**RFP# ASA-21-66603**

**SAMPLE PROFESSIONAL SERVICES CONTRACT**

**ATTACHMENT B**

This Contract (“this Contract”), entered into by and Indiana Department of Administration on behalf of All State Agencies (the “State”) and The Contractor (the “Contractor”), is executed pursuant to the terms and conditions set forth herein. In consideration of these mutual undertakings and covenants, the parties agree as follows:

**1. Duties of Contractor**.

The Contractor shall provide the following required services relative to this Contract:

The Indiana Department of Administration on behalf of All State Entities here in referred to as (“State”) is establishing a Quantity Purchase Agreement (QPA) for Fingerprint Services. The Contractor shall provide these services and commodities necessary to the State as set forth in RFP ASA-21-66603, the Contractor’s response, and clarifications, attached hereto in specific exhibits and made a part of this Contract herein by reference. The following contract exhibits are hereby included in this Contract and incorporated herein by reference as follows:

**Exhibit A – Performance Metrics**

**Exhibit B – Service Level Agreement**

**Exhibit C – Service Pricing**

**Exhibit D – User Access Levels**

**Exhibit E – Urban-Rural Classification**

**Exhibit F – Indiana Authorization and Notification Form**

**Exhibit G – Agency Privacy Requirements for NCJ Justice Applicants**

**Exhibit H – Non-Criminal Justice Applicant’s Privacy Rights**

**Exhibit I – Privacy Act Statement**

**Exhibit J – Indiana Disclosure NCPA/VCA Notice 2020**

**Exhibit K – Indiana Identity Verification**

The duties of the Contractor are set forth, attached hereto and fully incorporated herein:

1. **Entities Eligible to Utilize Contract**
2. Authorized Recipient

As defined in the “Security and Management Control Outsourcing Standard for Non-Channelers” as prescribed and set forth pursuant to National Crime Prevention and Privacy Compact. Indiana State Police (ISP) shall assume all duties and responsibilities of the authorized recipient as set forth in these standards. All CJI shall be stored on a server or servers owned, maintained, and operated by ISP. ISP is responsible for providing and managing access and ensuring that all parties are following all laws, rules, regulations, policies, and procedures applicable to such management.

1. User Agencies

User Agencies consist of three categories Main User, Secondary User, and Additional User Agencies. Additional agencies and entities shall be added at any time during the life of the contract with an approved Scope of Work and updated State Statute.

General:

Contractor will provide Administrative access to the Main User Agencies as defined in Exhibit D– User Access Levels.

The Contract shall permit additions and subtractions to Main User Agency Requirements as permitted by the State of Indiana.

Main User Agencies:

Indiana State Police (ISP)

Department of Children Services- Child Support Bureau (DCS-CSB)

Department of Child Services (DCS)

Professional Licensing Agency (PLA)

Secondary User Agencies:

State Personnel Department (SPD)

Family and Social Services Administration (FSSA)

Department of Education (DOE)

Additional User Agencies:

Bureau of Motor Vehicles (BMV)

Department of Revenue (DOR)

Department of Natural Resources (DNR)

Department of Corrections (DOC)

Department of Financial Institutions (DFI)

Gaming Commission (IGC)

Office of Technology (IOT)

Housing and Urban Authority (HUD)

Secretary of State’s Office (SOS)

1. Indiana Department of Administration (IDOA)

The Indiana Department of Administration (IDOA) cannot be held liable for any parties’ unauthorized access to, loss, modification, use, or misuse of information and does not and will not have access to Criminal Justice Information (CJI), records containing CJI, or servers that contain CJI. IDOA shall not have, provide, or manage access to any CJI.

1. **Services Provided**
   1. The Contractor shall offer the following service types:
      1. Standard Fingerprinting
         1. The Contractor shall provide electronic fingerprinting for all Originating Agency Identifiers (ORI’s) controlled by State Statute.
      2. Hard Copy Fingerprint cards
         1. The Contractor shall have the ability to print an FBI standard applicant fingerprint card at agreed upon fingerprinting locations throughout the state or to deliver the same from a central repository.
         2. The Contractor shall have the ability to restrict usage of hard copy cards based on the specific requirements of each agency.
      3. In-Home Mobile Services
         1. The Contractor shall provide, upon request, mobile, in home fingerprinting services.
         2. Fingerprints of home-bound subjects shall be captured through Live Scan equipment. Paper cards shall not be used without the State’s prior written approval.
         3. All in-home printing to be done for the Department of Child Services and Family and Social Services shall be arranged or otherwise approved in writing by the agency and IDOA, prior to the provision of said services.
      4. On-Site Mobile Fingerprinting
         1. Respondent shall provide service for agencies who desire on-site mobile fingerprinting anywhere in the state, within 30 business days of request or within such longer time period as may be agreed to by the parties. On-site services provide added convenience and coverage for specific opportunities such as orientation sessions, new employee hiring times, and other group situations. Verification of applicant’s identity must conform to the State of Indiana’s identity verification standards and policies.
      5. Emergency Applicant Services
         1. The Contractor shall ensure that all emergency relative placement applicants are processed, which includes scheduled and fingerprinted, within five (5) days of the request, unless a longer period of time is requested by the applicant or agency, all such requests by the applicant shall be reported immediately to the requesting agency.
      6. Out-of-State Electronic Fingerprinting
         1. The Contractor shall have the ability to capture and submit electronic fingerprints of Out-of-State applicants wishing to submit electronic fingerprints to the state for an authorized purpose, while meeting the defined requirements herein.
   2. Indiana Data and Communication System (IDACS)
      1. The Contractor shall include at no charge the fingerprinting of up to 1,500 Indiana Data and Communication System (IDACS) law enforcement applicants per year.
      2. In the event the number of IDACS applicants nears or reaches the 1,500 annual limit, the Contractor shall notify the Indiana State Police and the Indiana Department of Administration so the parties may estimate the number of additional prints that may occur within the calendar year and determine the number of additional no-charge prints, if any, that the Contractor shall accommodate.
      3. The Contractor’s system shall have the ability to assign a unique code for IDACS applicants to provide at the time of service to ensure that only IDACS eligible persons are fingerprinted.
2. **Enrollment Center Site Locations**

The Contractor shall provide geographically disbursed enrollment center sites statewide and/or out-of-state, with enrollment center sites located based on the following specifications:

