



STATE OF OKLAHOMA CONTRACT WITH BOWMAN CONSULTING GROUP LTD

This State of Oklahoma Contract (“Contract”) is entered into between the State of Oklahoma by and through the Oklahoma Conservation Commission (“State”) and BOWMAN CONSULTING GROUP LTD (“Supplier”) and is effective as of the effective date set forth on a properly issued purchase order or, if no effective date is listed, the date of last signature to this Contract. The initial term of the Contract shall be for 1 year with 2 (2) one-year options to renew.

Purpose

The State is awarding this Contract to Supplier for the provision of Aerial Ortho imagery Services, as more particularly described in certain Contract Documents. Supplier submitted a proposal containing exceptions to the Solicitation and Supplier requested confidential matters to be considered. This Contract memorializes the agreement of the parties with respect to negotiated terms of the Contract that is being awarded to Supplier.

Now, therefore, in consideration of the foregoing and the mutual promises set forth herein, the receipt and sufficiency of which are hereby acknowledged the parties agree as follows:

1. The parties agree that Supplier has not yet begun performance of work under this Contract. Issuance of a purchase order is required prior to payment to a Supplier.
2. The following Contract Documents are attached hereto and incorporated herein:
 - 2.1. Solicitation #EV00000589, Attachment A;
 - 2.2. General Terms, Attachment B;
 - 2.3. Intentionally Omitted, Attachment C;
 - 2.4. Information Technology terms, Attachment D;
 - 2.5. Pricing, Attachment E;
 - 2.6. Supplier Response to Specifications, Attachment E-1; and
 - 2.7. Negotiated Exceptions to Contract, Attachment F.
3. The parties additionally agree:
 - 3.2. Except for information deemed confidential by the State pursuant to applicable law, rule, regulation or policy, the parties agree Contract terms and information are not confidential and are disclosable without further approval of or notice to Supplier.
 - 3.3. To the extent any term or condition in any Contract Document, including via a hyperlink or uniform resource locator, conflicts with an applicable Oklahoma and/or United States law or regulation, such term or condition is void and unenforceable. By executing any Contract Document which contains a conflicting term or condition, the State or Customer makes no representation or warranty regarding the enforceability of such term or condition and the State or Customer does not waive the applicable Oklahoma and/or United States law or regulation which conflicts with the term or condition.

4. Payment obligations rest solely with the Oklahoma Conservation Commission

Please send invoices and billing inquiries to:
Jeannie Parsley, Comptroller,, Oklahoma Conservation Commission, Suite 200,, Oklahoma city,
OK 73105, USA
jeannie.parsley@conservation.ok.gov

Attachments referenced in this section are attached hereto and incorporated herein.

5. Any reference to a Contract Document refers to such Contract Document as it may have been amended. If and to the extent any provision is in multiple documents and addresses the same or substantially the same subject matter but does not create an actual conflict, the more recent provision is deemed to supersede earlier versions.
6. The undersigned Agency hereby attests that any required terms and conditions based on a Federal Award applicable to this Contract are included herein.

SIGNATURES

The undersigned represent and warrant that they are authorized, as representatives of the party on whose behalf they are signing, to sign this Contract and to bind their respective party thereto.

STATE OF OKLAHOMA
by and through the OKLAHOMA
CONSERVATION COMMISSION

BOWMAN CONSULTING GROUP LTD

By: Trey Lam
Trey Lam (Jan 6, 2025 13:47 CST)

By: Joseph M. Solomon, Jr.
Joseph M. Solomon, Jr. (Jan 6, 2025 12:51 MST)

Name: Trey Lam

Name: Joseph M. Solomon, Jr.

Title: Executive Director

Title: Principal/Survey Director

Date: Jan 6, 2025

Date: Jan 6, 2025

The Chief Information Officer is signing solely to approve the Contract pursuant to 62 O.S., § 34.11.1 concerning procurement of Information Technology and/or Telecommunications.

By: R. Dan Cronin
R. Dan Cronin (Jan 6, 2025 14:01 CST)

Name: R. Dan Cronin

Title: Chief Information Officer

Date: Jan 8, 2025

Attachment A

Solicitation No. EV00000589

This Solicitation is a Contract Document and is a request for proposal 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.

I. PURPOSE

The Office of Management and Enterprise Services (OMES), Central Purchasing Division, is seeking responses on behalf of Oklahoma Conservation Commission and Office of Geographic Information (OGI) from potential Suppliers to provide a contract for the purchase of Aerial Ortho imagery Services. A Contract resulting from this Solicitation may be designated for use as a Statewide Contract.¹

The Contract is awarded on behalf of Oklahoma Conservation Commission and Office of Geographic Information (OGI) for the purchase of Aerial Ortho imagery Services. All state agencies and state affiliates may avail themselves of this contract.

1. Contract Term and Renewal Options:

- 1.1. The initial Contract term, which begins on the effective date of the Contract, is one year and there are (2) one-year options to renew the Contract.

2. Solicitation Criterion:

2.1. The Bid will be evaluated using a best value criterion, based on the following:

- i. Specification Requirements -Exhibit#1
- ii. Price- Exhibit#2
- iii. Bidder Response Matrix Exhibit#3

2.2 Scope and Description:

- i. The Bid Response must reflect for each requirement on Bidder Response Matrix [Exhibit#3] whether the requirement is met by an out-of-the-box solution or whether the requirement necessitates customization to the Bidder's proposed solution.
- ii. The Bid Response shall show the ability of the Bidder to meet or exceed the following Mandatory specifications: [Exhibit #1].
- iii. Pricing shall be proposed using the [Exhibit#2] titled Pricing.
- iv. Pricing shall be proposed as a single total firm, fixed cost and include all information concerning fees, other costs, and any other information relevant to the total cost.

3.1 Specification Requirements to need to submit with Bid response using the below Exhibit#1 to Exhibit#5.

¹ 74 O.S. 85.5(G)(3)

- 3.2 Bidder response shall be proposed using **Exhibit 01: Specification Requirements**
- 3.3 The response to pricing shall be proposed using **Exhibit 02: Price in excel Template.**
- 3.4 Bidder response shall be submitted using **Exhibit 03: Bidder Response Matrix.**
- 3.5 Reference shall be submitted using **Exhibit 04: Reference Template**
- 3.6 Third-party vendor information is included on **Exhibit 05: Third Party Supplier Information.**

II. STATE OF OKLAHOMA NON-NEGOTIABLE GENERAL TERMS

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 Amendment. 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 Upon mutual agreement, the Parties may extend the Contract for ninety (90) days beyond a final renewal term. The Parties may to the extent allowable by law, choose to exercise subsequent ninety (90) day extensions.
- 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

- 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 a proper purchase order has been issued.
- 2.2** 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 Amendment. 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.
- 3.3** Except for information deemed confidential by the State pursuant to applicable law, rule, regulation, or policy, the parties agree Contract terms are not confidential and are disclosable without further approval of or notice to Supplier.
- 3.4** Unless mutually agreed to in writing by the State of Oklahoma by and through the Office of Management and Enterprise Services, no Contract document or other terms and conditions or clauses, including via a hyperlink or uniform resource locator, shall supersede or conflict with the terms of this Contract or expand the State's or Customer's liability or reduce the rights of Customer or the State.

3.5 To the extent any term or condition in any Contract document, including via a hyperlink or uniform resource locator, conflicts with an applicable Oklahoma and/or United States law or regulation, such term or condition is void and unenforceable. By executing any Contract document which contains a conflicting term or condition, the State or Customer makes no representation or warranty regarding the enforceability of such term or condition and the State or Customer does not waive the applicable Oklahoma and/or United States law or regulation which conflicts with the term or condition.

4 Pricing

4.1 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.

4.2 Pursuant to 74 O.S. §85.40, all travel expenses of Supplier must be included in the total Acquisition price.

4.3 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

4.4 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

4.5 Pursuant to OAC 260:115-9-1, 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.

5 Invoices and Payments

5.1 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 This section shall not prohibit the payment of membership dues or payment for subscriptions to magazines, periodicals or books or for payment to vendors providing subscription services under 74 O.S. 85.44B.

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 30 days but shall not be deemed late until 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.** If the Supplier accepts payment by Purchase Card they shall do so according to Oklahoma law.

6 Oklahoma 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. 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) pricing 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.

7 Conflict of Interest

In addition to any requirement of law or of a professional code of ethics or conduct, the Supplier, its employees 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.

8 State Shall Not Indemnify

The State of Oklahoma cannot lawfully agree to indemnify a private contractor. The credit of the State shall not be given, pledged, or loaned to any individual, company, corporation, or association, municipality, or political subdivision of the State pursuant to Oklahoma Constitution article 10, Section 15, OAC 260:115-7-32(k)(3)(A) and Attorney General Opinion 2012-18.

9 Indemnification Coordination of Defense

9.1 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.

10 Termination for Funding Insufficiency

10.1 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.

10.2 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.

- 10.3** 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.

11 Suspension of Supplier

- 11.1** 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.
- 11.2** 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.
- 11.3** 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.

12 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.

13 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.

14 Notices

All notices, approvals or requests allowed or required by the terms of any Contract 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. Notice information may be updated in writing to the other party as necessary.

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 email address set forth below.

Notwithstanding any other provision of the Contract, confidentiality, breach and termination-related notices shall be delivered to the address below in addition to e-mail.

If sent to the State:

State Purchasing Director
2401 North Lincoln Blvd., Second Floor
Oklahoma City, Oklahoma 73105

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

Purchasing Division Deputy General Counsel
2401 North Lincoln Blvd., Second Floor

15 Miscellaneous

15.1 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 of Oklahoma without regard to application of choice of law principles. Pursuant to 74 O.S. §85.7(F), where Federal awards are involved, applicable federal laws, rules and regulations shall govern to the extent necessary to insure ensure compliance with the terms of the Federal award. Venue for any action, claim, dispute, or litigation relating in any way to the Contract documents, shall be in Oklahoma County, Oklahoma. The State expressly declines any terms that minimize its rights under Oklahoma Law, including but not limited to, Statutes of Limitations.

15.2 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.

15.3 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.

15.4 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.

15.5 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.

15.6 Section Headings

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

15.7 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; provided, however, that the parties hereby agree that the doctrine of sovereign immunity does not apply to actions grounded in contract and therefore does not prohibit Supplier from pursuing claims arising under the Contract against the State and Customers.

15.8 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.

15.9 Gratuities

The Contract may be immediately terminated, in whole or in part, by written notice if it is determined that the Supplier, its authorized employee, agent, or another representative acting within the scope of their authority 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.

15.10 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.

