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Agricultural & Mechanical College

Addendum Number 3

May 31, 2017

**Request for Application (RFA)
Medical Marijuana Cultivation and Production Facility Operator**

RFA # 10228

2:00 pm

June 23, 2017

The following modifications to the referenced project shall be incorporated into the original specifications and/or plans. Unless a change is specifically made by addendum, the specifications and/or plans as issued, shall govern.

Vendors are requested to acknowledge receipt of this addendum

ATTACHMENT:

***Questions and Responses
Clarifications***

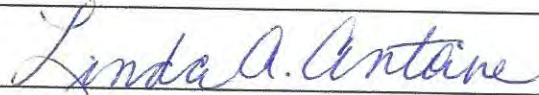
Write in appropriate addendum number(s):

No. _____ Date _____ No. _____ Date _____

No. _____ Date _____ No. _____ Date _____

Company _____

Signature _____



Linda A. Antoine-Director of Purchasing

Note: You may return all addenda sheets (1, 2 & 3) or acknowledge each on one of the sheets.

Addendum Number 3

**Southern University and A&M College
Request for Application
Medical Marijuana Cultivation and Production Facility Operator
Solicitation Number 10228**

Responses to questions

1. Page Limits Evaluation Criteria Sections (pp. 26-35). Are there any page limits aside from in the summary sections?

No.

2. Summaries Evaluation Criteria Sections (pp. 26-35). Can you please clarify what the University means when it requests a summary of certain sections of the application? Using Section H. – Production Plan as an example, does the University intend for an applicant to submit a summary of the Production Information that is not longer than 20 pages in addition to a plan for each section, or is the applicant expected to address all items listed in Section H.A.a.-f. in 20 pages or less?

If the latter, it seems that it will be difficult to provide adequate technical detail within the allotted page limits given that double-spacing is required. The items required in Section H may be particularly difficult to address adequately within 20 double-spaced pages.

The full information needed to address each section does not have a page limit. We request a summary of all included information within the noted page limits so that we can more efficiently review the response, referring to the full information as needed.

3. Citations. Section I. Security Plan (p. 34). Most items listed under Section I.A. are followed by a citation that begins with “LAC 40:XLIX.” Title 40 of the Louisiana Administrative Code does not appear to be relevant to medical marijuana. Can you please confirm that the intent was to reference the Department of Agriculture and Forestry medical marijuana producer regulations in Title 7 of the Louisiana Administrative Code?

Yes, the intent was to reference Title 7 of the LAC (the LDAF medical marijuana, referring to Title 40 was a typo). The correct reference should read LAC 7:XLIX.

4. Labor Peace Agreement Section F.A.f. (p. 31) Does the University prefer for an applicant to negotiate a labor peace agreement voluntarily, when not required by law?

No, we just request that the Applicant submit information on any existing and relevant Labor Peace Agreements.

5. Extraction Definitions (p.11) RS 40:1046(H)(1)(a)(i) states "in order to mitigate the risk of bacterial contamination, food-grade ethanol extraction shall be used." However, in the Department of Agriculture and Forestry regulations (LAC 7:XLIX § 101) and on page 11 of the RFA, medical marijuana concentrate is defined as "a product derived from medical marijuana that is produced by extracting cannabinoids from the plant through the use of propylene glycol, glycerin, butter, olive oil or other typical cooking fats; water, ice or dry ice; or butane, propane, CO2, ethanol or isopropanol. The use of any other solvent as is expressly prohibited unless and until it is approved by the department." Can you please clarify which solvent(s) are permissible? In other words, is ethanol extraction the only permissible method, or are other solvents and methods permitted as well?

We defer to the most restrictive rules laid out by the State - in this case, the restriction for using only ethanol described in RS 40:1046(H)(1)(a)(i). We cannot clarify the draft regulations in any more detail than given by the State. We expect further refinements and clarifications to the regulations.

