



RFP No: 4609

INVITATION: Proposals, subject to the attached conditions, will be received at this office until **Thursday, May 8, 2025 @ 3:00 p.m. Central Time** for the acquisition of the products/services described below for Mississippi Department of Employment Security.

ReEmployUSA Application Support, Corrective, Adaptive, Preventive, and Perfective Maintenance Services

VENDOR CONFERENCE: Thursday, March 27, 2025 at 11:00 a.m. Central Time

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:

Roshunda Mitchell
Technology Consultant
Information Technology Services
3771 Eastwood Drive
Jackson, MS 39211
(601) 432-8223
Roshunda.Mitchell@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. 4609
Thursday, May 8, 2025 @ 3:00 p.m. Central Time
ATTENTION Roshunda Mitchell

A handwritten signature in black ink, appearing to read "Craig P. Orgeron", is positioned above a horizontal line.

Craig P. Orgeron, CPM, Ph.D.
Executive Director

ITS RFP Response Checklist

RFP Response Checklist: These items should be included in your response to RFP No. 4609.

- 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) Vendor response to *RFP Questionnaire* (Section VI)
- 5) Written Narrative response as per instructions to *Technical Specifications* (Attachment A)
- 6) Response ("A", "E", or "X") as per instructions in Item 4 of Attachment A for *Technical Specifications - Requirements Matrix* (Attachment B)
- 7) *Proposal Exception Summary*, if applicable (Section V)
- 8) Page and Paragraph response as per instructions in Item 1 of Attachment A for *Technical Specifications - Requirements Matrix* (Attachment B)
- 9) Vendor response to *Cost Information Submission* (Attachment C)
- 10) *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 will be the person that the Mississippi Department of Information Technology Services, (ITS), will contact for purposes of this RFP.

Name _____ Phone # _____
Address _____ Fax # _____
_____ Email _____

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 any expenses for the development or delivery of proposals. Any proposal received after the proposal response deadline 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*.
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.
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 at any time during the evaluation process. 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 website. Vendors failing to comply with this requirement will be subject to disqualification.

 - 14.1 The State's contact person for the selection process is: Roshunda Mitchell, Technology Consultant, 3771 Eastwood Drive, Jackson, MS 39211, 601-432-8223, Roshunda.Mitchell@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 successfully respond to the RFP.

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:

<https://www.its.ms.gov/procurement/rfps-and-sole-sources>

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 Section VII.
8. **Multiple Awards**
ITS reserves the right to make multiple awards. Refer to *Appendix G - Maine IT Service Contract*.
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 Projects by Entities Outside Mississippi**
This procurement and resulting award may be utilized by any ReEmploy Consortium States subject to the foregoing understandings. The Vendor will honor all terms of this RFP with the Maine Department of Labor, and any other Consortium State or States that elect to use this RFP to procure the Vendor's services subject to the laws and requirements of each individual Consortium State. Unless otherwise noted in this RFP, the terms and conditions of this RFP shall apply to the Contractor for any agreement executed by the Vendor and any current or future Individual Consortium State pursuant to the RFP to the extent allowed by law. Further, with respect to the other current Consortium State(s), Contractor agrees to negotiate with any Consortium States electing to do so. The State of Maine has elected to negotiate with the Vendor through the Maine Department of Labor ("MDOL"), and if an agreement is reached, shall execute a State of Maine Service Contract with applicable riders as set forth in the Maine IT Service Contract Template to be provided to the Contractor by MDOL that shall run concurrently with the period of performance in this RFP, as may be amended or extended under the same terms and conditions, regardless of execution date by all the Consortium States collectively. See Appendix G of this RFP for reference. For any future Consortium States that elect to negotiate and execute an agreement with an individual Consortium State, the applicable state shall provide the Contractor will all state-specific requirements, deliverables, laws, and regulations applicable to that state. Further, such additional Consortium State contract shall run concurrently with the period of performance in this RFP and may be amended or extended on the same terms and conditions, regardless of execution date by all the Consortium States collectively. However, each individual Consortium State has the sole right to terminate its respective contract with the Vendor.

12. **Price Changes During Award or Renewal Period**

A price increase will not be accepted during the award period or any 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 related 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. However, the State reserves the right to issue BAFOs to any and all responding Vendors at any time during the RFP evaluation process. 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, 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 successfully complete a contract or agreement with ITS.

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 they take 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 in Mississippi.
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 below unless modification of order is negotiated and agreed upon by both ITS and the winning Vendor in the resulting executed contract.
 - A. This Agreement signed by the parties hereto, as may be amended;
 - B. Any exhibits attached to this Agreement, as may be amended;
 - C. Any Change Orders.
 - D. RFP No. 4609 and written addenda thereto; and
 - E. Contractor's Proposal, as accepted by the State, in response to RFP No. 4609.
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 Pursuant to Mississippi Code Annotated Section 25-53-21(e), the Executive Director of ITS may negotiate a limitation on the liability to the State of prospective contractors provided such limitations afford the State reasonable protection and the limitation is approved by the State entity for whom the acquisition is being made. A Vendor who wishes to negotiate a limitation to their liability to the State under this RFP must provide a proposed limitation of liability in their response at the time of submission for the State's consideration. However, 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.
- 7.10 The State shall not propose any prohibited technology as defined in the law (a) "Prohibited technology" means any information technology deemed to pose an unacceptable risk to the security of the United States and/or the State of Mississippi by Mississippi and/or federal law, regulation, or guidance.
- 7.11 After the notice of award, if any, the State will negotiate with successful Vendor. In the event that the negotiations with the lowest and best Vendor reach an impasse as determined by the State, the State has the right to terminate negotiations via written notice to the Vendor including electronic mail and immediately begin negotiations with the next ranked Vendor as necessary. See also 14.1 for reference.
- 7.12 During negotiations, the State has the right to require the successful Vendor to participate in negotiations in-person at the offices of the Mississippi Department of Employment Security in Jackson, Mississippi upon written notice to the Vendor including electronic mail.

8. **Approved Contract**

- 8.1 The Contractor will honor all terms of this RFP with the Maine Department of Labor, and any other Consortium State or States that elect to use this RFP to procure the Vendor's services subject to the laws and requirements of each individual Consortium State. Unless otherwise noted in this RFP, the terms and conditions of this RFP shall apply to the Contractor for any agreement executed by the Vendor and any current or future Individual Consortium State pursuant to the RFP to the extent allowed by law. Further, with respect to the other current Consortium State(s), Contractor agrees to negotiate with any Consortium States electing to do so. The State of Maine has elected to negotiate with the Vendor through the Maine Department of Labor ("MDOL"), and if an agreement is reached, shall execute a State of Maine Service Contract with applicable riders as set forth in the Maine IT Service Contract Template to be provided to the Contractor by MDOL that shall run concurrently with the period of performance in this RFP, as may be amended or extended under the same terms and conditions, regardless of execution date by all the Consortium States collectively. See Appendix G of this RFP for reference. For any future Consortium States that elect to negotiate and execute an agreement with an individual Consortium State, the applicable state shall provide the Contractor will all state-specific requirements, deliverables, laws, and regulations applicable to that state. Further, such additional Consortium State contract shall run concurrently with the period of performance in this RFP and may be amended or extended on the same terms and conditions, regardless of execution date by all the Consortium States collectively. However, each individual Consortium State has the sole right to terminate its respective contract with the Vendor. Refer to *Appendix G - Maine IT Service Contract*.
- 8.2 Award of Contract - A contract is considered to be awarded to a Vendor once the awarded Vendor's offering has been approved as lowest and best proposal through:

- 8.2.1 Written notification made to Responding Vendors on ITS letterhead, or
 - 8.2.2 Notification posted to the ITS website for the project, or
 - 8.2.3 CP-1 authorization executed for the project, or
 - 8.2.4 The ITS Board's approval of same during an open session of the Board.
- 8.3 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.
- 8.4 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, including any Amendments or Change Orders, 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. The payment processes for each Consortium State using this RFP will be specified by each state.

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 any contractual disagreements that may arise between the Vendor and its subcontractor after the 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

arrangements 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. A copy of the Enterprise Security Policy can be found on the ITS website.
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. A copy of the Enterprise Cloud and Offsite Hosting Security Policy can be found on the ITS website.
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 website at:

<https://www.its.ms.gov/sites/default/files/ProcurementPDFs/ISS%20Procurement%20Manual.pdf#page=173> 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. 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 that your company might wish to consider protecting as a trade secret or as confidential commercial or financial information. 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 Request for Proposal.

38. Performance Bond/Irrevocable Bank Letter of Credit

38.1 The Contractor must provide a performance bond that secures 100% of the awarded contract amount for the State for the term of the contract ("coverage period") and must include the price of such a performance bond or irrevocable bank letter of credit with its RFP proposal. The cost of the bond or letter of credit must be shown as a separate line item in the *Cost Information Submission Form*.

- 38.2 The letter of credit/performance bond shall cover the term of the contract (“coverage period”). If applicable, and at the State’s sole discretion, the State may, at any time during the coverage period, review Vendor’s performance and performance of the products/services delivered and determine that the letter of credit / performance bond may be reduced or released prior to expiration of the coverage period.
- 38.3 The performance bond or letter of credit must be procured at the Vendor’s expense prior to the execution of the contract and may be invoiced to the “Mississippi Department of Employment Security” after contract initiation only if itemized in the *Cost Information Submission* and in the executed contract. The final decision as to the requirement for a Performance Bond or Irrevocable Bank Letter of Credit will be made upon the contract award and is at the State’s sole discretion. The Performance Bond or the Irrevocable Letter of Credit shall be for 100% of the total amount of the contract or an amount mutually agreed upon by the State and the successful Vendor and shall be payable to Mississippi Department of Employment Security, to be held by their contracting agent, the Mississippi Department of Information Technology Services. No contract resulting from this RFP will be valid until the required Performance Bond or Irrevocable Bank Letter of Credit has been received and found to be in proper form and amount by ITS. The State may demand payment by contacting the bank issuing the letter of credit or the bonding company issuing the performance bond and making a written request for full or partial payment. The issuing bank/bonding company is required to honor any demand for payment from the State within fifteen (15) days of notification. If applicable, and at the State’s sole discretion, the State may, at any time during the coverage period, review Vendor’s performance and performance of the products/services delivered and determine that the letter of credit/performance bond may be reduced or released prior to expiration of the coverage period.
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 website - ITS Protest Procedure and Policy, Section 019-020, ITS Procurement Handbook at:
<https://www.its.ms.gov/sites/default/files/ProcurementPDFs/ISS%20Procurement%20Manual.pdf#page=180> 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 4609.

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 amount of 2% of the awarded contract amount listed in the notice of intent to award. 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, as amended 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:

<https://www.dfa.ms.gov/vendors>

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 10-digit MAGIC Vendor code (begins with the number 3).

