

# ATTACHMENT B-1

## OSDH RHTP SUBRECIPIENT GENERAL TERMS

This Oklahoma State Department of Health (“OSDH”) General Terms (“General Terms”) is a Contract document in connection with a Contract issued by OSDH on behalf of the State of Oklahoma.

Subrecipient acknowledges that the acquisitions under this Contract may use Federal assistance for purposes of funding the acquisition. When procuring property and services using Federal financial assistance, OSDH must follow the same policies it uses for procurements from its non-Federal funds along with all other requirements of the Title 2 U.S. Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance). In addition, OSDH and Subrecipient must agree to the standards identified in Federal Regulations 2 C.F.R. §§ 200.321 – 200.323 and ensure purchase orders, contracts, or subcontracts include clauses required by 2 C.F.R. § 200.327.

In addition to other terms contained in an applicable Contract document, Subrecipient and OSDH agree to the following General Terms:

### **1 Scope and Contract Renewal**

- 1.1** At no time during the term of the Contract shall the Subrecipient have the authority to obligate OSDH for payment (a) when a corresponding encumbering document is not signed or (b) over and above the awarded amount.
- 1.1** OSDH may extend the Contract for ninety (90) days beyond a final renewal term at the Contract compensation rate for the extended period. If OSDH exercises such option to extend ninety (90) days, OSDH shall notify the Subrecipient in writing prior to Contract end date. OSDH, 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.

### **2 Contract Order of Priority**

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

- B.** terms contained in this Contract document.
- C.** any Contract-specific State terms contained in a Contract document including, without limitation, information technology terms and terms specific to a statewide Contract or a State agency Contract;
- D.** any statement of work, work order, or other mutually agreed Contract documents.

**2.2** If there is a conflict between the terms contained in this Contract document or in Contract-specific terms and an agreement provided by or on behalf of Subrecipient including but not limited to linked or supplemental documents which alter or diminish the rights of OSDH or the State, the conflicting terms provided by Subrecipient shall not take priority over this Contract document or Federal award-specific terms. In no event will any linked document alter or override such referenced terms except as specifically agreed in an Amendment.

### **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 Subrecipient, 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 Subrecipient 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 Subrecipient are of no effect and are void unless mutually executed.

**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 Subrecipient.

**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 OSDH's liability or reduce the rights of OSDH or the State.

**3.5** To the extent any term or condition in any Contract document, including via a hyperlink or uniform resource locator, conflicts with an applicable Oklahoma and/or United States law or regulation, such term or condition is void and unenforceable. By executing any Contract document which contains a conflicting term or condition, the State or OSDH make no representation or warranty regarding the enforceability of such term or condition and the State or OSDH do 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, the Public Health Code, and the Oklahoma Administrative Code, Titles 260 and 310, 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 Amendment** means any mutually executed, written modification to a Contract document or a written change, addition, correction or revision to a Solicitation.

**4.2 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.

**4.3 Contractor or Subcontractor** means an entity that OSDH or Subrecipient enters into a legal agreement with to purchase goods or services for OSDH or Subrecipient's own use.

**4.4 Customer** means OSDH or the entity receiving goods or services contemplated by the Contract.

**4.5 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.

**4.6 Destination** means delivered to the receiving dock or other point specified in the applicable Contract document.

- 4.7 **Federal award** means the Federal financial assistance that a recipient receives directly from a Federal awarding agency or indirectly from a pass-through entity.
- 4.8 **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.
- 4.9 **Indemnified Parties** means the State and OSDH and/or its officers, directors, agents, employees, representatives, contractors, assignees and designees thereof.
- 4.10 **Inspection** means examining and testing (including, when appropriate, raw materials, components, and intermediate assemblies) to determine whether performance meets Contract requirements.
- 4.11 **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.
- 4.12 **OAC** means the Oklahoma Administrative Code.
- 4.13 **OMES** means the Office of Management and Enterprise Services.
- 4.14 **OSDH** means the Oklahoma State Department of Health.
- 4.15 **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.
- 4.16 **Subrecipient** means an entity that receives a subaward from OSDH and whose performance is measured against the objectives of the Federal award program.
- 4.17 **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.
- 4.18 **Subrecipient Confidential Information** means certain confidential and proprietary information of Subrecipient that is clearly marked as confidential and agreed by the State Purchasing Director or OSDH, as applicable, but does

not include information excluded from confidentiality in provisions of the Contract or the Oklahoma Open Records Act.

**4.19 Work Product** means any and all deliverables produced by Subrecipient 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 Subrecipient 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 OSDH in connection with this Contract or with funds appropriated by or for OSDH or OSDH's benefit (a) by any Subrecipient personnel or OSDH personnel or (b) any OSDH personnel who then became personnel to Subrecipient or any of its affiliates or subcontractors, where, although creation or reduction-to-practice is completed while the person is affiliated with Subrecipient or its personnel, any portion of same was created, invented or conceived by such person while affiliated with OSDH.

