

THIS IS NOT AN ORDER

OHIO DEPARTMENT OF REHABILITATION AND CORRECTION

THIS IS NOT AN ORDER

P.O. /Quote No.
DRCQ-11-0588

REQUEST FOR QUOTATION

Quote Date
02/24/2011

We are in need of the items listed below. If you are interested in furnishing them please submit your quotation to the party listed below.

QUOTES WILL BE RECEIVED UNTIL 12:00 NOON OF THE OPENING DATE.

Fund	Account	ALI	DEPT	Program	Grant/Prj	Project	Serv Loc	Reporting
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BILL TO : 11781 State Route 762 Orient, Ohio 43146

F.O.B.
PREPAID
DEST.

CONTACT PERSON: Speranca Szana

PHONE: (614) 752-1655 x.

11-0588 03/07/2011
 QUOTE NO. OPENING DATE 12:00 NOON

Send
 Quote to: VIA Fax
 Speranca Szana, Contract Analyst
 → 614-995-5103

FEDERAL
E.I. NO.

QUOTER'S
NAME

STREET
ADDRESS

CITY
STATE & ZIP

QUOTER'S CONTACT PERSON:
PHONE NO.

ITEM NO.	QUANTITY	UNIT	DESCRIPTION AND SPECIFICATIONS	UNIT PRICE	AMOUNT
			CLASS, ITEM AND SPECIFICATION NO.: Specifications provided on Attachment Three.		

Quotations must comply with instructions that accompany this form. Please read the instructions along with the terms and conditions carefully before preparing the request for quotation. Failure to comply fully with instructions may disqualify your quotation.

Shipment to be made _____ days after receipt of order.

Date:	Authorized Signature:	Printed Name:
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INSTRUCTIONS FOR SUBMITTING QUOTATIONS

1. All quotations must be typewritten or in ink and signed by an officer of the company. Quotations written in pencil will not be accepted.
2. All prices quoted **MUST BE FIRM**.
3. Quotations are requested for material or supplies specified. If materials or supplies other than those specified are offered, **NAME AND DESCRIPTION OR PROPOSED EQUAL MUST BE STATED**.
4. Quoters must specify **THE BRAND AND TYPE** they intend to furnish if the product is generally described by the brand name or manufacture.
5. Whenever brand names or catalog numbers or other specific descriptions are used to indicate the type of product described, **APPROVED EQUALS WILL ALSO BE CONSIDERED**.
6. Unless the buyer or quoter states otherwise, quotes will be awarded by item or as a whole at the discretion of the the buyer.
7. Transportation Charges: Quotations **MUST BE MADE F.O.B. DESTINATION**. The State of Ohio **DOES NOT PAY ANY FREIGHT TAX**. Therefore quoter **MUST NOT INCLUDE** such charges in their quotation.
8. The State weights and measures are to govern. No package or cartage charges.
9. Unit prices **MUST BE ENTERED, EXTENDED AND TOTALED ON ALL ITEMS**.
10. Terms; Any cash discounts offered will be accepted, and buyer will endeavor to use.
11. Request for information regarding quotes must include, (1) **THE QUOTE NUMBER, AND (2) THE DATE OF OPENING**.
12. **ALL QUOTATIONS RETURNED TO INSTITUTION MUST SHOW THE DATE AND QUOTE NUMBER ON THE LEFT HAND CORNER OF THE ENVELOPE**.
13. Ohio Election Law: By signing this Request for Quotation, the vendor affirms that no party listed in Division (I) or (J) of section 3517.13 of the Ohio Revised Code, or spouse of such party, has made, as an individual, within the past two previous years, one or more contributions totaling in excess of \$1,000.00 to the Governor or this committees.
14. Ohio Revised Code 9.24 prohibits the State from awarding a contract to any quoter(s) against whom the Auditor of State has issued a finding for recovery if the finding for recovery is "unresolved" at the time of award. By submitting a proposal, the quoter warrants that it is now, and will not become subject to an "unresolved" finding for recovery under O.R.C. 9.24, prior to the award of any contract arising out of this Invitation to Quote, without notifying the Department of such finding.
15. Contractor Disclosure; location of services, data. As part of this agreement, Contractor shall disclose, on Attachment Two, the following:
 - (1) The location(s) where all services will be performed;
 - (2) The location(s) where any state data applicable to the contract will be maintained or made available;and (3) The principal location of business for the Contractor and all subcontractors.
16. Contractor shall not, during the performance of this Contract, change the location(s) of the county where the services are performed or change the location(s) of the county where the data is maintained or made available without prior written approval of the state.

