



EXECUTIVE DOCUMENT SUMMARY

State Form 41221 (R10/4-06)

Instructions for completing the EDS and the Contract process.

1. Please read the guidelines on the back of this form.
2. Please type all information.
3. Check all boxes that apply.
4. For amendments / renewals, attach original contract.
5. Attach additional pages if necessary.

1125
JT

1. EDS Number: B2-7-010		2. Date prepared: 7/31/2006	
3. CONTRACTS & LEASES			
☒ Professional/Personal Services		☐ Contract for procured Services	
☐ Grant		☐ Maintenance	
☐ Lease		☐ License Agreement	
☐ Attorney		☐ Amendment# _____	
☐ MOU		☐ Renewal # _____	
☐ QPA _____		☐ Other _____	
FISCAL INFORMATION			
4. Account Number: 1000-10630.534800		5. Account Name: Pendleton Corr. Facility	
6. Total amount this action: \$180,546.00		7. New contract total: \$180,546.00	
8. Revenue generated this action: \$0.00		9. Revenue generated total contract: \$0.00	
10. New total amount for each fiscal year: Year 2007 \$ 180,546.00 Year _____ \$ _____ Year _____ \$ _____ Year _____ \$ _____			
TIME PERIOD COVERED IN THIS EDS			
11. From (month, day, year): 7/1/2006		12. To (month, day, year): 6/30/2007	
13. Method of source selection: ☒ Bid/Quotation ☐ Emergency ☐ Negotiated ☐ RFP# _____ ☐ Other (specify) _____ ☐ Special Procurement			
35. Will the attached document involve data processing or telecommunications systems(s)? _____ Yes: IOT or Delegate has signed off on contract			
36. Statutory Authority (Cite applicable Indiana or Federal Codes):			
37. Description of work and justification for spending money. (Please give a brief description of the scope of work included in this agreement.) VENDOR TO PROVIDE RENTAL DUMPSTERS AND TRASH REMOVAL FOR THE PENDLETON CORRECTIONAL FACILITY, CORRECTIONAL INDUSTRIAL FACILITY AND THE PENDLETON JUVENILE CORRECTIONAL FACILITY.			
38. Justification of vendor selection and determination of price reasonableness: REQUEST FOR QUOTATION/INVITATION TO BID WAS SENT TO FOUR VENDORS AND ONLY TWO OF THEM RESPONDED. REPUBLIC SERVICES HAD THE LOWEST PRICES.			
39. If this contract is submitted late, please explain why: (Required if more than 30 days late.) REPUBLIC SERVICES THOUGHT THAT THEY HAD SENT THE SIGNED COPY OF THE CONTRACT BACK TO US BUT HADN'T. THEY HAND CARRIED IT TO US ON JULY 26, 2006.			
40. Agency fiscal officer or representative approval 		41. Date Approved 9-19-06	
44. Attorney General's Office approval JB+		45. Date Approved 12/20/06	
42. Budget agency approval		43. Date Approved	
46. Agency representative receiving from AG		47. Date Approved	

AGENCY INFORMATION

14. Name of agency:
Pendleton Corr Facility

15. Requisition Number:
B2-7-010

16. Address:
Department of Correction
Pendleton Correctional Facility
4490 W REFORMATORY RD
PENDLETON, IN 46064

AGENCY CONTACT INFORMATION

17. Name:
LINDA M. DIETZ

18. Telephone #:
765/778-2107

19. E-mail address:
LDIETZ@DOC.IN.GOV

COURIER INFORMATION

20. Name:
JANET S HARDWICK

21. Telephone #:
317-233-4755

22. E-mail address:
JHARDWICK@DOC.IN.GOV

VENDOR INFORMATION

23. Vendor ID # 0000054452

24. Name:
REPUBLIC SERVICES OF IND INC

25. Telephone #:
317-716-0671

26. Address:
REPUBLIC WASTE SERVICES
PO BOX 9001824
LOUISVILLE, KY 40290-1824

27. E-mail address: BROHMANN@REPSRV.COM

28. Is the vendor registered with the Secretary of State? (Out of State Corporations, must be registered) ☒ Yes ☐ No

29. Primary Vendor: M/WBE
Minority: ☐ Yes ☒ No
Women: ☐ Yes ☒ No

30. If yes, list the %:
Minority: _____ %
Women: _____ %

31. Sub Vendor: M/WBE
Minority: ☐ Yes ☒ No
Women: ☐ Yes ☒ No

32. If yes, list the %:
Minority: _____ %
Women: _____ %

33. Is there Renewal Language in the document?
☒ Yes ☐ No

34. Is there a "Termination for Convenience" clause in the document?
☒ Yes ☐ No

RECEIVED

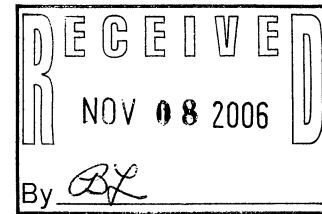
DEC 11 2006

OAG CONTRACTS

DEC 08 2006

JD OA PB

IDOA Procurement Division
402 W. Washington Street Room W468
Indianapolis, IN 46204
Phone: 317- 232-3468
Fax: (317) 232-7312



