



**THIS IS NOT
AN ORDER**

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

Date: March 9, 2021

Bid No. 21-50

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

2:00 p.m. CT

March 26, 2021

Buyer: Jessica Whitten

Name: _____

Company: _____

Address: _____

City/State/Zip: _____

TERMS - Bidder should state terms of sale. Our terms are 2% ten days, net 45 days.

These terms will apply per Mississippi law.

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

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

| ITEM | QUANTITY | DESCRIPTION | UNIT PRICE | TOTAL NET PRICE |
|------|----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|-----------------|
| | | <p align="center">RFx #3160004194</p> <p align="center">DESCRIPTION</p> <p align="center">RFP 21-50 Mobile Application Development Platform</p> <p>PROPOSAL MUST BE RETURNED TO THE UNIVERSITY IN ACCORDANCE WITH THE SPECIFICATIONS. BID NUMBER AND DATE OF BID OPENING MUST BE SHOWN ON THE OUTSIDE OF THE ENVELOPE IF USING THAT METHOD.</p> | | |

We quote you as above-F.O.B. The University of Southern Mississippi. Shipment can be made in _____ days from receipt of order. DATE _____ TERMS _____
Return quotation to Procurement Services at above address.

Signature Required _____

**THE UNIVERSITY OF SOUTHERN MISSISSIPPI
PROCUREMENT SERVICES
118 COLLEGE DRIVE
#5003
HATTIESBURG, MS 39406-0001**

GENERAL TERMS, CONDITIONS AND INSTRUCTIONS FOR BIDS/PROPOSALS

- 1.) Failure to examine any drawings, specifications, and instructions will be at bidder's risk.
- 2.) Samples of items when called for must be furnished free of expense and if not destroyed in testing, will, upon request, be returned at the bidder's expense. Request for the return of samples must be made within ten (10) days following opening bids. Each individual sample must be labeled with bidder's name and manufacturer's brand name and number.
- 3.) Bids must be signed and sealed with bidder's name and address on the outside of the envelope, and the time and date of the bid opening and the bid file number shown in the lower-left corner of the packages; envelopes, express mailing labels, boxes, etc.
- 4.) At least one (1) signed original and one (1) signed copy of the bid **MUST** be provided. The University **requires** a portable electronic virus/malware free copy (thumb drive) of the bid response from the responding Vendor to be included in the bid response package. If an electronic copy is not included, the University reserves the right to request an electronic copy of the **exact** bid response prior to review of the bid.
- 5.) For your bid to be considered, it must be received, and time stamped in our office by 2:00 P.M. of the bid opening date. It is the responsibility of the vendor to ensure their bid is received within the appointed time. If your bid package is not received in Bond Hall, Room 214, by 2:00 P.M. of the bid opening date, it will not be considered.
 - a. If you are delivering your bid, you need to hand carry the bid package to: The University of Southern Mississippi
Procurement Services
Bond Hall, Room 214
Hattiesburg, Mississippi
 - b. If you are mailing your bid package via U.S. Postal Service, mail to: The University of Southern Mississippi
Procurement Services
118 College Drive #5003
Hattiesburg, MS 39406-0001
 - c. If you are express mailing your bid package via Federal Express or UPS, or any other delivery service which requires the use of a physical address, deliver to:

The University of Southern Mississippi
Procurement Services – RFP 21-50
2609 West 4th Street
Hattiesburg, MS 39401

