

**RFP NO: 2009-279-00-00CGV**

**BUYER II: Griceida (Cris) Villarreal**

**Tel. No. (956) 318-2626**

**REQUEST FOR PROPOSALS**

**Hidalgo County  
Edinburg, Texas**

**“Polygraph Examination Services for  
Hidalgo County Community Supervision  
and Corrections Department”**

**July , 2009**

**Contact Person:**

**Martha L. Salazar, CPPB, Purchasing Agent  
Hidalgo County Purchasing Department  
Administration Building  
Physical Address: 2802 S. Business Hwy. 281  
Mailing/US Postal Address: 2812 S. Business Hwy. 281  
Edinburg, Texas 78539**

**(956) 318-2626**

**Form HCPD-04**

1. Sealed proposals will be received for **Hidalgo County CSCD –“Polygraph Examination Services For Community Supervision and Corrections Department”** in accordance with the requirements attached as Exhibit "A" hereto. Proposals should address all specifications set forth. Proposers may suggest substitutions of features which they feel would be in the best interest of Hidalgo County ("County"). Strong rationale must be presented for any deviation from the requirements. Hidalgo County reserves the right to reject the deviation and its effect on the overall proposal.
2. **One (1) original and seven (7) copies** of all sealed proposals are required with the Proposers name and return address clearly typed/printed on upper left hand corner and the proper notation clearly typed/printed on the lower left hand corner of the envelope and/or package: **RFP-2009-279-00-00CGV Hidalgo County-“Polygraph Examination Services for Community Supervision And Corrections Department”** and in County's Purchasing Department, **physical address:** 2802 S. Business Hwy. 281; **mailing address:** 2812 S. Hwy. Business 281, New Administration Building, Edinburg, Texas, **on or before 9:30 a.m., JULY , 2009. NO FACSIMILES OR LATE ARRIVALS WILL BE ACCEPTED. ANY PROPOSAL RECEIVED AFTER THAT TIME WILL NOT BE OPENED AND WILL BE RETURNED. OVERNIGHT MAIL MUST ALSO BE PROPERLY LABELED ON THE OUTSIDE OF EXPRESS ENVELOPE OR PACKAGE IN REFERENCE TO PROPOSAL No.:2009-279-00-00CGV- “Polygraph Examination Services For Community Supervision and Corrections Department”**. Hidalgo County reserves the right to refuse and reject any/all proposals and to waive any/all formalities or technicalities, or to accept the proposal considered the best and most advantageous to Hidalgo County.
3. Hidalgo County reserves the right to separate and accept, or eliminate any item(s) listed under this proposal that it deems necessary to accommodate budgetary and/or operational requirements. Hidalgo County reserves the right to reject any or all proposals submitted and further reserves the right to design the evaluation criteria to be used in selecting the lowest and best proposal for approval. Receipt of any proposal shall under no circumstances made to be responsible offeror whose proposals is determined to be the best evaluated offer resulting from negotiation, taken into consideration the relative importance of price and other evaluation factors as herein set forth.
4. Failure of the delivered item(s) to perform as specified, or failure to meet the stated delivery schedule shall release Hidalgo County from all obligations to the contracting party with regard to the item(s) in question. In such event, County may elect to award the contract to the next-lowest responsible proposer, or to reject all proposals and re-advertise.
5. For work to be performed at a County owned or operated location, each proposer shall, in its sole discretion, visit the job site before preparing the proposals and thoroughly ~~familiarize himself/herself with existing conditions.~~ ~~Proposer should take field dimensions~~ and note all circumstances which affect the dollar amount of the proposal.

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- ~~6. Descriptive requirements are referenced in this document to indicate the general kind and quality of equipment desired by Hidalgo County. Due to various styles and models of equipment, proposers are required to include illustrations, specifications, explanation of warranties, and service data with their proposal including catalogue numbers and any necessary references.~~
7. No proposal may be withdrawn within ninety (90) days from the scheduled time to open proposals.
  8. Proposed prices are to remain firm for a minimum of ninety (90) days after proposal opening.
  9. Any interpretations, amendments, corrections or changes to this proposal document must be in a written addendum and signed by the County Judge or his designee. Addenda will be mailed to all who are known to have received a copy of the Request for Proposals. Proposers shall acknowledge receipt of all addenda as a part of their proposal.
  10. County reserves the right to accept or reject any or all proposals.
  11. Costs are to be net F.O.B., County Prepaid.
  12. County is exempt from Federal Excise Tax, State Tax and Local Tax. Do Not include tax in cost figure. If it is determined that tax was included in the cost figures it will not be included in the tabulation of any awards. Tax exemption certificates will be furnished upon request.
  13. Funds for this procurement have been provided through the County budget for this fiscal year only. County, on an annual basis, has the right to reconsider a contract during the budget process for ensuing years if financial resources of County are insufficient to meet the liabilities of said contract. The award of a proposal or contract hereunder will not be construed to create a debt of the County which is payable out of funds beyond the current fiscal year.
  14. Upon award and prior to execution of a contract, Sole Proprietorships are required to submit a copy of their social security cards to the Hidalgo County Auditor's Office in order to establish an account with the County. All awarded vendors must submit a completed W-9 and a copy of their Federal ID Number Certificate.
  15. DELIVERY INSTRUCTIONS: Applicable when products, goods and/or services are to be delivered to the perspective user (department).

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. No deliveries accepted after 3:00 P.M., Monday-Friday.

. At least seventy two (72) hours prior notice of delivery must be given to Martha L. Salazar, Purchasing Agent before delivery will be accepted.

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~~If you need additional information call the office listed below:~~

Hidalgo County Purchasing Department  
Martha L. Salazar, Purchasing Agent  
(956) 318-2626

16. BILLING AND PAYMENT INSTRUCTIONS:

Invoices must include:

- a) Name and address of successful proposer
- b) Name and address of receiving department or official
- c) Purchase Order Number (if any)
- d) Notation - **Hidalgo County- " Polygraph Examination Services For Community Supervision And Corrections Department"** Descriptive information as to the items or services delivered, including product code, item number, quantity, etc.

Discount payments will be considered when offered.

Contact person for Billing and Payment questions:

Joe Lopez, Executive Director  
Hidalgo County Community Supervision and Corrections Department  
3100 So. Bus. Hwy 281 Bldg. B  
Edinburg, TX 78539  
(956) 318-2920

17. Schedule of Events

<b>Proposal Opening, 9:30 AM</b>	____, 2009
Award of Contract	____, 2009
Commence Work or Deliver Products	____, 2009

18. ~~Bid or Performance Bond and Debarment Certification; Payment Under Contract:~~

~~If the contract proposed is for the construction of public works or is for a contract for goods & services exceeding \$100,000, all proposers shall furnish a good and sufficient bid bond in the amount of five percent of the total contract price. A bid bond must be executed with a surety company authorized to do business in Texas. All proposers are also required to furnish a certification or acknowledgment stating that the contractor or vendor is free from suspension or debarment pursuant to federal regulation 45CFR Part 76.~~

~~Together with the signing of a contract or issuance of a purchase order following the acceptance of a proposal, and prior to commencement of the actual~~

~~work, the proposer shall furnish a performance bond to the County for the full amount of the contract, if that contract exceeds \$50,000.~~

~~. If the contract is for \$50,000 or less, no money will be paid to the contractor until completion and acceptance of the work or the fulfillment of the purchase obligation to the County, and, if applicable, the receipt by County of satisfactory evidence that all subcontractors and material men have been paid.~~

~~. If a contract is for the construction, alteration or repair of public buildings or public works, the contractor shall provide a payment bond for a contract in excess of Twenty Five Thousand Dollars (\$25,000.00), as required by Tex. Govt. Code Ch. 2253.~~

~~. For requirements contracts, bond requirements are determined by applying the proposed unit price to the estimated quantities included in the specifications.~~

