

Request For Proposal

NUMBER: DRCP-11-0317
DATE ISSUED: September 10, 2010

The Ohio Department of Rehabilitation and Correction is requesting proposals for:

Automated Fingerprint Identification System

INQUIRY PERIOD BEGINS: September 10, 2010
INQUIRY PERIOD ENDS: September 28, 2010
OPENING DATE: September 30, 2010
OPENING TIME: 1:00 P.M. Eastern Standard Time
OPENING LOCATION: ODRC Central Office Contracts
770 West Broad Street
Columbus, OH 43222
Attn: Yolanda Cooks
Contract Analyst

This RFP consists of six (6) Parts and five (5) Attachments. Please verify that you have a complete copy.

PART ONE: EXECUTIVE SUMMARY

Purpose

The Ohio Department of Rehabilitation and Correction (ODRC) is seeking competitive sealed Proposals (hereinafter referred to as "Proposal") from qualified contractors (hereinafter referred to as "Offerors") for Automated Fingerprint Identification System (hereinafter referred to as the "Project") through Central Office (hereinafter referred to as the "Central Office"). If an acceptable Proposal is made in response to this Request for Proposal (hereinafter referred to as "RFP"), the ODRC may enter into a Contract (hereinafter referred to as "Contract"), to have the selected Offeror perform the Project.

The term of this Contract is from October 30, 2010 to June 30, 2012 with one optional two-year renewals.

This RFP provides details on what is required to submit a Proposal, how the Committee will evaluate the Proposals and what will be required of the Offeror who executes a Contract (hereinafter referred to as "Contractor").

Calendar of Events

The following schedule is given to assist Offerors in responding to this RFP:

RFP Issued:	September 10, 2010
Inquiry Period Begins:	September 10, 2010
Inquiry Period Ends:	September 28, 2010
Proposal Due Date:	September 30, 2010
Tentative Contract Award:	October 15, 2010

Structure of RFP

The RFP is organized into six parts and has six attachments. The parts and attachments are listed below.

Part One:	Executive Summary
Part Two:	General Instructions
Part Three:	Scope of Work
Part Four:	Requirements for Proposals
Part Five:	Evaluation of Proposals
Part Six:	Proposal Evaluation Criteria
Attachment One:	Offeror Profile Summary
Attachment Two:	Statement of Compliance: Purchase Contract
Attachment Three:	Contract Performance
Attachment Four:	Mandatory
Attachment Five:	Contract

Project Representative

The Project Representative shall represent the Agency in matters relating to this RFP and the Proposal process. The Project Representative may be contacted as follows:

Name: Michelle Matheron
Title: Data Administrator Manager 2
Address: DRC Office of Administration, 770 West Broad Street, Columbus, OH 43222
Phone: 614-752-1306
Fax: 614-995-5103
Email: michelle.matheron.odrc.state.oh.us

Contract Monitor

Following Contract award, a Contract Monitor shall be the Contractor's primary point of contact for matters relating to the Contractor's performance. The Contract Monitor may be contacted as follows:

Name: Michelle Matheron
Title: Data Administrator Manager 2
Address: DRC Office of Administration, 770 West Broad Street, Columbus, OH 43222
Phone: 614-752-1306
Fax: 614-995-5103
Email: michelle.matheron.odrc.state.oh.us

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PART TWO: GENERAL INSTRUCTIONS

Inquiries

Offerors may make inquiries or seek clarifications regarding this RFP any time during the inquiry period listed in the RFP Calendar of Events. To make an inquiry, Offerors must use the following process:

- Access the State Procurement web site at <http://www.ohio.gov/procure>;
- From the Navigation Bar on the left, select “Find it Fast”;
- Select “Doc/Bid/Schedule #” as the Type;
- Enter the RFP Number found on Page 1 of the document (RFP Numbers begin with DRC followed by a number);
- Click the “Find It Fast” button;
- On the document information page, click the “Submit Inquiry” button;
- On the document inquiry page, complete the required “Personal Information” section by providing:
 - a. First and last name of the prospective Offeror’s representative who is responsible for the inquiry;
 - b. Name of the prospective Offeror;
 - c. Representative’s business phone number; and
 - d. Representative’s e-mail address.
- Type the inquiry in the space provided including:
 - e. A reference to the relevant part of this RFP;
 - f. The heading for the provision under question; and
 - g. The page number of the RFP where the provision can be found.
- Click the “Submit” button.

Offerors submitting inquiries will receive an immediate acknowledgement that their inquiry has been received as well as an e-mail acknowledging receipt. Offerors will not receive a personalized e-mail response to their question nor will they receive notification when the question has been answered.

Offerors may view inquiries using the following process:

- Access the State Procurement web site at <http://www.ohio.gov/procure>;
- From the Navigation Bar on the left, select “Find it Fast”;
- Select “Doc/Bid/Schedule #” as the Type;
- Enter the RFP Number found on Page 1 of the document (RFP Numbers begin with DRC followed by a number);
- Click the “Find It Fast” button;
- On the document information page, click the “View Q & A” button to display all inquiries with responses submitted to date.

The State will try to respond to all inquiries within 48 hours, excluding weekends and State holidays. But the State will not respond to any inquiries received after 8:00 a.m. on the Inquiry Period End Date.

Inquiries and or requests for clarification about a specific portion of this RFP must reference the relevant Part and/or Attachment of this RFP and include the provision heading with the RFP page number.

Offerors who attempt to seek information or clarifications verbally will be directed to reduce their questions to writing in accordance with state purchasing policy. No other form of communication is acceptable, and use of any other form of communication or any attempt to communicate with ODRC staff or any other agency of the State to discuss the Proposal may result in the Offeror being deemed not responsive.

Proposal Submission Requirements. Each Offeror must submit four complete, sealed, and signed copies of its Proposal and pricing worksheets, to the Project Representative at the address listed in Part One with the outside of each envelope clearly marked:

“DRCP-11-0317 Automated Fingerprint Identification System”

Proposals must be received no later than 3:00 p.m. local time on the Proposal Due Date. The Project Representative **shall reject any Proposals** or unauthorized Proposal amendments submitted after the Proposal Due Date. Each Offeror must carefully review the requirements of this RFP and the contents of its Proposal. Once the Proposal Due Date has passed, Proposals cannot be altered, except as allowed by this RFP.

All Proposals and other submitted material shall be the property of the ODRC and shall not be returned. The Offeror should not include proprietary information in a Proposal because the ODRC maintains the right to use any materials or ideas submitted without compensation to the Offeror. Additionally, all Proposals will be open to the public after Contract award.

The ODRC will retain a copy of all Proposals received as part of the Contract file for the term of the Contract and any subsequent renewals. After the state-scheduled retention period, the Project Representative may return, destroy, or otherwise dispose of the Proposals and copies.

Proposal Instructions

The ODRC wants clear and concise Proposals, but Offerors should take care to completely answer questions and meet the RFP’s requirements. Proposals must demonstrate an understanding of the requirements and show experience providing like services as well as the ability to meet the service requirements.

The requirements for the Proposal's contents and formatting are contained in Part Four of this RFP. Any Offeror shall submit only one Proposal.

The State will not be liable for any costs incurred by any Offeror in responding to this RFP, even if the State does not award a Contract through this process. The State may decide not to award a Contract for the Project. It may also cancel this RFP and Contract for the Project through some other process or by issuing another RFP.

Waiver of Defects

The State has the right to waive any defects in any Proposal or in the submission process followed by an Offeror, but the State will only do so if it believes that is in the State's interests and will not cause any material unfairness to other Offerors.

Amendments to Proposals

Amendments or withdrawals of Proposals are allowed until 3:00 p.m. local time on the Proposal Due Date. No amendments or withdrawals will be permitted after the due date, except as expressly authorized by this RFP.

PART THREE: SCOPE OF WORK

Objective

The objective of this RFP is to solicit Proposals for a contractor to partner with ODRC to provide a computerized automated electronic fingerprint identification system that is fast, reliable, compatible, will interface with the DOTSPORTAL platform, user friendly and be able to store at least 500 record sets.

The Ohio Department of Rehabilitation and Corrections is seeking proposals from contractors with relevant knowledge and experience to supply three reception centers (Correctional Reception Center, Ohio Reformatory for Women, and Lorain Correctional) an automated electronic fingerprint system.