AGENCY: DOC

ATTN: Janet Hardwick

DATE: October 24, 2006

FROM: David Gudal

REQ. #: 635-7-2706

The requisition processing lead-time is being suspended until the deficiencies identified are corrected and an acceptable document is returned to IDOA Procurement Division. The file should be returned to IDOA Procurement Division within fifteen (15) calendar days of the notification date listed above. Please note that any document that fails to be corrected and returned by the appropriate date may be canceled and would require re-submittal by the agency under a different requisition number. The document should be returned to IDOA Procurement no later than 11/8/2006. Your attached document is being returned for the following reasons:

- | | |
|---|--|
| ☐ Requisition Document and/or Account Number Needed | ☐ Justification Needed |
| ☐ Original Signature Required | ☐ Missing UNSPSC Codes |
| ☐ Must Have Additional Quotes | ☐ Item (s) Available on QPA |
| ☐ Must Have Bid/Quote Recommendation | ☐ Required Documents Missing |
| ☐ Quantity Requested Needs Clarification | ☒ Other |
| ☐ Deficient or Restrictive Specifications | |

Contract dates are not accurate

REQUISITION

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Ship To: Department of Correction
Correctional Industrial Complex
5124 REFORMATORY RD
PO BOX 600
PENDLETON IN 46064

Sudal

Requisition No.	Date	Required Date	Page
0000002706	08/03/2006	08/03/2006	1 of 1
Fund/Object/Center: 1000 / 534800 / 106350			
Dept Number: 171901			
Project Number:			
Requisition Number: 0000002706			
Requestor: J035738 Turner, Jennifer-635			
Agency Number: 00635 Corr Industrial Facility			
Facility:			

Bill to: Department of Correction
Correctional Industrial Complex
5124 REFORMATORY RD
PO BOX 600
PENDLETON IN 46064

MUST COMPLETE FOR ICPR

☐ Print REQ
☐ Streamline Eligible

Proc Srv Con

Line	Item	Description	Quantity	UOM	Unit Price	Ext Amt
1-1		One (10) Yd Dumpster Rental	12.0000	MON	63.0000	756.00
2-1		One (30) Yd Self Contained Compactor, Rental	12.0000	MON	190.0000	2,280.00
4-1		Hauling Fee, (10) Yd Dumpster	52.0000	WEE	0.0000	0.00
5-1		Hauling Fee, (30) Yd Self Contained Compactor	52.0000	WEE	366.0000	19,032.00

The following UN/CEFACT Unit of Measure
Common Codes are used in this document:
MON Month
WEE Weekly

Requisition Total \$ 22,068.00

98.0210016-01W-4001

Requestor Signature <i>Jennifer Turner</i>	I certify that the item[s] requested is [are] necessary for the operation of this State Agency.	
	Printed Name of Agency Head or Authorized Employee <i>Andrea R Funk</i>	Authorized Signature <i>Andrea R Funk</i>

REQUISITION

Ship To: Department of Correction
Pendleton Correctional Facility
4490 W REFORMATORY RD
PO BOX 28
PENDLETON IN 46064

Bill to: Department of Correction
Pendleton Correctional Facility
4490 W REFORMATORY RD
PO BOX 28
PENDLETON IN 46064

Requisition No. 0000003531	Date 07/31/2006	Required Date 05/31/2007	Page 1 of 2
Fund/Object/Center: 1000 / 534800 / 106300			
Dept Number: 169901			
Project Number:			
Requisition Number: 0000003531			
Requestor: S034180 Riddle, Sharon-630			
Agency Number: 00630 Pendleton Corr Facility			
Facility:			

MUST COMPLETE FOR ICPR

☐ Print REQ
☐ Streamline Eligible

Line	Item	Description	Quantity	UOM	Unit Price	Ext Amt
1-1		RENTAL AND HAUL FOR THE MONTH OF JULY 2006	1.0000	EA	8,401.5000	8,401.50
	Vendor:	0000054452 REPUBLIC SERVICES OF IND INC				
2-1		RENTAL AND HAUL FOR THE MONTH OF AUGUST 2006	1.0000	EA	8,401.5000	8,401.50
	Vendor:	0000054452 REPUBLIC SERVICES OF IND INC				
3-1		RENTAL AND HAUL FOR THE MONTH OF SEPTEMBER 2006	1.0000	EA	8,401.5000	8,401.50
	Vendor:	0000054452 REPUBLIC SERVICES OF IND INC				
4-1		RENTAL AND HAUL FOR THE MONTH OF OCTOBER 2006	1.0000	EA	8,401.5000	8,401.50
	Vendor:	0000054452 REPUBLIC SERVICES OF IND INC				
5-1		RENTAL AND HAUL FOR THE MONTH OF NOVEMBER 2006	1.0000	EA	8,401.5000	8,401.50
	Vendor:	0000054452 REPUBLIC SERVICES OF IND INC				
6-1		RENTAL AND HAUL FOR THE MONTH OF DECEMBER 2006	1.0000	EA	8,401.5000	8,401.50
	Vendor:	0000054452 REPUBLIC SERVICES OF IND INC				
7-1		RENTAL AND HAUL FOR THE MONTH OF JANUARY 2007	1.0000	EA	8,401.5000	8,401.50
	Vendor:	0000054452 REPUBLIC SERVICES OF IND INC				
8-1		RENTAL AND HAUL FOR THE MONTH OF FEBRUARY 2007	1.0000	EA	8,401.5000	8,401.50
	Vendor:	0000054452 REPUBLIC SERVICES OF IND INC				
9-1		RENTAL AND HAUL FOR THE MONTH OF MARCH 2007	1.0000	EA	8,401.5000	8,401.50
	Vendor:	0000054452 REPUBLIC SERVICES OF IND INC				
10-1		RENTAL AND HAUL FOR THE MONTH OF APRIL 2007	1.0000	EA	8,401.5000	8,401.50
	Vendor:	0000054452 REPUBLIC SERVICES OF IND INC				