- 6.) Bids or proposals shall not be modified, corrected, altered, or amended after the specified closing time and the opening of such bids, unless otherwise noted in the request for bids or proposals.
- 7.) The University of Southern Mississippi reserves the right to reject any and all bids, to waive any informality in bids, and unless otherwise specified by the bidders, to accept any items on the bid. If the bidder fails to state the time within which bids must be accepted, it is understood and agreed that The University of Southern Mississippi shall have 90 days to accept. The University of Southern Mississippi reserves the right to make an award to this bid on an all or none basis, or on a line by line basis, whichever serves the best interest of The University of Southern Mississippi.
- 8.) Contracts and purchases will be made or entered into with the lowest, responsible bidder meeting specifications.
- 9.) A written purchase order or contract award mailed or otherwise furnished to the successful bidder within the time of acceptance specified in the Invitation for Bid results in a binding contract without further action by either party. The contract shall not be assignable by the vendor in whole or in part without the written consent of The University of Southern Mississippi.
- 10.) Unless written exception is provided in the bid response, the winning Vendor agrees to be bound by the USM Terms and Conditions, which are incorporated herein, and may be found at <https://www.usm.edu/procurement-contract-services/usm-terms-and-conditions.php>.
- 11.) Respondents are required to comply with all applicable local, State and Federal laws, codes, ordinances, and regulations in the provision of the materials required.
- 12.) Respondents must comply with Personally Identifiable Information (PII) data protection regarding State, Federal, and University regulations and policies.
- 13.) Legal Provisions to Which USM Cannot Agree
 - a. Any provisions disclaiming implied warranties shall be null and void. See Mississippi Code Annotated Sections 11-7-18 and 75-2-719(4). The Vendor shall not disclaim the implied warranties of merchantability and fitness for a particular purpose.
 - b. Any limitation of liability for claims related to the following items:
 - i. Infringement issues;
 - ii. Bodily injury;
 - iii. Death;
 - iv. Physical damage to tangible personal and/or real property; and/or the intentional and willful misconduct or negligent acts of the Vendor

and/or Vendor's employees or subcontractors.

- c. Any requirements that the University pay interest, except for those in conjunction with USM's standard payment terms of Net 45 days. Payments made beyond 45 days are subject to late fees and interest.
 - d. Any terms and conditions in the purchase contract that conflict with the laws of the State of Mississippi. Any such instances shall require a revision of the terms and conditions to ensure compliance with Mississippi state law.
 - e. Any provision requiring USM to pay attorney's fees, prejudgment interest or costs associated with any legal action to or for the Vendor, except that which are ordered by a court of competent jurisdiction.
- 14.) Bid files can only be examined during normal working hours by interested parties, but only after the official award has been made.
 - 15.) If purchase orders or contracts are canceled because of the awarded vendor's failure to perform or request for price increase, that vendor shall be removed from our bidders' list for a period of 24 months.
 - 16.) No addendum will be issued within a period of two (2) working days prior to the time and date set for the bid opening. Should it become necessary to issue an addendum within the two-day period prior to the bid opening, the bid date will be reset giving bidders ample time to answer the addendum.
 - 17.) Alternate bids, unless specifically requested or allowed, will not be considered.
 - 18.) Bid openings will be conducted open to the public. However, they will serve only to open the bids. No discussion will be held with any vendor as to the quality or provisions of the specifications, and no award will be made either stated or implied at the bid opening. After the close of the bid opening meeting, the bids will be considered to be in the evaluation process and will not be available for review by bidders. Proposal openings are not required to be open to the public; however, the resulting award is open for public inspection.
 - 19.) Prices quoted shall be firm for the term of the contract or for the stated time of acceptance.
 - 20.) The bidder understands that The University of Southern Mississippi is an equal opportunity employer and, therefore, maintains a policy which prohibits unlawful discrimination based on race, color, creed, sex, age, national origin, physical handicap, disability, or any other such discrimination; and the bidder, by signing this bid, agrees during the term of agreement that the bidder will strictly adhere to this policy in its employment practices and provision of products or services.
 - 21.) Bidders must upon request of The University of Southern Mississippi furnish satisfactory evidence of their ability to furnish products or services in accordance with the terms and conditions of these specifications. The University of Southern Mississippi reserves the right to make the final determination as to the bidder's ability.

- 22.) Questions or problems arising from bid procedures should be directed to the Buyer listed on the solicitation at:

