

# INVITATION TO BID

ITB NUMBER: DRCB-14-1075

MINORITY SET-ASIDE BID IN ACCORDANCE WITH ORC CH. 125.081

DATE ISSUED: 03/20/2014

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

## TACTICAL DUTY UNIFORMS

INQUIRY PERIOD BEGINS:	03/20/2014
INQUIRY PERIOD ENDS:	04/07/2014
OPENING DATE:	04/14/2014
OPENING TIME:	3:00 P.M. Local Time
OPENING LOCATION:	ODRC Operator 770 West Broad Street Columbus, Ohio 43222 Attn: Ollie Chandler, Contract Analyst

This ITB consists of five (5) Parts and five (5) Attachments, totaling 31 consecutively numbered pages. Please verify you have a complete copy.

## Part One Executive Summary

**Purpose.** The Ohio Department of Rehabilitation and Correction (ODRC) intend to secure bids to satisfy the special apparel required by our Special Response Team (SRT) and Special Tactics And Response (STAR) tactical teams that are competitive sealed Bids (hereinafter referred to as "Bid") from qualified vendors (hereinafter referred to as "Bidder") for tactical duty uniforms (TDU) (hereinafter referred to as the "Project") for adult correctional institutions administered by the ODRC (hereinafter referred to as the "Institution"). If an acceptable Bid is made in response to this Invitation To Bid (hereinafter referred to as "ITB"), the Institution may enter into a contract (hereinafter referred to as "Contract") to have the selected Bidder perform the Project.

This ODRC bid solicitation is a minority set aside in accordance to O.R.C. CH 125.081 for supplies or services for participation only by minority business enterprises (MBE's) certified by the State of Ohio, Equal Opportunity coordinator as listed on Part Five - Evaluation of Bids under Termination for Failure to Retain Certification.

The ODRC intends to secure a Bid for estimated units listed on Attachment Three – Cost Summary to be delivered to Institution. ODRC does not guarantee that the estimated quantity will be purchased, or that the full estimated cost will be spent on any purchase order issued pursuant to the contract.

The Bid price shall include delivery to the institutions listed on Attachment One – Location of Ordering and Delivery. The Bid shall include the range of size(s) available for each item listed on Attachment Three – Cost Summary. In the event that specific size(s) are less expensive, a price shall be quoted by size ranges. If there are discounts available when a single institution delivery is greater than one, then bid multiple order discounts.

This ITB provides details on what is required to submit a Bid, how the Institution will evaluate the Bids and what will be required of the Bidder who executes a Contract (hereinafter referred to as "Contractor").

The term of a Contract resulting from this ITB will be from Date of 06/01/2014 through 04/30/2015.

**Calendar of Events.** The schedule for the ITB is provided below to assist the Bidder in responding to this ITB:

ITB Issued:	<b>03/20/2014</b>
Inquiry Period Begins:	<b>03/20/2014</b>
Inquiry Period Ends:	<b>04/07/2014</b>
Bid Due Date:	<b>04/14/2014</b>
Tentative Contract Award:	<b>06/01/2014</b>

**Structure of ITB.** The ITB consists of the following Parts and Attachments:

Part One	Executive Summary
Part Two	General Instructions
Part Three	Scope of Work
Part Four	Requirements for Bids
Part Five	Evaluation of Bids
Attachment One	Locations of Ordering & Delivery
Attachment Two	Bidder Profile Summary
Attachment Three	Cost Summary
Attachment Four	Declaration Statements
Attachment Five	Purchase Contract

**Project Representative.** The Project Representative shall represent the ODRC in matters relating to this ITB and the Bidding process. The Project Representative may be contacted as follows:

Name, Title: Ollie Chandler, Contract Analyst  
Mailing Address: 770 West Broad St. Columbus, Ohio 43222  
Phone Number: 614-466-4702 Fax Number: 614-995-5103  
E-mail Address: [ollie.chandler@odrc.state.oh.us](mailto:ollie.chandler@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, Title: Ron Erdos, Special Operations Commander  
Mailing Address: 770 West Broad Street, Columbus, OH 43222  
Phone Number: 614-313-2206 Fax: 614-877-0959  
E-mail Address: [ron.erdos@odrc.state.oh.us](mailto:ron.erdos@odrc.state.oh.us)

