates, 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:

MDAC complies with the Department of Commerce National Regulations – National Institute of Standards and Technology (NIST) Handbook 133, NIST Handbook 44, and NIST Handbook 130, and MDAC’s research has found that the WinWam Software is the only commercially available and proven software product that performs inspections in adherence to all three of the National Regulations: NIST Handbook 133 - Supplement 4, NIST Handbook 44, and NCWM Publication 19 in a state government environment. WinWam is the only out of the box solution that includes the national tolerances and calculations built into the software.

Furthermore, the uniqueness of the WinWam Software also includes the integration of online national regulations (NIST Handbook 44 and NCWM Publication 19) in a hypertext format. WinWam supports all devices specified in NIST Handbook 44 including scales, heavy capacity scales, bulk weighing systems, weights, vehicle tank meters, anhydrous, ammonia, liquid measuring devices, belt conveyor scales, milk meters, water meters, mass flow meters, farm milk tank, and cordate and dry measures. MDAC have conducted market research and reached out to other states and have determined that the WinWam software is the only software that meets the necessary NIST compliance requirements without additional customization and development.

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

The WinWam software provides MDAC with a commercial off the shelf solution for inspection of weights and measuring devices, petroleum pumps and devices, consumer protection including package checking and price verification, animal health, and produce safety. WinWam interfaces out of the box with more than twenty model of scales, dynamically calculates RcRt for tare, calculates average error per commodity inspected, automatically calculates and displays SEL and Standard Deviation, and tracks label/package failure. Integration with national standards must be exhibited out of box with no customer development required.

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:

Nover Engelstein & Associates Inc. is the developer, distributor, and sole source provider of the WinWam Weights & Measures Software products. In addition, Nover Engelstein & Associates, Inc. is the only company that supports, maintains, and trains these products. The Vendor's sole source certification letter is included as Attachment A.

4. Explanation of why the amount to be expended for the services is reasonable.

The cost to customize other solutions would require more development, and the cost to implement the needed functionality would far exceed the current costs.

5. Explanation of what the agency did to obtain the best possible price for these services.

MDAC is receiving multiple discounts for training, development, and integration services. MDAC conducted a thorough review of all available software as well as the option to custom build a system.

Schedule

Task	Date
First Advertisement Date	10/22/2024
Second Advertisement Date	10/29/2024
Response Deadline From Objectors	11/5/2024 at 3:00 P.M. Central Time
Notice of Award/No Award Posted	Not before 11/6/2024

Project Details

Since 2001, WinWam has been procured and certified as Sole Source by ITS on behalf of MDAC. MDAC is required by law to conduct field inspections for Petroleum, Consumer Protection, Weights and Measures, and the Board of Animal Health. In November 2018, ITS began issuing

Notice of Intent to Certify Sole Source for WinWam inspection licenses, questionnaire software licenses, implementation services, training, integration services, and annual software maintenance and has not received any objections. The total spend-to-date since 2001 for the software licenses and maintenance is \$1,157,342.35.

Submission Instructions and Format of Response from Objecting Parties

Interested parties who have reason to believe that the WinWam software licenses and maintenance, training, development, and integration services 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 Nover Engelstein & Associates, 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, November 5, 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. 4637-48385
Accepted until November 5, 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

NOVER ENGELSTEIN & ASSOCIATES, INC.

3000 Atrium Way, Suite 2203 Mt. Laurel, NJ 08054-3910
Tel: (856) 273-6988 Fax: (856) 751-0559 e-mail: sales@winwam.com

WinWam

June 18, 2024

Mr. Jason Price
Chief Information Officer
Mississippi Department of Agriculture & Commerce
121 North Jefferson Street
Jackson, Mississippi 39201

Dear Jason:

As a follow-up to your inquiry, WinWam Software is the ONLY commercially available and proven software product that performs inspections in adherence to all three of the National Regulations: NIST Handbook 133 - Supplement 4, NIST Handbook 44 and NCWM Publication 19 in a state government environment. WinWam is the only *out of the box* solution that includes the national tolerances and calculations built into the software. Furthermore, the uniqueness of the WinWam Software also includes the integration of online national regulations (NIST Handbook 44. 130 and 133) in a hypertext format.

Nover Engelstein & Associates, Inc. is the developer, distributor and sole source provider of the WinWam Weights & Measures Software products. In addition, Nover Engelstein & Associates, Inc. is the only company that supports, maintains and trains these products.

Please let me know if there is any other information that you require.

Respectfully,



Neal J. Nover

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.