



Solicitation/Event#: 515-25-101

Solicitation/Event Issue Date: July 11, 2025

DUE DATES AND TIME (CENTRAL STANDARD TIME):

Bid Response Must be Received by:
4:30 p.m. on August 29, 2025

Last Day to Submit Questions:
5:00 p.m. on August 8, 2025

CONTRACT TYPE: ☐ Statewide ☒ Agency **Agency Name/Number:** Oklahoma Public Employees Retirement System/51500

EVENT TYPE: ☒ Request for Proposal ☐ Request for Quote ☐ Invitation to Bid

Does this purchase have IT components? ☐ Yes ☒ No

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

HIPAA _____ CJIS _____

FERPA _____ OTHER _____

1075 _____ N/A _____

Will federal funds be utilized for this purchase? ☐ Yes ☒ No

SUBMIT BID TO:

<https://files.opers.ok.gov/filedrop/SoonerSave-Pathfinder-Shareholder-Proxy-Advisory-Services-RFP>

CONTRACTING OFFICER:

Name: Lindsie Lundy
Email: llundy@opers.ok.gov
Phone : 405-858-6792

THE OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM

REQUEST FOR PROPOSAL

#515-25-101

SHAREHOLDER PROXY ADVISORY SERVICES

The Board of Trustees of the Oklahoma Public Employees Retirement System (“OPERS” or “System”) is soliciting proposals from proxy advisory firms to provide Shareholder Proxy Advisory Services on a contractual basis for the System’s two defined contribution plans, the SoonerSave Plan and the Pathfinder Plan. Both defined contribution plans consist of a 457 and 401(a) component. The purpose of this Request for Proposal (RFP) is to provide information about OPERS and establish the specifications and requirements for submitting a proposal. The term “Supplier” as used in this RFP shall mean the company, firm or individual submitting proposals for consideration.

OPERS reserves the right to reject any or all proposals submitted. There is no express or implied obligation for OPERS to reimburse Suppliers for any expenses incurred in preparing proposals in response to this RFP. In the event that none of the proposals are satisfactory to OPERS, no selection will be made. Proposals submitted in response to the RFP become the property of OPERS and are subject to public inspection. OPERS reserves the right to modify the RFP contents and requirements at any time prior to the submission deadline.

This RFP is comprised of four sections, and forty-two (42) pages total, as follows:

Section	Page #
I. Background Information	3
II. Timeline	4
III. Statement of Oklahoma Bidder Instructions	5
IV. Questionnaire	12
Attachment A	15
Attachment B	20
Form 1 Responding Bidder Information (CP076)	
Form 2 Certification for Competitive Bid and/or Contract (CP004)	

An electronic copy of this RFP can be found at the OPERS website at www.opers.ok.gov. If you are unable to download the document, you can also obtain an electronic copy of this RFP through e-mail. Send your request to Lindsie Lundy at LLundy@opers.ok.gov. Include the name of the RFP and the proposal number in your request. All responses to this RFP must be submitted in accordance with the instructions contained in the RFP.

Regardless of the manner in which the RFP document is received by the Supplier, the contents of the RFP may not be altered in any way. The Supplier’s Certification for Competitive Bid and /or Contract and all questions must be identically reproduced in the submitted proposal. Any alterations to the contents of the RFP document will be grounds for rejection from consideration or termination of a resulting contract. By submitting a proposal, it is agreed by the Supplier that any misleading or false information given may be grounds for rejection from consideration, or termination of any resulting contract whenever and however discovered.

I. Background Information

1. Legal Authorization

The Board of Trustees of the Oklahoma Public Employees Retirement System (OPERS) is charged with the administration of two defined contribution plans – the SoonerSave plan and the Pathfinder plan. Total assets in both defined contribution plans were approximately \$1.8 billion as of June 30, 2025. The statutory provisions generally related to SoonerSave are set forth in Sections 1701 et seq., of Title 74 of the Oklahoma Statutes. The statutory provisions generally related to Pathfinder are set forth in Sections 935.1 et seq., of Title 74 of the Oklahoma Statutes.

2. Board Composition

OPERS is administered by a Board of Trustees composed of 14 members including a member of the Corporation Commission or the Commission's designee selected by the Corporation Commission, the Director of Human Capital Management of the Office of Management and Enterprise Services, the State Insurance Commissioner or the Commissioner's designee, the Director of the Office of Management and Enterprise Services or the Director's designee, a member of the Oklahoma Tax Commission selected by the Tax Commission, the State Treasurer or the Treasurer's designee, three members appointed by the Governor, one member appointed by the Supreme Court, two members appointed by the Speaker of the House of Representatives, and two members appointed by the President Pro Tempore of the State Senate.

3. OPERS

OPERS has an authorized staff of 63 employees. The Executive Director is the chief administrative officer of OPERS.

4. Plan Administration

SoonerSave is a voluntary supplemental retirement plan available to public employees who participate in a defined benefit plan. As a voluntary plan, employees elect to participate by completing an enrollment form indicating a deferral amount and investment selection. SoonerSave participants are also members of one of the State of Oklahoma's Defined Benefit Plans; Oklahoma Public Employees Retirement System, Uniform Retirement System for Justices and Judges, Oklahoma Teachers Retirement System, or Oklahoma Law Enforcement Retirement System. Asset and Participant numbers are included in the table below.

