



State of Oklahoma  
Oklahoma Military Dept.-ITAM  
Contracting & Procurement Office  
3515 Military Circle, OKC, OK 73111

## Solicitation Cover Page

1. Solicitation #: 0250000326 2. Solicitation Issue Date: 01/08/2020

### 3. Brief Description of Requirement:

Repair on 2012 JCB722, 22 ton articulating dump trucks; 2 trucks for repair. Dump truck with serial # 0833392 needs torsional damper replacement and dump truck with serial # 08333888 needs brake repair on a right rear wheel hub.

Please see solicitation request and service/repair specifications for each dump truck for additional information and requirements. All documents listed on solicitation request are required as part of the bid submittal.

Mandatory Vendor Registration prior to award:

**Effective January 1st, 2011, acquisitions issued by agencies under the authority of Title 74 require vendors to register with Central Purchasing prior to award. Vendors will not be required to register to submit a bid response but will be required to register prior to being awarded a contract and prior to each renewal of an award.**

4. Response Due Date<sup>1</sup>: February 5, 2020 Time: 3:00 PM CST/CDT

### 5. Issued By and RETURN SEALED BID TO<sup>2</sup>:

U.S. Postal Delivery and Common  
Carrier Delivery Address:

Oklahoma Military Department  
Contracting & Procurement Office-Attn: Lisa Waldrop  
3515 Military Circle  
Oklahoma City, OK 73111

Electronic Submission Address:

N/A

### 6. Solicitation Type (type "X" at one below):

- ☒ Invitation to Bid  
☐ Request for Proposal  
☐ Request for Quote

### 7. Contracting Officer:

Name: Lisa Waldrop

Phone: (405) 640-2167

**(All questions/comments must be sent to the below email address no later than January 29, 2020)**

Email: [Ng.ok.okarng.list.ond-state-solicitation@mail.mil](mailto:Ng.ok.okarng.list.ond-state-solicitation@mail.mil)

<sup>1</sup> Amendments to solicitation may change the Response Due Date (read GENERAL PROVISIONS, section 3, "Solicitation Amendments").

<sup>2</sup> If "U.S. Postal Delivery" differs from "Carrier Delivery", use "Carrier Delivery" for courier or personal deliveries.



## Responding Bidder Information

*"Certification for Competitive Bid and Contract" **MUST** be submitted along with the response to the Solicitation.*

1. **RE: Solicitation #** 0250000326

2. **Bidder General Information:**

FEI / SSN : \_\_\_\_\_ Supplier ID: \_\_\_\_\_

Company Name: \_\_\_\_\_

3. **Bidder Contact Information:**

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Contact Title: \_\_\_\_\_

Phone #: \_\_\_\_\_ Fax #: \_\_\_\_\_

Email: \_\_\_\_\_ Website: \_\_\_\_\_

4. **Oklahoma Sales Tax Permit<sup>3</sup>:**

☐ YES – Permit #: \_\_\_\_\_

☐ NO – Exempt pursuant to Oklahoma Laws or Rules – Attach an explanation of exemption

5. **Registration with the Oklahoma Secretary of State:**

☐ YES - Filing Number: \_\_\_\_\_

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

6. **Workers' Compensation Insurance Coverage:**

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

☐ YES – Include with the bid a certificate of insurance.

☐ NO – Exempt from the Workers' Compensation Act pursuant to 85A O.S. § 2(18)(b)(1-11) – Attach a written, signed, and dated statement on letterhead stating the reason for the exempt status.<sup>4</sup>

<sup>3</sup> For frequently asked questions concerning Oklahoma Sales Tax Permit, see <https://www.ok.gov/tax/Businesses/index.html>

<sup>4</sup> For frequently asked questions concerning workers' compensation insurance, see <https://www.ok.gov/wcc/Insurance/index.html>

**7. Disabled Veteran Business Enterprise Act**

☐ YES – I am a service-disabled veteran business as defined in 74 O.S. §85.44E. Include with the bid response 1) certification of service-disabled veteran status as verified by the appropriate federal agency, and 2) verification of not less than 51% ownership by one or more service-disabled veterans, and 3) verification of the control of the management and daily business operations by one or more service-disabled veterans.

☐ NO – Do not meet the criteria as a service-disabled veteran business.

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Authorized Signature

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Date

---

Printed Name

---

Title



**Certification for Competitive  
Bid and/or Contract  
(Non-Collusion Certification)**

**NOTE:** A certification shall be included with any competitive bid and/or contract exceeding \$5,000.00 submitted to the State for goods or services.

Agency Name: Oklahoma Military Department

Agency Number: 02500

Solicitation or Purchase Order #: Solicitation # 0250000326

Supplier Legal Name: \_\_\_\_\_

**SECTION I [74 O.S. § 85.22]:**

A. For purposes of competitive bid,

1. I am the duly authorized agent of the above named bidder submitting the competitive bid herewith, for the purpose of certifying the facts pertaining to the existence of collusion among bidders and between bidders and state officials or employees, as well as facts pertaining to the giving or offering of things of value to government personnel in return for special consideration in the letting of any contract pursuant to said bid;
2. I am fully aware of the facts and circumstances surrounding the making of the bid to which this statement is attached and have been personally and directly involved in the proceedings leading to the submission of such bid; and
3. Neither the bidder nor anyone subject to the bidder's direction or control has been a party:
  - a. to any collusion among bidders in restraint of freedom of competition by agreement to bid at a fixed price or to refrain from bidding,
  - b. to any collusion with any state official or employee as to quantity, quality or price in the prospective contract, or as to any other terms of such prospective contract, nor
  - c. in any discussions between bidders and any state official concerning exchange of money or other thing of value for special consideration in the letting of a contract, nor
  - d. to any collusion with any state agency or political subdivision official or employee as to create a sole-source acquisition in contradiction to Section 85.45j.1. of this title.

B. I certify, if awarded the contract, whether competitively bid or not, neither the contractor nor anyone subject to the contractor's direction or control has paid, given or donated or agreed to pay, give or donate to any officer or employee of the State of Oklahoma any money or other thing of value, either directly or indirectly, in procuring this contract herein.

**SECTION II [74 O.S. § 85.42]:**

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

The undersigned, duly authorized agent for the above named supplier, by signing below acknowledges this certification statement is executed for the purposes of:

☒ the competitive bid attached herewith and contract, if awarded to said supplier;

**OR**

☐ the contract attached herewith, which was not competitively bid and awarded by the agency pursuant to applicable Oklahoma statutes.

\_\_\_\_\_  
Supplier Authorized Signature

\_\_\_\_\_  
Certified This Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Email

\_\_\_\_\_  
Fax Number



# SOLICITATION REQUEST

☐ Request for Quote

☐ Request for Proposal

☒ Request for Bid

**Dispatch via Print**

**Oklahoma Military Department**  
OKLAHOMA MILITARY DEPARTMENT  
OKSRM  
3515 MILITARY CIRCLE  
OKLAHOMA CITY OK 73111-4398

Request Quote ID.	Date	Buyer	Page
0250000326	01/08/2020	Lisa Waldrop	1
Payment Terms	Date	Time	Quote Open Closing
0 Days	01/08/2020	10:46 AM	02/05/2020 05:00 PM

Requisition Number Reference: 2 Dump Trucks for Repair-ITAM

**Ship To:** OKLAHOMA MILITARY DEPARTMENT  
OKSRM - SOL 0250000326  
3515 MILITARY CIRCLE  
OKLAHOMA CITY OK 73111-4398

**Bill To:** OKLAHOMA MILITARY DEPARTMENT  
OKSRM - SOL 0250000326  
3515 MILITARY CIRCLE  
OKLAHOMA CITY OK 73111-4398

**Supplier NAME:** \_\_\_\_\_  
Address: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ ST: \_\_\_\_\_ ZIP: \_\_\_\_\_

## Supplier Responses

Line	Cat CD / Item # - Descr	Qty.	UOM	Unit Cost	Ext. Cost
1	72141003 / 1000013007 Service: JCB Dump Truck - <b>DAMPER</b>	1	JA		

**Provide bid amount below**

Replace torsional damper on a 2012 JCB722, 22 ton articulating dump truck (serial number 0833392).

Please note: The truck is currently located at the main shale pit at Camp Gruber located in Braggs, OK and all repairs/replacement work will be made at the truck's location. Please see attached Statement of Work for repair information and requirements.

Interested bidders are to schedule a date/ time to inspect the truck with:  
Mr. Page Belcher at Office #: 918/549-6191

The dates available for inspection of the truck are:  
January 14th, January 15th, or the morning of January 16th  
January 22nd, January 23rd, or January 24th.

Truck Inspection/Service Location: Camp Gruber Training Site, Main Shale Pit  
327 Central Europe Rd  
Braggs, OK 74423

All questions regarding this solicitation/work performed must be submitted in writing to:  
Ng.ok.okamg.list.ond-state-solicitation@mail.mil no later than 5:00 PM CDT/CST on January 29, 2020

**TORSIONAL DAMPER REPAIRS** total bid for all services/fees/charges/parts, shipping, etc... \$ \_\_\_\_\_

Mandatory: The completed and signed documents listed below and insurance certification(s) are required as part of the bid submittal:

- Responding Bidder Information;
- Certification for Competitive Bid and/or Contract (Non-Collusion Certification);
- Solicitation Request Form;
- Copy of Insurance Certificate(s): Workers' Comp, Automobile, and General Liability;
- Addenda if any (Signed by Bidder Acknowledging receipt)

Basis of Award: The contract will be awarded using the lowest bid technically acceptable.

Mandatory: Sealed bid submissions must be received no later than 3:00 PM CDT/CST on February 5, 2020 at:  
Oklahoma Military Department  
State Contracting Procurement Office - Lisa Waldrop  
3515 Military Circle  
Oklahoma City, OK 73111

Bid submissions must be in a sealed envelope with 0250000326 Attn: Lisa Waldrop on the exterior envelope/package and submitted by mail, courier or hand delivery to the address listed above. Late bids will not be considered.

**Freight Terms:** FOB DEST

**Ship Via:** COMMON

Lead Time: \_\_\_\_\_

**Supplier Remarks:**

## This is NOT AN ORDER

All returned quotes and related documents must be identified with our request for quote Number.

**Supplier Authorized Signature**



# SOLICITATION REQUEST

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☐ Request for Proposal

☒ Request for Bid

**Dispatch via Print**

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OKLAHOMA MILITARY DEPARTMENT  
OKSRM  
3515 MILITARY CIRCLE  
OKLAHOMA CITY OK 73111-4398

Request Quote ID.	Date	Buyer	Page
0250000326	01/08/2020	Lisa Waldrop	2
Payment Terms	DateTime Quote Open	Closing	
0 Days	01/08/2020 10:46 AM	02/05/2020 05:00 PM	

Requisition Number Reference: 2 Dump Trucks for Repair-ITAM

**Ship To:** OKLAHOMA MILITARY DEPARTMENT  
OKSRM - SOL 0250000326  
3515 MILITARY CIRCLE  
OKLAHOMA CITY OK 73111-4398

**Bill To:** OKLAHOMA MILITARY DEPARTMENT  
OKSRM - SOL 0250000326  
3515 MILITARY CIRCLE  
OKLAHOMA CITY OK 73111-4398

**Supplier NAME:** \_\_\_\_\_  
Address: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ ST: \_\_\_\_\_ ZIP: \_\_\_\_\_

## Supplier Responses

Line	Cat CD / Item # - Descr	Qty.	UOM	Unit Cost	Ext. Cost
2	72141003 / 1000013007 Service: JCB Dump Truck - BRAKE REPAIR	1	JA		

**Provide bid amount below**

Repair brakes on a right rear wheel hub on a 2012 JCB722, 22 ton articulating dump truck (serial number 0833388).

Please note: This truck is currently located at the main shale pit at Camp Gruber located in Braggs, OK and all repairs/replacement work will be made at the truck's location. Please see attached Statement of Work for repair information and requirements.