1. Statement of Work

- a. Task 1
 - Identify and build per customer, Bureau of Criminal Identification and Investigation (BCII), Federal Bureau of Investigation (FBI), specifications
 - An automated system
 - 3 complete systems
- b. Task 2
 - Interface equipment with DOTSPORTAL(Web interface for the Department Offender Tracking System), BCII, FBI, Law Enforcement Automated Data System (LEADS) applications
- c. Task 3
 - Configure software to transfer bookings per FBI, BCII, specifications, to be National Institute of Standards and Technology (NIST) compliant

2. Requirements

- a. Hardware minimum computer configuration must be as follows
 - Dual 2.87 GHz processors or 3.2 to 3.75 GHz single processors with 4 GB addressable memory
 - 2 Gigabyte ram
 - 2 physical hard drives
 1. 40 GB-used for OS
 2. 100 GB-used for record sets
 - Video card capable of minimum 1600x1024 resolution, 1 GB Memory
 - 19" LCD display
 - 1 network interface card
 - Ergonomically user friendly desk unit to house automated fingerprint system with foot controls
- b. Software minimum requirements
 - One of three operating systems
 1. Windows XP pro
 2. Apple OS X
 3. Linux
 - AFIS interface compatible with FBI, BCII standards

3. Deliverables

- a. Hardware
 - Computer, monitor, keyboard, mouse, fingerprint capture device(s) to allow capturing fingerprints per FBI, BCII requirements
 - Ergonomically user friendly desk for automated fingerprint system
 - Manuals and licensed software
- b. Software
 - Operating system for computer
 - Software for capture device
 - Configuration files for transfer of bookings
 - Other-reserved

Contractor must work with Diversified Systems, Inc. to accept a daily electronic file containing initial booking information. That information must be imported in to the automated electronic finger print system to eliminate the need for duplicate manual data entry.

c. Other

- The system will be configured, installed and made operational by the contractor.
- Training will be provided by the contractor on the operational aspects of the equipment during normal business hours prior to actual production work. This will occur once the equipment is accepted and installed on site and in a production environment.
- Periodic updated software will be included in the maintenance agreement.
- The contractor will provide maintenance and two hour response time during normal business hours determined by the identification department.
- Maintenance to include all hardware and software for computer and electronic fingerprinting equipment.
- Initial warranty period to be 3 years.
- Offer extended warranty to include all software updates.

4. Items supplied by reception centers

- a. Area for installing unit
- b. Electrical and network connections.
- c. Authorizations for FBI, BCII, LEADS interfaces

5. Approval Required

- a. The contractor must obtain the approval of equipment hardware and software configurations from identification, network administrator, purchasing, Department of Administrative Services, ODRC Office of Information Technology, prior to final production.

6. Type of Contract

- a. The contract will be a fixed price for delivery of all statements of work.

7. Schedule

- a. Product selection is expected October 29, 2010.

8. Proposal Content

- a. As a minimum, the contractor's proposal must include the following:
 - Approach
 - A discussion that indicates the contractor clearly understands the request for the proposal and what is expected
 - b. Deliverables
 - The contractor will provide a detailed description of each deliverable
 - c. Schedule
 - A bar chart showing the weekly schedule of the tasks to be performed
 - d. Experience
 - A discussion of recent or similar projects the contractor has performed, including customer names, addresses, phone numbers and contacts.
 - e. Staffing
 - Names and detailed resumes of the specific individuals who will be assigned to work on the project and highlights of their experience on similar proposals.
 - f. Costs
 - Total fixed price must not exceed thirty thousand dollars (\$30,000.00) per unit and supported by a detailed breakdown of hours and an hourly cost rate for each person who will be assigned to the project. Additionally, an itemized list of all direct expenses must be included. This is to include all hardware, software and related items. This also includes all software/hardware updates within the warranty period for the three units.

9. Proposal Evaluation Criteria

a. State of Ohio Department of Rehabilitation and Corrections will evaluate all contractor proposals according to the following criteria:

- Approach (30%)

The approach and methodology the contractor proposes to complete the tasks.

- Experience (30%)

The experience of the contractor and the staff assigned to the project in performing similar projects.

- Price (30%)

The fixed price of the contractor's proposal

- Schedule (10%)

The detail and overall duration of the contractor's proposed schedule to complete the project on or before the required project finish date.

PART FOUR: REQUIREMENTS FOR PROPOSAL

Proposal Format

Each Proposal must include sufficient information to allow the evaluation committee to verify all aspects of the RFP in order to ensure all of the Offeror's claims of meeting the RFP's requirements. Each Proposal must respond to every request for information in this RFP whether the request requires a simple "yes" or "no" or a detailed explanation. These instructions describe the required format for a responsive Proposal. All required specifications must be met for the Proposal to be considered responsive.

The Offeror may include any additional information it believes is relevant. All pages, except pre-printed technical inserts, must be sequentially numbered.

The Proposal shall be organized in the following order and contain the following information. **Failure of the Offeror to provide any of the following items may result in rejection of the Proposal:**

1. Cover Letter;
2. Description of Scope of Work;
3. Offeror Profile Summary (Attachment 1);
4. Statements of Declaration and Compliance (Attachment 2);
5. Conflict of Interest Statement;
6. Contract Performance (Attachment 3);
7. Proof of Workers' Compensation;
8. Completed W-9 IRS Form (sign in blue ink); and
9. Certificate of Insurance.

1. Cover Letter

The Offeror must include a standard business letter signed by an individual authorized to legally bind the Offeror. The Offeror must be engaged in the business of providing Automated Fingerprint Identification System service. The letter must include the following:

- a. General company profile including a description of the Offeror's legal structure (e.g. corporation, partnership, etc.) and number of employees;
- b. The address of the Offeror's home office; and
- c. The name, telephone number, fax number and electronic-mail address of a contact person who has authority to answer questions regarding the Proposal and receive notices following Contract award.

2. Description of Scope of Work

This section must fully describe the Offeror's approach, method and specific steps for providing services. The detailed Proposal must present and explain the Offeror's recommended approach to the Automated Fingerprint Identification System as described in Part Three, Scope of Work of this RFP.

If there are any requirements in the Contractor's Scope of Work for Automated Fingerprint Identification System Services, the Offeror must provide a detailed statement as to why that requirement cannot be met.

3. Offeror Profile Summary

Using the form in Attachment One, the Offeror must show at least three years experience providing Automated Fingerprint Identification System services at sites comparable to the ODRC. Information to be provided includes: company name and address, contact person and phone number, program name, beginning date of project (month/year), ending date of the project (month/year), description of related services provided that relates to the requirements of this RFP. The form in Attachment One may be replicated if additional space is needed.

4. Statements of Declaration and Compliance

The Offeror must complete Attachment Two; Statements of Declaration and Compliance, stating that they are able to contractually comply with all the following requirements:

- a. Location of Service/Off-Shore/I-9 Certification and,
- b. The Contract terms and conditions set forth in Attachment Four of this RFP.

5. Conflict of Interest Statement

Each Proposal must include a statement indicating whether the Offeror, or any people that may work on the Project through the Offeror, have a possible conflict of interest, direct or indirect, which is incompatible with the fulfillment of the Project. The ODRC has the right to reject a Proposal in which a conflict is disclosed or cancel the Contract if any interest is later discovered that could give the appearance of a conflict.

The State will not be liable for any costs the Offeror does not identify in its Proposal Price.

6. Contract Performance

The Offeror must complete Attachment Three.

7. Compliance with Required Contract Documentation

Each Bid must include required documentation provided as Attachment Five. The documentation is required per the Terms and Conditions of the Contract or a statement indicating the Bidder is in agreement to submit the documentation prior to completing the Contract.

The mandatory documents are listed below but, may not be inclusive of ODRC's requirements.

