REQUEST FOR BIDS/PROPOSALS COVERSHEET
THE UNIVERSITY OF SOUTHERN MISSISSIPPI
Procurement and Contract Services
118 College Drive #5003, Hattiesburg, Mississippi 39406-0001

Date:

Bid No. 17-02

THE UNIVERSITY OF SOUTHERN MISSISSIPPI is considering the purchase of the following item(s). We ask that you submit your bid and retain one copy for your files. Right is reserved to accept or reject any part of your bid. Your quotation will be given consideration if received in Bond Hall, Room 214 on or before:

2:00 p.m. CST

AUGUST 4, 2016

AWARDING CONTRACT - Cash terms will not be used as a basis for awarding contracts; however, the University will accept cash discounts when earned.

NOTE: If you cannot quote on the exact material shown, please indicate any exception giving brand name and complete specifications of any alternate. If additional space is required, use a separate sheet or letter of transmittal.

Name: ____________________________
Company: ____________________________
Address: ____________________________
City/State/Zip: ____________________________

TERMS - Bidder should state terms of sale. Our terms are 2% ten days, net 45 days. These terms will apply unless otherwise specified.
AWARDING CONTRACT - Cash terms will not be used as a basis for awarding contracts; however, the University will accept cash discounts when earned.

NOTE: If you cannot quote on the exact material shown, please indicate any exception giving brand name and complete specifications of any alternate. If additional space is required, use a separate sheet or letter of transmittal.

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<th>ITEM</th>
<th>QUANTITY</th>
<th>DESCRIPTION</th>
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<td>RFB for Continued Maintenance and Support for Red Hat Software</td>
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PROPOSAL MUST BE RETURNED TO THE UNIVERSITY IN A SEALED ENVELOPE. RFP NUMBER AND DATE OF BID OPENING MUST BE SHOWN ON THE OUTSIDE OF THE ENVELOPE.

We quote you as above-F.O.B. The University of Southern Mississippi. Shipment can be made in N/A days from receipt of order. DATE ______ TERMS

Return quotation to Procurement Services at above address.

Signature Required ____________________________

AA/EOE/ADA1
GENERAL TERMS, CONDITIONS, AND INSTRUCTIONS TO BIDDERS

1.) Failure to examine any drawings, specifications, and instructions will be at bidder’s risk.

2.) Samples of items when called for must be furnished free of expense and if not destroyed in testing, will, upon request, be returned at the bidder’s expense. Request for the return of samples must be made within ten (10) days following opening bids. Each individual sample must be labeled with bidder’s name and manufacturer’s brand name and number.

3.) Bids must be signed and sealed with bidder’s name and address on outside of the envelope, and the time and date of the bid opening and the bid file number shown in the lower-left corner of the envelope.

4.) In order for your bid to be considered, it must be received in our office by 2:00 p.m. of the bid opening date. It is the responsibility of the vendor to ensure their bid is received within the appointed time. If your bid package is not received in Bond Hall, Room 214, by 2:00 p.m. on the bid opening date, it will not be considered.

If you are delivering your bid, hand-carry the bid package to:

The University of Southern Mississippi  
Procurement Services  
Bond Hall, Room 214  
Hattiesburg, Mississippi

If you are mailing your bid package via U.S. Postal Service, mail to:

The University of Southern Mississippi  
Procurement Services  
118 College Drive #5003  
Hattiesburg, MS 39406-0001

If you are express mailing your bid package via Federal Express or UPS, or any other delivery service which requires the use of a physical address, deliver to:

The University of Southern Mississippi  
Receiving Department  
2609 West 4th Street  
Hattiesburg, MS 39401
5.) The bid file number and the date & time of bid opening is to be shown in the lower-left corner of all bid packages; envelopes, express mailing labels, boxes, etc.

6.) Bids and modifications or corrections thereof received after the closing time specified will not be considered. No bid shall be altered or amended after the specified time for opening bids.

7.) The University of Southern Mississippi reserves the right to reject any and all bids, to waive any informality in bids, and unless otherwise specified by the bidders, to accept any items on the bid. If the bidder fails to state the time within which bids must be accepted, it is understood and agreed that The University of Southern Mississippi shall have 60 days to accept.

8.) Contracts and purchases will be made or entered into with the lowest, responsible bidder meeting specifications.

9.) A written purchase order or contract award mailed or otherwise furnished to the successful bidder within the time of acceptance specified in the Invitation for Bid results in a binding contract without further action by either party. The contract shall not be assignable by the vendor in whole or in part without the written consent of The University of Southern Mississippi.

10.) Bid files may be examined during normal working hours by bid participants. Non-participants will be prohibited from obtaining any information relative to the bid until the official award has been made.

11.) If purchase orders or contracts are canceled because of the awarded vendor’s failure to perform or request for price increase, that vendor shall be removed from our bidders’ list for a period of 24 months.

12.) No addendum will be issued within a period of two (2) working days prior to the time and date set for the bid opening. Should it become necessary to issue an addendum within the two-day period prior to the bid opening, the bid date will be re-scheduled to give bidders ample time to answer the addendum.

13.) Alternate bids unless specifically requested will not be considered.

14.) Bid openings will be conducted open to the public; however, they are held only to open the bids. No discussion will be entered into with any vendor as to the quality or provisions of the specifications, and no award will be made either stated or implied at the bid opening. After the close of the bid opening meeting, the bids will be considered to be in the evaluation process and will not be available for review by bidders.
15.) Prices quoted shall be firm for the term of the contract or for the stated time of acceptance.

16.) The bidder understands that The University of Southern Mississippi is an equal opportunity employer and, therefore, maintains a policy which prohibits unlawful discrimination based on race, color, creed, sex, age, national origin, physical handicap, disability, or any other such discrimination; and the bidder, by signing this bid, agrees during the term of agreement that the bidder will strictly adhere to this policy in its employment practices and provision of products or services.

17.) Bidders must upon request of The University of Southern Mississippi furnish satisfactory evidence of their ability to furnish products or services in accordance with the terms and conditions of these specifications. The University of Southern Mississippi reserves the right to make the final determination as to the bidder’s ability.

18.) Questions or problems arising from bid procedures or subsequent order and delivery procedures should be directed to:

Buyer
The University of Southern Mississippi
118 College Drive #5003
Hattiesburg, MS 39406-0001
Phone: (601) 266-4131
bids@usm.edu

19.) All items must equal or exceed the specifications listed. The absence of detail specifications or the omission of detail description shall be recognized as meaning that only the best commercial practices are to prevail and that only first quality materials and workmanship are to be used.

20.) It is the intent of the specifications to obtain a product that will adequately meet the needs of the user while promoting the greatest extent of competition that is practicable. It is the responsibility of the prospective bidder to review the entire Invitation to Bid or Proposal packet and to notify The University of Southern Mississippi if the Specifications, Instructions, General or Special Conditions are formulated in a manner which would unnecessarily restrict competition. Any protest or question concerning the specifications or bidding procedures must be received in the Purchasing office not less than 72 hours prior to the time and date set for bid opening.

21.) It shall be incumbent upon the bidders to understand the specifications. Any requests for clarifications shall be in writing and shall be submitted to our Procurement Services office at least five (5) days prior to the time and date set for the bid opening.

22.) The minimum specifications are used to set a standard and in no case are used with the
intention to discriminate against any manufacturer. Bidders should note the name and the manufacturer and model number of the product they propose to furnish and submit descriptive literature.