Truck Inspection/Service Location: Camp Gruber Training Site  
Main Shale Pit  
327 Central Europe Rd  
Braggs, OK 74423

**BRAKE REPAIRS total bid for all services/fees/charges/parts, shipping, etc... \$** \_\_\_\_\_

**Freight Terms:** FOB DEST

**Ship Via:** COMMON

Lead Time: \_\_\_\_\_

**Supplier Remarks:**

### COMMENTS:

Mandatory Vendor Registration prior to award:  
Effective January 1st, 2011, acquisitions issued by agencies under the authority of Title 74 require vendors to register with Central Purchasing prior to award. Vendors will not be required to register to submit a bid response but will be required to register prior to being awarded a contract and prior to each renewal of an award.

ORAL AGREEMENTS: No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in the ITB or purchase order contract. All modifications to the purchase order contract must be made in writing by the Oklahoma Military Department Contracting and Procurement Office.

DEBARMENT/SUSPENSION: In accordance with 31 USCA 6101, Executive Order 12549, the contractor certifies that they are not presently or have not in the last three (3) years been debarred, suspended or proposed for debarment, declared ineligible by any federal department or agency, or convicted of a fraud-related crime.

AUDIT AND RECORDS CLAUSE: (a) As used in this clause, "records" includes books, documents, 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. In accepting any contract with the State, the successful bidder agrees any pertinent State or Federal agency will have the right to examine and audit all records relevant to execution of the resultant contract. (b) The successful bidder is required to retain all records relative to this contract for the duration of the contract term and for a period of three years following completion and/or termination of the contract. If an audit, litigation, or other action involving such records are started before the end of the three year period, the records are required to be maintained for three years from the date that all issues arising out of the action are resolved or until the end of the three year retention period, whichever is later.

CANCELLATION AND TERMINATION: This contract shall be considered to be in force until the expiration date or until 30 days after notice has been given by either party of its desire to terminate the contract.

### This is NOT AN ORDER

All returned quotes and related documents must be identified with our request for quote Number.

**Supplier Authorized Signature**



# SOLICITATION REQUEST

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☐ Request for Proposal

☒ Request for Bid

**Dispatch via Print**

**Oklahoma Military Department**  
OKLAHOMA MILITARY DEPARTMENT  
OKSRM  
3515 MILITARY CIRCLE  
OKLAHOMA CITY OK 73111-4398

**Supplier NAME:** \_\_\_\_\_  
Address: \_\_\_\_\_  
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**Bill To:** OKLAHOMA MILITARY DEPARTMENT  
OKSRM - SOL 0250000326  
3515 MILITARY CIRCLE  
OKLAHOMA CITY OK 73111-4398

Line	Cat CD / Item # - Descr
	<p>Immediate cancellation shall be administered when violations are found to be an impediment to the function of the agency and detrimental to its cause, or when conditions preclude the 30 day notice.</p> <p>*****</p> <p>UNAVAILABILITY OF FUNDING: The terms of this agreement and any purchase order issued for multiple years under this agreement is contingent upon sufficient appropriations being made by the Legislature or other appropriate governing entity. Notwithstanding any language to the contrary in this agreement or in any purchase order or other document, a procuring agency may terminate its obligations under this agreement if sufficient appropriations are not made by the Legislature or other appropriate governing entity to pay amounts due for multiple year agreements. The procuring agency's decisions as to whether sufficient appropriations are available shall be accepted by the Vendor and shall be final and binding.</p> <p>*****</p> <p>***VENDOR PLEASE NOTE ARTICLE VI thru IX OF THE MASTER COOPERATIVE AGREEMENT DATED OCTOBER 2015 AND OKLAHOMA ARMY NATIONAL GUARD ENVIRONMENTAL PROTECTION GUIDELINES AS OTHER TERMS AND CONDITIONS WHEN FEDERAL FUNDS ARE INVOLVED***</p>

## This is NOT AN ORDER

All returned quotes and related documents must be identified with our request for quote Number.

**Supplier Authorized Signature**

### **Torsional Damper Replacement on JCB722**

This contract is for the replacement of the torsional damper on a 2012 JCB722, 22 ton articulating dump truck, serial number 0833392 located at Camp Gruber Training Center, Braggs OK, 74423.

Vendor will remove the existing damper and install a new damper, JCB part number 331/40329, on site. The truck is currently located at the main shale pit at Camp Gruber and all work will take place at that location. Vendor shall provide new damper, labor to remove old damper and install new damper, all expendables (including but not limited to fluids, clamps, etc) and the capture and removal of all fluids expended during the repair. Upon completion of repairs the torsional damper will be fully functional.

The attached photos are of the JCB Dump Truck to be repaired. This is not pictures of the current location.





### Brake Repair on JCB722

This contract is for brake repair on a right rear wheel hub on a 2012 JCB722, 22 ton articulating dump truck, serial number 0833388 located at Camp Gruber Training Center, Braggs OK, 74423.

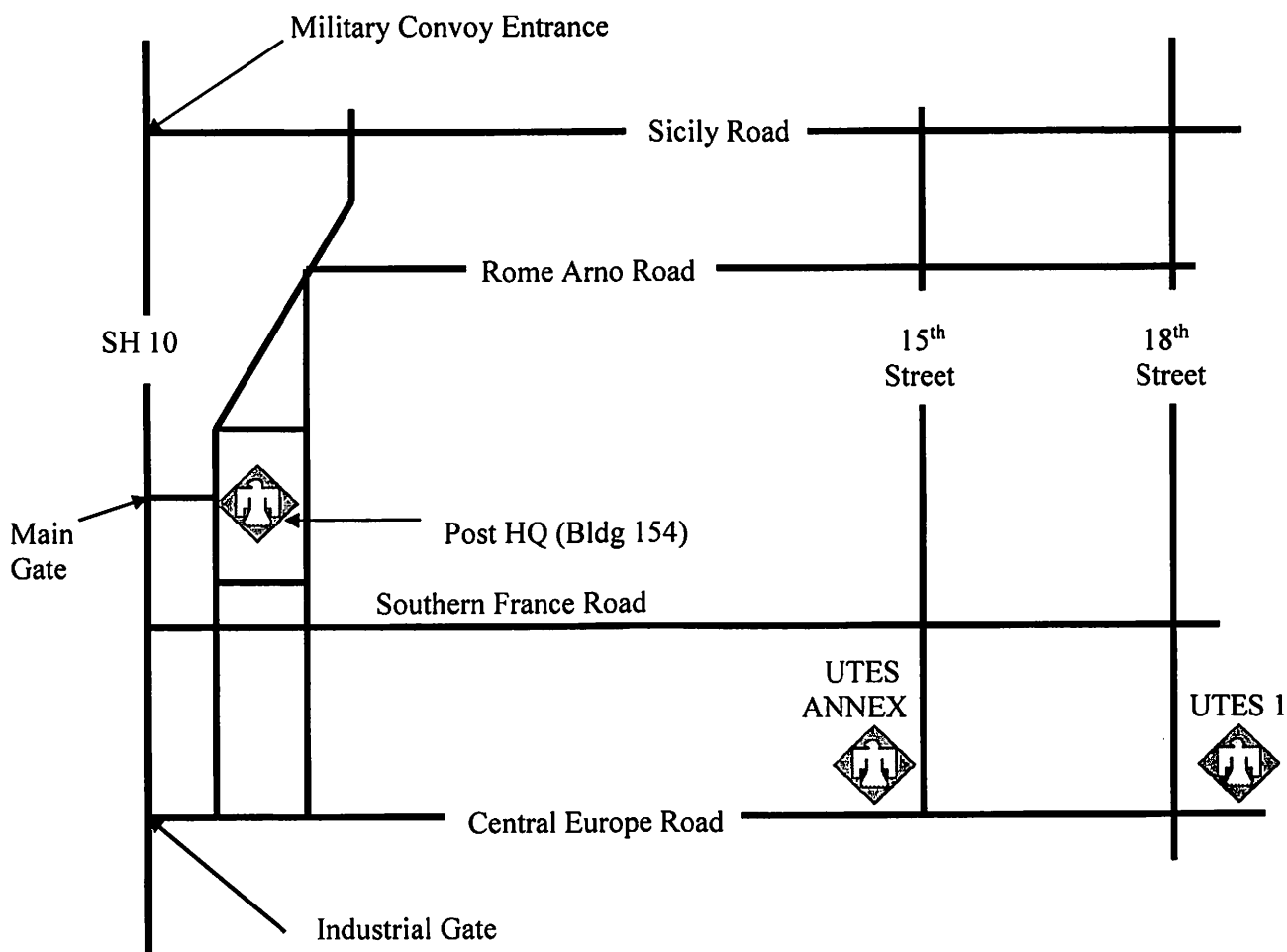
Vendor will remove the existing caliper, rotor and pads and install new parts on site. Work will take place in the ITAM shop building at Camp Gruber or other suitable location within the ITAM shop and yard area depending on vendor preference. Vendor shall provide new caliper, rotor and pads, labor to remove the old parts and install the new parts, all expendables (including but not limited to fluids, clamps, etc) and the capture and removal of all fluids expended during the repair. Upon completion of repairs the brake will be fully functional.

Potential vendors are encouraged to inspect the truck prior to submitting their bid.





# CAMP GRUBER



Braggs

(NOT TO SCALE)

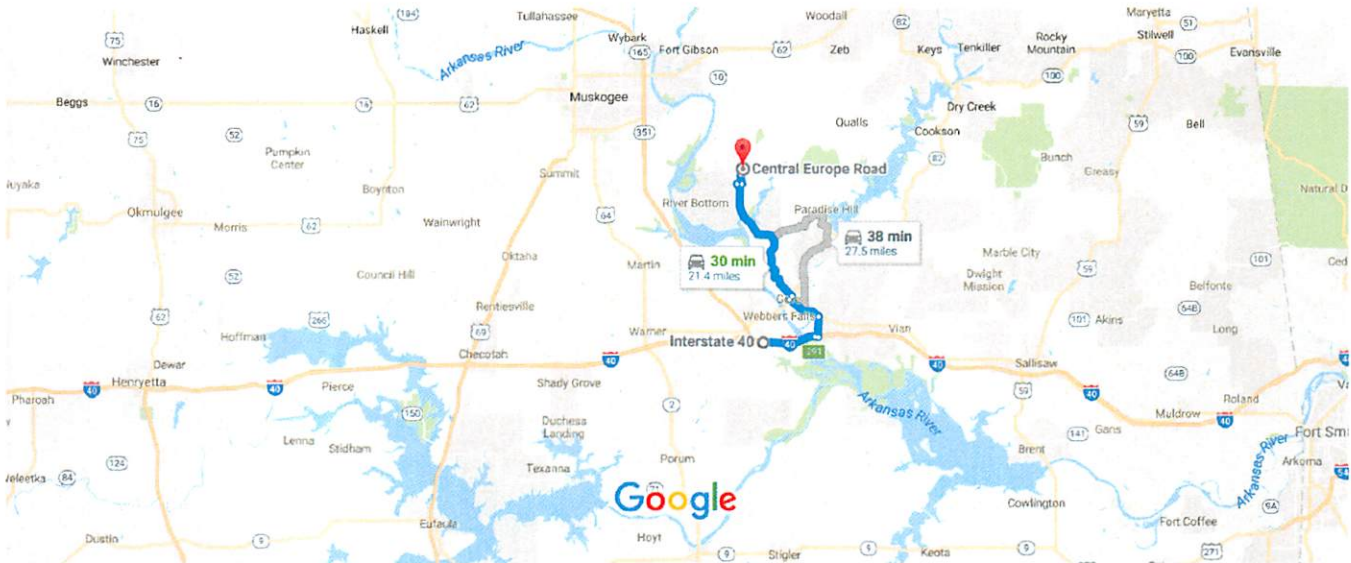
Camp Gruber Headquarters  
Building # 154  
918-487-6001

UTES # 1  
Building 906  
918-487-6031



Interstate 40, Webbers Falls, OK 74470 to Drive 21.4 miles, 30 min  
Central Europe Rd, Braggs, OK 74423

Directions to Camp Gruber from I-40 at Carlile Rd. Gore Exit



Map data ©2016 Google 5 mi

## Interstate 40

Webbers Falls, OK 74470

Take I-40 E and OK-10 N to E 73rd St/E0940

24 min (19.6 mi)

↑ 1. Head east on I-40 E

4.0 mi

↘ 2. Take exit 291 for OK-10 N toward Carlile Rd/Gore

0.3 mi

↙ 3. Turn left onto OK-10 S

1.5 mi

↙ 4. Turn left onto US-64 W

2.6 mi

↗ 5. Turn right onto Main St

0.3 mi

↙ 6. Turn left onto OK-10 N

10.8 mi

Continue on E 73rd St/E0940. Drive to Central Europe Rd

6 min (1.8 mi)