Exhibit#1

Aerial Photography Specifications
30 & 22.5 cm GSD
Leaf-off, 4-band
State of Oklahoma

SCOPE

This is a contract for aerial ortho imagery services for the Oklahoma Office of Geographic Information (OGI) within the Oklahoma Conservation Commission located at 2800 N. Lincoln Blvd., Suite 200, Oklahoma City, OK 73105.

MINIMUM REQUIREMENTS

PURPOSE

The final result must be tiled digital color Ortho imagery (Red-Green-Blue-NIR) in Geo TIFF (Tag Image File Format) and compressed county mosaic imagery in jp2 format. Imagery must be orthorectified to ground coordinates and provided at pixel resolution of Ground Sampling Distance (GSD) 30 cm or better. Imagery is to be provided orthorectified to the NAD83(2011)/Conus Albers, EPSG:6350 units Meter coordinate system. The resulting imagery must have a nominal pixel size of 30cm and horizontal accuracy that meets the ASPRS Positional Accuracy Standards for Digital Geospatial Data, Edition 2, Version 1.0, August 2023 for an $RMSE_H$ of 30cm, Class 30. Notably as published in Table B.3, the orthoimage mosaic seamline maximum mismatch error shall not exceed 60cm.

[OPTIONAL] Imagery must be orthorectified to ground coordinates and provided at pixel resolution of Ground Sampling Distance (GSD) 22.5 cm or better. Imagery is to be provided orthorectified to the NAD83(2011)/Conus Albers, EPSG:6350 units Meter coordinate system. The resulting imagery must have a nominal pixel size of 22.5 cm and horizontal accuracy that meets the ASPRS Positional Accuracy Standards for Digital Geospatial Data, Edition 2, Version 1.0, August 2023 for an $RMSE_H$ of 22.5 cm, Class 22.5. Notably as published in Table B.3, the orthoimage mosaic seamline maximum mismatch error shall not exceed 45 cm.

This imagery will be made available in the public domain.

VENDOR RESPONSIBILITIES

The vendor shall perform a comprehensive range of photogrammetric mapping services including:

- Leaf-off acquisition of digital aerial imagery, generally from Mid-December 2024 to early-March 2025.
- Survey control (ground and airborne) where needed
- Fully analytical aerial triangulation
- Digital Terrain Model (DTM)/Digital Elevation Model (DEM) developed to support orthoimagery production
- Orthorectify color and near-infrared (Red-Green-Blue or RGB and NIR) orthoimagery at a 30 centimeter [Optional 22.5 centimeter] pixel size.

TECHNICAL SPECIFICATIONS

1) Coverage

- a) Orthoimagery must cover the entire state of Oklahoma plus at least a 1-mile buffer outside the official boundary (~71,470 square miles). This is the Project Area.
 - i) Note: Imagery acquisition flight missions may need to be separated into different flying seasons to capture the entire state. Flights will begin on the eastern side of the state and progress westerly completing entire county coverage between the north and south state boundaries before moving west. When approaching the I-35 area in the middle of the state vendor shall obtain written approval from the Oklahoma Office of Geographic Information before initiating any flight missions. Approved flight missions west of I-35 will complete entire counties between the north and south state boundaries before moving west.
- b) Bidders are responsible for accessing the attached files as reference material for this project:
 - i) OKNG911_Counties_2019_epsg6350.zip
 - ii) OK_State_Bndy_1_mile_epsg6350.zip
 - iii) OK2025_30cm_Tiles_OKalbers_final_epsg6350.zip
 - iv) OK2025_22_5cm_Tiles_OKalbers_final_epsg6350.zip
 - v) Aerial2025_Extra_FlightLines_Areas_epsg6350.zip
 - vi) OKDOT_onsystem_bridges_no_culverts_epsg6350.zip
 - vii) OKDOT_offsystem_bridges_no_culverts_epsg6350.zip

2) Flights

- a) Prior to initiating the flight mission, the vendor must submit flight plans, control layout, and a copy of the system calibration report that is less than 24 months old. The detailed flight plan must be submitted to include at least the following:
 - i) Number and type of aircraft
 - ii) Flight Altitude
 - iii) Recommended ground speed
 - iv) Number and orientation of planned flight lines
 - v) Number and type of sensor(s).

- b) Image acquisition flight missions for the initial term of the contract must be between the contract award date and the “anticipated date” of March 8, 2025. The “anticipated date” reflects when the season for leaf-off conditions is anticipated to end. This date may vary depending on field reports of whether leaf-off conditions exist. OGI will utilize field spotters in Conservation District and Natural Resource Conservation Service offices reporting on whether leaf-off conditions exist at their respective locations. No additional flight plans will be approved in areas where leaf-off conditions do not exist. Flight mission dates after February 22, 2025, must be mutually agreed upon by OGI and the vendor.
 - c) Flight plans must cover sufficient geography outside of the Project Area to guarantee accurate and complete delivery of the products required by the Contract.
 - d) Imagery must be collected when deciduous foliage is under primarily leaf-off conditions.
 - e) Imagery must be collected on cloudless days. Exceptions allowed are for no more than 5% cloud cover in any image tile and that no major features including, but not limited to, buildings and public transportation infrastructure (paved, public roads) are obscured by clouds or cloud shadows.
 - f) Imagery must not be collected when the ground is obscured by snow, fog, smoke, dust or wet (no flooded fields allowed but pooling of water in corners allowed) which obscures field, soil or crop boundary lines. Minimize specular reflections, especially in agriculture areas, by avoiding acquisition during periods of peak solar reflectivity, or by patching the area using imagery from other exposures. Specular reflections on water bodies allowed as long as it does not bleed over onto terrain.
 - g) The sun angle for all flights shall be at least 30 degrees above the horizon.
 - h) Aerial imagery must be flown when streams are their normal banks, and clouds and cloud shadows appear on less than (5%) of the area in any one image.
 - i) To deal with tall buildings in order to meet the Digital Orthorectified Image Characteristics requirements 4)-d) under the DIGITAL ORTHOIMAGERY section, the vendor will add additional necessary flight lines in the polygon areas found in the attached file Aerial2025_Extra_FlightLines_Areas_epsg6350.zip.
 - j) It is anticipated that all imagery will be collected in one flight season during the 2025 leaf-off season as identified above. However, if circumstances arise that prevent the collection of imagery within this window of time, the vendor will be required to pick up imagery collection were left off in 2025 and complete the collection in the leaf-off season of 2026. If this scenario occurs, vendor will deliver imagery collected so far in 2025 per the terms of this contract.
- 3) Accuracy
- a) The resulting imagery must have a nominal pixel size of 30 cm and horizontal accuracy that meets the ASPRS Positional Accuracy Standards for Digital Geospatial Data, Edition 2, Version 1.0, August 2023 for an RMSE_H of 30cm, Class 30. Notably as published in Table B.3, the orthoimage mosaic seamline maximum mismatch error shall not exceed 60cm.
 - b) [OPTIONAL] The resulting imagery must have a nominal pixel size of 22.5 cm and horizontal accuracy that meets the ASPRS Positional Accuracy Standards for Digital Geospatial Data, Edition 2, Version 1.0, August 2023 for an RMSE_H of 22.5 cm, Class 22.5. Notably as published in Table B.3, the orthoimage mosaic seamline maximum mismatch error shall not exceed 45 cm.

- 4) Coordinate System and Datum
 - a) Imagery is to be provided orthorectified to the NAD83(2011)/Conus Albers, EPSG:6350, units Meter. Data requiring a vertical component shall be tied to the 2018 geoid.

AERIAL ACQUISITION

- 1) Flying Height
 - a) The aerial acquisition flying height must be capable of achieving a ground sample suitable for output solution of 30-centimeter orthoimagery GSD. The acquired Aerial Photography GSD shall be better than the derivative Orthophotography GSD specification.
 - b) [OPTIONAL] The aerial acquisition flying height must be capable of achieving a ground sample suitable for output solution of 22.5-centimeter orthoimagery GSD. The acquired Aerial Photography GSD shall be better than the derivative Orthophotography GSD specification.
- 2) Image Quality
 - a) Overlapping images in and between flight lines must provide full stereoscopic coverage of the area to be mapped.
 - b) Appropriate end lap, side lap and adjustment for crab and tilt must be accounted for to meet the output specification.
 - c) Flight lines must be arranged to allow for at least 60% forward overlap of images and 30% side lap of images to reduce the appearance of distortions caused by elevated or depressed structures such as bridges, rail beds, overpasses and steep terrain. Achieving this may require the addition of extra flight lines.
 - d) Orthoimagery must not contain defects including but not limited to out-of-focus imagery, smears, blemishes, marks, scratches, debris, artifacts, or inconsistencies in tone and density between individual images.
- 3) Aerial Imagery Review
 - a) Vendor must review the processed digital frames for the following:
 - i) Ground Sample Distance
 - ii) Distortions
 - iii) Contrast
 - iv) Tonal Variations
 - v) Hot Spots
 - vi) Clarity
 - vii) Shadow detail
 - viii) Seams
 - ix) Overall quality
 - b) OGI will conduct a follow-up review of preliminary imagery and redline any areas of concern. Items will be either invalidated (non-correctable) or validated and marked as reflight. Vendor will provide OGI with early access to data following a flight through a web service within 15-20 days per mission.

- c) OGI will conduct a review of final digital mosaics as soon as available from the vendor within 60-90 days after a flight season closes for a particular block. Images identified for need of further review shall be presented to the vendor for consideration of re-processing. OGI and vendor will negotiate whether re-processing is necessary.
- d) The vendor must provide changes as agreed upon by OGI and the vendor.
- e) Unacceptable aerial imagery as agreed upon by the vendor and OGI must be corrected at no additional cost to OGI.
- f) Re-processing that includes re-flights must adhere to the same specifications as outlined in this document.

GPS AIRBORNE POSITIONS

1) Collect AGPS and Imagery Data

- a) The vendor shall use airborne global positioning system (AGPS) techniques to supplement the ground control data.
- b) AGPS solutions must utilize dual frequency systems during the aerial imagery missions.
- c) Geodetic positions corresponding to the photo centers at the instance of exposure shall be calculated and (later) combined with existing control point values in an aero triangulation solution better than 15 cm [OPTIONAL 11.25 cm for 22.5 cm GSD] horizontal accuracy. The vendor shall use AGPS techniques to provide high accuracy camera station coordinates. During the acquisition of the imagery, survey grade geodetic receivers shall be equipped on the aircraft and referenced to at least two ground stations. Vendor may use post-process kinematic techniques or real-time kinematic techniques to relate the airborne GPS data to simultaneous observations collected at fixed land-based reference stations. The vendor shall use AGPS techniques to provide high accuracy camera station coordinates. During the acquisition of the imagery, survey grade geodetic receivers shall be equipped on the aircraft and referenced to at least two ground stations. Instruments must collect data samples at the rate of 1.0 second with the aircraft logging photograph exposure times as external events.
- d) Differentially corrected GPS Ground Control points used to supplement the AGPS positional data shall be delivered on portable media, in a non-proprietary format.