Pathfinder opened to contributions in November 2015 as the sole retirement option for most new employees of the State of Oklahoma. Participants are statutorily required to contribute 4.5% of their salary to the Pathfinder 401(a) Plan and will receive either a 6% or 7% match from their employer to the same plan. Employees vest in the employer contributions to the 401(a) plan over a 5-year period. The employee is allowed to make additional voluntary contributions, up to the IRS annual limit, to the Pathfinder 457 plan. Asset and Participant numbers are included in the table below.

Assets and Participant counts as of June 30, 2025

PLAN	TOTAL ASSETS	TOTAL # OF ACCOUNTS
SoonerSave	\$1.36b	27,340
Pathfinder	\$452m	24,200

5. Investment Products

SoonerSave and Pathfinder are currently administered in an un-bundled arrangement with Empower providing the recordkeeping for all investment options. Participants are offered funds managed by various fund families and a Stable Value Fund currently managed by Empower. Each Plan's investment options are selected by the OPERS Board of Trustees in accordance with the Investment Policy. Each plan also includes a Self-Directed Brokerage window administered through TD Ameritrade.

[SoonerSave Investment Policy](#)

[Pathfinder Investment Policy](#)

INVESTMENT OPTIONS

Category	Name	TICKER
Asset Allocation	The Vanguard Target Retire 2020 Trust II	N/A
Asset Allocation	The Vanguard Target Retire 2030 Trust II	N/A
Asset Allocation	The Vanguard Target Retire 2040 Trust II	N/A
Asset Allocation	The Vanguard Target Retire 2050 Trust II	N/A
Asset Allocation	The Vanguard Target Retire 2060 Trust II	N/A
Asset Allocation	The Vanguard Target Retire Income Trust II	N/A
Balanced	Vanguard Balanced Index Fund – Institutional	VBAIX
Fixed Income	BNYM Mellon NSL Aggregate Bond Institutional – CIT	N/A
Fixed Income	T. Rowe Price Institutional High Yield	TRHYX
International	American Funds EuroPacific A	AEPGX
International	BNYM Mellon NSL ACWI ex-U.S. Institutional – CIT	N/A
International	T. Rowe Price Emerging Markets Stock	PRMSX
Large Cap	American Century Disciplined Core Val I	AMGIX
Large Cap	iShares S&P 500 Index K	WFSPX
Large Cap	T. Rowe Price Blue Chip Growth	TRBCX
Large Cap	T. Rowe Price Total Equity Market Index	POMIX
Mid Cap	Baird Mid Cap Growth SMA	N/A
Mid Cap	Vanguard Selected Value Inv	VASVX
Small Cap	BlackRock Adv Small Cap Growth Institutional I	PSGIX
Small Cap	BNYM Mellon NSL Small Cap Stock Institutional – CIT	N/A
Small Cap	Janus Henderson Small Cap Value N	JDSNX
Stable Value	Stable Value Fund	N/A

II. Timeline

The following timeline is an estimate and may be adjusted at OPERS' discretion any time during this procurement process.

TASK	DATE
Distribution of RFP	July 11, 2025
Deadline for questions submitted in writing via e-mail (no later than 5:00 p.m. Central Daylight Time)	August 8, 2025
Date for answers to questions	August 15, 2025
Proposals due (no later than 4:30 p.m. Central Daylight Time)	August 29, 2025
Award business (subject to negotiations)	TBD
Estimated contract start date	TBD

III. State of Oklahoma Bidder Instructions

Pursuant to Oklahoma Attorney General Opinion No. 06-23, any Bidder that has assisted in preparing the Solicitation or developing the procurement terms, either directly or indirectly, is precluded from being awarded the Contract.

1. Introduction

These Bidder Instructions are not part of the Contract; however, compliance with these Instructions is material to the determination of whether a Bid is responsive. Failure to comply may result in rejection of a bid. Bid requirements are altered only by written Amendment; verbal communications from any source are of no effect. In no event shall the Bidder's failure to read and understand a term, condition or requirement in any of the documents provided by the State constitute grounds for a claim after award of the Contract. *A submitted Bid is rendered as a legal offer and is required to be in strict conformity with these Bidder Instructions.*

2. Definitions

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

- 1.1 **Amendment** means a written change, addition, correction or revision to Solicitation Documents and its terms, conditions or requirements by the State.
- 1.2 **Bid** means an offer a Bidder submits in response to the Solicitation.
- 1.3 **Bidder** means an individual or business entity that submits a Bid in response.
- 1.4 **Bid Packet** means the order described in these Bidder Instructions in which all Bidders shall insert the relevant sections of a Bid, and which shall be the format for all submitted Bids.

- 1.5 **Mandatory Provision** means whenever the terms “shall,” “must,” “will,” or “is required” are used.
- 1.6 **Permissible Provision** means whenever the terms “can,” “may,” or “should” are used.
- 1.7 **OAC** means the Oklahoma Administrative Code.
- 1.8 **Value-Added** means any goods and/or services that a Bidder provides to other customers that a Bidder wishes to offer to the State that are in addition to those required by Attachment A.

3. **Communications and Questions**

- 3.1 The Contracting Officer listed on the Bidder Instructions Cover Page is the only individual the Bidder should communicate with regarding any questions or issues with the Acquisition. *Communication with any other stakeholders in the State may result in disqualification.*

- 3.2 General Questions from bidders

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

- a. Method for Submission of Questions

- Bidder should submit general questions concerning Contract or Bid specifications or requirements to Lindsie Lundy at LLundy@opers.ok.gov. Questions received via any other means will not be addressed. Questions may be submitted as soon as the solicitation is posted. You are encouraged to submit your questions as soon as possible to allow adequate time for answers.