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## Part Two      General Instructions

**Inquiries.** Bidders may make inquiries or seek clarifications regarding this ITB any time during the inquiry period listed in the ITB Calendar of Events. To make an inquiry, Bidders 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 ITB Number found on Page 1 of this document (ITB 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 bidder’s representative who is responsible for the inquiry;
  - b. Name of the prospective bidder;
  - 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 ITB;
  - f. The heading for the provision under question; and
  - g. The page number of the ITB where the provision can be found.
- Click the “Submit” button.

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

Bidders 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 ITB Number found on Page 1 of the document (ITB 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 ODRC will try to respond to all inquiries within 48 hours, excluding weekends and State holidays. The ODRC 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 ITB must reference the relevant Part and/or Attachment of this ITB and include the provision heading along with the ITB page number.

Bidders 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. 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 Bid may result in the Bidder being deemed not responsive.

**Bid Submission Requirements.** Each Bidder must submit one complete, sealed, and signed Bid to the Project Representative, at the address listed in Part One with the outside of the envelope clearly marked:

**“TACTICAL DUTY UNIFORMS”**

Bids must be received no later than 3:00 p.m. Local Time on the Bid Due Date.

The Project Representative **shall reject any Bids** or unauthorized Bid amendments submitted after the Bid Due Date. Each Bidder must carefully review the requirements of this ITB and the contents of its Bid. Once the Bid Due Date has passed, Bids cannot be altered, except as allowed by this ITB.

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

The Institution will retain all Bids received as part of the Contract file for the term of the Contract and any subsequent renewals. After the State-scheduled retention period, the Institution may return, destroy, or otherwise dispose of the Bids.

**Bid Instructions.** The ODRC wants clear and concise Bids, and Bidders should take care to completely answer questions and meet the ITB's requirements. Bids 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 Bid's contents and formatting are contained in Part Four of this ITB. Any Bidder shall submit only one Bid.

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

**Waiver of Defects.** The ODRC has the right to waive any defects in any Bid or in the submission process followed by a Bidder. The ODRC will only do so if it believes that is in the ODRC's best interests and will not cause any material unfairness to other Bidders.

**Amendments to Bids.** Amendments or withdrawals of Bids are allowed until 3:00 p.m. Local Time on the Bid Due Date. No amendments or withdrawals will be permitted after the due time and date, except as expressly authorized by this ITB.

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### Part Three Scope of Work

**Objective:** The objective of this ITB is to solicit Bids for Tactical Duty Uniforms for the ODRC as indicated in Part One. The successful Bid may form the basis of a Contract for the Project.

**Background:** ODRC has two trained specialized teams performing tactical duties. The SRT team specifically is trained to engage in tactics and maneuvers to control groups of disruptive inmates and provide specialized security details during critical incidents. The STAR teams is selected from the institutional SRT and are trained to respond to a critical incident using special tactical techniques to resolve the situation and support security operations necessary to manage disruptive inmates.

Currently, the two teams have worn the same type of garments for the past 20 years. The garments do not wear as well nor exhibit functionality or utility for the job that newer, higher tech garments provide. ODRC desires to update and upgrade uniforms for the SRT and STAR teams with higher tech garments.

#### Scope of Work:

**Specifications:** This ITB is issued to obtain tactical duty uniforms in meeting the following specifications to be purchased by ODRC Institutional special tactic teams staff for delivery to the various institutions (as referenced in Attachment One) based on the "ship to" information when an order is placed:

In the 5.11 tactical series or equivalent including:

- a. Durable and light, but strong which contain upgraded features which lend themselves to the functions and tasks demanded by the SRT and STAR teams. Made of poly/cotton, rip-stop weave which are lighter, resist snags and tears, and therefore more durable than the 60/40 cotton/poly standard weave of the current garments.
- b. Feature self-adjusting waistbands, increased number of pockets, fabric treatments which retard stains and dirt, double material seats and knees, gusseted crotch for agility, greater freedom of movement, and single color of olive drab (OD) green.

