**ATTACHMENT C**

**AGENCY TERMS**

**SOLICITATION NO. 6950000626**

# AGENCY TERMS

* 1. Non-Binding Contract: This contract is for an indefinite quantity and the State may, or may not, buy the quantity mentioned in this contract.
  2. Invoices: Billed monthly in arrears. Invoices should be submitted to Oklahoma Tax Commission - otcaccountspayable@tax.ok.com.

## Fee Limitation and Bond Requirement: Compliance with Oklahoma Statutes Title 68 section 255 Oklahoma Statutes Title 68 section 255 states: Each contract entered into between the OTC and a debt collection agency shall specify that fees for services rendered, reimbursements or other remuneration shall be based on the total amount of delinquent taxes, including accrued penalties and interest, which is actually collected. This fee shall not exceed 35% and the debt collection agency shall add the fee amount to the amount of delinquent taxes, including accrued penalties and interest collected from the taxpayer. [fee capped at 35% effective July 1, 2009].

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The total amount of delinquent taxes, accrued penalties and interest, and the debt collection agency contract fee shall be owed and collected from the taxpayer.

Further, subsection D states: Prior to entering into such a contract with a debt collection agency, the Tax Commission shall require that the debt collection agency file a bond in the amount of One Hundred Thousand Dollars ($100,000.00). The bond shall be a bond from a surety company chartered or authorized to do business in this state, cash bond, certificates of deposits, certificates of savings or U.S. Treasury bonds, as the Tax Commission may deem necessary to guarantee compliance with the terms of the contract.

## Performance and Confidentiality

* + 1. The agency/firm must agree that any and all information gathered and used by it in the collection or litigation of cases is the property of the OTC, and that such information shall not be used for any other purpose by the agency/firm. In addition, the agency/firm must agree to abide by and conform to all applicable confidentiality statutes and regulations issued by the State of Oklahoma or the Internal Revenue Service pertinent to the assigned accounts. All employees or contractors of the agency/firm working cases for the OTC will be required to sign confidentiality statements. Such statements will be maintained by the OTC.
    2. The agency/firm shall comply with the Federal Tax Information (FTI) safeguarding requirements provided in Exhibit 7 of the IRS Publication 1075 [September 2016] described below: In performance of this contract, the agency/firm agrees to comply with and assume responsibility for compliance by its employees with the following requirements:
       1. All work will be done under the supervision of the agency/firm or its employees.
       2. The agency/firm and its employees with access to or who use FTI must meet the background check requirements defined in IRS Publication 1075 [September 2016].
       3. Any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material will be treated as confidential and will not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Disclosure to anyone other than an officer or an employee of the agency/firm will be prohibited.
       4. All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output will be given the same level of protection as required for the source material.
       5. The agency/firm certifies that the data processed during the performance of this contract will be completely purged from all data storage components of its computer facility, and no output will be retained by the agency/firm at the time the work is completed. If immediate purging of all data storage components is not possible, the agency/firm certifies that any IRS or OTC data remaining in any storage component will be safeguarded to prevent unauthorized disclosures..
       6. Any spoilage or any intermediate hard copy printout that may result during the processing of IRS or OTC data will be given to the OTC or its designee. When this is not possible, the agency/firm will be responsible for the destruction of the spoilage or any intermediate hard copy printouts, and will provide the OTC or its designee with a statement containing the date of destruction, description of material destroyed, and the method used.
       7. All computer systems receiving, processing, storing, or transmitting FTI and OTC tax information must meet the requirements defined in IRS Publication 1075 [September 2016]. To meet functional and assurance requirements, the security features of the environment must provide for the managerial, operational, and technical controls. All security features must be available and activated to protect against unauthorized access to and use of FTI and OTC tax information.
       8. No work involving FTI and OTC tax information furnished under this contract will be subcontracted without prior written approval of the IRS and OTC.
       9. The agency/firm will maintain a list of employees authorized to access FTI and OTC tax information. Such list will be provided to the OTC and, upon request, to the IRS reviewing office.
       10. The OTC will have the right to void this contract if the agency/firm fails to provide the safeguards described above.

## Criminal/Civil Sanctions

### Each officer or employee of any person to whom returns or return information is or may be disclosed will be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as $5,000.00 or imprisonment for as long as 5 years, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized further disclosure of returns or return information may result in an award of civil damages against the officer or employee in an amount not less than $1,000.00 with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRC sections 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.

* + 1. Each officer or employee or any person to whom any return or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of the contract. Inspection by or disclosure to anyone without an official need to know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as $1,000.00 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount equal to the sum of the greater of $1,000.00 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. These penalties are prescribed by IRC sections 7213A and 7431 and set forth at 26 CFR 301.6103(n)-1.
    2. Additionally, it is incumbent upon the agency/firm to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to OTC records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than $5,000.00.
    3. Granting the agency/firm access to FTI must be preceded by certifying that each individual understands the OTC’s security policy and procedures for safeguarding IRS information. The agency/firm’s employees must maintain their authorization to access FTI through annual recertification. The initial certification and recertification must be documented and placed in the OTC’s files for review. As part of the certification and at least annually afterwards, the agency/firm’s employees must be advised of the provisions of IRCs 7431, 7213, and 7213A (see Exhibit 4, *Sanctions for Unauthorized Disclosure*, and Exhibit 5, *Civil Damages for Unauthorized Disclosure* of Publication 1075). The training provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches. (See Section 10 of Publication 1075) For both the initial certification and the annual certification, the agency/firm’s employees must sign, either with ink or electronic signature, a confidentiality statement certifying their understanding of the security requirements.
  1. Inspection

The IRS and the OTC shall have the right to send its officers and employees into the offices of the agency/firm for inspection of the facilities and operations provided for the performance of any work under this contract. The IRS’ right of inspection shall include the use of manual and/or automated scanning tools to perform compliance and vulnerability assessments of information technology assets that access, store, process, or transmit FTI. On the basis of such inspection, specific measures may be required in cases where the agency/firm is found to be noncompliant with FTI and OTC tax information safeguards.