19. Ethical Standards:

~~. It shall be a breach of ethics to offer, give or agree to give any elected official, department head or employee, or former elected official, department head or employee of the County, or for any elected official, department head or employee or former elected official, department head or employee of the County, to solicit, demand, accept or agree to accept from another person, entity or organization, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefore pending before any department or agency of the County.~~

~~. It shall be a breach of ethics for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor for any contract for the County, or any person associated therewith, as an inducement for the award of a subcontract or order.~~

~~. No public official shall have an interest in a contract awarded hereunder except in accordance with Tex. Loc. Govt. Code Chapter 171.~~

20. Disclosure of Conflict of Interest

~~. Effective January 1, 2006, Chapter 176 of the Texas Local Government Code requires that any vendor, person, consultant or contractor considering doing business with Hidalgo County ("the County") to disclose in the Conflict of Interest~~

Questionnaire (the "CIQ") attached as Exhibit D, the vendor, person, consultant or contractor's affiliation or business relationship that might cause a conflict of interest with the County. By law, the CIQ must be filed with the Hidalgo County Clerk's Office no later than the seventh business day after the date the person becomes aware of facts that require that statement to be filed. The disclosure requirement applies to a person or business who contracts or seeks to contract with Hidalgo County for the sale or purchase of property, goods or service. Any purchase order or contract resulting from this process shall be considered null and void if the successful bidder fails to comply with Texas Local Government Code Chapter 176. Vendors, consultants, contractors and others who desire to conduct business with Hidalgo County are encouraged to refer to Texas Local Government Code Chapter 176 for the details of this law. An offense under Texas Local Government Code Chapter 176 is a Class C Misdemeanor.

Please Submit completed CIQ forms to the Hidalgo County Clerk's Office located at 100 N. Clossner, Edinburg, Texas 78539-Hidalgo County Courthouse  
**COMPLETION AND SUBMISSION OF FORM CIQ IS THE SOLE RESPONSIBILITY OF THE PROSPECTIVE BIDDER.**

21. If, during the life of any contract or proposal awarded, the successful proposer's net prices generally available to other customers for items awarded herein are reduced below the contracted price, it is understood and agreed that the benefits of such reduction shall be extended to County.
22. Proposals, and all goods and services provided thereunder, shall comply with all federal, state and local laws concerning this type(s) of goods and/or services.
23. Minimum Standards for Responsible Prospective Proposers: A prospective proposer must affirmatively demonstrate proposer's responsibility. A prospective proposer, by submitting a proposal, represents to County that it meets the following requirements:
  - . Possess or is able to obtain adequate financial resources as required to perform under the proposal;
  - . Be able to comply with the required or proposed delivery schedule;
  - . Have a satisfactory record of performance;
  - . Have a satisfactory record of integrity and ethics;
  - . Be otherwise qualified and eligible to receive an award.
24. Successful proposer will pay or cause to be paid, without cost or expenses to County, all FICA, FUTA/SUTA and Federal Income Withholding Taxes of all employees, and all wages and benefits as required by Federal or State law. Successful proposer officers, agents and/or employees will not be entitled to any benefits of an employee or elected official of County, including, but not limited to, benefits associated with County's civil service system.
24. Any contract award to a successful proposer will be in effect until (a) the contract expires,

~~(b) delivery and acceptance of products, and/or performance of services ordered, or (c) terminated by County with thirty day's written notice prior to cancellation.~~

25. County reserves the right to enforce performance of any contract awarded hereunder in any manner prescribed by law or deemed to be in the best interest of the County in the event of breach or default by successful proposer; County reserves the right to terminate any contract immediately in the event a successful proposer fails to:
- A. Meet schedules;
  - B. Pay any required fees or taxes; or
  - C. Otherwise perform in accordance with the requirements.
26. Successful proposer shall defend, indemnify and save harmless County and all its elected officials, officers, agents and employees from all suits, actions, or other claims of any character, name and description brought for or on account of any injuries or damages received or sustained by any person, persons, or property on account of any negligent act or fault of the successful proposer, or of any agent, employee, subcontractor or supplier of successful proposer in the execution of, or performance under, any contract which may result from proposal award or which arises from any event or casualty happening on or within County premises themselves or happening upon or in any halls, elevators, entrances, stairways or approaches of or to such County facilities. Successful proposer shall pay any judgment with costs which may be obtained against county growing out of such injury or damages, and shall, upon request, provide a defense to County by counsel reasonably acceptable to County. Successful proposer's indemnity hereunder shall include, but is not limited to, claims relating to patent, copyright or trademark infringement, and the like, arising out of the goods and services provided by successful proposer.
27. Successful proposer shall warrant that all items/services shall conform with the requirements and/or all warranties provided under the Uniform Commercial Code and be free from all defects in material, workmanship and the like. Items supplied under a contract pursuant to this Request for Proposal shall be subject to County's approval. Items found to be defective or not meeting requirements shall be replaced by successful proposer within two business days at no expense to County. Items not picked up within one (1) week after notification shall be deemed a donation to County and may be used or disposed of at County's discretion and without waiver of any other rights of County as to the item's nonconformity.
28. This document and any disputes arising hereunder shall be governed and construed according to the laws of the State of Texas, and will be performable exclusively in Hidalgo County, Texas.
29. The successful proposer shall not assign, sell, transfer or convey its rights under any awarded contract, in whole or in part, without the prior written consent of County.

RFP

for

**HIDALGO COUNTY**

**"Polygraph Examination Services for Community  
Supervision and Corrections Department"**

**RFP No: 2009-279-00-00CGV**

To: Martha L. Salazar, CPPB, Purchasing Agent  
Hidalgo County Purchasing Department  
2802 S. Hwy. Business 281, New Administration Building, Edinburg, Texas,  
956-318-2626

In accordance with the Requirements, and subject to all laws and regulations of the United States and state and local laws, the undersigned proposer proposes and commits to furnish all labor, equipment, material, software and services as set forth in the documents hereinbefore mentioned. The undersigned proposer further agrees, upon acceptance of its proposals, to execute a contract and/or Purchase Order issued by Hidalgo County for performing and completing the work described in the Requirements within the time stated and for the prices proposed in the documents attached hereto and made a part hereof.

Proposer acknowledges receipt of all of the pages of the documents referenced in the Request for Proposal Checklist presented in connection with this procurement. Proposer understands that Hidalgo County reserves the right to reject any or all proposals and further reserves the right to design the evaluation criteria to be used in selecting the lowest and best proposal.

Proposer agrees that this proposal shall be good and may not be withdrawn for a period of ninety (90) calendar days after the scheduled closing time for receiving proposals, as contained in the Requirements.

Respectfully submitted,

Proposer: \_\_\_\_\_

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

By: \_\_\_\_\_

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

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

*Must be submitted with bid packet.*

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**EXHIBIT A**

**REQUIREMENTS & SCOPE OF SERVICES**

**RFP NO: 2009-279-00-00CGV**

**“POLYGRAPH EXAMINATION SERVICES FOR HIDALGO COUNTY  
COMMUNITY SUPERVISION AND CORRECTIONS DEPARTMENT”**

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**HIDALGO COUNTY  
REQUEST FOR PROPOSAL**

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**“POLYGRAPH EXAMINATION SERVICES FOR HIDALGO COUNTY  
COMMUNITY SUPERVISION AND CORRECTIONS DEPARTMENT”**

**RFP NO: 2009-279-00-00CGV**

**Overview:**

Hidalgo County Community Supervision and Corrections Department (hereinafter referred to as “CSCD”) is soliciting sealed proposals for “Polygraph Examination Services”. The initial term of this contract shall be for two (2) years with County’s sole discretion to extend for an additional one (1) year terms under the same rates, terms and conditions. The scope of the work/services will encompass all aspects of scoring and interpretation of all tests as further described herein. The information provided in the Request for Proposals (hereinafter referred to as “RFP”) is only to be used for the purpose of preparing a proposal for **“POLYGRAPH EXAMINATION SERVICES”**. Request For Proposals will be accepted until **9:30 A.M., Wednesday, \_\_\_\_\_, 2009**. **ANY RFP RECEIVED AFTER THAT TIME WILL NOT BE OPENED AND WILL BE RETURNED.**