**Shipments:** The Contractor shall be responsible for the requirements listed in this section. Delivery time of products to the requesting institution shall be expressed in calendar days after Contractor receives the purchase request in Attachment Three Cost Summary. For deliveries, the Contractor shall contact the institution's Warehouse forty-eight (48) hours in advance of intended delivery for receiving arrangements. All products being delivered to ODRC institutions shall be packaged, labeled, and sealed. Each shipment shall have an official vendor itemized packing slip with signature of shipper.

**Invoice and Payment:** The Contractor shall invoice for the uniforms provided after the date the uniforms are delivered and accepted, in accordance with the terms of this ITB. 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 product.
- B. A description of what the Contractor delivered, including, as applicable, the time period, serial number, unit price, quantity, and total price of the product.

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**Delivery and Acceptance:** Contractor receiving the purchase order shall provide the uniforms under this Contract F.O.B. destination. The uniforms will be delivered to the place of destination. The possible places of destination are listed on Attachment One. A separate freight charge will not be billed; therefore, the cost of shipping must be included in the delivered price in Attachment Three, Cost Summary.

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

Prior to delivery of the uniforms, the Contractor must coordinate the date and time of delivery with the Warehouse of the Institution that placed the order. The Contractor will be responsible for adhering to ODRC security policies and procedures.

**Note:** Contractor shall use the institution warehouse for deliveries and returns of orders placed. Contractors using USPS, UPS, DHL, FED-EX, or similar shippers will also use the warehouse.

**Returns and Backorders:** On returns where the order was filled in error (example: wrong size, wrong pants), the Contractor shall pick up the uniform part(s) at no additional cost.

On backorders, the Contractor shall provide immediate notification of backorders and revised delivery date. For every week or partial week of delay in delivery, a credit of \$5.00 in the cost of the uniform item shall be applied to the invoice.

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## Part Four Requirements For Bids

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

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

Each Bid shall be organized in the following order and contain the following information. **Failure of the Bidder to provide any of the following items may result in rejection of the Bid:**

- A. Cover Letter;
- B. Bidder Profile Summary, Attachment Two;
- C. Cost Summary, Attachment Three;
- D. Declaration Statements, Attachment form; and
- E. Sample of Bidder's Tactical Duty Uniforms.

Each required item is described more fully below:

**A) Cover Letter.** The Bidder must include a standard business letter signed by an individual authorized to legally bind the Bidder. The Bidder must be engaged in the business of providing tactical duty uniforms. The letter must include the following:

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

**B) Bidder Profile Summary.** Using the form in Attachment Two, the Bidder must show at least two (2) years' experience providing tactical duty uniforms to companies or organizations comparable to the ODRC (e.g., hospitals, schools, jails, and businesses). Attachment Two may be replicated if additional space is needed.

**C) Cost Summary.** Using the form in Attachment Three, Cost Summary, the Bidder shall provide the following information:

- a) Federal tax identification number and principal place of business;
- b) The name, address, telephone number, email address, fax number, date, and contact person who has authority to answer questions regarding the Bid; and
- c) Delivery price for uniform items meeting the required specifications.

**D) Declaration Statements.** The Bidder must complete Attachment Four.

**E) Sample of Bidder's Tactical Duty Uniforms:** Bidders shall submit six (6) samples of their tactical duty uniforms in compliance with Part Three, Scope of Work Specifications and consistent with the descriptions of six (6) different garments listed in Attachment Three; Cost Summary.

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## Part Five Evaluation of Bids

**Evaluation of Bids Generally.** The evaluation process may consist of up to four phases:

1. Initial Review;
2. Bid Evaluation;
3. Bidder's Performance History with Other Jurisdictions;
4. Interviews, Demonstrations, Presentations; and
5. Contract Award.