➤ 7. Turn right onto E 73rd St/E0940

0.4 mi

⤵ 8. Turn left at the 1st cross street

0.7 mi

➤ 9. Turn right

0.4 mi

⤵ 10. Turn left toward Central Europe Rd

0.3 mi

➤ 11. Turn right onto Central Europe Rd

0.1 mi

## Central Europe Road

Braggs, OK 74423

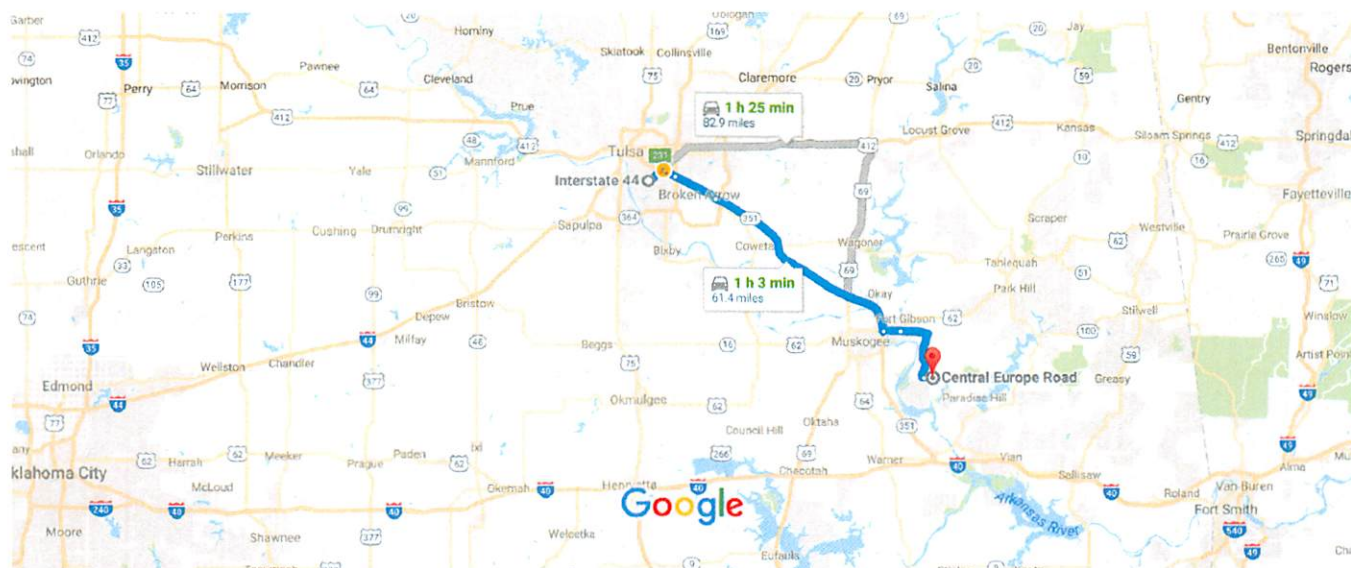
These directions are for planning purposes only. You may find that construction projects, traffic, weather, or other events may cause conditions to differ from the map results, and you should plan your route accordingly. You must obey all signs or notices regarding your route.



Interstate 44, Tulsa, OK to Central  
Europe Rd, Bragg, OK 74423

Drive 61.4 miles, 1 h 3 min

Directions to Camp Gruber from Tulsa I-44 at E. 51st



Map data ©2016 Google 10 mi

## Interstate 44


Tulsa, OK


Get on I-44 E from E 51st St/East 51st Street South


- ↑ 1. Head west on Exit 228 toward E Skelly Dr 3 min (0.8 mi)
- ↗ 2. Merge onto E Skelly Dr 0.2 mi
- ↙ 3. Use the left lane to turn left onto S Harvard Ave 0.2 mi
- ↙ 4. Use the left lane to turn left at the 1st cross street onto E 51st St/East 51st Street South 0.1 mi
- ↗ 5. Use the left 2 lanes to turn left to merge onto I-44 E 0.3 mi
- ↗ 6. Merge onto I-44 E 0.2 mi


Follow OK-51 E and OK-351 to US-62 E/East Shawnee Bypass in Muskogee. Take the US-62 E exit from OK-351


- ↗ 6. Merge onto I-44 E 39 min (45.1 mi)
- ↗ 7. Merge onto I-44 E 2.3 mi

-  7. Take exit 231 to merge onto OK-51 E/US-64 E toward Muskogee/U.S. 169/Broken Arrow
 

2.4 mi
-  8. Continue onto OK-51 E
 


6.9 mi
-  9. Continue onto OK-351
 

33.4 mi
-  Partial toll road
 



3.2 mi
-  10. Exit onto US-62 E/East Shawnee Bypass toward Ft Gibson/Tahlequah
 


2.6 mi


Take OK-10 S to Central Europe Rd


-  11. Merge onto US-62 E/East Shawnee Bypass
 

2.6 mi

  -  Continue to follow US-62 E
-  12. Turn right onto OK-10 S
 

11.3 mi
-  13. Turn left onto Central Europe Rd
 

348 ft
-  14. Turn right toward Central Europe Rd
 

0.2 mi
-  15. Turn right onto Central Europe Rd
 

1.3 mi

## Central Europe Road

Braggs, OK 74423

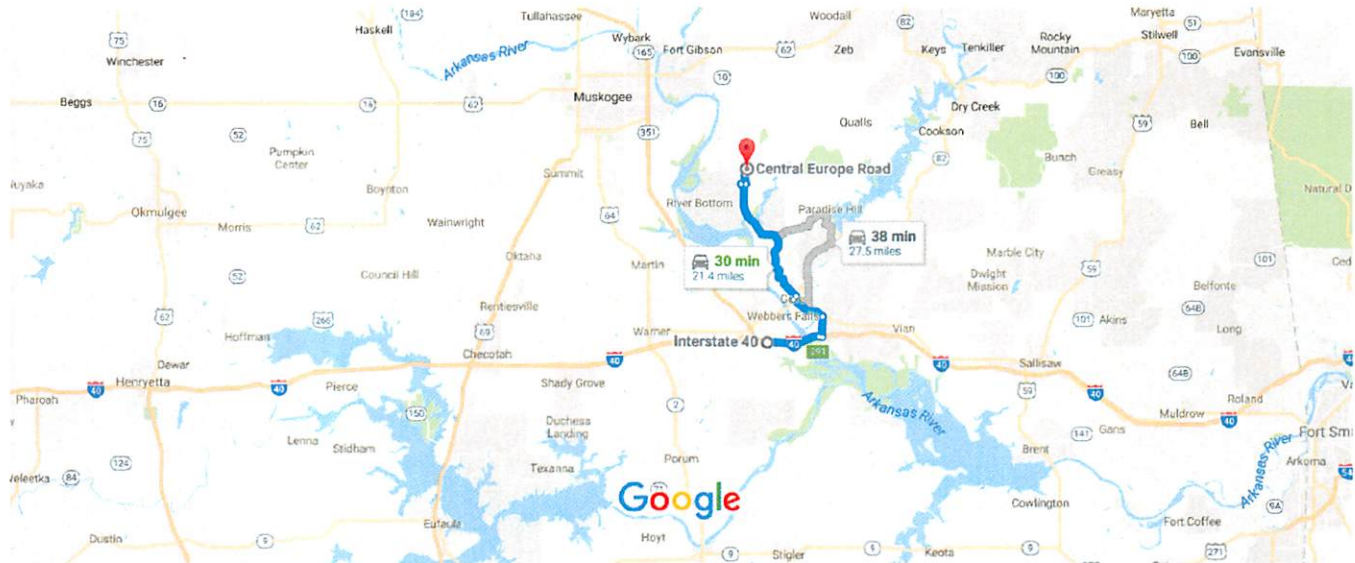
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Interstate 40, Webbers Falls, OK 74470 to Drive 21.4 miles, 30 min  
Central Europe Rd, Braggs, OK 74423

Directions to Camp Gruber from I-40 at Carlile Rd. Gore Exit



Map data ©2016 Google 5 mi

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Webbers Falls, OK 74470

Take I-40 E and OK-10 N to E 73rd St/E0940

24 min (19.6 mi)

- ↑ 1. Head east on I-40 E 4.0 mi
- ↘ 2. Take exit 291 for OK-10 N toward Carlile Rd/Gore 0.3 mi
- ↙ 3. Turn left onto OK-10 S 1.5 mi
- ↙ 4. Turn left onto US-64 W 2.6 mi
- ↘ 5. Turn right onto Main St 0.3 mi
- ↙ 6. Turn left onto OK-10 N 10.8 mi

Continue on E 73rd St/E0940. Drive to Central Europe Rd

6 min (1.8 mi)



➤ 7. Turn right onto E 73rd St/E0940

0.4 mi

⬅ 8. Turn left at the 1st cross street

0.7 mi

➤ 9. Turn right

0.4 mi

⬅ 10. Turn left toward Central Europe Rd

0.3 mi

➤ 11. Turn right onto Central Europe Rd

0.1 mi

## Central Europe Road

Braggs, OK 74423

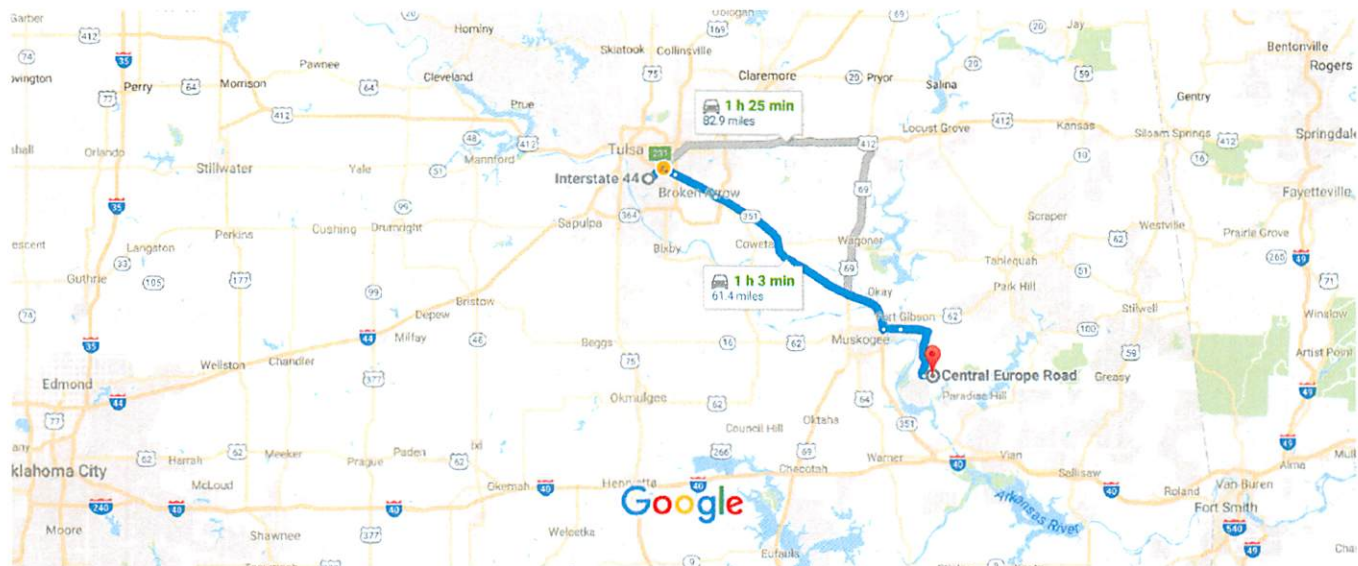
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Interstate 44, Tulsa, OK to Central  
Europe Rd, Bragg, OK 74423

Drive 61.4 miles, 1 h 3 min

Directions to Camp Gruber from Tulsa I-44 at E. 51st



Map data ©2016 Google 10 mi

## Interstate 44






Tulsa, OK

Get on I-44 E from E 51st St/East 51st Street South







- ↑ 1. Head west on Exit 228 toward E Skelly Dr 3 min (0.8 mi)
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- ↗ 5. Use the left 2 lanes to turn left to merge onto I-44 E 0.3 mi
- 0.2 mi

