



RFP No: 4378

INVITATION: Proposals, subject to the attached conditions, will be received at this office until **July 30, 2021 @ 3:00 p.m. Central Time** for the acquisition of the products/services described below for **Mississippi Public Service Commission**.

No Call System

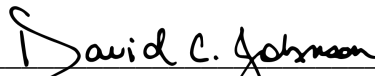
NOTE: THIS RFP CONTAINS MANDATORY REQUIREMENTS TO WHICH NO EXCEPTION MAY BE TAKEN. SEE SECTION VII, ITEM 2, FOR DETAILS.

The Vendor must submit proposals and direct inquiries to:

Bill Brinkley
Technology Consultant
Information Technology Services
3771 Eastwood Drive
Jackson, MS 39211
(601) 432-8241
Bill.Brinkley@its.ms.gov

To prevent opening by unauthorized individuals, the proposal must be sealed in an envelope/package. The following must be clearly typed on a label affixed to the package in a clearly visible location:

PROPOSAL, SUBMITTED IN RESPONSE TO
RFP NO. 4378
due July 30, 2021 @ 3:00 p.m.,
ATTENTION: Bill Brinkley



David C. Johnson
Executive Director, ITS

ITS RFP Response Checklist

RFP Response Checklist: These items should be included in your response to RFP No. 4378.

- _____ 1) One USB flash drive that includes the Vendor's complete proposal. Label the USB with the Vendor name and RFP number. Include the items listed below on the USB.
- _____ 2) *Submission Cover Sheet*, signed and dated. (Section I)
- _____ 3) *Proposal Bond*, if applicable (Section I)
- _____ 4) *Proposal Exception Summary*, if applicable (Section V)
- _____ 5) Vendor response to *RFP Questionnaire* (Section VI)
- _____ 6) Point-by-point response to *Technical Specifications* (Section VII)
- _____ 7) Vendor response to *Cost Information Submission* (Section VIII)
- _____ 8) *References* (Section IX)

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**SECTION I
SUBMISSION COVER SHEET & CONFIGURATION SUMMARY**

Provide the following information regarding the person responsible for the completion of your proposal. This person should also be the person the Mississippi Department of Information Technology Services, (ITS), should contact for questions and/or clarifications.

Name	_____	Phone #	_____
Address	_____	Fax #	_____
	_____	E-mail	_____

Subject to acceptance by ITS, the Vendor acknowledges that by submitting a proposal AND signing in the space indicated below, the Vendor is contractually obligated to comply with all items in this Request for Proposal (RFP), including the Standard Contract in Exhibit A if included herein, except those listed as exceptions on the Proposal Exception Summary Form. If no *Proposal Exception Summary Form* is included, the Vendor is indicating that he takes no exceptions. This acknowledgement also contractually obligates any and all subcontractors that may be proposed. Vendors who sign below may not later take exception to any point during contract negotiations. The Vendor further certifies that the company represented here is an authorized dealer in good standing of the products/services included in this proposal.

_____/_____
Original signature of Officer in Bind of Company/Date

Name (typed or printed) _____
Title _____
Company name _____
Physical address _____
State of Incorporation _____

CONFIGURATION SUMMARY

The Vendor must provide a summary of the main components of products/services offered in this proposal using 100 words or less.

PROPOSAL BONDS

A Proposal Bond is not required for this procurement.

SECTION II PROPOSAL SUBMISSION REQUIREMENTS

The objective of the Proposal Submission Requirements section is to provide Vendors with the information required to submit a response to this Request for Proposal (RFP). A Vendor who has responded to previous RFPs issued by **ITS** should not assume that the requirements are the same, as changes may have been made.

1. Failure to follow any instruction within this RFP may, at the State's sole discretion, result in the disqualification of the Vendor's proposal.
2. The State has no obligation to locate or acknowledge any information in the Vendor's proposal that is not presented under the appropriate outline according to these instructions and in the proper location.
3. The Vendor's proposal must be received, in writing, by the office of **ITS** by the date and time specified. **ITS** is not responsible for any delays in delivery or expenses for the development or delivery of proposals. Any proposal received after proposal opening time will be returned unopened. Any proposal received with insufficient postage will be returned unopened.
4. Proposals or alterations by fax, e-mail, or phone will not be accepted.
5. Original signatures in blue ink are required on the Submission Cover Sheet and Configuration Summary. The signed, original Submission Cover Sheet and Configuration Summary must be included in the sealed package/envelope. The Vendor must include the Proposal Bond within the proposal package, (if explicitly required in Section IV).
6. **ITS** reserves the right to reject any proposals, including those with exceptions, prior to and at any time during negotiations.
7. **ITS** reserves the right to waive any defect or irregularity in any proposal procedure.
8. The Vendor may intersperse their response following each RFP specification but must not otherwise alter or rekey any of the original text of this RFP. If the State determines that the Vendor has altered any language in the original RFP, the State may, in its sole discretion, disqualify the Vendor from further consideration. The RFP issued by **ITS** is the official version and will supersede any conflicting RFP language submitted by the Vendor.
9. The Vendor must conform to the following standards in the preparation of the Vendor's proposal:
 - 9.1 The Vendor is required to submit one response of the complete proposal, including all sections and exhibits, on a USB flash drive. Vendor's documents must be submitted in Microsoft Office 2010 or higher format and/or PDF format, as appropriate. If PDF format is submitted, the file must be searchable.
 - 9.2 To prevent opening by unauthorized individuals, the proposal must be sealed in a package/envelope. A label containing the information on the RFP cover page must be clearly typed and affixed to the package in a clearly visible location.

- 9.3 Number each page of the proposal.
 - 9.4 Respond to the sections and exhibits in the same order as this RFP.
 - 9.5 Label the file names of each section and exhibit, using the corresponding headings from the RFP.
 - 9.6 If the Vendor does not agree with any item in any section, then the Vendor must list the item on the *Proposal Exception Summary Form*. (See Section V for additional instructions regarding Vendor exceptions.)
 - 9.7 Occasionally, an outline point in an attachment requests information which is not applicable to the products/services proposed. If the Vendor is certain the point does not apply to the given RFP, the Vendor should respond with "NOT APPLICABLE."
 - 9.8 Where an outline point asks a question or requests information, the Vendor must respond with the specific answer or information requested.
 - 9.9 When an outline point/attachment is a statement provided for the Vendor's information only, the Vendor need only read that point. The Vendor acknowledges having read and accepting, or taking exception to, all sections by signing the *Submission Cover Sheet* and providing a *Proposal Exception Summary Form*.
 - 9.10 Where a minimum requirement has been identified, respond by stating the item (e.g., device name/model number, guaranteed response time) proposed and how it will meet the specifications.
 - 9.11 The Vendor must fully respond to each requirement within the *Technical Specifications* by fully describing the manner and degree by which the proposal meets or exceeds said requirements.
 - 9.12 If a Vendor includes confidential, proprietary, or trade secret information, they must also submit a complete redacted version of the proposal. This redacted version may be submitted as a separate USB flash drive and must be included as a searchable PDF. Vendors shall only redact (black out) language that is exempt from disclosure pursuant to the Mississippi Public Records Act of 1983. (See Section IV Item 35 for additional information regarding *Disclosure of Proposal Information*)
10. It is the responsibility of the Vendor to clearly identify all costs associated with any item or series of items in this RFP. The Vendor must include and complete all parts of the cost proposal in a clear and accurate manner. **Omissions, errors, misrepresentations, or inadequate details in the Vendor's cost proposal may be grounds for rejection of the Vendor's proposal. Costs that are not clearly identified will be borne by the Vendor.** The Vendor must complete the *Cost Information Submission* in this RFP, which outlines the minimum requirements for providing cost information. The Vendor should supply supporting details as described in the *Cost Information Submission*.

11. **ITS** reserves the right to request additional information or clarification of a Vendor's proposal. The Vendor's cooperation during the evaluation process in providing **ITS** staff with adequate responses to requests for clarification will be considered a factor in the evaluation of the Vendor's overall responsiveness. Lack of such cooperation or failure to provide the information in the manner required may, at the State's discretion, result in the disqualification of the Vendor's proposal.
12. Unsolicited clarifications and updates submitted after the deadline for proposals will be accepted or rejected at the sole discretion of **ITS**.
13. Unsolicited clarifications in the evaluation and selection of lowest and best proposal will be considered only if all the following conditions are met:
 - 13.1 A clarification to a proposal that includes a newly announced product line or service with equal or additional capability to be provided at or less than the proposed price will be considered.
 - 13.2 Information provided must be in effect nationally and have been formally and publicly announced through a news medium that the Vendor normally uses to convey customer information.
 - 13.3 Clarifications must be received early enough in the evaluation process to allow adequate time for re-evaluation.
 - 13.4 The Vendor must follow procedures outlined herein for submitting updates and clarifications.
 - 13.5 The Vendor must submit a statement outlining the circumstances for the clarification.
 - 13.6 The Vendor must submit unsolicited clarifications via USB in the same manner as detailed in Item 9 above.
 - 13.7 The Vendor must be specific about which part of the original proposal is being changed by the clarification (i.e., must include exact RFP reference to section and outline point).
14. **Communications with State**

From the issue date of this RFP until a Vendor is selected and the selection is announced, responding Vendors or their representatives may not communicate, either orally or in writing regarding this RFP with any statewide elected official, state officer or employee, member of the legislature or legislative employee except as noted herein. To ensure equal treatment for each responding Vendor, all questions regarding this RFP must be submitted in writing to the State's contact person for the selection process, and not later than the last date for accepting responding Vendor questions provided in this RFP. All such questions will be answered officially by the State in writing. All such questions and answers will become addenda to this RFP, and they will be posted to the ITS web site. Vendors failing to comply with this requirement will be subject to disqualification.

- 14.1 The State's contact person for the selection process is: Bill Brinkley, Technology Consultant, 3771 Eastwood Drive, Jackson, MS 39211, 601-432-8241, Bill.Brinkley@its.ms.gov.
- 14.2 Vendor may consult with State representatives as designated by the State's contact person identified in 14.1 above in response to State-initiated inquiries. Vendor may consult with State representatives during scheduled oral presentations and demonstrations excluding site visits.

SECTION III VENDOR INFORMATION

The objective of the Vendor Information section of this RFP is to provide Vendors with information required to respond to the RFP successfully.

1. **Interchangeable Designations**

The terms "Vendor" and "Contractor" are referenced throughout this RFP. Generally, references to the "Vendor" are used in conjunction with the proposing organization and procurement process leading up to the final RFP selection and award. The term "Contractor" denotes the role assumed, post-award, by the winning Vendor. Additionally, the terms "State of Mississippi," "State" or "ITS" may be used interchangeably throughout this RFP to denote the political entity issuing the RFP and requesting responses from Vendors throughout these specifications. References to a specific agency, institution or other political entity represent the client or customer on whose behalf ITS is issuing the RFP.

2. **Vendor's Responsibility to Examine RFP**

Vendors must examine all documents, forms, specifications, standard provisions, and instructions.

3. **Proposal as Property of State**

All written proposal material becomes the property of the State of Mississippi.

4. **Written Amendment to RFP**

Any interpretation of an **ITS** RFP will be made by written amendment only. The State will not be responsible for any other explanation of this RFP. A copy of any amendment will be posted on the **ITS** website, together with the associated RFP specification. Vendors are required to check the **ITS** website periodically for RFP amendments before the proposal opening date at:

http://www.its.ms.gov/Procurement/Pages/RFPS_Awaiting.aspx

Any and all amendments will be posted no later than noon, seven days prior to the proposal opening date listed on the cover page of this RFP. If you are unable to access the **ITS** website, you may contact the **ITS** technology consultant listed on page one of this RFP and request a copy.

5. **Oral Communications Not Binding**

Only transactions which are in writing from **ITS** may be considered official. No negotiations, decisions, or actions shall be executed by any Vendor as a result of any discussions with any State employee.

6. **Vendor's Responsibility for Delivery**

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 RFP. The State 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.

7. **Evaluation Criteria**

The State's intent in issuing this RFP is to award a contract to the lowest and best responsive Vendor who meets specifications, considering price and other factors. The Vendor's past performance, cooperation, and ability to provide service and training are general factors that will be weighed in the selection process. More specific information concerning evaluation criteria is presented in *Technical Specifications*.

8. **Multiple Awards**

ITS reserves the right to make multiple awards.

9. **Right to Award in Whole or Part**

ITS reserves the right to approve an award by individual items or in total, whichever is deemed to be in the best interest of the State of Mississippi.

10. **Right to Use Proposals in Future Projects**

The State reserves the right to evaluate the awarded proposal from this RFP, including all products and services proposed therein, along with the resulting contractual terms, for possible use in future projects if (a) it is deemed to be in the best interest of the State to do so; and (b) the Vendor is willing to extend a cost less than or equal to that specified in the awarded proposal and resulting contract. A decision concerning the utilization of a Vendor's proposal for future projects is solely at the discretion of the State and requires the agreement of the proposing Vendor. The State's decision to reuse an awarded proposal will be based upon such criteria as: (1) the customer's business requirements; (2) elapsed time since the award of the original project; and/or (3) research on changes in the Vendor, market, and technical environments since the initial award.

11. **Right to Use Proposals in Future Projects by Entities Outside Mississippi**

The State reserves the right to offer the awarded proposal from this RFP, including all products and services proposed therein, along with the resulting contractual terms, for possible use in future projects by governmental entities outside Mississippi (i.e., "piggyback option"), if (a) it is deemed to be in the best interest of the governmental entity desiring to do so; and (b) the Vendor is willing to extend a cost less than or equal to that specified in the awarded proposal and resulting contract. A decision concerning the utilization of a Vendor's proposal for future projects outside Mississippi is solely at the discretion of the State, and requires the desire of the governmental entity outside Mississippi and the agreement of the proposing Vendor. The State's decision to consent to the reuse of an awarded proposal outside Mississippi will be based upon such criteria as: (1) the governmental entity's business requirements; (2) elapsed time since the award of the original project; and/or (3) research on changes in the Vendor, market, and technical environments since the initial award.

12. **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 contract. However, the State will always take advantage of price decreases.

13. **Right to Request Information**

The State 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 State 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 proposal. The State reserves the right to request information about the Vendor from any previous customer of the Vendor of whom the State is aware, even if that customer is not included in the Vendor's list of references.

14. Vendor Personnel

For RFPs including professional services specifications, the Vendor will be required to provide and/or certify the following for each individual included in the Vendor's proposal:

- 14.1 A direct telephone number at which the individual may be contacted for a telephone interview. The State will pay toll charges in the continental United States. The Vendor must arrange a toll-free number for all other calls.
- 14.2 That, if onsite interviews are required, the individual can be at the specified location in Mississippi within the timeframe specified. All costs associated with onsite interviews will be the responsibility of the Vendor.
- 14.3 That the individual is proficient in spoken and written English;
- 14.4 That the individual is a U.S. citizen or that the individual meets and will maintain employment eligibility requirements in compliance with all United States Citizenship and Immigration Services (USCIS) regulations. The Vendor must provide evidence of identification and employment eligibility prior to the award of a contract that includes any personnel who are not U. S. citizens.
- 14.5 That the personnel assigned to a project will remain a part of the project throughout the duration of the contract as long as the personnel are employed by the Vendor, unless replaced by the Vendor at the request of the State. This requirement includes the responsibility for ensuring all non-citizens maintain current USCIS eligibility throughout the duration of the contract.

15. Vendor Imposed Constraints

The Vendor must specifically document what limitations, if any, exist in working with any other Contractor acting in the capacity of the State's business partner, subcontractor or agent who may be managing any present or future projects; performing quality assurance; integrating the Vendor's software; and/or providing web-hosting, hardware, networking or other processing services on the State's behalf. The project relationship may be based on roles as either equal peers; supervisory – subordinate; or subordinate – supervisory, as determined by the State. The State recognizes that the Vendor may have trade secrets, intellectual property and/or business relationships that may be subject to its corporate policies or agreements. The State must understand these issues in order to decide to what degree they may impact the State's ability to conduct business for this project. These considerations will be incorporated accordingly into the proposal evaluation and selection process. The understanding reached between the Vendor and the State with regard to this business relationship precludes the Vendor from imposing any subsequent limitations of this type in future project undertakings by the State.

16. **Best and Final Offer**

The State reserves the right to solicit Best and Final Offers (BAFOs) from Vendors, principally in situations in which proposal costs eclipse available funding or the State believes none of the competing proposals presents a Best Value (lowest and best proposal) opportunity. Because of the time and expense incurred by both the Vendor community and the State, 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 State. 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 State that encompasses the specific, refined needs of a project, as part of the BAFO solicitation. The State 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 subject to solicitation by the State and receipt from the Vendors under a precise schedule.

17. **Restriction on Advertising**

The Vendor must receive written approval from the State before advertising or referencing the award of the contract or the services being provided. The Vendor must agree not to refer to awards in commercial advertising in such a manner as to state or imply that the firm or its services are endorsed or preferred by the State of Mississippi.

18. **Rights Reserved to Use Existing Product Contracts**

The State reserves the right on turnkey projects to secure certain products from other existing **ITS** contracts if it is in its best interest to do so. If this option is exercised, then the awarded Vendor must be willing to integrate the acquisition and implementation of such products within the schedule and system under contract.

19. **Additional Information to be Included**

In addition to answering each specification within this RFP, the Vendor must include complete product/service information, including product pictorials and technical/descriptive literature relative to any product/service offered with the proposal. Information submitted must be sufficiently detailed to substantiate that the products/services offered meet or exceed specifications.

20. **Valid Contract Required to Begin Work**

The successful Vendor should not commence any billable work until a valid contract has been executed. Any work done by the successful Vendor prior to the execution of the contract is done at the Vendor's sole risk. The State is under no obligation to pay for work done prior to the execution of a contract.

SECTION IV LEGAL AND CONTRACTUAL INFORMATION

The objective of the *Legal and Contractual Information* section is to provide Vendors with information required to complete a contract or agreement with **ITS** successfully.

1. **Acknowledgment Precludes Later Exception**

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

2. **Failure to Respond as Prescribed**

Failure to respond as described in Section II: *Proposal Submission Requirements* to any item in the sections and exhibits of this RFP, including the *Standard Contract* attached as Exhibit A, if applicable, shall contractually obligate the Vendor to comply with that item.

3. **Contract Documents**

ITS will be responsible for all document creation and editorial control over all contractual documentation related to each procurement project. The following documents will normally be included in all contracts between **ITS** and the Vendor:

3.1 The Proposal Exception Summary Form as accepted by **ITS**;

3.2 Contracts which have been signed by the Vendor and **ITS**;

3.3 **ITS'** Request for Proposal, including all addenda;

3.4 Official written correspondence from **ITS** to the Vendor;

3.5 Official written correspondence from the Vendor to **ITS** when clarifying the Vendor's proposal; and

3.6 The Vendor's proposal response to the **ITS** RFP.

4. **Order of Precedence**

When a conflict arises regarding contract intent due to conflicting statements in documents included in the contract, the order of precedence of each document is as listed above unless modification of order is negotiated and agreed upon by both **ITS** and the winning Vendor.

5. **Additional Contract Provisions**

The contract will also include such additional provisions, which are not inconsistent or incompatible with the material terms of this RFP, as may be agreed upon by the parties. All of the foregoing shall be in such form and substance as prescribed by the State.

6. Contracting Agent by Law

The Executive Director of **ITS** is, by law, the purchasing and contracting agent for the State of Mississippi in the negotiation and execution of all contracts for the acquisition of computer and telecommunications equipment, systems, software, and services (Section 25-53-1, et seq., of the Mississippi Code Annotated). **ITS** is issuing this RFP on behalf of the procuring agency or institution. **ITS** and the procuring agency or institution are sometimes collectively referred to within this RFP as "State".

7. Legal Provisions

- 7.1 The State of Mississippi is self-insured; all requirements for the purchase of casualty or liability insurance are deleted.
- 7.2 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.
- 7.3 The Vendor shall have no limitation on liability for claims related to the following items:
 - 7.3.1 Infringement issues;
 - 7.3.2 Bodily injury;
 - 7.3.3 Death;
 - 7.3.4 Physical damage to tangible personal and/or real property; and/or
 - 7.3.5 The intentional and willful misconduct or negligent acts of the Vendor and/or Vendor's employees or subcontractors.
- 7.4 All requirements that the State pay interest (other than in connection with lease-purchase contracts not exceeding five years) are deleted.
- 7.5 Any contract negotiated under this RFP will be governed by and construed according to the laws of the State of Mississippi. Venue for the resolution of any dispute shall be Jackson, Hinds County, Mississippi.
- 7.6 Any contract negotiated under this RFP is cancelable in the event the funding authority does not appropriate funds. Notice requirements to Vendor cannot exceed sixty (60) days.
- 7.7 The State of Mississippi does not waive its sovereign immunities or defenses as provided by law by entering into this contract with the Vendor, Vendor agents, subcontractors, or assignees.
- 7.8 The State will deliver payments to the Vendor within forty-five (45) days after receipt of invoice and receipt, inspection, and approval of Vendor's products/services. No late charges will exceed 1.5% per month on any unpaid

balance from the expiration of said period until payment is delivered. See Section 31-7-305 of the Mississippi Code Annotated. Seller understands and agrees that Purchaser is exempt from the payment of taxes.

7.9 The State shall not pay any attorney's fees, prejudgment interest or the cost of legal action to or for the Vendor.

8. **Approved Contract**

8.1 Award of Contract - A contract is considered to be awarded to a proposer once the proposer's offering has been approved as lowest and best proposal through:

8.1.1 Written notification made to proposers on **ITS** letterhead, or

8.1.2 Notification posted to the **ITS** website for the project, or

8.1.3 CP-1 authorization executed for the project, or

8.1.4 The **ITS** Board's approval of same during an open session of the Board.

8.2 **ITS** statute specifies whether **ITS** Director approval or **ITS** Board approval is applicable for a given project, depending on the total lifecycle cost of the contract.

8.3 A contract is not deemed final until five (5) working days after either the award of contract or post procurement review, as stipulated in the **ITS** Protest Procedure and Policy. In the event of a valid protest, the State may, at its sole discretion, continue the procurement or stay the procurement in accordance with the **ITS** Protest Procedure and Policy. If the procurement is stayed, the contract is not deemed final until the protest is resolved.

9. **Contract Validity**

All contracts are valid only if signed by the Executive Director of **ITS**.

10. **Order of Contract Execution**

Vendors will be required to sign contracts and to initial all contract changes before the Executive Director of **ITS** signs.

11. **Availability of Funds**

All contracts are subject to availability of funds of the acquiring State entity and are contingent upon receipt by the winning Vendor of a purchase order from the acquiring State entity.

12. **CP-1 Requirement**

All purchase orders issued for goods and services acquired from the awarded Vendor under this RFP must be encoded by the Customer agency with a CP-1 approval number assigned by **ITS**. This requirement does not apply to acquisitions that by policy have been delegated to State entities.

13. Requirement for Electronic Payment and Invoicing

- 13.1 Payments to the awarded Vendor for all goods and services acquired under this RFP by state agencies that make payments through the Mississippi State Government's Enterprise Resource Planning (ERP) solution ("MAGIC") will be made electronically, via deposit to the bank account of the Vendor's choice. The awarded Vendor must enroll and be activated in PayMode™, the State's current vehicle for sending and receiving electronic payments, prior to receiving any payments from state agencies. There is no charge for a Vendor to enroll or receive payments via PayMode. For additional information on PayMode, including registration instructions, Vendors should visit the following website: <http://portal.paymode.com/ms/>. Vendors may also request assistance from the Mississippi Management and Reporting System (MMRS) Call Center regarding PayMode registration by contacting mash@dfa.ms.gov.
- 13.2 For state agencies that make payments through MAGIC, the awarded Vendor is required to submit electronically all invoices for goods and services acquired under this RFP, along with appropriate supporting documentation, as directed by the State.
- 13.3 Items 13.1 and 13.2 only apply to state agencies that make payments through MAGIC. Payments and invoices for all other entities will conform to their standard methods of payment to contractors.

14. Time For Negotiations

- 14.1 All contractual issues must be successfully negotiated within fifteen (15) working days from the Vendor's initial receipt of the project contract from **ITS**, unless **ITS** consents to extend the period. Failure to complete negotiations within the stated time period constitutes grounds for rejection of the Vendor's response to this RFP. **ITS** may withdraw the proposal award and begin negotiations with the next ranked Vendor immediately or pursue any other option.
- 14.2 Negotiations shall be limited to items to which the Vendor has noted as exceptions on their Proposal Exception Summary Form, as well as any new items that the State may require. All contract changes requested by the Vendor related to such exceptions noted in Vendor's proposal shall be submitted three (3) working days prior to scheduled negotiations, unless **ITS** consents to a different period.