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

**Clarifications & Corrections.** During the evaluation process, the evaluation committee may request clarifications from any Bidder under consideration and may give any Bidder the opportunity to correct defects in its Bid if ODRC believes doing so does not result in an unfair advantage for the Bidder 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 Bidder, the Bidder's agent(s), or any party representing the Bidder, 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 Bidder to communicate with any member of the State regarding the evaluation process may be grounds for immediate disqualification of the Bidder.

**Initial Review.** The Project Representative will review all Bids for their format and completeness. Any incomplete or incorrectly formatted Bid may be rejected, although the Project Representative may also elect to waive any immaterial defect or allow a Bidder to submit a correction or clarification. Project Representative may reject any Bid for one or more of the following reasons:

1. Any requirements in Part Four (Requirements for Bids) are not met;
2. An affirmative answer to any question as set forth in Attachment Four (Contract Performance);
3. Does not address all the requirements in Part Three, (Scope of Work);
4. The ODRC believes the Bid is excessive in price or otherwise not in its best interest; and
5. The Bid does not address any other material requirements of the ITB.

The Project Representative **shall** reject any Bid that was submitted after the Bid Due.

Additionally, the Project Representative may cancel this ITB, reject all the Bids, and seek services through a new ITB or other means.

**Bid Evaluation.** Award will be made to the lowest responsive and responsible bidder as determined by ODRC. To protect the integrity of the competitive Bid process, Bids will be closed for public review once the evaluation and award process begins.

The Evaluation Committee shall document all major evaluation decisions in writing, and make these a part of the contract file along with the evaluation results for each Bid.

**Bidder's Performance History with Other Jurisdictions.** The Project Representative shall conduct evaluations of each Bidder by contacting current and/or past customers of the Bidders taken from the list responsive to Attachment Two. This will aid in the determination of whether the Bidder is responsible. The Project Representative shall obtain information relevant to the requirements of this ITB that is deemed critical not only to a successful Project, but also to the working relationship between the Institution and the Contractor.

To maintain quality assurance in this phase of the evaluation process, all information sought by the Project Representative shall be obtained in a manner such that no Bidder is provided an unfair

competitive advantage. The Project Representative has the right to determine the number of contacts made by the Project Representative to ensure whether or not the Bidder can fulfill the requirements of this ITB

**Interviews, Demonstrations, and Presentations.** The Evaluation Committee may require Bidders to interview, make a presentation about the Bid and/or demonstrate their equipment, machines, products or services. Such presentations, demonstrations and interviews provide a Bidder with an opportunity to clarify its Bid and to ensure a mutual understanding of the ITB content. This phase shall be scheduled at the convenience and discretion of the Evaluation Committee. This phase is not an opportunity for any Bidder to engage in any negotiations over the form of the Bid or requirements of this ITB.

**Financial Ability.** If the Evaluation Committee is concerned that a Bidder may not have sufficient financial backing to perform the Contract, it may insist that a Bidder submit financial statements (i.e., financial statements audited by an independent, certified public accountant) for the past three years. 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 Bidder's financial ability is not acceptable, it may reject the Bid despite its other merits.

**Contract Award.** It is the intent of ODRC to select one Contractor for Tactical Duty Uniforms. ODRC reserves the right to award in the best interest of the State.

The Contract will be awarded to the Bidder who provides the lowest, responsive and responsible Bid.

ODRC plans to award the Contract no later than the Contract award date specified in Part One of this ITB if ODRC decides the Contract award is in its best interests and has not changed the award date.

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 Bidder will receive an executed copy of the Contract.

**Contract.** If this ITB results in a Contract award, the Contract will include this ITB, written amendments to this ITB, the Bidder's Bid, and written, authorized amendments to the Bidder's Bid. These Contract elements will be incorporated into the Purchase Contract provided in Attachment Five. The Contract may also include any materials incorporated 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 ITB, and any amendment thereto;
3. The documents and materials attached and incorporated in the ITB;
4. The Contractor's Bid, and any amendment thereto; and
5. The documents and materials attached and incorporated in the Contractor's Bid.