- If only ethanol-based extraction is permitted initially, would it be permissible to conduct "expanded ethanol extraction?" Expanded ethanol extraction is an ethanol-based extraction method in which compressed liquid carbon dioxide is added to increase the pace and efficiency of ethanol extraction. Ethanol remains the primary solvent, while CO2 facilitates the ethanol-based extraction by increasing ethanol's diffusivity in the target material and increasing the pace of extraction without degrading temperature-sensitive target compounds.

This answer will depend on the final language and regulations issued by the State.

- Extraction using cold water, ice, or dry ice is often referred to as solventless extraction because the cold water or ice separates the cannabinoid-rich trichomes from the plant material rather than dissolving the target compounds. If only ethanol may be used as a solvent for extraction purposes, may an applicant conduct solventless mechanical extraction using cold water, ice, or dry ice?

This answer will depend on the final language and regulations issued by the State.

- If more than one solvent or method is permissible, does the University prefer for an applicant to propose to use multiple extraction solvents and/or methods?

The Applicant may propose any combination of extraction solvents and methods, so long as they are permissible under the final State regulations.

6. Insurance. Appendix B – Sample Agreement – Insurance (p. 53). Several insurance providers have advised us that it may be impossible to obtain the coverage required by the University because the options available to cannabis businesses are limited. This is because major insurance providers overwhelmingly opt not to work with cannabis businesses due to the federal legal status of cannabis and its derivatives. In addition, we have been advised that

product liability insurance is not available in the amount requested per occurrence. How does the University advise applicants to proceed if the insurance coverage described in Appendix B cannot be obtained?

The University requires insurance as laid out in the RFA. We cannot provide guidance on insurance providers. Please provide proof of insurance products that best approximate the insurance coverage described in Appendix B.

7. Product Line and Edibles vs. Gelatin-Base Chewables Section H.A.d. (p.33) Does the University prefer for applicants to be able to produce a variety of medical cannabis products, as allowed by the Department of Pharmacy regulations (LAC 46:LIII. Chapter 24, Subchapter E, §2443(C)(1)?

- Should applicants propose to produce “edible products” or “gelatin-based chewables?” The latter term is substituted for edibles in the proposed revisions to the proposed Board of Pharmacy medical marijuana regulations, but the proposed revisions have not yet been adopted.

Applicants may choose to propose any number of medical marijuana products, as permissible by State regulations.

8. Available Finances Section C.A.a. (p. 28). Does debt-free property count toward available finances?

The University considers “available finances” primarily to be those liquid assets that are readily converted to cash with little impact on their value. Applicants may include any type of available assets, however the University will consider their liquidity during evaluation.

9. Economic Interest Definition Definitions (p. 9). Can you please clarify who will and will not be considered to have an economic interest in a license? What is an indirect economic interest?

This seems to refer to the definition of Principal Officer on page 11. We agree that the concept of an indirect economic interest can have multiple interpretations. SU is removing the words “or indirect” from the definition of Principal Officer to provide a tighter definition. The amended definition for Principal Officer reads as follows:

Principal Officer: Any person or entity having a five (5) percent or more direct economic interest in the Applicant’s proposed operations; or any person with an ownership or financial interest in the Entity inclusive of any agreements, contracts or side-agreements relative to the Entity.

10. Is a right to a royalty payment for license of intellectual property an economic interest?

No.

11. Must there be a level of control in order for a person to be classified as an “economic interest?”

Yes.

12. Is a flat fee consulting agreement an economic interest?

No.

13. Financial Interest Definition Definitions (p. 9) Can you please clarify what the University does and does not consider financial interest under the definition provided? Specifically, what will be considered an indirect right to ownership or investment?

A right designated through a Will, Memorandum of Understanding, or Letter of Intent, that states intention to convey ownership to another party.

14. What will be considered a future right to ownership or investment?

Any contract that conveys ownership to another party at a future date.

15. Principal Officer Definition Definitions (p. 11) Can you please clarify the scope of the definition of Principal Officer? Specifically, in the definition of Principal Officer, the first clause is straightforward, but the second is so broad that it would include a person with any level of interest, their immediate family, and a very broad/indeterminable requirement for persons who have a financial interest.