Follow OK-51 E and OK-351 to US-62 E/East Shawnee Bypass in Muskogee. Take the US-62 E exit from OK-351

- ↗ 6. Merge onto I-44 E 39 min (45.1 mi)
- 2.3 mi

-  7. Take exit 231 to merge onto OK-51 E/US-64 E toward Muskogee/U.S. 169/Broken Arrow  
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6.9 mi
-  9. Continue onto OK-351  
 Partial toll road  
33.4 mi
-  10. Exit onto US-62 E/East Shawnee Bypass toward Ft Gibson/Tahlequah  
3.2 mi

Take OK-10 S to Central Europe Rd

-  11. Merge onto US-62 E/East Shawnee Bypass  
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0.2 mi
-  15. Turn right onto Central Europe Rd  
1.3 mi

## Central Europe Road

Braggs, OK 74423

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## **A. GENERAL PROVISIONS**

### **A.1. Definitions**

As used herein, the following terms shall have the following meaning unless the context clearly indicates otherwise:

- A.1.1. "Acquisition" means items, products, materials, supplies, services, and equipment an entity acquires by purchase, lease purchase, lease with option to purchase, or rental;
- A.1.2. "Addendum" means a written restatement of or modification to a Contract Document executed by the Supplier and State.
- A.1.3. "Bid" means an offer in the form of a bid, proposal, or quote a bidder submits in response to a solicitation;
- A.1.4. "Bidder" means an individual or business entity that submits a bid in response to a solicitation;
- A.1.5. "Solicitation" means a request or invitation by the State Purchasing Director or a state agency for a supplier to submit a priced offer to sell acquisitions to the state. A solicitation may be an invitation to bid, request for proposal, or a request for quotation; and
- A.1.6. "Supplier" or "vendor" means an individual or business entity that sells or desires to sell acquisitions to state agencies.

### **A.2. Bid Submission**

- A.2.1. Submitted bids shall be in strict conformity with the instructions to bidders and shall be submitted with a completed Responding Bidder Information, OMES-FORM-CP-076, and any other forms required by the solicitation.
- A.2.2. Bids shall be submitted to the procuring agency in a single envelope, package, or container and shall be sealed, unless otherwise detailed in the solicitation. The name and address of the bidder shall be inserted in the upper left corner of the single envelope, package, or container. SOLICITATION NUMBER AND SOLICITATION RESPONSE DUE DATE AND TIME MUST APPEAR ON THE FACE OF THE SINGLE ENVELOPE, PACKAGE, OR CONTAINER.
- A.2.3. The required certification statement, "Certification for Competitive Bid and/or Contract (Non-Collusion Certification)", OMES-FORM-CP-004, must be made out in the name of the bidder and must be properly executed by an authorized person, with full knowledge and acceptance of all its provisions.
- A.2.4. All bids shall be legible and completed in ink or with electronic printer or other similar office equipment. Any corrections to bids shall be identified and initialed in ink by the bidder. Penciled bids and penciled corrections shall NOT be accepted and will be rejected as non-responsive. In addition to a hard copy submittal, the bidder will also be required to submit an electronic copy. Electronic responses must be submitted in the identical format contained in the solicitation (for example Microsoft Word, Microsoft Excel, but not Adobe PDF). In the event the hard copy of the price worksheets and electronic copy of the price worksheets do not agree, the electronic copy will prevail.
- A.2.5. All bids submitted shall be subject to the Oklahoma Central Purchasing Act, Central Purchasing Rules, and other statutory regulations as applicable, these General Provisions, any Special Provisions, solicitation specifications, required certification statement, and all other terms and conditions listed or attached herein—all of which are made part of this solicitation.

### **A.3. Solicitation Amendments**

- A.3.1. If an "Amendment of Solicitation", OMES-FORM-CP-011, is issued, the bidder shall acknowledge receipt of any/all amendment(s) to solicitations by signing and returning the solicitation amendment(s). Amendment acknowledgement(s) may be submitted with the bid or may be forwarded separately. If forwarded separately, amendment acknowledgement(s) must contain the solicitation number and response due date and time on the front of the envelope. The procuring agency must receive the amendment acknowledgement(s) by the response due date and time specified for receipt of bids for the bid to be deemed responsive. Failure to acknowledge solicitation amendments may be grounds for rejection.
- A.3.2. No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in the solicitation. All amendments to the solicitation shall be made in writing by the procuring agency.
- A.3.3. It is the bidder's responsibility to check frequently for any possible amendments that may be issued. The procuring agency is not responsible for a bidder's failure to download any amendment documents required to complete a solicitation.

#### **A.4. Bid Change**

If the bidder needs to change a bid prior to the solicitation response due date, a new bid shall be submitted to the procuring agency with the following statement "This bid supersedes the bid previously submitted" in a single envelope, package, or container and shall be sealed, unless otherwise detailed in the solicitation. The name and address of the bidder shall be inserted in the upper left corner of the single envelope, package, or container. SOLICITATION NUMBER AND SOLICITATION RESPONSE DUE DATE AND TIME MUST APPEAR ON THE FACE OF THE SINGLE ENVELOPE, PACKAGE, OR CONTAINER.

#### **A.5. Certification Regarding Debarment, Suspension, and Other Responsibility Matters**

By submitting a response to this solicitation:

A.5.1. The prospective primary participant and any subcontractor certifies to the best of their knowledge and belief, that they and their principals or participants:

A.5.1.1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal, State or local department or agency;

A.5.1.2. Have not within a three-year period preceding this proposal been convicted of or pled guilty or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) contract; or for violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

A.5.1.3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph A.5.1.2. of this certification; and

A.5.1.4. Have not within a three-year period preceding this application/proposal had one or more public (Federal, State, or local) contracts terminated for cause or default.

A.5.2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to its solicitation response.

#### **A.6. Bid Opening**

Sealed bids shall be opened by the Oklahoma Military Department located at 3515 Military Circle  
Oklahoma City, OK 73111 at the time and date specified in the solicitation as the Response Due Date and Time.

#### **A.7. Open Bid / Open Record**

Pursuant to the Oklahoma Public Open Records Act, a public bid opening does not make the bid(s) immediately accessible to the public. The procurement or contracting agency shall keep the bid(s) confidential, and provide prompt and reasonable access to the records only after a contract is awarded or the solicitation is cancelled. This practice protects the integrity of the competitive bid process and prevents excessive disruption to the procurement process. The interest of achieving the best value for the State of Oklahoma outweighs the interest of vendors immediately knowing the contents of competitor's bids. [51 O.S. § 24A.5(5)]

Additionally, financial or proprietary information submitted by a bidder may be designated by the Purchasing Director as confidential and the procurement entity may reject all requests to disclose information designated as confidential pursuant to 62 O.S. (2012) § 34.11.1(H)(2) and 74 O.S. (2011) § 85.10. Bidders claiming any portion of their bid as proprietary or confidential must specifically identify what documents or portions of documents they consider confidential and identify applicable law supporting their claim of confidentiality. The State Purchasing Director shall make the final decision as to whether the documentation or information is confidential pursuant to 74 O.S. § 85.10. Otherwise, documents and information a bidder submits as part of or in connection with a bid are public records and subject to disclosure after contract award or the solicitation is cancelled.

#### **A.8. Late Bids**

Bids received by the procuring agency after the response due date and time shall be deemed non-responsive and shall NOT be considered for any resultant award.

#### **A.9. Legal Contract**

A.9.1. Submitted bids are rendered as a legal offer and any bid, when accepted by the procuring agency, shall constitute a contract.

A.9.2. The Contract resulting from this solicitation may consist of the following documents in the following order of precedence:

A.9.2.1. Any Addendum to the Contract;

A.9.2.2. Purchase order, as amended by Change Order (if applicable);

A.9.2.3. Solicitation, as amended (if applicable); and

A.9.2.4. Successful bid (including required certifications), to the extent the bid does not conflict with the requirements of the solicitation or applicable law.

A.9.3. Any contract(s) awarded pursuant to the solicitation shall be legibly written or typed.

#### **A.10. Pricing**

A.10.1. Bids shall remain firm for a minimum of sixty (60) days from the solicitation closing date.

A.10.2. Bidders guarantee unit prices to be correct.

A.10.3. In accordance with 74 O.S. §85.40, ALL travel expenses to be incurred by the supplier in performance of the Contract shall be included in the total bid price/contract amount.

#### **A.11. Manufacturers' Name and Approved Equivalents**

Unless otherwise specified in the solicitation, manufacturers' names, brand names, information and/or catalog numbers listed in a specification are for information and not intended to limit competition. Bidder may offer any brand for which they are an authorized representative, and which meets or exceeds the specification for any item(s). However, if bids are based on equivalent products, indicate on the bid form the manufacturer's name and number. Bidder shall submit sketches, descriptive literature, and/or complete specifications with their bid. Reference to literature submitted with a previous bid will not satisfy this provision. The bidder shall also explain in detail the reason(s) why the proposed equivalent will meet the specifications and not be considered an exception thereto. Bids that do not comply with these requirements are subject to rejection.

#### **A.12. Clarification of Solicitation**

A.12.1. Clarification pertaining to the contents of this solicitation shall be directed in writing to the Contracting Officer specified in the solicitation, and must be prior to the closing date of the solicitation.

A.12.2. If a bidder fails to notify the State of an error, ambiguity, conflict, discrepancy, omission or other error in the SOLICITATION, known to the bidder, or that reasonably should have been known by the bidder, the bidder shall submit a bid at its own risk; and if awarded the contract, the bidder shall not be entitled to additional compensation, relief, or time, by reason of the error or its later correction. If a bidder takes exception to any requirement or specification contained in the SOLICITATION, these exceptions must be clearly and prominently stated in their response.

A.12.3. Bidders who believe proposal requirements or specifications are unnecessarily restrictive or limit competition may submit a written request for administrative review to the contracting officer listed on the solicitation. This request must be made prior to the closing date of the solicitation.

#### **A.13. Negotiations**

A.13.1. In accordance with Title 74 §85.5, the State of Oklahoma reserves the right to negotiate with one, selected, all or none of the vendors responding to this solicitation to obtain the best value for the State. Negotiations could entail discussions on products, services, pricing, contract terminology or any other issue that may mitigate the State's risks. The State shall consider all issues negotiable and not artificially constrained by internal corporate policies. Negotiation may be with one or more vendors, for any and all items in the vendor's offer.

A.13.2. Firms that contend that they lack flexibility because of their corporate policy on a particular negotiation item shall face a significant disadvantage and may not be considered. If such negotiations are conducted, the following conditions shall apply:

A.13.3. Negotiations may be conducted in person, in writing, or by telephone.

A.13.4. Negotiations shall only be conducted with potentially acceptable offers. The State reserves the right to limit negotiations to those offers that received the highest rankings during the initial evaluation phase.

A.13.5. Terms, conditions, prices, methodology, or other features of the bidders offer may be subject to negotiations and subsequent revision. As part of the negotiations, the bidder may be required to submit supporting financial, pricing, and other data in order to allow a detailed evaluation of the feasibility, reasonableness, and acceptability of the offer.

- A.13.6. The requirements of the Request for Proposal shall not be negotiable and shall remain unchanged unless the State determines that a change in such requirements is in the best interest of the State Of Oklahoma.

#### **A.14. Rejection of Bid**

The State reserves the right to reject any bids that do not comply with the requirements and specifications of the solicitation. A bid may be rejected when the bidder imposes terms or conditions that would modify requirements of the solicitation or limit the bidder's liability to the State. Other possible reasons for rejection of bids are listed in OAC 260:115-7-32.

#### **A.15. Award of Contract**

- A.15.1. The State Purchasing Director may award the Contract to more than one bidder by awarding the Contract(s) by item or groups of items, or may award the Contract on an ALL OR NONE basis, whichever is deemed by the State Purchasing Director to be in the best interest of the State of Oklahoma.
- A.15.2. Contract awards will be made to the lowest and best bidder(s) unless the solicitation specifies that best value criteria is being used.
- A.15.3. In order to receive an award or payments from the State of Oklahoma, suppliers must be registered. The vendor registration process can be completed electronically through the OMES website at the following link: <https://www.ok.gov/dcs/vendors/index.php>.