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

**5.1** As a condition of this Contract, Subrecipient 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 Subrecipient 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 OSDH if services will be provided by any of Subrecipient's employees, agents or subcontractors at

any Customer premises and/or employer vehicles will be used in connection with performance of Subrecipient's obligations under the Contract. Subrecipient may not commence performance hereunder until such proof has been provided. Additionally, Subrecipient shall ensure each insurance policy includes a notice of cancellation and includes OSDH and its agencies as certificate holder and shall promptly provide proof to OSDH of any renewals, additions, or changes to such insurance coverage. Subrecipient's obligation to maintain insurance coverage under the Contract is a continuing obligation until Subrecipient 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 if the Subrecipient will be performing any of the activities listed below in accordance with obligations under the Contract:
  - i. Transportation of OSDH clients, employees, contractors, or agents;
  - ii. Transportation of OSDH property;
  - iii. Transportation of any person or good as a responsibility for performance under this Contract;
- D.** If the Subrecipient 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 Subrecipient's computer systems that results in unauthorized access to Customer data with limits \$5,000,000 per occurrence; and
- E.** Additional coverage required in writing in connection with a particular Acquisition.

- 5.2** Subrecipient shall be entirely responsible during the existence of the Contract for the liability and payment of taxes payable by or assessed to Subrecipient or its employees, agents and subcontractors of whatever kind, in connection with the Contract. Subrecipient 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 OSDH nor the State shall be liable to the Subrecipient, its employees, agents, or others for the payment of taxes or the provision of unemployment insurance and/or Workers' Compensation or any benefit available to a State or OSDH employee.
- 5.3** Subrecipient agrees to indemnify OSDH, the State, and its employees, agents, representatives, contractors, and assignees for any and all liability, actions, claims, demands, or suits, and all related costs and expenses (including without limitation reasonable attorneys' fees and costs required to establish the right to indemnification) relating to tax liability, unemployment insurance and/or Workers' Compensation in connection with its performance under the Contract.

## **6 Contract Monitoring Plan**

This contract will be monitored by the OSDH Contract Monitor for this Contract and will be based on the completion of a Risk Assessment process. Information related to programmatic requirements, the contract specifications, and responses to the Subrecipient's Subrecipient Questionnaire will be utilized to complete a Risk Assessment Tool. The Risk Assessment Tool will be used to determine the level of risk associated with the Contract. A Contract Monitoring Plan and a Contract Administration Plan will be developed to define the activities and level of monitoring and administration that will be required during the contract period. Typical monitoring activities include Subrecipient site visits, review of contractually required reports, invoice review, invoice validation, and verification of licensure and/or insurance requirements, etc. The level of risk assigned to the contract shall determine the frequency and type of activity within a Contract Monitoring Plan and/or a Contract Administration Plan. The Contract Monitoring and/or Contract Administration Plan may be updated periodically as determined by the OSDH throughout the contract period. Upon development of the Contract Monitoring Plan and Contract Administration Plan, the OSDH will provide a copy of each to the Subrecipient.

## **7 Information Submitted**

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

## **8 Competitive Bidding**

All funds received by the Subrecipient herein are subject to the Oklahoma Purchasing Act and the procurement standards found in 2 C.F.R. §§ 200.321 – 200.323, and 2 C.F.R. § 200.327. The Subrecipient acknowledges and agrees that these funds were to the best of Subrecipient’s knowledge competitively bid or covered by an exemption as described therein.

## **9 Indirect Costs**

The Subrecipient may request reimbursement of indirect costs (IDC) not to exceed the total amount approved for IDC in the current approved line-item budget. Indirect Costs are expenses that are not directly related and billed 100% to a particular funding source. The IDC line-item amount must be based on one of: the federally approved IDC rate; or the rate approved by the Subrecipient’s cognizant agency; or the 15% de minimus rate provided for in 2 CFR Part 200; or a Cost Allocation Plan submitted to OSDH and included the required certification outlined in 2 CFR Part 200.415(b) explaining the allocation methods.

## **10 Invoices and Payment**

**10.1** A properly completed invoice must be submitted to the designated OSDH Contract Monitor identified in Section 0.7 within 30 days of the end of the month in which services were delivered or products provided and include the following items:

- A.** name, address, and FEI number of the Subrecipient;
- B.** invoice date;
- C.** period covered by invoice;
- D.** purchase order number;
- E.** any other data, reports, information or documentation required by other conditions of the Contract;
- F.** detail of the services provided and be in accordance with the terms and conditions of this agreement; and
- G.** For invoices involving payment for the Subrecipient’s time, the Subrecipient and any approved subcontractor shall maintain Personnel Activity Reports (PARs) on all employees reimbursed in whole or in part by this Contract. PARs must be completed in accordance with the Federal Cost Principles applicable to the Subrecipient’s specific entity type found at 2 CFR Part 200.430, 45 CFR Part 75, and 7 CFR Part

3016, among others. The invoice must be signed and contain the following statement:

**“By my signature I attest that this invoice is an accurate and true representation of my time in relation to the services provided to OSDH.”**

**10.2** To comply with 2 CFR § 200.415 (Required Certifications), invoices requesting payment must include a certification, signed by an official who is authorized to legally bind the Subrecipient, which reads as follows:

“By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812).”