* 1. General Requirements
     1. The Contractor shall provide a site map of enrollment center locations during each Quarterly Business Review.
     2. The Contractor shall submit proposed enrollment center locations to ISP for review and approval prior to establishing operations. The proposals shall include the name and address of the business/organization that will house the enrollment center. Proposals shall include photos of the facility in question, showing, at a minimum, a view of the entrance to the building and a view of the area inside the building where fingerprinting will occur. No applicant fingerprinting shall take place in a non-public location (i.e. hotel room) or a location restricted by age (i.e. bar).
  2. Distance Requirements
     1. The Contractor shall maintain enrollment center locations in all 92 counties that coincide with the definitions presented by the US Bureau of the Census for Urban and Rural counties. Exhibit E– Urban- Rural Classification, includes a list of these counties and breakdown of the number of sites required by county.
     2. Urban:
        1. Applicants residing in Counties identified as Metropolitan or Micropolitan Statistical Areas, as established by the US Bureau of the Census, shall have a radius of no greater than thirty (30) miles from the residing county seat to the enrollment center location.
        2. The Contractor will provide at a minimum of two (2) site locations.
     3. Rural:
        1. Applicants residing in Counties identified as non-Metropolitan or non-Micropolitan Statistical Area, as established by the US Bureau of the Census, shall have a radius of no greater than 50 miles from the residing county seat to the enrollment center location.
        2. The Contractor will provide at a minimum of one (1) site location.
     4. Throughout the term of the contract IDOA will monitor demand by county and make adjustments to the by county requirements listed in Exhibit E- Urban-Rural Classification.
  3. Hours of Operation
     1. Urban applicants shall have access to a minimum of seven (7) hours of service per operating day.
     2. Rural applicants should have access to a minimum of four (4) hours of service per operating day.
     3. The Contractor shall offer alternative operation hours for various enrollment center locations, including evening and weekend hours to provide reasonable access to applicant needs.
     4. The Contractor shall not change the hours of operations at its enrollment centers without prior written approval from the State.
  4. Location Closures
     1. In the event an enrollment center needs to close as a result of an emergency, including inclement weather, the Contractor’s customer service center shall utilize the appointment roster to notify the State by e-mail and all affected applicants by bother phone and e-mail.
     2. The Contractor will notify ISP, IDOA, and affected applicants of any unexpected site closures within one (1) hour of the closure, explaining the length of the closure, and rescheduling affected applicants to alternative sites in accordance with enrollment center site locations distance requirements.
  5. New Enrollment Center Locations
     1. The parties shall agree to a process for the Contractor to submit proposed enrollment center locations to the Indiana State Police (ISP) for review and approval prior to establishing operations, and the Contractor shall adhere to such process. The proposals shall include the name and address of the business/organization that will house the enrollment center. Proposals will also include photos of the facility in question, showing, at a minimum, a view of the entrance to the building and a view of the area inside the building where fingerprinting will occur.
  6. Signage:
     1. The Contractor shall provide signage to be displayed at the enrollment centers.
     2. The State shall approve the original, and any revised signage, throughout the life of the Contract prior to it being displayed.
     3. For signage displayed at a partner location, IDOA and the partner agency, shall approve signage and signage placement prior to installation.
  7. Other:
     1. Sites shall be accessible in accordance with Americans with Disabilities Act.
     2. The Contractor shall establish and submit written policy, procedures and practices that will be used by each enrollment center location.
     3. The Contractor shall ensure that each enrollment center location is available for announced or unannounced security inspections by the State and/or the FBI during the normal business hours of the relevant location.
  8. Agency Partner Locations:
     1. The Contractor shall make a good faith effort to establish Partner enrollment centers in the offices of IDOA requested State of Indiana locations.
     2. Partner locations shall:
        1. Agree to the required hours of operation.
        2. The Contractor will require a Partner Agreement that governs the location, provisions of services as the Contractors subcontractor.
        3. Locations participating in this program shall staff enrollment centers only with enrollment agents who have met mutually agreeable vetting requirements.
           1. Enrollment agents shall be trained by the Contractor and approved by the Indiana State Police (ISP).
     3. Contractor shall:
        1. For each location serving as a Partner enrollment center under this Contract, the Contractor shall provide – at its costs – all equipment, software, scheduling applications and customer service support required.
        2. Be responsible for the Certified training, in accordance with the Compact Council requirements for all non-channeler contractors, of all Enrollment Agents that the State identifies as being tasked with capturing fingerprints and that have completed the full Respondent vetting process.
        3. The Contractor shall be responsible for monitoring the Enrollment Agent fingerprint quality rating, for conducting retraining as necessary, and for following all directives from the Indiana State Police to remove a particular Enrollment Agent from the State Program due to excessive rejection/error rates.
        4. The Contractor shall provide online training and tutorials covering, but not limited to, fingerprinting, use of the fingerprint system, data entry on registration screens and the fingerprinting of individuals with birth, age, medical and professional problems affecting the hands and or arms.
        5. The Contractor shall provide access to a qualified fingerprint trainer to assist on the phone or online those fingerprinting individuals with questions.
        6. Abide by all policies regarding professional work attire in the specified Agency location.
        7. Receive prior written approval from the specific Agency facility management of the Contractors implementation plan before installation of any equipment or technology: and
        8. Not use any Department equipment or resources other than those specifically identified.
     4. Agency Partners shall not be entitled to a commission or any other fees from any fee collected by the Contractor, and shall not be allowed to charge any additional fees to the Applicants for providing this service.

1. **Service Delivery** 
   1. Appointment Scheduling
      1. General
         1. The Contractor shall ensure that applicants can schedule appointments by toll free phone or via a secure website.
            1. Appointments shall be scheduled within 5 days of initial applicant contact, subject to the applicant’s availability.
            2. Confirmation shall be sent to the applicant via email, text message or mailed through the U.S. Postal Service.
      2. The Contractor shall maintain a secure and up-to-date website and call center with the capability to capture all biographic and demographic information needed to obtain fingerprint at the time of service and meet all State of Indiana, federal confidentiality standards, and CJIS Security Policy.
      3. The Contractor shall accept same-day fingerprint appointments at all Enrollment Centers, unless otherwise agreed to by the parties.
      4. The Contractor shall provide electronic scheduling and toll-free telephone scheduling for non-English or limited-English speaking applicants, as well as for applicants who are deaf, hard of hearing, visually impaired, or speech impaired, for compliance with the Americans with Disabilities Act (ADA) requirements.
   2. Emergency Applicants
      1. The Contractor shall ensure that all emergency relative placement applicants are processed, which includes scheduled and fingerprinted, within five (5) days of the request, unless a longer period of time is requested by the applicant or agency. All such requests by the applicant shall be reported immediately to the requesting agency.
      2. Priority shall be given to those applicants identified as Emergency Placement resources for the Department of Child Services.
   3. Disclosures
      1. The Contractor shall make available for review and acknowledgement to every applicant, to include but not limited to, copies of the following documents at the time of registration:
         1. Exhibit F: Indiana Authorization and Notification Form
         2. Exhibit G: Agency Privacy Requirements for NCJ Justice Applicants
         3. Exhibit H: Noncriminal Justice Applicant’s Privacy Rights: <https://www.fbi.gov/services/cjis/compact-council/guiding-principles-noncriminal-justice-applicants-privacy-rights>
         4. Exhibit I: Privacy Act Statement: <https://www.fbi.gov/services/cjis/compact-council/privacy-act-statement>
      2. The Contractor must make available for review and acknowledgment to every applicant being fingerprinted for volunteer and employment positions with unsupervised access to children:
         1. Exhibit J: Indiana Disclosure NCPA/VCA Notice 2020.
      3. The Contractor’s system shall have the ability to track and report applicant acknowledgements.
      4. The Contractor’s system shall have the ability to customize required disclosures by ORI/Card Type.