- 3.3 Clarification Questions from the State

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

4. **Bidder Request for Administrative Review**

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

reasonably should be known by Bidder, the Bidder accepts the risk of submitting a Bid and, if awarded the Contract, shall not be entitled to additional compensation, relief or time by reason of the error or its later correction.

5. Amendments to the Solicitation

- 5.1 Any Amendment shall be set forth at the same online link as the Solicitation.
- 5.2 It is the Bidder's responsibility to check the OPERS website frequently for any possible Amendments that may be issued. At a minimum, you should check the day before it closes. The State is not responsible for the Bidder's failure to review any amendment documents required to complete a Bid.

6. Preparation of the Bid

- 6.1 The Bid is required to be structured into labelled and easily identifiable sections using the Bid Packet format provided below. A Bid submitted using any other format may not be accepted. The Bid Packet should not contain duplicative content amongst multiple sections. Any section of the Bid Packet that is not applicable to the Bidder shall contain a page that reads "Not Applicable," "N/A" or similar notation.
- 6.2 Reference to literature submitted with a previous Bid shall not satisfy a specification or requirement associated with the present Bid. Any previous solicitation or resultant contract shall not be dependent upon, perceived or interpreted to have any relevance to the present Bid.
- 6.3 All costs incurred by the Bidder for Bid preparation and participation shall be the sole responsibility of the Bidder and the Bidder shall not be reimbursed for any such costs. By submitting a Bid, Bidder agrees not to make any claims for damages or have any rights to damages in connection with the Bid.
- 6.4 For consistency of contract structure, certain State terms may be marked "Intentionally Omitted." If so, no response is expected.

7. Required Bid Format

- 1. Responding suppliers are required to submit responses to the secure Dropbox link provided on the cover page. Instructions on how to access the secure Dropbox folder along with instructions for uploading proposals can be found at <https://files.opers.ok.gov/filedrop/SoonerSave-Pathfinder-Shareholder-Proxy-Advisory-Services-RFP>. All submissions should be in ".pdf" or ".doc/.docx" file format. Do not zip or otherwise compress the files submitted. The submissions should not include links to other documents outside of the files submitted. Any other forms of submission will not be accepted and may deem supplier's offer "non-responsive".
- 2. Please use, as appropriate, fillable forms as provided. Handwritten and scanned pdfs may not be accepted.

Section One: Cover Page

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

Section Two: Executive Summary and Company Information

Template – Exhibit 1: Executive Summary and Company Information

The Bidder's executive summary shall be submitted in this section. This includes marketing information, information for a designated contact person to receive official notices, approvals and requests, general company information and other similar resources the Bidder wishes to provide. The following company information may be included in the Section:

1. The length of time the Bidder has been in business.
2. A brief description of the company.
3. Company size and organization.
4. The number of years the Bidder has been providing products and/or services of the type requested.
5. The core competence of the company.
6. Number of clients.
7. Average client size (i.e., assets under management); and
8. Locations where the Bidder's solution has been deployed.

Section Three: REQUIRED Forms, Certifications and Disclosures

- a. Completed "Responding Bidder Information" Form CP076 form set forth and accompanying required documentation.
- b. Completed "Certification for Competitive Bid and Contract, or Non-Collusion" Form CP004 attached to bid.
- c. Signed Amendments to the solicitation (if any).
- d. Disclosure of:
 - (1) any public contract terminated by a governmental entity or suits or claims against the Bidder for failure to perform in connection with a public contract (including any company which a Bidder has merged with or acquired that will be performing services or providing products if awarded the Contract).
 - (2) Any contractual relationship or any other relevant contact with any State personnel or another Bidder or Supplier involved in the development of a Bidder's response to the Solicitation.
 - (3) The name of any officer, director or agent of the Bidder who is also an employee of the State or any of its agencies.
 - (4) The name of any state employee who owns, directly or indirectly, an interest of five percent (5%) or more in the Bidder firm or any of its branches; and
 - (5) Any activity or interest that conflicts or may conflict with the best interest of the State, including but not limited to any person or entity currently under contract with or seeking to do business with the State, its employees or any other third-party individual or entity awarded a contract with the State. Any conflict of interest shall, in the sole discretion of the State, be grounds for rejection of the Bid or partial or whole termination of the Contract.

- e. Bidder's Certificate of Insurance [(WCI/GL/AUTO/CYBER (if IT))] to the standards set forth in section 8 of Attachment B - State General Terms.