- Signed Acknowledgement of Standards of Conduct for Contractors
- Equal Employment Opportunity, Affirmative Action Program
- Certificate of Liability of Insurance
- Bureau of Worker's Compensation Certificate
- Declaration of Material Assistance Regarding Terrorist Organization
- Standard Affirmation and Disclosure Form Executive Order 2010-09S

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PART FIVE: EVALUATION OF PROPOSAL

Rejection of Proposals

ODRC may reject any Proposal that is not in the required format, does not address all the requirements of this RFP, or that ODRC believes is excessive in price or otherwise not in its interests to consider or accept. Additionally, ODRC may cancel this RFP, reject all the Proposals, and seek services through a new RFP or other means.

Evaluation of Proposals Generally

The evaluation process may consist of up to five distinct phases:

1. Initial Review;
2. The Evaluation Committee's Evaluation of the Proposals;
3. Offeror's Performance History with Other Jurisdictions;
4. Request for More Information (Interviews, Presentations, and/or Demonstrations); and
5. Contract Negotiations.

It is within the purview of the evaluation committee to decide whether phases four and five are necessary. The committee has the right to eliminate or add phases if the committee believes doing so will improve the evaluation process.

It is the intent of ODRC, as a result of this RFP to make an award to one Contractor for Automated Fingerprint Identification System Service for all DRC inmates. However, ODRC reserves the right to award in the best interest of the State.

Clarifications & Corrections

During the evaluation process, the evaluation committee may request clarifications from any Offeror under consideration and may give any Offeror the opportunity to correct defects in its Proposal if ODRC believes doing so does not result in an unfair advantage for the Offeror and it is in ODRC's interests.

During the evaluation process, unless clarifying information is requested by ODRC as part of the evaluation process, any attempt on the part of the Offeror, the Offeror's agent(s), or any party representing the Offeror, to submit correspondence that is determined by ODRC to be an attempt to compromise the impartiality of the evaluation, or any attempt on the part of the Offeror to communicate with any member of the State regarding the evaluation process may be grounds for immediate disqualification of the Offeror.

Initial Review

The ODRC will review all Proposals for their format and completeness. The ODRC may reject any incomplete or incorrectly formatted Proposal, though they may also elect to waive any immaterial defects or allow an Offeror to submit a correction.

Committee Review of the Proposals

Each member of the evaluation committee will evaluate and numerically score each Proposal received. The evaluation will be according to the criteria contained in Part Six of the RFP. The evaluation committee has a right to break these criteria into components and weigh any components of a criterion according to their perceived importance. The evaluation committee will then meet and review each Offeror's scores and come to an agreement on a consensus score.

The evaluation committee may also have the Proposals or portions of them reviewed and evaluated by independent third parties or other State personnel with technical or professional experience that relates to the Work or to a criterion in the evaluation process. The evaluation committee may also seek reviews of end users of the Work or the advice or evaluations of other State committees that have subject matter expertise or an interest in the Work. In seeking such reviews, evaluations and advice, the evaluation committee will first decide, in writing, how to incorporate the results in the numerical scoring of the Proposals. The evaluation committee may adopt or reject any recommendations it receives from such reviews and evaluations.

The evaluation will result in a point total being calculated for each Proposal. Those Offerors submitting the highest rated Proposals may be scheduled for the next phase. The number of Proposals forwarded to the next phase will be within the evaluation committee's discretion, but regardless of the number of Proposals selected for the next phase, they will always be the highest rated Proposals from this phase. At any time during this phase, the evaluation committee may ask an Offeror to correct, revise, or clarify any portions of its Proposal if ODRC believes doing so does not result in an unfair advantage for the Offeror and it is in ODRC's interests.

The evaluation committee will document all major decisions in writing and make these a part of the Contract file along with the evaluation results for each Proposal considered.

Once the technical merits of a Proposal are considered the costs of that Proposal will be considered, but it is within the evaluation committee's discretion to wait to factor in a Proposal's costs until after any interviews, presentations and discussions are held. Also, before evaluating the technical merits of the Proposals, the evaluation committee may do an initial review of costs to determine if any Proposals should be rejected because of excessive cost. And the evaluation committee may reconsider the excessiveness of any Proposal's cost at any time in the evaluation process.

The Proposal with the best value to ODRC including highest total points will determine contract award if the Offeror is considered responsive and responsible. One or more of the Proposals will then be selected for further consideration in the next phase of the evaluation process. The Proposal(s) selected to be considered in the next phase would always be the highest-ranking Proposal(s) based on this analysis. That is, the evaluation committee may not move a lower ranking Proposal to the next phase unless all Proposals that rank above it are also moved to the next phase, excluding any Proposals that the evaluation committee disqualifies because of excessive cost or other reasons. Alternatively, if there is to be no more phases because the evaluation committee feels they are unnecessary or inappropriate, the Proposal with the best value to ODRC including highest total points will be awarded the Contract.

If the evaluation committee finds that one or more Proposals should be given further consideration, the evaluation committee may select one or more of the highest-ranking Proposals to move to the next phase. The evaluation committee may alternatively choose to bypass any or all-subsequent phases and make an award based solely on the evaluation phase.

This RFP asks for responses and submissions from Offerors, most of which represent components of the above criteria. While each criterion represents only a part of the total basis for a decision to award the Contract to an Offeror, a failure by an Offeror to make a required submission or meet a mandatory requirement will normally result in a rejection of that Offeror's Proposal. The value assigned above to each criterion is only a value used to determine which Proposal is the best value to the ODRC in relation to the other Proposals that the State received. It is not a basis for determining the importance of meeting any requirement to participate in the Proposal process.

Offeror's Prior Experience with Other Jurisdictions

Offerors must provide a list of all Contracts performed within the past three years, for which the Offeror is providing, or has provided under any previous corporate name or identity, similar services. Using the form provided as Attachment One, Offerors must identify references from previous Contracts similar to the scope of this RFP. Specifically any state departments of corrections or large city/county corrections operations should be clearly identified with references.

Interviews, Presentations and Demonstrations

The evaluation committee may require an Offeror to interview with the evaluation committee regarding their Proposal. Such presentation, demonstrations, and interviews provide the Offeror with an opportunity to clarify its Proposal and to ensure a mutual understanding of the RFP content. These presentations, demonstrations, and interviews will be scheduled at the convenience and discretion of the evaluation committee. This phase of the evaluation is not an opportunity for the Offeror to engage in any negotiations over the form of the Proposal or required scope of the work.

The evaluation committee will not numerically rank interviews, demonstrations, and presentations. Rather, the evaluation committee may decide to revise existing Proposal evaluations based on the interviews, demonstrations and presentations.

Financial Ability

The evaluation committee may insist that an Offeror submit financial documents for the past three years if the evaluation committee is concerned that an Offeror may not have the financial ability to carry out the Contract. This is not an essential element of the initial evaluation phase, but may be requested at any time. If the evaluation committee finds that the Offeror is not a viable going concern they may reject the Proposal despite its other merits.

Contract Negotiations

The final phase of the evaluation process may be Contract negotiations. The evaluation committee will schedule all negotiations. The selected Offeror(s) must negotiate in good faith. The evaluation committee may conduct negotiations with any Offeror who submits a competitive Proposal, but the evaluation committee may limit discussions to specific aspects of the RFP. Neither the Committee, nor an Offeror, may disclose to another Offeror a priced Proposal or any other material information derived from competing Proposals. The Offeror as described below will reduce any oral modification of a Proposal to writing.

It is entirely within the discretion of the evaluation committee whether to permit negotiations. An Offeror must not submit a Proposal assuming that there will be an opportunity to negotiate any aspect of the Proposal. The evaluation committee is free to limit negotiations to particular aspects of any Proposal, to limit the potential Contractors with whom the evaluation committee wants to negotiate, or to dispense with negotiations entirely. The evaluation committee will normally negotiate to correct deficiencies in the selected Offeror's Proposal. If negotiations fail with the selected Offeror, the evaluation committee may negotiate with the next Offeror in highest point ranking. Alternatively, the committee may decide that it is in the best interests of ODRC to negotiate with all the remaining potential Contractors to determine if negotiations lead to an adjustment in the ranking of the remaining potential Contractors.

From the opening of the Proposals to the award of the Contract, everyone working on behalf of ODRC to evaluate the Proposals will seek to limit access to information contained in the Proposals solely to those people with a need to know the information. They will also seek to keep this information away from other potential Contractors, and the Evaluation Committee will not be allowed to tell one Offeror about the contents of another Offeror's Proposal in order to gain a negotiating advantage.