Deliver Submittal to:  
RFP Number: 2009-279-00-00CGV

<u>US Postal Mail Address:</u>	<u>Physical Address:</u>
Martha L. Salazar, CPPB, Purchasing Agent Hidalgo County Purchasing Department Administration Building 2812 S. Business Hwy 281 Edinburg, Texas 78539	Martha L. Salazar, CPPB, Purchasing Agent Hidalgo County Purchasing Department Administration Building 2802 S. Business Hwy. 281 Edinburg, Texas 78539

**The Submittal Envelope Must Show The RFP Number, Name And Opening Date.**

The following information outlines the Request for Proposals:

**SECTION I -GENERAL TERMS AND CONDITIONS**

**DISCLOSURE OF CONFLICT OF INTEREST:**

Effective January 1, 2006, Chapter 176 of the Texas Local Government Code requires that any vendor, person, consultant or contractor considering doing business with Hidalgo County (“the County”) to disclose in the Conflict of Interest Questionnaire (the “CIQ”) attached as **Exhibit D**, the vendor, person consultant or contractor’s affiliation or business relationship that might cause a conflict of interest with the County. By law, the CIQ must be filed with the Hidalgo County Clerk’s Office no later than the seventh business day after the date the person becomes aware of facts that require that

statement to be filed. The disclosure requirement applies to a person or business who contract or seeks to contract with Hidalgo County for the sale or purchase of property, goods or service. Any purchase order or contract resulting from this process shall be considered null and void if the Vendors, consultants, contractors and others who desire to conduct business with Hidalgo County are encourage to refer to Texas Local Government Code Chapter 176 for the details of this law. An offense under Texas Local Government Code Chapter 176 is a Class C Misdemeanor.

Please submit complete CIQ forms to the Hidalgo County Clerk's Office locate at 100 No. Closner, Edinburg, Texas 78539-Hidalgo County Courthouse **COMPLETION AND SUBMISSION OF FORM CIQ IS THE SOLE RESPONSIBILITY OF THE PROSPECTIVE BIDDER.**

**PROPOSER'S AFFIDAVIT:**

Prior to contract award, respondents to this RFP must submit a signed Proposer's Affidavit (attached herein as **Exhibit E**) certifying that the submission is (1) not the result of Collusion as described in the Proposer's Affidavit or that the Respondent has not and will not attempt to lobby directly or indirectly as described in the Proposer's Affidavit.

**NON-DISCRIMINATION:**

Submitters, during the performance of this contract, will not discriminate against any employee or applicant for employment because of race, religion, sex, national origin or disability except where religion, sex, national origin or disability is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor.

**PROCESSING TIME FOR PAYMENT:**

Submitters are advised that a minimum of thirty (30) days is required to process invoices for payment.

**ELECTRONIC TRANSMISSION OF BIDS:**

Hidalgo County's Purchasing Department will not accept telegraphic or electronically transmitted submissions.

**PROOF OF FINANCIAL AND BUSINESS CAPABILITY:**

Submitters must, upon request, furnish satisfactory evidence of their ability to furnish products or services in accordance with the terms and conditions of these requirements. Hidalgo County will make the final determination as to the submitter's ability. Contactor shall be in good standing with the Texas Comptroller's Office. A Contractor found to not be in good standing with the Texas Comptroller's Office shall be grounds for disqualification of its RFP or may result in termination of an active contract.

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**SUBMITTER DEFAULT:**

Hidalgo County reserves the right, in case of submitter default, to procure the articles or services from other sources and hold the defaulting submitter responsible for any excess costs occasioned thereby.

**RESTRICTIVE OR AMBIGUOUS REQUIREMENTS:**

It is the responsibility of the submitter to review the Request for Proposal (RFP) packet and to notify the Purchasing Department if the requirements are formulated in a manner that would unnecessarily restrict competition. Any such protest or question regarding the requirements or proposers procedures must be received in the Purchasing Department not less than seventy-two hours prior to the time set for the opening. These criteria also apply to requirements that are ambiguous.

**PROPOSAL DELIVERY:**

Hidalgo County requires submitters, when hand delivering proposals, to have a Purchasing Department staff member time/date stamp and initial the envelope when dropping RFP off.

**SIGNING OF PROPOSALS:**

In order to be considered all submittals **must** be signed. **Please sign the original in blue ink.**

**WAIVING OF INFORMALITIES:**

Hidalgo County reserves the right to waive minor informalities or technicalities when it is in the best interest of Hidalgo County.

**SUBCONTRACTING:**

The successful submitter **may not** subcontract the award without the written consent of the Commissioners' Court of Hidalgo County.

**DAVIS BACON ACT: (If applicable)**

All selected and awarded firms are required to include the Davis-Bacon Act when advertising and developing specifications **(if applicable)**.

**Additional Information to Terms and Conditions:**

All costs and expenses associated with the preparation and submission of (bids, proposals and/or quotes) shall be the responsibility of the proposer and no reimbursements for such charges or expenses shall be passed onto Hidalgo County.

Any contract awarded to a successful proposer will be in effect until (a) the contract expires, (b) delivery and acceptance of products and/or performance for such charges or expenses shall be passed onto Hidalgo County.

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## **SECTION II - RFP REQUIREMENTS**

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### **REQUEST FOR PROPOSALS:**

The required contents and limitations for the preparation of the RFP are described in this section. Failure to provide the requested information or adhere to any County limitations will result in disqualification of the submitted RFP. A total of **one (1) original and seven (7) copies** of the RFP shall be submitted to the address on the cover letter.

### **CONTENTS:**

The required contents for the RFP are presented below in the order they should be incorporated into the submitted document. If proposer/participant cannot meet any of the following services/requirement/responsibilities, such exceptions must be noted on the company's cover letter.

### **UNDERSTANDING OF THE PROJECT:**

This section should demonstrate the proposers understanding of the project needs, the services required, and any local issues or concerns. Briefly explain how long you have been organized and your business objectives. Explain how long you have been in business. This description should be concise, candid, and limited to 3 pages in length.

### **PERSONNEL AND STAFFING:**

The proposers should provide an organizational chart for the project and a summary paragraph of the project work to be performed by each proposed staff member. Biographic summaries that highlight the experience relevant to the specific project responsibilities should be provided for all proposed personnel. There is a one (1) page limitation for each biographic summary provided. Information regarding the proposer's credentials, education and experience with other entities is required and will be scored accordingly during the evaluation process.

### **REQUIRED CERTIFICATES AND SUBMITTAL:**

This section will contain ***any/all*** licenses, registrations, permits, and certifications as required by the STATE OF TEXAS and HIDALGO COUNTY that RFP respondent possesses that deem him/her qualified as a certified polygraph examiner in good standing.

**If proposer/vendor cannot meet any of the following services/responsibilities, such exceptions must be noted on the company's cover letter.**

### **TERM OF CONTRACT:**

The initial term of the contract shall be for two (2) years with Hidalgo County CSCD's sole discretion to extend/renew for an additional one (1) year terms under the same rates, terms and conditions.

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### **PROPOSERS ARE TO PROVIDE A FEE SCHEDULE WITH THIS SUBMITTAL:**

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Proposer(s) are to provide a proposed fee on the attached fee schedule based on the scope of services/work requested on an **"As Needed Basis"**.

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**NUMBER OF COPIES TO BE SUBMITTED:**

Hidalgo County requires one (1) original submittal and seven (7) copies.