Notwithstanding the order listed above, 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.

**Termination for Failure to Retain Certification.** Pursuant to O.R.C. Section 125.081, the State may set aside a bid for supplies or services for participation only by minority business enterprises (MBE's) certified by the State of Ohio, Equal Opportunity coordinator. After award of the Contract, it is the responsibility of the MBE Contractor to maintain certification as a MBE. If the contractor fails to renew its certification and/or is decertified by the State of Ohio, Equal Opportunity Coordinator, the State may immediately cancel the Contract.

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**Compliance with Required Contract Documentation.** The below listed, required documentation will ONLY be completed if Bidder is awarded a contract. The documentation is required per the terms and conditions of the Service Contract set forth in Attachment Five. The Bidder must submit the documentation prior to signing the Contract.

The mandatory documents are listed below but, may not be inclusive of other DRC contract requirements.

1. Signed Acknowledgement of Receipt of the Standards of Conduct for Contractors, Volunteers and Interns.
2. Equal Employment Opportunity, Affirmative Action Program.
3. Certificate of Liability of Insurance.
4. Bureau of Worker's Compensation Certificate.
5. Ohio Shared Services Vendor Forms.

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**ATTACHMENT ONE: Locations of Ordering & Delivery**

<p><u>Allen-Oakwood Correctional Institution (AOCI)</u>  P. O. Box 4501  2338 North West Street  Lima, Ohio 45802  419-224-8000  Fax 419-224-5828</p>	<p><u>Belmont Correctional Institution (BeCI)</u>  P. O. Box 540  68518 Bannock Road, S.R. 331  St. Clairsville, Ohio 43950  740-695-5169  Fax 740-695-8272</p>	<p><u>Chillicothe Correctional Institution (CCI)</u>  P. O. Box 5500  15802 State Route 104 North  Chillicothe, Ohio 45601  740-774-7080  740-779-5398</p>
<p><u>Correctional Reception Center (CRC)</u>  11271 State Route 762  Orient, Ohio 43146  614-877-2441  Fax 614-877-3853</p>	<p><u>Dayton Correctional Institution (DCI)</u>  P. O. Box 17249  4104 Germantown Street  Dayton, Ohio 45417  937-263-0058  Fax 937-263-1322</p>	<p><u>Franklin Medical Center (FMC)</u>  1990 Harmon Avenue  Columbus, Ohio 43223  614-445-8600  Fax 614-445-0380</p>
<p><u>Grafton Correctional Institution (GCI)</u>  2500 South Avon Beldon Road  Grafton, Ohio 44044  440-748-1161  Fax 440-748-2521</p>	<p><u>Lebanon Correctional Institution (LeCI)</u>  P. O. Box 56  State Route 63  Lebanon, Ohio 45036  513-932-1211  Fax 513-932-1320</p>	<p><u>London Correctional Institution (LoCI)</u>  P. O. Box 69  1580 State Route 56  London, Ohio 43140  740-852-2454  Fax 740-845-3399</p>
<p><u>Lorain Correctional Institution (LorCI)</u>  2075 South Avon Beldon Road  Grafton, Ohio 44044  440-748-1049  Fax 440-748-2191</p>	<p><u>Madison Correctional Institution (MaCI)</u>  P. O. Box 740  1851 State Route 56  London, Ohio 43140-0740  740-852-9777  Fax 740-852-3666</p>	<p><u>Mansfield Correctional Institution (ManCI)</u>  P. O. Box 788  1150 North Main Street  Mansfield, Ohio 44901  419-525-4455  Fax 419-524-8022</p>
<p><u>Marion Correctional Institution (MCI)</u>  P. O. Box 57  940 Marion-Williamsport Road  Marion, Ohio 43302  740-382-5781  Fax 740-387-8736</p>	<p><u>Noble Correctional Institution (NCI)</u>  15708 McConnellsville Road  Caldwell, Ohio 43724  740-732-5188  Fax 740-732-2651</p>	<p><u>Northeast Reintegration Center (NERC)</u>  2675 E. 30th Street  Cleveland, OH 44115  216-771-6460  Fax 216-787-3540</p>
<p><u>Ohio Reformatory for Women (ORW)</u>  1479 Collins Avenue  Marysville, Ohio 43040  937-642-1065  Fax 937-642-7678</p>	<p><u>Ohio State Penitentiary</u>  878 Coitsville-Hubbard Road  Youngstown, Ohio 44505  330-743-0700  Fax 330-743-0841</p>	<p><u>Pickaway Correctional Institution (PCI)</u>  P. O. Box 209  11781 State Route 762  Orient, Ohio 43146  614-877-4362  Fax 614-877-4514</p>

