



## PART II - GENERAL TERMS AND CONDITIONS

### 1. AVAILABILITY OF FUNDS

Payments pursuant to this contract are to be made only from monies made available to the Oklahoma Department of Commerce (ODOC) for activities by the source identified in Part I. Notwithstanding any other provisions, payments to the Contractor by ODOC are subject to the availability of such funds to ODOC as determined by federal and/or State action and/or law. ODOC may take any action necessary in accord with such determination.

### 2. MODIFICATION (AMENDMENT)

- a. This contract is subject to such modification as may be required by federal or State law or regulations. Any such modification may be done unilaterally by ODOC.
- b. Except as otherwise provided in this contract, the work and services to be performed and the total contract amount may be modified only upon written agreement of the duly authorized representatives of both parties.
- c. A waiver by ODOC of any provision of this contract must be in writing and signed by the Director of ODOC or his designee.

### 3. ODOC

- a. ODOC will provide funding for the program up to the total contract amount less any required match.
- b. ODOC will perform monitoring and evaluation activities to assess the Contractor's financial and program compliance and progress.

### 4. THE CONTRACTOR

- a. The Contractor will provide the necessary personnel, facilities, supplies, equipment and/or related sources and skills to accomplish the program described in your Proposal, which is incorporated herein by reference. All of the work and services required shall be performed by the Contractor or under the Contractor's supervision and all personnel engaged therein must be fully qualified and authorized under State and local law to perform such work and services.
- b. None of the work and services covered by this contract may be subcontracted without prior written approval of ODOC.
- c. In no event will any subcontractor incur obligation on the part of ODOC.

### 5. EMPLOYEE BENEFITS

The Contractor has full responsibility for payment of Workers' Compensation insurance, unemployment insurance, social security, State and federal income tax and any other deductions required by law for its employees.



6. CERTIFICATIONS BY THE CONTRACTOR

- a. The Contractor certifies and expressly agrees to be solely responsible to ensure that the use of monies received under this contract complies with all federal, State and local statutes, regulations and other legal authority, including ODOC policies and procedures that affect the use of said monies. The Contractor recognizes that it is responsible for assuring financial and programmatic compliance by its subcontractors.
- b. The Contractor certifies that it has not paid, given or donated or agreed to pay, give or donate to any officer or employee of the State of Oklahoma any money or other thing of value, either directly or indirectly, in the procuring of this contract.
- c. The Contractor certifies that it is in compliance with 25 O.S. §1313(B).

7. HOLD HARMLESS CLAUSE

The Contractor shall, within limitations placed on such entities by State law, save harmless the State of Oklahoma, its agents, officers and employees from all claims and actions and all expenses defending same that are brought as a result of any injury or damage sustained by any person or property in consequence of any act or omission by the Contractor. The Contractor shall, within limitations placed on such entities by State law, save harmless the State of Oklahoma, its agents, officers and employees from any claim or amount recovered as a result of infringement of patent, trademark or copyright or from any claim or amounts arising or recovered under Workers' Compensation Law or any other law. In any agreement with any subcontractor or any agent for the Contractor, the Contractor will specify that such subcontractors or agents shall hold harmless the State of Oklahoma, its agents, officers and employees for all the hereinbefore-described expenses, claims, actions or amounts recovered.

8. POLITICAL ACTIVITY

- a. All employees of the Contractor shall observe the limitations on political activities to which they may be subject under the Hatch Act, 5 USC 1501, et seq., 18 USC 595.
- b. No contract funds may be used for any political activity or to further the election or defeat of any candidate for public office.
- c. No contract funds may be used to provide voters or prospective voters with transportation to the polls or similar assistance in connection with an election or any voter registration activity (42 USC §9904(c)(7)).
- d. No portion of the contract funds may be used for lobbying activities.

9. NO-CONFLICT COVENANTS

- a. The Contractor covenants that no members or employees of any



governing board of the Contractor have any interest, direct or indirect, and that none shall acquire any such interest that would conflict with the full and complete execution of this contract. The Contractor further covenants that in the performance of this contract no person having any such interest will be employed.

- b. The Contractor shall establish safeguards to prohibit employees from using their positions for purposes that are or give the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business or other ties.

#### 10. PUBLICATIONS AND OTHER MATERIALS

- a. No material produced, in whole or in part, under this contract shall be subject to copyright in the United States or any other country. ODOC shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data or other materials prepared under this contract.
- b. Any publication or other material produced as a result of this contract shall include in a prominent location near the beginning the following statement:

This (type of material) was financed in whole or in part by funds (from source in Part I) as administered by the Oklahoma Department of Commerce.

#### 11. CONTRACT ADMINISTRATION

- a. The Contractor shall comply with Treasury Circular 1075, concerning cash management of federal funds and with ODOC requirements pursuant thereto.
- b. Contractor shall comply with 10 CFR 600 and OMB Circular A-122 except as directed otherwise by ODOC as they relate to the application, acceptance and use of federal funds and with ODOC requirements pursuant thereto.
- c. The Contractor shall give ODOC immediate notice in writing of any actions or suits filed against the Contractor or any subcontractor in connection with implementation and administration of this contract.

#### 12. COMPENSATION TO THE CONTRACTOR

- a. Funds made available pursuant to this contract shall be used only for expenses incurred during the period funded as specified in Part I for the purposes and activities approved and agreed to by ODOC. No contract funds may be used for expenses incurred either prior to or after the time period specified.
- b. ODOC shall disburse funds to the Contractor upon receipt and approval by ODOC of properly executed Monthly Expenditure Reports. The Contractor may submit reports as often as necessary to meet its financial obligation.



