



Solicitation/Event#: EV00000357

Solicitation Issue Date: 11/09/2023

DUE DATES AND TIME (CENTRAL STANDARD TIME):

Bid Response:

1:00 p.m. on 01/09/2024

Request for administrative review:

1:00 p.m. on 11/14/2023

Last Day to Submit Questions:

1:00 p.m. on 12/04/2023

CONTRACT TYPE:

Agency:

Statewide:

Agency Name/Number OKLAHOMA STATE DEPARTMENT OF EDUCATION/265

SOLICITATION TYPE:

Request for Proposal

Request for Quote

Invitation to Bid

Information technology Bidder Instructions are applicable:

Yes No

Terms regarding sensitive data will be included in the Contract including, but not limited to:

HIPAA _____ CJIS _____

FERPA X _____ OTHER _____

1075 _____

RETURN SEALED BID TO:

Submissions are through the Peoplesoft
System via the Supplier Portal
[Supplier Portal \(oklahoma.gov\)](http://oklahoma.gov)

CONTRACTING OFFICER:

Name: Kimberley Coulter
Email: Kimberley.Coulter@omes.ok.gov

Oklahoma Office of Management and Enterprise Services Bidder Instructions

Information related to the Bid submission process is contained in these Bidder Instructions. **Prospective Bidders are urged to read the documents provided by the State and these Bidder Instructions carefully. Failure to do so shall be at the Bidder's risk.**

1 Definitions

The following terms, when used in these Bidder Instructions, shall have the following meanings:

- 1.1 **Alternate Bid** means a Bid which contains an intentional substantive variation to a basic provision, specification, term or condition.
- 1.2 **Amendment** means a written change, addition, correction or revision to terms, conditions or requirements by the State agency issuing the Solicitation.
- 1.3 **BAFO** means a best and final offer requested by the State agency issuing the Solicitation.
- 1.4 **Bid** means an offer a Bidder submits in response to the Solicitation.
- 1.5 **Bidder** means an individual or business entity that submits a Bid in response.
- 1.6 **Bid Packet** means the order described in these Bidder Instructions in which all Bidders shall insert the relevant sections of a Bid and which shall be the format for all submitted Bids.
- 1.7 **OAC** means the Oklahoma Administrative Code.

2 Instructions Compliance

These Bidder Instructions are not part of the Contract; however, compliance with these Instructions is material to the determination of whether a Bid is responsive. Terms, requirements and specifications may be stated or phrased differently than in a previous solicitation irrespective of past interpretations, practices or customs. Bid requirements are altered only by written Amendment and verbal communications from any source whatsoever are of no effect. In no event shall the Bidder's failure to read and understand a term, condition or requirement in any of the documents provided by the State constitute grounds for a claim after award of the Contract.

3 Communications and Questions

The Contracting Officer listed on the Bidder Instructions Cover Page is the only individual the Bidder should contact, or communicate with, regarding any questions or issues with the Acquisition. Failure to comply with this requirement may result in the Bid being considered non-responsive or not considered for further evaluation.

3.1 General Questions

- A. Questions should be concise, identify the relevant document, include specific section references and avoid use of tables or special formatting (use simple lists).

B. Information Technology Bids and Non-Information Technology Bids

For all bids whether Information Technology or Non-Information Technology, Bidder should submit general questions concerning Contract or Bid specifications or requirements via the portal [Supplier Portal \(oklahoma.gov\)](http://Supplier Portal (oklahoma.gov)) in addition to the **Contracting Officer's email address shown on the Bidder Instructions Cover Page**. Questions received via any other means will not be addressed. Questions may be submitted as soon as the solicitation is posted. You are encouraged to submit your questions as soon as possible to allow adequate time for answers and any issues that may arise.

3.2 Clarification Questions

The State reserves the right, at its sole discretion, to request clarifications of Bid information or to conduct discussions for the purpose of clarification with any or all Bidders. The purpose of any such discussion shall be to ensure full understanding of the Bid. If clarifications are made because of such discussion, the Bidder(s) shall submit such clarifications in writing to the Contracting Officer. Bidder answers that are outside scope of the clarification questions shall be disregarded. Oral explanations or instructions provided to a potential Bidder are not binding.

4 Administrative Review

4.1 A Bidder that believes the Contract or Bid requirements or specifications, or Bid Response Due Date, are unnecessarily restrictive or limit competition may email a request for administrative review to the Contracting Officer. A request received via any other means will not be addressed. The State shall promptly respond in writing to each written administrative review request, and where appropriate, issue a revision, substitution or clarification through an Amendment. Requests for administrative review shall include the reason for the request, supported by information, and any proposed changes.

4.2 If a Bidder fails to notify the Contracting Officer of an ambiguity, conflict, discrepancy, omission or other error in any of the documents provided by the State that is known to Bidder, or that reasonably should be known by Bidder, the Bidder accepts the risk of submitting a Bid and, if awarded the Contract, shall not be entitled to additional compensation, relief or time by reason of the error or its later correction

5 Amendments

5.1 Any Amendment shall be set forth at the same online link as the Solicitation.

5.2 It is the Bidder's responsibility to check the State's website frequently for any possible Amendments that may be issued. The State is not responsible for the Bidder's failure to download any amendment documents required to complete a Bid.

6 Confidentiality Request

Unless otherwise specified in the Oklahoma Open Records Act, Central Purchasing Act, or other applicable law, documents and information a Bidder submits as part of or in connection with a Bid are public records and subject to disclosure after contract award pursuant to OAC 260:115-3-9¹. However, a public Bid opening does not make the Bid immediately accessible to the public. All material submitted by a Bidder becomes the property of the State. No portion of a Bid shall be considered confidential after award of the Contract except, pursuant to 74 O.S. §85.10, information in the Bid determined to be confidential by the State Purchasing Director or delegate. Typically, a properly submitted confidentiality claim of a potential awardee is reviewed and determined prior to award; a properly submitted confidentiality claim of a **non-awarded Bidder** is reviewed and determined only when responding to an open records request concerning the Bid. Additional information regarding information considered confidential by a Bidder is provided in Section 8.2.C below.

7 Acceptance of Content

Unless otherwise provided in Section Four of a Bidder's response, all Bids shall be firm representations that the responding Bidder has carefully investigated and will comply with all State terms and conditions relating to the Contract. Upon award of a contract, such terms and conditions, as may be amended by the Bid after negotiation, shall become contractual obligations between the parties.

8 Required Bid Structure

8.1 Preparation of Bid

- A. The Bid is **required** to be structured into separate, labelled and easily identifiable sections using the Bid Packet format provided below. A Bid submitted using any other format may not be accepted. Except for items listed in Section Three of the Bid Packet (information requested to be held confidential), the Bid should not contain duplicative content. Any section of the Bid Packet that is not applicable to the Bid shall have a page inserted to denote the section is not applicable. For instance, if business references are not required, the Bid should contain a page after the "Business References" section heading that reads "Not Applicable", "N/A" or some similar notation.
- B. The Bid will be evaluated using a best value criteria, based on the following:
 - i Cost and
 - ii Solicitation specifications.
- C. As referenced in subsection 8.2.H, the Bid shall show the ability of the Bidder to meet or exceed each requirement in Exhibit 1.
- D. As referenced in subsection 8.2.H, a VPAT; Security Certification and Accreditation Assessment and service level agreements are required to be included in the Bid.
- E. As referenced in in subsection 8.2.I, pricing shall be proposed using the Exhibit 2 Pricing Sheet.

¹ OAC 260:115-3-9 is located at

http://www.oar.state.ok.us/oar/codedoc02.nsf/frmMain?OpenFrameSet&Frame=Main&Src=_75tnm2shfcdnm8pb4dthj0chedppmcbq8dtmmak31ctijujrgcln50ob7ckj42tbkdt374obdcli00

- F. As referenced in subsection 8.2.J, value-added products and/or services within scope of the Acquisition may be included in the Bid.
- G. As referenced in subsection 8.2.L, three (3) business references are required to establish that a Bidder has successful implementation experience.
- H. As referenced in subsection 8.2.M, the following additional company information is required to be included in the Bid:
 - i Length of time the Bidder has been in business;
 - ii A brief description of the company;
 - iii Company size and organization;
 - iv The number of years the Bidder has been providing products and/or services of the type requested;
 - v The core competency of the company.
- I. As referenced in subsection 8.2.N, if a third-party vendor is included as part of a submitted Bid, the following information is required to be included in the Bid for each such third-party vendor:
 - i Company history;
 - ii Relationship to Bidder;
 - iii Clients for which the two entities have worked together; and
 - iv Products and/or services proposed to be provided by the third-party vendor and how those products and/or services interface with the Bidder's solution.

8.2 Required Bid Packet Format

A. Section One: Cover Page

Provide a dated cover page or transmittal letter that identifies the Solicitation and the Bidder and provides Bidder contact information.

B. Section Two: Required Forms, Certifications and Disclosures

- i Completed "Responding Bidder Information" form set forth and accompanying required documentation.
- ii Completed "Certification for Competitive Bid and Contract" form.
- iii Bidder shall additionally provide in this section of its Bid, disclosure of (1) any public contract terminated by a governmental entity or suits or claims against the Bidder for failure to perform in connection with a public contract (including any company which a Bidder has merged with or acquired that will be performing services or providing products if awarded the Contract); (2) any contractual relationship or any other relevant contact with any State personnel or another Bidder or Supplier involved in the development of a Bidder's response to the Solicitation; (3) the name of any officer, director or agent of the Bidder who is also an employee of the State or any of its agencies; (4) the name of any state

employee who owns, directly or indirectly, an interest of five percent (5%) or more in the Bidder firm or any of its branches and (5) any activity or interest that conflicts or may conflict with the best interest of the State, including but not limited to any person or entity currently under contract with or seeking to do business with the State, its employees or any other third-party individual or entity awarded a contract with the State. Any conflict of interest shall, in the sole discretion of the State, be grounds for rejection of the Bid or partial or whole termination of the Contract. If none, clearly mark “N/A”

- iv Certificate of Insurance and Workers’ Compensation form.
- v Any information requested in connection with subcontractors a Bidder proposes to use in performance of the resulting contract.
- vi Signed Amendment(s), if any, located at the same online link as the Solicitation.

The Bidder shall acknowledge agreement with each Amendment, if any, by inserting the Amendment in this section, signed by or on behalf of the Bidder.

C. Section Three: Bid Portions Requested to be Held Confidential

- i Any portion of the Bid that the Bidder requests be held confidential shall be listed in this section for independent review regarding confidentiality. For example: “the portion of Section 8 titled Member Satisfaction Survey”. However, the Bid should not be broken apart such that the information requested to be held confidential is only found in this section; rather, such content should be included in the Bid in applicable sections, for efficient evaluation. If none, clearly mark “N/A”
- ii For each portion of the Bid listed as considered confidential, the Bidder must identify the specific information considered confidential and fully comply with **OAC 260:115-3-9² which additionally requires a Bidder to enumerate the specific grounds, based on applicable laws which support treatment of the information as exempt from disclosure and explain why disclosure is not in the best interest of the public.** Additional information regarding information considered confidential by a Bidder is provided in Section 6 above.
- iii A Bid marked in total, as proprietary and/or confidential shall not be considered confidential. Likewise, unless specifically referenced otherwise, resumes, pricing, marketing materials, business references, Voluntary Product Accessibility Templates, additional terms proposed by a Bidder and subcontractor information are not confidential and are not exempt from disclosure under the Oklahoma Open Records Act. The foregoing list is intended to address information often marked confidential that is not exempt from disclosure and is not an exhaustive list.

² OAC 260:115-3-9 is located at http://www.oar.state.ok.us/oar/codedoc02.nsf/frmMain?OpenFrameSet&Frame=Main&Src=_75tnm2shfcdnm8pb4dthj0chedppmcbq8dtmmak31ctijjrgcln50ob7ckj42tbkdt374obdcli00

- iv **ANY INFORMATION MARKED AS CONFIDENTIAL AND EMBODIED ELSEWHERE IN A BID RATHER THAN LISTED IN THIS SECTION OF THE BID PACKET WILL NOT BE CONSIDERED CONFIDENTIAL AND WILL BE SUBJECT TO DISCLOSURE WITHOUT FURTHER REVIEW. THE STATE HAS NO RESPONSIBILITY TO INDEPENDENTLY REVIEW AN ENTIRE BID FOR A CONFIDENTIALITY CLAIM. LIKEWISE, CONFIDENTIALITY CLAIMS OF A BIDDER WILL NOT BE CONSIDERED IF A BID DOES NOT COMPLY WITH REQUIREMENTS OF OAC 260:115-3-9 AND THE INFORMATION WILL BE SUBJECT TO DISCLOSURE PURSUANT TO STATE LAW.**

D. Section Four: Requested Exceptions to Terms

- i Any requested exception or revision to terms or conditions provided by the State shall be inserted in this section in **Word** format using the table provided at the end of these Bidder Instructions. If no exceptions or revisions are requested, the Bid should reflect that by either submitting the table with no additions to it or by inserting a page to denote this section is not applicable. Each requested exception or revision shall identify (i) the document and section reference of the specific affected term and (ii) either that the term is inapplicable and should be intentionally omitted or offer alternative language if the Bidder is requesting revision of the term. Some examples are provided on the table for illustrative purposes only and, if not deleted in a submitted Bid, will be disregarded.
- ii Use tracked changes to propose alternative language, added language or other revision. Requests not shown as tracked changes may be returned to the Bidder for compliance with this requirement and review will be delayed as a result.
- iii Each entry on the exceptions table must reference only one subsection or section (if there are no subsections). Including multiple subsections in one entry may result in the table being returned to the Bidder for compliance with this requirement and review will be delayed as a result.
- iv A clarification question is not an exception and any clarification included in this section will be disregarded.
- v If the Bid contains a copy of **master** terms between the Bidder and the State that the Bidder believes are applicable to the Acquisition, the Bidder need not take exceptions to the General Terms; however, the remainder of terms and contents of a document provided by the State including, without limitation, all attachments, appendices and exhibits remain applicable and are not supplanted by such **master** terms. Therefore, any exception to terms in the Solicitation or any other document related to the Acquisition, other than General Terms, must be included in this section as an exception.
- vi **THE STATE HAS NO RESPONSIBILITY TO INDEPENDENTLY REVIEW AN ENTIRE BID FOR EXCEPTIONS AND ANY EXCEPTION EMBODIED IN ANOTHER SECTION OF THE BID OR IN A FORMAT OTHER THAN THE PROVIDED TABLE WILL NOT BE CONSIDERED. LIKEWISE, AN EXCEPTION EXPRESSING ONLY GENERAL**

DISAGREEMENT WITH A TERM OR A GENERAL EXCEPTION TO ANY STATE TERMS OR CONDITIONS, WITHOUT SUGGESTED ALTERNATIVE WORDING OR IDENTIFYING THAT THE TERM SHOULD BE INTENTIONALLY OMITTED, WILL NOT BE CONSIDERED.

E. Section Five: Additional Bidder Terms

Any additional terms that the Bidder requests be applicable to the Contract shall be inserted in this section and shall be provided in **Word** format. **THE STATE HAS NO RESPONSIBILITY TO INDEPENDENTLY REVIEW AN ENTIRE BID FOR ADDITIONAL TERMS AND ANY SUCH TERMS NOT SUBMITTED IN THIS SECTION OF THE BID SHALL NOT BE CONSIDERED.** Should a Bidder be awarded a Contract, neither the State nor a customer shall be required to execute additional documents not included in a Bid. For example, if a Bidder typically uses an ordering document in connection with an acquisition, the ordering document template shall be included in the Bid. If none, clearly mark “N/A”

F. Section Six: Master Terms between Bidder and State

A copy of any master terms, mutually executed by the Bidder and the State, that the Bidder believes are applicable to the Acquisition shall be inserted in this section. Any master terms not submitted in this section of the Bid shall not be considered. If none, clearly mark “N/A”

G. Section Seven: Executive Summary

The Bidder’s executive summary shall be inserted in this section. Marketing information, general company information and other similar information should be included in the executive summary. Avoid duplication of such information in other sections of the Bid; it unnecessarily lengthens the Bid and hinders efficient evaluation.

H. Section Eight: Response to Specifications and Requirements

- i** The portion of the Bid to be inserted in this section shows the ability of the Bidder to meet or exceed any Acquisition specifications and requirements.
- ii** If an information technology VPAT is required, the URL link to the Bidder’s VPAT shall be inserted in this section at a Bid Packet page referencing the VPAT.
- iii** If an information technology Security Certification and Accreditation Assessment is required (Required if offering a Hosted Solution), the completed Assessment shall be inserted in this section at a Bid Packet page referencing the Security Accreditation Assessment.
- iv** If service level agreements are required, the proposed service level agreements shall be inserted in this section at a Bid Packet page referencing the proposed Service Level Agreements.
- v** If a Statement of Work is required, the proposed draft shall be inserted in this section at a Bid Packet page referencing the proposed Statement of Work.

I. Section Nine: Pricing

Pricing associated with the Bid shall be inserted in this section and shall be in the required structure set forth above in Subsection 8.1, if any.

J. Section Ten: Offer of Value-Added Products and/or Services

If a Bid includes an offer of value-added products and/or services, such offer shall be inserted in this section and include associated pricing and any other information relevant to such value-added offer. However, the State is not obligated to purchase value-added products or services.

K. Section Eleven: Financial Information

Any required financial and associated information shall be inserted in this section.

L. Section Twelve: Business References

Any required business references and associated information shall be inserted in this section.

M. Section Thirteen: Additional Company Information

Any required additional company information shall be inserted in this section.

N. Section Fourteen: Third Party Vendor Information

Any required additional third party vendor information shall be inserted in this section.

9 Submission of Bid

9.1 IT IS THE BIDDER'S SOLE RESPONSIBILITY TO SUBMIT INFORMATION IN THE BID AS REQUESTED AND IN COMPLIANCE WITH THE OKLAHOMA CENTRAL PURCHASING ACT AND ASSOCIATED OAC TITLE 260 RULES³ INCLUDING WITHOUT LIMITATION OAC 260:115-3-7 AND 260:115-3-11⁴. A submitted Bid is rendered as a legal offer and is required to be in strict conformity with these Bidder Instructions.

9.2 A Bid shall be submitted solely through the Peoplesoft System via the Supplier Portal. The entire Bid must be submitted by the Bid Response Due Date and Time. A Bid emailed directly to or cc'd to the Contracting Officer will not be reviewed by the Contracting Officer. In person, commercial carrier or facsimile submittals shall not be accepted. Receipt of the Bid by the State is the responsibility of the Bidder. The Supplier Portal is located here: [Supplier Portal \(oklahoma.gov\)](http://supplier.oklahoma.gov) You can submit a bid as a buyer or as a Supplier. For help with the portal, please reach out to supplier.registration@omes.ok.gov

9.3 Unless otherwise specified in the Solicitation, (i) manufacturers' names, brand names, information, and/or catalog numbers listed in a specification are for informational purposes and not intended to limit competition and (ii) a Bidder may offer any brand for which it is an authorized representative, which meets or exceeds the specification for any item(s). Bidder shall offer new items of current

³ Oklahoma Administrative Code Title 260, Chapter 115 is located at

http://www.oar.state.ok.us/oar/codedoc02.nsf/frmMain?OpenFrameSet&Frame=Main&Src=_75tnm2shfcdnm8pb4dthj0chedppmcbq8dtmmak31ctijujrgcln50ob7ckj42tbkdt374obdcli00

⁴ OAC 260:115-3-7 and OAC 260:115-3-11 are located at

http://www.oar.state.ok.us/oar/codedoc02.nsf/frmMain?OpenFrameSet&Frame=Main&Src=_75tnm2shfcdnm8pb4dthj0chedppmcbq8dtmmak31ctijujrgcln50ob7ckj42tbkdt374obdcli00

design and technology unless the State specifies older models or versions, or used, reconditioned, or remanufactured products are acceptable. Warranties in either case should be the same. However, if a Bid is based on equivalent products, the Bid is required to state the manufacturer's name and number. The Bid shall also explain in detail how the proposed equivalent will meet the specifications and not be considered an exception thereto.

- 9.4 Reference to literature submitted with a previous Bid shall not satisfy a specification or requirement associated with the present Bid. Any previous solicitation or resultant contract shall not be depended upon, perceived or interpreted to have any relevance to the present Bid.
- 9.5 Bids shall remain a firm offer for a minimum of one hundred twenty (120) days after the Bid Response Due Date. Any usage amounts provided by the State are estimates and are not guaranteed to be purchased.
- 9.6 Unless specified otherwise, a Bidder shall submit a firm, fixed price for the term, including optional renewal terms, of the Contract. The Bidder guarantees unit prices to be correct.
- 9.7 In accordance with 74 O.S. §85.40, all travel expenses to be incurred by Supplier in performance of the Contract shall be included in the total Bid price. Travel expenses include, but are not limited to, transportation, lodging and meals. Examples of other miscellaneous travel expenses are referenced in §10.14 of the Statewide Accounting Manual⁵.
- 9.8 A Bid containing early payment discounts may be evaluated when making an award. If a Bidder wishes to offer an early payment discount, the Bid must include available discount percentages for no less than ten (10) days payment, increasing in five (5) day increments up to thirty (30) days. The discount percentages shall be expressed in a half or whole percentage, with the minimum discount percentage being 0.5%. The State is not obligated to utilize an offered discount.
- 9.9 All costs incurred by the Bidder for Bid preparation and participation shall be the sole responsibility of the Bidder and the Bidder shall not be reimbursed for any such costs. By submitting a Bid, Bidder agrees not to make any claims for damages or have any rights to damages in connection with the Bid.
- 9.10 For consistency of contract structure, certain State terms may be marked "Intentionally Omitted". If so, no response is expected.
- 9.11 After review of a Bidder's submitted documents and information, the State may require additional terms for an Acquisition in which State or citizen data will be accessed, processed, stored or transmitted by a Supplier.
- 9.12 Each Bid is required to include relevant information for a designated contact to receive notice, approvals and requests.

10 Bid Withdrawal, Bid Change and Alternate Bid

- 10.1 Except as authorized by the State Purchasing Director after proof by the Bidder that a significant error by the Bidder exists in the Bid, a Bid may not be withdrawn after the Bid Response Due Date and Time. If the Bidder wishes to withdraw a Bid prior to the Bid Response Due Date and Time,

⁵ Statewide Accounting Manual is located at <https://omes.ok.gov/sites/g/files/gmc316/f/StatewideAccountingManual.pdf>.

the Bidder shall submit a written withdrawal request to the State Purchasing Director in accordance with OAC 260:115-3-13⁶ at the email address listed in Section 9 above.

10.2 Except as requested by the State, a Bid may not be changed after the Bid Response Due Date and Time. If the Bidder needs to change a submitted Bid prior to the Bid Response Due Date and Time, the Bidder shall withdraw the originally submitted Bid and a new Bid shall be submitted to the State by the Bid Response Due Date and Time in accordance with Section 9 and include the following statement on the superseding Bid cover page: **“THIS BID SUPERSEDES THE BID PREVIOUSLY SUBMITTED” AND “SUPERSEDING BID” MUST APPEAR IN THE SUBJECT LINE OF THE EMAIL.**

10.3 A Bidder may submit one or more Alternate Bids. Any Alternate Bid submitted shall be a complete Bid and shall be clearly identified as an Alternate Bid in the subject line of the email. If more than one Alternate Bid is submitted, the identification in the email subject line shall refer to Alternate Bid 1, Alternate Bid 2, etc.

11 Bid Rejection

11.1 The Bidder’s failure to submit required information may cause its Bid to be rejected. Additionally, a Bid received after the Bid Response Due Date and Time **SHALL BE DEEMED NON-RESPONSIVE AND SHALL NOT BE CONSIDERED unless the State Purchasing Director has authorized acceptance of Bids due to a significant error or incident that occurred which affected the receipt of a Bid.**⁷ Failure to comply with these Bidder Instructions may result in the Bid being disqualified from evaluation.

11.2 A Bid may be rejected when the Bidder imposes terms or conditions that would modify requirements. Other possible reasons for rejection of Bids are listed in OAC 260:115-3-5 and 260:115-7-32(h)⁸.

11.3 Attempts to impose unacceptable conditions on the State or impose alternative terms not in the best interest of the State may result in rejection of the Bid even if initially determined to be responsive or the State may cease any negotiations regarding the Bid.

11.4 Whenever the terms “shall”, “must”, “will”, or “is required” are used, the specification being referred to is a mandatory specification. Failure to meet any mandatory specification may cause rejection of a Bid.

11.5 Whenever the terms “can”, “may”, or “should” are used, the specification being referred to is a desirable item and failure to provide any item so termed shall not be cause for rejection of a Bid.

12 Bid Public Opening

There will be no physical Bid openings. A public Bid opening, **which will disclose the name of each Bidder and no further information**, will be conducted on a per request basis via TEAMS provided the

⁶ OAC 260:115-3-13 is located at

http://www.oar.state.ok.us/oar/codedoc02.nsf/frmMain?OpenFrameSet&Frame=Main&Src=_75tnm2shfcdnm8pb4dthj0chedppmcbq8dtmmak31ctijujrgcln50ob7ckj42tbkdt374obdcli00_

⁷ OAC 260:115-3-11

⁸ OAC 260:115-3-5 and 260:115-7-32 is located at:

http://www.oar.state.ok.us/oar/codedoc02.nsf/frmMain?OpenFrameSet&Frame=Main&Src=_75tnm2shfcdnm8pb4dthj0chedppmcbq8dtmmak31ctijujrgcln50ob7ckj42tbkdt374obdcli00_

Contracting Officer receives a written request no later than forty-eight (48) hours prior to the Bid Response Due Date and Time. TEAMS information will be provided to anyone requesting a public Bid Opening.

13 Evaluation

- 13.1** A responsive Bid will proceed to the evaluation process. Unless the Solicitation specifies that “best value” criteria will be used to determine award, Bids shall be evaluated on “lowest and best” criteria.
- 13.2** Pursuant to OAC 260:115-7-32, Bidder past performance as a Supplier may be considered when evaluating a Bid.
- 13.3** Pursuant to 74 O.S. §85.44E, a Bid submitted by a service-disabled veteran business that does business in Oklahoma or maintains an Oklahoma office or place of business will be given a three-percentage point bonus preference in scoring the Bid.
- 13.4** The State reserves the right to require demonstrations, clarifications and additional documentation from any or all responding Bidders. Each Bidder should be prepared to participate in oral presentations and demonstrations to define the Bid, to introduce the Bidder’s team and to respond to questions regarding the Bid prior to award.

14 Competitive Negotiations of Offers

- 14.1** The State reserves the right to negotiate with none or one or more Bidders responding to the Solicitation and may negotiate any or all content of the Bid to obtain the best value for the State. Negotiations may be conducted in person, in writing or by electronic means and shall only be conducted with potentially acceptable Bids.
- 14.2** Negotiations could entail discussions on products, services, pricing, contract terminology or any other issue material to an award decision or that may mitigate the State’s risks. The State shall consider all issues arising from the Bid to be negotiable and will not be artificially constrained by Bidder internal corporate policies. Firms that contend a lack of flexibility because of corporate policy on a particular negotiation item shall face a significant disadvantage and may not be considered.
- 14.3** In the event of prolonged contract negotiations due to the number and/or significance of exceptions taken, lack of Bidder responsiveness or other failure to close contract negotiations, the State may, in its discretion, offer a successful Bidder a shorter contract term.
- 14.4** Terms, conditions, prices, methodology, or other features of the Bid may be subject to negotiations and subsequent revision. As part of the negotiations, the Bidder may be required to submit supporting financial, pricing, and other data in order to allow a detailed evaluation of the feasibility, reasonableness, and acceptability of the Bid.
- 14.5** Requirements and any terms marked as non-negotiable after the section title shall not be negotiable and shall remain unchanged unless the State determines that a change in such requirements or terms is in the best interest of the State.
- 14.6** The State may request a BAFO and shall determine the scope and subject of any BAFO request. However, the Bidder should not expect an opportunity to otherwise strengthen its Bid and should

submit its best Bid based on requirements herein. Any information offered outside the scope of the BAFO request will be disregarded.

15 Award of Contract

- 15.1 The State may award the contract to more than one Bidder by awarding the contract(s) by item or groups of items or may award the contract on an all or none basis, whichever is deemed to be in the best interest of the State.
- 15.2 In order to receive an award or payments from the State, a Bidder must be registered **as both a Bidder and as a Supplier** and must maintain the registration prior to any Contract renewal term. The registration process may be completed electronically at the following link: <https://omes.ok.gov/services/purchasing/vendor-registration>.
- 15.3 Pursuant to Oklahoma Attorney General Opinion No. 06-23, any Bidder that has assisted in preparing the Solicitation or developing the procurement terms, either directly or indirectly, is precluded from being awarded the Contract or from securing a sub-contractor that has provided such services.
- 15.4 Prior to award, the State may choose to request information from the Bidder to demonstrate its financial status and performance. If the Bidder is a subsidiary of another entity, the last three years audited financial statements of three years tax returns for the parent company may also be required. The State reserves the right, in its sole discretion, to determine a Bidder's financial status and to withhold award to a Bidder who is not deemed financially responsible.
- 15.5 A notice of award may be in the form of a purchase order or other payment mechanism or in the form of a mutually executed contract.

BID PACKET SECTION FOUR: REQUESTED EXCEPTIONS TO TERMS

Term & Section	Language
General Terms, Pricing (Section 5.2, pg. 7) EXAMPLE	Section 5.2 is deleted in its entirety and replaced with the following: Pursuant to 74 O.S. §85.40, all travel expenses of Supplier must be included in the total Acquisition price. Travel expenses include, but are not limited to, lodging, transportation and meal expenses. EXAMPLE
Information Technology Terms, Appendix 1, Data Security (Section B.2, pg. 12) EXAMPLE	Section B.2 shall be modified to add the following: Customer is responsible for Personal Data encryption when solely in the Customer’s possession. EXAMPLE
Information Technology Terms, Source Code Escrow (Section 9, pg. 5) EXAMPLE	Section 9 is deleted in its entirety. EXAMPLE

ATTACHMENT A

This Solicitation is a Contract Document and is a Request for Proposal (RFP) in connection with the Contract awarded by the Office of Management and Enterprise Services as more particularly described below. Any defined term used herein but not defined herein shall have the meaning ascribed in the General Terms or other Contract Document.

PURPOSE

The Contract is awarded by the Office of Management and Enterprise Services (OMES) on behalf of the Oklahoma State Department of Education (OSDE) for the purpose of selecting the major products and services required to support the OSDE in fulfilling the mandates for grades 3-8 customized assessments in English Language Arts (ELA) and Mathematics and grades 5 and 8 Science assessments as part of the Oklahoma School Testing Program (OSTP). A Commercial Off-the-Shelf (COTS) assessment or product will not meet the needs of this proposal.

A.1 Contract Term and Renewal Options

The initial Contract term, which begins on the Date of Award through June 30, 2024, and there are Ten (10) one-year options to renew the Contract.

A.2. Mandatory Experience

A.2.1. The Supplier must have at least five years' prior experience working on projects similar in size, scope, technical requirements, and function of the OSTP. The Supplier must submit documentation demonstrating previous successful experience with at least three such programs. To substantiate the Supplier's successful completion of similar programs, appropriate contact names, current telephone numbers, e-mail addresses and letters of reference must be included in the proposal.

A.2.2. The proposal must include for the Supplier and major subcontractors a list of current state or agency assessment contracts including a summary of scope and the time period the contract is in effect.

SOLICITATION SPECIFICATIONS

A.3. General Purpose

A.3.1. Mandated by state and federal law, these assessments are characterized in the following ways:

- A.3.1.1. Align comprehensively to the Oklahoma Academic Standards (OAS).
- A.3.1.2. Be administered primarily online with a limited number of paper/pencil administrations. Statewide, paper pencil assessments typically total under 5,000 for all subjects in grades 3-8.
- A.3.1.3. Among other metrics, scores reported on the Oklahoma Performance Index (OPI).
- A.3.1.4. Support calculating growth for students in grades 4-8.
- A.3.1.5. Demonstrate sufficient technical quality to support the intended purposes and current uses of student and school accountability, as defined within ESSA. This includes, but is not limited to, promotion in grade 3 based on reading standards.
- A.3.1.6. Support criterion-reference performance interpretations against the OAS as well as normative information. This shall include scale score, Lexile, Quantile, content cluster sub-scores, growth performance, and intra-state percentiles.

A.3.2. It is the responsibility of the Supplier to be cognizant of all State rules, state and federal statutes, and regulations pertaining to the assessment program, regardless of whether they are referenced in this RFP.

A.4. Program Management and Communication

A.4.1. The Supplier must have the capacity and the capability to perform the work requested in this RFP. The proposal must demonstrate that the Supplier has sufficient resources to manage and coordinate the activities enumerated in the RFP and to produce the specified products and services on time. The Supplier must also demonstrate the ability to meet the state's evolving needs and requirements. An overall description of the Supplier's approach to manage, implement, and support the OSTP specifically addressing the entire scope of work shall be provided. The proposal shall identify and describe all resources available to support all program activities.

A.4.2. The proposal must detail all incidents resulting in a discussion of liquidated damages that the Supplier and major subcontractors have experienced within the most recent ten years related to large-scale online testing either as a prime Supplier

or as a provider of a testing platform as a subcontractor. Specifically, the proposal shall summarize the issues, how they were addressed, and what steps and safeguards were put into place to prevent future occurrences.

A.4.3. The proposal shall also detail plans for communications including those

A.4.3.1. between the Supplier and the OSDE

A.4.3.2. between the Supplier and school districts

A.4.3.3. between the Supplier and other assessment and accountability Suppliers under contract with the OSDE.

A.5. Organization and Personnel

A.5.1. The proposal must include the structure of the organization. In addition, the proposal must provide an organizational chart specifically for the Oklahoma project staffing. Names of staff members who will direct the overall project throughout the duration of the contract as well as those of key staff members who will coordinate major activities during each phase of the contract, the time allocations that the personnel described will devote to fulfillment of the contracts, and their office locations must be set out. If a staff member is also assigned to work on other projects, the proposal must detail the percentage of time the staff member is designated for the Oklahoma project. An appendix to the proposal must contain a one-page vita or résumé for professional project staff indicating relevant educational background and professional experience. If the proposer plans to use external consultants or subcontractors, the same information must be provided.