The Subrecipient assures that all costs billed will be supported by documentation that will include, but not be limited to, copies of paid invoices, payroll records and time reports as required by the cost principles applicable to their organization. The Subrecipient further assures that all billings will be based on actual costs incurred and paid.

If the Subrecipient is unable to support any part of their claim to the OSDH and it is determined that such inability is attributed to misrepresentation of fact or fraud on the part of the Subrecipient, the Subrecipient shall be liable to OSDH for an amount equal to such unsupported part of the claim in addition to all costs, including legal, attributable to the reviewing and discovery of said part of claim. Liability under this paragraph shall be determined within two years of the discovery of such misrepresentation of fact or fraud by the Subrecipient.

In addition, Subrecipients shall request reimbursement of costs from OSDH only when those costs comply with the applicable Federal Cost Principles 2 CFR Part 200, FAR 31.2, or as determined by the applicable Federal program guidance to the Subrecipient’s entity type. Any request for reimbursement of cost not allowable under the above Federal regulations must be specifically

approved in the special conditions of the contract language and be supported by a specific line item within the Subrecipient's approved budget.

- 10.3** If travel costs and related expenses are a part of the contract, such expenses must be compliant with 2 CFR Part 200.475. The Subrecipient's request for reimbursement shall be based on the organization's written travel policies. OSDH will monitor the travel-related expenses based on reasonableness (2 CFR Part 200.404) as compared to those rates authorized by the Federal Continental United States ("CONUS") Rates published at the GSA Website located at <https://www.gsa.gov/travel/plan-book/per-diem-rates>. All out-of-state travel where reimbursement is requested must be pre-approved in writing by the OSDH. In addition, OSDH allowable travel costs must be directly related to the activities of the contract and therefore may require allocation of those costs to all programs benefitted based on an equitable allocation methodology.
- 10.4** OSDH may withhold or delay payment to any Subrecipient failing to provide required programmatic documentation and/or requested financial documentation. OSDH reserves the right not to process invoices submitted by the Subrecipient to OSDH more than 30 days after the month in which services were delivered. OSDH will not pay invoices received more than sixty (60) days after the end of the applicable contract period.
- 10.5** Subrecipient 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.
- 10.6** The following terms additionally apply:
- A.** 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.
  - B.** 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.
  - C.** 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.

- D. If an overpayment or underpayment has been made to Subrecipient any subsequent payments to Subrecipient under the Contract may be adjusted to correct the account. A written explanation of the adjustment will be issued to Subrecipient.
- E. Subrecipient shall have no right of setoff.
- F. The Subrecipient shall accept payment by Purchase Card as allowed by Oklahoma law.

## 11 Buying Preferences

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

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

**11.2 Buy America Preference, 2 C.F.R. Part 184.** Applies to Federal awards where funds are appropriated or otherwise made available for infrastructure projects in the United States, regardless of whether infrastructure is the primary purpose of the Federal award. Must be included in all subawards, contracts, and purchase orders for the work performed, or products supplied under the Federal award. Infrastructure encompasses public infrastructure projects in the United States, which includes, at a minimum, the structures, facilities, and equipment for roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads;

freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property; and structures, facilities, and equipment that generate, transport, and distribute energy including electric vehicle (EV) charging.

## **12 Statutes and Regulations Prohibiting Discrimination**

- 12.1 42 C.F.R. Part 60**, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor” applying to any construction work and subcontract work, or modification thereof, which is paid for in whole or in part with funds obtained from the Federal Government, unless otherwise exempted.
- 12.2 Title VI of the Civil Rights Act of 1964** (42 U.S.C. §§ 2000d, et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibits discrimination on the basis of race, color, or national origin under programs or activities receiving Federal financial assistance.
- 12.3 Fair Housing Act, Title VIII of the Civil Rights Act of 1968** (42 U.S.C. §§ 3601, et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability.
- 12.4 Section 504 of the Rehabilitation Act of 1973**, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance.
- 12.5 Age Discrimination Act of 1975**, as amended (42 U.S.C. §§ 6101, et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance.
- 12.6 Title II of the Americans with Disabilities Act of 1990**, as amended (42 U.S.C. §§ 12101, et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.
- 12.7 Protections for Whistleblowers.** In accordance with 41 U.S.C. § 4712, the Parties may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial

and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant. The list of persons and entities referenced includes the following:

- A. A member of Congress or a representative of a committee of Congress;
- B. An Inspector General;
- C. The Government Accountability Office;
- D. A Treasury employee responsible for contract or grant oversight or management;
- E. An authorized official of the Department of Justice or other law enforcement agency;
- F. A court or grand jury; or
- G. A management official or other employee of Recipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.

**12.8 Executive Order No. 13279**, as amended (Executive Order No. 14173), the employment, procurement, and contracting practices of Federal contractors and subcontractors shall not consider race, color, sex, sexual preference, religion, or national origin in ways that violate the Nation's civil rights laws.