The second clause refers to principals that may have already been conveyed an owner interest via a contract, side-agreement or other transaction with or through another principal as opposed to an ownership interest directly with the Entity.

16. Does the university consider every owner’s spouse and other immediate family members to be Principal Officers? A strict reading of the definitions indicates this is the case. This would mean that all immediate family members would be required to submit audited federal and state tax returns for all businesses owned or operated within 5 years (per Section C.A.c., p. 28)—this is an incredibly burdensome requirement.

That is not the intent of the definition.

17. Is a Principal Officer any person with any Financial Interest, or does such Financial Interest have to include control or interest over 5% to rise to the level of “Principal Officer”?

Yes, such Financial Interest must include control or interest over 5% to rise to the level of “Principal Officer”.

18. Financial Institution Section C.A.b. (p. 28) Does the financial institution need to be based in Louisiana? As you may know, businesses engaged in cannabis-related activity often have trouble securing financial services.

The financial institution that will provide ongoing financial services as noted in Section C(A)b does not have to be headquartered in Louisiana. However, the proof of escrow, letter of credit, or surety bond of at least \$1,000,000 as described in Section C(A)e must be established with a financial institution headquartered in Louisiana, as required for pharmacies in RS 40:1046(C)2(k)ii.

19. Good Credit History Section C.A.f. (p. 28) What is considered "good credit history?" Will a credit report reviewed and signed by a licensed CPA satisfy this requirement?

A "good credit history" indicates that the individual or entity does not have any material defaults, collections, arrears, or other historical or outstanding credit liabilities that would impede their ability to operate the Facility or call into question their financial responsibility. A credit report signed by a CPA will satisfy this requirement.

20. Tax Returns Section C.A.c. (p. 28) Can you please clarify who the University would like to submit audited state and federal tax returns? As previously noted, the definition of Principal Officer may include immediate family, even when not involved in any cannabis-related activity. If immediate family are considered Principal Officers, the tax disclosure requirements are extremely far-reaching. In addition, this item requires tax returns "for all businesses" but not for individuals. Does the University intend to exclude individuals?

We are replacing the word "audited" in section C.A.c. with "filed". SU requires tax returns as filed with state and federal government.

Section C requires tax returns for all businesses owned or operated by the Applicant and all Principal Officers. Individual tax returns are not required in this section, unless business tax information is only available through the Individual's return. We do not consider immediate family as Principal Officers.

21. If a person subject to the tax return submission requirements files taxes in Louisiana and another state, must the other state return be provided as well?

The Applicant and Principal Officers must submit pertinent tax returns for all states in which they operated in the previous five (5) fiscal years.

22. Do audited state and federal tax returns need to be provided for every business a principal officer has any amount of ownership interest in?

Filed tax returns must be included for every business in which the Principal Officer has a five (5) percent or more direct or indirect economic interest, as defined in the RFA.

23. How does the University define 5% or more economic interest in operations? Would this be inclusive of a 5% royalty on a product line, or 5% of total revenue?

Refer to page 9 for the definition of "Economic Interest". This requires "voting shares of stock or otherwise exercising control of the day-to-day operations..." Without these conditions we would not consider a 5% royalty or 5% of total revenue to be an economic interest.

24. Surveillance Cameras Magnification Section I.A.a.ii. (p. 34) The RFA states that the Surveillance System Plan must meet or exceed specifications laid out in LAC 40:XLIX §1701-1715. LAC 40:XLIX §1701C states "All cameras shall be equipped with lenses of sufficient magnification to allow the operator to clearly distinguish product identifiers and tags." Can you please clarify the expectations regarding the ability to distinguish product identifiers and tags? "Sufficient magnification" is relative based on proximity to the camera, and the regulations don't provide much information about the placement of product identifiers or ID tags. If product identifiers or ID tags are to be affixed to the base of each plant, as is done in other regulated cannabis states, it would be difficult to ensure cameras are capable of distinguishing product tags on plants that are in the middle of the canopy. Is the intent for cameras to be able to distinguish every product identifier and tag or just to have the capability to zoom in on product identifiers and tags on an as-needed basis?