Section Four: Bid Portions Requested to be Held Confidential

- a. All material submitted by a Bidder becomes the property of the State. No portion of a Bid shall be considered confidential after award of the Contract except, pursuant to 74 O.S. § 85.5. Any portion of the Bid requested to be held confidential shall be listed in this section for review. Do not duplicate listed documents in this section, simply provide a list of documents or sections of documents requested to be confidential.
- b. For each portion of the Bid listed as considered confidential, the Bidder must identify the specific information considered confidential and fully comply with OAC 260:115-3-9¹ which additionally requires a Bidder to enumerate the specific grounds, based on applicable laws which support treatment of the information as exempt from disclosure and explain why disclosure is not in the best interest of the public. Additional information regarding information considered confidential by a Bidder is provided in Section 6 above.
- c. A Bid marked in total as proprietary and/or confidential will not be considered confidential.
- d. **ANY INFORMATION MARKED AS CONFIDENTIAL AND EMBODIED ELSEWHERE IN A BID RATHER THAN LISTED IN THIS SECTION OF THE BID PACKET WILL NOT BE CONSIDERED CONFIDENTIAL AND WILL BE SUBJECT TO DISCLOSURE WITHOUT FURTHER REVIEW. THE STATE HAS NO RESPONSIBILITY TO INDEPENDENTLY REVIEW AN ENTIRE BID FOR A CONFIDENTIALITY CLAIM. LIKEWISE, CONFIDENTIALITY CLAIMS OF A BIDDER WILL NOT BE CONSIDERED IF A BID DOES NOT COMPLY WITH REQUIREMENTS OF OAC 260:115-3-9 AND THE INFORMATION WILL BE SUBJECT TO DISCLOSURE PURSUANT TO STATE LAW.**
- e. Certain items will never be deemed confidential under the Oklahoma Open Records Act. The following is a non-exhaustive list of items that are not confidential:
 - i. Price
 - ii. References
 - iii. Individual's names

Section Five: Requested Exceptions to Terms

- a. Any requested exception or revision to terms or conditions provided by the State shall be redlined **in Word format using track changes**. If no exceptions or revisions are requested, the Bid should reflect that by inserting a page to denote this section is not applicable.
- b. The State will not accept any exceptions or revision to the language found in Attachment A; this language is designated as non-negotiable.
- c. A clarification question is not an exception, and any clarification included in this section will be disregarded.

¹ OAC 260:115-3-9 is located at <https://oklahoma.gov/content/dam/ok/en/omes/documents/Title260Chapter115.pdf>

- d. Requested exceptions should not be excessive, specifically exceptions should not be in excess of 10% of the terms and conditions provided by the State in the Solicitation. If the requested exceptions are in excess of 10% it may result in disqualification from evaluation.
- e. **THE STATE HAS NO RESPONSIBILITY TO INDEPENDENTLY REVIEW AN ENTIRE BID FOR EXCEPTIONS AND ANY EXCEPTION EMBODIED IN ANOTHER SECTION OF THE BID OR IN A FORMAT OTHER THAN TRACK CHANGES IN WORD FORMAT WILL NOT BE CONSIDERED. LIKEWISE, AN EXCEPTION EXPRESSING ONLY GENERAL DISAGREEMENT WITH A TERM OR A GENERAL EXCEPTION TO ANY STATE TERMS OR CONDITIONS, WITHOUT SUGGESTED ALTERNATIVE WORDING OR IDENTIFYING THAT THE TERM SHOULD BE INTENTIONALLY OMITTED, WILL NOT BE CONSIDERED.**

Section Six: Additional Bidder Terms

Any additional terms that the Bidder requests to be applicable to the Contract shall be submitted in this section and shall be provided **in Word** format. The Bidder must review terms before submitting to make changes that contradict the terms and conditions included in the Solicitation. If the Bidder desires any contradicting terms to govern, such changes must be memorialized in the Requested Exceptions in Section Four. Failure to provide Additional Bidder Terms that have not been harmonized to NOT conflict with the terms and conditions in the Solicitation without a documented exception request may result in disqualification from receiving an award.

THE STATE HAS NO RESPONSIBILITY TO INDEPENDENTLY REVIEW AN ENTIRE BID FOR ADDITIONAL TERMS AND ANY SUCH TERMS NOT SUBMITTED IN THIS SECTION OF THE BID SHALL NOT BE CONSIDERED. Should a Bidder be awarded a Contract, neither the State nor a customer shall be required to execute additional documents not included in a Bid. For example, if a Bidder typically uses an ordering document in connection with an acquisition, the ordering document template shall be included in the Bid. The State expressly rejects any terms found in documents not attached to the Bid Response including, but not limited to, terms and conditions located at provided in hyperlinks.

Section Seven: Response to Specifications and Requirements

- a. The portion of the Bid to be submitted in this section shows the ability of the Bidder to meet or exceed any Acquisition specifications such as Mandatory or Non-Mandatory specifications and requirements found in Attachment A. Please include timelines for deliverables when applicable.
- b. Unless otherwise specified in the Solicitation, (i) manufacturers' names, brand names, information, and/or catalog numbers listed in a specification are for informational purposes and not intended to limit competition and (ii) a Bidder may offer any brand for which it is an authorized representative, which meets or exceeds the specification for any item(s).
- c. Bidder shall offer new items of current design and technology unless the State specifies older models or versions, or used, reconditioned, or remanufactured products are acceptable. Warranties in either case should be the same. The Bid is required to state the manufacturer's

name and number. The Bid shall also explain in detail how a proposed equivalent will meet the specifications and should not be considered an exception.

- d. If an information technology VPAT is required, the URL link to the Bidder's VPAT shall be submitted in this section at a Bid Packet page referencing the VPAT.
- e. If an information technology Security Certification and Accreditation Assessment is required (Required if data is being accessed, processed, transferred or stored), the completed Assessment shall be submitted in this section as a Bid Packet page referencing the Security Accreditation Assessment in Excel Format. These materials will be held confidential. Bidder may also submit Standardized Information Gathering (SIG), Consensus Assessment Initiative Questionnaire (CAIQ), FedRamp and/or State Ramp Certifications in lieu of the Security Certification and Accreditation Assessment.
- f. If service level agreements are required, the proposed service level agreements shall be inserted in this section at a bid Packet page referencing the proposed Service Level Agreements.
- g. If a Statement of Work is required, the proposed draft shall be inserted in this section at a Bid Packet page referencing the proposed Statement of Work using CP form 050 Statement of Work.