* 1. Website Requirements
     1. The Contractor website shall be available 24 hours a day, 7 days a week, with the exception of time offline for technical updates.
        1. The State must be notified of technical updates 5 days in advance for planned updates and within 24 hours of an unplanned outage occurrence.
        2. The Contractor shall make available Spanish registration and scheduling through the enrollment website.
     2. The Contractor’s website shall guide applicants registering on the Web through the agency-specific data collection process that will ensure the proper background check is conducted and the proper State agency receives the correct information and is billed as appropriate.
        1. The Contractor shall upload agency-specific forms on the Web enrollment site no later than two (2) business days of receipt.
     3. The Contractor’s website shall be 508 compliant for applicant accessibility and should be available across all delivery formats with industry standard web browsers such as, but not limited to, Microsoft Internet Explorer, Firefox, Google, Chrome, and Safari, or their respective successors.
     4. The Contractor shall supply on the registration site a tutorial of how the registration process works, to include screen shots.
     5. The Contractor shall have a FAQ listing available on the registration site to assist individuals in online registration.
     6. The Contractor shall provide a toll-free number on the registration website to customer service personnel that is well versed in the types of registrations offed by Indiana and knowledge of Indiana’s requirements.
     7. The Contractor shall collect an email address and phone numbers from each applicant at the time of registration.
  2. Telephonic Requirements
     1. Contractor shall provide toll free, support help desk services for applicants to schedule appointments, ask questions, and report technical issues.
     2. The Contractor shall provide toll free, support help desk services for applicants to schedule appointments and ask questions. The Contractor shall provide sufficient personnel and phone lines to provide live assistance Monday through Friday, 8AM – 5PM Eastern Standard Time (EST). A fully automated system is not authorized.
     3. The toll-free telephone line shall be equipped for TTY/TTD communication with deaf or hard of hearing applicants and customers.
     4. The Contractor’s Support Help Desk Services shall maintain the following standards for service:
        1. Abandon call rate (percentage of inbound phone calls to the call center abandoned by the customer before speaking to a live agent) of less than ten percent (10%). Ninety percent (90%) of calls must be answered if not dropped by the IVR (Interactive Voice Response).
        2. Calls shall not remain in the IVR queue more than six (6) minutes.
        3. Callers shall not be placed on hold more than two (2) minutes before being routed to the IVR.
  3. Fingerprinting Service Delivery
     1. Identity Verification
        1. The Contractor’s personnel shall be trained to accurately verify the Applicant’s identity.
        2. The Contractor shall verify the identity and purpose of fingerprinting of all applicants prior to providing fingerprinting services.
        3. Contractor shall provide electronic authentication of applicant’s identification either through passport or driver license in compliance with:
           1. <https://www.fbi.gov/file-repository/compact-council-identity-verification-program-guide-booklet.pdf/view>
           2. Exhibit K- Indiana Identity Verification
     2. Image Capture
        1. The Contactor shall ensure that all FBI guidelines are followed for recording legible fingerprints.
        2. The Contractor shall print an FBI standard applicant fingerprint card when requested by the applicant or agency and mail the card to the requested destination pursuant to agency requirements for distribution of paper fingerprint cards.
        3. The Contractor shall have the ability to print an FBI standard applicant fingerprint card at all fingerprinting locations throughout the state.
           1. The Contractor shall have the ability to restrict usage of hard copy cards based on the specific requirements of each agency.
     3. Image Rejection
        1. The Contractor shall maintain a rejection rate of electronically transmitted Live Scan fingerprints that shall not exceed:
           1. FBI Rejection: 5%
           2. State Rejection: 2%
        2. The Contractor shall have in place a system that verifies the quality of fingerprints and have the capability to resubmit rejected, incomplete or inaccurate prints. The Contractor shall have a slap to roll verification of all fingerprints to ensure they are in the right sequential order.
           1. The live scan units shall use quality control software capable of alerting the operator through the use of displayed warnings of image problems such as finger out of sequence and bad quality.
        3. In the event of any equipment failure or an occurrence that prohibits the capture of an Applicant’s fingerprints, the Contractor shall have in place a notification process for applicants to reschedule a capture time at no additional cost to applicant, Agency or governmental entity.
        4. In the event of a fingerprint rejection the Contractor shall notify the applicant that their prints have been rejected and perform the reprint at no additional cost.
        5. The Contractor shall resubmit prints/information to ISP using the same Transaction Control Reference (TCR), or the State Transaction Control Number (TCN) at no charge to the applicant, Indiana State Agencies, or governmental entity.
     4. Image Transmission
        1. The Contractor shall transmit fingerprints to ISP within one hour from the time the Applicant’s prints are acquired. Transmissions will be sent in real or near real time, not in batches.
     5. Applicant Receipt
        1. The Contractor shall provide a paper receipt in a format approved by the State to each Applicant fingerprinted as evidence of successful completion of the transaction, including a unique identifying number assigned and submitted with the submission and signed copies of required disclosures.
        2. The Contractor shall provide instructions to the applicant allowing the applicant to receive a duplicate receipt, if the original is lost, once proper identification is provided by the applicant.
     6. ISP Acknowledgement
        1. The Contractor shall contact ISP when a transaction is not acknowledged by ISP within twenty-four (24) hours. The Contractor shall be responsible for monitoring the return response portion of this process on their system and to contact ISP if the return response is not received within a twenty (20) day time period.