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**

- 2.1 Vendors must provide proof, in its response to this RFP, from the Office of the Secretary of State of the State of Mississippi demonstrating that the Vendor is in good standing to do business in Mississippi. Failure to comply with this requirement may subject the Vendor's response being deemed non-responsive and subject to disqualification.

- 2.2 The Vendor must certify that they are 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 provide equipment that is in compliance with the National Defense Authorization Act, Section 889. (Vendor must state if they can meet this requirement.)
4. **Compliance with National Security on State Devices and Networks Act**
Vendors shall not provide or propose to provide any prohibited technology as defined under the National Security on State Devices and Networks Act, Mississippi Code Ann. Section 25-53-193, as amended. Failure to meet this requirement may disqualify vendor from consideration. (Vendor must state if they can meet this requirement.)
5. **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:
- 5.1 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.)
- 5.2 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.
6. **Pending Legal Actions**
- 6.1 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.)
- 6.2 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.)
- 6.3 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.
- 6.4 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.
7. **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. (A yes or no answer is required.)

8. **Web Amendments**

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

<https://www.its.ms.gov/procurement/rfps-and-sole-sources>

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.)

9. **Order and Remit Address**

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

Order Address:

Remit Address (if different):

10. **Taxpayer Identification Number**

Vendor must specify their taxpayer identification number.

11. **Certification of Liability Insurance**

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

12. **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 (Supp. 2008). Vendor must

provide documentation of their E-Verify compliance with their RFP response. See Section IV, Item 42 for additional information.

13. **System for Award Management (SAM) Registration Documentation**
Vendor must include a copy of their registration with the Federal Government's System for Award Management (SAM) with their RFP response.

**SECTION VII
 TECHNICAL SPECIFICATIONS**

1. Procurement Project Schedule

Task	Date
First Advertisement Date for RFP	03/18/2025
Second Advertisement Date for RFP	03/25/2025
Vendor Conference	11:00 a.m. Central Time on 03/27/2025
Deadline for Vendor’s Written Questions	3:00 p.m. Central Time on 04/08/2025
Deadline for Questions Answered and Posted to ITS Website	04/25/2025
Open Proposals	05/08/2025
Begin Evaluation of Proposals	05/08/2025
ITS Board Presentation	06/19/2025
Begin Contract Negotiation	June 2025
Project Go-Live Deadline	TBD

2. 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 classified as **MANDATORY** in this Section of the RFP as well as in both Attachment A (description of the technical requirements), and Attachment B (technical requirements response form). Mandatory requirements in Attachment B will also include a “M” in the Mandatory Requirement column. 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 functions exists in the base solution at time of proposal submission.

3. Statement of Understanding

- 3.1 Vendors may request additional information or clarifications to this RFP using the following procedure:
 - 3.1.1 Vendors must identify the specified paragraph(s) in the RFP that is in question. The following table should be used to format Vendor questions.

Question	RFP Item	RFP Page	Vendor Question
1)			
2)			
3)			
4)			

- 3.1.2 Vendor must deliver a written document to Roshunda Mitchell at ITS by Tuesday, April 8, 2025 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 Roshunda Mitchell to verify the receipt of their document. Documents received after the deadline will be rejected.
- 3.2 All questions will be compiled and answered, and a written document containing all questions submitted and corresponding answers will be posted on the ITS website by close of business on Friday, April 25, 2025.
- 3.3 When the RFP uses the term State, it refers to staff from ITS, MDES, and any other authorized State employee or agent.
- 3.4 UI System/ReEmployUSA — means a custom designed Unemployment Insurance system that enables the Mississippi Department of Employment Security and the Maine Department of Labor to collect and process information to provide unemployment insurance benefits to eligible claimant, to collect unemployment taxes from employers, and to provide appeals hearings in accordance with federal and state law and regulations.
- 3.5 The selected Vendor must comply with Federal Regulation 20 C.F.R. § 603.
- 3.6 The State will use the methodology described in Section 5 – Scoring Methodology.
4. **Functional and Technical Requirements**
- 4.1 For the functional and technical requirements relevant to this procurement, refer to Attachments A, B, and C, along with Appendices A, B, C, D, E, F, G and H which are incorporated herein by reference and are considered integral to this RFP. Attachments A, B, and C and Appendices A, B, C, D, E, F, G and H are posted on the same website location as this RFP No. 4609, and the link to it is located directly beneath the link to this RFP No. 4609.
5. **Scoring Methodology**
- 5.1 An Evaluation Team composed of Mississippi Department of Employment Security (MDES), MDOL, 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.
- 5.1.1 The Cost and Non-Cost categories included in the scoring mechanism are assigned a weight between one and 100 percent.
- 5.1.2 The sum of all the Cost and Non-Cost categories equals 100 possible points.

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

Non-Cost Category	Allocation
Category 1: Vendor Qualifications	10
Category 2: Vendor Capabilities	2
Category 3: Staffing	12
Category 4: Development Practices	1
Category 5: SOCII Audits	1
Category 6: Planning	2
Category 7: Definitions	4
Category 8: Perfective Maintenance Activities / Enhancements	4
Category 9: Maintenance and Support	3
Category 10: Administration	1
Category 11: Production Service Level Agreements (SLAs) and Key Performance Indicators (KPIs)	25
Non-Cost Points	65
Cost - Category	Allocation
Category 1: Annual Maintenance and Support	15
Category 2: Annual Travel Costs	2
Category 3: Time and Materials Rate	6
Category 4: Perfective Maintenance Service SOW Rate	6
Category 5: Change Order SOW Rate	6
Cost Points	35

5.2 The evaluation will be conducted as follows:

5.2.1 Validation – 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 including, but not limited to: content, organization/format, Vendor experience, mandatory requirements (if applicable), bond requirement (if applicable), timely delivery, and must be considered in competitive range (as detailed in the ITS Procurement Handbook). No evaluation points will be awarded in this stage. Failure to submit a complete proposal may result in rejection of the proposal.

5.2.2 Non-cost Evaluation (all requirements excluding cost)

5.2.2.1 Non-cost categories are identified in the table in Item 5.1.3 above.

5.2.2.2 ITS scores the non-cost categories on a 10-point scale. Proposals receiving fewer than 80% of the total points allocated for the non-cost categories will be eliminated from further consideration.

5.2.3 Cost Evaluation

5.2.3.1 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

5.2.3.2 Cost categories are identified in the table in Item 5.1.3 above.

5.2.4 Demonstrations and Interviews

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

5.2.4.2 If requested, Vendors must be prepared to make demonstrations (on-site or virtual, at the sole discretion of the State) 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.

5.2.4.3 Proposed key team members must be present at the demonstration. The evaluation team reserves the right to interview the proposed key team members during this visit.

5.2.4.4 Although demonstrations may be requested, the demonstration will not be allowed in lieu of a written proposal.

5.2.5 Site Visits

5.2.5.1 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.

6.3 Final Quantitative Evaluation - Following any requested clarifications, BAFOs, 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 summarize all applicable project costs in Attachment C, *Cost Information Submission*. The *Cost Information Submission* must be supplemented by a cost itemization fully detailing the basis of each cost category. The level of detail must address the following elements as applicable: item, description, quantity, retail, discount, extension, and deliverable. Any cost not listed in this section, even if asked for in the RFP technical requirements but not included below, may result in the Vendor providing those products or services at no charge to the State or face disqualification.

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. 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 Number: _____
Email: _____
Project Start Date: _____
Project End Date: _____

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

SUBCONTRACTOR REFERENCE FORM

COMPLETE THREE (3) REFERENCE FORMS FOR EACH SUBCONTRACTOR.

Contact Name: _____

Company Name: _____

Address: _____

Phone Number: _____

Email: _____

Project Start Date: _____

Project End Date: _____

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

**EXHIBIT A
STANDARD CONTRACT**

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 45732
APPLICATION SERVICES AGREEMENT
BETWEEN
VENDOR
AND
MISSISSIPPI DEPARTMENT OF INFORMATION TECHNOLOGY SERVICES
AS CONTRACTING AGENT FOR THE
MISSISSIPPI DEPARTMENT OF EMPLOYMENT SECURITY**

This Application Services Agreement (hereinafter referred to as "Agreement") is entered into by and between **VENDOR**, a **STATE OF INCORPORATION** having its principal place of business at **VENDOR ADDRESS** (hereinafter referred to as "Contractor"), 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 Department of Employment Security ("MDES"). MDES and ITS are sometimes collectively referred to as the "State". Contractor, ITS, and MDES are collectively referred to as the "parties".

WHEREAS, ITS, on behalf of MDES and pursuant to Request for Proposals ("RFP") No. 4609-45732, requested proposals for the acquisition of corrective, adaptive, preventive, perfective maintenance services, and support for all of these services for the MDES ReEmployUSA Application ("Services"), and

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

WHEREAS, MDES and the Maine Department of Labor ("MDOL") comprise the current members of the ReEmployUSA Consortium;

WHEREAS, Contractor, ITS, and MDES agree that this Agreement's terms and conditions, to the extent they are not prohibited by individual state law, applies to each Consortium States' agreement with the Contractor for use of the RFP and this Agreement.

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

ARTICLE 1 DEFINITIONS

Term/Abbreviation	Definition
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Adaptive Maintenance	These services are defined as the modification, revision, and / or updating of application software, interfaces, APIs, etc. (non-exclusive list) to remain current with changing environments or changes to infrastructure. For example, environmental changes include, but are not limited to, patches, minor upgrades, or major upgrades of operating systems, software dependencies, network changes, security upgrades, changes in external systems, and system configurations. Additional adaptive maintenance services include planning, coordinating, troubleshooting, remediation of issues or build deployments necessary to maintain current functionality that are due to changing environments or infrastructure. All adaptive maintenance services are included as a part of the scope of service of this RFP.
Change Order Statement of Work (CO-SOW)	A Change Order is defined as a statement of work (“CO-SOW”) setting forth in reasonable detail, the range and extent of services requested, requirements, assumptions, timeline, deliverables, milestones, estimated number of professional service hours that will be necessary to implement the work contemplated therein, and cost of a project requested by one or more Consortium State(s) that would expand the scope of services of this project. A Change Order would require approval from ITS.
Consortium States	MDES and MDOL
Corrective Maintenance	These services are defined as the services of identifying and resolving defects. These system defects include but are not limited to coding errors, design flaws, software dependency issues, security vulnerabilities, performance issues, usability issues, or integration issues. Proper documentation of changes done is a part of corrective software maintenance, and all corrective maintenance services are included as a part of corrective maintenance. All Corrective Maintenance Services are included as part of the required scope of service from the Vendor.
Defect	A defect is a failure, flaw or error that results or functions in unexpected, incorrect, or unintended ways in system testing (ST), user testing (UAT) or production environments.
Individual Consortium State	MDES or MDOL
Maintenance and Support	Maintenance and Support is the comprehensive management of the ReEmployUSA application which includes all work that is NOT a Perfective Maintenance Activity. Maintenance and Support will include all Adaptive Maintenance, Corrective Maintenance, Preventive Maintenance services, and support services for all of these types of maintenance services.
MDES	Mississippi Department of Employment Security
MDOL	Maine Department of Labor
Participating Agreement	Any separate agreement between the Contractor and an Individual Consortium State made pursuant to the RFP and this Agreement. This term is for purposes of ease of reference for this Agreement