A.5.2. At a minimum, the OSDE envisions the key project personnel as those described in Sections A.5.3 through A.5.11 (though titles may vary) to ensure the successful development and implementation of the assessments. However, the proposer may make other recommendations in order to improve efficiency and effectiveness. The proposal should include those other personnel and document those positions, their responsibilities, and how they would contribute to the project.

A.5.3. **The Program Manager**, the main point of contact with OSDE, will oversee and be responsible for all aspects of the project. The Program Manager must have at least three years of experience with projects of similar scope and size. The Program Manager will be committed to the project throughout its duration. At least three references from individuals in states or agencies where the proposed program manager has coordinated a comparable assessment program must be provided. It is critical, and required, that the manager have sufficient authority within the company to obtain cooperation from all sections and to arrange priority for the Oklahoma project when necessary.

- A.5.4. **The Lead Online System Manager(s)** will oversee all aspects of the online assessment system. The Manager(s) will be responsible for the design and function of the online system, assistance with training school districts on the use of the online system, and troubleshooting any district technical problems with the system. The Lead Online System Manager(s) will also be responsible for scheduling stress tests and readiness tests to ensure that all school districts are prepared for online testing.
- A.5.5. **The Project Director(s)** will manage the item and test development efforts, holding responsibility for development schedules and oversight of all item selection and/or development, test construction, editorial tasks and test-related publications. Lead Content Specialists must have a bachelor's degree (master's degree preferred) as well as classroom experience in the specific content area and grade levels.
- A.5.6. **The Scoring Project Manager(s)** will oversee technical team members to complete processing, programming, scoring, reporting, and quality assurance tasks according to the timeline and requirements from the OSDE. At least three references from state or agency clients previously served by the Scoring Project Manager(s) are required.
- A.5.7. **The Lead Psychometrician(s)** will oversee tasks and issues that relate to item selection, test form equating, sample selection, calibration, scaling, validity evidence, reliability evidence, reporting, test design, and other technical analyses. Psychometric staff must conduct studies and provide resources sufficient to meet the requirements of the United States Department of Education (USDE) and the technical needs of the OSDE. Sufficient resources must be allotted for timely test construction, reporting, and all other technical tasks. The proposal must provide evidence that the in-house psychometricians assigned to support the OSTP are highly qualified and experienced in current industry-standard psychometric practice and USED assessment and accountability requirements. The Lead Psychometrician(s) must also have strong communication skills and the ability to make highly technical issues and information understandable to various audiences.
- A.5.8. **The Quality Assurance Leader(s)** will implement the steps and procedures used to ensure the products meet OSDE requirements without errors.
- A.5.9. **Dedicated Data Analyst(s)** are required throughout the duration of the project to analyze student performance results or other technical aspects of the project and produce reports, including ad hoc or longitudinal reports, as required by the OSDE. The Data Analyst(s) must be highly proficient in statistical analysis software and spreadsheet programs and have practical knowledge to be able to provide data in a format easily understandable by the public and media.

A.5.10. **Technical Editors and Reviewers** will develop all test-related publications and ensure that they are accurate, concise, user-friendly, grammatically correct, and technically sound in both English and Spanish. In addition to the work, they would contribute to test administration materials, Graphic Designers must be available to the OSDE for providing design and copy layouts for brochures, websites, and other communications or presentations. All such documents must meet or exceed current Americans with Disability Act (ADA) requirements and industry standards in accessibility and accommodation guidelines, including web accessibility.

A.5.11. **Help Desk Administrator(s)** will ensure communication services for Oklahoma schools and districts are correct and timely. The Help Desk Administrator(s) must train responders to accurately address specific Oklahoma policy, procedures, and issues on all aspects of the testing program. Help desk personnel will have extended hours a week prior to and during assessment windows. All help desk personnel must be proficient on current Oklahoma processes and requirements so incorrect information is not disseminated. Consistency of OSDE and vendor processes must be annually reviewed to avoid messaging inconsistencies.

A.5.12. At all times, the Supplier will allocate sufficient experienced personnel capable of and dedicated to the successful delivery of all services and deliverables required under the contract. The proposal must demonstrate the Supplier's preparedness to address foreseeable and unforeseeable personnel changes during the contract. In the event any key personnel become unavailable to provide services, the Supplier shall be responsible for proposing a replacement with equal or higher qualifications acceptable to the OSDE. The Supplier shall give the OSDE prior written notice of the individual or individuals proposed to replace exiting key personnel, provide appropriate résumés, and obtain the OSDE's written approval. The OSDE reserves the right to approve or decline any proposed replacement.

A.5.13. Removal of key personnel, for any reason, shall not affect the Supplier's responsibility to meet all schedules and deliverables. The OSDE has the right to recommend termination of the contract if the Supplier proposes continual changes in key personnel or if the Supplier is unable to provide a replacement that OSDE deems acceptable.

A.5.14. **Failure to fully address this section of the RFP may be cause for the proposal to be rejected.**

A.6. Project Management Methodology

A.6.1. Due to the high level of attention focused on these tests and their importance, the goal for the OSDE and the Supplier is 100% accuracy in every aspect of the

program. Toward that end, the contracted Supplier will utilize formal project management methodology and provide the OSDE with a project management plan with week to week and monthly scheduling presented in detail. The overall plan shall include the current operational year and include comprehensive, detailed plans for the next 2 years' operations. The plans shall include position assignments with areas of responsibility, project schedules and milestones, tasks, subtasks, critical path analysis, specifications for key systems, and Gantt charts detailing the production, reporting, development and other schedules and critical deadlines. The Supplier is required to obtain OSDE approval of the timelines and all materials prior to their use, distribution, or publication. Review time for OSDE will be a minimum of seven working days except during periods of State holidays which will not count for the OSDE review period; for very lengthy documents the review time should be longer. OSDE shall only review one document, (e.g., items, forms, program critical documents) at a time per subject area. The Supplier must include the review time requirements into the appropriate project management plans. The proposal will detail the methodology to be employed and provide samples of the documents that will be used for project management, including progress reports.

A.7. Planning, Management, CCSSO SCASS Membership, and NCSA Meetings

A.7.1. The contracted Supplier shall provide travel and time for appropriate staff to be available as needed to consult with the OSDE. At a minimum, the Supplier will coordinate the following meetings:

A.7.1.1. An Annual Planning Meeting will be held with the contracted Supplier and the OSDE. The Supplier should anticipate that the first such meeting will take place within two weeks of contract award. Up to eight OSDE representatives will travel to the Supplier's office for this meeting with all arrangements made by the Supplier. The Supplier will provide the project management plan to the OSDE one week prior to this meeting and then present this plan for discussion face-to-face. Strategies, procedures, and timelines for the next testing cycle and the following year, will be discussed and reviewed and will cover all aspects of the program including but not limited to, blueprints and test specifications; teacher operational item development, item banking; teacher development of instructional assessment items; field testing; online testing; scoring; equating; test booklet production; standard setting; training; administration manuals and ancillaries; test administration; security and inventory procedures; shipping, delivery, and return procedures; reporting and

analysis; and quality assurance. Seven calendar days following the meeting, the Supplier is required to submit a finalized Program Management plan, including action items that reflects the agreed-upon products, procedures, and timelines. Action items shall be included in weekly meetings to monitor progress and completion timelines.

A.7.1.2. On a mutually agreed upon schedule, OSDE and key Supplier staff will meet in Oklahoma City or the surrounding area, as needed. It is anticipated that these meetings will last one day; however, should it be necessary, for example, to coordinate across multiple programs or Suppliers, the meetings may last up to two days. For purposes of this RFP, the proposer should plan on sole responsibility for the meeting arrangements including meeting space. Should multiple Suppliers be involved, it will be left to the Suppliers to determine any arrangement for sharing the responsibilities. The Supplier will produce summaries of these meetings and action items that come out of them and provide those to the OSDE within seven calendar days.

A.7.1.3. Each week the contracted Supplier will submit an open action item report that, at a minimum, indicates the responsible party, the issue, the status or action required, and completion dates. This document needs to project 30 days into upcoming events. As needed, the Supplier will arrange for weekly conference calls with the OSDE and summarize those calls within three to four business days. The proposal will describe the planned documentation of the weekly calls.

A.7.2. The contracted Supplier shall provide travel and time for appropriate staff to be available to consult with the OSDE and to monitor test administration, as needed. Attendance of appropriate Supplier staff may be required at monthly State Board of Education meetings when requested by the OSDE.

A.7.3. The Supplier shall build a transition management plan and associated costs to ensure a seamless and smooth transition between vendors and the associated item development and banking platforms.

A.8. Minimum System Requirements

A.8.1. While technology requirements may evolve, Oklahoma's goal is to minimize the cost to, the impact on, and required updates to state, district, and local school

specific systems (e.g., networks, servers, bandwidth, and testing devices). This includes efforts to minimize the technical footprint required for student testing including devices, software, add-ons to servers and PCs, data exchange, and additional data storage requirements.

A.8.2. The Supplier will develop, deliver, and continuously improve support of web browsers as they are released. The Supplier will propose a plan for web browser support including Apple Safari, Google Chrome, Microsoft Internet Explorer/EDGE, and Mozilla Firefox. This requirement applies to any online system components, online delivery interfaces, and student/administrative workstation specifications.

A.8.3. Student Workstation Specifications:

System Requirements – All Hardware	
Connectivity	Student devices must be able to connect to the internet via wired or wireless networks
Screen Size	9.7" screen size or larger/ "10-inch class" tablets or larger
Screen Resolution	1024 x 768
Windows Desktops/laptops	Windows 7, 8.1, 10, and 10s 32-bit, 64-bit
Windows Touch-Enabled Desktops, Laptops/Tablets	Windows 8.1 up to present
Mac Desktops/Laptops	10.13 up to present
Chrome OS for chrome books	69 to present
Apple iOS Tablets	iPad 2, running iOS 11.4 up to present with 512 MB RAM or greater
Browsers (Used for Practice Test <u>ONLY</u>)	Chrome™ 55 or newer Firefox® 49 or newer Safari® 9 or newer Internet Explorer® 11 Microsoft Edge™
Headphone/Earphone/Ear Buds	Headphones/earphones/ear buds are required for students who have a text-to-speech accommodation
Desktop and Laptop Specific Requirements	
CPU	1.3 GHz
Memory	2 GB
Input Device	Keyboard – wired or wireless/Bluetooth® enabled mouse or touchpad The input device must allow students to select/deselect, drag, and highlight text, objects, and areas. The input device must allow students to enter letters, numbers, symbols, shift, tab, return, delete, and backspace. To meet security guidelines, each Bluetooth/wireless keyboard must be configured to pair with only a single computer during assessment administration. Other assistive technologies may be needed for students requiring accommodations.
Linux® OS	Ubuntu® 14.04.5 LTS, 16.04.1 LTS (64-bit only) Fedora™ 23, 24 (64-bit only)

- A.8.4. The Supplier must detail device specifications needed beyond this table for test accessibility features.
- A.8.5. The Supplier must provide a means for schools and districts to test their computer systems and network capacity to administer exams before the test window opens in order for them to address any issues. The proposal must outline this system.

A.9. Secure Test Delivery

- A.9.1. The online test delivery system must ensure a secure testing environment that controls inappropriate access to the test, the ability to cheat and/or compromise secure test items, and access to other applications or internet browsers during the test sitting. The Supplier shall specify security components that include:
 - A.9.1.1. Use of secure socket connection (https).
 - A.9.1.2. HTML 5 capabilities that do not require additional software plugins or java.
 - A.9.1.3. Student access that requires administrator approval.
 - A.9.1.4. Secure test environment that will prevent anyone from copying, pasting, printing, or capturing screen images and saving the information to another file or printing the information .
 - A.9.1.5. Student access limited to one form of the test during a valid session only.
 - A.9.1.6. Ability to “pause” under allowable conditions with controls to resume the test.
 - A.9.1.7. Time-out feature that will disable the test after 20 minutes of nonuse that cannot be restarted by the district.
 - A.9.1.8. Inability of the district to restart a test if the student has exited the test administration software prior to completing a section and 20 minutes has elapsed.
 - A.9.1.9. Prohibition of the use of other desktop applications during the test administration unless allowable for accommodation/accessibility purposes in line with student Individualized Education Programs (IEPs).
 - A.9.1.10. Confidentiality regarding test access and access to student information before, during, and after testing.

- A.9.1.11. Criteria for the Supplier/OSDE to resume a test or restart a test session.
- A.9.1.12. Ability to test over multiple sessions or days and to either allow access or restrict test items that have been previously viewed or encountered for students requiring this accommodation.

A.10. Security Model and System Safeguards

- A.10.1. The RFP response shall provide a detailed overview of the proposed solution's security model. The Supplier must specify all the security methods employed from client or desktop across the Internet to the underlying database platform and operating system, including specific authentication and encryption methods used including test storage on local servers. The proposal must describe how district/building administrators, test administrators, and students are authenticated, detail how accounts are issued and expired, and explain the auditing and transaction logging systems.
- A.10.2. The Supplier shall submit a list of the digital devices that students may use that meet the online testing hardware and software requirements. Security procedures that should be implemented when using the devices must also be specified.
- A.10.3. The system shall also provide for the ability to handle power outages, interruptions of internet service, and other loss of access to the system, to include but not limited to the ability to recover entered data and responses. Districts must have the ability to proctor cache.
- A.10.4. The Supplier shall provide a local caching solution of encrypted test content to reduce bandwidth during testing and must, at a minimum, address the following:
 - A.10.4.1. Must not require server class hardware for the caching solution.
 - A.10.4.2. Must be simple enough to function in a classroom or computer lab setting and flexible enough to scale up for use in enterprise network environments.
 - A.10.4.3. Must include a method for local backup of student responses in the event of a loss of internet connectivity.

A.11. Online System Components

- A.11.1. The online system must have user-friendly administrative tasks. The system should be designed to provide maximum flexibility for different schools' needs, while requiring minimal time and training for school personnel. The proposal shall describe the usability of the online system that will incorporate the following:

- A.11.1.1. A one-column format when possible.
- A.11.1.2. One item per screen will be presented with and all answer choices of the item visible on one screen.
- A.11.1.3. OSDE will require the ability to lockdown the setting of certain accommodations, so district users do not have access. For example, ELA text to speech is approved by an application process and must not be available unless OSDE approves the application. Also, text to speech must be available on the ELA extended constructed response section for grades 5 & 8 independent of the ELA MC test.
- A.11.1.4. Screen readers shall be able to read text in tables, charts, and images.
- A.11.1.5. When necessary, a vertical split-screen design that allows for questions that may be scrolled and answer choices that are all visible or a split screen to allow a reading passage to be visible along with an accompanying item
- A.11.1.6. The ability to navigate through items non-sequentially
- A.11.1.7. Text to Speech audio voice in English and Spanish versions, shall be universal to all systems as a controlled variable through the test deliver kiosk or other Supplier suggested method. All students shall receive the same text to speech experience.
- A.11.1.8. Reference sheets shall be embedded in the assessment delivery platform kiosk. These shall be available on demand and be viewable with accessible sizing. Reference sheet pop-up windows shall be resizable by the student and retain the position and sizing from item to item as the student takes the assessment. Examples include periodic table availability for all students and other tools such as a 100s chart, and multiplication table. Reference tools and sheets associated with an accommodation must be configurable to be available to approved individual students
- A.11.1.9. The text to speech tool shall be able to pick up reading or rereading in the middle of text, as directed by a student, The ruler tool shall be transparent, rotatable and manipulable by students. Different ruler scales shall be available based on grade level needs. The embedded calculator shall be DESMOS. Any reference sheets shall be resizable and repositionable by the student. Student sizing and location preferences shall remain active for the duration of the assessment.
- A.11.1.10. The Supplier shall describe their process for evaluating and supporting new assistive technologies to work within the assessment

system as they become adopted in the field for instructional purposes. In the response the Supplier shall describe their ability to enable student access to individualized assistive technology devices or programs within the testing platform.

- A.11.1.11. A review screen shall be available by section, that depicts items not answered or items marked for review, as well as completed items
- A.11.1.12. Features that allow students to highlight text/erase highlighting, enlarge images, and cross off or eliminate answer choices
- A.11.1.13. Accommodations that allow for vectorized font and image changes, different background colors, reverse contrast, and a text-to-speech reader. These options shall be universally experienced by students regardless of the operating system used. All accommodations shall be selectable by school administrators, not students.
- A.11.1.14. Instructions at the beginning of the test and a tutorial for online tools with sample test items. In addition to the written information, the instructions shall be available in English and Spanish test to speech.
- A.11.1.15. The supplier shall describe the ability of students to use their individualized assistive technology programs or device within the testing platform. This shall include a description of allowable use and any limitations.
- A.11.1.16. Data upload capability by file or by manual entry, with all student information and demographics captured based upon a data file layout determined by the OSDE.
- A.11.1.17. Configurability to allow specified students to test over multiple days and have the ability to predetermine chunking (an IEP or 504 accommodation that allows for a student to test over multiple days while taking smaller “chunks” of that assessment at a sitting) by establishing a unique number of items to be delivered at a time to a student. Students would be allowed to take breaks between sessions.
- A.11.1.18. Configurable to allow groups of students to receive the same form for the same accommodation for ease of administration purposes.
- A.11.1.19. A bulk reactivation or unlock function shall be available to the State to restart assessments that timed out. Instances of this occurring include severe weather or local emergency situations.
- A.11.1.20. The online system must meet or exceed expectations of the ADA, Universal Design for Learning (UDL) principles, and web accessibility as described in the most up to date Web Content Accessibility Guide (WCAG). All paper and online tests and practice tests must adhere to these criteria. Compliance must be kept

up to date with industry standards throughout the duration of the contract.

A.12. System Performance Requirements

A.12.1. The Supplier shall specify the minimum peak download and upload speeds in kbps and during question transition and background upload and download activity in kbps. The proposal will specify how the test system avoids timing out in the event of a congested network or an Internet outage lasting less than 30 seconds. OSDE requires the Supplier at a minimum meet the following criteria:

A.12.1.1. Deliver less than one second mean screen transition time for 90% of all users

A.12.1.2. Ensure that no users have a refresh time of greater than five seconds

A.12.2. The Supplier must describe the ability to support a substantial number of simultaneous online users of the system (at least 45,000 online test takers) and is required to provide dedicated server capacity for Oklahoma's program. The Supplier must continually monitor and report to the OSDE critical information including the number of simultaneous users, cumulative tests completed, and daily activity throughout test administration. In addition, the Supplier must provide the OSDE the ability to actively monitor live test administration.

A.13. Performance Metric

A.13.1. For each administration, the Supplier shall provide to the OSDE a computer-based testing availability performance metric that is the ratio of the total number of minutes the system was available for testing at any site in the state to the total number of minutes the system was scheduled to be available across the state. This metric will be tracked each year and the annual totals will be presented to the OSDE annual planning meeting.

A.14. System Testing Requirements

A.14.1. The Supplier shall develop specifications for and will manage all system testing activities including but not limited to developing a user acceptance test plan, developing test scripts, testing all software components, testing student response scoring components, parallel tests (if parallel processing is appropriate), security testing, end-user activity testing, data conversion testing, hardware and network capacity testing, and integration testing.

A.15. System Testing Performance Measures

A.15.1. The Supplier will specify in the proposal how it will measure each of these parameters and whether these tests will be conducted internally or by an external third party:

- A.15.1.1. Load (applying load or demand on a system or device and measuring its response).
- A.15.1.2. Stress (applying unusual load to understand the upper limits of capacity or robustness in terms of extreme load)
- A.15.1.3. Spike (a subset of stress testing by spiking the number of users or other aspect)
- A.15.1.4. Endurance/Soak (applying significant constant load over an extended period)
- A.15.1.5. Configuration (performance within broad range of hardware, peripheral configurations, operating systems, and/or software configurations)
- A.15.1.6. Scalability (measuring capability to scale up or scale out in terms of any of its non-functional capabilities)
- A.15.1.7. Isolation (repeat testing of known system problem)

A.16. Workstation Set-Up/Certification Requirements

A.16.1. The Supplier shall develop specifications for and deliver a system to download and install via Internet connections all software required to deliver online tests, scoring, and appropriate reporting functionality. This system will serve as:

- A.16.1.1. a secure browser that locks access to all other computer and web programs, applications, and files with the exception of specified software used for assistive technology purposes.
- A.16.1.2. a secure browser that masks and directly accesses the testing host web site.
- A.16.2.3. a system check, monitoring required computer software and connectivity readiness for testing, that can be run from individual machines.

A.17. Computer and Infrastructure Testing

A.17.1. The Supplier shall be responsible for:

- A.17.1.1. Assisting schools in certifying that computers are properly prepared and can make the necessary Internet connections to successfully deliver tests.

A.17.1.2. Developing and providing an infrastructure test, consisting of mock items, that replicates the size of the largest computer-based test (CBT) and is run on the actual testing platform (i.e., users log in to the testing platform as if they were logging into a live test).

A.17.1.3. Developing a guide to walk users through running the trial on machines that will be used for testing to help them identify technical issues and make adjustments prior to live testing.

A.18. Online Test Training

A.18.1. The Supplier shall be responsible for providing training, users' guides, and other instructions for all components of the online system. Topics will include workstation set-up and test scheduling. The proposal will outline the materials to be used, how the training will be delivered to various audiences, and the timeline for training. Trainings shall be made available as brief, focused, tutorial videos in addition to other delivery methods. Materials should be customized for Oklahoma and include appropriate terminology, which the State shall review and approve prior to publication.

A.19. Online Practice Tests

A.19.1. The Supplier shall produce online practice tests to familiarize students and administrators with the system and help districts test their systems. The practice tests should consist of a minimum of 20 items including multiple-choice and other item types representative of the live tests. Previous practice test items may be used the first contract year with each subsequent year replacing 20% of the items. The practice tests must incorporate the identical features as the secure test, including audio capabilities, and universal tools for accessibility and accommodations. Examples include the same voice for text to speech, the same rulers, magnifying tools, calculator, etc. The practice test must provide an identical experience when compared to the actual testing environment. In addition, the practice tests will be HTML5-compliant and will not require the use of additional browser plugins.

A.19.2. The practice tests should be available year around and refreshed for schools by January of every year. Practice tests should contain a tutorial of the online tools, test navigation, and the review screen. The subject-area specific practice tests will also provide raw score results on multiple-choice and technology-enhanced items with the correct answer identified when questions have been missed. The proposal

will describe the Supplier's plan and timeline for producing the tutorial and implementing the online practice tests and specify minimum browser requirements.

A.20 Test Accommodations

A.20.1. The Supplier shall provide accessibility features and special accommodations compliant with the following design principles:

A.20.1.1. US Rehabilitation Action Section 508, requiring all web site content be equally accessible to people with disabilities.

A.20.1.2. The most up to date version of Web Content Accessibility Guidelines that provides a wider range of recommendations to support people with disabilities, including blindness and low vision, deafness and hearing loss, learning disabilities, cognitive limitations, limited movement, speech disabilities, photosensitivity, and combinations of these

A.20.1.3. Accessibility for all students including but not limited to color overlay, line reader, highlighter, answer eliminator, increased font size, inverted color option, foreground and background color, text-to-speech for directions, and vector scalability.

A.20.1.4. The Supplier shall describe the process used to request and assign accommodations including the utilization of bulk upload requests and download requests for by the State and districts. The process shall include a mechanism to ensure accommodations and tools can be customized to meet individualized needs of students and are only available to the students for whom they have been configured.

A.20.1.5. The Supplier shall describe system imbedded process steps for evaluating item accessibility, that incorporates the relevant guidelines. These processes need to start during initial stages of item and public facing document development and continue throughout the development cycle.

A.20.1.6. Please see the OSDE's accommodation manuals. The OSDE maintain these manuals, but abridged versions are included in the Test Preparation Manuals (TPMs). <http://sde.ok.gov/sde/documents/2014-08-11/ostp-accommodations-placeholder>

A.21. Neutral Latin American Spanish Language Translation

A.21.1. The proposal must describe a method to provide Spanish Language Translation forms for all Math, portions of ELA, and Science tests (operational forms and

practice tests, including directions). Translation forms must have a consistent Text-To-Speech (TTS) and alt test voice over different operating system. This voice may be embedded in the test administration platform or arranged through other means. Student access to Spanish forms shall be configurable by testing administrators and not directly accessible by students.

A.22. Online Test Management System

A.22.1. The proposal must describe the Supplier's online management system, which shall be a unified system for all student data management for computer-based testing (CBT) and accommodations-based paper-based testing (PBT) as well as test administration and reporting tasks. At a minimum, the online management system shall:

- A.22.1.1. Contain a secure site that requires usernames and passwords
- A.22.1.2. Allow customizable accounts based on user access (state-level, district-level, school-level, classroom level, etc.)
- A.22.1.3. Depending on the access level, allow views of and modifications/alterations to other organizations in the system (i.e., a state-level user may select and view any district or school in the state).
- A.22.1.4. Depending on the access level, allow for the addition of schools that are not on the OSDE file (e.g., private schools), and that may require special school types as determined by the OSDE.
- A.22.1.5. Allow an online test materials ordering process for CBT and PBT administrations.
- A.22.1.6. Enable students to transfer between schools and retain all up-to-date testing information including but not limited to test completion and progress status, IEP and 504 status (to be verified by the receiving district) and any sections of incomplete tests. This will facilitate the receiving district in completing assessments for transfer students.
- A.22.1.7. Allow districts to manually add students as well as upload a bulk data file that includes accommodations and accessibility.
- A.22.1.8. Support secure, unattended file transfers for pre-identification and enrollment data.
- A.22.1.9. Permit the creation of new accounts by authorized users, individually or via file upload to create multiple new accounts or make updates to existing accounts.
- A.22.1.10. Provide user access to various non-secure and secure links.
- A.22.1.11. Accommodate CBT delivery.

- A.22.1.12. Encrypt all personally identifiable information during transmission and in storage.
 - A.22.1.13. Comply with state and federal law as it relates to student information.
 - A.22.1.14. Allow for custom configuration of access options within different user access levels. (Ex. State level report access only)
- A.22.2. The Accessible Portable Item Protocol (APIP) Standard and the IMS Access for All Personal Needs and Preferences (AFA PNP) v2.0 Specifications. All systems that identify, prepare for, and monitor student test participation shall have the capacity to distinguish between accommodated forms, CBTs and PBTs, including all applications of pre-identification and enrollment files. These systems shall also be able to accurately track student participation by accommodation status and delivery mode (CBT, PBT, or both) and reflect the test delivery mode(s) in each student file.
- A.22.3. Using the OSDE's file, the Supplier will populate the system with all active districts and schools. These are subject to change during the school year and will require updating. The OSDE will provide the Supplier with a list of the current names, addresses, e-mail addresses, and phone numbers of the district test coordinators. The Supplier will populate the password-protected online system with this information to create initial district-level user accounts.
- A.22.4. Oklahoma's state data reporting system will provide the Supplier with all student information required for pre-coding/pre-loading. The OSDE will provide the data file layout and file requirements.
- A.22.5. Components of the Supplier's online systems (e.g., websites, databases) shall be submitted to the OSDE for review of content, layout, aesthetic quality, and functionality. The Supplier shall make any requested changes to such systems. The online systems shall not be used for Supplier advertisements or other promotional purposes without the state's permission. The branding of these systems should be primarily for Oklahoma's assessment program but may include Supplier logos and other information as explicitly approved by the OSDE. Supplier public facing web resources, documents, portals, etc., shall be available at one well organized web page to ensure ease of access.
- A.22.6. All Supplier public facing web resources, documents, portals, trainings, manuals, guides, etc., shall be available at one well organized web page to ensure ease of access.
- A.22.7. Optional Cost Option Component. Suppliers that include a competent submission of this optional component will receive 5 bonus points. If this component is not

bid, OSDE still reserves the right to explore it further with the supplier during the contract. OSDE is interested in modernizing data delivery between the OSDE, districts, and the Supplier. Over the course of the contract, the Supplier shall develop a set of RESTful API endpoints using the SIF UNITY specification for the ingestion of all active districts and schools into the assessment system. A measure of success for this implementation will be the successful connection and data flow as expected by the OSDE. OSDE anticipates having sufficient infrastructure in place to enable this transition within the first two contract years.

A.22.7.1. Over the course of the contract, the Supplier shall develop a set of RESTful API endpoints using the SIF UNITY specification for the ingestion of the current names, addresses, e-mail addresses, and phone numbers of the district test coordinators.

A.22.7.2. The OSDE will develop a set of API endpoints with a SIF UNITY data model for the Supplier to return assessment results.

A.22.7.3. The Supplier will populate the password-protected online system with this information to create initial district-level user accounts.

A.22.7.4. Oklahoma's data collection systems will provide the Supplier with all student information required for pre-coding/pre-loading. The OSDE will provide the data to the vendor via a set of RESTful API endpoints to access a SIF UNITY based data model. See SIF Unity Specification here.

A.22.7.5. The Supplier will retain ownership to the developed proprietary software and may seek to sell it to others. The Supplier agrees to a license in perpetuity to any software, tool set, APIs, etc. that OSDE specifically has had developed related to this cost option component, on the date that the contract is signed.

A.22.8. Components of the Supplier's online systems (e.g., websites, databases) shall be submitted to the OSDE for review of content, layout, aesthetic quality, and functionality. The Supplier shall make any requested changes to such systems. The online systems shall not be used for Supplier advertisements or other promotional purposes without the state's permission. The branding of these systems should be primarily for Oklahoma's assessment program but may include Supplier logos and other information as explicitly approved by the OSDE.

A.23. Online System Documentation, Functionality, and Recovery

- A.23.1. The Supplier shall recommend an industry-standard recovery approach that meets applicable OSDE standards with a reasonable expectation that testing requirements can be successfully achieved. The disaster recovery approach shall include a description of how materials and data for this project will be backed-up and recovered in the case of an emergency. OSDE shall have final approval of the disaster recovery solution.
- A.23.2. The Supplier shall monitor and report all denial-of-service attempts or unauthorized intrusions throughout the duration of the contract. The Contractor must notify OSDE of all identified risks related to the possible denial of service, along with an associated avoidance/mitigation plan.
- A.23.3. The Supplier or its subcontractors shall perform at least two Disaster Recovery Tests every three hundred sixty-five (365) calendar days. A “Disaster Recovery Test” shall mean the process of verifying the success of the restoration procedures that are executed after a critical IT failure or disruption occurs. The Disaster Recovery Test shall use actual State Data Sets that mirror production data.
- A.23.4. The Supplier must send immediate outage notifications to the OSDE and State approved users.
- A.23.5. The Supplier shall work with the OSDE to provide documentation for all specifications of the online system. The OSDE shall be able to review and approve the online system and all its components before the test window opens in the necessary timeframe to adjust the system, if required. A final review of the system on the live platform shall be provided before the test window opens. The OSDE shall be provided security access allowing designated staff to test the full functionality of the system (e.g., uploading a pre-coded file, assigning students to sessions, taking the exam, and administering a make-up and breach session). This User Acceptance Testing (UAT) environment shall include the operational test and have a timeline that allows a minimum of 4 business days of review. Critical or fatal edits based on UAT review shall be made before the assessment window is operational.

A.24. Support Services and Help Desk

- A.24.1. The Supplier will provide customer service via toll-free phone lines, chat, and e-mail between 8:00 a.m. and 5:00 p.m. (Central Time) and between 7:00 a.m. and 7:00 p.m. (Central Time) one week before and during the testing window. The service will be provided by staff members who respond to Oklahoma program calls.

Customer service staff must document all communications in a log and furnish it weekly to the OSDE during each administration or upon request as needed. The proposal will specify how the Supplier will ensure that calls and e-mails are answered, or issues resolved with accurate information in a consistent and appropriate manner. Digital communications shall be responded to within 2 business hours or less during the assessment window and within 18 business hours of receipt outside the assessment window. Call wait time shall not exceed 5 minutes at any time. Call center personnel must be based in the United States.

A.25. Additional Technology Support

A.25.1. Beginning not less than four weeks before and extending at least one full week after each test administration, the Supplier must utilize additional customer service personnel to handle CBT administration calls, and personnel who are able to provide advanced technical support must be immediately available for any issues that cannot be resolved by call center staff. The system must employ a job-ticket method of tracking issue types, status, and individual client trouble calls or e-mails including current aggregate status information for resolution. The Supplier shall describe the following:

A.25.1.1. Help desk support model that is offered to all customers, including assistance for authorized users utilizing a parent/guardian facing reporting platform.

A.25.1.2. Means of customer contact to the help desk.

A.25.1.3. Request for details about open defaults, who reported, when reported, etc.

A.25.1.4. The knowledge level of the customer service representatives with regard to Oklahoma reporting.

A.25.1.5. The procedures for incident management and problem escalation during the performance of the contract.

A.25.1.6. The procedure must describe how the Supplier will address problem situations as they occur and timeframes for resolutions and levels of escalation during the performance of the contract.

A.25.1.7. Supplier's process for establishing the existence of a problem.

A.25.1.8. Reporting methods and available options.

- A.25.1.9. The ability for OSDE, OMES, Districts and Sites to open and track trouble tickets online.
- A.25.1.10. How trouble tickets are closed and reported.
- A.25.1.11. Initiation and follow through on a customer-initiated trouble ticket.
- A.25.1.12. The maximum duration that a problem may remain unresolved at each level before automatically escalating to a higher level of resolution.
- A.25.1.13. Circumstances in which the escalation will occur than the normal timeframe.
- A.25.1.14. The nature of feedback on resolution progress, including the frequency of feedback.
- A.25.1.15. Identification of and contact information (name, title, address, telephone and fax number, and e-mail address) for progressively higher levels that would become involved in resolving a problem.
- A.25.1.16. Contact information (name, title, address, telephone and fax number, and e-mail address) for persons responsible for resolving issues after normal business hours (i.e., evenings, weekends, holidays, etc.) and on an emergency basis.
- A.25.1.17. Escalation process for installation service dates and other commitments that are not met.
- A.25.1.18. Provide Helpdesk Service Level Agreement (SLA) metrics and specify by providing evidence of experience.