We cannot clarify the draft regulations in any more detail than given by the State. We believe these regulations may be further refined as they are finalized.

25. Surveillance System Audio Section I.A.a.ii. (p.34) The RFA states that the Surveillance System Plan must meet or exceed specifications laid out in LAC 40:XLIX §1701-1715. LAC 40:XLIX §1701J states "the system shall have audio capability in certain areas as required by the department." Which areas of the facility does the University wish to have audio capabilities?

We cannot clarify the draft regulations in any more detail than given by the State. We expect further refinements and clarifications as they are finalized.

26. Surveillance System Back-Up Replacement Equipment Section I.A.a.ii. (p.34) The RFA states that the Surveillance System Plan must meet or exceed specifications laid out in LAC 40:XLIX §1701-1715. LAC 40:XLIX §1701L states "adequate back-up replacement equipment shall be maintained on the premises to ensure prompt replacement in the event of failure." What does the University expect in terms of back-up equipment? Does back-up equipment effectively mean a duplicate security and surveillance system, or something like a generator that is capable of maintaining the system for a specified period of time in the case of power failure? Must the back-up equipment be capable of powering every piece of surveillance equipment or would it be sufficient to provide back-up that can sustain a certain percentage of cameras as long as all sensitive areas of the facility remain under surveillance as required by law and regulation?

The University does not have specific or minimum back-up requirements. As long as back-up equipment meets State requirements, the Committee will consider the quality and robustness of the proposed back-up equipment during evaluation.

27. Architectural Plans and Specifications- Do the plans and specifications have to be completed to the extent they are suitable for construction. Are schematics acceptable?

Yes. SU does not need construction ready drawings but schematics should have a level specificity that allow for evaluation of the design and layout of the proposed facility.

28. Sec. C Financial Background. Page 28. Proof of Relationship with Financial Institution. Does proof of relationship mean the institution will accept deposits?

Yes.

29. Selection of Finalist-Page 22. Only Applications from financially responsible organizations or individuals, as determined by the University, "presently engaged in providing services sufficiently alike in type and scope to those in this RFA shall be considered." What level of participation does the presently engaged individual or organization have to have in the applicant's organization?

More participation and experience is preferred over less.

30. Confidential Information-Page 36. What does "The financial Application will not be considered confidential under any circumstance." refer to? Does this mean the applicant's tax returns or financial statements aren't confidential?

This language in from the SU confidentiality clause refers to information required in Section D, page 29 of the RFA document. Applicant information submitted in Section C, page 28 will be held confidential. Please mark your Section C information as confidential.

31. Contract Term-Page 39. Five (5) one year option periods. Due to the limited disease state it will be difficult for the contractor to recoup its investment in 5 years. Is it the University's intent to renew the contract with the same contractor over the 5 one year options? If the University does not renew the options with the contractor will it be necessary for the University to go through the RFA process to obtain another contract? Can the contractor expect to have a 10 year contract if they are performing satisfactory? Can the University offer any assurances to the contractor that the option periods will be renewed over the 5 one year option period?

The University will consider contract renewal after five years - it is premature to indicate whether the same contractor will be renewed.

University may or may not issue another RFA after 5 years, at its discretion.

The University cannot offer any assurances to the contractor that the option period will be renewed after the initial five years.

32. Indemnification and Limitation of Liability-Page 42. What is the meaning of Paragraphs 2 and 3 of Page 42?

"The Contractor shall not be obligated to indemnify that portion of a claim or dispute based upon: (i) the University's unauthorized modification or alteration of a Product, Material, or Service; (ii) the University's use of the Product, Material, or Service in combination with other products, materials, or services not furnished by Contractor; (iii) the University's use in other than the specified operating conditions and environment.

SU strongly encourages applicants to obtain their own legal interpretations of university general contract requirements. This clause means that SU does not expect the contractor to indemnify the SU if we misuse the products that contractor produces.