#### **A.16. Contract Modification**

- A.16.1. The Contract is issued under the authority of the State Purchasing Director who signs the Contract. The Contract may be modified only through a written Addendum, signed by the State Purchasing Director and the supplier .
- A.16.2. Any change to the Contract, including but not limited to the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the procuring agency in writing, or made unilaterally by the supplier, is a breach of the Contract. Unless otherwise specified by applicable law or rules, such changes, including unauthorized written Addendums, shall be void and without effect, and the supplier shall not be entitled to any claim under this Contract based on those changes. No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in the resultant Contract.

#### **A.17. Delivery, Inspection and Acceptance**

- A.17.1. Unless otherwise specified in the solicitation or awarding documents, all deliveries shall be F.O.B. Destination. The supplier(s) awarded the Contract shall prepay all packaging, handling, shipping and delivery charges and firm prices quoted in the bid shall include all such charges. All products and/or services to be delivered pursuant to the Contract shall be subject to final inspection and acceptance by the State at destination. "Destination" shall mean delivered to the receiving dock or other point specified in the purchase order. The State assumes no responsibility for goods until accepted by the State at the receiving point in good condition. Title and risk of loss or damage to all items shall be the responsibility of the supplier until accepted by the receiving agency. The supplier(s) awarded the Contract shall be responsible for filing, processing, and collecting any and all damage claims accruing prior to acceptance.
- A.17.2. Supplier(s) awarded the Contract shall be required to deliver products and services as bid on or before the required date. Deviations, substitutions or changes in products and services shall not be made unless expressly authorized in writing by the procuring agency.

#### **A.18. Invoicing and Payment**

- A.18.1. Upon submission of an accurate and proper invoice, the invoice shall be paid in arrears after products have been delivered or services provided and in accordance with applicable law. Invoices shall contain the purchase order number, a description of the products delivered or services provided, and the dates of such delivery or provision of services. An invoice is considered proper if sent to the proper recipient and goods or services have been received.
- A.18.2. State Acquisitions are exempt from sales taxes and federal excise taxes.
- A.18.3. Pursuant to 74 O.S. §85.44(B), invoices will be paid in arrears after products have been delivered or services provided.
- A.18.4. Payment terms will be net 45. Interest on late payments made by the State of Oklahoma is governed by 62 O.S. § 34.72.

- A.18.5. Additional terms which provide discounts for earlier payment may be evaluated when making an award. Any such additional terms shall be no less than ten (10) days increasing in five (5) day increments up to thirty (30) days. The date from which the discount time is calculated shall be the date of a proper invoice.

#### **A.19. Tax Exemption**

State agency acquisitions are exempt from sales taxes and federal excise taxes. Bidders shall not include these taxes in price quotes.

#### **A.20. Audit and Records Clause**

- A.20.1. As used in this clause, "records" includes books, documents, 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. In accepting any Contract with the State, the successful bidder(s) agree any pertinent State or Federal agency will have the right to examine and audit all records relevant to execution and performance of the resultant Contract.
- A.20.2. The successful supplier(s) awarded the Contract(s) 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 and/or termination of the Contract. If an audit, litigation, or other action involving such records is started before the end of the seven (7) 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.

#### **A.21. Non-Appropriation Clause**

The terms of any Contract resulting from the solicitation and any Purchase Order issued for multiple years under the Contract are contingent upon sufficient appropriations being made by the Legislature or other appropriate government entity. Notwithstanding any language to the contrary in the solicitation, purchase order, or any other Contract document, the procuring agency may terminate its obligations under the Contract if sufficient appropriations are not made by the Legislature or other appropriate governing entity to pay amounts due for multiple year agreements. The Requesting (procuring) Agency's decisions as to whether sufficient appropriations are available shall be accepted by the supplier and shall be final and binding.

#### **A.22. Choice of Law**

Any claims, disputes, or litigation relating to the solicitation, or the execution, interpretation, performance, or enforcement of the Contract shall be governed by the laws of the State of Oklahoma.

#### **A.23. Choice of Venue**

Venue for any action, claim, dispute or litigation relating in any way to the Contract shall be in Oklahoma County, Oklahoma.

#### **A.24. Termination for Cause**

- A.24.1. The supplier may terminate the Contract for default or other just cause with a 30-day written request and upon written approval from the procuring agency. The State may terminate the Contract for default or any other just cause upon a 30-day written notification to the supplier.
- A.24.2. The State may terminate the Contract immediately, without a 30-day written notice to the supplier, when violations are found to be an impediment to the function of an agency and detrimental to its cause, when conditions preclude the 30-day notice, or when the State Purchasing Director determines that an administrative error occurred prior to Contract performance.
- A.24.3. If the Contract is terminated, the State shall be liable only for payment for products and/or services delivered and accepted.

#### **A.25. Termination for Convenience**

- A.25.1. The State may terminate the Contract, in whole or in part, for convenience if the State Purchasing Director determines that termination is in the State's best interest. The State Purchasing Director shall terminate the contract by delivering to the supplier a Notice of Termination for Convenience specifying the terms and effective date of Contract termination. The Contract termination date shall be a minimum of 60 days from the date the Notice of Termination for Convenience is issued by the State Purchasing Director.
- A.25.2. If the Contract is terminated, the State shall be liable only for products and/or services delivered and accepted, and for costs and expenses (exclusive of profit) reasonably incurred prior to the date upon which the Notice of Termination for Convenience was received by the supplier.



**A.26. Insurance**

The successful supplier(s) awarded the Contract shall obtain and retain insurance, including workers' compensation, automobile insurance, medical malpractice, and general liability, as applicable, or as required by State or Federal law, prior to commencement of any work in connection with the Contract. The supplier awarded the Contract shall timely renew the policies to be carried pursuant to this section throughout the term of the Contract and shall provide the procuring agency with evidence of such insurance and renewals.

**A.27. Employment Relationship**

The Contract does not create an employment relationship. Individuals performing services required by this Contract are not employees of the State of Oklahoma or the procuring agency. The supplier's employees shall not be considered employees of the State of Oklahoma nor of the procuring agency for any purpose, and accordingly shall not be eligible for rights or benefits accruing to state employees.

**A.28. Compliance with the Oklahoma Taxpayer and Citizen Protection Act of 2007**

By submitting a bid for services, the bidder certifies that they, and any proposed subcontractors, are in compliance with 25 O.S. §1313 and participate in the Status Verification System. The Status Verification System is defined in 25 O.S. §1312 and includes but is not limited to the free Employment Verification Program (E-Verify) through the Department of Homeland Security and available at [www.dhs.gov/E-Verify](http://www.dhs.gov/E-Verify).

**A.29. Compliance with Applicable Laws**

The products and services supplied under the Contract shall comply with all applicable Federal, State, and local laws, and the supplier shall maintain all applicable licenses and permit requirements.

**A.30. Special Provisions**

Special Provisions set forth in SECTION B apply with the same force and effect as these General Provisions. However, conflicts or inconsistencies shall be resolved in favor of the Special Provisions.

## ARTICLE VI-DEFINITIONS

### **Section 601. Army National Guard and Air National Guard Cooperative Agreements.**

Army National Guard (ARNG) and Air National Guard (ANG) Cooperative Agreements mean any agreements entered into by the Department of Defense, National Guard Bureau, with the states, funded by Department of Defense appropriations for the Army National Guard and Air National Guard, for construction, minor construction, distance learning, maintenance, repair, or operation of facilities, operations of the Army National Guard and Air National Guard, and for other programs authorized and directed by Congress or the Department of Defense to be performed by the States and the National Guard Bureau.

### **Section 602. Air National Guard.**

The Air National Guard (ANG) means that part of the organized militia of the several States and Territories, Puerto Rico, and the District of Columbia, active and inactive, that--

- a. is an air force;
- b. is trained, and has its officers appointed, under the sixteenth clause of section 8, article 1 of the Constitution;
- c. is organized, armed, and equipped wholly or partly at federal expense; and
- d. is federally recognized (32 USC § 101).

### **Section 603. Army National Guard.**

The Army National Guard (ARNG) means that part of the organized militia of the several States and Territories, Puerto Rico, and the District of Columbia, active and inactive, that --

- a. is a land force;
- b. is trained, and has its officers appointed, under the sixteenth clause of section 8, article I of the Constitution.
- c. is organized, armed, and equipped wholly or partly at federal expense; and
- d. is federally recognized (32 U.S.C. § 101).

### **Section 604. Chief, National Guard Bureau.**

The Chief, National Guard Bureau means the head of the National Guard Bureau or his/her designee.

### **Section 605. Cooperative Agreement Program Manager.**

An individual appointed by the USPFO, in coordination with TAG/ANG Unit command, as the Federal CA Program Manager (CA PM) to act for the ARNG /ANG in all matters relating to an MCA Appendix.

### **Section 606. Equipment. (Non-military).**

For the purpose of NGR 5-1, and consistent with the definition at **2 CFR §200.33**, equipment is tangible, non-expendable, personal property having a useful life of more than one year and an acquisition cost of \$5000 or more per unit, purchased for the performance of this MCA Use and disposal of equipment shall comply with the requirement of NGR 5-1, Chapter 8 and **2 CFR 200 §200.313**.

**Section 607. Fiscal Year.**

Fiscal Year (FY) means the federal FY that runs from October 1 to September 30.

**Section 608. Government Furnished Property (GFP) or Government Furnished Equipment (GFE).**

Government furnished property/equipment is property in the possession of, or directly occupied by, the Government and subsequently made available to the grantee (e.g. facilities, materials, special tools, special test equipment, installation property, GSA vehicles and "agency peculiar" equipment).

**Section 609. Grantee.**

The State (**2 CFR §200.90**) or local government (**2 CFR §200.64**) responsible for the performance and administration of this award.

**Section 610. Grants Officer/Grantor.**

Grants Officer or Grantor shall mean an individual appointed by the NGB, Head of Contracting Activity (HCA) authorized to provide approvals, receive reports, modify or change the terms of the MCA, provide funds under the MCA or take any other action for NGB under this MCA except for deciding any appeal of a dispute under this MCA as provided in Section 1203 and any other action delegated to a specific person by this MCA or Appendices. For purposes of this agreement, the Grants Officer shall be the USPFO of the respective State/Territory.

**Section 611. Grants Officer Representative.**

Grants Officer Representative (GOR) means a representative of the Grants Officer acting within the limits of his or her authority as delegated, in writing, by the Grants Officer. If the Grants Officer designates a GOR, the Grantee will receive a copy of the written designation. It will specify the extent of the GOR's authority to act on behalf of the Grants Officer. The GOR is not authorized to make commitments or changes that will affect terms or conditions of the MCCA or an appendix.

**Section 612. In-Kind Assistance.**

In-Kind Assistance is the transfer of supplies or services by NGB to the state in lieu of funds, to satisfy in whole or in part, NGB's obligation of assistance support to the state. IKA will be the fair market value at the time of the contribution.

**Section 613. Military Equipment.**

Military Equipment is federal equipment, used by the Army and Air National Guard to carry out military missions (i.e. combat, or homeland defense/security), listed in the ARNG Modified Table of Organization Equipment (MTOE), Table of Distribution and Allowances (TDA) or AF Designed Operational Capability (DOC). Military equipment cannot be issued/transferred to the State for the purpose of MCA execution.

**Section 614. National Guard Bureau.**

The National Guard Bureau (NGB) is a joint activity of the Department of Defense pursuant to Section 10501, Title 10 United States Code (U.S.C.). The Chief, NGB, is under the authority, direction, and control of the Secretary of Defense. The Secretary normally exercises authority, direction, and control through the Secretaries of the Army and the Air Force for matters pertaining to their responsibilities in law or DoD policy. The Chief, NGB, is a principal advisor to the Secretary of Defense through the Chairman of the Joint Chiefs of Staff on matters involving non-federalized National Guard forces and through other DoD officials on matters as in DoD Directive 5105.77, May 21, 2008, or as determined by the Secretary of Defense.

**Section 615. Operating Materials and Supplies.**

Items purchased, provided, and consumed in normal operations in support of this MCA, its appendices or separate agreements which incorporate the MCA.

**Section 616. Operation and Maintenance Activities.**

Operation and Maintenance (O&M) Activities mean and include, but are not limited to actions by the state, through employment by the state, by contract or hire, of sufficient personnel, acquisition by contract of supplies or services, or other necessary actions, to perform the services, tasks, or activities within the scope of this MCA which are properly charged to an Operations and Maintenance appropriation.