A.26. Test Delivery

- A.26.1. All grades 3-8 tests will be administered as computer-based tests.
- A.26.2. Paper-and-pencil test forms shall be available for student accommodations and special circumstances. Paper-and-pencil test numbers for 2022 are included below.

A.26.3.

Grade Level	Subject	Paper-and-Pencil Count
3	Math	318
3	ELA	335
4	Math	292
4	ELA	285

5	ELA	325
5	Math	356
5	Science	376
6	Math	353
6	ELA	339
7	ELA	312
7	Math	324
8	ELA	333
8	Science	403
8	Math	370

A.26.4. The OSDE is required to provide districts with a test delivery option other than computer-based testing for districts including printed based options. OSDE requests the Supplier propose a solution that is most cost effective for the OSDE to allow districts to utilize another test delivery option, such as On-demand printing or other option at the district level with appropriate test security measures. All known delivery options must be priced in this RFP. This portion of the proposal will be listed as a separate cost option and must provide a line-item cost breakdown on the pricing sheet, if the proposal will incur additional costs directly to the OSDE, school districts, or other entity listed in the proposed solution.

A.26.5. Student counts for 2021-2022 are listed below by grade level. Total student enrollment is anticipated to continue to increase by approximately 0.5 to 1.0% each year thereafter.

Grade 3	52,654
Grade 4	51,257
Grade 5	51,161
Grade 6	52,502
Grade 7	54,239
Grade 8	52,338

A.27. Test Booklet Specifications

A.27.1. All print test booklets will be labeled with unique numerical codes in sequential order to assist with test booklet security and inventory control. Test booklets will be designed and constructed to ensure durability. The Supplier must include samples of a proposed test booklet, demographic collection page, and seal, which must consist of the same paper that will be used in actual test booklets.

A.27.2. The Supplier will also be responsible for providing paper Braille and Large-Print versions of all tests as necessary. It is anticipated that a total of 50 Braille formatted assessments will be needed across the grades and subject areas. For Large-Print versions, approximately 75 copies per subject area will be necessary. Braille tests

must be available in Contracted Braille. OSDE uses Unified English Braille (UEB). The quality of the Braille must meet the standards established by the American Printing House for the Blind. The Supplier shall be responsible for having Braille materials proofed by an independent party (approved by the OSDE) that includes a certified Braille reader.

A.27.3. It is preferred that both large print and Braille tests be available on demand from the producing supplier to reduce cost and waste. This would require the supplier to acknowledge, print, and ship a test within a few business days. Large-Print documents will be printed in a minimum of 18-point type.

A.27.4. The Supplier will need to conduct mode comparability analyses and outline additional procedures used to ensure comparability across models for peer review (i.e., include review of rendered items on computer side by side with printed items during item review; DIF analyses that include mode).

A.27.5. The costs associated with Braille and Large-Print will require a line item on the pricing sheet and invoiced separately.

A.28. Test Booklet Quantities

A.28.1. The Supplier must ensure that enough test booklets and all materials are available and in school districts at least ten working days prior to the time of testing. Efforts shall be made to reduce shipping expenses by compiling all print materials and shipping them at the same time. The proposal must include a methodology by which appropriate test booklet quantities can be identified. Further, the Supplier is encouraged to provide recommendations for ensuring that the number of booklets shipped to districts comes as close as possible to the number of booklets used, in order to reduce the number of test booklets produced that are unused.

A.29. Test Development

A.29.1. Required cost option. Oklahoma is interested in transitioning to a multistage adaptive test as a cost option. The vendor shall present models of multistage adaptive assessments with the associated precision improvements and error curves. The plan shall include a transition strategy within the first few years of the contract. If more than two stages are proposed include a cost benefit analysis of adding more forms. Include discussion on the following points:

A.29.1.1. How will the supplier maintain the proficient portion of the curve while improving other areas of the scale?

A.29.1.2. What value is added in terms of precision along the scale?

A.29.1.3. Demonstrate how different levels of complexity across the scale will be met while maintaining alignment.

A.29.2. Standards are revised every 6 years. Science standards shall be revised in the year 2026. At that time OSDE would like to explore switching to a grade band assessment that is multistage adaptive. Currently, Science is assessed in grades 5 and 8 with assessment items aligned to the standards in those grades. This transition would require the vendor to organize a standard setting and other necessary reports or processes to facilitate this change.

A.29.3. The proposal will detail the Supplier's test development process that ensures the highest quality rigorous assessments. The Supplier's proposal will describe the technical quality of their test development procedures in terms of their alignment, validity, reliability, and adherence to assessment principles. The test development shall provide a robust item bank that continues to allow for pre-equating in future years. Blueprints and Test/Item Specifications based on current content standards have been developed for the subjects assessed and are available on the OSDE website. With the exception of content limits, the Test/Item Specifications offer suggestions of what might be included but do not provide an exhaustive list of what may be included. Review of the specifications may be required annually, and revisions may take place.

A.29.4. When responding to this RFP, the Supplier shall detail procedures and criteria for evaluating the appropriateness of the pre-equated solution for at least the first two years, as well as their ongoing procedures for scale maintenance.

A.30. Test Forms & Test Construction Process

A.30.1. The Supplier shall plan for an annual 35% item refresh rate to allow for item release. Additional item development levels shall be proposed by the Supplier to meet program needs.

A.30.2. True breach forms must be provided for use when tests are invalidated. The Supplier must propose a plan for equivalent forms for each subject window for the duration of the contract. These forms may be previously used tests or scrambled tests and shall be pre-equated to that administration's operational test. Breach forms shall be reviewed and revised annually.

A.30.3. Accommodated forms shall be created so their psychometric comparability is as close to the other operational forms as possible.

- A.30.4. The Supplier's response must include a description of the proposed process for item selection to build test forms. The selection and ordering of items on the test forms will be based on appropriate psychometric procedures and will meet the requirements of the Test and Item Specifications. The OSDE will have final approval of the selection of items and test forms. The Supplier's response must provide an efficient procedure for cycles of item selection and test form review for digital and print versions.
- A.30.5. The Supplier shall describe how it will provide OSDE with adequate opportunity to engage in User Acceptance Testing ("UAT") with time for the successful Supplier to adjust items and test format in response to issues discovered during UAT. The successful Supplier's and OSDE's UAT Teams will review item functioning and display in combination with the embedded supports, save state, tool and accessibility features, as well as all accommodations. OSDE shall have the opportunity to review all forms. OSDE approval is required before making a form live. OSDE's testing shall not replace the successful Supplier's responsibility for ensuring all forms function on the devices, browsers and operating systems used by the field that fall within established guidelines.
- A.30.6. The Supplier shall deliver an annual report describing the quality control and review process used to determine student experience comparability across the browsers and operating systems used in the field. This shall include a comprehensive review of all accessibility features including but not limited to color options, contrast options, accessibility tools and text to speech voice and reader consistence in both English and Spanish.
- A.30.7. Test and Item Specifications will be utilized for item selection and/or item development and test construction. The Supplier will ensure that test construction follows Oklahoma's requirements for aligning the test with the state standards, including categorical concurrence, depth of knowledge consistency, range of knowledge correspondence, balance of representation, and source of challenge. New items must measure the breadth and depth of objectives needed to provide optimal alignment to the content standards as identified in the alignment study. All standards/substandard/objectives shall be fully assessed every 5 years or less.
- A.30.8. Please see the current Blueprints and Test & Item Specification documents:
<https://sde.ok.gov/assessment-material>

A.31. Item and Prompt Development

- A.31.1. Although some items may be available from the Supplier, it is expected that the Supplier shall develop and annually update an item and prompt development plan per subject and grade (internal blueprint). This plan shall be reviewed and authorized by the OSDE and/or the Oklahoma Technical Advisory Committee prior to any item selection and/or item development occurring. The plan shall detail the decision process, rationales, psychometric goals, and item development targets as determined by standard, item bank needs, and psychometric needs. Development plans shall consider performance level descriptor (PLD) guidance, alignment to the Oklahoma Academic Standards, and correspond to appropriate cognitive complexity/DOK as delineated by the standard being assessed. For planning purposes there shall be a 5-year cycle of item development to meet the minimal goal of assessing every objective/sub-objective in a 5-year cycle. The form build and field-testing plans shall also be included with blueprint adherence and OSDE assessment goals. Item bank Maintenance and development shall be considered separately from the refresh rate, with development targets focused on item bank health. Suppliers should consider differences in item maintenance and development estimates when describing a plan to support transition towards the stage adaptive testing cost option. Additional components and revisions to these criteria may occur during the contract.
- A.31.2. To prepare for the internal blueprint development, the item bank shall be critically analyzed to identify areas of need. An item bank health report shall be annually included with the internal blueprint. In order to conduct this analysis, the item bank must be kept up to date with statistical and descriptive data; this includes, but is not limited to, updating standard alignment if items are realigned, detailed alignment that addresses specific standard alignment components, DOK/cognitive complexity of the item, statistical data useful for form building, item type, item use status, and other data points as relevant. This data shall be imported or manually entered in the vendor item banking platform and items updated or reevaluated as needed. This includes items inherited from other Suppliers as well as new item development. Inherited items shall be updated to be fully useable in the new Supplier platform, fully aligned with accessibility needs, and meet accommodation needs within the first contract year.
- A.31.3. Item types will consist of technology enhanced items (TEI), constructed response, multiple choice, multi select, and other item types as appropriate for the content being assessed. It is expected that TEI items will be necessary for assessing standards that require higher cognitive complexity/DOK. ELA in grades 5 and 8 have extended response items that primarily use machine scoring with human scoring reserved for scoring conflict resolution. All other ELA grades include short

response items to assess writing portions of the standards. Future Math TEI development would include, but not be limited to, TEIs such as interactive bar charts, multi select, multi select hot points, fraction construction with shading, short answer computer graded, multi drop boxes, table construction, line plot construction, and solution set indicator (graphing inequalities). The OSDE is interested in adding constructed response items in math and science. Math would start with grades 4 and 7 and then expand as needed in subsequent years. Science would be for grades 5 and 8. This portion of the proposal will be listed as a separate cost option and must provide a line-item cost breakdown on the pricing sheet.

- A.31.4. English Language Arts passage review shall occur prior to item development. This may be a virtual meeting that the Supplier organizes logistics for including any necessary participant stipends. The committees shall consist of up to 10 participants with one committee for grades 3-5 and one for grades 6-8 meeting over consecutive days. The Supplier shall provide accessibility experts during or prior to the review process. The committee shall be charged with reviewing and approving passages prior to item development starting. If passages are selected for use, appropriate permissions should be obtained as soon as possible so as not to interrupt test development and assessment in the upcoming year. The approval process shall be confirmed prior to the passage being presented for the passage review process with OSDE.
- A.31.5. English Language Arts prompts shall be created in-house, when possible, as dictated by the requirements of the standard(s) the prompts are being developed to assess.
- A.31.6. The Supplier proposal shall detail a plan for field-testing new items and prompts, using embedded field-test items as possible. It is the state's preference to avoid stand-alone field tests. Recommendations on a sampling plan should also be included in the proposal.
- A.31.7. After each new item is field-tested, the Supplier is to review appropriate item statistics with the OSDE. In the proposal, the Supplier will outline the student performance item statistics and metrics to be used, including analyses and procedures for detecting potential item dif. The Supplier will provide expert content and psychometric personnel at this review and will be responsible for meeting arrangements and associated costs. Items that do not meet data review requirements shall be revised, reviewed by teachers, and field-tested again as appropriate. After field testing Item acceptance rates and item loss rationales shall be monitored and reported to the OSDE.

A.32. Item and Prompt Review

- A.32.1. Diverse Item Review Committees of 9-12 members from across the state will be convened by the Supplier to review items prior to field testing. Each assessed grade and subject shall have an individual committee, and there should also be an accessibility committee that reviews all development. The Supplier shall be responsible for including but not be limited to logistical planning, providing equipment, facilitating, teacher stipends or substitute pay, lodging, meals, location rentals, travel expenses, and incidentals as necessary.
- A.32.2. The Supplier is responsible for quality assurance of this development and must monitor and ensure a high rate of items and prompts accepted by OSDE and approved by educator review committees. If the rates are low, the Supplier will implement procedures to correct this. The proposal will describe how the Supplier will conduct quality control for item and prompt development. Quality control shall include, but not be limited to, content expert review, accessibility, and editorial reviews. All items and documents shall be free of grammatical and content errors prior to client review.
- A.32.3. With some exceptions in ELA, item development shall be based on actual, verifiable data and scenarios whenever possible. Sources used for science item development must be cited when items or their components are initially presented to the client.

A.33. Item Bank

- A.33.1. The Supplier must manage an electronic item bank that will be fully accessible to OSDE. The current item bank will be provided to the Supplier by the prior Supplier in QTI format with metadata and PDF item cards within four weeks of contract award. This bank will include items with all necessary meta-data to successfully support future OSTP administrations, along with OSDE-owned items that have not yet been field tested. Metadata will include, but should not be limited to, field-test statistics, decision rules, linking information, operational item statistics, etc. The Supplier shall obtain decision rules and linking information. The Supplier shall show evidence of replicating item parameters in R. Equating and scaling must be the same between the prior and current Suppliers. The Supplier shall contract with an OSDE approved, unaffiliated third part to oversee and facilitate the transfer of items and all associated information and data.
- A.33.2. Active operational items shall be fully updated and added to the supplier item bank within 4 months of the contract award or sooner, in order to be used for the next operational forms. All other operational items shall be added and updated no later

than one year into the contract. Updates shall include, but are not limited to, implementation of online accessibility that adhere to the most up to date Web Accessibility Guidelines. Examples include data tables, labels, and graphs that are text based and readable by a screen reader. Artwork shall be revised to be fully compliant in both alternate colors and typical black and white. In cases where existing art or other items are not compliant, the Supplier shall provide a timeline and process for bringing items up to compliance.

A.33.3. Accurate and detailed item bank records must be kept and reported as requested by the OSDE. The proposal should detail the item bank structure and the processes the Supplier will use to update and maintain the bank. The Supplier shall provide electronic copies of the item bank reports by content area, standard, complexity/DOK, or other criteria when necessary. Item bank health shall be evaluated each year as part of the item development plan process. All existing operational, in development, field test, and practice test items shall be imported into the Supplier's item banking platform, depending on compatibility this may require the Supplier to recreate items in their platform.

A.33.4. All imported items shall be brought up to date with accessibility guidelines specified in this document. This includes, but is not limited to, guidelines regarding color, contrast, image backgrounds, and text to speech capabilities (including in tables and images). Item import shall be done in a way that retains all item functionality, demographic and statistical data, and that allows for future transport to different Supplier's item banks. This work shall be completed within one year of the contract award. If the revisions are significant enough to cause psychometric concerns of operational items, the SDE and the Supplier shall work to resolve the concerns. This may involve field-testing or validation studies. The Supplier should note if a software program or web-based application for the item pool will be provided to the OSDE as part of the proposal.

A.34. Interim and Through Year Assessments. Required Cost Option

A.34.1. The supplier shall provide a plan that includes interim, on demand assessments that are instructively useful for classroom teachers. Teachers shall have full access to a test building platform that allows tests to be built on the standards, objective, and substandard/sub objective levels. The scores shall be immediately available to teachers and reported to the smallest grain size available. In addition to alignment, item metadata shall include DOK or Cognitive Complexity of items. SDE must approve of DOK/Cognitive Complexity designations. Items shall be of an appropriate complexity as expected of the standard, thus allowing students to demonstrate knowledge, skills, and abilities across a range of DOK/Cognitive Complexity.

A.34.2. The assessment items should explore the full depth and breadth of the standards while allowing students to demonstrate deeper thinking than what is typical of summative assessments. This may include constructed response items with rubrics provided to teachers or other item types that make student thinking visible. The OSDE determines alignment criteria and has final say on all alignment claims. An off the shelf item bank may be supplementally used but it is expected that 65% of items will need to be custom created based on SDE needs.

A.34.3. The interim item platform would be expected to be operational within the first 2 years of the contract.

A.34.4. Over the span of the first 4 years of the contract, it is expected that each standard/objective be assessed by at least eight unique assessment items that assess the full depth and breadth of the standard, include any substandard or sub-objectives.

A.34.5. Both the through year and interim assessment shall be costed as line items with components broken out and priced individually.

A.34.6. SDE is interested in a true through year model that could, over the course of the contract, be field tested and eventually used for accountability purposes. This would include three adaptive assessments that allow for shorter forms by starting students off at an appropriate level.

A.34.7. The through year assessment would need to have options for districts to self-select which standards each assessment contains (or a subset of related standards) to allow districts to maintain local control of curriculum.

A.34.8. The successful supplier will demonstrate a plan to meet all components of peer review with the proposed through year assessment.

A.34.9. The through year and interim assessment systems must be internally coherent. They shall have a clearly demonstrated, system coherence that is supported by data. The intent is to create a fully aligned, actionable and instructionally useful system of assessments.

A.35. Teacher Item Writing of Operational Items. Required Cost Option.

A.35.1. OSDE is interested in teachers' development of operational Items. This will occur a weeklong in-person item writer workshop for teachers in grades 3-8, including mathematics, ELA, and science in grade 5 and 8. Teacher groups shall include 10 to 15 participants per grade and subject. The number will vary depending on teacher skill, development needs, and the difficulty of the items being developed. The OSDE shall approve the Supplier-developed training content prior to the training. The OSDE shall actively review progress and approve items in collaboration with the Supplier and item writers. The Supplier content development, editorial, art, and accessibility teams shall

revise teacher developed items as needed to ensure alignment and development best practices. All typical supplier-based process are still expected, to ensure high quality, universally accessible items. Supplier revisions of teacher work will likely be significant. This process shall involve several cycles of Supplier organized edits, reviews, and revisions to ensure OSDE expectations are met. Each subject and grade will have at least 10 teacher item writers with some subjects having more, depending on the difficulty of writing and the required development needs.

A.35.2. The proposal will detail a plan for field-testing new items and prompts, using embedded field-test items as possible. It is the state's preference to avoid stand-alone field tests. Recommendations on a sampling plan should also be included in the proposal.

A.35.3. After each new item is field tested, the Supplier is to review appropriate item statistics with the OSDE. In the proposal, the Supplier will outline the student performance item statistics and metrics to be used, including analyses and procedures for detecting potential item dif. The Supplier will provide expert content and psychometric personnel at this review and will be responsible for meeting arrangements and associated costs. Items that do not meet data review requirements shall be revised, reviewed by teachers and field-tested again as appropriate. After field testing Item acceptance rates and item loss rationales shall be monitored and reported to the OSDE.

A.36. Test Preparation Manual (TPM)

A.36.1. The Supplier will review and revise the existing test preparation manual and develop new or additional manuals as necessary for conducting the assessment program. The Supplier will be responsible for writing, developing, proofreading, and annually revising the manual, which must be as concise and user-friendly as possible. After the Supplier has made revisions, OSDE will review documents for approval. The proposal will include examples of how the Supplier will make the manual user-friendly. Information included in the Test Preparation Manual must describe paper-and-pencil and online testing administrations.

A.36.2. The Supplier must ensure that sufficient copies of all administration materials are available and must provide the materials in Word and PDF format to OSDE and meet all mentioned compliance/accessibility requirements. A WCAG and ADA-compliant web accessible version must be available for public download. Each district and each site will receive one TPM. The top 20 districts in student enrollment will receive an additional 10 TPMs. The total quantity will be approximately 3,100 print copies; this quantity includes an overage for additional

orders. The OSDE and districts will receive copies of Test Preparation Manuals no later than seven working days before the first scheduled in-service. Training materials and presentations based on the test preparation manual will be developed and provided by the Supplier to the OSDE. Training materials will include handouts, materials to be used for shipping, demonstration, custom presentations, and scripts that coordinate the use of materials for training. The OSDE is interested in reducing print quantities as a cost savings measure in the future.

A.37. Test Administration Manuals (TAMs)

A.37.1. The Supplier will develop and produce Test Administration Manuals in English and Spanish that detail test administration instructions and responsibilities before testing, during testing, and after testing. The proposal should recommend the configuration of the manuals (e.g., for CBT, for PBT, for English language arts tests, etc.) to be provided. A WCAG and ADA compliant web accessible version must be available for public download

A.37.2. Print copies shall be shipped with the test materials but packaged separately from test booklets. The proposal must outline the Supplier's system for districts to order additional manuals. The Supplier shall provide a web-ready version of these materials for posting on the OSDE web site. The print quantities are as follows: approximately 25,000 TAMs (Elementary school sites: 997) and 18,500 TAMs (Middle School sites: 299) and 6,500 TAMs. One print copy of each manual goes to the OSDE. The OSDE is interested in reducing print quantities as a cost savings measure in the future.

A.38. Parent, Student, and Teacher Guides (PSTGs)

A.38.1. The current Parent, Student, and Teacher Guides include an explanation of each content area test, the standards being assessed, information on the format of the tests, and sample items. At a minimum, the Supplier will develop and provide these guides, which will be color coded by subject. All guides must be available in Spanish, Large-Print and Braille versions. All versions of the guides must be provided as early in the school year as possible. Grades 3-5 will have print versions delivered to schools while grades 6-8 will have downloadable copies provided online for parent and school use.

A.39. Parent Information Brochure

A.39.1. A one-page guide that helps parents understand the assessment program and interpret their child's performance results shall be developed by the Supplier. This guide will be provided in English and Spanish in web-ready version of these materials to be posted on the OSDE web site.

A.40. Other Ancillary Materials

A.40.1. The proposal will detail the plan for developing other ancillary materials necessary for the testing program including distribution, test administration, materials return, and security.

A.41. Editorial Review and Proofing

A.41.1. For all aspects of the testing program, the Supplier will be responsible for conducting editorial review and proofreading of all materials. The Supplier should propose procedures for ensuring high quality editorial review and proofing, including descriptions of tasks and review cycles (digital and print), and provision of final copy of test materials to the OSDE for approval. The Supplier should demonstrate that the editorial staff has satisfactory knowledge, skills, and experience in large-scale assessment, copy and production editing, technical writing, proofreading, typography, and manuscript markup, as appropriate. Editorial staff must also have experience in reviewing educational materials in the appropriate content areas.

A.41.2. The proofing process offered by the potential Supplier must be outlined in detail and must allow OSDE staff a minimum of seven working days to review materials at all appropriate stages in the production process. Review of materials by the OSDE shall not be construed by the Supplier as proofing and absolutely does not relieve the Supplier of responsibility for error. The Supplier is responsible for correcting any errors in work projects, at the Supplier's expense, arising from activities that are the responsibility of the Supplier.

A.42. Production Quality Assurance

A.42.1. The Supplier shall design and submit for OSDE approval a detailed procedure for assessing quality production, including plans for proofing all materials before and during production and checking the accuracy of assembly. The assessments and related materials require error-free production and are the responsibility of the

Supplier. The quality assurance plan shall be robust enough to ensure checks at key production assembly points and descriptions of exactly when those checks will take place. All proposed procedures for quality control should be outlined in the proposal. The Supplier shall be responsible for replacing misprinted or otherwise defective materials at the Supplier's expense within a time period acceptable to the OSDE.

A.42.2. All production shall be reviewed for accessibility and be in adherence with the afore mentioned accessibility guidelines for both print and digital documents. Review and Advisory Committees

A.42.3. The Supplier will be responsible for arranging, organizing, and paying the cost of bringing participants together for meetings and overseeing the logistics of the meetings as identified in the RFP. The OSDE will work in conjunction with the Supplier to plan locations and logistics for each meeting, including the approval of agendas, handouts, and procedures for conducting meetings. Review committee meetings will be held in Oklahoma, usually in a central Oklahoma location.

A.42.4. The Supplier will be responsible for all costs and arrangements related to the review meetings. This includes arrangement for meeting spaces; refreshments, breakfast, lunch, and dinner allowance on multiple meeting days; and meeting materials. The Supplier will also assume the cost for the facility and travel reimbursements (hotel, mileage, tolls, parking) for participants. In addition, the Supplier will provide daily substitute teacher reimbursements (\$85 per day average) or, if approved by OSDE, honorarium (\$170 per day) during summer. The Supplier will handle all administrative tasks relative to the processing of the payments mentioned above.

A.42.5. The Supplier will be responsible for collecting nominations and maintaining a database of qualified and potential committee members in an electronic format easily accessible and transferrable to the OSDE, including participant demographics as determined by the OSDE. The Supplier will construct the committees to ensure appropriate representation based on specifications determined in conjunction with the OSDE. The OSDE will have final approval of selected Oklahoma stakeholders to participate in the review meetings. The Supplier shall make initial and subsequent contact and shall be responsible for the process of notifying committee members and confirming participation.

A.42.6. Committees consist of 9 to 15 members depending on the meeting purpose. OSDE staff, appropriate Supplier staff including content specialists and psychometricians will lead and/or participate in review and advisory committee meetings. The Supplier will be responsible for compiling notes, providing documentation, or drafting minutes as required for the various committee meetings.

A.42.7. The OSDE desires to explore cost saving measures to include virtual meetings when feasible or other alternatives that will allow OSDE to realize cost savings. The proposal should provide OSDE with a comparison of the costs associated between standard physical review/advisory committee meetings and virtual/alternative methods of conducting the meetings.

A.43. Performance Level Descriptors Development

A.43.1. Performance Level Descriptors (PLD) shall be created or revised as needed after standards revisions. Standard revisions take place on a staggered 6-year cycle. If determined to be necessary, PLD revisions or PLD development shall be conducted in person by a committee of highly qualified Oklahoma teachers and Supplier staff. PLDs shall be used to focus item development and as a reference during standard setting. We expect science in 2026 to need a PLD meeting. Math in 2026 and ELA in 2027 may need standard settings, depending on the degree of revisions made to the standards. The supplier shall be responsible for all meeting arrangements and participant costs including facilities, lodging, meals, transportation, teacher stipends and other incidentals.

A.44. Standard Setting

A.44.1. The Supplier will recommend a procedure for setting the standards that meets the requirements of state law. The Supplier shall provide evidence of successful use of this procedure with a large-scale assessment program. The Supplier will provide psychometricians to assist in standard-setting meetings and will prepare necessary documentation and experts for use/participation with the Commission on Educational Quality and Accountability (CEQA), which approves the standards, the State Board of Education, or other involved parties. The proposal shall include an independent observer selected by the state that monitors the standard setting process and generates a standard setting report that documents the process, and recommendations. The standard setting procedure must include a comparison of potential cut scores to those of other measures such as National Assessment of Educational Progress (NAEP) scores, the percent of students who enroll in remediation courses during their first year of college, or other rigorous measures of academic achievement.

A.45. Supplier District Test Coordinator Advisory Committee Meeting

A.45.1. An annual meeting will take place after the conclusion of spring testing. Participants may include all district test coordinators and district assessment technology coordinators and could number up to approximately 250 people. As needed, the Supplier can work in conjunction with other contracted testing suppliers in arranging the meeting and will be responsible for developing their portion of the day's agenda, facilitating the meeting, securing the facility to be used for the meeting, and providing the participants with lunch. The Supplier is not required to cover travel costs for participants. This meeting may be conducted virtually.

A.46. Technical Advisory Committee (TAC)

A.46.1. The Supplier shall be responsible for convening 3 Technical Advisory Committee (TAC) meetings per year. The Supplier will make all arrangements and assume all related costs including participant travel reimbursement, meeting space, meals, lodging, technical requirements and dinner the first evening for TAC members, OSDE, and other vendor participants. The 7 TAC members, approved by OSDE, are nationally recognized experts in psychometric, policy, or legal issues and must have extensive knowledge and experience at the state and national levels. The Supplier is responsible for providing honoraria to TAC members of \$1,500 per day, and \$2,000 per day for one TAC facilitator, including travel time. The Supplier will handle all the administrative tasks related to establishing agreements with the TAC members and processing their payments. The TAC facilitator shall work with the OSDE and Supplier to establish an agenda and to take and produce official meeting minutes for approval by the OSDE and the vendor.

A.46.2. Additional technical services may be determined necessary by the OSDE. These services shall include, but not be limited to, unaffiliated outside technical individuals or organizations used for data analysis, research, independent evaluations, and other work. The Supplier shall annually budget for approximately 120 hours of outside technical consultation.

A.46.3. The Supplier is required to supply appropriate personnel including psychometricians and program managers from the Oklahoma project for the TAC meetings. The Supplier shall also work with the TAC facilitator to prepare the agenda based on items identified by the OSDE and to provide materials or reports that are to be reviewed by the TAC. The agenda and materials or reports are to be sent to the OSDE four weeks prior to the meeting date.

A.47. Training

A.47.1. Annual training as needed for successful implementation, support, and maintenance of the testing program such as online testing or the online test management system, shall be provided by the Supplier. The Supplier will be responsible for securing five locations across the state and the equipment necessary for onsite trainings as well as webinars. Training materials will be developed in collaboration with the Supplier and the OSDE. A recording of the training shall be posted online for participants that were unable to attend. The supplier shall provide an electronic certificate as documentation of attendance to each participant.

A.48. Training Modules

A.48.1. The Supplier should propose recommendations on the development and implementation of user friendly training modules for Test Administrators and Test Proctors, for example, it would be accessible online and include the capability of embedding video, assessing knowledge via multiple-choice questions, providing trainees with a downloadable certificate of completion, and tracking the completion rates and performance of trainees. The proposal should cost out separately this type of training system.

A.49. Materials Packing and Distribution

A.49.1. The Supplier shall print and send one hard copy of every test form, breach form, accommodated form, and test administrative documents to the OSDE prior to the assessment window opening. These forms shall be in the same format presented to students if they are a form that is printed. Digital forms are not expected to have the same format.

A.49.2. The Supplier shall be responsible for shipping all test materials to school districts with materials for a site package as a unit. Currently, there are approximately 540 school districts, 9637 elementary schools, and 307 middle/junior high schools, and 86 charter schools involved in testing. Please see the following for a complete breakdown of enrollment numbers by school site or district, respectively:

<https://sde.ok.gov/documents/state-student-public-enrollment>

A.49.3. The proposal will detail the plan for packing and shipping non-secure and secure materials. Packaging and labeling of shipments will be done in a clear manner with appropriate packing lists to ensure efficient and effective distribution. Box 1 of each shipment, which will contain packing lists and other important information

necessary to evaluate a shipment, will be easily identifiable by districts. An e-mail message must be sent to the district testing coordinator when test materials are shipped and must include the date of the shipment, specific information about which materials are being shipped, the carrier's name, and any tracking number(s). If the receiving location is not able to accept packages at the delivery time, alternative shipping dates shall be arranged for the district. The Supplier must also provide an online system for districts to track shipped material and to order additional materials. The proposal will provide the details of this system.

A.49.4. Whenever secure materials are delivered to a school district, the Supplier must obtain from school districts receipts showing proof of delivery and maintain records of those receipts. The Supplier must include in the proposal a plan for a quality-control system to ensure timely and accurate delivery of all materials. All correspondence with school districts and sites must be approved by the OSDE before shipping. The Supplier shall make every effort to resolve any shipping errors.

A.49.5. A barcode with a unique machine-scannable and visually readable sequential identification number will be applied to student booklets and answer documents. Test booklet inventory sheets will be developed by the Supplier and distributed with instructions to the district test coordinators. Each test booklet must be individually checked off to ensure all secure materials are returned. A record of security numbers checked out to each site will be kept in a master file by both the Supplier and the district. District test coordinators will receive from the Supplier a list of each school's barcodes or a listing of the ranges for each school. Packages of test booklets must be sequential within each package and sequential overall for each site.

A.50. Return Packing and Shipping

A.50.1. In the proposal the Supplier must outline processes that will maximize the ease with which districts and schools can pack and return materials and minimize errors that may occur and delay scoring. The Supplier is responsible for all shipping arrangements and costs. The proposal will also set out the processes the Supplier will employ and actions that will be taken to follow up on missing shipments in a timely manner. Returned test booklets must be scanned by the Supplier and missing booklets must be reported to the OSDE and districts. The supplier shall make every attempt to recover missing test booklets. If test booklets are not recovered, the supplier shall make a detailed report describing the details of the situation.

A.51. Receipt Control

- A.51.1. Receipt control procedures shall be proposed to ensure a 100-percent accounting for all used and unused test booklets, used answer documents, and other returnable materials distributed to and collected from school districts. A report that identifies missing documents by security number for each type of document (test booklet and/or answer document), district, grade, and site are to be produced by the Supplier. All unreturned secure documents are to be included in the report. The Supplier should establish procedures for notifying the districts when it is determined secure documents are missing and will provide a plan of quality-control procedures for the accounting of returned materials. If any secure materials are missing the Supplier shall contact districts within 10 days of receipt and processing of testing materials. Whenever possible, the Supplier shall recover missing materials.
- A.51.2. District test coordinators (DTC) and Building Test Coordinators (BTC) must complete annual training prior to test administration. The Supplier shall provide a system for cataloging and certifying completion of training for DTCs and BTCs. This certification process must be completed prior to the DTC or BTC gaining access to test setup and administration portals. Training documentation shall be tracked with an electronic system that allows the training documentation to be digitally signed and secured on a web-based platform that is embedded within the Supplier's specific state-based web page. These records are to be organized, stored, and electronically accessible to the OSDE for two years after the close of test administration. Storage of certain security forms may need to be extended for security investigations as specified by the OSDE.
- A.51.3. Security forms are to be signed by all test administrators, monitors, building test coordinators, principals, district test coordinators, and superintendents. These forms are to be organized, stored, and electronically accessible to the OSDE for two years after the close of test administration. Storage of certain security forms may need to be extended for security investigations as specified by the OSDE. The Supplier will monitor and report to the OSDE any district not in full security certification according to agreed-upon timelines. Ideally, OSDE prefers an electronic system that allows the security forms to be digitally signed and secured on a web-based platform that is embedded within the Supplier's specific state-based web page.

