

Memorandum for General RFP Configuration

To: Vendor with current valid proposal for General RFP #3616 for Computer Hardware and Software

From: David L. Litchlitter

Date: December 29, 2010

Subject: Letter of Configuration (LOC) Number 39078 for the procurement of servers, storage, software, and services for the Mississippi State Board for Community and Junior Colleges (SBCJC)

Contact Name: Teresa Washington

Contact Phone Number: 601-432-8049

Contact E-mail Address: teresa.washington@its.ms.gov

The Mississippi Department of Information Technology Services (ITS) is seeking the software and services described below. Our records indicate that your company currently has a valid proposal on file at ITS in response to General RFP #3616 for Computer Hardware and Software. Our preliminary review of this proposal indicates that your company offers products, software, and/or services that may meet the requirements of this project; therefore, we are requesting your configuration assistance for the components described below.

1. GENERAL LOC INSTRUCTIONS

- 1.1 Beginning with Item 2, label and respond to each outline point as it is labeled in the LOC.
- 1.2 The Vendor must respond with “ACKNOWLEDGED,” “WILL COMPLY,” or “AGREED” to each point in the LOC as follows:
 - 1.2.1 “ACKNOWLEDGED” should be used when a Vendor response or Vendor compliance is not required. “ACKNOWLEDGED” simply means the Vendor is confirming to the State that he read the statement. This is commonly used in sections where the agency’s current operating environment is described or where general information is being given about the project.

- 1.2.2 “WILL COMPLY” or “AGREED” are used interchangeably to indicate that the Vendor will adhere to the requirement. These terms are used to respond to statements that specify that a Vendor or Vendor’s proposed solution must comply with a specific item or must perform a certain task.
- 1.3 If the Vendor cannot respond with “ACKNOWLEDGED,” “WILL COMPLY,” or “AGREED,” then the Vendor must respond with “EXCEPTION.” (See instructions in Item 12 regarding Vendor exceptions.)
- 1.4 Where an outline point asks a question or requests information, the Vendor must respond with the specific answer or information requested in addition to “WILL COMPLY” or “AGREED”.
- 1.5 In addition to the above, Vendor must provide explicit details as to the manner and degree to which the proposal meets or exceeds each specification.

2. GENERAL OVERVIEW AND BACKGROUND

The SBCJC, under Senate Bill 2945, was given the responsibility for the creation, development, and maintenance of a wide area network (WAN) for the community and junior colleges in the State of Mississippi. This bill also provided funding for the upgrade and creation of a technical infrastructure that would allow each community and junior college in the state to develop local area networks for the purpose of providing online resources to all students and staff on a college campus.

This led SBCJC to procure a network-based approach to delivering course-related video content that serves as a communications medium for students, teachers, and administrators. This procurement functions on its IP-based network infrastructure. This same solution is required to transfer large files across the WAN.

In addition, in an effort to continue to improve business productivity and customer service, SBCJC has deployed data intensive applications that require a sound storage strategy. This has resulted in an explosion of information and data that has become the lifeblood of their organization. Selecting a unified architecture that integrates the appropriate technologies to meet user requirements across a range of applications is central to ensuring storage support for mission-critical applications.

A virtual computing environment (VCE) has emerged as the best solution to meet these requirements at SBCJC. The proposed solution will allow for the increased ability to capture, warehouse, and distribute data.

3. PROCUREMENT PROJECT SCHEDULE

| Task | Date |
|--|---|
| Release of LOC | Wednesday, December 29, 2010 |
| Deadline for Vendors' Written Questions | Wednesday, January 5, 2011, 3:00 P.M. (Central Time) |
| Addendum with Vendors' Questions and Answers | Monday, January 10, 2011 |
| Proposals Due | Tuesday, January 18, 2011, 3:00 P.M. (Central Time) |
| Proposal Evaluation | Tuesday, January 18, 2011 – Tuesday, January 25, 2011 |
| Notification of Award | Friday, January 28, 2011 |
| Contract Negotiations | Friday, January 28, 2011 – Friday, February 11, 2011 |

4. STATEMENTS OF UNDERSTANDING

- 4.1 The Vendor must provide pricing for all hardware, software, maintenance, and/or support for the proposed solution.
- 4.2 Proposed equipment must be new from the manufacturer and qualify for warranty and maintenance services.
- 4.3 Vendor must be aware that ITS reserves the right to make additional purchases at the proposed prices for a six month period.
- 4.4 Vendor must be aware that the specifications detailed below are minimum requirements. Should Vendor choose to exceed the requirements, Vendor must indicate in what manner the requirements are exceeded.
- 4.5 It is the State's intention that the equipment be shipped to and installed at SBCJC, Attention Ray Smith, 3825 Ridgewood Road, Jackson, Mississippi 39211, on or before March 25, 2011.
- 4.6 Vendor acknowledges that if awarded, it will ensure its compliance with the Mississippi Employment Protection Act, Section 71-11-1, et seq. of the Mississippi Code Annotated (Supp2008), and will register and participate in the status verification system for all newly hired employees. The term "employee" as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated

by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Vendor will agree to maintain records of such compliance and, upon request of the State, 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.

- 4.7 From the issue date of this LOC 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 LOC 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 LOC must be submitted in writing to the State's Contact Person for the selection process, no later than the last date for accepting responding Vendor questions provided in this LOC. All such questions will be answered officially by the State in writing. All such questions and answers will become addenda to this LOC. **Vendors failing to comply with this requirement will be subject to disqualification.**

4.7.1 The State contact person for the selection process is: Teresa Washington, Technology Consultant, 3771 Eastwood Drive, Jackson, Mississippi 39211, 601-432-8049, teresa.washington@its.ms.gov.

4.7.2 Vendor may consult with State representatives as designated by the State contact person identified in 4.7.1 above in response to State-initiated inquiries. Vendor may consult with State representatives during scheduled oral presentations and demonstrations excluding site visits.

- 4.8 Subject to acceptance by ITS, the Vendor acknowledges that by submitting a proposal, the Vendor is contractually obligated to comply with all items in this

LOC. 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.

5. FUNCTIONAL/TECHNICAL SPECIFICATIONS

- 5.1 Vendor must provide pricing for the equipment listed in Attachment A, *Cost Information Form*.
- 5.2 Vendor must be a VCE partner, and must provide proof of such partnership.
- 5.3 Vendor must be an Authorized Technology Provider (ATP) partner, and must provide proof of such partnership.
- 5.4 Vendor must have unified computing solutions (UCS) experience in a UCS data center environment.
- 5.5 Vendor must state qualifications to include organization of the company, number of years in business, number of years products/services of similar scope/size to this project have been sold, partnerships, etc.
- 5.6 If any component(s) necessary for operation of the requested system is omitted from Vendor's proposal, Vendor must be willing to provide the component(s) at no additional cost. This includes, but is not limited to, all cabling, connectors, raceway, etc. necessary to render the configuration fully operational.

6. INSTALLATION

- 6.1 Vendor must provide in Attachment A, *Cost Information Form*, a not-to-exceed cost for installation. Installation will include: unpacking, setup, physical installation of the equipment, installation of peripherals, configuration, providing the knowledge transfer necessary for SBCJC staff to perform the migration of all data from the existing equipment to the new equipment, and meeting with SBCJC to verify installation requirements.
- 6.2 Vendor must indicate if Vendor personnel or manufacturer personnel will provide the installation. If Vendor personnel, Vendor must provide documentation substantiating authorization to provide installation.
- 6.3 Vendor must list all applicable certification levels of personnel providing the installation and configuration. Vendor must provide proof of such certifications.
- 6.4 Vendor must detail the installation approach and plan.

7. TRAINING

- 7.1 Vendor must provide in Attachment A, *Cost Information Form*, a fully-loaded rate, including travel, for on-site, administrative and VCE management software training for the SBCJC staff to support the proposed system. A detailed description of the training must be included with Vendor's response.
- 7.2 The Vendor must describe the proposed training plan to include course content, duration, and maximum class size.
- 7.3 Vendor must provide all training manuals and documentation.
- 7.4 Vendor must indicate if Vendor personnel or 3rd party personnel will provide the training. If Vendor personnel, Vendor must provide documentation substantiating authorization to provide training.

8. WARRANTY/MAINTENANCE

- 8.1 Vendors must state the warranty period for the proposed equipment, during which time maintenance need not be paid.
- 8.2 Vendors must detail what is included in the standard warranty for the proposed equipment.
- 8.3 Vendor must provide in Attachment A, *Cost Information Form*, pricing for three years of post-warranty maintenance on the proposed equipment.
- 8.4 Vendor must detail how software updates are distributed.
- 8.5 Vendor must provide during the warranty period and the post-warranty maintenance period a minimum of 24x7x365 telephone support, and a minimum on-site response time of next business day.
- 8.6 Vendor must identify the location of their nearest service center that will provide maintenance for this equipment.
- 8.7 Vendor must specify escalation procedures for the State should a warranty or maintenance call not be handled to the State's satisfaction.

9. MANUFACTURER DIRECT MAINTENANCE

- 9.1 ITS understands that the maintenance requested in this LOC may be provided directly by the manufacturer. If Vendor is the named manufacturer and will be

supplying the maintenance services directly, Items 9.1.4 through 9.1.13 do not have to be completed.

9.1.1 Responding Vendor must clarify whether he is the named manufacturer and will be supplying the maintenance services directly or whether he is a third party reseller selling the maintenance services on behalf of the manufacturer.

9.1.2 Responding Vendor must explain his understanding of when or whether the manufacturer will ever sell the maintenance services directly and, if so, under what circumstances.

9.1.2.1 If the responding Vendor to this LOC will only be reselling manufacturer's maintenance services, it is ITS' understanding that this is basically a "pass through" process.

9.1.2.2 Please provide a detailed explanation of the relationship of who will be providing the requested maintenance, to whom the purchase order is made, and to whom the remittance will be made. If there is a difference in the year one maintenance purchase versus subsequent years of maintenance, the responding Vendor must clarify and explain.