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**SECTION II- SCOPE OF SERVICES**

**SERVICES:**

Hidalgo County CSCD is soliciting to contract with a certified examiner who is qualified to provide the polygraph examinations on an "As Needed Basis". The proposer shall, in accordance with the terms of this Agreement, provide all necessary personnel, equipment, materials, supplies, facilities, and services (except as may be furnished by the Department as specified in writing as part of this Agreement) and do all things necessary for, or incidental to, the provision of the services listed, including but not limited to the following:

- The proposer shall provide polygraph examinations upon request by the department;
- The proposer shall score and interpret said test, write and submit a report to the department within 30 days of the interview;
- The proposer shall provide the department and/or its representatives (Community Supervision Officers) the necessary case consultation after a polygraph examination has been completed. This case consultation will be afforded to the department at no extra cost.

**PROPOSER'S QUALIFICATIONS:**

The Certified Examiner must be recognized by the Joint Polygraph Committee on Offender Testing (JPCOT) and in good standing.

**Referrals:** The Department retains control over the Defendants referred to Proposer for the provision of services. If the Defendant is determined to be in need of additional or different services, the Defendant is to be referred back to the Department for further action. The process by which this action will occur will be addressed in the Operations Plan, if applicable.

**Court testimony:** Proposer/participant agrees to provide testimony in court, if required, at no additional cost to the Department.

**No-Shows:** Department will not pay the full rate to the proposer/participant for Defendants who fail to attend sessions or meetings.

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**Coordination with Department:** The proposer shall coordinate the following tasks with the Department:

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- The proposer shall inform the Department's representative (Community Supervision Officer) of the client fails to appear for any and all appointments, initial or subsequent;
- The proposer shall submit a statement for payment of services performed within 30 days of the service date to: CSCD, PO BOX 970, Edinburg, Texas, 78540, only after services have been rendered;
- The proposer shall submit the assessment report to the department Director within 10 days of service date;

**Confidentiality**

The proposer shall treat the client's record as confidential in accordance with federal regulations and state laws. The proposer shall release information as indicated in the Release of Confidential Information. This form is required in order to effect the necessary exchange of information between the department and the proposer.

**Implementation of Guidelines:** The proposer shall adopt and implement workplace guidelines concerning persons with AIDs and HIV infection and shall also develop and implement guidelines regarding confidentiality of AIDS and HIV related medical information for employees of said Proposer and for clients, inmates, patients and residents served by the Proposer in accordance with the provisions found in Acts 1989, 71<sup>st</sup> Leg., Ch. 1195, Section 5.03 and Section 5.04.

### **SECTION III – SELECTION AND SCHEDULES**

**SELECTION PROCEDURES/EVALUATION SYSTEM:** The evaluation consists of a 100-point scoring system. However, after the 100-point evaluation, the Hidalgo County Community Supervision and Corrections Department (CSCD) and Purchasing Department will grade, score and evaluate the proposals for the purposes of ranking.

Categories are further detailed in the Selection Criteria (Exhibit B) section of this RFP.

**NEGOTIATION PROCESS:** The number one ranked participant will be contacted to submit a contract for negotiations. If negotiations prove unsuccessful, Hidalgo County CSCD will terminate negotiations with the participant and will contact the next highest ranked participant to open negotiations. The County of Hidalgo reserves the right to reject any and all RFPs.

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**TERMINATION OF SERVICES:** Any contract awarded to a qualified participant will be in effect until (a) the contract expires or (b) performance of all services are completed, or (c)

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~~terminated by County with or without cause, with ninety (90) days written notice prior to cancellation.~~

**RFP SUBMISSION:** An original and seven (7) copies of RFP's shall be submitted to:

<p><u>US Postal Mail Address:</u> Martha L. Salazar, CPPB, Purchasing Agent Hidalgo County Purchasing Department New Administration Building 2812 S. Business Hwy 281 Edinburg, Texas 78539</p>	<p><u>Physical Address:</u> Martha L. Salazar, CPPB, Purchasing Agent Hidalgo County Purchasing Department New Administration Building 2802 S. Business Hwy. 281 Edinburg, Texas 78539</p>
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All RFP's must be submitted by no later than 9:30 a.m. on Wednesday, \_\_\_\_\_, 2009.

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**“POLYGRAPH EXAMINATION SERVICES FOR  
HIDALGO COUNTY COMMUNITY SUPERVISION  
AND CORRECTIONS DEPARTMENT”**

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**RFP NO: 2009-279-00-00CGV**

**SELECTION/EVALUATION/RANKING CRITERIA**

The evaluation consists of a 100-point scoring system based on the “Evaluation Criteria”-Exhibit B. Categories under the 100-point system include response to RFP. RFP submittal evaluation will be based on the criteria outlined below.

(A) The Hidalgo County Community Supervision and Corrections Department and Purchasing Department will review, score and evaluate the RFPs received in response to this “Request For Proposals”.

(B) After the RFPs have been reviewed, scored and evaluated, the committee will present the grid to the Board of Judges for the purposes of ranking.

1. Proposal price for services: (35 Points)
    - In considering the proposal, Hidalgo County reserves the right to select the applicant that is most advantageous/qualified for the Program.
  
  2. Experience/Qualifications: (30 Points)
    - Proposer’s qualifications (e.g. licenses/certificates).
    - Evidence of Proposer’s previous experiences with the services being requested.
  
  3. Proposer’s Responsiveness to the RFP: (20 Points)
    - Requested information included and thoroughness of response.
    - Understanding and acceptance of the scope of services.
    - Applicable certificates, licenses, permits etc. included in response.
    - All RFP Forms completed.
  
  4. Ability to commit to all Required Services” (15 Points)

The Participant should provide as much background information as to it’s experiences in providing similar services to other government agencies as described and detailed in specifications /requirements and understanding of commitment to Agency for such services.
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**EVALUATION FORM**  
**“POLYGRAPH EXAMINATION SERVICES FOR**  
**HIDALGO COUNTY COMMUNITY SUPERVISION**  
**AND CORRECTIONS DEPARTMENT”**  
**RFP NO: 2009-279-00-00CGV**

Selection Criteria

Points

Score

1. Proposal price for scope of services:

- In considering the proposal, Hidalgo County reserves the right to select the applicant that is most advantageous/qualified for the Program

\_\_\_\_\_

\_\_\_\_\_

Comments/Rationale: \_\_\_\_\_

2. Experience/Qualifications

- Proposer's qualifications (e.g. licenses/certificates).
- Evidence of Proposer's previous experiences with the services being requested

\_\_\_\_\_

\_\_\_\_\_

Comments/Rationale: \_\_\_\_\_

3. Proposer's Responsiveness to the RFP:

- Requested information included and thoroughness of response;
- Understanding and acceptance of the scope of services;
- Applicable certificates, licenses, permits etc. included in response.
- All RFP Forms completed.

\_\_\_\_\_

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Comments/Rationale: \_\_\_\_\_

4. Ability to commit to all required services.

\_\_\_\_\_

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Comments/Rationale: \_\_\_\_\_

Provider: \_\_\_\_\_

Evaluator: \_\_\_\_\_

Date: \_\_\_\_\_

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July , 2009

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Re: **HIDALGO COUNTY**  
Request For Proposals:  
**"Polygraph Examination Services for Hidalgo County  
Community Supervision and Corrections Department"**

**RFP NO: 2009-279-00-00CGV**

Dear Respondents:

Enclosed please find a Request for Proposals (RFP) packet for you review and consideration.

Hidalgo County Purchasing Department welcomes and appreciates your participation in the RFP process.

If any further assistance is required, please do not hesitate to call the Purchasing Department at (956) 318-2626.

Sincerely,

Martha L. Salazar, CPPB  
Hidalgo County Purchasing Agent

MLS/cgv

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Enclosures

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**REQUEST FOR PROPOSALS (RFP) CHECKLIST**

**“Polygraph Examination Services for Community Supervision and Corrections Department”**

**RFP NO: 2009-279-00-00CGV**

1. Request for Proposals Letter.
2. Request for Proposals, Legal Notice, consisting of  8  pages.
3. Exhibit A, Specifications/Requirements/Additional Scope Of Services/Proposal Pages, consisting of  8  pages.
4. Exhibit B, Evaluation/Selection Criteria, consisting of  3  page.
5. Exhibit C, Insurance Requirements, consisting of  4  pages.
6. Exhibit D, CIQ Conflict Of Interest Questionnaire, consisting of  1  pages.
7. Exhibit E, Proposer’s Affidavit, consisting of  1  page.
8. Proposer/Vendor Application and Historically Underutilized Business (HUB) Declaration, IRs W-9 Form, consisting of  7  pages.
9. Certification Regarding Debarment, Suspension and Other Responsibility Matters, consisting of  1  page.
11. State Draft Agreement, consisting of  18  pages.