A.52. Data Management

A.52.1. Suppliers that are technically equipped to support a seamless and secure sharing of student and assessment information directly with OSDE using the Schools Interoperability Framework (SIF) 2.x data model will receive up to 5 bonus points based on how comprehensive the solution is and when the solution would be made available to OSDE. This also pertains to any successor of student information systems. This includes both the receipt of student data from OSDE systems, data revisions, corrections, and the export of student results back to OSDE systems. This data transfer process is expected to eliminate hard file transfers, expedite student score reporting, eliminate transmission of cleaned up files, etc. The Supplier shall describe the procedures for how the automated data integration will be accomplished between its system and the OSDE systems, including identification of how standard Advanced Programming Interface, business rules, and security protocols will be used. Should the supplier attempt this optional component, a flow chart explaining the data exchange system is required in the proposal.

A.53. System Design

A.53.1. The Supplier must provide the system design for scanning, scoring, and reporting to meet reporting dates. A structural overview including a description of the system software must be documented in the proposal. This overview must contain sufficient detail to enable the OSDE to ascertain the programming capabilities of the Suppliers. This overview must include, but is not limited to, edit specifications during scoring; file structure(s); data base management system(s); computer languages; and statistical analysis software. The Supplier must provide evidence of the ability to provide reports with various levels of aggregation in paper, electronic, and web-based formats. The supplier must also provide the numbers and qualifications of staff that will be used to generate computer programs for data management and report generation.

A.54. Multiple-Choice and Machine-Scannable Scoring

A.54.1. The Supplier will develop a detailed plan for scanning and scoring the test booklets, written responses, answer documents, and online assessments. Procedures for validation of scoring keys must be delineated in the proposal. Quality control procedures that will be exercised during the scoring and editing of student answer documents and online assessments shall be developed. Quality control shall include a process whereby suspect documents are identified for hand-checking and possible key entry if corrections do not result in a complete record. Provisions shall be made for editing answer documents and headers that contain

inaccurate gridding of printed information, that are coded incorrectly with respect to student, school, or system identification, or that are deemed partially or wholly not scorable for any reason. These procedures will be developed in a manner to identify and correct as many coding errors as possible. All headers which contain a pre-slugged unique identifier consisting of county (two characters), district (four characters) and school (3 characters) shall be matched with current school and district database and any discrepancies must be resolved. Processes used for online assessments shall meet all of the same quality control criteria as paper answer documents. Procedures to ensure all information is accurate must be developed for the online as well as paper documents.

A.55. Open-Ended and Writing Prompt Scoring

- A.55.1. The current holistic rubrics used for scoring and the calculation method for the composite score on the Oklahoma writing assessments are provided in the Test Interpretation Manual available on the OSDE website. Student writing will be handwritten, or computer written, and the Supplier is required to score both appropriately. A range-finding meeting held virtually or at the Supplier's scoring facility is required each year for the following year's administration between the Supplier's scoring manager and lead scorers and up to six OSDE representatives. OSDE representatives shall monitor training and scoring as deemed necessary. The Supplier will be responsible for all costs and arrangements, including travel reimbursements for OSDE participants, related to the range-finding meetings and monitoring.
- A.55.2. The scoring approach outlined should include the roles and responsibilities of scoring personnel; the training of scoring supervisors and readers; the resolution of scoring problems; scoring reliability; and procedures for ensuring accurate, reliable, and timely scoring throughout the process. The Supplier will propose a procedure for collecting performance statistics for each reader on a daily basis. Writing responses are currently evaluated by a 4-point holistic rubric. The Supplier shall identify where the scoring will take place. The Supplier is invited to provide alternate scoring methods with cost efficiency in mind.
- A.55.3. The OSDE requires that extended writing responses be scored by one human reader and Artificial Intelligence (AI). In the event of non-adjacent scores, a third resolution reading must occur. A 10-percent read behind will be expected for ensuring reliability. Readers must have at least a four-year college degree with preference given to classroom teachers and individuals with advanced coursework in ELA. Procedures for recruiting and training scoring directors and readers should be described in detail with Human readers requalifying at the start of each scoring

session on at least five items to ensure recalibration. Human readers shall maintain an 80% or better accuracy of scoring.

A.55.4. Currently, the writing tests for grades 5 and 8 ELA are administered online, as are short constructed response items in the Grade 3, 4, 6, and 7 ELA tests. The short-constructed response items may be machine scored by Artificial Intelligence (AI), although field test items should be scored by human readers. The OSDE is interested in integrating additional constructed response items in mathematics and science, as necessary to meet the assessment needs of specific standards. The proposal must include a plan for this transition and a line-item cost breakdown.

A.55.5. The Supplier must rescore any student's test about which a question is raised. This service is offered as an option to school districts, and the Supplier may charge a fee to cover costs for this service. The proposal must specify the cost and turnaround time for this service. In the event a test has been scored incorrectly, the requesting party will not be charged for the students rescore.

A.56. Equating and Psychometrics

A.56.1. The proposal must describe a plan for pre-equating or equating test forms across administrations and across school years to adjust for possible differences in difficulty among forms. Additional studies and equating activities will be required for other needs as determined by the OSDE, including but not limited to conducting validity and comparability studies, pre-equating validation studies, for transitioning to assessing new standards or to evaluate the impact of outside factors, conducting research on different online devices, or constructing meaningful scale scores. The Supplier must have experienced psychometricians perform and review the necessary analyses with built-in quality checks that will ensure the accuracy, validity and reliability of results. The Supplier must provide psychometric expert advice to the department for the purpose of proactively preparing the state to provide the best assessments for students and to meet the requirements of the changing federal and state legislation. The vendor shall build in at least two such studies into the annual budget. All such studies shall be presented to the TAC for consideration prior to conducting the study. Subsequent reports shall also be presented to the TAC. OSDE reserves the right to contract for an external psychometric review of scoring, reporting, and analysis using the Supplier's proprietary systems and software.

A.57. Score Reporting

A.57.1. The Supplier must have the ability to merge online and paper and pencil administration results. The vendor shall conduct mode analysis to ensure

comparability across different form types or when new testing practices are put into action. At a minimum the proposal will include the following reports:

- A.57.1.1. **Electronic Preliminary Reports.** The Supplier will provide roster reports with immediate student results and general aggregate results for districts to review for accuracy. The OSDE requires district electronic roster reports to be available to districts through our student information system. The Supplier would be responsible for directly uploading data in an acceptable format necessary to generate such reports.
- A.57.1.2. **Electronic and Paper Parent/Student Reports.** The Supplier will provide parent/student reports in English and Spanish, designed to inform parents and students of the individual student's performance throughout the school years. Data comparisons to class, school, district and state data may be included. The Supplier will provide two (2) paper copies to school districts to disseminate. The Supplier will be responsible for providing one label with each student's test results, including performance levels for each test administration window. Student data imported from other OSDE suppliers (Ex, high school assessment providers, etc.) shall be incorporated into both student / parent reports and all other data portals as available.
- A.57.1.3. **Electronic Roster Reports.** The Supplier will provide comprehensive teacher level reports sorted by subject containing each student's performance and other specific criteria determined by the OSDE.
- A.57.1.4. **Electronic Summary Reports.** The Supplier will provide comprehensive subject, school, district, and state level summary reports that include specific criteria determined by the OSDE. A robust set of data analysis tools shall be provided with the data to aid schools and districts in navigating the portal and analyzing data at the student, class, grade, school, district and state levels. Tutorials shall be created and available on demand. Periodic revisions to tutorials may be needed if platform changes occur. These tutorials shall be housed on the Supplier's state-specific web page that is linked to the OSDE assessment page.
- A.57.1.5. **Media Reports.** For posting on the OSDE website, the Supplier will provide annual redacted reports with state, district, and site results for general public audiences, in accordance with state and federal privacy laws. Additional reports may be requested for public

release. The proposal will include recommended data suppression rules that the Supplier would implement and the quality checks that would be conducted.

A.57.2. Recommendations the Supplier may have suggestions to improve report formats which are encouraged and will be considered. Reports will be reviewed with the Supplier and OSDE prior to the first printing and then reviewed annually as agreed. Changes to the above reports may be needed as program needs and focus shift.

A.57.3. The Supplier will provide an on-demand or dynamic score reporting system that school districts and the OSDE can use to generate specifically desired reports. The Supplier will propose a solution for providing such a system and provide a separate cost breakdown.

A.57.4. The Supplier will provide a web-based and app-based system parents or guardians can use to securely view their student's reports. A Student, Parent and Guardian Portal shall house interpretive electronic reports that are designed to guide parents in understanding their unique student scores. Electronic reports shall be accessible to both the district and the parents via a secure portal. Parents/guardians shall have the ability to create up to 3 user accounts tied to one individual student. Parents/guardians shall be able to add additional students to their parent portal so multiple siblings are accessible within one account. The portal shall be equipped with a secure password recovery system that can be used by parents/guardians. This portal shall be embedded within district password protected portals or accessible through a parent/guardian portal housed on the Supplier's state-specific web page if districts are not capable of hosting the portal. The Supplier shall provide assistance to parents or guardians as needed to access the portal. Reports shall be available in both Spanish and English.

A.57.5. Grade 3 ELA score reporting requires an additional score indicator of "Meets Reading Sufficiency Act (RSA) criteria" or "Does Not Meet RSA criteria". This score indicator will be based upon specific Grade 3 ELA standards related to reading only. This indicator shall be reported first, as it is required by law for districts to utilize this score for student promotion into grade 4.

A.58. Aberrant Response Analyses and Reporting

A.58.1. The Aberrant Response Pattern Report will include at a minimum such information as District Code, District Name, School Code, School Name, Tested Grade, aberrant response indicators, statistical probability, and content area. The proposal will detail how these analyses will be completed and how the outcomes will be reported to the OSDE.

A.59. Statistics Data Analysis

A.59.1. The Supplier will analyze the data and produce both classical and Item Response Theory (3-parameter model) statistics for each operational item. Classical statistics shall indicate at a minimum p-value, option frequency distribution, and point-biserial corrections. Separate analysis shall be carried out by gender, race/ethnicity, and other demographics as determined by the OSDE. These reports shall be used to compare item performance with general performance, and for other analysis needs.

A.60. Storage of Answer Documents and Data Files

A.60.1. Answer documents, header sheets and security forms will be labeled and stored in a secure area of the Supplier's business location for a period of twelve months beginning June 1 of each contract year. Individual student test data will be stored at the Supplier's business location for a period of five years. Authorized deletion of student's individual records may occur during the sixth year from the date of the test administration.

A.61. Preliminary Student Level Data

A.61.1. The Supplier will provide a preliminary student level data file to OSDE within 10 business days of the end of the test administration window or June 20th, whichever comes first.

A.61.2. Suppliers that can provide faster data results will receive an additional evaluation point per day under the maximum 10-day turnaround.

A.61.3. Districts will have a minimum of 15 days to make corrections on preliminary assessment data.

A.61.4. A penalty of \$5,500 per day will be assessed for not meeting the 10-business day deadline.

- A.61.5. At the end of the correction period, the preliminary data will be available to the Supplier for processing of final reports.
- A.61.6. The Supplier shall be responsible for providing electronic data transmission and a record layout for individual student information. The Supplier should describe the plan for working with OSDE programmers to ensure that data transmission processes compatible with OSDE's data systems. The preliminary data should include all available data associated with the student. The Supplier must be able to incorporate all changes on corrected files for any final reports required by the OSDE.
- A.61.7. Reading Sufficiency Act (RSA) data is collected from a subset of multiple-choice items on the grade 3 ELA assessment. The Supplier shall describe a method of providing student results of "meets requirement" or "does not meet requirement" within one business day of the assessment window closing.

A.62. Final Student Level Data

- A.62.1. The Supplier will provide a final student level data file incorporating any updates made to the preliminary data file no later than 5 business days after OSDE returns the preliminary data file to the Supplier, or by August 20th, whichever comes first.
- A.62.2. The Supplier will describe the plan for working with OSDE programmers to ensure that data formats and layouts are compatible with OSDE's accountability software. The final data file should include all available data associated with the student record.
- A.62.3. The data elements required for the preliminary and final data will be determined by the OSDE.
- A.62.4. A penalty of \$5,500 per day will be assessed for not meeting the 5-business day deadline.

A.63. Technical Assistance and Digest

- A.63.1. The Supplier will assist with all reports relating to the assessment program produced for the legislature, the Commission on Educational Quality and Accountability (CEQA), the State Board of Education, or as required by the OSDE. In addition, the Supplier will provide analyses, documentation, alignment studies, and any other support for federal peer review activities that may be required during the period of the contract. The state anticipates needing approximately two studies per year in addition to the ongoing reliability and validity evidence for each

assessment. Studies may include concurrent validity evidence, evidence to support higher-level Depth of Knowledge items, correlations of content sub scores with similar and dissimilar content areas, correlations between student scores and teacher judgement, or other studies as needed. All validity and reliability evidence needs to include an interpretation of the results and the implications for the state assessment program as well as the tables of results.

A.63.2. The Supplier will develop an annual technical digest to inform educators about the development procedures and technical attributes of the statewide assessments. The digest must report on the procedures followed to ensure reliable and valid assessments and must include documentation on how appropriate industry standards were met. The technical digest must be made available in an electronic format that can be posted to and downloaded from the OSDE website. In addition, the Supplier(s) will print annually three copies to be delivered to the OSDE. The proposal will outline the technical report and the process to be followed for its development.

A.63.3. Please see previous examples of Grade 3-8 Technical Manuals:

https://sde.ok.gov/sites/default/files/2021-22%20OSTP_CCRA%20Tech%20Report-combined_ADA.pdf

A.64. Contingency Services

A.64.1. It is possible that unforeseen circumstances will make it either necessary or desirable to perform data analyses beyond those described herein or to handle unexpected data processing or materials acquisition requirements. Since these circumstances cannot be defined in advance and since the OSDE must be able to request such extra services in a timely fashion so as not to impede implementation of the assessment, it is necessary to include in the proposal 10% of the annual base pricing total to be allocated on contingency data analyses or other needed services as authorized by the OSDE.

A.65. Transition Plans

A.65.1. Proposals must include two draft Transition Plans detailing the transfer of relevant assessment documents and materials. An organized transition that ensures the continuity of the state assessment program is of the essence. The first draft Transition Plan must address the receipt of materials by the Successful Supplier upon final execution of the contract. The second draft Transition Plan must address the transfer of materials, both pre-existing and newly developed, from the

Successful Supplier to OSDE or another Supplier upon termination or expiration of the contract.

A.65.2. The Successful Supplier shall assist OSDE with all activities required to transfer all assessment documents and materials during these two transition phases. Draft Transition Plans shall include procedures for the transition of documents and materials. The Successful Supplier shall ensure that all relevant documents and materials, including but not limited to those identified in the following list are transferred efficiently among OSDE, the current Supplier, the Successful Supplier and OSDE's future Supplier(s):

A.65.2.1. Test development - all critical documents and materials used in the test development process;

A.65.2.2. Item and test specifications – all item format details, test map requirements, test blueprints, and technical reports;

A.65.2.3 Test books –all paper and electronic test booklets and electronic answer documents from previous test administrations; test maps for each form from the previous year's administration with keys and metadata;

A.65.2.4. Passages and artwork – all photocopies of the original passages with source documentation, copies of contracts, original electronic art files and applicable permission information;

A.65.2.5. The current item bank will be provided to the new Supplier by the prior Supplier in QTI format with metadata and PDF item cards within four weeks of the new contract being awarded This bank will include items with all necessary meta-data to successfully support future OSTP administrations, along with OSDE-owned items that have not yet been field tested. Metadata will include, but should not be limited to field-test statistics, decision rules, linking information, operational item statistics, etc. The prior Supplier shall provide decision rules and linking information. The new Supplier shall show evidence of replicating item parameters in R before this task is considered completed. Equating and scaling must be the same between the prior and current Suppliers. The prior Supplier shall contract with an OSDE approved, unaffiliated third part to oversee and facilitate the transfer of items and all associated information and data. Final payments to the previous supplier shall not be made until this task is completed.

- A.65.2.6. Program administration - all critical documents and materials used with the test administration process;
- A.65.2.7. General program documentation – all critical documents and materials used for general program documentation and summary reports;
- A.65.2.8. Reports – sample copies of all reports provided to districts and schools;
- A.65.2.9. Manuals/guides – sample copies of all guides and manuals (hard copy and electronic versions) for the operational test administrations, and copies of all electronic materials posted on the state website during the operational test administration;
- A.65.2.10. Scanning/Scoring information - all critical documents and materials used in the scanning and machine scoring process;
- A.65.2.11. Performance scoring specifications – all training papers, anchor sets, calibration papers, rubrics, and constructed-response scoring rules; previous year’s score distributions for each item and historical reader agreement rates;
- A.65.2.12. Psychometric and related assessment information required for the program - all critical documents and materials used for psychometric analyses and related procedures;
- A.65.2.13. Equating data files –all documentation that outlines layouts for files including item statistics, master file, pre-id, school/district score data and state-level score data;
- A.65.2.14. Scoring/reporting specifications – all documentation regarding scoring rules, aggregation rules, roll-up algorithms, and tables used to calculate student, school, district, and state results;
- A.65.2.15. Technical reports and other validity and reliability reports -all electronic copies of past technical reports produced by the previous Supplier and electronic copies of any other reports that discuss the validity or reliability of the assessments;
- A.65.2.16. Project plan - all documents that outline the tasks/deliverables and corresponding schedule for those tasks/deliverables;
- A.65.2.17. Professional development – all critical documents and materials used for professional development;

A.65.2.18. Schedules containing dates/durations for the following tasks:

A.65.2.18.1. Developing items, forms, and materials

A.65.2.18.2. Enrollment and pre-identification

A.65.2.18.3. Packaging and distribution

A.65.2.18.4. Scoring and reporting

A.65.3. Supplier recommendations for the transition of additional materials not included in this list are encouraged. After discussion with the Successful Supplier, the final Transition Plans will be subject to the review and approval of OSDE prior to implementation.

A.65.4. The Supplier shall reference its proven ability to provide smooth contract transitions when working with other assessment organizations in contract transitional activities.

ATTACHMENT B

STATE OF OKLAHOMA GENERAL TERMS

This State of Oklahoma General Terms (“General Terms”) is a Contract Document in connection with a Contract awarded by the Office of Management and Enterprise Services on behalf of the State of Oklahoma.

In addition to other terms contained in an applicable Contract Document, Supplier and State agree to the following General Terms:

1 Scope and Contract Renewal

- 1.1** Supplier may not add products or services to its offerings under the Contract without the State’s prior written approval. Such request may require a competitive bid of the additional products or services. If the need arises for goods or services outside the scope of the Contract, Supplier shall contact the State.
- 1.2** At no time during the performance of the Contract shall the Supplier have the authority to obligate any Customer for payment for any products or services (a) when a corresponding encumbering document is not signed or (b) over and above an awarded Contract amount. Likewise, Supplier is not entitled to compensation for a product or service provided by or on behalf of Supplier that is neither requested nor accepted as satisfactory.
- 1.3** If applicable, prior to any Contract renewal, the State shall subjectively consider the value of the Contract to the State, the Supplier’s performance under the Contract, and shall review certain other factors, including but not limited to the: a) terms and conditions of Contract Documents to determine validity with current State and other applicable statutes and rules; b) current pricing and discounts offered by Supplier; and c) current products, services and support offered by Supplier. If the State determines changes to the Contract are required as a condition precedent to renewal, the State and Supplier will cooperate in good faith to evidence such required changes in an Addendum. Further, any request for a price increase in connection with a renewal or otherwise will be conditioned on the Supplier providing appropriate documentation supporting the request.
- 1.4** The State may extend the Contract for ninety (90) days beyond a final renewal term at the Contract compensation rate for the extended period. If the State

exercises such option to extend ninety (90) days, the State shall notify the Supplier in writing prior to Contract end date. The State, at its sole option and to the extent allowable by law, may choose to exercise subsequent ninety (90) day extensions at the Contract pricing rate, to facilitate the finalization of related terms and conditions of a new award or as needed for transition to a new Supplier.

1.5 Supplier understands that supplier registration expires annually and, pursuant to OAC 260:115-3-3, Supplier shall maintain its supplier registration with the State as a precondition to a renewal of the Contract.

2 Contract Effectiveness and Order of Priority

2.1 Unless specifically agreed in writing otherwise, the Contract is effective upon the date last signed by the parties. Supplier shall not commence work, commit funds, incur costs, or in any way act to obligate the State until the Contract is effective.

2.2 Contract Documents shall be read to be consistent and complementary. Any conflict among the Contract Documents shall be resolved by giving priority to Contract Documents in the following order of precedence:

- A.** any Addendum;
- B.** any applicable Solicitation;
- C.** any Contract-specific State terms contained in a Contract Document including, without limitation, information technology terms and terms specific to a statewide Contract or a State agency Contract;
- D.** the terms contained in this Contract Document;
- E.** any successful Bid as may be amended through negotiation and to the extent the Bid does not otherwise conflict with the Solicitation or applicable law;
- F.** any statement of work, work order, or other similar ordering document as applicable; and
- G.** other mutually agreed Contract Documents.

2.3 If there is a conflict between the terms contained in this Contract Document or in Contract-specific terms and an agreement provided by or on behalf of Supplier including but not limited to linked or supplemental documents which alter or diminish the rights of Customer or the State, the conflicting terms

provided by Supplier shall not take priority over this Contract Document or Acquisition-specific terms. In no event will any linked document alter or override such referenced terms except as specifically agreed in an Addendum.

2.4 Any Contract Document shall be legibly written in ink or typed. All Contract transactions, and any Contract Document related thereto, may be conducted by electronic means pursuant to the Oklahoma Uniform Electronic Transactions Act.

3 **Modification of Contract Terms and Contract Documents**

3.1 The Contract may only be modified, amended, or expanded by an Addendum. Any change to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials made unilaterally by the Supplier, is a material breach of the Contract. Unless otherwise specified by applicable law or rules, such changes, including without limitation, any unauthorized written Contract modification, shall be void and without effect and the Supplier shall not be entitled to any claim under the Contract based on those changes. No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in the Contract.

3.2 Any additional terms on an ordering document provided by Supplier are of no effect and are void unless mutually executed. OMES bears no liability for performance, payment or failure thereof by the Supplier or by a Customer other than OMES in connection with an Acquisition.

4 **Definitions**

In addition to any defined terms set forth elsewhere in the Contract, the Oklahoma Central Purchasing Act and the Oklahoma Administrative Code, Title 260, the parties agree that, when used in the Contract, the following terms are defined as set forth below and may be used in the singular or plural form:

4.1 **Acquisition** means items, products, materials, supplies, services and equipment acquired by purchase, lease purchase, lease with option to purchase, value provided or rental under the Contract.

4.2 **Addendum** means a mutually executed, written modification to a Contract Document.

4.3 **Amendment** means a written change, addition, correction or revision to the Solicitation.

4.4 **Bid** means an offer a Bidder submits in response to the Solicitation.

- 4.5 **Bidder** means an individual or business entity that submits a Bid in response to the Solicitation.
- 4.6 **Contract** means the written, mutually agreed and binding legal relationship resulting from the Contract Documents and an appropriate encumbering document as may be amended from time to time, which evidences the final agreement between the parties with respect to the subject matter of the Contract.
- 4.7 **Contract Document** means this document; any master or enterprise agreement terms entered into between the parties that are mutually agreed to be applicable to the Contract; any Solicitation; any Contract-specific terms; any Supplier's Bid as may be negotiated; any statement of work, work order, or other similar mutually executed ordering document; other mutually executed documents and any Addendum.
- 4.8 **Customer** means the entity receiving goods or services contemplated by the Contract.
- 4.9 **Debarment** means action taken by a debaring official under federal or state law or regulations to exclude any business entity from inclusion on the Supplier list; bidding; offering to bid; providing a quote; receiving an award of contract with the State and may also result in cancellation of existing contracts with the State.
- 4.10 **Destination** means delivered to the receiving dock or other point specified in the applicable Contract Document.
- 4.11 **Indemnified Parties** means the State and Customer and/or its officers, directors, agents, employees, representatives, contractors, assignees and designees thereof.
- 4.12 **Inspection** means examining and testing an Acquisition (including, when appropriate, raw materials, components, and intermediate assemblies) to determine whether the Acquisition meets Contract requirements.
- 4.13 **Moral Rights** means any and all rights of paternity or integrity of the Work Product and the right to object to any modification, translation or use of the Work Product and any similar rights existing under the judicial or statutory law of any country in the world or under any treaty, regardless of whether or not such right is denominated or referred to as a moral right.
- 4.14 **OAC** means the Oklahoma Administrative Code.
- 4.15 **OMES** means the Office of Management and Enterprise Services.

- 4.16 Solicitation** means the document inviting Bids for the Acquisition referenced in the Contract and any amendments thereto.
- 4.17 State** means the government of the state of Oklahoma, its employees and authorized representatives, including without limitation any department, agency, or other unit of the government of the state of Oklahoma.
- 4.18 Supplier** means the Bidder with whom the State enters into the Contract awarded pursuant to the Solicitation or the business entity or individual that is a party to the Contract with the State.
- 4.19 Suspension** means action taken by a suspending official under federal or state law or regulations to suspend a Supplier from inclusion on the Supplier list; be eligible to submit Bids to State agencies and be awarded a contract by a State agency subject to the Central Purchasing Act.
- 4.20 Supplier Confidential Information** means certain confidential and proprietary information of Supplier that is clearly marked as confidential and agreed by the State Purchasing Director or Customer, as applicable, but does not include information excluded from confidentiality in provisions of the Contract or the Oklahoma Open Records Act.
- 4.21 Work Product** means any and all deliverables produced by Supplier under a statement of work or similar Contract Document issued pursuant to this Contract, including any and all tangible or intangible items or things that have been or will be prepared, created, developed, invented or conceived at any time following the Contract effective date including but not limited to any (i) works of authorship (such as manuals, instructions, printed material, graphics, artwork, images, illustrations, photographs, computer programs, computer software, scripts, object code, source code or other programming code, HTML code, flow charts, notes, outlines, lists, compilations, manuscripts, writings, pictorial materials, schematics, formulae, processes, algorithms, data, information, multimedia files, text web pages or web sites, other written or machine readable expression of such works fixed in any tangible media, and all other copyrightable works), (ii) trademarks, service marks, trade dress, trade names, logos, or other indicia of source or origin, (iii) ideas, designs, concepts, personality rights, methods, processes, techniques, apparatuses, inventions, formulas, discoveries, or improvements, including any patents, trade secrets and know-how, (iv) domain names, (v) any copies, and similar or derivative works to any of the foregoing, (vi) all documentation and materials related to any of the foregoing, (vii) all other goods, services or deliverables to be provided by or on behalf of Supplier under the Contract and (viii) all Intellectual Property Rights in any of the foregoing, and which are or were created,

prepared, developed, invented or conceived for the use of benefit of Customer in connection with this Contract or with funds appropriated by or for Customer or Customer's benefit (a) by any Supplier personnel or Customer personnel or (b) any Customer personnel who then became personnel to Supplier or any of its affiliates or subcontractors, where, although creation or reduction-to-practice is completed while the person is affiliated with Supplier or its personnel, any portion of same was created, invented or conceived by such person while affiliated with Customer.

5 Pricing

- 5.1** Pursuant to 68 O.S. §§ 1352, 1356, and 1404, State agencies are exempt from the assessment of State sales, use, and excise taxes. Further, State agencies and political subdivisions of the State are exempt from Federal Excise Taxes pursuant to Title 26 of the United States Code. Any taxes of any nature whatsoever payable by the Supplier shall not be reimbursed.
- 5.2** Pursuant to 74 O.S. §85.40, all travel expenses of Supplier must be included in the total Acquisition price.
- 5.3** The price of a product offered under the Contract shall include and Supplier shall prepay all shipping, packaging, delivery and handling fees. All product deliveries will be free on board Customer's Destination. No additional fees shall be charged by Supplier for standard shipping and handling. If Customer requests expedited or special delivery, Customer may be responsible for any charges for expedited or special delivery.

6 Ordering, Inspection, and Acceptance

- 6.1** Any product or service furnished under the Contract shall be ordered by issuance of a valid purchase order or other appropriate payment mechanism, including a pre-encumbrance, or by use of a valid Purchase Card. All orders and transactions are governed by the terms and conditions of the Contract. Any purchase order or other applicable payment mechanism dated prior to termination or expiration of the Contract shall be performed unless mutually agreed in writing otherwise.
- 6.2** Services will be performed in accordance with industry best practices and are subject to acceptance by the Customer. Notwithstanding any other provision in the Contract, deemed acceptance of a service or associated deliverable shall not apply automatically upon receipt of a deliverable or upon provision of a service.

Supplier warrants and represents that a product or deliverable furnished by or through the Supplier shall individually, and where specified by Supplier to perform as a system, be substantially uninterrupted and error-free in operation and guaranteed against faulty material and workmanship for a warranty period of the greater of ninety (90) days from the date of acceptance or the maximum allowed by the manufacturer. A defect in a product or deliverable furnished by or through the Supplier shall be repaired or replaced by Supplier at no additional cost or expense to the Customer if such defect occurs during the warranty period.

Any product to be delivered pursuant to the Contract shall be subject to final inspection and acceptance by the Customer at Destination. The Customer assumes no responsibility for a product until accepted by the Customer. Title and risk of loss or damage to a product shall be the responsibility of the Supplier until accepted. The Supplier shall be responsible for filing, processing, and collecting any and all damage claims accruing prior to acceptance.

Pursuant to OAC 260:115-9-5, payment for an Acquisition does not constitute final acceptance of the Acquisition. If subsequent inspection affirms that the Acquisition does not meet or exceed the specifications of the order or that the Acquisition has a latent defect, the Supplier shall be notified as soon as is reasonably practicable. The Supplier shall retrieve and replace the Acquisition at Supplier's expense or, if unable to replace, shall issue a refund to Customer. Refund under this section shall not be an exclusive remedy.

- 6.3** Supplier shall deliver products and services on or before the required date specified in a Contract Document. Failure to deliver timely may result in liquidated damages as set forth in the applicable Contract Document. Deviations, substitutions, or changes in a product or service, including changes of personnel directly providing services, shall not be made unless expressly authorized in writing by the Customer. Any substitution of personnel directly providing services shall be a person of comparable or greater skills, education and experience for performing the services as the person being replaced. Additionally, Supplier shall provide staff sufficiently experienced and able to perform with respect to any transitional services provided by Supplier in connection with termination or expiration of the Contract.
- 6.4** Product warranty and return policies and terms provided under any Contract Document will not be more restrictive or more costly than warranty and return policies and terms for other similarly situated customers for a like product.

7 Invoices and Payment

7.1 Supplier shall be paid upon submission of a proper invoice(s) at the prices stipulated in the Contract in accordance with 74 O.S. §85.44B which requires that payment be made only after products have been provided and accepted or services rendered and accepted.

The following terms additionally apply:

- A.** An invoice shall contain the purchase order number, description of products or services provided and the dates of such provision.
- B.** Failure to provide a timely and proper invoice may result in delay of processing the invoice for payment. Proper invoice is defined at OAC 260:10-1-2.
- C.** Payment of all fees under the Contract shall be due NET 45 days. Payment and interest on late payments are governed by 62 O.S. §34.72. Such interest is the sole and exclusive remedy for late payments by a State agency and no other late fees are authorized to be assessed pursuant to Oklahoma law.
- D.** The date from which an applicable early payment discount time is calculated shall be from the receipt date of a proper invoice. There is no obligation, however, to utilize an early payment discount.
- E.** If an overpayment or underpayment has been made to Supplier any subsequent payments to Supplier under the Contract may be adjusted to correct the account. A written explanation of the adjustment will be issued to Supplier.
- F.** Supplier shall have no right of setoff.
- G.** Because funds are typically dedicated to a particular fiscal year, an invoice will be paid only when timely submitted, which shall in no instance be later than six (6) months after the end of the fiscal year in which the goods are provided or services performed.
- H.** The Supplier shall accept payment by Purchase Card as allowed by Oklahoma law.

8 Maintenance of Insurance, Payment of Taxes, and Workers' Compensation

8.1 As a condition of this Contract, Supplier shall procure at its own expense, and provide proof of, insurance coverage with the applicable liability limits set

forth below and any approved subcontractor of Supplier shall procure and provide proof of the same coverage. The required insurance shall be underwritten by an insurance carrier with an A.M. Best rating of A- or better.

Such proof of coverage shall additionally be provided to the Customer if services will be provided by any of Supplier's employees, agents or subcontractors at any Customer premises and/or employer vehicles will be used in connection with performance of Supplier's obligations under the Contract. Supplier may not commence performance hereunder until such proof has been provided. Additionally, Supplier shall ensure each insurance policy includes a thirty (30) day notice of cancellation and name the State and its agencies as certificate holder and shall promptly provide proof to the State of any renewals, additions, or changes to such insurance coverage. Supplier's obligation to maintain insurance coverage under the Contract is a continuing obligation until Supplier has no further obligation under the Contract. Any combination of primary and excess or umbrella insurance may be used to satisfy the limits of coverage for Commercial General Liability, Auto Liability and Employers' Liability. Unless agreed between the parties and approved by the State Purchasing Director, the minimum acceptable insurance limits of liability are as follows:

- A.** Workers' Compensation and Employer's Liability Insurance in accordance with and to the extent required by applicable law;
- B.** Commercial General Liability Insurance covering the risks of personal injury, bodily injury (including death) and property damage, including coverage for contractual liability, with a limit of liability of not less than \$5,000,000 per occurrence;
- C.** Automobile Liability Insurance with limits of liability of not less than \$5,000,000 combined single limit each accident;
- D.** Directors and Officers Insurance which shall include Employment Practices Liability as well as Consultant's Computer Errors and Omissions Coverage, if information technology services are provided under the Contract, with limits not less than \$5,000,000 per occurrence;
- E.** Security and Privacy Liability insurance, including coverage for failure to protect confidential information and failure of the security of Supplier's computer systems that results in unauthorized access to Customer data with limits \$5,000,000 per occurrence; and
- F.** Additional coverage required in writing in connection with a particular Acquisition.