9.1.3 Manufacturer Direct Maintenance when sold directly through the manufacturer: Fixed Cost

9.1.3.1 If responding Vendor is the direct manufacturer, he must propose annual fixed pricing for three years of the requested maintenance. Vendor must provide all details of the maintenance/support and all associated costs.

9.1.3.2 It is ITS' preference that the Manufacturer's proposal is a not-to-exceed firm commitment. In the event that the manufacturer cannot commit to a fixed cost for the subsequent years of maintenance after year one, Manufacturer must specify the annual maintenance increase ceiling offered by his company on the proposed products. Vendor must state his policy regarding increasing maintenance charges. Price escalations for Maintenance shall not exceed 5% increase per year.

- 9.1.4 Manufacturer Direct Maintenance when sold through 3rd Party: Fixed Cost-Plus Percentages
 - 9.1.4.1 In the case of a third-party “pass-through” ITS realizes that the responding reseller may not be able to guarantee a fixed price for maintenance after year one since his proposal is dependent on the manufacturer’s pricing or possibly on a distributor’s pricing.
 - 9.1.4.2 It is ITS’ preference that the responding reseller work with the manufacturer to obtain a commitment for a firm fixed price over the requested maintenance period.
- 9.1.5 In the event that the responding reseller cannot make a firm fixed maintenance proposal for all the years requested, the responding reseller is required to provide a fixed percentage for his mark-up on the manufacturer direct maintenance that he is selling as a third party reseller in lieu of a price ceiling based on a percentage yearly increase.
 - 9.1.5.1 In this scenario, Resellers must include in the Pricing Spreadsheets the price the Vendor pays for the maintenance and the percentage by which the final price to the State of Mississippi exceeds the Vendor’s cost for the maintenance (i.e. cost-plus percentage).
 - 9.1.5.2 Alternatively, Resellers may propose a fixed percentage for their mark down on the manufacturer’s direct maintenance based on a national benchmark from the manufacturer, such as GSA, Suggested Retail Price (SRP) or the manufacturer’s web pricing. This national benchmark pricing must be verifiable by ITS during the maintenance contract.
- 9.1.6 The cost-plus/minus percentage will be fixed for the term specified in the LOC. To clarify, the State’s cost for the products will change over the life of the award if the price the Vendor must pay for a given product increases or decreases. However, the percentage over Vendor cost which determines the State’s final price WILL NOT change over the life of the award.
- 9.1.7 ITS will use this percentage in evaluating cost for scoring purposes.

- 9.1.8 The cost-plus/minus percentage applies to new products added in the categories covered by the Cost Matrix as well as the products that are listed.
- 9.1.9 Periodic Cost-Plus Verification - At any time during the term of this contract, the State reserves the right to request from the awarded Vendor, access to and/or a copy of the Manufacturer's Base Pricing Structure for pricing verification. This pricing shall be submitted within seven (7) business days after the State's request. Failure to submit this pricing will be cause for Contract Default.
 - 9.1.9.1 Vendor Cost is defined as the Vendor's invoice cost from the distributor or manufacturer.
 - 9.1.9.2 The Vendor's Proposed State Price is defined as the Vendor Cost plus the proposed percentage mark-up.
- 9.1.10 Vendor must also indicate how future pricing information will be provided to the State during the term of the contract.
- 9.1.11 Vendor must indicate from whom he buys the maintenance: directly from the manufacturer or from what distributor.
- 9.1.12 Vendor must be aware that only price increases resulting from an increase in price by the manufacturer or distributor will be accepted. The Vendor's proposed percentage markup or markdown for these items, as well as the Vendor's percentage markup or markdown for any new items, MUST stay the same as what was originally proposed. Vendor must provide ITS with the suggested retail price.
- 9.1.13 Pricing proposed for the State MUST equal the Vendor's invoice cost from the distributor or manufacturer plus the maximum percentage markup that the reseller will add OR the manufacturer's national benchmark minus the cost percentage proposed.

10. REFERENCES

- 10.1 Vendor must provide at least three references. A form for providing reference information is attached as Attachment B. ITS requires that references be from completed and/or substantially completed jobs that closely match this request. Reference information must include, at a minimum,
 - 10.1.1 Entity

- 10.1.2 Supervisor's name
- 10.1.3 Supervisor's telephone number
- 10.1.4 Supervisor's e-mail address
- 10.1.5 Length of Project
- 10.1.6 Brief Description of Project to include Vendor's specific role in the project
- 10.2 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. Failure to provide this information in the manner described may subject the Vendor's proposal to being rated unfavorably relative to these criteria or disqualified altogether at the State's sole discretion.
- 10.3 References that are no longer in business cannot be used. Inability to reach the reference will result in that reference deemed non-responsive.
- 10.4 Vendors receiving negative references may be eliminated from further consideration.
- 10.5 ITS reserves the right to request information about the Vendor from any previous customer of the Vendor of whom ITS or SBCJC is aware, even if that customer is not included in the Vendor's list of references.

11. ADDITIONAL REQUIREMENTS

- 11.1 ITS acknowledges that the specifications within this LOC are not exhaustive. Rather, they reflect the known requirements that must be met by the proposed system. Vendors must specify, here, what additional components may be needed and are proposed in order to complete each configuration.
- 11.2 Vendor must specify the discounted price for each item. Freight is FOB destination. No itemized shipping charges will be accepted.
- 11.3 Vendor must provide all technical specifications and manuals (documentation) at the point of sale.
- 11.4 If Vendor proposes more than one alternative (no more than two), Vendor is responsible for identifying the alternative believed to be the best fit to meet the specified requirements.

- 11.5 A properly executed contract is a requirement of this LOC. After an award has been made, it will be necessary for the winning Vendor to execute a Software License and Maintenance Agreement with ITS. A *Standard Purchase Agreement* (Attachment D) has been attached for your review. The inclusion of this Purchase Agreement 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 LOC. If Vendor can not comply with any term or condition of this Purchase Agreement, Vendor must list and explain each specific exception on the *Proposal Exception Summary Form*, Attachment C, explained in Item 12 and attached to this LOC. Winning Vendor must be willing to sign the attached Purchase Agreement within 10 working days of the notice of award. If the Purchase Agreement is not executed within 10 working day period, ITS reserves the right to negotiate with the next lowest and best vendor in the evaluation.
- 11.6 Vendor must provide the state of incorporation of the company and a name, title, address, telephone number and e-mail for the "Notice" article of the contract.

12. PROPOSAL EXCEPTIONS

- 12.1 Vendor must return the attached *Proposal Exception Summary Form*, Attachment C, with all exceptions listed and clearly explained or state "No Exceptions Taken." If no Proposal Exception Summary Form is included, the Vendor is indicating that no exceptions are taken.
- 12.2 Unless specifically disallowed on any specification herein, the Vendor may take exception to any point within this memorandum, including a specification denoted as mandatory, as long as the following are true:
- 12.2.1 The specification is not a matter of State law;
- 12.2.2 The proposal still meets the intent of the procurement;
- 12.2.3 A *Proposal Exception Summary Form* (Attachment C) is included with Vendor's proposal; and
- 12.2.4 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* (Attachment C).
- 12.3 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:

- 12.3.1 The Vendor will withdraw the exception and meet the specification in the manner prescribed;
 - 12.3.2 ITS will determine that the exception neither poses significant risk to the project nor undermines the intent of the procurement and will accept the exception;
 - 12.3.3 ITS and the Vendor will agree on compromise language dealing with the exception and will insert same into the contract; or
 - 12.3.4 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.
- 12.4 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 procurement.
- 12.5 An exception will be accepted or rejected at the sole discretion of the State.

13. SCORING METHODOLOGY

- 13.1 An Evaluation Team composed of ITS and SBCJC personnel 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. The Evaluation Team will use categories to score all proposals based on the following:
- 13.1.1 Each category included in the scoring mechanism is assigned a weight between one and 100.
 - 13.1.2 The sum of all categories, other than Value-Add, equals 100 possible points.
 - 13.1.3 Value-Add is defined as product(s) or service(s), exclusive of the stated functional and technical requirements and provided to the State at no additional charge, which, in the sole judgment of the State, provide both benefit and value to the State significant enough to distinguish the proposal and merit the award of additional points. A Value-Add rating

between 0 and 5 may be assigned based on the assessment of the evaluation team. These points will be added to the total score.

13.1.4 For evaluation of this LOC, the evaluation team will use the following categories and possible points:

| Category | Possible Points |
|-------------------------------------|------------------------|
| Non-Cost Categories: | |
| Functional/Technical Specifications | 30 |
| Installation/Training | 10 |
| Warranty/Maintenance | 10 |
| Total Non-Cost Points | 50 |
| Cost | 50 |
| Total Base Points | 100 |
| Value-Add | 5 |
| Maximum Possible Points | 105 |

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

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

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

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

| Non-Cost Categories | Possible Points |
|-------------------------------------|------------------------|
| Functional/Technical Specifications | 30 Points |
| Installation/Training | 10 Points |
| Warranty/Maintenance | 10 Points |
| Maximum Possible Points | 50 Points |

- 13.2.2.2 The State, at its sole discretion, may request clarifications from responsive Vendors deemed to be in the competitive range. However, Vendors are cautioned that the evaluators are not required to request clarifications. Therefore, all proposals must be complete and concise and reflect the most favorable terms available from the Vendors. Vendors should note that the State will not seek clarifications from Vendors whose proposals were deemed nonresponsive in Stage 1.
- 13.2.2.3 Proposals meeting fewer than 80% of the requirements in the non-cost categories may be eliminated from further consideration.
- 13.2.2.4 Proposals providing added value, as defined in Item 13.1.3 above, may be assigned from 1 to 5 added-value points in proportion to the value of the offering to the State, at the sole discretion of the Evaluation Team.

13.2.3 Stage 3 – Cost Evaluation

- 13.2.3.1 The cost score is computed as a ratio of the difference between a given proposal's lifecycle cost and the lifecycle cost of the lowest valid proposal. The following cost scoring formula is used for every proposal evaluation.