The above mentioned items shall be found in the Request for Proposals (RFP) packet that is attached herewith. Should you find that any of the items are not attached in its entirety please contact Purchasing by calling (956) 318-2626, advise of missing documentation, and Purchasing will forward information either through facsimile or by U.S. Mail.

Thank you.

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Martha L. Salazar, CPPB, Purchasing Agent

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Date

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**INSTRUCTIONS FOR OFFENDER “NON-TREATMENT”  
SERVICE CONTRACTS  
(OTHER THAN SUBSTANCE ABUSE)**

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The clauses in this section of the manual are required for “non-treatment” service contracts over \$25,000 between the CSCD and service providers. These clauses may also be used for non-substance abuse “treatment” services under \$25,000.

Performance measures must be included for all contracts over \$25,000, and a vendor operational plan (response to the ITB or RFP) must be included for all contracts over \$100,000.

**Group 4 Services (“Non-Treatment” Services—Non-Substance Abuse).** The following services are identified as “non-treatment” services:

- Blood Specimen Testing
- Education Classes
- GED Classes
- GED Testing
- Literacy Classes
- Employment Preparedness Classes
- Pre-Vocational Classes
- Money Management Classes
- Life Skills
- Electronic Monitoring
- Interpreting Services for the Deaf Offender
- Language Interpreters for Offenders
- Urinalysis Testing
- Psychological Examinations
- Polygraphs
- Psychosexual Assessments
- Psychosexual Evaluations
- Plethysmography
- Psychiatric Assessments
- Neuropsychological Tests
- Personality Tests
- Medical Exams
- Medical Treatment

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For questions relating to services not listed, contact the TDCJ-CJAD budget director.

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**SERVICES**  
**OPERATIONS AGREEMENT**  
**FOR**  
**COMMUNITY SUPERVISION AND**  
**CORRECTIONS DEPARTMENT**

This Operations Agreement (the "AGREEMENT") is made and entered into by and between  
Community Supervision and Corrections Department ("DEPARTMENT"), a political entity of the  
Judicial District and

\_\_\_\_\_ ("VENDOR")

\_\_\_\_\_ Address

\_\_\_\_\_ City, State, Zip

as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**WITNESSETH:**

NOW, THEREFORE, for and in consideration of the foregoing, the mutual benefits contemplated hereby and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

**APPOINTMENT OF VENDOR; TERM**

Appointment of VENDOR. In accordance with the terms and conditions set forth herein, and in consideration of the Payments hereinafter provided, VENDOR is hereby appointed to provide to DEPARTMENT, and VENDOR hereby agrees to furnish to DEPARTMENT, the Services provided for herein.

Term. This AGREEMENT is effective on the date set forth in the initial paragraph hereof and shall continue until August 31, \_\_\_\_\_, unless it is terminated earlier pursuant to the provisions hereof, provided, however, that DEPARTMENT shall have the option to renew and extend this AGREEMENT for a period of one year (with such changes as to which VENDOR shall agree), upon the giving to VENDOR a written notice of such intention no later than thirty (30) days prior to the expiration of the initial term.

**ARTICLE I**  
**RATES, MINIMUM REQUIREMENTS, AND STATEMENT OF SERVICES**

1.1 Vendor Rates. DEPARTMENT agrees to make Payments to VENDOR for the delivery of Services, not to exceed \_\_\_\_\_ for September 1, \_\_\_\_\_, through August 31, \_\_\_\_\_. ~~VENDOR acknowledges that the total dollar amount of the AGREEMENT is subject to change, at~~ department's discretion, based on needs and circumstances that arise within the overall DEPARTMENT program. VENDOR agrees to the following rates for services:

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**(TO BE FILLED IN BY CSCD)**

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1.2 Sole Source Provider. This VENDOR has been duly certified in an open meeting and reflected in the meeting minutes as a sole source provider. **(THIS CLAUSE IS REQUIRED ONLY FOR SOLE SOURCE PROVIDERS.)**

1.3 Services. The VENDOR shall, in accordance with the terms of this AGREEMENT, provide all necessary personnel, equipment, materials, supplies, facilities, and services (except as may be furnished by the DEPARTMENT as specified in writing as part of this AGREEMENT) and do all things necessary for, or incidental to, the provision of the services listed as follows:

**(TO BE FILLED IN BY CSCD)**

1.4 Operational Plan. The proposal submitted in response to the ITB or RFP (if applicable) as finally negotiated and attached as Exhibit A of this AGREEMENT becomes the Operational Plan by which the VENDOR will be audited. **(THIS CLAUSE REQUIRED FOR ALL CONTRACTS OVER \$100,000 UNLESS VENDOR HAS BEEN CERTIFIED AS A SOLE SOURCE PROVIDER.)**

1.5 Performance Measures. The VENDOR shall comply with the Performance Measures included in this AGREEMENT to assist Defendants to change their behavior and become productive, contributing members of society by leading a life free of crime. Performance Measures, along with applicable adjustments, are as follows:

**(TO BE DEVELOPED AND FILLED IN BY CSCD - MUST BE IN EVERY CONTRACT OVER \$25,000 PER VENDOR)**

1.6 Negotiation. The VENDOR will document performance measures and evaluation criteria submitted as the **Operational Plan** (if applicable). DEPARTMENT can negotiate with the VENDOR during the term of the AGREEMENT to establish new performance measures or evaluation criteria that both parties agree reflect quantity or quality of service.

1.7 Referrals. The DEPARTMENT retains control over the Defendants referred to VENDOR for the provision of services. If the Defendant is determined to be in need of additional or different services, the Defendant is to be referred back to the DEPARTMENT for further action. The process by which this action will occur will be addressed in the Operations Plan, if applicable.

1.8 Court Testimony. VENDOR agrees to provide testimony in court, if required, at no additional cost to the DEPARTMENT.

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~~1.9 No-Shows. DEPARTMENT will not pay the full rate to VENDOR for Defendants who fail to attend sessions or meetings. (THE CSCD SHOULD SPECIFY THE AMOUNT AND NUMBER OF "NO-SHOWS" FOR WHICH THEY ARE WILLING TO PAY AND INCLUDE HERE.)~~

1.10 Orientation and HIV Counseling. VENDOR shall provide orientation to Defendants regarding support resources and shall provide HIV counseling in accordance with the provisions of Exhibit D hereto.

1.11 Definitions. The following terms used in this AGREEMENT shall, unless the context indicates otherwise, have the meanings set forth below:

AGREEMENT - means this Operations AGREEMENT with all exhibits hereto.

Contract Monitor - means the Person(s) designated by DEPARTMENT as such to ensure that VENDOR complies with the terms hereof, by conducting performance audits of the Operational Plan and financial audits of the Program Budget, if applicable.

Counselor - means a Person with appropriate licensure who renders counseling or counseling-related services to an individual, group, organization, corporation, institution, or the general public for compensation.

Defendant - means each individual who receives Services from VENDOR hereunder who qualifies for Services and who has been ordered by a court of legal jurisdiction to participate in receiving Services.

DEPARTMENT Policies - means all written policies, procedures, standards, guidelines, directives, and manuals of DEPARTMENT, as same may be amended from time to time, which DEPARTMENT has made available to VENDOR and with which VENDOR has an affirmative obligation to be and remain familiar.

Facility - means the licensed treatment facility where VENDOR will provide Services pursuant to the terms hereof or a Community Corrections Facility as operated by the DEPARTMENT.