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

- 23.) All items must equal or exceed the specifications listed. The absence of detail specifications or the omission of detail description shall be recognized as meaning that only the best commercial practices are to prevail, and that only first quality materials and workmanship are to be used.
- 24.) It is the intent of the specifications to obtain a product that will adequately meet the needs of the user while promoting the greatest extent of competition that is practicable. It is the responsibility of the prospective bidder to review the entire Invitation to Bid packet and to notify The University of Southern Mississippi if the Specifications, Instructions, General, or Special Conditions are formulated in a manner which would unnecessarily restrict competition.
- 25.) It shall be incumbent upon the bidders to understand the specifications. Any requests for clarifications shall be in writing and shall be submitted to our Procurement Services office at least seven (7) business days prior to the time and date set for the bid opening, unless otherwise noted in the bid or proposal specifications.
- 26.) The minimum specifications are used to set a standard and in no case are used with the intention to discriminate against any manufacturer. Bidders should note the name and the manufacturer and model number of the product they propose to furnish and submit descriptive literature.
- 27.) Trade names, brand names, and/or manufacturer's information used in these specifications are for the purpose of establishing a level of quality, unless otherwise noted. Bids on products of other qualified manufacturers are acceptable, provided they are demonstrated as equal to those specified in construction, design and suitability. Each bidder shall submit with his bid a complete brochure with pictures on each item and shall point out specifically any deviations from the specified items. Failure to do so may disqualify any bid. Please bid as specified or an approved equal.
- 28.) A copy of the manufacturer's standard guarantee/warranty shall accompany and become a part of this bid.
- 29.) There are no federal or state laws that prohibit bidders from submitting a bid lower than a price or bid given to the U.S. Government. Bidders may bid lower than U.S. Government contract price without any liability as The University of Southern Mississippi is exempt from the provisions of the Robinson-Patman Act and other related laws. In addition, the U.S. Government has no provisions in any of its purchasing arrangements with bidders whereby a lower price to The

University of Southern Mississippi must automatically be given to the U.S. Government.

- 30.) All invoices, unless noted otherwise, are to be billed to:

The University of Southern Mississippi
IT Invoices
118 College Drive #5181
Hattiesburg, MS 39406-0001
ITInvoices@usm.edu

- 31.) All equipment bid shall be of current production and of the latest design and construction.
- 32.) Where all, or part(s), of the bid is requested on a unit price basis, both the unit prices and the extension of the unit prices constitute a basis of determining the lowest responsible and responsive bidder. In cases of error in the extension of price, the unit price will govern.
- 33.) Should the University close due to inclement weather conditions, or any other unforeseen events on the bid opening date, sealed solicitations will open the following business day at the same time and location.
- 34.) The University reserves the right to solicit Best and Final Offers (BAFOs) from Vendors, principally in situations in which proposal costs eclipse available funding, or the University believes none of the competing proposals presents a Best Value (lowest and best proposal) opportunity. Because of the time and expense incurred by both the Vendor community and the University, BAFOs are not routinely conducted. Vendors should offer their best pricing with the initial solicitation. Situations warranting solicitation of a BAFO will be considered an exceptional practice for any procurement. Vendors that remain in a competitive range within an evaluation may be requested to tender Best and Final Offers, at the sole discretion of the University. All such Vendors will be provided an equal opportunity to respond with a Best and Final Offer under a procedure to be defined by the University that encompasses the specific, refined needs of a project, as part of the BAFO solicitation. The University may re-evaluate and amend the original project specifications should it be deemed necessary in order to improve the opportunity for attaining Best Value scenarios from among the remaining competing Vendors. All BAFO proceedings will be uniformly conducted, in writing, and be subject to solicitation by the University and receipt from the Vendors under a precise schedule
- 35.) As an alternative to traditional sealed bids in envelopes, the University of Southern Mississippi is capable of receiving electronic bid responses. While this option is available, it is not required and we ask that all potential respondents keep in mind that with any electronic system there could be delays or glitches with the submission process; therefore the University highly encourages traditional sealed bids which are either mailed or submitted in person. Should a vendor choose to submit their response electronically, please follow the instructions below using the following website:

https://www.ms.gov/dfa/contract_bid_search/Home/Sell. On this site you will find helpful links to procurement opportunities, as well as a link to supplier registration. If not already registered in this system, potential bidders will first need to click on 'Supplier Registration' and follow the steps outlined (a one-time process). Once registered, they can return to the original website and click on 'Procurement Opportunities' where they can either search by keyword for the bid they desire to respond to or leave the search box blank and click 'Search' for a listing of all current bids and proposals for the various State of Mississippi offices. The University will not be responsible for any late submissions, especially any issues related to electronic submissions, as the electronic bidding system is not owned or maintained by the University.