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

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 this acquisition

In simpler terms, lowest price gets a perfect score. A proposal that is 20% more expensive than the lowest priced offering gets 20% fewer points.

- 13.2.3.2 When the above formula would result in a negative cost score (i.e. the lifecycle cost of the proposal being scored is more than twice that of the lowest valid proposal), the cost

score is set to zero, rather than deducting points from the Vendor's score.

13.2.3.3 Cost categories and maximum point values are as follows:

| Cost Category | Possible Points |
|--------------------------------|------------------|
| Lifecycle Cost | 50 Points |
| Maximum Possible Points | 50 Points |

13.2.4 Stage 4 – Selection of the Successful Vendor

14. INSTRUCTIONS TO SUBMIT PRODUCT AND COST INFORMATION

Please use the attached *Cost Information Form* (Attachment A) to provide cost information. Follow the instructions on the form. Incomplete forms will not be processed.

15. DELIVERY INSTRUCTIONS

15.1 **Vendor must deliver the response to Teresa Washington at ITS no later than Tuesday, January 18, 2011, at 3:00 P.M. (Central Time).** Responses may be delivered by hand, via regular mail, overnight delivery, e-mail, or by fax. Fax number is (601) 713-6380. **ITS WILL NOT BE RESPONSIBLE FOR DELAYS IN THE DELIVERY OF PROPOSALS.** It is solely the responsibility of the Vendor that proposals reach ITS on time. Vendors should contact Teresa Washington to verify the receipt of their proposals. Proposals received after the deadline will be rejected.

15.2 If you have any questions concerning this request, please e-mail Teresa Washington of ITS at teresa.washington@its.ms.gov. **Any questions concerning the specifications detailed in this LOC must be received no later than Wednesday, January 5, 2011, at 3:00 P.M. (Central Time).**

Enclosures: Attachment A, Cost Information Form
Attachment B, Reference Information Form
Attachment C, Proposal Exception Summary Form
Attachment D, Standard Purchase Agreement

**ATTACHMENT A
COST INFORMATION FORM – LOC NUMBER 39078**

Please submit the ITS requested information response under your general proposal #3616 using the following format. Send your completed form back to the Technology Consultant listed below. If the necessary information is not included, your response cannot be considered.

ITS Technology Consultant

Name: Teresa Washington **RFP #** 3616

Company Name: _____ **Date:** _____

Contact Name: _____ **Phone #:** _____

Contact E-mail: _____

| MFG | MFG #* | DESCRIPTION | QTY | UNIT COST | EXTENDED COST** |
|------------------------|-------------------|---|-----|-----------|-----------------|
| Cisco UCS Items | | | | | |
| | | DS-C9148D-8G16P-K9 | | | |
| | DS-C9148D-8G16PK9 | MDS 9148 with 16p enabled, 16x8GFC SW optics, 2 PS | 2 | | |
| | DS-9148-KIT-CSCO | Accessory Kit for Cisco MDS 9148 | 2 | | |
| | DS-SFP-FC8G-SW | 8 Gbps Fibre Channel SW SFP+, LC | 32 | | |
| | CAB-9K12A-NA | Power Cord, 125VAC 13A NEMA 5-15 Plug, North America | 4 | | |
| | CON-OSP-C98G16 | ONSITE 24X7X4 MDS9148 w/16p enabled,16x8GFC SW opt 2PS | 6 | | |
| | | N1K-VLCPU-01= | | | |
| | N1K-VLCPU-01= | Nexus 1000V Paper CPU License Qty 1 (1YR Min Service) | 8 | | |
| | CON-SAU-VLCPU | SW APP SUPP + UPGR Nexus 1000V Paper CPU | 24 | | |
| | | N1K-VSMK9-404S1-P= | | | |
| | N1K-VSMK9-404S1P= | Nexus 1000V Virtual Supervisor Module on Physical Media | 1 | | |

| | | | | | |
|--|------------------|--|----|--|--|
| | | N20-Z0001 | | | |
| | N20-Z0001 | Cisco Unified Computing System | 1 | | |
| | A01-X0100 | 3.33GHz Xeon X5680 130W CPU/12MB cache/DDR3 1333MHz | 8 | | |
| | A02-M308GB1-2 | 8GB DDR3-1333MHz RDIMM/PC3-10600/2x4GB Kit | 24 | | |
| | A02-MEMKIT-004A | Bundle component for A02-M308GB1-2 | 48 | | |
| | A03-D073GC2 | 73GB 6Gb SAS 15K RPM SFF HDD/hot plug/drive sled mounted | 8 | | |
| | CAB-C13-C14-JMPR | Recessed receptical AC power cord 27 | 4 | | |
| | CAB-C19-CBN | Cabinet Jumper Power Cord, 250 VAC 16A, C20-C19 Connectors | 6 | | |
| | CON-UCS7-1E0060 | UC SUPPORT 24X7X4OS 6Pt 8Gb FC/Expansion Mod/UCS 6100 Series | 6 | | |
| | CON-UCS7-1S6100 | UC SUPPORT 24X7X4OS 6120XP 20PT Fabric Interconnect | 6 | | |
| | CON-UCS7-2C6508 | UC SUPPORT 24X7X4OS 5108 Blade Server Chassis | 6 | | |
| | CON-UCS7-2Z0001 | UC SUPPORT 24X7X4OS Cisco Unified Computing System | 3 | | |
| | CON-UCS7-B66251 | UC SUPPORT 24X7X4OS UCSB200 M2 Blade Svr w/o CPU Mem HDD Mez | 6 | | |
| | CON-UCS7-B66252 | UC SUPPORT 24X7X4OS UCSB250 M2 Blade Svr w/o CPU Mem HDD Mez | 6 | | |
| | DS-SFP-FC8G-SW | 8 Gbps Fibre Channel SW SFP+, LC | 8 | | |
| | N01-M308GB2 | 8GB DDR3-1333MHz RDIMM/PC3-10600/dual rank 2Gb DRAMs | 24 | | |
| | N01-UAC1 | Single phase AC power module for UCS 5108 | 2 | | |
| | N10-E0060 | 6-port 8Gb FC/Expansion module/UCS 6100 Series | 2 | | |
| | N10-L001 | UCS 6100 Series Fabric Interconnect 1 10GE port license | 8 | | |
| | N10-MGT005 | UCS Manager v1.3 | 2 | | |

| | | | | | |
|---------------------------|----------------|--|----|--|--|
| | N10-PAC1-550W | 550W power supply unit for UCS 6120XP/100-240VAC | 4 | | |
| | N10-S6100 | UCS 6120XP 20-port Fabric Interconnect/0 PSU/2 fans/no SFP+ | 2 | | |
| | N10-SACCA | Accessory kit for UCS 6120XP Fabric Interconnect | 2 | | |
| | N20-AC0002 | UCS M81KR Virtual Interface Card/PCIe/2-port 10Gb | 6 | | |
| | N20-B6625-1 | UCS B200 M2 Blade Server w/o CPU, memory, HDD, mezzanine | 2 | | |
| | N20-B6625-2 | UCS B250 M2 Blade Server w/o CPU, memory, HDD, mezzanine | 2 | | |
| | N20-BHTS1 | CPU heat sink for UCS B200 Blade Server | 4 | | |
| | N20-BHTS4 | CPU heat sink for UCS B250 M2 Blade Server | 4 | | |
| | N20-C6508 | UCS 5108 Blade Server Chassis/0 PSU/8 fans/0 fabric extender | 2 | | |
| | N20-CBLKB1 | Blade slot blanking panel for UCS 5108/single slot | 10 | | |
| | N20-CBLKP | Power supply unit blanking panel for UCS 5108 | 2 | | |
| | N20-FAN5 | Fan module for UCS 5108 | 16 | | |
| | N20-FW005 | UCS 5108 Blade Server Chassis FW package | 2 | | |
| | N20-I6584 | UCS 2104XP Fabric Extender/4 external 10Gb ports | 4 | | |
| | N20-PAC5-2500W | 2500W power supply unit for UCS 5108 | 6 | | |
| | SFP-H10GB-CU3M | 10GBASE-CU SFP+ Cable 3 Meter | 16 | | |
| | | 3 Years Post-Warranty Hardware Maintenance | 1 | | |
| EMC - Primary Site | | | | | |
| | | NS-120 PSI | | | |
| | NS122-A | NS-120 INT-2DM-4GB-4 CU GIGE PORTS (FACTORY) | 1 | | |

| | | | | | |
|--|---------------|---|----|--|--|
| | CX4-RACK-40U | CX4 40U RACK | 1 | | |
| | NS4-4PDAE | 4G DAE FACTORY OR FIELD INSTALL | 5 | | |
| | NS120-AUXF8 | NS-120 CAPTIVE ARRAY NO ISCSI. 8 8GB FC PORTS | 1 | | |
| | NS120-CS | NS-120 CONTROL STATION (FACTORY INSTALL) | 1 | | |
| | NS-4G15-600 | 600GB 15K 4G FC NAS DISK DRIVE | 56 | | |
| | NS-4G15-600HS | 600GB 15K 4G FC NAS DISK DRIVE HOT SPARE | 3 | | |
| | V-NS4-60015K | VAULT PACK 600GB 15K 4GB FC DRIVES 5 PACK | 1 | | |
| | PW40U-60-US | RACK-40U-60 PWR CORD US | 1 | | |
| | AX4-5SFP | SPARE AX4-5 SFP FOR I/O MODULE | 1 | | |
| | NS122-AUXCBL2 | NS-122 CABLE KIT 2 SPS DUAL BLADE | 1 | | |
| | MODEM-US | UNITED STATES MODEM | 1 | | |
| | NS120-SPS | NS-120 OPTIONAL SECOND SPS. FACTORY INSTALL | 1 | | |
| | AUX-M1GI-A | CELERRA 2 PORTS GB ISCSI SLIC PAIR FOR AUX FACT | 1 | | |
| | MVA4-KIT | MIRRORVIEW/A KIT FOR CX4 FAMILY | 1 | | |
| | SV4-KIT | SNAPVIEW KIT FOR CX4 FAMILY | 1 | | |
| | NS120-DCD | CELERRA NS-120 DOCUMENT AND CD | 1 | | |
| | PPVE-VM-KIT | POWERPATH MEDIA KIT FOR VMWARE | 1 | | |
| | SV4-120 | SNAPVIEW FOR CX4-120 | 1 | | |
| | MVA4-120 | MIRRORVIEW/A FOR CX4-120 | 1 | | |
| | CX412C-KIT | CX4-120 DOCS COMMON RTU & POWERPATH | 1 | | |