1. Personnel and Customer Service
   1. Personnel
      1. The Contractor shall provide documentation indicating the education, experience, and criminal record for all personnel with access to information collected from applicants.
         1. The Contractor’s personnel shall have no criminal record.
         2. The State reserves the right to reject any potential employee.
         3. All background checks for initial personnel must be complete and all training for personnel must be complete no later than thirty (30) days after the effective date of the contract.
      2. The Contractor must ensure enrollment agents are trained and comply with federal and state laws, regulations, and standards.
         1. The training system must allow the Contractor to track, and report on, each enrollment agent’s completion of the tutorials. Training shall be designed to provide an understanding how to properly fingerprint a person for all types.
         2. Each enrollment agent shall be required to attend annual FBI and State of Indiana specific training.
      3. The Contractor shall comply with CJIS Security Policies regarding CJIS Security Awareness Training as implemented by the Indiana State Police.
      4. The Contractor shall be subject to the terms and conditions described in the Compact Council Outsourcing Standard for Non Channelers and in the CJIS Security Policy.
      5. The Contractor shall comply with the CJIS Security Addendum to maintain a security program consistent with federal and state laws, regulations, and standards (including the CJIS Security Policy in effect when the contract is executed), as well as with policies and standards established by the Criminal Justice Information Services (CJIS) Advisory Policy Board (APB) and indicate compliance by Contractor and personnel signing the Addendum.
      6. Contractor employees performing services related to the contract shall sign a non-disclosure agreement regarding any information obtained from applicants.
   2. Customer Service
      1. The Contractor shall implement a statewide training and development program for all fingerprinting personnel. This program shall include training areas such as, but not limited to, customer service, professionalism, and appropriate attire.
         1. Training shall include State specific topics such as addressing agency specific processing time with applicants.
      2. The Contractor shall provide online tutorials covering the use of the fingerprint system, registration system, how to take fingerprints, how to take problem fingerprints associated to age, profession, birth defects, medical situations, handicapped, etc.
      3. The Contractor shall have a process to review and track by individual fingerprinting unclassifiable by ISP or the FBI. A progressive disciplinary process shall be utilized that can ultimately result in removal of the fingerprinting personnel from performance of service.
      4. The Contractor shall provide access to a qualified fingerprint trainer to assist on the phone or online those fingerprinting individuals with questions.
      5. The Contractor shall have in place an escalation procedure to address problems experienced by both applicants and State users. The Contractor shall have at each site procedures available to the applicant for reporting a complaint. These shall also appear on the Contractor’s website.
      6. The Contractor shall provide to ISP a non-public use phone number to contact the call center when assisting an applicant with their application.
2. Fee Collection and Distribution
   1. The Contractor shall collect fingerprinting services processing fees required by the State. Fees shall be all inclusive. Except as permitted under the Contract, any additional fee collection shall be by mutual agreement between the State and the Contractor. All other fees collected from each approved Applicant (e.g. ISP and FBI fees) shall be disbursed by the State to the appropriate State agency with a reconciliation report according to the State’s established guidelines.
   2. The Contractor shall accept, at a minimum, these payment options from the applicant at the time of appointment scheduling:
      1. Visa/Mastercard/Discover/Amex
      2. Debit Card
      3. E-Check
      4. Cashier’s Check
      5. Money Order
   3. The Contractor shall be responsible for duplicate FBI and ISP charges resulting from resubmissions that do not include the required National Institute of Standards and Technology standard information for rejected submissions.
   4. The Contractor shall absorb any cost associated with a duplicate print being required due to the fault or error of the Contractor or any of the Contractor’s enrollment centers, personnel, or equipment failure.
   5. The Contractor shall establish accounts for those state or local government agencies to be invoiced monthly and escrow accounts for all other entities. The Contractor shall have the ability to customize account requirements based on individual agency needs. Each agency with an account will receive a monthly itemized invoice, allowing them to ensure they are only paying for approved applicants.
3. **Scopes of Work** 
   1. The Contractor shall provide services to participating State User Entities by developing a new Scope of Work (SOW).
      1. Utilization by State User Entities shall require a State approved SOW. The Contractor shall work with the requesting State user, ISP, and IDOA to develop a SOW based on each users’ unique requirements. No work shall commence without a fully approved SOW.
      2. The SOW shall not be completed until all parities sign on the SOW agreement. The order for signature on a SOW is:
         1. Respondent Signature
         2. User Agency Signature
         3. ISP Signature
         4. IDOA Contract Manager Signature
      3. SOW’s are living documents that may change throughout the term of the contract dependent on the user requirements.
      4. The Contractor shall create, in conjunction with the State, a standardized SOW template.
      5. The Contractor shall provide services to additional State agencies or governmental entities throughout the life of the contract by developing a new Scope of Work within 30 days of notification of the need for service.
4. Technical Requirements
   1. Equipment
      1. Electronic fingerprinting shall be accomplished using Live Scan fingerprint equipment. Live Scan fingerprint equipment is technology designed to electronically capture fingerprint images. Using a Live Scan device, fingerprint images shall be captured, stored, forwarded vie a secure connection, and searched by the state Automated Fingerprint Identification System (AFIS) and the Federal Bureau of Investigation Integrated (IAFIS).
         1. All Live Scan system products must be certified according to the FBI.
         2. The Contractor shall utilize Live Scan fingerprinting devices that are compliant with the Wavelet Scalar Quantization (WSQ) Gray Scale Fingerprint Image Compression Specifications.
         3. All Live Scan equipment used to support Electronic Fingerprinting shall be certified according to the FBI Image Quality Specifications (IQS).
         4. All Live Scan devices shall meet the FBI calibration requirements. The Contractor shall provide this information upon request by the State.
            1. The State reserves the right to demand replacement of any equipment should the calibration not meet the FBI standard or if the device has a 2% or higher rejection rate.
            2. The Contractor shall provide replacement equipment within forty-eight hours of request.
         5. All Live Scan equipment shall have software which shall accommodate the ISP Electronic Fingerprint Transmission Specification (EFTS) which include all FBI requirements for AFIS connection as well as all State Live Scan specifications.
         6. The Contractor shall provide interface connectivity to the Indiana State AFIS Integra systems, to handle Applicant scheduling, scheduling status, various reasons for fingerprinting, service codes and ORI in line with ISP/FBI standards.
         7. The Contractor shall provide a server to be located within IOT offices if requested by the State.
   2. System Infrastructure
      1. Client Application System
         1. The Contractor’s application solution, “the system”, shall be Role Based Access Control (RBAC). It shall be based on user ID and login with the capability to assign a level of access by user ID and restrict access to defined levels of data. Exhibit D – User Access Levels outlines the current defined level of user access and number of users per access level.
            1. The system shall have the capability to add new agencies to multiple uses profiles at one.
            2. The State shall have the ability, through the system to search applicant data and combination of any criteria by:

Date of birth

ORI number

Card Type

Name

SSN

Transaction Number

* + - * 1. The system shall provide the capability to export data at minimum and in various formats (Excel, HTML).

The data listed in Section (H) Technical Requirements.

ORI number associated contact names and email addresses.

* + - 1. The Contractor shall provide training to all users of the system including, but not limited to the following topics, the use of the system, adding users, resetting passwords, entering card types, and any other usage that may be required by the following: Administrators, Supervisors, Experienced Operators, Novice Operators, Clerical, View Only. An online tutorial for Administrative Web users shall also be provided.
      2. The Contractor shall ensure that all critical system information, e.g. program files, is stored in off-site backup facilities. This rotation of system backups preserves critical information for restoring of any system if a failure occurs. For the avoidance of doubt, this requirement does not apply to applicant data and fingerprints. All applicant data and fingerprints shall be stored by ISP in conjunction with IOT on the State’s equipment.
      3. The system shall have the following capabilities regarding applicant scheduling and processing:
         1. The system shall have the ability to stop the auto-qualify process in the event an applicant answers “yes” to questions pertaining to prior arrests or convictions during the application process.

The system shall have the ability to alert the requesting agency of all instances where the auto-qualify process has been stopped and manual review is necessary.

The system shall have the ability to report, in a format agreed upon by the State, all instances of applicants answering “yes” to questions pertaining to prior arrest and convictions.