- 8.2** Supplier shall be entirely responsible during the existence of the Contract for the liability and payment of taxes payable by or assessed to Supplier or its employees, agents and subcontractors of whatever kind, in connection with the Contract. Supplier further agrees to comply with all state and federal laws applicable to any such persons, including laws regarding wages, taxes, insurance, and Workers' Compensation. Neither Customer nor the State shall be liable to the Supplier, its employees, agents, or others for the payment of taxes or the provision of unemployment insurance and/or Workers' Compensation or any benefit available to a State or Customer employee.
- 8.3** Supplier agrees to indemnify Customer, the State, and its employees, agents, representatives, contractors, and assignees for any and all liability, actions, claims, demands, or suits, and all related costs and expenses (including without limitation reasonable attorneys' fees and costs required to establish the right to indemnification) relating to tax liability, unemployment insurance and/or Workers' Compensation in connection with its performance under the Contract.

9 Compliance with Applicable Laws

- 9.1** As long as Supplier has an obligation under the terms of the Contract and in connection with performance of its obligations, the Supplier represents its present compliance, and shall have an ongoing obligation to comply, with all applicable federal, State, and local laws, rules, regulations, ordinances, and orders, as amended, including but not limited to the following:
- A.** Drug-Free Workplace Act of 1988 set forth at 41 U.S.C. §81.
 - B.** Section 306 of the Clean Air Act, Section 508 of the Clean Water Act, Executive Order 11738, and Environmental Protection Agency Regulations which prohibit the use of facilities included on the EPA List of Violating Facilities under nonexempt federal contracts, grants or loans;
 - C.** Prospective participant requirements set at 45 C.F.R. part 76 in connection with Debarment, Suspension and other responsibility matters;
 - D.** 1964 Civil Rights Act, Title IX of the Education Amendment of 1972, Section 504 of the Rehabilitation Act of 1973, Americans with Disabilities Act of 1990, and Executive Orders 11246 and 11375;
 - E.** Anti-Lobbying Law set forth at 31 U.S.C. §1352 and as implemented at 45 C.F.R. part 93;

- F. Requirements of Internal Revenue Service Publication 1075 regarding use, access and disclosure of Federal Tax Information (as defined therein);
 - G. Obtaining certified independent audits conducted in accordance with Government Auditing Standards and Office of Management and Budget Uniform Guidance, 2 CFR 200 Subpart F §200.500 et seq. with approval and work paper examination rights of the applicable procuring entity;
 - H. Requirements of the Oklahoma Taxpayer and Citizen Protection Act of 2007, 25 O.S. §1312 and applicable federal immigration laws and regulations and be registered and participate in the Status Verification System. The Status Verification System is defined at 25 O.S. §1312, includes but is not limited to the free Employment Verification Program (E-Verify) through the Department of Homeland Security, and is available at www.dhs.gov/E-Verify;
 - I. Requirements of the Health Insurance Portability and Accountability Act of 1996; Health Information Technology for Economic and Clinical Health Act; Payment Card Industry Security Standards; Criminal Justice Information System Security Policy and Security Addendum; and Family Educational Rights and Privacy Act; and
 - J. Be registered as a business entity licensed to do business in the State, have obtained a sales tax permit, and be current on franchise tax payments to the State, as applicable.
- 9.2 The Supplier's employees, agents and subcontractors shall adhere to applicable Customer policies including, but not limited to acceptable use of Internet and electronic mail, facility and data security, press releases, and public relations. As applicable, the Supplier shall adhere to the State Information Security Policy, Procedures, Guidelines set forth at:
- <https://oklahoma.gov/content/dam/ok/en/omes/documents/InfoSecPPG.pdf>
- 9.3 At no additional cost to Customer, the Supplier shall maintain all applicable licenses and permits required in association with its obligations under the Contract.
- 9.4 In addition to compliance under subsection 9.1 above, Supplier shall have a continuing obligation to comply with applicable Customer-specific mandatory contract provisions required in connection with the receipt of federal funds or other funding source.

- 9.5** The Supplier is responsible to review and inform its employees, agents, and subcontractors who provide a product or perform a service under the Contract of the Supplier's obligations under the Contract and Supplier certifies that its employees and each such subcontractor shall comply with minimum requirements and applicable provisions of the Contract. At the request of the State, Supplier shall promptly provide adequate evidence that such persons are its employees, agents or approved subcontractors and have been informed of their obligations under the Contract.
- 9.6** As applicable, Supplier agrees to comply with the Governor's Executive Orders related to the use of any tobacco product, electronic cigarette or vaping device on any and all properties owned, leased, or contracted for use by the State, including but not limited to all buildings, land and vehicles owned, leased, or contracted for use by agencies or instrumentalities of the State.
- 9.7** The execution, delivery and performance of the Contract and any ancillary documents by Supplier will not, to the best of Supplier's knowledge, violate, conflict with, or result in a breach of any provision of, or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under, or result in the termination of, any written contract or other instrument between Supplier and any third party.
- 9.8** Supplier represents that it has the ability to pay its debts when due and it does not anticipate the filing of a voluntary or involuntary bankruptcy petition or appointment of a receiver, liquidator or trustee.
- 9.9** Supplier represents that, to the best of its knowledge, any litigation or claim or any threat thereof involving Supplier has been disclosed in writing to the State and Supplier is not aware of any other litigation, claim or threat thereof.

10 Audits and Records Clause

- 10.1** As used in this clause and pursuant to 67 O.S. §203, "record" includes a document, book, paper, photograph, microfilm, computer tape, disk, record, sound recording, film recording, video record, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form. Supplier agrees any pertinent federal or State agency or governing entity of a Customer shall have the right to examine and audit, at no additional cost to a Customer, all records relevant to the execution and performance of the Contract except, unless otherwise agreed, costs of Supplier that comprise pricing under the Contract.

- 10.2** The Supplier is required to retain records relative to the Contract for the duration of the Contract and for a period of seven (7) years following completion or termination of an Acquisition unless otherwise indicated in the Contract terms. If a claim, audit, litigation or other action involving such records is started before the end of the seven-year period, the records are required to be maintained for two (2) years from the date that all issues arising out of the action are resolved, or until the end of the seven (7) year retention period, whichever is later.
- 10.3** Pursuant to 74 O.S. §85.41, if professional services are provided hereunder, all items of the Supplier that relate to the professional services are subject to examination by the State agency, State Auditor and Inspector and the State Purchasing Director.

11 Confidentiality

- 11.1** The Supplier shall maintain strict security of all State and citizen data and records entrusted to it or to which the Supplier gains access, in accordance with and subject to applicable federal and State laws, rules, regulations, and policies and shall use any such data and records only as necessary for Supplier to perform its obligations under the Contract. The Supplier further agrees to evidence such confidentiality obligation in a separate writing if required under such applicable federal or State laws, rules and regulations. The Supplier warrants and represents that such information shall not be sold, assigned, conveyed, provided, released, disseminated or otherwise disclosed by Supplier, its employees, officers, directors, subsidiaries, affiliates, agents, representatives, assigns, subcontractors, independent contractors, successor or any other persons or entities without Customer's prior express written permission. Supplier shall instruct all such persons and entities that the confidential information shall not be disclosed or used without the Customer's prior express written approval except as necessary for Supplier to render services under the Contract. The Supplier further warrants that it has a tested and proven system in effect designed to protect all confidential information.
- 11.2** Supplier shall establish, maintain and enforce agreements with all such persons and entities that have access to State and citizen data and records to fulfill Supplier's duties and obligations under the Contract and to specifically prohibit any sale, assignment, conveyance, provision, release, dissemination or other disclosure of any State or citizen data or records except as required by law or allowed by written prior approval of the Customer.
- 11.3** Supplier shall immediately report to the Customer any and all unauthorized use, appropriation, sale, assignment, conveyance, provision, release, access,

acquisition, disclosure or other dissemination of any State or citizen data or records of which it or its parent company, subsidiaries, affiliates, employees, officers, directors, assignees, agents, representatives, independent contractors, and subcontractors is aware or have knowledge or reasonable should have knowledge. The Supplier shall also promptly furnish to Customer full details of the unauthorized use, appropriation, sale, assignment, conveyance, provision, release, access, acquisition, disclosure or other dissemination, or attempt thereof, and use its best efforts to assist the Customer in investigating or preventing the reoccurrence of such event in the future. The Supplier shall cooperate with the Customer in connection with any litigation and investigation deemed necessary by the Customer to protect any State or citizen data and records and shall bear all costs associated with the investigation, response and recovery in connection with any breach of State or citizen data or records including but not limited to credit monitoring services with a term of at least three (3) years, all notice-related costs and toll free telephone call center services.

- 11.4** Supplier further agrees to promptly prevent a reoccurrence of any unauthorized use, appropriation, sale, assignment, conveyance, provision, release, access, acquisition, disclosure or other dissemination of State or citizen data and records.
- 11.5** Supplier acknowledges that any improper use, appropriation, sale, assignment, conveyance, provision, release, access, acquisition, disclosure or other dissemination of any State data or records to others may cause immediate and irreparable harm to the Customer and certain beneficiaries and may violate state or federal laws and regulations. If the Supplier or its affiliates, parent company, subsidiaries, employees, officers, directors, assignees, agents, representatives, independent contractors, and subcontractors improperly use, appropriate, sell, assign, convey, provide, release, access, acquire, disclose or otherwise disseminate such confidential information to any person or entity in violation of the Contract, the Customer will immediately be entitled to injunctive relief and/or any other rights or remedies available under this Contract, at equity or pursuant to applicable statutory, regulatory, and common law without a cure period.
- 11.6** The Supplier shall immediately forward to the State Purchasing Director, and any other applicable person listed in the Notices section(s) of the Contract, any request by a third party for data or records in the possession of the Supplier or any subcontractor or to which the Supplier or subcontractor has access and Supplier shall fully cooperate with all efforts to protect the security and confidentiality of such data or records in response to a third party request.

11.7 Customer may be provided access to Supplier Confidential Information. State agencies are subject to the Oklahoma Open Records Act and Supplier acknowledges information marked confidential information will be disclosed to the extent permitted under the Open Records Act and in accordance with this section. Nothing herein is intended to waive the State Purchasing Director's authority under OAC 260:115-3-9 in connection with Bid information requested to be held confidential by a Bidder. Notwithstanding the foregoing, Supplier Confidential Information shall not include information that: (i) is or becomes generally known or available by public disclosure, commercial use or otherwise and is not in contravention of this Contract; (ii) is known and has been reduced to tangible form by the receiving party before the time of disclosure for the first time under this Contract and without other obligations of confidentiality; (iii) is independently developed without the use of any of Supplier Confidential Information; (iv) is lawfully obtained from a third party (without any confidentiality obligation) who has the right to make such disclosure or (v) résumé, pricing or marketing materials provided to the State. In addition, the obligations in this section shall not apply to the extent that the applicable law or regulation requires disclosure of Supplier Confidential Information, provided that the Customer provides reasonable written notice, pursuant to Contract notice provisions, to the Supplier so that the Supplier may promptly seek a protective order or other appropriate remedy.

12 Conflict of Interest

In addition to any requirement of law or of a professional code of ethics or conduct, the Supplier, its employees, agents and subcontractors are required to disclose any outside activity or interest that conflicts or may conflict with the best interest of the State. Prompt disclosure is required under this section if the activity or interest is related, directly or indirectly, to any person or entity currently under contract with or seeking to do business with the State, its employees or any other third-party individual or entity awarded a contract with the State. Further, as long as the Supplier has an obligation under the Contract, any plan, preparation or engagement in any such activity or interest shall not occur without prior written approval of the State. Any conflict of interest shall, at the sole discretion of the State, be grounds for partial or whole termination of the Contract.

13 Assignment and Permitted Subcontractors

13.1 Supplier's obligations under the Contract may not be assigned or transferred to any other person or entity without the prior written consent of the State which may be withheld at the State's sole discretion. Should Supplier assign its rights to payment, in whole or in part, under the Contract, Supplier shall provide the State and all affected Customers with written notice of the

assignment. Such written notice shall be delivered timely and contain details sufficient for affected Customers to perform payment obligations without any delay caused by the assignment.

13.2 Notwithstanding the foregoing, the Contract may be assigned by Supplier to any corporation or other entity in connection with a merger, consolidation, sale of all equity interests of the Supplier, or a sale of all or substantially all of the assets of the Supplier to which the Contract relates. In any such case, said corporation or other entity shall by operation of law or expressly in writing assume all obligations of the Supplier as fully as if it had been originally made a party to the Contract. Supplier shall give the State and all affected Customers prior written notice of said assignment. Any assignment or delegation in violation of this subsection shall be void.

13.3 If the Supplier is permitted to utilize subcontractors in support of the Contract, the Supplier shall remain solely responsible for its obligations under the terms of the Contract, for its actions and omissions and those of its agents, employees and subcontractors and for payments to such persons or entities. Prior to a subcontractor being utilized by the Supplier, the Supplier shall obtain written approval of the State of such subcontractor and each employee, as applicable to a particular Acquisition, of such subcontractor proposed for use by the Supplier. Such approval is within the sole discretion of the State. Any proposed subcontractor shall be identified by entity name, and by employee name, if required by the particular Acquisition, in the applicable proposal and shall include the nature of the services to be performed. As part of the approval request, the Supplier shall provide a copy of a written agreement executed by the Supplier and subcontractor setting forth that such subcontractor is bound by and agrees, as applicable, to perform the same covenants and be subject to the same conditions and make identical certifications to the same facts and criteria, as the Supplier under the terms of all applicable Contract Documents. Supplier agrees that maintaining such agreement with any subcontractor and obtaining prior written approval by the State of any subcontractor and associated employees shall be a continuing obligation. The State further reserves the right to revoke approval of a subcontractor or an employee thereof in instances of poor performance, misconduct or for other similar reasons.

13.4 All payments under the Contract shall be made directly to the Supplier, except as provided in subsection A above regarding the Supplier's assignment of payment. No payment shall be made to the Supplier for performance by unapproved or disapproved employees of the Supplier or a subcontractor.

13.5 Rights and obligations of the State or a Customer under the terms of this Contract may be assigned or transferred, at no additional cost, to other Customer entities.

14 Background Checks and Criminal History Investigations

Prior to the commencement of any services, background checks and criminal history investigations of the Supplier's employees and subcontractors who will be providing services may be required and, if so, the required information shall be provided to the State in a timely manner. Supplier's access to facilities, data and information may be withheld prior to completion of background verification acceptable to the State. The costs of additional background checks beyond Supplier's normal hiring practices shall be the responsibility of the Customer unless such additional background checks are required solely because Supplier will not provide results of its otherwise acceptable normal background checks; in such an instance, Supplier shall pay for the additional background checks. Supplier will coordinate with the State and its employees to complete the necessary background checks and criminal history investigations. Should any employee or subcontractor of the Supplier who will be providing services under the Contract not be acceptable as a result of the background check or criminal history investigation, the Customer may require replacement of the employee or subcontractor in question and, if no suitable replacement is made within a reasonable time, terminate the purchase order or other payment mechanism associated with the project or services.

15 Patents and Copyrights

Without exception, a product or deliverable price shall include all royalties or costs owed by the Supplier to any third party arising from the use of a patent, intellectual property, copyright or other property right held by such third party. Should any third party threaten or make a claim that any portion of a product or service provided by Supplier under the Contract infringes that party's patent, intellectual property, copyright or other property right, Supplier shall enable each affected Customer to legally continue to use, or modify for use, the portion of the product or service at issue or replace such potentially infringing product, or re-perform or redeliver in the case of a service, with at least a functional non-infringing equivalent. Supplier's duty under this section shall extend to include any other product or service rendered materially unusable as intended due to replacement or modification of the product or service at issue. If the Supplier determines that none of these alternatives are reasonably available, the State shall return such portion of the product or deliverable at issue to the Supplier, upon written request, in exchange for a refund of the price paid for such returned goods as well as a refund or reimbursement, if applicable, of the cost of any other product or deliverable rendered materially unusable as intended due to removal of the portion of product or deliverable at issue. Any remedy provided under this

section is not an exclusive remedy and is not intended to operate as a waiver of legal or equitable remedies because of acceptance of relief provided by Supplier.

16 Indemnification

16.1 Acts or Omissions

- A.** Supplier shall defend and indemnify the Indemnified Parties, as applicable, for any and all liability, claims, damages, losses, costs, expenses, demands, suits and actions of third parties (including without limitation reasonable attorneys' fees and costs required to establish the right to indemnification) arising out of, or resulting from any action or claim for bodily injury, death, or property damage brought against any of the Indemnified parties to the extent arising from any negligent act or omission or willful misconduct of the Supplier or its agents, employees, or subcontractors in the execution or performance of the Contract.
- B.** To the extent Supplier is found liable for loss, damage, or destruction of any property of Customer due to negligence, misconduct, wrongful act, or omission on the part of the Supplier, its employees, agents, representatives, or subcontractors, the Supplier and Customer shall use best efforts to mutually negotiate an equitable settlement amount to repair or replace the property unless such loss, damage or destruction is of such a magnitude that repair or replacement is not a reasonable option. Such amount shall be invoiced to, and is payable by, Supplier sixty (60) calendar days after the date of Supplier's receipt of an invoice for the negotiated settlement amount.

16.2 Infringement

Supplier shall indemnify the Indemnified Parties, as applicable, for all liability, claims, damages, losses, costs, expenses, demands, suits and actions of third parties (including without limitation reasonable attorneys' fees and costs required to establish the right to indemnification) arising from or in connection with Supplier's breach of its representations and warranties in the Contract or alleged infringement of any patent, intellectual property, copyright or other property right in connection with a product or service provided under the Contract. Supplier's duty under this section is reduced to the extent a claimed infringement results from: (a) a Customer's or user's content; (b) modifications by Customer or third party to a product delivered under the Contract or combinations of the product with any non-Supplier-provided services or products unless Supplier recommended or participated in such modification or combination; (c) use of a product or service by Customer in violation of the

Contract unless done so at the direction of Supplier, or (d) a non-Supplier product that has not been provided to the State by, through or on behalf of Supplier as opposed to its combination with products Supplier provides to or develops for the State or a Customer as a system.

16.3 Notice and Cooperation

In connection with indemnification obligations under the Contract, the parties agree to furnish prompt written notice to each other of any third-party claim. Any Customer affected by the claim will reasonably cooperate with Supplier and defense of the claim to the extent its interests are aligned with Supplier. Supplier shall use counsel reasonably experienced in the subject matter at issue and will not settle a claim without the written consent of the party being defended, which consent will not be unreasonably withheld or delayed, except that no consent will be required to settle a claim against Indemnified Parties that are not a State agency, where relief against the Indemnified Parties is limited to monetary damages that are paid by the defending party under indemnification provisions of the Contract.

16.4 Coordination of Defense

In connection with indemnification obligations under the Contract, when a State agency is a named defendant in any filed or threatened lawsuit, the defense of the State agency shall be coordinated by the Attorney General of Oklahoma, or the Attorney General may authorize the Supplier to control the defense and any related settlement negotiations; provided, however, Supplier shall not agree to any settlement of claims against the State without obtaining advance written concurrence from the Attorney General. If the Attorney General does not authorize sole control of the defense and settlement negotiations to Supplier, Supplier shall have authorization to equally participate in any proceeding related to the indemnity obligation under the Contract and shall remain responsible to indemnify the applicable Indemnified Parties.

16.5 Limitation of Liability

- A.** With respect to any claim or cause of action arising under or related to the Contract, neither the State nor any Customer shall be liable to Supplier for lost profits, lost sales or business expenditures, investments, or commitments in connection with any business, loss of any goodwill, or for any other indirect, incidental, punitive, special or consequential damages, even if advised of the possibility of such damages.

- B. Notwithstanding anything to the contrary in the Contract, no provision shall limit damages, expenses, costs, actions, claims, and liabilities arising from or related to property damage, bodily injury or death caused by Supplier or its employees, agents or subcontractors; indemnity, security or confidentiality obligations under the Contract; the bad faith, negligence, intentional misconduct or other acts for which applicable law does not allow exemption from liability of Supplier or its employees, agents or subcontractors.
- C. The limitation of liability and disclaimers set forth in the Contract will apply regardless of whether Customer has accepted a product or service. The parties agree that Supplier has set its fees and entered into the Contract in reliance on the disclaimers and limitations set forth herein, that the same reflect an allocation of risk between the parties and form an essential basis of the bargain between the parties. These limitations shall apply notwithstanding any failure of essential purpose of any limited remedy.

17 Termination for Funding Insufficiency

- 17.1** Notwithstanding anything to the contrary in any Contract Document, the State may terminate the Contract in whole or in part if funds sufficient to pay obligations under the Contract are not appropriated or received from an intended third-party funding source. In the event of such insufficiency, Supplier will be provided at least fifteen (15) calendar days' written notice of termination. Any partial termination of the Contract under this section shall not be construed as a waiver of, and shall not affect, the rights and obligations of any party regarding portions of the Contract that are not terminated. The determination by the State of insufficient funding shall be accepted by, and shall be final and binding on, the Supplier.
- 17.2** Upon receipt of notice of a termination, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to the effective date of termination, the termination does not relieve an obligation to pay for the product or service but there shall not be any liability for further payments ordinarily due under the Contract or for any damages or other amounts caused by or associated with such termination. Any amount paid to Supplier in the form of prepaid fees that are unused when the Contractor certain obligations are terminated shall be refunded.

17.3 The State's exercise of its right to terminate the Contract under this section shall not be considered a default or breach under the Contract or relieve the Supplier of any liability for claims arising under the Contract.

18 Termination for Cause

18.1 Supplier may terminate the Contract if (i) it has provided the State with written notice of material breach and (ii) the State fails to cure such material breach within thirty (30) days of receipt of written notice. If there is more than one Customer, material breach by a Customer does not give rise to a claim of material breach as grounds for termination by Supplier of the Contract as a whole. The State may terminate the Contract in whole or in part if (i) it has provided Supplier with written notice of material breach, and (ii) Supplier fails to cure such material breach within thirty (30) days of receipt of written notice. Any partial termination of the Contract under this section shall not be construed as a waiver of, and shall not affect, the rights and obligations of any party regarding portions of the Contract that are not terminated.

18.2 The State may terminate the Contract in whole or in part immediately without a thirty (30) day written notice to Supplier if (i) Supplier fails to comply with confidentiality, privacy, security, environmental or safety requirements applicable to Supplier's performance or obligations under the Contract; (ii) Supplier's material breach is reasonably determined to be an impediment to the function of the State and detrimental to the State or to cause a condition precluding the thirty (30) day notice or (iii) when the State determines that an administrative error in connection with award of the Contract occurred prior to Contract performance.

18.3 Upon receipt of notice of a termination, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to the effective date of termination, the termination does not relieve an obligation to pay for the product or service but there shall not be any liability for further payments ordinarily due under the Contract or for any damages or other amounts caused by or associated with such termination. Such termination is not an exclusive remedy but is in addition to any other rights and remedies provided for by law. Any amount paid to Supplier in the form of prepaid fees that are unused when the Contract or certain obligations are terminated shall be refunded. Termination of the Contract under this section, in whole or in part, shall not relieve the Supplier of liability for claims arising under the Contract.

18.4 The Supplier's repeated failure to provide an acceptable product or service; Supplier's unilateral revision of linked or supplemental terms that have a materially adverse impact on a Customer's rights or obligations under the Contract (except as required by a governmental authority); actual or anticipated failure of Supplier to perform its obligations under the Contract; Supplier's inability to pay its debts when due; assignment for the benefit of Supplier's creditors; or voluntary or involuntary appointment of a receiver or filing of bankruptcy of Supplier shall constitute a material breach of the Supplier's obligations, which may result in partial or whole termination of the Contract. This subsection is not intended as an exhaustive list of material breach conditions. Termination may also result from other instances of failure to adhere to the Contract provisions and for other reasons provided for by applicable law, rules or regulations; without limitation, OAC 260:115-9-9 is an example.

19 Termination for Convenience

19.1 The State may terminate the Contract, in whole or in part, for convenience if it is determined that termination is in the State's best interest. In the event of a termination for convenience, Supplier will be provided at least thirty (30) days' written notice of termination. Any partial termination of the Contract shall not be construed as a waiver of, and shall not affect, the rights and obligations of any party regarding portions of the Contract that remain in effect.

19.2 Upon receipt of notice of such termination, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to the effective date of termination, the termination does not relieve an obligation to pay for the product or service but there shall not be any liability for further payments ordinarily due under the Contract or for any damages or other amounts caused by or associated with such termination. Such termination shall not be an exclusive remedy but shall be in addition to any other rights and remedies provided for by law. Any amount paid to Supplier in the form of prepaid fees that are unused when the Contract or certain obligations are terminated shall be refunded. Termination of the Contract under this section, in whole or in part, shall not relieve the Supplier of liability for claims arising under the Contract.

20 Suspension of Supplier

20.1 Supplier may be subject to Suspension without advance notice and may additionally be suspended from activities under the Contract if Supplier fails

to comply with confidentiality, privacy, security, environmental or safety requirements applicable to Supplier's performance or obligations under the Contract.

20.2 Upon receipt of a notice pursuant to this section, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to receipt of notice by Supplier, the Suspension does not relieve an obligation to pay for the product or service but there shall not be any liability for further payments ordinarily due under the Contract during a period of Suspension or suspended activity or for any damages or other amounts caused by or associated with such Suspension or suspended activity. A right exercised under this section shall not be an exclusive remedy but shall be in addition to any other rights and remedies provided for by law. Any amount paid to Supplier in the form of prepaid fees attributable to a period of Suspension or suspended activity shall be refunded.

20.3 Such Suspension may be removed, or suspended activity may resume, at the earlier of such time as a formal notice is issued that authorizes the resumption of performance under the Contract or at such time as a purchase order or other appropriate encumbrance document is issued. This subsection is not intended to operate as an affirmative statement that such resumption will occur.

21 Certification Regarding Debarment, Suspension, and Other Responsibility Matters

The certification made by Supplier with respect to Debarment, Suspension, certain indictments, convictions, civil judgments and terminated public contracts is a material representation of fact upon which reliance was placed when entering into the Contract. A determination that Supplier knowingly rendered an erroneous certification, in addition to other available remedies, may result in whole or partial termination of the Contract for Supplier's default. Additionally, Supplier shall promptly provide written notice to the State Purchasing Director if the certification becomes erroneous due to changed circumstances.

22 Certification Regarding State Employees Prohibition From Fulfilling Services

Pursuant to 74 O.S. § 85.42, the Supplier certifies that no person involved in any manner in development of the Contract employed by the State shall be employed to fulfill any services provided under the Contract.

23 Force Majeure

- 23.1** Either party shall be temporarily excused from performance to the extent delayed as a result of unforeseen causes beyond its reasonable control including fire or other similar casualty, act of God, strike or labor dispute, war or other violence, or any law, order or requirement of any governmental agency or authority provided the party experiencing the force majeure event has prudently and promptly acted to take any and all steps within the party's control to ensure continued performance and to shorten duration of the event. If a party's performance of its obligations is materially hindered as a result of a force majeure event, such party shall promptly notify the other party of its best reasonable assessment of the nature and duration of the force majeure event and steps it is taking, and plans to take, to mitigate the effects of the force majeure event. The party shall use commercially reasonable best efforts to continue performance to the extent possible during such event and resume full performance as soon as reasonably practicable.
- 23.2** Subject to the conditions set forth above, non-performance as a result of a force majeure event shall not be deemed a default. However, a purchase order or other payment mechanism may be terminated if Supplier cannot cause delivery of a product or service in a timely manner to meet the business needs of Customer. Supplier is not entitled to payment for products or services not received and, therefore, amounts payable to Supplier during the force majeure event shall be equitably adjusted downward.
- 23.3** Notwithstanding the foregoing or any other provision in the Contract, (i) the following are not a force majeure event under the Contract: (a) shutdowns, disruptions or malfunctions in Supplier's system or any of Supplier's telecommunication or internet services other than as a result of general and widespread internet or telecommunications failures that are not limited to Supplier's systems or (b) the delay or failure of Supplier or subcontractor personnel to perform any obligation of Supplier hereunder unless such delay or failure to perform is itself by reason of a force majeure event and (ii) no force majeure event modifies or excuses Supplier's obligations related to confidentiality, indemnification, data security or breach notification obligations set forth herein.

24 Security of Property and Personnel

In connection with Supplier's performance under the Contract, Supplier may have access to Customer personnel, premises, data, records, equipment and other property. Supplier shall use commercially reasonable best efforts to preserve the safety and security of such personnel, premises, data, records, equipment, and other property of Customer. Supplier shall be responsible for damage to such property to the extent such damage is caused by its employees or subcontractors and shall be responsible for loss

of Customer property in its possession, regardless of cause. If Supplier fails to comply with Customer's security requirements, Supplier is subject to immediate suspension of work as well as termination of the associated purchase order or other payment mechanism.

25 Notices

All notices, approvals or requests allowed or required by the terms of any Contract Document shall be in writing, reference the Contract with specificity and deemed delivered upon receipt or upon refusal of the intended party to accept receipt of the notice. In addition to other notice requirements in the Contract and the designated Supplier contact provided in a successful Bid, notices shall be sent to the State at the physical address set forth below. Notice information may be updated in writing to the other party as necessary. Notwithstanding any other provision of the Contract, confidentiality, breach and termination-related notices shall not be delivered solely via e-mail.

If sent to the State:

State Purchasing Director
2401 North Lincoln Boulevard, Suite 204
Oklahoma City, Oklahoma 73105

With a copy, which shall not constitute notice, to:

Purchasing Division Deputy General Counsel
2401 North Lincoln Boulevard, Suite 204
Oklahoma City, Oklahoma 73105

26 Miscellaneous

26.1 Choice of Law and Venue

Any claim, dispute, or litigation relating to the Contract Documents, in the singular or in the aggregate, shall be governed by the laws of the State without regard to application of choice of law principles. Pursuant to 74 O.S. §85.14, where federal granted funds are involved, applicable federal laws, rules and regulations shall govern to the extent necessary to insure benefit of such federal funds to the State. Venue for any action, claim, dispute, or litigation relating in any way to the Contract Documents, shall be in Oklahoma County, Oklahoma.

26.2 No Guarantee of Products or Services Required

The State shall not guarantee any minimum or maximum amount of Supplier products or services required under the Contract.

26.3 Employment Relationship

The Contract does not create an employment relationship. Individuals providing products or performing services pursuant to the Contract are not employees of the State or Customer and, accordingly are not eligible for any rights or benefits whatsoever accruing to such employees.

26.4 Transition Services

If transition services are needed at the time of Contract expiration or termination, Supplier shall provide such services on a month-to-month basis, at the contract rate or other mutually agreed rate. Supplier shall provide a proposed transition plan, upon request, and cooperate with any successor supplier and with establishing a mutually agreeable transition plan. Failure to cooperate may be documented as poor performance of Supplier.

26.5 Publicity

The existence of the Contract or any Acquisition is in no way an endorsement of Supplier, the products or services and shall not be so construed by Supplier in any advertising or publicity materials. Supplier agrees to submit to the State all advertising, sales, promotion, and other publicity matters relating to the Contract wherein the name of the State or any Customer is mentioned or language used from which, in the State's judgment, an endorsement may be inferred or implied. Supplier further agrees not to publish or use such advertising, sales promotion, or publicity matter or release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning the Contract or any Acquisition hereunder without obtaining the prior written approval of the State.

26.6 Open Records Act

Supplier acknowledges that all State agencies and certain other Customers are subject to the Oklahoma Open Records Act set forth at 51 O.S. §24A-1 *et seq.* Supplier also acknowledges that compliance with the Oklahoma Open Records Act and all opinions of the Oklahoma Attorney General concerning the Act is required.

26.7 Failure to Enforce

Failure by the State or a Customer at any time to enforce a provision of, or exercise a right under, the Contract shall not be construed as a waiver of any such provision. Such failure to enforce or exercise shall not affect the validity of any Contract Document, or any part thereof, or the right of the State or a

Customer to enforce any provision of, or exercise any right under, the Contract at any time in accordance with its terms. Likewise, a waiver of a breach of any provision of a Contract Document shall not affect or waive a subsequent breach of the same provision or a breach of any other provision in the Contract.

26.8 Mutual Responsibilities

- A.** No party to the Contract grants the other the right to use any trademarks, trade names, other designations in any promotion or publication without the express written consent by the other party.
- B.** The Contract is a non-exclusive contract and each party is free to enter into similar agreements with others.
- C.** The Customer and Supplier each grant the other only the licenses and rights specified in the Contract and all other rights and interests are expressly reserved.
- D.** The Customer and Supplier shall reasonably cooperate with each other and any Supplier to which the provision of a product and/or service under the Contract may be transitioned after termination or expiration of the Contract.
- E.** Except as otherwise set forth herein, where approval, acceptance, consent, or similar action by a party is required under the Contract, such action shall not be unreasonably delayed or withheld.

26.9 Invalid Term or Condition

To the extent any term or condition in the Contract conflicts with a compulsory applicable State or United States law or regulation, such Contract term or condition is void and unenforceable. By executing any Contract Document which contains a conflicting term or condition, no representation or warranty is made regarding the enforceability of such term or condition. Likewise, any applicable State or federal law or regulation which conflicts with the Contract or any non-conflicting applicable State or federal law or regulation is not waived.

26.10 Severability

If any provision of a Contract Document, or the application of any term or condition to any party or circumstances, is held invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable and the application of such provision to other parties or circumstances shall remain valid and in full force and effect. If a court finds that any provision of

this contract is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

26.11 Section Headings

The headings used in any Contract Document are for convenience only and do not constitute terms of the Contract.

26.12 Sovereign Immunity

Notwithstanding any provision in the Contract, the Contract is entered into subject to the State's Constitution, statutes, common law, regulations, and the doctrine of sovereign immunity, none of which are waived by the State nor any other right or defense available to the State.

26.13 Survival

As applicable, performance under all license, subscription, service agreements, statements of work, transition plans and other similar Contract Documents entered into between the parties under the terms of the Contract shall survive Contract expiration. Additionally, rights and obligations under the Contract which by their nature should survive including, without limitation, certain payment obligations invoiced prior to expiration or termination; confidentiality obligations; security incident and data breach obligations and indemnification obligations, remain in effect after expiration or termination of the Contract.

26.14 Entire Agreement

The Contract Documents taken together as a whole constitute the entire agreement between the parties. No statement, promise, condition, understanding, inducement or representation, oral or written, expressed or implied, which is not contained in a Contract Document shall be binding or valid. The Supplier's representations and certifications, including any completed electronically, are incorporated by reference into the Contract.

