



---

**STATE OF OKLAHOMA CONTRACT WITH STEARNS, CONRAD AND SCHMIDT,  
CONSULTING ENGINEERS INC. dba SCS ENGINEERS**

This State of Oklahoma Contract (“Contract”) is entered into between the State of Oklahoma by and through the Department of Environmental Quality (“State”) and SCS Engineers Inc. (“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 (“Effective date”). The term of the Contract is one (1) year with the option to renew for one (1) additional year with a budget amount not to exceed \$394,000.00.

**Purpose**

The State is awarding the Contract to Supplier for the provision of Waste Management Study, as more particularly described in certain Contract Documents. Supplier submitted a best and final offer. This Contract Document memorializes the agreement of the parties with respect to 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 the 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 EV00000548, Attachment A;
  - 2.2. Scope of Work, Exhibit 1;
  - 2.3. General Terms, Attachment B;
  - 2.4. Agency Terms, Attachment C;
  - 2.5. Information Technology Terms, Attachment D; *Reserved*
  - 2.6. Additional Vendor Terms, Attachment E1;
  - 2.7. Master Terms, Attachment E2 *Reserved*;
  - 2.8. Pricing Doc (Best and Final Offer), Attachment E3;
  - 2.9. Value Add, Attachment E4;
  - 2.10. Federal Funding Terms, Attachment G
3. The parties additionally agree:
  - 3.1. 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.

- 3.2. 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.
- 3.3. Any other third-party product terms and conditions or clauses in an electronic license, subscription, maintenance, support or similar agreement shall be binding only upon the State's written acceptance of those additional terms.
- 3.4. The Supplier's response to Specifications and Requirements are incorporated by reference into this Contract.
- 3.5. To the extent any term or condition in Attachments E1-E4, including via hyperlink or uniform resource locator, conflicts with any applicable term or condition in Attachments A-D the term or condition in Attachments A-D shall control over the conflicting term or condition in Attachments E1-E4. To the extent any term or condition in Attachment E1-4, including via hyperlink or uniform resource locator, expand the State's duties, obligations, or liabilities, other than those agreed to in Attachments A-D the State does not agree.

4. Payment obligations rest solely with the Department of Environmental Quality.

Please send invoices and billing inquiries to:

PO Box 1677,  
Oklahoma City, OK 73101  
United States  
[accountspayable@deq.ok.gov](mailto:accountspayable@deq.ok.gov)

5. The undersigned Agency hereby attests that any required terms and conditions based on a Federal Award applicable to this Contract are included herein.
6. 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.

**SIGNATURES**

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

**STATE OF OKLAHOMA  
by and through the DEPARTMENT OF  
ENVIRONMENTAL QUALITY :**

**STEARNS, CONRAD, AND SCHMIDT  
CONSULTING ENGINEERS, INC. dba SCS  
ENGINEERS**

By:  Digitally signed by Stacey Tucker  
DN: cn=Stacey Tucker, o=Oklahoma Department  
of Environmental Quality, ou=Administrative  
Services, email=Stacey.Tucker@deq.ok.gov, c=US  
Date: 2025.11.10 09:42:23 -0600

By: 

Name: Stacey Tucker, CPO II

Name: Bret H. Clements, P.E.

Title: Assistant Division Director,  
Administrative Services

Title: Vice President

Date: 11-10-2025

Date: 11/4/2025

The State Purchasing Director is signing solely to ensure state agency compliance with provisions of the Oklahoma Central Purchasing Act pursuant to 74 O.S., 85.5 concerning acquisitions by state agencies.

By:   
Amanda Otis (Nov 10, 2025 18:56:14 CST)

Name: Amanda Otis

Title: State Purchasing Director

Date: Nov 10, 2025

# ATTACHMENT A

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 Department of Environmental Quality from potential Suppliers to provide a contract for services to implement a Municipal Solid Waste Characterization Study of the state's locally generated residential, industrial/commercial/institutional and construction and demolition waste that is disposed of at MSW landfills in Oklahoma. Eighty-eight material types, aggregated into nine categories, "will be analyzed for the study. We are attempting to establish percent mean composition estimates by weight and by volume where possible, with associated 90% confidence intervals for each material, that are as accurate as possible. This means we seek a statistically valid 90% confidence level that the weight percent of each material in the Oklahoma-generated waste stream or sub-stream is between the high and low estimates calculated from the data acquired in this study, with as narrow a range between high and low estimates as possible. A Contract resulting from this Solicitation may be designated for use as a Statewide Contract.<sup>1</sup>

The Contract is awarded on behalf of Department of Environmental Quality for Municipal Solid Waste Characterization Study. 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 one option to renew.

### 2. Contract Specifications

- 2.1. Certain Contract requirements and terms are attached hereto as Exhibit 1 and incorporated herein.

### 3. Solicitation Criterion:

- 3.1. The Bid will be evaluated using past performance mandatory requirements.
  - i. Mandatory Requirements
  - ii. Past performance
- 3.2. First round evaluations will be evaluated on past experiences highlighted in Exhibit 2 and Exhibit 3.

---

<sup>1</sup> 74 O.S. 85.5(G)(3)

# ATTACHMENT A

3.3. Agency reserves the right to interview the top candidates in round 2 of the evaluation process, if deemed necessary.

## **4. Scope and Description:**

- 4.1. The Bid Response must reflect for each requirement on Exhibit 1 whether the requirement is met by an out-of-the-box solution or whether the requirement necessitates customization to the Bidder's proposed solution.
- 4.2. The Bid Response shall show the ability of the Bidder to meet or exceed the following mandatory specifications:
  - i. Contractor has completed at least one statewide waste characterization study within the last 5 years.
  - ii. Contractor must start within 30 days after contract award.

**5. No Pricing shall be proposed for this solicitation.**

**6. Vendor Experience shall be proposed using Exhibit 02 – Supplier Experience.**

**7. Executive Summary and Company Information shall be proposed using Exhibit 03 – Executive Summary.**

**8. Business References shall be proposed using Exhibit 04 – Business References.**

**9. Landfill zones to be proposed using Exhibit 05 – Landfill Listing.**

# ATTACHMENT A

## II. STATE OF OKLAHOMA LOCKDOWN 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.

# ATTACHMENT A

## **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.

# ATTACHMENT A

- 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

# ATTACHMENT A

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.

# ATTACHMENT A

- 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.

# ATTACHMENT A

## **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.

# ATTACHMENT A

## **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.

# ATTACHMENT A

**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**

# ATTACHMENT A

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  
Oklahoma City, Oklahoma 73105

## 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

# ATTACHMENT A

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

# ATTACHMENT A

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**

## **ATTACHMENT A**

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 - SCOPE OF WORK

## Project description:

The project will involve managing a field sort of MSW generated within the state of Oklahoma at select landfills and an analysis and presentation of the findings. The vendor proposals will include the number and location of the sites to be selected, a description of the methodology used to determine these and how the proposed methodology will achieve the level of accuracy and precision required by DEQ.

Selection criteria will ensure a representative cross section of Oklahoma generated waste across regions, hauler type (commercial and self-haul), and source type (residential, ICI with multi-family dwellings consisting of five or more units considered separately, and C&D). The department anticipates that the sorts will occur in four distinct seasons.

This Request for Proposal calls for the waste to be sorted into the nine categories and a minimum 88 material types listed in Appendix 1 and defined in Appendix 2. This RFP also calls for the weights for these categories and material types, and volumes when possible, to be quantified so that the composition of the MSW stream can be determined. Only MSW waste generated within the state of Oklahoma, will be included in the study; study designs must include a method for excluding non-Oklahoma sourced waste. Categories selected include some household hazardous waste. Data are to be analyzed statewide as well as by source.

The methodology for sampling, sorting and reporting of waste shall ensure that health and safety measures are observed, staff are trained, hauler and landfill confidentiality are maintained, and work and reports are completed on time. Composition samples will be physically sorted, except where impractical or where visual sorting is more appropriate.

The contractor will prepare and provide to the department a preliminary draft and a final comprehensive report in an electronic (1 copy) form using an electronic format approved by the department and covering the following:

- (1) An executive summary describing the background, scope, purpose, study design, field methods and results of the study.
- (2) An introduction including project background, the purpose and objectives of the study and a description of how the study was conducted.
- (3) A description of the study design and how it was developed, including statistical background or methods used, site selection process, final sampling locations and numbers of samples, explanation of any differences between the final plan and actual sampling done, and any significant problems or findings in study design.
- (4) A description and photos of how the work was conducted including a step-by-step description of how samples were selected, collected, sorted and weighed, and how data were collected and aggregated to estimate the percent and quantity by source type. Include explanations of any special circumstances, changes in plans or techniques and any special findings.

# EXHIBIT 1 - SCOPE OF WORK

- (5) Results for all parts of the study including text, data summaries, infographics, and waste composition tables for all categories and material types both statewide and by source type, showing:
  - a. Estimated tons in Oklahoma generated waste stream
  - b. Average percent of total Oklahoma-generated tons
  - c. 90% confidence interval for the calculated averages
  - d. Counts of certain specified waste types (e.g., lead-acid batteries)
  - e. Other data as appropriate that may include analysis by region of the state or comparing urban versus rural waste composition, and characterization of waste categories and materials by percent volume using density estimates for the various category types.

All data collected in this study will be submitted to and become the property of the Department. The contractor and subcontractors will not publish results from this study in any form without prior approval of the Department.

The DEQ role will be to review, comment on and approve detailed plans and reports as required by the contract, including the location and number of sites selected for the study and the comprehensive final report. DEQ will conduct visits to sample sites during waste sorts, will hold regular progress meetings during the sampling on a schedule to be determined but not to exceed weekly, and will monitor the work and progress to assure that the study is completed in a timely fashion.