* + - * 1. The system shall have the ability to validate new appointment registrations against in process applicants to avoid duplicate billings. The system shall identify at the time of appointment scheduling each subject by date of birth, first and last name, Card Type and ORI number. In the event of a duplicate registration, the appointment shall not be scheduled, and the applicant shall be referred to the requested agency.
        2. The State shall have the ability to view scheduled appointments.
        3. The State shall have the ability to prevent certain billing codes from being used on unauthorized card type submissions.
        4. The system shall have the ability to conduct separate evaluations and generate multiple disposition responses for each reason under which a subject is being printed. The System shall also be able to generate a separate status letter for each reason, including for the purposes of waiver actions.
        5. The system shall be searchable by a minimum of 3 letters to locate a state Agency user.
        6. The system shall have the fields of “Date of Entry” and “Agency Type”.
        7. The system shall have dynamic search and report creation capabilities including but not limited to, agency and applicant categorization.
        8. The system shall have the ability to modify existing ORI, State Agency, and Card Type information.
        9. The system shall have the ability to include at a minimum the following data in results letters:

Applicant name

Applicant date of birth

Applicant Address

Date of fingerprint capture

Reason for capture

Date of fingerprint evaluation

Additional clarifying text, as requested by the State.

* + - * 1. The system shall have the ability to automatically and directly notify the requesting agency in the event that the background check produced no results. This notification shall include the applicant name and date of auto-notification.
        2. The system shall have the ability to resubmit prints/information to ISP using the same Transaction Control Reference (TCR) number at no charge to the Applicant or Indiana State Entity Users.
        3. The system shall have the ability to allow applicants to book, cancel, and change scheduled appointments without additional rescheduling cost.
        4. The system shall have the ability to allow the User to access and work in the Client Application System through a secure and approved VPN solution.
        5. The system shall have the ability to auto change the response status for No Record and Record Found return responses to be set up for specific card types.
        6. The system will only show in the “pending” status those return responses that need manual status change to “Reject” for specific card types.
    1. Applicant Data and Fingerprints
       1. All applicant data and fingerprints shall be stored by ISP, in conjunction with IOT on the State’s equipment.
       2. The Contractor shall refrain from possessing criminal records data from either the State or the FBI at any point in the processing of transactions, and shall agree that any components that may have access to this type of information shall be under the physical control of the Indiana State Police and installed with the approval and configuration required by IOT.
       3. The Contractor shall sign a CJIS security agreement as required by the FBI.
       4. The Contractor and Contractor’s processing environment containing Confidential State Data must adhere to NIST 800-53r5 and 800-53A standards, or the latest version, in their environment.
       5. The Contractor shall coordinate with the State to implement the FBI Rap Back program upon legislative approval, subject to mutual agreement on the terms thereof.
    2. Data Lists
       1. The Contractor shall allow updates and changes to data lists as provided by the State and FBI, at no cost.
       2. The Contractor shall ensure data list upgrades and changes can be completed to a central server.
  1. Maintenance and Updates
     1. The Contractor shall ensure that system up-time shall be a minimum of 99 percent.
     2. Scheduled maintenance and updates to the Live Scan devices and data center servers shall be performed during non-operating hours, whenever practicable, to avoid interruption of service.
     3. The Contractor shall maintain real-time updates and changes to data lists from the State and/or FBI to the State’s Central Server, at no cost. The updates and changes shall be pushed to enrollment workstations (centers) in real time for permanent locations and every morning for mobile locations.
     4. The Contractor shall repair or replace any damaged equipment within 48 hours of notification of issue.
  2. Programming Changes
     1. There shall be no charge for changes to the registration or administrative website, as maintained by the Contractor, which are necessary for the Contractor to provide the services. This specifically refers to changes mandated by law, the addition of new agencies, capture of specific data identifies for a particular agency (e.g. employee numbers, facility numbers), new ORIs and any other changes identified as such within the scope of the contract.
     2. Any programming changes requested by the State for reasons beyond those described in 4i of this section shall be considered custom programming. In the event the State requests such programming, the Contractor shall provide a quote for the work. Quotes shall include a mutually agreed upon description of the changes requested, the hours estimated to complete the job and a completion date. The Contractor shall not begin working on any billable programming changes without prior written approval from the State.
  3. Quality Assurance Testing, Quality Management
     1. The Contractor’s implementation process shall include an internal Quality Assurance testing, End to End testing and external Customer Acceptance testing. The Respondent shall test the products for functionality, adherence to product specifications, positive performance in adverse environments, and usability. The Contractor shall test each phase and requirement of the fingerprint processing lifecycle.
     2. For additional programming changes and updates, the Contractor shall provide Quality Assurance testing, End to End testing and external Customer Acceptance testing. The Contractor shall test the products for functionality, adherence to product specifications, positive performance in adverse environments, and usability. The Contractor shall test each phase and requirement of the fingerprint processing lifecycle.
  4. Information Confidentiality and Security
     1. The Contractor shall ensure that all applications and/or systems meet FBI CJIS Security Policy for any information that will be transmitted.
        1. FBI CJIS Security Policy FIPS 140-2 encryption standards apply to all data that is at rest, in transit on all data backup, cloud compute, and cloud storage environments, and two-factor authentication.
     2. The Contractor shall ensure that all applications and/or systems meet IRS Publication 1075 standards, as necessary.
     3. The Contractor shall ensure all hardware and software systems used in the performance of this contract are secured to prevent access by unauthorized personnel.
     4. The Contractor shall ensure that all data and fingerprint images, while in Contractor’s possession, are kept secure and confidential. Fingerprints cannot be used for processing after 90 days from the date they were captured.
     5. The Contractor shall establish and provide a written policy and procedures for a security program which are acceptable to and approved by the State.
     6. The system/data security shall provide and maintain 128-bit or higher encryption standards.
     7. The Contractor shall provide annually to IDOA, ISP, and IOT the high-level report and mitigation plans from an independently conducted comprehensive security audit in connection with the services being performed by the Contractor.

* 1. Reporting
     1. The Contractor shall ensure a secure Web server is available as a platform to access reports.
     2. The system shall maintain a database of all information concerning the submission and processing of fingerprints in connection with the resulting contract for the purpose of submitting reports.
     3. The system shall allow daily access to all State entity users, of information on systems usage and transaction by location to include but not limited to the following information:
        1. Name of Applicant
        2. Applicant Type
        3. Requesting Agency/Entity
        4. Date of Service
        5. Location of Service
        6. Applicant Address (City and County only)
        7. Transaction Control Number (TCN)
        8. Fingerprint Acceptance Status
        9. Agency Type
        10. Entry Date
     4. The Contractor reporting solution shall provide tools that allow specific users to access applicant data and clearance statuses in the State’s system on an ad-hoc basis, based upon ISP’s review outcome (e.g. number of records processed, number of outstanding record reviews).
     5. The Contractor shall provide at a minimum the following monthly reports, in an agreed upon format:
        1. Rejection rate report, which will separate federal and state rejections.
        2. Monthly, or agency requested frequency, reconciliation reports that include but are not limited to the following information:
           1. Agency specific total number processed

Including:

Applicant name

Applicant date of birth

Applicant Address

Date of fingerprint capture

Reason for capture

Date of fingerprint evaluation

* + - * 1. Agency specific total number pending

Including:

Applicant name

Applicant date of birth

Applicant Address

Date of fingerprint capture

Reason for capture

Date of fingerprint evaluation

* + - * 1. Emergency Relative Placement Report

Report shall run on the 1st and 15th of each month and detail the previous 15 days of data.