Licensure Rules - means the terms and provisions contained in applicable regulatory guidelines.

Midnight Strength Report - means the official numerical count of the number of Defendants who are Residents present at the Facility at the end of each day calculated at 12:00 midnight, which number shall not include any Defendants who were previously removed on that day. Defendants on a temporary leave for less than forty-eight (48) hours shall be included in the count.

Monthly Invoice - means that certain form or electronic reporting mechanism that VENDOR shall prepare and submit to DEPARTMENT no later than the seventh (7th) day after the end of the preceding month, based on the VENDOR Rate and yielding the Monthly VENDOR Payment to be made by DEPARTMENT, a copy of which form is attached hereto as Exhibit B.

Operational Plan - means the written operating and audit system devised jointly by DEPARTMENT and VENDOR prior to and during the term hereof pursuant to VENDOR'S

~~policies and procedures submitted in response to the RFP or ITB (if applicable) whereby the delivery of Services shall be evaluated and monitored, including the Performance Measures to track and evaluate achievement results of Defendants, which plan shall contain a mechanism for monthly self-monitoring reports by VENDOR.~~

Outpatient - means any Defendant who receives Services on an hourly basis pursuant to the terms hereof and who is not a resident in the facility providing treatment.

Payment or Payments - means amount(s) agreed to be paid by DEPARTMENT to VENDOR.

Payment to VENDOR - means the mathematical product of the following: (a) Resident Defendants at non-CCFs: the VENDOR Rate calculated by the number of verified Defendants according to the Midnight Strength Report for each day of the billing month; (b) Outpatient Defendants: the VENDOR Rate calculated by the number of verified Defendants for each hour and billing day for which Outpatient Services were rendered in the billing month.

Performance Measures - means the standards whereby VENDOR and DEPARTMENT will determine the effectiveness of the Services, as set forth in Article I hereto.

Person - means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, court or other tribunal, or government or any agency or political subdivision thereof.

Program Budget - means the financial management system of proposed revenue and expenditures that VENDOR submitted in response to the ITB or RFP, if applicable (as same may have been amended prior to the execution hereof), whereby VENDOR implements and maintains its books regarding income and expenditures in the provision of Services at the Facility in accordance with the approved Program Budget (i.e., a program-specific accounting or bookkeeping system).

Resident - means any Defendant who resides at the Facility and receives Services pursuant to the terms hereof.

RFP - means that certain Request for Proposal issued by DEPARTMENT for the purpose of soliciting proposals to render Services and with respect to which VENDOR responded and was awarded this AGREEMENT, if applicable.

Services - means the delivery by VENDOR of the chemical dependency program as set forth in this AGREEMENT and exhibits and as outlined in VENDOR'S response to the ITB or RFP, if applicable.

Term - means the duration of this AGREEMENT as specified in Article I.

VENDOR - means "Name of provider."

Vendor Rate - means the amount paid by Department to VENDOR per day or per hour during the term hereof, determined in accordance with the rates set forth in Article I.

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**1.12 AND 1.13 ARE OPTIONAL CLAUSES:**

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1.12 **Insurance.** **VENDOR** shall provide an adequate plan of insurance that provides: (1) coverage to protect **DEPARTMENT** and the State against all claims, including claims based on violations of civil rights arising from the Services performed by **VENDOR**; (2) coverage to protect the State from actions by a third party against **VENDOR** or any subcontractor of **VENDOR**; and (3) coverage to protect the State from actions by officers, employees, or agents of **VENDOR** or any subcontractor(s). **VENDOR** shall maintain the following insurance coverage in full force and effect for the mutual protection and benefit of **DEPARTMENT**, the State and **VENDOR** with the amounts and coverages as required by law, in accordance with the following:

A. Claims that may arise out of or result from **VENDOR'S** actions/operations hereunder, whether such actions/operations are by **VENDOR** or by a subcontractor of **VENDOR**, or by anyone directly or indirectly employed by or acting on behalf of **VENDOR** or a subcontractor where liability may arise for:

1. Claims under workers compensation disability benefits, and other similar employee benefit actions;
2. Claims for damages because of bodily injury, occupational sickness or disease, or death of any **VENDOR** employees;
3. Claims for damages because of bodily injury, sickness or disease or death of any Person other than **VENDOR'S** employees;
4. Claims for damages insured by usual personal liability coverage that are sustained by (a) any Person as a result of an act directly or indirectly related to the employment of such Person by **VENDOR**, or by (b) any other Person;
5. Claims for damages because of injury to or destruction of tangible property, including loss of use resulting therefrom;
6. Claims for damages based on violations of civil rights;
7. Claims for damages arising from fire and lightning and other casualties.

B. **VENDOR** shall obtain and maintain in force insurance coverage in accordance with all applicable law and accepted industry standards during the term they are engaged hereunder. In addition, **VENDOR** shall maintain a liability insurance policy in an amount not less than \$100,000 for each person and \$300,000 for each single occurrence for bodily injury or death and \$100,000 for each single occurrence for injury to or destruction of property.

C. Certifications/policies of insurance shall be filed with **DEPARTMENT** prior to execution of this **AGREEMENT**. **VENDOR** shall notify **DEPARTMENT** within fifteen (15) days of cancellation of any policy required herein.

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~~D. Compliance with the foregoing insurance requirements shall not relieve **VENDOR** from any liability under the indemnity provisions.~~

1.13 **Indemnification.** **VENDOR** shall indemnify and save the **DEPARTMENT**, the Texas Board of Criminal Justice, the Texas Department of Criminal Justice, the State of Texas, and its officers, agents and employees (hereinafter, collectively referred to as the "State") harmless from and against any and all claims arising from the conduct, management or performance hereof, including, without limitation, any and all claims arising from any condition herein or arising from any breach or default on the part of **VENDOR** in the performance of any covenant or agreement on its part to be performed, or arising from any act of negligence of **VENDOR**, or licensees or arising from any accident, injury or damage whatsoever caused to any person, firm or corporation and from and against all costs, reasonable attorney's fees, expenses and liabilities incurred in or about any such claim, action or proceeding brought against the State by reason of any such claim. In any such action brought against the State, **VENDOR**, upon notice from the State, shall defend against such action or proceeding by counsel satisfactory to the State, unless such action or proceeding is defended against by counsel for any carrier of liability insurance provided for herein. The aforementioned indemnification shall not be affected by a claim that negligence of **DEPARTMENT**, the State, or their respective agents, contractors, employees or licensees contributed in part to the loss or damage indemnified against.

1.14 **Other:** (Specific Department/Program Requirements)

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**ALL OF THE FOLLOWING CLAUSES ARE REQUIRED:**

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**ARTICLE II  
REPRESENTATIONS AND WARRANTIES**

VENDOR represents and warrants to and for the benefit of DEPARTMENT with the intent that DEPARTMENT rely thereon for the purposes hereof, the following:

2.1 Legal Status. VENDOR (1) is a validly organized and constituted sole proprietorship or partnership in the jurisdiction in which it is formed and in good standing therein; or, is a corporation duly incorporated and validly existing under the laws of the jurisdiction in which it is incorporated and in good standing therein; (2) is duly qualified to conduct business in the State of Texas; and (3) has legal power and authority to own or lease its properties and conduct its business as presently conducted.

2.2 Authorization. The making and performance of this AGREEMENT have been duly authorized by all necessary action and will not violate any provision of current law or VENDOR'S charter or by-laws. The AGREEMENT has been duly executed and delivered by VENDOR and, assuming due execution and delivery by DEPARTMENT, constitutes a legal, valid, and binding AGREEMENT enforceable against VENDOR in accordance with its terms.

2.3 Taxes. VENDOR has filed all necessary federal, state, and foreign income and franchise tax returns and has paid all taxes as shown to be due thereon, including penalties and interest, or provided adequate reserves for payment thereof, except to the extent that same have become due and payable but are not yet delinquent, and except for any taxes and assessments of which the amount applicability or validity is currently being contested in good faith by appropriate proceedings.