15. Prime Contractor

The selected Vendor will be designated the prime contractor in the proposal, and as such, shall be solely responsible for all products/services offered in the proposal and for the fulfillment of the contract with the State.

16. Sole Point of Contact

ITS 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.

- 16.1 The Vendor must acknowledge and agree that in matters of proposals, 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 the State is only required to negotiate with the Vendor.

- 16.2 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 the State from any contractor, third party or subcontractor without the State having to negotiate separately or individually with any such parties for these terms or conditions.
- 16.3 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 proposal, 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 the State, the Vendor, and the third party. Such assignments will be accepted or rejected at the sole discretion of the State. Vendor must clearly and definitively state in his/her proposal whether the proposal is contingent upon the requested assignment of payments. Whenever any assignment of payment is requested, the proposal, 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 proposal and subsequently accepted by the State.
17. **ITS Approval of Subcontractor Required**
Unless provided in the contract, the Vendor shall not contract with any other party for furnishing any of the contracted work or services without the consent, guidance, and written approval of the State. **ITS** reserves the right of refusal and the right to request replacement of a subcontractor due to unacceptable work or conduct. This provision should not be interpreted as requiring the approval of individual contracts of employment between the Vendor and personnel assigned for services under the contract.
18. **Inclusion of Subcontract Agreements**
Copies of any agreements to be executed between the Vendor and any subcontractors must be included in the Vendor's proposal.
19. **Negotiations with Subcontractor**
In order to protect the State's interest, **ITS** reserves the right to attempt to resolve the contractual disagreements that may arise between the Vendor and its subcontractor after award of the contract.
20. **References to Vendor to Include Subcontractor**
All references in the RFP to "Vendor" shall be construed to encompass both the Vendor and its subcontractors.

21. **Outstanding Vendor Obligations**

- 21.1 Any Vendor who presently owes the State of Mississippi money pursuant to any contract for which **ITS** is the contracting agent and who has received written notification from **ITS** regarding the monies owed, must submit, with the proposal, a certified check in the amount due and owing in order for the proposal in response to this RFP to be considered. For a Vendor currently in bankruptcy as of the RFP submission date, this requirement is met, if and only if, **ITS** has an active petition before the appropriate bankruptcy court for recovery of the full dollar amount presently owed to the State of Mississippi by that Vendor. If the Vendor has emerged from bankruptcy by the RFP submission date, the Vendor must pay in full any amount due and owing to the State, as directed in the court-approved reorganization plan, prior to any proposal being considered.
- 21.2 Any Vendor who is presently in default on existing contracts for which **ITS** is the contracting agent, or who otherwise is delinquent in the performance of any such contracted obligations, is in the sole judgment of the State required to make arrangement for fulfilling outstanding obligations to the satisfaction of the State in order for the proposal to be considered.
- 21.3 The State, at its sole discretion, may reject the proposal of a Vendor with any significant outstanding financial or other obligations to the State or who is in bankruptcy at the time of proposal submission.

22. **Equipment Condition**

For all RFPs requiring equipment, the Vendor must furnish only new equipment in response to **ITS** specifications, unless an explicit requirement for used equipment is otherwise specified.

23. **Delivery Intervals**

The Vendor's proposal must specify, in the *Cost Information Submission* and in response to any specific instructions in the *Technical Specifications*, delivery and installation intervals after receipt of order.

24. **Pricing Guarantee**

The Vendor must explicitly state, in the *Cost Information Submission* and in response to any specific instructions in the *Technical Specifications*, how long the proposal will remain valid. Unless stated to the contrary in the *Technical Specifications*, pricing must be guaranteed for a minimum of ninety (90) days.

25. **Shipping Charges**

For all RFPs requiring shipment of any product or component, all products must be delivered FOB destination to any location within the geographic boundaries of the State with all transportation charges prepaid and included in the RFP proposal or LOC quotation. Destination is the point of use.

26. **Amortization Schedule**

For all RFPs requiring equipment, contracts involving the payment of interest must include an amortization schedule clearly documenting the amount of interest payable over the term of the contract.

27. **Americans with Disabilities Act Compliance for Web Development and Portal Related Services**

All Web and Portal development work must be designed and implemented in compliance with the Electronic and Information Technology Accessibility Standards associated with Section 508 of the Rehabilitation Act and with the Web Accessibility Initiative (WAI) of the W3C.

28. **Ownership of Developed Software**

28.1 When specifications require the Vendor to develop software for the State, the Vendor must acknowledge and agree that the State is the sole owner of such developed software with exclusive rights to use, alter, or distribute the software without restriction. This requirement applies to source code, object code, and documentation.

28.2 The State may be willing to grant the Vendor a nonexclusive license to use the State's software subject to devising acceptable terms and license fees. This requirement is a matter of State Law, and not negotiable.

29. **Ownership of Custom Tailored Software**

In installations where the Vendor's intellectual property is modified and custom-tailored to meet the needs of the State, the Vendor must offer the State an application license entitling the State to use, and/or alter the software without restriction. These requirements apply to source code, object code and documentation.

30. **Terms of Software License**

The Vendor acknowledges and agrees that the term of all software licenses provided to the State shall be perpetual unless stated otherwise in the Vendor's proposal.

31. **The State is Licensee of Record**

The Vendor must not bypass the software contracting phase of a project by licensing project software intended for State use in its company name. Upon award of a project, the Vendor must ensure that the State is properly licensed for all software that is proposed for use in a project.

32. **Compliance with Enterprise Security Policy**

Any solution or service proposed in response to this RFP must be in compliance with the State of Mississippi's Enterprise Security Policy. The Enterprise Security Policy is based on industry-standard best practices, policy, and guidelines and is established to safeguard the State's information technology (IT) assets from unauthorized use, access, disclosure, modification, or destruction. Given that information security is an evolving technology practice, the State reserves the right to introduce new policy during the term of the contract resulting from this RFP and require the Vendor to ensure the solution or service complies with same in the event the industry introduces more secure, robust solutions or practices that facilitate a more secure posture for the State of Mississippi. Vendors wanting to view the Enterprise Security Policy should contact the Technology Consultant listed on the cover page of this RFP.

33. **Compliance with Enterprise Cloud and Offsite Hosting Security Policy**

Any cloud or vendor-hosted solution proposed in response to this RFP must be in compliance with the State of Mississippi's Enterprise Cloud and Offsite Hosting Security Policy. The Enterprise Cloud and Offsite Hosting Security Policy is based on industry-standard best practices, policy, and guidelines and augments the Enterprise Security Policy. Given that information security is an evolving technology practice, the State reserves the right to introduce new policy during the term of the contract resulting from this RFP and require the Vendor to ensure the cloud or vendor-hosted solution complies with same in the event the industry introduces more secure, robust solutions or practices that facilitate a more secure posture for the State of Mississippi. Vendors wanting to view the Enterprise Cloud and Offsite Hosting Security Policy should contact the Technology Consultant listed on the cover page of this RFP.

34. **Negotiating with Next Ranked Vendor**

Should the State cease doing business with any Vendor selected via this RFP process, for any reason, the State reserves the right to initiate negotiations with the next ranked Vendor.

35. **Disclosure of Proposal Information**

Vendors should be aware that any information in a proposal may be subject to disclosure or reproduction under the Mississippi Public Records Act of 1983, defined in Section 25-61-1 et seq. of the Mississippi Code Annotated. All disclosures of proposal information will be made in compliance with the **ITS** Public Records Procedures established in accordance with the Mississippi Public Records Act. The **ITS** Public Records Procedures are available in Section 019-010 of the **ITS** Procurement Handbook, on the **ITS** Internet site at:

<http://www.its.ms.gov/Procurement/Documents/ISS%20Procurement%20Manual.pdf#page=155> or from **ITS** upon request.

As outlined in the Third Party Information section of the **ITS** Public Records Procedures, **ITS** will give written notice to any affected Vendor of a request to view or reproduce the Vendor's proposal or portion thereof. The redacted version, as submitted, will be available for inspection and released in response to public records requests. If a redacted version of the Vendor's proposal is not submitted, the original submission of the proposal will be provided in response to a public records request. **ITS** will not, however, give such notice with respect to summary information prepared in connection with the State's review or evaluation of a Vendor's proposal, including, but not limited to, written presentations to the **ITS** Board or other approving bodies, and/or similar written documentation prepared for the project file. In addition, **ITS** will not provide third-party notice for requests for any contract executed as a result of this RFP.

Summary information and contract terms, as defined above, become the property of **ITS**, who has the right to reproduce or distribute this information without notification.

Vendors should further be aware that requests for disclosure of proposal information are sometimes received by **ITS** significantly after the proposal opening date. **ITS** will notify the signatory "Officer in Bind of Company" provided in Section I of this RFP for Notification of Public Records Requests in the event information is requested. If the "Officer in Bind

of Company” should not be used for notification of public records requests, Vendor should provide the alternative contact information in response to this RFP item.

36. **Risk Factors to be Assessed**

The State will assess risk factors that may initially exist within a given procurement and that may develop over the course of a procurement process as facts become known. The State, at its sole discretion, may employ the following mechanisms in mitigating these risks: proposal bonding, performance bonding, progress payment plan with retainage, inclusion of liquidated damages, and withholding payment for all portions of the products/services acquired until final acceptance. The Vendor must agree to incorporate any or all of the above terms and conditions into the customer agreement.

37. **Proposal Bond**

The Vendor is not required to include a proposal bond with this RFP proposal.

38. **Performance Bond/Irrevocable Bank Letter of Credit**

The Vendor is not required to include the price of a performance bond or irrevocable bank letter of credit with its RFP proposal.

39. **Responsibility for Behavior of Vendor Employees/Subcontractors**

The Vendor will be responsible for the behavior of all its employees and subcontractors while on the premises of any State agency or institution. Any Vendor employee or subcontractor acting in a manner determined by the administration of any State agency or institution to be detrimental, abusive, or offensive to any of the staff or student body of any State agency or institution will be asked to leave the premises and can be suspended from further work on the premises.

40. **Protests**

The Executive Director of **ITS** and/or the Board Members of **ITS** or their designees shall have the authority to resolve Vendor protests in connection with the selection for award of a contract. Copies of the protest procedures are available on the **ITS** Internet site - **ITS** Protest Procedure and Policy, Section 019-020, **ITS** Procurement Handbook at:

<http://www.its.ms.gov/Procurement/Documents/ISS%20Procurement%20Manual.pdf#page=173> or from **ITS** upon request.

41. **Protest Bond**

Potential Vendors may protest any of the specifications of this RFP on the belief that the specification is unlawful, unduly restrictive, or unjustifiably restraining to competition. Any such protest must be in writing and submitted to the **ITS** Executive Director along with the appropriate protest bond within five (5) working days of the Official Release of the RFP, as defined in the **ITS** Protest Procedure and Policy. The outside of the envelope must be marked “Protest” and must specify RFP Number 4378.

As a condition precedent to filing any protest related to this procurement, the Vendor must procure, submit to the **ITS** Executive Director with its written protest, and maintain in effect at all times during the course of the protest or appeal thereof, a protest bond in the full amount of the total estimated project lifecycle cost or \$250,000.00, whichever is less. The total estimated project lifecycle cost will be the amount used by **ITS** in the computation of cost points, as the low cost in the denominator of the cost evaluation formula. The bond

shall be accompanied by a duly authenticated or certified document evidencing that the person executing the bond is a licensed Mississippi agent for the bonding company. This certified document shall identify the name and address of the person or entity holding the protest bond and shall identify a contact person to be notified in the event that the State is required to take action against the bond. The protest bond shall not be released to the protesting Vendor until the protest is finally resolved and the time for appealing said protest has expired. The protest bond shall be procured at the protesting Vendor's expense and be payable to the Mississippi Department of Information Technology Services. Prior to approval of the protest bond, **ITS** reserves the right to review the protest bond and require the protesting Vendor to substitute an acceptable bond in such form as the State may reasonably require. The premiums on such bond shall be paid by the protesting Vendor. The State may claim against the protest bond as specified in Section 25-53-5 (n) of the Mississippi Code of 1972, as amended during the 1998 Mississippi legislative session, in addition to all other rights and remedies the State may have at law or in equity.

Should the written protest submitted by the Vendor fail to comply with the content requirements of **ITS'** protest procedure and policy, fail to be submitted within the prescribed time limits, or fail to have the appropriate protest bond accompany it, the protest will be summarily dismissed by the **ITS** Executive Director.

42. **Mississippi Employment Protection Act**

Effective July 1, 2008, Vendor acknowledges that if awarded, it will ensure its compliance with the Mississippi Employment Protection Act, Section 71-11-1, et seq. of the Mississippi Code Annotated (Supp2008), 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. Vendor will agree 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.

Vendor acknowledges and certifies that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Mississippi.

Vendor acknowledges that violating the E-Verify Program (or successor thereto) requirements subjects Vendor to the following: (a) cancellation of any state or public contract and ineligibility for any state or public contract for up to three (3) years, with notice of such cancellation being made public, or (b) the loss of any license, permit, certification or other document granted to Vendor by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year, or (c) both. Vendor would also be liable for any additional costs incurred by the State due to contract cancellation or loss of license or permit.

SECTION V PROPOSAL EXCEPTIONS

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

1. Unless specifically disallowed on any specification herein, the Vendor may take exception to any point within this RFP, including a specification denoted with "shall" or "must," as long as the following are true:
 - 1.1 The specification is not a matter of State law;
 - 1.2 The proposal still meets the intent of the RFP;
 - 1.3 A *Proposal Exception Summary Form* is included with Vendor's proposal; and
 - 1.4 The exception is clearly explained, along with any alternative or substitution the Vendor proposes to address the intent of the specification, on the *Proposal Exception Summary Form*.
2. The Vendor has no liability to provide items to which an exception has been taken. **ITS** has no obligation to accept any exception. During the proposal evaluation and/or contract negotiation process, the Vendor and **ITS** will discuss each exception and take one of the following actions:
 - 2.1 The Vendor will withdraw the exception and meet the specification in the manner prescribed;
 - 2.2 **ITS** will determine that the exception neither poses significant risk to the project nor undermines the intent of the RFP and will accept the exception;
 - 2.3 **ITS** and the Vendor will agree on compromise language dealing with the exception and will insert same into the contract; or
 - 2.4 None of the above actions is possible, and **ITS** either disqualifies the Vendor's proposal or withdraws the award and proceeds to the next ranked Vendor.
3. Should **ITS** and the Vendor reach a successful agreement, **ITS** will sign adjacent to each exception which is being accepted or submit a formal written response to the *Proposal Exception Summary* responding to each of the Vendor's exceptions. The *Proposal Exception Summary*, with those exceptions approved by **ITS**, will become a part of any contract on acquisitions made under this RFP.
4. An exception will be accepted or rejected at the sole discretion of the State.
5. The State desires to award this RFP to a Vendor or Vendors with whom there is a high probability of establishing a mutually agreeable contract, substantially within the standard terms and conditions of the State's RFP, including the *Standard Contract* in Exhibit A, if

included herein. As such, Vendors whose proposals, in the sole opinion of the State, reflect a substantial number of material exceptions to this RFP, may place themselves at a comparative disadvantage in the evaluation process or risk disqualification of their proposals.

6. For Vendors who have successfully negotiated a contract with **ITS** in the past, **ITS** requests that, prior to taking any exceptions to this RFP, the individual(s) preparing this proposal first confer with other individuals who have previously submitted proposals to **ITS** or participated in contract negotiations with **ITS** on behalf of their company, to ensure the Vendor is consistent in the items to which it takes exception.

PROPOSAL EXCEPTION SUMMARY FORM

List and clearly explain any exceptions, for all RFP Sections and Exhibits, in the table below.

ITS RFP Reference	Vendor Proposal Reference	Brief Explanation of Exception	ITS Acceptance
(Reference specific outline point to which exception is taken)	(Page, section, items in Vendor's proposal where exception is explained)	(Short description of exception being made)	(sign here only if accepted)
1.			
2.			
3.			
4.			
5.			
6.			
7.			

SECTION VI RFP QUESTIONNAIRE

Please answer each question or provide the information as requested in this section.

1. **Mississippi's Accountability System for Government Information and Collaboration (MAGIC) Information for State of Mississippi Vendor File**

- 1.1 **MAGIC Vendor Code:** Any Vendor who has not previously done business with the State and has not been assigned a MAGIC Vendor code should visit the following link to register:

<http://www.dfa.ms.gov/dfa-offices/mrms/mississippi-suppliers-vendors/supplier-self-service/>

Vendors who have previously done business with the State may obtain their MAGIC Vendor code, and all Vendors may access additional Vendor information at the link above.

All Vendors must furnish **ITS** with their ten-digit MAGIC Vendor code.

MAGIC Vendor Code: _____

- 1.2 **Vendor Self-Certification Form:** The State of Mississippi, in an effort to capture participation by minority Vendors, asks that each Vendor review the State of Mississippi Minority Vendor Self Certification Form. This information is for tracking/reporting purposes only, and will not be used in determining which Vendor will be chosen for the project. Any Vendor who can claim status as a Minority Business Enterprise or a Woman Business Enterprise in accordance with the definitions on this form and who has not previously submitted a form to the State of Mississippi should submit the completed form with the proposal. A copy of the Minority Vendor Self-Certification Form can be obtained at:

<https://mississippi.org/services/minority/>

Please direct any questions about minority certification in Mississippi to the Minority Business Enterprise Division of the Mississippi Development Authority by telephone at (601) 359-3448 or via email at minority@mississippi.org.

If Vendor is claiming status as a Minority Business Enterprise or Woman Business Enterprise, the Vendor must include a copy of their Minority Vendor Self-Certification Form with their RFP response.

2. **Certification of Authority to Sell**

The Vendor must certify Vendor is a seller in good standing, authorized to sell and able to deliver all items and related services proposed in the State of Mississippi in the time frame specified. Does the Vendor make these certifications? (A yes or no answer is required.)

3. **Compliance with National Defense Authorization Act**

The Vendor must state if Vendor equipment being provided is in compliance with the National Defense Authorization Act, Section 889. (A yes or no answer is required.)

4. **Certification of No Conflict of Interest**

Mississippi law clearly forbids a direct or indirect conflict of interest of a company or its employees in selling to the State. The Vendor must answer and/or provide the following:

4.1 Does there exist any possible conflict of interest in the sale of items to any institution within **ITS** jurisdiction or to any governing authority? (A yes or no answer is required.)

4.2 If the possibility of a conflict does exist, provide a list of those institutions and the nature of the conflict on a separate page and include it in your proposal. The Vendor may be precluded from selling to those institutions where a conflict of interest may exist.

5. **Pending Legal Actions**

5.1 Are there any lawsuits or other legal proceedings against the Vendor that pertain to any of the software, hardware, or other materials and/or services which are a part of the Vendor's proposal? (A yes or no answer is required.)

5.2 Are there any criminal or civil proceedings (federal or state) pending against the Vendor or its principals or employees that pertain to any public procurement within the State of Mississippi or elsewhere? (A yes or no answer is required.)

5.3 If your answer to either of the above is "yes", provide a copy of same and state with specificity the current status of the proceedings.

5.4 The State, at its sole discretion, may reject the proposal of a Vendor who (a) has criminal or civil proceedings pending that pertain to a public procurement within Mississippi or elsewhere, or (b) has lawsuits or other legal proceedings pending that pertain to any of the products or services which are part of the Vendor's proposal.

6. **Non-Disclosure of Social Security Numbers**

Does the Vendor agree that any information system proposed, developed, or modified under this RFP that disseminates, in any form or manner, information or material that contains the Social Security Number of an individual, has mechanisms in place to prevent the inadvertent disclosure of the individual's Social Security Number to members of the general public or to persons other than those persons who, in the performance of their duties and responsibilities, have a lawful and legitimate need to know the individual's Social Security Number? This agreement is required by Section 25-1-111 of the Mississippi Code Annotated.

7. **Web Amendments**

As stated in Section III, **ITS** will use the **ITS** website to post amendments regarding RFPs before the proposal opening at:

http://www.its.ms.gov/Procurement/Pages/RFPS_Awaiting.aspx

ITS may post clarifications until noon seven days prior to the proposal opening date listed on the cover page of this RFP or the posted extension date, if applicable.

Vendors may list any questions or items needing clarification discovered in the week prior to the proposal opening in a written format at the beginning of the proposal binder or in the comment section for the individual offering.

Does the Vendor certify that they have reviewed a copy of the **ITS** amendments for RFPs as above stated? (A yes or no answer is required.)

8. **Order and Remit Address**

The Vendor must specify both an order and a remit address:

Order Address:

Remit Address (if different):

9. **Taxpayer Identification Number**

Vendor must specify their taxpayer identification number.

10. **Certification of Liability Insurance**

Vendor must provide a copy of their Certificate of Liability Insurance with their RFP response.

11. **E-Verify Registration Documentation**

Vendor must ensure its compliance with the Mississippi Employment Protection Act, Section 71-11-1, et seq. of the Mississippi Code Annotated (Supp2008). Vendor must provide documentation of its E-Verify compliance with the RFP response. See Section IV, Item 42 for additional information.

SECTION VII TECHNICAL SPECIFICATIONS

1. How to Respond to this Section

- 1.1 Beginning with Item 6.1 and through Item 18.1 of this section, label and respond to each outline point in this section as it is labeled in the RFP.
- 1.2 The State is under the impression that Vendors have read and agree to all items in this RFP. Vendors should take exception to items to which they disagree.
- 1.3 The Vendor must respond with “WILL COMPLY” or “EXCEPTION” to each point in this section. In addition, many items in this RFP 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 State’s sole discretion, being subject to disqualification.
- 1.4 “WILL COMPLY” indicates that the vendor can and will adhere to the requirement. This response specifies that a vendor or vendor’s proposed solution must comply with a specific item or must perform a certain task.
- 1.5 If the Vendor cannot respond with “WILL COMPLY”, then the Vendor must respond with “EXCEPTION”. (See Section V, for additional instructions regarding Vendor exceptions.)
- 1.6 Where an outline point asks a question or requests information, the Vendor must respond with the specific answer or information requested.
- 1.7 In addition to the above, Vendor must, when applicable, provide explicit details as to the manner and degree to which the proposal meets or exceeds each specification.

2. Mandatory Provisions or No Mandatory Provisions in Technical Requirements for this RFP

- 2.1 Certain items in the technical specifications of this RFP are MANDATORY. Vendors are specifically disallowed from taking exception to these mandatory requirements, and proposals that do not meet a mandatory requirement is subject to immediate disqualification.
- 2.2 Mandatory requirements are those requirements classified as “MANDATORY” in Section VII, Technical Specifications. Meeting a mandatory requirement means the Vendor has provided a detailed response that demonstrates that the Vendor meets the qualifications and experience required and/or the requested functionality exists in the base solution today.

3. General Overview and Background

3.1 The Public Service Commission (PSC) has been tasked with enforcing the NoCall Law since July 1, 2003. See Attachment A for Mississippi’s No Call law. PSC maintains a list of subscribers, name, address, and phone number, who don’t want to receive telemarketing calls. Telemarketers must register with PSC and pay a fee for the list of subscriber telephone numbers. Currently the registration process and fee payment is manual. The telemarketer mails the registration forms along with their check to register. Registration is annual and is for the fiscal year – July 1 – June 30. PSC maintains a list of registered and unregistered telemarketers. Constituents file complaints when they receive a call and all complaints are investigated by the PSC. If a telemarketer is found to be in violation of the MS Telephone Solicitation Act, then fines are imposed. See Attachment C for the Rules that the PSC established to enforce the MS Telephone Solicitation Act.

3.2 The application that track the associated data is outdated and new laws were passed in April 2019, went into effect on July 1, 2019. See Attachment B for the link to the No Call law changes. The current system has a PowerBuilder front-end and the data is kept in a Microsoft SQL database. It also uses .NET applications on the website.