The system shall have the capability to generate this report based on state requested regions.

The system shall have the capability to generate and email this report based on State requested criteria to specified individuals.

* + - * 1. State agency individualized user system productivity reports to include:

The number of prints submitted for second party review.

The number of second party reviewed prints that were agreeable

The number of second party review prints the supervisor disagreed

The number of initial determinations completed

The time between “Ready to Process” until Initiate

The time it takes a supervisor to second party review prints

The time between initiation of transaction and Save & Close

The number of prints qualified by a consultant, disqualified, or conditionally disqualified by consultant

The number and level of convictions processed by consultant during a given time frame

* + 1. Standard monthly reports shall be provided within two (2) business days of the close of the previous month.

* + 1. Specialized and ad hoc reports of available data to meet agency needs. These reports shall be provided within two (2) weeks of request, at no additional charge.
       1. If an agency has an immediate need for such a report, the Contractor will make commercially reasonable efforts to expedite the turnaround time.

1. Implementation
   1. The Contractor agrees to provide service introduction and training sessions to State designated representative.
   2. The Contractor agrees to hold between one and two webinars during which State agencies may ask questions about using the Contractor’s services. The webinars will be at no cost to the State.
   3. The State and Contractor may mutually agree to modify or add to the Contractor’s implementation efforts.
   4. The Contractor shall provide a detailed implementation plan that includes integration of existing systems, data migration, staffing, testing, communication plans, risk/issue management plans, status reporting plans, and marketing details. As part of the implementation plan, the Contractor should provide project delivery details and resource utilization plans using RFP Attachment S – Resource Usage plan.

**2. Consideration**.

Purchases under this Contract will be made at the discretion of the eligible purchasing entities. Contractor will be paid at the rates established in **Exhibit C**, attached hereto and incorporated herein, for providing and performing the Services under this QPA. The Contractor agrees that all prices are inclusive of any fees required to provide completion of services to all State locations, unless specifically approved in writing by the State and listed in Exhibit C. The Contractor understands and agrees that this Contract does not guarantee the Contractor a minimum quantity of orders or remuneration amount. Payment shall be made to the Contractor by the Ordering/Using entity in accordance with *Section 37 - Payments* and all other applicable provisions of this Contract.

This Contract’s total remuneration amount is based on the number and quantity of transactions as provided on Exhibit C. Therefore, this Contract does not identify a total remuneration amount.

**3. Term**.

This Contract shall be effective for a period of two (2) years. It shall commence on \_\_\_\_\_\_\_ and shall remain in effect through \_\_\_\_\_\_\_\_.

**4. Access to Records**.

The Contractors 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**.

A. The Contractor binds its successors and assignees to all the terms and conditions of this Contract. 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.

B. The Contractor shall not assign or subcontract the whole or any part of this Contract without the State’s prior written consent. Additionally, the Contractor shall provide prompt written notice to the State of any change in the Contractor’s legal name or legal status so that the changes may be documented and payments to the successor entity may be made.

**6. Assignment of Antitrust Claims.**

As part of the consideration for the award of this Contract, the Contractor assigns to the State all right, title and interest in and to any claims the Contractor now has, or may acquire, under state or federal antitrust laws relating to the products or services which are the subject of this Contract.

**7. 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.

The State considers the Contractor to be a “Contractor” under 2 C.F.R. 200.330 for purposes of this Contract.

**8. 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 accepted by the State.

**9. 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. The Contractor shall make no claim for additional compensation in the absence of a prior written approval and amendment executed by all signatories hereto. This Contract may only be amended, supplemented or modified by a written document executed in the same manner as this Contract.

**10. 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 or modification of any applicable 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*. and the regulations promulgated thereunder. **If the Contractor has knowledge, or would have acquired knowledge with reasonable inquiry, that a state officer, employee, or special state appointee, as those terms are defined in IC § 4-2-6-1, has a financial interest in the Contract, the Contractor shall ensure compliance with the disclosure requirements in IC § 4-2-6-10.5 prior to the execution of this Contract.**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 Inspector General’s website at <http://www.in.gov/ig/>. 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, 4-2-7, 35-44.1-1-4, and under any other applicable laws.

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 of Indiana. The Contractor agrees that any payments currently due to the State of Indiana 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. Any payments that the State may delay, withhold, deny, or apply under this section shall not be subject to penalty or interest, except as permitted by IC § 5-17-5.

F. The Contractor warrants that the Contractor and its subcontractors, if any, shall obtain and maintain all required permits, licenses, registrations, and approvals, and shall 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.

G. 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.

H. 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:

* 1. IC §24-4.7 [Telephone Solicitation Of Consumers];
  2. IC §24-5-12 [Telephone Solicitations]; or
  3. 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.

1. 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, except for de minimis and nonsystematic violations,

(A) 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.

**11. 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 any federal, state or local statute, ordinance, rule or regulation.

**12. 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.

The parties acknowledge that the services to be performed by Contractor for the State under this Contract may require or allow access to data, materials, and information containing Social Security numbers maintained by the State in its computer system or other records. In addition to the covenant made above in this section and pursuant to 10 IAC 5-3-1(4), the Contractor and the State agree to comply with the provisions of IC § 4-1-10 and IC § 4-1-11. If any Social Security number(s) is/are disclosed by Contractor, Contractor agrees to pay the cost of the notice of disclosure of a breach of the security of the system in addition to any other claims and expenses for which it is liable under the terms of this contract.

**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 the phase-in training agreed to in the Transition Plan (as defined in Section 13.B.2); and
2. Exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor, to the extent provided in the Transition Plan.

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

1. Furnish the phase-in, phase-out services agreed to in the Transition Plan 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 “Transition Plan”). The Transition 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, to the extent provided in the Transition Plan, 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 Exclusive Personnel (as defined hereinafter) 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 (to the extent permitted by applicable law) necessary personnel records and allow the successor to conduct on-site interviews with these employees. If selected Exclusive Personnel 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. “Exclusive Personnel” means employees of the Contractor that have worked exclusively on this Contract during the preceding year.

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 of Indiana. 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 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 of 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 against the State for such costs.

C. If the parties are unable to resolve a contract dispute between them after good faith attempts to do so, a dissatisfied party shall submit the dispute to the Commissioner of the Indiana Department of Administration for resolution. The dissatisfied party shall give written notice to the Commissioner and the other party. The notice shall include: (1) a description of the disputed issues, (2) the efforts made to resolve the dispute, and (3) a proposed resolution. The Commissioner shall promptly issue a Notice setting out documents and materials to be submitted to the Commissioner in order to resolve the dispute; the Notice may also afford the parties the opportunity to make presentations and enter into further negotiations. Within thirty (30) business days of the conclusion of the final presentations, the Commissioner shall issue a written decision and furnish it to both parties. The Commissioner’s decision shall be the final and conclusive administrative decision unless either party serves on the Commissioner and the other party, within ten (10) business days after receipt of the Commissioner’s decision, a written request for reconsideration and modification of the written decision. If the Commissioner does not modify the written decision within thirty (30) business days, either party may take such other action helpful to resolving the dispute, including submitting the dispute to an Indiana court of competent jurisdiction. If the parties accept the Commissioner’s decision, it may be memorialized as a written Amendment to this Contract if appropriate.