23.) Trade names, brand names, and/or manufacturer’s information used in these specifications are for the purpose of establishing quality. Unless specifically stated otherwise, bids on products of other qualified manufacturers are acceptable, provided they are demonstrated as equal to those specified in construction, design, and suitability. Each bidder shall submit with his bid a complete brochure with pictures on each item and shall point out specifically any deviations from the specified items. Failure to do so may disqualify any bid. Please bid as specified or an approved equal.

24.) A copy of the manufacturer’s standard guarantee shall accompany and become a part of this bid.

25.) There are no federal or state laws that prohibit bidders from submitting a bid lower than a price or bid given to the U.S. Government. Bidders may bid lower than U.S. Government contract price without any liability as The University of Southern Mississippi is exempt from the provisions of the Robinson-Patman Act and other related laws. In addition, the U.S. Government has no provisions in any of its purchasing arrangements with bidders whereby a lower price to The University of Southern Mississippi must automatically be given to the U.S. Government.

26.) Unless otherwise specified in the specifications, all invoices are to be billed to:

The University of Southern Mississippi
Accounts Payable
118 College Drive #5104
Hattiesburg, MS 39406-0001

27.) Unless otherwise specified, all equipment bids shall be of current production and of the latest design and construction.

28.) Where all, or part(s), of the bid is requested on a unit price basis, both the unit prices and the extensions of the unit prices constitute a basis of determining the lowest responsible and responsive bidder. In cases of error in the extension of price, the unit price will govern.

AA/EOE/ADAIA
Red Hat Software Maintenance Renewal

REQUEST FOR BID
(RFB 17-02)

DATE 7/13/16
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1. Information to Vendors

1.1. Issuing Institution / Department / Unit
The University of Southern Mississippi
iTech / Information Technology Services

1.2. Contact Information
Bid Information:
Buyer
The University of Southern Mississippi
118 College Drive #5003
Hattiesburg, MS 39406
bids@usm.edu

Technical Information:
Financial Specialist
The University of Southern Mississippi
118 College Drive #5181
Hattiesburg, MS 39406
computer.orders@usm.edu

1.3. Important Dates
See Cover Sheet or contact the Bid Information Contact(s) listed in Section 1.2.

1.4. Terminology
The term “RFB” refers to this Request for Bids document.

For purposes of this RFB, the terms “Contractor”, “Vendor” and “Respondent” are used interchangeably.

For purposes of this RFB, the terms “The University of Southern Mississippi”, “Southern Miss”, “USM”, and “the University” are used interchangeably.

Any statement in this document that contains the word “must” or the word “shall” requires mandatory response and is so noted with “VENDOR RESPONSE REQUIRED”.

“Will comply” or “agreed” are used interchangeably to indicate that the Vendor will adhere to the requirement. These terms are used to respond to statements that specify that a Vendor or Vendor’s proposed solution must comply with a specific item or must perform a certain task.

“Acknowledged” should be used in each section when no Vendor response or Vendor compliance is required. “Acknowledged” simply means the Vendor is confirming to the University that the statement has been read and understood.

Technical terms used in this RFB are intended to follow industry conventions. Respondents should request clarification of terms wherever there is uncertainty as to the exact meaning.

1.5. Instructions to Vendors
Sealed Bids for this RFB will be received in the Department of Procurement & Contract Services Office, Bond Hall, Second Floor, Box 5003, Hattiesburg, Mississippi 39406-5003 until 2:00 p.m. of the specified date on the cover sheet.

Each Bid must be submitted in a sealed envelope bearing on the outside the name “Red Hat Software Maintenance Renewal,” the name of the Vendor, the Vendor address, and the notification of opening at 2:00 p.m. on the specified date on the cover sheet.
Any bid may be withdrawn prior to scheduled time for the opening of bids or authorized postponement thereof. Any bid received after the time and date specified will not be considered.

The University of Southern Mississippi reserves the right to accept or reject any or all bids and to waive any formalities.

Vendors are responsible for examining all specifications, terms, conditions, and instructions of this request. Failure to do so will be at Vendor’s risk.

Vendors need to use the same outline numbering, and respond to each one, even if the response is “No response required.” The Vendor needs to respond in writing with “acknowledged,” “will comply,” or “agreed” to any section that contains “must” or “shall” to confirm agreement. Failure of the Vendor to meet this requirement may cause a Vendor’s response to be thrown out and considered non-responsive at the sole discretion of the University.

If the Vendor cannot respond with “acknowledged,” “will comply,” or “agreed,” then the Vendor MUST respond with “exception.” (See Section 5.15, for additional instructions regarding Vendor exceptions.)

Where an outline point asks a question or requests information, the Vendor MUST respond with the specific answer or information requested. In addition, Vendor should provide explicit details as to the manner and degree to which the bid meets or exceeds each specification.

Many items in this RFB require detailed and specific responses to provide the requested information. Failure to provide the information requested will result in the Vendor receiving a lower score for that item, or, at the University’s sole discretion, being subject to disqualification.

Vendors must ensure, through reasonable and sufficient follow-up, proper compliance with, and fulfillment of all schedules and deliverables specified within the body of this RFB. The University will not be responsible for the failure of any delivery medium for submission of information to or from the Vendor, including but not limited to, public and private carriers, U.S. mail, Internet Service Providers, facsimile, or e-mail.

Vendors must submit all questions in regards to this bid no later than 5:00pm on Wednesday, July 27, 2016 to the contacts listed in Section 1.3. The University will respond by an addenda no later than the following Friday, July 29, 2016. Extensions to the bid due date will only occur if deemed necessary by the University to allow Vendors sufficient time to review the responses.

2. Vendor Information and Qualifications

2.1. Contact Information

2.1.1. REQUIRED INFORMATION

VENDOR RESPONSE REQUIRED:

The respondent must provide the following information for each of the parties below:

- Responding Company
- Contact Name
- Address
- Country
- Phone Number
• Email Address

2.1.2. PRINCIPALS
Company principals or corporate officers

2.1.3. CONTRACT EXECUTIVES
Executive that will be the purchase contract authority for the transaction described in this RFB.

2.1.4. ACCOUNT EXECUTIVES
Executive(s) that will be responsible for managing the business relationship between the respondent and Southern Miss described in this RFB.

2.2. Right to Request Information
The University reserves the right to request information relative to a Vendor’s references and financial status and to visit a Vendor’s facilities during normal working hours. The University also reserves the right to request a current financial statement, prepared and certified by an independent auditing firm, and reserves the right to require that Vendors document their financial ability to provide the products and services proposed up to the total dollar amount of the Vendor’s cost bid. The University reserves the right to request information about the Vendor from any previous customer of the Vendor of whom the University is aware, even if that customer is not included in the Vendor’s list of references.

2.3. Professional Standing
Respondents to this RFB MUST be in relevant professional practice and MUST provide a W-9 for verifiable documentation in the RFB response. If applicable, vendor should also provide Business License jurisdiction and numbers, and Contractor License numbers for both the primary and subcontractors.

VENDOR RESPONSE REQUIRED: Vendor W9 provided in RFB response on page_____.

Additional information (please use N/A if not applicable):

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<th>Business License Jurisdiction:</th>
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<tr>
<td>Business License Number:</td>
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</tr>
<tr>
<td>Contractor License Number (Primary):</td>
<td></td>
</tr>
<tr>
<td>Contractor License Number (Subcontractor):</td>
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2.4. References
Respondents SHOULD provide a minimum of three (3) customer references, including contact information, that have implemented the proposed solution and/or services in the last 12 months; preferably from higher education institutions.

VENDOR RESPONSE REQUIRED: References provided in RFB response on page_____.