ODRC may disqualify from consideration any Offeror that seeks to gain access to the contents of another Offeror's Proposal.

Any negotiated changes will be reduced to writing and become part of the Contract. The Offeror will submit a signed, written notice of negotiated changes to the evaluation committee within five business days. If the evaluation committee accepts the change, the committee will give the Offeror written notice of the Committee's acceptance. The negotiated changes to the successful offer will become a part of the Contract.

Failure to Negotiate

If an Offeror fails to provide the necessary information for negotiations in a timely manner, or fails to negotiate in good faith, ODRC may terminate negotiations with that Offeror.

Contract Award

It is the intent of ODRC, as a result of this RFP, to make an award to one Contractor for required services. The contract will be awarded to the Offeror whose Proposal provides the best value to the ODRC.

In awarding the Contract, ODRC will issue an award letter to the selected Contractor. The Contract will not be binding on ODRC until the ODRC's duly authorized representatives sign the Contract and all other prerequisites identified in the Contract have occurred. The selected Offeror will receive an executed copy of the Contract.

Contract

If this RFP results in a Contract award, the Contract will include this RFP, written amendments to this RFP, the Contractor's Proposal, and written, authorized amendments to the Contractor's Proposal. These Contract elements will be incorporated into the Purchase Contract provided in Attachment Four. The Contract may also include any materials incorporated by reference in the above documents. The general terms and conditions for the Contract are contained in the Purchase Contract. If there are conflicting provisions between the documents that make up the Contract, the order of preference for the documents is as follows:

1. The Contract;
2. This RFP, as addended;
3. The documents and materials incorporated by reference in the RFP;
4. The Contractor's Proposal, as amended; and
5. The documents and materials incorporated by reference in the Contractor's Proposal.

Notwithstanding the order listed above, purchase orders, and amendments issued after the Contract is executed may expressly change the provisions of the Contract. If they do so expressly, then the most recent amendment will take precedence over anything else that is part of the Contract.

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PART SIX: PROPOSAL EVALUATION CRITERIA

Proposal Evaluation Criteria

In the Proposal evaluation phase, the evaluation committee will rate the Proposals submitted in response to this RFP based on the following criteria and weight assigned to each criterion:

Proposal Requirements	Does Not Meet	Meets	Exceeds	Total Score
Cover Letter	0	1	2	
Offeror Profile Summary, Attachment 1				
Statement of Declaration and Compliance, Attachment 2				
Conflict of Interest Statement				
Contract Performance, Attachment 3				
Proof of Workers' Compensation Insurance				
Certificate of Insurance				
W-9 Form Completed in Blue Ink				

Company Experience	Does Not Meet	Meets	Exceeds	Total Score
<p>Experience</p> <ul style="list-style-type: none"> A discussion of recent or similar projects the contractor has performed, including customer names, addresses, phone numbers and contacts. <p>The experience of the contractor and the staff assigned to the project in performing similar projects.</p>				

Scope of Work	Does Not Meet	Meets	Exceeds	Total Score
Hardware minimum computer configuration must be as follows:				
<ul style="list-style-type: none"> Dual 2.87 GHz processors or 3.2 to 3.75 GHz single processors with 4 GB addressable memory 				
<ul style="list-style-type: none"> 2 Gigabyte ram 				
<ul style="list-style-type: none"> 2 physical hard drives <ol style="list-style-type: none"> 40 GB-used for OS 100 GB-used for record sets 				
<ul style="list-style-type: none"> Video card capable of minimum 1600x1024 resolution, 1 GB Memory 				
<ul style="list-style-type: none"> 19" LCD display 				
<ul style="list-style-type: none"> 1 network interface card 				
<ul style="list-style-type: none"> Ergonomically user friendly desk unit to house automated fingerprint system with foot controls 				
<ul style="list-style-type: none"> AFIS interface compatible with FBI, BCII standards 				
<p>Task 1</p> <ol style="list-style-type: none"> Identify and build per customer, BCII, FBI, specifications 				

<ul style="list-style-type: none"> 2. An automated system 3. 3 complete systems 				
Task 2 <ul style="list-style-type: none"> 1. Interface equipment with DOTSPORTAL, BCII, FBI, LEADS applications 				
Task 3 <ul style="list-style-type: none"> 1. Configure software to transfer bookings per FBI, BCII, specifications, to be National Institute of Standards and Technology (NIST) compliant 				
The approach and methodology the contractor proposes to complete the tasks.				
The fixed price of the contractor's proposal				
Schedule (10%) The detail and overall duration of the contractor's proposed schedule to complete the project on or before the required project finish date.				
Deliverables <ul style="list-style-type: none"> a. Hardware <ul style="list-style-type: none"> • Computer, monitor, keyboard, mouse, fingerprint capture device(s) to allow capturing fingerprints per FBI, BCII requirements • Ergonomically user friendly desk for automated fingerprint system • Manuals and licensed software b. Software <ul style="list-style-type: none"> • Operating system for computer • Software for capture device • Configuration files for transfer of bookings • Other-reserved 				

ATTACHMENT ONE: OFFEROR PROFILE SUMMARY

CANDIDATE: (Insert company name) _____

Company:		Contact:	
Address:		Phone Number:	
Project Name:	Beginning Date of Project: Month/Year	Ending Date of Project: Month/Year	
Description of related services provided:			

Company:		Contact:	
Address:		Phone Number:	
Project Name:	Beginning Date of Project: Month/Year	Ending Date of Project: Month/Year	
Description of related services provided:			

Company:		Contact:	
Address:		Phone Number:	
Project Name:	Beginning Date of Project: Month/Year	Ending Date of Project: Month/Year	
Description of related services provided:			

ATTACHMENT TWO: STATEMENT OF COMPLIANCE:

Provide signature on statements below:

_____, Offeror, acknowledges to having read, understood, and agrees to the Purchase Contract as set forth in Attachment Five. Offeror is able to contractually comply with all the terms and conditions set forth in that Purchase Contract. If there are any such terms and conditions which Offeror is unable to contractually comply, the Offeror must provide a detailed statement as to the reason (s) such term and or condition cannot be met.

Print Name and Title: _____

Signature: _____

Organization: _____

Date: _____

ATTACHMENT THREE: CONTRACT PERFORMANCE

The Offeror must provide the following information for this section for the past seven years. Please indicate yes or no in each column.

Yes/No	Description
	The Offeror has had a Contract terminated for default or cause. If so, the Offeror must submit full details, including the other party's name, address, and telephone number.
	The Offeror has been assessed any penalties in excess of five thousand dollars (\$5,000), including liquidated damages, under any of its existing or past Contracts with any organization (including any governmental entity). If so, the Offeror must provide complete details, including the name of the other organization, the reason for the penalty, and the penalty amount for each incident.
	The Offeror was the subject of any governmental action limiting the right of the Offeror to do business with that entity or any other governmental entity.
	Trading in the stock of the company has been suspended. If so, the Offeror must submit full details including the date(s) and explanation(s).
	The Offeror, any officer of the Offeror, or any owner of a twenty percent interest or greater in the Offeror has filed for bankruptcy, reorganization, a debt arrangement, moratorium, or any proceeding under any bankruptcy or insolvency law, or any dissolution or liquidation proceeding.
	The Offeror, any officer of the Offeror, or any owner with a twenty percent interest or greater in the Offeror has been convicted of a felony or is currently under indictment on any felony charge.

If the answer to any item is affirmative, the Offeror must provide complete background details about the matter. While an affirmative answer to any of these items will not automatically disqualify a Offeror from consideration, at the sole discretion of the Evaluation Committee, such an answer and a review of the background details may result in a rejection of the Proposal. The Evaluation Committee will make this decision based on its determination of the seriousness of the matter, the matter's possible impact on the Offeror's performance on the Project, and the best interests of the ODRC.