Section Eight: Pricing (Will not be held Confidential)

Template – Exhibit 02: Pricing

- a. Pricing associated with the bid shall be submitted in this section.
- b. In accordance with 74 O.S. § 85.40, all travel expenses to be incurred by Supplier in performance of the Contract shall be included in the total Bid price. Travel expenses include, but are not limited to, transportation, lodging and meals. Examples of other miscellaneous travel expenses are referenced in §10.14 of the Statewide Accounting Manual².
- c. A Bid containing early payment discounts may be evaluated when making an award. If a Bidder wishes to offer an early payment discount, the Bid must include available discount percentages for no less than ten (10) days payment, increasing in five (5) day increments up to thirty (30) days. The discount percentages shall be expressed in a half or whole percentage, with the minimum discount percentage being 0.5%. The State is not obligated to utilize an offered discount.
- d. Bids shall remain a firm offer for a minimum of one hundred twenty (120) days after the Bid Response Due Date. Any usage amounts provided by the State are estimates and are not guaranteed to be purchased.
- e. Unless specified otherwise, the Bidder shall submit a firm, fixed price for the term, including optional renewal terms, of the Contract. The Bidder guarantees unit prices to be correct.

² Statewide Accounting Manual is located at <https://oklahoma.gov/content/dam/ok/en/omes/documents/StatewideAccountingManual.pdf>

Section Nine: Offer of Value-Added Products and/or Services

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

Section Ten: Financial Information (Confidential under Title 51 O.S. § 24A.5)

If requested, Bidder shall submit up to the last three years audited financial statements and up to three years tax returns in this section. This Section shall be deemed confidential for purposes of the Oklahoma Open Records Act. If the Bidder is a subsidiary of another entity, the last three years audited financial statements and three years tax returns for the parent company may also be required. The State reserves the right, in its sole discretion, to determine a Bidder's financial status and to withhold award to a Bidder who is not deemed financially responsible.

Section Eleven: Business References

Template – Exhibit 3: Bidder Reference Worksheet

In this section, provide three (3) business references from clients for whom Bidder has provided similar services to establish a successful implementation experience. Business references must include customer contact information including email and phone number. The State is not responsible for references that do not respond.

Section Twelve: Third Party Vendor Information

Template – Exhibit 4: Third Party Supplier Information

If a third-party or subcontractor is included as part of a submitted Bid, the following information is required to be included in the Bid for each such third-party vendor:

- a. Company history.
- b. Relationship to Bidder.
- c. Clients for which the two entities have worked together; and
- d. Products and/or services proposed to be provided by the third-party vendor and how those products and/or services interface with the Bidder's solution.

8. Submission of Bid

- 8.1 A Bid shall be submitted solely via the Dropbox link provided on the cover page. The entire Bid must be submitted by the Bid Response Due Date and Time. A Bid emailed directly to or cc'd to the Contracting Officer will not be reviewed by the Contracting Officer. In person, commercial carrier or facsimile submittals shall not be accepted. Receipt of the Bid by the State is the responsibility of the Bidder.
- 8.2 All Bids shall be firm representations that the responding Bidder has carefully investigated and will comply with all State terms and conditions relating to the Contract. Upon award of a contract, such terms and conditions, as may be amended by the Bid after negotiation, shall become contractual obligations between the parties.

9. Questions regarding Supplier Registration/Event Portal Access

- 9.1 Please direct all questions concerning supplier registration and access to event portal to our Supplier

Registration team at:

Supplier Assistance Line: 405-521-2930

9 a.m. to 4 p.m. CST, Monday – Thursday

Email: OKSuppliers@omes.ok.gov

- 9.2 Responding suppliers do not have to be registered to view/download RFP docs. Suppliers must be a registered supplier to submit responding proposal.

IV. Questionnaire

1. Firm Overview and Experience

- 1.1 Describe your firm's experience providing shareholder proxy advisory services to public-sector defined contribution plans or similar institutional clients. Include the number of clients served and average size of plans in terms of plan assets and plan membership.
- 1.2 Provide a brief firm history and describe any significant changes in the last five years (ownership, leadership, structure).
- 1.3 Identify the mutual fund families currently covered by your proxy research service.
- 1.4 Confirm whether you provide proxy research and recommendations only (without vote execution).
- 1.5 Describe the organizational structure of your firm, including key departments related to proxy research.

2. Research Staff and Qualifications

- 2.1 How many professionals are currently employed on your proxy research and analysis team? How many are dedicated specifically to mutual fund proxy research?
- 2.2 What is the average years of experience among your proxy research staff? Please include average tenure with your firm.
- 2.3 What are the typical qualifications (e.g., education, certifications, background) of individuals who prepare and review proxy research reports?
- 2.4 What controls are in place to ensure independence and objectivity of the research staff?
- 2.5 How are research analysts trained and how is performance evaluated?

3. Research Process and Methodology

- 3.1 Describe your firm's experience providing proxy research for mutual funds.
- 3.2 Describe your analytical framework for developing proxy research. How do you evaluate proposals with potential material economic impact?