## Objectives:

To determine the statewide composition by weight, and volume when possible, for each material type going to Oklahoma landfills.

To determine variability by source type as represented by the percent of weight of the 88 measured materials in the Oklahoma-generated MSW waste stream headed for landfills.

## Needs:

- (1) Dates for field studies and report due dates will be negotiated for the final contract.
- (2) During sampling operations, the contractor and any subcontractor(s) will attend DEQ scheduled progress meetings and submit weekly reports containing the following information:
  - Summary of sampling conducted during the previous week, including locations and number of samples characterized
  - Schedule of sampling for the next week
  - Reports of any problems, contingency measures taken and significant findings.
  - Recommendations for adjustments to procedures or general study design if needed

# EXHIBIT 1 - SCOPE OF WORK

## Study Design:

The study design is a critical step to ensuring the statistical validity of the data collected. The chosen contractor will submit for DEQ approval a final study design within 10 days of the contract notice-to-proceed. The study design will describe the elements below.

## Provide for RFP:

A preliminary study design or plan the proposer intends to follow in order to meet the requirements of this project as detailed below.

### 1. Description of the sampling methodology

The study design will include a description of the sampling methodology that will result in representative data for the State of Oklahoma disposal composition data for residential, ICI and C&D MSW streams. The contractor will disaggregate the ICI source to provide a separate estimate for material originating with multi-family dwellings with five or more units. (Note: The composition characteristics of multifamily (5+ units) waste may be significantly different from single family residential and from institutional/commercial/industrial waste. Proposers should include a description of the feasibility of a separate composition estimate for multi-family waste.) The DEQ is seeking to establish an estimated percent composition for each material type with a 90% confidence interval that is as narrow as possible. The contractor will describe statistical methods used in the methodology, provide references to pertinent information, describe any assumptions made in the methodology, and standards employed.

### 2. Sampling methodology:

The study design will recommend for DEQ approval:

- a. Number and location of sampling sites (if sites other than MSW landfills are recommended, the contractor will explain why these are appropriate or necessary)  
The contractor will be responsible for solicitation of licensed landfills to participate in the study. DEQ has no authority to require regulated facilities to participate in the waste sort.
- b. Number of samples to be taken at each site and time frame for taking samples at each site.
- c. Weight(s) of each sample (minimum and average).
  - i. Number of samples to be taken to achieve the proposed 90% confidence interval. Include the number of samples to be characterized for each site and source (residential, ICI with separate multi-family if possible, and C&D).
- d. The final number of categories and final list of material types into which waste will be sorted (draft list is found in Appendix 1). The contractor will work with the DEQ to finalize definitions provided by DEQ for each category and material type.

# EXHIBIT 1 - SCOPE OF WORK

- e. Timing of sampling to address possible variation in load composition due to holidays, large special events, and weekend recreation.
- f. Procedures to estimate the composition and source of mixed loads.

## 3. Data collection and recording:

The contractor will include a data collection and recording plan as part of the study design. This plan will specify the data collection protocol and proposed methodology to record composition and weights and to determine the percent of the waste stream that is residential, ICI with separate multi-family, and C&D.

## 4. Staffing, Health & Safety Plans:

Provide for RFP:

- a. Describe how the staff of the contractor and any subcontractor(s) will be organized to complete the project.
- b. Describe the health and safety programs of the contractor and subcontractor(s) including training levels of the staff completing work on this project.

The contractor will identify staffing needs for all tasks and activities. This will include a list of staff required, distinguishing between key personnel and contract or hourly hires, and the roles and responsibilities of all key staff. The contract will specify the number of staff needed for the sorts, including supervisory and other support staff, and the training and qualifications of the sort staff.

In addition, the contractor will specify the health and safety measures that will be observed, including any special field procedures, training, or equipment used, and will document that these are consistent with trade standards for worker health and safety.

Provide resumes or summaries, describing the relevant educational and work experiences for each of the key proposer and subcontractor staff who will be assigned to this project. If you plan to hire an individual or individuals for this project, provide position descriptions. For each of the employees involved with this project describe what their responsibilities will be within this project. Include contract/hourly staff needs, minimum qualifications of staff, specialized training provided to staff, and level of supervision maintained. Include information on any subcontractors, with address (including e-mail), contact person and telephone number.

# EXHIBIT 1 - SCOPE OF WORK

## 5. Data Entry, Analysis and Reporting

The contractor or subcontractor will enter all data collected into spreadsheets or a database compatible with Microsoft Office system software used by the Department. The contractor or subcontractor will aggregate data and perform standard statistical analysis including average composition, standard deviation, and confidence intervals for a 90% confidence level. Composition data will be reported statewide by source type. Specialized statistical analyses may be required to assess sources of variability. The contractor will also provide counts for certain specified materials.

The contractor will maintain the data in a format that can be transferred to DEQ for subsequent use by DEQ staff, to the extent possible given confidentiality limitations. The data will include documentation describing how the data are organized and formatted, item descriptions, and any special characteristics of the dataset. If the data are stored in a database system, database management standards for relational databases will be observed. Data submittals must include text summaries, infographics for general public consumption, and waste composition tables for all categories and material types. The final data, as appropriate given confidentiality constraints, will be submitted to the department and become the exclusive property of the department.

## 6. Sampling and Sorting

The contractor will conduct all sampling and sorting of waste as outlined in the proposal and subsequently in the study design to obtain waste composition data. Composition samples will be physically sorted except where impractical or where visual sorting is more appropriate and approved by DEQ.

The contractor will provide DEQ with a detailed plan prior to beginning any field work, describing the methods to be used once sampling sites have been selected. The plan will include:

- preliminary schedule of work
- enumeration of start-up tasks
- review of logistical arrangements and special training
- how personnel will coordinate sorting activities with facilities and haulers
- identification of any in-kind services (including equipment use) arranged with facilities

## 7. Prepare Comprehensive Report and present results.

Provide for RFP: Nothing needs to be provided for this section.

# EXHIBIT 1 - SCOPE OF WORK

The contractor will submit to the DEQ a preliminary draft and a final comprehensive report. Prior to preparing the final report, the contractor will submit for DEQ approval an outline of the final report, including draft tables, data summaries, and infographics. The final report will include changes requested by DEQ from the preliminary report and will be submitted camera-ready in electronic form. All data collected in this study and subsequent reports and tables will be submitted to and become the property of DEQ, except where confidentiality considerations with participating landfills or haulers prevent data from being shared. The contractor will not publish results from this study in any form without prior approval of DEQ.

## 8. Recycling

Compile a state-wide list of curbside and drop-off recycling facilities, and a list of end-users/ markets for recyclable materials in the state.

## 9. RFP Special Terms and Conditions

**Payment Requirements** All invoices shall be per completed report. All invoices shall be all inclusive. Any travel must be based on the current General Services Administration rate.

# EXHIBIT 1 - SCOPE OF WORK

## Appendix 1. Oklahoma Waste Sort Categories

### ***Material List***

Material types for all aspects of this project will be based on this list, which may be negotiated for the final contract.

#### **Paper**

Newsprint (ONP)  
High grade office paper  
Magazines/catalogs  
Uncoated OCC- recyclable  
Coated OCC  
Boxboard  
Cartons – gable top/aseptic  
Mixed paper – recyclable  
Compostable paper  
Other paper

#### **Plastic**

PET (#1) bottles/jars  
Natural HDPE (#2) bottles/jars  
Colored HDPE (#2) bottles/jars  
PP (#5) bottles  
Other (#3, #4, #6 and #7) bottles  
PET (#1) non-bottle rigid containers and packaging  
HDPE (#2) non-bottle rigid containers and packaging  
PP (#5) non-bottle rigid containers and packaging  
PS (#6) non-foam, non-bottle rigid containers and packaging  
Other (#7)/unidentifiable non-bottle rigid containers and packaging  
Rigid non-packaging  
Bulky rigid plastics  
PE recyclable film  
Agricultural film  
Pouches  
Other flexible films  
PS foam (#6)  
Compostable plastics  
Other plastics

\*Please note medical marijuana packaging

#### **Metals**

Aluminum beverage containers  
Other aluminum  
Ferrous (“tin”) cans  
Other ferrous scrap  
Non-ferrous metals  
Other metal

#### **Glass**

Clear containers – beverage  
Colored containers – beverage  
Glass food containers  
Other glass

#### **Organic Materials**

Yard materials – <6”  
Yard materials – >6”  
Food scraps (not traditionally edible)  
Wasted food  
Diapers  
Animal waste/kitty litter  
Bottom fines/dirt  
Other organic material

#### **Construction & Demolition Debris**

Treated wood  
Untreated clean dimensional lumber  
Untreated clean engineered wood  
Painted/stained wood  
Other recyclable wood  
Rock, concrete, brick  
Gypsum wallboard – demo  
Gypsum wallboard – clean scrap  
Roofing shingles  
PVC  
Ceramics/porcelain fixtures  
Other C&D

# EXHIBIT 1

## **Electronics**

Televisions – CRT  
Televisions – non-CRT  
Covered electronic equipment  
Non-covered electronic equipment  
Small electrical appliances  
Products with embedded batteries  
Solar/photovoltaic (PV) panels and system components

## **Batteries**

Primary  
Wet cell  
Rechargeable, lithium-ion  
Rechargeable, other

## **Bulky Waste**

White goods – refrigerated  
White goods – non-refrigerated  
Mattresses and box springs  
Wood furniture  
Carpet  
Carpet padding  
Wood pallets  
Other bulky items

## **Other Waste**

Textiles  
Fluorescent light tubes  
Compact fluorescent light bulbs  
Automotive used oil/filters  
Tires  
Aerosol cans  
Compressed gas containers  
Paint  
Household hazardous waste  
Other hazardous material

# EXHIBIT 1

## Appendix 2. Category and Material Definitions

### **PAPER**

Newsprint (ONP) - printed groundwood newsprint, including glossy advertisements and inserts typically found in newspapers.