**ATTACHMENT FOUR: STATEMENT OF COMPLIANCE:
CONTRACTOR/SUBCONTRACTOR AFFIRMATION AND DISCLOUSER FORM
AND EXECUTIVE ORDER 2010-09S**

CONTRACTOR/SUBCONTRACTOR AFFIRMATION AND DISCLOSURE:

By the signature affixed to this response, the Bidder/Offeror affirms, understands and will abide by the requirements of Executive Order 2010-09S issued by Ohio Governor Ted Strickland. If awarded a contract, the Bidder/Offeror becomes the Contractor and affirms that both the Contractor and any of its subcontractors shall perform no services requested under this Contract outside of the United States. The Executive Order is attached and is available at the following website: (<http://www.governor.ohio.gov/Default.aspx?tabid=1495>).

The Bidder/Offeror shall provide all the name(s) and location(s) where services under this Contract will be performed in the spaces provided below or by attachment. Failure to provide this information as part of the response will deem the Bidder/Offeror not responsive and no further consideration will be given to the response. Bidder/Offeror's offering will not be considered. If the Bidder/Offeror will not be using subcontractors, indicate "Not Applicable" in the appropriate spaces.

1. Principal location of business of Contractor:

(Address)

(City, State, Zip)

Name/Principal location of business of subcontractor(s):

(Name)

(Address, City, State, Zip)

(Name)

(Address, City, State, Zip)

2. Location where services will be performed by Contractor:

(Address)

(City, State, Zip)

Name/Location where services will be performed by subcontractor(s):

(Name)

(Address, City, State, Zip)

(Name)

(Address, City, State, Zip)

3. Location where state data will be stored, accessed, tested, maintained or backed-up, by Contractor:

(Address)

(Address, City, State, Zip)

Name/Location(s) where state data will be stored, accessed, tested, maintained or backed-up by subcontractor(s):

(Name)

(Address, City, State, Zip)

4. Location where services to be performed will be changed or shifted by Contractor:

(Address)

(Address, City, State, Zip)

Name/Location(s) where services will be changed or shifted to be performed by subcontractor(s):

(Name)

(Address, City, State, Zip)



TED STRICKLAND
GOVERNOR
STATE OF OHIO

Executive Order 2010-09S

Banning the Expenditure of Public Funds for Offshore Services

- 1. Ohio's Economic Vitality Necessitates Constant Vigilance in State Job Creation Efforts.** State officials and employees must at all times remain passionately focused on initiatives that will create and retain jobs in the United States in general and in Ohio, in particular, and must do so especially during Ohio's continuing efforts to recover from the recent global recession.
- 2. No Public Funds Should be Spent on Services Provided Offshore.** Allowing public funds to pay for offshore services undermines economic development objectives and any such offshore services carry unacceptable quality and security risks.
 - a. The Purchase of Offshore Services with Public Funds Undermines Economic Development and Other Job Creation and Retention Objectives.** The expenditure of public funds for services provided offshore deprives Ohioans and other Americans critical employment opportunities. It also undermines efforts to attract businesses to Ohio and retain them in Ohio, initiatives in which the State has invested heavily.
 - b. The Purchase of Offshore Services Has Unacceptable Business Consequences.** The use of offshore service providers could pose unacceptable data security, and thus privacy and identity theft risks. There are pervasive service delivery problems with offshore providers, including dissatisfaction with the quality of their services and with the fact that services are being provided offshore. It is difficult and expensive to detect illegal activity and contract violations and to pursue legal recourse for poor performance or data security violations. The State's use of offshore service providers ill-serves the people of Ohio who are the primary consumers of the services provided by the State.
- 3. Ohio's Policy Has Been – and Must Continue To Be – That Public Funds Should Not Be Spent on Services Provided Offshore.** Throughout my Administration, procurement procedures have been in place that restrict the purchase of offshore services. Despite these requirements, federal stimulus funds were recently used to purchase services from a domestic company which ultimately provided some of those services offshore. This incident was unacceptable and has caused me, through this Order, to redouble my commitment to ensure that public funds are not expended for offshore services.
- 4. Additional Steps Will Ensure that Public Funds Are Not Spent on Services Provided Offshore.** In order to ensure that the State of Ohio makes no expenditures for services provided offshore, I hereby order the following:

- a. No Cabinet Agency, Board or Commission (Executive Agency) shall enter into any contract which uses any funds within its control to purchase services which will be provided outside the United States. This Order applies to all funds in the custody of an Executive Agency, be they from state, federal, philanthropic or private sources. It applies to all purchases of service made directly by an Executive Agency and services provided by sub-contractors of those providing services purchased by an Executive Agency.
- b. This Executive Order will be personally provided, by the Director, Chair or other chief executive official of each Executive Agency, to the Chief Procurement Officer or other individual at that entity responsible for contracts for services.
- c. The Department of Administrative Services, through Ohio's Chief Procurement Officer (OCPO), shall have in place, by August 31, 2010, procedures to ensure all of the following:
 - i. All agency procurement officers, or the person with equivalent duties at each Executive Agency (APOs), have standard language in all Executive Agency contracts which:
 - (a) Reflect this Order's prohibition on the purchase of offshore services.
 - (b) Require service providers or prospective service providers to:
 - (i) Affirm that they understand and will abide by the requirements of this Order.
 - (ii) Disclose the location(s) where all services will be performed by any contractor or subcontractor.
 - (iii) Disclose the locations(s) where any state data associated with any of the services they are providing, or seek to provide, will be accessed, tested, maintained, backed-up or stored.
 - (iv) Disclose any shift in the location of any services being provided by the contractor or any subcontractor.
 - (v) Disclose the principal location of business for the contractor and all subcontractors who are supplying services to the state under the proposed contract.
 - ii. All APOs are ensuring that all quotations, statements of work, and other such proposals for services affirm this Order's prohibition on the purchase of offshore services and include all of this Order's disclosure requirements.
 - (a) Any such proposal for services lacking the affirmation and disclosure requirements of this Order will not be considered.
 - (b) Any such proposal where the performance of services is proposed to be provided at a location outside the United States by the contractor or any sub-contractor, will not be considered.
 - iii. All procurement manuals, directives, policies, and procedures reflect the requirements of this Order.
 - iv. All APOs have adequate training which addresses the terms of this Order.

- 5. Exceptions.** Nothing in this Order is intended to contradict any state or federal law. In addition, this Order does not apply to:
- a. Services necessary to support the efforts of the Department of Development Global Markets Division to attract jobs and business to the State of Ohio, including incidental services for the support of trade missions, payment of international staff, and services necessary for the operation of international offices.
 - b. Academic, instructional, educational, research or other services necessary to support the international missions of Ohio's public colleges and universities.
- 6.** I signed this Executive Order on August 6, 2010 in Columbus, Ohio and it will not expire unless rescinded.

Ted Strickland, Governor

ATTEST:

Jennifer Brunner, Secretary of State

ATTACHMENT FIVE: SERVICE CONTRACT

FOR OFFICE USE ONLY:

Contract No.	Fund	ALI
Dept.	Program	OAKS Vendor ID No.

**PURCHASE CONTRACT
BETWEEN THE
OHIO DEPARTMENT OF REHABILITATION AND CORRECTION**

AND

THIS AGREEMENT is made and entered into effective _____, 2009 by and between the **Ohio Department of Rehabilitation and Correction**, (hereinafter collectively referred to as "Agency"), located at _____ and _____ (hereinafter referred to as "Contractor"), located at _____ (hereinafter referred to as "Contract");

WHEREAS, Agency desires to engage Contractor to **furnish, install, and maintain Electronic Inmate Messaging (EIM) services at institutions statewide;**

WHEREAS, pursuant to Section 5120.09 of the Ohio Revised Code, Agency may enter into agreements with Contractors to effectuate the purposes for which Agency was created;

WHEREAS, Contractor desires to provide such services and/or such goods in accordance with the terms and conditions prescribed by Agency; and

NOW, THEREFORE, in consideration of the mutual promises, covenants, and agreements set forth herein, the parties hereto agree as follows:

ARTICLE 1: NATURE OF CONTRACT

- 1.1 Contractor shall be employed as an independent Contractor, to fulfill the terms of this Agreement. It is specifically understood that the nature of the services and/or goods to be rendered under this Agreement are of such a personal nature that Agency is the sole judge of the adequacy of such services and/or goods. Agency thus reserves the right to cancel this Agreement should Agency at any time be dissatisfied with Contractor's performance of its duties under this Agreement.
- 1.2 Agency enters into this Agreement in reliance upon Contractor's representations that it has the necessary expertise and experience to perform its obligations hereunder, and Contractor warrants that it does possess the necessary expertise and experience.
- 1.3 Contractor shall provide services and/or goods and Agency shall not hire, supervise, or pay any assistants to Contractor in its performance under this Agreement. Agency shall not be required to provide any training to Contractor to enable it to provide services and/or goods required hereunder.