<u>Richland Correctional Institution (RiCI)</u> 1001 Olivesburg Road P. O. Box 8107 Mansfield, OH 44901 419-526-2100 Fax 419-521-2810	<u>Ross Correctional Institution (RCI)</u> P. O. Box 7010 16149 State Route 104 Chillicothe, Ohio 45601 740-774-7050 Fax 740-774-7055	<u>Southeastern Correctional Complex (SCC)</u> 5900 B.I.S. Road Lancaster, Ohio 43130 740-653-4324 Fax 740-653-6155
<u>Southern Ohio Correctional Facility (SOCF)</u> P. O. Box 45699 Lucasville-Minford Road Lucasville, Ohio 45699 740-259-5544 Fax 740-259-2882	<u>Toledo Correctional Institution (ToCI)</u> 2001 East Central Avenue Toledo, Ohio 43608 419-726-7977 Fax 419-726-7157	<u>Trumbull Correctional Institution (TCI)</u> P. O. Box 901 5701 Burnett Road Leavittsburg, Ohio 44430 330-898-0820 Fax 330-898-0848
<u>Warren Correctional Institution (WCI)</u> P. O. Box 120 State Route 63 Lebanon, Ohio 45036 513-932-3388 Fax 513-933-0150		

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**ATTACHMENT TWO: Bidder Profile Summary**

Company Name:	Contact Person:	
Company Address:	Phone Number:	
Project Name:	Beginning Date of Contract: Month/Year	Ending Date of Contract: Month/Year
Description of related services or products provided to the company:		

Company Name:	Contact Person:	
Company Address:	Phone Number:	
Project Name:	Beginning Date of Contract: Month/Year	Ending Date of Contract: Month/Year
Description of related services or products provided to the company:		

Company Name:	Contact Person:	
Company Address:	Phone Number:	
Project Name:	Beginning Date of Contract: Month/Year	Ending Date of Contract: Month/Year
Description of related services or products provided to the company:		

**ATTACHMENT THREE: Cost Summary**  
**BID RESPONSE FORM**  
**Bid Number DRCB-14-1075**  
**Tactical Duty Uniforms**

Bidders Legal Name:	Address:
Phone Number:	Fax Number:
Contact Person:	Contact email address:
Vendor Federal Tax ID Number:	Date:

ESTIMATED QUALITY AND UNITS	DESCRIPTION (Tactical Duty Uniform – TDU in the 5.11 tactical series)	DELIVERED PRICE
450	Taclite TDU Pants #74280-190-L-R, Green or equivalent pants, available in sizes small to 3X for men	\$ _____
450	Taclite Long Sleeve TDU Shirts #72054-190-L or equivalent available in sizes small to 3X for men	\$ _____
450	Rapid Assault Shirt TDU Green or equivalent #2194-190-L available in sizes small to 3X for men	\$ _____
80	Taclite TDU Pants #74280-190-L-R, TDU Green or equivalent pants, available in sizes small to 3X for women	\$ _____
80	Taclite Long Sleeve TDU Shirts #72054-190-L or equivalent available in sizes small to 3X for women	\$ _____
80	Rapid Assault Shirt TDU Green or equivalent #2194-190-L available in sizes small to 3X for women	\$ _____

**ODRC will not be liable for any costs the Bidder does not include in the delivered price.**

**Delivery shall be made in \_\_\_\_\_ calendar days after receipt of order.**

The estimated quality and units shall be considered as information relative to potential purchases that may be made from this Bid. ODRC makes no representation or guarantee as to the actual quantity and units of items(s) to be purchased.