**12.9 Title IX of the Education Amendments of 1972**, as amended (codified at 20 U.S.C. § 1681 et seq.). For Programs that could implicate Title IX (i.e., awards to or for school, colleges, universities, 4-H programs, non-governmental organization (NGO) programs, sports programs, and education-related awards to prisons or other detention facilities):

- A. Subrecipient is compliant with Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 et seq., including the requirements set forth in Presidential Executive Order 14168 titled Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government, and Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d et seq., and Subrecipient will remain compliant for the duration of the Contract.

**12.10 Section 1557 of the Patient Protection and Affordable Care Act**, as amended (codified at 42 U.S.C. § 18116), which prohibits discrimination on the grounds of race, color, national origin, sex, age, or disability in certain health programs and activities.

### **13 Contract and Subcontract Level Requirements**

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

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

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

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

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

procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

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

Suspension and Debarment. Restricts awards, subawards, contracts, and subcontracts with Subrecipients that are debarred, suspended, or otherwise excluded, or declared ineligible for participation in federal assistance programs and activities. This Contract is a covered transaction for purposes of 2 CFR pt. 180 and 2 CFR pt. 3000. As such, the Subrecipient is required to verify that none of Subrecipient's principals (defined at 2 CFR § 180.995) or its affiliates (defined at 2 CFR § 180.905) are excluded (defined at 2 CFR § 180.940) or disqualified (defined at 2 CFR § 180.935). The Subrecipient must comply with 2 CFR part 180, subpart C and 2 CFR part 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into. This certification is a material representation of fact relied upon by the State of Oklahoma. If it is later determined that the Subrecipient did not comply with 2 CFR part 180, subpart C and 2 CFR pt. 3000, subpart C, in addition to remedies available to the State, the federal government may pursue available remedies, including but not limited to suspension and/or debarment.

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

**A.** The Contract Work Hours and Safety Standards Act, 40 U.S.C. §§ 3701- 3708. Applies to all contracts and subcontracts of more than \$100,000 that involve the employment of mechanics or laborers. Under Section 3702 of the Act, contractors and subcontractors shall be required to compute the wages of every mechanic and laborer (including guards and watchmen) on the basis of a standard workweek of 40 hours. Work in excess of the standard workweek is permissible provided that the worker is compensated at a rate of not less than 1 1/2 times the basic rate of pay for all hours worked in excess of 40 hours in the workweek. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

**B.** Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352, as amended. Subrecipient certifies that it will not and has not used Federal

appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. This Subrecipient shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award and require any entities receiving subawards or contracts to do the same. Such disclosures are forwarded from tier-to-tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

\* Contractors must sign the attached certification.

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

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

### **13.6 Contracts and Purchases \$350,000 and Above**

Remedies. Contracts for more than the simplified acquisition threshold, currently set at \$350,000, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

## **14 Other Applicable Laws**

**14.1** As long as Subrecipient has an obligation under the terms of the Contract and in connection with performance of its obligations, the Subrecipient 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.** Subrecipients shall comply with the requirements of the Federal Funding Accountability and Transparency Act of 2006 (FFATA) as set forth in 2 CFR Part 170. A UEI number (Unique Entity Identifier) is a requirement for all contracts of \$30,000 or more. Subrecipients may be required to submit additional information to satisfy FFATA compliance.

- B.** Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Subrecipient is encouraged to adopt and enforce on-the-job seat belt policies and programs for employees when operating company- owned, rented or personally owned vehicles.
- C.** Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 F.R. 51225 (Oct. 6, 2009), Subrecipient is encouraged to adopt and enforce policies that ban text messaging while driving and establish workplace safety policies to decrease accidents caused by distracted drivers;
- D.** Prospective participant requirements set at 45 C.F.R. part 76 in connection with Debarment, Suspension and other responsibility matters;
- E.** Publications. Any publications produced with funds from a Federal award must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to [name of Recipient] by the U.S. Department of the Treasury.";
- 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 C.F.R.CFR 200 Subpart F §200.500 et seq. with approval and work paper examination rights of the applicable procuring entity;
- H.** Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 C.F.R. § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 C.F.R. Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

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

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

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

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

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

that communications service to users and customers is sustained.

- J.** 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 <https://www.e-verify.gov/>;
- K.** 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
- L.** 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.

**14.2** The Subrecipient's employees, agents and subcontractors shall adhere to applicable OSDH 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 Subrecipient shall adhere to the State Information Security Policy, Procedures, Guidelines set forth at <https://oklahoma.gov/about/security-policy.html>. Subrecipient is responsible for reviewing and relaying such policies covering the above to the Subrecipient's employees, agents and subcontractors.

**14.3** At no additional cost to OSDH, the Subrecipient shall maintain all applicable licenses and permits required in association with its obligations under the Contract.

**14.4** In addition to compliance under subsections 11 through 14.1, Subrecipient shall have a continuing obligation to comply with applicable OSDH-specific mandatory contract provisions required in connection with the receipt of federal funds or other funding source.