AERIAL TRIANGULATION

1) Aerial Triangulation Data

- a) Aerial triangulation data shall consist of a minimum of exterior orientation parameters, refined image coordinates, adjusted ground coordinates and a statistical summary report submitted in both hardcopy and softcopy format. The $RMSE_H$ for aerial triangulation and ground control accuracy should target 15 cm for Class 30cm but not to exceed 18cm which would be acceptable as long as the final product meets the accuracy standard for Class 30cm. [Optional for 22.5 cm GSD should target 11.25 cm for Class 22.5cm but not to exceed 13.5cm which would be acceptable as long as the final product meets the accuracy standard for Class 22.5cm].

- 2) Accuracy
 - a) The positional accuracy (X and Y coordinate errors) of tie points established by aerial triangulation must be sufficient to support the production of digital ortho photos meeting the accuracy standards contained herein.
- 3) Checkpoints
 - a) The vendor must evaluate the horizontal accuracy of the orthoimagery using the independent ground checkpoints of high accuracy that are not used in the aero triangulation or initial geo referencing of the imagery. Using the FGDC National Standard for Spatial Data Accuracy (NSSDA) at the 95% confidence level, the computed accuracy must meet or exceed the value found by the following formula: $Accuracy_{H95\%} = 1.7308 * RMSE_H = 1.7308 * 30 \text{ cm} = 51.92 \text{ cm}$ [$Accuracy_{H95\%} = 1.7308 * RMSE_H = 1.7308 * 22.5 \text{ cm} = 38.94 \text{ cm}$]
 - b) Checkpoints for accuracy assessment should be well distributed around the project area with a minimum of two per county spaced at least 10 miles apart.
 - c) Horizontal positional accuracy shall be reported as: *This data set was tested to meet ASPRS Positional Accuracy Standards for Digital Geospatial Data, Edition 2 (2023) for a 30 [22.5] (cm) RMSE_H horizontal positional accuracy class. The tested horizontal positional accuracy was found to be RMSE_H = ___ (cm).*
 - d) Additional statistical quantities should be computed and reported, including:
 - i) Residual errors at each checkpoint
 - ii) Maximum error
 - iii) Minimum error
 - iv) Mean error
 - v) Median error
 - vi) Standard deviation
 - vii) RMSE_x and RMSE_y
 - viii) Number of checkpoints

DIGITAL TERRAIN MODEL (DTM)/DIGITAL ELEVATION MODEL (DEM)

- 1) Digital Terrain Model (DTM)/Digital Elevation Model (DEM) shall be developed at a density level (grid spacing) necessary to support the ortho photo production.
- 2) DTM/DEM Production
 - a) Terrain/elevation data used in the development of the DTM/DEM must be captured by photogrammetric techniques using a 1st order analytical stereo plotter or a softcopy workstation or derived from recent LIDAR-derived data.
 - b) The DTM/DEM must consist of points spaced at regular intervals along a grid, points of significant high or low elevations, and ortho specific break lines at all significant terrain breaks.
- 3) DTM/DEM Restrictions
 - a) DTM/DEM data from prior orthoimagery projects must not be used unless approved by OGI.
 - b) DTM/DEM may be developed wholly or in part from autocorrelation in the production of digital ortho images, but the use of LiDAR is also acceptable.
 - c) A DTM/DEM must not be stored as a record (Z component for each pixel of the ortho image.)

- d) The derivation of NAVD88 heights from GPS will use the 2011 NAD83 horizontal adjustment and the 2018 geoid from the National Geodetic Survey at the time of processing.
- 4) DEM Deliverables
- a) The primary purpose of the DTM/DEM is to support orthoimagery production. However, the vendor must deliver to the OGI any raw or unprocessed DTM/DEM that is collected or created for the project.
 - b) The agency shall maintain all rights of ownership for the final DTM/DEM.

DIGITAL ORTHOIMGERY

- 1) Digital orthoimagery shall be produced from processed, digital imagery. Each process image (raster file) must be geo-referenced to simulate its position in space at the time of exposure. The DEM must be applied to the raster file to orthorectify the image to minimize distortion. All ortho images must be edge-match, radiometrically corrected and color balanced. Once the imagery has been processed it must be structured and formatted in a seamless image database and sampled to the required 30 [Optional 22.5] centimeter pixel resolution.
- 2) Resolution
 - a) The final output solution is a nominal pixel size of 30 [Optional 22.5] centimeters. The digital images shall be clear and sharp in detail and of high radiometric quality. The sensor shall capture the images in an uncompressed “lossless” image format. The sensor shall, at a minimum, utilize a 12-bit per pixel radiometric resolution.
- 3) Radiometric Characteristics
 - a) At a minimum, orthoimagery shall be represented as 4-band True Color 24-bit RGB plus near infrared.
 - b) Vendor must adjust brightness and color values to reduce radiometric differences between join areas.
- 4) Digital Orthorectified Image Characteristics
 - a) Relative join (misalignment) of transportation features between adjacent image tiles shall not exceed 2 pixels.
 - b) Orthophotos shall be tonally balanced to produce a uniform contrast and tone across the image tiles of the entire project.
 - c) Changes in color balance across the project, if they exist, shall be gradual. Abrupt tonal variations between tiles are not acceptable.
 - d) For buildings greater than or equal to three stories, building tilt shall be corrected to the extent possible such that transportation features are not obscured or at least minimally impacted. Please refer to 2) i) under Section 2) Flights.
 - e) Ground features appearing in the orthophoto imagery, such as building roof tops, water towers, and radio towers, shall not be clipped at seamlines.
- 5) Image Tiles
 - a) Image tiles are 2457.6 meters x 2457.6 meters, pixel size = 30 cm, 4-band RGB plus NIR with 8-bits/band.

- b) [OPTIONAL] Image tiles are 1843.2 meters x 1843.2 meters, pixel size = 22.5 cm, 4-band RGB plus NIR with 8-bits/band.
 - c) File Naming Convention – The name of each image tile can be found in the LABEL attribute column in the attribute table (dbf) of the shapefile found in the OK2025_30cm_Tiles_OKalbers_final_epsg6350.zip file. [OPTIONAL: OK2025_22_5cm_Tiles_OKalbers_final_epsg6350.zip] The name is derived from the 1-MIL, 100K, 10K and 1K Grid Zone Designation block designator that corresponds to the centroid of the image tile.
 - d) Coordinate System – All mapping products will be delivered orthorectified to NAD83(2011)/Conus Albers, EPSG:6350 in units of Meter.
- 6) Non-Image Data
- a) Images shall not contain any non-image data. Non-image data includes photographic frame borders, fiducial marks, artifacts, and titling. Non-image data also includes #fill# induced by lack of elevation surface model coverage that results in white, black, or spurious intensity values.

FORMAT OPTIONS

- 1) Vendor must at minimum provide standard orthoimagery available in a logical file structure on suitably formatted external hard drive(s) and for download.
- 2) [OPTIONAL] Imagery as a Service (IaaS): Raster datasets saved on remote servers that are provided for the use of authorized users via the internet to be consumed as a service or downloaded. Various GIS software applications allow an end user to ingest or use imagery via the internet rather than downloading large datasets directly to the user's local computer or local servers. If the internet is not available, neither is the imagery. IaaS shall allow:
 - a) Authorized users to develop and publish publicly available web applications which utilize orthoimagery or web map services.
 - b) Authorized users to print and distribute hardcopy format maps that display the orthoimagery or web map service.
 - c) The number of concurrent authorized users and the length of time the service is to be available is to be negotiated between the vendor and OGI.

TILE REPORT DELIVERABLES

- 1) Upon completion of the aerial acquisition phase, the vendor shall prepare and submit a final tile report to the OGI in compliance with the ISO 19115-1:2014 Standard metadata.
- 2) The final tile report must include the following information:
 - a. Dataset-level metadata providing a summary level metadata record for the entire imagery collection.
 - b. Tile-level metadata for each imagery tile comprised of the statewide imagery collection. The tile-level metadata must include specific image collection date.
 - c. Tile Index: Layout showing the extent of each imagery tile with corresponding image collection date stored in the attribute table. The index shall be delivered in ESRI Shapefile and File Geodatabase format, NAD83(2011)/Conus Albers, EPSG:6350, units Meter.

ORTHOIMAGERY DELIVERABLES

- 1) Vendor shall provide a digital copy on hard drives of the county mosaic data in jp2 format and image tiles in GeoTIFF format produced directly from the digital data.
 - a) Optionally, a mechanism for hosting and delivery of imagery via web mapping services in a high-availability architecture.
 - b) Vendor shall provide a digital copy of the imagery mosaic by county in jp2 format. Vendor will provide OGI with various examples of compression ratios with the vendor and OGI agreeing on a suitable compression ratio for the county mosaics. County mosaics will have a one-mile buffer outside of the county boundary. County mosaics shall be delivered in two separate datasets, one with RGB colors and another with near-infrared in a NIR, Green and Blue configuration.
 - c) Vendor will coordinate with OGI to identify an area of the state to serve as a pilot project where the area contains a balance of rural, urban, vegetation and hydrography to assist in evaluation of color balance and other radiometric parameters. This can also be used to check filenames, formatting of imagery, image compression, folder structure, metadata, accuracy, etc. The area should be identified early in the collection phase.
 - d) The image files shall be 4-band (color [RGB] and color near-infrared) Geo Tiff format, Tiled, Tile Size 256x256 pixels, uncompressed, at 8-bits per band digitally orthorectified imagery. Each image shall contain internal overviews/pyramids that are compatible with ESRI and GDAL. Before final delivery a sample set of imagery will be provided to OGI to allow for final configuration and validation of the Geo Tiff imagery characteristics. Production of a world file (.tfw) for each Geo Tiff is required. The following sets of imagery shall be provided:
 - i) 4-band (color [RGB] and color near-infrared) Geo Tiff format, Tiled, Tile Size 256x256 pixels, uncompressed, at 8-bits per band digitally orthorectified imagery with internal pyramids.
 - ii) 3-band color [RGB] Geo Tiff, Tiled, Tile Size 256x256 pixels, jpeg compression at 75%, at 8-bits per band digitally orthorectified imagery with internal pyramids.
 - iii) 3-band color near-infrared [NIR, Green, Blue] Geo Tiff, Tiled, Tile Size 256x256 pixels, jpeg compression at 75%, at 8-bits per band digitally orthorectified imagery with internal pyramids.
 - e) The orthorectified Geo TIFF image files shall be organized as representing “tiles” corresponding to the 2457.6 x 2457.6 grid as specified in the OK2025_30cm_Tiles_OKalbers_final_epsg6350.zip file. The digital orthophoto must cover the entire image area of one 2457.6 x 2457.6 tile with no buffer or overlap.
 - f) [OPTIONAL] The orthorectified Geo TIFF image files shall be organized as representing “tiles” corresponding to the 1843.2 x 1843.2 grid as specified in the OK2025_22_5cm_Tiles_OKalbers_final_epsg6350.zip file. The digital orthophoto must cover the entire image area of one 1843.2 x 1843.2 tile with no buffer or overlap.
 - g) The tiles shall be accompanied by an index sheet as a feature class in shapefile and file geodatabase suitable for loading into ArcGIS. The index sheet shall, at a minimum, include the attributes found in the OK2025_XX_cm_Tiles_OKalbers_final_epsg6350.zip, tile boundary, date and time image taken and filename.