2.5. Foreign Corporations (outside Mississippi)
If applicable under Mississippi law, Vendors should be registered with the Mississippi Secretary of State’s office in order to transact business in the State of Mississippi. Respondents to this RFB MUST provide appropriate proof that this registration has been completed before a bid can be awarded. Additional information regarding this Certificate of Authority can be found on the Mississippi Secretary of State’s website.
2.6. **Insurance for Contractors on Campus**

If this RFB is for services / contractual labor, the Contractor, as an independent contractor, **may be asked** provide proof of Comprehensive General Liability insurance, Workers’ Compensation insurance and Commercial Auto Liability insurance. The Contractor shall provide a Certificate of Coverage e-mailed prior to start of services. The Certificate of Coverage should, at a minimum, contain the name of the carrier, effective and expiration dates of coverage, a description of the covered perils and amount of coverage by peril, the name and mailing address of the insurance company, and the name and mailing address of the insurance agent. The Certificate of Coverage must name the Board of Trustees of State Institutions of Higher Learning and The University of Southern Mississippi as an additional insured and be endorsed accordingly. The Comprehensive General Liability coverage shall be a minimum amount of One Million Dollars ($1,000,000) per occurrence and the Commercial Auto Liability coverage shall be a minimum amount of Three Hundred Thousand ($300,000) through an insurance company with a Best rating of A- or higher and a financial size Class X or higher approved by the Mississippi Department of Insurance.

VENDOR RESPONSE REQUIRED: Certificate of Insurance provided in RFB response on page_____. OR Vendor will comply if selected.

3. **Form and Content of Bids**

3.1. **Legibility and Organization**

Bids **MUST** be printed, written in English, legible, and appropriately structured as stated in Section 1.5 Instructions to Vendors. Each page needs be numbered sequentially. Bids **MUST** be bound.

3.2. **Completeness of Response**

Vendors **MUST** include responses to all of the provisions and items of this RFB. Failure to comply may cause the response to be considered incomplete.

VENDOR RESPONSE REQUIRED: Vendor acknowledges OR Vendor Exception.

3.3. **Abbreviated Responses**

Simple concurrence or acknowledgement to items not needing a specific Contractor statement may be used. **However, simple concurrence or acknowledgement of items that do require a specific Contractor statement, explanation or supporting materials will be considered non-responsive.**

3.4. **Vendor Responsible for Completeness of Costs**

It is the responsibility of the Vendor to clearly identify all costs associated with any item or series of items in this RFB. The Vendor **must** include and complete all parts of the cost bid in a clear and accurate manner. Omissions, errors, misrepresentations, or inadequate details in the Vendor’s cost bid may be grounds for rejection of the Vendor’s bid. Costs that are not clearly identified will be borne by the Vendor. The Vendor **must** complete the Cost Information Submission in this RFB, which outlines the minimum requirements for providing cost information. The Vendor should supply supporting details as described in the Cost Information Submission.

VENDOR RESPONSE REQUIRED: Vendor acknowledges OR Vendor Exception.
3.5. **Sole Point of Contact**

USM will consider the selected Vendor to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the contract.

1. The Vendor **must** acknowledge and agree that in matters of bids, clarifications, negotiations, contracts and resolution of issues and/or disputes, the Vendor represents all contractors, third parties and/or subcontractors the Vendor has assembled for this project. The Vendor’s commitments are binding on all such parties and consequently USM is only required to negotiate with the Vendor.

2. Furthermore, the Vendor acknowledges and agrees to pass all rights and/or services related to all general consulting, services leasing, software licensing, warranties, hardware maintenance and/or software support to USM from any contractor, third party or subcontractor without USM having to negotiate separately or individually with any such parties for these terms or conditions.

3. Should a proposing Vendor wish to assign payment of any or all charges resulting from this contract to a third party, Vendor must disclose that fact in his/her bid, along with the third party’s name, address, nature of business, and relationship to the proposing Vendor, the reason for and purpose of the assignment, and all conditions of the assignment, including but not limited to a copy of an assignment document to be executed by USM, the Vendor, and the third party. Such assignments will be accepted or rejected at the sole discretion of USM. Vendor must clearly and definitively state in his/her bid whether the bid is contingent upon the requested assignment of payments. Whenever any assignment of payment is requested, the bid, contract, and assignment document must include language specifically guaranteeing that the proposing Vendor is solely and fully liable and responsible for the performance of its obligations under the subject contract. No assignment of payment will be considered at the time of purchase unless such assignment was fully disclosed in the Vendor’s bid and subsequently accepted by USM.

VENDOR RESPONSE REQUIRED: Vendor acknowledges OR Vendor Exception.

3.6. **Copies**

At least one (1) signed original and two (2) signed copies of the bid **MUST** be provided. The University **requires** a portable electronic virus/malware free copy (CD, thumb drive) of the RFB response from the responding Vendor to be included in the bid response package. If an electronic copy is not included, the University reserves the right to request an electronic copy of the **exact** bid response prior to review of the bid.

VENDOR RESPONSE REQUIRED: Vendor complied OR Vendor Exception.

3.7. **Signatures**

A duly authorized and legally binding original signature **must** be present on each submitted copy of the bid.

4. **RFB and Bid Terms and Conditions**

4.1. **Right to Withdraw Bids**

Vendors may withdraw bids at any time prior to signature of purchase contract for any reason they deem appropriate.

4.2. **Right to Reject Bids**

The University reserves the right to accept any bid or, at its discretion, reject any or all bids for any reason it deems appropriate.
4.3. Questions and Answers
All Vendors will receive copies of questions and responses, which are deemed pertinent by the University. To ensure equal treatment for each responding Vendor, all questions regarding this RFB must be submitted in writing to this RFB’s contact person for more information, and no later than the last date for accepting questions provided in this RFB. All such questions will be answered officially by the University in writing. Pertinent questions and answers will become addenda to this RFB. Questions submitted after the deadline are subject to be discarded.

4.4. University Not Responsible for Bid Expenses
Receipt of a bid does not obligate the University to pay any expenses incurred by the Contractor in preparation of the bid or obligate the University in any other respect.

4.5. University Right to Modify Specifications
The University reserves the right to modify the specifications contained herein at any time during the bid period. No modification or interpretation of the specifications other than through the issuance of addenda will be binding upon the University. Contractors must notify the University as soon as possible of any omissions or errors in the specifications so that corrective addenda may be issued.

4.6. Alternatives and Equivalents to Requirements
Alternatives and equivalents to the University stated requirements will be reviewed and evaluated. The Vendor must submit an explanation of how/why the substituted product is an alternative or an equivalent. The University reserves the right to reject any bids that do not comply with this instruction. Glossy ads, such as published materials used for advertisements, may be included, but are not acceptable as substitute for the Vendor explanation as to how/why the described product is an alternative or an equivalent.

4.7. Non-Performance
In the event of non-performance on the part of the Vendor (i.e., failure and/or inability to meet agreed upon deadlines or specifications as outlined herein), consequential damages or breach of contract may be claimed by the University.

4.8. Rejected Material
Intentionally left blank.

4.9. Restricted Communications
From the issue date of this RFB until a Vendor is selected and announced, all responding Vendors or their representatives may not communicate, either orally or in writing, regarding this RFB with any University employee except as noted herein. Vendor may consult with the University’s specified points of contact listed above in Section 1.2. Conversations with persons other than designated contacts about any aspect of this RFB, bid, contract, or purchase may subject a Vendor’s response to be rejected.

4.10. Confidentiality
All information in this RFB is considered confidential and should not be disclosed to third parties.