High grade office paper - high grade continuous form computer paper, white paper including bond, photocopy and notebook paper, and colored ledger paper primarily found in offices.

Key points:

- Kraft envelopes go into Mixed paper - recyclable.
- If high grade paper is wet, it should still go into this category because it is assumed to have become wet after being discarded.
- If paper is brighter than pastel, it belongs in Mixed paper - recyclable.

Examples:

- Bond computer paper, index cards, computer cards, notebook paper, xerographic and typing paper, tablets (yellow and with clear glue binding), manila folders, white register receipts, non-glossy fax paper.

Magazines/catalogs - magazines, catalogs, promotional materials printed on glossy paper; does not include telephone directories or books.

Uncoated OCC - recyclable - uncoated cardboard with a wavy core and not contaminated with other materials such as wax or plastic coating.

Key points:

- OCC with Styrofoam attached to it that cannot be removed belongs in Other paper category.

Coated OCC - cardboard coated with wax or plastic.

Boxboard - chipboard boxes not coated with wax, plastic, or metal.

Examples:

- Cereal boxes, other chipboard food containers, shirt boxes.
- Wet-strength papers used to package items such as ice cream and cases of soda pop and beer belong in Mixed paper - recyclable.

Cartons (gable top/aseptic) - food and beverage product packaging

Examples:

- Refrigerated or shelf-stable juice, milk, soy milk, or soup containers

# EXHIBIT 1 - SCOPE OF WORK

Mixed paper - recyclable - paper that would be included in residential "mixed mail" or commercial "office pack" recycling programs, not including the grades identified above.

Examples:

- Paper bags (including kraft), envelopes, egg cartons, tissue roll cores, telephone directories, books, brightly colored paper, calendars, "junk" mail, tablets with colored glue bindings, wet-strength papers used to package items such as ice cream and cases of soda pop and beer.

Compostable paper - plastic lined paper products meeting ASTM D-6868, food contaminated paper (including OCC) and low-grade paper that does not fit into the mixed paper - recyclable category.

Other paper - all paper that doesn't fit into the categories specified above and items that are primarily paper but include other materials such as plastic or metal.

Key points:

- If the sorter is 99% sure that the generator intended to reuse the paper in such a way that it became contaminated for recycling, put that paper into this category (e.g., paper used to dispose of chewing gum, paper sprayed with paint).
- If it would take an effort to make the paper recyclable, put it into this category.

Examples:

- Paper or boxboard coated with wax, plastic or metal, photographs, laminated paper.

## PLASTICS

PET (#1) bottles/jars - polyethylene terephthalate >2"

Key points:

- Look for the label "1" on the bottom.
- PET and PVC can be differentiated because PET containers have a nub or 'belly button' while PVC containers have a seam or 'smile.'
- Items not clearly identified as PET, narrowing down to a neck, go into Other containers.

Examples:

- Some bottles for beverages, detergent, toiletries and honey, jars for peanut butter and mayonnaise.

Natural HDPE (#2) bottles/jars - unpigmented high-density polyethylene >2"

Key points:

- Look for the label "2" on the bottom.
- Opaque or translucent matte finish.

# EXHIBIT 1 - SCOPE OF WORK

Examples:

- Clear or uncolored bottles for dairy products, detergent, windshield fluid, eye drops, rubbing alcohol, vinegar, and some shampoo, fabric softener, antifreeze, bleach.

Colored HDPE (#2) bottles/jars - pigmented high-density polyethylene > 2"

Key points:

- Look for the label "2" on the bottom.

Examples:

- Colored bottles for orange juice, detergent, windshield fluid, and some shampoo, fabric softener, antifreeze, bleach.

PP (#5) bottles - polypropylene that narrows at the neck >2"

Other (#3, #4, #6 and #7) bottles - other plastics that narrow at the neck >2"

PET (#1) non-bottle rigid containers and packaging - polyethylene terephthalate tubs, cups, clamshells, and trays that are > 2" and <2 gallons

HDPE (#2) non-bottle rigid containers and packaging - high density polyethylene tubs, cups, clamshells, and trays that are >2" and <2 gallons

PP (#5) non-bottle rigid containers and packaging - polypropylene tubs, cups, clamshells, and trays that are > 2" and <2 gallons

PS (#6) non-foam, non-bottle rigid containers and packaging - non-foam polystyrene tubs, cups, clamshells, and trays that are > 2" and <2 gallons

Other (#7)/unidentifiable non-bottle rigid containers and packaging - other tubs, cups, clamshells, and trays that are > 2" and <2 gallons

Rigid non-packaging - items >2" and < 2 gallons

Examples:

- Hangers, small plastic toys

Bulky rigid plastics - items > 2 gallons

PE recyclable film - bags and wraps excluding agricultural films

Agricultural film - film plastic used for storage of farm materials such as feed; plastic film used for mulch.

Pouches - flexible containers that are multilayered (PE or multi-resin)

# EXHIBIT 1 - SCOPE OF WORK

Other flexible films - non-PE film and non-film flexibles

Examples:

- Chip bags, candy wrappers, woven grain bags, contaminated PE film such as garbage bags and salt bags

PS foam (#6) - Expanded polystyrene >2”

Compostable plastics - plastic products meeting ASTM D6400

Other plastics - Items <2” or not covered above including other foam and multi-material items

Examples:

- Twine, strapping, toothbrushes, razors, dustpan brushes, unattached caps

\*Please note medical marijuana packaging

Key points:

- Look for labels with red exclamation point, description of THC content.

Examples:

- Plastic tubes assorted sizes, black plastic type baggies with child-proof closure mechanism.

## METALS

Aluminum beverage containers - aluminum beverage containers.

Other aluminum - all aluminum except beverage containers.

Key points:

- If the material is not recognizable as aluminum and it is not attracted to a magnet, it belongs in Other non-ferrous.

Examples:

- Aluminum foil, aluminum pie plates, aluminum siding, aluminum lawn chairs.

Ferrous (“tin”) cans - steel food and beverage containers, including steel soft drink, beer and other beverage containers, and steel pet food cans.

Other ferrous scrap - ferrous and alloyed ferrous metal scrap to which a magnet is attracted (includes household, commercial and industrial materials); excluding aerosol cans and compressed gas containers

Examples:

# EXHIBIT 1 - SCOPE OF WORK

- Metal clothes hangers, sheet metal products, pipes, steel drums, stainless steel cookware, flashing, and metal scraps.

Non-ferrous metal - all other non-magnetic metal, such as brass and copper, that are not recognized as aluminum.

Other metal - metal that cannot be put in any other category. This includes items made mostly of metal but combined with other materials and items made of both ferrous and non-ferrous metals.

Examples:

- Motors, insulated wire, engines, and lawn mowers.

## GLASS

Clear containers - beverage - clear glass beverage containers.

Colored containers - beverage - colored glass beverage containers.

Glass food containers - clear and colored glass food containers.

Other glass - all glass that doesn't fit into the categories specified above and items that are primarily glass but include other materials such as plastic or metal.

Key points:

- If the glass is broken and not 100 percent identifiable as food or beverage glass, it belongs in Other glass.

Examples:

- Plate glass, drinking glass, cooking utensils, ash trays, mirrors, Pyrex, dinner plates and other household ceramic items, medicine and chemical bottles, incandescent light bulbs, and fragments.

## ORGANIC MATERIALS

Yard materials - <6" - leaves, grass clippings, yard and garden debris and brush, including clean woody vegetative material no greater than 6 inches in diameter.

Key points:

- This material does not include stumps, roots or shrubs with intact root balls. Also separate and assess weight of any bags marked as invasive plant species.

Yard materials - >6" - woody vegetative material greater than 6 inches in diameter, stumps, roots or shrubs with intact root balls.

# EXHIBIT 1 - SCOPE OF WORK

Food scraps - traditionally inedible material capable of being decomposed by micro-organisms with sufficient rapidity as to cause nuisances from odors and gases; putrescibles.

Examples:

- Food preparation waste, food scraps, kitchen wastes, waste parts from butchered animals.

Wasted food - material capable of being decomposed by micro-organisms; putrescibles; that is not a result of preparation waste or scraps, but typically edible or spoiled food that was wasted because of spoilage or discarded before being eaten.

Diapers - infant and adult disposable diapers. Cotton diapers belong in Textiles category.

Animal waste/kitty litter - self defined.

Key points:

- Animal carcasses belong in Other organic material.

Bottom fines/dirt - small fragments that pass through the ¼” sort screen, and miscellaneous fines and dirt.

Other organic material - all organic material that doesn't fit into the categories specified above, and items that are primarily organic but include other materials such as plastic or metal.

Examples:

- Cotton balls, feminine hygiene products, hair, rubber products, and animal carcasses.

## CONSTRUCTION & DEMOLITION DEBRIS

Treated wood - lumber that is either green or brown treated.

Examples:

- Railroad ties, some wood fencing and siding, and playground equipment.

Untreated clean dimensional lumber - unpainted, untreated new or demolition dimensional lumber such as 2x4s, 2x6s, etc. May contain nails or other trace contaminants

Untreated clean engineered wood - unpainted new or demolition scrap from sheet goods such as plywood, particle board, wafer board, oriented strand board and other residual materials used for sheathing and related construction uses. May contain nails or other trace contaminants including incidental/small amounts of paint such as board ends.

Painted/stained wood - wood that has had an external coating applied, such as paint or varnish in more than small amounts.

