

**PART II - GENERAL TERMS AND CONDITIONS****1. AVAILABILITY OF FUNDS**

- a. Payments pursuant to this contract are to be made only from monies made available to the Oklahoma Department of Commerce (ODOC) by the State of Oklahoma for the program under which this contract is awarded. 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 accordance with such determination.
- b. Funds for this contract are paid to ODOC in equal increments of 1/12th of the contract amount as approved by the Director of State Finance. The funds for this contract are available for disbursement after services are rendered pursuant to 74 O.S. § 85.44B. Claims for funds cannot exceed the actual expenditures or the cumulative 1/12th monthly allocation to date for this contract. Claims exceeding the 1/12th monthly allocation will be rejected by ODOC and returned to the contractor.
- c. ODOC shall have the right to terminate this contract if the Legislature fails to allocate sufficient funds to maintain this contract or, in the alternative, to reduce the compensation clause proportionately to reflect the reduction in funding allocated to this contract.

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 designee.

3. BUDGET REVISIONS

- a. Revisions in work program activities which result in revisions to the budget line items of (+) or (-) 10%, shall be approved by the governing board and submitted to ODOC for review and approval. In addition, any revision to the administration category must be approved in advance by ODOC.

4. ODOC

ODOC will provide funding for the project up to the total contract amount.

5. CONTRACTOR



- a. Contractors shall refer to and comply with the current Head Start Program Review Instrument for Systems Monitoring (PRISM) in the carrying out of Head Start activities.
- b. The Contractor will provide the necessary personnel, facilities, supplies, equipment and/or related resources and skills to accomplish the project in accordance with the terms and conditions of this contract. 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.
- c. All activities under this contract must be performed in accordance with the Enhancement Activity and budgets and subsequent modifications approved by ODOC.
- d. None of the work and services covered by this contract may be subcontracted without prior written approval of ODOC.
- e. In no event will any subcontractor incur obligation on the part of ODOC.

6. 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.

7. CERTIFICATIONS BY CONTRACTOR

- a. The Contractor 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 the 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 specifically certifies and assures that:

- (1) Equal Opportunity

No person shall on the grounds of race, color, national origin, religion or sex be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program, project or activity funded in whole or in part with funds made available. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 USC §§6101, *et seq.*) or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973 (29 USC 794) shall also apply to any such program or activity. 42 USC 9906(a).

- (2) Appeals



The Contractor has and will follow procedures designed to guarantee equal access to program services and resources and to guarantee rights of appeal to resolve grievances of persons seeking services. 74 O.S. §5023.

(3) Board Membership

The membership of the Contractor's Board is and will remain constituted in compliance with CSBG requirements. 42 USC 9904(c)(3).

(4) Linkages

The Contractor shall ensure the enhanced performance of all programs through the coordination between governmental and other social services programs to assure the effective delivery of such services and reduction in duplication of services to low income individuals.

(5) The Contractor certifies that it is in compliance with 25 O.S. §1313(B).

8. 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 damages 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.

9. POLITICAL ACTIVITY

- a. No portion of the contract funds may be used for any political activity or to further the election or defeat of any candidate for public office.
- b. No portion of the contract funds may be used for lobbying activities.

10. NO-CONFLICT COVENANT

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.

11. 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 the State of Oklahoma as administered by the Oklahoma Department of Commerce.

12. COMPENSATION TO CONTRACTOR

- a. Funds made available pursuant to this contract shall be used only for expenses incurred during the period funded as specified in this contract 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 in accordance herewith upon receipt and approval by ODOC of timely, properly executed Requests for Funds.
- c. All requests for funds should be submitted to ODOC during the period funded. A final claim may be submitted no later than sixty (60) 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 sixty (60) days may be disallowed by ODOC.
- d. If a question arises as to the validity of any claim made under this contract, ODOC may suspend further payments until the question is resolved. The decision of ODOC to allow or disallow any claim shall prevail.

13. 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.

14. PROCUREMENT

Procurement, management and disposition of personal property acquired with contract funds shall be governed by the principles of the Oklahoma Central Purchasing Act, 74 O.S. §§85.1, et seq., and ODOC policy.



15. RECORDS, REPORTS, DOCUMENTATION

- a. Contractor shall maintain records and accounts, including property, personnel and financial records that properly document and account for all project funds. Specific types and forms of records are required in the ODOC Contractors Implementation Manual previously received by the Contractor. The Manual is hereby annexed and incorporated and made a part of this contract. The Manual may be amended during the current contract year by ODOC. All amendments shall be based on changes in federal and State laws or regulations and shall be mailed to the Contractor at the address indicated in Part I of the contract.
- b. The Contractor shall submit Monthly Expenditure Reports to ODOC, said reports to be submitted by the twentieth (20th) of each month, whether or not expenditures are incurred.
- c. The Contractor shall maintain up to date CAPilot ODM Electronic Reporting so that reports are available to ODOC by the 20th of each month, **OR** paper reporting if approved in advance by ODOC.
- d. The Contractor shall furnish ODOC with narrative reports, statistical reports and financial reports related to this contract in the forms and at such times as may be required by ODOC.
- e. The Contractor shall retain all books, documents, papers, records and other materials involving all activities and transactions related to this contract for at least five (5) 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, as ODOC deems necessary, permit authorized representatives of ODOC and the State of Oklahoma to have full access to and the right to fully examine all such materials during normal business hours.
- f. The Contractor 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.
- g. The Contractor will submit an Annual SAF/HS Performance Report detailing the outcome of the Enhancement Activity at closeout of the contract.

16. CLOSING OUT OF PERIOD FUNDED

- a. 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, as directed by ODOC, no later than sixty (60) 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 documents.

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. In the event the audit 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. INTERPRETATION, REMEDIES

- a. In the event the parties fail to agree on changes or interpretations of this contract, the decision of ODOC shall prevail.
- b. In the event of any disagreement between the Contractor and ODOC relating to the technical competence of the work and services being performed and its conformity to the requirements of this contract, the decision of ODOC shall prevail.
- c. 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.

19. 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, 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 the Department. Grounds constituting cause include but are not limited to:
 - (1) 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) 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 pending resolution of the damages.

20. 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.

21. SPECIAL CONDITION

- a. Contractors scheduled to be audited by the Federal Head Start Program agree to accept technical assistance provided through ODOC and the Oklahoma Association of Community Action Agencies (OKACAA) prior to Federal review. Contractors are required to submit the most recent copies of the Federal Head Start review/findings to ODOC within 60 days of the completed review.
- b. Contractors are required to submit the Annual Action Plan resulting from the Federal Risk Management Process.