| | | | | | |
|-----------------------------|---------------|--|---|--|--|
| | NS120-REPV2-L | NS-120 CELERRA REPLICATOR V2 LICENSE | 1 | | |
| | 457-100-182 | POWERPATH/VE, STD. X86 T1 (1-7 CPUS) | 8 | | |
| | 456-101-296 | POWERPATH VE SERVED LICENSES, VMWARE | 4 | | |
| | 456-101-664 | RM FOR VMWARE DATASTORE REPLICATION VIA PROXY HOST | 1 | | |
| | 456-101-666 | RM Agent License | 2 | | |
| | 456-101-628 | RM Server License | 1 | | |
| | NS120-UNIX-L | CELERRA NS-120 UNIX NFS LICENSE | 1 | | |
| | NS120-CIFS-L | CELERRA NS-120 CIFS LICENSE | 1 | | |
| | UNIU4-120 | UNISPHERE FOR UNIFIED ON NS120 | 1 | | |
| | PS-BAS-INGUI | RACK & STACK WITH CSA INSTALL | 1 | | |
| | PS-BAS-IMCIFS | 6 FS CIFS IMPLEMENTATION | 1 | | |
| | PS-BAS-AD4HFC | ADD OF 4 FIBRE CHANNEL HOSTS | 1 | | |
| | PS-BAS-ADREP | EMC CELERRA QUICKSTART: CELERRA REPLICATOR MODULE | 1 | | |
| | M-PRESW-001 | 3 YEARS PREMIUM SOFTWARE SUPPORT | 1 | | |
| | M-PRESW-004 | 3 YEARS PREMIUM SW SUPPORT - OPEN SW | 1 | | |
| | M-PRESW-014 | 3 YEARS PREMIUM SOFTWARE SUPPORT - OPEN/ELM | 1 | | |
| | | 3 YEARS POST-WARRANTY HARDWARE MAINTENANCE | 1 | | |
| EMC - Secondary Site | | | | | |
| | | NS-120 PSI | | | |
| | NS121-A | NS-120 INT-1DM-4GB-4 CU GIGE PORTS (FACTORY) | 1 | | |

| | | | | | |
|--|---------------|---|----|--|--|
| | CX4-RACK-40U | CX4 40U RACK | 1 | | |
| | NS4-4PDAE | 4G DAE FACTORY OR FIELD INSTALL | 3 | | |
| | NS120-AUXF8 | NS-120 CAPTIVE ARRAY NO ISCSI. 8 8GB FC PORTS | 1 | | |
| | NS120-CS | NS-120 CONTROL STATION (FACTORY INSTALL) | 1 | | |
| | NS-4G15-600 | 600GB 15K 4G FC NAS DISK DRIVE | 28 | | |
| | NS-4G15-600HS | 600GB 15K 4G FC NAS DISK DRIVE HOT SPARE | 2 | | |
| | V-NS4-60015K | VAULT PACK 600GB 15K 4GB FC DRIVES 5 PACK | 1 | | |
| | PW40U-60-US | RACK-40U-60 PWR CORD US | 1 | | |
| | NS121-AUXCBL1 | NS-121 CABLE KIT 1 SPS | 1 | | |
| | MODEM-US | UNITED STATES MODEM | 1 | | |
| | AUX-M1GI-A | CELERRA 2 PORTS GB ISCSI SLIC PAIR FOR AUX FACT | 1 | | |
| | MVA4-KIT | MIRRORVIEW/A KIT FOR CX4 FAMILY | 1 | | |
| | NS120-DCD | CELERRA NS-120 DOCUMENT AND CD | 1 | | |
| | MVA4-120 | MIRRORVIEW/A FOR CX4-120 | 1 | | |
| | CX412C-KIT | CX4-120 DOCS COMMON RTU & POWERPATH | 1 | | |
| | NS120-REPV2-L | NS-120 CELERRA REPLICATOR V2 LICENSE | 1 | | |
| | 457-100-182 | POWERPATH/VE, STD. X86 T1 (1-7 CPUS) | 8 | | |
| | 456-101-296 | POWERPATH VE SERVED LICENSES, VMWARE | 4 | | |
| | NS120-UNIX-L | CELERRA NS-120 UNIX NFS LICENSE | 1 | | |
| | NS120-CIFS-L | CELERRA NS-120 CIFS LICENSE | 1 | | |

| | | | | | |
|---------------|---------------|---|---|--|--|
| | UNIU4-120 | UNISPHERE FOR UNIFIED ON NS120 | 1 | | |
| | PS-BAS-INGUI | RACK & STACK WITH CSA INSTALL | 1 | | |
| | PS-BAS-IMCIFS | 6 FS CIFS IMPLEMENTATION | 1 | | |
| | PS-BAS-AD4HFC | ADD OF 4 FIBRE CHANNEL HOSTS | 1 | | |
| | PS-BAS-ADREP | EMC CELERRA QUICKSTART: CELERRA REPLICATOR MODULE | 1 | | |
| | M-PRESW-001 | 3 YEARS PREMIUM SOFTWARE SUPPORT | 1 | | |
| | M-PRESW-004 | 3 YEARS PREMIUM SW SUPPORT - OPEN SW | 1 | | |
| | M-PRESW-014 | 3 YEARS PREMIUM SOFTWARE SUPPORT - OPEN/ELM | 1 | | |
| | | 3 YEARS POST-WARRANTY HARDWARE MAINTENANCE | 1 | | |
| | | UIM Upgrade Solution | | | |
| | UIM-KIT-00 | UIM PHYSICAL KIT | 1 | | |
| | UIM-001-00 | IONIX UIM FOUNDATION LICENSE PER DATA CENTER/NOC | 1 | | |
| | UIM-011-11 | IONIX UIM MANAGED COMPUTE BLADE | 4 | | |
| | UIM-LIC-00 | IONIX UIM LICENSE CARD | 1 | | |
| | M-PRESW-004 | 3 YEARS PREMIUM SW SUPPORT - OPEN SW | 1 | | |
| | | EMC Professional Services | | | |
| | PS-BAS-PMBLK | COMMERCIAL PMGMT 4HRS QS | 1 | | |
| | PS-BAS-SABLK | COMMERCIAL SA 4HOURS QS | 1 | | |
| | PS-CUS-SMVO | ENGAGEMENT FOR VOYENCE PROJECTS | 1 | | |
| VMWare | | | | | |
| | | VMW-VCS-3A= | | | |

| | | | | | |
|---------------------|-------------------|--|---|--|--|
| | VMW-VCS-3A= | VMware vCenter Server Standard, 3yr support required | 2 | | |
| | CON-ISV1-VCS3A | ISV 24X7 VMware vCenter Server Std 3 Yr RQD | 2 | | |
| | UCS-VMW-TERMS | Acceptance of Terms, Standalone VMW License for UCS Servers | 2 | | |
| | | VMW-VS-ENTP-3A= | | | |
| | VMW-VS-ENTP-3A= | VMware vSphere Enterprise Plus (1 CPU), 3yr support required | 8 | | |
| | CON-ISV1-VSENTP3A | ISV 24X7 VMware vSphere EntPlus1CPU 3Yr RQD | 8 | | |
| | UCS-VMW-TERMS | Acceptance of Terms, Standalone VMW License for UCS Servers | 8 | | |
| Installation | | | | | |
| | | Equipment Installation and Configuration, Knowledge Transfer | | | |
| TOTAL: | | | | | |

If any of the items below are included in Vendor's proposal they must be detailed below.

Warranty:

Installation:**

Maintenance:

Training:

*Manufacturer model number, not Vendor number. If Vendor's internal number is needed for purchase order, include an additional column for that number

**If Vendor travel is necessary to meet the requirements of the LOC, the Vendor should propose fully loaded costs including travel

ATTACHMENT B
REFERENCE INFORMATION FORM

The information provided below will be used to contact references.

| | |
|------------------------------|--|
| Entity | |
| Supervisor's Name | |
| Supervisor's Title | |
| Supervisor's Telephone # | |
| Supervisor's E-Mail Address | |
| Length of Project | |
| Brief Description of Project | |

| | |
|------------------------------|--|
| Entity | |
| Supervisor's Name | |
| Supervisor's Title | |
| Supervisor's Telephone # | |
| Supervisor's E-Mail Address | |
| Length of Project | |
| Brief Description of Project | |

| | |
|------------------------------|--|
| Entity | |
| Supervisor's Name | |
| Supervisor's Title | |
| Supervisor's Telephone # | |
| Supervisor's E-Mail Address | |
| Length of Project | |
| Brief Description of Project | |

ATTACHMENT C
PROPOSAL EXCEPTION SUMMARY FORM

| ITS LOC Reference | Vendor Proposal Reference | Brief Explanation of Exception | ITS Acceptance (sign here only if accepted) |
|--|--|---|---|
| (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) | |
| | | | |
| | | | |
| | | | |
| | | | |

ATTACHMENT D

**PROJECT NUMBER 39078
PURCHASE AGREEMENT
BETWEEN**

INSERT VENDOR NAME

AND

**MISSISSIPPI DEPARTMENT OF INFORMATION TECHNOLOGY SERVICES
AS CONTRACTING AGENT FOR THE
MISSISSIPPI STATE BOARD FOR COMMUNITY AND JUNIOR COLLEGES**

This Purchase Agreement (hereinafter referred to as "Agreement") is entered into by and between **INSERT VENDOR NAME**, a **INSERT STATE OF INCORPORATION** corporation having its principal place of business at **INSERT VENDOR ADDRESS** (hereinafter referred to as "Seller"), 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 State Board for Community and Junior Colleges located at 3825 Ridgewood Road, Jackson, Mississippi 39211 (hereinafter referred to as "Purchaser"). ITS and Purchaser are sometimes collectively referred to herein as "State".