26.15 Gratuities

The Contract may be immediately terminated, in whole or in part, by written notice if it is determined that the Supplier, its employee, agent, or another representative violated any federal, State or local law, rule or ordinance by offering or giving a gratuity to any State employee directly involved in the Contract. In addition, Suspension or Debarment of the Supplier may result from such a violation.

26.16 Import/Export Controls

Neither party will use, distribute, transfer or transmit any equipment, services, software or technical information provided under the Contract (even if incorporated into other products) except in compliance with all applicable import and export laws, conventions and regulations.

ATTACHMENT C

AGENCY TERMS

1. SUBCONTRACTING

The OSDE shall contract with one supplier for the total work to be accomplished. The supplier may not subcontract any portion of this work to be accomplished without the written consent and approval of OSDE. The terms of this contract and such additional terms as OSDE may require shall be included in any approved subcontract and any approval of any subcontract shall not relieve the supplier of any responsibility for performance under this contract.

2. INVOICING AND PAYMENT:

Pursuant to 74 O.S.85.44(B), invoices will be paid in arrears after products/services have been delivered or provided. Interest on late payments made by the State of Oklahoma is governed by 62 O.S. 34.71 and 62 O.S.34.72. Invoices shall be submitted monthly to the Oklahoma State Department of Education, 2500 N Lincoln Blvd, Ste 415, Oklahoma City, OK 73105-4999 or by e-mail to SDEAccountsPayable@sde.ok.gov. **Invoice amounts shall be no more than ¼ of the contract.**

3. STUDENT DATA ACCESSIBILITY, TRANSPARENCY AND ACCOUNTABILITY

If Vendor's ability to provide services under this Agreement requires OSDE to share student data containing confidential personally identifiable information ("PII") from education records maintained by OSDE with Vendor. Vendor agrees to comply with all state and federal laws relating to student data and privacy, including the Family Educational Rights and Privacy Act, (20 U.S.C § 1232g; 34 CFR Part 99) ("FERPA") and the Oklahoma Student Data Accessibility, Transparency, and Accountability Act of 2013, (70 O.S. § 3-168).

Agreement must include the Purpose of the Agreement; must specifically include all data points to be released by OSDE and what the Vendor will do with the student data.

Student data released to Vendor will be limited to data points specifically listed in this Agreement. If Vendor determines that there is a legitimate need to receive or access additional student data and that such data is necessary to perform required duties, Vendor shall submit a written request to OSDE detailing the data needed and state the purpose of the disclosure. If OSDE determines

that access is necessary and appropriate, this Agreement may be modified in accordance with request. No additional data shall be provided until the Agreement is modified to reflect the additional data disclosures.

Vendor will safeguard the confidentiality and integrity of all data received pursuant to this Agreement, place limitations on its use, and maintain compliance with all applicable privacy laws. Vendor shall establish appropriate administrative, technical and physical safeguards to ensure the security and confidentiality of all student data.

Student information from education records cannot be published in a way that would allow individual students or their parents to be identified. Any reports or published information that is a result of or derived from confidential student data containing PII provided by OSDE shall not allow individuals to be directly or indirectly identified and shall contain no individual student level data. Vendor may use student data from education records to perform contractual duties as required by this Agreement, but any published results must be presented in a manner which protects the privacy and confidentiality of students. The OSDE shall be provided the opportunity to review all results prior to publication.

Vendor shall require all staff to comply with the data security and confidentiality provisions set forth herein. Only those employees that are directly involved in performing tasks outlined herein and who have a legitimate interest in providing services according to the terms of this Agreement shall be entitled to access student data. Vendor shall take steps to maintain the confidentiality of student information from education records. [Provide names of the offices or employees within the Vendor who will have access to the student data disclosed by OSDE.]

This Agreement does not constitute a release of student-level data for the vendor's discretionary use. Access to (or disclosure of) confidential student information contained from education records pursuant to the terms of this Agreement shall not constitute an assignment of ownership of the information provided. OSDE retains all ownership rights to the data transferred pursuant to this Agreement, and Vendor shall not obtain any right, title, or interest in any of the data furnished by OSDE.

Data transferred pursuant to this agreement may only be used to carry out the responsibilities throughout the duration of the projects, task and assignments specified herein. Any unauthorized use of the data files beyond the terms specified in the Agreement is not permitted. Vendor shall not use the data for purposes other than the projects, task and assignments identified herein. [Insert brief description of how Vendor will access the information.]

Vendor shall immediately notify the OSDE if there is any unauthorized access or breach to the data provided by the OSDE and take reasonable steps to mitigate any breach. In the event a breach occurs, Vendor will take reasonable steps and implement corrective procedures to ensure that further breaches do not occur.

OSDE shall be notified immediately if Vendor receives a request for the student data containing PII provided by the SDE. If Vendor becomes legally compelled to disclose any confidential PII (whether by judicial or administrative order, applicable law, rule or regulation, or otherwise) then Vendor shall use all reasonable efforts to provide OSDE with prior notice before disclosure so that OSDE may seek a protective order or other appropriate remedy to prevent the disclosure. If a protective order or other remedy is not obtained prior to when any legally compelled disclosure is required, Vendor shall only disclose that portion of the confidential PII that it is legally required to disclose.

Vendor may determine that it is necessary to employ a contractor or subcontractor to fulfill contractual obligations under the Contract. Vendor shall ensure, by written agreement, that any contractor or subcontractor employed by Vendor remains in compliance with (FERPA), 20 USC § 1232g; 34 CFR Part 99, and the Oklahoma Student Data Accessibility, Transparency, and Accountability Act of 2013, 70 O.S. § 3-168. Vendor shall enter into a Data Sharing Agreement with any contractor or subcontractor employed by Vendor. A copy of said Data Sharing agreement shall be forwarded to OSDE prior to the release of any student data or personally identifiable information.

The OSDE will immediately terminate this agreement and this agreement shall not be renewed due to the intentional breach of any of the terms and conditions of the data security and confidentiality provisions set forth herein by Vendor and OSDE may revoke any other existing RFP's or contract with Vendor.

The OSDE may seek monetary, restitutive and punitive damages against Vendor for a breach of any of the terms and conditions of the data security and confidentiality provisions set forth herein as allowed by law.

Upon notification of a breach in the terms and conditions of the data security and confidentiality provisions set forth herein, the OSDE will not release any additional confidential personally identifiable information ("PII") from education records maintained by OSDE to the Vendor until corrective procedures have been implemented to ensure further breaches do not occur.

Upon completion of the services detailed in this agreement or upon termination of this agreement, Vendor shall immediately destroy all PII that was disclosed by the OSDE and provided to Vendor for the purposes detailed in this agreement. Within ten (10) days of destruction, Vendor shall provide written notification to the OSDE of the date and method of destruction of these records.

4. CERTIFICATIONS AND ASSURANCES

Vendor, its principals, agents, employees and/or contractor hereby certifies, acknowledges and agrees as follows:

Vendor has the authority to apply for and receive the funds and assistance provided under this Agreement, and the institutional, managerial, and financial capability to ensure proper planning, management and completion of the project described in this Agreement;

Vendor will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain;

Vendor will initiate and complete the work within the applicable time frame, more particularly described in this Agreement;

Vendor will comply with the regulations and requirements outlined in the Uniform Grant Guidance (UGG), including 2 CFR § 200 and the Education Department Administrative Regulations (EDGAR);

Vendor will ensure that funds awarded under this Agreement are used for allowable activities as identified for purposes of the Agreement, will be reasonable, necessary, allocable under section 2001 of the ARP Act and meet the purpose of the ARP Act (to prepare for, prevent and respond to COVID-19);

Vendor will establish and use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds paid to Vendor under the ARP Act. Further, upon request by OSDE, the Vendor will provide documentation to support claims for expenditures, including expenditure ledgers, invoices, receipts and documentation to support purchases and proof of services received;

Vendor will adopt and use proper methods of administering said funding, including:

- A. the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each federal award; and,
- B. the correction of deficiencies in operations that are identified through audits, monitoring, or evaluation.

Vendor will comply, as applicable, with the provisions of the Hatch Act (5 U.S.C. §§ 1501- 1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds;

The recipient has been informed of the requirements imposed by Federal laws, regulations, and the provisions of contracts or grant agreements as well as any supplemental requirements imposed by the Oklahoma State Department of Education; and,

The recipient assures that it has been advised that subrecipients expending \$750,000.00 (2 CFR Part 200.501) or more in Federal awards (funds received as direct or pass thru funds) during the subrecipient's fiscal year receive a single audit or program specific

audit for that year according to regulations issued by Office of Management and Budget Circular A-133.

If unable to certify to any of the statements in the certification, Vendor shall attach an explanation and this Agreement shall not be in force and effect until OSDE provides approval, in writing, as to the explanation provided.

ATTACHMENT D

STATE OF OKLAHOMA INFORMATION TECHNOLOGY TERMS

The parties further agree to the following terms (“Information Technology Terms”), as applicable, for any Acquisition of products or services with an information technology or telecommunication component. Pursuant to the Oklahoma Information Technology Consolidation and Coordination Act (“The Act” or “Act”), OMES- Information Services (“OMES-IS”) is designated to purchase information technology and telecommunication products and services on behalf of the State. The Act directs OMES-IS to acquire necessary hardware, software and services and to authorize the use by other State agencies. OMES, as the owner of information technology and telecommunication assets and contracts on behalf of the State, allows other State agencies to use the assets while retaining ownership and the right to reassign the assets, at no additional cost, upon written notification to Supplier. OMES-IS is the data custodian for State agency data; however, such data is owned by the respective State agency.

1 DEFINITIONS

- 1.1 **Customer Data** means all data supplied by or on behalf of a Customer in connection with the Contract, excluding any confidential information of Supplier. Customer Data includes both Non-Public Data and Personal Data.
- 1.2 **Data Breach** means the unauthorized access or the reasonable suspicion of unauthorized access, by an unauthorized person that results in the use, destruction, loss, alteration, disclosure, or theft of Customer Data.
- 1.3 **Host** includes the terms Hosted or Hosting and means the accessing, processing or storing of Customer Data.
- 1.4 **Intellectual Property Rights** means the worldwide legal rights or interests evidenced by or embodied in any idea, design, concept, personality right, method, process, technique, apparatus, invention, discovery or improvement including any patents, trade secrets and know-how; any work of authorship including any copyrights, Moral Rights or neighboring rights; any trademark, service mark, trade dress, trade name or other indicia of source or origin; domain name registrations; and any other proprietary or similar rights. Intellectual Property Rights of a party also includes all worldwide legal rights or interests that the party may have acquired by assignment or license with the right to grant sublicenses.
- 1.5 **Non-Public Data** means Customer Data, other than Personal Data, that is not subject to distribution to the public as public information. It is deemed to be sensitive and confidential by Customer because it contains information that is exempt by statute, ordinance or administrative rule from access by the general public as public information. Non-Public Data includes any data deemed confidential pursuant to the Contract, otherwise identified by Customer as Non-Public Data, or that a reasonable person would deem confidential.
- 1.6 **Personal Data** means Customer Data that contains 1) any combination of an individual’s name, social security numbers, driver’s license, state/federal identification number,

account number, credit or debit card number and/or 2) data subject to protection under a federal, state or local law, rule, regulation or ordinance.

- 1.7 Security Incident** means the attempted or successful unauthorized access, use, disclosure, modification, loss, theft, or destruction of information or interference with the Hosted environment used to perform the services.
- 1.8 Supplier** means the Bidder with whom the State enters into the Contract awarded pursuant to the Solicitation or the business entity or individual that is a party to the Contract with the State. A Supplier with whom the State enters into an awarded Contract shall also be known as a Contractor.
- 1.9 Supplier Intellectual Property** means all tangible or intangible items or things, including the Intellectual Property Rights therein, created or developed by Supplier and identified in writing as such (a) prior to providing any services or Work Product to Customer and prior to receiving any documents, materials, information or funding from or on behalf of a Customer relating to the services or Work Product, or (b) after the effective date of the Contract if such tangible or intangible items or things were independently developed by Supplier outside Supplier's provision of services or Work Product for Customer under the Contract and were not created, prepared, developed, invented or conceived by any Customer personnel who then became personnel to Supplier or any of its affiliates or subcontractors, where, although creation or reduction-to-practice is completed while the person is affiliated with Supplier or its personnel, any portion of same was created, invented or conceived by such person while affiliated with Customer.
- 1.10 Third Party Intellectual Property** means the Intellectual Property Rights of any third party that is not a party to the Contract, and that is not directly or indirectly providing any goods or services to a Customer under the Contract.

2 TERMINATION OF MAINTENANCE AND SUPPORT SERVICES

Customer may terminate maintenance or support services without an adjustment charge, provided any of the following circumstances occur:

- 2.1** Customer removes the product for which the services are provided, from productive use; or,
- 2.2** The location at which the services are provided is no longer controlled by Customer (for example, because of statutory or regulatory changes or the sale or closing of a facility).
- 2.3** If Customer chooses to renew maintenance or support after maintenance has lapsed, Customer may choose to pay the additional fee, if any, associated with renewing a license after such maintenance or support has lapsed, or to purchase a new license. Any amount paid to Supplier in the form of prepaid fees that are unused when services under the Contract or purchase order are terminated shall be refunded to Customer.

3 COMPLIANCE AND ELECTRONIC AND INFORMATION TECHNOLOGY ACCESSIBILITY

- 3.1** State procurement of information technology is subject to certain federal and State laws, rules and regulations related to information technology accessibility, including but not limited to Oklahoma Information Technology Accessibility Standards (“Standards”) set forth at <https://oklahoma.gov/omes/services/information-services/is/policies-and-standards/accessibility-standards.html>. Supplier shall provide a Voluntary Product Accessibility Template (“VPAT”) describing accessibility compliance via a URL linking to the VPAT and shall update the VPAT as necessary in order to allow a Customer to obtain current VPAT information as required by State law. If products require development or customization, additional requirements and documentation may be required and compliance shall be necessary by Supplier. Such requirements may be stated in appropriate documents including but not limited to a statement of work, riders, agreement, purchase order or Addendum.

All representations contained in the VPAT provided will be relied upon by the State or a Customer, as applicable, for accessibility compliance purposes.

4 MEDIA OWNERSHIP (Disk Drive and/or Memory Chip Ownership)

- 4.1** Any disk drives and memory cards purchased with or included for use in leased or purchased products under the Contract remain the sole and exclusive property of the Customer.
- 4.2** Personal information may be retained within electronic media devices and components; therefore, electronic media shall not be released either between Customers or for the resale, of refurbished equipment that has been in use by a Customer, by the Supplier to the general public or other entities. This provision applies to replacement devices and components, whether purchased or leased, supplied by Supplier, its agents or subcontractors during the downtime (repair) of products purchased or leased through the Contract. If a device is removed from a location for repairs, the Customer shall have sole discretion, prior to removal, to determine and implement sufficient safeguards (such as a record of hard drive serial numbers) to protect personal information that may be stored within the hard drive or memory of the device.

5 OFFSHORE SERVICES

No offshore services are provided for under the Contract. State data shall not be used or accessed internationally for troubleshooting or any other use not specifically provided for herein without the prior written permission, which may be withheld in the State’s sole discretion, from the appropriate authorized representative of the State. Notwithstanding the above, back office administrative functions of the Supplier may be located offshore and the follow-the-sun support model may be used by the Supplier to the extent allowed by law applicable to any Customer data being accessed or used.

6 COMPLIANCE WITH TECHNOLOGY POLICIES

- 6.1** The Supplier agrees to adhere to the State of Oklahoma “Information Security Policy, Procedures, and Guidelines” available at <https://oklahoma.gov/content/dam/ok/en/omes/documents/InfoSecPPG.pdf>.

Supplier’s employees and subcontractors shall adhere to the applicable State IT

Standards, policies, procedures and architectures as set forth at <https://oklahoma.gov/omes/services/information-services.html> or as otherwise provided by the State.

- 6.2** Supplier shall comply with applicable Federal Information Processing Standards including, without limitation, FIPS 200, FIPS 140-2 or successor standards and all recommendations from the National Institute of Standards and Technology. The confidentiality of Customer Data shall be protected and maintained in accordance with these standards as well as other applicable Customer standards.

7 EMERGING TECHNOLOGIES

The State reserves the right to enter into an Addendum to the Contract at any time to allow for emerging technologies not identified elsewhere in the Contract Documents if there are repeated requests for such emerging technology or the State determines it is warranted to add such technology.

8 EXTENSION RIGHT

In addition to extension rights of the State set forth in the Contract, the State Chief Information Officer reserves the right to extend any Contract at his or her sole option if the State Chief Information Officer determine such extension to be in the best interest of the State.

9 SOURCE CODE ESCROW

Pursuant to 62 O.S. § 34.31, if customized computer software is developed or modified exclusively for a State agency, the Supplier has a continuing obligation to comply with such law and place the source code for such software and any modifications thereto into escrow with an independent third-party escrow agent. Supplier shall pay all fees charged by the escrow agent and enter into an escrow agreement, the terms of which are subject to the prior written approval of the State, including terms that provide the State receives ownership of all escrowed source code upon the occurrence of any of the following:

- 9.1** A bona fide material default of the obligations of the Supplier under the agreement with the applicable Customer;
- 9.2** An assignment by the Supplier for the benefit of its creditors;
- 9.3** A failure by the Supplier to pay, or an admission by the Supplier of its inability to pay, its debts as they mature;
- 9.4** The filing of a petition in bankruptcy by or against the Supplier when such petition is not dismissed within sixty (60) days of the filing date;
- 9.5** The appointment of a receiver, liquidator or trustee appointed for any substantial part of the Supplier's property;
- 9.6** The inability or unwillingness of the Supplier to provide the maintenance and support services in accordance with the agreement with the agency;
- 9.7** Supplier's ceasing of maintenance and support of the software; or

9.8 Such other condition as may be statutorily imposed by the future amendment or enactment of applicable Oklahoma law.

10 COMMERCIAL OFF THE SHELF SOFTWARE OR SUPPLIER TERMS

If Supplier specifies terms and conditions or clauses in an electronic license, subscription, maintenance, support or similar agreement, including via a hyperlink or uniform resource locator address to a site on the internet, that conflict with the terms of this Contract, the additional terms and conditions or conflicting clauses shall not be binding on the State and the provisions of this Contract shall prevail. Further, no such terms and conditions or clauses shall expand the State's or Customer's liability or reduce the rights of Customer or the State.

11 OWNERSHIP RIGHTS

Any software developed, modified, or customized by the Supplier in accordance with a mutually negotiated statement of work pursuant to this Contract is for the sole and exclusive use of the State including but not limited to the right to use, reproduce, re-use, alter, modify, edit, or change the software as it sees fit and for any purpose. The parties mutually agree the State as a licensee of the Supplier does not make a claim of ownership to the existing Intellectual Property of Supplier. Moreover, except with regard to any deliverable based on Supplier Intellectual Property, the State shall be deemed the sole and exclusive owner of all right, title, and interest therein, including but not limited to all source data, information and materials furnished to the State, together with all plans, system analysis, and design specifications and drawings, completed programs and documentation thereof, reports and listing, all data and test procedures and all other items pertaining to the work and services to be performed pursuant to this Contract including all copyright and proprietary rights relating thereto. With respect to Supplier Intellectual Property, the Supplier grants the State, for no additional consideration, a perpetual, irrevocable, royalty-free license, solely for the internal business use of the State, to use, copy, modify, display, perform, transmit and prepare derivative works of Supplier Intellectual Property embodied in or delivered to the State in conjunction with the products.

Except for any Supplier Intellectual Property, all work performed by the Supplier of developing, modifying or customizing software and any related supporting documentation shall be considered as Work for Hire (as defined under the U.S. copyright laws) and, as such, shall be owned by and for the benefit of State.

In the event that it should be determined that any portion of such software or related supporting documentation does not qualify as "Work for Hire", Supplier hereby irrevocably grants to the State, for no additional consideration, a non-exclusive, irrevocable, royalty-free license to use, copy, modify, display, perform, transmit and prepare derivative works of any such software and any Supplier Intellectual Property embodied in or delivered to the State in conjunction with the products.

Supplier shall assist the State and its agents, upon request, in preparing U.S. and foreign copyright, trademark, and/or patent applications covering software developed, modified or customized for the State when made in accordance with a mutually negotiated statement of work pursuant to this Contract. Supplier shall sign any such applications, upon request, and deliver them to the State. The State shall bear all expenses that incurred in connection with such copyright, trademark, and/or patent applications.

If any Acquisition pursuant to this Contract is funded wholly or in part with federal funds, the source code and all associated software and related documentation owned by the State may be shared with other publicly funded agencies at the discretion of the State without permission from or additional compensation to the Supplier.

12 INTELLECTUAL PROPERTY OWNERSHIP TO WORK PRODUCT

The following terms apply to ownership and rights related to Intellectual Property:

- 12.1** As to the Intellectual Property Rights to Work Product between Supplier and Customer, Customer shall be the exclusive owner and not Supplier. Supplier specifically agrees that the Work Product shall be considered “works made for hire” and that the Work Product shall, upon creation, be owned exclusively by Customer. To the extent that the Work Product, under applicable law, may not be considered works made for hire, Supplier agrees that all right, title and interest in and to all ownership rights and all Intellectual Property Rights in the Work Product is effectively transferred, granted, conveyed, assigned, and relinquished exclusively to Customer, without the necessity of any further consideration, and Customer shall be entitled to obtain and hold in its own name all Intellectual Property Rights in and to the Work Product. Supplier acknowledges that Supplier and Customer do not intend Supplier to be a joint author of the Work Product within the meaning of the Copyright Act of 1976. Customer shall have access, during normal business hours (Monday through Friday, 8:00 a.m. to 5:00 p.m.) and upon reasonable prior notice to Supplier, to all Supplier materials, premises and computer files containing the Work Product. Supplier and Customer, as appropriate, will cooperate with one another and execute such other documents as may be reasonably appropriate to achieve the objectives herein. No license or other right is granted under the Contract to any Third-Party Intellectual Property, except as may be incorporated in the Work Product by Supplier.
- 12.2** Supplier, upon request and without further consideration, shall perform any acts that may be deemed reasonably necessary or desirable by Customer to evidence more fully the transfer of ownership and/or registration of all Intellectual Property Rights in all Work Product to Customer to the fullest extent possible including, but not limited to, the execution, acknowledgement and delivery of such further documents in a form determined by Customer. In the event Customer shall be unable to obtain Supplier’s signature due to the dissolution of Supplier or Supplier’s failure to respond to Customer’s repeated requests for such signature on any document reasonably necessary for any purpose set forth in the foregoing sentence, Supplier hereby irrevocably designates and appoints Customer and its duly authorized officers and agents as Supplier’s agent and Supplier’s attorney-in-fact to act for and in Supplier’s behalf and stead to execute and file any such document and to do all other lawfully permitted acts to further any such purpose with the same force and effect as if executed and delivered by Supplier, provided however that no such grant of right to Customer is applicable if Supplier fails to execute any document due to a good faith dispute by Supplier with respect to such document. It is understood that such power is coupled with an interest and is therefore irrevocable. Customer shall have the full and sole power to prosecute such applications and to take all other action concerning the Work Product, and Supplier shall cooperate, at Customer’s sole expense, in the preparation and prosecution of all such applications and in any legal actions and proceedings concerning the Work Product.

- 12.3** Supplier hereby irrevocably and forever waives, and agrees never to assert, any Moral Rights in or to the Work Product which Supplier may now have or which may accrue to Supplier's benefit under U.S. or foreign copyright or other laws and any and all other residual rights and benefits which arise under any other applicable law now in force or hereafter enacted. Supplier acknowledges the receipt of equitable compensation for its assignment and waiver of such Moral Rights.
- 12.4** All documents, information and materials forwarded to Supplier by Customer for use in and preparation of the Work Product shall be deemed the confidential information of Customer, subject to the license granted by Customer to Supplier hereunder. Supplier shall not otherwise use, disclose, or permit any third party to use or obtain the Work Product, or any portion thereof, in any manner without the prior written approval of Customer.
- 12.5** These provisions are intended to protect Customer's proprietary rights pertaining to the Work Product and the Intellectual Property Rights therein and any misuse of such rights would cause substantial and irreparable harm to Customer's business. Therefore, Supplier acknowledges and stipulates that a court of competent jurisdiction may immediately enjoin a material breach of the Supplier's obligations with respect to confidentiality provisions of the Contract and the Work Product and a Customer's Intellectual Property Rights, upon a request by Customer, without requiring proof of irreparable injury, as same is presumed.
- 12.6** Upon the request of Customer, but in any event upon termination or expiration of this Contract or a statement of work, Supplier shall surrender to Customer all documents and things pertaining to the Work Product, generated or developed by Supplier or furnished by Customer to Supplier, including all materials embodying the Work Product, any Customer confidential information and Intellectual Property Rights in such Work Product, regardless of whether complete or incomplete. This section is intended to apply to all Work Product as well as to all documents and things furnished to Supplier by Customer or by anyone else that pertains to the Work Product.
- 12.7** Customer hereby grants to Supplier a non-transferable, non-exclusive, royalty-free, fully paid license to use any Work Product solely as necessary to provide services to Customer. Except as provided in this section, neither Supplier nor any subcontractor shall have the right to use the Work Product in connection with the provision of services to its other customers without the prior written consent of Customer, which consent may be withheld in Customer's sole discretion.
- 12.8** To the extent that any Third Party Intellectual Property is embodied or reflected in the Work Product or is necessary to provide services, Supplier shall obtain from the applicable third party for the Customer's benefit, an irrevocable, perpetual, non-exclusive, worldwide, royalty-free license, solely for Customer's internal business purposes; likewise, with respect to any Supplier Intellectual Property embodied or reflected in the Work Product or necessary to provide services, Supplier grants to Customer an irrevocable, perpetual, non-exclusive, worldwide, royalty-free license, solely for the Customer's internal business purposes. Each such license shall allow the applicable Customer to (i) use, copy, modify, display, perform (by any means), transmit and prepare derivative works of any Third Party Intellectual Property or Supplier Intellectual Property embodied in or delivered to Customer in conjunction with the Work

Product and (ii) authorize others to do any or all of the foregoing. Supplier agrees to notify Customer on delivery of the Work Product or services if such materials include any Third Party Intellectual Property. The foregoing license includes the right to sublicense third parties, solely for the purpose of engaging such third parties to assist or carry out Customer's internal business use of the Work Product. Except for the preceding license, all rights in Supplier Intellectual Property remain in Supplier. On request, Supplier shall provide Customer with documentation indicating a third party's written approval for Supplier to use any Third Party Intellectual Property that may be embodied or reflected in the Work Product.

12.9 Supplier agrees that it shall have written agreement(s) that are consistent with the provisions hereof related to Work Product and Intellectual Property Rights with any employees, agents, consultants, contractors or subcontractors providing services or Work Product pursuant to the Contract, prior to the provision of such services or Work Product and that it shall maintain such written agreements at all times during performance of this Contract which are sufficient to support all performance and grants of rights by Supplier. Copies of such agreements shall be provided to the Customer promptly upon request.

12.10 To the extent not inconsistent with Customer's rights in the Work Product or other provisions, nothing in this Contract shall preclude Supplier from developing for itself, or for others, materials which are competitive with those produced as a result of the services provided under the Contract, provided that no Work Product is utilized, and no Intellectual Property Rights of Customer therein are infringed by such competitive materials. To the extent that Supplier wishes to use the Work Product or acquire licensed rights in certain Intellectual Property Rights of Customer therein in order to offer competitive goods or services to third parties, Supplier and Customer agree to negotiate in good faith regarding an appropriate license and royalty agreement to allow for such.

12.11 If any Acquisition pursuant to the Contract is funded wholly or in part with federal funds, the source code and all associated software and related documentation and materials owned by a Customer may be shared with other publicly funded agencies at the discretion of such Customer without permission from or additional compensation to the Supplier.

13 HOSTING SERVICES

A Supplier shall be responsible for the obligations set forth in in this Contract, including those obligations related to breach reporting and associated costs when a Supplier Hosting Customer Data or providing products or services pursuant to an Acquisition, contributes to, or directly causes a Data Breach or a Security Incident. Likewise, Supplier shall be responsible for the obligations set forth in in this Contract, including those obligations related to breach reporting and associated costs when a Supplier's affiliate or subcontractor contributes to, or directly causes a Data Breach or a Security Incident.

14 CHANGE MANAGEMENT

When a scheduled change is made to products or services provided to a Customer that impacts the Customer's system related to such product or service, Supplier shall provide two (2) weeks' prior written notice of such change. When the change is an emergency change, Supplier shall provide twenty-four (24) hours' prior written notice of the change. Repeated failure to provide such notice may be an evaluation factor (as indicative of Supplier's past performance) upon

renewal or if future bids submitted by Supplier are evaluated by the State.

15 SERVICE LEVEL DEFICIENCY

In addition to other terms of the Contract, in instances of the Supplier's repeated failure to provide an acceptable level of service or meet service level agreement metrics, service credits shall be provided by Supplier and may be used as an offset to payment due.

16 OWNERSHIP OF IT AND TELECOMMUNICATION ASSETS

Notwithstanding any other provision in the Contract and pursuant to the Oklahoma Information Technology Consolidation and Coordination Act, all information technology and telecommunication assets and contracts on behalf of appropriated agencies of the State belong to OMES-IS. OMES-IS allows other State agencies to use the assets while retaining ownership and the right to reassign the assets, at no additional cost, upon written notification to Supplier.

17 CUSTOMER DATA

17.1 The parties agree to the following provisions in connection with any Customer Data accessed, processed transmitted, or stored by or on behalf of the Supplier and the obligations, representations and warranties set forth below shall continue as long as the Supplier has an obligation under the Contract.

17.2 Customer will be responsible for the accuracy and completeness of all Customer Data provided to Supplier by Customer. Customer shall retain exclusive ownership of rights, title, and interest in Customer Data. Non-Public Data and Personal Data shall be deemed to be Customer's confidential information. Supplier shall restrict access to Customer Data to their employees with a need to know (and advise such employees of the confidentiality and non-disclosure obligations assumed herein).

17.3 Supplier shall promptly notify the Customer upon receipt of any requests from unauthorized third parties which in any way might reasonably require access to Customer Data or Customer's use of the Hosted environment. Supplier shall notify the Customer by the fastest means available and also in writing pursuant to Contract notice provisions and the notice provision herein. Except to the extent required by law, Supplier shall not respond to subpoenas, service or process, Freedom of Information Act or other open records requests, and other legal request related to Customer without first notifying the Customer and obtaining the Customer's prior approval, which shall not be unreasonably withheld, of Supplier's proposed responses. Supplier agrees to provide its completed responses to the Customer with adequate time for Customer review, revision and approval.

17.4 Supplier will use commercially reasonable efforts to prevent the loss of or damage to Customer Data in its possession and will maintain commercially reasonable back-up procedures and copies to facilitate the reconstruction of any Customer Data that may be lost or damaged by Supplier. Supplier will promptly notify Customer of any loss, damage to, or unauthorized access of Customer Data. Supplier will use commercially reasonable efforts to reconstruct any Customer Data that has been lost or damaged by Supplier as a result of its negligence or willful misconduct. If Customer Data is lost or damaged for reasons other than as a result of Supplier's negligence or willful misconduct, Supplier, at

the Customer's expense, will, at the request of the State, use commercially reasonable efforts to reconstruct any Customer Data lost or damaged.

18 DATA SECURITY

- 18.1** Supplier will use commercially reasonable efforts, consistent with industry standards, to provide security for the Hosted environment and Customer Data and to protect against both unauthorized access to the Hosting environment, and unauthorized communications between the Hosting environment and the Customer's browser. Supplier shall implement and maintain appropriate administrative, technical and organizational security measures to safeguard against unauthorized access, disclosure or theft of Personal Data and Non-Public Data. Such security measures shall be in accordance with recognized industry practice and not less stringent than the measures the service provider applies to its own personal data and non-public data of similar kind.
- 18.2** All Personal Data and Non-public Data shall be encrypted at rest and in transit with controlled access. Unless otherwise stipulated, the service provider is responsible for encryption of Personal Data. All Personal Data and Non-Public Data shall be subject to controlled access. Any stipulation of responsibilities shall be included in a Statement of Work and will identify specific roles and responsibilities.
- 18.3** Supplier represents and warrants to the Customer that the Hosting equipment and environment will be routinely checked with a commercially available, industry standard software application with up-to-date virus definitions. Supplier will regularly update the virus definitions to ensure that the definitions are as up-to-date as is commercially reasonable. Supplier will promptly purge all viruses discovered during virus checks. If there is a reasonable basis to believe that a virus may have been transmitted to Customer by Supplier, Supplier will promptly notify Customer of such possibility in a writing that states the nature of the virus, the date on which transmission may have occurred, and the means Supplier has used to remediate the virus. Should the virus propagate to Customer's IT infrastructure, Supplier is responsible for costs incurred by Customer for Customer to remediate the virus.
- 18.4** At no time shall any Customer Data or processes – that either belong to or are intended for the use of the State - be copied, disclosed, or retained by Supplier or any party related to Supplier for subsequent use in any transaction that does not include the State unless otherwise agreed to by the State.
- 18.5** Supplier shall provide its services to Customer and its users solely from data centers in the U.S. Storage of Customer Data at rest shall be located solely in data centers in the U.S. Supplier shall not allow its personnel or contractors to store Customer Data on portable devices, including personal computers, except for devices that are used and kept only at its U.S. data centers. Supplier shall permit its personnel and contractors to access Customer Data remotely only as required to fulfill Supplier's obligations under the Contract.
- 18.6** Supplier shall allow the Customer to audit conformance to the Contract terms. The Customer may perform this audit or contract with a third party at its discretion and at Customer's expense.

- 18.7** Supplier shall perform an independent audit of its data centers at least annually at its expense and provide a redacted version of the audit report upon request. Supplier may remove its proprietary information from the redacted version. A Service Organization Control (SOC) 2 audit report or approved equivalent sets the minimum level of a third-party audit.
- 18.8** Any remedies provided are not exclusive and are in addition to other rights and remedies available under the terms of the Contract, at law or in equity.