All bids become the property of The University of Southern Mississippi upon receipt. The bids will not be released in part or in total for third party evaluation, unless other arrangements are requested at the time of bid submission.
4.11. Request for Bids Do Not Obligate
Neither the publication nor distribution of this RFB nor the receipt of bids constitutes any obligation or commitment on the part of the University. This RFB does not commit the University to contract for any requirements detailed in this document. The University reserves the right to reject any or all offers and to waive formalities and minor irregularities in the bid received.

4.12. Use of Information
The University reserves the right to use any or all design ideas or concepts presented in any bid submitted in response to this RFB. This right will exist even if bid states otherwise.

4.13. Publicity
No public mention of this RFB, contract, or purchase may be used for publicity, marketing, sales or promotional purposes without prior written approval from the University.

5. Purchase contract Terms and Conditions

5.1. Acknowledgment Precludes Later Exception
By signing the Bid Cover Sheet, the Vendor is contractually obligated to comply with all items in this RFB, including the Standard Contract in Exhibit A if included herein, except those specifically listed as exceptions on the Bid Exception Summary Form. If no Bid Exception Summary Form is included, the Vendor is indicating that he takes no exceptions. Vendors who respond to this RFB by signing the Bid Cover Sheet may not later take exception to any item in this RFB during purchase contract negotiations. This acknowledgement also contractually obligates any and all subcontractors that may be proposed. No exceptions for subcontractors or separate terms and conditions will be entertained after the fact.

5.2. Mandatory Legal Provisions
- Any provisions disclaiming implied warranties shall be null and void. See Mississippi Code Annotated Sections 11-7-18 and 75-2-719(4). The Vendor shall not disclaim the implied warranties of merchantability and fitness for a particular purpose.
- The Vendor shall have no limitation on liability for claims related to the following items:
  - Infringement issues;
  - Bodily injury;
  - Death;
  - Physical damage to tangible personal and/or real property; and/or
  - The intentional and willful misconduct or negligent acts of the Vendor and/or Vendor’s employees or subcontractors.
- All requirements that the University pay interest (other than in connection with lease purchase contracts not exceeding five years) are deleted.
- Should any of the terms and conditions in the purchase contract be in conflict with the laws of the State of Mississippi, the laws of the State of Mississippi shall supersede and govern. A revision of the terms and conditions will be required to ensure compliance with Mississippi state law.
- The University shall not pay any attorney’s fees, prejudgment interest or the cost of legal action to or for the Vendor.

VENDOR RESPONSE REQUIRED: Vendor acknowledges OR Vendor Exception.
5.3. Draft Contracts

A properly executed contract (included in Appendix A) is a requirement of this RFB. After an award has been made, it will be necessary for the winning Vendor to execute a contract with the University. The inclusion of this contract does not preclude the University from, at its sole discretion, negotiating additional terms and conditions with the selected Vendor(s) specific to the projects covered by this RFB. If Vendor cannot comply with any term or condition of this Standard Contract, Vendor must list and explain each specific exception on the Bid Exception Summary Form included in this RFB. The Bid Exception Summary Form must be submitted to the University with the signed Bid response.

The contract SHOULD include guaranteed pricing for an option to renew annually for up to two (2) additional years. Renewal for up to two (2) additional years is not guaranteed and at the discretion of the University; whatever is deemed to be in the best interest of the University. Failure to provide guaranteed pricing will result in the response being rejected from consideration.

VENDOR RESPONSE REQUIRED: Vendor acknowledges OR Vendor Exception. Notice of guaranteed pricing included in bid response on page _____.

The University requires one point of contact for management of the implementation and services of this purchase contract.

The winning Vendor may be required to complete a Professional and Personal Services Agreement and Independent Contractor Status Determination and Documentation Form for the services included in this RFB prior to a Purchase Order being issued. See Appendix B for draft documents.

VENDOR RESPONSE REQUIRED: Vendor will comply if selected OR Vendor exception.

5.4. Draft Purchase Agreement

Intentionally left blank.

5.5. Payment

The currency used for payment of costs will be in United States dollars.

The University requests to be invoiced annually.

State law requires that the University receive an original invoice from the Vendor and that payment of the invoice is processed within 45 days of receipt (Miss Code 31-7-305). The invoice should be on the Vendor’s letterhead and/or include an original Vendor representative signature.

USM may choose to use a VISA® Purchasing Card and E-Payables PAVA process for invoice payments in place of a check to pay for purchases from this solicitation. Unless exception is noted in the bid response, the bidder, by submitting a response agrees, to accept the VISA® Purchasing Card and E-Payables PAVA process as an acceptable form of payment and may not add additional service fees/handling charges to purchases made with the VISA® Purchasing Card.

5.6. Purchase contract Components

This RFB, written questions, answers to questions, Vendor’s bid, and other documents associated with this RFB may become part of the resultant purchase contract.

5.7. Changes to Purchase contract

During the course of the delivery and ordering process, either party may issue requests for changes in the purchase contract. This shall take the form of either a modification to the original purchase contract or a written Addendum which, if accepted by both parties, shall be
executed as a change to the purchase contract, which will thereby be amended to the extent of the change. In no event shall changes involving extra costs to The University of Southern Mississippi be allowed to proceed without prior written approval.

5.8. *USM Terms and Conditions*

Unless written exception is provided in the RFB response, the winning Vendor agrees to be bound by the USM Terms and Conditions, which are incorporated herein, and may be found at [http://www.usm.edu/procurement/Terms_and_Conditions.pdf](http://www.usm.edu/procurement/Terms_and_Conditions.pdf).

VENDOR RESPONSE REQUIRED: Vendor will comply OR Vendor Exception.

5.9. *Materials and Warranties*

All materials provided to the University under the purchase contract **SHOULD** be newly manufactured and carry the manufacturer’s original warranty.

All materials **must** be unaltered and conform to the manufacturer’s official published specifications. The warranty **shall** begin at the material acceptance date and remain in effect for the manufacturer’s standard product warranty period.

The Vendor **shall** agree to repair, adjust, and/or replace (as determined by the University to be in its best interest) any defective materials at the Vendor and/or manufacturers’ sole cost. The University will incur no costs for service or replacement of materials during the warranty period.

The Vendor will be the sole point of contact for warranty issues.

VENDOR RESPONSE REQUIRED: Not Applicable

5.10. *Final Acceptance*

The following requirements **must** be met before the purchase will be considered complete and final payments made. A minimum of fifteen (15%) percent of the purchase contract price may be held until final acceptance.

- An inspection by University personnel will have been completed and all issues and/or defects will have been resolved and brought into conformance with the letter and spirit of the specifications, terms, and conditions of the purchase contract.
- Acceptance of the licenses, software and/or equipment (if required) and the release of final payment will be dependent on the items meeting specifications set forth in this RFB without defect for a period of 45 days.

The University of Southern Mississippi reserves the right to itself or its designated representatives to inspect and approve all items included in this purchase.

VENDOR RESPONSE REQUIRED: Not Applicable

5.11. *Legal and Regulatory Compliance*

Respondents are required to comply with all applicable local, State and Federal laws, codes, ordinances, and regulations in the provision of the materials required.

Respondents **must** comply with Personally Identifiable Information (PII) data protection with regard to State, Federal, and University regulations and policies.

VENDOR RESPONSE REQUIRED: Vendor acknowledges OR Vendor Exception.

5.12. *Patent Infringements*

The Vendor **shall** agree to indemnify The University of Southern Mississippi with respect to any legal suit, claim, or proceeding, which may be brought against it claiming the use of the proposed material constitutes an infringement of any patent or trade secret. The Vendor will
further agree to defend the University against any such claims and to pay all litigation costs, attorneys' fees, settlement payments, and any damages awarded or resulting from any such claims.