The new laws:

- Allow businesses to register their phone numbers on the NoCall list
- Give PSC authority to investigate scams and spoofed numbers
- Require charities to register if they engage in telemarketing

3.3 While PSC investigates call scams, the investigator may discover numerous names, addresses, and telephone numbers that belong to a scammer. Often, the scammer operates more than one company, or uses different addresses to hinder the investigation. This information must be tracked, including inbound and outbound telephone calls made by the scammer, to uncover companies that may be related

4. Procurement Project Schedule

Task	Date
First Advertisement Date for RFP	06/08/21
Second Advertisement Date for RFP	06/15/21
Deadline for Vendor’s Written Questions	3:00 p.m. Central Time on 06/25/21
Deadline for Questions Answered and Posted to ITS Web Site	07/16/21
Open Proposals	07/30/21
Evaluation of Proposals Begins	08/02/21
Contract Negotiation Begin	08/22/21
Proposed Project Implementation Start-up	TBD

Project Go-Live Deadline	TBD
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5. **Statement of Understanding**

- 5.1 Vendors may request additional information or clarifications to this RFP using the following procedure:
 - 5.1.1 Vendors must clearly identify the specified paragraph(s) in the RFP that is in question.
 - 5.1.2 Vendor must deliver a written document to Bill Brinkley at **ITS** by June 25, 2021 at 3:00 p.m. Central Time. This document may be delivered by hand, mail, email, or fax. Address information is given on page one of this RFP. The fax number is (601) 713-6380. **ITS WILL NOT BE RESPONSIBLE FOR DELAYS IN THE DELIVERY OF QUESTION DOCUMENTS.** It is solely the responsibility of the vendor that the clarification document reaches **ITS** on time. Vendors may contact Bill Brinkley to verify the receipt of their document. Documents received after the deadline will be rejected.
- 5.2 All questions will be compiled and answered, and a written document containing all questions submitted and corresponding answers will be posted on the **ITS** web site by close of business on July 16, 2021.

6. **Vendor Qualifications**

- 6.1 The Vendor must provide a description of its organization with sufficient information to substantiate proven experience in the services being proposed. Information to be specified includes but is not limited to:
 - 6.1.1 Disclosure of any company restructurings, mergers, and acquisitions over the past three years that have impacted any products the Vendor has included in this proposal;
 - 6.1.2 The location of principal office and the number of executive and professional personnel employed at this office;
 - 6.1.3 The number of years the Vendor has been in business;
 - 6.1.4 The number of years developing and marketing the technologies specified herein;
 - 6.1.5 The Vendor must describe any previous experiences of a similar nature and complexity in scope, and responsibility as what is described in this RFP;
 - 6.1.6 The organization's size (e.g., employees, offices, locations) and structure (e.g., state, national, or international organization);

- 6.1.7 Whether the Vendor is based locally, regionally, nationally, or internationally as well as its relationship to any parent firms, sister firms, or subsidiaries; and
- 6.1.8 If incorporated, the Vendor must provide the name of the state of incorporation.
- 6.2 Total Personnel Resources - The Vendor must provide information that documents the depth of resources to ensure completion of all requirements on time and on target. If the Vendor has other ongoing contracts that also require personnel resources, the Vendor should document how sufficient resources will be provided to the State of Mississippi.
- 6.3 The Vendor must describe its issue resolution and escalation process that will be used within the Vendor's organization to resolve any problems or issues that may arise during the course of this project.
- 6.4 Vendor should document the Vendor's financial solvency in a manner that is acceptable for public review. Audited financial statements for the last two years will provide such documentation; however, the statements will become public information. The Vendor should also present any additional information, which reasonably demonstrates the financial strength of the proposed Vendor's company/organization. If the Vendor is a subsidiary, also provide the documentation for the parent company. This documentation must be submitted as part of the Vendor's proposal response via the USB drive.

7. Technical Requirements

- 7.1 The new system must be hosted and maintained by the Vendor.
- 7.2 **MANDATORY:** The new system must be web based. The new system must be accessible using any browser, especially Internet Explorer, Edge, Chrome, Firefox, or Safari.
- 7.3 The new system must have the ability to manage, verify, and apply digital signatures. Please describe how the system meets this requirement.
- 7.4 The new system must have User Definable Forms.
- ~~7.5~~ The Vendor must create the forms shown in Attachment C Solicitor Forms. The forms need to be integrated into an online registration process. The forms must also be fillable for any telemarketer that wants to register manually.
- 7.6 The new system must have Configurable Workflow Engine. The workflow will pass the telemarketer registrations to the Nocall Admin user. The Nocall Admin user needs to be notified of any fees paid by the telemarketer, both registration and fines.
- 7.7 The new system must have Configurable Menus.

- 7.8 The new system must have Configurable Screens.
- 7.9 The system needs to be able to cross-reference names of individuals, names of companies, addresses, and telephone numbers that are involved in scam calls.
- 7.10 The new system must have the ability to cross-reference the call logs with the scammers.
- 7.11 If any component(s) necessary operation of the requested system is omitted from Vendor's proposal, Vendor must be willing to provide the component(s) at no additional cost.

8. **General Requirements**

- 8.1 The new system must be able to maintain a list of names and telephone numbers of Mississippians who don't want to receive calls from telemarketers.
- 8.2 The new system must provide the ability to generate a list of subscribers by county, city, or district as well as the entire state to be used for mail merge for letters, labels, or emails.
- 8.3 The PSC is divided into three districts, North, South and Central. The districts correspond to the MS Supreme Court districts and are determined by the county in which the subscriber resides. A table already exists with the counties and district information. The system must be able to maintain subscriber and complaint information for the constituents that reside in their district.
- 8.4 The new system must generate lists of complaints based on date, district, county, violations, etc.
- 8.5 The new system must maintain a list of subpoenas issued by PSC for telephone records for the subscriber as well as the telemarketer. The new system must provide the ability to add information obtained by the subpoena to all complaints that correspond to that telemarketer. The information added to the complaints should start with userID, (internal userID as established by the PSC) date, and then the information from the subpoena.

9. **Subscriber Requirements**

- 9.1 Subscribers need to be able to register their telephone numbers on the PSC website.
- 9.2 After submitting their registration, the subscribers must receive an email from their Commissioner, based on district, confirming registration, and a summary of the NoCall Law showing the date that they can start filing complaints
- 9.3 Emails must be sent to the subscribers one week before their registration is effective with instructions on how to file a complaint against a telemarketer.

- 9.4 Subscribers must be able to file a complaint against a telemarketer from the website utilizing any browser as stated above.

10. System Administrator Requirements

- 10.1 Internal users, PSC employees, must be able to add or modify the list of registered telephone numbers and be able to upload a file in .csv or Excel format of disconnected numbers that are received from the Telecom carriers. Any phone numbers that are currently subscribed need to be changed to inactive.
- 10.2 PSC employees must be able to add and modify the complaints. The PSC employees must also be able to 'move' complaints to a different telemarketer but keeping the history of the phone numbers and telemarketers originally assigned.
- 10.3 The NoCall Administrator must be notified when a bond expires based on the expiration date of the bond submitted with the registration.
- 10.4 PSC investigators must document efforts made to track down the violators. The PSC employees must be able to attach emails, screen prints, and pdf documents, etc. to the complaint.

11. Integration Requirements

- 11.1 The new system must have the ability to import a .csv file of subscribers that are added and deleted from the Federal Do Not Call list on a monthly basis.
- 11.2 The new system must have the ability to import subscribers and complaints from the NoCall mobile application maintained by NIC Mississippi (formally Mississippi Interactive). The vendor will have to supply NIC Mississippi with field names and formats so that subscriber information and complaints can be uploaded into the database.
- 11.3 Once per quarter, the telephone carriers submit a .csv file of telephone numbers that have been disconnected. Each phone number in the file is checked against our registered subscribers and inactivates any matching number.
- 11.4 The new system must have the ability to upload calling numbers used by the telemarketer that are discovered via the subpoena or provided by the telemarketer upon registration or when registered telemarketers acquire new numbers.
- 11.5 All hard copy documents are scanned or imported into the existing document management system, Insite Data Management Systems, and the new system needs to integrate with Insite. Whereby, an internal user can view a complaint and all the documents related to that complaint.
- 11.6 The new system must have the ability to import .csv files containing telephone call logs (incoming and outgoing calls), along with the dates of the telephone calls from a telephone number(s) for each scammer.

12. Telemarketer Requirements

- 12.1 Once per month, PSC generates a list of telephone numbers of subscribers that are on the NoCall List and registered telemarketers download the list from the PSC website utilizing any browser.
- 12.2 **MANDATORY:** The new system must maintain a list of telemarketers that register with the PSC. A history of telemarketers needs to be maintained for at least 7 years.
- 12.3 **MANDATORY:** Telemarketers need the ability to register and pay fees and fines on-line. The registration forms are in Attachment C. The system must also retain history of payments.
- 12.4 Payment Processor
- 12.4.1 NIC Mississippi is the single point of entry for all e-commerce transactions. Vendors must use the official payment processor for any of the following services where payment is required. See Attachment D for more details.
- Web Services
 - IVR services
 - Mobile Services
 - Over the counter payment processing services
 - Kiosk services
 - Lock Box Services
- 12.4.2 If the Vendor has a preferred payment engine process and believes that using the State's payment engine will be less efficient, the Vendor must provide a detailed justification explaining the benefits of using the Vendor's payment engine. Should the State decide that using the Vendor's payment engine is in the best interest of the State, PSC will use this information to apply for a waiver as outlined in DFA's Administrative Rule referenced in Attachment E.
- 12.4.3 If the State agrees to use the Vendor's payment engine, the Vendor must assume all responsibility for meeting Payment Card Industry (PCI) compliance requirements.
- 12.4.4 Vendors not using the State's approved payment engine will have to demonstrate PCI compliance annually and assume all liability in the event of a system breach.

- 12.5 Telemarketers that register must post bond and this needs to be part of the on-line registration.
- 12.6 The new system must have the ability to maintain a list of telemarketers that are not registered with the PSC but have had complaints of NoCall violations.
- 12.7 The new system must have the ability for telemarketers to register their contracted companies when registering. The first two contracted companies are free, but additional contracted companies are charged a fee.
- 12.8 The new system must have the ability to maintain a list of telephone numbers being used for outbound calls, referred to as calling numbers, by both registered and unregistered telemarketers.
- 12.9 The new system must have the ability to import telephone numbers used by telemarketers for outbound calls during registration or responses to a subpoena.
- 12.10 PSC's Legal Department needs to be able to generate letters detailing violations to be sent to the telemarketer. The information for the letters is obtained from the complaint table. i.e. the subscriber's telephone number, date, and time of call received and the type of violation.

13. Conversion

- 13.1 Current data must be migrated into the new system. Vendors must detail how they plan to migrate the existing data to the proposed system.

14. Implementation

- 14.1 The Vendor must commit and name a dedicated Project Manager for the duration of the project implementation in the Vendor's RFP proposal. The Project Manager must have sufficient prior experience to address the specifics of this project. Vendor must include details to substantiate this experience.
- 14.2 The Vendor must disclose if any of the personnel proposed for this project are independent consultants, subcontractors, or acting in a capacity other than an employee of the Vendor submitting the proposal. If subcontractor, Vendor must respond by stating the subcontractor contact name(s), title(s), company name(s), complete address(es), and specific service elements being proposed as subcontracted.
- 14.3 The Vendor must provide the name and contact information in a list of its current five largest governmental clients.
- 14.4 Vendor must submit, as a part of this proposal, a high-level Project Work Plan that outlines the overall strategy and approach to providing the requested system and services. The Plan must contain all significant work steps required for provision of the requested services. Timeframes must be specified in terms of work days or weeks after contract signing. The Plan must include the elements listed below:

- 14.4.1 The Plan must incorporate all tasks to be accomplished;
 - 14.4.2 The Plan must address all project deliverables, including implementation, acceptance testing, schedule for actual testing, and go-live date;
 - 14.4.3 The Plan must include resource estimates for both PSC and Vendor timelines; and
 - 14.4.4 The Plan must address assumptions that the Vendor has made based on the information rendered in these specifications.
 - 14.5 Upon contract award, the Vendor's Project Manager must work with PSC to develop a more detailed Project Work Plan to guide the System's implementation.
 - 14.6 Vendor must include and complete all parts of the cost proposal, Section VIII, *Cost Information Submission*, in a clear and accurate manner. Vendor must summarize all costs in Section VIII and fully and explicitly itemize them on a separate document as supporting documentation of how they were derived. These costs must include all initial, one-time purchase prices, as well as, all recurring costs.
15. **Training**
- 15.1 Vendor must train a designated staff person in all aspects of system administration for the proposed Solution as well as the query and reporting tools.
 - 15.2 Vendor must describe the proposed training plan to include training objectives, scope, length of training, and identify the costs associated with this requirement.
 - 15.3 Vendor must provide a complete description of the Vendor's training during the implementation period. Training should not be completed until customer has agreed that the No Call System is fully operational.
 - 15.4 Vendor must furnish a training tutorial in video and/or manual media that will enable a new employee to perform system-related functions from day one of system go-live. This tutorial must provide a step-by-step narrative description of each operational task and function of the system.
 - 15.5 Vendor must keep the tutorial updated and in sync with the operational system after any upgrades or modifications.
16. **Warranty/Maintenance**
- 16.1 Vendor must provide a list and content descriptions of functional documentation, system administration documentation, complete installation instructions, maintenance coverage, and technical support.
 - 16.2 Vendor must provide a complete description of the tools provided to answer common questions arising with users of the system.

- 16.3 Vendor must provide a complete description of escalation procedures and expected response times for service interruptions.
- 16.4 Vendor must provide a complete description for how customer satisfaction is accessed and reported.
- 16.5 Vendor must provide a complete description of the technical support and customer support services proposed, including those available through on-line and toll-free telephone support.
- 16.6 Vendor must provide technical support and customer service both online and via a toll-free telephone number, including real-time assistance that is available Monday through Friday from 7 a.m. to 7 p.m. CST.
- 16.7 Vendor must respond by telephone to requests for support services within one (1) hour.
- 16.8 Upon receipt of the Agency's call, Vendor must create a trouble ticket, assign a severity level, and attempt to resolve the System problem in accordance with the procedures and processes for problem resolution detailed below. The Agency and Vendor must mutually agree on whether a problem is classified as a Severity Level 1, 2, or 3 problem.
- 16.9 Severity Level 1, 2, or 3:
 - 16.9.1 Severity Level 1: Implies that the System is not functioning. Some examples of Severity Level 1 System problems are: System is down and will not restart; or System is not able to communicate with external systems or users; or System is generating a data corruption condition. Vendor must resolve Severity Level 1 System problems within one (1) business day, or within a mutually agreed upon time frame;
 - 16.9.2 Severity Level 2: Implies that an essential function does not work as documented; or testing and usage can continue but the task cannot be completed, and no workarounds exist. Vendor must resolve Severity Level 2 System problems within two (2) business days, or within a mutually agreed upon time frame; and
 - 16.9.3 Severity Level 3: Implies a System problem such that implementations of functions do not match specifications and/or technical documentation, and a workaround may exist. Vendor must resolve Severity Level 3 System problems within ten (10) business days, or within a mutually agreed upon time frame.

17. Cloud or Offsite Hosting Requirements

17.1 Data Ownership

The State shall own all right, title and interest in all data used by, resulting from, and collected using the services provided. The Vendor shall not access State User

accounts, or State Data, except (i) in the course of data center operation related to this solution; (ii) response to service or technical issues; (iii) as required by the express terms of this service; or (iv) at State 's written request.

17.2 Data Protection

Protection of personal privacy and sensitive data shall be an integral part of the business activities of the Vendor to ensure that there is no inappropriate or unauthorized use of State information at any time. To this end, the Vendor shall safeguard the confidentiality, integrity, and availability of State information and comply with the following conditions:

- 17.2.1 All information obtained by the Vendor under this contract shall become and remain property of the State.
- 17.2.2 At no time shall any data or processes which either belong to or are intended for the use of State or its officers, agents, or employees be copied, disclosed, or retained by the Vendor or any party related to the Vendor for subsequent use in any transaction that does not include the State.

17.3 Data Location

The Vendor shall not store or transfer State data outside of the United States. This includes backup data and Disaster Recovery locations. The Vendor will permit its personnel and contractors to access State data remotely only as required to provide technical support.

17.4 Encryption

- 17.4.1 The Vendor shall encrypt all non-public data in transit regardless of the transit mechanism.
- 17.4.2 For engagements where the Vendor stores non-public data, the data shall be encrypted at rest. The key location and other key management details will be discussed and negotiated by both parties. Where encryption of data at rest is not possible, the Vendor must describe existing security measures that provide a similar level of protection. Additionally, when the Vendor cannot offer encryption at rest, it must maintain, for the duration of the contract, cyber security liability insurance coverage for any loss resulting from a data breach. The policy shall comply with the following requirements:
 - 17.4.2.1 The policy shall be issued by an insurance company acceptable to the State and valid for the entire term of the contract, inclusive of any term extension(s).
 - 17.4.2.2 The Vendor and the State shall reach agreement on the level of liability insurance coverage required.

- 17.4.2.3 The policy shall include, but not be limited to, coverage for liabilities arising out of premises, operations, independent contractors, products, completed operations, and liability assumed under an insured contract.
- 17.4.2.4 At a minimum, the policy shall include third party coverage for credit monitoring, notification costs to data breach victims; and regulatory penalties and fines.
- 17.4.2.5 The policy shall apply separately to each insured against whom claim is made or suit is brought subject to the Vendor's limit of liability.
- 17.4.2.6 The policy shall include a provision requiring that the policy cannot be cancelled without thirty (30) days written notice.
- 17.4.2.7 The Vendor shall be responsible for any deductible or self-insured retention contained in the insurance policy.
- 17.4.2.8 The coverage under the policy shall be primary and not in excess to any other insurance carried by the Vendor.
- 17.4.2.9 In the event the Vendor fails to keep in effect at all times the insurance coverage required by this provision, the State may, in addition to any other remedies it may have, terminate the contract upon the occurrence of such event, subject to the provisions of the contract.

17.5 Breach Notification and Recovery

Unauthorized access or disclosure of non-public data is considered to be a security breach. The Vendor will provide immediate notification and all communication shall be coordinated with the State. When the Vendor or their sub-contractors are liable for the loss, the Vendor shall bear all costs associated with the investigation, response and recovery from the breach including but not limited to credit monitoring services with a term of at least 3 years, mailing costs, website, and toll free telephone call center services. The State shall not agree to any limitation on liability that relieves a Vendor from its own negligence or to the extent that it creates an obligation on the part of the State to hold a Vendor harmless.

17.6 Notification of Legal Requests

The Vendor shall contact the State upon receipt of any electronic discovery, litigation holds, discovery searches, and expert testimonies related to, or which in any way might reasonably require access to the data of the State. The Vendor shall not respond to subpoenas, service of process, and other legal requests related to the State without first notifying the State unless prohibited by law from providing such notice.

17.7 Termination and Suspension of Service

In the event of termination of the contract, the Vendor shall implement an orderly return of State data in CSV or XML or another mutually agreeable format. The Vendor shall guarantee the subsequent secure disposal of State data.

- 17.7.1 Suspension of services: During any period of suspension of this Agreement, for whatever reason, the Vendor shall not take any action to intentionally erase any State data.
- 17.7.2 Termination of any services or agreement in entirety: In the event of termination of any services or of the agreement in its entirety, the Vendor shall not take any action to intentionally erase any State data for a period of 90 days after the effective date of the termination. After such 90 day period, the Vendor shall have no obligation to maintain or provide any State data and shall thereafter, unless legally prohibited, dispose of all State data in its systems or otherwise in its possession or under its control as specified in Item 17.7.4 below. Within this 90 day timeframe, Vendor will continue to secure and back up State data covered under the contract.
- 17.7.3 Post-Termination Assistance: The State shall be entitled to any post-termination assistance generally made available with respect to the Services unless a unique data retrieval arrangement has been established as part of the Service Level Agreement.
- 17.7.4 Secure Data Disposal: When requested by the State, the provider shall destroy all requested data in all of its forms, for example: disk, CD/DVD, backup tape, and paper. Data shall be permanently deleted and shall not be recoverable, according to National Institute of Standards and Technology (NIST) approved methods. Certificates of destruction shall be provided to the State.

17.8 Background Checks

The Vendor warrants that it will not utilize any staff members, including sub-contractors, to fulfill the obligations of the contract who have been convicted of any crime of dishonesty. The Vendor shall promote and maintain an awareness of the importance of securing the State's information among the Vendor's employees and agents.

17.9 Security Logs and Reports

The Vendor shall allow the State access to system security logs that affect this engagement, its data, and/or processes. This includes the ability to request a report of the activities that a specific user or administrator accessed over a specified period of time as well as the ability for an agency customer to request reports of activities of a specific user associated with that agency. These mechanisms should be defined up front and be available for the entire length of the agreement with the Vendor.

17.10 Contract Audit

The Vendor shall allow the State to audit conformance including contract terms, system security and data centers as appropriate. The State may perform this audit or contract with a third party at its discretion at the State's expense.

17.11 Sub-contractor Disclosure

The Vendor shall identify all of its strategic business partners related to services provided under this contract, including but not limited to, all subcontractors or other entities or individuals who may be a party to a joint venture or similar agreement with the Vendor, who will be involved in any application development and/or operations.

17.12 Sub-contractor Compliance

The Vendor must ensure that any agent, including a Vendor or subcontractor, to whom the Vendor provides access agrees to the same restrictions and conditions that apply through this Agreement.

17.13 Processes and Procedures

The Vendor shall disclose its non-proprietary security processes and technical limitations to the State so that the State can determine if and how adequate protection and flexibility can be attained between the State and the Vendor. For example: virus checking and port sniffing — the State and the Vendor shall understand each other's roles and responsibilities.

17.14 Operational Metrics

The Vendor and the State shall reach agreement on operational metrics and document said metrics in the Service Level Agreement. At a minimum the SLA shall include:

17.14.1 Advance notice and change control for major upgrades and system changes

17.14.2 System availability/uptime guarantee/agreed-upon maintenance downtime

17.14.3 Recovery Time Objective/Recovery Point Objective

17.14.4 Security Vulnerability Scanning

18. **Additional Requirements**

18.1 **ITS** acknowledges that the specifications within this RFP 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.

19. **Scoring Methodology**

19.1 An Evaluation Team composed of PSC and **ITS** staff will review and evaluate all proposals. All information provided by the Vendors, as well as any other information available to evaluation team, will be used to evaluate the proposals.

19.1.1 Each category included in the scoring mechanism is assigned a weight between one and 100.

19.1.2 The sum of all categories equals 100 possible points.

19.1.3 For the evaluation of this RFP, the Evaluation Team will use the following categories and possible points:

Category	Possible Points
Non-Cost Categories:	
Vendor Qualifications and References	10
Technical Requirements, General Requirements, Subscriber Requirements, System Administrator Requirements, Integration Requirements, Telemarketer Requirements	25
Conversion, Implementation, Training, Warranty/Maintenance	20
Cloud or Offsite Hosting Requirements	10
Total Non-Cost Points	65
Cost	35
Maximum Possible Points	100

19.2 The evaluation will be conducted in four stages as follows:

19.2.1 Stage 1 – Selection of Responsive/Valid Proposals – Each proposal will be reviewed to determine if it is sufficiently responsive to the RFP requirements to permit a complete evaluation. A responsive proposal must comply with the instructions stated in this RFP with regard to content, organization/format, Vendor experience, number of copies, bond requirement, timely delivery, and must be responsive to all mandatory requirements. No evaluation points will be awarded in this stage. Failure to submit a complete proposal may result in rejection of the proposal.

19.2.2 Stage 2 – Non-cost Evaluation (all requirements excluding cost)

19.2.2.1 Non-cost categories and possible point values are as follows:

Non-Cost Categories	Possible Points
Vendor Qualifications and References	10

Technical Requirements, General Requirements, Subscriber Requirements, System Administrator Requirements, Integration Requirements, Telemarketer Requirements	25
Conversion, Implementation, Training, Warranty/Maintenance	20
Cloud or Offsite Hosting Requirements	10
Maximum Possible Points	65

19.2.2.2 Proposals meeting fewer than 80% of the requirements in the non-cost categories may be eliminated from further consideration.

19.2.2.3 ITS scores the non-cost categories on a 10-point scale, with 9 points for meeting the requirement. The 'Meets Specs' score for each category is 90% of the total points allocated for that category. 'Technical Requirements, General Requirements, Subscriber Requirements, System Administrator Requirements, Integration Requirements, Telemarketer Requirements' category was allocated 25 points; a proposal that fully met all requirements in that section would have scored 22.5 points. The additional 10% is used for a proposal that exceeds the requirement for an item in a way that provides additional benefits to the state.

19.2.3 Stage 3 – Cost Evaluation

19.2.3.1 Points will be assigned using the following formula:

$$(1 - ((B - A) / A)) * n$$

Where:

A = Total lifecycle cost of lowest valid proposal

B = Total lifecycle cost of proposal being scored

n = Maximum number of points allocated to cost for acquisition

19.2.3.2 Cost categories and maximum point values are as follows:

Cost Category	Possible Points
Lifecycle Cost	35
Maximum Possible Points	35

19.2.4 Stage 4 – Selection of the successful Vendor

19.2.4.1 On-site Demonstrations and Interviews

19.2.4.1.1 At the discretion of the State, evaluators may request interviews, on-site presentations, demonstrations or discussions with any and all Vendors for the purpose of system overview and/or clarification or amplification of information presented in any part of the proposal.