AA/EOE/ADA



THE UNIVERSITY OF
SOUTHERN
MISSISSIPPI.[®]

**Mobile Application
Development Platform**

REQUEST FOR BIDS

March 9, 2021

A. Instructions to Vendors

The Request for Bids coversheet must be included in all sealed proposals for this bid.

Each bid must be submitted in a sealed envelope bearing on the outside the name "Mobile Application Development Platform," the name of the Vendor, the Vendor address, and the notification of opening on the specified date on the coversheet.

B. Payment

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

The University requests to be invoiced annually.

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

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

C. Length of Agreement

The University of Southern Mississippi is seeking a five (5) year agreement. Please include pricing in bid response.

D. References: Respondents *SHOULD* provide a minimum of three (3) customer references, including contact information, that have implemented the proposed solution and/or services in the last 12 months; preferably from higher education institutions.

E. Legibility and Organization: Proposals *MUST* be printed, written in English, legible, and appropriately structured. Each page needs be numbered sequentially. Proposals *MUST* be bound.

F. Service Level Agreement

A draft Service Level Agreement (SLA) should be submitted with the response if hosting is included in the bid. Failure to provide an SLA can result in the response being rejected from consideration.

G. Right to Use Proposals in Future Projects

The State reserves the right to evaluate the awarded proposal from this RFP, including all products and services proposed therein, along with the resulting contractual terms, for possible use in future projects if (a) it is deemed to be in the best interest of the State to do so; and (b) the Vendor is willing to extend a cost less than or equal to that specified in the awarded proposal and resulting contract. A decision concerning the utilization of a Vendor's proposal for future projects is solely

at the discretion of the State and requires the agreement of the proposing Vendor. The State’s decision to reuse an awarded proposal will be based upon such criteria as: (1) the customer’s business requirements; (2) elapsed time since the award of the original project; and/or (3) research on changes in the Vendor, market, and technical environments since the initial award.

H. Pre-Payments with Pro-Rata Refund

State law (Section 31-7-305 of the Mississippi Code Ann.) authorizes the issuance of payment after receipt of the invoice and receipt, inspection, and approval of the goods and/or services. The intent is that goods and services must be received, inspected, and accepted prior to payment. Pursuant to this requirement, where pre-payment has been authorized, all pre-payment contracts will require the following statement in the Termination section: “Upon termination of this Agreement by Licensee or by Licensor, Licensor shall issue Licensee a refund of a proportionate share (based on the number of days in the term year before and after the termination) of the Annual Fees paid with respect to that term year.”

I. Criteria for Award

The Vendor selected for an award will be the Vendor whose proposal, as presented in the response to this RFP, is the most advantageous. The university is not bound to accept the lowest priced proposal if that proposal is not in the best interest of the university as determined by the Evaluation Committee and iTech Department based on the table below:

| Description | Possible Points |
|--------------------------------|------------------------|
| Cost | 255 |
| Requirements | 306 |
| Proposal Organization | 25 |
| Delivery Schedule/Project Plan | 100 |
| References | 25 |
| Service Level Agreement | 10 |
| Total Points | 721 |

Consideration may also be given to any additional information and comments if they should increase the benefits to the university. Upon completion of the initial review and evaluation of the proposals submitted, selected Vendors may be invited to participate in a virtual, live demonstration of software operating in a production environment.

Travel expenses must not be billed separately. Proposal must take into account the cost of any travel expenses.

Three references are required. We will ask the references the following questions.

| | | |
|-------------------------------------|----------------------------------------------------------------------------------------------|-------|
| Prior Experience | Would you utilize the firm again with a similar project and recommend them? | 5 pts |
| Staff Experience | How were the experience and quality of staff assigned to the project? | 5 pts |
| Cost of Entire Project | Did the Vendor complete the project within the parameters of the originally proposed budget? | 5 pts |
| Functionality of Application | Has application met the desired functionality request? | 5 pts |
| Timeliness | Was the project completed in a timely manner? | 5 pts |

J. Cloud Hosted Services

The winning Vendor of a cloud hosted solution proposed must allow the University to comply with the “Mississippi Department of Information Technology Services, Security Services Division, State of Mississippi Enterprise Cloud Offsite Internet Hosting Security Policy.” A copy of this policy can be provided to a designated contact for any Vendor that has completed an Intent to Bid from the University website

Any contract awarded for a cloud hosted solution will be **required** to address the clauses included in Appendix D of this RFP as it relates to Public Data prior to a Purchase Order being issued.