- 3.3 Describe how your research methodology aligns with DOL guidance related to fiduciary responsibilities (ERISA-style prudence).
- 3.4 Provide a sample proxy research report for a mutual fund shareholder vote that supports decision-making.
- 3.5 What steps does your firm take to prevent errors or inaccuracies in your research?
- 4. Proxy Research and Recommendation Policy and Implementation**
 - 4.1 Describe the standard proxy research guidelines available through your service.
 - 4.2 Confirm whether your standard proxy research guidelines are in line with fiduciary requirements.
 - 4.3 Confirm your ability to implement and support a custom proxy research policy.
 - 4.4 Describe the process for working with clients to develop and maintain a custom research policy.
 - 4.5 Can your platform support addendums to the standard policy if full customization is not required?
- 5. Vote Monitoring, Delivery, and Reporting**
 - 5.1 Describe how your firm monitors and identifies upcoming proxy votes relevant to mutual fund holdings.
 - 5.2 What is the typical timeline between proxy statement release and delivery of research and recommendations?
 - 5.3 How are clients notified, and what delivery methods/platforms are used?
- 6. Conflicts of Interest and Fiduciary Integrity**
 - 6.1 Describe your firm's policies and procedures to identify, disclose, and mitigate conflicts of interest, particularly with fund families you analyze.
 - 6.2 Does your firm earn revenue from any entities that may be subject to your proxy recommendations? If so, explain.
 - 6.3 Does your firm or any affiliate own or have a financial interest in a money management firm, broker-dealer, or service provider to institutional investors?
 - 6.4 How does your firm ensure the independence of research from client influence or commercial pressures?
 - 6.5 What internal review or audit processes exist to monitor compliance with your conflict-of-interest policies?

- 6.6 Disclose any relationships with investment managers, fund families, or Trustees or employees of OPERS. Does the firm have policies regarding conflicts of interest, and how are potential conflicts identified and managed?
- 6.7 Disclose any pending legal or regulatory actions that could impact the delivery of the required proxy research.
- 6.8 Describe the levels (in USD) of coverage for errors and omissions insurance, general business liability insurance, and any fiduciary or professional liability insurance your firm carries. Is the coverage on a per-client basis, or is the dollar figure applied to the firm as a whole? List the insurance carriers by category, and their policy limits both aggregate and per client.
- 6.9 Has your firm, its principals, or any affiliate ever submitted a claim to your errors & omissions, fiduciary liability,

7. Security and Data Protection

- 7.1 Describe the security protocols used to protect client information and data.
- 7.2 Has your firm undergone any recent security audits or risk assessments? Please summarize.
- 7.3 Do you maintain an IT security certification (e.g., SOC2, ISO 27001)?
- 7.4 How do you handle confidential plan data and ensure compliance with applicable privacy standards?
- 7.5 Is client information ever shared with third parties? If so, under what conditions?

8. Support, Training, and Client Engagement

- 8.1 Do you offer recurring training or informational support for staff responsible for proxy research?
- 8.2 What customer service channels are available (e.g., dedicated contact, help desk)?
- 8.3 What is your typical response time for client inquiries or issues?
- 8.4 Do you assign a dedicated account manager or liaison for client coordination?
- 8.5 How frequently do you conduct client check-ins or satisfaction reviews?

9. Pricing and Value-Added Services

- 9.1 Provide your standard pricing model(s), including fixed-fee, per-meeting, or hybrid options.
- 9.2 Include cost estimates based on expected proxy voting volume.
- 9.3 Describe any additional value-added services included in your pricing.
- 9.4 What distinguishes your service offering from other proxy advisory firms in the market?

Attachment A

Solicitation No. 515-25-101

This Solicitation is a Contract Document and is a request for proposal in connection with the Contract awarded on behalf of Oklahoma Public Employees Retirement System. Any defined term used herein but not defined herein shall have the meaning ascribed in the General Terms or other Contract document.

PURPOSE

The Oklahoma Public Employees Retirement System (OPERS) is seeking responses from potential Suppliers to provide a contract for the purchase of Shareholder Proxy Advisory Services.

The Contract is awarded on behalf of OPERS for Shareholder Proxy Advisory Services for the SoonerSave and Pathfinder Defined Contribution Plans.

1. Contract Term and Renewal Options:

- 1.1. The initial Contract term will begin on the effective date of the Contract. It is anticipated that the initial Contract term shall be for a partial one-year period commencing after June 30, 2025. Thereafter, the contract may be renewed by the OPERS Board of Trustees annually at the Board's discretion. The Board of Trustees reserves the right to terminate the contract upon 30 days notice, with or without cause.

2. General Terms and Conditions:

2.1. Applicable Laws and Courts

This Solicitation and any resulting contract shall be governed in all respects by the laws of the State of Oklahoma, and any litigation with respect thereto shall be brought in the District Court of Oklahoma County, Oklahoma. The Supplier shall comply with all applicable federal, state and local laws, rules and regulations.

2.2. Ethics in Public Contracting

By submitting their bids or proposals, Suppliers certify that their bids are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other supplier, vendor, manufacturer, or subcontractor in connection with their bid, and that they have not conferred on any public employee or elected official having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of value, in exchange for procuring this contract.

2.3. Assignment of Contract

The contract shall not be assignable by the Supplier in whole or in part without the written consent of OPERS.

2.4. Limitation of Liability, Hold Harmless Clauses & Indemnity

The State of Oklahoma and its agencies are constitutionally barred from limiting the liability of a private Supplier. Agencies are similarly prohibited from holding a private entity harmless from liability or providing indemnity to a private entity. The contract between the successful Supplier and OPERS will not have any such terms.