- 2) If the vendor provides a web service, the vendor shall:
 - a) Ensure compatibility of authenticated web services with Open Geospatial Consortium (OGC) Web Map Services (WMS) versions 1.1.1 and 1.3.0 and Web Map Tile Services (WMTS) version 1.0.0 and ESRI ArcGIS Desktop and Pro and Web Map API#s (JavaScript, Silverlight and Flex)
 - b) Provide monthly usage analytics reports.
 - c) Provide a mechanism to download full resolution imagery in Geo TIFF format and jp2 compressed mosaics for off-line usage.
 - d) OGI and vendor shall define the tiling scheme for the raw (full resolution) and jp2 compressed mosaic image formats.

PRICING- Please see exhibit#2

- 1) Contract delivered with 30 cm GSD, No IaaS _____
- 2) Contract delivered with 30 cm GSD with IaaS option _____
- 3) Contract delivered with 22.5 cm GSD, No IaaS _____
- 4) Contract delivered with 22.5 cm GSD, with IaaS option _____

Digital Orthophotography Acceptance Criteria		
Item #	Tested Characteristic	Measure of Acceptability
Inventory/Spatial Domain/Metadata		
1	Media: USB external drive	Media is readable, all files accessible, no files corrupted.
2	File Organization	Files written in logical, easily understood folder/file structure
3	File Name	All digital file naming conforms to naming convention provided to vendor.
4	Geo Tiff and .tfw format	File reads in ESRI and Global Mapper software
5	Pixel definition	Geo Tiff reference will be the upper left corner of the upper left-most pixel. World file reference will be the center of the pixel of the upper left-most pixel.
6	Image tile frame	Zero buffer on all four sides of tile frame.
7	Georeferencing	World file has the correct coordinates expressed to at least 2 significant digits, and correct pixel size and pixel count
8	Image Compression	Check Geo Tiff header for evidence of image compression. Verify each deliverable meets specification.
9	Coordinate System/Projection	Check that all imagery is in NAD83(2011)/Conus Albers, EPSG:6350

10	Datum	Check compliance with NAD83(2011) and any vertical components are NAVD88 (GEOID2018)
11	Units	Meters
12	Image characteristic	32 bit (8 bits per channel) 4-band stacked image. 256 levels of value for each band, 0=black, 255=white
13	Ground resolution	As specified in contract
14	Metadata	Complies with ISO 19115-1:2014 Standard.
Visual Inspection Criteria		
15	Horizontal displacement/misalignment	Horizontal displacement along an apparent seamline or along a tile boundary must be equal to or less than 2 pixels at 95% on well-defined features (public roads, buildings, sidewalk, curbs),
16	Tonal quality	Less than 2% of values at 0 or 255. Check entire block for tonal balancing across and between delivery blocks as well as between deliverables.
17	Image blemishes and artifacts	Generally acceptable within these limits: If 1 pixel wide, 100 pixels in length. If 2 pixels wide, 60 pixels in length. If 3 pixels wide, 20 pixels in length. If 4-12 pixels wide, 12 pixels in length. At OGI's option, artifacts exceeding these limits may be acceptable if ground feature detail is not obscured, or if the brightness value of the pixels in the artifact is less than 170. At OGI's option, artifacts within these limits may be rejected if critical ground features are significantly impacted. Critical features shall be defined as features having County, State or National significance (i.e. Courthouses, Capitol Buildings, etc.) At OGI's option, clusters of artifacts that do not individually meet these criteria may be considered unacceptable if more than 12 are visible within a viewing screen at 1:1 zoom. (5 or more artifacts within a 200-pixel area preferred).

18	Mosaic lines	Mosaic lines through buildings and above ground transportation structures shall be avoided to the greatest extent practical. Mosaic line placement should not result in artificial clipping of features along tile boundaries or missing photo areas anywhere within the Project area. As with buildings, other minor elevation structures such as pipelines, private footbridges or board walks, are not orthorectified as elevated roadways are. Distortion of these features is not grounds for rejection of the imagery. Seam lines should not be visible at the viewing scale for which the imagery is produced. Typically, they should not be visible at 1.5 times the map scale. Because seam lines are run around buildings and other structures, the orientation of shadows associated with trees, poles, and buildings may fall in different directions on the imagery or may in some cases result in multiple shadows for a feature. Seam lines will not be edited to reflect shadow orientation.
19	Contrast	Sharp uniform balanced color contrast.
20	Smears	See "Image blemishes and artifacts" Smear corrected by image processing where appropriate. Where DTM corrections or image processing will result in reduced horizontal accuracy or misrepresentation of the location or appearance of important features (buildings, roads, etc.), the smear will remain untreated.
21	Wavy features	See "Image blemishes and artifacts" 95% of distinct linear ground features (such as road markings, and curbs) shall be positionally correct and should not deviate from their apparent path by more than 5 pixels measured perpendicular to the feature within any 100-pixel distance measured along the feature length. On roads, measurements should be taken from centerline of road instead of road edges, shoulder and railings.
<u>Orthophoto Horizontal Accuracy Criteria</u>		
22	Ground Resolution	As specified in the Contract
23	Absolute accuracy	As specified in the Contract: Aerial Triangulation 3) Checkpoints a)
24	Mismatch of features along mosaic lines	Equal to or better than 2 pixels at 95% on well-defined features (public roads, buildings, sidewalk, curbs) for mosaic lines.

ATTACHMENT B

STATE OF OKLAHOMA NEGOTIABLE 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 Contract Order of Priority

1.1 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 Amendment.
- B.** terms contained in this Contract document.
- 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.** any applicable Solicitation.
- E.** any successful Bid as may be amended through negotiation and to the extent the Bid does not otherwise conflict with the Solicitation, Contract or applicable law.
- F.** any statement of work, work order, or other mutually agreed Contract documents.

1.2 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 Amendment.

2 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:

- 2.1 **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.
- 2.2 **Amendment** means any mutually executed, written modification to a Contract document or a written change, addition, correction or revision to a Solicitation.
- 2.3 **Bid** means an offer a Bidder submits in response to the Solicitation.
- 2.4 **Bidder** means an individual or business entity that submits a Bid in response to the Solicitation.
- 2.5 **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.
- 2.6 **Customer** means the entity receiving goods or services contemplated by the Contract.
- 2.7 **Debarment** means action taken by a debarring 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.
- 2.8 **Destination** means delivered to the receiving dock or other point specified in the applicable Contract document.
- 2.9 **Federal award** means the Federal financial assistance that a recipient receives directly from a Federal awarding agency or indirectly from a pass-through entity
- 2.10 **Governmental Entity** means any governmental entity specified as a political subdivision of the State pursuant to the Governmental Tort Claim Act including any associated institution, instrumentality, board, commission, committee, department, or other entity designated to act on behalf of the state.

- 2.11 Indemnified Parties** means the State and Customer and/or its officers, directors, agents, employees, representatives, contractors, assignees and designees thereof.
- 2.12 Inspection** means examining and testing an Acquisition (including, when appropriate, raw materials, components, and intermediate assemblies) to determine whether the Acquisition meets Contract requirements.
- 2.13 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.
- 2.14 OAC** means the Oklahoma Administrative Code.
- 2.15 OMES** means the Office of Management and Enterprise Services.
- 2.16 Solicitation** means the document inviting Bids for the Acquisition referenced in the Contract and any amendments thereto.
- 2.17 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.
- 2.18 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.
- 2.19 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.
- 2.20 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.
- 2.21 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.

3 Additional Pricing

- 3.1** 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.
- 3.2** Supplier shall have no right of setoff.
- 3.3** 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.

4 Ordering, Inspection, and Acceptance

- 4.1** 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.
- 4.2** 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 260:115-9-1, 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.

- 4.3** 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.
- 4.4** 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.

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

- 5.1** 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 notice of cancellation and includes 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 \$2,000,000 per occurrence.
- C.** Automobile Liability Insurance with limits of liability of not less than \$2,000,000 combined single limit each accident.
- D.** If the Supplier will access, process, or store state data, then 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
- E.** Additional coverage required in writing in connection with a particular Acquisition.

5.2 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.

5.3 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.

6 Compliance with Applicable Laws

6.1 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. §1325 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 [Home | 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.

- 6.2** 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 [Information Security Policy, Procedures, Guidelines \(oklahoma.gov\)](#) Supplier is responsible for reviewing and relaying such policies covering the above to the Supplier's employees, agents and subcontractors.
- 6.3** At no additional cost to Customer, the Supplier shall maintain all applicable licenses and permits required in association with its obligations under the Contract.
- 6.4** In addition to compliance under subsection 6.1 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.
- 6.5** 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.
- 6.6** 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.
- 6.7** 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.
- 6.8** 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.

- 6.9** 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.
- 6.10** If services provided by Supplier include delivery of an electronic communication, Supplier shall ensure such communication and any associated support documents are compliant with Section 508 of the Federal Rehabilitation Act and with State standards regarding accessibility. Should any communication or associated support documents be non-compliant, Supplier shall correct and re-deliver such communication immediately upon discovery or notice, at no additional cost to the State. Additionally, as part of compliance with accessibility requirements where documents are only provided in non-electronic format, Supplier shall promptly provide such communication and any associated support documents in an alternate format usable by individuals with disabilities upon request and at no additional cost, which may originate from an intended recipient or from the State.

7 Audits and Records Clause

- 7.1** 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.
- 7.2** 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.
- 7.3** 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.
- 7.4** 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.

8 Confidentiality

- 8.1** 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.
- 8.2** 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.
- 8.3** 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.

- 8.4** 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.
- 8.5** 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.
- 8.6** 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.

9 Assignment and Permitted Subcontractors

- 9.1** 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.
- 9.2** 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.

- 9.3** 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.
- 9.4** 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.
- 9.5** 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.