	and is not meant to limit the type/title of any separate agreement executed by any the Contractor and an Individual Consortium State.
State	MDES and ITS
SOW	Statement of Work is defined as a document outlining the range and extent of services requested, requirements, assumptions, timeline, deliverables, milestones, estimated number of professional service hours that will be necessary to implement the work contemplated therein, and cost of a project requested by one or more Consortium State(s). An SOW is a document used for a project that is within the scope of services for this RFP.
Support Services	These services are defined as maintaining and ensuring the smooth operation of a live software application. This includes but is not limited to writing and executing queries, troubleshooting issues, analysis, resolving problems, monitoring system performance and security, disaster recovery, database recovery, optimizing database performance, running and re-running reports, running and re-running batches, system administration, support ticketing, interfaces with other systems, training, entering, removing, or changing data stored in existing database tables, and generating reports on incident trends, potential risks , or system performance. These services will also include working with other vendors and state support staff. All Support Services are included as part of the required scope of service from the Vendor.
Work Product	Any software, compilations, application programming interface codes, object code, databases, screen displays, data tables reports, and any plans, manuals, or other documentation for the services owned by the State or developed for the State under this Agreement.

ARTICLE 2 CONSORTIUM MEMBER STATE PARTICIPATING AGREEMENT

2.1 Unless otherwise noted in this Agreement, the parties agree that the terms and conditions of this Agreement shall apply to the Contractor for any agreement executed by the Contractor and any current or future Individual Consortium State pursuant to the RFP to the extent allowed by law. Further, with respect to the other current Consortium State(s), Contractor agrees to negotiate with any Consortium States electing to do so. The State of Maine has elected to negotiate with the Contractor through the Maine Department of Labor (“MDOL”), and if an agreement is reached, shall execute a State of Maine Service Contract with applicable riders as set forth in the Maine IT Service Contract Template to be provided to the Contractor by MDOL that shall run concurrently with the period of performance in Article 3, as may be amended or extended under the same terms and conditions, regardless of execution date by all the Consortium States collectively.

2.2 For any future Consortium States that elect to negotiate and execute an agreement with an individual Consortium State, the applicable state shall provide the Contractor will all state-specific requirements, deliverables, laws, and regulations applicable to that state. Further, such additional Consortium State contract shall run concurrently with the period of performance in Article 3 and may be amended or extended on the same terms and conditions, regardless of execution date by all the Consortium States collectively. However, each individual Consortium State has the sole right to terminate its respective contract with the Contractor. Moreover, the

terms of this Agreement shall survive its termination or expiration as noted herein independent of any Participating Agreement. Refer to *Appendix G - Maine IT Service Contract*.

ARTICLE 3 PERIOD OF PERFORMANCE

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 for a period of five (5) years from the date of execution of the Agreement unless terminated sooner, with an option to extend the Agreement, at the sole discretion of the State under the same terms and conditions ("extended term"). Any such extended term of the Agreement shall require the written agreement of the parties. The parties agree that any increase in the total contract price for any extended term of this Agreement shall not exceed five percent (5%).

ARTICLE 4 SCOPE OF SERVICES

4.1 The Contractor shall perform tasks explicitly requested or reasonably required by the State including the requirements described in the RFP No. 4609 (collectively referred to hereinafter as, "Scope of Services"), in furtherance of the provision of these Services. The State retains the right to inspect, stop, or alter the work of the Contractor to assure its conformity with this Agreement.

4.2 As noted herein, the State owns the code that the Contractor shall maintain, support, and enhance said code as part of the preventive, adaptive, corrective and perfective maintenance services as defined herein and in RFP No. 4609. As such, the Contractor shall maintain and support all of the code of any character that comprises the ReEmployUSA system without regard to the vendor that created it.

ARTICLE 5 CONSIDERATION AND METHOD OF PAYMENT

5.1 The total compensation to be paid to the Contractor by the Consortium States for all products, services, travel, performances and expenses under this Agreement shall not exceed the **\$AWARD AMOUNT** and shall be payable as set forth in the Payment Schedule developed by the parties to this Agreement as shown in Exhibit A-1, which is attached hereto and incorporated herein.

5.2 The Contractor shall prepare and remit invoices per the requirements described in RFP No. 4609, Billing Practices. The Contractor shall remit all invoices with the appropriate documentation to the MDES' Project Management Officer (PMO), three (3) days prior to remittance to the state for verification. The Consortium Members may assign a party to perform this review at their discretion. The Contractor shall submit all invoices and supporting documentation to the PMO and MDES electronically during the term of this Agreement using the processes and procedures identified in RFP No. 4609. The State 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 MDES within forty-five (45) days of receipt of the invoice. The Contractor understands and agrees that MDES 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 required by the State of Mississippi. The payments by the MDES shall be deposited into the bank account of the Contractor's choice. Further, no payment, including final payment, shall be construed as acceptance of defective products or incomplete work, and the Contractor shall remain responsible and liable for full performance in strict compliance with the contract documents specified in the article herein titled "Entire Agreement."

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

ARTICLE 6 WARRANTIES

6.1 The Contractor 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, the Contractor shall, for a period of ninety (90) days from performance of the service, perform the services again, at no cost to the State, or if Contractor is unable to perform the services as warranted, Contractor shall reimburse the State the fees paid to Contractor for the unsatisfactory services.

6.2 Contractor represents and warrants that, to the extent applicable, it will ensure its compliance with the Mississippi Employment Protection Act, Miss. Code Ann. section 71-11-1, *et seq.* otherwise, this statute may subject Contractor to the consequences set forth under Miss. Code Ann. §71-11-3.

6.3 Mississippi law clearly forbids a direct or indirect conflict of interest of a company or its employees in selling to the State. Contractor represents and warrants that no official or employee of MDES 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 Contractor 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 Contractor also warrants that in the performance of this Agreement no person having any such known interests shall be employed.

6.4 The Contractor 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 Contractor, terminate the right of the Contractor 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 Contractor 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 State of Mississippi. In the event this Agreement is terminated under this article, the State of Mississippi shall be entitled to pursue the same remedies against the Contractor as it would pursue in the event of a breach of contract by the Contractor, including punitive damages, in addition to any other damages to which it may be entitled at law or in equity.

ARTICLE 7 EMPLOYMENT STATUS

7.1 Contractor 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.

7.2 Contractor represents that it is qualified to perform the duties to be implemented 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 MDES.

7.3 Any person assigned by Contractor to perform the services hereunder shall be the employee of Contractor, who shall have the sole right to hire and discharge its employee. State may, however, direct Contractor to replace any of its employees under this Agreement or Participating Agreement.

7.4 Contractor 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 Contractor nor employees of Contractor are entitled to state retirement or leave benefits.

7.5 It is further understood that the consideration expressed herein constitutes full and complete compensation for all services and performances hereunder, and that any sum due and payable to Contractor shall be paid as a gross sum with no withholdings or deductions being made by MDES for any purpose from said contract sum, except as permitted herein in Article 13 herein entitled "Termination."

ARTICLE 8 WORK LOCATIONS FOR CONTRACTOR'S STAFF

The State must approve all worksite locations other than the State's facilities. Preferred work sites are state facilities, but Contractor's facilities are also acceptable. Remote work is limited to 10% of the workforce. Remote work and Hybrid work must meet all security requirements, and be cost-effective and value-added. MDES or the Consortium State will set specific restrictions and security requirements for authorized remote work. The Contractor will be responsible for all related costs. A hybrid work schedule will only be available under the following conditions: (1) written approval by the State, and (2) shall be immediately revocable upon the Consortium State's discretion. The Contractor's employees and subcontractors must report to the Consortium State's state facility upon request. For MDES, hybrid work schedules will only be approved under exceptional circumstances. Failure of any of Contractor's staff to meet the obligations in this Article shall be grounds to terminate this Agreement for cause and entitle the State to 50% of the total contract amount in damages.

ARTICLE 9 BEHAVIOR OF EMPLOYEES/SUBCONTRACTORS

Contractor will be responsible for the behavior of all its employees and subcontractors while on the premises of any MDES or Consortium State 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, other contractors, or customers, will be asked to leave the premises and may be suspended from further work on the premises. All Contractor employees and subcontractors who will be working at such locations shall be covered by Contractor's comprehensive general liability insurance policy.

ARTICLE 10 MODIFICATION OR RENEGOTIATION

This Agreement may be modified only by a written agreement signed by the parties hereto, and any attempt at oral modification or email modification shall be void and of no effect. The parties

agree to renegotiate the Agreement if any applicable federal and/or state law or regulatory revisions require changes to any terms of this Agreement.

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 Contractor represents all contractors, third parties, and/or subcontractors Contractor has assembled for this project. The ITS on behalf of MDES is required to negotiate only with Contractor, as Contractor's commitments are binding on all proposed contractors, third parties, and subcontractors.

11.2 No party may assign or otherwise transfer this Agreement or its obligations hereunder without the prior written consent of the appropriate other party, said 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 Contractor must obtain the written approval of the State before subcontracting any portion of this Agreement. No such approval by the State of any subcontract shall be deemed in any way to provide for the incurrence of any obligation of the State, as applicable, 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 the State may deem necessary.

11.4 Contractor represents and warrants that any subcontract agreement Contractor 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 State, and that the subcontractor acknowledges that no privity of contract exists between the State and the subcontractor. The subcontractor further acknowledges that the Contractor is solely liable for any and all payments which may be due to the subcontractor pursuant to its subcontract agreement with the Contractor. The Contractor shall indemnify and hold harmless 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 Contractor's failure to pay any and all amounts due by Contractor to any subcontractor, 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 Contractor and the State, where such dispute affects the subcontract.