REQUISITION

Ship To: Department of Correction
Pendleton Juvenile Facility
9310 S STATE ROAD 67
PO BOX 900
PENDLETON IN 46064-0600

Bill to: Department of Correction
Pendleton Juvenile Facility
9310 S STATE ROAD 67
PO BOX 900
PENDLETON IN 46064-0600

Requisition No.	Date	Required Date	Page
0000002438	08/22/2006	08/22/2006	1 of 1
Fund/Object/Center: 1000 / 538400 / 106550			
Dept Number: 433901			
Project Number:			
Requisition Number: 0000002438			
Requestor: D037174 Stockton, Donna-655			
Agency Number: 00655 Pendleton Juvenile Corr F			
Facility:			

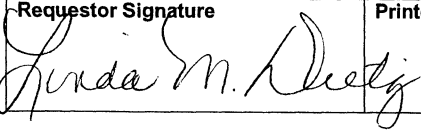
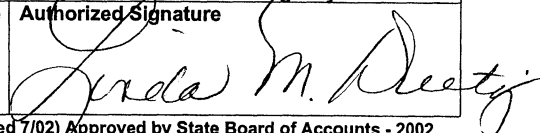
MUST COMPLETE FOR ICPR

☐ Print REQ
☐ Streamline Eligible

Line	Item	Description	Quantity	UOM	Unit Price	Ext Amt
1- 1		29 YD SELF CONTAINED COMPACTOR	12.0000	EA	150.0000	1,800.00
2- 1		10 YD DUMPSTER	24.0000	EA	126.0000	3,024.00
3- 1		29 YD SC COMPACTOR HAULS	106.0000	EA	366.0000	38,796.00
4- 1		10 YD DUMPSTER HAULS	106.0000	EA	0.0000	0.00

The following UN/CEFACT Unit of Measure
Common Codes are used in this document:
EA Each

Requisition Total \$ 43,620.00

I certify that the item[s] requested is [are] necessary for the operation of this State Agency.		
Requestor Signature	Printed Name of Agency Head or Authorized Employee	Authorized Signature
	LINDA M DIETZ	

REQUISITION

Ship To: Department of Correction
Pendleton Correctional Facility
4490 W REFORMATORY RD
PO BOX 28
PENDLETON IN 46064

Bill to: Department of Correction
Pendleton Correctional Facility
4490 W REFORMATORY RD
PO BOX 28
PENDLETON IN 46064

Requisition No.	Date	Required Date	Page
0000003531	07/31/2006	06/30/2007	2 of 2
Fund/Object/Center: 1000 / 534800 / 106300			
Dept Number: 169901			
Project Number:			
Requisition Number: 0000003531			
Requestor: S034180 Riddle, Sharon-630			
Agency Number: 00630 Pendleton Corr Facility			
Facility:			

MUST COMPLETE FOR ICPR

☐ Print REQ
☐ Streamline Eligible

Line	Item	Description	Quantity	UOM	Unit Price	Ext Amt
11-1		RENTAL AND HAUL FOR THE MONTH OF MAY 2007	1.0000	EA	8,401.5000	8,401.50
	Vendor:	0000054452 REPUBLIC SERVICES OF IND INC				
12-1		RENTAL AND HAUL FOR THE MONTH OF JUNE 2007	1.0000	EA	8,401.5000	8,401.50
	Vendor:	0000054452 REPUBLIC SERVICES OF IND INC				
		The following UN/CEFACT Unit of Measure Common Codes are used in this document:				
		EA Each				

Requisition Total \$ 100,818.00

I certify that the item[s] requested is [are] necessary for the operation of this State Agency.		
Requestor Signature	Printed Name of Agency Head or Authorized Employee	Authorized Signature
	Susan K Van Hay	

PROFESSIONAL/PERSONAL SERVICES CONTRACT

EDS# B2-7-0010

This Contract ("this Contract"), entered into by and between PENDLETON CORRECTIONAL FACILITY (the "State") and REPUBLIC SERVICES OF INDIANA (the "Contractor"), is executed pursuant to the terms and conditions set forth herein. In consideration of those mutual undertakings and covenants, the parties agree as follows:

1. Duties of Contractor. The Contractor shall provide the following services relative to this Contract: **To provide rental dumpsters and trash removal for Pendleton Correctional Facility, Correctional Industrial Facility and Pendleton Juvenile Correctional Facility.**

2. Consideration. The Contractor will be paid at the rate of **\$180,546.00** for performing the duties set forth above. Total remuneration under this Contract shall not exceed **\$180,546.00**.

3. Term. This Contract shall be effective for a period of **1 year**. It shall commence on **July 1, 2006** and shall remain in effect through **June 30, 2007**.

4. Access to Records. The Contractor and its subcontractors, if any, shall maintain all books, documents, papers, accounting records, and other evidence pertaining to all costs incurred under this Contract. They shall make such materials available at their respective offices at all reasonable times during this Contract, and for three (3) years from the date of final payment under this Contract, for inspection by the State or its authorized designees. Copies shall be furnished at no cost to the State if requested.