Examples:

# EXHIBIT 1 - SCOPE OF WORK

- Painted siding, baseboards and moldings, cabinets, varnished handrails, finished wood doors.

Other recyclable wood - recyclable wood not included in any other category, including untreated, unpainted scrap from furniture and cabinet making and untreated, unpainted scrap from roofing and siding.

Key points:

- Wood pallets belong in Wood pallets category.

Rock, concrete, brick - rock gravel, Portland cement mixtures (set or unset), fire-clay bricks, asphalt pavement.

Gypsum wallboard - demo - used gypsum drywall typically with paint, wallpaper, or other finish coating.

Gypsum wallboard - clean scrap - unpainted gypsum drywall construction cutoffs and scrap.

Roofing shingles - asphalt shingles tarpaper; also tar-paper from built-up roofing.

PVC - construction and demolition materials made of polyvinyl chloride; primarily piping.

Ceramics/porcelain fixtures - finished ceramic or porcelain household fixtures such as toilets, tiling, and sinks.

Other C&D - any other material used in home construction.

Examples:

- Insulation, linoleum, nails, adhesives, tubs, showers, and cabinets, composite ceiling tiles, fiberglass insulation, asphalt from built-up roofing.

## ELECTRONICS

CRTs - televisions and monitors with cathode-ray tubes. Includes console television and rear projection televisions.

Televisions and monitors - non-CRT - LCD, LED plasma, and other televisions and monitors without cathode-ray tubes.

- Covered devices- Laptop computers, notebook computers, desktop computer processing units (CPUs), tablets.
- 

Non-covered devices- electronic equipment - items with significant circuitry.

Examples:

# EXHIBIT 1 - SCOPE OF WORK

- Cell phones, digital cameras, telephones, portable video games, MP3 players, CD players, stereo equipment, phone answering machines, computer peripherals (keyboards, printers, mice, disk drives, modems, flash drives, scanners, etc.

Small electrical appliances - small products or appliances with electrical cord or battery power source and may have small electronic devices such as digital readouts and controls but are not heavily reliant on computer circuitry.

Examples:

- Small kitchen and bathroom appliances (toasters, hair dryers, etc.), lamps, fans, vacuum cleaners, and power tools.

Key points:

- Small electrical appliances that are rechargeable belong in Products with embedded batteries.

Products with embedded batteries – items that contain non-removable batteries.

Examples:

- Electric toothbrushes, electric razors, water filters, light-up sneakers, key chain flashlights, smoke alarms, CO detectors, robotic vacuums, toys, vapes.

## BATTERIES

Primary – single-use everyday batteries such as AAA, AA, C, D-cells, and 9-volts.

Wet cell - automotive, tractor, motorcycle, and boat batteries.

Rechargeable, lithium-ion – dry-cell rechargeable batteries that use a lithium-based chemistry.

Rechargeable, other – dry-cell rechargeable batteries other than lithium-ion such as nickel-cadmium and nickel-metal-hydride.

## BULKY WASTE

White goods - refrigerated - major appliances that are primarily encased in metal and are designed to contain refrigerants.

Examples:

- Refrigerators, freezers, and dehumidifiers, air conditioners

White goods - non-refrigerated - major appliances that are primarily encased in metal and are not designed to contain refrigerants.

# EXHIBIT 1 - SCOPE OF WORK

Examples:

- Stoves, water heaters, washers, dryers, dishwashers, and microwave ovens.

Mattresses and box springs - self-defined.

Carpet - general category of flooring applications consisting of various natural or synthetic fibers bonded to some type of backing material.

Carpet padding - polyurethane padding used as a carpet underlay.

Wood pallets - wood pallets and crating materials commonly used for industrial and commercial packaging and shipping.

Wood furniture - broken or intact, finished or unfinished wood furniture.

Other bulky items - including upholstered furniture.

## OTHER WASTE

Textiles - clothing, bedding, curtains, blankets, stuffed animals, cotton diapers, other cloth material, and leather goods.

Fluorescent light tubes - fluorescent light tubes not including fixtures.

Compact fluorescent light bulbs - compact fluorescent light bulbs not including fixtures.

Automotive - used oil/filters - automotive oil and oil filters.

Tires - automobile, truck, tractor, motorcycle, bicycle, and trailer tires.

Paint - latex paint that has not dried, wet and dry oil-based paint, aerosol cans containing paint. Does not include empty paint cans, empty aerosol paint cans.

Aerosol cans - self defined.

Compressed gas containers – self-defined.

Household hazardous waste - all household and commercial products characterized as "toxic," "corrosive," "flammable," "ignitable," "radioactive," "poisonous," and "reactive."

Examples:

- Cleaners, solvents, antifreeze, acids, bases, mercury containing devices such as thermostats and thermometers (even if containment is broken and mercury is no longer present), pesticides/fertilizers, fluorescent light ballasts, and smoke detectors.

# EXHIBIT 1 - SCOPE OF WORK

Other hazardous materials - categorized into weights separately when possible.

Examples:

- pharmaceuticals, sharps and infectious waste.

## TASKS

COUNT = note number of items as well as weight.

PHOTO = provide one digital photograph for this material type from each sorted sample.

Note incidence of C&D materials in reusable condition and either (1) in quantity, if small, or (2) individually, if large. For example, a door in good condition would count. A couple of hinges in good condition would not, but a box of hinges would count.

## **ATTACHMENT B**

### **STATE OF OKLAHOMA GENERAL TERMS**

This State of Oklahoma General Terms ("General Terms") is a Contract document in connection with the Contract awarded by the State of Oklahoma by and through the Office of Management and Enterprise Services.

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** The State may extend the Contract for ninety (90) days beyond a final renewal term at the Contract compensation rate for the extended period. If the State exercises such option to extend ninety (90) days, the State shall notify the

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

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

## **2 Contract Effectiveness and Order of Priority**

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

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

- A.** any Amendment;
- B.** terms contained in this Contract document
- C.** any Contract-specific State terms 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 or applicable law;
- F.** any statement of work, work order, or other mutually agreed Contract documents.

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

Acquisition-specific terms. In no event will any linked document alter or override such referenced terms except as specifically agreed in an Amendment.

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

### **3 Modification of Contract Terms and Contract documents**

- 3.1** The Contract may only be modified, amended, or expanded by an 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 and information 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. If Supplier is acting as a reseller, any third-party terms provided are also subject to the foregoing.
- 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 Definitions

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

- 4.1 **Acquisition** means items, products, materials, supplies, services and equipment acquired by purchase, lease purchase, lease with option to purchase, value provided or rental under the Contract.
- 4.2 **Amendment** means a mutually executed, written modification to a Contract document.
- 4.3 **Bid** means an offer a Bidder submits in response to the Solicitation.
- 4.4 **Bidder** means an individual or business entity that submits a Bid in response to the Solicitation.
- 4.5 **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.
- 4.6 **Customer** means the governmental entity receiving goods or services contemplated by the Contract.
- 4.7 **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.
- 4.8 **Destination** means delivered to the receiving dock or other point specified in the applicable Contract document.
- 4.9 **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.

- 4.10 Indemnified Parties** means the State and Customer and/or its officers, directors, agents, employees, representatives, contractors, assignees, and designees thereof.
- 4.11 Inspection** means examining and testing an Acquisition (including, when appropriate, raw materials, components, and intermediate assemblies) to determine whether the Acquisition meets Contract requirements.
- 4.12 Moral Rights** means any and all rights of paternity or integrity of the Work Product and the right to object to any modification, translation or use of the Work Product and any similar rights existing under the judicial or statutory law of any country in the world or under any treaty, regardless of whether or not such right is denominated or referred to as a moral right.
- 4.13 OAC** means the Oklahoma Administrative Code.
- 4.14 OMES** means the Office of Management and Enterprise Services.
- 4.15 Solicitation** means the document inviting Bids for the Acquisition referenced in the Contract and any amendments thereto.
- 4.16 State** means the government of the state of Oklahoma, its employees and authorized representatives, including without limitation any department, agency, or other unit of the government of the state of Oklahoma.
- 4.17 Supplier** means the Bidder with whom the State enters into the Contract awarded pursuant to the Solicitation or the business entity or individual that is a party to the Contract with the State.
- 4.18 Suspension** means action taken by a suspending official under federal or state law or regulations to suspend a Supplier from inclusion on the Supplier list; be eligible to submit Bids to State agencies and be awarded a contract by a State agency subject to the Central Purchasing Act.
- 4.19 Supplier Confidential Information** means certain confidential and proprietary information of Supplier that is clearly marked as confidential and agreed by the State Purchasing Director or Customer, as applicable, but does not include information excluded from confidentiality in provisions of the Contract or the Oklahoma Open Records Act.
- 4.20 Work Product** means any and all deliverables produced by Supplier under a statement of work or similar Contract document issued pursuant to this Contract, including any and all tangible or intangible items or things that have been or will be prepared, created, developed, invented or conceived at any time

following the Contract effective date including but not limited to any (i) works of authorship (such as manuals, instructions, printed material, graphics, artwork, images, illustrations, photographs, computer programs, computer software, scripts, object code, source code or other programming code, HTML code, flow charts, notes, outlines, lists, compilations, manuscripts, writings, pictorial materials, schematics, formulae, processes, algorithms, data, information, multimedia files, text web pages or web sites, other written or machine readable expression of such works fixed in any tangible media, and all other copyrightable works), (ii) trademarks, service marks, trade dress, trade names, logos, or other indicia of source or origin, (iii) ideas, designs, concepts, personality rights, methods, processes, techniques, apparatuses, inventions, formulas, discoveries, or improvements, including any patents, trade secrets and know-how, (iv) domain names, (v) any copies, and similar or derivative works to any of the foregoing, (vi) all documentation and materials related to any of the foregoing, (vii) all other goods, services or deliverables to be provided by or on behalf of Supplier under the Contract and (viii) all Intellectual Property Rights in any of the foregoing, and which are or were created, prepared, developed, invented or conceived for the use of benefit of Customer in connection with this Contract or with funds appropriated by or for Customer or Customer's benefit (a) by any Supplier personnel or Customer personnel or (b) any Customer personnel who then became personnel to Supplier or any of its affiliates or subcontractors, where, although creation or reduction-to-practice is completed while the person is affiliated with Supplier or its personnel, any portion of same was created, invented or conceived by such person while affiliated with Customer.