10 Background Checks and Criminal History Investigations

Prior to the commencement of any services, performance of background checks and criminal history investigations of the Supplier's employees and subcontractors who will be providing services may be required. If required, the Supplier agrees to provide the State with a description of the background check process to include any vendor's

used to gather information. Supplier will further attest that each employee and subcontractor providing services has passed the background check. 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 verification of 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.

11 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.

12 Indemnification

12.1 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.

12.2 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.

12.3 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 and where applicable the Attorney General of Oklahoma, 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.

12.4 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.

13 Termination for Cause

- 13.1** 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.
- 13.2** 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.
- 13.3** The State may terminate the Contract if the scope includes PR Vendor services and the Supplier, or Supplier's employee, violate the lobbying clause. PR Vendor services is defined to include a contract for public relations (PR), marketing or communication services. The State may immediately terminate the Contract with no more than 10-day notice under this section.
- 13.4** 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.

13.5 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 260:115-9-1 is an example.

14 Termination for Convenience

14.1 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.

14.2 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.

15 Suspension of Supplier

15.1 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.

15.2 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.

15.3 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.

16 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.

17 Force Majeure

17.1 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.

17.2 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.

17.3 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.

18 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.

19 Miscellaneous

19.1 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.

19.2 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.

19.3 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.

19.4 Entire Agreement

The Contract documents taken together as a whole constitute the entire agreement between the parties. The Contract documents include this Contract, any Amendments to this Contract, applicable Solicitation, and any successful bid as may be amended or limited through negotiation. 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 certifications, including any completed electronically, are incorporated by reference into the Contract.

ATTACHMENT C
AGENCY TERMS

Commented [DS1]: If you have any agency specific terms they need to be placed in this document. Review against the state general terms and remove any duplicates.

- 1. (TITLED HERE)**
- 1.1 (LIST HERE)
- 1.2

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 [Information and Communication Technology Accessibility Standards \(oklahoma.gov\)](http://Information_and_Communication_Technology_Accessibility_Standards(oklahoma.gov)). 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. § 164.502(d)].

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)-(iii) & 164.314 (a)(2)(i)(C).

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** Redisclosure 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 redisclosure 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://le.fbi.gov/file-repository/cjis_security_policy_v5-9-2_20221207-5.pdf
- 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 #2 - Price

Solicitation Name:	
RFP #EV00000589	
Bidders Information	
Bowman Consulting Group Ltd	
Tim Bohn, tim.bohn@bowman.com, 314-952-2617	

Instructions:
If needed, additional lines can be added for an accurate cost submission. If additional lines are added, provide an explanation for the cost in column A, under hours used for the cost with the Section number to identify where the cost is located in the RFP.

Price and Cost

Job Description	UOM	Initial yr	Renewal option YR1	Renewal Option yr 2
Fixed Price for each Option below	USD (\$)			
Contract delivered with 30cm GSD, no IaaS		\$722,260.00	\$736,710.00	\$751,450.00
Contract delivered with 30cm GSD with IaaS option - 50 concurrent users		\$738,260.00	\$753,030.00	\$768,100.00
Contract delivered with 30cm GSD with IaaS option - 250 concurrent users		\$743,060.00	\$757,930.00	\$773,090.00
Contract delivered with 22.5cm GSD, no IaaS		\$935,990.00	\$954,710.00	\$973,810.00
Contract delivered with 22.5cm GSD with IaaS option- 50 concurrent users		\$963,090.00	\$982,360.00	\$1,002,010.00
Contract delivered with 22.5cm GSD with IaaS option- 250 concurrent users		\$971,220.00	\$990,650.00	\$1,010,470.00
Contract delivered with 15cm GSD, no IaaS		\$1,392,930.00	\$1,420,790.00	\$1,449,210.00
Contract delivered with 15cm GSD with IaaS option - 50 concurrent users		\$1,448,930.00	\$1,477,910.00	\$1,507,470.00
Contract delivered with 15cm GSD with IaaS option - 250 concurrent users		\$1,465,730.00	\$1,495,050.00	\$1,524,960.00
MediaShuttle site for download to authorized users		\$15,000.00	\$15,500.00	\$16,000.00
MediaShuttle site for download to authorized users - continue service from Initial year only		N/A	\$8,500.00	\$8,500.00

Exhibit #2 - Price

Solicitation Name:	
RFP #EV00000589	
Bidders Information	
Bowman Consulting Group Ltd	
Tim Bohn, tim.bohn@bowman.com, 314-952-2617	

Instructions:
If needed, additional lines can be added for an accurate cost submission. If additional lines are added, provide an explanation for the cost in column A, under hours used for the cost with the Section number to identify where the cost is located in the RFP.

Price and Cost

Job Description	UOM	Initial yr	Renewal option YR1	Renewal Option yr 2
Fixed Price for each Option below	USD (\$)			
Contract delivered with 30cm GSD, no IaaS				
Contract delivered with 30cm GSD with IaaS option - 50 concurrent users				
Contract delivered with 30cm GSD with IaaS option - 250 concurrent users				
Contract delivered with 22.5cm GSD, no IaaS				
Contract delivered with 22.5cm GSD with IaaS option- 50 concurrent users				
Contract delivered with 22.5cm GSD with IaaS option- 250 concurrent users				
Contract delivered with 15cm GSD, no IaaS				
Contract delivered with 15cm GSD with IaaS option - 50 concurrent users				
Contract delivered with 15cm GSD with IaaS option - 350 concurrent users		\$1,476,500.00		
MediaShuttle site for download to authorized users		\$15,000.00		
MediaShuttle site for download to authorized users - continue service from Initial year only		N/A	\$8,500.00	

EXHIBIT#3 Aerial 2025 - Statewide Leaf-Off Aerial Photography	
Questionnaire	Bidder Response/Acknowledgement
Orthometric Aerial Photography Experience- Describe your ability to provide the following:	
1 Describe your ability to provide the deliverables and services that meet the minimum requirements of the aerial photography specifications (Specifications) provided with this RFP?	<p>Surdex, a Bowman company, which will be providing aerial imagery acquisition and production services as a subcontractor to Bowman, has been providing aerial photography since 1954 and creating digital orthophotography since the mid-1990s. All production of orthoimagery in our history has been completed internally, and unlike many competitors, there is no need, nor any reason, to outsource production to other offices or even overseas. This ensures the highest quality of radiometry, accuracy and quality of delivery that Surdex clients have come to expect for many years.</p> <p>We operate and maintain our own aircraft and are in 100% control of priorities and asset distribution. We offer a dedicated aircraft plane tracker to our clients so they can monitor progress and asset locations 24/7; this is in addition to formal progress reports outlining status every week.</p> <p>Surdex has 3PB online storage, redundant archives of source data including off site, a generator for unplanned power interruptions and an internal Research & Development team dedicated to photogrammetric support with a staff of dedicated professionals who work aerial imagery from flight acquisition through deliverables every day. The ortho production code and GroupTool interface serve as the backbone of all processes and products. It includes an intelligent mosaic seamline tool that can avoid buildings, bridges and follow roads per our direction – all of which saves valuable time and allows the emphasis to be placed on quality enhancements.</p>
2 Do you understand that we are seeking pricing options for 30 cm and 22.5 cm GSD leaf-off, 4-band orthoimagery as outlined in the PURPOSE of the Specifications for the entire state of Oklahoma that meets or exceeds accuracy standards as defined in ASPRS Positional Accuracy Standards for Digital Geospatial Data, Edition 2, Version 1.0, August 2023?	Yes, we understand that the goals of the program are for an accurate statewide imagery dataset following logical aerial acquisition guidance and emphasis on the final product. We are familiar with similar efforts to the same specifications and our team has eight Certified Photogrammetrists on staff who are well versed in the orthophoto program designs to achieve the accuracy and quality associated with the latest ASPRS standards. We are offering an alternative option at 6" GSD as seen on the pricing page and options on the hosting component.
3 Do you understand that this imagery will be made available in the public domain?	Yes. We have worked with many state and federal agencies on ways to host and promote public distribution. We have been a strong advocate for public domain data, the purposes and value it serves the constituents. We will assist with streaming capability and interactive QA processes by the State using license-free tools that do not require software installations. These tools have been used by all levels of government clientele.
4 Describe your experience in delivering projects of this size and scope.	Our team has extensive experience with leaf-off statewide imagery collections. In recent years, Surdex has worked as a prime contractor in five states including Texas, Kansas (four instances; 2014, 2017, 2021 and 2024), North Carolina, Mississippi and Virginia. Additionally, Surdex completed the aerial acquisition for the state of Oregon in 2024 and is in the final stages of full delivery in the 4th quarter of 2024. Surdex is also offering the state access to our Flight Tracker, detail is explained further in question 32 below.
5 Has your company ever produced and delivered orthometric aerial photography to the USDA for their NAIP Program? If so, how many NAIP projects have you completed in the past 20 years?	Yes, Surdex has been a prime contractor on NAIP since the pilot year of 2002, resulting in 23 consecutive years of participation with the program. We completed our aerial acquisition for 2024 in early October and are currently wrapping up remaining deliverables. Including 2024, we have completed 156 state assignments to date, and of that count, 146 states were completed in the last 20 years. Over that span, only one state was not completed within the year it was assigned (NY in 2021, for minor areas of snow); however, it's worth noting that year New York was one of six states awarded to Surdex in August or later, including two states (MS and AL) for disaster recovery after Hurricane Ida. That was our first time completing NY, and snow came earlier than expected, but that served as a lesson learned, and in 2024 Surdex did successfully complete NY for NAIP, including placing an emphasis on acquiring high-altitude areas first.
6 If you have completed any NAIP projects, how many have been for Oklahoma?	Surdex has completed Oklahoma eight times: 2003, 2004, 2005, 2010, 2013, 2017, 2019 and 2023. Program year 2023 was 30 cm (1-foot) GSD, so in addition to familiarity with the area, we have the experience with heavier flight volumes and larger datasets.
7 To deliver this project do you plan to use subcontractors? If so, what percentage or specific tasks of the project will be performed by subcontractors? How do you manage subcontractors? If you plan to use subcontractors, please identify those you plan to use.	As of this writing, there is a forecasted need for traditional subcontracting on this project. Bowman will contract to Surdex, as described above. Surdex will also subcontract with Hoffmann Aviation Services (HAS). HAS is a separate legal entity, but is comprised of the same flight crew and aircraft maintenance personnel that were previously part of Surdex. HAS is located in the same hangar space down the street from Surdex's headquarters and production facility in Chesterfield, Missouri. HAS is an exclusive flight acquisition provider to Surdex, and they operate Surdex's aircraft which are the same aircraft they were operating prior to the company's re-structuring. Surdex has six twin-engine aircraft (including four high performance turbines), which can handle all three of Surdex's large format aerial sensors – all based in Missouri and capable of flying whichever image resolution is selected. All imagery will be shipped to our Chesterfield, Missouri, office for processing, inspection and orthorectification.
8 Describe your understanding of the VENDOR RESPONSIBILITIES as outlined in the Specifications?	Our team fully understands that our responsibilities include coordinating ground control surveying, aerial photo acquisition (including around weather patterns and controlled airspace) during the leaf-off season, post-processing of imagery and airborne GPS data, aerotriangulation and orthorectification of acquired imagery and quality control. Additionally, Surdex software, developed internally over the past 25 years and designed specifically for remote sensing, will be utilized for creating and handling all data and deliverable products into the desired CONUS datum. Surdex intends to utilize the latest airborne lidar over Oklahoma for orthorectification to ensure the highest product standards are attainable. Surdex will also host Esri-compliant imagery services connected to our imagery QA tool, SurCheck.
Technical Specifications- Describe your ability to provide the following:	
9 Describe your understanding of the TECHNICAL SPECIFICATIONS as outlined the Specifications.	<p>We understand the unique requirements for the State of Oklahoma and our pricing reflects the specifications as outlined. Most geospatial firms today can fly and produce quality digital orthophotos. The difference is the experience and ability to handle challenging aspects such as tall building "lean," the radiometry balance of shadow detail while maintaining highlights, bridge corrections for Digital Elevation Model (DEM) warp, compliant metadata, extremely large datasets, efficient imagery inspection, hosted data, etc. We will leverage our past experience flying Oklahoma for NAIP as well as countless other leaf-off acquisitions in order to create exceptional data for statewide distribution and usage.</p> <p>We have supplemented many projects with additional flight lines over Central Business Districts (CBD). This approach is taken to avoid obscuration of road features and maintain visibility in shadows without losing rooftop highlights as much as possible. This requires a delicate balance of careful flight planning, manipulating seamlines in tight locations and optimized radiometric enhancements. We also instruct our flight crews to fly urban areas and supplemental lines as close to solar noon as possible, and in some cases we have them fly small developed areas later in the season for maximum solar illumination since most have less dense vegetation than do rural areas.</p> <p>Graphics to supplement this response can be found in Section 7 Response to Specifications and Requirements.</p>
10 The State is planning to utilize Conservation District staff to assist in the identification of when and where leaf-off conditions exist in various parts of the state. How would you determine leaf-off conditions if the State was unable to provide this information?	We utilize various webcams and monitor overnight low temperatures to track the progression of foliage conditions. ODOT and several media outlets around OK have a nice sampling with regular updates. In addition, Bowman has personnel based in Oklahoma that could assist with local "boots on the ground" inspection if needed.
11 Describe your ability to acquire the required photography within the time frame of the leaf-off season as defined in the Specifications.	<p>Graphics to supplement this response can be found in Section 7 Response to Specifications and Requirements.</p> <p>In 2024, our team successfully completed a nearly identical program for the State of KS, which was the fourth such time we've completed a leaf-off flight for them. The key is having high performance turbine aircraft, all with the same equipment, close to the AOI and the ability to mobilize swiftly and into place, on days of unexpected clear weather.</p> <p>Our success is also attributed to an advanced database of progress that provides real-time remaining flight line status based on inspection results and progress of the entire fleet. Other flyers use error-prone spreadsheets or latent printed maps, with dated crew-to-crew exchanges of information. Our Flight Status is presented to them – on tablets as well as in-flight texting with ground resources for evolving weather patterns and new inspection results or changing priorities; they are not wasting valuable time each day trying to determine what is needed.</p>