In addition to the foregoing, if the use of any item(s) or part(s) thereof shall be enjoined for any reason or if Contractor believes that it may be enjoined, Contractor shall have the right, at its own expense and sole discretion as the state's exclusive remedy to take action no later than six (6) months after the issuance of an injunction in the following order of precedence: (i) to procure for the State the right to continue using such services or part(s) thereof, as applicable; (ii) to modify the component so that it becomes non-infringing equipment of at least equal quality and performance; or (iii) to replace said item(s) or part(s) thereof, as applicable, with non-infringing components of at least equal quality and performance, or (iv) if none of the foregoing is commercially reasonable, then provide monetary compensation to the State up to the dollar amount of the Contract. Any injunction that is issued against the State which prevents the State from utilizing the Contractor's product in excess of six (6) months and for which the contractor has not obtained for the State or provided to the State one of the alternatives set forth in the foregoing sentence is cause for the State to terminate the Contract. In the event of such termination, the State will not be obligated to compensate the Contractor for any costs incurred by the Contractor."

SU strongly encourages applicants to obtain their own legal interpretations of university general contract requirements. This provision gives the contractor a legal right to take certain actions in the event a court issues an injunction against the State preventing contractor from making one or more products.

Rights include seeking such rights to continue on behalf of the State or modifying the products produced so that they are permissible. It also provides that there will be no further compensation from the State if an injunction against the State prevents the contractor from performing for a period of six months.

33. Substitution of Personnel page 43. Is the substitution of personnel a reference to page 31 Staffing Information- What level of personnel must be provided? What "personnel" are referred to?

This is a broader requirement to the more specific Section F(A)d, which requires plans and procedures for the loss of Key Personnel, as defined in the Definitions section of the RFA. A full response to Section F(A)d will satisfy the language on page 43.

34. Section E. Site Plan & Production Facility Design: Proposed Site – Is “vicinity” defined by a maximum distance from SU AgCenter?

There is no minimum or maximum distance requirement from SU. This language implies that locations proposed closer to the SU AgCenter will be preferred.

35. Section E. Site Plan & Production Facility Design: After acceptance of proposal, what criteria will SU AgCenter use to review and approve final locations and plans?

The final location and facility plans will be reviewed based on the overall and relative quality of the response to Section E.

36. Section E. Site Plan & Production Facility Design: Will SU consider changing requirements of A. Site information as follows:

- a. Not required;

No. Site information is required in order for the Committee to evaluate the quality and suitability of the proposed location.

- b. “within a radial distance of “x” distance from SU Ag Center.”

No. Applicants may propose a location at any distance from the SU AgCenter – evaluation will factor in the distance and location relative to the SU AgCenter.

- c. Is it the preference of SU to have a rural site?

SU does not have a preference regarding urban/suburban/rural locations.

- d. Engineering plans and specifications to Preliminary Plans describing systems integration.

These plans may be preliminary in nature.

37. Section E. Site Plan & Production Facility Design: Will SU consider changing requirements of Section B. Required Documentation as follows:

- a. add executed Buy/Sell Agreement

No. SU will keep the language as written in the RFA. The Committee will consider and evaluate any proof of control of the proposed property.

- b. Change language on zoning authority or local government to “allows” in lieu of “affirms.” Local zoning laws allow usage in vague categories such as processing, wholesale distribution, etc. Compliance with regulations to operate a medical marijuana cultivation and production facility will likely requires approval from several other enforcement agencies only after review of completed plans.

We believe the language is correct as written.

38. Acknowledgments b, c, e, f, h, j(J)

This question is not clear and will not be answered.

39. Section D. Financial Projections & Revenues Forecast: Can Southern’s Commission Percentage be adjusted to the amount of existing patients eligible for MMJ, for example, in conjunction with current medical conditions, expanded medical conditions and ultimately chronic pain?

Applicants should propose a Commission Percentage based on the current list of allowed medical conditions. The Commission Percentage does not have to be fixed but may be variable over time.

40. Contract Award & Execution, page 41, first paragraph. “Mandatory terms and conditions are not negotiable”... what are SU mandatory terms and conditions?