NOTE: The Business Administrator's Office reserves the right to reject any or all quotes.

Standard Quote Award Terms and Conditions

1. Terms and Conditions

The terms and conditions relating to this quote and any subsequent quote award or purchase order award are listed below. Any references in the quote, or attached descriptive literature, that intends to alter the terms and conditions and specifications of this QUOTE (i.e. F.O.B. place of destination or prices subject to change) will not be part of any resulting quote award or purchase order, and will be disregarded by the ODRC.

2. Quotes are Firm for 90 Days

Unless stated otherwise, once opened all quotes are irrevocable for sixty (60) days. Beyond ninety (90) days, quoter will have the option to honor their quote or make a written request to withdraw their quote from consideration.

3. Evaluation of Quotes

The quote will be awarded to the lowest responsive and responsible quoter as determined by ODRC under the Ohio Revised Code. Buy America/Buy Ohio preference(s), as set forth in Sections 125.09 and 125.11 of the Ohio Revised Code, may be applied as evaluation criteria. See Number 6, below. To protect the integrity of the competitive quote process, quotes will be closed for public review once the evaluation and award process begins.

4. Information Requested

ODRC may request additional information to evaluate a quoter's responsiveness to the Quote or to evaluate a quoter's responsibility. If a quoter does not provide the requested information within seven days of the request, it may adversely impact ODRC's evaluation of the quoter's responsiveness or responsibility.

5. Rejected Quotes

ODRC may reject any quote, in whole or in part, if any of the following circumstances are true:

- A. Quotes offering equipment that is not in compliance with the requirements, specifications, terms or conditions stated in the quote,
- B. The price of the lowest responsive and responsible quote is excessive in comparison with market conditions or with the ODRC's available funds, or
- C. ODRC determines that awarding the quote is not in the best interest of the State of Ohio.

Buy America/Buy Ohio

6. A quoter claiming preference(s) for domestic end product(s) and/or the Ohio preference, pursuant to Ohio Revised Code Sections 125.09 and 125.11, and Administrative Code Section 123:5-1-06, must complete Attachment One and return with the quote. A quoter who fails to complete and return Attachment One is ineligible to receive the preference. To receive the Buy Ohio preference, for significant Ohio economic presence, the quoter must meet all the following criteria:

- a. Pay required taxes to the state of Ohio;
- b. Be registered and licensed to do business in the state of Ohio with the Office of the Secretary of State; and,
- c. Have ten or more employees based in Ohio, or seventy-five percent or more of their employees based in Ohio.

7. General Representations and Warranties

Manufacturer's warranty should be at least one year from date of acceptance as defined herein. The Contractor further warrants that the recommendations, guidance, and performance of the Contractor under this Quote award will:

- A. Be in accordance with the sound professional standards and the requirements of this quote and without any material defect.
- B. No Deliverable will infringe on the intellectual property rights of any third party.
- C. That the Deliverables hereunder are merchantable and fit for the particular purpose described in this quote. Additionally, with respect to the Contractor's activities under this Quote award, the Contractor warrants that:
- D. The Contractor has the right to enter into this quote award.
- E. The Contractor has not entered into any other quote awards or employment relationships that restrict the Contractor's ability to perform under this quote award.
- F. The Contractor will observe and abide by all applicable laws and regulations, including those of the State regarding conduct on any premises under the State's control.
- G. The Contractor has good and marketable title to any equipment delivered under this quote award and which title passes to the ODRC.
- H. The Contractor has the right and ability to grant any applicable license granted in Deliverable in which title does not pass to the ODRC.

If any work of the Contractor or any Deliverable fails to comply with these warranties, and the Contractor is so notified in writing, the Contractor will correct such failure with all due speed or will refund the amount of the compensation paid for the Deliverable. The Contractor will also indemnify the State for any direct damages and claims by third parties based on breach of these warranties.