ARTICLE 12 AVAILABILITY OF FUNDS

It is expressly understood and agreed that the obligation of the State to proceed under this Agreement is conditioned upon both the appropriation of funds by the appropriate 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, as applicable, to appropriate funds, or if there is a discontinuance or material alteration of the program under which funds were available to MDES for the payments or performance due under this Agreement. Only ITS shall have the right to immediately terminate this Agreement, without damage, penalty, cost or expense to the State, of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination. The State 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 to the contrary of this Agreement hereunder as appropriate, this Agreement may be terminated, in whole or in part. Termination of this Agreement does not terminate any Consortium States' separate contract with the Vendor. The options for termination of this Agreement are as follow

- (a) Termination by agreement - upon the mutual, written agreement of the parties to the Agreement;
- (b) Termination upon notice - ITS may terminate this Agreement for any reason without the assessment of any penalties after giving sixty (60) days written notice specifying the effective date thereof to Contractor specifying the part of the Agreement terminated, if not the entire Agreement, and when termination becomes effective. The provisions of this sub-article do not limit a party's right to pursue any other remedy available at law or in equity.
- (c) Termination in the best interests of the State – Notwithstanding any provisions in this Agreement, ITS through a duly authorized designee, may terminate this Agreement whenever, the State makes a written determination that such Termination is in the best interests of the State. The ITS shall notify the Contractor in writing of Termination pursuant to this Article, which notice shall specify the effective date of Termination and the extent to which the Contractor must complete its performance under this Agreement prior to such date.
- (d) Termination due to breach of the Contract (default) – Notwithstanding any provisions in this Agreement, if either party fails to comply with the terms of this Agreement, the non-defaulting party, through a duly authorized employee, may terminate the Agreement by providing thirty (30) days written notice to the other Party unless the breach is cured within said thirty (30) day period. For purposes of the State, ITS is the party to be noticed.
- (e) Termination upon bankruptcy of the Contractor - ITS may terminate the Agreement in whole or in part without the assessment of any penalties upon thirty (30) days written notice to Contractor, if Contractor becomes the subject of bankruptcy, reorganization, liquidation, or receivership proceedings, whether voluntary or involuntary;
- (f) Termination on violation of Warranties – For a breach or violation of the provisions of Article 6 (Warranties), ITS may terminate this Agreement in accordance with its terms.
- (g) Termination for reduction or termination of funds – the State reserves the right to terminate this Agreement without prior notice when the funding for the Agreement is no longer available, as provided in accordance with the “Availability of Funds” Article of this Agreement.

13.2 In the event ITS terminates this Agreement, Contractor shall be paid all undisputed amounts outstanding for work satisfactorily completed by Contractor and accepted by the State prior to the termination. Such compensation shall be based upon the amounts set forth in the Article 5, “Consideration and Method of Payment”, but in no case shall said compensation exceed

the total fixed price of this Agreement.

13.3 Notwithstanding the above, Contractor shall not be relieved of liability to the State for damages sustained by the State by virtue of any breach by Contractor of this Agreement and the State may withhold any payments to Contractor for the purpose of set off until such time as the exact amount of damages due the State from Contractor are determined.

13.4 Termination Procedures

13.4.1 The party electing to terminate this Agreement shall send a notice of termination to the other party via certified mail return receipt requested, to the designated contact person for the other party as provided in Article 21, "Notice". Upon receiving the notice from the State, the Contractor shall immediately discontinue all services affected in accordance with the notice, undertake all commercially reasonable efforts to mitigate any losses or damages, and deliver to the State all project records no later than thirty (30) days after the termination of the Agreement or fifteen (15) days after receipt of a written request for the project records. Contractor shall deliver those records in the forms as they exist.

13.4.2 Except for any Services which the State directs the Contractor to perform in the notice prior to the effective date of termination, and except as otherwise provided in the notice, the Contractor shall terminate or conclude all existing subcontracts and purchase order or commitments.

13.4.3 Within forty-five (45) days of the effective date of termination, the State shall compensate the Contractor for the performance rendered and accepted without dispute by the State in accordance with the terms of this Agreement, in addition to all actual and reasonable costs incurred after termination required by the notice of termination. However, this Article does not entitle the Contractor to receive or to obligate the State to tender to the Contractor any payments for anticipated or lost profits.

13.4.4 Upon request by the State, Contractor shall assign to the State, or any replacement contractor designated by the State, all subcontracts, purchase order, and other commitments, and remove from the State's premises, whether lease or owned, all of Contractor's property, equipment, waste material, and rubbish related to its performance, all as the State may request.

13.5 Effect of Termination

13.5.1 Upon the effective date of termination of the Agreement, all rights and obligations shall be null and void, so that no party shall have any further rights or obligations to any other party except with respect to articles that survive termination as described in Article 34 herein. All representations, warranties, agreements, and rights of the parties under the Agreement shall also survive such termination to the extent not otherwise limited in the Agreement and without each one of them having to be specifically mentioned in the Agreement. See Article 33 for a list of all articles that survive termination of this Agreement.

13.5.2 The State reserves the right to recoup any deposits, prior payment, advance payment, or down payment made to or on behalf of the Contractor upon termination by either party.

13.6 Termination pursuant to this Article shall not be deemed to be a breach of contract by the State.

ARTICLE 14 GOVERNING LAW

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

ARTICLE 15 WAIVER

Failure of any 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 ITS, 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 the State.

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

ARTICLE 18 HOLD HARMLESS

18.1 To the fullest extent allowed by law, Contractor shall indemnify, defend, save and hold harmless, protect and exonerate MDES, ITS, ITS Board Members, officers, employees, agents, and representatives of the State of Mississippi all 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 Contractor and/or its partners, principals, agents, employees, or subcontractors in the performance of or failure to perform this Agreement.

18.2 The Contractor shall use counsel reasonably acceptable to the State in carrying out its obligations under this Article. The State shall be entitled to participate in such defense. The Contractor shall not settle any claim or suit without the consent of the State, which shall not be unreasonably withheld.

18.3 The Contractor shall not be responsible for indemnifying or holding the State harmless from any liability arising solely due to the negligence of the State, or for actions taken in reasonable reliance on written instructions of the State.

18.4 The Contractor shall be responsible for damages to the real or personal property of the State caused by the acts of the Contractor or any Contractor parties. The State shall give the Contractor reasonable notice of any such claims.

18.5 The Contractor's duties under this Article 18 shall remain fully in effect and binding in accordance with the terms of this Agreement, without being lessened or compromised in any way, even where the Contractor is alleged or is found to have merely contributed in part to the acts giving rise to the claims and/or where the State is alleged or is found to have contributed to the acts giving rise to the claims.

18.6 This Article shall survive the Termination of the Agreement and shall not be limited by reason of any insurance coverage.

18.7 The Contractor shall be responsible to the State, as further defined in RFP No. 4609, for any State or Federal audit exceptions. If the Contractor fails to timely remedy any audit exception(s), per RFP No. 4609 and this Agreement, the State shall have the right to impose penalties for the Contractor's failure to reasonably remediate the audit exception as described in RFP No. 4609.

ARTICLE 19 THIRD PARTY ACTION NOTIFICATION

Contractor shall notify ITS in writing within five (5) business days of Contractor 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 Contractor or the State by any entity that may result in litigation related in any way to this Agreement and/or which may affect the Contractor's performance under this Agreement. Failure of the Contractor to provide such written notice to ITS shall be considered a material breach of this Agreement and ITS 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

Contractor 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 certified mail, return receipt requested, via the United States Postal Service, via 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. The address of ITS for notice is: Craig P. Orgeron, CPM, Ph.D, Executive Director, Mississippi Department of Information Technology Services, 3771 Eastwood Drive, Jackson, Mississippi 39211. The Contractor'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 and/or contact person.

ARTICLE 22 RECORD RETENTION AND ACCESS TO RECORDS

22.1 Contractor 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 MDES, ITS, any state or federal agency authorized to audit the State, and/or any of their duly authorized representatives, shall have unimpeded, prompt access to this Agreement and to any of the Contractor'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 Contractor's office as applicable where such records are kept during normal business hours. All records relating to this Agreement, shall be retained by the Contractor 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.

22.2 The Contractor understands that the records generated as a result of this Agreement are considered public records under state law except items deemed confidential in the State of Mississippi Enterprise Security Policy ("MESP"), employee personnel files, proprietary information, either as marked by the Contractor in its proposal or as determined by the State after a request from the Contractor, and confidential information as specified in Article 28 herein. The Contractor agrees that any price term of any kind in its documents responsive to the RFP for this Project, as part of this Agreement, and any amendments thereto is a public record. ITS will provide written notice to the Contractor of a request to view or reproduce the Contractor's proposal or portions thereof. See additional information and requirements regarding documents in Article 28 below. The MESP may be found at <https://www.its.ms.gov/sites/default/files/ServicesPDFs/10-1-2013%20ESP.pdf>. Further information regarding the requirements for this Agreement are found in RFP No. 4609.

ARTICLE 23 INSURANCE

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

23.2 The Contractor agrees to maintain minimum insurance coverage in the amount of \$25 million dollars obtained at Contractor's expense with a specific endorsement for Mississippi required and as further required by this Article. The company issuing policy must be licensed in Mississippi and acceptable to ITS. Contractor must provide coverage for occurrences during the term of the project, including any renewal period, and for three (3) years after expiration of this Agreement.

23.3 Contractor shall maintain insurance for the coverages or bonds as specified and, in the amounts, described:

- 23.3.1** Commercial General Liability Coverage in the amount of \$10 million dollars.
- 23.3.2** Professional Liability Coverage in the amount of \$10 million dollars per occurrence.
- 23.3.3** Employee Fidelity Bond in the amount of \$500,000 each.
- 23.3.4** Network security and privacy risks insurance in the amount of \$1 million dollars per occurrence/annual aggregate.

23.3.5 Cyber Liability insurance, including Data Breach coverage in the amount of not less than \$5 million dollars per occurrence/annual aggregate whether incurred by the State or the Contractor to include: State notification, forensics investigations, public relations and crisis management fees, and credit or identity monitoring based upon the number of records affected as follows:

Number of Records	Amount of Coverage
0 to 3,000	\$400,000 dollars of coverage
3,001 to 100,000	\$ 1 million dollars of coverage
100,001 to 1 million	\$ 5 million dollars of coverage
>1 million	\$10 million dollars of coverage

23.4 MDES shall be named an additional insured on all insurance policies required by this Agreement. Contractor shall be liable for any inadequacies in insurance coverage.

23.5 Contractor's coverage is primary and contributory. Any insurance or self-insurance maintained by the State for its officers, agents, and employees shall be in excess of the Contractor's insurance.

23.6 The Contractor may not voluntarily cancel, modify, or reduce any insurance policies required by this Agreement during the term of the Agreement. The cancellation clauses of each policy shall be revised to provide thirty (30) days' notice to the State in the event of an insurance company's cancellation of the policy for any reason including, but not limited to, nonpayment.

23.7 Contractor has no recourse against the State for deductibles, costs/losses for limitations, coverage exclusions, or unavailability of coverage for direct damages.

23.8 Contractor shall provide the State with copies and one (1) duplicate original of certificates of insurance with these endorsements, if any, affecting coverages. The certificates and endorsements for each policy are to be signed by a person authorized by the insurer to bind coverage on its behalf and delivered to the MDES prior to the start of work under this Agreement. Upon the execution of this Agreement, the Contractor shall deliver certified copies of all required insurance policies to the State.