VENDOR RESPONSE REQUIRED: Vendor acknowledges OR Vendor Exception.

5.13. Valid Purchase Contract Required to Begin Work

The winning Vendor should not commence any billable work until a valid purchase order and applicable contract have been executed. Any work done by the winning Vendor prior to the execution of the purchase order and applicable contract is complete will be at the Vendor’s sole risk. The University is under no obligation to pay for work done prior to the execution of a purchase order and applicable contract.

5.14. Segmentation of Award

The University will award the contract to a single vendor, but reserves the right to make to select features, functions and/or hardware on an all, none or line by line basis, whichever is deemed to be in the best interest of the University. The itemization of costs must be detailed enough to allow for such changes and to make appropriate and fair cost adjustment calculations resulting from such changes reasonable and manageable.

5.15. Bid Exception

Please return the Bid Exception Summary Form at the end of this section with all exceptions to items in any Section of this RFB listed and clearly explained or state “No Exceptions Taken.” If no Bid Exception Summary Form is included, the Vendor is indicating that the Vendor takes no exceptions to any item in this RFB document.

5.15.1. Unless specifically disallowed on any specification herein, the Vendor may take exception to any point within this RFB, including a specification denoted with “shall” or “must,” as long as the following are true:

- The specification is not a matter of State law;
- The bid still meets the intent of this RFB;
- A Bid Exception Summary Form is included with Vendor’s bid; and
- The exception is clearly explained, along with any alternative or substitution the Vendor proposes to address the intent of the specification, on the Bid Exception Summary Form.

5.15.2. The Vendor has no liability to provide items to which an exception has been taken. The University has no obligation to accept any exception. During the bid evaluation and/or purchase contract negotiation process, the Vendor and the University will discuss each exception and take one of the following actions:

- The Vendor will withdraw the exception and meet the specification in the manner prescribed;
- The University will determine that the exception neither poses significant risk to the project nor undermines the intent of this RFB and will accept the exception;
- The University and the Vendor will agree on compromise language dealing with the exception and will insert same into the purchase contract; or
- None of the above actions are possible, and the University either disqualifies the Vendor’s bid or withdraws the award and proceeds to the next ranked Vendor.

5.15.3. Should the University and the Vendor reach a successful agreement, the University will sign adjacent to each exception which is being accepted or submit a formal written response to the Bid Exception Summary responding to each of the Vendor’s exceptions.
The Bid Exception Summary, with those exceptions approved by the University, will become a part of any purchase contract on acquisitions made under this RFB.

5.15.4. An exception will be accepted or rejected at the sole discretion of the University.

5.15.5. The University desires to award this RFB to a Vendor or Vendors with whom there is a high probability of establishing a mutually agreeable purchase contract, substantially within the standard terms and conditions of the University’s RFB, including the Standard Contract in Exhibit A, if included herein. As such, Vendors whose bids, in the sole opinion of the University, reflect a substantial number of material exceptions to this RFB, may place themselves at a comparative disadvantage in the evaluation process or risk disqualification of their bids.

BID EXCEPTION SUMMARY FORM

VENDOR RESPONSE REQUIRED: List and clearly explain any exceptions, for all RFB Sections and Exhibits, in the table below. If no exceptions are taken, please note “No Exceptions” in item 1 in the table below.

<table>
<thead>
<tr>
<th>RFB Reference (Reference specific outline point to which exception is taken)</th>
<th>Vendor Bid Reference (Page, section, items in Vendor’s bid where exception is explained)</th>
<th>Brief Explanation of Exception (Short description of exception)</th>
<th>University Acceptance (sign here only if accepted)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td></td>
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<tr>
<td>2.</td>
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<td>3.</td>
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<td>4.</td>
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<td>5.</td>
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<td>6.</td>
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<td>7.</td>
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</tr>
</tbody>
</table>

6. Scope of Work

6.1. Introduction

The University of Southern Mississippi (USM) has approximately 14,550 students and 2,725 faculty and staff members located on the main campus in Hattiesburg, the Gulf Park campus, the Gulf Coast Research Lab, and the Stennis Space Center.

USM utilizes Red Hat software as one of the University’s standard server operating systems. In order to support this software, USM must continue to contract for Red Hat maintenance and support.

The current contract for maintenance and support will expire on August 16, 2016.

Objectives

The primary goal is to continue to provide maintenance and support for the University’s standard Red Hat software.
Continued maintenance and support will provide:

- 24-hour phone and online tech support for all devices
- Rights to download software upgrades to all components
- Licensing rights to use server, desktop and workstation Red Hat operating systems

6.2. **Criteria for Award of Purchase contract:**

The Vendor selected for an award will be the Vendor whose bid, as presented in the response to this RFB, is the most advantageous. The university is not bound to accept the lowest priced bid if that bid is not in the best interest of the university as determined by the Evaluation Committee.

Consideration may also be given to any additional information and comments if they should increase the benefits to the university. Upon completion of the initial review and evaluation of the bids submitted, selected Vendors may be invited to participate in oral presentations.

Cost Evaluation - Points will be assigned using the following formula: 

\[ (1 - \frac{(B - A)}{A}) \times n \]

Where:

- \( A \) = Total lifecycle cost of lowest valid bid
- \( B \) = Total lifecycle cost of bid being scored
- \( n \) = Maximum number of points allocated to cost for acquisition

6.3. **Mandatory and Optional Provisions in Detailed Specifications and Requirements of this RFB**

- All items in the technical specifications of this RFB are MANDATORY. Vendors are specifically disallowed from taking exception to these mandatory requirements, and bids that do not meet all mandatory requirements are subject to immediate disqualification, at the sole discretion of the University.

6.4. **Detailed Specifications and Requirements**

The Vendor response **must** meet the following specifications and requirements. The Vendor **must** include a response to each of the items below.

Vendor **must** provide per item maintenance charges that will be valid for three (3) years.

- Red Hat Satellite Server (Academic Edition), 1 Year.
- RHEL Academic Site Subscription (Server, Desktop, Workstation, POWER), Standard (Up to 5 Contacts) with Smart Management per FTE (up to 16 sockets) (Up to 20 Guests), 1 Year, on FTE of 2,169 (excludes Gulf Park campus).

6.5. **Additional Requirements**

The University acknowledges that the specifications within this RFB are not exhaustive. Rather, they reflect the known requirements that must be met by the proposed system. Vendors **must** specify, here, what additional components may be needed and are proposed in order to complete each configuration.

6.6. **Delivery**

24/7 Vendor support **MUST** be operational within two (2) days of the bid award date.

Server administration support **MUST** be operational within two (2) days of the bid award date.

The software licenses **MUST** be in effect August 17, 2016, and are not to expire for a minimum of one (1) year. If the Vendor is unable to meet this requirement, the Vendor **MUST** describe best possible delivery schedule.
7. Costs

7.1. Cost Information Submission

VENDOR RESPONSE REQUIRED: Vendors must propose a summary of all applicable project costs in the matrix that follows. The matrix must be supplemented by a cost itemization fully detailing the basis of each cost category. The level of detail must address the following elements as applicable: item, description, quantity, retail, discount, extension, and deliverable. Any cost not listed in this section may result in the Vendor providing those products or services at no charge to the University or face rejection of bid. If your response to this RFB does not include an item listed below in the far left column, "Not Included" may be used.