- 1.4 In the event of a cancellation by Agency, Contractor shall be reimbursed in accordance with Article VI., Termination of Contractor's Services and/or Goods. All provisions of this Agreement relating to "confidentiality" shall remain binding upon Contractor in the event of cancellation.
- 1.5 Agency may, from time to time, communicate specific instructions and requests to Contractor concerning the performance of the work described in this Contract. Upon such notice and within ten (10) days after receipt of instructions, Contractor shall comply with such instructions and fulfill such requests to Agency's satisfaction. It is expressly understood by the parties that these instructions and requests are for the sole purpose of performing the specific tasks requested to ensure satisfactory completion of the work described in this Contract. The management of the work, including the exclusive right to control or direct the manner or means by which the work is performed, remains with the Contractor. Agency retains the right to ensure that Contractor's work is in conformity with the terms and conditions of this Contract. It is fully understood and agreed that Contractor is an independent contractor and neither Contractor nor its personnel shall at any time, or for any purpose, be considered as agents, servants, or employees of Agency or the State of Ohio.

ARTICLE 2: SCOPE OF SERVICES AND/OR GOODS

- 2.1 If the purchase was not solicited, the Contractor shall provide

If additional space is needed, then attach an additional page headed "Continuation of 2.1" which is attached hereto and incorporated herein.)

If solicited, the solicitation (RFP number **DRCP-09-0123**) documents, which describe the goods and/or services to be provided and the payment terms which are attached hereto and incorporated herein.

- 2.2 The Contractor's Agency contact person for this Contract is **Randall Booth, ODPRC Central Office IT Supervisor** who is responsible for overseeing compliance of the terms and conditions of this Contract and must verify and account for expenditures of state funds resulting from Contractor's provision of services and/or goods.
- 2.3 Contractor shall not discuss or disclose with any non-party any information or material obtained pursuant to its obligations under this Contract without the prior written consent of Agency.
- 2.4 Due to institutional security requirements, available hours to provide services and/or goods may be limited by inmate availability. In that event, the Contractor and Agency will negotiate a mutually agreeable schedule to provide services and/or goods.

ARTICLE 3: TIME OF PERFORMANCE

- 3.1 This Contract shall remain in effect until the work described in Article II, Scope of Services and/or Goods, is completed to the satisfaction of Agency and until Contractor is paid in accordance with Article IV, Compensation, or until terminated as provided in Article VI, Termination of Contractor's Services and/or Goods, whichever is sooner.
- 3.2 As the current General Assembly cannot commit a future General Assembly to expenditure, this Contract shall expire on **June 30, 2011**.

Prior to expiration of the original term or any renewed term, Agency may renew this Contract on the same terms and conditions by giving notice as set forth in Article 18 of this Contract. Such renewal shall begin upon the expiration of the original term or any renewed term, as applicable, and expire as set forth in an Amendment to this Contract.

3.3 It is expressly agreed by the parties that none of the rights, duties, and obligations herein shall be binding on either party if award of this Contract would be contrary to the terms of Ohio Revised Code ("O.R.C.") Section 3517.13 (campaign contribution), O.R.C. Section 127.16 (controlling board), or O.R.C. Chapter 102 (public officers – ethics).

ARTICLE 4: COMPENSATION

4.1 Agency shall pay Contractor for services and/or goods rendered a total amount of \$_____.

4.2 The total amount due was computed according to the following payment schedule:

4.3 Contractor shall submit an invoice for the compensation incurred consistent with Section 4.2 above, and each invoice shall contain a description of the services and/or goods provided and total amount due. Upon receipt and approval of the invoice by Agency, a voucher for payment shall be processed.

4.4 Invoice Requirements. The Contractor must submit an original invoice with three copies (3) copies to the office designated in the purchase order as the "bill to" address. To be a proper invoice, the invoice must include the following information:

4.4.1 The purchase order number authorizing the delivery of goods or services. A description of what the Contractor delivered, including, as applicable, the time period, serial number, unit price, quantity, and total price of the goods and services. If an authorized dealer has fulfilled the purchase order, then the dealer's information should be supplied in lieu of the Contractor's information.

4.5 Payment Due Date. Payments under this Contract will be due on the 30th calendar day after the later of:

4.5.1 The date of actual receipt of a proper invoice in the office designated to receive the invoice, or the date the service is delivered and accepted in accordance with the terms of this Contract.

4.5.2 The date of the warrant issued in payment will be considered the date payment is made. Interest on late payments will be paid in accordance with Ohio Revised Code Section 126.30.

4.6 Any travel that the Contractor requires to perform its obligations under this Contract will be at the Contractor's expense. The State will pay for any additional travel that it requests only with prior written approval and in accordance with OBM's travel policy in Rule 126-1-02 of the Ohio Administrative Code. It is understood that Section (G) of Rule 126-1-02 does not apply.

ARTICLE 5: CERTIFICATION OF FUNDS

It is expressly understood and agreed by the parties that none of the rights, duties, and obligations described in this Contract shall be binding on either party until all relevant statutory provisions of the O.R.C., including, but not limited to, O.R.C. Section 126.07, have been complied with, and until such time as all necessary funds are available or encumbered and, when required, such expenditure of funds is approved by the Controlling Board of the State of Ohio, or in the event that grant funds are used, until such time that Agency gives Contractor written notice that such funds have been made available to Agency by Agency's funding source.

ARTICLE 6: TERMINATION OF CONTRACTOR'S SERVICES AND/OR GOODS

- 6.1 Agency may, at any time prior to the completion of services and/or delivery of all goods by Contractor under this Contract suspend or terminate this Contract with or without cause by giving written notice to Contractor.
- 6.2 Contractor, upon receipt of notice of suspension or termination, shall cease work on the suspended or terminated activities under this Contract, suspend or terminate all subcontracts relating to the suspended or terminated activities, take all necessary or appropriate steps to limit disbursements and minimize costs, and, if requested by Agency, furnish a report, as of the date of receipt of notice of suspension or termination, describing the status of all work under this Contract, including, without limitation, results, conclusions resulting therefrom, and any other matters Agency requires.
- 6.3 Contractor shall be paid for services and/or goods provided up to the date Contractor received notice of suspension or termination, less any payments previously made, provided Contractor has supported such payments with detailed factual data containing services and/or goods provided and hours worked. In the event of suspension or termination, any payments made by Agency for which Contractor has not provided services and/or goods shall be refunded.
- 6.4 In the event this Contract is terminated prior to its completion, Contractor, upon payment as specified, shall deliver to Agency all work products and documents which have been prepared by Contractor in the course of providing services and/or goods under this Contract. All such materials shall become and remain the properties of Agency, to be used in such manner and for such purpose as Agency may choose.
- 6.5 Contractor agrees to waive any right to, and shall make no claim for, additional compensation against Agency by reason of such suspension or termination.
- 6.6 Contractor may terminate this Contract upon 90 days prior written notice to Agency.
- 6.7 The Contractor and Agency may terminate this Contract upon mutual written agreement, within a mutually agreeable time period.
- 6.8 A Contractor who breaches this Contract or fails to perform on this Contract may be precluded from being awarded any subsequent contract for the same or similar services and/or goods for up to two (2) years after the termination of this Contract, for cause, by Agency.

ARTICLE 7: RELATIONSHIP OF PARTIES

- 7.1 Agency and Contractor agree that, during the term of this Contract, Contractor shall be engaged by Agency solely on an independent contractor basis, and Contractor shall therefore be responsible for all Contractor's business expenses, including, but not limited to, employees' wages and salaries, insurance of every type and description, and all business and personal taxes, including income and Social Security taxes and contributions for Workers' Compensation and Unemployment Compensation coverage, if any.
- 7.2 Contractor agrees to comply with all applicable federal, state and local laws, rules, regulations and ordinances in the conduct of the work hereunder.
- 7.3 While Contractor shall be required to provide services and/or goods described hereunder for Agency during the term of this Contract, nothing herein shall be construed to imply, by reason of Contractor's engagement hereunder on an independent contractor basis, that Agency shall have or may exercise any right of control over Contractor with regard to the manner or method of Contractor's provision of services and/or goods hereunder.
- 7.4 Except as expressly provided herein, neither party shall have the right to bind or obligate the other party in any manner without the other party's prior written consent.