2.4 No Child Support Owning. In accordance with 231.006 of the Texas Family Code, no person who is the sole proprietor, a partner, a shareholder, or an owner of twenty-five percent (25%) or more of VENDOR and who is now more than thirty (30) days delinquent in paying court ordered approved child support may receive payment from state funds under a contract. Under Section 231.006, Family Code, VENDOR certifies that it is not ineligible to receive the Payments and acknowledges that this AGREEMENT may be terminated and Payments may be withheld if this certification is inaccurate.

2.5 Use of Payments. No part of the Payments made to VENDOR will be expended for any consultant fees, honorariums, or any other compensation to any employee of DEPARTMENT or for unallowable costs set forth on Exhibit C. VENDOR shall expend Payments made hereunder solely for providing direct services and for reasonable and allowable expenses directly related to the provision of Services.

2.6 Non-Discrimination. In the performance hereof, VENDOR warrants that it shall not discriminate against any employee, subcontractor, or Defendant on account of race, color, handicap, religion, sex, national origin, age, or those who have or are perceived to have a handicap because of AIDS or HIV infection, antibodies to HIV, or infection with any other probable causative agent of AIDS. VENDOR shall include the provisions of this paragraph regarding non-discrimination in each of its contracts with subcontractors so that such provisions will be binding upon each subcontractor.

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~~2.7 Non-Collusion. VENDOR warrants that no Person, other than a bona fide employee, has been employed to solicit or secure this AGREEMENT with DEPARTMENT, and VENDOR has not paid or agreed to pay any Person, other than a bona fide employee, any fee, commission, percentage, or brokerage fee, gift, or any other consideration, contingent upon or resulting from the execution hereof. For breach or violation of this provision, DEPARTMENT shall have the right to terminate this AGREEMENT without liability, or at its discretion to deduct from Payments, or otherwise recover, the full amount of such fee, commission, brokerage fee, gift, or contingency fee.~~

### ARTICLE III GENERAL CONDITIONS

3.1 Duties and Obligations. VENDOR shall provide the Services in compliance with applicable federal and state law, including all constitutional, legal and court ordered requirements, whether now in effect or hereafter effected or implemented.

3.2 Visitation by State Employees. VENDOR shall at all times allow employees/agents of the Governor, members of the Legislature and all other members of the Executive and Judicial branches of the State of Texas, the Contract Monitor, and any other persons designated by the DEPARTMENT and/or the Texas Board of Criminal Justice to monitor the delivery of Services and contract compliance of the VENDOR.

3.3 No Subcontractors. No subcontractor may be utilized by VENDOR unless DEPARTMENT has furnished prior written approval.

3.4 Confidentiality. When applicable, records of identity, diagnosis, prognosis, or treatment of any Defendant through this AGREEMENT shall be confidential and may be disclosed only in accordance with applicable laws. No information may be released without the Defendant's written consent as documented by a signed information release form. VENDOR shall notify department in writing if any legal process requires disclosure of a Defendant's record and shall obtain written acknowledgment of same from DEPARTMENT'S Authorized Representative.

3.5 Termination at Will. Either party may terminate this AGREEMENT for any reason whatsoever, without cause and at any time, by furnishing to the other party thirty (30) days prior written notice. DEPARTMENT'S only obligation for terminating this AGREEMENT pursuant to this section shall be the payment to VENDOR of Payments earned hereunder up to the date of termination. VENDOR's only obligation for terminating this AGREEMENT pursuant to this section shall be to provide Services until the date of termination. Neither VENDOR nor DEPARTMENT shall thereafter be entitled to any other compensation.

3.6 Record Retention. All records shall be the property of DEPARTMENT. All records (electronic or paper) pertinent to the provisions of Services hereunder shall be retained by the VENDOR for a period of five years with the following qualification: If any audit, litigation or claim is started before the expiration of the five-year period, the records shall be retained until all audits, litigation, claims, or other findings involving the records have been resolved. The retention period for all records begins after DEPARTMENT has made the final Payment in accordance with this AGREEMENT. At the end of the five-year period, VENDOR will request disposition instructions from DEPARTMENT.

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**ARTICLE IV**  
**ADMINISTRATION AND FISCAL SYSTEM**

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4.1 Administrative Controls. VENDOR shall establish, document and maintain adequate administrative, financial, and internal controls to ensure that only allowable and reasonable costs are expended under this AGREEMENT.

4.2 Governing Board Responsibility. The appropriate governing board or entity of VENDOR shall bear full responsibility for the integrity of the services provided, including compliance with applicable federal and state laws and regulations. Ignorance of any AGREEMENT provisions or other requirements contained herein shall not constitute a defense or basis for waiving or appealing such provisions or requirements.

4.3 Conflict of Interest. VENDOR shall not refer defendants for additional services without prior written approval of the DEPARTMENT. VENDOR shall develop and implement written internal policies that may be reviewed by the DEPARTMENT to ensure that members of the governing board, contractual personnel, consultants, volunteers, and employees do not use their positions with the VENDOR for a purpose that is, or gives the appearance of being, motivated by a desire for personal gain or gain by a family member.

4.4 Remuneration. Staff of VENDOR shall not pay or receive any commission, consideration, or benefit or any kind related to the referral of a Defendant for treatment or engage in fee-splitting with other professionals.

4.5 Audits. VENDOR agrees to furnish DEPARTMENT and/or TDCJ with such information as may be required relating to the Services rendered hereunder. VENDOR shall permit DEPARTMENT to audit and inspect records and reports and to evaluate the performance of Services at any time. VENDOR shall provide reasonable access to all the records, books, reports, and other necessary data and information needed to accomplish review of program activities, services, and expenditures, including cooperation with DEPARTMENT in its performance of random or routine audits to determine the accuracy of VENDOR reports.

4.6 Independent Audit. VENDORS whose total funding from DEPARTMENTS (CSCDs) statewide exceeds \$100,000 must provide an independent audit on the funds received for each fiscal year (September 1 – August 31). These audits must be submitted to TDCJ-CJAD by December 31 following the end of the fiscal year.

4.7 Disclosure. VENDOR is required to immediately or timely, as the case may be, disclose to DEPARTMENT and TDCJ-CJAD the following:

- (a) If any Person who is an employee or director of VENDOR is required to register as a lobbyist under Texas Government Code Chapter 305, at any time during the term hereof, VENDOR shall provide to DEPARTMENT and TDCJ-CJAD timely copies of all reports filed with the Texas Ethics Commission as required by Chapter 305;
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~~(b) If any Person who is an employee, subcontractor, or director of VENDOR is or becomes an elected official (i.e., an elected or appointed state official or member of the judiciary, or a United States congressman or senator), during the term hereof;~~

(c) Report any actions or citations by federal, state, or local governmental agencies that may affect VENDOR'S licensur e status or its ability to provide Services hereunder.

4.8 Withhold Payments. The DEPARTMENT may withhold Payments for any ineligible claims including inadequate or untimely monthly invoices until such time as the ineligible, inadequate or untimely claim is resubmitted and/or corrected by VENDOR. VENDOR agrees to return any unearned amounts paid by the DEPARTMENT within thirty (30) days following the final date of the contact period, or at the DEPARTMENT'S option, within thirty (30) days following the DEPARTMENT'S delivery to VENDOR a notice that amounts paid are to be returned to DEPARTMENT.

4.9 Payments to VENDOR. VENDOR shall submit Monthly Invoices (in writing or electronically) as required herein and shall receive Payments from DEPARTMENT based thereon, subject to the provisions in this AGREEMENT. VENDOR will provide an itemized list of Services performed during the invoice period, including the names of all Defendants served, the service provided, and the amount of time rendered with each. DEPARTMENT agrees to pay VENDOR within thirty (30) days after receipt of the Monthly Invoice (Exhibit B).

4.10 Specific Measures. All terms of this AGREEMENT are subject to monitoring and verification; however, the VENDOR must have available for the DEPARTMENT'S inspection records to support performance of those measures outlined in Article I herein.