<table>
<thead>
<tr>
<th>Description</th>
<th>Year 1</th>
<th>Year 2</th>
<th>Year 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Red Hat Satellite Server (Academic Edition), 1 Year.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>RHEL Academic Site Subscription (Server, Desktop, Workstation, POWER), Standard (Up to 5 Contacts) with Smart Management per FTE (up to 16 sockets) (Up to 20 Guests), 1 Year, on FTE of 2,169 (excludes Gulf Park campus).</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>

The Vendor’s bid may list a Maximum Annual Increase (%) instead of actual cost figure for years 2 and 3 if desired.

Note that the University is to be billed in one installment annually.

7.2. No Unspecified Costs

Only items included in the Cost Information Submission list will be considered part of the bid and only those items will be included in any payments to the Contractor.

If any component(s) necessary for operation of the requested system is omitted from Vendor’s bid, the Vendor must be willing to provide the component(s) at no additional cost and included at the price in this RFB response.

VENDOR RESPONSE REQUIRED: Vendor acknowledges OR Vendor Exception.

7.3. Price Changes during Award or Renewal Period

A price increase will not be accepted during the award period or the renewal period, unless stipulated in the purchase contract. However, the University will always take advantage of price decreases.
7.4. **Expiration of Costs Proposed**

The bid response price will be guaranteed for a minimum of sixty days from bid opening date. The University reserves the right to renew this contract with the winning Vendor on an annual basis. The bid response **MUST** include guaranteed prices for annual renewals up to two (2) additional years.

VENDOR RESPONSE REQUIRED: Vendor acknowledges OR Vendor Exception.

7.5. **Best and Final Offer**

The University reserves the right to solicit Best and Final Offers (BAFOs) from Vendors, principally in situations in which bid costs eclipse available funding, or the University believes none of the competing bids presents a Best Value (lowest and best bid) opportunity. Because of the time and expense incurred by both the Vendor community and the University, BAFOs are not routinely conducted. Vendors should offer their best pricing with the initial solicitation. Situations warranting solicitation of a BAFO will be considered an exceptional practice for any procurement. Vendors that remain in a competitive range within an evaluation may be requested to tender Best and Final Offers, at the sole discretion of the University. All such Vendors will be provided an equal opportunity to respond with a Best and Final Offer under a procedure to be defined by the University that encompasses the specific, refined needs of a project, as part of the BAFO solicitation. The University may re-evaluate and amend the original project specifications should it be deemed necessary in order to improve the opportunity for attaining Best Value scenarios from among the remaining competing Vendors. All BAFO proceedings will be uniformly conducted, in writing, and be subject to solicitation by the University and receipt from the Vendors under a precise schedule.
APPENDIX A- Standard Contract (Either Services Contract or Purchase Agreement template)

A properly executed contract is a requirement of this RFB. After an award has been made, it will be necessary for the winning Vendor to execute a contract with the University. The inclusion of this contract does not preclude the University from, at its sole discretion, negotiating additional terms and conditions with the selected Vendor(s) specific to the projects covered by this RFB. If Vendor cannot comply with any term or condition of this Standard Contract, Vendor must list and explain each specific exception on the Bid Exception Summary Form included in this RFB.
APPENDIX B - Professional and Personal Services Agreement and Independent Contractor Status Determination and Documentation Form
CONTRACT FOR THE UNIVERSITY OF SOUTHERN MISSISSIPPI TO OBTAIN SERVICES

This Agreement is between __________________________, hereinafter referred to as “Contractor”, a corporation organized and existing under the laws of the State of __________________________ with its corporate address being __________________________, ________________, _____________________, _________, and the University of Southern Mississippi, a governmental entity of the State of Mississippi, hereinafter referred to as “USM”, with its address at P.O. Box _______, Hattiesburg, Mississippi 39406 for and on behalf of its __________________________ (hereinafter ____________). Contractor and USM are collectively referred to as the “parties.”

WHERAS, Contractor desires to provide certain, specific services to USM.

WHEREAS, USM is willing to pay for those services.

This agreement shall not be effective unless and until both parties have executed this agreement and the effective date of this agreement shall be the date this agreement is executed by whichever party executes the agreement last. The term of this agreement shall be for __ (one year)____ from the effective date of this agreement at which time this agreement shall automatically expire. However, upon mutual written agreement of both parties, if a renewal agreement is executed by both parties at least 60 days prior to the termination of this agreement, then this agreement may be renewed under terms mutually agreeable to both parties at that time.

Therefore, the parties hereby agree as follows:

A. Both parties agree to all terms and conditions set forth in Standard Terms and Conditions, with the exception of any exceptions, additions, alterations, or revisions set forth in Exceptions to the University of Southern Mississippi Standard Terms and Conditions.

B. Contractor shall:

Provide the following services:

a. (the scope of services should be clearly defined)

b. __________________________________________

c. __________________________________________

d. Refrain from using USM’s name, work mark, or other university identifier.

e. Refrain from using the name or title of any USM official.

f. Refrain from projecting their product, or the work entailed therewith, as being approved by or otherwise endorsed by USM, its entities or officials.

C. For the services set forth herein, USM will pay Contractor as follows:

a. (the amount of payment should be clearly defined) The timing of payment is set forth in Standard Terms and Conditions, Section A.
D. **Notices**
All notices required or permitted to be given under this agreement must be in writing and personally delivered or sent by electronic means provided that the original of such notice is sent by certified U.S. Mail, postage prepaid, return receipt requested, to the persons at the address shown below. The parties agree to notify the other in writing of any change of address.

For Contractor:  
________________________  ______________________  
________________________  ______________________  
________________________  ______________________  

For USM:  
________________________  ______________________  
P.O. Box _______  
Hattiesburg, MS 39406

**STANDARD TERMS AND CONDITIONS**

A. **Payment**
USM shall pay Contractor within 45 days of receipt of each invoice received from Contractor upon review and confirmation by USM that such payments and all portions thereof are due, justified and warranted based on services received by USM in accordance with §31-7-305(2), Mississippi Code of 1972.

B. **Availability of Funds**
It is expressly understood and agreed that the obligation of USM to proceed under this agreement is conditioned upon the availability and receipt of funds by USM to specifically perform the obligations set forth for USM under this agreement.

C. **Representation Regarding Contingent Fees and Gratuities**
Contractor represents that it has not retained a person to solicit or secure a state contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee. Further, Contractor represents that it has not violated, is not violating, and promises that it will not violate the prohibition against gratuities set forth in state law.

D. **Equal Employment Opportunity**
Contractor represents and understands that USM is an equal opportunity employer and therefore maintains a policy that prohibits unlawful discrimination. Contractor agrees that during the term of this agreement that Contractor will strictly adhere to this policy in its employment practices and the provisions of its services.

E. **Assignment Prohibition**
Contractor agrees that it shall not attempt to nor shall it assign this agreement to any party and that any attempt to do so shall be void.

F. **Authority to Contract**
Contractor warrants (a) that it is a validly organized business with valid authority to enter into this agreement; (b) that it is qualified to do business and is in good standing in the State of Mississippi; (c) that entry into and
performance under this agreement is not restricted or prohibited by any loan, security, financing, contractual, or other agreement of any kind, and (d) notwithstanding any other provisions of this agreement to the contrary, that there are no existing legal proceedings or prospective legal proceedings, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under this agreement.

G. **Failure to Enforce**
The failure by USM at any time to enforce the provisions of this agreement shall not be construed as a waiver of any such provision. Such failure to enforce shall not affect the validity of the contract or any part thereof or the right for USM to enforce the provisions at any time in accordance with the terms.