2.5. Open Records Act

OPERS is subject to the Oklahoma Open Records Act, 51 O.S. Section 24A.1 et al., and as such must release information contained in its records unless there is a specific exemption covering the information in the Act. Suppliers understand that information they transmit to OPERS becomes a public record subject to the Act.

3. Solicitation Criterion:

3.1. The Bid will be evaluated using a best value/lowest and best criterion, based on the following:

- 3.1.1.Price
- 3.1.2.Ability to supply products
- 3.1.3.Product Acceptability

4. Scope and Description:

4.1. The Bid Response must reflect for each requirement on **Exhibit 02** 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:

A. Fiduciary Alignment

- Must provide proxy research in accordance with fiduciary standards applicable to public retirement systems and in alignment with the OPERS Defined Contributions Plans' Investment Policies and Guidelines.
- Must have internal controls in place to ensure research aligns with client's fiduciary obligations under applicable laws and investment policy guidelines.

B. Experience and Coverage

- At least 5 years of experience providing proxy research services to governmental or public sector retirement plans.
- Demonstrated ability to provide coverage across mutual fund families.
- Must currently cover or have the capacity to cover all mutual fund families and products held in the Plans.

C. Research Quality

- Must produce timely, company-specific research with clearly documented financial rationale behind each recommendation.
- Must provide sample research reports upon request.
- Recommendations must be issued at least 21 business days prior to the proxy vote, when possible.

D. Impartiality and Conflict Mitigation

- Must maintain strict conflict-of-interest policies to ensure objectivity and independence of research.
- Must disclose any relationships with investment managers, fund families, companies subject to analysis, or Trustees of OPERS.
- Must not derive compensation from parties whose proxy matters are under review.

E. Delivery Capabilities

- Must be able to deliver research and alerts via:
 - o Secure client portal and/or email
 - o Downloadable PDF or web format
 - o Optional: data integration (e.g., API, flat files, or SharePoint compatibility)

F. Client Support and Responsiveness

- Must designate a primary account manager with relevant experience.
- Must provide access to proxy research staff or governance experts to answer questions during the proxy voting season.
- Must respond to inquiries within two (2) business days or sooner during critical periods.

G. Security and Confidentiality

- Must maintain appropriate data security protocols, including secure data transmission and storage.
- Must comply with applicable data privacy regulations (e.g., GDPR, state-specific data laws).

H. References

- Must provide at least three references from current clients receiving similar services. If possible, two (2) should be deferred compensation plans with assets of at least \$1 billion, at least one (1) should be from a governmental defined benefit plan with assets of at least \$10 billion.

I. Insurance and Legal Standing

- Must carry appropriate levels of Errors & Omissions (E&O) and Cybersecurity Liability insurance.
- Must provide disclosure of any pending or recent legal or regulatory actions that could impair service delivery.

5. Pricing

5.1. Pricing shall be proposed as a single total firm, fixed cost and include all information concerning fees, other costs, and any other information relevant to the total cost.

OR

5.2. Value-added products and/or services within scope of the Acquisition may be included in the Bid.

6. Executive Summary and Company Information are on Exhibit 01: Executive Summary and Company Information.

7. All Technical responses are on Exhibit 01

8. The response to pricing shall be proposed using Exhibit 02: Price Template.

9. Value-added products and/or services within scope of the Acquisition are to be included in Exhibit 02

10. Business References are to be on Exhibit 03: Bidder Reference Worksheet.

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 best practices and are subject to acceptance by the Customer. Notwithstanding any other provision in the Contract, deemed acceptance of a service or associated deliverable shall not apply automatically upon receipt of a deliverable or upon provision of a service. Supplier warrants and represents that a product or deliverable furnished by or through the Supplier shall individually, and where specified by Supplier to perform as a system, be substantially uninterrupted and error-free in operation and guaranteed against faulty material and workmanship for a warranty period of the greater of ninety (90) days from the date of acceptance or the maximum allowed by the manufacturer. A defect in a product or deliverable furnished by or through the Supplier shall be repaired or replaced by Supplier at no additional cost or expense to the Customer if such defect occurs during the warranty period.

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

Pursuant to OAC 260:115-9-1, payment for an Acquisition does not constitute final acceptance of the Acquisition. If subsequent inspection affirms that the Acquisition does not meet or exceed the specifications of the order or that the Acquisition has a latent defect, the Supplier shall be notified as soon as is reasonably practicable. The Supplier shall retrieve and replace the Acquisition at Supplier's expense or, if unable to replace, shall issue a refund to Customer. Refund under this section shall not be an exclusive remedy.

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

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

7 Invoices and Payment

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

The following terms additionally apply:

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

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

- 8.1** As a condition of this Contract, Supplier shall procure at its own expense, and provide proof of, insurance coverage with the applicable liability limits set forth below and any approved subcontractor of Supplier shall procure and provide proof of the same coverage. The required insurance shall be underwritten by an insurance carrier with an A.M. Best rating of A- or better. Such proof of coverage shall additionally be provided to the Customer if services will be provided by any of Supplier's employees, agents or subcontractors at any Customer premises and/or employer vehicles will be used in connection with performance of Supplier's obligations under the Contract. Supplier may not commence performance hereunder until such proof has been provided. Additionally, Supplier shall ensure each insurance policy includes a 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 a limit of not less than \$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;
 - 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 <http://www.dhs.gov/E-Verify>. 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 reasonably 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 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-days 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 a resumption will occur.