WHEREAS, Purchaser, pursuant to Letter of Configuration Number 39078 dated **INSERT DATE OF PUBLICATION** (hereinafter referred to as "LOC"), based on General Request for Proposals ("RFP") No. 3616, requested proposals for the acquisition of certain equipment and software (hereinafter referred to as "Products") as listed in Exhibit A which is attached hereto and incorporated herein; and

WHEREAS, Seller was the successful proposer in an open, fair and competitive procurement process;

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

ARTICLE 1 TERM OF AGREEMENT

1.1 This Agreement will become effective on the date it is signed by all parties and will continue in effect until all tasks required herein, including any post warranty maintenance/support specified in Exhibit A, have been completed. Seller agrees to complete all tasks required under this Agreement, with the exception of warranty service, on or before the close of business on March 25, 2011, or within such other period as may be agreed to by the parties.

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

ARTICLE 2 FURNISHING OF EQUIPMENT

2.1 Subject to the terms and conditions set forth herein, Seller agrees to provide and Purchaser agrees to buy as needed, the Products listed in the attached Exhibit A and at the purchase price set forth therein, but in no event will the total compensation to be paid hereunder exceed the specified sum of **\$INSERT AMOUNT** unless prior written authorization from ITS has been obtained. Purchaser shall submit a purchase order signed by a representative of Purchaser itemizing the Products to be purchased. The purchase order shall be subject to the terms and conditions of this Agreement. The parties agree that Purchaser reserves the right to adjust the quantities of purchases based upon the availability of funding or as determined necessary by Purchaser. Seller guarantees pricing for a period of six (6) months from the effective date of this Agreement. In the event there is a national price decrease of the Products bid during this time, Seller agrees to extend the new, lower pricing to Purchaser.

2.2 The Products provided by Seller shall meet or exceed the minimum specifications set forth in LOC, General RFP No. 3616 and the Seller's Proposals in response thereto.

ARTICLE 3 DELIVERY, RISK OF LOSS, INSTALLATION AND ACCEPTANCE

3.1 Seller shall deliver the Products to the location specified by Purchaser and pursuant to the delivery schedule set forth by Purchaser.

3.2 Seller shall assume and shall bear the entire risk of loss and damage to the Products from any cause whatsoever while in transit and at all times throughout its possession thereof.

3.3 Seller shall complete installation of the Products pursuant to the requirements set forth in LOC. Seller acknowledges that installation shall be accomplished with minimal interruption of Purchaser's normal day to day operations.

3.4 Seller shall be responsible for replacing, restoring or bringing to at least original condition any damage to floors, ceilings, walls, furniture, grounds, pavements, sidewalks, and the like caused by its personnel and operations during the installation, subject to final approval of ITS. The repairs will be done only by technicians skilled in the various trades involved, using materials and workmanship to match those of the original construction in type and quality.

3.5 Seller shall be responsible for installing all equipment, cable and materials in accordance with all State, Federal and industry standards for such items.

3.6 Purchaser shall accept or reject the Products provided by Seller after a thirty (30) day testing period utilizing testing criteria developed by Purchaser. During the acceptance period, Purchaser shall have the opportunity to evaluate and test the Products to confirm that it performs without any defects and performs pursuant to the specifications set forth in LOC, General RFP No. 3616. Purchaser shall notify Seller in writing of its acceptance of the Products.

3.7 In the event the Product fails to perform as stated above, Purchaser shall notify Seller. Seller shall, within five (5) working days and at Seller's sole expense, correct the defects identified by Purchaser or replace the defective Product. Purchaser reserves the right to return the defective Product to Seller at the Seller's expense and to cancel this Agreement.

ARTICLE 4 TITLE TO EQUIPMENT

Title to the equipment provided under this Agreement shall pass to Purchaser upon its acceptance of the equipment.

ARTICLE 5 CONSIDERATION AND METHOD OF PAYMENT

5.1 Once the Products have been accepted by Purchaser as prescribed in Article 3 herein, Seller shall submit an invoice for the cost and shall certify that the billing is true and correct. Services will be invoiced as they are rendered. Seller shall submit invoices and supporting documentation to Purchaser electronically during the term of this Agreement using the processes and procedures identified by the State. Purchaser agrees to pay Seller in accordance with Mississippi law on "Timely Payments for Purchases by Public Bodies", Sections 31-7-301, et seq. of the 1972 Mississippi Code Annotated, as amended, which generally provides for payment of undisputed amounts by the State within forty-five (45) days of receipt of the invoice. Seller understands and agrees that Purchaser is exempt from the payment of taxes. All payments shall be in United States currency. Payments by state agencies using the Statewide Automated Accounting System ("SAAS") shall be made and remittance information provided electronically as directed by the State. These payments by SAAS agencies shall be deposited into the bank account of the Seller's choice. No payment, including final payment, shall be construed as acceptance of defective Products or incomplete work, and the Seller shall remain responsible and liable for full performance in strict compliance with the contract documents specified in the article herein titled "Entire Agreement".

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

ARTICLE 6 WARRANTIES

6.1 Seller represents and warrants that Seller has the right to sell the equipment and license the software provided under this Agreement.

6.2 Seller represents and warrants that Purchaser shall acquire good and clear title to the equipment purchased hereunder, free and clear of all liens and encumbrances.

6.3 Seller represents and warrants that each unit of equipment delivered shall be delivered new and not as “used, substituted, rebuilt, refurbished or reinstalled” equipment.

6.4 Seller represents and warrants that it has and will obtain and pass through to Purchaser any and all warranties obtained or available from the licensor of software or the manufacturer of the equipment.

6.5 Seller represents and warrants that all equipment provided pursuant to this Agreement shall, for a period of **SPECIFY WARRANTY PERIOD** from the date of acceptance of each item of equipment, be free from defects in material, manufacture, design and workmanship. Seller’s obligation pursuant to this warranty shall include, but is not limited to, the repair or replacement of the equipment at no cost to Purchaser. In the event Seller cannot repair or replace an item of equipment during the warranty period, Seller shall refund the purchase price of the equipment, and refund any fees paid for services that directly relate to the defective hardware.

6.6 Seller represents and warrants that the Products provided by Seller shall meet or exceed the minimum specifications set forth in the LOC, General RFP No. 3616 and Seller’s Proposals in response thereto.

6.7 Seller represents and warrants that all software furnished shall be free from material defects for a period of **SPECIFY WARRANTY PERIOD** after acceptance and will function in accordance with the specifications as stated in the LOC, General RFP No. 3616 and the Seller’s Proposals in response thereto. If the software does not function accordingly, Seller shall, at no cost to Purchaser, replace the software or refund the fees paid for the software and for any services that directly relate to the defective software.

6.8 Seller represents and warrants that there is no disabling code or lockup program or device embedded in the software provided to Purchaser. Seller further agrees that it will not, under any circumstances including enforcement of a valid contract right, (a) install or trigger a lockup program or device, or (b) take any step which would in any manner interfere with Purchaser’s use of the software and/or which would restrict Purchaser from accessing its data files or in any way interfere with the transaction of Purchaser’s business. For any breach of this warranty, Seller at its expense shall, within five (5) working days after receipt of notification of the breach, deliver Products to Purchaser that are free of such disabling code, lockup program or device.

6.9 Seller represents and warrants that the software, as delivered to Purchaser, does not contain a computer virus. For any breach of this warranty, Seller, at its expense, shall, within five (5) working days after receipt of notification of the breach, deliver Products to Purchaser that are

free of any virus and shall be responsible for repairing, at Seller's expense, any and all damage done by the virus to Purchaser's site.

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

6.11 Seller represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act, Section 71-11-1, et seq. of the Mississippi Code Annotated (Supp2008), and will register and participate in the status verification system for all newly hired employees. The term "employee" as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Seller agrees to maintain records of such compliance and, upon request of the State and approval of the Social Security Administration or Department of Homeland Security where required, to provide a copy of each such verification to the State. Seller further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Mississippi. Seller understands and agrees that any breach of these warranties may subject Seller to the following: (a) termination of this Agreement and ineligibility for any state or public contract in Mississippi for up to three (3) years, with notice of such cancellation/termination being made public, or (b) the loss of any license, permit, certification or other document granted to Seller by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year, or (c) both. In the event of such termination/cancellation, Seller would also be liable for any additional costs incurred by the State due to contract cancellation or loss of license or permit.

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

6.13 Seller represents and warrants that no official or employee of Purchaser 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 Seller 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 Seller also warrants that in the performance of this Agreement no person having any such known interests shall be employed.

6.14 The Seller 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 Seller, terminate the right of the Seller 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 Seller to any officer or employee of the State of Mississippi with a view toward securing this Agreement or securing favorable treatment with respect to the award, or amending or making of any determinations with respect to the performing of such contract, provided that the existence of the facts upon which the ITS Executive Director makes such findings shall be in issue and may be reviewed in any competent court. In the event this Agreement is terminated under this article, the State of Mississippi shall be entitled to pursue the same remedies against the Seller as it would pursue in the event of a breach of contract by the Seller, including punitive damages, in addition to any other damages to which it may be entitled at law or in equity.

6.15 Contractor understands and agrees that some or all of this Agreement is funded by the American Recovery and Reinvestment Act of 2009 (hereinafter referred to as "ARRA") and, as such, represents and warrants that it will comply with the requirements of ARRA as set forth in Exhibit B, which is attached hereto and incorporated herein by reference and will maintain adequate records to verify its full compliance with those requirements.