K. Bid Specifications

The Vendor response must meet the specifications and requirements listed in Appendix C. The Vendor must enter a response to each of the items in the Excel spreadsheet provided.

The Excel spreadsheet must be included in the submitted response. Responses must be submitted in the same order as the RFP and should include the question number listed so responses can be easily compared. Southern Miss has no obligation to locate or acknowledge any information in the proposal that is not presented according to these instructions

Vendors that do not meet all required specifications are subject to disqualification. Preferred specifications are considered “nice-to-have” functionality that may be chosen for inclusion or not included in the final contract or at a later stage. While the satisfaction of the preferred requirements will be considered in evaluating the submissions, proposals are not required to satisfy them.

L. Additional Requirements

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

If applicable, in the event there is an incumbent vendor, the cost of converting the existing system to a new system will be required in the analysis of final costs.

Delivery is required within 30 days of issuance of purchase order. If vendor is unable to meet this requirement, vendor must provide best possible delivery schedule. The delivery schedule will be scored based on the vendor's ability to meet the anticipated delivery as closely as possible. Delivery does not mean that implementation is complete but the actual start of the project.

The software contract including support and maintenance must be operational and live by September 1, 2021. If the vendor is unable to meet this requirement, the vendor must describe best possible delivery schedule.

M. Introduction/Objective

The mobile application development platform should provide a comprehensive solution that delivers an integrated end user experience by implementing capabilities such as: flexible application design and creation, communication through global or highly targeted messages, real time analytics, integration with other platforms and data sources, and provides everything in a cohesive, user-friendly, no-code application creation experience. People with or without technical knowledge from our organization should be able to contribute to the application experience by being assigned different administration levels for different aspects of the application with minimal training. Administrators should be able to take advantage of the granularly deployable application. This will allow them to select updated content, functionalities, and/or designs to be deployed to a test environment first, and to a live environment later at any time without the need to re-submit it to the application stores.

The solution is to provide the user with efficient access to the university's up to date information benefitting the user's experience throughout their time as part of the university. The feedback delivered by real time analytics will help the university understand the needs of users in different roles. This will allow the university's mobile application administrators to adapt the design of the application accordingly to deliver the appropriate information, at the right time, to the right user.

Appendix A

THE UNIVERSITY OF SOUTHERN MISSISSIPPI SERVICES CONTRACT

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

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

WHEREAS, USM is willing to pay for those services.

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

Therefore, the parties hereby agree as follows:

- A. Both parties agree to all terms and conditions set forth in Standard Terms and Conditions, with the exception of any exceptions, additions, alterations, or revisions set forth in Exceptions to the University of Southern Mississippi Standard Terms and Conditions.
- B. Contractor shall:
Provide the following services:
 - 1. *(the scope of services should be clearly defined)*
 - 2. _____
 - 3. _____
 - 4. _____
 - 5. _____
 - 6. Refrain from using USM’s name, work mark, or other university identifier.
 - 7. Refrain from using the name or title of any USM official.
 - 8. Refrain from projecting their product, or the work entailed therewith, as being approved by or otherwise endorsed by USM, its entities or officials.

- C. For the services set forth herein, USM will pay Contractor as follows:
 1. *(the amount of payment should be clearly defined) The timing of payment is set forth in Standard Terms and Conditions, Section A.*

D. Notices

All notices required or permitted to be given under this agreement must be in writing and personally delivered or sent by electronic means provided that the original of such notice is sent by certified U.S. Mail, postage prepaid, return receipt requested, to the persons at the address shown below. The parties agree to notify the other in writing of any change of address.