- 7.5 License number _____. The Contractor will maintain any professional licensing required to fulfill the Contract.
- 7.6 The Contractor recognizes the security requirements for entering Agency's facilities and acknowledges receipt of the "Standards of Conduct for Contractor" (DRC 4376). The Contractor agrees to comply with these standards and with safety rules and procedures. Due to institutional security requirements, the Agency staff may require the Contractor to document when the Contractor or any subcontractor is on state property.
- 7.7 The Contractor understands and agrees that Agency expressly reserves the right to conduct a background investigation on the Contractor, subcontractor, assistants and any employee required to provide services and or goods. An unacceptable background history may, at Agency's discretion, be grounds to terminate the Contract or reject any unacceptable subcontractors or other individuals providing services and/or goods under the Contract.
- 7.8 Any misrepresentation or omission of a material fact concerning the Contractor's qualifications and fitness to provide services and/or goods under this Contract may be grounds for termination, as may be determined within the discretion of the Agency.

ARTICLE 8: RECORD KEEPING

During performance of this Contract and for a period of three years after its completion, Contractor shall maintain auditable records of all charges pertaining to this Contract and shall make such records available to Agency as Agency may reasonably require.

ARTICLE 9: RELATED AGREEMENTS

- 9.1 The work contemplated in this Contract is to be performed by Contractor, who may subcontract without Agency's approval for the purchase of articles, supplies, components, or special mechanical services that do not involve the type of work or services and/or goods described in Article II, Scope of Services and/or Goods, but which are required for its satisfactory completion. Contractor shall not enter into other subcontracts without prior written approval by Agency. All work subcontracted shall be at Contractor's expense.
- 9.2 Contractor shall bind its subcontractors to the terms of this Contract, so far as applicable to the work of the subcontractor, and shall not agree to any provision which seeks to bind Agency to terms inconsistent with, or at variance from, this Contract.
- 9.3 Contractor warrants that it has not entered into, nor shall it enter into, other agreements, without prior written approval of Agency, to perform substantially identical work for the State of Ohio such that the product contemplated hereunder duplicates the work called for by the other agreements.
- 9.4 Contractor shall furnish to Agency a list of all subcontractors, their addresses, their principal location of business, tax identification numbers, and the dollar amount of each subcontract.

ARTICLE 10: CONFLICTS OF INTEREST AND ETHICS COMPLIANCE

- 10.1 No personnel of Contractor or member of the governing body of any locality or other public official or employee of any such locality in which, or relating to which, the work under this Contract is being carried out, and who exercise any functions or responsibilities in connection with the review or approval of this Contract or carrying out of any such work, shall, prior to the completion of said work, voluntarily acquire any personal interest, direct or indirect, which is incompatible or in conflict with the discharge and fulfillment of his or her functions and responsibilities with respect to the carrying out of said work.
- 10.2 Any such person who acquires an incompatible or conflicting personal interest, on or after the effective date of this Contract, or who involuntarily acquires any such incompatible or conflicting

personal interest, shall immediately disclose his or her interest to Agency in writing. Thereafter, he or she shall not participate in any action affecting the work under this Contract, unless Agency shall determine in its sole discretion that, in the light of the personal interest disclosed, his or her participation in any such action would not be contrary to the public interest.

- 10.3 Contractor represents, warrants, and certifies that it and its employees engaged in the administration or performance of this Contract are knowledgeable of, understand, and currently in compliance with the Ohio Ethics and Conflicts of Interest laws and Executive Order No. 2007-01S. Contractor further represents, warrants, and certifies that neither Contractor nor any of its employees will do any act that is inconsistent with such laws and Executive Order. The Contractor understands that failure to comply with Executive Order 2007-01S is, in itself, grounds for termination of this Contract and may result in the loss of other contracts or grants with the State of Ohio. The Governor's Executive Orders may be found by accessing the following website:
<http://governor.ohio.gov/GovernorsOffice/ExecutiveOrdersDirectives/tabid/105/Default.aspx>.

ARTICLE 11: NONDISCRIMINATION OF EMPLOYMENT

- 11.1 Pursuant to O.R.C. Section 125.111, Contractor agrees that Contractor, any subcontractor, and any person acting on behalf of Contractor or a subcontractor, shall not discriminate, by reason of race, color, religion, sex, age, national origin, or disability against any citizen of this state in the employment of any person qualified and available to perform the work under this Contract.
- 11.2 Contractor further agrees that Contractor, any subcontractor, and any person acting on behalf of Contractor or a subcontractor shall not, in any manner, discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this Contract on account of race, color, religion, sex, age, national origin, or disability.
- 11.3 The O.R.C. section 125.111 requires any Contractor doing business with the state of Ohio to maintain a written affirmative action program addressing employment practices. The law further requires that this plan be filed annually with the Department of Administrative Services, Equal Employment Opportunity Division.
- 11.4 Contractor and any subcontractor shall not engage in discriminatory employment practices. Contractor certifies that it and any subcontractor will comply with all applicable federal and state laws, as well as rules and regulations governing fair labor and employment practices. Contractor and any subcontractor are encouraged to purchase goods and services from certified Minority Business Enterprise and Encouraging Diversity, Growth and Equity contractors.

ARTICLE 12: RIGHTS IN DATA AND COPYRIGHTS/PUBLIC USE

- 12.1 Agency shall have unrestricted authority to reproduce, distribute and use (in whole or in part) any reports, data or materials prepared by Contractor pursuant to this Contract. No such documents or other materials produced (in whole or in part) with funds provided to Contractor by Agency shall be subject to copyright by Contractor in the United States or any other country.
- 12.2 Contractor agrees that all deliverables hereunder shall be made freely available to the general public to the extent permitted or required by law.

ARTICLE 13: LIABILITY

- 13.1 Contractor agrees to indemnify and to hold Agency and the State of Ohio harmless and immune from any and all claims for injury or damages arising from this Contract which are attributable to Contractor's own actions or omissions or those of its trustees, officers, agents, employees, subcontractors, suppliers, third parties utilized by Contractor, or joint ventures while acting under this Contract. Such claims shall include any claims made under the Fair Labor Standards Act or under any other federal or state law involving wages, overtime, or employment matters and any claims involving patents, copyrights, and trademarks.
- 13.2 Contractor shall bear all costs associated with defending Agency and the State of Ohio against any claims.
- 13.3 In no event shall either party be liable to the other party for indirect, consequential, incidental, special, or punitive damages, or lost profits.
- 13.4 Contractor agrees, at its own cost, to procure and continue in force at all times during the term of the Contract, general liability insurance with a \$2,000,000 annual aggregate and a \$1,000,000 per occurrence limit for bodily injury, personal injury, wrongful death and property damage. The defense cost shall be outside of the policy limits. Such policy shall designate the State of Ohio and the Ohio Department of Rehabilitation and Correction as an Additional Insured. The policy shall also be endorsed to include a waiver of subrogation and provide the state with thirty (30) day written notice of cancellation or expiration or material change. It is agreed upon that the Contractor's commercial general liability insurance shall be primary over any other coverage. Umbrella/excess liability insurance may be used to meet the required limits and the coverage must follow form. The state reserves the right to approve all policy deductibles, levels of self-insured retention, captive insurance programs and may require the Contractor to have their policy(s) endorsed to reflect per project/per location general aggregate limits. Such insurance shall be written by a company authorized to conduct such business in the State of Ohio, with at least an A- "Excellent" rating from A.M. best Company.
The requirement to procure general liability insurance may be reduced/waived/self-insured with the prior written consent of the Agency's Division of Legal Services since certain contractors have potentially less or no exposure in liability depending on the nature of their work under the Contract.
- 13.5 Contractor agrees, at its own cost, to maintain workers' compensation as required by Ohio law and in compliance with the Ohio Bureau of Workers' Compensation.