**I attest I am a representative of the organization listed in this Bid and have the authority to bind the Bidder to provide the uniforms as specified in Part Three; Scope of Work and this Attachment Three for the time period specified at the delivered price listed above.**

Signature: \_\_\_\_\_

Name (Print): \_\_\_\_\_

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

Organization: \_\_\_\_\_

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**ATTACHMENT FOUR: Declaration Statements**

Provide signature on statements below:

**LOCATION OF SERVICES / OFF-SHORE / I-9 CERTIFICATION**

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

\_\_\_\_\_ (Company) affirms that all personnel provided for the work, who are not United States 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 \_\_\_\_\_ (Company) 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:

I attest that I am a representative of the organization listed in this Proposal and have the authority to bind the Bidder to the aforementioned requirements.

Printed Name and Title \_\_\_\_\_

Signature \_\_\_\_\_

Organization \_\_\_\_\_ Date \_\_\_\_\_

**STATEMENT OF COMPLIANCE**

\_\_\_\_\_ (signature) Bidder acknowledges to having read, understood, and agrees to the Purchase Contract as set forth in Attachment Five and the Scope of Work as set forth in Part Three of the ITB. Bidder is able to Contractually comply with all the terms and conditions set forth in that Purchase Contract and Scope of Work. If there are any such terms or conditions with which Bidder is unable to Contractually comply, the Bidder must provide a detailed statement as to the reason(s) such term and or condition cannot be met.

**CONFLICT OF INTEREST STATEMENT**

\_\_\_\_\_ (signature) Bidder confirms Bidder and any people who may work on the project through the Bidder do not have a conflict of interest, direct or indirect, which is incompatible with the fulfillment of the work. Bidder further agrees that the ODRC has the right to reject a Bid in which a conflict is disclosed or cancel the Contract if any interest is later discovered that could give the appearance of a conflict.

**Remainder of page intentionally left blank.**

## CONTRACT PERFORMANCE

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

Yes/No	Description
	The Bidder has had a contract terminated for default or cause. If so, the Bidder must submit full details, including the other party's name, address, and telephone number.
	The Bidder 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 Bidder must provide complete details, including the name of the other organization, the reason for the penalty, and the penalty amount for each incident.
	The Bidder was the subject of any governmental action limiting the right of the Bidder to do business with that entity or any other governmental entity.
	Trading in the stock of the company has been suspended. If so, the Bidder must submit full details including the date(s) and explanation(s).
	The Bidder, any officer of the Bidder, or any owner of a twenty percent interest or greater in the Bidder 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 Bidder, any officer of the Bidder, or any owner with a twenty percent interest or greater in the Bidder has been convicted of a felony or is currently under indictment on any felony charge.

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

**Remainder of page intentionally left blank.**

**ATTACHMENT FIVE: CONTRACT  
Example Only**

**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**

**Example Only**

---

**THIS CONTRACT** is made and entered into effective \_\_\_ day of \_\_, \_\_\_\_\_ by and between the Ohio Department of Rehabilitation and Correction, \_\_\_\_\_ (hereinafter collectively referred to as "Agency"), located at [Street Address, City, State, Zip] and [Contractor Name] (hereinafter referred to as "Contractor"), and 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 6, 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 the following scope of services and/or goods:

(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 2, Scope of Services and/or Goods, is completed to the satisfaction of Agency and until Contractor is paid in accordance with Article 4, Compensation, or until terminated as provided in Article 6, 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:  
See Attached Solicitation Documents.

- 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:

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 30<sup>th</sup> calendar day after the later of 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.

- 4.6 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.

