

**ATTACHMENT C**  
**AGENCY TERMS**  
**SOLICITATION NO. 2650000382**

**1. STUDENT DATA ACCESSIBILITY, TRANSPARENCY AND CCOUNTABILITY**

- 1.1 Vendor's ability to provide services under this Agreement requires OSDE to share student data containing confidential personally identifiable information ("PII") from education records maintained by OSDE with Vendor. Vendor agrees to comply with all state and federal laws relating to student data and privacy, including the Family Educational Rights and Privacy Act, (20 U.S.C § 1232g; 34 CFR Part 99) ("FERPA") and the Oklahoma Student Data Accessibility, Transparency, and Accountability Act of 2013, (70 O.S. § 3-168).
- 1.2 Agreement must include the **Purpose** of the Agreement; must specifically include all data points to be released by OSDE **and** what the Vendor will do with the student data.
- 1.3 Student data released to Vendor will be limited to data points specifically listed in this Agreement. If Vendor determines that there is a legitimate need to receive or access additional student data and that such data is necessary to perform required duties, Vendor shall submit a written request to OSDE detailing the data needed and state the purpose of the disclosure. If OSDE determines that access is necessary and appropriate, this Agreement may be modified in accordance with request. No additional data shall be provided until the Agreement is modified to reflect the additional data disclosures.
- 1.4 Vendor will safeguard the confidentiality and integrity of all data received pursuant to this Agreement, place limitations on its use, and maintain compliance with all applicable privacy laws. Vendor shall establish appropriate administrative, technical and physical safeguards to ensure the security and confidentiality of all student data.
- 1.5 Student information from education records cannot be published in a way that would allow individual students or their parents to be identified. Any reports or published information that is a result of or derived from confidential student data containing PII provided by OSDE shall not allow

individuals to be directly or indirectly identified and shall contain no individual student level data. Vendor may use student data from education records to perform contractual duties as required by this Agreement, but any published results must be presented in a manner which protects the privacy and confidentiality of students. The OSDE shall be provided the opportunity to review all results prior to publication.

Vendor shall require all staff to comply with the data security and confidentiality provisions set forth herein. Only those employees that are directly involved in performing tasks outlined herein and who have a legitimate interest in providing services according to the terms of this Agreement shall be entitled to access student data. Vendor shall take steps to maintain the confidentiality of student information from education records.

1.6 This Agreement does not constitute a release of student-level data for the vendor's discretionary use. Access to (or disclosure of) confidential student information contained from education records pursuant to the terms of this Agreement shall not constitute an assignment of ownership of the information provided. OSDE retains all ownership rights to the data transferred pursuant to this Agreement, and Vendor shall not obtain any right, title, or interest in any of the data furnished by OSDE.

1.7 Data transferred pursuant to this agreement may only be used to carry out the responsibilities throughout the duration of the projects, task and assignments specified herein. Any unauthorized use of the data files beyond the terms specified in the Agreement is not permitted. Vendor shall not use the data for purposes other than the projects, task and assignments identified herein.

1.8 Vendor shall immediately notify the OSDE if there is any unauthorized access or breach to the data provided by the OSDE and take reasonable steps to mitigate any breach. In the event a breach occurs, Vendor will take reasonable steps and implement corrective procedures to ensure that further breaches do not occur.

1.9 OSDE shall be notified immediately if Vendor receives a request for the student data containing PII provided by the SDE. If Vendor becomes legally compelled to disclose any confidential PII (whether by judicial or administrative order, applicable law, rule or regulation, or otherwise) then Vendor shall use all reasonable efforts to provide OSDE with prior notice before disclosure so that OSDE may seek a protective order or other appropriate remedy to prevent the disclosure. If a protective order or other remedy is not obtained prior to when any legally compelled disclosure is required, Vendor shall only disclose that portion of the confidential PII that it is legally required to disclose.

- 1.10 Vendor may determine that it is necessary to employ a contractor or subcontractor to fulfill contractual obligations under the Contract. Vendor shall ensure, by written agreement, that any contractor or subcontractor employed by Vendor remains in compliance with (FERPA), 20 USC § 1232g; 34 CFR Part 99, and the Oklahoma Student Data Accessibility, Transparency, and Accountability Act of 2013, 70 O.S. § 3-168. Vendor shall enter into a Data Sharing Agreement with any contractor or subcontractor employed by Vendor. A copy of said Data Sharing agreement shall be forwarded to OSDE prior to the release of any student data or personally identifiable information.
- 1.11 The OSDE will immediately terminate this agreement and this agreement shall not be renewed due to the intentional breach of any of the terms and conditions of the data security and confidentiality provisions set forth herein by Vendor and OSDE may revoke any other existing RFP's or contract with Vendor.
- 1.12 The OSDE may seek monetary, restitutive and punitive damages against Vendor for a breach of any of the terms and conditions of the data security and confidentiality provisions set forth herein as allowed by law.
- 1.13 Upon notification of a breach in the terms and conditions of the data security and confidentiality provisions set forth herein, the OSDE will not release any additional confidential personally identifiable information ("PII") from education records maintained by OSDE to the Vendor until corrective procedures have been implemented to ensure further breaches do not occur.
- 1.14 Upon completion of the services detailed in this agreement or upon termination of this agreement, Vendor shall **immediately** destroy all PII that was disclosed by the OSDE and provided to Vendor for the purposes detailed in this agreement. Within ten (10) days of destruction, Vendor shall provide written notification to the OSDE of the date and method of destruction of these records.

## **2. FORCE MAJEURE**

- 2.1 A party is not liable for failure to perform the party's obligations if such failure is a result of Acts of God (including fire, flood, earthquake, storm, or other natural disaster), war, invasion, act of foreign enemies, hostilities (regardless of whether war is declared), strikes or labor disputes, embargoes, government orders, epidemics, pandemics or other similar events beyond the reasonable control of the party. If a party asserts Force Majeure as an excuse for failure to perform the party's obligation, then the nonperforming party must prove that the party took reasonable steps to minimize delay or damages caused by foreseeable events, that the party

substantially fulfilled all non-excused obligations, and that the other party was timely notified of the likelihood or actual occurrence of an event described in this clause. If an event of force majeure occurs, the party injured by the other's inability to perform may elect one of the following remedies: (a) to terminate this agreement in whole or in part; or (b) to suspend the Agreement, in whole or part, for the duration of the force majeure circumstances. The party experiencing the force majeure circumstances shall cooperate with and assist the injured party in all reasonable ways to minimize the impact of force majeure on the injured party.