## **5 Pricing**

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

## **6 Ordering, Inspection, and Acceptance**

- 6.1** Any product or service furnished under the Contract shall be ordered by issuance of a valid purchase order or other appropriate payment mechanism, including a pre-encumbrance, or by use of a valid Purchase Card. All orders and transactions are governed by the terms and conditions of the Contract. Any purchase order or other applicable payment mechanism dated prior to termination or expiration of the Contract shall be performed unless mutually agreed in writing otherwise.
- 6.2** Services will be performed in accordance with industry standards 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 agrees that any deliverables furnished by or through the Supplier shall comply with industry standards. Any such deliverable that fails to comply with applicable industry standards shall be replaced by Supplier at no additional cost or expense to the Customer.

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.

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

- 6.4** Product warranty and return policies and terms provided under any Contract document will not be more restrictive or more costly than warranty and return policies and terms for other similarly situated customers for a like product.

**7 Invoices and Payment**

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

The following terms additionally apply:

- A.** An invoice shall contain the purchase order number, description of products or services provided and the dates of such provision.
- B.** Failure to provide a timely and proper invoice may result in delay of processing the invoice for payment. Proper invoice is defined at OAC 260:10-1-2.
- C.** Payment of all fees under the Contract shall be due NET 45 days. Payment and interest on late payments are governed by 62 O.S. §34.72. Such interest is the sole and exclusive remedy for late payments by a State agency and no other late fees are authorized to be assessed pursuant to Oklahoma law.
- D.** The date from which an applicable early payment discount time is calculated shall be from the receipt date of a proper invoice. There is no obligation, however, to utilize an early payment discount.
- E.** If an overpayment or underpayment has been made to Supplier any subsequent payments to Supplier under the Contract may be adjusted to correct the account. A written explanation of the adjustment will be

issued to Supplier.

- F. Supplier shall have no right of setoff.
- G. Because funds are typically dedicated to a particular fiscal year, an invoice will be paid only when timely submitted, which shall in no instance be later than six (6) months after the end of the fiscal year in which the goods are provided or services performed.
- H. The Supplier shall accept payment by Purchase Card as allowed by Oklahoma law.

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

- 8.1** As a condition of this Contract, Supplier shall procure at its own expense, and provide proof of, insurance coverage with the applicable liability limits set forth below and any approved subcontractor of Supplier shall procure and provide proof of the same coverage. The required insurance shall be underwritten by an insurance carrier with an A.M. Best rating of A- or better.

Such proof of coverage shall additionally be provided to the Customer if services will be provided by any of Supplier's employees, agents or subcontractors at any Customer premises and/or employer vehicles will be used in connection with performance of Supplier's obligations under the Contract. Supplier may not commence performance hereunder until such proof has been provided. Additionally, Supplier shall ensure each insurance policy includes a 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.

**8.2** Supplier shall be entirely responsible during the existence of the Contract for the liability and payment of taxes payable by or assessed to Supplier or Supplier's 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, Supplier's employees, agents, or others for the payment of taxes or the provision of unemployment insurance and/or Workers' Compensation or any benefit available to a State or Customer employee.

**8.3** Supplier agrees to indemnify Customer, the State, and its employees, agents, representatives, contractors, and assignees for any and all liability, actions, claims, demands, or suits, and all related costs and expenses (including without limitation reasonable attorneys' fees and costs required to establish the right to indemnification) relating to tax liability, unemployment insurance and/or Workers' Compensation in connection with its performance under the Contract.

## **9 Compliance with Applicable Laws**

**9.1** As long as Supplier has an obligation under the terms of the Contract and in connection with performance of its obligations, the Supplier represents its present compliance, and shall have an ongoing obligation to comply, with all applicable federal, State, and local laws, rules, regulations, ordinances, and orders, as amended, including but not limited to the following:

- A. Drug-Free Workplace Act of 1988 set forth at 41 U.S.C. §81.
- B. Section 306 of the Clean Air Act, Section 508 of the Clean Water Act, Executive Order 11738, and Environmental Protection Agency Regulations which prohibit the use of facilities included on the EPA

List of Violating Facilities under nonexempt federal contracts, grants or loans;

- C.** Prospective participant requirements set at 2 C.F.R. part 376 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 [www.dhs.gov/E-Verify](http://www.dhs.gov/E-Verify);
- I.** Requirements of the Health Insurance Portability and Accountability Act of 1996; Health Information Technology for Economic and Clinical Health Act; Payment Card Industry Security Standards; Criminal Justice Information System Security Policy and Security Addendum; and Family Educational Rights and Privacy Act; and
- J.** Be registered as a business entity licensed to do business in the State, have obtained a sales tax permit, and be current on franchise tax payments to the State, as applicable.

- 9.2** The Supplier's employees, agents and subcontractors shall adhere to applicable Customer policies including, but not limited to acceptable use of Internet and electronic mail, facility and data security, press releases, and public relations.

As applicable, the Supplier shall adhere to the State Information Security Policy, Procedures, Guidelines set forth at [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.

- 9.3** At no additional cost to Customer, the Supplier shall maintain all applicable licenses and permits required in association with its obligations under the Contract.
- 9.4** In addition to compliance under subsection 9.1 above, Supplier shall have a continuing obligation to comply with applicable Customer-specific mandatory contract provisions required in connection with the receipt of federal funds or other funding source.
- 9.5** The Supplier is responsible to review and inform its employees, agents, and subcontractors who provide a product or perform a service under the Contract of the Supplier's obligations under the Contract and Supplier certifies that its employees and each such subcontractor shall comply with minimum requirements and applicable provisions of the Contract. At the request of the State, Supplier shall promptly provide adequate evidence that such persons are its employees, agents or approved subcontractors and have been informed of their obligations under the Contract.
- 9.6** As applicable, Supplier agrees to comply with the Governor's Executive Orders related to the use of any tobacco product, electronic cigarette or vaping device on any and all properties owned, leased, or contracted for use by the State, including but not limited to all buildings, land and vehicles owned, leased, or contracted for use by agencies or instrumentalities of the State.
- 9.7** The execution, delivery and performance of the Contract and any ancillary documents by Supplier will not, to the best of Supplier's knowledge, violate, conflict with, or result in a breach of any provision of, or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under, or result in the termination of, any written contract or other instrument between Supplier and any third party.
- 9.8** Supplier represents that it has the ability to pay its debts when due and it does not anticipate the filing of a voluntary or involuntary bankruptcy petition or appointment of a receiver, liquidator or trustee.
- 9.9** Supplier represents that, to the best of its knowledge, any litigation or claim or any threat thereof involving Supplier has been disclosed in writing to the State and Supplier is not aware of any other litigation, claim or threat thereof.

**9.10** 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.

## **10 Audits and Records Clause**

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

**10.2** The Supplier is required to retain records relative to the Contract for the duration of the Contract and for a period of seven (7) years following completion or termination of an Acquisition unless otherwise indicated in the Contract terms. If a claim, audit, litigation or other action involving such records is started before the end of the seven-year period, the records are required to be maintained for two (2) years from the date that all issues arising out of the action are resolved, or until the end of the seven (7) year retention period, whichever is later.

**10.3** Pursuant to 74 O.S. §85.41, if professional services are provided hereunder, all items of the Supplier that relate to the professional services are subject to examination by the State agency, State Auditor and Inspector and the State Purchasing Director.

## **11 Confidentiality**

**11.1** The Supplier shall maintain strict security of all State and citizen data and records entrusted to it or to which the Supplier gains access, in accordance with

and subject to applicable federal and State laws, rules, regulations, and policies and shall use any such data and records only as necessary for Supplier to perform its obligations under the Contract. The Supplier further agrees to evidence such confidentiality obligation in a separate writing if required under such applicable federal or State laws, rules and regulations. The Supplier warrants and represents that such information shall not be sold, assigned, conveyed, provided, released, disseminated or otherwise disclosed by Supplier, its employees, officers, directors, subsidiaries, affiliates, agents, representatives, assigns, subcontractors, independent contractors, successor or any other persons or entities without Customer's prior express written permission. Supplier shall instruct all such persons and entities that the confidential information shall not be disclosed or used without the Customer's prior express written approval except as necessary for Supplier to render services under the Contract. The Supplier further warrants that it has a tested and proven system in effect designed to protect all confidential information.