19.2.4.1.2 If requested, Vendors must be prepared to make on-site demonstrations of system functionality and/or proposal clarifications to the evaluation team and its affiliates within seven calendar days of notification. Each presentation must be made by the project manager being proposed by the Vendor to oversee implementation of this project.

19.2.4.1.3 Proposed key team members must be present at the on-site demonstration. The evaluation team reserves the right to interview the proposed key team members during this onsite visit.

19.2.4.1.4 Although on-site demonstrations may be requested, the demonstration will not be allowed in lieu of a written proposal.

19.2.5 Site Visits

19.2.5.1 At the State's option, Vendors that remain within a competitive range must be prepared to provide a reference site within seven calendar days of notification. If possible, the reference site should be in the Southeastern region of the United States. Vendor must list potential reference sites in the proposal.

19.3 Final Quantitative Evaluation - Following any requested presentations, demonstrations, and/or site visits, the Evaluation Team will re-evaluate any technical/functional scores as necessary. The technical/functional and cost scores will then be combined to determine the Vendor's final score.

**SECTION VIII
 COST INFORMATION SUBMISSION**

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. Vendors may add line items to any cost table to substantiate their entire offering. Any cost not listed in this section, even if it was asked for in the RFP technical specifications but not included below, may result in the Vendor providing those products or services at no charge to the State or face disqualification. If the vendor is proposing a per license fee, a unit cost of the license MUST be proposed. If Vendor prices based on a tier, the license tier must be included in the Vendor's response.

Description	Quantity	Unit Cost	Extended Cost
Implementation Services (fully loaded with travel, subsistence and associated per diem costs) Break out costs by:			
Development Costs		\$	\$
License Fees		\$	\$
Conversion Costs		\$	\$
Initial Training and Training Manuals		\$	\$
Other Costs (specify)		\$	\$
Implementation Costs Total			\$

Annual Costs		
Annual Subscription and Hosting Fees - (including maintenance/support costs for 3 years)	Combined Subscription and Hosting Fees	
Year 1		\$
Year 2		\$
Year 3		\$
Miscellaneous Costs (must specify)		\$
GRAND TOTAL (Implementation and Subscription/Hosting):		\$

If Change Order Rate varies depending on the level of support, Vendor should specify the Change Order Rate according to position.		
Fully-loaded Hourly Change Order Rate		\$

SECTION IX REFERENCES

Please return the following Reference Forms, and if applicable, Subcontractor Reference Forms.

1. References

- 1.1 The Vendor must provide at least three (3) references consisting of Vendor accounts that the State may contact, including at least one reference from another State Public Service Commission. Required information includes customer contact name, address, telephone number, email address, and engagement starting and ending dates. Forms for providing reference information are included later in this RFP section. The Vendor must make arrangements in advance with the account references so that they may be contacted at the Project team's convenience without further clearance or Vendor intercession.
- 1.2 Any of the following may subject the Vendor's proposal to being rated unfavorably relative to these criteria or removed from further consideration, at the State's sole discretion:
 - 1.2.1 Failure to provide reference information in the manner described;
 - 1.2.2 Inability of the State to substantiate minimum experience or other requirements from the references provided;
 - 1.2.3 Non-responsiveness of references to the State's attempts to contact them; or
 - 1.2.4 Unfavorable references that raise serious concerns about material risks to the State in contracting with the Vendor for the proposed products or services.
- 1.3 References should be based on the following profiles and be able to substantiate the following information from both management and technical viewpoints:
 - 1.3.1 The reference installation must be for a project similar in scope and size to the project for which this RFP is issued;
 - 1.3.2 The reference installation must have been operational for at least six (6) months.
- 1.4 The State reserves the right to request information about the Vendor from any previous customer of the Vendor of whom the State is aware, including the procuring agency and/or other agencies or institutions of the State, even if that customer is not included in the Vendor's list of references, and to utilize such information in the evaluation of the Vendor's proposal.
- 1.5 Unless otherwise indicated in the Scoring Methodology in Section VII, reference information available to the State will be used as follows:

- 1.5.1 As documentation supporting mandatory experience requirements for companies, products, and/or individuals, as required in this RFP;
- 1.5.2 To confirm the capabilities and quality of a Vendor, product, or individual for the proposal deemed lowest and best, prior to finalizing the award.
- 1.6 The State reserves the right to forego reference checking when, at the State's sole discretion, the evaluation team determines that the capabilities of the recommended Vendor are known to the State.

2. **Subcontractors**

The Vendor's proposal must identify any subcontractor that will be used and include the name of the company, telephone number, contact person, type of work subcontractor will perform, number of certified employees to perform said work, and three (3) references for whom the subcontractor has performed work that the State may contact. Forms for providing subcontractor information and references are included at the end of this section.

Unless otherwise noted, the requirements found in the References section may be met through a combination of Vendor and subcontractor references and experience. Vendor's proposal should clearly indicate any mandatory experience requirements met by subcontractors. NOTE: The State reserves the right to eliminate from further consideration proposals in which the prime Vendor does not, in the State's sole opinion, provide substantive value or investment in the total solution proposed. (i.e. the State does not typically accept proposals in which the prime Vendor is only a brokering agent.)

REFERENCE FORM

Complete three (3) Reference Forms.

Contact Name:

Company Name:

Address:

Phone #:

E-Mail:

Project Start Date:

Project End Date:

Description of product/services/project, including start and end dates:

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SUBCONTRACTOR REFERENCE FORM

Complete three (3) Reference Forms for each Subcontractor.

Contact Name:

Company name:

Address:

Phone #:

E-Mail:

Project Start Date:

Project End Date:

Description of product/services/project, including start and end dates:

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**EXHIBIT A
STANDARD CONTRACT**

A properly executed contract is a requirement of this RFP. After an award has been made, it will be necessary for the winning Vendor to execute a contract with **ITS**. The inclusion of this contract does not preclude **ITS** from, at its sole discretion, negotiating additional terms and conditions with the selected Vendor(s) specific to the projects covered by this RFP.

If Vendor cannot comply with any term or condition of this Standard Contract, Vendor must list and explain each specific exception on the *Proposal Exception Summary Form* included in Section V.

**PROJECT NUMBER 45197
SOFTWARE LICENSE AND APPLICATION SERVICE PROVIDER AGREEMENT
BETWEEN
VENDOR NAME
AND
MISSISSIPPI DEPARTMENT OF INFORMATION TECHNOLOGY SERVICES
AS CONTRACTING AGENT FOR THE
MISSISSIPPI PUBLIC SERVICE COMMISSION**

This Software License and Application Service Provider Agreement (hereinafter referred to as "Agreement") is entered into by and between, **VENDOR NAME**, a **STATE OF INCORPORATION** corporation having its principal place of business at **VENDOR ADDRESS** (hereinafter referred to as "Licensor"), and Mississippi Department of Information Technology Services having its principal place of business at 3771 Eastwood Drive, Jackson, Mississippi 39211 (hereinafter referred to as "ITS"), as contracting agent for the Mississippi Public Service Commission, located at 501 North West Street, Jackson, Mississippi 39201 (hereinafter referred to as "Licensee" and/or "PSC"). ITS and PSC are sometimes collectively referred to herein as "State."

WHEREAS, PSC, pursuant to Request for Proposals (hereinafter referred to as "RFP") Number 4378, requested proposals for the services of a contractor to host and maintain an Application Service Provider ("ASP") solution that will allow individuals and businesses to register phone numbers on the NoCall List, as well as give PSC authority to investigate scams and spoofed numbers; and

WHEREAS, Licensor was the successful proposer in an open, fair and competitive procurement process to provide the software and services described herein;

NOW THEREFORE, in consideration of the mutual understandings, promises and agreements set forth, the parties hereto agree as follows:

ARTICLE 1 DEFINITIONS

1.1 "Active User" means PSC employees, and any users actively participating on the system in any given month of operation, who shall be bound to the terms and conditions of this Agreement. Licensor does not impose a limit on the number of Active Users accessing or registering to use the system.

1.2 “Available Date” means the date upon which Licensor notifies PSC that the Software may be accessed on the Licensor’s ASP server and PSC may begin acceptance testing.

1.3 “Content” means any content provided by or through Active Users for use with the Software.

1.4 “Documentation” means the published user and technical manuals and documentation that Licensor makes generally available for the Software; the help files included within the Software, and any files containing presentation materials or manuals or other related materials to train and educate Licensee and the Active Users on the use of the Software.

1.5 “Enhancements” means the corrections, updates, upgrades or new versions of the Software or Documentation that Licensor may provide to Licensee under this Agreement.

1.6 “Licensee” means the PSC, its employees, any users, and any third party consultants or outsourcers engaged by PSC who have a need to know and who shall be bound by the terms and conditions of this Agreement.

1.7 “Licensor” means **VENDOR NAME**, and its successors and assigns.

1.8 “Products” means the Software, Documentation, Corrections, Enhancements and any copy of the Software, Documentation, Corrections, or Enhancements provided by the Licensor.

1.9 “Services” means any on-line user access, customizations, interface development, consulting, education, ASP installation, system administration, training, maintenance, support, and Help Desk services provided by Licensor to Licensee.

1.10 “Software” means the machine-readable object code version of the computer programs whether embedded on disc, tape or other media used for the management of the web-based NoCall List System and Supported Interfaces (and any Documentation and help files within the Software), including any Enhancements provided pursuant to the maintenance and support terms identified herein.

1.11 “Software Error” means a reproducible defect or combination thereof in the Software that results in a failure of the Software when used in accordance with the Documentation. Software Errors do not include those errors caused by (a) Licensee’s negligence, (b) any unauthorized modification or alteration Licensee makes to the Software, (c) data that does not conform to Licensor’s specified data format, (d) operator error, or (e) use not conforming to the Licensor’s supported technical environment specified in the Documentation.

1.12 “Supported Interfaces” means application-based interfaces (API), network protocols, data formats, database schemas, and file formats used in the Software as described in the Documentation.

ARTICLE 2 PERIOD OF PERFORMANCE

2.1 Unless this Agreement is extended by mutual agreement or terminated as prescribed elsewhere herein, this Agreement shall begin on the date it is signed by all parties and shall continue in effect until the Licensor completes all tasks required herein pursuant to the project work plan, including services during the three (3) year hosting term. The web-based NoCall List

system, as customized for the State of Mississippi, must be implemented, fully functional, accepted by PSC, and all tasks (excluding hosting) required herein, including but not limited to development of required interfaces and training, completed on or before December 31, 2021, unless a change in this date is mutually agreed to in writing by the State and the Licensor. At the end of the three (3) year initial ASP services term, the ASP services may, upon the written agreement of the parties, be renewed under the same terms and conditions. One hundred and eighty (180) days prior to the expiration of the initial hosting term or any renewal hosting term of this Agreement, Licensor shall notify PSC and ITS of the impending expiration and PSC shall have sixty (60) days in which to notify Licensor of its intention to either renew or cancel the ASP services.

2.2 This Agreement will become a binding obligation on the State only upon the issuance of a valid purchase order by PSC following contract execution and the issuance by ITS of the CP-1 Acquisition Approval Document.

ARTICLE 3 SCOPE OF SERVICES

3.1 The Licensor agrees to provide to PSC an ASP based NoCall System and Services and associated deliverables required to provide, host, and maintain a web based application for PSC as described in this Agreement. While the scope of work for this project is defined by the contract documents set forth herein in the article titled "Entire Agreement", a summary of such work is outlined in Article 3.5 below.

3.2 The Licensor acknowledges that PSC intends to be actively involved in the day-to-day progress of the project. The Licensor agrees to (a) obtain PSC's approval of all tasks and the time schedule for completion of said tasks prior to commencing performance, if not already contained in the approved project work plan; (b) make available to the State project team members all project work papers and work-in-progress for review; (c) ensure that the Licensor Project Manager works closely together with the State Project Manager, (d) provide PSC access to the host website; (e) meet with PSC on a regular basis at a mutually agreeable time, and as otherwise requested by PSC, to discuss the status of the project, and (f) if required by PSC, submit written project status reports.

3.3 The parties understand and agree that the project shall be structured with interim deliverables as set forth in the agreed upon project work plan so as to allow PSC an opportunity to accept or reject the deliverables, including but not limited to, specifications, requirement definitions, process designs, data analyses, web layouts, screen layouts, and report layouts. The actual customizations shall not begin until after PSC has communicated its conceptual approval of the results the Licensor plans to provide. PSC shall have ten (10) business days to review interim materials, which review period can only be reduced by mutual agreement of the Licensor and PSC.

3.4 It is understood by the parties that the project work plan must be in place within fifteen (15) business days of execution of this Agreement and prior to any other work being performed. Once this mutually agreed upon project work plan, which will identify specific time frames and deliverable target dates for this project, has been developed, it will be incorporated into and made a part of this Agreement. The dates in the project work plan will define the agreed upon period of performance. The parties acknowledge that the project work plan will evolve and change from time to time upon the mutual written agreement of both parties. The parties agree that the

deliverables and schedule set forth in the latest version of the project work plan will take precedence over any prior plans.

3.5 Licensor shall be responsible for the following:

- A.** Ensuring that all deliverables are complete and accepted by PSC pursuant to the mutually agreed upon project work plan;
- B.** Ensuring that the host site complies with PriorityOne of the World Wide Web Consortium's (W3C's) Web Accessibility Initiative and guidelines in Section 508 of the Rehabilitation Act that are not covered in W3C Priority;
- C.** Ensuring that the site is accessible through PSC's published universal resource locator ("URL") rather than through Licensor's site address;
- D.** Reviewing with PSC the Content a minimum of once a quarter to ensure that the Content remains timely and accurate and reaching an agreement with PSC as to reasonable timelines for implementing Content updates delivered to the Licensor that will be posted on the site;
- E.** Tracking date sensitive items to ensure timely updates;
- F.** All Content provided by the Licensee and collected by the Software shall remain the sole and exclusive property of the Licensee. Upon the termination or expiration of this Agreement, Licensor shall provide such Content in its possession to the Licensee pursuant to a mutually agreed upon release schedule;
- G.** Working with PSC to achieve access rates that meet PSC's needs;
- H.** Providing security for the host site that is agreeable to PSC with Licensor responsible for all necessary equipment and software related to security;
- I.** Maintaining the accessibility of the site twenty-four (24) hours a day, seven (7) days a week at an uptime rate of 99% or greater, subject to the limitations set forth in this Agreement, including but not limited to, those in Article 4.4;
- J.** Completing daily backups of the site;
- K.** Notifying PSC at least three (3) business days prior to any anticipated service interruption, with said notice containing a general description of the reason for the service interruption;
- L.** Proposing and adhering to a disaster recovery plan and providing access to such plan to the State, all at Licensor's expense;
- M.** Participating with PSC in disaster recovery planning and testing based on a mutually agreed upon schedule;
- N.** Maintaining the confidentiality of the data entered;
- O.** Providing PSC access to all of the technical information concerning operation of the site, including but not limited to, server specifications, Internet connection information, personnel requirements and software implementations;
- P.** Identifying any commercially available software, by vendor and version number, integrated into the Products and describing the particular functionality of any software that is proprietary to the Licensor;
- Q.** Maintaining the host site, with the cost for such support, maintenance, and hosting for years following the initial three (3) year period not increasing annually beyond five percent (5%) or the percent increase in the consumer price index for all Urban Consumers, US City Average (C.P.I.-U) for the preceding year, whichever is less;
- R.** Providing 24x7x365 support of the web site, including sub-domain support;
- S.** Providing redundant internet connections;
- T.** Providing Dual T1 or greater connectivity;
- U.** Providing FTP and remote configuration access;

- V. Providing SSL secure server support;
- W. Providing monthly reports containing line utilization, site availability statistics, network usage, security user access reports and system performance data to PSC;
- X. Maintaining sufficient bandwidth and server capacity to meet PSC and Active Users' demand as it may fluctuate and increase during the term of this Agreement, and
- Y. Ensuring that upon termination or expiration of this Agreement that transition of the site from the Licensor to PSC or to a successor host will be accomplished at no expense to PSC, and with minimal interruption of the site's accessibility and insignificant changes in the site's appearance and functionality.

3.6 In the event Licensor creates any revisions to or upgrades of the system, Licensor shall provide Licensee thirty (30) days written notification of such revision or upgrade, and shall, upon request of Licensee, furnish such revision or upgrade to Licensee free of charge as part of the ASP fees.

ARTICLE 4 SCOPE OF LICENSE AND HOSTING SERVICES

4.1 Subject to the terms and conditions of this Agreement, Licensor hereby grants to Licensee a non-exclusive and non-transferable license to access the Software over the Internet and to use it for Licensee's business operations and use it on the Licensor's host server for the initial term of the Agreement and any subsequent renewal hosting terms in accordance with, and subject to, the terms and conditions set forth in this Agreement. Licensee and Active Users are granted access to the Software, Products and Services twenty-four (24) hours a day, seven (7) days a week, three hundred and sixty-five (365) days a year, subject to regularly scheduled maintenance and required repairs. The terms and conditions of this Agreement will apply to any Enhancements or additional Software Products Licensee may procure from Licensor.

4.2 Licensor will provide Licensee storage space on and access to Licensor's Software via the Internet and provide Internet access to the Software to the Active Users through Licensor's site ("ASP Services").

4.3 In connection with the ASP Services, Licensor will provide and maintain all Software and hardware, including, but not limited to, the server hardware and software, telecommunications hardware and software, security hardware and software and other software that is reasonably necessary to operate and maintain the Software.

4.4 The Software will be accessible at least ninety-nine percent (99%) of the time, twenty-four (24) hours a day, seven (7) days a week, except for scheduled maintenance and required repairs, and except for any loss or interruption of the ASP Services due to causes beyond the control of Licensor. In the event that PSC or an Active User is unable to achieve the 99% application availability during any given month, excluding scheduled maintenance, required repairs, and unavailability due to causes beyond the control of Licensor, the Licensor shall reimburse PSC twenty-five percent (25%) of the monthly ASP hosting fees for each twenty-four (24) hour day during which there were any incidents of unavailability. Licensor shall maintain the server at a secured location with restricted access.

4.5 Licensor shall provide the Licensee with its standard managed firewall service, which shall enable secure delivery of Licensor's application services using fully redundant hardware-based firewalls. Licensor's managed firewall service will be available twenty-four (24) hours a day, seven (7) days a week.

4.6 The use of the Software by Active Users will be governed solely by the terms and conditions of this Agreement.

4.7 Licensor acknowledges that the Content is and shall remain the sole and exclusive property of Licensee. Further, Licensor acknowledges that the Content may contain valuable trade secrets of Licensee and Licensor agrees to maintain the confidentiality of the Content and shall not make the Content publicly available except as may be necessary in performing the ASP Services.

4.8 Licensee acknowledges that the Software Products shall remain the exclusive property of Licensor. Licensee agrees that except as noted herein, it will not otherwise copy, translate, modify, adapt, decompile, disassemble or reverse engineer any of the Software without the prior written consent of Licensor.

ARTICLE 5 DELIVERY; RISK OF LOSS, AND ACCEPTANCE

5.1 Licensor shall deliver, install, and make available the Software and Documentation to the Licensor's hosting environment, except as otherwise specified, and pursuant to the delivery schedule mutually agreed to by the parties.

5.2 Licensor shall assume and bear the entire risk of loss and damage to the Products from any cause whatsoever while in transit and at all times throughout Licensor's possession thereof.

5.3 PSC shall have thirty (30) calendar days after the Available Date to evaluate and conduct the final acceptance testing of the Software to confirm that it performs without any defects and performs in accordance with the requirements of this Agreement. PSC shall immediately thereafter notify Licensor of any defects in the Software, which must be corrected. Thereafter, Licensor shall have ten (10) business days in which to either repair or replace the defective Software unless both parties agree to extend this period, all at Licensor's expense. In the event Licensor is unable to repair or replace the Software within this ten (10) day period, PSC may terminate this Agreement pursuant to the Termination Article herein.

ARTICLE 6 CONSIDERATION AND METHOD OF PAYMENT

6.1 The total compensation to be paid to the Licensor by PSC for all development, maintenance and ASP services, customizations, products, travel, performances and expenses under this Agreement shall not exceed the specified sum of **\$TOTAL COMPENSATION**, and shall be payable as set forth in the Payment Schedule attached hereto as Exhibit A.

6.2 Licensor shall submit invoices with the appropriate documentation to PSC monthly for any month in which ASP services and/or other Services are rendered. Licensor shall submit invoices and supporting documentation to PSC electronically during the term of this Agreement using the processes and procedures identified by the State. PSC agrees to make payment in accordance with Mississippi law on "Timely Payments for Purchases by Public Bodies", Section 31-7-301, et seq. of the 1972 Mississippi Code Annotated, as amended, which generally provides for payment of undisputed amounts by PSC within forty-five (45) days of receipt of the invoice. Licensor understands and agrees that PSC is exempt from the payment of taxes. All payments shall be in United States currency. Payments by state agencies using Mississippi's Accountability System for Government Information and Collaboration (MAGIC) shall be made and remittance information provided electronically as directed by the State. The payments by these agencies shall be deposited into the bank account of the Licensor's choice. No payment, including final payment,

shall be construed as acceptance of defective products or incomplete work, and the Licensor shall remain responsible and liable for full performance in strict compliance with the contract documents specified in the article herein titled "Entire Agreement."

6.3 Acceptance by the Licensor of the last payment due from PSC under this Agreement shall operate as a release of all claims for money against the State by the Licensor and any subcontractors or other persons supplying labor or materials used in the performance of the work under this Agreement.

ARTICLE 7 WARRANTY

7.1 Licensor represents and warrants that it has the right to license the Products provided under this Agreement.

7.2 Licensor represents and warrants that the Products provided by Licensor shall meet or exceed the minimum specifications set forth in RFP No. 4378 and Licensor's Proposal, as accepted by the State, in response thereto.

7.3 During the term of this Agreement, the Licensor represents and warrants that all deliverables shall be free from any defect, deficiency, faultiness, imperfection, inadequacy, incompleteness or other condition (collectively referred to herein as "Defect") which would render any such deliverable inoperable in any way or which would prevent full performance in accordance with this Agreement. This warranty includes, without limitation, correction of errors, design deficiencies, performance deficiencies, and incorrect or defective Documentation, including those found during acceptance testing, implementation, and the warranty period. Acceptance testing shall not in any way relieve the Licensor of its responsibilities to correct any Defect during the warranty period. The Licensor shall repair any Defect at no cost to the State within ten (10) business days of receiving notice of the Defect from the State, unless PSC consents in writing to a longer period of repair time. In the event Licensor is unable to repair or replace the Software within the mutually agreed upon time frame after receipt of notice of the Defect, PSC shall be entitled to a full refund of fees paid and shall have the right to terminate this Agreement in whole or in part as provided for in the Termination Article herein. Licensee's rights hereunder are in addition to any other rights Licensee may have.

7.4 During the term of this Agreement, the Licensor represents and warrants that its Services hereunder shall be performed by competent personnel and shall be of professional quality consistent with generally accepted industry standards for the performance of such Services and shall comply in all respects with the requirements of this Agreement. For any breach of this warranty, Licensor shall perform the Services again, at no cost to the State, or if Licensor is unable to perform the Services as warranted, Licensor shall reimburse the State the fees paid to Licensor for the unsatisfactory Services.

7.5 Licensor represents and warrants that neither the Software, nor Enhancements shall contain a disabling code, lockup program or device. Licensor further agrees that it will not, under any circumstances including enforcement of a valid contract right, (a) install or trigger a lockup program or device, or (b) take any step which would in any manner interfere with Licensee's licensed use of the Software, or Enhancements and/or which would restrict Licensee from accessing its data files or in any way interfere with the transaction of Licensee's business. For any breach of this warranty, Licensor at its expense shall, within ten (10) business days after

receipt of notification of the breach, deliver Products to Licensee that are free of such disabling code, lockup program or device.

7.6 Licensor represents and warrants that neither the Software, nor Enhancements delivered to Licensee contain a computer virus. For purposes of this provision, a computer virus shall be defined as code intentionally inserted in the Software or Enhancements that will damage or destroy Licensee's applications or data. For any breach of this warranty, Licensor at its expense shall, within five (5) business days after receipt of notification of the breach, deliver Products to Licensee that are free of any virus, and shall be responsible for repairing, at Licensor's expense, any and all damage done by the virus to Licensee's site.

7.7 The Licensor represents and warrants that, upon completion of the project, the Licensor, and all subcontractors, if any, shall convey to PSC copies of all interim reports, cost records, data collection forms, and any working papers that support the final acceptance.

7.8 Licensor represents and warrants that it has obtained all necessary rights to permit use of the graphics on the site and that the Licensor shall provide PSC with evidentiary proof of graphic licenses and releases. Further, the Licensor represents and warrants that all Licensor-supplied graphics and content contains no scandalous or libelous material.