For Contractor:

For USM:

 P.O. Box _____
 Hattiesburg, MS 39406

STANDARD TERMS AND CONDITIONS

A. Payment

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

B. Availability of Funds

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

C. Representation Regarding Contingent Fees and Gratuities

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

D. Equal Employment Opportunity

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

E. Assignment Prohibition

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

- F. Authority to Contract
Contractor warrants (a) that it is a validly organized business with valid authority to enter into this agreement; (b) that it is qualified to do business and is in good standing in the State of Mississippi; (c) that entry into and performance under this agreement is not restricted or prohibited by any loan, security, financing, contractual, or other agreement of any kind, and (d) notwithstanding any other provisions of this agreement to the contrary, that there are no existing legal proceedings or prospective legal proceedings, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under this agreement.
- G. Failure to Enforce
The failure by USM at any time to enforce the provisions of this agreement shall not be construed as a waiver of any such provision. Such failure to enforce shall not affect the validity of the contract or any part thereof or the right for USM to enforce the provisions at any time in accordance with the terms.
- H. Contractor-Independent Contractor
Contractor shall at all times be regarded as and shall be legally considered an independent contractor and neither Contractor nor its employees shall, under any circumstances, be considered servants, agents or employees of USM, and USM shall at no time be legally responsible for any negligence or other wrongdoing by Contractor, its partners, principals, officers, agents, employees or representatives. USM shall not be responsible for any federal and state unemployment tax, federal or state income taxes, Social Security taxes, or any other amounts for the benefit of Contractor or any of its partners, principals, officers, agents, employees or representatives. USM shall not provide to Contractor, its partners, principals, officers, agents, employees or representatives any insurance coverage or other benefits, including, but not limited to, Worker's Compensation, which are normally provided by USM to its employees. Contractor's personnel shall not be deemed in any way, directly, indirectly, expressly or by implication, to be employees of USM. Nothing contained in this agreement or otherwise shall be deemed or construed as creating the relationship of principal and agent, partners, joint venturers, or any similar relationship between USM and the Contractor. At no time shall Contractor be authorized to do so and at no time shall Contractor act as an agent for or of USM.
- I. Indemnification and Insurance
Contractor and its officers shall indemnify, defend, save and hold harmless, protect, and exonerate the State of Mississippi, the Board of Trustees of State Institutions of Higher Learning, USM, and each of their officers, agents, employees, and representatives, both in their official and in their individual capacities, from and against all claims, demands, liabilities, suits, actions, damages, losses and costs of every kind and nature whatsoever, including, without limitation, court costs, investigative fees and expenses and attorney's fees, arising out of or caused by Contractor and its' partners, principals, officers, agents, employees or representatives related to actions or inactions of

Contractor, its partners, principals, officers, agents, employees and representatives. In USM's sole discretion, Contractor may be allowed to control the defense of any such claim, suit, etc., but in such event, Contractor shall use legal counsel acceptable to USM. Contractor shall be solely responsible for all costs and/or expenses associated with such defense and USM shall be entitled to participate in said defense. Contractor shall not settle any claim, suits, etc., without USM's written concurrence, which concurrence USM shall not unreasonably withhold.

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

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

Comprehensive General Liability:

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

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

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

J. Attorney's Fees and Expenses

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

- K. Patents and Copyrights
Contractor covenants to save, defend, keep harmless, and indemnify the State of Mississippi, the Board of Trustees of State Institutions of Higher Learning, USM, and each of their officers, agents, employees, and representatives, both in their official and in their individual capacities, from and against all claims, losses, damages, injury, fines, penalties, and costs, including court costs and attorney's fees, charges, and other liability and exposure however caused for or on account of any copyright or patent infringement that may result from activities related to this agreement and the actions/inactions hereunder by the parties. This indemnification is not separate from that set forth elsewhere in this agreement and is not a limitation thereon, but instead is in conjunction therewith and is recited to ensure that the full breadth of the indemnification provisions contained elsewhere in this agreement are understood by the parties.
- L. Disputes
Contractor agrees that any and all disputes between the parties to this agreement must be submitted to the USM Vice President for Finance and Administration for consideration and a final decision. If Contractor is dissatisfied with that final decision, the dispute may, at the option of USM, be subjected to resolution by mediation prior to any action being taken by Contractor toward litigation.
- M. Modifications to Agreement
This Agreement represents the entire understanding between the parties with respect to the subject matter hereof, and this Agreement supersedes all previous representations, understandings or agreements, oral or written, between the parties with respect to the subject matter and cannot be modified except by a written instrument signed by the parties. All attached schedules and exhibits are hereby incorporated by reference to this Agreement.
- N. Ownership of Documents and Work Papers
USM shall own all documents, files, reports, work papers and working documents, electronic or otherwise, created by Contractor in connection with this agreement.
- O. Severability
If any part of this agreement is declared to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision of the agreement, and to that end the provisions hereof are severable. In such event, the parties shall amend the agreement as necessary to reflect the original intent of the parties and to bring any invalid or unenforceable provisions in compliance with applicable law.
- P. Termination for Convenience
USM may, when the interests of USM so require, terminate this agreement in whole or in part for convenience of USM. Written notice of the same is required to be provided by USM and shall allow no less than ten (10) days' notice prior to the effective date of termination.
- Q. Termination for Cause