12	The State expects the vendor to be able to complete this project in one 2025 leaf-off season however certain weather conditions could prevent this from being possible. Do you understand if weather conditions prevent the collection of leaf-off imagery for the entire State, that you will be required to complete this project in the following 2026 leaf-off season?	<p>Yes, we understand a conservative, yet intelligent flight strategy moving east-to-west only as far as reasonable progress will allow. It includes regular dialog with the State on rapidly changing conditions. This is the same approach we've used in Kansas so we are prepared to implement it again.</p> <p>The way this project is successful is rapid action upon award, and early season flights are critical, especially with unknown snow potential ahead.</p> <p>We can begin our work within days of NTP and a decision to begin flight based on vegetation conditions and dialog with the state. In the southern part of the state, there is approximately ~2.5 hours of 30-degree sun angle even at the solstice so meaningful flights can begin immediately. Based on our history with NAIP, Surdex knows the SE region of the state can be the most challenging weather wise and it's important to capitalize on opportunities as they arise.</p> <p>Graphics to supplement this response can be found in Section 7 Response to Specifications and Requirements.</p>
13	Will you need the State to provide additional GIS data files beyond those that were included with this RFP? If so, please define those and how critical they are to successfully completing this project.	<p>No, we believe we have all the necessary information to begin immediately but will need a copy of the most recent full point cloud lidar as soon as possible so that we can begin our preparations of the DEM surface suitable of accurate orthorectification. The accuracy of the final product heavily relies on current, accurate elevation data.</p> <p>Graphics to supplement this response can be found in Section 7 Response to Specifications and Requirements.</p>
Aerial Acquisition- Describe your ability to provide the following:		
14	Describe your plan to acquire the aerial images to meet the specified orthophotography GSD specifications.	<p>Acquisition requires a high degree of communication between the flight acquisition manager, aircrews, and project manager. Flight plans are analyzed by multiple Certified Photogrammetrists, including Aaron Garibaldi – the assigned Project Manager and automatically updated each evening by merging daily progress reports from the aircrews with imagery inspection results.</p> <p>Local Air Traffic Control (ATC) and/or military air traffic control authority are consulted in advance of flight operations to ensure aircraft are cleared for operations. This includes proactively providing the necessary information, including tail numbers and flight plans, to the proper authorities to ensure trouble-free access to the areas. For acquisition involving restricted airspace and/or Military Operations Areas (MOAs), we coordinate flights with the Air Traffic Control centers and often military operations centers. We have performed acquisition in and around highly sensitive airspaces, such as White Sands Missile Range (New Mexico), Nellis Air Force Base (Nevada), and the Washington, DC ADIZ (Air Defense Identification Zone). Our experience has shown that a high degree of communication and adherence to directives results in long-term success. In some cases, federal procedures have mandated that a government official be physically present in our aircraft during acquisition.</p> <p>Before each acquisition day, several activities are undertaken by the air crew:</p> <ul style="list-style-type: none"> •Up-to-date flight plans are downloaded and reviewed •Aircraft, GNSS+INS (Inertial Navigation System) equipment, and camera are inspected for proper operation including wiping debris off the glass •Final weather checks are made •Flight plans are filed with the FAA <p>At the end of each acquisition day:</p> <ul style="list-style-type: none"> •Inspecting glass for debris accumulated during flight. •Aircraft flight logs are completed •Flight reports are completed and sent to the production center •If necessary, imagery and data are transferred from on-board storage to "transfer" drives •Drives are shipped priority overnight to the production center <p>We retain the flight report for each mission, and all reports are reviewed by production personnel. For example, if extreme turbulence or cloud cover is cited by the aircrew for specific areas of the mission, inspectors will pay special attention to these areas. This may result in re-flight of an entire flight line or part of a flight line to ensure no defects are visible in the imagery.</p> <p>Our FlightTracker can display planned flight lines with color coding based on weather forecasts. Lines are classified as "highly favorable," "favorable," "uncertain," "unfavorable," or "highly unfavorable." With this information, our flight department can readily identify which areas have optimal or better flying conditions, and they can mobilize resources accordingly. This enables more efficient acquisition planning.</p> <p>We will provide the State with a link to our FlightTracker, allowing real-time tracking of our aircraft during the critical acquisition phase of the project. This tool provides a wealth of information, giving clients a clear depiction of the current acquisition status. With this tool, the State will receive continuous updates on acquisition and will be able to watch our aircraft in action over the project area. Clients have provided positive feedback regarding this ability to follow acquisition progress live.</p>
15	Describe your method to acquire the aerial images. Will you use individual frame or pushbroom? Do you have the flexibility to use either method?	<p>Our team will use our newest frame sensor, the PhaseOne Pas Pana which we have effectively named "Blackbird". This sensor has been successfully implemented into production (after rigorous testing and internal calibrations) approximately 18 months, and successfully used on for the State of Kansas and Oklahoma NAIP 2023. The sensor is 44,000 pixels wide, and using the most efficient sensor available is key during the leaf-off window, when days are short and winter weather is unpredictable.</p> <p>Graphics to supplement this response can be found in Section 7 Response to Specifications and Requirements.</p>
16	The State expects the vendor to conduct a comprehensive QA/QC review of the collected imagery as well as a post-production review of imagery to be delivered. Describe your QA/QC review process.	<p>We conduct QA in every critical phase of the program. A Certified Photogrammetrist will review and approve flight plans, a Registered Land Surveyor will collect and process survey data, and internal tools are used for post flight image inspection, mosaic seamline editing/review and final product QA. Survey points are read in triangulation and reviewed at orthophotography milestones to ensure accuracy is achieved and maintained.</p> <p>We will also proceed with a color sample and pilot project of an area based on early flight progress that includes a well-balanced mixture of ground cover so the state can review and comment on all aspects of the imagery prior to processing of the full project area data. This will include samples of compression on final products. This process assures that the final deliverables will match the pilot project imagery approved by the State.</p> <p>Although we conduct QA at every major project phase, they will also offer use of their web-based image inspection tool, SurCheck, for the State to use. This program requires no licensing or installation, runs inside of a browser, is secure with password protection by reviewer and comes with training – everything at no cost to the State of Oklahoma.</p>
17	In conjunction with the vendor QA/QC review the State would also like to review both the preliminary imagery as well as the final imagery products. Describe what program or procedures that allow the client to participate in QA/QC review of imagery products.	<p>We will offer Early Access Web Services (EAWS) within 15 days after every mission. This will also run inside SurCheck, which allows OGI to complete redlines and comments and facilitates version tracking.</p> <p>To assist clients with the review and approval of their orthoimagery, we provide – at no additional cost – our web-based image assessment tool, SurCheck. This tool is the result of years of continuous improvement and responses to user requests for enhancement. It is implemented in HTML5, JavaScript, php, and the ArcGIS API for JavaScript, providing flexibility for enhancements in the future.</p> <p>SurCheck streamlines the review, remedial action, and delivery timelines. If call-outs are reported by reviewers, our team resolves each and notifies reviewers so they may confirm the correction. When all call-outs are resolved for the project, the data can be shipped for final delivery.</p> <p>Upon request, we can provide an instructional video and PowerPoint presentation to familiarize and train users on the tool's use, as well as access to a sample project.</p> <p>Graphics to supplement this response can be found in Section 7 Response to Specifications and Requirements.</p>
GPS Airborne Positions- Describe your ability to provide the following:		