**Section 617. State.**

Any of the several states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a state exclusive of local governments, **and consistent with the definition at 2 CFR §200.90.**

**Section 618. Territory.**

Territory means any Territory. However, for purposes of laws relating to the militia, the National Guard, the Army National Guard of the United States, and the Air National Guard of the United States. "Territory" includes Guam and the Virgin Islands (32 U.S.C. § 101).

**Section 619. The Adjutant General.**

a. The Adjutant General (TAG) is the head of the State, Commonwealth or Territory's Military Department, appointed by the Governor or otherwise determined in accordance with the State, Commonwealth or Territory's law or policy.

b. TAG receives funds, property, and accounts for all expenditures and property acquired through this MCA, and makes returns and reports concerning those expenditures and that property, as required by this MCA.

**Section 620. United States Property and Fiscal Officer. (Grantor)**

a. The United States Property and Fiscal Officer (USPFO) is the qualified commissioned officer of the Army National Guard or the Air National Guard, as the case may be, designated by the Chief, National Guard Bureau, to be the United States Property and fiscal Officer of a State or Territory.

b. The USPFO receives and accounts for all funds and property of the United States, in the possession of the National Guard for which he/she is property and fiscal officer, and makes returns and reports concerning those funds and that property, as required by the Secretary concerned. (32 U.S.C. § 708).

**Section 621. Unit.**

The Unit includes Air National Guard (ANG) flying Groups and Wings, Combat Communication Flights and Squadrons, Engineering Installation Flights and Squadrons, and Combat Readiness Training Centers (CRTC).

## **ARTICLE VII - GENERAL PROVISIONS**

### **Section 701. Term of Agreement.**

Unless sooner terminated by its terms, this MCA shall terminate on 30 September 2020. [The MCA term can be for any period; a five-year term is suggested.]

### **Section 702. Sole Benefit.**

This MCA is intended for the sole benefit of NGB and the Grantee and is not intended to create any other beneficiaries.

### **Section 703. Modifications.**

This MCA may be modified only by a written instrument signed by the parties hereto. Appendices may be modified separately. However, no appendix modification may modify this MCA by reference.

### **Section 704. Successors and Assigns.**

This MCA may not be assigned by a party without the express written consent of the other party. All covenants made under this MCA shall bind and take effect to the benefit of any successors and assigns of the parties whether or not expressly assumed or acknowledged by such successors or assigns.

### **Section 705. Entire Agreement.**

This MCA forms the entire agreement between the parties as to scope and subject matter of this MCA. All prior discussions and understandings concerning the scope and subject matter are superseded and incorporated by this MCA.

### **Section 706. Severability.**

If any provision of this MCA is held judicially invalid, the remainder of the MCA shall continue in force and effect to the extent not inconsistent with such holding.

### **Section 707. Waiver of Breach.**

If a party waives enforcement of any provision of this MCA upon any event of breach by the other party, the waiver shall not automatically extend to any other or future events of breach.

### **Section 708. Notices.**

Any notice, transmittal, approval, or other official communication made under this MCA shall be in writing and shall be delivered by hand, email, facsimile transmission, or by mail to the other party at the address or facsimile transmission telephone number set forth below, or at such other address as may be later designated:

NGB	CURTIS D. ARNOLD, Colonel, USPFO for Oklahoma, 3501 Military Circle, Oklahoma City, OK 73111-4305, DSN 628-5577 or Email: curtis.d.arnold.mil@mail.mil
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Grantee	ROBBIE L. ASHER, Major General, The Adjutant General, 3501 Military Circle, Oklahoma City, OK 73111-4305, DSN 628-5201 or Email: robbie.l.asher.mil@mail.mil
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### **Section 709. Execution.**

This MCA may be executed in several counterparts, each of which shall be deemed an original. Subsequent execution of any or all Appendices shall not affect the legality or enforceability of this MCA.

**Section 710. Conflict of Interest.**

The Grantee shall insure that its employees are prohibited from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others.

**Section 711. Access to and Retention of Records.**

The Grantee shall afford any authorized representative of NGB, the Department of Defense, or the Comptroller General access to and the right to examine all records, books, papers, and documents ("Records") that are within the Grantee's custody or control and that relate to its performance under this MCA. The Grantee shall retain all such records intact in a form, if not original documents, as may be approved by NGB for at least three (3) years following termination of this MCA.

**Section 712. Change of Circumstances.**

Each party shall promptly notify the other party of any legal impediment, change of circumstances, pending litigation, or any other event or condition that may adversely affect the party's ability to carry out any of its obligations under this MCA.

**Section 713. Liability and Indemnity.**

Except as stated in section 716, nothing in this MCA shall be construed as an indemnification by one party or the other for liabilities of a party or third persons for property loss or damage, or for death or personal injury arising out of and during and performance of this MCA. Any liabilities or claims for property loss or damage or for death or personal injury by a party or its agents, employees, contractors or (assigns) or by third persons, arising out of and during the performance of this MCA shall be determined according to applicable law.

**Section 714. Reports.**

In addition to any financial or other reports required by the terms of this MCA, NGB may require the State to prepare reports or provide information relating to this MCA. The state agrees to provide the reports within a reasonable time of request and in such detail as may be required.

**Section 715. Special State Requirements.**

Changes to established requirements of this MCA made necessary by governing State statutes will be processed in accordance with NGR 5-1, Chapter 3 for approval by NGB. Upon approval, a statement of alterations or changes, along with justification, shall be attached to this MCA and will be considered a part thereof. (If none, state NONE.)

**Section 716. Government Furnished Equipment (GFE).**

In addition to the Liability and Indemnity provisions in section 713, nothing in this MCA shall be construed as an indemnification by the United States of the State, its employees, agents, or third persons, for liability with respect to any and all claims, including, but not limited to: (1) claims for damages; and (2) claims for reimbursement arising from property loss, personal injury or accident damage related to the use, care, or operation of GFE. The Grantee's liability for lost or damaged GFE will be in accordance with applicable State laws. (NGR 5-1, Chapter 8). The Grantee is liable for loss, in the event that State law does not authorize indemnification GFE should not be provided.

## **ARTICLE VIII - APPLICABLE LAWS AND REGULATIONS**

### **Section 801. Applicable Law.**

This MCA is incidental to the implementation of a Federal program. Accordingly, this MCA shall be governed by and construed according to federal law as it may affect the rights, remedies, and obligations of the United States.

### **Section 802. Governing Regulations.**

**Title 2 Code of Federal Regulations (GER) Part 200**, and NGR 5-1, are hereby incorporated into this MCA by reference as if fully set forth herein, shall govern this Agreement. Attachment A consists of those provisions of part 200 which are terms & conditions commonly applicable to NGB assistance instruments.

### **Section 803. Nondiscrimination.**

The Grantee covenants and agrees that no person shall be subject to discrimination or denied benefits in connection with the State's performance under the MCA. Accordingly, and to the extent applicable, the Grantee covenants and agrees to comply with the following national policies prohibiting discrimination:

a. On the basis of race, color or national origin, in Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d et seq.), as implemented by DoD regulations at 32 CFR Part 195.

b. On the basis of race, color or national origin, in Executive Order 11246 as implemented by Department of Labor regulations at 41 CFR Chapter 60.

c. On the basis of sex or blindness, in Title IX of the Education Amendments of 1972 (20 U.S.C. Section 1681, et seq.), as implemented by DoD regulations at 32 CFR Part 196.

d. On the basis of age, in The Age Discrimination Act of 1975 (42 U.S.C. Section 6101, et seq.), as implemented by Department of Health and Human Services regulations at 45 CFR Part 90.

e. On the basis of handicap, in Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by Department of Justice regulations at 28 CFR part 41 and DoD regulations at 32 CFR Part 56.

### **Section 804. Lobbying.**

a. The state covenants and agrees that it will not expend any funds appropriated by Congress to pay any person for influencing or attempting to influence an officer or employee of any agency, or a Member of Congress in connection with any of the following covered federal actions. The awarding of any federal contract; the making of any federal grant; the making of any federal loan; the entering into of any CA; and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or Cooperative Agreement.

b. The Final Rule, New Restrictions on Lobbying, issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 28) to implement the provisions of Section 319 of Public Law 101-121 (31 U.S.C. Section 1352) is incorporated by reference and the state agrees to comply with all the provisions thereof, including any amendments to the Interim Final Rule that may hereafter be issued.

### **Section 805. Drug-Free work Place.**

The Grantee covenants and agrees to comply with the requirements regarding drug-free workplace requirements in of 32 CFR Part 26, which implements Section 5151-5160 of the Drug-Free Workplace act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C. 701, et seq.).

**Section 806. Environmental Protection.**

a. The Grantee covenants and agrees that its performance under this Agreement shall comply with:

- (1) The requirements of Section 114 of the Clean Air Act (42 U.S.C. Section 7414);
- (2) Section 308 of the Federal Water Pollution Control Act (33 U.S.C. Section 1318), that relates generally to inspection, monitoring, entry reports, and information, and with all regulations and guidelines issued thereunder;
- (3) The Resources Conservation and Recovery Act (RCRA);
- (4) The Comprehensive Environmental Response, Compensation and Liabilities Act (CERCLA);
- (5) The National Environmental Policy Act (NEPA);
- (6) The Solid Waste Disposal Act (SWDA);
- (7) The applicable provisions of the Clean Air Act (42 U.S.C. 7401, et seq.) and Clean Water Act (33 U.S.C. 1251, et seq.), as implemented by Executive Order 11738 and Environmental Protection Agency (EPA) rules at 40 CFR Part 31;
- (8) To identify any impact this award may have on the quality of the human environment and provide help as needed to comply with the National Environmental Policy Act (NEPA, at 42 U.S.C. 4321, et seq.) and any applicable federal, state or local environmental regulation.

b. In accordance with the EPA rules, the parties further agree that the Grantee shall also identify to the awarding agency (NGB) any impact this award may have on:

- (1) The quality of the human environment, and provide help the agency may need to comply with the National Environmental Policy Act (NEPA, at 42 U.S.C 4321, et seq.) and to prepare Environment Impact Statements or other required environmental documentation. In such cases, the recipient agrees to take no action that will have an adverse environmental impact (e.g., physical disturbance of a site such as breaking of ground) until the agency provides written notification of compliance with the environmental impact analysis process.
- (2) Flood-prone areas, and provide help the agency may need to comply with the National Flood Insurance Act of 1968 and Flood Disaster Protection Act of 1973 (42 U.S.C. 4001, et seq.), which require flood insurance, when available, for federally assisted construction or acquisition in flood-prone areas.
- (3) Coastal zones, and provide help the agency may need to comply with the Coastal Zone Management Act of 1972 (16 U.S.C. 1451, et seq.), concerning protection of U.S. coastal resources.
- (4) Coastal barriers, and provide help the agency may need to comply with the Coastal Barriers Resource Act (16 U.S.C. 3501 et seq.), concerning preservation of barrier resources.
- (5) Any existing or proposed component of the National Wild and Scenic Rivers System, and provide help the agency may need to comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.).
- (6) Underground sources of drinking water in areas that have an aquifer that is the sole or principal drinking water source, and provide help the agency may need to comply with the Safe Drinking Water Act (42 U.S.C 300H-3).

**Section 807. Use of United States Flag Carriers.**

a. The state covenants and agrees that travel supported by U.S. Government funds under this agreement shall use U.S.-flag air carriers (air carriers holding certificates under 49 U.S.C. 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) and the inter-operative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B138942.

b. The state agrees that it will comply with the Cargo Preference Act of 1954 (46 U.S.C. Chapter 553), as implemented by Department of Transportation regulation at 46 CFR 381.7, and 46 CFR 381.7(b).



**Section 808. Debarment and Suspension.**

**Non-federal entities and contractors are subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR part 180. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.** The grantee agrees to comply with the DOD implementation of 2 CFR Part 180 (at 2 CFR Part 1125) by checking the Excluded Parties List System (EPLS) at [www.sam.gov](http://www.sam.gov) to verify contractor eligibility to receive contracts and subcontracts resulting from this Agreement. The grantee and subrecipients shall not solicit offers from, nor award contracts to contractors listed in EPLS. This verification shall be documented in the grantee and subrecipient contract files, and shall be subject to audit by the grantor and Federal/State audit agencies.