H. **Contractor-Independent Contractor**
Contractor shall at all times be regarded as and shall be legally considered an independent contractor and neither Contractor nor its employees shall, under any circumstances, be considered servants, agents or employees of USM, and USM shall at no time be legally responsible for any negligence or other wrongdoing by Contractor, its partners, principals, officers, agents, employees or representatives. USM shall not be responsible for any federal and state unemployment tax, federal or state income taxes, Social Security taxes, or any other amounts for the benefit of Contractor or any of its partners, principals, officers, agents, employees or representatives. USM shall not provide to Contractor, its partners, principals, officers, agents, employees or representatives any insurance coverage or other benefits, including, but not limited to, Worker’s Compensation, which are normally provided by USM to its employees. Contractor’s personnel shall not be deemed in any way, directly, indirectly, expressly or by implication, to be employees of USM. Nothing contained in this agreement or otherwise shall be deemed or construed as creating the relationship of principal and agent, partners, joint venturers, or any similar relationship between USM and the Contractor. At no time shall Contractor be authorized to do so and at no time shall Contractor act as an agent for or of USM.

I. **Indemnification and Insurance**
Contractor and its officers shall indemnify, defend, save and hold harmless, protect, and exonerate the State of Mississippi, the Board of Trustees of State Institutions of Higher Learning, USM, and each of their officers, agents, employees, and representatives, both in their official and in their individual capacities, from and against all claims, demands, liabilities, suits, actions, damages, losses and costs of every kind and nature whatsoever, including, without limitation, court costs, investigative fees and expenses and attorney’s fees, arising out of or caused by Contractor and its’ partners, principals, officers, agents, employees or representatives related to actions or inactions of Contractor, its partners, principals, officers, agents, employees and representatives. In USM’s sole discretion, Contractor may be allowed to control the defense of any such claim, suit, etc., but in such event, Contractor shall use legal counsel acceptable to USM. Contractor shall be solely
responsible for all costs and/or expenses associated with such defense and USM shall be entitled to participate in said defense. Contractor shall not settle any claim, suits, etc., without USM’s written concurrence, which concurrence USM shall not unreasonably withhold.

Contractor, at its expense, agrees to procure and maintain insurance during the term as follows:

Worker's Compensation and Employer's Liability: Standard limits as required by applicable Worker's Compensation Laws.

Comprehensive General Liability:
- General Aggregate - $3,000,000
- Personal & Adv Injury - $3,000,000
- Each Occurrence - $1,000,000
- Fire Damage (any one fire) - $1,000,000
- Medical Expense (any one person) - $5,000
- Automobile Bodily Injury and Property Damage Liability - $1,000,000
  Combined Single Limit

Errors and Omissions Liability: If required, Contractor shall maintain Errors and Omissions Liability Insurance in an amount of not less than $1,000,000 per claim covering claims or damages because of injury or damages arising out of any act, error, or omission of Contractor in the rendering of professional services.

The Contractor shall provide a Certificate of Coverage to the Board of Trustees of State Institutions of Higher Learning, Office of Insurance & Risk Management, 3825 Ridgewood Road, Suite 429, Jackson, MS, 39211 and USM, Steve Ballew, 118 College Dr., #5003, Hattiesburg, MS 39406 prior to the start of services. The Certificate of Coverage should, at a minimum, contain the name of the carrier, effective and expiration dates of coverage, a description of the covered perils, amount of coverage by peril, the name and mailing address of the insurance company, and the name and mailing address of the insurance agent. **The Certificate of Coverage must name the Board of Trustees of State Institutions of Higher Learning and USM as an additional insured.**

J. Attorney’s Fees and Expenses
Contractor agrees that in the event Contractor defaults in any obligations under this agreement that Contractor shall pay to USM all costs and expenses, including but not limited to, attorney’s fees incurred by USM in enforcing this agreement.

K. Patents and Copyrights
Contractor covenants to save, defend, keep harmless, and indemnify the State of Mississippi, the Board of Trustees of State Institutions of Higher Learning, USM, and each of their officers, agents, employees, and representatives, both
in their official and in their individual capacities, from and against all claims, losses, damages, injury, fines, penalties, and costs, including court costs and attorney’s fees, charges, and other liability and exposure however caused for or on account of any copyright or patent infringement that may result from activities related to this agreement and the actions/inactions hereunder by the parties. This indemnification is not separate from that set forth elsewhere in this agreement and is not a limitation thereon, but instead is in conjunction therewith and is recited to ensure that the full breadth of the indemnification provisions contained elsewhere in this agreement are understood by the parties.

L. Disputes
Contractor agrees that any and all disputes between the parties to this agreement must be submitted to the USM Vice President for Finance and Administration for consideration and a final decision. If Contractor is dissatisfied with that final decision, the dispute may, at the option of USM, be subjected to resolution by mediation prior to any action being taken by Contractor toward litigation.

M. Modifications to Agreement
This Agreement represents the entire understanding between the parties with respect to the subject matter hereof, and this Agreement supersedes all previous representations, understandings or agreements, oral or written, between the parties with respect to the subject matter and cannot be modified except by a written instrument signed by the parties. All attached schedules and exhibits are hereby incorporated by reference to this Agreement.

N. Ownership of Documents and Work Papers
USM shall own all documents, files, reports, work papers and working documents, electronic or otherwise, created by Contractor in connection with this agreement.

O. Severability
If any part of this agreement is declared to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision of the agreement, and to that end the provisions hereof are severable. In such event, the parties shall amend the agreement as necessary to reflect the original intent of the parties and to bring any invalid or unenforceable provisions in compliance with applicable law.

P. Termination for Convenience
USM may, when the interests of USM so require, terminate this agreement in whole or in part for convenience of USM. Written notice of the same is required to be provided by USM and shall allow no less than ten (10) days’ notice prior to the effective date of termination.

Q. Termination for Cause
Either party may terminate this agreement immediately upon issuance of written notice if the other party fails to perform the obligations to the other party under this agreement. The party issuing such a termination notice may allow 30 days within which the other party may attempt to cure the failure to fulfill its obligations, but such 30 day cure time is not required.
R. Inspection of Books and Records
USM shall have the right to inspect and audit the books and records of Contractor at reasonable times and places. Such books and records shall be retained and maintained by Contractor for a minimum of three years following the termination or the expiration of this agreement.

S. Applicable Law
This contract shall be governed by and construed in accordance with the laws of the State of Mississippi, excluding its conflicts of law provisions, and any litigation with respect thereto shall be brought in the courts of this state. Contractor shall comply with applicable federal, state, and local laws and regulations. If a court determines that any provision of this contract is not enforceable against USM, the Contractor agrees that the individual signing this agreement on behalf of USM is not personally responsible or liable for any of the obligations and duties contained herein.

T. Venue
Each of the parties hereto hereby irrevocably and unconditionally consent to submit to the exclusive jurisdiction of the state courts of Forrest County, Mississippi, with respect to any litigation arising out of, or related to, this agreement and the transactions contemplated hereby (and agrees not to commence any litigation relating thereto except in such courts). Each of the parties hereto irrevocably and unconditionally waives any objection to the laying of venue of any litigation arising out of this agreement of the transactions contemplated hereby, in the state courts of Forrest County, Mississippi, and hereby further irrevocably and unconditionally waives and agrees not to plead or claim in any such court that any such litigation brought in any such court has been brought in an inconvenient forum.

U. E-Verify
Contractor represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act, Section 71-11-1, et seq of the Mississippi Code Annotated, and will register and participate in the status verification system for all newly hired employees. The term “employee” as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, “status verification system” means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor agrees to maintain records of such compliance and, upon request of the State and approval of the Social Security Administration or Department of Homeland Security, where required, to provide a copy of each such verification to the State. Contractor further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Mississippi. Contractor understands and agrees that any breach of these warranties may subject Contractor to the following: (a) termination of this Agreement and ineligibility for any state or public contract in Mississippi for up to three (3) years, with notice of such
cancellation/termination being made public, or (b) the loss of any license, permit, certification or other document granted to Contractor by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year, or (c) both. In the event of such termination/cancellation, Contractor would also be liable for any additional costs incurred by the State due to contract cancellation or loss of License or Permit.