18	Describe your processes in collecting airborne GPS (AGPS) and imagery data.	<p>All imagery will be acquired with a geodetic-grade GNSS receiver on the aircraft and IMU on the sensor to reduce the number of ground control points required to meet the product accuracy.</p> <p>The latest release of Applanix PosPac is used to perform post-processing of the GNSS-IMU data. We have worked closely with Applanix to improve the precision of the angular output from PosPac required to position the high-resolution output of the Phase One PAS Pana. While our automated process runs a variety of processing methods in PosPac, typically the best solution selected by staff is the Post-Processed-RTX (PP-RTX) results. As proven in hundreds of AT blocks, the PP-RTX reliably hits the Applanix published values for the AP61 system. In fact, due to limitations in ground station reliability and environmental factors, PP-RTX is more consistent than differential post processing and is superior to single base stations at the airport, as was utilized in the past.</p>
19	Describe your process to supplement AGPS with ground control.	<p>We will acquire approximately 540 total points under the supervision of our licensed OK PLS, Joseph Solomon. They will be a combination of control and independent QA points.</p> <p>We anticipate mobilization of two 1-man field crews to work simultaneously in a given area to maximize the amount of data collection in the field.</p> <p>Points to be observed will be a mixture of photo ID points and set panels where photo ID points are impractical. The process for observing and recording the points will stay the same. Photo control locations will be provided within an acceptable window, with an identified feature where practical (striping, concrete corner, etc.). Upon arrival at the designated location, the field surveyor will identify the point, initialize the GNSS receiver and set up over the point to be observed. All GNSS observations will be performed using fixed height 2-meter stakeout rods to eliminate the need for recording an instrument height at each location. The rods will be secured over the point using an adjustable bipod or tripod attached to the stakeout rod. Two 3-minute observations will be collected at each location. The first one will be collected using Trimble RTX satellite-based corrections, the second will be collected using a local VRS correction service. Field surveyors will force a GNSS initialization loss between observations to ensure an independent solution. In areas with limited VRS or limited cellular coverage an additional 15-20 minute static observation will be collected to provide additional redundancy.</p> <p>During the GPS observation session, the field surveyors will collect a minimum of 3 geo-referenced photos including the point location and surrounding areas in two directions. The photos will be synced with the collected point for report generation and delivery. We anticipate the use of digital forms for supplemental field data entry.</p> <p>Upon completion of daily point collection, field crews will download and QC data to ensure that all points have been accounted for and that the GNSS observations are accurate. GNSS data, photos and digital reports will be uploaded to our servers and/or cloud service for additional QC at our office. If any anomalies or insufficient data is identified, a return trip can be scheduled while still in proximity to the suspect point. All data will be quality controlled by our team, including our Oklahoma Licensee.</p> <p>Graphics to supplement this response can be found in Section 7 Response to Specifications and Requirements.</p>
Aerial Triangulation-Describe your ability to provide the following:		
20	Describe your process to develop aerial triangulation data.	<p>The inputs to triangulation include GNSS+INS data, sensor boresight data, sensor calibration data, ground control and check point data, and the imagery itself.</p> <p>The triangulation process involves the following steps:</p> <ul style="list-style-type: none"> •Automated measurement of pass and tie points appearing in the overlaps of the imagery •Interactive editing of pass and tie points •Measurement of control and check points •Bundle adjustment yielding refined imagery position, attitude and all point positions •If required, re-measurement of points and repetition of the adjustment. <p>The triangulation solution is based on a sophisticated bundle adjustment employing a mathematical model of the sensor geometry. It relies on the use of far more observations (observed/recorded values such as GNSS+INS, ground control, and image measurements) than are required for a unique solution. Using a least squares optimization approach, the observations are refined for a best fit. Careful inspection is made of the various residuals (differences between observed and adjusted values of parameters) reported by the solution. For example, should a GNSS+INS observed position differ from the adjusted value by a significant amount, this may signal flawed GNSS+INS data or weak connections in the tie and pass points.</p> <p>Analysis of the quality of the triangulation solution is performed by an ASPRS Certified Photogrammetrist who is highly skilled and experienced with the process. Upon completion of the triangulation process, the results are stored in the central database and published for use in the following production steps.</p>
21	Describe your plan to establish check points throughout the state.	<p>All ground survey points are collected to the same standard and accuracy. Control points are used in triangulation to tie photo coordinates to real project datums. QA point validation is used throughout the orthoimagery production process, including the use of triangulation and checkpoints for interim validation.</p>
	Describe your method to assess the horizontal accuracy of the check points.	<p>For validation of the deliverable orthoimagery, checkpoints are measured in ArcGIS and exported to Excel to generate a report using the appropriate accuracy standard for the project. The measurements and the report will be reviewed by the project manager before delivery to the Oklahoma Office of Geographic Information (OGI).</p> <p>Graphics to supplement this response can be found in Section 7 Response to Specifications and Requirements.</p>
Digital Terrain Model (DTM)/Digital Elevation Model (DEM)- Describe your ability to provide the following:		
22	Describe your process to develop DTM/DEM data to be used in creating the orthophotos.	<p>Our approach to creating a Digital Elevation Model (DEM) is based on using the most current version of available elevation data including lidar, augmented where missing or requiring update by dense image matching and/or interactive editing. A surface is generated using dense image matching to correct the existing surface model. A Triangulated Irregular Network (TIN) is used when producing high-resolution orthoimagery. A TIN can depict high-resolution terrain features more efficiently than a DEM.</p> <p>Elevated features, such as non-grade crossings of transportation lines and bridges, often require a localized elevation model to ensure no layover and/or smearing is introduced into the final product. In contrast to most elevation models which are "bare earth," these models are Digital Surface Models (DSMs) at the feature surface. During orthoimage production, all overpasses, bridges, other transportation features and heavily built-up urban areas are scrutinized to determine whether a localized DSM is required to maintain product quality.</p> <p>We use several approaches to ensure the elevation model can support the digital orthoimage accuracy requirements:</p> <ul style="list-style-type: none"> •Visual review of the elevation model for detection of obvious artifacts (e.g.: relief-shaded views, color-coded elevation views, etc.). •Comparison of triangulation points with the elevation surface. •Comparison of the existing surface to the dense matching surface produced from the same images used to make the orthoimagery. •Visual review of orthoimage products to determine if smearing, layover, or other artifacts are present, indicating the elevation model must be modified. <p>Graphics to supplement this response can be found in Section 7 Response to Specifications and Requirements.</p>
Digital Orthoimagery-Describe your ability to provide the following:		

23 Describe your process for the production of digital orthoimagery from the collected digital imagery.	<p>Our approach to image processing involves the following key points:</p> <ul style="list-style-type: none"> •Sensor-specific processing is used at the front end of the production chain using sensor manufacturer software. This sensor-specific software produces a standard format TIFF. Afterwards, all image processing is handled with our custom-developed software and processes. •All imagery is retained in 4-band, 12 bits/pixel format (4x12) until the final tiles are produced. This allows us to make localized adjustments to color, tone, contrast, etc. without compromising the overall quality of the deliverable product. •The 4x12 format supports re-mapping to 8 bits/pixel, and to color and/or color infrared (CIR). •All image resampling is performed using bi-cubic or Lagrange interpolation kernels to eliminate aliasing and similar artifacts. <p>After triangulation, orthoimagery is produced to a contiguous master tile layout that encompasses the entire deliverable area with adequate buffering in 4x12 format in the reference frame of the project deliverables. Any adjustments are made to one single data source, all derivatives (projection, format, tile sizes) originate from authoritative source. Once the master tiles are completed, they can be used to generate all delivery tile layouts, including re-projection and changing the linear units (i.e.: U.S. survey foot, international foot, meter, etc.), as well as re-mapping to the desired bit depth and number of bands using an automated process.</p> <p>Our customized processing environment is a mix of third party, open source, and custom-developed algorithms and processes, operating within a distributed processing environment. We utilize a common user interface, referred to as "Group Tool," and our entire production and project management staff is trained in its usage – simplifying cross-training to maximize the staff potential. An underlying central database tracks all source, interim, and final products. Orthoimagery technicians utilize calibrated display monitors to ensure consistent results.</p> <p>Graphics to supplement this response can be found in Section 7 Response to Specifications and Requirements.</p> <p>Radiometry is addressed in question 24 below.</p>
24 Describe what processes you use to correct for radiometric differences between adjacent imagery tiles.	<p>Using our custom Group Tool software, image processing technicians organize large blocks of orthoimagery into groups with common characteristics, not necessarily coinciding with individual flight missions. This software can display images in ground space, allowing operators to see the relative image quality between neighboring images. Imagery can be viewed in either color or CIR to ensure 4-band continuity.</p> <p>The grouping of images is important because:</p> <ul style="list-style-type: none"> •Atmospheric conditions result in regions of differing degradation caused by haze •Solar corrections are most efficiently applied to groups with common illumination effects. <p>Image processing has distinct steps:</p> <ul style="list-style-type: none"> •Grouping of image strip blocks with a simple gamma correction (brightness and contrast) •Making atmospheric corrections based on radiometric calibration of the sensor •Making Bidirectional Reflection Distribution Function (BRDF) corrections •Final global balancing during the mosaicking phase. <p>Graphics to supplement this response can be found in Section 7 Response to Specifications and Requirements.</p> <p>Seamline Generation</p> <p>There are three steps in the seamline process:</p> <ul style="list-style-type: none"> •Automatic generation of initial seamlines using Surdex software and the selected model •Editing of seamlines by skilled technicians •Application of the seamlines to cut tiles for review. <p>Automatic seamline generation is executed in our distributed processing environment. Our custom-developed approach analyzes the many possible seamline paths to create the optimal seamline between all overlapping orthoimages. Technicians review the automated seamlines and correct any requiring revision. The technicians log the accepted seamlines in the database, and each seamline polygon has a record of the technician who edited it and the date/time.</p> <p>Seamline placement by the technicians focuses on ensuring no distortion or positional displacement to the greatest extent possible. This process includes, but is not limited to, the following steps:</p> <ul style="list-style-type: none"> •Elevated transportation features, such as bridges and overpasses, will be locally modeled with a digital surface terrain model that will eliminate layover and smearing •Seamlines are placed where they will not cut through buildings, roads, overpasses, towers, etc. to avoid feature distortion •Using additional imagery over tall buildings, technicians ensure the view exhibiting the least lean is incorporated into the final product •Seamlines are generally placed along linear/natural features to minimize temporal/color differences <p>We will supply an Esri shapefile of the seamlines, which is automatically generated by our custom software. Each orthoimage merged into the mosaic is defined by a polygon representing its bounds with each of its overlapping neighbors. The seamline shapefile polygon attributes include date, time, sensor, aircraft and other image information.</p> <p>Tile Writing</p> <p>During this step, all balance adjustments and seamlines are applied to the individual orthoimages to create the master tiles. Afterwards, the deliverable tiles can be generated, and our custom software can create any tile layout using automated batch processing. This includes support for:</p> <ul style="list-style-type: none"> •Overlapping and contiguous tile layouts •Multiple tile layouts •Creating tiles in other map projections and/or linear units (e.g.: meter vs. U.S. survey foot) •Downsampling the resolution (i.e., creating a 1' resolution tile set from a 6" tile set), if needed •Since the master tiles are in 4x12 format, tiles can be delivered as such or remapped to 8 bits/pixel, and in 4-band, natural color, or color infrared (CIR) format •Supported output file formats include MrSID, GeoTIFF, JPEG, JPEG2000, ECW, etc. <p>The master tile concept makes error correction during inspection very simple and comprehensive. Once an error is corrected in the master tiles, all applicable client tile layouts are automatically regenerated.</p>
25 Describe any issues you may have in the specifications with image tile size, file naming convention or requested coordinate system.	We can handle any tiling index, naming convention and published datum available. We will iterate with the state on versioning should the initial pilot data not be acceptable.
Format Options- Describe your ability to provide the following:	