7.9 The Licensor represents and warrants that the deliverables provided to PSC under this Agreement, and their use by Active Users, will not infringe or constitute an infringement of any copyright, patent, trademark, servicemark, trade secret or other proprietary right of any person or entity. Licensee agrees that it will promptly notify Licensor in writing of any such claim or action of which it has knowledge, and that it will cooperate fully in the defense and investigation of the claim by supplying Licensor all relevant information currently available and in its possession, all at Licensor's expense. Licensor shall, to the extent authorized by Mississippi law, have sole control over the defense or settlement of any such claim or action. Licensor, at its own expense, shall defend or settle any and all infringement actions filed against Licensor or the State which involve the deliverables or other items provided under this Agreement and shall pay all settlements, as well as all costs, attorney fees, damages and judgment finally awarded against the State. If, in any such suit arising from such claim, the continued use of the items for the purpose intended is enjoined or threatened to be enjoined by any court of competent jurisdiction, Licensor shall, at its expense: (a) procure for the State the right to continue using such items, (b) modify or replace them with non-infringing items with equivalent functionality, or, to the extent (a) or (b) cannot be done despite Licensor's commercially reasonable efforts, (c) refund to the State the fees previously paid by the State for the infringing Products. Said refund shall be paid within ten (10) business days of notice to the State to discontinue said use. In addition to the foregoing, the Licensor shall indemnify the State in accordance with the provisions of Article 18 herein.

7.10 Licensor represents and warrants that the host site provided by the Licensor shall be reasonably expandable and scalable so PSC can add and support additional business functions and users over time. It is understood and agreed that any standard revisions, enhancements, improvements, and upgrades to the licensed Software and host site equipment during the term of this Agreement, including operating system, database management system, and other software, shall be provided by Licensor to PSC at no additional cost to PSC.

7.11 Licensor represents and warrants that it presently has and will continue to maintain, at its own expense, throughout the term of this Agreement, valid licenses for all software, trademarks, service marks, patents and copyrighted material and any other proprietary information of a third party that it will deploy in support of all products Licensor uses in the performance of this Agreement.

7.12 If applicable under the given circumstances, Licensor 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 (Supp2008), 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. Licensor 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. Licensor 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. Licensor understands and agrees that any breach of these warranties may subject Licensor 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 Licensor 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, Licensor would also be liable for any additional costs incurred by the State due to contract cancellation or loss of license or permit.

7.13 Licensor represents and warrants that the system provided pursuant to this Agreement will pass both internal security audits and independent security audits. For any breach of the preceding warranty at any time during which the system is covered by warranty and/or software support, Licensor shall, at its own expense and at no cost to Licensee, remediate any defect, anomaly or security vulnerability in the system by repairing and/or replacing any and all components of the system necessary in order for the system to be secure.

7.14 Licensor represents and warrants that no official or employee of Licensee or of ITS, and no other public official of the State of Mississippi who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of the project shall, prior to the completion of said project, voluntarily acquire any personal interest, direct or indirect, in this Agreement. The Licensor warrants that it has removed any material conflict of interest prior to the signing of this Agreement, and that it shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its responsibilities under this Agreement. The Licensor also warrants that in the performance of this Agreement no person having any such known interests shall be employed.

7.15 The Licensor represents and warrants that no elected or appointed officer or other employee of the State of Mississippi, nor any member of or delegate to Congress has or shall benefit financially or materially from this Agreement. No individual employed by the State of Mississippi shall be admitted to any share or part of the Agreement or to any benefit that may arise therefrom. The State of Mississippi may, by written notice to the Licensor, terminate the

right of the Licensor to proceed under this Agreement if it is found, after notice and hearing by the ITS Executive Director or his/her designee, that gratuities in the form of entertainment, gifts, jobs, or otherwise were offered or given by the Licensor to any officer or employee of the State of Mississippi with a view toward securing this Agreement or securing favorable treatment with respect to the award, or amending or making of any determinations with respect to the performing of such contract, provided that the existence of the facts upon which the ITS Executive Director makes such findings shall be in issue and may be reviewed in any competent court. In the event this Agreement is terminated under this article, the State of Mississippi shall be entitled to pursue the same remedies against the Licensor as it would pursue in the event of a breach of contract by the Licensor, including punitive damages, in addition to any other damages to which it may be entitled at law or in equity.

ARTICLE 8 EMPLOYMENT STATUS

8.1 Licensor shall, during the entire term of this Agreement, be construed to be an independent contractor. Nothing in this Agreement is intended to nor shall be construed to create an employer-employee relationship, or a joint venture relationship.

8.2 Licensor represents that it is qualified to perform the duties to be performed under this Agreement and that it has, or will secure, if needed, at its own expense, applicable personnel who shall be qualified to perform the duties required under this Agreement. Such personnel shall not be deemed in any way, directly or indirectly, expressly or by implication, to be employees of Licensee.

8.3 Any person assigned by Licensor to perform the Services hereunder shall be the employee of Licensor, who shall have the sole right to hire and discharge its employee. Licensee may, however, direct Licensor to replace any of its employees under this Agreement.

8.4 Licensor shall pay when due, all salaries and wages of its employees and it accepts exclusive responsibility for the payment of federal income tax, state income tax, social security, unemployment compensation and any other withholdings that may be required. Neither Licensor nor employees of Licensor are entitled to state retirement or leave benefits.

ARTICLE 9 BEHAVIOR OF EMPLOYEES/SUBCONTRACTORS

Licensor will be responsible for the behavior of all its employees and subcontractors while on the premises of any Licensee location. Any employee or subcontractor acting in a manner determined by the administration of that location to be detrimental, abusive or offensive to any of the staff and/or students will be asked to leave the premises and may be suspended from further work on the premises. All Licensor employees and subcontractors who will be working at such locations shall be covered by Licensor's comprehensive general liability insurance policy.

ARTICLE 10 MODIFICATION OR RENEGOTIATION

This Agreement may be modified only by written agreement signed by the parties hereto, and any attempt at oral modification shall be void and of no effect. The parties agree to renegotiate the Agreement if federal and/or state revisions of any applicable laws or regulations make changes in this Agreement necessary.

ARTICLE 11 AUTHORITY, ASSIGNMENT AND SUBCONTRACTS

11.1 In matters of proposals, negotiations, contracts, and resolution of issues and/or disputes, the parties agree that Licensor represents all contractors, third parties, and/or subcontractors

Licensor has assembled for this project. The Licensee is required to negotiate only with Licensor, as Licensor's commitments are binding on all proposed contractors, third parties, and subcontractors.

11.2 Neither party may assign or otherwise transfer this Agreement or its obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld. Any attempted assignment or transfer of its obligations without such consent shall be null and void. This Agreement shall be binding upon the parties' respective successors and assigns.

11.3 Licensor must obtain the written approval of PSC before subcontracting any portion of this Agreement. No such approval by PSC of any subcontract shall be deemed in any way to provide for the incurrence of any obligation of PSC in addition to the total fixed price agreed upon in this Agreement. All subcontracts shall incorporate the terms of this Agreement and shall be subject to the terms and conditions of this Agreement and to any conditions of approval that PSC may deem necessary.

11.4 Licensor represents and warrants that any subcontract agreement Licensor enters into shall contain a provision advising the subcontractor that the subcontractor shall have no lien and no legal right to assert control over any funds held by the Licensee, and that the subcontractor acknowledges that no privity of contract exists between the Licensee and the subcontractor and that the Licensor is solely liable for any and all payments which may be due to the subcontractor pursuant to its subcontract agreement with the Licensor. The Licensor shall indemnify and hold harmless the State from and against any and all claims, demands, liabilities, suits, actions, damages, losses, costs and expenses of every kind and nature whatsoever arising as a result of Licensor's failure to pay any and all amounts due by Licensor to any subcontractor, third party licensor, materialman, laborer or the like.

11.5 All subcontractors shall be bound by any negotiation, arbitration, appeal, adjudication or settlement of any dispute between the Licensor and the Licensee, where such dispute affects the subcontract.

ARTICLE 12 AVAILABILITY OF FUNDS

It is expressly understood and agreed that the obligation of PSC to proceed under this Agreement is conditioned upon the appropriation of funds by the Mississippi State Legislature and the receipt of state and/or federal funds for the performances required under this Agreement. If the funds anticipated for the fulfillment of this Agreement are not forthcoming, or are insufficient, either through the failure of the federal government to provide funds or of the State of Mississippi to appropriate funds, or if there is a discontinuance or material alteration of the program under which funds were available to PSC for the payments or performance due under this Agreement, PSC shall have the right to immediately terminate this Agreement, in whole or in part, without damage, penalty, cost or expense to PSC of any kind whatsoever, except for payment for work completed by Licensor and accepted by PSC prior to termination. The effective date of termination shall be as specified in the notice of termination. PSC shall have the sole right to determine whether funds are available for the payments or performances due under this Agreement.

ARTICLE 13 TERMINATION

13.1 Notwithstanding any other provision of this Agreement to the contrary, this Agreement may be terminated, in whole or in part, as follows: (a) upon the mutual, written agreement of the

parties; (b) If either party fails to comply with the terms of this Agreement, the non-defaulting party may terminate the Agreement upon the giving of thirty (30) calendar days written notice unless the breach is cured within said thirty (30) day period; (c) PSC may terminate the Agreement in whole or in part without the assessment of any penalties upon ten (10) calendar days written notice to Licensor if Licensor becomes the subject of bankruptcy, reorganization, liquidation or receivership proceedings, whether voluntary or involuntary, or (d) PSC may terminate this Agreement in whole or in part for any reason without the assessment of any penalties after giving thirty (30) calendar days written notice specifying the effective date thereof to Licensor. The provisions of this Article 13 do not limit either party's right to pursue any other remedy available at law or in equity.

13.2 In the event PSC terminates this Agreement, Licensor shall receive just and equitable compensation for Services rendered by Licensor and accepted by PSC prior to the termination. Further, upon termination of this Agreement, Licensor shall refund any and all applicable unexpended prorated annual ASP fees previously paid by Licensee.

13.3 In the event that this Agreement's Scope of Services requires customization and/or implementation of software for which Licensee is required to pay a license fee upon execution of this Agreement, and if Licensor fails to complete said customization and/or implementation as required thereby precluding Licensee's use of the subject software, Licensor shall refund in full the price paid by Licensee to Licensor upon termination of this Agreement.

ARTICLE 14 GOVERNING LAW

This Agreement shall be construed and governed in accordance with the laws of the State of Mississippi and venue for the resolution of any dispute shall be Jackson, Hinds County, Mississippi. Licensor expressly agrees that under no circumstances shall the State be obligated to pay an attorney's fee, prejudgment interest or the cost of legal action to Licensor. Further, nothing in this Agreement shall affect any statutory rights the parties may have that cannot be waived or limited by contract.

ARTICLE 15 WAIVER

Failure of either party hereto to insist upon strict compliance with any of the terms, covenants and conditions hereof shall not be deemed a waiver or relinquishment of any similar right or power hereunder at any subsequent time or of any other provision hereof, nor shall it be construed to be a modification of the terms of this Agreement. A waiver by either party, to be effective, must be in writing, must set out the specifics of what is being waived, and must be signed by an authorized representative of that party.

ARTICLE 16 SEVERABILITY

If any term or provision of this Agreement is prohibited by the laws of the State of Mississippi or declared invalid or void by a court of competent jurisdiction, the remainder of this Agreement shall be valid and enforceable to the fullest extent permitted by law provided that the State's purpose for entering into this Agreement can be fully achieved by the remaining portions of the Agreement that have not been severed.

ARTICLE 17 CAPTIONS

The captions or headings in this Agreement are for convenience only, and in no way define, limit or describe the scope or intent of any provision or Article in this Agreement.

ARTICLE 18 HOLD HARMLESS

To the fullest extent allowed by law, Licensor shall indemnify, defend, save and hold harmless, protect and exonerate Licensee, ITS and the State, its Board Members, officers, employees, agents and representatives from and against any and all claims, demands, liabilities, suits, actions, damages, losses, costs and expenses of every kind and nature whatsoever, including without limitation, court costs, investigative fees and expenses, attorney fees and claims for damages arising out of or caused by Licensor and/or its partners, principals, agents, employees or subcontractors in the performance of or failure to perform this Agreement.

ARTICLE 19 THIRD PARTY ACTION NOTIFICATION

Licensor shall notify PSC in writing within five (5) business days of Licensor filing bankruptcy, reorganization, liquidation or receivership proceedings or within five (5) business days of its receipt of notification of any action or suit being filed or any claim being made against Licensor or PSC by any entity that may result in litigation related in any way to this Agreement and/or which may affect the Licensor's performance under this Agreement. Failure of the Licensor to provide such written notice to PSC shall be considered a material breach of this Agreement and PSC may, at its sole discretion, pursue its rights as set forth in the Termination Article herein and any other rights and remedies it may have at law or in equity.

ARTICLE 20 AUTHORITY TO CONTRACT

Licensor warrants that it is a validly organized business with valid authority to enter into this Agreement; 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 notwithstanding any other provision 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.

ARTICLE 21 NOTICE

Any notice required or permitted to be given under this Agreement shall be in writing and personally delivered or sent by electronic means provided that the original of such notice is sent by certified United States mail, postage prepaid, return receipt requested, or overnight courier with signed receipt, to the party to whom the notice should be given at their business address listed herein. ITS' address for notice is: David C. Johnson, Executive Director, Mississippi Department of Information Technology Services, 3771 Eastwood Drive, Jackson, Mississippi 39211. Mississippi Public Service Commission's address for notice is: Brian Bridges, Director of Information Systems, Mississippi Public Service Commission, P.O. Box 1174, Jackson, Mississippi 39215-1174. The Licensor's address for notice is: **VENDOR NOTICE INFORMATION**. Notice shall be deemed given when actually received or when refused. The parties agree to promptly notify each other in writing of any change of address.

ARTICLE 22 RECORD RETENTION AND ACCESS TO RECORDS

Licensor shall establish and maintain financial records, supporting documents, statistical records and such other records as may be necessary to reflect its performance of the provisions of this Agreement. The Licensee, ITS, any state or federal agency authorized to audit Licensee, and/or any of their duly authorized representatives, shall have unimpeded, prompt access to this Agreement and to any of the Licensor's proposals, books, documents, papers and/or records that are pertinent to this Agreement to make audits, copies, examinations, excerpts and transcriptions at the State's or Licensor's office as applicable where such records are kept during normal business hours. All records relating to this Agreement shall be retained by the Licensor for three

(3) years from the date of receipt of final payment under this Agreement. However, if any litigation or other legal action, by or for the state or federal government has begun that is not completed at the end of the three (3) year period, or if an audit finding, litigation or other legal action has not been resolved at the end of the three (3) year period, the records shall be retained until resolution.

ARTICLE 23 INSURANCE

Licensor represents that it will maintain workers' compensation insurance as prescribed by law which shall inure to the benefit of Licensor's personnel, as well as comprehensive general liability and employee fidelity bond insurance. Licensor will, upon request, furnish with a certificate of conformity providing the aforesaid coverage.

ARTICLE 24 DISPUTES

Any dispute concerning a question of fact under this Agreement which is not disposed of by agreement of the Licensor and Licensee, shall be decided by the Executive Director of ITS or his/her designee. This decision shall be reduced to writing and a copy thereof mailed or furnished to the parties. Disagreement with such decision by either party shall not constitute a breach under the terms of this Agreement. Such disagreeing party shall be entitled to seek such other rights and remedies it may have at law or in equity.

ARTICLE 25 COMPLIANCE WITH LAWS

25.1 Licensor shall comply with, and all activities under this Agreement shall be subject to, all Licensee policies and procedures which Licensor has received copies of, and all applicable federal, state, and local laws, regulations, policies and procedures as now existing and as may be amended or modified. Specifically, but not limited to, Licensor shall not discriminate against any employee nor shall any party be subject to discrimination in the performance of this Agreement because of race, creed, color, sex, age, national origin or disability. Further, if applicable, Licensor shall comply with the provisions of the Davis-Bacon Act including, but not limited to, the wages, recordkeeping, reporting and notice requirements set forth therein.

25.2 Licensor represents and warrants that it will comply with the state's data breach notification laws codified at Section 75-24-29 of the Mississippi Code Annotated (Supp. 2012). Further, to the extent applicable, Licensor represents and warrants that it will comply with the applicable provisions of the HIPAA Privacy Rule and Security Regulations (45 CFR Parts 160, 162 and 164) ("Privacy Rule" and "Security Regulations", individually; or "Privacy and Security Regulations", collectively); and the provisions of the Health Information Technology for Economic and Clinical Health Act, Title XIII of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5 (the "HITECH Act").

ARTICLE 26 CONFLICT OF INTEREST

Licensor shall notify PSC of any potential conflict of interest resulting from the provision of services to other customers. If such conflict cannot be resolved to PSC's satisfaction, PSC reserves the right to terminate this Agreement.

ARTICLE 27 SOVEREIGN IMMUNITY

By entering into this Agreement with Licensor, the State of Mississippi does in no way waive its sovereign immunities or defenses as provided by law.

ARTICLE 28 CONFIDENTIAL INFORMATION

28.1 Licensor shall treat all Licensee data and information to which it has access by its performance under this Agreement as confidential and shall not disclose such data or information to a third party without specific written consent of Licensee. In the event that Licensor receives notice that a third party requests divulgence of confidential or otherwise protected information and/or has served upon it a validly issued judicial order requiring divulgence of such information, Licensor shall promptly inform Licensee and thereafter respond in conformity with such court order to the extent mandated by state and/or federal laws, rules and regulations. This Article shall survive the termination or completion of this Agreement and shall continue in full force and effect and shall be binding upon the Licensor and its agents, employees, successors, assigns, subcontractors or any party or entity claiming an interest in this Agreement on behalf of, or under the rights of the Licensor following any termination or completion of this Agreement.

28.2 With the exception of any attached exhibits which are labeled as "confidential", the parties understand and agree that this Agreement, including any amendments and/or change orders thereto, does not constitute confidential information, and may be reproduced and distributed by the State without notification to Licensor. ITS will provide third party notice to Licensor of any requests received by ITS for any such confidential exhibits so as to allow Licensor the opportunity to protect the information by court order as outlined in ITS Public Records Procedures.

ARTICLE 29 EFFECT OF SIGNATURE

Each person signing this Agreement represents that he or she has read the Agreement in its entirety, understands its terms, is duly authorized to execute this Agreement on behalf of the parties and agrees to be bound by the terms contained herein. Accordingly, this Agreement shall not be construed or interpreted in favor of or against the State or the Licensor on the basis of draftsmanship or preparation hereof.

ARTICLE 30 OWNERSHIP OF DOCUMENTS AND WORK PRODUCTS

All Content collected by the Software shall be the property of Licensee. Licensor may use the Content only in the performance of this Agreement, unless otherwise agreed upon between the parties. Licensee acknowledges that the Products shall remain the exclusive property of Licensor and are excluded from this Article.

ARTICLE 31 NON-SOLICITATION OF EMPLOYEES

Licensor agrees not to employ or to solicit for employment, directly or indirectly, any of PSC's employees until at least one (1) year after the expiration/termination of this Agreement unless mutually agreed to the contrary in writing by PSC and the Licensor and provided that such an agreement between these two entities is not a violation of the laws of the State of Mississippi or the federal government.

ARTICLE 32 ENTIRE AGREEMENT

32.1 This contract constitutes the entire agreement of the parties with respect to the subject matter contained herein and supersedes and replaces any and all prior negotiations, understandings and agreements, written or oral, between the parties relating thereto, including all terms of any "shrink-wrap", "click-wrap" or "browse-wrap" license of the Software. The RFP No. 4378, and Licensor's Proposal, as accepted by the State, in response thereto are hereby incorporated into and made a part of this Agreement.

32.2 The contract made by and between the parties hereto shall consist of, and precedence is hereby established by the order of the following:

- A. This Agreement signed by the parties hereto;
- B. Any exhibits attached to this Agreement;
- C. RFP No. 4378 and written addenda, and
- D. Licensor's Proposal, as accepted by the State, in response to RFP No.4378.

32.3 The intent of the above listed documents is to include all items necessary for the proper execution and completion of the services by the Licensor. The documents are complementary, and what is required by one shall be binding as if required by all. A higher order document shall supersede a lower order document to the extent necessary to resolve any conflict or inconsistency arising under the various provisions thereof; provided, however, that in the event an issue is addressed in one of the above mentioned documents but is not addressed in another of such documents, no conflict or inconsistency shall be deemed to occur by reason thereof. The documents listed above are shown in descending order of priority, that is, the highest document begins with the first listed document ("A. This Agreement") and the lowest document is listed last ("D. Licensor's Proposal").

ARTICLE 33 STATE PROPERTY

Licensor shall be responsible for the proper custody of any Licensee-owned property furnished for Licensor's use in connection with Services performed pursuant to this Agreement. Licensor shall reimburse the Licensee for any loss or damage, normal wear and tear excepted.

ARTICLE 34 SURVIVAL

Articles 7, 14, 18, 22, 27, 28, 30, 31, and all other articles which, by their express terms so survive or which should so reasonably survive, shall survive any termination or expiration of this Agreement.

ARTICLE 35 DEBARMENT AND SUSPENSION CERTIFICATION

Licensor certifies that neither it nor its principals: (a) are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any federal department or agency; (b) have, within a three (3) year period preceding this Agreement, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property; (c) are presently indicted of or otherwise criminally or civilly charged by a governmental entity with the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property, and (d) have, within a three (3) year period preceding this Agreement, had one or more public transaction (federal, state or local) terminated for cause or default.

ARTICLE 36 SPECIAL TERMS AND CONDITIONS

It is understood and agreed by the parties to this Agreement that there are no special terms and conditions except as specifically provided in this Agreement.

ARTICLE 37 STATUTORY AUTHORITY

By virtue of Section 25-53-21 of the Mississippi Code Annotated, as amended, the executive director of ITS is the purchasing and contracting agent for the State of Mississippi in the negotiation and execution of all contracts for the acquisition of information technology equipment, software and services. The parties understand and agree that ITS as contracting agent is not responsible or liable for the performance or non-performance of any of the Licensee's or Licensor's contractual obligations, financial or otherwise, contained within this Agreement. The parties further acknowledge that ITS is not responsible for ensuring compliance with any guidelines, conditions, or requirements mandated by Licensee's funding source.

ARTICLE 38 COMPLIANCE WITH ENTERPRISE SECURITY POLICY

Licensor and Licensee understand and agree that all products and services provided by Licensor under this Agreement must be and remain in compliance with the State of Mississippi's Enterprise Security Policy. The parties understand and agree that the State's Enterprise Security Policy is based on industry-standard best practices, policy, and guidelines at the time of contract execution. The State reserves the right to introduce a new policy during the term of this Agreement and require the Licensor to comply with same in the event the industry introduces more secure, robust solutions or practices that facilitate a more secure posture for the State of Mississippi.

ARTICLE 39 COMPLIANCE WITH ENTERPRISE CLOUD AND OFFSITE HOSTING SECURITY

If applicable, Licensor and Licensee understand and agree that all products and services provided by the Licensor under this Agreement must be and remain in compliance with the State of Mississippi's Enterprise Cloud and Offsite Hosting Security Policy. The parties understand and agree that the State's Enterprise Cloud and Offsite Hosting Security Policy is based on industry-standard best practices, policy, and guidelines at the time of contract execution and augments the Enterprise Security Policy. The State reserves the right to introduce a new policy during the term of this Agreement and require the Licensor to comply with same in the event the industry introduces more secure, robust solutions or practices that facilitate a more secure posture for the State of Mississippi.

ARTICLE 40 SOFTWARE SUPPORT AND MAINTENANCE

40.1 As part of the Software support and maintenance services, Licensor will maintain the Products in an operable condition according to the specifications contained in the technical manuals and as outlined in the Licensor's Proposal in response thereto. Licensor shall provide Licensee with Enhancements to the Software as they are made generally available from time to time. Notwithstanding any other provisions of this Agreement, Licensor shall provide support only with respect to the then-current generally available version of the Software.

40.2 Licensor shall also provide unlimited email and toll-free telephone technical support in the operation of the Software Products Monday through Friday, 7:00 a.m. to 7:00 p.m. Central Time. Licensor will provide a technical contact to Licensee to call after-hours should an issue arise. Licensor shall respond by telephone within one (1) hour to requests for support services. Licensee shall be given priority placement in the support queue for all system locking situations or problems claimed by Licensee to be a mission critical process. Upon receipt of Licensee's call, Licensor will (a) create an error report, (b) assign a severity level and (c) attempt to resolve the Software problem in accordance with the procedures and processes for problem resolution detailed below. It is understood by the parties that the Licensee and Licensor must mutually agree on whether an error is classified as a Severity Level 1, 2, or 3 error.