21 Certification Regarding Debarment, Suspension, and Other Responsibility Matters

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

22 Certification Regarding State Employees Prohibition From Fulfilling Services

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

23 Force Majeure

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

24 Security of Property and Personnel

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

25 Notices

All notices, approvals or requests allowed or required by the terms of any Contract document shall be in writing, reference the Contract with specificity and deemed delivered upon receipt or upon refusal of the intended party to accept receipt of the notice. In addition to other notice requirements in the Contract and the designated Supplier contact provided in a successful Bid, notices shall be sent to the State at the physical

address set forth below. Notice information may be updated in writing to the other party as necessary. Notwithstanding any other provision of the Contract, confidentiality, breach and termination-related notices shall not be delivered solely via e-mail.

If Sent to the State:

State Purchasing Director
2401 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.



You must submit a Certification for Competitive Bid and Contract along with the response to the solicitation.

1. SOLICITATION

Solicitation #

2. BIDDER GENERAL INFORMATION

FEIN/SSN

Supplier ID

Company name

3. BIDDER CONTACT INFORMATION

Address

Contact name

Title

Email

Phone

Website

Fax

4. BIDDER IS ENGAGED IN BOYCOTT OF GOODS OR SERVICES FROM ISRAEL

☐ Yes ☐ No

5. REGISTRATION WITH THE OKLAHOMA SECRETARY OF STATE

☐ Yes Filing number: _____

☐ No Prior to the contract award, the successful bidder is required to register with the Secretary of State or must attach a signed statement that provides specific details supporting the exemption the supplier is claiming (sos.ok.gov or 405-521-3911).

6. WORKERS' COMPENSATION INSURANCE COVERAGE

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

☐ Yes Include a certificate of insurance with the bid.

☐ No Exempt from the Administrative Workers' Compensation Act pursuant to 85A O.S. § 2(18)(b)(1-11). (Attach a written, signed and dated statement on letterhead stating the reason for the exempt status. For frequently asked questions concerning workers' compensation insurance, visit wcc.ok.gov.)

7. DISABLED VETERAN BUSINESS ENTERPRISE ACT

☐ Yes I am a service-disabled veteran business as defined in 74 O.S. § 85.44E.

Include the following with the bid response:

1. Certification of service-disabled veteran status as verified by the appropriate federal agency.
2. Verification of not less than 51% ownership by one or more service-disabled veterans.
3. Verification of the control of the management and daily business operations by one or more service-disabled veterans.

☐ No I do not meet the criteria as a service-disabled veteran business.

8. SIGNATURE

Authorized signature

Date

Name

Title



**CERTIFICATION FOR COMPETITIVE
BID AND/OR CONTRACT
(NON-COLLUSION CERTIFICATION)**

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

GENERAL INFORMATION

Agency name	Agency #
Supplier or bidder legal name	Solicitation # or purchase order #

Section 1 74 O.S. § 85.22

- A.** For purposes of any competitive bid or contract executed by the state for an acquisition in excess of the fair and reasonable acquisition threshold amount, I certify:
1. I am the duly authorized agent of the above-named supplier or bidder for the purpose of certifying the facts pertaining to the existence of collusion among and between bidders and suppliers and state officials or employees, as well as facts pertaining to the giving or offering of things of value to government personnel in return for special consideration in connection with the prospective acquisition.
 2. I am fully aware of the facts and circumstances surrounding the acquisition or making of the bid to which this statement relates and have been personally and directly involved in the events leading to the acquisition or submission of such bid.
 3. Neither the business entity that I represent in this certification nor anyone subject to the business entity's direction or control has been a party to:
 - a. Any collusion among bidders or suppliers in restraint of freedom of competition by agreement to bid or contract at a fixed price or to refrain from bidding or contracting.
 - b. Any collusion with any state official or employee as to quantity, quality or price in the prospective contract, or as to any other terms of such prospective contract.
 - c. Any discussions between bidders or suppliers and any state official concerning exchange of money or other thing of value for special consideration in connection with the prospective contract.
- B.** I certify, if awarded the contract, whether competitively bid or not, neither the business entity I represent nor anyone subject to the business entity's direction or control has paid, given or donated or agreed to pay, give or donate to any officer or employee of this state any money or other thing of value, either directly or indirectly, in procuring the contract to which this statement relates.

Section 2 74 O.S. § 85.42

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

Section 3 74 O.S. § 582

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

Section 4 74 O.S. § 12005

For the purpose of a contract for goods or services, the supplier also certifies it is not currently engaged in a boycott of energy companies and will not boycott energy companies during the term of the contract.

Section 5 DEBARMENT, SUSPENSION OR OTHER RESPONSIBILITY MATTERS

For the purpose of a contract for goods or services, the supplier certifies any debarment, suspension, indictments, convictions, civil judgments and terminated public contracts have been disclosed to the state purchasing director.

Section 6 74 O.S. § 85.5

For the purposes of a contract for the physical performance of services, the supplier also certifies it is in compliance with the provisions of Section 1313 of Title 25 of the Oklahoma Statutes requiring all suppliers to register and participate in the Status Verification System to verify the work eligibility status of all new employees.

SIGNATURE

By signing below, the undersigned duly authorized agent for the above-named bidder or supplier acknowledges this certification statement is executed for the purposes of one of the following:

- ☐ The competitive bid attached herewith and contract, if awarded to said supplier.
- ☐ The contract attached herewith, which was not competitively bid and awarded by the agency pursuant to applicable Oklahoma Statutes.

Supplier authorized signature	Certified this date	
Name	Email	
Title	Phone	Fax