Either party may terminate this agreement immediately upon issuance of written notice if the other party fails to perform the obligations to the other party under this agreement. The party issuing such a termination notice may allow 30 days within which the other party may attempt to cure the failure to fulfill its obligations, but such 30 day cure time is not required.

- R. Inspection of Books and Records
USM shall have the right to inspect and audit the books and records of Contractor at reasonable times and places. Such books and records shall be retained and maintained by Contractor for a minimum of three years following the termination or the expiration of this agreement.
- S. Applicable Law
This contract shall be governed by and construed in accordance with the laws of the State of Mississippi, excluding its conflicts of law provisions, and any litigation with respect thereto shall be brought in the courts of this state. Contractor shall comply with applicable federal, state, and local laws and regulations. If a court determines that any provision of this contract is not enforceable against USM, the Contractor agrees that the individual signing this agreement on behalf of USM is not personally responsible or liable for any of the obligations and duties contained herein.
- T. Venue
Each of the parties hereto hereby irrevocably and unconditionally consent to submit to the exclusive jurisdiction of the state courts of Forrest County, Mississippi, with respect to any litigation arising out of, or related to, this agreement and the transactions contemplated hereby (and agrees not to commence any litigation relating thereto except in such courts). Each of the parties hereto irrevocably and unconditionally waives any objection to the laying of venue of any litigation arising out of this agreement of the transactions contemplated hereby, in the state courts of Forrest County, Mississippi, and hereby further irrevocably and unconditionally waives and agrees not to plead or claim in any such court that any such litigation brought in any such court has been brought in an inconvenient forum.
- U. E-Verify
Contractor represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act, Section 71-11-1, *et seq* of the Mississippi Code Annotated, and will register and participate in the status verification system for all newly hired employees. The term “employee” as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, “status verification system” means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor agrees to maintain records of such compliance and, upon request of the State and approval of the Social Security Administration or Department of Homeland Security, where required, to provide a copy of each such verification to the State. Contractor further represents and warrants that any person assigned to perform services

hereunder meets the employment eligibility requirements of all immigration laws of the State of Mississippi. Contractor understands and agrees that any breach of these warranties may subject Contractor to the following: (a) termination of this Agreement and ineligibility for any state or public contract in Mississippi for up to three (3) years, with notice of such cancellation/termination being made public, or (b) the loss of any license, permit, certification or other document granted to Contractor by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year, or (c) both. In the event of such termination/cancellation, Contractor would also be liable for any additional costs incurred by the State due to contract cancellation or loss of License or Permit.

V. Force Majeure

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

Exceptions to University of Southern Mississippi Standard Terms and Conditions

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

A.

B.

C.

D.

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

VENDOR NAME

UNIVERSITY OF SOUTHERN MISSISSIPPI

Vendor Rep Name / Date
Vendor Rep Title

USM Rep Name / Date
USM Rep Title

Appendix B
University of Southern Mississippi
i Tech
Statement of Confidentiality

By working for the University of Southern Mississippi and iTech, you may be privy to certain confidential information in regards to university students, staff, and faculty members.

Any information regarding a person's account (such as status, SSN, or USM ID number) or items discussed by these persons regarding their information technology equipment (such as passwords) or objects discovered by you that reside within the memory of said information technology equipment or recorded on a person's movable storage media (such as software, pictures, and documents) is strictly confidential and disclosure of any of these except to authorized University and iTech personnel is prohibited.