- 11.2** Supplier shall establish, maintain and enforce agreements with all such persons and entities that have access to State and citizen data and records to fulfill Supplier's duties and obligations under the Contract and to specifically prohibit any sale, assignment, conveyance, provision, release, dissemination or other disclosure of any State or citizen data or records except as required by law or allowed by written prior approval of the Customer.
- 11.3** Supplier shall immediately report to the Customer any and all unauthorized use, appropriation, sale, assignment, conveyance, provision, release, access, acquisition, disclosure or other dissemination of any State or citizen data or records of which it or its parent company, subsidiaries, affiliates, employees, officers, directors, assignees, agents, representatives, independent contractors, and subcontractors is aware or have knowledge or reasonable should have knowledge. The Supplier shall also promptly furnish to Customer full details of the unauthorized use, appropriation, sale, assignment, conveyance, provision, release, access, acquisition, disclosure or other dissemination, or attempt thereof, and use its best efforts to assist the Customer in investigating or preventing the reoccurrence of such event in the future. The Supplier shall cooperate with the Customer in connection with any litigation and investigation deemed necessary by the Customer to protect any State or citizen data and records and shall bear all costs associated with the investigation, response and recovery in connection with any breach of State or citizen data or records including but not limited to credit monitoring services with a term of at least three (3) years, all notice-related costs and toll free telephone call center services.
- 11.4** Supplier further agrees to promptly prevent a reoccurrence of any unauthorized use, appropriation, sale, assignment, conveyance, provision, release, access, acquisition, disclosure or other dissemination of State or citizen data and

records.

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

## **12 Conflict of Interest**

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

## **13 Assignment and Permitted Subcontractors**

- 13.1** Supplier's obligations under the Contract may not be assigned or transferred to any other person or entity without the prior written consent of the State which may be withheld at the State's sole discretion. Should Supplier assign its rights to payment, in whole or in part, under the Contract, Supplier shall provide the State and all affected Customers with written notice of the assignment. Such written notice shall be delivered timely and contain details sufficient for affected Customers to perform payment obligations without any delay caused by the assignment.
- 13.2** Notwithstanding the foregoing, the Contract may be assigned by Supplier to any corporation or other entity in connection with a merger, consolidation, sale of all equity interests of the Supplier, or a sale of all or substantially all of the assets of the Supplier to which the Contract relates. In any such case, said corporation or other entity shall by operation of law or expressly in writing assume all obligations of the Supplier as fully as if it had been originally made a party to the Contract. Supplier shall give the State and all affected Customers prior written notice of said assignment. Any assignment or delegation in violation of this subsection shall be void.
- 13.3** If the Supplier is permitted to utilize subcontractors in support of the Contract, the Supplier shall remain solely responsible for its obligations under the terms of the Contract, for its actions and omissions and those of its agents, employees and subcontractors and for payments to such persons or entities. Prior to a subcontractor being utilized by the Supplier, the Supplier shall obtain written approval of the State of such subcontractor and each employee, as applicable to a particular Acquisition, of such subcontractor proposed for use by the Supplier. Such approval is within the sole discretion of the State. Any proposed subcontractor shall be identified by entity name, and by employee name, if required by the particular Acquisition, in the applicable proposal and shall include the nature of the services to be performed. As part of the approval request, the Supplier shall provide a copy of a written agreement executed by the Supplier and subcontractor setting forth that such subcontractor is bound by and agrees, as applicable, to perform the same covenants and be subject to the same conditions and make identical certifications to the same facts and criteria, as the Supplier under the terms of all applicable Contract documents. Supplier agrees that maintaining such agreement with any subcontractor and obtaining prior written approval by the State of any subcontractor and associated employees shall be a continuing obligation. The State further reserves the right to revoke approval of a subcontractor or an employee thereof in instances of poor performance, misconduct or for other similar reasons.
- 13.4** All payments under the Contract shall be made directly to the Supplier, except as provided in 13.1 above regarding the Supplier's assignment of payment. No

payment shall be made to the Supplier for performance by unapproved or disapproved employees of the Supplier or a subcontractor.

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

#### **14 Background Checks and Criminal History Investigations**

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

#### **15 Patents and Copyrights**

Without exception, a product or deliverable price shall include all royalties or costs owed by the Supplier to any third party arising from the use of a patent, intellectual property, copyright or other property right held by such third party. Should any third party threaten or make a claim that any portion of a product or service provided by Supplier under the Contract infringes that party's patent, intellectual property, copyright or other property right, Supplier shall enable each affected Customer to legally continue to use, or modify for use, the portion of the product or service at issue or replace such potentially infringing product, or re-perform or redeliver in the case of a service, with at least a functional non-infringing equivalent. Supplier's duty under this section shall extend to include any other product or service rendered materially unusable as intended due to replacement or modification of the product or service at issue. If the Supplier determines that none of these alternatives are reasonably available, the State shall return such portion of the product or deliverable at issue to the Supplier, upon written request, in exchange for a refund of the price paid for such returned goods as well as a refund or reimbursement, if applicable, of the cost of any other product or deliverable rendered materially unusable as intended due to removal of the portion of product or deliverable at issue. Any remedy provided under this section is not an exclusive remedy and is not intended to operate as a waiver of legal

or equitable remedies because of acceptance of relief provided by Supplier.

## **16 Indemnification**

### **16.1 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.

### **16.2 Acts or Omissions**

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

### **16.3 Infringement**

Supplier shall indemnify the Indemnified Parties, as applicable, for all liability, claims, damages, losses, costs, expenses, demands, suits and actions of third parties (including without limitation reasonable attorneys' fees and costs required to establish the right to indemnification) arising from or in connection with Supplier's breach of its representations and warranties in the Contract or alleged infringement of any patent, intellectual property, copyright or other property right in connection with a product or service provided under the

Contract. Supplier's duty under this section is reduced to the extent a claimed infringement results from: (a) a Customer's or user's content; (b) modifications by Customer or third party to a product delivered under the Contract or combinations of the product with any non-Supplier-provided services or products unless Supplier recommended or participated in such modification or combination; (c) use of a product or service by Customer in violation of the Contract unless done so at the direction of Supplier, or (d) a non-Supplier product that has not been provided to the State by, through or on behalf of Supplier as opposed to its combination with products Supplier provides to or develops for the State or a Customer as a system.

#### **16.4 Notice and Cooperation**

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

#### **16.5 Coordination of Defense**

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

#### **16.6 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 the negligence or intentional misconduct of the Supplier or its employees, agents or subcontractors; indemnity, security or confidentiality obligations under the Contract; the bad faith, negligence, intentional misconduct or other acts for which applicable law does not allow exemption from liability of Supplier or its employees, agents or subcontractors.
- C.** The limitation of liability and disclaimers set forth in the Contract will apply regardless of whether Customer has accepted a product or service. The parties agree that Supplier has set its fees and entered into the Contract in reliance on the disclaimers and limitations set forth herein, that the same reflect an allocation of risk between the parties and form an essential basis of the bargain between the parties. These limitations shall apply notwithstanding any failure of essential purpose of any limited remedy.

## **17 Termination for Funding Insufficiency**

- 17.1** Notwithstanding anything to the contrary in any Contract document, the State may terminate the Contract in whole or in part if funds sufficient to pay obligations under the Contract are not appropriated or received from an intended third-party funding source. In the event of such insufficiency, Supplier will be provided at least fifteen (15) calendar days' written notice of termination. Any partial termination of the Contract under this section shall not be construed as a waiver of, and shall not affect, the rights and obligations of any party regarding portions of the Contract that are not terminated. The determination by the State of insufficient funding shall be accepted by, and shall be final and binding on, the Supplier.
- 17.2** Upon receipt of notice of a termination, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted

as satisfactory prior to the effective date of termination, the termination does not relieve an obligation to pay for the product or service but there shall not be any liability for further payments ordinarily due under the Contract or for any damages or other amounts caused by or associated with such termination. Any amount paid to Supplier in the form of prepaid fees that are unused when the Contract or certain obligations are terminated shall be refunded.

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

## **18 Termination for Cause**

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

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

**18.3** 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.

**18.4** 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.

**18.5** 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.

## **19 Termination for Convenience**

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

**19.2** Upon receipt of notice of such termination, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory nor to the effective date of termination, the termination does not relieve an obligation to pay for the product or service but there shall not be any liability for further payments ordinarily due under the Contract or for any damages or other amounts caused by or associated with such termination. Such termination shall not be an exclusive remedy but shall be in addition to any other rights and remedies provided for by law. Any amount paid to Supplier in the form of prepaid

fees that are unused when the Contract or certain obligations are terminated shall be refunded. Termination of the Contract under this section, in whole or in part, shall not relieve the Supplier of liability for claims arising under the Contract.

## **20 Suspension of Supplier**

**20.1** Supplier may be subject to Suspension without advance notice and may additionally be suspended from activities under the Contract if Supplier fails to comply with confidentiality, privacy, security, environmental or safety requirements applicable to Supplier's performance or obligations under the Contract.

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

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

## **21 Certification Regarding Debarment, Suspension, and Other Responsibility Matters**

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

## **22 Certification Regarding State Employees Prohibition From Fulfilling Services**

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

## **23 Force Majeure**

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

## **24 Security of Property and Personnel**

In connection with Supplier's performance under the Contract, Supplier may have access to Customer personnel, premises, data, records, equipment and other property.

Supplier shall use commercially reasonable best efforts to preserve the safety and security of such personnel, premises, data, records, equipment, and other property of Customer. Supplier shall be responsible for damage to such property to the extent such damage is caused by its employees or subcontractors and shall be responsible for loss of Customer property in its possession, regardless of cause. If Supplier fails to comply with Customer's security requirements, Supplier is subject to immediate suspension of work as well as termination of the associated purchase order or other payment mechanism.

## **25 Notices**

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

### **If sent to the State:**

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

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

Purchasing Division Deputy General Counsel  
2401 N. Lincoln Blvd., Second Floor  
Oklahoma City, Oklahoma 73105

## **26 Miscellaneous**

### **26.1 Choice of Law and Venue**

Any claim, dispute, or litigation relating to the Contract documents, in the singular or in the aggregate, shall be governed by the laws of the State without regard to application of choice of law principles. Pursuant to 74 O.S. §85.7(F), where federal granted funds are involved, applicable federal laws, rules and regulations shall govern to the extent necessary to insure benefit of such federal funds to the State. Venue for any action, claim, dispute, or litigation relating in any way to the Contract documents, shall be in Oklahoma County, Oklahoma. The State expressly declines any terms that minimize its rights under Oklahoma law, including but not limited to, Statutes of Limitations.