- c. If a question arises as to the validity of any claim made under this contract and the parties are unable to resolve such question by negotiation, then the Contractor may request a resolution of the question pursuant to the terms of this contract and the administrative procedures available through ODOC rules promulgated pursuant to the Oklahoma Administrative Procedures Act, 75 O.S. §251, et seq.
- d. All requests for funds should be submitted to ODOC during the period funded. A final claim may be submitted no later than forty-five (45) days after the final date of the period funded. Said claim will be allowed only for reimbursement of actual expenditures. Any claim submitted after the forty-five (45) days may be disallowed by ODOC.

### 13. PROCUREMENT

Procurement, management and disposition of personal property acquired with contract funds shall be governed by the Oklahoma Central Purchasing Act, 74 O.S. §85.1, et seq., and in accordance with OMB Circular A-110.

### 14. TRAVEL AND PER DIEM

All payments for travel-related costs, including per diem, incurred in performing this contract shall be by reimbursement only and shall be in accordance with the State Travel Reimbursement Act, 74 O.S. §§500.1, et seq.

### 15. RECORDS, REPORTS, DOCUMENTATION

- a. The Contractor shall maintain complete, up-to-date files containing:
  - (1) This contract and all subsequent revisions or modifications;
  - (2) Policies and procedures issued by ODOC.
- b. The Contractor shall maintain records and accounts, including property, personnel and financial records that properly document and account for all project funds. Some specific types and forms of records may be required by ODOC.
- c. All records and accounts shall be made available on demand by the Oklahoma State Auditor and Inspector or ODOC, its agents and designees for inspection and use in carrying out its responsibilities for administration of the funds.
- d. ODOC requires that a quarterly report be submitted by the 10th day of the month following each quarter, regardless of the amount of activity in the program. Failure could result in the termination of the contract.
- e. The Contractor shall furnish ODOC other reports related to this contract in the forms and at such times as may be required by ODOC.
- f. The Contractor shall retain all books, documents, papers, records



and other materials involving all activities and transactions related to this contract for at least three (3) years from the date of submission of the final expenditure report or until all audit findings have been resolved, whichever is later, or as otherwise required by law. The Contractor shall permit authorized representatives of the State of Oklahoma and the federal government to have full access to and the right to fully examine all such materials.

16. CLOSING OUT PERIOD FUNDED

- a. The Contractor shall promptly return to ODOC any funds received under this contract that are not obligated as of the final date of the period funded. Funds shall be considered obligated only if goods and services have been received as of the final date of the period funded.
- b. The Contractor shall submit closeout documents in accordance with the form furnished by ODOC no later than ninety (90) days after the final date of the period funded.
- c. When actual expenditures total less than the contract amount, the contract will be automatically de-obligated to the actual expenditures as shown in the closeout.

17. AUDITING, DISALLOWED COSTS

- a. The Contractor shall comply with ODOC's Audit Policies and Audit Procedures, which are incorporated herein and made a part hereof.
- b. The Contractor shall not pay audit costs as an expense to this contract. Audit costs may be used as a match expense but are not reimbursable.
- c. In the event auditing results in the determination that the Contractor has expended contract funds on unallowable costs, the Contractor shall reimburse ODOC in full for all such costs.

18. PROGRAM INCOME

The Contractor shall account to ODOC for all program income resulting from this contract. Disposition of program income will be determined by ODOC.

19. INTERPRETATION REMEDIES

- a. In the event the terms or provisions of this contract are breached by either party or in the event a dispute shall arise between the parties regarding the meaning, requirements or interpretation of the terms and provisions of this contract, then such breach or dispute shall be resolved pursuant to the terms of this contract and the administrative procedures available through ODOC rules promulgated pursuant to the Oklahoma Administrative Procedures Act, 75 O.S. §§250.1, et seq.
- b. Neither forbearance nor payment by ODOC shall be construed to constitute waiver of any remedies for any default or breach by the Contractor that exists or occurs later.



## 20. TERMINATION OR SUSPENSION

- a. This contract may be terminated or suspended in whole or in part at any time by written agreement of the parties.
- b. This contract may be terminated or suspended by ODOC in whole or in part at any time for cause, after notice and an opportunity for Contractor to present reasons why such action should not be taken. Procedures for such a process shall be in accordance with the General Rules of Practice and Procedure of ODOC. Grounds constituting cause include but are not limited to:
  - (1) The Contractor fails to comply with provisions of this contract or with any applicable laws, regulations, guidelines or procedures, including ODOC policies and issuances, or is unduly dilatory in executing its commitments under this contract;
  - (2) Purposes for the funds have not been or will not be fulfilled or would be illegal to carry out;
  - (3) The Contractor has submitted incorrect or incomplete documentation pertaining to this contract;
  - (4) The Contractor is unduly dilatory in executing its commitments under a prior contract with ODOC, including but not limited to submission of any audits due, resolution of audit findings and monitoring results.
- c. In the event of termination or suspension, the Contractor shall be entitled to payment for otherwise valid and allowable obligations incurred in good faith prior to notice of such action and to reimbursement for reasonable and necessary expenses. The Contractor shall reduce to the minimum possible all obligations, prepaid expenses and other costs.
- d. The Contractor shall not be relieved of liability to ODOC for damages sustained by ODOC by virtue of any breach of this contract by the Contractor. ODOC may withhold payments due under this contract pending resolution of the damages.

## 21. SEVERABILITY CLAUSE

If any provision under this contract or its application to any person or circumstance is held invalid by any court of competent jurisdiction, such invalidity does not affect any other provision of this contract or its application that can be given effect without the invalid provision or application.

## 22. SPECIAL CONDITIONS

- a. Contractor shall perform those duties and activities as set forth in its Application, which is hereby incorporated herein by reference.
- b. Contractor shall match funds provided under this contract as set forth in its application.



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- c. Quarterly Reports must be forwarded in a timely manner or the unused funds will be de-obligated.