5. Assignment; Successors. The Contractor binds its successors and assignees to all the terms and conditions of this Contract. The Contractor shall not assign or subcontract the whole or any part of this Contract without the State's prior written consent. The Contractor may assign its right to receive payments to such third parties as the Contractor may desire without the prior written consent of the State, provided that the Contractor gives written notice (including evidence of such assignment) to the State thirty (30) days in advance of any payment so assigned. The assignment shall cover all unpaid amounts under this Contract and shall not be made to more than one party.

6. Audits. The Contractor acknowledges that it may be required to submit to an audit of funds paid through this Contract. Any such audit shall be conducted in accordance with IC 5-11-1, et. seq. and audit guidelines specified by the State.

7. Authority to Bind Contractor. The signatory for the Contractor represents that he/she has been duly authorized to execute this Contract on behalf of the Contractor and has obtained all necessary or applicable approvals to make this Contract fully binding upon the Contractor when his/her signature is affixed, and certifies that this Contract is not subject to further acceptance by the Contractor when accepted by the State.

8. Changes in Work. The Contractor shall not commence any additional work or change the scope of the work until authorized in writing by the State. No claim for additional compensation shall be made in the absence of a prior written approval executed by all signatories hereto.

9. Compliance with Laws.

A. The Contractor shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment of any state or federal statute or the promulgation of rules or regulations thereunder after execution of this Contract shall be reviewed by the State and the Contractor to determine whether the provisions of this Contract require formal modification.

B. The Contractor and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State as set forth in IC § 4-2-6 *et seq.*, IC § 4-2-7, *et. seq.*, the regulations promulgated thereunder, and Executive Order 04-08, dated April 27, 2004. If the Contractor is not familiar with these ethical requirements, the Contractor should refer any questions to the Indiana State Ethics Commission, or visit the Indiana State Ethics Commission website at <http://www.in.gov/ethics/>. If the Contractor or its agents violate any applicable ethical standards, the State may, in its sole discretion, terminate this Contract immediately upon notice to the Contractor. In addition, the Contractor may be subject to penalties under IC §§ 4-2-6 and 4-2-7.

C. The Contractor certifies by entering into this Contract that neither it nor its principal(s) is presently in arrears in payment of taxes, permit fees or other statutory, regulatory or judicially required payments to the State. The Contractor agrees that any payments currently due to the State may be withheld from payments due to the Contractor. Additionally, further work or payments may be withheld, delayed, or denied and/or this Contract suspended until the Contractor is current in its payments and has submitted proof of such payment to the State.

D. The Contractor warrants that it has no current, pending or outstanding criminal, civil, or enforcement actions initiated by the State, and agrees that it will immediately notify the State of any such actions. During the term of such actions, the Contractor agrees that the State may delay, withhold, or deny work under any supplement, amendment, change order or other contractual device issued pursuant to this Contract.

E. If a valid dispute exists as to the Contractor's liability or guilt in any action initiated by the State or its agencies, and the State decides to delay, withhold, or deny work to the Contractor, the Contractor may request that it be allowed to continue, or receive work, without delay. The Contractor must submit, in writing, a request for review to the Indiana Department of Administration (IDOA) following the procedures for disputes outlined herein. A determination by IDOA shall be binding on the parties.

F. Any payments that the State may delay, withhold, deny, or apply under this section shall not be subject to penalty or interest under IC § 5-17-5.

G. The Contractor warrants that the Contractor and its subcontractors, if any, shall obtain and maintain all required permits, licenses, registrations, and approvals, as well as comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the State. Failure to do so may be deemed a material breach of this Contract and grounds for immediate termination and denial of further work with the State.

H. The Contractor affirms that, if it is an entity described in IC Title 23, it is properly registered and owes no outstanding reports to the Indiana Secretary of State.

I. As required by IC 5-22-3-7:

(1) the Contractor and any principals of the Contractor certify that (A) the Contractor, except for de minimis and nonsystematic violations, has not violated the terms of (i) IC 24-4.7

[Telephone Solicitation Of Consumers], (ii) IC 24-5-12 [Telephone Solicitations] , or (iii) IC 24-5-14 [Regulation of Automatic Dialing Machines] in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and (B) the Contractor will not violate the terms of IC 24-4.7 for the duration of the Contract, even if IC 24-4.7 is preempted by federal law.

(2) The Contractor and any principals of the Contractor certify that an affiliate or principal of the Contractor and any agent acting on behalf of the Contractor or on behalf of an affiliate or principal of the Contractor (A) except for de minimis and nonsystematic violations, has not violated the terms of IC 24-4.7 in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and (B) will not violate the terms of IC 24-4.7 for the duration of the Contract, even if IC 24-4.7 is preempted by federal law.

10. Condition of Payment. All services provided by the Contractor under this Contract must be performed to the State's reasonable satisfaction, as determined at the discretion of the undersigned State representative and in accordance with all applicable federal, state, local laws, ordinances, rules and regulations. The State shall not be required to pay for work found to be unsatisfactory, inconsistent with this Contract or performed in violation of and federal, state or local statute, ordinance, rule or regulation.

11. Confidentiality of State Information. The Contractor understands and agrees that data, materials, and information disclosed to the Contractor may contain confidential and protected information. The Contractor covenants that data, material and information gathered, based upon or disclosed to the Contractor for the purpose of this Contract, will not be disclosed to or discussed with third parties without the prior written consent of the State.