## **26.2 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.

## **26.3 Transition Services**

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

## **26.4 Publicity**

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

## **26.5 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. 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.

## **26.6 Failure to Enforce**

Failure by the State or a Customer at any time to enforce a provision of, or exercise a right under, the Contract shall not be construed as a waiver of any such provision. Such failure to enforce or exercise shall not affect the validity of any Contract document, or any part thereof, or the right of the State or a Customer to enforce any provision of, or exercise any right under, the Contract at any time in accordance with its terms. Likewise, a waiver of a breach of any provision of a Contract document shall not affect or waive a subsequent breach of the same provision or a breach of any other provision in the Contract.

## **26.7 Mutual Responsibilities**

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

## **26.8 Invalid Term or Condition**

To the extent any term or condition in the Contract conflicts with a compulsory applicable State or United States law or regulation, such Contract term or condition is void and unenforceable. By executing any Contract document

which contains a conflicting term or condition, no representation or warranty is made regarding the enforceability of such term or condition. Likewise, any applicable State or federal law or regulation which conflicts with the Contract or any non-conflicting applicable State or federal law or regulation is not waived.

#### **26.9 Severability**

If any provision of a Contract document, or the application of any term or condition to any party or circumstances, is held invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable and the application of such provision to other parties or circumstances shall remain valid and in full force and effect. If a court finds that any provision of this contract is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

#### **26.10 Section Headings**

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

#### **26.11 Sovereign Immunity**

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

#### **26.12 Survival**

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

#### **26.13 Entire Agreement**

The Contract documents taken together as a whole constitute the entire agreement between the parties. No statement, promise, condition, understanding, inducement or representation, oral or written, expressed or

implied, which is not contained in a Contract document shall be binding or valid. The Supplier's representations and certifications, including any completed electronically, are incorporated by reference into the Contract.

#### **26.14 Gratuities**

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

#### **26.15 Import/Export Controls**

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

**ATTACHMENT C**

**AGENCY TERMS**

Intentionally left blank.

**ATTACHMENT C**

**AGENCY TERMS**

Intentionally left blank.

## 6 | ADDITIONAL BIDDER TERMS

SCS has no additional exceptions to the provided bidder terms.

## **ATTACHMENT E2**

### **MASTER TERMS**

Intentionally left blank.

June 20, 2025

Jason LaPierre  
Oklahoma Office of Management & Enterprise Services  
2401 N. Lincoln Blvd., Second Floor  
Oklahoma City, OK 73105

Submitted via email to [Jason.lapierre@omes.ok.gov](mailto:Jason.lapierre@omes.ok.gov)

**Subject: Four-Season Municipal Waste Characterization Study (EV00000548 - BAFO)**

SCS Engineers (SCS) appreciates the opportunity to provide a best and final offer (BAFO) to the State of Oklahoma Department of Environmental Quality (DEQ) for the Statewide Material Characterization Study (Study). The DEQ requested a BAFO to have five landfills sorted in two distinct seasons, one landfill in each of the four zones, and one in the OKC Zone.

Based on this information, SCS is proposing sorting at two large landfills (OKC Zone and Zone 2), two medium landfills (Zone 3 and Zone 4), and one small landfill (Zone 1). This approach not only captures data geographically across the state but also provides a good representation of the size of landfills, the quantities of waste they manage, and the types of generators and population base that use these facilities.

This proposed approach estimates a total of 36 sort days for the Study as follows:

- 20 Total sort days for the two Large Landfills
- 12 Total sort days for the two Medium Landfills
- 4 Total sort days for the one Small Landfill

SCS will work with DEQ staff to develop a work plan which will finalize the selection of landfills and zones, and schedule for completion of the Study. A BAFO pricing table is attached with this cover letter.

As mentioned in our original response to the Request for Proposals and during our interview, our team is committed to tailoring a work plan that meets your project needs and budget. Please let us know if you have any questions and we look forward to working with you!



Steve Linehan, PE  
Vice President/Project Director

**SCS ENGINEERS**

[SLinehan@scsengineers.com](mailto:SLinehan@scsengineers.com)

(405) 265.3960 (office)



Jeff Phillips  
Senior Project Manager

**SCS ENGINEERS**

[jdphillips@scsengineers.com](mailto:jdphillips@scsengineers.com)

(515) 249-7554 (cell)

Attachments: BAFO Form and BAFO Cost Estimate





Date of Issuance: 6/12/2025 Solicitation No. EV00000548

**ISSUED BY:**


Contracting Officer: Jason LaPierre  
E-Mail Address: Jason.lapierre@omes.ok.gov

**Request:**

The State is requesting your **best and final offer ("BAFO")**. Please submit this form with your BAFO via e-mail to the Contracting Officer above by, **Friday, June 20<sup>th</sup>, 2025 at 1:00PM Central Time.**

If you do not lower your offer price, please explain why. If you do not offer a lower price or an explanation for why you cannot lower the price, you may be removed from consideration. You may submit your BAFO below or return this form and a separate word/pdf/excel document.

You may contact the Contracting Officer above if you have questions regarding this request.

<u>SCS Engineers</u>	<u>6/20/25</u>
Supplier Company Name ( <b>PRINT</b> )	Date
<u>Jeff Phillips</u>	<u>Senior Project Manager</u>
Authorized Representative Name ( <b>PRINT</b> )	Title
	
	Authorized Representative Signature

**SCS Engineers - BAFO Cost Estimate for 5 Landfills Sorted in Two Distinct Seasons Each**

Pricing	
Description	Unit Cost
Executive Summary of Study per Scope of Work	\$ 10,000.00
Introduction Report per Scope of Work	\$ 10,000.00
Field Reports per Scope of Work	\$ 28,000.00
Site Studies per Scope of Work	\$ 322,000.00
Photos per Scope of Work	Included
Final Report per Scope of Work	\$ 24,000.00
Total	\$ 394,000.00

Rates must be all-inclusive, covering travel and per diem expenses, which must be incorporated into the total rate. Per diem should align with Federal Travel rates as specified at [GSA Per Diem Rates](<https://www.gsa.gov/travel/plan-book/per-diem-rates>).

## 9 | OFFER OF VALUE-ADDED PRODUCTS AND/OR SERVICES

The RFP states that there is no request for an offer of value-added services as part of this solicitation.

# ATTACHMENT G

## FEDERAL FUNDING TERMS

This State of Oklahoma Federal Funding Terms is a Contract document in connection with a Contract awarded by and through the State of Oklahoma, Office of Management and Enterprise Services, with a vendor, supplier, or contractor ("Supplier"). Supplier acknowledges that acquisitions under this Contract may use federal assistance for purposes of funding the acquisition. When procuring property and services using Federal financial assistance, the State must follow the same policies it uses for procurements from its non-Federal funds along with all other requirements of the Title 2 U.S. Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance). In addition, the State and Supplier ("Parties") must agree to the standards identified in Federal Regulations 2 CFR Sections 200.321 through 200.323 and ensure purchase orders, contracts, or subcontracts include clauses required by 2 CFR Section 200.327.

*The terms and conditions provided in this Attachment are general Federal award requirements. Additional terms, conditions, or exceptions may be required that are specific to the Federal financial assistance used in each procurement transaction. Any additional terms, conditions, or exceptions shall be incorporated into a purchase order, contract, or subcontract to ensure compliance with the Federal financial assistance attached to this Contract.*

In addition to the terms contained in applicable Contract documents and the requirements mentioned above, the Parties agree to the following Federal Funding Terms.

### 1 AFFIRMATIVE STEPS FOR CONTRACTING.

- 1.1 Parties acknowledge that any non-Federal entity included in this Contract must take affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. In addition to and in conjunction with 74 O.S. Sections 85.45 through 85.45i., those affirmative steps must include:
- a. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
  - b. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
  - c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
  - d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

- e. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- f. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (a.) through (e.) of this section.

**2 INFORMATION SUBMITTED.**

Supplier acknowledges that all information, reports, and other documents and data submitted to the State and its representatives in connection with this Contract were, at the time they were (or will be) furnished, and are, as of the date hereof (or will be as of the date they are furnished), true, correct, and complete in all material respects.

**3 COMPETITIVE BIDDING.**

All funds received by the Supplier herein are subject to the State Purchasing Act and the procurement standards found in 2 CFR Sections 200.321 through 200.323, and 2 CFR Section 200.327. The Supplier acknowledges and agrees that these funds were to the best of Supplier's knowledge competitively bid or covered by an exemption as described therein.

**4 AUDITING AND MONITORING REQUIREMENTS.**

Supplier acknowledges that the funds used in this transaction are subject to the requirements found in Sections 2 CFR Sections 200.500 through 2 CFR § 200.520; and therefore, the State is subject to audit by Federal and State entities.

**4.1** The Supplier agrees to provide the State of Oklahoma, the U.S. Department of Treasury, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Supplier which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts, and transcriptions. The Supplier agrees to permit any of the foregoing parties to copy or reproduce, by any means, excerpts and transcriptions as reasonably needed, and agrees to cooperate with all such requests. All records related to this transaction must be kept for five years after the completion of this Contract.

**4.2** If applicable, the Supplier agrees to provide the Treasury Department or authorized representatives access to construction or other work sites pertaining to the work being completed under the Contract.

**4.3** No language in this Contract is intended to prohibit audits or internal reviews by the Treasury Department or the Comptroller General of the United States.

**4.4** The Supplier further agrees to include a provision requiring such compliance in its lower tier covered transactions.