4.11 Misspent Funds. The VENDOR will refund expenditures of the VENDOR that are contrary to this AGREEMENT and deemed inappropriate by the DEPARTMENT or designee.

## ARTICLE V DEFAULT AND TERMINATION

5.1 Default by VENDOR. Each of the following shall constitute an Event of Default on the part of VENDOR:

- a. A material failure to keep, observe, perform, meet, or comply with any covenant, term, or provision hereof, which failure continues for a period of twenty (20) days after receipt of VENDOR of written notification thereof;
- b. (1) Admit in writing its inability to pay its debts; (2) make a general assignment for the benefit of creditors; (3) suffer a decree or order appointing a receiver or trustee for it or substantially all of its property, and, if entered without its consent, same is not stayed or discharged within sixty (60) days of such decree or order, (4) suffer filing under any law relating to bankruptcy, insolvency, or the reorganization for relief of debtors by or against it and, if contested by it, not to be dismissed or stayed within sixty (60) days of such filing; or (5) suffer any judgment, writ of attachment or execution, or any similar process issued or levied against a substantial part of its property that is not released, stayed, bonded, or vacated within sixty (60) days after such issuance or levy; and

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c. ~~The discovery by DEPARTMENT that any statement, representation of warranty in this AGREEMENT is false, misleading, or erroneous in any material respect.~~

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5.2 Remedy of DEPARTMENT. Upon the occurrence of an Event of Default by VENDOR, DEPARTMENT shall notify VENDOR of such Event of Default, and subject to the time provisions of Section 5.1 hereof, DEPARTMENT shall have the right to pursue any remedy it may have at law or in equity, including, but not limited to, (a) suspend referral of Defendants; (b) suspend payment; (c) taking action to cure the Event of Default, in which case DEPARTMENT may offset against any Payments owed to VENDOR all reasonable costs incurred by DEPARTMENT in connection with its efforts to cure such Event of Default; and (d) termination and removal of VENDOR as provider of Services. In the event of VENDOR'S removal due to an Event of Default, DEPARTMENT shall have no further obligations to VENDOR after such removal and in such event, VENDOR agrees to cooperate with DEPARTMENT regarding a transition to new provider of Services.

5.3 Default by DEPARTMENT. The following shall constitute an Event of Default on the part of DEPARTMENT: failure by DEPARTMENT to pay within thirty (30) days after Payment is due any Payment required to be paid pursuant to the terms hereof, provided such failure to pay shall not constitute an Event of Default if the Comptroller of the State of Texas has withheld any payments pursuant to statutory authority.

5.4 Remedy of VENDOR. Upon an Event of Default by DEPARTMENT, VENDOR'S sole remedy shall be to terminate this AGREEMENT. Upon such termination, VENDOR shall be entitled to receive Payment from DEPARTMENT for all Services satisfactorily furnished hereunder up to and including the date of termination.

5.5 AGREEMENT Subject to Availability of Funds. This AGREEMENT will be subject to the availability of funds as appropriated by the State Legislature and as made available by the Community Justice Assistance Division of the Texas Department of Criminal Justice. If such funds become reduced or unavailable, this AGREEMENT shall be subject to immediate modification, reduction or termination.

## ARTICLE VI

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## INDEPENDENT CONTRACTOR

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VENDOR is associated with DEPARTMENT only for the purposes and to the extent set forth herein, and with respect to the performance of Services hereunder, VENDOR is and shall be an independent contractor and shall have the sole right to supervise, manage, operate, control, and direct the performance of the details incident to its duties hereunder. Nothing contained herein shall be deemed or construed to create a partnership or joint venture, to create the relationships of an employer-employee or principal-agent, or to otherwise create any liability for DEPARTMENT whatsoever with respect to the indebtedness, liabilities, and obligations of VENDOR or any other party. VENDOR shall be solely responsible for (and DEPARTMENT shall have no obligation with respect to) payment of all Federal Income, F.I.C.A., and other taxes owed or claimed to be owed by VENDOR, arising out of VENDOR's association with DEPARTMENT pursuant hereto, and VENDOR shall indemnify and hold DEPARTMENT harmless from and against any and all liability from all losses, damages, claims, costs, penalties, liabilities, and expenses howsoever arising or incurred because of, incident to, or otherwise with respect to any such taxes.

### ARTICLE VII MISCELLANEOUS PROVISIONS

7.1 Inconsistencies. Where there exists any inconsistency between this AGREEMENT and other provisions of collateral contractual Agreements that are made a part hereof by reference or otherwise, the provisions of this Agreement shall control.

7.2 Severability. Each paragraph and provision hereof is severable from the entire AGREEMENT and if any provision is declared invalid, the remaining provisions shall nevertheless remain in effect.

7.3 Prohibition Against Assignment. There shall be no assignment or transfer of this AGREEMENT without the prior written consent of both parties.

7.4 Law of Texas. This AGREEMENT shall be governed by and construed in accordance with the laws of the State of Texas and shall be enforced in the county of the applicable judicial district in which this agreement was entered.

7.5 Notices. All notices called for or contemplated hereunder shall be in writing and shall be deemed to have been duly given when personally delivered or forty-eight (48) hours after mailed to each party by certified mail, return receipt requested, postage prepaid.

7.6 Entire. This AGREEMENT incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements, and understandings have been merged into this written AGREEMENT. No other prior agreement or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless attached hereto and/or embodied herein.

7.7 Amendment. No changes to this AGREEMENT shall be made except upon written agreement of both parties.

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7.8 Headings. The headings used herein are for convenience of reference only and shall not constitute a part hereof or affect the construction or interpretation hereof.

7.9 Counterparts. This AGREEMENT may be executed in any number of and by the different parties hereto on separate counterparts, each of which when so executed shall be deemed to be an original, and such counterparts shall together constitute but one and the same instrument.

7.10 Terminology and Definitions. All personal pronouns used herein, whether used in the masculine, feminine, or neutral, shall include all other genders; the singular shall include the plural and the plural shall include the singular.

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IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT including the Exhibits attached hereto and incorporated herein by reference to be executed as of the date first above written

Executed in \_\_\_\_\_ County, Texas by \_\_\_\_\_

DEPARTMENT: \_\_\_\_\_  
COMMUNITY SUPERVISION AND CORRECTIONS DEPARTMENT

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

OPTIONAL:  
ADMINISTRATIVE DISTRICT JUDGE: \_\_\_\_\_

JUDICIAL DISTRICT: \_\_\_\_\_

DATE: \_\_\_\_\_

VENDOR: \_\_\_\_\_

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

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**EXHIBIT A**  
**Vendor Operational Plan**  
**(Required for Contracts with Each Vendor over \$100,000)**

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**EXHIBIT C**  
**Unallowable Costs**

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Any item unallowable by State or any authorized agency, statute, policy, or procedure including, but not limited to, federal guidelines for operation of for-profit and not-for-profit entities;

Alcoholic beverages;

Bad debts;

Building and Land purchase, rental purchase, lease purchase, renovation;

Cash payments to intended recipients of Services;

Equipment items exceeding \$1,000 (CPU, Monitor and Keyboard are one unit) counted as a direct expense toward the program. Such items may be charged to the program only through an approved depreciation methodology.

Expenses or reimbursements to or on behalf of vendor-related entities for allowable indirect costs;

Expenses or costs reimbursed to vendor by other funds with respect to amounts paid by the CSCD for vendor services;

Fines and Penalties;

Firearm, Firearm Components, and Ammunition;

Fundraising; Marketing; and Advertising (advertising is allowable for personnel vacancies and procurement of goods and services only);

Legislative expenses for payment to any elected official from funds received from the CSCD;

Lobbying;

Payments to or on behalf of individuals related to principals of any vendor-affiliated organization(s) or to their employees, unless as allowable indirect costs or unless specific approval is received from the CSCD; and

Tobacco Products.

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