12. Conflict of Interest.

A. As used in this section:

"Immediate family" means the spouse and the unemancipated children of an individual.

"Interested party," means:

1. The individual executing this Contract;
2. An individual who has an interest of three percent (3%) or more of the Contractor, if the Contractor is not an individual; or
3. Any member of the immediate family of an individual specified under subdivision 1 or 2.

"Department" means the Indiana Department of Administration.

"Commission" means the State Ethics Commission.

B. The Department may cancel this Contract without recourse by the Contractor if any interested party is an employee of the State.

C. The Department will not exercise its right of cancellation under section B, above, if the Contractor gives the Department an opinion by the Commission indicating that the existence of this Contract and the employment by the State of the interested party does not violate any statute or rule relating to ethical conduct of State employees. The Department may take action, including cancellation of this Contract, consistent with an opinion of the Commission obtained under this section.

D. The Contractor has an affirmative obligation under this Contract to disclose to the Department when an interested party is or becomes an employee of the State. The obligation under this section extends only to those facts that the Contractor knows or reasonably could know.

13. Continuity of Services.

A. The Contractor recognizes that the service(s) to be performed under this Contract are vital to the State and must be continued without interruption and that, upon Contract expiration, a successor, either the State or another contractor, may continue them. The Contractor agrees to:

1. Furnish phase-in training, and
2. Exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor.

B. The Contractor shall, upon the State's written notice:

1. Furnish phase-in, phase-out services for up to sixty (60) days after this Contract expires, and
2. Negotiate in good faith a plan with a successor to determine the nature and extent of phase-in, phase-out services required.

The plan shall specify a training program and a date for transferring responsibilities for each division of work described in the plan, and shall be subject to the State's approval. The Contractor shall provide sufficient experienced personnel during the phase-in, phase-out period to ensure that the services called for by this Contract are maintained at the required level of proficiency.

C. The Contractor shall allow as many personnel as practicable to remain on the job to help the successor maintain the continuity and consistency of the services required by this Contract. The Contractor also shall disclose necessary personnel records and allow the successor to conduct on-site interviews with these employees. If selected employees are agreeable to the change, the Contractor shall release them at a mutually agreeable date and negotiate transfer of their earned fringe benefits to the successor.

D. The Contractor shall be reimbursed for all reasonable phase-in, phase-out costs (i.e., costs incurred within the agreed period after contract expiration that result from phase-in, phase-out operations).

14. Debarment and Suspension.

A. The Contractor certifies by entering into this Contract that neither it nor its principals nor any of its subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency or political subdivision of the State. The term "principal" for purposes of this Contract means an officer, director, owner, partner, key employee or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Contractor.

B. The Contractor certifies that it has verified the state and federal suspension and debarment status for all subcontractors receiving funds under this Contract and shall be solely responsible for any recoupment, penalties or costs that might arise from use of a suspended or debarred subcontractor. The Contractor shall immediately notify the State if any subcontractor becomes debarred or suspended, and shall, at the State's request, take all steps required by the State to terminate its contractual relationship with the subcontractor for work to be performed under this Contract.

15. Default by State. If the State, sixty (60) days after receipt of written notice, fails to correct or cure any material breach of this Contract, the Contractor may cancel and terminate this Contract and institute the appropriate measures to collect monies due up to and including the date of termination.

16. Disputes.

A. Should any disputes arise with respect to this Contract, the Contractor and the State agree to act immediately to resolve such disputes. Time is of the essence in the resolution of disputes.

B. The Contractor agrees that, the existence of a dispute notwithstanding, it will continue without delay to carry out all its responsibilities under this Contract that are not affected by the dispute. Should the Contractor fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs incurred by the State or the Contractor as a result of such failure to proceed shall be borne by the Contractor, and the Contractor shall make no claim within ten (10) working days following notification in writing by either party of the existence of a dispute, then the following procedure shall apply:

1. The parties agree to resolve such matters through submission of their dispute to the Commissioner of the Indiana Department of Administration. The Commissioner shall reduce a decision to writing and mail or otherwise furnish a copy thereof to the Contractor and the State within ten (10) working days after presentation of such dispute for action. The Commissioner's decision shall be final and conclusive unless either party mails or otherwise furnishes to the Commissioner, within ten (10) working days after receipt of the Commissioner's decision, a written appeal. Within ten (10) working days of receipt by the Commissioner of a written request for appeal, the decision may be reconsidered. If no reconsideration is provided within ten (10) working days, the parties may mutually agree to submit the dispute to arbitration or mediation for a determination, or otherwise the dispute may be submitted to an Indiana court of competent jurisdiction.

2. The State may withhold payments on disputed items pending resolution of the dispute. The unintentional nonpayment by the State to the Contractor of one or more invoices not in dispute in accordance with the terms of this Contract will not be cause for Contractor to terminate this Contract, and the Contractor may bring suit to collect these amounts without following the disputes procedure contained herein.

17. Drug-Free Workplace Certification. The Contractor hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. The Contractor will give written notice to the State within ten (10) days after receiving actual notice that the Contractor or an employee of the Contractor in the State of Indiana has been convicted of a criminal drug violation occurring in the workplace. False certification or violation of this certification may result in sanctions including, but not limited to, suspension of contract payments, termination of this Contract and/or debarment of contracting opportunities with the State for up to three (3) years.