**14.5** The Subrecipient is responsible to review and inform its employees, agents, and subcontractors who provide a product or perform a service under the Contract of the Subrecipient's obligations under the Contract and Subrecipient certifies that its employees and each such subcontractor shall comply with minimum requirements and applicable provisions of the Contract. At the

request of OSDH, Subrecipient 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.

- 14.6** As applicable, Subrecipient 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.
- 14.7** The execution, delivery and performance of the Contract and any ancillary documents by Subrecipient will not, to the best of Subrecipient'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 Subrecipient and any third party.
- 14.8** Subrecipient 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.
- 14.9** Subrecipient represents that, to the best of its knowledge, any litigation or claim or any threat thereof involving Subrecipient has been disclosed in writing to OSDH and Subrecipient is not aware of any other litigation, claim or threat thereof.
- 14.10** If services provided by Subrecipient include delivery of an electronic communication, Subrecipient 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, Subrecipient shall correct and re-deliver such communication immediately upon discovery or notice, at no additional cost to OSDH. Additionally, as part of compliance with accessibility requirements where documents are only provided in non-electronic format, Subrecipient 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 OSDH.

## **15 Audits and Records Clause**

- 15.1** 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.

**15.2** Subrecipient agrees any pertinent Federal or State agency or governing entity of OSDH shall have the right to examine and audit, at no additional cost to OSDH, all records relevant to the execution and performance of the Contract except, unless otherwise agreed, costs of Subrecipient that comprise pricing under the Contract.

**15.3** Subrecipient acknowledges that the funds assisting this Contract are subject to the requirements found in 2 C.F.R. §§ 200.500 – 200.520.

**A.** Subrecipient agrees to provide OSDH, the State of Oklahoma, the U.S. Center for Medicare & Medicaid Services (“CMS”), the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Subrecipient which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts, and transcriptions. The Subrecipient agrees to permit any of the foregoing parties to copy or reproduce, by any means, excerpts and transcriptions as reasonably needed, and agrees to cooperate with all such requests.

**B.** If applicable, the Subrecipient agrees to provide CMSt or authorized representatives access to construction or other work sites pertaining to the work being completed under the Contract.

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

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

**15.4** The Subrecipient 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 a Contract 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.

## **16 Compliance with Grant Requirements**

Subrecipient agrees that should it be in noncompliance, OSDH may impose additional conditions as provided in 2 CFR §200.208; or, as provided in 2 CFR § 200.339, temporarily hold cash payments pending correction of the deficiency, disallow all or part of the cost of the activity or action not in compliance, suspend or terminate the contract in part or in whole, withhold further awards for the project or program, or take other remedies legally available. Compliance with the requirements shall be the responsibility of the Subrecipient, without reliance on or direction by the OSDH.

## **17 Subrecipient Systems, Policies, and Procedures**

Subrecipients are expected to have systems, policies, and procedures in place by which they manage grant funds and grant-supported activities. Organizational policies should be consistently applied regardless of the source of funds. Subrecipient systems must meet the standards and requirements set forth in 2 CFR Part 200, 45 CFR Part 75, or 7 CFR Part 3016, or as determined by the applicable Federal program guidance.

## **18 Limited English Proficiency**

Where a significant number or proportion of the population eligible to be served or likely to be directly affected by a federally assisted program needs service or information in a language other than English in order to effectively be informed of or participate in the program, the Subrecipient shall take reasonable steps, considering the scope of the program and the size and concentration of such population, to provide the information in appropriate languages to such persons.

An inability by the Subrecipient to provide the information in the appropriate language to a significant number or proportion of the population eligible to be served or likely to be directly affected by the program may result in termination of the contract.

## **19 Charitable Choice Providers**

Providers who are members of the faith community are eligible to compete for contracts with the State of Oklahoma on the same basis as any other provider. Such providers shall not be required to alter their forms of internal governance, their religious character or remove religious art, icons, scripture, or other symbols. Such providers may not, however, discriminate against clients on the basis of their religion, religious beliefs, or clients' refusal to participate in religious practices (45 CFR Part 87.1c). Organizations that receive direct financial assistance from the OSDH under any OSDH program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded with direct financial assistance from the OSDH. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded with direct financial assistance from the OSDH, and participation must be voluntary for beneficiaries of the programs or services funded with such assistance.

## **20 Procurement Integrity**

Subrecipient certifies that it has not entered into this contract with this or any other Oklahoma state agency that would result in a substantial duplication of the services or duplication of the end product rendered by the Subrecipient or its employees.

## **21 Confidentiality**

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

**21.2** Subrecipient shall establish, maintain and enforce agreements with all such persons and entities that have access to State and citizen data and records to fulfill Subrecipient'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 OSDH.

**21.3** Subrecipient shall immediately report to OSDH any and all unauthorized use, appropriation, sale, assignment, conveyance, provision, release, access, acquisition, disclosure or other dissemination of any State or citizen data or records of which it or its parent company, subsidiaries, affiliates, employees, officers, directors, assignees, agents, representatives, independent contractors, and subcontractors is aware or have knowledge or reasonable should have knowledge. The Subrecipient shall also promptly furnish to OSDH 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 OSDH in investigating or preventing the reoccurrence of such event in the future. The Subrecipient shall cooperate with OSDH 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.