23.9 Contractor shall be responsible for payment of all insurance premiums and shall hold the State harmless from losses that exceed coverage and for which insurance should have been provided or maintained.

23.10 The State shall not be required to purchase any insurance under this Agreement.

ARTICLE 24 DISPUTES

24.1 Any dispute concerning a question of fact under this Agreement which is not disposed of by agreement of the Contractor and MDES, 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 Contractor shall comply with, and all services under this Agreement shall be subject to, 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, Contractor 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, Contractor 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 Contractor 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, Contractor 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 CONTRACTOR'S CONFLICT OF INTEREST

26.1 Contractor shall notify the State of any potential conflict of interest resulting from the representation of or service to other clients. If such conflict cannot be resolved to the State's satisfaction, the State reserves the right to terminate this Agreement.

26.2 Contractor certifies that it has not employed, solicited for employment, or permitted any employee of ITS and/or MDES to share in any part of, or benefit from, directly or indirectly, through the solicitation of or securing of this Agreement.

26.3 Breach of this provision by the Contractor shall entitle the State to terminate this Agreement without liability or, at its discretion, to recover the full amount of any such fee, commission, percentage, brokerage fee, gift, or contingent fee. The Contractor agrees to include these provisions in any subcontract for any work covered by this Agreement so that such provisions shall bind each Subcontractor.

ARTICLE 27 SOVEREIGN IMMUNITY

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

ARTICLE 28 CONFIDENTIAL INFORMATION

28.1 Contractor shall treat all ITS and MDES 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 ITS and MDES. If Contractor receives notice that a third-party requests divulgence of confidential or otherwise protected information and/or has served upon it a subpoena or other validly issued administrative or judicial process ordering divulgence of such information, Contractor shall promptly inform ITS and thereafter respond in conformity with such subpoena to the extent mandated by state and/or federal laws, rules, and regulations. ITS and MDES will afford due regard to Contractor's request for protection of proprietary or confidential information received with the bid. All such information shall be marked "confidential" by Contractor and ITS and MDES will take necessary steps to protect any documents so marked in accordance with applicable laws and regulations. In the event of a request for information addressing any information marked "confidential" to ITS or MDES regarding the Project, MDES or ITS, whichever applicable, shall provide Contractor with notice of

such request allowing Contractor seven (7) calendar days to notify the State of an intent to file an order of protection or to file an order of protection, whichever first occurs. Contractor shall bear the burden of demonstrating an exemption for the information under Mississippi law.

28.2 Neither ITS nor MDES shall be obligated to seek, defend, or prosecute a protective order to prevent disclosure of the Contractor's confidential or proprietary information under a state public records request. Neither ITS nor MDES shall have any liability for disclosure of any documents or information in its possession that ITS and/or MDES believes state of federal law requires such disclosure.

28.2 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 Contractor. ITS will provide third party notice to Contractor of any requests received by ITS for documents marked confidential in Contractor's response to an RFP to allow Contractor the opportunity to protect the information by court order as outlined in ITS Public Records Procedures.

28.3 The parties understand and agree that pursuant to §25-61-9(7) of the Mississippi Code of 1972, as amended, the contract provisions specifying any commodities purchased or the services provided; the price to be paid; and the term of this Agreement shall not be deemed confidential information.

28.4 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 Contractor 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 Contractor following any termination or completion of this Agreement.

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 identified party and agrees to bind their individual principals by the terms contained herein. Accordingly, this Agreement shall not be construed or interpreted in favor of or against the State or the Contractor based on draftsmanship or preparation hereof.

ARTICLE 30 OWNERSHIP OF DOCUMENTS AND WORK PRODUCTS

30.1 The Contractor and the State intend and agree for this Agreement to be a contract for services and each party considers any and all Work Product under this Agreement ("Work Product" as defined in Article 1 above) to be a "work made for hire" under US copyright and all applicable laws. The Contractor acknowledges and agrees that MDES owns all right, title, and interest in and to the Work Product, including, without limitation, the copyright thereto, and all trademark, servicemark, patent, and relevant intellectual property rights thereto.

30.2 The State shall own all right, title and interest in all data used by, resulting from, and collected using the services provided including, but not limited to, customized plans and solutions. The Contractor shall not access State User accounts, or State Data, except (i) in the course of the performance of the work to provide the services outlined in the Scope of Services; (ii) response to service or technical issues; (iii) as required by the express terms of this Agreement; or (iv) at State 's written request.

30.3 If for any reason, the Work Product would not be considered a work made for hire under applicable law, or in the event, this agreement is determined to be other than a contract or agreement for a “work made for hire”, the contractor does hereby transfer and assign to the MDES, and its successor and assigns, the entire right, title, and interest in and to any Work Product prepared here under, including, without limitation, the copyright and trademark, servicemark, patent, and all relevant intellectual property rights in the Work Product and any registrations and copyright, and/or all other intellectual property, applications relating thereto and any renewals and extensions thereof, and in into all workspace upon, derived from, or incorporating the Work Product, and in and to all income, royalties, damages, claims, and payments now or hereafter due or payable with respect thereto, and in and to all causes of action, either in law or in equity, for past, present, or future infringement based on the copyrights and/or all other intellectual property, and in and to all rights, including all rights to claim property, corresponding to the foregoing in the United States and its territorial possessions, and in all foreign countries. The contractor agrees to execute all papers to perform such other proper acts as the MDES may deem necessary to secure for the MDES or its designee the rights herein assigned. Because the specifications require the Contractor to develop software for the State, the Contractor acknowledges and agrees 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.

30.4 The MDES may, without any notice or obligation of further compensation to the contractor, publish, republished, anthology, use, disseminate, license, or sell the Work Product in any format, or medium, now known or here after invented or devised. The rights of MDES shall include, without limitation, the rights to publish, re-publish, or license a third-party to publish, re-publish, or sell the Work Product in print on the World Wide Web, or in any other electronic or digital format or database, now known or hereafter, invented or devised, separate isolated work, or as part of a compilation or other collective work, including a work different in form from the first publication, and to include or license, a third-party to include the Work Product in an electronic or digital database or any other medium or format now known or here after invented or devised.

30.5 The Contractor will secure from MDES the right, prior to such event, to discuss, demonstrate or otherwise disclose any function or operation of the base ReEmployUSA system with any other federally-funded entities. As part of the temporary and limited rights that may be granted to Contractor for the demonstration of ReEmployUSA system and the MDES user acceptance testing (“UAT”) environment the Contractor acknowledges and agrees to the following terms. For each such demonstration, Contractor shall pay MDES Two Thousand and No/100 dollars (\$2,000.00) and pay MDOL One Thousand and No/100 dollars (\$1,000.00). If Contractor uses the UAT and system code from MDOL only, Contractor shall pay MDES Two Thousand and No/100 dollars (\$2,000.00), Contractor shall pay MDOL Two Thousand Five Hundred and No/100 dollars (\$2,500.00), and the remaining Consortium State or States, if any, One Thousand and No/100 dollars (\$1,000.00). Payment for the temporary and limited rights that may be granted to Contractor under this Article may be in the form of a credit for support and maintenance of the application. The State reserves the right to adjust any such fees at its discretion.

30.6 The contractor shall obtain any and all rights, title, and interest from any third-party subcontractor, or any other party, who may provide input or material to any portion of the Work Product so that said right, title, and interest in and to the Work Product, including, without limitation, the copyright thereto, and all relevant intellectual property rights, shall belong to the MDES.

30.7 For any relevant intellectual property rights currently owned by third parties or by the contractor, and not subject to the terms of this agreement, the contractor agrees that it will obtain or grant a royalty-free, non-exclusive, irrevocable license or licenses for or to the MDES at no cost to the MDES to use all copyrighted or copyrightable work or works and all other intellectual property which are or will be incorporated in the Work Product furnished under this agreement. Further, the contractor warrants and represents to the MDES that it has obtained or granted any, and all such licensing prior to the presentation of any Work Product to the MDES under this agreement.

30.8 Contractor warrants and represents that it has the full right, power, and authority to enter into this Agreement and to grant the rights granted herein. Contractor further warrants and represents that it has not previously licensed the Work Product in whole or in part to any third-party and that use of the Work Product in whole or part will not violate any rights of any kind or nature whatsoever of any third-party.

30.9 Contractor is prohibited from use of the system and above described information and or materials without express written approval of MDES except for use as a base system for implementing a similar system for any other federally funded services or products exclusively for use by federally funded state subdivisions (hereinafter referred to as, "UI agencies") responsible for providing unemployment insurance services to the public and only after MDES has executed an agreement with said UI agency to share a copy of such system with said UI agency.

30.10 Contractor shall retain title and ownership to any contractor pre-existing works such as tools, methods, processes, programs, knowhow, and technology used by contractor in performing the scope of this agreement that the contractor shall identify in writing to MDES upon request or upon the termination of this agreement. If and to the extent any of contractor's pre-existing material is incorporated in any Work Product provided to MDES under this Agreement, Contractor hereby grants to MDES, the state of Mississippi, and the USDOL, a perpetual, non-exclusive, royalty-free right and license to use such Contractor material as part of the applicable the Work Product.

30.11 MDES represents that it has the right to grant the contractor access to the base system. MDES acknowledges that the contractor makes no representations and warranties regarding the base system.

30.12 The Contractor acknowledges and agrees that MDES owns the intellectual property rights to the ReEmployUSA core code common to the Consortium States.

30.13 The Contractor agrees and acknowledges that ITS and MDES shall have available full, immediate, and unrestricted access to all documents, files, reports, work papers, and working documentation, electronic or otherwise of the Contractor during the term of this Agreement.

ARTICLE 31 NON-SOLICITATION OF EMPLOYEES

Contractor agrees not to employ or to solicit for employment, directly or indirectly, any of the full-time or part-time employees or contractors, including retired employees, of MDES during the period of this Agreement and until at least one (1) year after the expiration/termination of this Agreement unless mutually agreed to the contrary in writing by the MDES and the Contractor and provided that such an agreement between these entities is not a violation of the laws of the State of Mississippi or the federal government. The parties agree that an application of an employee of either party in response to a position posted publicly by either party shall not be considered

solicitation of that employee for purposes of this Agreement.

ARTICLE 32 ENTIRE AGREEMENT

32.1 This Agreement constitutes the entire agreement of the parties with respect to the subject matter contained herein and supersedes and replaces all prior negotiations, understandings, and agreements, written or oral, between the parties relating thereto. The RFP No. 4609 and Contractor's Proposal in response to RFP No. 4609 are hereby incorporated into and made a part of this Agreement. This Agreement, including any amendments thereto, contains the complete and exclusive statement of the terms agreed to by the Parties. All terms shall always be interpreted consistent with 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:

- 32.2.1 This Agreement signed by the parties hereto, as may be amended;
- 32.2.2 Any exhibits attached to this Agreement, as may be amended;
- 32.2.3 Any Change Orders.
- 32.2.4 RFP No. 4609 and all written addenda thereto; and
- 32.2.5 Contractor's Proposal, as accepted by the State, in response to RFP No. 4609.