**Section 809. Buy American Act.**

The state covenants and agrees that it will not expend any funds appropriated by Congress without complying with The Buy American Act (41 U.S.C. 10a et seq.). The Buy American Act gives preference to domestic end products and domestic construction material. In addition, the Memorandum of Understanding between the United States of America and the European Economic Community (EEC) on Government Procurement, and the North American Free Trade Agreement (NAFTA), provide that EEC and NAFTA end products and construction materials are exempted from application of the Buy American Act.

**Section 810. Uniform Relocation Assistance and real Property Acquisition Policies**

The state covenants and agrees that it will comply with CFR 49 part 24, which implements the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. Section 4601 et seq.) and provides for fair and equitable treatment of persons displaced by federally assisted programs or persons whose property is acquired as a result of such programs.

**Section 811. Copeland "Anti-Kickback" Act.**

The state covenants and agrees that it will comply with the Copeland "Anti-Kickback" Act (18 U.S.C. Section 874) as supplemented in Department of Labor regulations (29 CFR Part 3). As applied to this agreement, the Copeland "Anti-Kickback" Act makes it unlawful to induce, by force, intimidation, threat of procuring dismissal from employment, or otherwise, any person employed in the construction or repair of public buildings or public works, financed in whole or in part by the United States, to give up any part of the compensation to which that person is entitled under a contract of employment.

**Section 812. Contract Work Hours and Safety Standards Act.**

The state covenants and agrees that it will comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. Sections 3701-3708) as supplemented by Department of Labor regulations (29 CFR Part 5). As applied to this agreement, the Contract Work Hours and Safety Standards Act specifies that no laborer or mechanic doing any part of the work contemplated by this agreement shall be required or permitted to work more than 40 hours in any workweek unless paid for all additional hours at not less than 1.5 times the basic rate of pay.

**Section 813. System for Award Management and Data Universal Numbering Requirements**

The Grantee covenants and agrees to comply with the System for Award Management (SAM) and Data Universal Numbering Requirements (DUNS) as indicated below:

a. Requirement for SAM. You as the recipient must maintain the currency of your information in SAM until you submit the final financial report required under this Agreement or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term.

b. Requirement for DUNS Numbers. If you are authorized to make subawards under this Agreement, you:

(1) Must notify potential subrecipients that no entity (see definition in paragraph (c) of this Agreement term) may receive a subaward from you unless the entity has provided its DUNS number to you; and

(2) May not make a subaward to an entity unless the entity has provided its DUNS number to you.

(3) Definitions. For purposes of this Agreement:

(a) SAM means the official U.S. Government system that consolidated the capabilities of CCR and EPLS.

There is NO fee to register in SAM. Entities may register at no cost at [www.sam.gov](http://www.sam.gov). Additional information about registration procedures, updating your recipient account, searching records, as well as user guides and helpful hints may be found at the SAM website.

1. If you had an active record in CCR, you have an active record in SAM. You do not need to do anything in SAM at this time, unless a change in your business circumstances requires updates to your Entity record(s) in order for you to be paid or to receive an award or you need to renew your Entity(s) prior to its expiration. SAM will send notifications to the registered user via email 60, 30, and 15 days prior to expiration of the Entity. To update or renew your Entity records(s) in SAM you will need to create a SAM User Account and link it to your migrated Entity records. You do not need a user account to search for registered entities in SAM by typing the DUNS number or business name into the search box.

(b) Data Universal Numbering System (DUNS) number means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number may be obtained from D&B by telephone (currently 866-705-5711) or the internet (currently at <http://fedgov.dnb.com/webform>).

(c) Entity, as it is used in this award term, means all of the following, as defined at 2 CFR Part 25, Subpart C:

1. A Governmental organization, which is a State, local Government, or Indian Tribe;
2. A foreign public entity;
3. A domestic or foreign nonprofit organization;
4. A domestic or foreign for-profit organization; and
5. A Federal Agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

(4) Subaward:

(a) This term means a legal instrument to provide support for the performance of any portion of the substantive project or Program for which you received this Agreement and that you as the recipient award to an eligible subrecipient.

(b) The term does not include your procurement of property and services needed to carry out the project or Program.

(c) A subaward may be provided through any legal Agreement, including an Agreement that you consider a contract.

(5) Subrecipient means an entity that:

(a) Receives a subaward from you under this Agreement; and Is accountable to you for the use of the Federal funds provided by the subawards

## **Section 814. Reporting Subawards and Executive Compensation**

The Grantee covenants and agrees to comply with the Reporting Subawards and Executive Compensation requirements indicated below:

a. Reporting of first-tier subawards.

1. Applicability. Unless you are exempt as provided in paragraph d. of this award term, you must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a subaward to an entity (see definitions in paragraph e. of this award term).

2. Where and when to report.

i. You must report each obligating action described in paragraph a.1. of this award term to <http://www.fsrc.gov>.

ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)

3. What to report. You must report the information about each obligating action that the submission instructions posted at <http://www.fsrc.gov> specify.

b. Reporting Total Compensation of Recipient Executives.

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1. Applicability and what to report. You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if--

- i. the total Federal funding authorized to date under this award is \$25,000 or more;
- ii. in the preceding fiscal year, you received--

(A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

(B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at

<http://www.sec.gov/answers/execomp.htm>.)

2. Where and when to report. You must report executive total compensation described in paragraph b.1. of this award term:

- i. As part of your registration profile at <http://www.ccr.gov>.
- ii. By the end of the month following the month in which this award is made, and annually thereafter.

c. Reporting of Total Compensation of Subrecipient Executives.

1. Applicability and what to report. Unless you are exempt as provided in paragraph d. of this award term, for each first-tier subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if--

- i. in the subrecipient's preceding fiscal year, the subrecipient received--

(A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

(B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and

ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at

<http://www.sec.gov/answers/execomp.htm>.)

2. Where and when to report. You must report subrecipient executive total compensation described in paragraph c.1. of this award term:

- i. To the recipient.
- ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

d. Exemptions

If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:

- i. Subawards, and
- ii. The total compensation of the five most highly compensated executives of any subrecipient.

e. Definitions. For purposes of this award term:

1. Entity means all of the following, as defined in 2 **CFR Part 200**:

- i. A Governmental organization, which is a State, local government, or Indian tribe;
  - ii. A foreign public entity;
  - iii. A domestic or foreign nonprofit organization;
  - iv. A domestic or foreign for-profit organization;
  - v. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.
2. Executive means officers, managing partners, or any other employees in management positions.

3. Subaward:

- i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
- ii. The term does not include your procurement of property and services needed to carry out the project or program.

iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.

4. Subrecipient means an entity that:

- i. Receives a subaward from you (the recipient) under this award; and
- ii. Is accountable to you for the use of the Federal funds provided by the subaward.

5. Total compensation means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):

- i. Salary and bonus.
- ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
- iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
- iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
- v. Above-market earnings on deferred compensation which is not tax-qualified.
- vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

## **ARTICLE IX-PROCUREMENT**

### **Section 901. State Contracts.**

The Grantee's acquisition of goods and services by the State in performance of this MCA shall be according to applicable State contracting procedures, standards and procedures contained and cited in **2 CFR §200.317**

### **Section 902. State Contract Flow-down.**

Subject to existing contracts, the Grantee is required to insert the substance of provisions of article VIII in contracts issued under this MCA, unless state laws or regulations offer more protection.

**OKLAHOMA ARMY NATIONAL GUARD  
ENVIRONMENTAL MANAGEMENT BRANCH  
ENVIRONMENTAL PROTECTION GUIDELINES FOR CONTRACTORS**

For the purpose of this document, environmental pollution is defined as the presence of chemical, physical, or biological elements or agents which adversely affect human health or welfare, unfavorably alter ecological balances of importance to human life, affect other species of importance to man, or degrade the utility of the environment for aesthetic and recreational purposes. The control of environmental pollution requires consideration of air, water, land, and involves noise, solid waste management and management of radiant energy and radioactive materials, as well as other pollutants.

Applicable Regulation: In order to prevent, and to provide for abatement and control of, any environmental pollution arising from the activities of the contractor and his sub-contractors in the performance of this contract, the contractor shall comply with all applicable Federal, State, and Local laws and regulations concerning environmental pollution control and abatement.

Environmental Management System (EMS): The contractor shall perform work under this contract consistent with the relevant policy and objectives established by the Oklahoma Army National Guard (OKARNG) EMS as applicable for the contract. EMS is the management system the OKARNG uses to implement The Adjutant General's (TAG's) Environmental Policy in accordance with Army Regulation 200-1, Environmental Protection and Enhancement. All employees and contractors must know the contents of TAG's Environmental Policy and have that policy readily available. The TAG's Environmental Policy is available for public viewing at the following web address: <http://www.ok.ng.mil/programs/environmental/>

EMS awareness training is available from the OKARNG Environmental Management Branch at 3515 Military Circle, Oklahoma City, OK. In addition, the contractor shall ensure their employees are aware of the roles and responsibilities identified by the current TAG's Environmental Policy statement and how these requirements affect their work performed under this contract. Furthermore, if an employee or contractor manages an activity that could have a significant environmental impact, that person must also know how to properly manage that activity. The contractor shall perform work in a manner that conforms to all appropriate Environmental Management Programs and Operational Controls identified by the OKARNG EMS, and provide monitoring and measurement information as necessary for the organization to address environmental performance relative to the environmental, energy, and transportation management goals as provided in Executive Order 13693, Planning for Federal Sustainability in the Next Decade. In the event an environmental nonconformance or noncompliance associated with the contracted services is identified, the contractor shall take corrective and/or preventative actions. In the case of a noncompliance, the contractor shall respond and take corrective action immediately. In the case of a nonconformance, the contractor shall respond and take corrective action based on the time schedule established by the OKARNG EMS Management Representative or their designee.

**Protection of Land Resources**

General: It is intended that the land resources within the project boundaries and outside the limits of permanent work performed under this contract be preserved in their present condition or be restored to a condition after completion of construction that will appear to be natural and not detract from the appearance of the project. Insofar as possible, the contractor shall confine his construction activities to areas defined by the plans or specification, to the areas to be cleared for other operations, or to quarry, borrow or waste areas indicated on the plans. At the onset of borrow excavation, topsoil shall be contoured and shaped to provide a neat appearance. In all instances the restored area shall be well drained, so as to prevent the accumulation of water unless otherwise established in the contract and approved by the OKARNG Environmental Management Branch. Except in areas marked on the plans to be cleared, the contractor shall not deface, injure, or destroy trees or shrubs, nor remove or cut them without written approval.

Restoration of Landscape Damage: Any trees or other landscape feature scarred or damaged by the contractor's equipment or operations shall be restored as nearly as possible to its original condition at the contractor's expense. The OKARNG Directorate of Engineering (NGOK-ENG) will decide what method of restoration shall be used, and whether damaged trees shall be treated and healed or removed and replaced.

**Protection of Water Resources**

General: The contractor shall not pollute streams, lakes or reservoirs with any adulterant or harmful materials. It is the responsibility of the contractor to investigate and comply with all applicable Federal, State, County and Municipal laws concerning pollution of rivers and streams. All work under this contract shall be performed in such a manner that objectionable conditions will not be created in streams through or adjacent to the project areas.

Erosion Control: Surface drainage from cuts and fills within the construction limits, whether or not completed, and from borrow and waste disposal areas shall, if turbidity producing materials are present, be held in suitable sedimentation ponds or the areas(s) shall be graded and mitigation measures put in place to control erosion within acceptable limits. Temporary erosion and sediment control measures such as berms, dikes, drains, silt fencing, sedimentation basins or other standard control measures, if required to meet the preceding standards, shall be provided and maintained until permanent drainage and erosion control facilities are completed and operative. The area of bare soil exposed at any one time by construction operations shall be limited to control runoff; and in areas of frequent crossings, temporary culverts or bridge structures shall be removed upon completion of the project. Fills and waste areas shall be constructed by selective placement to eliminate silts or clays on the surface that will erode and contaminate adjacent streams.