- 4.7 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 2, 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, and 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 All contractors who are actively doing business with the State of Ohio or who are seeking to do business with the State of Ohio are responsible to review and comply with all relevant provisions of O.R.C. Section 102.01 to 102.09. Contractor certifies that it is currently in compliance and will continue to adhere to the requirements of Ohio ethics laws.

#### **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 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: 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 26: “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 the 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 violation 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 for wages, occupational safety and work hours.

#### **ARTICLE 27: EXECUTIVE ORDER REQUIREMENTS**

The Contractor affirms to have read and understands Executive Order 211-12K 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 to this contract.

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 28: 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 martial 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 beach, terminate the Contact, 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 the 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 25% 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 29: 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 of Signing:

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:



**JOHN R. KASICH**  
GOVERNOR  
STATE OF OHIO

### **Executive Order 2011-12K**

Governing the Expenditure  
of Public Funds for Offshore Services

**WHEREAS**, State of Ohio officials and employees must 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 recession.

**WHEREAS**, allowing public funds to pay for services provided offshore has the potential to undermine economic development objectives in Ohio.

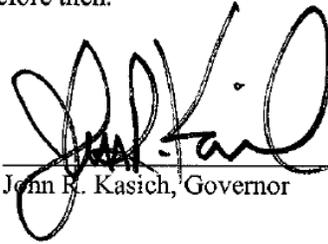
**WHEREAS**, the expenditure of public funds for services provided offshore may deprive Ohioans and other Americans of critical employment opportunities and may also undermine efforts to attract businesses to Ohio and retain them in Ohio, initiatives in which this State has invested heavily.

**NOW THEREFORE**, I, John R. Kasich, Governor of the State of Ohio, by virtue of the authority vested in me by the Constitution and the laws of this State, do hereby order and direct that:

1. No State Cabinet Agency, Board or Commission ("Executive Agency") shall enter into any contract which uses any public funds within its control to purchase services which will be provided outside the United States. This Executive Order applies to all purchases of services made directly by an Executive Agency and services provided by subcontractors of those providing services purchased by an Executive Agency.
2. 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.
3. The Department of Administrative Services, through Ohio's Chief Procurement Officer, shall have in place, by July 1, 2011, procedures to ensure all of the following:
  - a. All agency procurements officers (APOs), or the person with equivalent duties at each Executive Agency, have standard language in all Executive Agency contracts which:
    - i. Reflect this Order's prohibition on the purchase of offshore services.

- ii. Require service providers or prospective service providers to:
    - 1. Affirm that they understand and will abide by the requirements of this Order.
    - 2. Disclose the location(s) where all services will be performed by any contractor or subcontractor.
    - 3. 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.
    - 4. Disclose any shift in the location of any services being provided by the contractor or any subcontractor.
    - 5. Disclose the principal location of business for the contractor and all subcontractors who are supplying services to the state under the proposed contracts.
  - b. All APOs confirm 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.
    - i. Any such proposal for services lacking the affirmation and disclosure requirements of this Order will not be considered.
    - ii. 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 subcontractor will not be considered.
  - c. All procurement manuals, directive, policies, and procedures reflect the requirements of this Order.
  - d. All APOs have adequate training which addresses the terms of this Order.
4. 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 to attract jobs and business to the state of Ohio;
  - b. Academic, instructional, educational, research or other services necessary to support the international missions of Ohio's public colleges and universities; or
  - c. Situations in which the Director of the Department of Administrative Services, or the Director's designee, shall determine that it is an emergency or that it is necessary for the State to waive some or all of the requirements of this Order. The Director shall establish standards by which Executive Agencies may request a waiver of some or all of the requirements of this Order and by which such requests will be evaluated and may be granted.
5. Executive Order 2010-09S is hereby rescinded.

I signed this Executive Order on June 21, 2011 in Columbus, Ohio and it will expire on my last day as Governor of Ohio unless rescinded before then.



John R. Kasich, Governor

ATTEST:

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Jon Husted, Secretary of State