40.3 Severity Level 1 implies that the Software is not functioning. Some examples of Severity Level 1 Software problems are as follows: (a) Software is down and will not restart; (b) Software is not able to communicate with external systems; and (c) Software is generating a data corruption condition. Licensor shall resolve Severity Level 1 Software Errors within one (1) business day, or within a mutually agreed upon time frame. When a Severity Level 1 Software Error is reported, Licensor will assign resources necessary to correct the Software Error. If access to the Software is required, Licensee will provide a contact available to Licensor and access to Licensee's system and other software for the duration of the error correction procedures.

40.4 Severity Level 2 implies that (a) an essential function does not work as documented, or (b) testing and usage can continue but the task cannot be completed, and no workarounds exist. Licensor shall assign at least one (1) dedicated person to the problem and shall resolve Severity Level 2 Software Errors within two (2) business days, or within a mutually agreed upon time frame.

40.5 Severity Level 3 implies a Software Error such that implementations of function do not match specification and/or technical Documentation, and a workaround may exist. Licensor shall resolve Severity Level 3 Software Errors within ten (10) business days, or within a mutually agreed upon time frame.

ARTICLE 41 FORCE MAJEURE

Each party shall be excused from performance for any period and to the extent that it is prevented from performing any obligation or service, in whole or in part, as a result of causes beyond the reasonable control and without the fault or negligence of such party and/or its subcontractors. Such acts shall include without limitation acts of God, strikes, lockouts, riots, acts of war or terrorism, epidemics, governmental regulations superimposed after the fact, fire, earthquakes, floods, or other natural disasters (the "Force Majeure Events"). When such a cause arises, the Licensor shall notify the Licensee immediately in writing of the cause of its inability to perform; how it affects its performance, and the anticipated duration of the inability to perform. Delays in delivery or in meeting completion dates due to Force Majeure Events shall automatically extend such dates for a period equal to the duration of the delay caused by such events, unless the State determines it to be in its best interest to terminate this Agreement.

ARTICLE 42 TRANSPARENCY

In accordance with the Mississippi Accountability and Transparency Act of 2008, §27-104-151, et seq., of the Mississippi Code of 1972, as Amended, the American Accountability and Transparency Act of 2009 (P.L. 111-5), where applicable, and §31-7-13 of the Mississippi Code of 1972, as amended, where applicable, a fully executed copy of this Agreement and any subsequent amendments and change orders shall be posted to the State of Mississippi's accountability website at: <https://www.transparency.mississippi.gov>. Prior to ITS posting the Agreement and any subsequent amendments and change orders to the website, any attached exhibits which contain trade secrets or other proprietary information and are labeled as "confidential" will be redacted by ITS. Notwithstanding the preceding, however, it is understood and agreed that pursuant to §25-61-9(7) of the Mississippi Code of 1972, as amended, the contract provisions specifying the commodities purchased or the services provided; the price to be paid; and the term of this Agreement shall not be deemed a trade secret or confidential commercial or financial information and shall thus not be redacted.

ARTICLE 43 CHANGE ORDER RATE AND PROCEDURE

43.1 It is understood that the State may, at any time by a written order, make changes in the scope of the project. No changes in scope are to be conducted or performed by the Licensor except by the express written approval of the State. The Licensor shall be obligated to perform all changes requested by the Licensee, which have no price or schedule effect.

43.2 The Licensor shall have no obligation to proceed with any change that has a price or schedule effect until the parties have mutually agreed in writing thereto. Neither the State nor the Licensor shall be obligated to execute such a change order; and if no such change order is executed, the Licensor shall not be obliged or authorized to perform services beyond the scope of this Agreement and the contract documents. All executed change orders shall be incorporated into previously defined deliverables.

43.3 With respect to any change orders issued in accordance with this Article, the Licensor shall be compensated for work performed under a change order according to the hourly change order rate specified in the attached Exhibit A. If there is a service that is not defined in the change order rate, the Licensor and the State will negotiate the rate. The Licensor agrees that this change order rate shall be a "fully loaded" rate, that is, it includes the cost of all materials, travel expenses, per diem, and all other expenses and incidentals incurred by the Licensor in the performance of the change order. The Licensor shall invoice the Licensee upon acceptance by the Licensee of all work documented in the change order, and the Licensee shall pay invoice amounts on the terms set forth in this Agreement. The Licensor acknowledges and agrees that the fully-loaded change order hourly rates in Exhibit A must remain valid for the duration of the Agreement, with annual increases not to exceed the lesser of a five percent increase or an increase in the consumer price index, all Urban Consumer U.S. City Average (C.P.I.-U).

43.4 Upon agreement of the parties to enter into a change order, the parties will execute such a change order setting forth in reasonable detail the work to be performed thereunder, the revisions necessary to the specifications or performance schedules of any affected project work plan, and the estimated number of professional services hours that will be necessary to implement the work contemplated therein. The price of the work to be performed under any change order will be determined based upon the change order rate; however, the change order will be issued for a total fixed dollar amount and may not be exceeded regardless of the number of hours actually expended by the Licensor to complete the work required by that change order. The project work plan will be revised as necessary.

43.5 The Licensor will include in the progress reports delivered under this Agreement, the status of work performed under all then current change orders.

43.6 In the event the Licensor and the State enter into a change order which increases or decreases the time required for the performance of any part of the work under this Agreement, the Licensor shall submit to the Licensee a revised version of the project work plan, clearly indicating all changes, at least five (5) working days prior to implementing any such changes.

43.7 The Licensee shall promptly review all revised project work plans submitted under this Agreement, and shall notify the Licensor of its approval or disapproval, in whole or in part, of the proposed revisions, stating with particularity all grounds for any disapproval, within ten (10) working days of receiving the revisions from the Licensor. If the Licensee fails to respond in such time period or any extension thereof, the Licensee shall be deemed to have approved the revised project work plan.

ARTICLE 44 LIQUIDATED DAMAGES

It is agreed by the parties hereto that time is of the essence, and that in the event of a delay in the satisfactory completion and acceptance of the services provided for herein, damage shall be sustained by Licensee. In the event of a delay as described herein, Licensor shall pay Licensee, within five (5) calendar days from the date of receipt of notice, fixed and liquidated damages of \$500.00 per day for each calendar day of delay caused by Licensor. Licensee may offset amounts due it as liquidated damages against any monies due Licensor under this Agreement. Licensee will notify Licensor in writing of any claim for liquidated damages pursuant hereto on or before the date Licensee deducts such sums from money payable to Licensor. Any liquidated damages assessed are in addition to and not in limitation of any other rights or remedies of Licensee.

For the faithful performance of the terms of this Agreement, the parties hereto have caused this Agreement to be executed by their undersigned authorized representatives.

**State of Mississippi, Department of
Information Technology Services, on
behalf of Mississippi Public Service
Commission**

VENDOR NAME

By: _____
Authorized Signature

By: _____
Authorized Signature

Printed Name: David C. Johnson

Printed Name: _____

Title: Executive Director

Title: _____

Date: _____

Date: _____

**EXHIBIT A
PAYMENT SCHEDULE**

**ATTACHMENT A
NO CALL LAW**

Article 15. Mississippi Telephone Solicitation Act. (§§ 77-3-701 — 77-3-737)

§ 77-3-701. Short title [Repealed effective July 1, 2021].

This article shall be known and may be cited as the “Mississippi Telephone Solicitation Act”

§ 77-3-703. Legislative findings [Repealed effective July 1, 2021].

(1) The use of the telephone to make all types of solicitation to consumers is pervasive. This article gives consumers a tool by which to object to telemarketing calls and text messages, as these communications can amount to a nuisance, an invasion of privacy, and can create a health and safety risk for certain consumers who maintain their phone service primarily for emergency medical situations.

(2) Any calls made for political purposes shall be governed by Section 23-15-875.

§ 77-3-709. Commission’s discretion to exempt some telephone solicitors from purchase and use of no-calls database [Repealed effective July 1, 2021].

The commission, in its discretion, may allow telephone solicitors to make telephone solicitations without requiring them to purchase the “no-calls” database, and regardless of whether a telephone solicitation may be made to a consumer who has given notice of his objection to receiving such, solicitation provided that it adopts a written policy incorporating the following criteria:

(a) The telephone solicitor must demonstrate to the commission that its proposed telephone solicitation is reasonably related to an established business relationship as defined in Section 77-3-705(h), or is being made in response to an invitation or notice from a consumer which clearly signifies that he is open to a contact being initiated;

(b) The telephone solicitation is to be made by a person or entity for the purpose of soliciting a contribution or donation to a bona fide nonprofit corporation, regardless of whether consumer goods or services will be provided to the consumer in return for the contribution or donation; or

(c) The consumer will not be telephoned for telephone solicitation as defined in Section 77-3-705(d), but he will be telephoned for a bona fide religious or charitable purpose, including an invitation to attend an event or a request for a contribution or donation.

In all cases, the telephone solicitor must demonstrate that it will not use an automated dialing system or a method that will block or otherwise circumvent the consumer’s use of a caller identification service.

In making its determination of whether to allow a telephone solicitation to be made under the policy which will include the limitations set forth in this section, the commission shall exercise due care in investigating previous conduct of the telephone solicitor seeking such authority. The commission may deny any telephone solicitor the privilege of making telephone solicitation under this section, notwithstanding that any of the criteria set forth in this section have been met.

§ 77-3-713. Registration of telephone solicitors mandatory [Repealed effective July 1, 2021].

All telephone solicitors must register with the commission before conducting any telephone solicitation in the State of Mississippi.

§ 77-3-715. Regulatory powers of Public Service Commission [Repealed effective July 1, 2021].

The commission may promulgate rules and regulations necessary to effectuate this article, including, but not limited to, the following:

- (a) The methods by which consumers may give notice to the commission or its contractor of their objection to receive solicitations or revocation of the notice;
- (b) The methods by which a notice of objection becomes effective and the effect of a change of telephone number on the notice;
- (c) The methods by which objections and revocations are collected and added to the database;
- (d) The methods by which a person or entity desiring to make telephone solicitations may obtain access to the database as required to avoid calling the telephone number of consumers included in the database;
- (e) The process by which the database is updated, and the frequency of updates;
- (f) The process by which telephone solicitors must register with the commission for the purpose of conducting telephonic solicitation in the state;
- (g) The establishment of fees to be charged by the commission or its contractor to telephone solicitors for access to or for paper or electronic copies of the database on an annual basis;
- (h) The establishment of a written policy which clearly articulates the circumstances under which the commission, in its discretion, may allow exceptions to the provisions of this article pursuant to Section 77-3-703; and
- (i) All other matters relating to the database that the commission deems necessary.

§ 77-3-717. Inclusion in no-calls database of Mississippi part of any Federal Trade Commission national database [Repealed effective July 1, 2021].

If the Federal Trade Commission establishes a single national database of telephone numbers of consumers who object to receiving telephone solicitations, the commission must include the portion of the single national database that relates to the State of Mississippi in the database established under this article. Likewise, the commission shall make available the state's database to the Federal Trade Commission for inclusion in the national database.

§ 77-3-719. Nondisclosure of database [Repealed effective July 1, 2021].

Information contained in the database established under this article may be used and accessed only for the purpose of compliance with this article and shall not be otherwise subject to public inspection or disclosure.

§ 77-3-721. Fees; funding of expenses of agency; deposit of user charges and fees authorized under this section into State General Fund [Repealed effective July 1, 2020; Repealed effective July 1, 2021; see Editor's Note].

All fees collected under the provisions of this article shall be deposited into a special fund which is created in the State Treasury to be expended by the commission for the implementation and administration of this article. From and after July 1, 2016, the expenses of this agency shall be defrayed by appropriation from the State General Fund and all user charges and fees authorized under this section shall be deposited into the State General Fund as authorized by law and as determined by the State Fiscal Officer.

§ 77-3-723. Rules for authorized calls [Repealed effective July 1, 2021].

(1) Any person or entity who makes an authorized telephone solicitation to a consumer in this state shall announce clearly, at the beginning of each call, his or her name, the company he or she represents and the purpose of the call. Such calls may only be made between the hours of

8:00 a.m. and 8:00 p.m. Central Standard Time. No telephone solicitation may be made on a Sunday. For purposes of this provision, an “authorized telephone solicitation” means a solicitation that is made: (a) to a consumer who is not listed on the most current “no-calls” database; (b) by a telephone solicitor who has been authorized to make such solicitations under the provisions of Section 77-3-709; or (c) by a telephone solicitor who is exempt from this article under the provisions of Section 77-3-711.

(2) A person or entity who makes a telephone solicitation to a consumer in this state may not utilize knowingly any method that blocks or otherwise circumvents the consumer’s use of a caller identification service, nor may the person or entity use an automated dialing system or any like system that uses a recorded voice message to communicate with the consumer unless the person or entity has an established business relationship with the consumer and uses the recorded voice message to inform the consumer about a new product or service.

§ 77-3-727. Consumer complaints [Repealed effective July 1, 2021].

Any person who has received a telephone solicitation in violation of this article, or any rules and regulations promulgated pursuant to this article, may file a complaint with the commission. The complaint will be processed pursuant to complaint procedures established by the commission.

§ 77-3-729. Defenses [Repealed effective July 1, 2021].

It shall be a defense in any action or proceeding brought under Section 77-3-725 or 77-3-727 that the defendant has established and implemented, with due care, reasonable practices and procedures to effectively prevent telephone solicitation in violation of this article.

§ 77-3-731. Commission granted personal jurisdiction over resident and nonresident telephone solicitors [Repealed effective July 1, 2021].

The commission is granted personal jurisdiction over any telephone solicitor, whether a resident or a nonresident, notwithstanding that telephone solicitors are not deemed to be a public utility, for the purpose of administering this article. The commission is granted personal jurisdiction over any nonresident telephone solicitor, its executor, administrator, receiver, trustee or any other appointed representative of such nonresident as to an action or proceeding authorized by this article or any rules and regulations promulgated pursuant to this article as authorized by Section 13-3-57, and also upon any nonresident, his or her executor, administrator, receiver, trustee or any other appointed representative of such nonresident who has qualified under the laws of this state to do business herein. Service of summons and process upon the alleged violator of this article shall be had or made as is provided by the Mississippi Rules of Civil Procedure.

ATTACHMENT B CHAPTER 28 RULES

Chapter 28 Rules Implementing the Mississippi Telephone Solicitation Act and the Caller ID Anti-Spoofing Act

(Adopted June 11, 2019)

Rule 28

100 General Rules

1. No Calls Database

The Commission shall establish and operate a "no-calls" database composed of a list of residential telephone numbers of consumers who have given notice of their objection to receiving telephone solicitations. This database will be updated quarterly.

2. Use and Access

Information contained in the database may be used and accessed only for the purpose of compliance with the MTSA and shall not be otherwise subject to public inspection or disclosure. Any person or entity who obtains the "No Call" List is prohibited from selling, sharing, leasing, donating or giving the "No Call" List to anyone not registered as a telephone solicitor with the Commission; provided that this rule shall not prohibit a telephone solicitor from providing the "No Call" List to its employees or contracted company making authorized telemarketing solicitations on behalf of the telephone solicitor provided that the contracted company is identified with the Commission and in compliance with these rules.

3. Availability

The Commission shall make the "no-calls" database available to telephone solicitors via an Internet download.

4. No Call List

- a. Except as otherwise provided for by law or regulation, a telephone solicitor may not make or cause to be made any telephone solicitation to any consumer in this state unless the telephone solicitor has registered with the Commission and purchased the "no-calls" database from the Commission. The annual fee for the database shall be one thousand dollars (\$1,000.00) per year if obtained via an Internet download. This fee entitles the telephone solicitor to allow two (2) contracted companies, for whom the Commission has received contact information, to engage in telemarketing activities on their behalf during the registered year. An additional five hundred dollars (\$500.00) fee per year will be assessed for each subsequent contracted company. The fees for access to the "no-calls" database may be revised by the Commission upon proper notice of such change. The fee shall be paid at the time of registration.
- b. If the telephone solicitor is a charitable organization as defined by Chapter 11, Title 79, Mississippi Code of 1972, then the annual registration fee to register as a telephone solicitor and receive the "no-calls" database shall be adjusted as follows:
 - i. If a charitable organization files an annual report with the Mississippi

- Secretary of State as contemplated by Miss. Code Ann. § 79-11-503, and its most recently filed annual report shows its most recent fiscal year contributions do not exceed twenty-five thousand dollars (\$25,000.00), then the annual registration fee is waived.
- ii. If a charitable organization files an annual report with the Mississippi Secretary of State as contemplated by Miss. Code Ann. § 79-11-503, and its most recently filed annual report shows its most recent fiscal year contributions are in excess of twenty-five thousand dollars (\$25,000.00) and up to fifty thousand dollars (\$50,000.00), then the annual registration fee shall be five hundred dollars (\$500.00).
 - iii. If a charitable organization files an annual report with the Mississippi Secretary of State as contemplated by Miss. Code Ann. § 79-11-503, and its most recently filed annual report shows its most recent fiscal year contributions are in excess of fifty thousand dollars (\$50,000.00) and up to one hundred thousand dollars (\$100,000.00), then the annual registration fee shall be seven hundred and fifty dollars (\$750.00).
 - iv. If a charitable organization files an annual report with the Mississippi Secretary of State as contemplated by Miss. Code Ann. § 79-11-503, and its most recently filed annual report shows its most recent fiscal year contributions are in excess of one hundred thousand dollars (\$100,000.00), then the annual registration fee shall be as provided in RP 28.100.4.a.

5. **Mandatory Registration**

All telephone solicitors, not exempt from the MTSA, must register annually with the Commission before conducting any telephone solicitations in the State of Mississippi. All telephone solicitors utilizing contracted companies for telemarketing activities must also identify the contracted companies by providing the same information required of a registered telephone solicitor. Solicitors must register via United States mail. Registration information can be found at the Commission's website.

6. **Registration Requirements**

Telephone solicitors registering with the Commission shall provide:

- a. **Company**
Name, address, telephone number(s), facsimile number(s), e-mail address and federal tax ID number of the company, partnership, or individual planning to operate in the state;
- b. **Designated Agent**
Name and address of the registrant's designated agent for service located in this state;
- c. **Submission of Originating Telemarketing Numbers by Telemarketers**
Any telemarketer or entity engaged in telemarketing to residential telephone customers in the State of Mississippi shall provide to the Mississippi Public Service Commission all telephone numbers that shall be used for telemarketing purposes to be displayed on a caller identification device by the company or telemarketer that shall be utilized for outgoing calls to residential telephone customers in this State along with the physical and mailing addresses of the site

from which the calls will be made, along with the names and appropriate telephone numbers of two individuals in supervisory capacity to answer complaints and inquiries from the Commission. Should a telemarketer originate calls from a Private Branch Exchange (PBX) that does not pass identifying telephone number(s) to a Telecommunications Provider, (Provider) the Provider delivering the call will be required to transmit a PBX trunk number which would identify the telemarketer. Pursuant to Miss. Code Ann. § 77-3- 723(2), if a telemarketer has an established business relationship (EBR) with the consumer AND uses a recorded voice message to inform the consumer about a NEW product or service, the telemarketer would not have to comply with this rule.

The list of numbers to be utilized by the telemarketer or entity engaging in telemarketing shall be provide to the Commission within thirty (30) days from the final passage of this rule, and thereafter, on an annual basis by July 1st. The list of telephone numbers shall be provided to the Commission in a format prescribed and acceptable by the Commission.

In the event the telemarketing or entity engaging in telemarketing chooses to change telephone number(s) and/or add additional telephone numbers for telemarketing after the initial registration thirty (30) days from the final passage of this rule or between the dates of annually registration, the telemarketer shall provide the new telephone numbers to the Commission at least five (5) working days prior to utilizing the new telephone numbers for telemarketing purposes.

The entirety of this rule shall apply to all entities engaging in telemarketing, including, but not limited to, any contracted companies hired to perform telemarketing activities.

d. **Affidavits**

Each and every telemarketer shall, by affidavit to be signed by a company representative who can bind the company, declare under oath and penalty of perjury to the Commission that the company shall not use any technique or take any step to intentionally block, stop or alter the display of the company name and telephone number(s) that may appear on a residential telephone or caller identification device. This rule shall apply to all entities engaging in telemarketing, including but not limited to, any contracted companies hired to perform telemarketing activities.

e. **Surety Bond**

A surety bond, to be approved by the Commission, shall be filed with the Commission and executed for the registrant by a surety authorized to do business in this state for the sum of fifty thousand dollars (\$50,000) to be maintained in full force and effect, in favor of the Commission to guarantee payment of any administrative penalties assessed pursuant to a violation of the MTSA, these rules, or any other applicable law or regulation. A local exchange carrier or competitive local exchange carrier holding a Certificate of Public Convenience and Necessity from the Commission may petition the Commission for an exemption from this paragraph. If the registration fee for a charitable organization is waived pursuant to RP 28.100.4.b.i, then the bond requirement contained in this subsection is waived.

f. **Form**

Registration shall be done in the form and structure as provided by the Commission.

7. Calls Not Allowed

Except as otherwise provided by law or regulation, a telephone solicitor may not make or cause to be made any telephone solicitation to any consumer in this state who has given notice to the Commission of his or her objection to receiving telephone solicitations.

8. Distribution

With the exception of directory assistance and telephone directories sold or distributed by local exchange companies or their affiliates, or independent telecommunications directory publishers, no person or entity that sells, leases, or rents telephonic solicitation listings shall include in such listings any residential telephone number, if the number appears on the Commission's then current "no-calls" database.

9. Residential Consumer Registration

Consumers may give notice to the Commission of their objection to receiving telephone solicitations by calling a toll free number, United States mail, via the Commission's web site, or facsimile. Consumers may give notice to the Commission of their revocation of the notice by writing the Commission. Consumer registration is effective as long as the MTSA is re-enacted.

10. Business Consumer Registration

- a. Business consumers wishing to register ten (10) or fewer numbers may give notice to the Commission of their objection to receiving telephone solicitations by calling a toll free number, United States mail, via the Commission's web site, via the MS NoCall phone application, or facsimile.
- b. Business consumers wishing to register ten (10) or more numbers must give notice to the Commission of their objection to receiving telephone solicitations by submitting a list of the numbers they wish to register to the Commission in a .csv file format. The Commission will notify the business consumer via U.S. mail or electronic mail upon completion of registration.
- c. Business consumers may give notice to the Commission of their revocation of the notice by writing the Commission and including a list of the numbers they wish to revoke consent for in a .csv file format.
- d. Business consumer registration is effective as long as the MTSA is re-enacted.

11. Schedule

A notice of objection becomes effective according to the following schedule:

Registration received by the last day of	List provided to solicitors on the 10 th	List effective on the first day of

January	February	March
February	March	April
March	April	May
April	May	June
May	June	July
June	July	August
July	August	September
August	September	October
September	October	November
October	November	December
November	December	January
December	January	February

12. Updates

- a. Consumer
 Consumers whose telephone number is included in the "no-calls" database who move, but maintain their current telephone number will not need to take action to remain in the database but they need to submit a change of address to the Commission. Consumers who are required to obtain a different telephone number must give notice to the Commission that they wish to have their new number included in the database.

- b. Telecommunications Providers
 All telecommunications companies certified to provide telecommunications service in the State of Mississippi must submit in digitized form, certified by affidavit, to the Commission on a quarterly basis in accordance with these rules all residential telephone numbers that have been disconnected by the telecommunications company during the previous quarter for the purpose of updating the Mississippi "No Call" List.

13. Authorized Telephone Solicitation

Any person or entity who makes an authorized telephone solicitation to a consumer in this state shall comply with the following:

- a. Announce clearly, at the beginning of each call, his or her name, the company he or she represents, the company's Commission assigned solicitor registration number, and the purpose of the call.
- b. Calls may only be made between the hours of 8:00 a.m. and 8:00 p.m. Central Standard Time.
- c. No telephone calls can be made on a Sunday or any legal holiday.
- d. A person or entity who makes a telephone solicitation to a consumer in this state may not knowingly utilize any method that blocks or otherwise circumvents the consumer's use of a caller identification service, nor may the person or entity use

an automated dialing system or any like system that uses a recorded voice message to communicate with the consumer unless the person or entity has an established business relationship with the consumer and uses the recorded message to inform the consumer about a new product or service.

- e. All telemarketers, along with contracted companies providing telemarketing services, will be liable for any violations of these rules.

14. Call Log

A telephonic call log, with a minimum of six months data, shall be maintained by the telephone solicitor. The telephonic call log shall include:

- a. Number called
- b. Time called
- c. Date called

If the telephone solicitor is a contracted company, the contracted company's name as well as the company for whom the call was made must be included on the log.