V. Force Majeure

Neither Party shall be deemed in default or otherwise liable hereunder due to its inability to perform by reason of any fire, earthquake, flood, epidemic, accident, explosion, casualty, strike, lockout, labor controversy, riot, civil disturbance, act of public enemy, embargo, war, act of God, or similar causes beyond the party's control. Any delay in performance shall be no greater than the event of force majeure causing the delay. If an event of force majeure continues uninterruptedly for a period exceeding six (6) calendar months, either party may elect to terminate this Agreement upon notice to the other, but such right of termination, if not exercised, shall expire immediately upon the discontinuance of the event of force majeure.

Exceptions to University of Southern Mississippi Standard Terms and Conditions

Any exceptions, additions, alterations or revisions to the University of Southern Mississippi Standard Terms and Conditions shall be listed herein and shall become a binding part of the contract upon approval and signature by both parties. If there are no exceptions, “NO EXCEPTIONS” should be typed after “A.” Failure to add “NO EXCEPTIONS” will render it not applicable and the entire University of Southern Mississippi Standard Terms and Conditions will be considered to be in force.

A.

B.

C.

D.

IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS AGREEMENT ON THE DATES SHOWN BELOW.

VENDOR NAME

UNIVERSITY OF SOUTHERN MISSISSIPPI

Vendor Rep Name / Date
Vendor Rep Title

USM Rep Name / Date
USM Rep Title
Independent Contractor Status Determination and Documentation Form

Section 1: Payment
A. Name of individual or organization: ____________________________________________________________
B. □ YES □ NO Limited Liability Company (LLC). MUST select the federal entity type (Individual, Partnership, S-Corporation, or Corporation)
C. Entity Type:
□ Individual and or Sole Proprietor □ Partnership □ S-Corporation □ Corporation □ Government □ Tax-exempt Organization
□ Private Foundation □ Disregarded Entity □ Simple Trust □ Grantor Trust □ Complex Trust □ Estate Central Bank of Issue □ International
D. Will payment be made to an Individual, Sole Proprietor, a Partnership, or a Disregarded Entity?
   ▶ If Yes – Go to section 2
   ▶ If No – STOP and complete a Personal Services Agreement accompanied with a W9 (or W-8BEN if foreign) and original invoice

Section 2: Individual Current Relationship with The University of Southern Mississippi
I. Name of Individual or Business Owner _________________________________________________________
II. Is this Individual / Business Owner related to a current USM employee? □ YES □ NO
   (a). If “Yes”, to whom? ____________________________ What relationship? _________________________________
III. Other □ YES □ NO
   A. Is this individual currently an employee with The University of Southern Mississippi?
   □ YES □ NO B. Has this individual been an employee of USM within the past 12 months?
   □ YES □ NO C. Does the department plan on hiring this individual as an employee within the next 12 months?
   □ YES □ NO D. Is this individual a state retiree or member of PERS?
   If the answer is “No” to all questions, proceed to question in Section 3, Exemptions from Completing.
   If the answer is “Yes” to A, B, or C above, the individual must be classified as an employee and paid through USM payroll. Complete a Personnel Action Form. If the answer is “Yes” to D above, Independent Contractor status must be approved by PERS.

Section 3: Classification Guidelines (Complete only ONE section, A, B, or C, depending on the services to be performed by the individual.)
A. Lecturer/Instructor □ YES □ NO
   1. Is the individual a “guest lecturer”, e.g., an individual who lectures at only one or two class sessions?
   □ YES □ NO 2. Is the individual the primary instructor in a department course being offered for academic credit toward a University degree?
   □ YES □ NO 3. Is the individual responsible for the content of the lecture/presentation versus presenting materials that have been prepared/dictated by USM?
B. Researcher
   NOTE - Researchers hired to perform services for a University department are initially presumed to be employees of the University.
   Please complete the following questions:
   □ YES □ NO 1. Will the individual perform research for a University faculty member or director under an arrangement whereby the University faculty member or director serves in a supervisory capacity (i.e., the individual will be working under the direction of the University faculty member or director)?
   □ YES □ NO 2. Will the individual serve in an advisory or consulting capacity with a University faculty member or director, in a “collaboration between equals” type arrangement?
C. Individuals Not Covered Under Section 3A or 3B.
   □ YES □ NO 1. Does the individual routinely provide the same or similar services outside USM to the general public as part of a continuing trade or business?
   □ YES □ NO 2. Will the University set the number of hours and/or days of the week that the individual is required to work, as opposed to allowing the individual to set own work schedule and/or pay the individual an hourly rate similar to what other employees are paid on campus for similar work?
   □ YES □ NO 3. Will the department provide the individual with specific instructions regarding performance of the required work rather than rely on the individual’s expertise and/or provide significant supplies and equipment for the worker?
   □ YES □ NO 4. Does the individual engage in entrepreneurial activities in an established business at risk for loss?
   □ YES □ NO 5. Does the individual have his/her own insurance for work-related injuries?

Why should this individual be treated as an Independent Contractor and not an employee?

_________________________________________________________________________________________________________________________________

Individual/Business owner: _________________________________________________________________, date:______________________, Print Name

Third Party Completion: ________________________________________________________________, date:______________________

For determination of Independent Contractor classification before department completes additional paperwork, please email cheri.waldrup@usm.edu.
The University of Southern Mississippi
Separate Contracts

* DENOTES REQUIRED FIELDS TO BE COMPLETED BY THE CONTRACTOR/CONSULTANT:

**Contractor/Consultant Name** *
(Must Match Name on W-9):

**Address**  
Street  City  State  Zip

**Contractor/Consultant's SSN/EIN** *
(Must Match SSN/EIN on W-9):

**Contractor/Consultant's Employer** *

**Current Member of PERS?** *
Yes  No

**Receiving Monthly PERS Benefit?** *
Yes  No

**Incorporated?** *
Yes  No

**Separate USM Contract?** *
Yes  No

**US Citizen or US Entity?** *
Yes  No

**Will the total contract payment(s) equal or exceed $5,000?** *
Yes  No

**Will the total contract payment(s) equal or exceed $10,000?** *
Yes  No

**Description of Contracting/Consulting Services:**

**Performance Period**  
Start Date:*  End Date:*  

**Location of performance:**

**Cost of Contracting/Consulting:**

(a) Fee/Hour/Per day:  
(b) Number of  
(c) Total Fee: (a) * (b) = (c)

(d) Travel Costs:  
(e) Other Costs:  

Total Costs:  
(c) + (d) + (e)

Services shall not exceed:

Approval and Acceptance of Agreement*

TO BE COMPLETED BY SIGNATORY AUTHORITIES AT THE UNIVERSITY OF SOUTHERN

**Department or Grant Name:**

**College/Unit Name:**

**USM Expenditure Authority:**  
Phone Number:

**Chartfield String to be Charged:**  
Fund  DeptID  Program  Project/Grant

If grant, has funding agency prior approval been obtained?  
Yes  No  Not Required

Approval and Acceptance of Agreement

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<th>Expenditure Authority/Grant Principal Investigator</th>
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**Tax Compliance Officer**

**Required for all agreements**

**Office of Research Administration**

**Next Level Approval (services over 5,000)**

**VP Approval (services over $10,000)**

**Office of Procurement Director (required if contract involved)**

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