ARTICLE 7 INFRINGEMENT INDEMNIFICATION

Seller represents and warrants that neither the hardware, replacement parts nor software, their elements or the use thereof violates or infringes upon any copyright, patent, trademark, servicemark, trade secret or other proprietary right of any person or entity. Seller, at its own expense, shall defend or settle any and all infringement actions filed against Seller or Purchaser which involve the hardware, software or other items provided under this Agreement and shall pay all settlements, as well as all costs, attorney fees, damages and judgment finally awarded against Purchaser. If the continued use of the products for the purpose intended is threatened to be enjoined or is enjoined by any court of competent jurisdiction, Seller shall, at its expense: (a) first procure for Purchaser the right to continue using such products, or upon failing to procure

such right; (b) modify or replace them with non-infringing products, or upon failing to secure either such right, (c) refund to Purchaser the purchase price or software license fees previously paid by Purchaser for the products Purchaser may no longer use. Said refund shall be paid within ten (10) working days of notice to Purchaser to discontinue said use.

ARTICLE 8 EMPLOYMENT STATUS

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

8.2 Seller represents that it is qualified to perform the duties to be performed under this Agreement and that it has, or will secure, if needed, at its own expense, applicable personnel who shall be qualified to perform the duties required under this Agreement. Such personnel shall not be deemed in any way directly or indirectly, expressly or by implication, to be employees of Purchaser. Seller 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 Seller nor employees of Seller are entitled to state retirement or leave benefits.

8.3 Any person assigned by Seller to perform the services hereunder shall be the employee of Seller, who shall have the sole right to hire and discharge its employee. Purchaser may, however, direct Seller to replace any of its employees under this Agreement. If Seller is notified within the first eight (8) hours of assignment that the person is unsatisfactory, Seller will not charge Purchaser for those hours.

8.4 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 Seller shall be paid as a gross sum with no withholdings or deductions being made by Purchaser for any purpose from said contract sum.

ARTICLE 9 BEHAVIOR OF EMPLOYEES/SUBCONTRACTORS

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

ARTICLE 10 MODIFICATION OR RENEGOTIATION

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

ARTICLE 11 AUTHORITY, ASSIGNMENT AND SUBCONTRACTS

11.1 In matters of proposals, negotiations, contracts, and resolution of issues and/or disputes, the parties agree that Seller represents all contractors, third parties, and/or subcontractors Seller has assembled for this project. The Purchaser is required to negotiate only with Seller, as Seller's commitments are binding on all proposed contractors, third parties, and subcontractors.

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

11.3 Seller must obtain the written approval of Purchaser before subcontracting any portion of this Agreement. No such approval by Purchaser of any subcontract shall be deemed in any way to provide for the incurrence of any obligation of Purchaser 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 Purchaser may deem necessary.

11.4 Seller represents and warrants that any subcontract agreement Seller 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 Purchaser, and that the subcontractor acknowledges that no privity of contract exists between the Purchaser and the subcontractor and that the Seller is solely liable for any and all payments which may be due to the subcontractor pursuant to its subcontract agreement with the Seller. The Seller shall indemnify and hold harmless the State from and against any and all claims, demands, liabilities, suits, actions, damages, losses, costs and expenses of every kind and nature whatsoever arising as a result of Seller's failure to pay any and all amounts due by Seller 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 Seller and the Purchaser, where such dispute affects the subcontract.

ARTICLE 12 AVAILABILITY OF FUNDS

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

ARTICLE 13 TERMINATION

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

ARTICLE 14 GOVERNING LAW

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

ARTICLE 15 WAIVER

Failure of either party hereto to insist upon strict compliance with any of the terms, covenants and conditions hereof shall not be deemed a waiver or relinquishment of any similar right or power hereunder at any subsequent time or of any other provision hereof, nor shall it be construed to be a modification of the terms of this Agreement. A waiver by the State, 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 are for convenience only, and in no way define, limit or describe the scope or intent of any provision or section of this Agreement.

ARTICLE 18 HOLD HARMLESS

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

ARTICLE 19 THIRD PARTY ACTION NOTIFICATION

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

Seller warrants that it is a validly organized business with valid authority to enter into this Agreement; that entry into and performance under this Agreement is not restricted or prohibited by any loan, security, financing, contractual or other agreement of any kind, and notwithstanding any other provision of this Agreement to the contrary, that there are no existing legal proceedings, or prospective legal proceedings, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under this Agreement.

ARTICLE 21 NOTICE

Any notice required or permitted to be given under this Agreement shall be in writing and personally delivered or sent by electronic means provided that the original of such notice is sent by certified United States mail, postage prepaid, return receipt requested, or overnight courier with signed receipt, to the party to whom the notice should be given at their business address listed herein. ITS' address for notice is: Mr. David L. Litchliter, Executive Director, Mississippi Department of Information Technology Services, 3771 Eastwood Drive, Jackson, Mississippi 39211. Purchaser's address for notice is: Mr. Ray Smith, Director of Technology, Mississippi State Board for Community and Junior Colleges, 3825 Ridgewood Road, Jackson, Mississippi 39211. The Seller's address for notice is: **INSERT VENDOR NOTICE INFORMATION**. Notice shall be deemed given when actually received or when refused. The parties agree to promptly notify each other in writing of any change of address.

ARTICLE 22 RECORD RETENTION AND ACCESS TO RECORDS

Seller 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 Purchaser, ITS, any state or federal agency authorized to audit Purchaser, and/or any of their duly authorized representatives, shall have unimpeded, prompt access to this Agreement and to any of the Seller'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 Seller's office as applicable where such records are kept during normal business hours. All records relating to this Agreement shall be retained by the Seller for three (3) years from the date of receipt of final payment under this Agreement. However, if any litigation or other legal action, by or for the state or federal government has begun that is not completed at the end of the three (3) year period, or if an audit finding, litigation or other legal action has not been resolved at the end of the three (3) year period, the records shall be retained until resolution.

ARTICLE 23 INSURANCE

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

ARTICLE 24 DISPUTES

Any dispute concerning a question of fact under this Agreement which is not disposed of by agreement of the Seller and Purchaser 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

Seller shall comply with, and all activities under this Agreement shall be subject to, all Purchaser policies and procedures, and all applicable federal, state and local laws, regulations, policies and procedures as now existing and as may be amended or modified. Specifically, but not limited to, Seller 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.

ARTICLE 26 CONFLICT OF INTEREST

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

ARTICLE 27 SOVEREIGN IMMUNITY

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

ARTICLE 28 CONFIDENTIAL INFORMATION

28.1 Seller shall treat all Purchaser 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 Purchaser. In the event that Seller 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, Seller shall promptly inform Purchaser and thereafter respond in conformity with such subpoena to the extent mandated by state and/or federal laws, rules and regulations. This Article shall survive the termination or completion of this Agreement, shall continue in full force and effect, and shall be binding upon the Seller 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 Seller following any termination or completion of this Agreement.

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

ARTICLE 29 EFFECT OF SIGNATURE

Each person signing this Agreement represents that he or she has read the Agreement in its entirety, understands its terms, is duly authorized to execute this Agreement on behalf of the

parties and agrees to be bound by the terms contained herein. Accordingly, this Agreement shall not be construed or interpreted in favor of or against the State or the Seller on the basis of draftsmanship or preparation hereof.

ARTICLE 30 OWNERSHIP OF DOCUMENTS AND WORK PRODUCTS

All data, electronic or otherwise, collected by Seller and all documents, notes, programs, data bases (and all applications thereof), files, reports, studies, and/or other material collected and prepared by Seller in connection with this Agreement, whether completed or in progress, shall be the property of Purchaser upon completion of this Agreement or upon termination of this Agreement. Purchaser hereby reserves all rights to the databases and all applications thereof and to any and all information and/or materials prepared in connection with this Agreement. Seller is prohibited from use of the above described information and/or materials without the express written approval of Purchaser.

ARTICLE 31 NON-SOLICITATION OF EMPLOYEES

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

ARTICLE 32 ENTIRE AGREEMENT

32.1 This Agreement constitutes the entire agreement of the parties with respect to the subject matter contained herein and supersedes and replaces any and all prior negotiations, understandings and agreements, written or oral, between the parties relating hereto, including all terms of any unsigned or "shrink-wrap" license included in any package, media or electronic version of Seller-furnished software, or any "click-wrap" or "browse-wrap" license presented in connection with a purchase via the internet. The LOC, General RFP No. 3616 and Seller's Proposals in response thereto are hereby incorporated into and made a part of this Agreement.

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

- A. This Agreement signed by both parties;
- B. Any exhibits attached to this Agreement;
- C. LOC;
- D. General RFP No. 3616 and written addenda, and
- E. Seller's Proposals, as accepted by Purchaser, in response to the LOC and General RFP No. 3616.

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 Seller. The documents are complementary, and what is required by one shall be binding as if required by all. A higher order document shall supersede a lower order document to the extent necessary to resolve any conflict or inconsistency arising under the various provisions thereof; provided, however, that in the event an issue is addressed in one of the above mentioned documents but is not addressed in another of such documents, no conflict or inconsistency shall be deemed to occur by reason thereof. The documents listed above are shown in descending order of priority, that is, the highest document begins with the first listed document (“A. This Agreement”) and the lowest document is listed last (“E. Seller’s Proposals”).

ARTICLE 33 SURVIVAL

Articles 6, 7, 14, 18, 22, 27, 28, 30, 31, and all other articles, which by their express terms so survive or which should so reasonably survive, shall survive any termination or expiration of this Agreement.

ARTICLE 34 DEBARMENT AND SUSPENSION CERTIFICATION

Seller 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 35 COMPLIANCE WITH ENTERPRISE SECURITY POLICY

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

Mississippi.

ARTICLE 36 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 Purchaser's or Seller's contractual obligations, financial or otherwise, contained within this Agreement.

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

**State of Mississippi, Department of
Information Technology Services, on
behalf of Mississippi State Board for
Community and Junior Colleges**

INSERT VENDOR NAME

By: _____
Authorized Signature

By: _____
Authorized Signature

Printed Name: David L. Litchliter

Printed Name: _____

Title: Executive Director

Title: _____

Date: _____

Date: _____

EXHIBIT A

EXHIBIT B

Reporting and Registration Requirements Under Section 1512 of the American Recovery and Reinvestment Act of 2009.