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 Contractor. 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 ("32.2.1. This Agreement") and the lowest document is listed last ("32.2.5. Contractor's proposal...").

ARTICLE 33 STATE PROPERTY

Contractor shall be responsible for the proper custody of any State-owned property furnished for Contractor's use in connection with work performed pursuant to this Agreement. Contractor shall reimburse the State for any loss or damage, normal wear and tear excepted. Contractor will immediately notify appropriate Consortium State of the loss of or theft of any State-owned property upon discovery of the loss or theft. Failure to properly and promptly notify the State shall subject the Contractor to procuring substitute for the State-owned property at the full replacement value plus 50% of the value of the item.

ARTICLE 34 SURVIVAL

The following Articles shall survive termination or expiration of this Agreement including, but not limited to, Article 6 - Warranties, Article 14 - Governing Law, Article 18 - Hold Harmless, Article 22 - Record Retention and Access to Records, Article 27 - Sovereign Immunity, Article 28 - Confidential Information, Article 30 - Ownership of Documents & Work Products, Article 31 - Non-Solicitation of Employees, and all other articles that by their express terms so survive or which should reasonably survive termination of this Agreement.

ARTICLE 35 DEBARMENT AND SUSPENSION CERTIFICATION

Contractor 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 in addition to the terms included in this Agreement.

ARTICLE 37 COMPLIANCE WITH ENTERPRISE SECURITY POLICY

37.1 Contractor and MDES understand and agree that all products and services provided by Contractor under this Agreement must allow MDES to be and remain in compliance with the State of Mississippi's Enterprise Security Policy available on the ITS website (<https://www.its.ms.gov/sites/default/files/ServicesPDFs/10-1-2013%20ESP.pdf>). 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 Contractor 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. See RFP No. 4609, incorporated herein by reference, for details regarding the requirements with respect to this policy.

37.2 To ensure compliance with the State of Mississippi Enterprise Security Program and Miss. Code Ann. § 25-53-201, Contractor shall notify ITS and MDES no later than the close of the next business day following the discovery of any cybersecurity incidents classified as low, medium, or high involving Purchaser information and/or information systems whether managed by the MDES, Contractor, or other source on behalf of Contractor. Further, the Contractor agrees to reasonably cooperate with the State in providing all necessary information related to the cybersecurity incident, which includes, but is not limited to, investigating, at its own cost, the source of the attack and providing the State with a briefing of the details of the occurrence, all steps taken to mitigate damage or breach from the occurrence, if any, and estimates of suspected and/or known damage and/or breach. "Cybersecurity incident" and incident classifications (low, medium, and/or high) that require reporting shall have the same meanings as provided in the "Enterprise Cybersecurity Incident Reporting Guidelines" which can be found on the ITS website. See <https://www.its.ms.gov/services/security/enterprise-security-policies-and-standards>. The ITS Enterprise Cybersecurity Incident Report Guidelines may be found at <https://www.its.ms.gov/sites/default/files/ServicesPDFs/Enterprise-Cybersecurity-Incident-Reporting-Guidelines-23-24.pdf>. See RFP No. 4609, incorporated herein by reference, for details regarding the requirements with respect to this policy.

37.3 For purposes of this Agreement, the definition of a reportable cybersecurity incident shall

be defined in accordance with Miss. Codd Ann. § 25-53-201(5), which provides that such an incident includes an event that actually or imminently jeopardizes, without lawful authority, the integrity, confidentiality, or availability of information or an information system; or a violation or imminent threat of violation of cybersecurity policies, acceptable use policies, or standard cybersecurity practices. This definition also includes but is not limited to, cyberattacks where there is an attempt to gain illegal access, including any data breach, to a computer, computer system or computer network for purposes of causing damage, disruption, or harm as well as ransomware. By reference, the 2023-2024 ITS Enterprise Security Report Guidelines, as amended, are incorporated herein in its entirety.

ARTICLE 38 COMPLIANCE WITH ENTERPRISE CLOUD AND OFFSITE HOSTING SECURITY

38.1 If applicable, Contractor and ITS understand and agree that all products and services provided by the Contractor under this Agreement must allow ITS to be and remain in compliance with the State of Mississippi's Enterprise Cloud and Offsite Hosting Security Policy available on the ITS website (<https://www.its.ms.gov/services/security/ESP-Cloud>). 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 Contractor 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.

38.2 Data Ownership. The State shall own all right, title and interest in all its data used by, resulting from, and collected using the services provided ("State Data"). Contractor shall not access State User accounts, or State Data, except (i) in the course of data center operation related to this solution (as applicable, and as according to applicable law)(ii) response to service or technical issues; (iii) as required by the express terms of this service; or (iv) at State's written request. The State possesses data that is protected by Federal Law that Contractor is prohibited from accessing for any reason.

38.3 Data Protection. Protection of personal privacy and sensitive data shall be an integral part of the business services of Contractor to ensure that there is no inappropriate or unauthorized use of State information at any time. To this end, Contractor shall safeguard the confidentiality, integrity, and availability of State information and comply with the following conditions: a) All information obtained by Contractor under this contract shall become and remain property of the State. b) At no time shall any data or processes which either belongs to or are intended for the use of State or its officers, agents, or employees be copied, disclosed, or retained by Contractor or any party related to Contractor for subsequent use in any transaction that does not include the State.

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

38.5 Encryption. a) Contractor shall encrypt all non-public data in transit regardless of the transit mechanism. b) For engagements where Contractor 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, Contractor must

describe existing security measures that provide a similar level of protection. Additionally, when Contractor cannot offer encryption at rest, it must maintain, for the duration of the Agreement, cyber liability insurance including data breach liability insurance coverage for any loss resulting from a data breach. The policy shall comply with the following requirements:

- 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).
- Contractor and the State shall reach agreement on the level of liability insurance coverage required.
- 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.
- At a minimum, the policy shall include third party coverage for credit monitoring, notification costs to data breach victims; and regulatory penalties and fines.
- The policy shall apply separately to each insured against whom claim is made or suit is brought subject to Contractor's limit of liability.
- The policy shall include a provision requiring that the policy cannot be cancelled without thirty (30) days written notice.
- Contractor shall be responsible for any deductible or self-insured retention contained in the insurance policy.
- The coverage under the policy shall be primary and not in excess to any other insurance carried by Contractor.
- In the event Contractor 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.

38.6 Breach Notification and Recovery. Unauthorized access or disclosure of non-public data is considered to be a security breach. Contractor will provide immediate notification and all communication shall be coordinated with the State. When Contractor or their subcontractors are liable for the loss, Contractor 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 three (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 Contractor from its own negligence or to the extent that it creates an obligation on the part of the State to hold a Contractor harmless, and therefore any such provisions in the Agreement shall be null and void.

38.7 Notification of Legal Requests. Contractor 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. Contractor 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.

38.8 Termination and Suspension of Service. In the event of termination of the contract, Contractor shall implement an orderly return of State data in CSV or XML or another mutually agreeable format. Contractor shall guarantee the subsequent secure disposal of State data.

- Suspension of services. During any period of suspension of this Agreement, for whatever reason, Contractor shall not take any action to intentionally erase any State

data. Termination of any services or agreement in entirety. In the event of termination of any services or of the agreement in its entirety, Contractor shall maintain the existing level of security as stipulated in the agreement and 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, Contractor 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 below. Within this 90-day timeframe, Contractor will continue to secure and back up State data covered under the contract.

- **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 any applicable Service Level Agreement (“SLA”) RFP No. 4609, incorporated herein by reference, for a list of applicable SLAs.
- **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.

38.9 Background Checks. Contractor shall conduct criminal background checks, and provide a copy to the State and is prohibited from utilizing any staff, including sub-contractors, to fulfill the obligations of the Agreement who have been convicted of any crime of dishonesty, including but not limited to criminal fraud, or otherwise convicted of any felony or any misdemeanor offense for which incarceration for a minimum of one (1) year is an authorized penalty. Contractor shall promote and maintain an awareness of the importance of securing the State's information among Contractor's employees and agents. See RFP No. 4609 incorporated herein by reference for further details regarding the background checks.

38.10 Security Logs and Reports. Contractor 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 services that a specific user or administrator has accessed over a specified period of time as well as the ability for an agency customer to request reports of services 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 Contractor.

38.11 Contract Audit. Contractor shall allow the State to audit conformance including Agreement terms, system security, and all of contractor's off-site facilities or offices as appropriate. The State may perform this audit or contract with a third party at its discretion at the State's expense.

38.12 Sub-contractor Disclosure: Contractor shall identify all of its strategic business partners related to services provided under this Agreement, 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 Contractor, who will be involved in any application development and/or operations.

38.13 Sub-contractor Compliance. Contractor must ensure that any agent, including Contractor or subcontractor, to whom Contractor provides access agrees to the same restrictions and conditions that apply through this Agreement.

38.14 Processes and Procedures. Contractor 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 Contractor. For example: virus checking and port sniffing — the State and Contractor shall understand each other's roles and responsibilities.

38.15 Operational Metrics. Contractor and MDES shall reach agreement on operational metrics and document said metrics in the Service Level Agreement. Contractor shall provide MDEs with a service level agreement(s) that meets, at a minimum, generally accepted industry standards for the applicable products and services Contractor provides to MDES under any supplemental agreement and/or purchase order. Applicable services level agreements negotiated and/or agreed to by the MDES and Contractor shall be incorporated in the Agreement. At a minimum the SLA shall include:

- Advance notice and change control for major upgrades and system changes
- System availability/uptime guarantee/agreed-upon maintenance downtime
- Recovery Time Objective/Recovery Point Objective
- Security Vulnerability Scanning.

ARTICLE 39 COMPLIANCE WITH MDES ARTIFICIAL INTELLIGENCE (AI) USE AND GOVERNANCE POLICY.

39.1 If applicable, Contractor and MDES understand and agree that all products and services provided by the Contractor under this Agreement must allow the State to be and remain in compliance with the Mississippi Department of Employment Security's Artificial Intelligence Use and Governance Policy, provided as Appendix F to the RFP, as may be amended.

39.2 MDES shall have intellectual property rights and/or licenses to the output from any work under this Agreement.

39.3 Contractor shall provide to the State a noninfringement warranty for claims by the Contractor and third parties for improper use of AI content. Further, Contractor acknowledges that when it uses any Large Language Models (LLMs) as part of the products and/or services provided under this Agreement, it has performed infringement searches on the same and certifies that any LLMs to be used have the necessary third-party consent and licenses as applicable. Appendix F - *MDES Artificial Intelligence Governance Policy* explains the permissible and prohibited requirements for use of AI for this agency.