15. Retention

All telecommunications companies certified to provide telecommunications service in the State of Mississippi shall retain detailed records of incoming calls for a period of six months.

16. Definitions

The definitions contained in MTSA, Section 3, are hereby incorporated by reference.

101 Semiannual Notification to Consumers

- a. Each local exchange company and each competing local exchange company shall provide written notification on at least a semiannual basis to each of its consumers of the opportunity to provide notification to the Commission that the consumer objects to receiving telephone solicitations. The notification may be disseminated in a manner chosen by the carrier. However, television, radio or newspaper advertisements, written correspondence, publication in the consumer information pages of the local telephone directory, bill message or any other method of consumer notice not expressly prohibited by the Commission is allowed.

102 General Rules for the Caller ID Anti-Spoofing Act

103 Responsibility of Telephone Providers

It is the responsibility of a telephone provider completing a call to ensure the caller identification displayed by the consumer's device is accurate. Telephone providers who violate the Caller ID Anti-Spoofing Act ("ASA") will be held responsible by the Commission for said violations as provided by law.

1. Certification of Providers

Telephone providers may be exempted from being held responsible for the transmission of spoofed caller identification information by, no later than June 30 annually, seeking a determination by the Commission that the telecommunications provider has implemented current and applicable

technologies to identify and block telecommunications that violate the ASA, taking into consideration applicable state and federal laws, federal regulations, and costs.

2. Definitions

The definitions contained in the ASA, codified as Mississippi Code §77-3-803 (Rev. 2019), are hereby incorporated by reference.

104 Complaint Procedure

1. Form

A complaint may be initiated by a consumer or by the Commission.

2. Procedure

- a. The Commission will evaluate the complaint and determine if it alleges a prima facie violation of the MTSA or the rules implemented pursuant thereto or any other applicable law or regulation. A copy of the complaint shall be served on the alleged telephone solicitor by the Executive Secretary of the Commission.
- b. The alleged telephone solicitor shall fully answer the complaint in detail and under oath within thirty (30) days of receipt of notice. An extension of the time in which to answer a complaint may be granted by the Commission for good cause shown. The answer shall raise every defense the alleged telephone solicitor relies on, including an MTSA, Section 6 exemption. The answer may be filed electronically with the Commission, but it must be signed under oath. Otherwise, the answer may be filed with the Executive Secretary of the Commission.
- c. If multiple complaints are received, the Commission may notice the complaints in multiples. If the alleged telephone solicitor does not answer the complaint fully and in specific detail and under oath within the thirty (30) day period or within the period of such extension as the Commission may grant, the Commission may find the alleged telephone solicitor liable by default. In such event, or if the answer admits a violation of the MTSA, the Commission may assess an appropriate penalty pursuant to Section 13 of the MTSA or other applicable law or regulation.
- d. The penalty assessed shall be satisfied within 20 days from service of the Commission's Order finding the alleged telephone solicitor liable by default or by admission, unless a stay has been entered as provided by law.

3. Preliminary Determination

The Commission may make a preliminary determination based on the complaint and the answer and assess a penalty pursuant to Section 13 of the MTSA or other applicable law or regulation. The alleged telephone solicitor shall accept or reject the preliminary determination within twenty (20) days from the service by the Commission. If accepted, the penalty imposed by the preliminary determination must be satisfied within twenty (20) days from the service of said preliminary determination. If rejected, the Commission will afford the alleged telephone solicitor an opportunity for a full hearing on the merits of the complaint. In any hearing, the complaint and the answer will be part of the record, along with all other complaints filed against the alleged telephone solicitor. At any point in the

complaint resolution process, the Commission may agree to informally negotiate with the alleged telephone solicitor.

105 Violations

1. **Penalty**

Any telephone solicitor found to have violated the MTSA or other applicable law or regulation pursuant to a Commission finding, or by default, may be subject to a civil penalty not to exceed Ten Thousand Dollars (\$10,000) for each violation to be assessed and collected by the Commission. Each telephonic solicitation shall constitute a separate violation.

2. **Liabe by Default**

Failure of any telephone solicitor on which a complaint is filed to provide any information requested by the Commission, or failure to answer a complaint in specific detail and under oath, or failure to appear before the Commission at the time prescribed, may result in the Commission finding the alleged violator liable by default.

3. **Surety Bond Assessment**

The Commission may proceed against the surety bond for any penalty assessed by the Commission, either by Order of the Commission finding the alleged telephone solicitor liable by default, admission of violation by the alleged telephone solicitor, acceptance by the alleged telephone solicitor of the Commission's preliminary determination, or by an Order of the Commission rendered after a hearing on the merits of the notarized Complaint, or otherwise, which penalty is not fully satisfied within 30 days after service of the Commission's action.

ATTACHMENT C SOLICITOR FORMS

Registration Form

https://www.psc.ms.gov/sites/default/files/solicitor_registration_form%202019-04.pdf

Surety Bond Agreement

https://www.psc.ms.gov/sites/default/files/Documents/surety_bond_agreement.pdf

Affidavit for not Telemarketing in Mississippi

<https://www.psc.ms.gov/sites/default/files/Documents/AffidavitforNotTelemarketinginMS2013-09.pdf>

Affidavit for not blocking or altering Caller ID information

<https://www.psc.ms.gov/sites/default/files/Documents/AffidavitforCallerIDInformation2013-09.pdf>

Contracted Company Form

<https://www.psc.ms.gov/sites/default/files/Documents/NoCallSolicitorContractedCompaniesForm2013-09.pdf>

ATTACHMENT D MISSISSIPPI PAYMENT PROCESSING

NIC Mississippi will serve as the single point of entry for all e-commerce transactions. Awarded vendor will use Mississippi's official payment processor for any of the following services where payment is required.

- Web services
- IVR services
- Mobile services
- Over the counter payment processing services
- Kiosk services
- Lock Box services

The following payment methods accepted through NIC Mississippi include: Visa, MasterCard, American Express, Discover, electronic check and subscription (monthly billed).

DFA Administrative Rule

The Department of Finance and Administration (DFA) established an administrative rule to be followed when agencies, in accordance with §27-104-33, Mississippi Code of 1972, Annotated, elect to accept payment by credit cards, charge cards, debit cards, electronic check (echeck) and other form of electronic payments for various services and fees collectible for agency purposes. See Attachment E for Final Rule.

Payment Card Industry (PCI) Compliance

NIC Mississippi will be responsible for Payment Card Industry (PCI) compliance on behalf of the State, though any future change in Federal PCI standards may require additional support from the State entity and awarded vendor. NIC Mississippi's Transaction Processing Engine (TPE) is certified compliant with the PCI Data Security Standard (DSS) and compliant with the Payment Application Best Practices (PABP) standards. It is also listed as a Validated Payment Application by VISA. TPE is hosted at NIC's Central Data Center in Ashburn, Virginia and complemented with a backup facility in Allen, Texas. NIC is certified by PCI-DSS as a Level 1 Service Provider for this environment.

See Technical Requirements for notes to the PCI compliance responsibility of the awarded vendor.

Awarded vendor is prohibited from breaking out payment processing fees associated with any transaction. This includes all pages of the application and/or any receipt generated.

Acceptable fee break-out can include a "subtotal" for services and a "Total ms.gov Price" or "ms.gov Order Total" which includes the eGov processing fee. See image below for example.

1 Payment Type
2 Customer Info
3 Payment Info
4 Submit Payment

Transaction Detail

SKU	Description	Unit Price	Quantity	Amount
000000013	Elections Fees/Fines	\$100.00	1	\$100.00
Total				\$100.00

Transaction Summary

Elections Fees/Fines	\$100.00
ms.gov Order Total	\$103.22

Need Help?

Please complete the Customer Information Section

Merchant of Record

In order to act as the single point of contact between the State, NIC Mississippi, the payment processor, the merchant acquiring bank, and end users of ms.gov services, NIC Mississippi will be the “Merchant of Record” for this RFP. As the single point of contact for the State, NIC Mississippi will work directly with the processor and the acquiring bank to request and set up merchant accounts and will be responsible for all areas of merchant services, including merchant fees.

eGov Transaction Fees

There will be standard payment processing fees associated with each payment transaction. Customer approval (electronic or otherwise) of NIC Mississippi payment processing fees will be obtained prior to initiating payment.

MAGIC

NIC Mississippi’s payment solution processes is integrated with MAGIC, Mississippi’s statewide accounting and procurement system of record. At least three (3) weeks prior to service launch, Customer will be required to work with DFA to set up corresponding charges table entries. After appropriate edits are made to the charges table, Customer and awarded vendor will be required to work with NIC Mississippi to ensure adequate testing, confirming the application transactions are posting to MAGIC. A live transaction test must be completed no later than three (3) business days before service launch.

Refunds, Chargebacks, Returns

As the merchant of record and official payment processor, NIC Mississippi will handle all refunds, chargeback representations and returned echecks. However, NIC Mississippi is not responsible for covering any monies that must be netted from the agency’s account through refund, successful chargeback or returned echeck. Below are the processes for each.

Refunds

The refund process is initiated by either customer or agency request.

- Upon customer request, NIC Mississippi will contact the agency financial contact (established at project initiation) for approval prior to refund.
- Agency contacts have access to and are encouraged to use the NIC Mississippi refund tool for their refund requests. This ensures adequate logs of all requested refunds.

- After agency request or approval, NIC Mississippi refunds the charge in TPE and notifies the requestor upon completion.
- Through MAGIC refunds are netted from the next day's deposits or the next day funds are available to net from.

Chargebacks

A chargeback is a monetary dispute that is initiated by the Issuing Bank (issuer disputes the posting of the transaction) or the cardholder (a cardholder disputes a transaction).

- Customer or card issuing bank sees what appears to be a suspicious charge on their statement.
- The customer contacts the card company to dispute the charge and initiate the chargeback process. Note: depending on the company policies of the company that issued the card the company may initiate the chargeback without customer notification.
- NIC Mississippi receives a chargeback email from our processor notifying us of the transaction details of the chargeback. Once this notification is received the processor pulls the funds back from the Portal account until supporting documentation is obtained. (NIC Mississippi's processor has 45 days from the time the customer disputes the charge to contact NIC Mississippi for additional information.)
- Based on the information provided in the chargeback notification, NIC Mississippi researches the charge internally first. If the disputed charge is a true duplicate charge (same customer information, amount, etc.), NIC Mississippi allows the chargeback to process and it is automatically marked in TPE.
- If the charge is valid NIC Mississippi will provide the sales drafts (chargeback receipt, TPE receipts, agency support, etc.) back to the processor to support the charge validity.
- After the charge is verified through receipt of sales drafts the chargeback will be reversed and the funds will be deposited back to the agency.

Note: The chargeback process could take up to 60 days to resolve.

Returns

Electronic checks (echeck)/ACH payments (where a user enters an account and routing number) may be returned unpaid for any reason, including non-sufficient funds (NSF), stop payment, online data entry error or closed account. A full list of return codes is listed below:

- R01 - Insufficient Funds - Available balance is not sufficient to cover the dollar value of the debit entry.
- R02 - Account Closed - Previously active account has been closed by customer or RDFI.
- R03 - No Account/Unable to Locate Account - Account number structure is valid and passes editing process, but does not correspond to individual or is not an open account.
- R04 - Invalid Account Number - Account number structure not valid; entry may fail check digit validation or may contain an incorrect number of digits.
- R05 - Improper Debit to Consumer Account - A CCD, CTX, or CBR debit entry was transmitted to a Consumer Account of the Receiver and was not authorized by the Receiver.
- R06 - Returned per ODFI's Request - ODFI has requested RDFI to return the ACH entry (optional to RDFI – ODFI indemnifies RDFI).
- R07 - Authorization Revoked by Customer - Consumer, who previously authorized ACH payment, has revoked authorization from Originator (must be returned no later than 60 days from settlement date and customer must sign affidavit).
- R08 - Payment Stopped - Receiver of a recurring debit transaction has stopped payment to a specific ACH debit. RDFI should verify the Receiver's intent when a request for stop

payment is made to insure this is not intended to be a revocation of authorization.

- R09 - Uncollected Funds - Sufficient book or ledger balance exists to satisfy dollar value of the transaction, but the dollar value of transaction is in process of collection (i.e., uncollected checks) or cash reserve balance below dollar value of the debit entry.
- R10 - Customer Advises Not Authorized - Consumer has advised RDFI that Originator of transaction is not authorized to debit account (must be returned no later than 60 days from settlement date of original entry and customer must sign affidavit).
- R11 - Check Truncation Entry Returned - used when returning a check safekeeping entry; RDFI should use appropriate field in addenda record to specify reason for return (i.e., "exceeds dollar limit," "stale date," etc.).
- R12 - Branch Sold to Another DFI - Financial institution receives entry destined for an account at a branch that has been sold to another financial institution.

Typical Return Process

- User enters echeck information in the ms.gov common checkout page
- TPE captures the information and sends to payment service provider
- The service provider submits a request to the payer's bank to retrieve the funds
- Payer's bank reports back one of the aforementioned return codes to the services provider
- Service provider notifies NIC Mississippi and the return is marked in TPE
- Funds are electronically pulled from the agency through the daily MAGIC payment interface file. NIC Mississippi contacts the individual(s) responsible for agency funds (contact obtained during project initiation) by email to let them know of the return and reason.

Hardware Acquisition

Due to the payment key injections required for hardware to be compatible with NIC Mississippi's PCI compliant payment processor, any hardware must be acquired through NIC Mississippi's existing eGov contract. This includes, but is not limited to, kiosks, pin pad/card swipe, mobile devices, etc.

Application Testing

For all new services DFA requires a test transaction to be run for flow of funds and processor verification. After NIC Mississippi receives confirmation the awarded vendor is satisfied with the integration, one test must be run through production TPE and confirmed by NIC Mississippi.

It takes three (3) business days (excluding bank holidays) for the transaction to be confirmed by DFA. Awarded vendor should take this time frame into consideration when anticipating launch date.

Reporting

TPE provides reporting and auditing tools useful for streamlining and accommodating various back-office procedures. TPE's financial reporting is comprehensive, flexible, and robust. Within TPE all payment processing data is made available via a wide variety of reporting features. Reports are real-time, up-to-the-minute transaction reporting ranging from summary reports to detail reports showing line-item level data. A comprehensive users guide and applicable training will be provided to agency contacts during integration.

Payment Support

NIC Mississippi will provide support for all user payment inquiries. NIC Mississippi is located at 2727 Old Canton Road, Suite 100, Jackson, Mississippi 39216 and customer payment support is available during normal business hours (Monday – Friday 8:00 a.m.-5:00 p.m. CST). NIC Mississippi's toll free support number (1-877-290-9487) is listed on the ms.gov Common Checkout page and is accessible to all users. For payment emergencies, a technical support cellular number will be provided to the State contact.

NIC Mississippi will work directly with the awarded vendor and/or the agencies to identify, report, track, monitor, escalate, and resolve any technical issues with TPE or CCP. It is NIC Mississippi's policy to notify all awarded vendors and agencies of planned maintenance windows or system updates to avoid any payment issues.

State entities and/or awarded vendors will not be charged for NIC Mississippi's efforts during payment implementation or any training/support.

Technical Requirements

Mississippi's payment solution is designed to provide two methods of integration: CommonCheckout (where the user clicks on a "Pay Now" button and is transferred to a set of common checkout pages branded for ms.gov), and DirectConnect (where the application has self-contained checkout pages and will call TPE for verification and capture once all payment information has been entered). In both of these instances, the awarded vendor will utilize standard web services protocols.

The CommonCheckout integration is required by ITS and DFA. Should special circumstances arise where the CommonCheckout is not applicable and/or the DirectConnect option is required, approval from both State agencies is mandatory.

High level descriptions of the integration requirements are included in this section. For detailed documentation please contact Spencer Jones, NIC Mississippi's Director of Technology, at spjones@egov.com.

CommonCheckout (CCP)

When utilizing CommonCheckout, the calling application is not responsible for collecting the credit card or banking information. Instead, the application sends the transaction data to the CommonCheckout interface which collects and processes all payment information. The CommonCheckout interface will then return to the calling application all transaction status details and information related to the transaction.

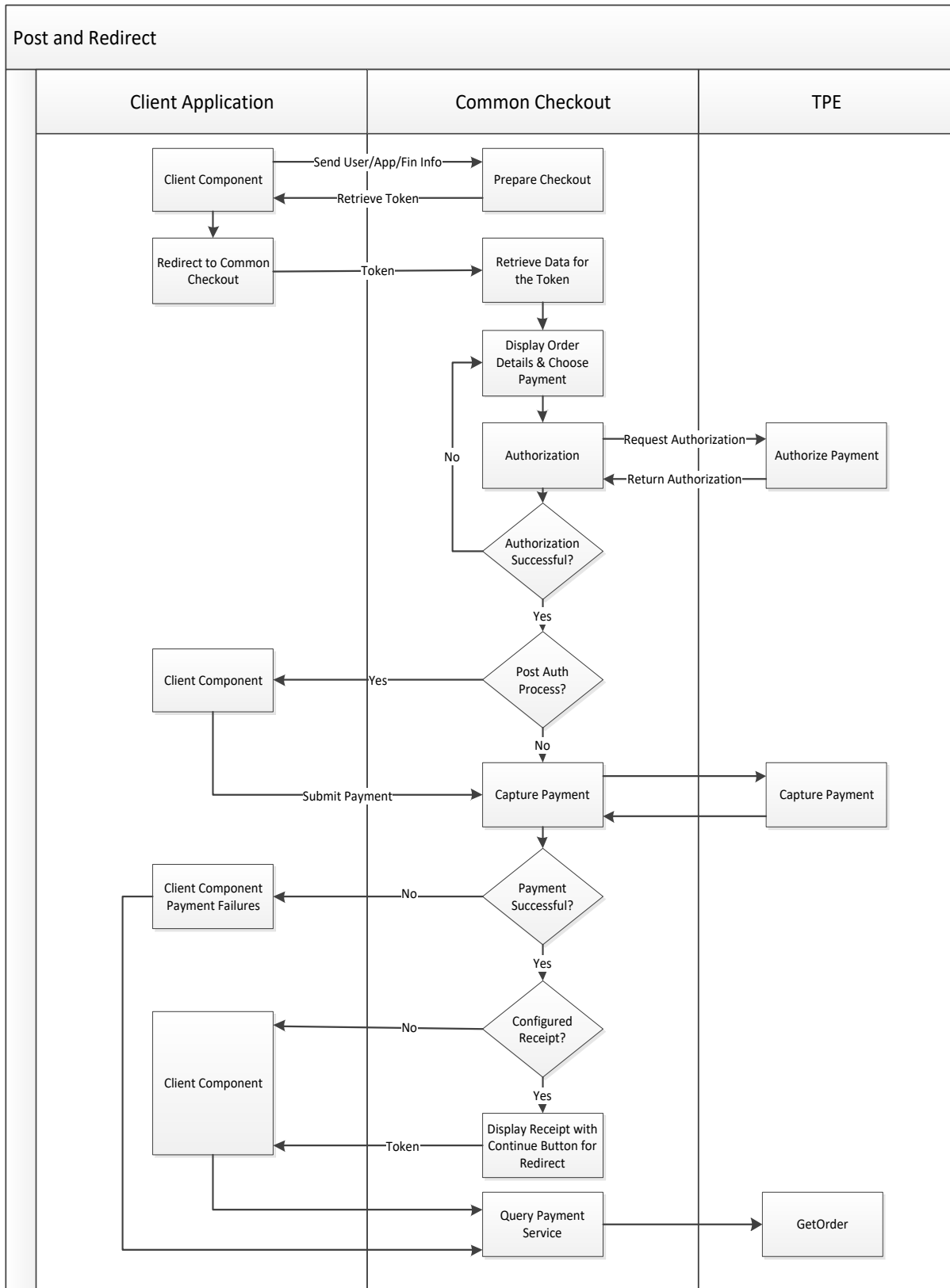
CCP Option 1: Server-side Web Service Calls and Browser-side Redirect

The partner application is required to invoke Prepare Checkout Operation on the Common Checkout web service that is passing along the financial/customer/application information.

- The Web Service operation returns a token back in the SOAP response. The token is required as a hidden field on the form post to the Common Checkout web application or a redirect.

- The Prepare Checkout Service returns the token back. This token is required as a hidden field on the form post or query string to the Common Checkout web application.
- When the customer chooses to continue with the payment by clicking a form button on the partner screen, the browser redirects to the Common Checkout web application.
- The Common Checkout web application retrieves the customer/financial/application data associated with the token and displays it on the payment page.
- Upon submission of the payment, Common Checkout redirects to the partner application or displays a receipt page, based on the configuration. In the latter case, the redirect to the partner application happens when a customer clicks a button on the receipt screen.
- The partner application is required to do a call back to the Query payment web service by sending the token. The service will return the transaction information back in the SOAP response. This ensures authenticity of the payment.

The following figure outlines a typical process flow for a CommonCheckout transaction.



CCP Option 2: Server-side Name-Value-Pair HTTPS Posts and Browser-side Redirect

The partner application is required to send the financial/customer/application information as multiple name/value pairs using HTTPS POST to the Prepare Checkout Post URL.

- The Prepare Checkout Service returns a token-based transaction identifier, which is required as a hidden field on the form post or query string to the Common Checkout web application.
- When the customer chooses to continue with the payment by clicking a form button on the partner screen, the browser is redirected to Common Checkout web application.
- The Common Checkout web application retrieves the customer/financial/application data for the transaction identified by the associated token and displays it on the payment page.
- Upon submission of the payment, Common Checkout redirects to the partner application or displays a receipt page, based on the configuration. In the latter case, the redirect to the partner application happens once a customer clicks a button on the receipt screen.
- The partner application requires a call back to the Query payment HTTP service by sending the token. The service returns the payment detail back as name value pairs. This ensures authenticity of the payment.

DirectConnect

The second scenario is to use the Application Programming Interfaces (“API’s”) that are available to developers. In this scenario, agency or third-party developers write applications that include the checkout pages. Customers fill out all payment information within the application, and once captured, the application communicates with TPE using a standard API. TPE processes the payment, based on payment type, and returns either a success or failure code back to the calling application. Based on the code, the calling application displays either a receipt back to the customer or the reason for the failure. TPE supports multiple API’s including:

Java
.NET
Perl
PHP

Note: If the DirectConnect method is approved by ITS and DFA the awarded vendor must provide NIC Mississippi and the State proof of their software’s (and any applicable hardware) PCI compliance.

DirectConnect Integration Outline

Before a payment can be processed inside of TPE, an *Order* must be established. An Order is the basic transaction container in TPE. It is a detailed request for certain goods or services and represents all the instructions and information needed from the customer for the merchant to collect money. An order contains information about the customer, items purchased, fees and taxes, payment information, billing address, shipping address, and so forth.

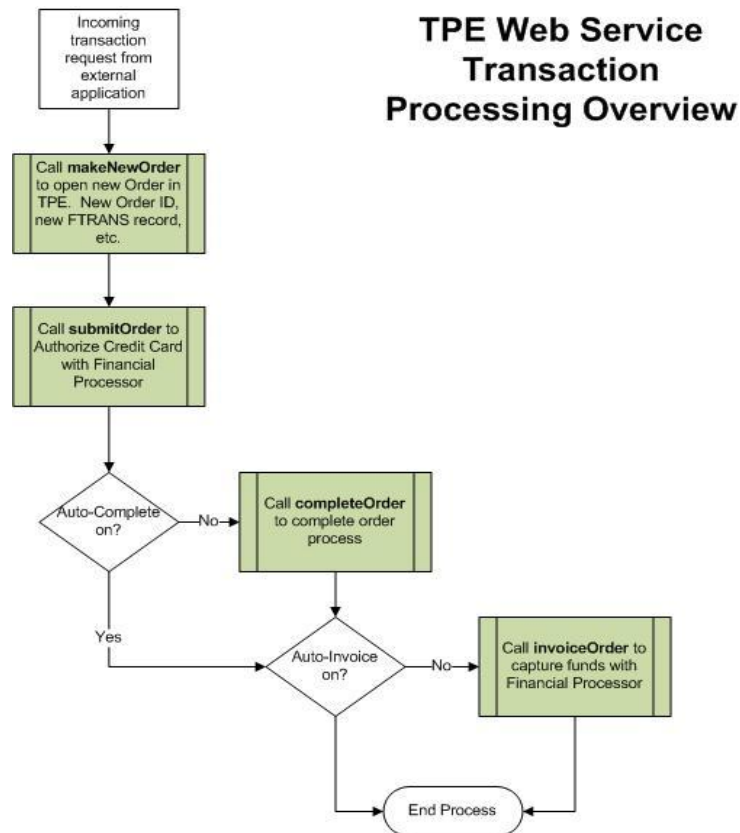
TPE uses the term *order*, along with the terms *payment* and *credit* to represent payment data for all electronic payments. An order is created by the client application while the customer is placing an order for goods or services. Transactions flow between the merchant and the financial institution during the life cycle of the order. These transactions can be broken into two broad categories: *payments* (monies transferred to the merchant from the customer) and *credits* (monies returned to the customer, such as when goods or services are returned and payment is

refunded). As order processing continues, payments and credits are created and modified.