19 SECURITY ASSESSMENT

- 19.1** The State requires any entity or third-party Supplier Hosting Oklahoma Customer Data to submit to a State Certification and Accreditation Review process to assess initial security risk. Supplier submitted to the review and met the State's minimum security standards at time the Contract was executed. Failure to maintain the State's minimum security standards during the term of the contract, including renewals, constitutes a material breach. Upon request, the Supplier shall provide updated data security information in connection with a potential renewal. If information provided in the security risk assessment changes, Supplier shall promptly notify the State and include in such notification the updated information; provided, however, Supplier shall make no change that results in lessened data protection or increased data security risk. Failure to provide the notice required by this section or maintain the level of security required in the Contract constitutes a material breach by Supplier and may result in a whole or partial termination of the Contract.
- 19.2** Any Hosting entity change must be approved in writing prior to such change. To the extent Supplier requests a different sub-contractor than the third-party Hosting Supplier already approved by the State, the different sub-contractor is subject to the State's approval. Supplier agrees not to migrate State's data or otherwise utilize the different third-party Hosting Supplier in connection with key business functions that are Supplier's obligations under the contract until the State approves the third-party Hosting Supplier's State Certification and Accreditation Review, which approval shall not be unreasonably withheld or delayed. In the event the third-party Hosting Supplier does not meet the State's requirements under the State Certification and Accreditation Review, Supplier acknowledges and agrees it will not utilize the third-party Supplier in connection with key business functions that are Supplier's obligations under the contract, until such third party meets such requirements.

20 SECURITY INCIDENT OR DATA BREACH NOTIFICATION

- 20.1** Supplier shall inform Customer of any Security Incident or Data Breach.
- 20.2** Supplier may need to communicate with outside parties regarding a Security Incident, which may include contacting law enforcement, fielding media inquiries and seeking external expertise as mutually agreed upon, defined by law or contained in the Contract. If a Security Incident involves Customer Data, Supplier will coordinate with Customer prior to any such communication.
- 20.3** Supplier shall report a Security Incident to the Customer identified contact set forth herein within five (5) days of discovery of the Security Incident or within a shorter notice

period required by applicable law or regulation (i.e., HIPAA requires notice to be provided within 24 hours).

- 20.4** Supplier shall maintain processes and procedures to identify, respond to and analyze Security Incidents; (ii) make summary information regarding such procedures available to Customer at Customer's request, (iii) mitigate, to the extent practicable, harmful effects of Security Incidents that are known to Vendor; and (iv) documents all Security Incidents and their outcomes.
- 20.5** If Supplier has reasonable belief or actual knowledge of a Data Breach, Supplier shall (1) promptly notify the appropriate Customer identified contact set forth herein within 24 hours or sooner, unless shorter time is required by applicable law, and (2) take commercially reasonable measures to address the Data Breach in a timely manner.

21 DATA BREACH NOTIFICATION AND RESPONSIBILITIES

This section only applies when a Data Breach occurs with respect to Personal Data or Non-Public Data within the possession or control of Supplier.

- 21.1** Supplier shall (1) cooperate with Customer as reasonably requested by Customer to investigate and resolve the Data Breach, (2) promptly implement necessary remedial measures, if necessary, and (3) document responsive actions taken related to the Data Breach, including any post-incident review of events and actions taken to make changes in business practices in providing the services, if necessary.
- 21.2** Unless otherwise stipulated, if a Data Breach is a direct result of Supplier's breach of its obligation to encrypt Personal Data and Non-Public Data or otherwise prevent its release, Supplier shall bear the costs associated with (1) the investigation and resolution of the Data Breach; (2) notifications to individuals, regulators or others required by state law; (3) credit monitoring services required by state or federal law; (4) a website or toll-free numbers and call center for affected individuals required by state law – all not to exceed the agency per record per person cost calculated for data breaches in the United States on the most recent Cost of Data breach Study: Global Analysis published by the Ponemon Institute at the time of the data breach; and (5) complete all corrective actions as reasonably determined by Supplier based on root cause.
- 21.3** If a Data Breach is a direct result of Supplier's breach of its obligations to encrypt Personal Data and Non-Public Data or otherwise prevent its release, Supplier shall indemnify and hold harmless the Customer against all penalties assessed to Indemnified Parties by governmental authorities in connection with the Data Breach.

22 SUPPLIER REPRESENTATIONS AND WARRANTIES

Supplier represents and warrants the following:

- 22.1** The product and services provided in connection with Hosting services do not infringe a third party's patent or copyright or other intellectual property rights.
- 22.2** Supplier will protect Customer's Non-Public Data and Personal Data from unauthorized dissemination and use with the same degree of care that each such party uses to protect

its own confidential information and, in any event, will use no less than a reasonable degree of care in protecting such confidential information.

22.3 The execution, delivery and performance of the Contract and any ancillary documents and the consummation of the transactions contemplated by the Contract or any ancillary documents by Supplier will not violate, conflict with, or result in a breach of any provision of, or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under, or result in the termination of, any written contract or other instrument between Supplier and any third parties retained or utilized by Supplier to provide goods or services for the benefit of the Customer.

22.4 Supplier shall not knowingly upload, store, post, e-mail or otherwise transmit, distribute, publish or disseminate to or through the Hosting environment any material that contains software viruses, malware or other surreptitious code designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment or circumvent any “copy-protected” devices, or any other harmful or disruptive program.

23 INDEMNITY

Supplier agrees to defend, indemnify and hold the State, its officers, directors, employees, and agents harmless from all liabilities, claims, damages, losses, costs, expenses, demands, suits and actions (including without limitation reasonable attorneys’ fees and costs required to establish the right to indemnification), excluding damages that are the sole fault of Customer, arising from or in connection with Supplier’s breach of its express representations and warranties in these Information Technology Terms and the Contract. If a third party claims that any portion of the products or services provided by Supplier under the terms of another Contract Document or these Information Technology Terms infringes that party’s patent or copyright, Supplier shall defend, indemnify and hold harmless the State and Customer against the claim at Supplier’s expense and pay all related costs, damages, and attorney’s fees incurred by or assessed to, the State and/or Customer. The State and/or Customer shall promptly notify Supplier of any third-party claims and to the extent authorized by the Attorney General of the State, allow Supplier to control the defense and any related settlement negotiations. If the Attorney General of the State does not authorize sole control of the defense and settlement negotiations to Supplier, Supplier shall be granted authorization to equally participate in any proceeding related to this section, but Supplier shall remain responsible to indemnify Customer and the State for all associated costs, damages and fees incurred by or assessed to the State and/or Customer. Should the software become, or in Supplier’s opinion, be likely to become the subject of a claim or an injunction preventing its use as contemplated in connection with Hosting services, Supplier may, at its option (i) procure for the State the right to continue using the software or (ii) replace or modify the software with a like or similar product so that it becomes non-infringing.

24 TERMINATION, EXPIRATION AND SUSPENSION OF SERVICE

24.1 During any period of service suspension, Supplier shall not take any action to intentionally disclose, alter or erase any Customer Data.

24.2 In the event of a termination or expiration of the Contract, the parties further agree:

Supplier shall implement an orderly return of Customer Data in a format specified by the Customer and, as determined by the Customer:

- a. return the Customer Data to Customer at no additional cost, at a time agreed to by the parties and the subsequent secure disposal of State Data;
- b. transitioned to a different Supplier at a mutually agreed cost and in accordance with a mutually agreed data transition plan and the subsequent secure disposal of State Data or
- c. a combination of the two immediately preceding options.

24.3 Supplier shall not take any action to intentionally erase any Customer Data for a period of:

- a. 10 days after the effective date of termination, if the termination is in accordance with the contract period;
- b. 30 days after the effective date of termination, if the termination is for convenience; or
- c. 60 days after the effective date of termination if the termination is for cause.

After such period, Supplier shall, unless legally prohibited or otherwise stipulated, delete all Customer Data in its systems or otherwise in its possession or under its control.

24.4 The State shall be entitled to any post termination or expiration assistance generally made available with respect to the services.

24.5 Disposal by Supplier of Customer Data in all of its forms, such as disk, CD/DVD, backup tape and paper, when requested by the Customer, shall be performed in a secure manner. Data shall be permanently deleted and shall not be recoverable, according to National Institute of Standards and Technology (NIST)-approved methods. Certificates of destruction shall be provided to Customer within thirty (30) calendar day of its request for disposal of data.

25 GENERAL INFORMATION SECURITY REQUIREMENTS

25.1 No employee of Contractor or its subcontractors will be granted access to State of Oklahoma agency information systems without the prior completion and approval of applicable logon authorization and acceptable use requests.

25.2 Contractor or its subcontractors will notify applicable State of Oklahoma agencies when employees who have access to agency information systems are terminated.

25.3 Contractor or its subcontractors will disclose to Client any suspected breach of the security of the information system or the data contained therein in the most expedient time possible and without unreasonable delay and will cooperate with Client during the investigation of any such incident.

- 25.4 Contractor or its subcontractors agree to adhere to the State of Oklahoma “Information Security Policy, Procedures, and Guidelines” available at: <https://oklahoma.gov/content/dam/ok/en/omes/documents/InfoSecPPG.pdf>

26 HIPAA REQUIREMENTS

26.1 Contractor shall agree to use and disclose Protected Health Information in its possession or control in compliance with the Standards for Privacy of Individually Identifiable Health Information (Privacy Rule) (45 C.F.R. Parts 160 and 164) under the Health Insurance Portability and Accountability Act (HIPAA) of 1996. The definitions set forth in the Privacy Rule are incorporated by reference into this Contract (45 C.F.R. §§ 160.103 and 164.501).

26.2 If applicable, Contractor will sign and adhere to a Business Associate Agreement (BAA). The Business Associate Agreement provides for satisfactory assurances that Contractor will use the information only for the purposes for which it was engaged. Contractor agrees it will safeguard the information from misuse and will comply with HIPAA as it pertains to the duties stated within the contract. Failure to comply with the requirements of this standard may result in funding being withheld from Contractor, and/or full audit and inspection of Contractor’s security compliance as it pertains to this contract.

26.3 Business Associate Terms Definitions:

- a. Unless otherwise defined in this BAA, all capitalized terms used in this BAA have the meanings ascribed in the HIPAA Regulations, provided; however, that “PHI” and “ePHI” shall mean Protected Health Information and Electronic Protected Health Information, respectively, as defined in 45 C.F.R. § 160.103, limited to the information Business Associate received from or created or received on behalf of the applicable State of Oklahoma agency as a Business Associate. “Administrative Safeguards” shall have the same meaning as the term “administrative safeguards in 45 C.F.R. § 164.304, with the exception that it shall apply to the management of the conduct of Business Associate’s workforce, not the State of Oklahoma agency workforce, in relation to the protection of that information.
- b. Business Associate. “Business Associate” shall generally have the same meaning as the term “Business Associate” at 45 C.F.R. 160.103, and in reference to the party to this agreement, shall mean the entity whose name appears below.
- c. Covered Entity. “Covered Entity” shall generally have the same meaning as the term “Covered Entity” at 45 C.F.R. 160.103.
- d. HIPAA Rules. “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 C.F.R. Part 160 and Part 164, all as may be amended.
- e. The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of

Privacy Practices, Protected Health Information, required by law, Secretary, Security Incident, Sub-Contractor, Unsecured PHI, and Use.

26.4 Obligations of Business Associate: Business Associate may use Electronic PHI and PHI (collectively, “PHI”) solely to perform its duties and responsibilities under this Agreement and only as provided in this Agreement. Business Associate acknowledges and agrees that PHI is confidential and shall not be used or disclosed, in whole or in part, except as provided in this Agreement or as required by law. Specifically, Business Associate agrees it will, as applicable:

- a. use or further disclose PHI only as permitted in this Agreement or as Required by Law, including, but not limited to the Privacy and Security Rule;
- b. use appropriate safeguards, and comply with Subpart C of 45 C.F.R. Part 164 with respect to Electronic PHI, to prevent use or disclosure of PHI other than as provided for by this Agreement;
- c. implement and document appropriate administrative, physical, and technical safeguards to protect the confidentiality, integrity, and availability of PHI that it creates, receives, maintains, or transmits for or on behalf of Covered Entity in accordance with 45 C.F.R. 164;
- d. implement and document administrative safeguards to prevent, detect, contain, and correct security violations in accordance with 45 C.F.R. 164;
- e. make its applicable policies and procedures required by the Security Rule available to Covered Entity solely for purposes of verifying BA’s compliance and the Secretary of the Department of Health and Human Services (HHS);
- f. not receive remuneration from a third party in exchange for disclosing PHI received from or on behalf of Covered Entity;
- g. in accordance with 45 C.F.R. 164.502(e)(1) and 164.308(b), if applicable, require that any Sub-Contractors that create, receive, maintain or transmit PHI on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to such information; this shall be in the form of a written HIPAA Business Associate Contract and a fully executed copy will be provided to the Contract Monitor;
- h. report to Covered Entity in writing any use or disclosure of PHI that is not permitted under this Agreement as soon as reasonably practicable but in no event later than five calendar days from becoming aware of it and mitigate, to the extent practicable and in cooperation with Covered Entity, any harmful effects known to it of a use or disclosure made in violation of this Agreement;
- i. promptly report to Covered Entity in writing and without unreasonable delay and in no case later than five calendar days any successful Security Incident, as defined in the Security Rule, with respect to Electronic PHI;
- j. with the exception of law enforcement delays that satisfy the requirements of 45 C.F.R. 164.412, notify Covered Entity promptly, in writing and without

unreasonable delay and in no case later than five calendar days, upon the discovery of a breach of Unsecured PHI. Such notice shall include, to the extent possible, the name of each individual whose Unsecured PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired, or disclosed during such Breach. Business Associate shall also, to the extent possible, furnish Covered Entity with any other available information that Covered Entity is required to include in its notification to Individuals under 45 C.F.R. § 164.404(c) at the time of Business Associate's notification to Covered Entity or promptly thereafter as such information becomes available. As used in this Section, "breach" shall have the meaning given such term at 45 C.F.R. 164.402;

- k. to the extent allowed by law, indemnify and hold Covered Entity harmless from all claims, liabilities costs, and damages arising out of or in any manner related to the unauthorized disclosure by Business Associate of any PHI resulting from the negligent acts or omissions of Business Associate or to the breach by Business Associate of any applicable obligation related to PHI;
- l. provide access to PHI it maintains in a Designated Record Set to Covered Entity, or if directed by Covered Entity to an Individual in order to meet the requirements of 45 C.F.R. 164.524. In the event that any Individual requests access to PHI directly from Business Associate, Business Associate shall forward such request to Covered Entity within five working days of receiving a request. This shall be in the form of a written HIPAA Business Associate Contract and a fully executed copy will be provided to the Contract Monitor. Any denials of access to the PHI requested shall be the responsibility of Covered Entity;
- m. make PHI it maintains in a Designated Record Set available to Covered Entity for amendment and incorporate any amendments to PHI in accordance with 45 C.F.R. 164.526;
- n. document disclosure of PHI it maintains in a Designated Record Set and information related to such disclosure as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI, in accordance with 45 C.F.R. 164.528, and within five working days of receiving a request from Covered Entity, make such disclosure documentation and information available to Covered Entity. In the event the request for an accounting is delivered directly to Business Associate, Business Associate shall forward within five working days of receiving a request such request to Covered Entity;
- o. make its internal practices, books, and records related to the use and disclosure of PHI received from or created or received by Business Associate on behalf of Covered Entity available to the Secretary of the Department of HHS, authorized governmental officials, and Covered entity for the purpose of determining Business Associate's compliance with the Privacy Rule. Business Associate shall give Covered Entity advance written notice of requests from HHS or government officials and provide Covered Entity with a copy of all documents made available; and

- p. require that all of its Sub-Contractors, vendors, and agents to whom it provides PHI or who create, receive, use, disclose, maintain, or have access to Covered Entity's PHI shall agree in writing to requirements, restrictions, and conditions at least as stringent as those that apply to Business Associate under this Agreement, including but not limited to implementing reasonable and appropriate safeguards to protect PHI, and shall require that its Sub-Contractors, vendors, and agents agree to indemnify and hold harmless Covered Entity for their failure to comply with each of the provisions of this Agreement.

26.5 Permitted Uses and Disclosures of PHI by Business Associate: Except as otherwise provided in this Agreement, Business Associate may use or disclose PHI on behalf of or to provide services to Covered Entity for the purposes specified in this Agreement, if such use or disclosure of PHI would not violate the Privacy Rule if done by Covered Entity. Unless otherwise limited herein, Business Associate may:

- a. use PHI for its proper management and administration or to fulfill any present or future legal responsibilities of Business Associate;
- b. disclose PHI for its proper management and administration or to fulfill any present or future legal responsibilities of Business Associate, provided that; (i) the disclosures required by law; or (ii) Business Associate obtains reasonable assurances from any person to whom the PHI is disclosed that such PHI will be kept confidential and will be used or further disclosed only as Required by Law or for the purpose(s) for which it was disclosed to the person, and the person commits to notifying Business Associate of any instances of which it is aware in which the confidentiality of the PHI has been breached;
- c. disclose PHI to report violations of law to appropriate federal and state authorities; or
- d. aggregate the PHI with other data in its possession for purposes of Covered Entity's Health Care Operations;
- e. make uses and disclosures and requests for protected health information consistent with Covered Entity's minimum necessary policies and procedures;
- f. de-identify any and all PHI obtained by Business Associate under this BAA, and use such de-identified data, all in accordance with the de-identification requirements of the Privacy Rule [45 C.F.R. § (d)(1)].

26.6 Obligations of Covered Entity

- a. Covered Entity shall notify Business Associate of any changes in, or revocation of, the permission by an individual to use or disclose his or her PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.
- b. Covered Entity shall notify Business Associate of any restriction on the use or disclosure of PHI that Covered Entity has agreed to or is required to abide by under 45 C.F.R. 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of protected health information.

- c. Covered Entity shall not request Business Associate use or disclose PHI in any manner that would violate the Privacy Rule if done by Covered Entity.
- d. Covered Entity agrees to timely notify Business Associate, in writing, of any arrangements between Covered Entity and the Individual that is the subject of PHI that may impact in any manner the use and/or disclosure of the PHI by Business Associate under this BAA.
- e. Covered Entity shall provide the minimum necessary PHI to Business Associate.

26.7 Term and Termination:

- a. Obligations of Business Associate upon Termination. Upon termination of this Agreement for any reason, Business Associate, with respect to PHI received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity, shall as applicable:
 - i. retain only that PHI that is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities;
 - ii. return to Covered Entity (or, if agreed to by Covered Entity, destroy) the remaining PHI that the Business Associate still maintains in any form;
 - iii. continue to use appropriate safeguards and comply with Subpart C of 45 C.F.R. Part 164 with respect to PHI to prevent use or disclosure of the PHI, other than as provided for in this Section, for as long as Business Associate retains the PHI;
 - iv. not use or disclose the PHI retained by Business Associate other than for the purposes for which such PHI was retained and subject to the same conditions set out at above under “Permitted Uses and Disclosures By Business Associate” that applied prior to termination; and
 - v. return to Covered Entity (or, if agreed to by Covered Entity, destroy) the PHI retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.
- b. All other applicable obligations of Business Associate under this Agreement shall survive termination.
- c. Should the applicable State of Oklahoma agency become aware of a pattern of activity or practice that constitutes a material breach of a material term of this BAA by Business Associate, the agency shall provide Business Associate with written notice of such a breach in sufficient detail to enable Contractor to understand the specific nature of the breach. The Client shall be entitled to terminate the Underlying Contract associated with such breach if, after the applicable State of Oklahoma agency provides the notice to Business Associate, Business Associate fails to cure the breach within a reasonable time period not less than thirty (30) days specified in such notice; provided, however, that such

time period specified shall be based on the nature of the breach involved per 45 C.F.R. §§ 164.504(e)(1)(ii)(A),(B) & 164.314 (a)(2)(i)(D).

26.8 Miscellaneous Provisions:

- a. No Third-Party Beneficiaries: Nothing in this Agreement shall confer upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.
- b. Business Associate recognizes that any material breach of this Business Associate Terms section or breach of confidentiality or misuse of PHI may result in the termination of this Agreement and/or legal action. Said termination may be immediate and need not comply with any termination provision in the parties' underlying agreement, if any.
- c. The parties agree to amend this Agreement from time to time as is necessary for Covered Entity or Business Associate to comply with the requirements of the Privacy Rule and related laws and regulations.
- d. The applicable State of Oklahoma agency shall make available its Notice of Privacy Practices.
- e. Any ambiguity in this Agreement shall be resolved in a manner that causes this Agreement to comply with HIPAA.
- f. If Business Associate maintains a designated record set in an electronic format on behalf of Covered Entity, then Business Associate agrees that within 30 calendar days of expiration or termination of the parties' agreement, Business Associate shall provide to Covered Entity a complete report of all disclosures of and access to the designated record set covering the three years immediately preceding the termination or expiration. The report shall include patient name, date and time of disclosures/access, description of what was disclosed/accessed, purpose of disclosure/access, name of individual who received or accessed the information, and, if available, what action was taken within the designated record set.
- g. Amendment: To the extent that any relevant provision of the HIPAA Regulations is materially amended in a manner that changes the obligations of Business Associates or Covered Entities, the Parties agree to negotiate in good faith appropriate amendment(s) to this Agreement to give effect to these revised obligations. The parties agree to amend this Agreement from time to time as is necessary for Covered Entity or to comply with the requirements of the Privacy Rule and related laws and regulations.

27 **42 C.F.R. PART 2 RELATED PROVISIONS**

- 27.1** Confidentiality of Information. Contractor's employees and agents shall have access to private data to the extent necessary to carry out the responsibilities, limited by the terms of this Agreement. Contractor accepts the responsibilities for providing adequate administrative supervision and training to their employees and agents to ensure

compliance with relevant confidentiality, privacy laws, regulations and contractual provisions. No private or confidential data collected, maintained, or used shall be disseminated except as authorized by statute and by terms of this Agreement, whether during the period of the Agreement or thereafter. Furthermore, Contractor:

- 27.2** Acknowledges that in receiving, transmitting, transporting, storing, processing, or otherwise dealing with any information received pursuant to this agreement that identifies or otherwise relates to the individuals under the care of or in the custody of a State of Oklahoma agency, it is fully bound by the provisions of the federal regulations governing the confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. Part 2 and the HIPAA, 45 C.F.R. 45 Parts 142, 160, and 164, Title 43 A § 1-109 of Oklahoma Statutes, and may not use or disclose the information except as permitted or required by this Agreement or by law;
- 27.3** Acknowledges that pursuant to 43A O.S. §1-109, all mental health and drug or alcohol treatment information and all communications between physician or psychotherapist and patient are both privileged and confidential and that such information is available only to persons actively engaged in treatment of the client or consumer or in related administrative work. Contractor agrees that such protected information shall not be available or accessible to staff in general and shall not be used for punishment or prosecution of any kind;
- 27.4** Agrees to resist any efforts in judicial proceedings to obtain access to the protected information except as expressly provided for in the regulations governing the Confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. Part 2;
- 27.5** Agrees to, when applicable and to the extent within Contractor's control, use appropriate administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic protected health information that it creates, receives, maintains, or transmits on behalf of the State of Oklahoma agency and to use appropriate safeguards to prevent the unauthorized use or disclosure of the protected health information, and agrees that protected information will not be placed in the Child Protective Services (CPS) record of any individual involved with the Oklahoma Department of Human Services (DHS).
- 27.6** Agrees to report to the State of Oklahoma agency any use or disclosure or any security incident involving protected information not provided for by this Agreement. Such a report shall be made immediately when an employee becomes aware of such a disclosure, use, or security incident.
- 27.7** Agrees to provide access to the protected information at the request of the State of Oklahoma agency or to an authorized individual as directed by the State of Oklahoma agency, in order to meet the requirement of 45 C.F.R. §164.524 which provides clients with the right to access and copy their own protected information;
- 27.8** Agrees to make any amendments to the protected information as directed or agreed to by the State of Oklahoma agency, pursuant to 45 C.F.R. §164.526;
- 27.9** Agrees to make available its internal practices, books, and records, including policies and procedures, relating to the use and disclosure of protected information received from the

State of Oklahoma agency or created or received by the Contractor on behalf of the State of Oklahoma agency, to the State of Oklahoma agency and to the Secretary of the Department of Health and Human Services for purpose of the Secretary determining the giving party's compliance with HIPAA;

- 27.10** Agrees to provide the State of Oklahoma agency, or an authorized individual, information to permit the State of Oklahoma agency to respond to a request by an individual for an accounting of disclosures in accordance with 45 C.F.R. §164.528.

28 DATA SECURITY

The Contractor agrees to, when applicable and to the extent within Contractor's control, maintain the data in a secure manner compatible with the content and use. The Contractor will, when applicable to the extent within Contractor's control, control access to the data in Contractor's possession or control compliance with the terms of this Agreement. Only the Contractor's personnel whose duties require the use of such information, will have regular access to the data. The Contractor's employees will be allowed access to the data only for the purpose set forth in this Agreement.

- 28.1** Data Destruction. Contractor agrees to, when applicable and to the extent within Contractor's control, follow State of Oklahoma agency policies regarding secure data destruction.

- 28.2** Use of Information. Contractor agrees that the information received or accessed through this Agreement shall not be used to the detriment of any individual nor for any purpose other than those stated in this Agreement.

- 28.3** Redislosure of Data. The Contractor agrees not to redisclose any information to a third party not covered by the Agreement unless written permission by the State of Oklahoma agency is received and redislosure is permitted under applicable law.

29 FEDERAL TAX INFORMATION REQUIREMENTS IRS PUBLICATION 1075

- 29.1** PERFORMANCE: If Contractor takes possession or control of Federal Tax Information in performance of this contract, the Contractor agrees to, when applicable and to the extent within Contractor's control, comply with and assume responsibility for compliance by officers or employees with the following requirements:

- 29.2** All work will be performed under the supervision of the State of Oklahoma.

- 29.3** The contractor and contractor's officers or employees to be authorized access to FTI must meet background check requirements defined in IRS Publication 1075. The contractor will maintain a list of officers or employees authorized access to FTI. Such list will be provided to the agency and, upon request, to the IRS.

- 29.4** FTI in hardcopy or electronic format shall be used only for the purpose of carrying out the provisions of this contract. FTI in any format shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Inspection or disclosure of FTI to anyone other than the contractor or the contractor's officers or employees authorized is prohibited.

- 29.5** FTI will be accounted for upon receipt and properly stored before, during, and after processing. In addition, any related output and products require the same level of protection as required for the source material.
- 29.6** The contractor will certify that FTI processed during the performance of this contract will be completely purged from all physical and electronic data storage with no output to be retained by the contractor at the time the work is completed. If immediate purging of physical and electronic data storage is not possible, the contractor will certify that any FTI in physical or electronic storage will remain safeguarded to prevent unauthorized disclosures.
- 29.7** Any spoilage or any intermediate hard copy printout that may result during the processing of FTI will be given to the agency. When this is not possible, the contractor will be responsible for the destruction of the spoilage or any intermediate hard copy printouts and will provide the agency with a statement containing the date of destruction, description of material destroyed, and the destruction method.
- 29.8** All Contractor computer systems receiving, processing, storing, or transmitting FTI must meet the requirements in IRS Publication 1075. To meet functional and assurance requirements, the security features of the environment must provide for the managerial, operational, and technical controls. All security features must be available and activated to protect against unauthorized use of and access to FTI.
- 29.9** No work involving FTI furnished under this contract will be subcontracted without the prior written approval of the IRS.
- 29.10** Contractor will ensure that the terms of FTI safeguards described herein are included, without modification, in any approved subcontract for work involving FTI.
- 29.11** To the extent the terms, provisions, duties, requirements, and obligations of this contract apply to performing services with FTI, the contractor shall assume toward the subcontractor all obligations, duties and responsibilities that the agency under this contract assumes toward the contractor, and the subcontractor shall assume toward the contractor all the same obligations, duties and responsibilities which the contractor assumes toward the agency under this contract.
- 29.12** In addition to the subcontractor's obligations and duties under an approved subcontract, the terms and conditions of this contract apply to the subcontractor, and the subcontractor is bound and obligated to the contractor hereunder by the same terms and conditions by which the contractor is bound and obligated to the agency under this contract.
- 29.13** For purposes of this contract, the term "contractor" includes any officer or employee of the contractor with access to or who uses FTI, and the term "subcontractor" includes any officer or employee of the subcontractor with access to or who uses FTI.
- 29.14** The agency will have the right to void the contract if the contractor fails to meet the terms of FTI safeguards described herein.

30 CRIMINAL/CIVIL SANCTIONS

- 30.1** Each officer or employee of a contractor to whom FTI is or may be disclosed shall be notified in writing that FTI disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any FTI for a purpose not authorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as 5 years, or both, together with the costs of prosecution.
- 30.2** Each officer or employee of a contractor to whom FTI is or may be accessible shall be notified in writing that FTI accessible to such officer or employee may be accessed only for a purpose and to the extent authorized herein, and that access/inspection of FTI without an official need-to-know for a purpose not authorized herein constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000 or imprisonment for as long as 1 year, or both, together with the costs of prosecution.
- 30.3** Each officer or employee of a contractor to whom FTI is or may be disclosed shall be notified in writing that any such unauthorized access, inspection or disclosure of FTI may also result in an award of civil damages against the officer or employee in an amount equal to the sum of the greater of \$1,000 for each unauthorized access, inspection, or disclosure, or the sum of actual damages sustained as a result of such unauthorized access, inspection, or disclosure, plus in the case of a willful unauthorized access, inspection, or disclosure or an unauthorized access/inspection or disclosure which is the result of gross negligence, punitive damages, plus the cost of the action. These penalties are prescribed by IRC sections 7213, 7213A and 7431 and set forth at 26 CFR 301.6103(n)-1.
- 30.4** Additionally, it is incumbent upon the contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.
- 30.5** Granting a contractor access to FTI must be preceded by certifying that each officer or employee understands the agency's security policy and procedures for safeguarding FTI. A contractor and each officer or employee must maintain their authorization to access FTI through annual recertification of their understanding of the agency's security policy and procedures for safeguarding FTI. The initial certification and recertifications must be documented and placed in the agency's files for review. As part of the certification and at least annually afterwards, a contractor and each officer or employee must be advised of the provisions of IRC sections 7213, 7213A, and 7431 (see IRS Publication 1075, Exhibit 4, Sanctions for Unauthorized Disclosure, and IRS Publication 1075, Exhibit 5, Civil Damages for Unauthorized Disclosure). The training on the agency's security policy and procedures provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches. For the initial certification and the annual recertifications, the contractor and each officer or employee must sign, either with ink or

electronic signature, a confidentiality statement certifying their understanding of the security requirements.

31 INSPECTION

The IRS and the Agency, with 24-hour notice, shall have the right to send its inspectors into the offices and plants of the contractor to inspect facilities and operations performing any work with FTI under this contract for compliance with requirements defined in IRS Publication 1075. The IRS' right of inspection shall include the use of manual and/or automated scanning tools to perform compliance and vulnerability assessments of information technology (IT) assets that access, store, process or transmit FTI. Based on the inspection, corrective actions may be required in cases where the contractor is found to be noncompliant with FTI safeguard requirements.

32 SSA REQUIREMENTS

- 32.1** PERFORMANCE: If Contractor takes possession or control of in SSA provided information in the performance of this contract, the contractor agrees to, where applicable and to the extent within Contractor's control comply with and assume responsibility for compliance by his or her employees with the following requirements:
- 32.2** All work will be done under the supervision of the State of Oklahoma.
- 32.3** Any SSA provided information made available shall be used only for carrying out the provisions of this Agreement. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Inspection by or disclosure to anyone other than an officer or employee of the Contractor is prohibited.
- 32.4** All SSA provided information shall be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output and products will be given the same level of protection as required for the source material.
- 32.5** No work involving SSA provided information furnished under this contract shall be subcontracted without prior written approval by the applicable State of Oklahoma agency and the SSA.
- 32.6** The Contractor shall maintain a list of employees authorized access. Such list shall be provided upon request to the applicable State of Oklahoma agency or the SSA.
- 32.7** Contractor or agents may not legally process, transmit, or store SSA-provided information in a cloud environment without explicit permission from SSA's Chief Information Officer. Proof of this authorization shall be provided to the Contractor by the applicable State of Oklahoma agency prior to accessing SSA provided information.
- 32.8** Contractor shall provide security awareness training to all employees, contractors, and agents who access SSA-provided information. The training should be annual, mandatory, and certified by the personnel who receive the training. Contractor is also required to certify that each employee, contractor, and agent who views SSA-provided information certify that they understand the potential criminal, civil, and administrative sanctions or penalties for unlawful access and/or disclosure.

- 32.9** Contractor shall require employees, contractors, and agents to sign a non-disclosure agreement, attest to their receipt of Security Awareness Training, and acknowledge the rules of behavior concerning proper use and security in systems that process SSA-provided information. Contractor shall retain non-disclosure attestations for at least five (5) to seven (7) years for each employee who processes, views, or encounters SSA-provided information as part of their duties.
- 32.10** The applicable State of Oklahoma agency shall provide the Contractor a copy of the SSA exchange agreement and all related attachments before initial disclosure of SSA data. Contractor is required to follow the terms of the applicable State of Oklahoma agency's data exchange agreement with the SSA. Prior to signing this Agreement, and thereafter at SSA's request, the applicable State of Oklahoma agency shall obtain from the Contractor a current list of the employees of such Contractor with access to SSA data and provide such list to the SSA.
- 32.11** Where the Contractor processes, handles, or transmits information provided to the applicable State of Oklahoma agency by SSA or has authority to perform on the agency's behalf, the applicable State of Oklahoma agency shall clearly state the specific roles and functions of the Contractor within the Agreement.
- 32.12** SSA requires all parties subject to this Agreement to exercise due diligence to avoid hindering legal actions, warrants, subpoenas, court actions, court judgments, state or Federal investigations, and SSA special inquiries for matters pertaining to SSA-provided information.
- 32.13** SSA requires all parties subject to this Agreement to agree that any Client-owned or subcontracted facility involved in the receipt, processing, storage, or disposal of SSA-provided information operate as a "de facto" extension of the Client and is subject to onsite inspection and review by the Client or SSA with prior notice.
- 32.14** If the Contractor must send a Contractor computer, hard drive, or other computing or storage device offsite for repair, the Contractor must have a non-disclosure clause in their contract with the vendor. If the Contractor used the item in a business process that involved SSA-provided information and the vendor will retrieve or may view SSA-provided information during servicing, SSA reserves the right to inspect the Contractor's vendor contract. The Contractor must remove SSA-provided information from electronic devices before sending it to an external vendor for service. SSA expects the Contractor to render SSA-provided information unrecoverable or destroy the electronic device if they do not need to recover the information. The same applies to excessed, donated, or sold equipment placed into the custody of another organization.
- 32.15** In the event of a suspected or verified data breach involving SSA provided information, the Contractor shall notify the Client immediately.
- 32.16** The Client shall have the right to void the contract if the contractor fails to provide the safeguards described above.