The recipient* agrees to the following reporting and registration requirements of Section 1512 of the American Recovery and Reinvestment Act and in accordance with 2 CFR § 176.50, if applicable:

(a) This award requires the recipient to complete projects or activities which are funded under the American Recovery and Reinvestment Act of 2009 (Recovery Act) and to report on use of Recovery Act funds provided through this award. Information from these reports will be made available to the public.

(b) The reports are due no later than ten calendar days after each calendar quarter in which the recipient receives the assistance award funded in whole or in part by the Recovery Act.

(c) Recipients and their first tier recipients must maintain current registrations in the Central Contractor Registration (<http://www.ccr.gov>) at all times during which they have active federal awards funded with Recovery Act funds. A Dun and Bradstreet Data Universal Numbering System (DUNS) Number (<http://www.dnb.com>) is one of the requirements for registration in the Central Contractor Registration.

(d) The recipient shall report the information described in section 1512(c) of the Recovery Act using the reporting instructions and data elements that will be provided online at <http://www.FederalReporting.gov> and ensure that any information that is pre-filled is corrected or updated as needed.

(e) The contractor shall ensure that all subcontracts and other contracts for goods and services for an ARRA-funded project have the mandated provisions of this directive in their contracts. Pursuant to title XV, Section 1512 of the ARRA, the State shall require that the contractor provide reports and other employment information as evidence to document the number of jobs created or jobs retained by this contract from the contractor's own workforce and any sub-contractors. No direct payment will be made for providing said reports, as the cost for same shall be included in the various items in the contract.

*As used here and hereafter, recipient means "any entity other than an individual that receives Recovery Act funds in the form of a grant, cooperative agreement or loan directly from the Federal Government." 2 CFR § 176.30.

Required Use of American Iron, Steel, and Manufactured Goods Not Covered Under International Agreements Under Section 1605 of the American Recovery and Reinvestment Act of 2009.

The recipient agrees to the following required use of American Iron, Steel, and Manufactured Goods of Section 1605 of the American Recovery and Reinvestment Act and in accordance with 2 CFR §176.140 when awarding Recovery Act funds for construction, alteration, maintenance, or repair of a public building or public work that does not involve iron, steel, and/or manufactured goods covered under international agreements, if applicable:

(a) *Definitions.* As used in this award term and condition—

(1) *Manufactured good* means a good brought to the construction site for incorporation into the building or work that has been—

- (i) Processed into a specific form and shape; or
- (ii) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

(2) *Public building and public work* means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multiState, regional, or interstate entities which have governmental functions). These buildings and works may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.

(3) *Steel* means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

(b) *Domestic preference.*

(1) This award term and condition implements Section 1605 of the American Recovery and

Reinvestment Act of 2009 (Recovery Act) (Pub. L. 111-5), by requiring that all iron, steel, and manufactured goods used in the project are produced in the United States except as provided in paragraph (b)(3) and (b)(4) of this section and condition.

(2) This requirement does not apply to the material listed by the Federal Government as follows: [Award official to list applicable excepted materials or indicate "none"]

(3) The award official may add other iron, steel, and/or manufactured goods to the list in paragraph (b)(2) of this section and condition if the Federal Government determines that—

(i) The cost of the domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase the cost of the overall project by more than 25 percent;

(ii) The iron, steel, and/or manufactured good is not produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(iii) The application of the restriction of section 1605 of the Recovery Act would be inconsistent with the public interest.

(c) *Request for determination of inapplicability of Section 1605 of the Recovery Act.*

(1)(i) Any recipient request to use foreign iron, steel, and/or manufactured goods in accordance with paragraph (b)(3) of this section shall include adequate information for Federal Government evaluation of the request, including—

(A) A description of the foreign and domestic iron, steel, and/or manufactured goods;

(B) Unit of measure;

- (C) Quantity;
- (D) Cost;
- (E) Time of delivery or availability;
- (F) Location of the project;
- (G) Name and address of the proposed supplier;
and
- (H) A detailed justification of the reason for use of foreign iron, steel, and/or manufactured goods cited in accordance with paragraph (b)(3) of this section.
- (ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this section.
- (iii) The cost of iron, steel, and/or manufactured goods material shall include all delivery costs to the construction site and any applicable duty.
- (iv) Any recipient request for a determination submitted after Recovery Act funds have been obligated for a project for construction, alteration, maintenance, or repair shall explain why the recipient could not reasonably foresee the need for such determination and could not have requested the determination before the funds were obligated. If the recipient does not submit a satisfactory explanation, the award official need not make a determination.

(2) If the Federal Government determines after funds have been obligated for a project for construction, alteration, maintenance, or repair that an exception to section 1605 of the Recovery Act applies, the award official will amend the award to allow use of the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is

nonavailability or public interest, the amended award shall reflect adjustment of the award amount, redistribution of budgeted funds, and/or other actions taken to cover costs associated with acquiring or using the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is the unreasonable cost of the domestic iron, steel, or manufactured goods, the award official shall adjust the award amount or redistribute budgeted funds by at least the differential established in 2 CFR 176.110(a).

(3) Unless the Federal Government determines that an exception to section 1605 of the Recovery Act applies, use of foreign iron, steel, and/or manufactured goods is noncompliant with section 1605 of the American Recovery and Reinvestment Act.

(d) *Data.* To permit evaluation of requests under paragraph (b) of this section based on unreasonable cost, the Recipient shall include the following information and any applicable supporting data based on the survey of suppliers:

| FOREIGN AND DOMESTIC ITEMS COST COMPARISON | | | |
|---|-----------------|----------|-----------------|
| Description | Unit of measure | Quantity | Cost (dollars)* |
| <i>Item 1:</i> | | | |
| Foreign steel, iron, or manufactured good | | | |
| Domestic steel, iron, or manufactured good | | | |
| <i>Item 2:</i> | | | |
| Foreign steel, iron, or manufactured good | | | |
| Domestic steel, iron, or manufactured good | | | |
| [List name, address, telephone number, email address, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.] [Include other applicable supporting information.] [*Include all delivery costs to the construction site.] | | | |

**Required Use of American Iron, Steel, and Manufactured Goods
Covered Under International Agreements Under Section 1605 of the
American Recovery and Reinvestment Act of 2009.**

The recipient agrees to the following required use of American Iron, Steel, and Manufactured Goods (covered under International Agreements) of Section 1605 of the of the Recovery and Reinvestment Act and in accordance with 2 CFR §176.160 when awarding Recovery Act funds for construction, alteration, maintenance, or repair of a public building or public work that involves iron, steel, and/or manufactured goods materials covered under international agreements, if applicable:

(a) *Definitions.* As used in this award term and condition—

Designated country—

(1) A World Trade Organization Government Procurement Agreement country (Aruba, Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, and United Kingdom);

(2) A Free Trade Agreement (FTA) country (Australia, Bahrain, Canada, Chile, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Israel, Mexico, Morocco, Nicaragua, Oman, Peru, or Singapore); or

(3) A United States-European Communities Exchange of Letters (May 15, 1995) country: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, and United Kingdom.

Designated country iron, steel, and/or manufactured goods—

(1) Is wholly the growth, product, or manufacture of a designated country; or

(2) In the case of a manufactured good that consist in whole or in part of materials from another country, has been substantially transformed in a designated country into a new and different manufactured good distinct from the materials from which it was transformed.

Domestic iron, steel, and/or manufactured good—

(1) Is wholly the growth, product, or manufacture of the United States; or

(2) In the case of a manufactured good that consists in whole or in part of materials from another country, has been substantially transformed in the United States into a new and different manufactured good distinct from the materials from which it was transformed. There is no requirement with regard to the origin of components or subcomponents in manufactured goods or products, as long as the manufacture of the goods occurs in the United States.

Foreign iron, steel, and/or manufactured good means iron, steel, and/or manufactured good that is not domestic or designated country iron, steel, and/or manufactured good.

Manufactured good means a good brought to the construction site for incorporation into the building or work that has been—

(1) Processed into a specific form and shape; or

(2) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

Public building and public work means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multiState, regional, or interstate entities which have governmental functions). These buildings and works may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways,

airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.

Steel means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

(b) *Iron, steel, and manufactured goods.*

(1) The award term and condition described in this section implements—

(i) Section 1605(a) of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5) (Recovery Act), by requiring that all iron, steel, and manufactured goods used in the project are produced in the United States; and

(ii) Section 1605(d), which requires application of the Buy American requirement in a manner consistent with U.S. obligations under international agreements. The restrictions of section 1605 of the Recovery Act do not apply to designated country iron, steel, and/or manufactured goods. The Buy American requirement in section 1605 shall not be applied where the iron, steel or manufactured goods used in the project are from a Party to an international agreement that obligates the recipient to treat the goods and services of that Party the same as domestic goods and services. This obligation shall only apply to projects with an estimated value of \$7,443,000 or more.

(2) The recipient shall use only domestic or designated country iron, steel, and manufactured goods in performing the work funded in whole or part with this award, except as provided in paragraphs (b)(3) and (b)(4) of this section.

(3) The requirement in paragraph (b)(2) of this section does not apply to the iron, steel, and manufactured goods listed by the Federal Government as follows:

[Award official to list applicable excepted materials or indicate “none”]

(4) The award official may add other iron, steel, and manufactured goods to the list in paragraph (b)(3) of this section if the Federal Government determines that—

(i) The cost of domestic iron, steel, and/or manufactured goods would be unreasonable. The cost

of domestic iron, steel, and/or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase the overall cost of the project by more than 25 percent;

(ii) The iron, steel, and/or manufactured good is not produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality;

or

(iii) The application of the restriction of section 1605 of the Recovery Act would be inconsistent with the public interest.

(c) *Request for determination of inapplicability of section 1605 of the Recovery Act or the Buy American Act.*

(1)(i) Any recipient request to use foreign iron, steel, and/or manufactured goods in accordance with paragraph (b)(4) of this section shall include adequate information for Federal Government evaluation of the request, including—

(A) A description of the foreign and domestic iron, steel, and/or manufactured goods;

(B) Unit of measure;

(C) Quantity;

(D) Cost;

(E) Time of delivery or availability;

(F) Location of the project;

(G) Name and address of the proposed supplier; and

(H) A detailed justification of the reason for use of foreign iron, steel, and/or manufactured goods cited in accordance with paragraph (b)(4) of this section.

(ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this section.

(iii) The cost of iron, steel, or manufactured goods shall include all delivery costs to the construction site and any applicable duty.

(iv) Any recipient request for a determination submitted after Recovery Act funds have been obligated for a project for construction, alteration, maintenance, or repair shall explain why the recipient could not reasonably foresee the need for such determination and could not have requested the determination before the funds were obligated. If the recipient does not submit a satisfactory explanation, the award official need not make a determination.

(2) If the Federal Government determines after funds have been obligated for a project for construction, alteration, maintenance, or repair that an exception to section 1605 of the Recovery Act applies, the award official will amend the award to allow use of the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is nonavailability or public interest, the amended award shall reflect adjustment of the award amount, redistribution of budgeted funds, and/or other appropriate actions taken to cover costs associated with acquiring or using the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is the unreasonable cost of the domestic iron, steel, or manufactured goods, the award official shall adjust the award amount or redistribute

budgeted funds, as appropriate, by at least the differential established in 2 CFR 176.110(a).

(3) Unless the Federal Government determines that an exception to section 1605 of the Recovery Act applies, use of foreign iron, steel, and/or manufactured goods other than designated country iron, steel, and/or manufactured goods is noncompliant with the applicable Act.

(d) *Data.* To permit evaluation of requests under paragraph (b) of this section based on unreasonable cost, the applicant shall include the following information and any applicable supporting data based on the survey of suppliers:

| FOREIGN AND DOMESTIC ITEMS COST COMPARISON | | | |
|--|-----------------|----------|-----------------|
| Description | Unit of measure | Quantity | Cost (dollars)* |
| <i>Item 1:</i> | | | |
| Foreign steel, iron, or manufactured good | | | |
| Domestic steel, iron, or manufactured good | | | |
| <i>Item 2:</i> | | | |
| Foreign steel, iron, or manufactured good | | | |
| Domestic steel, iron, or manufactured good | | | |
| [List name, address, telephone number, email address, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.] | | | |
| [Include other applicable supporting information.] | | | |
| [*Include all delivery costs to the construction site.] | | | |

Wage Rate Requirements under Section 1606 of the American Recovery and Reinvestment Act.

The recipient agrees to the following wage rate requirements of Section 1606 of the Recovery and Reinvestment Act and in accordance with 2 CFR §176.190 when issuing announcements or requesting applications for Recovery Act programs or activities that may involve construction, alteration, maintenance, or repair, if applicable:

When issuing announcements or requesting applications for Recovery Act programs or activities that may involve construction, alteration, maintenance, or repair the agency shall use the award term described in the following paragraphs:

(a) Section 1606 of the Recovery Act requires that all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the Recovery Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by

the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. Pursuant to Reorganization Plan No. 14 and the Copeland Act, 40 U.S.C. 3145, the Department of Labor has issued regulations at 29 CFR parts 1, 3, and 5 to implement the DavisBacon and related Acts. Regulations in 29 CFR 5.5 instruct agencies concerning application of the standard DavisBacon contract clauses set forth in that section. Federal agencies providing grants, cooperative agreements, and loans under the Recovery Act shall ensure that the standard DavisBacon contract clauses found in 29 CFR 5.5(a) are incorporated in any resultant covered contracts that are in excess of \$2,000 for construction, alteration or repair (including painting and decorating).

(b) For additional guidance on the wage rate requirements of section 1606, contact your awarding agency. Recipients of grants, cooperative agreements and loans should direct their initial inquiries concerning the application of DavisBacon requirements to a particular federally assisted project to the Federal agency funding the project. The Secretary of Labor retains final coverage authority under Reorganization Plan Number 14.

Recipient Responsibilities regarding tracking and documenting Expenditures under the American Recovery and Reinvestment Act of 2009.

The recipient agrees to the following tracking and documenting responsibilities required by Section 1606 of the Recovery and Reinvestment Act and in accordance with 2 CFR §176210, if applicable:

(a) To maximize the transparency and accountability of funds authorized under the American Recovery and Reinvestment Act of 2009 (Pub. L. 111– 5) (Recovery Act) as required by Congress and in accordance with 2 CFR 215.21 “Uniform Administrative Requirements for Grants and Agreements” and OMB Circular A–102 Common Rules provisions, recipients agree to maintain records that identify adequately the source and application of Recovery Act funds. OMB Circular A–102 is available at <http://www.whitehouse.gov/omb/circulars/a102/a102.html>.

(b) For recipients covered by the Single Audit Act Amendments of 1996 and OMB Circular A–133, “Audits of States, Local Governments, and NonProfit Organizations,” recipients agree to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF–SAC) required by OMB Circular A–133. OMB Circular A–133 is available at <http://www.whitehouse.gov/omb/circulars/a133/a133.html>. This shall be accomplished by identifying expenditures for Federal awards made under the Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF–SAC by CFDA number, and inclusion of the prefix “ARRA” in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF–SAC.

(c) Recipients agree to separately identify to each subrecipient, and document at the time of subaward and at the time of disbursement of funds, the Federal award number, CFDA number, and amount of Recovery Act funds. When a recipient awards Recovery Act funds for an existing program, the information furnished to subrecipients shall distinguish the subawards of incremental Recovery Act funds from regular subawards under the existing program.

(d) Recipients agree to require their subrecipients to include on their SEFA information to specifically identify Recovery Act funding similar to the requirements for the recipient SEFA described above. This information is needed to allow the recipient to properly monitor subrecipient expenditure of ARRA funds as well as oversight by the Federal awarding agencies, Offices of Inspector General and the Government Accountability Office.

Requirement to Comply with Provision of Section 902 of the American Recovery and Reinvestment Act of 2009

Section 902 of the ARRA requires that each contract awarded using ARRA funds must include a provision that provides the U.S. Comptroller General and his representatives with the authority to:

(1) Examine any records of the contractor or any of its subcontractors, or any State or local agency administering such contract, that directly pertain to, and involve transactions relating to, the contract or subcontract; and (2) Interview any officer or employee of the contractor or any of its subcontractors, or of any State or local government agency administering the contract, regarding such transactions.

Accordingly, the Comptroller General and his representatives shall have the authority and rights prescribed under Section 902 of the ARRA with respect to contracts funded with recovery funds made available under the ARRA. Section 902 further states that nothing in 902 shall be interpreted to limit or restrict in any way any existing authority of the Comptroller General.

Required Whistleblower Protection Under Section 1553 of the American Recovery and Reinvestment Act of 2009.

Section 1153 of Division A, Title XV of the American Recovery and Reinvestment Act of 2009, P.L. 111-5, provides protections for certain individuals who make specified disclosures relating to recovery Act funds. Any non-federal employer receiving recovery funds is required to post a notice of the rights and remedies provided under this section of the Act.

Required Provision Noting Authority of Inspector General in of Section 1515(a) of the American Recovery and Reinvestment Act of 2009

Section 1515(a) of the ARRA provides authority for any representatives of the United States Inspector General to examine any records or interview any employee or officers working on this contract. The contractor is advised that representatives of the Inspector General have the authority to examine any record and interview any employee or officer of the contractor, its subcontractors or other firms working on this contract. Section 1515(b) further provides that nothing in this section shall be interpreted to limit or restrict in any way any existing authority of an Inspector General.

Required Provision to Comply with NEPA and NHPA
Construction, Renovation, and Remodeling Projects Only

ARRA funded projects may be required to comply with the National Environmental Policy Act (NEPA), the National Historic Preservation Act (NHPA), and related statutes, including requirements for plans and projects to be reviewed and documented in accordance with those processes. If the ARRA program from which funds are to be expended requires such language, then NEPA and NHPA requirements may need to be included in contracts or sub-grants. Such language would be dependent on federal oversight agency guidance as well as from the following: http://nepa.gov/nepa/regs/CEQ_1609_NEPA_Guidance_03-12.pdf (NEPA only)

Requirement to Acknowledge Availability and Use of Funds

Contractors understand and acknowledge that any and all payment of funds or the continuation thereof is contingent upon funds provided solely by ARRA or required state matching funds. Pursuant to Section 1604 of the ARRA, contractors agree not to undertake or make progress toward any activity using recovery funds that will lead to the development of such activity as casinos or other gambling establishments, aquariums, zoos, golf courses, swimming pools or any other activity specifically prohibited by the Recovery Act.

Requirement Regarding Federal, State and Local Tax Obligations

By submission of a proposal, contractors and subcontractors assert and self-certify that all Federal, State and local tax obligations have been or will be satisfied prior to receiving recovery funds.

Requirement to Comply with Anti-Discrimination and Equal Opportunity Statutes

Pursuant to Section 1.7 of the guidance memorandum issued by the United States Office of Management and Budget on April 3, 2009, ARRA Recovery funds must be distributed in accordance with all anti-discrimination and equal opportunity statutes, regulations, and Executive Orders pertaining to the expenditure of funds.

Requirement to Comply With All Other ARRA Requirements

The contractor will comply with any other requirements of ARRA, upon notification by this entity.

Requirement to Comply with E-Verification Provision of Section 71-11-3 of the Mississippi Code of 1972, as amended

The respondent represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act (§71-11-3 of the Mississippi Code of 1972, 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. Contractor agrees to maintain records of such compliance and, upon request of the State, to provide a copy of each such verification to the State. Contractor further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Mississippi. Contractor understands and agrees that any breach of these warranties may subject contractor to the following:

- (a) termination of this Agreement and ineligibility for any State or public contract in Mississippi for up to three (3) years with notice of such cancellation/termination being made public;
- (b) the loss of any license, permit, certification, or other document granted to contractor by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year or both.
- (c) In the event of such termination/cancellation, contractor would also be liable for any additional costs incurred by the State due to contract cancellation or loss of license or permit.