8. Contractor Declarations

The Contractor declares that it is engaged as an independent business and has complied with all federal, state and local laws regarding business permits and licenses of any kind necessary to its business. The Contractor also acknowledges that it is responsible for maintaining any and all professional licensing required fulfilling the quote award. The Contractor shall further provide professional services performed in accordance with community and relevant professional standards. The Contractor acknowledges that it does not have any authority to sign quote awards, notes and/or obligations or to make purchases and/or dispose of property for or on behalf of the State.

The Contractor may provide assistants, employees, and persons required to perform the work who are employees of the Contractor. The Contractor understands and agrees that the Contractor is responsible for providing any required benefits and withholding for the Contractor and the Contractor employees, including all taxes, workers' compensation, disability, unemployment compensation, any specialized insurance, and any other coverage for liability arising from or occurring during the performance of this Quote award. The State shall not be liable for any tax liabilities incurred by the Contractor under this Quote award. The Contractor assumes full responsibility for any and all applicable city, state, and/or federal taxes as a result of work and/or payments made under this Quote award.

9. Declaration Regarding Material Assistance/Non-Assistance to a Terrorist Organization.

Pursuant to Ohio Revised Code Section 2909.33, in order to enter into a quote award for the work described herein, the successful quoter must hold a current and valid pre-certification from ODRC certifying that it has not provided material assistance to an organization listed on the United States Department of State Terrorist Exclusion List ("Terrorist Exclusion List"). This certification is achieved by truthfully answering "No" to every question on the DRC-provided Ohio Department of Public Safety's "Pre-Certification for Private Entities" form in light of a current copy of the Terrorist Exclusion List. The form is available at:

<http://www.homelandsecurity.ohio.gov/dma.asp>

10. Workers' Compensation

The Contractor shall obtain and maintain Workers' Compensation coverage, as required by Ohio law for the term of this Quote award. This shall cover all employees of the Contractor. Any service providers acting, as subcontractors must also have current Workers' Compensation coverage. The Contractor agrees and understands that DRC shall not provide Workers' Compensation coverage, or in any way be responsible for the premiums for Workers' Compensation coverage for the Contractor, employees of the Contractor or any subcontractors. The Contractor shall furnish proof of coverage by providing a copy of their Ohio Bureau of Workers' Compensation certificate to DRC.

11. Certification of Drug-Free Workplace Compliance

The Contractor certifies that, while on State property, he/she and/or all employees will not purchase, transfer onto State property, use or possess illegal drugs or alcohol or abuse prescription drugs in any way.

12. Invoice and Payment

The Contractor will invoice for the equipment provided after the date the equipment is delivered and accepted, in accordance with the terms of this QUOTE. 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; that is, payment will be made within thirty days upon receipt of a proper, correct invoice and documentation of completion of work. To be a proper invoice, the invoice must include the following information:

- A. The purchase order number authorizing the delivery of the equipment.
- B. A description of what the Contractor delivered, including, as applicable, the time period, serial number, unit price, quantity, and total price of the equipment.

If this Quote award exceeds \$10,000 or the Contractor holds quote awards that total in excess of \$10,000 over a 12-month period, the Contractor agrees to allow the federal government access to the quote awards and the books, documents, and records needed to verify the Contractor's and/or SubContractor's costs.

13. Discrimination

The services to be performed under this Quote award shall comply with the requirements set forth under Title VI of the Civil Rights Act of 1964, amended 1972 and Section 504 of the Rehabilitation Act of 1973 which states "...no person shall on the grounds of race, color, national origin, and handicap be excluded from participation in or denied the benefits of, or be otherwise subjected to discrimination under any program or activity."

14. Governing Law/Severability

The purchase order or Quote award that results from this QUOTE shall be governed by the laws of the State of Ohio, and the venue for any disputes will be exclusively with the appropriate court in Franklin County, Ohio. If any provision of the Quote award or the application of any provision is held by that court to be contrary to law, the remaining provisions of the Quote award will remain in full force and effect.

15. Quote award Construction

This Quote award will be constructed in accordance with the plain meaning of its language and neither for nor against the drafting party.

16. Force Majeure

If the State or Contractor is unable to perform any part of its obligations under this Quote award 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 Quote award. 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.

17. Amendments

No amendment or modification of this Quote award will be effective unless it is in writing and signed by both parties.