26	<p>In addition to the delivery of orthoimagery as defined in the Specifications, the State is seeking proposals on providing this orthoimagery through an imagery service (IaaS). If you choose to offer IaaS, describe the scope and parameters of the service that would be provided.</p>	<p>We can post preview imagery within two weeks of completion of acquisition. With years of web services hosting experience on the USDA National Agriculture Imagery Program (NAIP) and with our web-based inspection tool, we are in the unique position to offer clients a web-based imagery preview service. This service provides a visualization of acquisition progress and allows clients to assess whether ground and atmospheric conditions for acquisition were appropriate. This display of production imagery is superior to textual reports and progress graphics for many users and is accessible on desktop workstations as well as on most smartphones and tablets.</p> <p>The service can be implemented with username/password authentication to control access, or it can be implemented as an open-access service to the public. If desired, the interim imagery can also be incrementally updated with the final imagery as production progresses, maturing into the final imagery service at the completion of the project.</p> <p>Preview orthoimagery is automatically processed to default imagery metrics, suitable for assessing ground conditions, cloud/cloud shadow cover, flooding, snow/ice, fog, smoke, etc. If re-flights are conducted, their result will overwrite any previous imagery, resulting in a view of the most current data.</p> <ul style="list-style-type: none"> •A vector overlay portrays image bounds complete with acquisition time/date, aircraft tail number, camera make/model/serial number, etc. •It is an Esri ArcGIS REST (REpresentational State Transfer) service that can be viewed by a user in several ways, including but not limited to: As an ArcGIS Java viewer for simple viewing, within Esri ArcMap, within Esri ArcGIS.com, Google Earth <p>Graphics to supplement this response can be found in Section 7 Response to Specifications and Requirements.</p>
<p>Title Report Deliverables- Describe your ability to provide the following:</p>		
27	<p>Describe your experience in developing metadata in the ISO 19115-1:2014 Standard format as outlined in the Specifications.</p>	<p>We will provide project-wide or tile-based metadata in .xml format, tailored to a level of detail as requested, compliant to various standards including ISO 19115-1:2014. This is done through a host of tools including ESRI and Surdex developed applications. The metadata is created using a template file incorporating all project details such as acquisition ranges and process descriptions to summarize production workflows and results of our accuracy assessments, among other tasks. File-specific information like position, projection, and dates are added to the template as the data is produced. We can deliver metadata in all standard formats such as .met, .xml or .txt. Samples for client review are provided after proper validation through the USGS metadata parser (mp) to ensure error-free files prior to final delivery.</p>
<p>Orthoimagery Deliverables-Describe your ability to provide the following:</p>		
28	<p>The State is seeking a digital copy of the imagery organized by county as described in the Specifications. Describe your willingness to work with the State to determine suitable compression options for this dataset.</p>	<p>Yes, we are willing to iterate with the State on combinations of compression until a suitable result is achieved.</p>
29	<p>The State is requesting that a pilot project area be established as described in this Section of the Specifications under item 1)c). Describe your approach to establishing this pilot project area.</p>	<p>We will coordinate the selection of one or more representative areas of varying terrain and ground cover (rural, urban, vegetation and hydrography) for OGI's project. Orthoimagery samples will be provided in these areas to establish project standards for clarity, tone, balance, and contrast. This may require iterative processing of the samples to achieve the desired appearance. We then process all deliverable imagery to the appearance established during the pilot project.</p> <p>We typically use "image metrics" to guide initial processing. Our custom software automatically computes many of the image metrics during processing and stores the results in our central database – beginning with initial processing of the raw imagery all the way through mosaicking and balancing. The key metrics are:</p> <ul style="list-style-type: none"> •Histogram clipping – maintaining a tonal range that does not interfere with shadow detail or "blow out" bright areas •Brightness – centering the mean pixel count to ensure overall balance; this metric sometimes requires localized modification in unusually bright or dark areas •Contrast – ensuring contrast level avoids faded or washed-out areas •Color balancing – performed to avoid shifts in color; a key measure is "neutrality," meaning gray features (i.e., concrete roads) are preserved, therefore overall true color is maintained throughout <p>With years of experience and customized processes and software, our team has gained expertise in handling the critical global balance process over very large areas – we even have the ability to incrementally produce and deliver data to meet client priorities while still maintaining a consistent overall result. Our experience is that only minor radiometric adjustments around seamlines are needed to ensure flawless colorimetry across the entire project area.</p>
30	<p>In this Section under item 1)d) the State is requesting the imagery in GeoTiff format with 3 sets of imagery to be delivered. Describe your ability to work with the State to provide examples of imagery that has different levels of compression and with or without internal pyramids.</p>	<p>Yes, we are willing to iterate with the state on combinations of compression until a suitable result is achieved. Although internal pyramids increase files by 33%, they greatly improve the usability of the digital imagery.</p>
31	<p>Describe your process to ensure that electronic files delivered under this contract would be virus and malware free.</p>	<p>Firewalls are deployed at network perimeters to monitor and control inbound and outbound traffic. Firewall rules are configured to permit only necessary network services and protocols. Regular reviews and updates of firewall rules are conducted to adapt to changing security requirements.</p> <p>Continuous monitoring of network traffic and security logs is performed to detect and respond to security incidents promptly. Intrusion detection and prevention systems are deployed to identify and mitigate suspicious network activities.</p>
<p>Describe your company ability with regards to the following:</p>		
32	<p>Proven experience in providing orthoimagery aerial photography services.</p>	<p>As referenced earlier, our team has over twenty years of experience on the NAIP imagery program, which uniquely qualifies us for handling very large assignments. Additionally, our work during the leaf-off season goes back even further, to the days of NAPP for USGS through today's statewide programs. Altogether, we have close to 15 million square miles of large area aerial photography expertise. Our senior staff averages over 20 years of industry knowledge so the project is in good hands with our team.</p> <p>We believe supplemental tools such as our FlightTracker and SurCheck for both review of flown data as well as final data uniquely distinguish us from other flyers. It demonstrates our evolution as a premier orthophotography provider in the industry.</p>
33	<p>Define your expertise in image processing and analysis techniques.</p>	<p>With a 70-year history of aerial photography, our team has a wealth of knowledge handling that imagery – from film processing and scanning through direct to digital acquisition, we've seen the evolution of orthophotography first-hand. In the late 1990s when orthophotography was rapidly gaining popularity, we began the arduous task of searching for software that would properly treat the imagery the way we knew was necessary yet never found any off-the-shelf software to do it properly. So we built our radiometric tools internally and have refined them throughout our participation on NAIP and in our third generation digital sensor. This is experience you cannot gain elsewhere; it's part of the Surdex fabric, integral to our growth and a key selling point to Bowman for the acquisition.</p>
34	<p>Describe your understanding of any specific challenges relative to this project.</p>	<p>There are no concerns at this time provided contractor selection occurs quickly. As noted elsewhere, you cannot get the time back once spring arrives, or when ground conditions like flooding or snow delay progress. The work must begin in earnest so that collaboration with the state can be the most efficient given the task at hand.</p> <p>The OK Statement of Work is well written but certainly as any issues arise, we will work with the State towards a necessary resolution. The State of Oklahoma deserves to work with the most experienced team, one they can trust will step them through every aspect of the project with them and work collaboratively. We are confident that we are that team.</p>
35	<p>Describe your company's ability to deliver data and products in a timely and efficient manner.</p>	<p>In pursuit of continuous improvement, we rigorously track all commitments for delivery to our geospatial data clients and report metrics internally on a monthly basis. This includes on-time delivery and first-time acceptance (those with greater than 90% of products accepted without rework), and those that are not delivered on-time are rescheduled, with the reasons also tracked.</p> <p>Graphics to supplement this response can be found in Section 7 Response to Specifications and Requirements.</p>

**Attachment F to
STATE OF OKLAHOMA CONTRACT WITH BOWMAN CONSULTING GROUP Ltd.
RESULTING FROM SOLICITATION NO. EV00000589**

Negotiated Exceptions to the Solicitation

The Solicitation is hereby amended as set forth below and supersedes all prior Exceptions submitted by **Bowman Consulting Group Ltd.** or discussed by the parties.

**REQUESTED EXCEPTIONS NOT APPEARING BELOW
HAVE BEEN DECLINED BY THE STATE**

RFP Section	Exception
<p>Attachment B. State of Oklahoma General Terms – Section 4, Ordering, Inspection, and Acceptance.</p>	<p>Section 4.2 is hereby deleted and replaced in its entirety by the following:</p> <p>4.2 Services will be performed in accordance with the professional skill and care ordinarily provided by consultants practicing in the same or similar locality under the same or similar circumstances ("Standard of Care") 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.</p> <p>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 provided pursuant to the Standard of Care 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.</p> <p>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.</p> <p>Pursuant to OAC 260:115-9-1, payment for an Acquisition does not constitute final acceptance of the Acquisition. If subsequent inspection</p>

RFP Section	Exception
	<p>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.</p>
<p>Attachment B. State of Oklahoma General Terms – Section 4, Ordering, Inspection, and Acceptance.</p>	<p>Section 4.3 is hereby deleted and replaced in its entirety by the following:</p> <p>4.3 Supplier shall deliver products and services on or before the required date specified in a 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.</p>