- 21.4** Subrecipient 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.
- 21.5** Subrecipient 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 OSDH and certain beneficiaries and may violate state or federal laws and regulations. If the Subrecipient 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, OSDH 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.
- 21.6** The Subrecipient 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 Subrecipient or any subcontractor or to which the Subrecipient or subcontractor has access and Subrecipient shall fully cooperate with all efforts to protect the security and confidentiality of such data or records in response to a third party request.

## **22 Conflict of Interest**

In addition to any requirement of law or of a professional code of ethics or conduct, the Subrecipient, 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 Subrecipient 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 OSDH. Any conflict of interest shall, at the sole discretion of OSDH, be grounds for partial or whole termination of the Contract

## **23 Assignment and Permitted Subcontractors**

**23.1** Subrecipient's obligations under the Contract may not be assigned or transferred to any other person or entity without the prior written consent of OSDH which may be withheld at OSDH's sole discretion. Should Subrecipient assign its rights to payment, in whole or in part, under the Contract, Subrecipient shall provide OSDH written notice of the assignment. Such written notice shall be delivered timely and contain details sufficient for OSDH to perform payment obligations without any delay caused by the assignment.

**23.2** Notwithstanding the foregoing, the Contract may be assigned by Subrecipient to any corporation or other entity in connection with a merger, consolidation, sale of all equity interests of the Subrecipient, or a sale of all or substantially all of the assets of the Subrecipient 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 Subrecipient as fully as if it had been originally made a party to the Contract. Subrecipient shall give OSDH prior written notice of said assignment. Any assignment or delegation in violation of this subsection shall be void.

**23.3** If the Subrecipient is permitted to utilize subcontractors in support of the Contract, the Subrecipient 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 Subrecipient, the Subrecipient shall obtain written approval of OSDH of such subcontractor and each employee, as applicable to a particular Acquisition, of such subcontractor proposed for use by the Subrecipient. Such approval is within the sole discretion of OSDH. 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 Subrecipient shall provide a copy of a written agreement executed by the Subrecipient 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 Subrecipient under the terms of all applicable Contract documents. Subrecipient agrees that maintaining such agreement with any subcontractor and obtaining prior written approval OSDH of any subcontractor and associated employees shall be a continuing obligation. OSDH 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.

**23.4** All payments under the Contract shall be made directly to the Subrecipient, except as provided in subsection A above regarding the Subrecipient's assignment of payment. No payment shall be made to the Subrecipient for performance by unapproved or disapproved employees of the Subrecipient or a subcontractor.

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

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

Prior to the commencement of any services, performance of background checks and criminal history investigations of the Subrecipient's employees and subcontractors who will be providing services may be required. If required, the Subrecipient agrees to provide OSDH with a description of the background check process to include any vendor's used to gather information. Subrecipient will further attest that each employee and subcontractor providing services has passed the background check. Subrecipient's access to facilities, data and information may be withheld prior to completion of background verification acceptable to OSDH. The costs of additional background checks beyond Subrecipient's normal hiring practices shall be the responsibility of OSDH unless such additional background checks are required solely because Subrecipient will not provide verification of results of its otherwise acceptable normal background checks; in such an instance, Subrecipient shall pay for the additional background checks. Subrecipient will coordinate with OSDH and its employees to complete the necessary background checks and criminal history investigations. Should any employee or subcontractor of the Subrecipient who will be providing services under the Contract not be acceptable as a result of the background check or criminal history investigation, OSDH may require replacement of the employee or subcontractor in question and, if no suitable replacement is made within a reasonable time, terminate the purchase order or other payment mechanism associated with the project or services.

## **25 Patents and Copyrights**

Without exception, a product or deliverable price shall include all royalties or costs owed by the Subrecipient 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 Subrecipient under the Contract infringes that party's patent, intellectual property, copyright or other property right, Subrecipient shall enable OSDH 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. Subrecipient'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 Subrecipient determines that none of these alternatives are reasonably available, OSDH shall return such portion of the product or deliverable at issue to the Subrecipient, 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 Subrecipient.

## **26 Indemnification**

### **26.1 Acts or Omissions**

- A.** Subrecipient 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 Subrecipient or its agents, employees, or subcontractors in the execution or performance of the Contract.
  
- B.** To the extent Subrecipient is found liable for loss, damage, or destruction of any property of OSDH due to negligence, misconduct, wrongful act, or omission on the part of the Subrecipient, its employees, agents, representatives, or subcontractors, the Subrecipient and OSDH 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,

Subrecipient sixty (60) calendar days after the date of Subrecipient's receipt of an invoice for the negotiated settlement amount.