33 CRIMINAL/CIVIL SANCTIONS

The Act specifically provides civil remedies, 5 U.S.C. Sec. 552a(g), including damages, and criminal penalties, 5 U.S.C. Sec. 552a(i), for violations of the Act. The civil action provisions are premised violations of the Act committed by parties subject to this Agreement or regulations promulgated thereunder. An individual claiming such a violation by parties subject to this Agreement may bring civil action in a federal district court. If the individual substantially prevails, the court may assess reasonable attorney fees and other litigation costs. In addition, the court may direct the parties subject to this Agreement to grant the plaintiff access to his/her records, and when appropriate direct an amendment or correction of records subject to the Act. Actual damages may be awarded to the plaintiff for intentional or willful refusal by parties subject to this Agreement to comply with the Act.

33.1 Civil Remedies

- a. In any suit brought under the provisions of 5 U.S.C. § 552a(g)(1)(C) or (D) in which the court determines that the parties subject to this Agreement acted in a manner which was intentional or willful, shall be liable in an amount equal to the sum of
- b. actual damages sustained by the individual because of the refusal or failure, but in no case, shall a person entitled to recovery receive less than the sum of \$1,000; and
- c. the costs of the action together with reasonable attorney fees as determined by the court.
- d. An action to enforce any liability created under 5 U.S.C. § 552a may be brought in the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the records are situated, or in the District of Columbia, without regard to the amount in controversy, within two years from the date on which the cause of action arises, except that where parties subject to this Agreement have materially and willfully misrepresented any information required under this section to be disclosed to an individual and the information so misrepresented is material to establishment of the liability of the agency to the individual under 5 U.S.C. § 552a, the action may be brought at any time within two years after discovery by the individual of the misrepresentation. Nothing in this section shall be construed to authorize any civil action because of any injury sustained as the result of a disclosure of a record prior to September 27, 1975.

33.2 Criminal Penalties

- a. Any officer or employee of an agency, who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this section or by rules or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000. See 5 U.S.C. § 552a(i)(1).

- b. Any officer or employee of any agency who willfully maintains a system of records without meeting the notice requirements of subsection (e)(4) of this section shall be guilty of a misdemeanor and fined not more than \$5,000. See 5 U.S.C. § 552a(i)(2).
- c. Any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses shall be guilty of a misdemeanor and fined not more than \$5,000. See 5 U.S.C. § 552a(i)(3).

34 CHILD SUPPORT FPLS REQUIREMENTS

- 34.1** Contractor, when applicable and to the extent within Contractor's control, and the applicable State of Oklahoma agency must comply with the security requirements established by the Social Security Act, the Privacy Act of 1974, the Federal Information Security Management Act of 2002 (FISMA), 42 United States Code (USC) 654(26), 42 UCS 654a(d)(1)-(5), the U.S. Department of Health and Human Services (HHS), the U.S. Department of Health and Human Services Administration of Children and Families Office of Child Support Enforcement Security Agreement and the Automated Systems for Child Support Enforcement: A Guide for States Section H Security and Privacy. Contractor and applicable State of Oklahoma agency also agree to use Federal Parent Locator Service (FPLS) information and Child Support (CS) program information solely for the authorized purposes in accordance with the terms in this agreement. The information exchanged between state Child Support agencies and all other state program information must be used for authorized purposes and protected against unauthorized access to reduce fraudulent activities and protect the privacy rights of individuals against unauthorized disclosure of confidential information.
- 34.2** This is applicable to the personnel, facilities, documentation, data, electronic and physical records and other machine-readable information systems of the applicable State of Oklahoma agency and Contractor, including, but not limited to, state employees and contractors working with FPLS information and CS program information and state CS agency data centers, statewide centralized data centers, contractor data centers, state Health and Human Services' data centers, comprehensive tribal agencies, data centers serving comprehensive tribes, and any other individual or entity collecting, storing, transmitting or processing FPLS information and CS program information. This is applicable to all FPLS information, which consists of the National Directory of New Hires (NDNH), Debtor File, and the Federal Case Registry (FCR). The NDNH, Debtor File and FCR are components of an automated national information system.
- 34.3** This is also applicable to all CS program information, which includes the state CS program information, other state and tribal program information, and confidential information. Confidential information means any information relating to a specified individual or an individual who can be identified by reference to one or more factors specific to him or her, including but not limited to the individual's Social Security number, residential and mailing addresses, employment information, and financial information. Ref. 45 Code of Federal Regulations (CFR) 303.21(a).

35 FERPA REQUIREMENTS

35.1 If Contractor takes possession or control of Information covered by FERPA in performance of this Agreement, Contractor agrees to, when applicable and to the extent within Contractor's control comply with and assume responsibility for compliance by its employees with the Family Educational Rights and Privacy Act; (20 U.S.C. § 1232g; 34 CFR Part 99) ("FERPA") and the Oklahoma Student Data Accessibility, Transparency, and Accountability Act of 2013; (70 O.S. § 3-168), where personally identifiable student education data is exchanged.

36 CJIS REQUIREMENTS

36.1 INTRODUCTION - This section shall be applicable to the extent that Contractor takes possession or control of CJIS data. The use and maintenance of all items of software or equipment offered for purchase herein must be in compliance with the most current version of the U.S. Department of Justice, Federal Bureau of Investigation ("FBI"), Criminal Justice Information Services (CJIS) Division's CJIS Security Policy ("CJIS Security Policy" or "Security Policy" herein).

36.2 The Entity or Affiliate acquiring the data or system is hereby ultimately responsible for compliance with the CJIS Security Policy and will be subject to an audit by the State of Oklahoma CJIS Systems Officer ("CSO") and the FBI CJIS Division's Audit Staff.

36.3 CJIS SECURITY POLICY REQUIREMENTS GENERALLY - The CJIS Security Policy outlines a number of administrative, procedural, and technical controls agencies must have in place to protect Criminal Justice Information ("CJI"). Our experience is that agencies will generally have many of the administrative and procedural controls in place but will need to implement additional technical safeguards in order to be in complete compliance with the mandate. A Criminal Justice Agency ("CJA") and certain other governmental agencies procuring technology equipment and services that could be used in hosting or connecting or transmitting or receiving CJI data may need to use the check list herein to make sure that the software, equipment, location, security, and persons having the ability to access CJI will meet the CJIS requirements per the then current CJIS Security Policy. A completed Appendix H to said Security Policy will need to be signed by Vendor or a 3rd party if it has access to CJI, such as incident to the maintenance or support of the purchased hardware or software within which resides CJI. Per Appendix "A" to said Security Policy, "access to CJI is the physical or logical (electronic) ability, right or privilege to view, modify or make use of CJI."

36.4 DIRECTIVE CONCERNING ACCESS TO CRIMINAL JUSTICE INFORMATION AND TO HARDWARE OR SOFTWARE WHICH INTERACTS WITH CJI AND CERTIFICATION- The FBI CJIS Division provides state-of-the-art identification and information services to the local, state, tribal, federal, and international criminal justice communities for criminal justice purposes, as well as the noncriminal justice communities for noncriminal justice purposes.

36.5 This Directive primarily concerns access to CJI and access to hardware and software in the use, retention, transmission, reception, and hosting of CJI for criminal justice purposes and not for noncriminal justice purposes. In that regard, this Directive is not only applicable to such data, but also to the hardware and software interacting with such data, their location(s), and persons having the ability to access such data. The CJIS data applicable to the Security Policy is the data described as such in said Policy plus all data

transmitted over the Oklahoma Law Enforcement Telecommunications System (“OLETS”) which is operated by DPS.

36.6 In order to have access to CJIS or to the aforesaid hardware or software, the vendor must be familiar with the FBI CJIS Security Policy, including but not limited to the following portions of said Security Policy:

- a. the Definitions and Acronyms in §3 & Appendices “A” & “B”;
- b. the general policies in §4;
- c. the Policies in §5;
- d. the appropriate forms in Appendices “D”, “E”, “F” & “H”; and
- e. the Supplemental Guidance in Appendices “J”.

36.7 This FBI Security Policy is located and may be downloaded at:

- a. <https://www.fbi.gov/services/cjis/cjissecurity-policy-resource-center><https://www.fbi.gov/services/cjis/cjissecurity-policy-resource-center>.
- b. By executing the Contract to which this Directive is attached, the vendor hereby CERTIFIES that the foregoing directive has and will be followed, including but not limited to full compliance with the FBI CJIS Security Policy, as amended and as applicable.

37 NOTICES

37.1 In addition to notice requirements under the terms of the Contract otherwise, the following individuals shall also be provided the request, approval or notice, as applicable:

Chief Information Officer
3115 N. Lincoln Blvd
Oklahoma City, OK 73105

With a copy, which shall not constitute notice, to:

OMES Deputy General Counsel
3115 North Lincoln Blvd
Oklahoma City, Oklahoma 73105

EXHIBIT 1

Pricing Sheet

2023-2024

2024-2025

2025-2026

2026-2027

2027-2028

2028-2029

OSTP 3-8 ELA/Math/Science (5 & 8 only)

Date of Award-June 2024

July 2024-June 2025

July 2025-June 2026

July 2026-June 2027

July 2027-June 2028

July 2028-June 2029

**1 Development/Leasing/Sharing items
Identify or develop test items/test construction for online testing**

- Grade 3 Math
- Grade 3 English Language Arts
- Grade 4 Math
- Grade 4 English Language Arts
- Grade 5 Science
- Grade 5 Math
- Grade 5 English Language Arts
- Grade 6 Math
- Grade 6 English Language Arts
- Grade 7 Math
- Grade 7 English Language Arts
- Grade 8 Science
- Grade 8 Math
- Grade 8 English Language Arts

2 Test Booklets

- Grade 3 Math
- Grade 3 English Language Arts
- Grade 4 Math
- Grade 4 English Language Arts
- Grade 5 Science
- Grade 5 Math
- Grade 5 English Language Arts
- Grade 6 Math
- Grade 6 English Language Arts
- Grade 7 Math
- Grade 7 English Language Arts
- Grade 8 Science
- Grade 8 Math
- Grade 8 English Language Arts

3 Test and Item Specifications Manual

- Grade 3 Math
- Grade 3 ELA
- Grade 4 Math
- Grade 4 ELA
- Grade 5 Math
- Grade 5 ELA
- Grade 5 Science

Grade 6 Math
Grade 6 ELA
Grade 7 Math
Grade 7 ELA
Grade 8 Math
Grade 8 ELA
Grade 8 Science

4 Accommodated Materials (separate invoice)

Grade 3 Math Braille + PSTG
Grade 3 Math Large Print + PSTG
Grade 3 English Language Arts Braille + PSTG
Grade 3 English Language Arts Large Print + PSTG
Grade 4 Math Braille + PSTG
Grade 4 Math Large Print + PSTG
Grade 4 English Language Arts Braille + PSTG
Grade 4 English Language Arts Large Print + PSTG
Grade 5 Math Braille+ PSTG
Grade 5 Math Large Print + PSTG
Grade 5 English Language Arts Braille + PSTG
Grade 5 English Language Arts Large Print + PSTG
Grade 5 Science Braille + PSTG
Grade 5 Science Large Print + PSTG
Grade 6 Math Braille + PSTG
Grade 6 Math Large Print + PSTG
Grade 6 English Language Arts Braille + PSTG
Grade 6 English Language Arts Large Print + PSTG
Grade 7 Math Braille + PSTG
Grade 7 Math Large Print + PSTG
Grade 7 English Language Arts Braille + PSTG
Grade 7 English Language Arts Large Print + PSTG
Grade 8 Math Braille + PSTG
Grade 8 Math Large Print
Grade 8 English Language Arts Braille + PSTG
Grade 8 English Language Arts Large Print + PSTG
Grade 8 Science Braille + PSTG
Grade 8 Science Large Print + PSTG
Math Reference Sheets Large Print + Braille

5 Breach Test Books & Online Forms

Grade 3 Math
Grade 3 English Language Arts
Grade 4 Math
Grade 4 English Language Arts
Grade 5 English Language Arts
Grade 5 Math
Grade 5 Science
Grade 6 Math

Grade 6 English Language Arts
Grade 7 Math
Grade 7 English Language Arts
Grade 8 Math
Grade 8 English Language Arts
Grade 8 Science

6 Oral Language Translation (Neurtal Latin American Spanish)

Grades 3-8 Math & Grades 5 and 8 Science only (paper and computer based)
Grades 5 and 8 English Language Arts (written/constructed Response portion only paper and computer-based)
Test Administration Manual (TAM) translated
All Practice Tests in Spanish (including TTS)
Text-to-speech in Spanish for Grades 3-8 Math, Grades 5 & 8 Science; Grades 5 & 8 ELA Extended Constructed Response
All Parent, Student, Teacher Guides for Grades 3-8
All ancillary materials (Math reference sheets; writers checklist) translated

7 Computer Administered Tests

Grades 3-5 Math/ELA/Science
Grade 6-8 Math/ELA/Science

**8 Other Test Materials
Answer Sheet/Demographic Page**

Grade 3 Math (within consumable book)
Grade 3 English Language Arts (within consumable book)
Grade 4 Math/ELA (combined document)
Grade 5 Math/ELA/Science (combined document)
(note: Grade 6-8 default online testing)
Grade 6 Math/ELA (combined document)
Grade 7 Math/ELA (combined document)
Grade 8 Math/ELA/Science (combined document)

Manuals and Other Test Ancillaries

9 Test Preparation Manual (TPM) - paper/pencil (shipped)
Test Preparation Manual (TPM) -pdf
Test Administration Manual (TAM) - paper/pencil (shipped)
Test Administration Manual (TAM) - pdf
Math Reference Sheet
Poster for Returning Materials
Group Information Sheets (header sheets/Class Identification Sheets)

Parent, Student and Teacher Guides

- 10 Grade 3 Math/ELA (combined document)
- Grade 4 Math/ELA (combined document)
- Grade 5 Math/ELA/Science (combined document)
- Grade 6 Math/ELA (combined document)
- Grade 7 Math/ELA (combined document)
- Grade 8 Math/ELA/Science (combined document)

Parent Information Brochure/Website/Portal

- 11 Other Ancillary Materials - paper and digital/web versions
- Parent Information Brochure and site in Spanish

Online Practice Tests

- 12 Grade 3 Math
- Grade 3 English Language Arts
- Grade 4 Math
- Grade 4 English Language Arts

- Grade 5 Science
- Grade 5 Math
- Grade 5 English Language Arts

- Grade 6 Math
- Grade 6 English Language Arts
- Grade 7 Math
- Grade 7 English Language Arts
- Grade 8 Science
- Grade 8 Math
- Grade 8 English Language Arts

Distribution and Collection of Test Materials

- 13 Distribution and Collection

Scoring of Materials

- 14 Grade 3 Math (machine)
- Grade 3 English Language Arts (machine and human reader)
- Grade 4 Math (machine)
- Grade 4 ELA (machine and human reader)
- Grade 5 Math (machine)
- Grade 5 Science (machine)
- Grade 5 ELA/Writing (machine and human reader)
- Grade 6 Math (machine)
- Grade 6 English Language Arts (machine and human reader)
- Grade 7 Math (machine)
- Grade 7 English Language Arts (machine and human reader)

Grade 8 Math (machine)
Grade 8 Science (machine)
Grade 8 English Language Arts/Writing (machine and human reader)

Score Reporting

- 15 Electronic Preliminary Student Roster & Summary Reports
- Electronic Final Student Roster & Summary Reports
- Student Report Labels
- Parent/Student Reports (paper)
- Web-based/app-based Parent Portal
- Media Reports (pre-redacted & FERPA compliant)

Transition Plan Associated Costs

16

Aberrant Response Analyses and Reporting

17

Psychometric Support and Technical Report

18

DATA FILES

- 19 State Data Files (Preliminary & Final GRT)
- Student Data File to Districts (Electronic)
- Precode File and Labels

Released Test Items in Electronic Format

20

Score Reporting
Electronic Preliminary Reports
Electronic and Paper Parent/Student Reports
Electronic Roster Reports
Electronic Summary Reports
Media Reports
Electronic Final Reports

Meetings

- 21 Annual Planning Meeting
- Other Planning Meetings
- Item/Bias Review (all grades and content areas)
- Passage Review
- Data Review Meetings
- Standard Setting (science/ELA/Math - summer 2027/ 2028/ 2029)
- Range-finding/Benchmarking for ELA
- TAC Meetings (three times a year; in-person)
- Additional Technical Assistance meetings/consultation (A 45.2)
- PLD Development Meetings/Committees
- District Test Coordinator Required Training

District Test Coordinator Post-Test Meeting/Training
 District Test Coordinator Advisory Meeting
 State Board of Ed Meetings (as needed; including OEQA presentations for SS)
 Monitor Test Administration Meeting
 Weekly Conference Call (for program but also in each content area)

SDE Staff Professional Development

22 Training Modules
 Other Training
 Online Test Training (posted; for DTCs and SDE)

Program Management and Support

23

Contingency Services

22

ANNUAL TOTAL



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25

Cost Options:

26 Multistage Adaptive Test (A.29)
 Constructed Reponse Math & Science (A.31.3)
 Interim and Through Year Assessments (A.34)
 Teacher Item Writing of Operational Items (A.35)



NOTE: A certification shall be included with any competitive bid and/or contract exceeding \$25,000.00 submitted to the State for goods or services.

Agency Name: _____ Agency #: _____

Supplier Legal Name: _____

SECTION I [74 O.S. § 85.22]:

A. For purposes of competitive bid,

1. I am the duly authorized agent of the above named bidder, for the purpose of certifying the facts pertaining to the existence of collusion among and between bidders and suppliers and state officials or employees, as well as facts pertaining to the giving or offering of things of value to government personnel in return for special consideration in connection with the prospective acquisition;
2. I am fully aware of the facts and circumstances surrounding the acquisition or making of the bid to which this statement relates and have been personally and directly involved in the events leading to the acquisition or submission of such bid; and
3. Neither the business entity that I represent in this certification nor anyone subject to the business entity's direction or control has been a party:
 - a. to any collusion among bidders or suppliers in restraint of freedom of competition by agreement to bid or contract at a fixed price or to refrain from bidding or contracting,
 - b. to any collusion with any state official or employee as to quantity, quality or price in the prospective contract, or as to any other terms of such prospective contract, nor
 - c. to any discussions between bidders or suppliers and any state official concerning exchange of money or other thing of value for special consideration in connection with the prospective contract.

B. I certify, if awarded the contract, whether competitively bid or not, neither the business entity I represent nor anyone subject to the business entity's direction or control has paid, given or donated or agreed to pay, give or donate to any officer or employee of this state any money or other thing of value, either directly or indirectly, in procuring the contract to which this statement relates.

SECTION II [74 O.S. § 85.42]:

For the purpose of a contract for services, the supplier also certifies that no person who has been involved in any manner in the development of this contract while employed by the State of Oklahoma shall be employed by the supplier to fulfill any of the services provided for under said contract.

SECTION III [74 O.S. § 582]:

For the purpose of a contract for goods or services, the supplier also certifies is not currently engaged in a boycott of goods or services from Israel that constitutes an integral part of business conducted or sought to be conducted with the state.

The undersigned, duly authorized agent for the above named bidder or supplier, by signing below acknowledges this certification statement is executed for the purposes of:

the competitive bid attached herewith and contract, if awarded to said supplier;

OR

the contract attached herewith, which was not competitively bid and awarded by the agency pursuant to applicable Oklahoma statutes.

Supplier Authorized Signature

Certified This Date

Printed Name

Title

Phone Number

Email

Fax Number



*"Certification for Competitive Bid and Contract" **MUST** be submitted along with the response to the Solicitation.*

1. RE: Solicitation# _____

2. Bidder General Information:

FEI / SSN : _____ Supplier ID: _____
Company Name: _____

3. Bidder Contact Information:

Address: _____
City: _____ State: ____ Zip Code: _____
Contact Name: _____
Contact Title: _____
Phone #: _____ Fax #: _____
Email: _____ Website: _____

4. Bidder currently engaged in a boycott of goods or services from Israel.

- YES
- NO

5. Registration with the Oklahoma Secretary of State: (if over \$250,000)

- YES - Filing Number: _____
- NO - Prior to the contract award, the successful bidder will be required to register with the Secretary of State or must attach a signed statement that provides specific details supporting the exemption the supplier is claiming (www.sos.ok.gov or 405-521-3911).

6. Workers' Compensation Insurance Coverage:

Bidder is required to provide with the bid a certificate of insurance showing proof of compliance with the Oklahoma Workers' Compensation Act.

- YES – Include with the bid a certificate of insurance.
- NO – Exempt from the Workers' Compensation Act pursuant to 85A O.S. § 2(18)(b)(1-11) – Attach a written, signed, and dated statement on letterhead stating the reason for the exempt status.¹

¹ For frequently asked questions concerning workers' compensation insurance, see <https://www.ok.gov/wcc/Insurance/index.html>

7. Disabled Veteran Business Enterprise Act

- YES – I am a service-disabled veteran business as defined in 74 O.S. §85.44E. Include with the bid response 1) certification of service-disabled veteran status as verified by the appropriate federal agency, and 2) verification of not less than 51% ownership by one or more service-disabled veterans, and 3) verification of the control of the management and daily business operations by one or more service-disabled veterans.
- NO – Do not meet the criteria as a service-disabled veteran business.

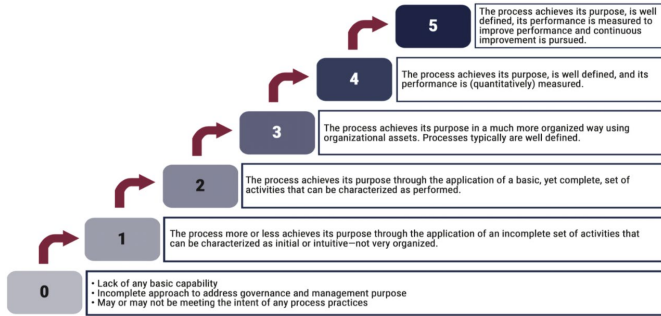
Authorized Signature _____ Date _____


Printed Name _____ Title _____

Assessment Name Security Assessment
Organization Name State of Oklahoma – OMES Cyber Command

Purpose The purpose of the assessment is for the State of Oklahoma to identify and manage any risk stemming from our business partnerships. All suppliers offering IT-related services and/or products are required to complete this assessment prior to issuance of an Authority to Operate (ATO). This assessment is designed to allow us to gain a better understanding of our supplier’s internal security posture, along with the product, service and/or solution being offered. Our tools, platforms and procedures should have no bearing on the enterprise security controls of the suppliers. The State wants to ensure the vendor’s overall environment and security protocols will meet minimum security requirements.

Maturity level



Organization answering this questionnaire		
System name or service for which this applies		
State of Oklahoma Security Policy	https://oklahoma.gov/content/dam/ok/en/omes/documents/InfoSecPPG.pdf	
Demographics		
#	Question	Answer
D-1	Company's legal name	
D-2	Primary website URL	
D-3	Primary contact name	
D-4	Primary contact email	
D-5	Primary contact phone	
D-6	Alternate contact name	
D-7	Alternate contact email	
D-8	Alternate contact phone	
D-9	Please describe the product or service your organization will be providing the State of Oklahoma.	
D-10	Please describe the type of service or product being provided to the State of Oklahoma (i.e., SaaS, PaaS, IaaS, hardware, staffing, etc.).	

**WHEN COMPLETED, THIS SECURITY CERTIFICATION ACCREDITATION ASSESSMENT IS CONFIDENTIAL
AND PROTECTED FROM DISCLOSURE PURSUANT TO 51 O.S. §24A.28 and 62 O.S. §34.12.C**



Organization answering this questionnaire

System name or service for which this applies

State of Oklahoma Security Policy

<https://oklahoma.gov/content/dam/ok/en/omes/documents/InfoSecPPG.pdf>

Enter a Value in the corresponding Maturity Rating Box


#	Service Specific Question	Status (Y/N)	Maturity Rating					Explanation/Comments
			Nonexistent	Initial/Ad hoc	Repeatable but intuitive	Defined	Managed and measurable	
SS-1	This section is strictly regarding the service or product being provided to the State of Oklahoma. All other sections in this assessment will be in regards to your organization's internal security posture, processes and procedures.							
SS-2	Does the system store, host, transmit or process any sensitive data?							
SS-3	Sensitive data defined as any data that may contain information protected by state statutes or federal regulations.							
SS-4	Sensitive data defined as not protected but contains information that must be secured for the continuity or security of state government or individuals; if such data were disclosed, harm would likely occur to the state, the security posture of the state or individuals.							
SS-5	Does your organization have resources outside the U.S that will host, store, transmit, process or access State of Oklahoma data?							
SS-6	Will your organization host, store, transmit, process, or access and regulated sensitive or non-regulated sensitive data (i.e., PHI/HIPAA, PII, CJ, FTI FERPA, etc.)?							
SS-7	Will a nonresident individual or corporation of the U.S. have physical or logical access to State of Oklahoma data?							
SS-8	Will any support contacts of the solution provider for hardware, software or other technical support allow for the physical or logical access of a non-U.S. resident or corporation?							
SS-9	Does the solution provider have a help desk function that allows for the support intake and handling of IT or security-related services?							
SS-10	Does the solution provider engage in e-commerce activity on behalf of the State of Oklahoma?							
SS-11	Does the solution provider outsource or subcontract any portion of the services that are being contracted on the behalf of the State of Oklahoma?							

Secure Configuration		Status	Maturity Rating					Explanation/Comments	
#	Question	(Y/N)	Nonexistent	Initial/Ad hoc	Repeatable but intuitive	Defined	Managed and measurable	Optimized	
SC-1	Does your organization maintain standard secure configuration images for operating systems and software applications?								
SC-2	Do these standard configurations incorporate industry recognized security hardening techniques?								
SC-3	Does your organization employ a system configuration management tool (Active Directory Group Policy, etc.) that enforces and redeploys configuration settings to systems?								
SC-4	In your organization, are the software development, testing and production environments separated?								





Enter a Value in the corresponding Maturity Rating Box


Organization answering this questionnaire
 System name or service for which this applies
 State of Oklahoma Security Policy
<https://oklahoma.gov/content/dam/ok/en/omes/documents/InfoSecPPG.pdf>

Organization answering this questionnaire									
System name or service for which this applies									
State of Oklahoma Security Policy https://oklahoma.gov/content/dam/ok/en/omes/documents/InfoSecPPG.pdf		Enter a Value in the corresponding Maturity Rating Box							
Identity and Access Management		Status	Maturity Rating					Explanation/Comments	
#	Question	(Y/N)	Nonexistent	Initial/Ad hoc	Repeatable but intuitive	Defined	Managed and measureable	Optimized	
IAM-1	Does your organization utilize a service for directory services, identity providers (IdP), federation and/or rights privileges management (i.e., Microsoft Active Directory, Azure Active Directory, Okta, Ping, Active Directory Federation Services, Google Workspaces, etc.)?								
IAM-2	Does your organization have controls in place to protect user accounts with administrator privileges? Please describe in the comments section.								
IAM-3	Do you have controls in place for privileged service accounts (i.e., inventories on accounts conducted at least quarterly, password lengths of at least 25 characters, passwords rotated at least annually, etc.)?								

PC-13.15	Advanced Endpoint Security								
PC-13.16	Endpoint DLP solution								
PC-13.17	Identity and Access Management solutions								
PC-13.18	Network Detection and Response (NDR) solutions								
PC-13.19	Bring Your Own Device (BYOD) security solutions								
PC-13.20	Password management software								
PC-13.21	Wireless Network Security solutions								
PC-13.22	DDOS mitigation solutions								
PC-13.23	Please describe in the comments section any other tools or capabilities that support the organization's cyber/information security.								

Organization answering this questionnaire									
System name or service for which this applies									
State of Oklahoma Security Policy https://oklahoma.gov/content/dam/ok/en/omes/documents/InfoSecPPG.pdf		Enter a Value in the corresponding Maturity Rating Box							
Incident Response		Status	Maturity Rating						Explanation/Comments
#	Question	(Y/N)	Nonexistent	Initial/Ad hoc	Repeatable but intuitive	Defined	Managed and measureable	Optimized	
IR-1	Does your organization have a formally documented incident response plan?								
IR-2	Are tabletop exercises performed at least annually to ensure the incident response plan is still accurate and employees are familiar with their roles and responsibilities?								
IR-3	Is there a review of your incident response plan regularly to ensure it is up to date with current threats, along with local, state and federal laws?								

Organization answering this questionnaire									
System name or service for which this applies									
State of Oklahoma Security Policy https://oklahoma.gov/content/dam/ok/en/omes/documents/InfoSecPPG.pdf		Enter a Value in the corresponding Maturity Rating Box							
Recovery		Status	Maturity Rating						Explanation/Comments
#	Question	(Y/N)	Nonexistent	Initial/Ad hoc	Repeatable but intuitive	Defined	Managed and measureable	Optimized	
R-1	Does your organization perform backups on critical information a regular basis?								
R-2	Does your organization test restoration capabilities by performing a full restoration from a sample set of backup data at least annually?								
R-3	Are recovery plans reviewed and revised at least annually?								

Organization answering this questionnaire									
System name or service for which this applies									
State of Oklahoma Security Policy https://oklahoma.gov/content/dam/ok/en/omes/documents/InfoSecPPG.pdf		Enter a Value in the corresponding Maturity Rating Box							
Business Continuity		Status	Maturity Rating					Explanation/Comments	
#	Question	(Y/N)	Nonexistent	Initial/Ad hoc	Repeatable but intuitive	Defined	Managed and measureable	Optimized	
BC-1	Does your organization maintain a business continuity/disaster recovery plan?								
BC-2	Is your business continuity and/or disaster recovery plan tested/reviewed at least annually? If not, please describe how often in the comments section.								
BC-3	Does your organization have the capability to immediately failover to redundant or standby information systems?								
BC-4	Does your organization maintain an alternate backup IT facility such as a cold/warm/hot site?								

Vendor Management		Status	Maturity Rating					Explanation/Comments	
#	Question	(Y/N)	Nonexistent	Initial/Ad hoc	Repeatable but intuitive	Defined	Managed and measureable	Optimized	
VM-1	Does your organization employ a third-party risk management program to vet all third-party vendors?								
VM-2	Does your organization audit vendors with access to your organization's computer systems and confidential data to ensure they are compliant with required security standards?								
VM-3	Does your organization utilize cloud computing (i.e., public, hybrid or private cloud)?								
VM-4	Does your organization require confirmation from cloud vendors that they are in compliant with any applicable laws related to data storage and data transfer?								



OKLAHOMA
OMES Cyber Command


Organization answering this questionnaire

System name or service for which this applies

State of Oklahoma Security Policy

<https://oklahoma.gov/content/dam/ok/en/omes/documents/InfoSecPPG.pdf>

Enter a Value in the corresponding Maturity Rating Box

Organization answering this questionnaire System name or service for which this applies									
State of Oklahoma Security Policy https://oklahoma.gov/content/dam/ok/en/omes/documents/InfoSecPPG.pdf		Enter a Value in the corresponding Maturity Rating Box							
Biometrics		Status	Maturity Rating					Explanation/Comments	
#	Question	(Y/N)	Nonexistent	Initial/Ad hoc	Repeatable but intuitive	Defined	Managed and measureable	Optimized	
B-1	Does your organization use or provide technology that scans biometric identifiers (e.g., fingerprints, voice, hands, faces, eyes, signature)?								
B-2	Does your organization manage and disclose use of biometric information?								
B-3	Does your organization follow data retention and destruction procedures for biometric information?								
B-4	Is equipment or technology provided by a third party used to collect, receive or retain biometric data from internal employees or customers/clients?								
B-5	Does your organization follow storage and protection procedures for biometric information?								

Questions answered "No" without a reasonable justification, or other mitigation methods described, and answer pertains to organization = 1 Risk.

Risk to State =

LOW 1	LOW 2	LOW 3	MEDIUM 4	MEDIUM 5
LOW 2	MEDIUM 4	MEDIUM 6	HIGH 8	HIGH 10
LOW 3	MEDIUM 6	HIGH 9	HIGH 12	EXTREME 15
MEDIUM 4	HIGH 8	HIGH 12	HIGH 16	EXTREME 20
MEDIUM 5	HIGH 10	EXTREME 15	EXTREME 20	EXTREME 25

BID PACKET ATTACHMENTS INSTRUCTIONS

To assist in where to attach your response in the supplier portal.

Please see example below:


Lines responded to

Your Total Line Pricing 0.0000 USD

[Hide Line Detail](#)

★Bid Required [Line Comments/Files](#)

Lines

Line	Item ID	Description	Unit	Requested Quantity	Your Bid Quantity	Your Unit Bid Price	No Bid	Your Total Bid Price		
1		OCAP State Funded	EA	1.0000	1.0000	<input type="text"/>	<input type="checkbox"/>	0.0000 USD	Bid	

Event Comments and Attachments

Event Details

Event ID EV00000187 Line 1

OCAP State Funded

Attachments

Add New Attachments

Attached File	Attachment Description	Upload	View		
		<input type="button" value="Upload"/>	<input type="button" value="View"/>	Add New Attachments	Delete

Comments

Add New Comments