39.4 Contractor agrees that with respect to uptime/predictive power of the AI tool, it shall comply with the percentages specified in the *MDES AI Use and Governance* policy for accuracy, precision, consistency of answers, and speed of response time to customer questions. Refer to Appendix F - *MDES Artificial Intelligence Governance Policy*.

39.5 Contractor agrees that it shall conduct response verification and/or supplement the customized AI tool using a separate accuracy-checking solution at least once every 2 months while the tool is in use by MDES.

39.6 Contractor shall comply with the State of Mississippi laws and regulations addressing AI whenever enacted and amended by the State. If the AI laws, regulations, or executive orders of

the State limit the use of AI as already implemented or planned to be implemented by the State, the Contractor agrees to negotiate with the State to revise any work under this agreement to conform with said laws, regulations, or executive orders of the State. The Contractor recognizes that individual Consortium States may have different restrictions on the use of AI. Refer to Appendix F - *MDES Artificial Intelligence Governance Policy*.

39.7 Contractor agrees to mitigate the risks presented by the use of AI to the ReEmployUSA system and its data in accordance with the AI governance policy of the State as appropriate. The MDES Artificial Intelligence Governance Policy is incorporated herein by reference and attached the RFP as Appendix F.

39.8 As applicable, Contractor shall:

- 39.8.1** Supply and update all technical documentation related to the AI tool as customized for the State.
- 39.8.2** Maintain and update the logging capabilities of the AI tool as customized for the State.
- 39.8.3** Provide documentation and training as necessary for the State to conduct proper oversight of the services and Work Products that incorporate an AI tool.
- 39.8.4** Provide and maintain industry-standard cybersecurity tools to safeguard the AI tool and secure the gateways to State data incorporated in any services and the Work Products owned by, or developed for the State that interface with or incorporate the AI tool.

39.9 The Contractor agrees to notify the State within the time specified in RFP No. 4609 of any anomalous results or failure of a customized product that incorporates artificial intelligence to minimize the adverse effects on the customers of the State, registered employers and unemployment insurance claimants. The State reserves the right to modify this notification deadline and requirement in the event that an executive order, state and federal law or regulation requires a different interval or the business needs of the State change.

ARTICLE 40 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 ITS's or Contractor'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 the State's funding source.

ARTICLE 41 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 Section 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.ms.gov>.

ARTICLE 42 PERSONNEL ASSIGNMENT GUARANTEE

42.1 Contractor guarantees that the personnel assigned to this project will remain a part of the project throughout the duration of the Agreement as long as the personnel are employed by the Contractor and not promoted by the Contractor and are not replaced by Contractor pursuant to the Article 7, "Employment Status". For any key personnel assigned to this project whom the Contractor promotes during the term of this Agreement, the Contractor shall provide no less than two (2) weeks' notice of the promotion and intent to transfer key personnel to another state. The Vendor shall not promote or transfer key personnel to another state without the express written permission of the State. In such case, the Contractor shall also permit the State the option to adjust the project so that the promoted employee may be accommodated in his/her new role. If the State elects not to or is unable to accommodate the promoted employee, the Contractor shall use its best efforts to appoint or hire a replacement for the promoted and transferred employee.

42.2 The Contractor shall also immediately, but no later than five (5) business days advise the State upon the selection of a replacement for a key personnel resource who is promoted and transferred or who leaves the Contractor's employ. The State shall have the right to review the credentials and experience of such replacement and the right to refuse any candidate presented by the Contractor as a replacement.

42.3 The Contractor shall not remove key personnel or above from this project to assist another state with an unemployment insurance system without the express written approval of the State.

42.4 Contractor further agrees that the assigned personnel will function in the capacity for which their services were acquired so long as the key personnel are not promoted to a position in another state or leave the employ of the Contractor while employed by the Contractor at the same position, and any failure by Contractor to so provide these persons shall entitle the State to terminate this Agreement for cause. Contractor agrees to pay the MDES fifty percent (50%) of the remaining total contract amount if any of the assigned key personnel are improperly removed from the project prior to the ending date of this Agreement for reasons other than departure from Contractor's employment, or for disciplinary replacement.

42.5 Subject to the State's written approval, the Contractor may only substitute qualified persons in the event of the separation of the incumbents therein from employment with Contractor or for other compelling reasons that are acceptable to the State, and in such event, will be expected to assign additional staff to provide technical support to MDES within thirty (30) calendar days or within such other mutually agreed upon period of time, or ITS may, in its sole discretion, either terminate this Agreement immediately without the necessity of providing thirty (30) days' notice to State or assess a penalty upon the Contractor of twenty-five percent (25%) of the total contract amount.

42.6 The replacement personnel shall have equal or greater ability, experience, and qualifications than the departing personnel, and shall be subject to an interview with the State, at its discretion, and prior written approval of MDES. The Contractor shall not permanently divert any staff member from meeting work schedules developed and approved under this Agreement unless approved in writing by MDES. In the event of Contractor's personnel loss or redirection as permitted under this Agreement, the services performed by the Contractor shall be uninterrupted and the Contractor shall report in required status reports its efforts and progress in finding replacements and the effect of the absence of those personnel.

42.7 As part of this Agreement and included in the total cost of this contract, the Contractor shall require its key personnel, Project/Program Manager, Project Manager Lead(s), and Senior

Architect, on this contract and as appropriate, to attend periodic offsite meetings as directed by the State. Regular meetings which may be offsite include quarterly Consortium meetings which rotate between Consortium member states.

42.8 At a minimum, the key positions are Product/Program Manage, Project Manager Lead, Senior Architect, Business Analyst Lead, Quality Analyst, Test Lead, Database Administrator, Backup/Disaster Recovery, Security and Compliance, and Analytics/Reporting. Any changes to the key positions may only occur upon proper notice and written approval of the parties.

42.9 The Contractor shall notify MDES at least fourteen (14) business days prior to any employee's or subcontractor's scheduled vacation with a duration of more than five (5) business days or for a date not designated as a State holiday. Failure to notify MDES of an employee's or subcontractor's scheduled vacation within this time requirement shall result in a reduction in the monthly invoice to MDES of the charges for the number of hours the employee or subcontractor is on vacation.

42.10 The Contractor must advise MDES of any holiday dates (e.g., religious, cultural, etc.) other than State holidays that may result in the absence of three (3) or more employees, subcontractors or any key position. The Contractor must send notice fourteen (14) days in advance of any such holidays and must include the names of affected staff. Failure to notify MDES of a holiday with the above requirements within this time requirement shall result in a reduction in the monthly invoice to MDES of the charges for the number of hours and employees or subcontractors related to the holiday.

ARTICLE 43 PERFORMANCE BOND OR IRREVOCABLE LETTER OF CREDIT

43.1 [RESERVED]

ARTICLE 44 ENHANCEMENTS – PERFECTIVE MAINTENANCE SERVICES

44.1 For purposes of this Agreement and in RFP No. 4609, a Perfective Maintenance Activity or an "enhancement" is defined as the development installation, or integration of additional features or requirements needed to enhance the system. This includes, but is not limited to, adding new features, improving existing features, and updating user interfaces for enhanced usability, but does not include services that are part of adaptive maintenance, corrective maintenance, or preventive maintenance services. Further, the parties agree and acknowledge that the State has the option to procure the work on perfective maintenance services from another Contractor upon a determination that such a course of action is in the best interest of the State.

44.2 Each Individual Consortium State may elect to approve the activity using either the Time and Materials (T&M) Cost method or a Fixed Cost SOW method. The participating Consortium members are not required to utilize the same costing method for any perfective maintenance activity.

44.3 For MDES, all Perfective Maintenance Services with an estimated timeline of more than forty (40) hours must have a fixed cost SOW, while Perfective Maintenance Services with an estimated timeline of forty (40) hours or less may be presented using either a fixed cost SOW or the T&M cost method. This requirement shall be followed unless expressly waived by the State in accordance with the waiver provision of this Agreement. Regarding CORE Perfective Maintenance Services, the Vendor must present a complete SOW or T&M estimate with the costs split by state and for state specific adaptation work of the perfective maintenance activity. If the MDES portion of the CORE Perfective Maintenance Activity is greater than forty (40) hours, MDES

requires a fixed cost SOW, otherwise, T&M costing may be utilized. Other Consortium Members may, at their sole discretion, establish their own activity costing and approval policies.

44.4 Any Services provided under this Article are for costs covered within the Scope of RFP No. 4609 and are NOT for additional costs already covered under the Agreement.

ARTICLE 45 CHANGE ORDER RATE AND PROCEDURE

45.1 A Change Order for the work under this Contract shall be defined as any request for work by the State that falls outside of the scope of this Agreement and / or results in an amount that exceeds the Lifecycle Maintenance and Support Totals for this Agreement. Such request shall require the State and the Contractor to memorialize the scope, terms, conditions, and costs of the work in an amendment to this Agreement per a Change Order SOW.

45.2 The Contractor shall prepare a statement of work for the Change Order (“CO-SOW”) setting forth in reasonable detail, the range and extent of services requested, requirements, assumptions, timeline, deliverables, milestones, estimated number of professional service hours that will be necessary to implement the work contemplated therein, and cost of a project requested by one or more Consortium State(s) that would expand the scope of services of this project. A Change Order would require approval from ITS.

45.4 Each executed Change Order shall be subject to the terms and conditions of this Agreement.

45.5 It is understood and agreed that the parties may consent to a reduction in the cost of the Agreement at any time during the effective period of this Agreement. Without intending to impose a limitation on the nature of the reduction, it may be on an hourly, staffing, unit cost, or the total cost of the Agreement, or the reduction may take such other form as the State deems necessary or appropriate.

45.6 The Contractor will be required to include in the progress reports as defined in RFP No. 4609 for the status of work performed under any Change Order, listing hours expended and percentage completed under each and every then-current CO-SOW.

45.7 In the event the Contractor and the State enter into a Change Order which increases or decreases the time required for the performance of any part of the Scope of Services under this Agreement, the Contractor shall submit to ITS with a copy to MDES a revised version of the time estimate of the Change Order for MDES, clearly indicating the changes to the Agreement and the CO-SOW or T & M detailed cost.

45.8 The State shall promptly review all Change Order details submitted under this Agreement and shall notify the Contractor of its approval or disapproval of any items therein, in whole or in part, of the proposed amendment to this Agreement, stating with particularity all grounds for any disapproval, within ten (10) working days of receiving the proposed changes from the Contractor.