## **26.2 Infringement**

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

## **26.3 Notice and Cooperation**

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

## **26.4 Limitation of Liability**

- A.** With respect to any claim or cause of action arising under or related to the Contract, neither the State nor OSDH shall be liable to Subrecipient 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 Subrecipient 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 Subrecipient or its employees, agents or subcontractors.
- C.** The limitation of liability and disclaimers set forth in the Contract will apply regardless of whether OSDH has accepted a product or service. The parties agree that Subrecipient 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.

## **27 Termination for Cause**

- 27.1** Subrecipient may terminate the Contract if (i) it has provided OSDH with written notice of material breach and (ii) OSDH fails to cure such material breach within thirty (30) days of receipt of written notice. OSDH may terminate the Contract in whole or in part if (i) it has provided Subrecipient with written notice of material breach, and (ii) Subrecipient 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.
- 27.2** OSDH may terminate the Contract in whole or in part immediately without a thirty (30) day written notice to Subrecipient if (i) Subrecipient fails to comply with confidentiality, privacy, security, environmental or safety requirements applicable to Subrecipient's performance or obligations under the Contract; (ii) Subrecipient's material breach is reasonably determined to be an impediment to the function of OSDH and detrimental to OSDH or to cause a condition precluding the thirty (30) day notice or (iii) when OSDH determines that an administrative error in connection with award of the Contract occurred prior to Contract performance.

- 27.3** OSDH may terminate the Contract if the scope includes PR Vendor services and the Subrecipient, or Subrecipient's employee, violate the lobbying clause. PR Vendor services is defined to include a contract for public relations (PR), marketing or communication services. OSDH may immediately terminate the Contract with no more than 10-day notice under this section.
- 27.4** Upon receipt of notice of a termination, Subrecipient 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 Subrecipient 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 Subrecipient of liability for claims arising under the Contract.
- 27.5** The Subrecipient's repeated failure to provide an acceptable product or service; Subrecipient's unilateral revision of linked or supplemental terms that have a materially adverse impact on OSDH's rights or obligations under the Contract (except as required by a governmental authority); actual or anticipated failure of Subrecipient to perform its obligations under the Contract; Subrecipient's inability to pay its debts when due; assignment for the benefit of Subrecipient's creditors; or voluntary or involuntary appointment of a receiver or filing of bankruptcy of Subrecipient shall constitute a material breach of the Subrecipient'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.

## **28 Termination for Convenience**

- 28.1** OSDH may terminate the Contract, in whole or in part, for convenience if it is determined that termination is in OSDH's best interest. In the event of a termination for convenience, Subrecipient 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.

**28.2** Upon receipt of notice of such termination, Subrecipient shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to the effective date of termination, the termination does not relieve an obligation to pay for the product or service but there shall not be any liability for further payments ordinarily due under the Contract or for any damages or other amounts caused by or associated with such termination. Such termination shall not be an exclusive remedy but shall be in addition to any other rights and remedies provided for by law. Any amount paid to Subrecipient 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 Subrecipient of liability for claims arising under the Contract.

## **29 Termination for Funding Insufficiency**

**29.1** Notwithstanding anything to the contrary in any Contract document, OSDH 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, Subrecipient 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 OSDH of insufficient funding shall be accepted by, and shall be final and binding on, the Subrecipient.

**29.2** Upon receipt of notice of a termination, Subrecipient 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 Subrecipient in the form of prepaid fees that are unused when the Contract or certain obligations are terminated shall be refunded.

**29.3** OSDH'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 Subrecipient of any liability for claims arising under the Contract.

### **30 Suspension of Subrecipient**

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

**30.2** Upon receipt of a notice pursuant to this section, Subrecipient 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 Subrecipient, 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 Subrecipient in the form of prepaid fees attributable to a period of Suspension or suspended activity shall be refunded.

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

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

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

### **32 Force Majeure**

**32.1** 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.

**32.2** 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 Subrecipient cannot cause delivery of a product or service in a timely manner to meet the business needs of OSDH. Subrecipient is not entitled to payment for products or services not received and, therefore, amounts payable to Subrecipient during the force majeure event shall be equitably adjusted downward.

**32.3** 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 Subrecipient's system or any of Subrecipient's telecommunication or internet services other than as a result of general and widespread internet or telecommunications failures that are not limited to Subrecipient's systems or (b) the delay or failure of Subrecipient or subcontractor personnel to perform any obligation of Subrecipient 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 Subrecipient's obligations related to confidentiality, indemnification, data security or breach notification obligations set forth herein.

### **33 Security of Property and Personnel**

In connection with Subrecipient's performance under the Contract, Subrecipient may have access to OSDH personnel, premises, data, records, equipment and other property. Subrecipient shall use commercially reasonable best efforts to preserve the safety and security of such personnel, premises, data, records, equipment, and other property of OSDH. Subrecipient 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 OSDH property in its possession, regardless of cause. If Subrecipient fails to comply with OSDH's security requirements, Subrecipient is

subject to immediate suspension of work as well as termination of the associated purchase order or other payment mechanism.

## **34 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 Subrecipient contact, notices shall be sent to OSDH at the physical address identified in Section 0.7. 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.