18. Assignment / Delegation

The Contractor will not assign any of its rights nor delegate any of its duties under this Quote award without written consent of the DRC. Any assignment or delegation not consented to may be deemed void by the DRC.

19. Documentation

Contractor agrees to complete all documentation requested by the ODRC.

Supplemental Quote award Terms and Conditions

1. Quote award Components

(If Request for Quote results in an award) The Quote award will consist of the completed Invitation to Quote; the completed competitive sealed quote; and applicable, valid State of Ohio, purchase order ("Quote award").

2. Term of Quote award

This Quote award is effective upon receipt of the purchase order by the preferred quoter. This Quote award will remain in effect until the Quote award is fully performed by both parties or until it is canceled or terminated, whichever occurs first. State quote awards may not extend beyond a biennium.

3. Delivery and Acceptance

Contractor receiving the purchase order must provide the equipment under this QUOTE F.O.B. the place of destination. The equipment will be delivered and installed at the place of destination. Freight will be prepaid.

Acceptance (transfer of title) of the equipment by DRC will occur upon the inspection and written confirmation by DRC that the equipment was delivered and installed conforming to the requirements set forth in the QUOTE. Unless otherwise provided in this QUOTE, acceptance shall be conclusive except as regards to latent defects, fraud, or such gross mistakes as amount to fraud.

Prior to delivery of the equipment, the Contractor must coordinate the date and time of delivery with the indicated institution contact. The Contractor will be responsible for adhering to the institution's security policies and procedures.

4. Return Goods Policy

The DRC will apply the following Return Goods Policy on all purchases made under the Quote award. The quoter acknowledges to have read, understood, and agreed to this Policy. When due to Contractor error (i.e., over-shipment, defective merchandise, unapproved substitution) goods shall be returned to the Contractor, at the Contractor's expense. The Contractor shall make arrangements to remove the return goods from the DRC premises within seven (7) calendar days after receiving notification from DRC. The Contractor shall not apply any restocking or other charges to the DRC. Failure of the Contractor to arrange for return of the items within the specified time will result in the items being deemed as abandoned property and the DRC will dispose of accordingly.

5. Debarment

Contractor represents and warrants that it is not debarred from consideration for quote award awards by the Director of the Department of Administrative Services, pursuant to either Ohio Revised Code Section 153.02 or Ohio Revised Code Section 125.25. If this representation and warranty is deemed to be false, this Quote award is void *ab initio* and Contractor shall immediately repay to the DRC any funds paid under this Quote award.

Attachment One: Buy America/Buy Ohio Certification

A quoter claiming preference(s) for domestic and products and/or the Ohio preference, pursuant to Revised Code Sections 125.09 and 125.11 and Administrative Code Section 123:5-1-06 must complete the following applicable information. A Quoter who qualifies as an "Ohio" quoter (offer an Ohio produced product or who have significant Ohio economic presence) or who qualifies as a border state quoter is eligible to receive a five percent (5%) preference over the price offered by a low non-Ohio/non-border state quoter. The Ohio Department of Rehabilitation and Correction (ODRC) may clarify any information provided below.

QUOTERS MUST COMPLETE THIS CERTIFICATE TO RECEIVE THE PREFERENCE(S).

A. Domestic Preference (Buy America): [Not applicable to "Excepted Products", as published by DAS]

1. Where is each product/service being offered mined, raised grown, produced or manufactured?

United States: _____ Canada Mexico (Go to B-1) Other: _____ (Go to A-2)
(State) (Specify Country)

2. End product is manufactured outside the United States and at least 50% of the cost of its components are produced, mined, raised, grown or manufactured within the United States. The cost of components may include transportation costs to the place of manufacture and, in the case of components of foreign origin, whether or not a duty free entry certificate if issued.

Yes (Go to B-1) No (Go to A-3)

3. The Quoter hereby certifies that each end product, except the products listed below, is a domestic source end product as defined in the Buy America Act and that components of the unknown origin have been considered to have been mined, produced, grown or manufactured outside the United States.

(Country of Origin)	(Item)
(Country of Origin)	(Item)

A domestic end source product is deemed to be excessively priced if it exceeds the cost of the foreign product by more than 6%. Pursuant to FAR, Part 25, the state of Ohio does not acquire supplies or services that cannot be imported lawfully into the United States. The Contractor, their Sub-contractor(s) and any agent or the Contractor, their Sub-contractor(s) must not acquire any supplies or services originating from sources within, or that were located in or transported from or through Cuba, Iran, Iraq, Libya, North Korea, Sudan Territory of Afghanistan controlled by Taliban, or Serbia (excluding the territory of Kosovo).