Storm Water Design Requirements: EISA Section 438 (Title 42, US Code, Section 17094) established into law storm water design requirements for Federal development and redevelopment. Under EISA Section 438 requirements, Federal facility projects over 5,000 square feet must "maintain or restore, to the maximum extent technically feasible, the

predevelopment hydrology of the property with regard to the temperature, rate, volume, and duration of flow.”

EPA Technical Guidance 841-B-09-001, dated 4 December 2009, “Technical Guidance on Implementing the Storm water Runoff Requirements for Federal Projects under Section 438 of the Energy Independence and Security Act” provides background information, key definitions, case studies, and guidance on meeting the new requirements. Reference Deputy Undersecretary of Defense, Installation and Environment (DUSD (IE)) Policy Memo dated 19 Jan 2010, “DoD Implementation of Storm Water Requirements under Section 438 of the Energy Independence and Security Acts (EISA)”. The use of Low Impact Development (LID) is required for the project to achieve design objectives stated in DoD Policy on Implementing Section 438 of the Energy and Independence and Security Act (EISA), dated 19 January 2010 and UFC 3-210-10 (LID), dated 15 November 2010.

The following LID techniques shall be considered: permeable pavement, cisterns/recycling, green roofs, filter/buffer strips, grassed swales, bioretention swales, rain barrels, , tree box filters, site utilization, filtration, interception/infiltration, retention of storm water volumes, and structural solutions. Soil amendments or removal and replacement will be provided as necessary to facilitate LID features. Underdrain systems shall be provided in any bioretention areas.

The Contractor shall evaluate the drainage conditions and submit sealed calculations verifying EISA Section 438 and DoD/Army LID policies have been met in accordance with UFC 3-210-10 to the OKARNG for civil and environmental review. The Contractor shall provide a narrative stating project design goals were achieved along with sealed calculations. Estimated design and construction costs for implementing EISA Section 438 shall be documented in the project cost estimate as a separate line item.

General Permit for Storm Water Discharges for Construction Activities: Any contractor performing a construction activity, including clearing, grading, and excavating, which results in the disturbance of one or more acre of land, requires submission of a Notice of Intent (NOI) to apply for coverage under the Oklahoma Department of Environmental Quality (ODEQ) current General Permit for Storm Water Discharges for Construction Activities within the State of Oklahoma, and subsequently submit a Notice of Termination (NOT) when *the activities are complete*. Construction projects subject to coverage through the permit are required to have a Storm Water Pollution Prevention Plan (SWP3). SWP3s will be developed in accordance with (IAW) the National Pollutant Discharge Elimination System (NPDES) Permit and IAW the Oklahoma Pollutant Discharge Elimination System (OPDES) requirements. The intent of the SWP3 is to identify potential sources of pollution at a facility and to identify the Best Management Practices (BMPs) that will reduce contaminants in storm water runoff discharging to state waters. The plan must be updated when any significant change occurs at the facility that would potentially affect the quality of storm water runoff. The SWP3s shall be prepared IAW good engineering practices and IAW the factors outlined in the activity’s permit. The contractor will maintain copies of the SWP3 at each applicable facility and will make it available to regulators upon request.



Detailed content requirements of construction activity SWP3s are identified in current General Permit for Storm Water Discharges for Construction Activities within the State of Oklahoma and include:

- 1) Site description
- 2) Controls
- 3) Maintenance
- 4) Inspections
- 5) Non-storm water discharges

Spillages: At all times of the year, special caution shall be taken to prevent chemicals, fuels, oils, greases, bituminous materials, waste washings, pesticides, and cement and surface drainage from entering surface or ground waters.

Disposal: Disposal of any materials, wastes, effluents, trash, garbage, oil, grease, chemicals, etc., in areas adjacent to streams or other bodies of water is prohibited. If any waste material is dumped in unauthorized areas, the contractor shall remove the material and restore the area to the condition of the adjacent undisturbed area. As necessary, any soils contaminated, either directly or indirectly, by the actions of the contractor shall be excavated, disposed of as directed by NGOK-ENG, and replaced with suitable fill material, compacted and finished with appropriate topsoil and vegetative cover all at the expense of the contractor.

Hazardous Waste Disposal: All hazardous wastes will be managed in compliance with all federal, state and local laws, rules and regulations. These wastes must be managed and protected to prevent release to the environment. All hazardous wastes generated on site will be reported to OKARNG Environmental Management Branch (NGOK-ENG-ENV). The reporting shall include waste type(s), volumes and/or weights, and location of final disposal. Copies of all manifests and receipt notifications will be provided to NGOK-ENG-ENV no later than seven (7) calendar days after the documents are generated. Prior to disposal of hazardous wastes, the contractor will notify the contracting officer or OKARNG Project Manager who will notify NGOK-ENG-ENV. The contractor will provide a copy of the hazardous waste management and disposal plan prior to beginning work.

### **Protection of Cultural Resources**

General: The contractor shall at all times perform all work and take such steps as required to prevent damage to cultural resources. Cultural resources are historic properties as defined by the National Historic Preservation Act (NHPA); cultural items as defined by Native American Graves Protection and Repatriation Act (NAGPRA), archeological resources as defined by Archaeological Resources Protection Act (ARPA), sites and sacred objects to which access is afforded under American Indian Religious Freedom Act (AIRFA) and collections and associated records as defined in 36 CFR 79.

Inadvertent Discoveries: In the event of an inadvertent discovery, the contractor shall immediately take the following steps:

- (1) Cease ground-disturbing activity immediately once Native American historical artifacts, human remains, or burial sites are observed or encountered.

(2) Report any observations or discoveries of Native American historical artifacts, human remains, burial sites, or features immediately to the OKARNG Project Manager at the site and the Contracting Officer. The OKARNG Project Manager will contact NGOK-ENG-ENV.

(3) Do not resume ground-disturbing activity at the discovery location until approved by NGOK-ENG-ENV, and the OKARNG Project Manager.

Contractor must comply with orders from the OKARNG to secure the discovery location(s).

### **Protection of Natural Resources**

Affirmative Procurement: In accordance with Section 6002 of the Resource Conservation and Recovery Act (RCRA) and Executive Order 13101, “Greening the Government through Waste Prevention, Recycling, and Federal Acquisition,” to buy certain products containing recovered (e.g., recycled) materials as provided in the Environmental Protection Agency’s Comprehensive Procurement Guidelines (CPGs) and Recovered Materials Advisory Notices (RMANs) to the fullest extent possible.

Protection of Fish and Wildlife: The Contractor shall at all times perform all work and take such steps as required to prevent any interference or disturbance to fish and wildlife. The contractor will not be permitted to alter water flow or otherwise disturb native habitat adjacent to the project area which, in the opinion of the OKARNG Environmental Management Branch, is critical to fish or wildlife. The contractor shall not foul or pollute the land, air, or water. Critical Habitat will be identified by the OKARNG Environmental Management Branch, U.S. Fish and Wildlife Service or Oklahoma Department of Wildlife Conservation. Once identified, the contractor will make every effort to protect Critical Habitat.

Disposal of Removed Material: Unless otherwise specified in other sections of these specifications or unless reusable under the terms of this contract, all removed material shall be disposed of off-site. This disposal shall be in accordance with all applicable Federal, State, County and Municipal laws. The contractor will provide the OKARNG Project Manager with a report of quantity of solid waste generated by contractor activities in either pounds or cubic yards no later than seven (7) calendar days after disposal. The OKARNG Project Manager will provide a copy to NGOK-ENG-ENV. Special attention should be given to light ballasts (may contain PCBs), painted items, (paint may contain lead), insulation (may contain asbestos), and other building materials which commonly contain asbestos.

### **Protection of Air Quality Resources**

Fugitive Dust Control: “No person shall cause or allow the discharge of any visible fugitive dust emissions beyond the property line of the property on which the emissions originate...” as stated in OAC 252:100-29 (ODEQ air regulations are presented in OAC Title 252 Chapter 100 Air Pollution Control). As such, the contractor will be required to maintain all excavations, embankments, stockpiles, haul roads and permanent access roads (unpaved or dust-laden paved roads), plant sites, waste areas, borrow areas, and all other work areas within or without the project boundaries free from dust which would cause a hazard or nuisance to others. An

approved immediate measure is to reduce vehicle speeds. Approved temporary methods of stabilization consisting of sprinkling, chemical treatment, light bituminous treatment or similar methods will be permitted to control dust. Sprinkling, to be approved, must be repeated at such intervals as to keep all parts of the disturbed area at least damp at all times, and the contractor must have sufficient competent equipment on the job to accomplish this if sprinkling is used. Dust control shall be performed as the work proceeds and whenever a dust nuisance or hazard occurs. Occupied areas within buildings shall be protected by temporary partitions or dust barriers during demolition and construction processes.

Open Burning Restriction: The open burning of refuse and combustible materials is prohibited unless conducted in strict accordance with the conditions and requirements contained in OAC 252:100-13-7 and OAC 252:100-13-9. Under no circumstances shall the open burning of tires be allowed.

Toxic Emissions: For painting activities, material records of amount of paint and solvent used and safety data sheets (SDSs) thereof shall be maintained onsite (to substantiate compliance to OAC 252:100-42 Control of Toxic Air Contaminants).

Maintenance of Pollution Control Facilities: During the life of this contract the contractor shall maintain all facilities constructed for pollution control under this contract as long as the operations creating the particular pollutant are being carried out or until the material of concern has become stabilized to the extent that pollution is no longer being created. During contract-related activities, the contractor shall conduct frequent training courses for maintenance personnel. The curricula should include methods of detection of pollution, familiarity with pollution standards, and installation and care of vegetation covers, plants and other facilities to prevent and correct environmental pollution.

Pesticides (Insecticides, Fungicides, Herbicides, Etc.): When handling, managing, using, or storing pesticides, the contractor will:

- (1) Ensure application of all pesticides be accomplished in accordance with and by applicators licensed, certified, and insured in accordance with the OAC 35:30-17 and the current Oklahoma Department of Agriculture, Food and Forestry's Combined pesticide law & Rules;
- (2) Have state commercial certification and licensing in the category or categories of work to be performed;
- (3) Show proof of liability insurance, state pesticide applicator licensure, and state pesticide applicator certification;
- (4) Use only EPA and state registered pesticides;
- (5) Furnish legible copies of pesticide labels and the SDS of all pesticides proposed for use and notify the NGOK-ENG-ENV Pest Management Coordinator at least 48 hours prior to a pesticide application;
- (6) Prepare, submit, and maintain daily pest management records and reports for each pest management service provided to include surveillance, non-chemical controls and pesticide applications. Ensure records are accurate and complete. Ensure records include: the installation name, pesticide common name from the label of the pesticide that was applied, pesticide formulation, EPA Registration Number, target pest, the type of application

operation (e.g. fogging, baiting, dusting, barrier, surveying) and final concentration applied, the amount of final spray or dry formulation applied, date of application, location of the service (building number, room number, training area, etc. that accurately identifies the location ), the amount of area treated, the pounds of active ingredient applied, the name of the licensed/certified applicator's name and certificate number, and the labor time for the pest control operation. Within 72 hours of application or service at a federal facility, furnish the NGOK-ENG-ENV Pest Management Coordinator the above listed information along with a completed DD Form 1532-1 and DD Form 1532;

(7) Utilize integrated pest management practices and techniques;

(8) Ensure delivery and storage of pesticides will be monitored by certified personnel to ensure the adequacy of containers and the safe storage of toxic materials;

(9) Ensure disposal of containers and chemicals will be monitored to prevent improper release of chemicals into the environment.

### **Operational Noise Management**

Noise management: The contractor shall at all times perform all work and take such steps as required to minimize and/or reduce noise impacts associated with their actions/activities in accordance with the Noise Control Act of 1972 and relevant state and local ordinances. Specifically, when operating in the vicinity of sensitive noise receptors (e.g., schools, libraries, hospitals, residential areas), the contractor needs to be cognizant of the potential for noise-related complaints due to their actions and understand the need to resolve noise issues in a timely and sensible manner.

### **POINT OF CONTACT INFORMATION**

For immediate information and assistance, please contact the OKARNG Environmental Management Branch at our main office number at (405) 228-5363. Our Environmental Program Manager, Lieutenant Colonel Terry C. Hale Jr., can be contacted at either (405) 228-5699 or via email at [terry.c.hale.mil@mail.mil](mailto:terry.c.hale.mil@mail.mil).