## **35 Miscellaneous**

### **35.1 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. OSDH expressly declines any terms that minimize its rights under Oklahoma law, including but not limited to, Statutes of Limitations.

### **35.2 Employment Relationship**

The Contract does not create an employment relationship. Individuals providing products or performing services pursuant to the Contract are not employees of OSDH and, accordingly, are not eligible for any rights or benefits whatsoever accruing to such employees.

### **35.3 Transition Services**

If transition services are needed at the time of Contract expiration or termination, Subrecipient shall provide such services on a month-to-month basis, at the contract rate or other mutually agreed rate. Subrecipient 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 Subrecipient.

#### **35.4 Publicity**

**A.** The existence of the Contract or any Acquisition is in no way an endorsement of Subrecipient, the products or services and shall not be so construed by Subrecipient in any advertising or publicity materials. Subrecipient agrees to submit to OSDH all advertising, sales, promotion, and other publicity matters relating to the Contract wherein the name of the State or OSDH is mentioned or language used from which, in the State or OSDH's judgment, an endorsement may be inferred or implied. Subrecipient 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 OSDH.

#### **B. External Communications**

The Subrecipient shall provide OSDH with written notice of any planned external communications that reference or relate to the activities supported under this Agreement or the Rural Health Transformation Program. "External communications" include, but are not limited to, press releases, public statements, newsletters, marketing materials, website content, and social media posts.

Subrecipient shall provide such notice as far in advance as is reasonably possible given the nature and timing of the external communication. All notifications required under this section shall be submitted via email to [OklahomaRHTP@health.ok.gov](mailto:OklahomaRHTP@health.ok.gov). Upon receiving notice, the Agency may request reasonable modifications to ensure accuracy and compliance with funding requirements.

If advance notice is not feasible due to the nature of the communication, the Subrecipient shall notify the Agency as soon as reasonably practicable after publication and provide copies or links to the external communication.

#### **35.5 Open Records Act**

Subrecipient acknowledges that OSDH is subject to the Oklahoma Open Records Act set forth at 51 O.S. § 24A-1 et seq. Subrecipient also acknowledges that compliance with the Oklahoma Open Records Act and all opinions of the Oklahoma Attorney General concerning the Act is required.

Notwithstanding the foregoing, Subrecipient 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 Subrecipient 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 OSDH. In addition, the obligations in this section shall not apply to the extent that the applicable law or regulation requires disclosure of Subrecipient Confidential Information, provided that OSDH provides reasonable written notice, pursuant to Contract notice provisions, to the Subrecipient so that the Subrecipient may promptly seek a protective order or other appropriate remedy.

### **35.6 Failure to Enforce**

Failure by OSDH 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 OSDH 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.

### **35.7 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 Subrecipient 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 Subrecipient shall reasonably cooperate with each other and any Subrecipient 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.

### **35.8 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.

### **35.9 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.

### **35.10 Section Headings**

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

### **35.11 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 or OSDH nor any other right or defense available to the State or OSDH.

### **35.12 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.

### **35.13 Entire Agreement**

The Contract documents taken together as a whole constitute the entire agreement between the parties. The Contract documents include this Contract, any Amendments to this Contract, applicable Solicitation, and any successful bid as may be amended or limited through negotiation. No statement, promise, condition, understanding, inducement or representation, oral or written, expressed or implied, which is not contained in a Contract document shall be binding or valid. The Subrecipient's certifications, including any completed electronically, are incorporated by reference into the Contract.

### **35.14 Gratuities**

The Contract may be immediately terminated, in whole or in part, by written notice if it is determined that the Subrecipient, 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 Subrecipient may result from such a violation.

### **35.15 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.

### **35.16 Clawback/Recoupment**

- A. Pursuant to 2 C.F.R. § 200.339, OSDH may implement specific conditions if the Subrecipient fails to comply with the U.S. Constitution, Federal statutes, regulations, or terms and conditions of the Federal award. See § 200.208 for additional information on specific conditions. When OSDH determines that noncompliance cannot be

remedied by imposing specific conditions, the OSDH may take one or more of the following actions:

- i. Temporarily withhold payments until the Subrecipient takes corrective action.
- ii. Disallow costs for all or part of the activity associated with the noncompliance of the Subrecipient.
- iii. Suspend or terminate the Federal award in part or in its entirety.
- iv. Recommend suspension or debarment proceedings be initiated by the Federal agency.
- v. Withhold further Federal funds (new awards or continuation funding) for the project or program.
- vi. Pursue other legally available remedies.

**B.** Subrecipient shall:

- i. Reimburse OSDH immediately upon demand all funds not expended in accordance with the terms of this Contract as determined by OSDH, Oklahoma State Auditor and Inspector, or CMS.
- ii. Reimburse OSDH immediately upon demand for any recoupments imposed by OSDH or the federal government and passed through to the Subrecipient. If the State determines that the Subrecipient is not the party responsible for the recoupment, the Subrecipient and OSDH shall collaborate to identify the responsible party.

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

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

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

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

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

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

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**Signature of Subrecipient's Authorized Official**

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Name

Date

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Title