B. Ohio Preference (Buy Ohio):

1. The production/services being offered are raised, grown produced, mined or manufactured in Ohio.

Yes (Go to C) No (Go to B-2)

2. Quoter has significant economic presence within the State of Ohio. Yes (Answer a, b, c, below) No (Go to B. 3)

a) Quoter has paid the required taxes due the State of Ohio Yes No

b) Quoter is registered and licensed to do business in the state of Ohio with the Ohio Secretary of State.

Yes (Charter/Registration No: _____) No

Questions regarding registration should be directed to (614) 466-3910 or visit their web site at:

www.state.oh.us/sos/

c) Quoter has ten or more employees based in Ohio. Yes No (Go to B. 2d)

d) Quoter has seventy-five percent or more employees based in Yes No (Go to B. 2d)

3. Border state quoter: Yes (Specify: KY MI NY PA) No (Go to B. 4)

4. Border state quoter: products produced or mined in respective border state Yes No Not Applicable

Attachment Two
Location of Services / Off-Shore / I-9 Certification
(See Item 15, Instructions)

Disclosure of Subcontractors / Joint Ventures:

List names of subcontractors who will be performing work under the Contract.

By the signature affixed to the front page of this Request for Quote, Quoter hereby certifies that the above information is true and accurate. The Quoter agrees that no changes will be made to this list of subcontractors or locations where work will be performed or data will be stored without prior written approval of ODRC. Any attempt by the Quoter/Contractor to change or otherwise after subcontractors or locations where work will be performed or locations where data will be stored, without prior written approval of ODRC, will be deemed as a default. If a default should occur, ODRC will seek all legal remedies as set forth in the Terms and Conditions, which may include IMMEDIATE cancellation of the Contract or Agreement. **FAILURE TO COMPLETE THIS PAGE MAY DEM YOUR QUOTE NON-RESPONSIVE.**

_____ (Company) affirms it shall not and shall not allow others to perform work to take data outside the United States without express authorization from the Agency Project Representative.

_____ (Company) affirms that all personnel provided for the Project, who are not United State citizens, will have executed a valid I-9 form and presented valid employment authorization documents, and maintain records of such; and, also affirms that any small business program participants will provide necessary data to ensure program reporting and compliance.

_____ (Company) agrees that it (and any personnel or independent contractors provided for performance of this contract) is a separate and independent enterprise from the State of Ohio and the Department of Rehabilitation and Correction; and, that this contract does not constitute any joint employment relationship between (insert Company name, and its representatives and the Department of Rehabilitation and Correction, including obligation for any lawful taxes, deductions or contributions, federal, state or local.

_____ (Company) agrees to above.

Authorized Signature:	Date:
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ATTACHMENT THREE

Specifications for Request for Quotation DRCQ-11-0588

The objective of this Request for Quotation is to solicit Bids for duty weapons to transition the Ohio Department of Rehabilitation and Correction from Smith and Wesson .38 caliber revolver models 10 and 64 to the GLOCK LE .40 caliber Generation 4 model 23 semi-auto pistol, provide trade-in value for Smith and Wesson .38 caliber revolvers and a training component to cover the Armorer's course. The specifications for these items are contained in the tables below.

<i>ITEM</i>	<i>Quantity</i>	<i>Required Delivery Date</i>	<i>Cost for Each Item</i>	<i>Extended Cost</i>
GLOCK LE .40 caliber Generation 4 model 23 semi-auto pistols	1,250	1,250 by 7/1/2011		
Safariland 77-283-13PBL magazine pouches (carriers)	1,150	1,150 by 7/1/2011		
Safariland model 6360-283-131 holsters (right-handed)	655	655 by 7/1/2011		
Safariland model 6360-283-132 holsters (left-handed)	50	50 by 7/1/2011		
Safariland model 6305-283-131 holsters (tactical – right handed)	425	425 by 7/1/2011		
Safariland model 6305-283-132 holsters (tactical – left handed)	45	45 by 7/1/2011		
Regional Standardized Parts Kit	3	3 by 7/1/2011		
Front sight tools	3	3 by 7/1/2011		
Rear sight tools	3	3 by 7/1/2011		