In addition to the provisions of the above paragraphs, if the total contract amount set forth in this Contract is in excess of \$25,000.00, the Contractor hereby further agrees that this Contract is expressly subject to the terms, conditions, and representations of the following certification:

This certification is required by Executive Order No. 90-5, April 12, 1990, issued by the Governor of Indiana. No award of a contract shall be made, and no contract, purchase order or agreement, the total amount of which exceeds \$25,000.00, shall be valid, unless and until this

certification has been fully executed by the Contractor and made a part of the contract or agreement as part of the contract documents.

The Contractor certifies and agrees that it will provide a drug-free workplace by:

- A. Publishing and providing to all of its employees a statement notifying them that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Contractor's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;
- B. Establishing a drug-free awareness program to inform its employees of (1) the dangers of drug abuse in the workplace; (2) the Contractor's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;
- C. Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment, the employee will (1) abide by the terms of the statement; and (2) notify the Contractor of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- D. Notifying the State in writing within ten (10) days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction;
- E. Within thirty (30) days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate personnel action against the employee, up to and including termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and
- F. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

18. Employment Option. If the State determines that it would be in the State's best interest to hire an employee of the Contractor, the Contractor will release the selected employee from any non-compete agreements that may be in effect. This release will be at no cost to the State or the employee.

19. Force Majeure. In the event that either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected party (hereinafter referred to as a "Force Majeure Event"), the party who has been so affected shall immediately give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Contract shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract.

20. Funding Cancellation. When the Director of the Office of Management and Budget makes a written determination that funds are not appropriated or otherwise available to support

continuation of performance of this Contract, this Contract shall be canceled. A determination by the Budget Director that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

21. Governing Laws. This Contract shall be construed in accordance with and governed by the laws of the State of Indiana and suit, if any, must be brought in the State of Indiana.

22. Indemnification. The Contractor agrees to indemnify, defend, and hold harmless the State, its agents, officers, and employees from all claims and suits including court costs, attorney's fees, and other expenses caused by any act or omission of the Contractor and/or its subcontractors, if any, in the performance of this Contract. The State shall **not** provide such indemnification to the Contractor.

23. Independent Contractor. Both parties hereto, in the performance of this Contract, shall act in an individual capacity and not as agents, employees, partners, joint venturers or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever. Neither party will assume liability for any injury (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents, employees or subcontractors of the other party.

The Contractor shall be responsible for providing all necessary unemployment and workers' compensation insurance for the Contractor's employees.

24. Information Technology Enterprise Architecture Requirements. If the Contractor provides any information technology related products or services to the State, the Contractor shall comply with all IOT standards, policies and guidelines, which are online at <http://iot.in.gov/architecture/>. The Contractor specifically agrees that all hardware, software and services provided to or purchased by the State shall be compatible with the principles and goals contained in the electronic and information technology accessibility standards adopted under Section 508 of the Federal Rehabilitation Act of 1973 (29 U.S.C. 794d) and IC 4-13.1-3. Any deviation from these architecture requirements must be approved in writing by IOT in advance. The State may terminate this Contract for default if the Contractor fails to cure a breach of this provision within a reasonable time.

25. Insurance.

A. The Contractor shall secure and keep in force during the term of this Contract, the following insurance coverages, covering the Contractor for any and all claims of any nature which may in any manner arise out of or result from this Contract:

1. Commercial general liability, including contractual coverage, and products or completed operations coverage (if applicable), with minimum liability limits of \$700,000 per person and \$5,000,000 per occurrence unless additional coverage is required by the State.
2. Automobile liability with minimum liability limits of \$700,000 per person and \$5,000,000 per occurrence.
3. The Contractor shall provide proof of such insurance coverage by tendering to the undersigned State representative a certificate of insurance prior to the commencement of this Contract and proof of Workers compensation coverage meeting all statutory requirements of IC 22-3-2. In addition, proof of an "all states endorsement" covering claims occurring

outside the State is required if any of the services provided under this Contract involve work outside of Indiana.

B. The Contractor's insurance coverage must meet the following additional requirements:

1. The insurer must have a certificate of authority issued by the Indiana Department of Insurance.
2. Any deductible or self-insured retention amount or other similar obligation under the insurance policies shall be the sole obligation of the Contractor.
3. The State will be defended, indemnified and held harmless to the full extent of any coverage actually secured by the Contractor in excess of the minimum requirements set forth above. The duty to indemnify the State under this Contract shall not be limited by the insurance required in this Contract.
4. The insurance required in this Contract, through a policy or endorsement(s), shall include a provision that the policy and endorsements may not be canceled or modified without thirty (30) days' prior written notice to the undersigned State agency.

Failure to provide insurance as required in this Contract may be deemed a material breach of contract entitling the State to immediately terminate this Contract. The Contractor shall furnish a certificate of insurance and all endorsements to the State before the commencement of this Contract.

26. Key Person(s).

- A. If both parties have designated that certain individual(s) are essential to the services offered, the parties agree that should such individual(s) leave their employment during the term of this Contract for whatever reason, the State shall have the right to terminate this Contract upon thirty (30) days prior written notice.
- B. In the event that the Contractor is an individual, that individual shall be considered a key person and, as such, essential to this Contract. Substitution of another for the Contractor shall not be permitted without express written consent of the State.
- C. Nothing in sections A and B, above shall be construed to prevent the Contractor from using the services of others to perform tasks ancillary to those tasks which directly require the expertise of the key person. Examples of such ancillary tasks include secretarial, clerical, and common labor duties. The Contractor shall, at all times, remain responsible for the performance of all necessary tasks, whether performed by a key person or others.

Key person(s) to this Contract is/are Matt Brohman.

27. Licensing Standards. The Contractor and its employees and subcontractors shall comply with all applicable licensing standards, certification standards, accrediting standards and any other laws, rules or regulations governing services to be provided by the Contractor pursuant to this Contract. The State shall not be required to pay the Contractor for any services performed when the Contractor, its employees or subcontractors are not in compliance with such applicable standards, laws, rules or regulations. If licensure, certification or accreditation expires or is revoked, or if disciplinary action is taken against the applicable licensure, certification or

accreditation, the Contractor shall notify the State immediately and the State, at its option, may immediately terminate this Contract.

28. Merger & Modification. This Contract constitutes the entire agreement between the parties. No understandings, agreements, or representations, oral or written, not specified within this Contract will be valid provisions of this Contract. This Contract may not be modified, supplemented or amended, in any manner, except by written agreement signed by all necessary parties.

29. Minority and Women's Business Enterprises Compliance. The Contractor agrees to comply fully with the provisions of 25 IAC 5 and any participation plan that may have been submitted to the State.

The following MBE's and WBE's listed on the Minority and Women's Business Enterprises Division directory of certified firms will be participating in this Contract.

<u>MBE/WBE AMOUNT</u>	<u>PHONE</u>	<u>COMPANY NAME</u>	<u>SCOPE OF PRODUCTS and/or SERVICES</u>	<u>UTILIZATION DATE</u>
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30. Nondiscrimination. Pursuant to IC 22-9-1-10 and the Civil Rights Act of 1964, the Contractor and its subcontractors shall not discriminate against any employee or applicant for employment in the performance of this Contract. The Contractor shall not discriminate with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of race, color, religion, sex, disability, national origin or ancestry. Breach of this covenant may be regarded as a material breach of this Contract. The Contractor's execution of this Contract also signifies compliance with applicable federal laws, regulations and executive orders prohibiting discrimination in the provision of services based on race, color, national origin, age, sex, disability or status as a veteran.

31. Notice to Parties. Whenever any notice, statement or other communication is required under this Contract, it shall be sent to the following addresses, unless otherwise specifically advised.

A. Notices to the State shall be sent to:

Susan Van Hoy, Pendleton Correctional Facility, 4490 W. Reformatory Rd., Pendleton, IN. 46064.

B. Notices to the Contractor shall be sent to:

Matt Brohman, Republic Services of Indiana, 6328 Columbus Ave., Anderson, IN. 46013.

- C. As required by IC 4-13-2-14.8, payments to the Contractor shall be made via electronic funds transfer in accordance with instructions filed by the Contractor with the Indiana Auditor of State.

32. Order of Precedence; Incorporation by Reference. Any inconsistency or ambiguity in this Contract shall be resolved by giving precedence in the following order: (1) This Contract, (2) attachments prepared by the State, (3) RFP# _____, (4) Contractor's response to RFP# _____, and (5) attachments prepared by the Contractor. All of the foregoing are incorporated fully by reference. All attachments, and all documents referred to in this paragraph are hereby incorporated fully by reference.

33. Ownership of Documents and Materials. All documents, records, programs, data, film, tape, articles, memoranda, and other materials not developed or licensed by the Contractor prior to execution of this Contract, but specifically developed under this Contract shall be considered "work for hire" and the Contractor transfers any ownership claim to the State and all such materials will be the property of the State. Use of these materials, other than related to contract performance by the Contractor, without the prior written consent of the State, is prohibited. During the performance of this Contract, the Contractor shall be responsible for any loss of or damage to these materials developed for or supplied by the State and used to develop or assist in the services provided while the materials are in the possession of the Contractor. Any loss or damage thereto shall be restored at the Contractor's expense. Full, immediate and unrestricted access to the work product of the Contractor during the term of this Contract shall be available to the State.

34. Payments. All payments shall be made in arrears in conformance with State fiscal policies and procedures and, as required by IC 4-13-2-14.8, by electronic funds transfer to the financial institution designated by the Contractor in writing unless a specific waiver has been obtained from the Indiana Auditor of State. No payments will be made in advance of receipt of the goods or services that are the subject of this Contract except as permitted by IC 4-13-2-20.

35. Penalties/Interest/Attorney's Fees. The State will in good faith perform its required obligations hereunder and does not agree to pay any penalties, liquidated damages, interest or attorney's fees, except as permitted by Indiana law, in part, IC 5-17-5, IC 34-54-8, and IC 34-13-1.

Notwithstanding the provisions contained in IC 5-17-5, any liability resulting from the State's failure to make prompt payment shall be based solely on the amount of funding originating from the State and shall not be based on funding from federal or other sources.

36. Progress Reports. The Contractor shall submit progress reports to the State upon request. The report shall be oral, unless the State, upon receipt of the oral report, should deem it necessary to have it in written form. The progress reports shall serve the purpose of assuring the State that work is progressing in line with the schedule, and that completion can be reasonably assured on the scheduled date.

37. Renewal Option. This Contract may be renewed under the same terms and conditions, subject to the approval of the Commissioner of the Department of Administration and the State Budget Director in compliance with IC 5-22-17-4. The term of the renewed contract may not be longer than the term of the original contract.

38. Security and Privacy of Health Information. The Contractor agrees to comply with all requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) in all activities related to this Contract, to maintain compliance throughout the life of this Contract, to operate any systems used to fulfill the requirements of this Contract in full compliance with HIPAA and to take no action which adversely affects the State's HIPAA compliance.

The parties acknowledge that the Department of Health and Human Services has issued the Final Rule, as amended from time to time, on the Standards for Privacy of Individually Identifiable Health Information, as required by HIPAA. To the extent required by the provisions of HIPAA and regulations promulgated thereunder, the Contractor covenants that it will appropriately safeguard Protected Health Information (PHI), as defined by the regulations, which is made available to or obtained by the Contractor in the course of its work under this Contract. The Contractor agrees to comply with applicable requirements of law relating to PHI with respect to any task or other activity it performs for the State as required by the final regulations.

39. Severability. The invalidity of any section, subsection, clause or provision of this Contract shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Contract.

40. Substantial Performance. This Contract shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any written amendments or supplements.

41. Taxes. The State is exempt from most state and local taxes and many federal taxes. The State will not be responsible for any taxes levied on the Contractor as a result of this Contract.

42. Termination for Convenience. This Contract may be terminated, in whole or in part, by the State whenever, for any reason, the State determines that such termination is in its best interest. Termination of services shall be effected by delivery to the Contractor of a Termination Notice at least thirty (30) days prior to the termination effective date, specifying the extent to which performance of services under such termination becomes effective. The Contractor shall be compensated for services properly rendered prior to the effective date of termination. The State will not be liable for services performed after the effective date of termination. The Contractor shall be compensated for services herein provided but in no case shall total payment made to the Contractor exceed the original contract price or shall any price increase be allowed on individual line items if canceled only in part prior to the original termination date.

43. Termination for Default.

A. With the provision of thirty (30) days notice to the Contractor, the State may terminate this Contract in whole or in part if the Contractor fails to:

1. Correct or cure any breach of this Contract;
2. Deliver the supplies or perform the services within the time specified in this Contract or any extension;
3. Make progress so as to endanger performance of this Contract; or

4. Perform any of the other provisions of this Contract.

B. If the State terminates this Contract in whole or in part, it may acquire, under the terms and in the manner the State considers appropriate, supplies or services similar to those terminated, and the Contractor will be liable to the State for any excess costs for those supplies or services. However, the Contractor shall continue the work not terminated.

C. The State shall pay the contract price for completed supplies delivered and services accepted. The Contractor and the State shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause. The State may withhold from these amounts any sum the State determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders.

D. The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or equity or under this Contract.

44. Travel. No expenses for travel will be reimbursed unless specifically permitted under the scope of services or consideration provisions. Expenditures made by the Contractor for travel will be reimbursed at the current rate paid by the State and in accordance with the State Travel Policies and Procedures as specified in the current Financial Management Circular. Out-of-state travel requests must be reviewed by the State for availability of funds and for appropriateness per Circular guidelines.

45. Waiver of Rights. No right conferred on either party under this Contract shall be deemed waived, and no breach of this Contract excused, unless such waiver is in writing and signed by the party claimed to have waived such right.

46. Work Standards. The Contractor shall execute its responsibilities by following and applying at all times the highest professional and technical guidelines and standards. If the State becomes dissatisfied with the work product of or the working relationship with those individuals assigned to work on this Contract, the State may request in writing the replacement of any or all such individuals, and the Contractor shall grant such request

47. State Boilerplate Affirmation Clause. I swear or affirm under the penalties of perjury that I have not altered, modified or changed the State's Boilerplate contract clauses (as defined in the February, 2006 IDOA *Professional Services Contract Manual*) in any way except for the following clauses:

THE REMAINDER OF THIS PAGE HAS BEEN LEFT BLANK INTENTIONALLY.

Non-Collusion and Acceptance

The undersigned attests, subject to the penalties for perjury, that he/she is the Contractor, or that he/she is the properly authorized representative, agent, member or officer of the Contractor, that he/she has not, nor has any other member, employee, representative, agent or officer of the Contractor, directly or indirectly, to the best of the undersigned's knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid any sum of money or other consideration for the execution of this Contract other than that which appears upon the face of this Contract.

In Witness Whereof, Contractor and the State have, through their duly authorized representatives, entered into this Contract. The parties, having read and understood the foregoing terms of this Contract, do by their respective signatures dated below hereby agree to the terms thereof.

(Contractor:)

By: Matthew Brohman
Printed Name: Matthew Brohman
Title: Territory Manager
Date: 6/29/06

(Where Applicable)

Attested By: _____

Pendleton Correctional Facility

By: Stanley Knight
Printed Name: Stanley Knight
Title: Superintendent
Date: 9-18-06

Department of Corrections

By: David Donohue
Printed Name: DAVID DONOHUE
Title: Commissioner
Date: 10-18-06

Department of Administration

Carrie Henderson (for)
Carrie Henderson, Commissioner
Date: 12/8/06

Office of Management and Budget

Delegated per FMC 98-2 (for)
Charles E. Schalliol, Director
Date: 10/26/06

APPROVED as to Form and Legality:
Office of the Attorney General

Stephen Carter (for)
Stephen Carter, Attorney General
Date: 12/20/06