## 5 BUYING PREFERENCES.

**5.1 Domestic Preferences, 2 CFR Section 200.322.** Supplier should, to the greatest extent practicable under the scope of this Contract, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards, including all contracts and purchase orders for work or products under this Contract. For purposes of this section:

- a. "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
- b. "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber; and
- c. Federal financial assistance for infrastructure projects must implement the Buy America preferences set forth below.

**5.2 Buy America Preference, 2 CFR Part 184.** Applies to Federal awards where funds are appropriated or otherwise made available for infrastructure projects in the United States, regardless of whether infrastructure is the primary purpose of the Federal award. Must be included in all subawards, contracts, and purchase orders for the work performed, or products supplied under the Federal award. Infrastructure encompasses public infrastructure projects in the United States, which includes, at a minimum, the structures, facilities, and equipment for roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property; and structures, facilities, and equipment that generate, transport, and distribute energy including electric vehicle (EV) charging.

## 6 STATUTES AND REGULATIONS PROHIBITING DISCRIMINATION.

**6.1 Executive Order 11246, "Equal Employment Opportunity,"** as amended by EO 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor. Applies to any construction work and subcontract work, or modification thereof, which is paid for in whole or in part with funds obtained from the Federal Government, unless otherwise exempted.

**Construction Contracts 41 CFR Section 60-1.4(b).** During the performance of this contract, the contractor agrees as follows:

- a. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

- b. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause. which includes that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- c. The contractor will not discharge or discriminate against any employee or applicant for employment because they inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This does not apply to instances in which an employee who has access to the compensation as part of the employee's essential job function discloses the compensation to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- d. The contractor will send to each labor union or representative of workers with which a collective bargaining agreement is in place or other contract or understanding, a notice to be provided advising the contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

**6.2 Title VI of the Civil Rights Act of 1964** (42 U.S.C. §§ 2000d, *et seq.*) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibits discrimination on the basis of race, color, or national origin under programs or activities receiving Federal financial assistance.

**6.3 Fair Housing Act, Title VIII of the Civil Rights Act of 1968** (42 U.S.C. §§ 3601, *et seq.*), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability.

- 6.4 Section 504 of the Rehabilitation Act of 1973**, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance.
- 6.5 Age Discrimination Act of 1975**, as amended (42 U.S.C. §§ 6101, *et seq.*), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance.
- 6.6 Title II of the Americans with Disabilities Act of 1990**, as amended (42 U.S.C. §§ 12101, *et seq.*), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.
- 6.7 Protections for Whistleblowers.** In accordance with 41 U.S.C. § 4712, the Parties may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant. The list of persons and entities referenced includes the following:
- a. A member of Congress or a representative of a committee of Congress;
  - b. An Inspector General;
  - c. The Government Accountability Office;
  - d. A Treasury employee responsible for contract or grant oversight or management;
  - e. An authorized official of the Department of Justice or other law enforcement agency;
  - f. A court or grand jury; or
  - g. A management official or other employee of Recipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.

**7 CONTRACT AND SUBCONTRACT LEVEL REQUIREMENTS.**

In addition to State procurement regulations, the following Federal regulations apply.

- 7.1 Contracts and Purchases in Excess of \$2,000.** The following applies to contractors and subcontractors performing on Federal funded or assisted contracts in excess of \$2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works, and requires that Supplier must comply with two sets of regulations:

- a. **The Davis-Bacon Act (40 U.S.C. §§ 3141-3144, and 3146-3148)** as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). When applicable, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.
- b. **Copeland "Anti-Kickback" Act (40 U.S.C. § 3145)**, as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

## **7.2 Contracts and Purchases in Excess of \$10,000.**

- a. **Recovered Materials.** Any state agency or agency of a political subdivision of a state and its suppliers or contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

## **7.3 Contracts and Subcontracts for \$25,000 and Above**

- a. **Suspension and Debarment.** Restricts awards, subawards, contracts, and subcontracts with Suppliers that are debarred, suspended, or otherwise excluded, or declared ineligible for participation in federal assistance programs and activities. This Contract is a covered transaction for purposes of 2 CFR pt. 180 and 2 CFR pt. 3000. As such, the Supplier is required to verify that none of Supplier's principals (defined at 2 CFR § 180.995) or its affiliates (defined at 2 CFR § 180.905) are excluded (defined at 2 CFR § 180.940) or disqualified (defined at 2 CFR § 180.935). The Supplier must comply with 2

CFR part 180, subpart C and 2 CFR part 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into. This certification is a material representation of fact relied upon by the State of Oklahoma. If it is later determined that the Supplier did not comply with 2 CFR part 180, subpart C and 2 CFR pt. 3000, subpart C, in addition to remedies available to the State, the federal government may pursue available remedies, including but not limited to suspension and/or debarment.

#### **7.4 Contracts and Purchases \$100,000 and Above**

- a. **The Contract Work Hours and Safety Standards Act, 40 U.S.C. §§ 3701-3708.** Applies to all contracts and subcontracts of more than \$100,000 that involve the employment of mechanics or laborers. Under Section 3702 of the Act, contractors and subcontractors shall be required to compute the wages of every mechanic and laborer (including guards and watchmen) on the basis of a standard workweek of 40 hours. Work in excess of the standard workweek is permissible provided that the worker is compensated at a rate of not less than 1 1/2 times the basic rate of pay for all hours worked in excess of 40 hours in the workweek. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. *These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.*
- b. **Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352, as amended.** Supplier certifies that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. This Supplier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award and require any entities receiving subawards or contracts to do the same. Such disclosures are forwarded from tier-to-tier up to the recipient who in turn will forward the certification(s) to the awarding agency.  
*\* Contractors must sign the attached certification.*

#### **7.5 Contracts and Purchases \$150,000 and Above**

- a. **Clean Air Act (42 U.S.C. §§ 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. §§ 1251-1387), as amended.** Supplier agrees to comply with, and require all subcontractors to comply with, all applicable standards, orders, or regulations issued pursuant to these Acts. Supplier agrees to report each violation to the State entity that is party to this Contract and understands and agrees that the State entity will, in turn, report each violation as required to assure notification to the appropriate Environmental Protection

Agency.

## 7.6 Contracts and Purchases \$250,000 and Above

- a. **Remedies.** Contracts for more than the simplified acquisition threshold, currently set at \$250,000, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

## 8 OTHER APPLICABLE LAWS

- 8.1 **Increasing Seat Belt Use in the United States.** Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Supplier is encouraged to adopt and enforce on-the-job seat belt policies and programs for employees when operating company-owned, rented or personally owned vehicles.
- 8.2 **Reducing Text Messaging While Driving.** Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Supplier is encouraged to adopt and enforce policies that ban text messaging while driving and establish workplace safety policies to decrease accidents caused by distracted drivers.
- 8.3 **Publications.** Any publications produced with funds from a Federal award must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to [name of Recipient] by the U.S. Department of the Treasury."
- 8.4 **Rights to Inventions Made Under a Contract or Agreement.** If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

The term *funding agreement* means any contract, grant, or cooperative agreement entered into between any Federal agency, other than the Tennessee Valley Authority, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal government. This term also includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as defined in the first sentence of this paragraph.

**8.5 Prohibition of Certain Telecommunications and Video Surveillance Services or Equipment.**

- a. Parties agree that no Federal funds may be obligated or expended in any contract or subcontract that includes obtaining any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system.

As described in Public Law 115-232, section 889, *Covered telecommunications equipment* is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

- b. This prohibition does not prevent parties to this Contract or subcontractors from using covered telecommunications equipment and services for their own purposes, provided the covered telecommunications equipment or services are not procured with Federal funds.
- c. In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

**8.6 Termination for Cause and Convenience - Provisions under Contract Attachment B apply.**

*This form is required for purchases of \$100,000 and above*

**CERTIFICATION REGARDING LOBBYING  
Required by 31 CFR Part 21**

The undersigned certifies, to the best of their knowledge and belief, that:

- I. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- II. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- III. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subawards, and contracts under grants, loans, and cooperative agreements) and that all Suppliers shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, Title 31, of the U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Supplier certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Supplier understands and agrees that the remedies found in Title 31, Chapter 38 of the U.S. Code applies to this certification and disclosure.



\_\_\_\_\_  
**Signature of Supplier's Authorized Official**

Bret H. Clements

11/4/2025

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

Vice President

\_\_\_\_\_  
Title

# IC-2283 Agency Specific Contract for Department of Environmental Quality with SCS Engineers (3)

Final Audit Report


2025-11-11

Created:	2025-11-10
By:	Tatyana Orrock Nunes (Tatyana.OrrockNunes@omes.ok.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAiZkR6tkBBmcl6nkwXqOqGrfToISSyitk


## "IC-2283 Agency Specific Contract for Department of Environmental Quality with SCS Engineers (3)" History

 Document digitally presigned by Stacey Tucker (Stacey.Tucker@deq.ok.gov)

2025-11-10 - 3:42:23 PM GMT

 Document created by Tatyana Orrock Nunes (Tatyana.OrrockNunes@omes.ok.gov)


2025-11-10 - 7:03:40 PM GMT

 Document emailed to Amanda Otis (amanda.otis@omes.ok.gov) for signature

2025-11-10 - 7:05:53 PM GMT

 Email viewed by Amanda Otis (amanda.otis@omes.ok.gov)

2025-11-11 - 0:55:50 AM GMT

 Document e-signed by Amanda Otis (amanda.otis@omes.ok.gov)

Signature Date: 2025-11-11 - 0:56:14 AM GMT - Time Source: server

 Agreement completed.

2025-11-11 - 0:56:14 AM GMT