45.9 In addition to other provisions in this Agreement, the State reserves the right to reallocate or reduce the Contract award at any time in the event that: Contractor’s expenditure rate is NOT in compliance with applicable law, regulations, policies of the state, or this Agreement. Further, the State reserves the right to secure the completion of any work in the Scope of Services for this Agreement, from another contractor.

ARTICLE 46 FORCE MAJEURE

46.1 The Parties shall not be excused from their respective Agreement obligations except in the case of Force Majeure events provided in this Article.

46.2 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 (the "Force Majeure Events").

46.3 If a Force Majeure Event prevents a Party from complying with any obligations or satisfying any conditions under this Agreement, then that failure to comply will not constitute a breach if: (1) that Party uses reasonable efforts to comply; (2) that Party's failure to comply is not due to its failure to (a) take reasonable measures to protect itself against Force Majeure Events, or (b) develop and maintain a reasonable contingency plan to respond to Force Majeure Events; and (3) that Party complies with its obligations under this Agreement.

46.4 When such a Force Majeure Event arises, the Contractor shall notify ITS immediately in writing of the cause of its inability to perform; how the Force Majeure Event affects its performance, and the anticipated duration of the inability to perform. The noncomplying party shall update that information as reasonably necessary, or as the other party may reasonably request, whichever is more frequent. During a Force Majeure Event, the noncomplying Party shall use reasonable efforts to limit damages to the other party and to resume complying with its obligations under this Agreement.

46.5 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.

46.6 Failure to provide written notice of any Force Majeure Event as soon as the failing party becomes aware of it, or failure by the other party to act in response to the notice, does not excuse any delays or failures in performance or obligations.

ARTICLE 47 FEDERAL AND STATE CONTRACT PROVISIONS

This Agreement may be funded in whole or in part by federal funds. Therefore, Contractor, including any subcontractor at any tier, must comply with all federal clauses and provisions, including the following, as applicable. Further, Contractor must comply with all applicable federal laws and regulations, including but not limited to, Privacy Act of 1974, as amended, 5 U.S.C. §552a; Social Security Act, as amended, 42 U.S.C. Title I, especially §303, Title III, Title IX, and Title XIII, all as amended; Regulation 2 C.F.R. Part 2900, as amended; Office of Management and Budget Circular A-108. The Contractor must also comply with Mississippi Employment Security Law, to be found at Miss. Code Ann. §71-5-1. et seq., as amended, and Mississippi Department of Employment Security Regulations, as amended, to be found at Miss. Admin. Code Title 20 Labor.

47.1 EQUAL EMPLOYMENT OPPORTUNITY

As applicable, the Contractor agrees to abide by the terms provided under 41 C.F.R. Part 60, including, 41 CFR Part §§ 60-1.3 & 1.4, in accordance with Executive Order 11246, *Equal Employment Opportunity* (30 FR 12319, 12935, 3 C.F.R. Part, §§ 1964-1965 Comp., p. 339), as amended by Executive Order 11375, *Amending Executive Order 11246 Relating to Equal Employment Opportunity*, and implementing regulations at 41 C.F.R. Part 60, *Office of Federal*

Contract Compliance Programs, Equal Employment Opportunity, Department of Labor, Internal Revenue Service Pub. 1075; .

47.2 DAVIS-BACON ACT, AS AMENDED (40 U.S.C. §§3141-3148).

As applicable, the Contractor agrees to comply with the Davis-Bacon Act (40 U.S.C. §§3141-3144, and §§3146-3148) as supplemented by Department of Labor regulations (29 C.F.R. Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination.

47.3 THE COPELAND “ANTI-KICKBACK” ACT (40 U.S.C. §3145).

If applicable, in accordance with The Copeland “Anti-Kickback” Act (18 U.S.C. §874 and 40 U.S.C. §3145), as supplemented by Department of Labor regulations (29 C.F.R. Part 3, *Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States*). Further, the Contractor is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

47.4 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. §§3701-3708).

If applicable, Contractor agrees to comply with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

47.5 RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT.

If the Federal award meets the definition of “funding agreement” under 37 C.F.R. § 401.2 (a) and the recipient or sub-recipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or sub-recipient must comply with the requirements of 37 C.F.R. Part 401, *Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements*, and any implementing regulations issued by the awarding agency.

47.6 THE CLEAN AIR ACT, (42 U.S.C §§7401-7671Q) AND THE FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. 1251-1387), AS AMENDED.

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. §§ 1251-1387).

47.7 DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689).

A contract award (see 2 C.F.R. § 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (“SAM”), in accordance with the OMB guidelines at 2 C.F.R. 180 that implement Executive Orders 12549 (3 C.F.R. Part 1986 Comp., p. 189) and 12689 (3 C.F.R. Part 1989 Comp., p. 235), *Debarment and Suspension*. SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

47.8 BYRD ANTI-LOBBYING AMENDMENT (31 U.S.C. § 1352).

Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. §1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

47.9 PROCUREMENT OF RECOVERED MATERIALS (45 C.F.R. § 75.331).

Contractor agrees to comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

47.10 CONFIDENTIALITY AND DISCLOSURE OF STATE UNEMPLOYMENT COMPENSATION INFORMATION (20 C.F.R. PART 603).

The Contractor agrees to comply with the non-disclosure requirements outlined in 20 C.F.R. Part 603 for confidential information and shall not disclose any such information without written permission from the State.

47.11 AMERICANS WITH DISABILITIES ACT (28 CFR Part 35, Title II, Subtitle A).

The Contractor agrees to comply with the Americans with Disabilities Act (28 C.F.R. § 35.101). This Part implements subtitle A of Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131-12134), as amended by the ADA Amendments Act of 2008 (ADA Amendments Act) (Pub. L. 110-325, 122 Stat. 3553 (2008)), which prohibits discrimination on the basis of disability by public entities. Title II applies to State and local government entities, and, in subtitle A, protects qualified individuals with disabilities from discrimination on the basis of disability in services, programs, and services provided by State and local government entities. Title II extends the prohibition on discrimination established by section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. §794, to all services of State and local governments regardless of whether these entities receive Federal financial assistance. The primary purpose of the ADA Amendments Act is to make it easier for people with disabilities to obtain protection under the ADA. Consistent with the ADA Amendments Act's purpose of reinstating a broad scope of protection under the ADA, the definition of “disability” in this part shall be construed broadly in favor of expansive

coverage to the maximum extent permitted by the terms of the ADA. The primary object of attention in cases brought under the ADA should be whether entities covered under the ADA have complied with their obligations and whether discrimination has occurred, not whether the individual meets the definition of "disability." The question of whether an individual meets the definition of "disability" under this part should not demand extensive analysis."

47.12 DRUG FREE WORKPLACE ACT OF 1988 (41 U.S.C. § 8102, 48 C.F.R. PART 23, SUBPART 23.5), AS AMENDED.

(a) The Contractor, if other than an individual, shall—within 30 days after award (unless a longer period is agreed to in writing for contracts of 30 days or more performance duration); or as soon as possible for contracts of less than 30 days performance duration—

- 1) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition.
- 2) Establish an ongoing drug-free awareness program to inform such employees about—
 - i. The dangers of drug abuse in the workplace;
 - ii. The contractor's policy of maintaining a drug-free workplace;
 - iii. Any available drug counseling, rehabilitation, and employee assistance programs; and
 - iv. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
- 3) Provide all employees engaged in performance of the contract with a copy of the statement required by subparagraph (b)(1) of this clause.
- 4) Notify such employees in writing in the statement required by subparagraph (b)(1) of this clause that, as a condition of continued employment on this contract, the employee will—
 - i. Abide by the terms of the statement; and
 - ii. Notify the employer in writing of the employee's conviction under a criminal drug statute for a violation occurring in the workplace no later than 5 days after such conviction.
- 5) Notify the Contracting Officer in writing within 10 days after receiving notice under subdivision (b)(4)(ii) of this clause, from an employee or otherwise receiving actual notice of such conviction. The notice shall include the position title of the employee.
- 6) Within 30 days after receiving notice of a conviction under subdivision (b)(4)(ii) of this clause, the Contractor shall take one of the following actions with respect to any employee who is convicted of a drug abuse violation occurring in the workplace:
 - i. Taking appropriate personnel action against such employee, up to and including termination; or
 - ii. Require such employee to satisfactorily participate in a drug abuse

assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency; and

- 7) Make a good faith effort to maintain a drug-free workplace through implementation of subparagraphs (b)(1) through (b)(6) of this clause.
- (b) The Contractor, if an individual, agrees by award of the contract or acceptance of a purchase order, not to engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance while performing this contract.
- (c) In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraph (b) or (c) of this clause may, pursuant to FAR 23.506, render the Contractor subject to suspension of contract payments, termination of the contract for default, and suspension or debarment.”

47.13 CONFLICTS OF INTEREST STATEMENT

The Contractor shall comply with the federal Conflict of Interest requirements of 45 C.F.R. § 75.112, (a) & (b) 45 C.F.R. § 75.327, and 45 C.F.R. § 75.328. The Contractor must disclose in writing any potential conflict of interest to the ITS.

47.14 RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

The Contractor must comply with all applicable requirements of (37 C.F.R. Part 401), *Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements*, and any implementing regulations issued by the OEA. The interpretation of this clause and this Agreement is subject to the definitions located at 37 C.F.R. § 401.14.

47.15 INTERNAL REVENUE SERVICE (IRS) PUBLICATION 1075 SAFEGUARDING CONTRACT LANGUAGE

The Contractor must comply with all applicable Internal Revenue Service (IRS) Publication 1075 requirements. Exhibit 1 – IRS Publication 1075 (Rev. 11-2021) attached hereto, and incorporated herein by reference. Any change, update, or revision made to IRS Pub. 1075 after the signing of this contract will be applicable for the Contractor upon its release.

47.16 UNEMPLOYMENT INSURANCE ACTS AND REGULATIONS AS AMENDED

The Contractor agrees that all corrective maintenance services, adaptive maintenance services, preventive maintenance services, perfective maintenance services and support services shall be developed and performed in compliance with all Federal Laws, State Laws, Federal and State Regulations, Clauses, and Provisions, Unemployment Insurance Program Letters (UIPLs), Training and Employment Notices (TENS) and any other Department of Labor Guidance. For a more comprehensive list refer to the Department of Labor's website regarding Unemployment Insurance laws, regulations, and guidance at <https://oui.doleta.gov/unemploy/laws.asp#FederalLegislation>.

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	VENDOR
By: _____	By: _____
Authorized Signature	Authorized Signature
Printed Name: _____	Printed Name: _____
Title: Executive Director	Title: _____
Date: _____	Date: _____
MISSISSIPPI, DEPARTMENT OF EMPLOYMENT SECURITY	
By: _____	
Authorized Signature	
Printed Name: _____	
Title: Executive Director	
Date: _____	

EXHIBIT A-1

**Contract Payment Schedule
Mississippi Department of Employment Security**