Mandatory contract terms are outlined on page 39 under the section titled “Non-negotiable Contract Terms”. Other contract terms may be negotiable at the sole discretion of the University.

41. Section D. Financial Projections & Revenues Forecast: What is the guaranteed minimal financial payment (GMFP) amount required by Southern? Due to non-existing market, since the contractor will be operating at a loss in the beginning, will the GMFP be waived until medical conditions are expanded?

SU does not specify a minimum GMFP. The GMFP will be evaluated as part of the application scoring. The GMFP designated in the application will be included in the final contract, and will not be waived.

42. Despite medical marijuana laws in most states, marijuana is still illegal under federal law. The federal government regulates drugs through the Controlled Substances Act (CSA) (21 U.S.C. § 811), which does not recognize the difference between medical and recreational use of marijuana. Under the CSA, marijuana is classified as a Schedule I drug, which means that the federal government views cannabis as highly addictive and having no medical value. On August 29, 2013 the Department of Justice (DOJ) issued a guidance memo to prosecutors concerning

marijuana enforcement under the Controlled Substance Act (CSA) making it clear that prosecuting state legal medical marijuana cases is not a priority. The memo included guidelines for prosecutors to use to determine current federal enforcement priorities. Fortunately, most medical marijuana program's regulations require the same guidelines ensuring that any business with licenses are meeting these requirements as well. One of these guidelines reads – "preventing violence or the use of firearms in cultivation and distribution of marijuana". In States where medical cannabis is legal, armed security guards are allowed to protect the facility, patients, and employees from violent crimes provided they meet all of the State requirements for armed security personal. What is Southern University's stance on using armed security guards?

We cannot clarify the draft regulations in any more detail than given by the State. We believe these regulations may be further refined as they are finalized.

43. § 1701. C. states "All cameras shall be equipped with lenses of sufficient magnification to allow the operator to clearly distinguish product identifiers and ID tags." Is the direction to be able to distinguish if there's a tag on the plant, or to be able to read specific identifiers on a plants tag?

We cannot clarify the draft regulations in any more detail than given by the State. We believe these regulations may be further refined as they are finalized.

44. Application Response Format – The RFA states on page 12 requirements for format however are you additionally requiring RFA response to be fully compliant with APA or Chicago / Turabian style?

We do not require a specific style for the RFA responses.

45. Section B. Suitability of Principal Officers and Key Personnel - Paragraph two outlines required information for Principal Officers and Key Personnel of the application team. Does the University consider third-party vendors assisting the Applicant in development of the RFA Key Personnel?

Key Personnel are defined as "Any person with a title of officer, director, or manager" within the applicant organization. If the third-party vendor will not participate in those capacities once the Facility is operational, they would not be considered Key Personnel.

46. Section F. Staffing Plan – Does the University consider the use of organized labor unions in subcontractor settings (Facility Construction) to be considered components to be included in the Staffing and Local Hiring plan or is the Staffing Plan specific to the ongoing operations of the organization?

Staffing Plan information is not required for subcontractors that will not be involved with ongoing operations of the Facility.

47. Section F. Staffing Plan – The section heading states 100 points (10% of application) however further in the body of this section it references 125 points (12.5%) with a component allocated to Progressive Initiatives. The Scoring Rubric on page 22 only shows 100 points total for this section. Can you provide clarity?

Please refer to page 22 of the RFA for the correct scoring distribution.

48. Section I. Security Plan – This section referenced 100 points and 50 points yet the scoring rubric states 100 points. Can you provide Clarity?

Please refer to page 22 of the RFA for the correct scoring distribution.

49. Section J. Progressive Initiatives – This section is 100 points yet states further up to 150 points. The scoring rubric on page 22 references 100 points. Can you provide Clarity?

Please refer to page 22 of the RFA for the correct scoring distribution.

50. Vendors' Name Clarification from Addendum # 1

Vendors' information from Pre-Proposal Sign-in Sheet

Name typed on vendor's list: Cresneff Medical, LLC

Correct name: Green Leaf Medical, LLC

Name left off typed vendor's list:

Xylem

Representative/Attendee: Larisa Bolivar