By signing this document, I acknowledge that I have read the above statement and that I understand that I am responsible for maintaining the confidentiality of all University students, staff and faculty and for making no further disclosure of information obtained as an employee of or contractor with iTech, except as proscribed as above. I understand that failure to maintain this confidentiality could result in my being terminated as a contractor and even in criminal prosecution of the circumstances warrant such.

Employee / Contractor Name (print)

Signature

Date

Witness Name (print)

Signature

Date



THE UNIVERSITY OF SOUTHERN MISSISSIPPI

Independent Contractor Status Determination and Documentation Form

Section 1: Payment

A. Name of individual or organization: _____

B. YES NO Limited Liability Company (LLC). **MUST select the federal entity type (Individual, Partnership, S-Corporation, or Corporation)**

C. Entity Type:

Individual and or Sole Proprietor Partnership S-Corporation Corporation Government Tax-exempt Organization

Private Foundation Disregarded Entity Simple Trust Grantor Trust Complex Trust Estate Central Bank of Issue International

YES NO D. Will payment be made to an Individual, Sole Proprietor, a Partnership, or a Disregarded Entity?

➤ If Yes – Go to section 2

➤ If No – STOP and complete a Personal Services Agreement accompanied with a W9 (or W-8BEN if foreign) and original invoice

Section 2: Individual Current Relationship with The University of Southern Mississippi

I. Name of Individual or Business Owner _____

II. Is this Individual / Business Owner related to a current USM employee? YES NO

II (a). If "Yes", to whom? _____ What relationship? _____

III. Other

YES NO

A. Is this individual currently an employee with The University of Southern Mississippi?

YES NO

B. Has this individual been an employee of USM within the past 12 months?

YES NO

C. Does the department plan on hiring this individual as an employee within the next 12 months?

YES NO

D. Is this individual a state retiree or member of PERS?

If the answer is "No" to all questions, proceed to question in Section 3, Exemptions from Completing.

If the answer is "Yes" to A, B, or C above, the individual **must** be classified as an employee and paid through USM payroll. Complete a Personnel Action Form. If the answer is "Yes" to D above, Independent Contractor status must be approved by PERS.

Section 3: Classification Guidelines (Complete only **one** section, A, B, or C, depending on the services to be performed by the individual.)

A. Lecturer/Instructor

YES NO

1. Is the individual a "guest lecturer", e.g., an individual who lectures at only one or two class sessions?

YES NO

2. Is the individual the primary instructor in a department course being offered for academic credit toward a University degree?

YES NO

3. Is the individual responsible for the content of the lecture/presentation versus presenting materials that have been prepared/dictated by USM?

B. Researcher

NOTE - Researchers hired to perform services for a University department are initially presumed to be employees of the University.

Please complete the following questions:

YES NO

1. Will the individual perform research for a University faculty member or director under an arrangement whereby the University faculty member or director serves in a supervisory capacity (i.e., the individual will be working under the *direction* of the University faculty member or director)?

YES NO

2. Will the individual serve in an advisory or consulting capacity with a University faculty member or director, in a "collaboration between equals" type arrangement?

C. Individuals **Not Covered Under Section 3A or 3B.**

YES NO

1. Does the individual routinely provide the same or similar services outside USM to the general public as part of a continuing trade or business?

YES NO

2. Will the University set the number of hours and/or days of the week that the individual is required to work, **as opposed to** allowing the individual to set own work schedule and/or pay the individual an hourly rate similar to what other employees are paid on campus for similar work?

YES NO

3. Will the department provide the individual with specific instructions regarding performance of the required work rather than rely on the individual's expertise and/or provide significant supplies and equipment for the worker?

YES NO

4. Does the individual engage in entrepreneurial activities in an established business at risk for loss?

YES NO

5. Does the individual have his/her own insurance for work-related injuries?

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

Individual/Business owner: _____, date: _____

Sign Name

Print Name

Third Party Completion: _____, date: _____

For determination of Independent Contractor classification before department completes additional paperwork, please email cheri.waldrup@usm.edu.