The basic steps for creating an Order and processing a payment are as follows:

1. Submit a new Order Request to TPE. The client application will create a request that includes a Merchant Id, a Merchant Key, and a Service Code. These are pre-defined security parameters that are configured within TPE. If the request is successful, TPE will return an empty order container to the client application.
2. Inside of this container, the application will set the Payment Implement (Credit Card, ACH, Cash, etc.), customer payment information, billing information, transaction line items and amounts, and any other information necessary for processing the payment.
3. Submit the Order. Once the Order container has been filled by the calling application, it will be submitted for authorization. TPE will do preliminary validations on the Order before submitting it to the Merchant Service Provider for authorization. If there is an error with the Order, TPE will return that information back to client application, or it will return back that the authorization was successful.
4. Complete the Order. This call to TPE informs the system that the order is complete and ready to be invoiced.
5. Invoice the Order. This step is where money transfer (i.e., Capture) is initiated. The invoice takes the information from the Order, and is then submitted to the Merchant Service Provider for Capture/Settlement.

The following figure outlines a typical process flow for a Direct Connect transaction.



Charges Table Connection

The Mississippi Department of Information Technology Services (ITS) has developed the Mississippi Charges Web Service to supply application programs with data from the charges table. This data is required by the Agency application to build a valid NIC Mississippi electronic payment request. The item type, item description, and item cost for each item sold must be submitted in the transaction request for payment authorization.

Service Use

The primary purpose of the web service is to provide the charges data for a requested application. The method that performs this function is `getCurrentCharges` and requires a `chargesInput` object as the input parameter. A `getCurrentChargesResponse` object is returned.

- `getCurrentCharges(chargesInput)`

DFA updates the charges table each night just before midnight. The agency application is responsible for obtaining and using the current charges information. Good practice is to obtain the charges data at least daily.

Charges Use in NIC Mississippi Common Checkout

The `ChargeItem` data will become the basis for a line item that is sent to the CCP in the Prepare Checkout call. The table below maps the line item fields referenced in the CCP interface to their related `ChargeItem` value. In the CCP Prepare Checkout service call, line items are sent in as an array of `lineItems`.

CCP Line Item element	Field Description	Field used from Charges Item
<code>LineItem.SKU</code>	Item identifier used in backend SAAS funds distribution.	<code>ChargeItem.itemType</code>
<code>LineItem.Description</code>	Description of the item being purchased.	<code>ChargeItem.description</code>
<code>LineItem.Unit Price</code>	Cost of 1 of this item.	<code>ChargeItem.amount</code>
<code>LineItem.Quantity</code>	Quantity of the item being purchased.	Computed by the application.

**ATTACHMENT E
DFA ADMINISTRATION RULES**

**FINAL RULE
MISSISSIPPI DEPARTMENT OF FINANCE AND
ADMINISTRATION ADMINISTRATIVE RULE**

**PAYMENTS BY CREDIT CARD, CHARGE CARD, DEBIT CARDS
OR OTHER FORMS OF ELECTRONIC PAYMENT OF AMOUNTS
OWED TO STATE AGENCIES**

The Department of Finance and Administration (DFA) has established the following Administrative rule to be followed when agencies, in accordance with §27-104-33, Mississippi Code of 1972, Annotated, elect to accept payments by credit cards, charge cards, debit cards, electronic checks and other forms of electronic payment for various services and fees collectible for agency purposes.

The State Department of Finance and Administration shall establish policies that allow the payment of various fees and other accounts receivable to state agencies by credit cards, charge cards, debit cards and other forms of electronic payment in the discretion of the department. Any fees or charges associated with the use of such electronic payments shall be assessed to the user of the electronic payment as an additional charge for processing the electronic payment.

Agencies with the approval of the Department of Finance and Administration may bear the full cost of processing such electronic payment if the agency can demonstrate to the department's satisfaction that they are able to assume these costs and provide the related service for the same or lesser cost.

I. Definitions

Electronic Payments: Consumer and business initiated payments, whether made through the Internet or in person, for various services and fees using any of the following payment instruments: credit cards, bank cards, charge cards, debit cards, electronic checks, or direct debits via electronic funds transfer.

ACH: Automated Clearing House. Affiliated with the U. S. Treasury and the Federal Reserve System and used as the conduit for electronic payments and collections. The ACH is the settlement vehicle for electronic payments. The ACH is also used to transport direct debit and credit transactions to consumer bank accounts.

Application Service Provider (ASP): An application service provider (ASP) provides computer-based services to customers over a network. The most limited definition is that of providing access to a particular application program (such as license renewals, registrations, etc.) using a standard protocol such as HTTP. ASP applications for purposes of this rule are those which accept electronic payments either through a browser-based application, or other revenue input sources.

DFA: Mississippi Department of Finance and Administration.

E-Government Transaction Fee: E-Government Transaction Fee is the mark-up above any regulatory fee plus the cost of sales as agreed to in an agency specific Statement of Work (SOW). A description of the E-Government Transaction fee shall be **included** in the SOW. E-Government Transaction fees are disbursed by the State to the vendor on a daily basis. Additional/Supplemental fees above the E-Government Transaction fees must be described and itemized in the agency specific SOW.

EOC FEE: Electronic Government Oversight Committee (EOC) Fee. This fee is used to offset the costs associated with providing electronic services and operating the electronic portal (www.ms.gov) at ITS. §25-53-151 (2) of the Mississippi Code defines the EOC. The original twenty-eight portal applications still collect this fee. On occasion, ITS has granted a written exemption of this fee for a specific Agency to absorb and directly remit the EOC fees associated with transactions for a specific application to DFA payable to the DFA – MS – Gov Portal Fees Fund.

Henceforth, with new applications, the State collects 2% of the net operating profit each month through E-Government Transaction Fees. Those monies are deposited to the DFA – MS – Gov Portal Fees Fund on a monthly basis. The portal vendor is sent their portion of the fees on a daily basis.

Consumer: Consumer, for purposes of these rules, may be any individual person or business representative who initiates a transaction involving electronic payment.

Processing Fee: Processing fee is the payment-processing fee as approved by the Department of Finance and Administration (DFA). All transactions must include a processing fee unless DFA has granted express written approval for the Agency to absorb the payment processing costs associated with the transactions for a specific application and for the agency to remit those fees to DFA payable to the DFA – MS – Gov Portal Fees Fund .

ITS: Mississippi Department of Information Technology Services.

Point of Sale: Point of Sale (POS). Payments made “over the counter” for fees for services. For the purposes of electronic payments in Mississippi, agencies desiring to accept “over the counter” electronic payments must have a POS application.

POS applications may be: A web-based system where all payment information is keyed into the application by the client or a “card swipe” application similar to those found in commercial enterprises. POS applications must be certified to meet PCI Compliance Standards.

PPI: Portal Payment Interface. The PPI defines and creates the accounting entries used to record all electronic payment transactions in the State’s accounting system.

Record Keeping: An agency must establish and maintain financial records and keep them available for the purposes of audit. The record keeping procedures must include the capture of the details of the electronic payments, associated fees, and supporting reconciliation documentation.

Payment Card Industry – Data Security Standards (PCI-DSS): PCI-DSS is the result of

collaboration between the major credit card brands to develop a single approach to safeguarding sensitive data. PCI-DSS defines a series of requirements for handling, transmitting, and storing sensitive data. The PCI-DSS standards can be found at <https://www.pcisecuritystandards.org/>.

Revenue Input Source: Electronic transactions from Web-based, Point of Sale (POS), Interactive Voice Response (IVR), Over the Counter Sales, etc.

TPE – Transaction Processing Engine: TPE is a secure electronic payment solution built specifically for state and local government that provides complete transaction management services from payment to disbursement.

Payment Processor: The company that settles approved payment transactions with the acquiring banks that issued the customer's credit/debit card or maintains the customer's bank account. The State's payment processor is Mississippi Interactive LLC (MSI) and they are the merchant of record with the credit card companies for maintaining the State's PCI compliance.

II. Approvals for Internet-based Applications and Services for State Agencies

E-government applications and services require review and approval by ITS and by DFA (in contrast to traditional software applications.) Because of the multiple costing models used by vendors for e-government applications, as well as the necessity for ensuring appropriate security for all public-facing applications, the normal ITS procurement delegations to agencies do not apply for these types of acquisitions. In addition, DFA must approve and schedule any implementations that involve payments. See 001-025 Approvals for Internet-based Applications and Services in the ITS Procurement Handbook. <http://dsitspe01.its.ms.gov/its/procman.nsf/TOC4?OpenView>

III. Payment Applications - Fees Paid By Consumer

Agency applications accepting payments shall use the third party electronic payment processor designated by DFA to accept electronic payments for various services and fees collectible for agency purposes unless express written approval is given by DFA for the use of an alternate payment processor.

1. Designated payment processor is to be used regardless of where the application is hosted (agency, ITS, third-party).
2. Rules for obtaining approval of an alternate payment processor are found in Section V.

The services provided by the processor and the fees for such services shall be set forth in the contract approved by the State. All such agreements are considered e- government agreements and are under the purview of ITS (see 001-020 Acquisitions within ITS Purview, item 3, in the ITS Procurement Handbook). The applications on MS.Gov operate under Project Number 37577. Agencies and the vendor will complete a detailed Statement of Work (SOW) describing provided services and the costs of the services, equipment rental, etc.

In most cases funds will be deposited in the account designated by the State Treasurer and

transferred to the designated agency funds in the state's accounting system once the bank deposit is balanced. On a case by case basis, deposits may be made to an account outside the state treasury but detailed accounting instruction will be developed and implemented to ensure proper accountability.

The Payment Processor will provide the software components to be used by agency applications in calculation of the processing fee associated with a particular fee or services payment.

The Processing Fee is charged to the consumer and collected into DFA – MS – Gov Portal Fees Fund controlled by DFA and will not flow through the agency accounting journals. Those fees are reimbursed to the payment processor on a daily basis and are recorded as an expense transaction.

The Processing Fee owed the electronic payment processor will be reimbursed to them on a daily basis. It will be recorded as an expenditure transaction against the Mississippi.Gov Portal Fees Fund.

Any returned items received by DFA from the designated third party processor will be forwarded to the appropriate agency for handling after being netted out of the settlement for the day.

Revenues for all fees and services shall be recorded at gross in the state's accounting system of record as revenue, as specified by the agency on the accounting system's electronic payment distribution tables.

Actual processing costs to include fees for authorization, settlement, Electronic Government Oversight fees and E-Government Transaction fees, will be recorded as expenditures as specified by the Agency on the accounting system's electronic payment distribution tables.

IV. Payment Applications - Fees Paid By Agency

Agencies desiring to pay all fees associated with electronic processing of payments must demonstrate to DFA their ability to do so and receive express written approval from DFA. The Electronic Government Oversight Committee must also approve this procedure and include it in the agencies cost model. Agencies must demonstrate they are able to assume the cost and provide the same service for the same or lesser cost of the pre-portal service. Requirements for requesting approval are outlined in section VI of these rules.

Agency applications accepting payments shall use the third party electronic payment processor designated by DFA to accept electronic payments for various services and fees collectible for agency purposes unless express written approval is given by DFA for the use of an alternate payment processor. Designated payment processor is to be used regardless of whether the particular application is a POS application, an application hosted through the Mississippi.gov infrastructure, or an application hosted through other ASPs.

1. Rules for obtaining approval of an alternate payment processor are found in section V.

The services provided by the processor and the fees for such services shall be set forth in the contract approved by the State. All such agreements are considered e- government agreements

and are under the purview of ITS (see 001-020 Acquisitions within ITS Purview, item 3, in the ITS Procurement Handbook).

<http://dsitspe01.its.ms.gov/its/procman.nsf/TOC4?OpenView>

In most cases funds will be deposited in the account designated by the State Treasurer and transferred to the designated agency funds in the state's accounting system once the bank deposit is balanced. On a case by case basis, deposits may be made to an account outside the state treasury but detailed accounting instruction will be developed and implemented to ensure proper accountability.

Revenues for all fees and services shall be recorded at gross in the state's financial system of record as revenue as specified by the agency on the financial system's electronic payment distribution tables.

Actual processing fees to include fees for authorization, settlement, and other fees, will be recorded as expenditures as specified by the agency on the Portal Payment Interface (PPI) distribution tables.

Any returned items received from the designated third party credit card/or other electronic processor to DFA will be forwarded to the appropriate agency for handling after being netted out of the settlement for the day.

V. Approval of an Alternate Payment Processor

An agency wishing to use an alternate payment processor must submit a written request to the Department of Finance and Administration, Office of Fiscal Management, Attn: Portal Transactions, 501 North West Street, Suite 701 B, Jackson, MS 39201. Request for an alternate payment processor will be coordinated through the EOC to ensure procurement procedures are followed and that cost model data can be included for future state projects.

The written request must state:

1. The reason(s) the State-approved payment processor is not suitable for the agency application.
2. The impact if the request is not granted.

The application must be approved by DFA prior to entering into the procurement process for the alternate payment processing services.

The agency must state what payment processors are available that meet their needs. The agency will provide the appropriate Attestation of Compliance document from the vendor stating they comply with Payment Card Industry – Data Security Standards (PCI-DSS) and that the vendor will maintain those standards throughout the engagement with the agency.

The agency must describe the agency application including:

1. The agency program supported.

2. The items (services and fees) offered for sale.
3. The individual item costs.
4. The estimated usage of the processor (i.e., the number of transactions that will occur per fiscal year).
5. An estimate of the processing costs “per transaction” for the items to be sold through the alternate payment processor.
6. The costs associated with the use of an alternate payment processor including, but not limited to, purchased and leased equipment; training; contractual services; and charges for refunds, return items, and PCI-DSS compliance.

The agency must acknowledge that if DFA approves the agency’s request to pursue alternate payment processing services:

1. Funds will be deposited in the account designated by the State Treasurer and transferred to the designated agency funds in the state’s financial system of record, once the bank deposit is reconciled and balanced by the agency. DFA will not perform this reconciliation and will not approve the transfer of funds to the state’s financial system of record until proof of reconciliation is provided.
2. Unless the agency has obtained a written waiver from the Department of Information Technology Services (ITS), they can be assessed E- Government Transactions Fees (See section VII).
3. Any request for an exception to the above reconciliation requirement must be clearly documented in the request for the alternate payment processor.

The service must be legally procured following the rules for technology procurement. All such services are considered e-government services, and are within the purview of ITS even if those services are offered at no cost to the agency. (See 001-020 Acquisitions within ITS Purview, item 3, in the ITS Procurement Handbook):

<http://dsitspe01.its.ms.gov/its/procman.nsf/TOC4?OpenView>

1. DFA will be an active participant in the procurement, implementation, and acceptance of the alternate payment processor before the application supported is certified for production operations.
2. DFA, at its discretion, may require that DFA be a party to the contract.

The alternate payment processor and/or 3rd party vendor must work with DFA to interface daily settled transactions and any associated fees into the state’s accounting system via the PPI.

Agencies are required to collect any State required fees, such as EOC fees or E- Government Transaction Fees.

Approval under this section shall not relieve an agency of its responsibility concerning other

sections of this rule.

VI. Request Approval for All Fees to Be Paid By Agency

An agency wishing to obtain approval to bear the full cost of processing electronic payments should address the written request to the Department of Finance and Administration, Office of Fiscal Management, Attn: Portal Transactions, 501 North West Street, Suite 701 – B, Jackson, MS 39201. This request will be coordinated with the EOC to ensure the funding model approved by the EOC remains intact.

The request must state whether the application is web-based or of another type (example: Point-of-sale (POS), over the counter (OTC), subscription, Interactive Voice Recognition (IVR)).

The agency must describe the agency application including: The agency program supported.

1. The items (services) offered for sale or collections.
2. The individual item costs.
3. An estimate of the processing cost “per transaction” for the items (services) to be sold.

The agency request must clearly:

1. Document whether the request is for an application where the consumer can purchase only a single item or service at a time (example: drivers’ license renewals) or a shopping cart model where multiple items may be purchased (example: hunting and fishing licenses).
2. Demonstrate a dollar neutral cost or cost saving to the agency when absorbing the processing fees rather than having the consumer pay the fees projected over a fiscal year. All assumptions must be documented.
3. Demonstrate that the funds to defray the total cost of electronic processing will be available projected over a fiscal year. All assumptions must be documented.

The agency must acknowledge that it will be required to set aside cash/authority at a specified minimum limit in a specified fund to cover expenses (debits) associated with the agency’s transactions for the following:

1. Authorization and settlements fees
2. Refunds
3. Chargebacks
4. Voids
5. Returned items charges

Approval under this section implies that the agency accepts and understands that the application will not be certified for production until such time as complete end- to-end testing is approved by DFA.

1. Testing will include financial settlement testing of all payment types.
2. Testing will include refunds and chargebacks.

VII. Testing will include full reconciliation using the procedures developed by the Agency for that purpose. Request a Waiver for E-Government Transaction Fees

An agency wishing to obtain approval for a waiver of E-Government Transaction Fees should address the written request to the Department of Information Technology Services, Attention: E-Government Oversight Committee, 3771 Eastwood Drive, Jackson, MS 39211.

If an agency is granted a waiver the agency should send a copy of the approval to The Department of Finance and Administration, Bureau of Financial Documents, P.O. Box 1060, Jackson, MS 39215-1060.

VIII. Third Party Processing and Fulfillment Costs

§7-7-9, Mississippi Code (Laws of 1972) states the following:

“The Mississippi General Accounting Office shall maintain a complete system of general accounting to comprehend the financial transactions of every state department, division, officer, board, commission, institution or other agency owned or controlled by the state, except those agencies specifically exempted in Section 7-7-1, whether at the seat of government or not and whether the funds upon which they operate are channeled through the State Treasury or not, either through regular procedures having to do with the issuance of the State Fiscal Officer receipt warrants and disbursement warrants or through controls maintained through reports filed periodically as required by the State Fiscal Officer in accordance with the reporting provisions contained in said Section 7-7-1.

All Transactions in public funds, as defined in Section 7-7-1, shall either be handled directly through the State Fiscal Officer and the State Treasury, or shall be reported to the State Fiscal Officer at the times and in the form prescribed by the State Fiscal Officer and the Legislative Budget Office, so that a complete and comprehensive system of accounts of the fiscal activities of all state governmental agencies shall be made available at all times in the General Accounting office.

This policy is established by the Department of Finance and Administration, Office of fiscal Management (OFM) for direct or indirect payment to vendors to support internal business functions in the fulfillment of orders and completion of transactions initiated in person or through the Internet. These transactions may include, but are not limited to, the collection of taxes, issuance of licenses, production of reports, and other collections or payments for services that are conducted by agencies in their normal course of business.

Any cost incurred directly (by an agency) or indirectly (passed directly to the consumer) for a party to complete agency business transactions must be reflected as a cost of doing business

for this agency. To do otherwise would not fully disclose costs of the State to conduct business or reflect revenue generated by a vendor who is providing services under contract for the State of Mississippi. Likewise, any charge to the consumer for processing these transactions should be recognized by the agency as revenue.

Agencies will report revenues and expenses on a Journal Voucher (JV) according to the Mississippi Agency Accounting Policy and Procedure (MAAPP) Manual, Section 16. The JV will be created within 5 workdays of the end of the fiscal quarter.

IX. Payment Card Industry – Data Security Standards (PCI-DSS)

State agencies accepting credit and/or debit cards through an approved alternate payment processor will comply with Payment Card Industry – Data Security Standards (PCI-DSS) to safeguard cardholder and sensitive cardholder data, regardless of revenue input source (e.g. Internet application, point-of-sale, Interactive Voice Recognition System, etc. Agencies must provide to DFA yearly, proof of the alternate payment processor's compliance with PCI-DSS.

Agencies using the ms.gov payment portal will follow guidelines from the State's Merchant of Record, outlined in Section X. Agencies using an alternate payment processor that do not provide proof of compliance in PCI-DSS cannot accept credit cards/debit cards payment. If an agency is found accepting credit/debit cards as a form of payment that has not been granted a written waiver, DFA under the authority of §27-104-33, may issue the agency a cease and desist letter to close the system down. To request an appeal see Section XII.

X. Development/Hosting Options and Ultimate Responsibility for PCI-DSS and Fines and Penalties

A. Through a contracted partnership with NIC and Mississippi Interactive (MSI), DFA now provides payment processing services through RFP 3564, Project Number 37577, Statement Of Work 001, Payment Processor Solution. MSI/NIC is the official "Merchant of Record" for payments processed online through the Common Checkout Page (CCP) and Transaction Processing Engine (TPE), reducing the PCI-DSS compliance responsibility for the State of Mississippi by locating the software and hardware for payment processing at NIC's PCI Compliant data center. Agency's will be responsible for training their employees on proper handling of credit card data should they receive it in any other manner outside of the NIC provided solution. This includes completing SAQ A attesting that they have outsourced all electronic processing and properly trained employees.

*Please Note: CCP and TPE are components of NIC's PCI Compliant Payment Services that separate the state's online application from communicating directly with the payment processor.

B. Responsibility for PCI-DSS continues for agencies that connect their applications to payment processors outside of TPE or CCP within in the state. Also, in the event that an application requires the manual handling or entry of credit card information by agency personnel, the agency is responsible for PCI compliance at the SAQ A level for all individuals within the agency processing those payments. For more information on PCI-DSS SAQ A, please visit: <https://www.pcisecuritystandards.org/> .

XI. Security Breaches and Notifications

In the event of a security breach, credit card or debit card data could be compromised. Agencies will immediately terminate the application/services to preserve evidence and notify:

1. DFA's Chief Systems Information Officer at 601-359-6570.
2. Mississippi Department of Information Technology Services, Security Division at 601-432-8180 and the E-Government at 601-432-1846.
3. Mississippi State Attorney General's Office, Consumer Protection Division at (601) 359-3680 or 1 (800) 281-4418 and the Cyber Crimes Division at (601) 359-3817.

The agency shall notify their customers of the breach once law enforcement informs the agency that customer notification will not impede an investigation.

1. Agencies may notify customers using written notices or electronic notices. As a last resort, telephone notices can be given. Documentation that notices were provided, to whom they were provided, and when such notices were provided must be maintained by the agency.
2. The notice shall be clear and conspicuous and include:
 - a. A description of the incident in general terms.
 - b. The type of personal information subjected to unauthorized access or acquisition.
 - c. The general acts the agency has taken to protect the information from further unauthorized access.
 - d. A telephone number that the customer can call for further information.

XII. Advice that directs the customer to remain vigilant by reviewing account statements and monitoring free credit reports or close an account. Appeal Process

An agency wishing to appeal a cease and desist letter must submit a written request to the Department of Finance and Administration, Director, Office of Fiscal Management, 501 North West Street, Suite 701 -B, Jackson, Ms 39201.

The agency must provide the following information in the written request:

1. The agency program supported.
2. The items (services) offered for sale or collections.
3. The individual item costs.
4. An estimate of the processing cost "per transaction" for the items (services) to be sold.

5. The number of items sold per year and the total cost of those items.
6. A detailed description of how the system works.
7. A detailed list of software operating on the system.
8. A detailed list of equipment, including the name, model number, and purposed of the equipment.
9. A detailed description of accounting entries made to account for revenue and processing and other fees.

The agency must state whether the agency or the consumer pays the E- Government Transaction fee. The agency request must clearly:

1. Document whether the consumer can purchase only a single item or service at a time (example: drivers' license renewals) or a shopping cart model where multiple items may be purchased (example: hunting and fishing licenses).
2. Demonstrate a dollar neutral cost or cost saving to the agency when absorbing the processing fees rather than having the consumer pay the fees projected over a fiscal year if the agency is to pay the processing fees. All assumptions must be documented. Cost data will be coordinated with the Electronic Oversight Committee.
3. Demonstrate that the funds to defray the total cost of electronic processing will be available projected over a fiscal year if the agency is to pay the processing fees. All assumptions must be documented.

If the agency is paying processing fees, the agency must acknowledge that they will be required to set aside cash/authority at a specified minimum limit in a specified fund to cover expenses (debits) associated with the agency's transactions for the following:

1. Authorization and settlements fees
2. Refunds
3. Chargebacks
4. Voids
5. Returned items charges

The agency will also submit their PCI Self-Assessment Questionnaire, Remediation Plan, and cost estimates to correct deficiencies identified in the Remediation Plan. Once the agency information is reviewed, the agency will be given a written response to the appeal request.