ARTICLE 14: COMPLIANCE WITH LAWS

Contractor, in the execution of duties and obligations under this Contract, agrees to comply with all applicable federal, state and local laws, rules, regulations and ordinances.

ARTICLE 15: DRUG FREE WORKPLACE

Contractor agrees to comply with all applicable federal, state and local laws regarding smoke-free and drug-free work places and shall make a good faith effort to ensure that none of its employees or permitted subcontractors engaged in the work being performed hereunder purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs in any way.

ARTICLE 16: CAMPAIGN CONTRIBUTIONS

Contractor hereby certifies that all applicable parties listed in Division (I) (3) or (J) (3) of O.R.C. Section 3517.13 are in full compliance with Divisions (I) (1) and (J) (1) of O.R.C. Section 3517.13.

ARTICLE 17: ENTIRE AGREEMENT/WAIVER

- 17.1 This Contract contains the entire agreement between the parties hereto and shall not be modified, amended or supplemented, or any rights herein waived, unless specifically agreed upon in writing by the parties hereto.

17.2 This Contract supersedes any and all previous agreements, whether written or oral, between the parties.

17.3 A waiver by any party of any breach or default by the other party under this Contract shall not constitute a continuing waiver by such party of any subsequent act in breach of or in default hereunder.

ARTICLE 18: NOTICES

All notices, consents, and communications hereunder shall be given in writing, shall be deemed to be given upon receipt thereof, and shall be sent to the addresses first set forth above.

ARTICLE 19: HEADINGS

The headings in this Contract have been inserted for convenient reference only and shall not be considered in any questions of interpretation or construction of this Contract.

ARTICLE 20: SEVERABILITY

The provisions of this Contract are severable and independent, and if any such provision shall be determined to be unenforceable in whole or in part, the remaining provisions and any partially enforceable provision shall, to the extent enforceable in any jurisdiction, nevertheless be binding and enforceable.

ARTICLE 21: CONTROLLING LAW

This Contract and the rights of the parties hereunder shall be governed, construed, and interpreted in accordance with the laws of the State of Ohio and only Ohio courts shall have jurisdiction over any action or proceeding concerning the Contract and/or performance thereunder.

ARTICLE 22: ASSIGNMENT / DELEGATION

The Contractor will not assign any of its rights nor delegate any of its duties and responsibilities under this Contract without prior written consent of the State. Any assignment or delegation not consented to may be deemed void by the State.

ARTICLE 23: FINDINGS FOR RECOVERY

Contractor warrants that it is not subject to an "unresolved" finding for recovery under O.R.C. Section 9.24. If this warranty is found to be false, this Contract is void *ab initio* and Contractor shall immediately repay to Agency any funds paid under this Contract.

ARTICLE 24: DEBARMENT

Contractor represents and warrants that it is not debarred from consideration for contract awards by the Director of the Department of Administrative Services, pursuant to either O.R.C. Section 153.02 or O.R.C. Section 125.25. If this representation and warranty is found to be false, this Contract is void *ab initio* and Contractor shall immediately repay to Agency any funds paid under this Contract.

ARTICLE 25: DECLARATION REGARDING MATERIAL ASSISTANCE/NONASSISTANCE TO A TERRORIST ORGANIZATION

Contractor hereby represents and warrants to Agency that it has not provided any material assistance, as that term is defined in O.R.C. Section 2909.33(C), to any organization identified by and included on the United States Department of State Terrorist Exclusion List and that it has truthfully answered "no" to every question on the "Declaration Regarding Material Assistance/Non-assistance to a Terrorist Organization." Contractor further represents and warrants that it has provided or will provide such to Agency prior to execution of this Contract. If these representations and warranties are found to be false, this Contract is void *ab initio* and Contractor shall immediately repay to Agency any funds paid under this Contract.

ARTICLE 26: FORCE MAJEURE

If the Agency or Contractor is unable to perform any part of its obligations under this Contract by reason of force majeure, the party will be excused from its obligations, to the extent that its performance is prevented by force majeure, for the duration of the event. The party must remedy with all reasonable dispatch the cause preventing it from carrying out its obligations under this Contract. The term "force majeure" means without limitation: acts of God; such as epidemics; lightning; earthquakes; fires; storms; hurricanes; tornadoes; floods; washouts; droughts; any other severe weather; explosions; restraint of government and people; war; strikes; and other like events; or any cause that could not be reasonably foreseen in the exercise of ordinary care, and that is beyond the reasonable control of the party.

ARTICLE 27: "SWEATSHOP - FREE" PURCHASING

Contractor certifies that all facilities used for the production of the goods or performances of services under this Contract are not sweatshops and are in compliance with applicable domestic labor, employment, health and safety, environmental and building laws. This certification applies to any and all manufacturers, suppliers and/or subcontractors used by the Contractor in furnishing these goods or services.

If DAS receives a complaint alleging non-compliance with this "sweatshop-free" certification, DAS may enlist the services of an independent monitor to investigate allegations of such non-compliance on the part of the Contractor, any sub-contractors or suppliers used by the Contractor in performance of the Contract. If allegations are proven to be accurate, the Contractor will be advised by DAS of the next course of action to resolve the complaint and the Contractor will be responsible for any costs associated with the investigation. Consequences for violating this certification may include, but are not limited to, cancellation of the contract, a finding by the Agency that the Contractor is not a responsible bidder or a determination that the Contractor is ineligible to receive future contract bid awards. Items that will be considered in an investigation include, but are not limited to standards of wages, occupational safety and work hours.

ARTICLE 28: EXECUTIVE ORDER REQUIREMENTS

The Contractor affirms to have read and understands Executive Order 2010-09S issued by Ohio Governor Ted Strickland and shall abide by those requirements in the performance of this Contract, and shall perform no services required under this Contract outside of the United States. The Executive Order is provided as an attachment and also is available at the following website: (<http://www.governor.ohio.gov/Default.aspx?tabid=1495>).

The Contractor also affirms, understands, and agrees to immediately notify the State of any change or shift in the location(s) of services performed by the Contractor or its subcontractors under this Contract, and no services shall be changed or shifted to a location(s) that are outside of the United States.

ARTICLE 29: TERMINATION, SANCTION, DAMAGES

If Contractor or any of its subcontractors perform services under this Contract outside of the United States, the performance of such services shall be treated as a material breach of the Contract. The State is not obligated to pay and shall not pay for such services. If Contractor or any of its subcontractors perform any such services, Contractor shall immediately return to the State all funds paid for those services. The State may also recover from the Contractor all costs associated with any corrective action the State may undertake, including but not limited to an audit or a risk analysis, as a result of the Contractor performing services outside the United States.

The State may, at any time after the breach, terminate the Contract, upon written notice to the Contractor. The State may recover all accounting, administrative, legal and other expenses reasonably necessary for the preparation of the termination of the Contract and costs associated with the acquisition of substitute services from a third party.

If the State determines that actual and direct damages are uncertain or difficult to ascertain, the State in its sole discretion may recover a payment of liquidated damages in the amount of [insert percent here] of the value of the Contract.

The State, in its sole discretion, may provide written notice to Contractor of a breach and permit the Contractor to cure the breach. Such cure period shall be no longer than 21 calendar days. During the cure period, the State may buy substitute services from a third party and recover from the Contractor any costs associated with acquiring those substitute services.

Notwithstanding the State permitting a period of time to cure the breach or the Contractor's cure of the breach, the State does not waive any of its rights and remedies provided the State in this Contract, including but not limited to recovery of funds paid for services the Contractor performed outside of the United States, costs associated with corrective action, or liquidated damages.

ARTICLE 30: EXECUTION

This Contract is not binding upon Agency unless executed in full.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed by their duly authorized officers, as of the day and year first written above.

Signature of Contractor:	
Printed Name of Contractor:	Date:

ATTESTATION: I hereby attest that there are sufficient funds available to cover the cost of this Contract:	
Fiscal Officer:	Date:
Warden/Program Manager/Department Head:	Date:

For **purchases of services only**, the following signatures are also required:

Program Administrator:	Date:
Legal Services:	Date:
Deputy Director, Administration:	Date:
Director, Ohio Department of Rehabilitation and Correction:	Date: