



TEXAS  
**JUVENILE JUSTICE**  
DEPARTMENT

**REQUEST FOR OFFER**  
**JUVENILE ASSESSMENT SYSTEM**

**RFO# 644-3-0001**

**NIGP Class/Item 920-03**

**Proposal Due Date: August 6, 2013**  
**Proposal Due Time: 1:00 pm (Central Time in Austin, Texas)**

**Posting Date: July 29, 2013**

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**SECTION I  
STATEMENT OF WORK**

**A. SCOPE:**

Texas Juvenile Justice Department (TJJD) is soliciting an Offer to provide TJJD with juvenile assessment system for use in pre-adjudication, residential and state-operated facilities, Halfway house, Parole Offices and Privately Contracted Facilities.

**B. PERIOD OF PERFORMANCE:**

The term of the contract shall be from date of award through November 1, 2014. The Contract may be extended at the end of each contract or option period on a yearly basis at TJJD's option. The terms, conditions and rates for all extensions shall remain as stated in the Contract.

**C. SYSTEM REQUIREMENTS:**

The Juvenile Assessment System must be fully automated, either installed or web based. The automated system will perform the following minimum requirements:

1. Provide comprehensive software to include intake screens for risk to reoffend, a criminogenic risk and needs assessment instrument, case management tools, and useful management reports;
2. Provide an assessment tool which is **validated** for use in identifying the risk and protective factors to be targeted in programming, treatment and rehabilitation of juvenile delinquents;
3. Provide setup and customization of software (excluding contents of the assessment instrument);
4. Provide customized case plans based upon the results of the assessment tool;
5. After initial setup, ensure that the system will allow TJJD to administer and customize case management and management reports for its specific needs.
6. Provide training specific to the product and aligned with agency needs to include secure facilities, halfway houses, contract services and parole;
  - Provide Training of Trainers for TJJD supervisory and oversight staff which includes a model to provide coaching and monitoring of TJJD trainers during training roll out;
  - Provide a customized training curriculum and adjust training curriculum to meet agency needs during the roll out;
  - Provide a fidelity and inter-rater reliability tool;
  - Provide training to technical staff on the data code; and

- Provide timeline for training and rollout per facility.
7. For the first 6 months provide, without cost, Technical Support to be available during the hours of 8 a.m. - 7 p.m. CST/CDT, Monday – Friday.
  8. Provide interface to accept data from other TJJD systems;
  9. Maintain at least a ninety-nine percent (99%) system up-time.
  10. Provide any upgrades to the intake screens for risk to reoffend, a criminogenic risk and needs assessment instrument, case management tools, and useful management reports at no cost to the agency;

#### **D. OWNERSHIP:**

1. **Protection of Network Operations in Transition:** Upon termination or expiration of the Contract, the System must remain operational during any transition period. Offer must describe the process used to facilitate a smooth transition.
2. **Intellectual Property Rights Alternatives:** The Respondent shall include in their Offer a proposal which ensures TJJD remains operational, without interruption to Agency business, in the event the Vendor company (a) files for bankruptcy, (b) becomes or is declared insolvent, or is the subject of any bona fide proceedings related to its liquidation, administration, provisional liquidation, insolvency or the appointment of a receiver or similar officer for it, (c) passes a resolution for its voluntary liquidation, (d) has a receiver or manager appointed over all or substantially all of its assets, (e) makes an assignment for the benefit of all or substantially all of its creditors, or (f) enters into an agreement or arrangement for the composition, extension, or readjustment of substantially all of its obligations or any class of such obligations. TJJD will retain ownership of all functional requirements associated with custom specifications of TJJD.

#### **E. TRAINING:**

Vendor will provide all necessary training and work with TJJD administrative personnel to monitor the progress of the training as employees respond to it. The vendor shall participate with TJJD to prepare for rollout, both for employees and administrative personnel. The vendor will send out preliminary notices prior to the start of sampling to announce the new automated system. The vendor will provide a training for facility liaison to promote the agency's self-sufficiency in continued implementation and monitoring of the system.

#### **F. PERFORMANCE STANDARDS:**

The Vendor recognizes that TJJD is paying Vendor to deliver the services specified herein. Vendor is required to meet a minimum **Acceptable Quality Level (AQL)** to include at least a ninety-nine percent (99%) system uptime. The AQL is defined as the level of service at which the system will operate properly as agreed upon in the contract and below which the contract payment may be withheld until corrective actions are taken. In addition, if service remains below the AQL without required correctives being taken, damages may be assessed.

In the event TJJD is unable to access the system and such event was caused by Vendor's failure to provide system Services for reasons within Vendor's reasonable control and not as a result of any

action or inaction of TJJD or any third party (including TJJD equipment and/or third party equipment), Vendor will, upon TJJD's request, credit TJJD's account as described below:

**Inability to Access the System:** If TJJD is unable to access the system for more than four (4) consecutive hours; Vendor will deduct 1/30th of its monthly charge. Vendor's scheduled maintenance shall not be deemed to be a failure of Vendor to provide access.

#### **G. COMPANY QUALIFICATIONS:**

The Company shall have the experience and qualifications required to provide the products and services requested in the RFO including, but not limited to, the following:

1. Be, in TJJD's sole judgment, an established company that is financially stable with the ability to meet the financial responsibilities of this project; and
2. Company and/or Key Personnel must have a minimum of five (5) years experience in operating, administering and maintaining an installed or web based Juvenile Assessment System.

#### **H. PERSONNEL QUALIFICATIONS:**

1. Key technical staff must be available twenty-four (24) hours per day, seven (7) days per week to provide Technical Support.
2. TJJD and the Respondent shall agree to designate specific members of the Vendor's project team as "Key Personnel." "Key Personnel" will be those individuals essential to the project and services being provided. Specific conditions and requirements of Key personnel will be defined after contract award.
3. TJJD prefers the vendor personnel to have extensive experience and high skill levels in areas related to the services requested in this RFO. These skills include:
  - a. Excellent written and oral communication skills with the ability to communicate with people of varying technical skills;
  - b. Understanding the flow of data within these systems;
  - c. Developing and presenting training materials for end users and technical staff;
  - d. Developing documentation of the type specified in this RFO; and
  - e. Providing project management services.

#### **I. SUBCONTRACTORS:**

Subcontractors providing services under the contract shall meet the same requirements and level of experience as required of the Respondent. No subcontract under the contract shall relieve the primary Respondent of the responsibility for the service. If the Respondent uses a subcontractor for any or all of the work required, the following conditions shall apply under the listed circumstances:

1. If the Respondent is planning to subcontract any portion of the work, identify the proposed subcontractors;
2. Subcontracting shall be at the Respondent's expense;

3. TJJD retains the right to check subcontractor's background and make approval determination as to the use of the proposed subcontractor(s); and
4. The Respondent shall be the only contact for TJJD and subcontractors. Respondent shall designate a point-of-contact for all TJJD and subcontractor inquiries.

## SECTION II OFFER INFORMATION

### A. OFFER REQUIREMENTS:

1. **Submission:** Offer shall be received at TJJD prior to **August 6, 2013 @ 1:00pm CST/CDT**. Additional time if needed may be requested in writing from the Offeror.

Offer should be placed in a sealed envelope/package and correctly identified with RFO number, submittal deadline/opening date and time. It is the Respondent's responsibility to appropriately mark and deliver the Offer to TJJD by the specified date and time.

Receipt of any addenda to this RFO should be acknowledged by returning a signed copy of each addendum to the response.

Respondent to this RFO is responsible for all costs of Offer preparation.

**Offer shall be submitted to: TJJD Central Office located at 11209 Metric Boulevard H, Austin, TX Attn: Erica Tristan**

2. **Content:** Below is a summary of requested information. Offer submitted without this information will be evaluated accordingly. TJJD reserves the right, in its sole judgment and discretion, to waive minor technicalities and errors in the best interest of the state. The following documents must be submitted with the response. Failure to do so may result in disqualification.

#### a. Technical Submission:

- Transmittal Letter, limited to two (2) pages, which shall include a brief statement of the Respondent's understanding of the work to be performed and summary of proposed features.
- Company Information (see below)
- Execution of Offer (Exhibit A)
- HUB Subcontracting Plan (Exhibit C)
- Proposed Products/Services
- Samples of Standard Reports
- Company Experience and Qualifications (see below)
- Company References (see below)

**b. Company Information:** Including, but not limited to the following:

- Company description
- Ownership
- Physical and mailing address, if different
- Other company locations
- Telephone and facsimile number
- E-mail address of company's primary contact
- Describe any litigation your key personnel and company has been involved in over the past five (5) years

**c. Proposed Products/Services:** Respondent shall provide:

- Description of how you intend to meet the goals as stated in Section I. Provide a detailed description of the proposed juvenile assessment system;
- Explain how the project will be administered;
- Include the proposed staffing structure through project completion; and
- Please provide an implementation plan that starts from the date of the signing of the contract and includes data migration, training of TJJD personnel, user testing, rollout and initial implementation. Provide timeline for training and rollout per facility. Please limit responses to facts, solutions to problems and plans of proposed action.

**d. Experience and Qualifications:** Describe services your organization and/or key personnel have provided in the past **five (5)** years that demonstrates your organization's capability to carry out the proposed services. Include the nature of the services provided, scope of activities, and the organization for which the service was provided. Also, provide any experience in providing similar services to public entities.

**e. References:** Provide a minimum of three (3) references from clients for whom similar services were performed or products were provided. References should be companies/organizations whose requirements were of like magnitude and scope as outlined in the RFO. Include project description, contact names, position, and company name and telephone number for each reference listed.

**f. Historically Underutilized Business**

TJJD's promotes and encourages contracting and sub-contracting opportunities for State of Texas Historically Underutilized Businesses (HUBs). Successful Respondents are strongly encouraged to sub-contract with HUBs and may obtain assistance from TJJD to identify available HUBs, prior to, and after the award of any contracts from TJJD RFP. TJJD and its contractors shall make a good faith effort to meet or exceed the statewide HUB participation goals set by the Texas Comptroller of Public Accounts for the following categories: Heavy construction other than building contracts (11.2%), Building construction contracts (21.1%), Special trade construction contracts (32.7%), Professional service contracts (23.6%), Other service contracts (24.6%), and Commodity contracts (21.0%). TJJD uses TPASS policies regarding HUBs.

1. Respondent must state whether it is a Texas Certified Historically Underutilized Business (HUB). If yes, submit a copy of registration.
2. Respondent must submit a HUB Subcontracting Plan (HSP). The forms for completing the HSP are attached as Exhibit D. A proposal submitted in response to this RFP that does not contain a HUB Subcontracting Plan, or if the plan submitted is determined not to be in good faith, will be considered non-responsive and be disqualified. The link to the TPASS internet site for information regarding the HSP is:

<http://www.window.state.tx.us/procurement/prog/hub/hub-subcontracting-plan/>

3. Respondent must state its willingness to submit monthly compliance reports regarding its HSP.

Please describe all procurement preferences to which you are entitled under the Texas Government Code, such as Disabled Service Veteran or Services from Economically Depressed or Blighted Areas.

**3. Inquiries:**

- a. All inquiries should be submitted in writing to Erica Tristan by email to [erica.tristan@tjtd.texas.gov](mailto:erica.tristan@tjtd.texas.gov).
- b. Upon issuance of this RFO, beside written inquiries as described above, other employees and representatives of TJJD will not answer questions or otherwise discuss the contents of the RFO with any potential Vendor or their representatives. Failure to observe this restriction may result in disqualification of any subsequent response. This restriction does not preclude discussions between affected parties for the purpose of conducting business unrelated to this Offer.

**B. POINT OF CONTACT:**

The Respondent shall provide the name, address and phone number of a point-of-contact for questions concerning the submitted proposal.

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

Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

Email: \_\_\_\_\_

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

**C. OFFER EVALUATION AND AWARD:**

1. The intent of TJJD is to award a contract. However, TJJD reserves the right to not make any contract award. Any contract resulting from this Request for Offer is contingent upon the availability of appropriations.
2. Offer will be evaluated on the basis of the ability to meet the Technical Criteria within the requisite time frame.
3. In compliance with the provisions of Texas Government Code, Title 10, Subtitle D, Section 2155.074, Section 2155.075, Section 2156.007, Section 2157.003 and Section 2157.125, and Texas Administrative Code, Title 1, Chapter 113.6, information obtained from the Comptroller of Public Accounts division of Texas Procurement and Support Services (TPASS) Vendor Performance Tracking System (<http://www.cpa.state.tx.us/stpurch/venvpts.html>) may be used in evaluating responses to solicitations for goods and services to determine the best value for the state.

**SECTION III  
GENERAL TERMS AND CONDITIONS**

**A. SPECIFICATIONS:**

The services performed shall be in accordance with the specifications herein. Substitutions are not permitted without the written approval of TJJD. TJJD will decide the answers to all questions that may arise as to the interpretation of the specifications and the quality, or acceptability of work performed. TJJD will decide the rate of progress of the work and the acceptable fulfillment of the service on the part of the Provider.

The Provider recognizes that TJJD is paying Provider to deliver the services specified herein. Provider is required to meet a minimum **Acceptable Quality Level (AQL)**. The AQL is defined as the level of service which is stated in this RFO and subsequent contract, below which payment may be withheld until corrective actions are taken. In addition, if service remains below the AQL without required corrective actions being taken, damages may be assessed.

**B. AWARD OF A CONTRACT:**

A response to a solicitation is an Offer to contract with TJJD based on the terms, conditions and specifications contained in the solicitation. Response does not become a contract or purchase order unless and until it is accepted through an authorized TJJD designee by issuance of a Contract document or purchase order.

This procurement will be conducted in accordance with the State Purchasing Act, Title 10, Subtitle D, Chapters 2151 through 2177, of the Texas Government Code and TPASS rules. Any contract or purchase order resulting from this procurement shall consist of one (1) document. This document will contain all of the rights and duties of the parties extracted from the relevant terms and conditions of:

the RFO (including its attachments, exhibits, supplements, and addenda); the Provider's Proposal; negotiated changes; and the Provider's Best and Final Offer (if required).

**Order of Precedence**

In the event of conflicts or inconsistencies between this contract and its exhibits or attachments, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority:

The Contract, including all attachments;

1. Service Provider's Best and Final Offer (if required);
2. Negotiated written changes and written clarifications;
3. Service Provider's proposal dated \_\_\_\_\_; and
4. Request for Proposal, including all exhibits.

**C. VENUE:**

The contract for this procurement shall be governed, construed and interpreted under the laws of the State of Texas. The venue of any suit arising under this contract is fixed in any court of competent jurisdiction of Travis County, Texas.

**D. ASSIGNMENT:**

Without the prior written consent of TJJJ, the Service Provider shall not assign this Contract, in whole or in part, and may not assign any right or duty required under it. The contract is void if sold or assigned to another company without written approval of TJJJ. Written notification of changes to company name, address, telephone number, etc. shall be provided to TJJJ as soon as possible, but not later than thirty (30) days from the date of change.

**E. PUBLIC DISCLOSURE:**

Information, documentation, and other material in connection with this solicitation or any resulting contract may be subject to public disclosure pursuant to Chapter 552 of the Texas Government Code (the "Public Information Act"). See Section III, paragraph C.1 above.

Please include the following wording within this section addressing public disclosure: Prior to tentative award of a Contract, a provider may not issue a press release or provide any information for public consumption regarding its participation in the procurement. After tentative award, the provider must receive prior written approval from TJJJ before issuing a press release or providing information for public consumption regarding its participation in the procurement. Requests should be directed to the Agency Point of Contact identified in the solicitation. The RFO does not preclude business communications necessary for a provider to develop a proposal, or required reporting to shareholders or governmental authorities.

**F. ADVERTISING OF AWARD:**

The Contractor agrees not to refer to awards in commercial advertising in such a manner as to state or imply that the product or service provided is endorsed or preferred by the Department or is considered by the Department to be superior to other products or services.

**G. PAYMENT:**

Payment will be made within thirty (30) days from receipt of a correct and itemized invoice or billing statement. Provider shall submit one (1) invoice showing the vendor name, contract number, payee I.D., itemization of the services provided, itemized amount of services provided, the name and division of TJJJ Contract Manager, vendor remit to address, and telephone number. No payment whatsoever shall be made under this contract without the prior submission of correct and itemized invoices. Payments under this contract are subject to the availability of appropriated funds. Contractor acknowledges and agrees that payments for services provided under this Contract are contingent upon TJJJ's receipt of funds appropriated by the Texas Legislature. Payment will be made in accordance with the Texas Prompt Payment Act, Texas Government Code, Subtitle F, Chapter 2251.

**H. AVAILABILITY OF FUNDS FOR NEXT FISCAL YEAR:**

The Department obligation for performance of this Contract is contingent upon legislative approval and the availability of appropriated funds from which payment for Contract purposes can be made. No legal liability on the part of the Department for any payment may arise for performance under this Contract beyond contract term end date, until funds are made available to the Department for performance and until the Contractor receives notice of availability, to be confirmed in writing by the Department.

**I. PATENTS OR COPYRIGHTS:**

The Provider agrees to protect TJJJ and the state from claims involving infringement of patent or copyrights.

**J. RIGHT TO DATA, DOCUMENTS AND COMPUTER SOFTWARE (STATE OWNERSHIP):**

Any software, research, reports studies, data, photographs, negatives or other documents, drawings or materials prepared by contractor in the performance of its obligations under this contract shall be the exclusive property of the State of Texas and all such materials shall be delivered to the State by the contractor upon completion, termination, or cancellation of this contract. Contractor may, at its own expense, keep copies of all its writings for its personal files. Contractor shall not use, willingly allow, or cause to have such materials used for any purpose other than the performance of contractor's obligations under this contract without the prior written consent of the State; provided, however, that contractor shall be allowed to use non-confidential materials for writing samples in pursuit of the work. The ownership rights described herein shall include, but not be limited to, the right to copy, publish, display, transfer, prepare derivative works, or otherwise use the works.

**K. ELECTRONIC AND INFORMATION RESOURCES ACCESSIBILITY STANDARDS:**

As Required by 1 TAC Chapter 213 (Applicable to State Agency and Institution of Higher Education Purchases Only) 1) Effective September 1, 2006 state agencies and institutions of higher education shall procure products which comply with the State of Texas Accessibility requirements for Electronic and Information Resources specified in 1 TAC Chapter 213 when such products are available in the commercial marketplace or when such products are developed in response to a procurement solicitation. 2) Vendor shall provide DIR with the URL to its Voluntary Product Accessibility Template (VPAT) for reviewing compliance with the State of Texas Accessibility requirements (based on the federal standards established under Section 508 of the Rehabilitation Act), or indicate that the product/service accessibility information is available from the General Services Administration "Buy Accessible Wizard" (<http://www.buyaccessible.gov>). Vendors not listed with the "Buy Accessible Wizard" or supplying a URL to their VPAT must provide DIR with a report that addresses the same accessibility criteria in substantively the same format.

Additional information regarding the "Buy Accessible Wizard" or obtaining a copy of the VPAT is located at <http://www.section508.gov/>.

**L. PROVIDER RESPONSIBILITIES:**

1. The Provider shall comply with all federal, state and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any court or administrative bodies or tribunals in any matter affecting the performance of the contract including, if applicable, workers' compensation laws, minimum and maximum salary and wage statutes and regulations, and licensing laws and regulations. When required, Provider shall furnish TJJJ with satisfactory proof of its compliance.
2. The Provider must comply with all TJJJ policies and procedures related to safety and security of youth. Service Provider must report all criminal charges or traffic violations. Service Provider must complete TJJJ HR-038 form and submit to the TJJJ Director of Contracts. The Director of Contracts may require additional information.
3. Provider must adhere to the individual licensee's code of conduct and code of ethics.
4. The Provider shall correct all service defects within a time period reasonable to the severity of the defect as per agreed upon service levels.

**M. INDEPENDENT CONTRACTOR:**

Both parties hereto, in the performance of this contract, shall act in an individual capacity and not as agents, employees, partners, joint ventures 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. The Provider shall be responsible for providing all necessary unemployment and workers' compensation insurance for the Provider's employees.

**N. FORCE MAJEURE:**

TJJJ may grant relief from performance of the contract if the Provider is prevented from performance by an act of war, order of legal authority, act of God, or other unavoidable cause not attributable to the fault or negligence of the Provider. The burden of proof for the need of such relief shall rest upon

the Provider. To obtain release based on force majeure, the Provider shall file a written request with TJJD.

**O. TERM AND TERMINATION:**

This contract shall terminate upon full performance of all requirements contained in this contract, unless otherwise extended or renewed as provided in accordance with the contract terms and conditions.

**Termination for Convenience.** TJJD and contractor reserve the right to terminate the contract at any time for convenience, in whole or in part, by providing thirty (30) calendar days advance written notice (delivered by certified mail, return receipt requested) of intent to terminate. In the event of such a termination, the contractor shall, unless otherwise mutually agreed upon in writing, cease all work immediately upon the effective date of termination. TJJD shall be liable for payments limited only to the portion of work authorized by TJJD in writing and completed prior to the effective date of cancellation, provided that TJJD shall not be liable for any work performed that is not acceptable to TJJD and/or does not meet contract requirements. All work products produced by the Contractor and paid for by TJJD shall become the property of TJJD and shall be tendered upon request.

**Termination for Default.** TJJD may, by written notice of default to the contractor, terminate this contract, in whole or in part, for cause if the contractor fails to perform in full compliance with the contract requirements, through no fault of TJJD. TJJD will provide a thirty (30) calendar day written notice of termination to the contractor (delivered by certified mail, return receipt requested) of intent to terminate, and TJJD will provide the contractor with an opportunity for consultation with TJJD prior to termination.

**Termination for Cause:** TJJD may terminate this contract immediately in the event that TJJD has cause to believe that Service Provider has violated federal or state law, fails to report being charged with a violation of federal or state law, or fails to report any complaint filed against the licensee to their licensing board. TJJD may terminate this contract immediately in the event that TJJD has cause to believe that Service Provider has violated TJJD policies or procedures related to safety and security of youth, as determined by the Executive Director or his or her designee.”

Upon receipt of written notice to terminate, the contractor shall promptly discontinue all services affected (unless the notice directs otherwise) and shall deliver or otherwise make available to TJJD all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by the contractor in performing this contract, whether completed or in process.

**P. NO WAIVER:**

Nothing in this contract will be construed as a waiver of the State's sovereign immunity. This contract shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to the State of Texas. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to the State of Texas under this contract or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or considered as a basis for estoppel. TJJD does not waive any privileges,

rights, defenses, remedies, or immunities available to TJJD by entering into this contract or by its conduct prior to or subsequent to entering into this contract.

**Q. LIMITATION ON AUTHORITY; NO OTHER OBLIGATIONS:**

Provider shall have no authority to act for or on behalf of TJJD or the State of Texas except as expressly provided for in this contract; no other authority, power or use is granted or implied. The Provider may not incur any debts, obligations, expenses or liabilities of any kind on behalf of the State of Texas or TJJD.

**R. DECEPTIVE TRADE PRACTICES; UNFAIR BUSINESS PRACTICES:**

Contractor represents and warrants that it is not the subject of allegations of Deceptive Trade Practices violations under Texas Business & Commerce Code, Chapter 17, or allegations of any unfair business practice in any administrative hearing or court suit and that the Contractor has not been found liable for such practices in such proceedings. Contractor certifies that it has no officers who have served as officers of other entities who have been the subject of allegations of Deceptive Trade Practices violations or allegations of unfair business practices in an administrative hearing or court suit and that such officers have not been found to be liable for such practices in such proceedings.

**S. TAXES:**

Purchases made for state uses are exempt from Texas State Sales Tax and Federal Excise Tax. An Excise Tax Exemption Certificate will be furnished upon written request to TJJD.

**T. INDEMNIFICATION OF THE DEPARTMENT:**

The Contractor shall indemnify and save the Texas Juvenile Justice Department, the State of Texas and its officers, agents and employees (hereinafter the State) harmless from and against:

1. Any and all claims arising from the conduct, management or performance of the Contract by Contractor, its agents, subcontractors or employees, including, without limitation, any and all claims or arising from:
  - a. Any breach or default on the part of the Contractor in the performance of any covenant or agreement on its part to be performed, pursuant to the terms of this Contract;
  - b. Any act or negligence of the Contractor or any of its agents, subcontractors, servants, employees or licensees;
  - c. Any accident, injury or damage whatsoever caused to any person, firm or corporation.
2. All costs, reasonable attorney's fees, expenses and liabilities incurred in or about any such claim, action or proceeding brought thereon.

Nothing herein is intended to deprive the State or Contractor of the benefits of any law limiting exposure to liability and/or setting a ceiling on damages, or any laws establishing defenses for them. By entering into this Contract, the State does not waive its right of sovereign immunity, nor does the Contractor waive any immunity that may extend to it by operation of law. The aforementioned

indemnification shall not be affected by a claim that negligence of the State or its respective agents, contractors, employees or licensees contributed in part to the loss or damage indemnified against.

**U. BUY TEXAS:**

Contractor represents and warrants that it will buy Texas products and materials for use in providing the services authorized herein when such products and materials are available at a comparable price and in a comparable period of time when compared to non-Texas products and materials.

**V. RECORDS RETENTION:**

In order to protect the interest of the state, Provider shall implement a records retention policy that is in accordance with the TJJJ's General Administrative Policies. Contractor is aware of and in compliance with records retention requirements and a plan has been developed for contract file maintenance.

**W. NO LIABILITY UPON TERMINATION:**

If this Contract is terminated for any reason, TJJJ and the State of Texas shall not be liable to Contractor for any damages, claims, losses, or any other amounts arising from or related to any such termination. However, Contractor may be entitled to the remedies provided in Government Code, Chapter 2260.

**X. SEVERABILITY CLAUSE:**

In the event that any provision of this Contract is later determined to be invalid, void, or unenforceable, then the remaining terms, provisions, covenants, and conditions of this Contract shall remain in full force and effect, and shall in no way be affected, impaired, or invalidated.

**Y. PROHIBITED USE OF APPROPRIATED OR OTHER FUNDS UNDER CONTROL OF STATE AGENCY; LOBBYING:**

The Contractor represents and warrants that ordering entities' payments to the Contractor and Contractor's receipt of appropriated or other funds under any of this or any resulting agreement are not prohibited by Government Code §556.005 or §556.008.

**Z. FRAUD, WASTE OR ABUSE:**

In accordance with Texas Government Code, Chapter 321, the State Auditor's Office (SAO) is authorized to investigate specific acts or allegations of impropriety, malfeasance, or nonfeasance in the obligation, expenditure, receipt or use of state funds. If there is a reasonable cause to believe that fraud, waste or abuse has occurred at this agency, it can be reported to the SAO by calling 1-800-892-8348 or at the SAO's website at [www.sao.state.tx.us](http://www.sao.state.tx.us) It can also be reported to the TJJJ Office of the Inspector General at 1-866-477-8354, 11209 Metric Boulevard, Building H, Austin, TX 78758

**AA. IMMIGRATION:**

Contractor agrees to comply with the Immigration Reform and Control Act of 1986, Immigration Act of 1990, and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), enacted on September 30, 1996 regarding employment verification and retention of verification forms of any individuals who will perform any labor or services under this contract.

**AB. NO COLLUSION:**

Offeror represents and certifies its employees, agents and representatives have not and shall not discuss or disclose the terms of their proposal and its submission or response thereto with any third party other than persons or entities which Offeror engaged to assist it with respect to such response or submission.

Neither the Offeror nor the firm, corporation, partnership, or institution represented by the Offeror, or anyone acting for such a firm, corporation or institution has violated the antitrust laws of this state, federal antitrust laws, nor communicated directly or indirectly the bid made to any competitor or any other person engaged in such line of business.

**AC. ETHICS:**

1. Conflict of Interest - Any individual who interacts with public purchasers in any capacity is required to adhere to the guidelines under Texas Government Code 2155.003. The code outlines the ethical standards required of public purchasers, employees, and vendors who interact with public purchasers in the conduct of state business.

Specifically, a TJJD employee may not have an interest in, or in any manner be connected with a contract or bid for a purchase of goods or services by an agency of the state; or in any manner, including by rebate or gift, accept or receive from a person to whom a contract may be awarded, directly or indirectly, anything of value or a promise, obligation, or contract for future reward or compensation. Entities who are interested in seeking business opportunities with the state must be mindful of these restrictions when interacting with public purchasers of TJJD or purchasers of other state agencies.

2. No Gratuities - The Offeror represents that it has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted proposal.

**AD. NO COMPENSATION:**

Pursuant to Section 2155.004 Government Code, the Offeror has not received compensation for participation in the preparation of the specifications for this solicitation. Under Section 2155.004, Government Code, the Offeror certifies that the individual or business entity named in this proposal or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.

**AE. HISTORICALLY UNDERUTILIZED BUSINESS (HUB) REPRESENTATION:**

**Definition:** "Historically Underutilized Business" means an entity with its principal place of business in this State that is:

1. A corporation formed for the purpose of making a profit in which 51 percent or more of all classes of the shares of stock or other equitable securities are owned by one or more economically disadvantaged persons who have a proportionate interest and actively participate in the corporation's control, operation and management;
2. A sole proprietorship created for the purpose of making a profit that is completely owned, operated and controlled by an economically disadvantaged person;
3. A partnership formed for the purpose of making a profit in which 51 percent or more of the assets and interest in the partnership are owned by one or more economically disadvantaged persons who have a proportionate interest and actively participate in the partnership's control, operation and management;
4. A joint venture in which each entity in the venture is a historically underutilized business, as determined under another paragraph of this subdivision; or
5. A supplier contract between a historically underutilized business as determined under another paragraph of this subdivision and a prime Offeror under which the historically underutilized business is directly involved in the manufacture or distribution of the goods or otherwise warehouses and ships the goods.

"Economically disadvantaged person" means a person who is economically disadvantaged because of the person's identification as a member of a certain group including Black Americans, Hispanic Americans, women, Asian Pacific Americans and Native Americans and who has suffered the effects of discriminatory practices or other similar insidious circumstances over which the person has no control.

**HUB Representation:**

The Offeror represents as part of its offer that it [ ] is, or [ ] is not a HUB certified by the Texas Procurement and Support Services (TPASS).

**AF. COMPLIANCE WITH OTHER LAWS**

In the execution of this Contract, Service Provider shall comply with all applicable federal, state, and local laws, including laws governing labor, equal employment opportunity, safety and environmental protection. Service Provider shall make itself familiar with and at all times observe and comply with all federal, state and local laws, ordinances and regulations which in any manner affect the performance under this Contract.

**EXHIBIT A  
EXECUTION OF OFFER**

***NOTE: PROVIDER SHALL COMPLETE AND RETURN THIS EXHIBIT WITH PROPOSAL. FAILURE TO DO SO WILL RESULT IN DISQUALIFICATION OF THE PROPOSAL.***

**By signature hereon, the Provider certifies that:**

All statements and information prepared and submitted in the response to this RFO are current, complete and accurate.

He/she has not given, Offered to give, nor intends to give at anytime hereafter, any economic opportunity, future employment, gift, loan gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted response. Failure to sign the Execution of Offer or signing it with a false statement shall void the submitted Offer or any resulting contracts.

Neither the Provider or the firm, corporation, partnership, or institution represented by the Provider or anyone acting for such firm, corporation, or institution has violated the antitrust laws of this State, codified in Section 15.01, et seq., Texas Business and Commerce Code, or the Federal antitrust laws, nor communicated directly or indirectly the Offer made to any competitor or any other person engaged in such line of business. By signing this Offer, Provider certifies that if a Texas address is shown as the address of the Provider, Provider qualifies as a Texas Resident Bidder as defined in Texas Administration Code, Title 34, Sec. 20.32(68).

Under Section 21255.006 (b) of the Texas Government Code (TGC), a state agency may not accept a bid or award a contract including a contract for which purchasing authority is delegated to a state agency, that includes proposed financial participation by a person who, during the five-year period preceding the date of the bid or award, has been: (1) convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other natural disaster occurring after September 24, 2005; or (2) assessed a penalty in a federal civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other natural disaster occurring after September 24, 2005. Under Section 2155.006 of the Texas Government Code, the bidder certifies that the individual or business entity named in this bid is not ineligible to receive the specified contract and acknowledges that any contract resulting from this RFO may be terminated and payment withheld if this certification is inaccurate.

Under Government Code § 2155.004, no person who prepared the specifications or this RFO has any financial interest in Provider's Proposal. If Provider is not eligible, then any contract resulting from this RFO shall be immediately terminated. Furthermore, "under Section 2155.004, Government Code, the Contractor [Provider] certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate."

Under Family Code § 231.006, relating to child support obligations, Provider and any other individual or business entity named in this solicitation are eligible to receive the specified payment and acknowledge that this contract may be terminated and payment withheld if this certification is inaccurate.

The response includes the names and Social Security Numbers of each person with a minimum of twenty-five percent (25%) Ownership of the business entity submitting the response.

Name: \_\_\_\_\_ Social Security Number: \_\_\_\_\_

Name: \_\_\_\_\_ Social Security Number: \_\_\_\_\_

Name: \_\_\_\_\_ Social Security Number: \_\_\_\_\_

Under Government Code §669.003, relating to contracting with an executive of a state agency, Provider represents that no person who, in the past four years, served as an executive of the Texas Comptroller of Public Accounts, TJJJ or any other state agency, was involved with or has any interest in this Proposal or any contract resulting from this RFO. If Provider employs or has used the services of a former executive head of TJJJ or other state agency, then Provider shall provide the following information: Name of former executive, name of state agency, date of separation from state agency, position with Provider, and date of employment with Provider.

TJJJ is federally mandated to adhere to the directions provided in the President's Executive Order (EO) 13224, Executive Order on Terrorist Financing – Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism, effective 9/24/2001 and any subsequent changes made to it via cross-referencing providers/vendors with the Federal General Services Administration's Excluded Parties List System (EPLS, <http://www.epls.gov>), which is inclusive of the United States Treasury's Office of Foreign Assets Control (OFAC) Specially Designated National (SDN) list. Contents of EO 13224 may be viewed by accessing the following website: <http://www.whitehouse.gov/news/orders/>.

Provider certifies that the responding entity and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity and that Provider is in compliance with the State of Texas statutes and rules relating to procurement and that Provider is not listed on the federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <http://www.epls.gov>.

Provider is in compliance with TGC, Title 6, Subtitle A, Section 618.001, relating to contracting with an executive of a state agency. If Section 618.001 applies, Provider shall provide the following information as an attachment to this response. Name of former executive, name of state agency, date of separation from state agency, position with Provider, and date of employment with Provider.

Provider agrees that any payments due under this contract will be applied towards any debt, including but not limited to delinquent taxes and child support that is owed to the State of Texas.

Provider represents and warrants that the individual signing this Execution of Offer is authorized to sign this document on behalf of the Provider and to bind the Provider under any contract resulting from this Offer.

Provider certifies that the responding entity and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity and that Provider is in compliance with the State of Texas statutes and rules relating to procurement and that Provider is not listed on the federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <http://www.epls.gov>.

Pursuant to Section 2262.003 of the Texas Government Code, the State Auditor may conduct an audit or investigation of the Contractor or any other entity or person receiving funds from the state directly under this contract or indirectly through a subcontract under this contract. The acceptance of funds by the Provider or any other entity or person directly under this contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the State Auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, the Provider or other entity that is the subject of an audit or investigation by the State Auditor must provide the State Auditor with access to any information the State Auditor considers relevant to the investigation or audit. Provider will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through the Contractor and the requirement to cooperate is included in any subcontract it awards. Provider certifies that it has not been an employee of TJJD within the last twelve (12) months.

**PROVIDER (COMPANY):** \_\_\_\_\_

**SIGNATURE (INK):** \_\_\_\_\_

**NAME (TYPED/PRINTED)** \_\_\_\_\_

**TITLE:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**STREET:** \_\_\_\_\_

**CITY/STATE/ZIP:** \_\_\_\_\_

**EMAIL:** \_\_\_\_\_

**TELEPHONE AND FACSMILE NO.:** \_\_\_\_\_

**PAYEE IDENTIFICATION NUMBER:** \_\_\_\_\_ **or**

**FEDERAL TAXPAYER IDENTIFICATION NUMBER:** \_\_\_\_\_

**EXHIBIT B - CERTIFICATIONS****Article 1: Equal Opportunity**

Service Provider certifies compliance with all terms, provisions, and requirements of Titles VI and VII, Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, and any other Federal, state, local or other anti-discriminatory act, law, statute or regulation, along with all amendments and revisions of the acts, laws, statutes or regulations, in the performance of this contract, and will not discriminate against any child or youth, client, employee, or applicant for employment because of race, creed or religion, age, sex, color, national or ethnic origin, handicap, or any other illegal discriminatory basis or criteria.

**Article 2: Unfair Business Practices**

Service Provider certifies that it or its officers have not been found guilty in a judicial or state administrative agency proceeding of unfair business practices as set out in the Texas Business and Commerce Code and that no officer of Service Provider has served as an officer of another company which has been found guilty in a judicial or state administrative agency proceeding of unfair business practices. If the above certifications are false, this contract is void.

**Article 3: Franchise Taxes**

**Section 1:** Service Provider certifies that should Service Provider be subject to payment of Texas franchise taxes, all franchise taxes are current. If such certification is false this contract may be terminated at the option of TJJD or other administrative error sanctions may be taken.

**Section 2:** If Service Provider is exempt from payment of Texas franchise taxes, Service Provider shall so indicate by attachment to this contract.

**Section 3:** If Service Provider's payment of Texas franchise taxes becomes delinquent during the term of this contract, Service Provider will notify TJJD within 24 hours. If such delinquency cannot be cured within 24 hours and a copy of the Certification of Account Status proving payment of delinquent taxes cannot be provided to TJJD, this contract may be terminated at the option of TJJD or other administrative error sanctions may be taken under the provisions of the contract.

**Article 4: Asbestos Regulation Compliance**

If applicable Service Provider certifies compliance with the Asbestos Hazard Emergency Response Act of 1986 (AHERA) by having on file with the Texas Department of State Health Services (DSHS) a copy of Service Provider's AHERA Management Plan for each facility the Service Provider owns, leases, or otherwise uses as a school or is part of a school, grades kindergarten through 12, inclusive where applicable. Prior to the initiation of services under this contract, Service Provider shall provide to TJJD a certification of an asbestos-free environment or a copy of the DSHS acceptance and approval for the Service Provider's AHERA Asbestos Management Plan(s). Service Provider shall comply with the approved Management Plan during the term of this contract and any renewals; failure to do so shall be grounds for termination of the contract. Should DSHS approve a revised or modified Management Plan, a copy of the DSHS acceptance and approval of the revised or modified Management Plan shall be furnished to TJJD.

**Article 5: Human Immunodeficiency Virus Services Act Compliance**

**Section 1:** Service Provider certifies compliance with the HIV Services Act, [Vernon's Texas Code Annotated (VTCA); Health and Safety Code, Section 85.001, et seq] requirements for maintenance of confidentiality regarding HIV and its related conditions, including Acquired Immunodeficiency Syndrome (AIDS).

**Section 2:** Service Provider further certifies that workplace guidelines are developed and implemented. Service Provider may elect to use workplace guidelines developed and implemented by TJJD.

Should Service Provider not elect to use workplace guidelines developed and implemented by TJJD, Service Provider agrees its workplace guidelines shall be similar to TJJD's as required by §85.113, Texas Health & Safety Code.

**Section 3:** In the absence of confidentiality guidelines, Service Provider is not eligible to receive state funds, and Service Provider agrees to refund to the state any state funds Service Provider receives while ineligible.

#### **Article 6: Communicable Disease Prevention & Control Act Compliance**

Service Provider certifies compliance with the applicable provisions of the Communicable Disease Prevention and Control Act, [Vernon's Texas Code Annotated (VTCA); Health & Safety Code, Section 81.001 et seq].

#### **Article 7: Federal Confidentiality Compliance**

Any program that specializes, in whole or in part, in providing treatment, counseling, and/or assessment and referral services for youth with alcohol or other drug problems must comply with the Federal confidentiality regulations. Said regulations apply only to programs that are federally assisted either directly or indirectly. Service Provider certifies compliance with these Federal requirements for confidentiality [42 USC Section 290 dd-2; 42 CFR Part 2] and agrees to comply with said requirements for so long as this contract is in force.

#### **Article 8: Restriction on Possession of Weapons**

Service Provider agrees that Service Provider or any associates providing services on behalf of Service Provider shall not carry or possess any type of firearm or other weapon as defined by Texas Penal Code Section 46.02 while rendering services to TJJD youth under this contract. This prohibition includes the carrying of a concealed handgun licensed under the authority of Chapter 411, Subchapter H, Texas Government Code. Service Provider shall be under an affirmative duty to keep weapons out of the possession of TJJD youth in Service Provider's care.

#### **Article 9: Required Disclosure of Lobbyist Activity**

Service Provider agrees that if any person who is an employee of, director of, subconsultant, or subcontractor for Service Provider is required to register as a lobbyist under Chapter 305, Texas Government Code at any time during the term of this contract. Service Provider shall notify TJJD Director of Contracts, Procurement and Support Services and provide timely copies of all reports filed with the Texas Ethics Commission as required by Chapter 305, Texas Government Code.

#### **Article 10: Notification to TJJD of Subconsultants & Subcontractors**

**Section 1:** TJJD shall be notified of the selection and/or use of all subcontractors, or subconsultants regularly used by the Service Provider in performing or assessing the performance of Service Provider's duties under this contract if paid or anticipated to be paid an amount exceeding \$5,000.00 during the term of this contract, and they are subject to the approval of TJJD; said approval will not be unreasonably withheld.

**Section 2:** No contractual relationship will exist between Service Provider's subconsultants or subcontractors and TJJD. TJJD shall have no responsibility whatsoever for the conduct, actions, or commissions (active or passive) of any subconsultants or subcontractors in the performance of their duties under this contract.

**Section 3:** Service Provider shall be solely responsible for the management of any subconsultants or subcontractors in the performance of their duties under this contract.

**Article 11: Compliance with Child Support, §231.006, Family Code**

“Under §231.006, Family Code, the vendor or applicant certifies that the individual or business entity named in this contract or bid is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if his certification is inaccurate.”

SERVICE PROVIDER MUST PROVIDE, IN THE SPACE BELOW, THE NAME AND SOCIAL SECURITY NUMBER OF AN INDIVIDUAL OWNER, A SOLE PROPRIETOR AND ALL PARTNERS, SHAREHOLDERS, OR OWNERS WITH AN OWNERSHIP INTEREST OF AT LEAST TWENTY-FIVE (25) PERCENT OF THE BUSINESS ENTITY ENTERING INTO THIS CONTRACT.

For nonprofit corporations with no identifiable owner of twenty-five percent (25%) or more of the corporation, indicate with “none” on the first line below.

Name, Social Security Number, Percent (%)

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**Article 12: Compliance with §572.054, Texas Government Code, Former Officer or Employee of TJJJ**

Service Provider certifies compliance with §572.054, Texas Government Code. Service Provider has not employed a former officer or employee of TJJJ to perform services on Service Provider’s behalf, to secure this contract or to represent Service Provider in any manner prohibited by the referenced statute. A false certification could result in termination of this contract.

**Article 13: Compliance with §2252.901, Texas Government Code, Former or Retired Employee of the Agency**

Service Provider certifies compliance with §2252.901, Texas Government Code, which provides “A state agency may not enter into an employment contract, a professional services contract under chapter 2254, or a consulting services contract under Chapter 2254 with a former or retired employee of the agency before the first anniversary of the last date on which the individual was employed by the agency, if appropriated money will be used to make payments under the contract. This section does not prohibit an agency from entering into a professional services contract with a corporation, firm, or other business entity that employs a former or retired employee of the agency within one year of the employee’s leaving the agency, provided the former or retired employee does not perform services on projects for the corporation, firm or other business entity that the employee worked on while employed by the agency.” Service provider certifies that he/she is not prohibited from entering into this contract because of any prior employment with TJJJ.

**Article 14: Specially Designated Nationals and Blocked Persons List**

Service Provider certifies that it is not on the list of Specially Designated Nationals and Blocked Persons maintained by the Office of Foreign Assets Control.

Texas Juvenile Justice Department is federally mandated to adhere to the directions provided in the President’s Executive Order (EO) 13224, Executive Order on Terrorist Financing – Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism, effective 9/24/2001 and any subsequent changes made to it via cross-referencing service providers/vendors with the Federal General Services Administration’s Excluded Parties List System (EPLS, <http://www.epls.gov>), which is inclusive of the United States Treasury’s Office of Foreign Assets Control (OFAC) Specially Designated National (SDN) list.

Service Provider certifies that the responding entity and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity and that Service Provider is in compliance with the State of Texas statutes and rules relating to procurement and that Service Provider is not listed on the federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <http://www.epls.gov>

### **Article 15 Terrorism**

The Texas Juvenile Justice Department is federally mandated to adhere to the directions provided in the President's Executive Order (EO) 13224, Executive Order on Terrorist Financing – Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism, effective 9/24/2001 and any subsequent changes made to it via cross-referencing service providers/vendors with the Federal General Services Administration's Excluded Parties List System (EPLS, <http://www.epls.gov>), which is inclusive of the United States Treasury's Office of Foreign Assets Control (OFAC) Specially Designated National (SDN) list.

### **Article 16: Fingerprint and Background Check:**

Service Provider will:

1. As directed, provide information regarding persons providing services under this Agreement and personnel access for a criminal background check including, but not limited to, fingerprinting check, criminal records check, sex offender registration records check, and drug test. Criminal background checks shall be conducted at TJJD's expense and through TJJD or TJJD's provider's for each of the provider's employees, agents, consultants, subcontractors, subcontractor's employees, and volunteer workers. Any Service Provider employee, agent, consultant, subcontractor, subcontractor's employee, or volunteer worker who is unwilling to provide or who does not provide required information will not be allowed to work under this agreement. Any Service Provider employee, agent, consultant, subcontractor, subcontractor's employee, or volunteer worker shall not work under this agreement until the criminal background check is completed and approval is obtained from TJJD's Director of Human Resources.
2. Notify TJJD's Director of Human Resources of any employee, agent, consultant, subcontractor, subcontractor's employee, or volunteer worker who works with TJJD youth and who is arrested, indicted, or charged with a criminal offense or who resigns while under investigation for inappropriate conduct or policy violations. Such employee, agent, consultant, subcontractor, subcontractor's employee, or volunteer worker shall be immediately suspended from working under this agreement unless authorized by TJJD's Director of Human Resources.

TJJD will approve any Service Provider employee, agent, consultant, subcontractor, subcontractor's employee, or volunteer worker in accordance with TJJD policies and procedures. TJJD's designated contact for criminal background checks is the Human Resource department, Manager of Criminal Background Checks, 512-490-7130.

### **Article 17: Convictions for Hurricane Katrina or Rita**

Under Section 2155.006, Government Code, the vendor certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.

Under Section 2155.006(b) of the Texas Government Code, a state agency may not accept a bid or award a contract, including a contract for which purchasing authority is delegated to a state agency, that includes proposed financial participation by a person who, during the five-year period preceding the date

of the bid or award, has been: (1) convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005; or (2) assessed a penalty in a federal civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005. Under Section 2155.006 of the Texas Government Code, the bidder certifies that the individual or business entity named in this bid is not ineligible to receive the specified contract and acknowledges that any contract resulting from this RFP may be terminated and payment withheld if this certification is inaccurate.

**Article 18: Antitrust**

Service Provider represents and warrants that neither Service Provider nor any firm, corporation, partnership, or institution represented by Service Provider, or anyone acting for such firm, corporation or institution has, (1) violated the antitrust laws of the State of Texas under Tex. Bus. & Com. Code, Chapter 15, or the federal antitrust laws; or (2) communicated directly or indirectly any contents of the submitted Proposal to any competitor or any other person engaged in such line of business during the procurement process for this Contract.

**Article 19: Intellectual Property Indemnification**

To the extent of the Texas Constitution the Service Provider will indemnify, defend and hold harmless the State of Texas and Texas Juvenile Justice Department against any action or claim brought against the State of Texas and/or Texas Juvenile Justice Department that is based on a claim that software infringes any patent rights, copyright rights or incorporated misappropriated trade secrets. Service Provider will pay any damages attributable to such claim that are awarded against the State of Texas and/or Texas Juvenile Justice Department in a judgment or settlement.

If Texas Juvenile Justice Department's use of the software becomes subject to a claim, or is likely to become subject to a claim, in the sole opinion of Texas Juvenile Justice Department Service Provider shall, at its sole expense (1) procure for Texas Juvenile Justice Department the right to continue using such software under the terms of this Contract; or (2) replace or modify the software so that it is non-infringing.

**Article 20: Contracting with Executive Head of State Agency**

Under Government Code §669.003, relating to contracting with an executive of a state agency, Service Provider represents that no person who, in the past four years, served as an executive of the Texas Comptroller of Public Accounts Texas Juvenile Justice Department or any other state agency, was involved with or has any interest in this contract. If Service Provider employs or has used the services of a former executive head of Texas Juvenile Justice Department or other state agency, then Service Provider shall provide the following information: Name of former executive, name of state agency, date of separation from state agency, position with Service Provider, and date of employment with Service Provider.

**Article 21: Abandonment or Default**

If the Service Provider defaults on the contract, Texas Juvenile Justice Department reserves the right to cancel the contract without notice and either re-solicit or re-award the contract to the next best responsive and responsible service provider. The defaulting Service Provider will not be considered in the re-solicitation and may not be considered in future solicitations for the same type of work, unless the specification or scope of work significantly changed. The period of suspension will be determined by the agency based on the seriousness of the default.

In accordance with §2261.101, Government Code Remedies and Sanctions – agencies shall incorporate language which shall hold Service Provider accountable for breach of contract or substandard performance without unfairly limiting competition.

**Article 22: Certain Bids and Contracts Prohibited**

Under Government Code § 2155.004, no person who prepared the specifications or this contract has any financial interest in Service Provider's Proposal. If Service Provider is not eligible, then the contract shall be immediately terminated. Furthermore, "under Section 2155.004, Government Code, the vendor [Service Provider] certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate."

**Article 23: Gifts and Gratuity**

By executing this agreement, the undersigned signatory certifies that he/she has not given, offered to give, nor intends to give at anytime hereafter, any economic opportunity, future employment, gift, loan gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted response. Failure to sign the agreement or signing it with a false statement shall void the agreement.

**Article 24: Debarment**

Service Provider certifies that the responding entity and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity and that Service Provider is in compliance with the State of Texas statutes and rules relating to procurement and that Service Provider is not listed on the federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <http://www.epls.gov>.

**Article 25: By signature hereon, the provider certifies that:**

All statements and information prepared and submitted in the response to this contract are current, complete and accurate.

When a Texas business address shown hereon that address is, in fact, the legal business address of Service Provider and Service Provider qualifies as a Texas Resident Bidder under Title 34, Sec. 20.32(68).

## EXHIBIT C - GENERAL PROVISIONS

### Article 1: Relationship of Parties

The Service Provider is acting as an independent contractor and is wholly responsible for the day-to-day operations of its programs and employees; no joint venture, partnership, or agency exists nor shall be implied by the terms of this contract. No employee of Service Provider shall become an employee of TJJD by virtue of this contract.

### Article 2: Indemnity

Service Provider agrees to be liable for, and hereby does indemnify and hold harmless TJJD and its officers, directors, agents, employees and representatives from and against any and all liability for any and all claims, suits, demands, causes of action, and/or damages, (including costs of court and reasonable attorneys' fees) arising from or based upon misconduct, intentional or negligent acts or omissions on the part of Service Provider, its officers, directors, agents, representatives, employees, or visitors which may arise out of or could result from this contract.

### Article 3: Liability Insurance

- Section 1:** Service Provider shall maintain liability insurance in the amount of \$300,000 for each occurrence of negligence. The insurance must cover injury to a youth that occurs when the youth is in Service Provider's care, custody or control.
- Section 2:** Service Provider shall provide proof of insurance documents to the TJJD Director of Contracts, Procurement and Support Services, upon request.
- Section 3:** The required insurance coverage must be maintained during the term of this contract and any subsequent extensions in the above stated amount. Failure to maintain the required insurance coverage may result in termination of this contract or any other administrative error sanctions.

### Article 4: Confidentiality and Security

- Section 1:** Service Provider agrees that all its employees will comply with state and federal law and with TJJD policies regarding the confidentiality of student records and identifying information.
- Section 2:** Service Provider agrees that all information regarding TJJD and/or its youth that is gathered, produced, or otherwise derived from this contract shall remain confidential subject to release only by permission of TJJD.
- Section 3:** Service Provider's employees who visit any TJJD facility will comply with that facility's security regulations.
- Section 4:** Identifying pictures, appearances, films, or reports of TJJD youth may not be disclosed by Service Provider without the written consent of the youth and, if under age 18, of his or her parents, guardian, or managing conservator.

### Article 5: Administrative Error Sanctions

- Section 1:** TJJD, based on information from monitoring or other verifiable sources, may terminate this contract for the reasons set forth in the article dealing with termination below, or take other actions including, but not limited to:
- Require the Service Provider to take specific corrective actions in order to remain in compliance with the terms of this contract; and/or
  - Recoup payment made to Service Provider; and/or
  - Impose recommendations from audit or investigative findings, and minor or major sanctions; and/or

- d. Assess liquidated damages for each instance of non-compliance.
- e. Suspend, place into abeyance, or remove any contractual rights including, but not limited to, withholding payment, moratorium on placements, population limitations and/or removal of all youth presently in the program.

**Section 2:** Service Provider shall cooperate fully with TJJD and its authorized representative in carrying out corrective action plans.

#### **Article 6: Termination**

**Section 1:** Service Provider may terminate, for convenience, its obligations under this contract by giving thirty (30) days notice.

**Section 2:** TJJD may terminate, for convenience, its obligations under this contract by giving thirty (30) days notice, or immediately in the event breach of contract by Service Provider.

**Section 3:** TJJD shall terminate this contract in the event that TJJD is not granted funding to pay for the herein described services or in the event that funding is lost due to either a reduction in the budget or a reallocation of budgeted funds.

**Section 4:** Cause/Default: If the Service Provider fails to provide the goods or services contracted for according to the provisions of the Contract, or fails to comply with any terms or conditions of the Contract. TJJD may, upon written notice of default to the Service Provider, immediately terminate all or any part of the Contract. Termination is not an exclusive remedy, but will be in addition to any other rights and remedies as provided in equity, by law or under the Contract. TJJD may exercise any other right, remedy, or privilege which may be available to it under applicable law of the state and any other applicable law or may proceed by appropriate court action to enforce the provisions of the Contract. The exercise of any of the foregoing remedies will not constitute a termination of the Contract unless TJJD notifies the Service Provider in writing prior to the exercise of such remedy. The Service Provider shall be liable for all costs and expenses, including court costs, incurred by TJJD with respect to the enforcement of any of the remedies listed herein.

#### **Article 7: Funding Out Clause**

This contract is contingent upon the continued availability of funding. If funds become unavailable through lack of appropriations, legislative budget cuts, amendment of the Appropriations Act, state agency consolidations, or any other disruption of current appropriations, provisions of this Termination Article shall apply. This contract is subject to cancellation, without penalty, either in whole or in part, if funds are not appropriated by the Texas Legislature.

#### **Article 8: Waiver**

No waiver by either party of any breach or default of the other under this contract shall operate as a waiver of any future or other breach or default, whether of a like or different character or nature.

#### **Article 9: Severability**

If any part of this contract is contrary to any federal, state, or local law, it is not applicable and such invalidity shall not affect the other provisions or applications of this agreement which can be given effect without the invalid provision or application and to that end the provisions of this contract are declared to be severable.

#### **Article 10: Contract Term**

The term of the contract shall be from date of award through November 1, 2014. The Contract may be extended at the end of each contract or option period on a yearly basis at TJJD's option. The terms, conditions and rates for all extensions shall remain as stated in the Contract.

## **Article 11: Contract Amendment**

No other agreements, oral or written, shall constitute a part of this contract unless such is made in writing, executed by the parties hereto or their successors, and expressly made a part thereof. TJJD reserves the right to make unilateral minor administrative changes to correct typographical errors or increase the "not to exceed" amount if necessary for continuation of services.

## **Article 12: Notice of Changes**

**Section 1:** Service Provider shall notify TJJD immediately in writing in advance of any significant change affecting the Service Provider, including but not limited to change of Service Provider's name or identity, location of services, ownership or control, operating entity, governing board membership, key personnel, payee identification number, and other significant changes that may affect the delivery of services under the terms of this contract.

**Section 2:** Service Provider shall refrain from transferring or assigning this contract or from entering into any subcontract for the services under this contract without prior written approval from TJJD.

**Section 3:** Service Provider shall not relocate the services provided under this contract from the location stated in the preamble without prior written approval from TJJD and a certification that the location to which services are to be relocated is in compliance with Chapter 224, Local Government Code.

## **Article 13: Notice:**

Required notices will be provided to the TJJD Contracts Department at the **TJJD Central Office at Texas Juvenile Justice Department, 11209 Metric Blvd., Bldg. H., Austin, TX 78758**

## **Article 14: Venue**

In any legal action arising under this contract, the laws of the State of Texas shall apply and venue will be in Travis County, Texas.

## **Article 15: Problem Solving in the Ordinary Course of Business**

**Section 1:** The parties to this contract shall use the procedures contained in this article for routine problem solving. These procedures may also be used if a party is asserting a claim for breach of contract. Should these procedures not resolve claims for breach of contract, the procedures contained in Article 16 shall be followed thereafter.

**Section 2:** Informal Resolution: Contract Service Providers and TJJD staff will communicate regularly and engage in informal problem solving efforts as a routine measure, thus preventing differences from becoming major problems. When routine measures have been exhausted, TJJD staff are encouraged to utilize the following mechanism to resolve problems.

**Section 3:** Formal Resolution:

- a. Contract Service Providers or TJJD staff who wish to submit problems for resolution may do so in writing, including all relevant information and a recommended resolution.
- b. The statement of problem will be submitted to the designated contact unless the problem specifically involves the designated contact, in which case, it will be submitted to the designated contact's supervisor.
- c. Problems are resolved within ten working days; written responses will be sent to the individual or program that submitted it, designated contact and designated contact's supervisor.

**Section 4:** Appeal: Service Provider desiring to appeal the decision may do so within ten days by writing all pertinent information relevant to the appeal to the designated contact's supervisor if the problem was resolved by the designated contact; or Director of Contracts, Procurement and

Support Services if the problem was resolved by the designated contact's supervisor. When appealed, the problem shall be resolved within 14 working days; responses will be sent to the individual or program who submitted it; designated contact; designated contact's supervisor; and Director of Contracts, Procurement and Support Services.

#### **Article 16: Claims for Breach of Contract**

**Section 1:** The dispute resolution process provided for in Chapter 2260 of the Texas Government Code must be used, as further described herein, by the Texas Juvenile Justice Department and Service Provider to attempt to resolve any claim for breach of contract made by the Service Provider.

- a. Service Provider's claim for breach of this contract that the parties cannot resolve in the ordinary course of business shall be submitted to the negotiation process provided in Chapter 2260, Subchapter B, of the Government Code. To initiate the process, the Service Provider shall submit written notice, as required by Subchapter B, to the Executive Director. Said notice shall specifically state that the provisions of Chapter 2260, Subchapter B, are being invoked. A copy of the notice shall also be given to all other representatives of the Texas Juvenile Justice Department and the Service Provider otherwise entitled to notice under the parties' contract. Compliance by the Service Provider with Subchapter B is a condition precedent to the filing of a contested case proceeding under Chapter 2260, Subchapter C, of the Government Code.
- b. The contested case process provided in Chapter 2260, Subchapter C, of the Government Code is the Service Provider's sole and exclusive process for seeking a remedy for any and all alleged breaches of contract by the Texas Juvenile Justice Department if the parties are unable to resolve their disputes under subparagraph A. of this paragraph.
- c. Compliance with the contested case process provided in subchapter C is a condition precedent to seeking consent to sue from the Legislature under Chapter 107 of the Civil Practices and Remedies Code. Neither the execution of this contract by the Texas Juvenile Justice Department nor any other conduct of any representative of the Texas Juvenile Justice Department relating to the contract shall be considered a waiver of sovereign immunity to suit.

**Section 2:** The submission, processing and resolution of the Service Provider's claim is governed by the published rules adopted by the Texas Juvenile Justice Department pursuant to Chapter 2260, as currently effective, hereafter enacted or subsequently amended.

**Section 3:** Neither the occurrence of an event nor the pendency of a claim constitute grounds for the suspension of performance by the Service Provider, in whole or in part.

#### **Article 17: No Third Party Beneficiaries**

The terms of the Agreement are for the sole benefit of the parties to the Agreement and will not be construed to confer any rights on any other person.

#### **Article 18: Audit Clause**

Service Provider understands that acceptance of funds under this contract acts as acceptance of the authority of the State Auditor's Office, TJJD or any successor agency, to conduct an audit or investigation in connection with those funds. Service Provider further agrees to cooperate fully with the above parties in the conduct of the audit or investigation, including providing all records requested.

Service Provider shall ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through the Service Provider and the requirement to cooperate is included in any subcontract it awards.

Service Provider shall maintain and retain supporting fiscal documents adequate to ensure that claims for contract funds are in accordance with TJJD and State of Texas requirements. Service Provider shall maintain all such documents and other records relating to this Agreement and the State's property for a period of four (4) years after the date of submission of the final invoices or until a resolution of all billing questions, whichever is later. Service Provider shall make available at reasonable times and upon reasonable notice, and for reasonable periods, all information related to the State's property, such as work papers, reports, books, data, files, software, records, and other supporting documents pertaining to this Agreement, for purposes of inspecting, monitoring, auditing, or evaluating by TJJD, the State of Texas or their authorized representatives. Service Provider shall cooperate with auditors and other authorized TJJD and State of Texas representatives and shall provide them with prompt access to all of such State's property as requested by TJJD or the State of Texas. By example and not as an exclusion to other breaches or failures, Service Provider's failure to comply with this Section shall constitute a material breach of this Agreement and shall authorize TJJD to immediately assess the liquidated damages for such failure. For purposes of this Section, the "State's property" includes, but is not limited to, "Work" as defined in the contract. TJJD may require, at Service Provider's sole cost and expense, independent audits by a qualified certified public accounting firm of Service Provider's books and records or the State's property. The independent auditor shall provide TJJD with a copy of such audit at the same time it is provided to Service Provider. TJJD retains the right to issue a request for proposals for the services of an independent certified public accounting firm under this Agreement. In addition to and without limitation on the other audit provisions of this Agreement, pursuant to Section 2262.003, Tex Government Code, the State Auditor may conduct an audit or investigation of the Service Provider or any other entity or person receiving funds from the state directly under this Agreement or indirectly through a subcontract under this Agreement. The acceptance of funds by the Service Provider or any other entity or person directly under this Agreement or indirectly through a subcontract under this Agreement acts as acceptance of the authority of the State Auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. This Agreement may be amended unilaterally by TJJD to comply with any rules and procedures of the State Auditor in the implementation and enforcement of Section 2262.003. Under procedures provided by the State Auditor on September 5, 2003, in addition to the above, (1) the Service Provider understands that the acceptance of funds under this Agreement acts as acceptance of the authority of the State Auditor to conduct an audit or investigation in connection with those funds; (2) the Service Provider further agrees to cooperate fully with the State Auditor in the conduct of the audit or investigation, including providing all records requested; and (3) the Service Provider shall ensure that this paragraph concerning the authority to audit funds received indirectly by subcontractors through the Service Provider and the requirement to cooperate is included in any subcontract it awards.

#### **Article 19: Default**

If the Service Provider defaults on the contract, TJJD reserves the right to cancel the contract without notice and either re-solicit or re-award the contract to the next best responsive and responsible service provider. The defaulting Service Provider will not be considered in the re-solicitation and may not be considered in future solicitations for the same type of work, unless the specification or scope of work significantly changed. The period of suspension will be determined by the agency based on the seriousness of the default.

#### **Article 20: Debt Owed to State of Texas**

Service Provider agrees that any payments due under this contract will be applied towards any debt, including but not limited to delinquent taxes and child support that is owed to the State of Texas.

**Article 21: Buy Texas**

Service Provider represents and warrants that it will buy Texas products and materials for use in providing the services authorized herein when such products and materials are available at a comparable price and in a comparable period of time when compared to non-Texas products and materials.

**Article 22: Specifications**

The services performed shall be in accordance with the purchase specifications herein. TJJD will determine the answers to all questions that may arise as to the interpretation of the specifications and the quality or acceptability of work performed. TJJD will decide the rate of progress of the work and the acceptable fulfillment of the service on the part of the Service Provider.

**Article 23: Assignment**

Without the prior written consent of TJJD, the Service Provider may not assign this Contract, in whole or in part, and may not assign any right or duty required under it.

**Article 24: Compliance with Other Laws**

In the execution of this Contract, Service Provider shall comply with all applicable federal, state and local laws, including laws governing labor, equal employment opportunity, safety and environmental protection. Service Provider shall make itself familiar with and at all times shall observe and comply with all federal, state and local laws, ordinances and regulations which in any manner affect performance under this Contract.

**Article 25: Execution Authority**

Service Provider represents and warrants that the individual signing this Contract is authorized to sign this document on behalf of the service provider and to bind the service provider under this contract.

### Exhibit D: Cost Offer Worksheet Detail Description

<b>Exhibit D: Cost Offer Worksheet Detail Description</b>		
<b>HOSTED SOLUTIONS:</b>		
Price of Core Software Package	\$	
Annual Software License Fee	\$	
Annual Maintenance Fee	\$	
Customization Hourly Rate	\$	
Training Hourly Rate	\$	
Technical Support	\$	
Other Fees	\$	
<b>Total Cost of Hosted Application</b>		
<b>ENTERPRISE SOLUTIONS:</b>		
Price of Core Software Package	\$	
Annual Software License Fee	\$	
Annual Maintenance Fee	\$	
Customization Hourly Rate	\$	
Training Hourly Rate	\$	
Technical Support	\$	
Other Fees	\$	
<b>Total Cost of Enterprise Solutions</b>		