In an effort to facilitate a consistent schedule of delivery and trade-in of weapons, the Department will utilize a quarterly schedule. The quarterly breakdown is as follows:

- Quarter One – July 1, 2011 through September 30, 2011
- Quarter Two – October 1, 2011 through December 31, 2011
- Quarter Three – January 1, 2012 through March 31, 2012
- Quarter Four – April 1, 2012 through June 30, 2012

Due to operational needs and considerations, ODRC would begin handing in the revolvers in August 2011 and would need until July 2012 to complete that process. Due to the potential for inclement weather, there is limited firearm training during the months of November through February. The agency will designate a representative to coordinate the delivery and trade-in process at the time of award.

TRADE-IN VALUE	Quantity Model 64	Quantity Model 10	Value for Each Revolver	Extended Value
Allen Correctional Institution	30	9		
Belmont Correctional Institution	43	2		
Chillicothe Correctional Institution	16	25		
Corrections Medical Center	44	80		
Correctional Reception Center	50	0		
Dayton Corr Inst//Montgomery Pre-Release	25	22		
Franklin Pre-Release Center	13	7		
Grafton Correctional Institution	0	56		
Hocking Correctional Facility	0	34		
Lebanon Correctional Institution	66	0		
London Correctional Institution	30	22		
Lorain Correctional Institution	35	0		
Madison Correctional Institution	71	15		
Mansfield Correctional Institution	40	0		
Marion Correctional Institution	41	0		
Noble Correctional Institution	30	0		
North Coast Correctional Facility	57	2		
Northeast Pre-Release Center	20	0		
Oakwood Correctional Facility	30	10		
Ohio Reformatory for Woman	0	60		
Ohio State Penitentiary	33	15		
Pickaway Correctional Institution	37	31		
Richland Correctional Institution	30	15		
Ross Correctional Institution	0	42		
Southeastern Correctional Institution	43	10		
Southern Ohio Correctional Facility	84	25		
Toledo Correctional Institution	41	0		
Trumbull Correctional Institution	44	5		
Warren Correctional Institution	53	0		
Corrections Training Academy	0	80		
TOTAL	1006	577		

TRAINING	Quantity	Required Training Date	Cost for Each Item	Extended Cost
Seats in an Armorer class	25	Prior to 7/1/2011		
Manufacturer Certified Instructor Trainers	21	Prior to 4/1/2011*	FREE*	FREE*

**Required only if the course can be held prior to April 1, 2011 and there is no charge for the course.*

Training classes will be held at the following facility:

Corrections Training Academy
11781 State Route 762
Orient, Ohio 43146

A site visit is available upon request.

The successful Bid will form the basis of a contract for such services. A sample service contract is provided as Attachment Four.

ATTACHMENT FOUR: 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 CONTRACT is made and entered into effective _____ 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 _____;

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 Contract. It is specifically understood that the nature of the services and/or goods to be rendered under this Contract 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 Contract should Agency at any time be dissatisfied with Contractor's performance of its duties under this Contract.

- 1.2 Agency enters into this Contract 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 Contract. 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 Contract 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 (number _____) 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 _____ 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 _____.

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 vendors.

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 venturers 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 twenty-five percent 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:



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.

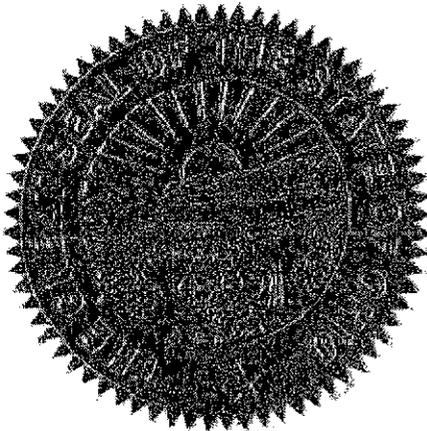
- ii. All APOs are ensuring that all quotations, statements of work, and other such proposals for services affirm this Order's prohibition on the purchase of offshore services and include all of this Order's disclosure requirements.
 - (a) Any such proposal for services lacking the affirmation and disclosure 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