D. 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 the Contractor to terminate this Contract, and the Contractor may bring suit to collect these amounts without following the disputes procedure contained herein.

E. With the written approval of the Commissioner of the Indiana Department of Administration, the parties may agree to forego the process described in subdivision C. relating to submission of the dispute to the Commissioner.

F. This paragraph shall not be construed to abrogate provisions of IC § 4-6-2-11 in situations where dispute resolution efforts lead to a compromise of claims in favor of the State as described in that statute. In particular, releases or settlement agreements involving releases of legal claims or potential legal claims of the state should be processed consistent with IC § 4-6-2-11, which requires approval of the Governor and Attorney General.

**17. Drug-Free Workplace Certification.**

As required byExecutive Order No. 90-5 dated April 12, 1990, issued by the Governor of Indiana, 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 paragraph, if the total amount set forth in this Contract is in excess of $25,000.00, the Contractor certifies and agrees that it will provide a drug-free workplace by:

1. 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;
2. 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;
3. 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;
4. 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;
5. 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
6. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

**18. Employment Eligibility Verification.**

As required by IC § 22-5-1.7, the Contractor swears or affirms under the penalties of perjury that the Contractor does not knowingly employ an unauthorized alien.  The Contractor further agrees that:

A.  The Contractor shall enroll in and verify the work eligibility status of all his/her/its newly hired employees through the E-Verify program as defined in IC § 22-5-1.7-3. The Contractor is not required to participate should the E-Verify program cease to exist. Additionally, the Contractor is not required to participate if the Contractor is self-employed and does not employ any employees.

B.  The Contractor shall not knowingly employ or contract with an unauthorized alien. The Contractor shall not retain an employee or contract with a person that the Contractor subsequently learns is an unauthorized alien.

C.  The Contractor shall require his/her/its subcontractors, who perform work under this Contract, to certify to the Contractor that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the E-Verify program. The Contractor agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor.

The State may terminate for default if the Contractor fails to cure a breach of this provision no later than thirty (30) days after being notified by the State.

**19. 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-competition agreements that may be in effect. This release will be at no cost to the State or the employee.

**20. 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 or as soon as is reasonably possible under the circumstances 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.

**21. Funding Cancellation**.

As required by Financial Management Circular 2007-1 and IC § 5-22-17-5, when the Director of the State Budget Agency 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 Director of State Budget Agency that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

**22. Governing Law**.

This Contract shall be governed, construed, and enforced in accordance with the laws of the State of Indiana, without regard to its conflict of laws rules. Suit, if any, must be brought in the State of Indiana.

**23. HIPAA Compliance.**

If this Contract involves services, activities or products subject to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the Contractor covenants that it will appropriately safeguard Protected Health Information (defined in 45 CFR 160.103), and agrees that it is subject to, and shall comply with, the provisions of 45 CFR 164 Subpart E regarding use and disclosure of Protected Health Information.

**24. Indemnification**.

The Contractor agrees to indemnify, defend, and hold harmless the State, its agents, officials, and employees from all third party 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 will not provide indemnification to the Contractor.

**25. Independent Contractor; Workers’ Compensation Insurance.**

The Contractor is performing as an independent entity under this Contract. No part of this Contract shall be construed to represent the creation of an employment, agency, partnership or joint venture agreement between the parties. 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 provide all necessary unemployment and workers’ compensation insurance for the Contractor’s employees, and shall provide the State with a Certificate of Insurance evidencing such coverage prior to starting work under this Contract.

**26. Indiana Veteran Owned Small Business Enterprise Compliance**.

  Award of this Contract was based, in part, on the Indiana Veteran Owned Small Business Enterprise (“IVOSB”) participation plan, as detailed in the IVOSB Subcontractor Commitment Form, commonly referred to as “Attachment A-1” in the procurement documentation and incorporated by reference herein. Therefore, any changes to this information during the Contract term must be approved by IDOA’s IVOSB Division (“IVOSB Division”) and may require an amendment. It is the State’s expectation that the Contractor will meet the subcontractor commitments during the Contract term. The following certified IVOSB subcontractor(s) will be participating in this Contract: **[Add additional IVOSBs using the same format.]**

IVOSB COMPANY NAME PHONE EMAIL OF CONTACT PERSON PERCENT

*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

*Briefly describe the IVOSB service(s)/product(s) to be provided under this Contract and include the estimated date(s) for utilization during the Contract term:*

*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

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A copy of each subcontractor agreement must be submitted to the IVOSB Division within thirty (30) days of the effective date of this Contract. The subcontractor agreements may be uploaded into Pay Audit (Indiana’s subcontractor payment auditing system), emailed to [IndianaVeteransPreference@idoa.IN.gov](mailto:IndianaVeteransPreference@idoa.IN.gov), or mailed to IDOA, 402 W. Washington Street, Room W-478, Indianapolis, IN 46204. Failure to provide a copy of any subcontractor agreement may be deemed a violation of the rules governing IVOSB procurement and may result in sanctions allowable under 25 IAC 9-5-2. Requests for changes must be submitted to [IndianaVeteransPreference@idoa.IN.gov](mailto:Indianaveteranspreference@idoa.IN.gov) for review and approval before changing the participation plan submitted in connection with this Contract.

The Contractor shall report payments made to certified IVOSB subcontractors under this Contract on a monthly basis using Pay Audit. The Contractor shall notify subcontractors that they must confirm payments received from the Contractor in Pay Audit. The Pay Audit system can be accessed on the IDOA webpage at: [www.in.gov/idoa/mwbe/payaudit.htm](http://www.in.gov/idoa/mwbe/payaudit.htm). The Contractor may also be required to report IVOSB certified subcontractor payments directly to the IVOSB Division, as reasonably requested and in the format required by the IVOSB Division.

The Contractor’s failure to comply with the provisions in this clause may be considered a material breach of the Contract.

**27.Information Technology Enterprise Architecture Requirements.**

If this Contract involves information technology-related products or services, the Contractor agrees that all such products or services are compatible with any of the technology standards found at <https://www.in.gov/iot/2394.htm> that are applicable, including the assistive technology standard.  The State may terminate this Contract for default if the terms of this paragraph are breached.

**28. Insurance.**

A. The Contractor and its subcontractors (if any) shall secure and keep in force during the term of this Contract the following insurance coverages (if applicable) covering the Contractor for any and all claims of any nature which may in any manner arise out of or result from Contractor’s performance under this Contract:

1. Commercial general liability, including contractual coverage, and products or completed operations coverage (if applicable), with minimum liability limits not less than $700,000 per person and $5,000,000 per. Coverage limits may be provided under a combination of primary and excess policies. The State is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly under or in connection with this Contract.

2. Automobile liability for owned, non-owned and hired autos with minimum liability limits not less than $700,000 per person and $5,000,000 per occurrence. Coverage limits may be provided under a combination of primary and excess policies. The State is to be named as an additional insured on a primary, non-contributory basis.

3. Errors and Omissions liability with minimum liability limits of $1,000,000 per claim and in the aggregate. Coverage for the benefit of the State shall continue for a period of two (2) years after the date of service provided under this Contract.

4. Fiduciary liability if the Contractor is responsible for the management and oversight of various employee benefit plans and programs such as pensions, profit-sharing and savings, among others with limits no less than $700,000 per cause of action and $5,000,000 in the aggregate.

5. Not applicable.

6. Not applicable.

7. Cyber Liability if requested by the State addressing risks associated with electronic transmissions, the internet, networks and informational assets, and having limits of no less than $700,000 per occurrence and $5,000,000 in the aggregate.

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 or other appropriate authorization to operate in the state in which the policy was issued.

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 duty to indemnify the State under this Contract shall not be limited by the insurance required in this Contract.

4.   The auto and commercial general liability 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.

5.    The Contractor waives and agrees to require their insurer to waive their rights of subrogation against the State of Indiana with regard to losses covered under the auto and commercial general liability insurance required in this Contract.

C.  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.

**29. 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.

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 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**30. Licensing Standards**.

The Contractor, 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 will not 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 any license, certification or accreditation expires or is revoked, or any disciplinary action is taken against an applicable license, certification, or accreditation, the Contractor shall notify the State immediately and the State, at its option, may immediately terminate this Contract.

**31. 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, except by written agreement signed by all necessary parties.

**32. Minority and Women’s Business Enterprises Compliance.**

Award of this Contract was based, in part, on the Minority and/or Women’s Business Enterprise (“MBE” and/or “WBE”) participation plan as detailed in the Minority and Women’s Business Enterprises Subcontractor Commitment Form, commonly referred to as “Attachment A” in the procurement documentation and incorporated by reference herein**.** Therefore, any changes to this information during the Contract term must be approved by MWBE Compliance and may require an amendment. It is the State’s expectation that the Contractor will meet the subcontractor commitments during the Contract term.

The following MBE/WBE Division (“Division”) certified MBE and/or WBE subcontractors will be participating in this Contract: **[Add additional MBEs and WBEs using the same format.]**

MBE or WBE COMPANY NAME PHONE EMAIL OF CONTACT PERSON PERCENT

*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

*Briefly describe the MBE and/or WBE service(s)/product(s) to be provided under this Contract and include the estimated date(s) for utilization during the Contract term:*

*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

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A copy of each subcontractor agreement must be submitted to the Division within thirty (30) days of the effective date of this Contract. The subcontractor agreements may be uploaded into Pay Audit (Indiana’s subcontractor payment auditing system), emailed to [MWBECompliance@idoa.IN.gov](mailto:MWBECompliance@idoa.IN.gov), or mailed to MWBE Compliance, 402 W. Washington Street, Indianapolis IN 46204. Failure to provide a copy of any subcontractor agreement may be deemed a violation of the rules governing MBE/WBE procurement and may result in sanctions allowable under 25 IAC 5-7-8. Requests for changes must be submitted to [MWBECompliance@idoa.IN.gov](mailto:MWBECompliance@idoa.IN.gov) for review and approval before changing the participation plan submitted in connection with this Contract.

The Contractor shall report payments made to Division certified subcontractors under this Contract on a monthly basis using Pay Audit. The Contractor shall notify subcontractors that they must confirm payments received from the Contractor in Pay Audit. The Pay Audit system can be accessed on the IDOA webpage at: [www.in.gov/idoa/mwbe/payaudit.htm](http://www.in.gov/idoa/mwbe/payaudit.htm). The Contractor may also be required to report Division certified subcontractor payments directly to the Division, as reasonably requested and in the format required by the Division.

The Contractor’s failure to comply with the provisions in this clause may be considered a material breach of the Contract.

**33. Nondiscrimination**.

Pursuant to the Indiana Civil Rights Law, specifically IC § 22-9-1-10, and in keeping with the purposes of the federal Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, the Contractor covenants that it shall not discriminate against any employee or applicant for employment relating to this Contract with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee’s or applicant’s race, color, national origin, religion, sex, age, disability, ancestry, status as a veteran, or any other characteristic protected by federal, state, or local law (“Protected Characteristics”). The Contractor certifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination based on the Protected Characteristics in the provision of services. Breach of this paragraph may be regarded as a material breach of this Contract, but nothing in this paragraph shall be construed to imply or establish an employment relationship between the State and any applicant or employee of the Contractor or any subcontractor.

The State is a recipient of federal funds, and therefore, where applicable,theContractor and any subcontractors shall comply with requisite affirmative action requirements, including reporting, pursuant to 41 CFR Chapter 60, as amended, and Section 202 of Executive Order 11246 as amended by Executive Order 13672.

**34. Notice to Parties**. Whenever any notice, statement or other communication is required under this Contract, it will be sent by E-mail or first class U.S. mail service to the following addresses, unless otherwise specifically advised.

A. Notices to the State shall be sent to:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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E-mail: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

B. Notices to the Contractor shall be sent to:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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E-mail: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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.

**35. 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 # ASA-21-66603, (4) Contractor’s response to RFP # ASA-21-66603, and (5) attachments prepared by the Contractor. All attachments, and all documents referred to in this paragraph, are hereby incorporated fully by reference.

**36. Ownership of Documents and Materials.**

A. All documents, records, programs, applications, data, algorithms, film, tape, articles, memoranda, and other materials (the “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 hereby transfers and assigns any ownership claims to the State so that all Materials will be the property of the State. If ownership interest in the Materials cannot be assigned to the State, the Contractor grants the State a non-exclusive, non-cancelable, perpetual, worldwide royalty-free license to use the Materials and to use, modify, copy and create derivative works of the Materials.

B. Use of the 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 the 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. The Contractor shall provide the State full, immediate, and unrestricted access to the Materials and to Contractor’s work product during the term of this Contract.

**37. Payments**.

A.  All payments shall be made thirty five (35) days in arrears in conformance with State fiscal policies and procedures and, as required by IC § 4-13-2-14.8, the direct deposit 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.

B. If the Contractor is being paid in advance for the maintenance of equipment, software or a service as a subscription, then pursuant to IC § 4-13-2-20(b)(14), the Contractor agrees that if it fails to fully provide or perform under this Contract, upon receipt of written notice from the State, it shall promptly refund the consideration paid, pro-rated through the date of non-performance.

**38. 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, IC § 34-13-1 and IC § 34-52-2.

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.

**39. 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.

**40. Public Record.**

The Contractor acknowledges that the State will not treat this Contract as containing confidential information, and will post this Contract on the transparency portal as required by Executive Order 05-07 and IC § 5-14-3.5-2. Use by the public of the information contained in this Contract shall not be considered an act of the State.

**41. Renewal Option**.

This Contract may be renewed, 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. Any such renewal shall be under the same terms and conditions of this Contract, except as may otherwise be agreed to by the parties and except that the Contractor’s compensation during any renewal shall be as agreed to by the parties.

**42. 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.

**43. 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.

**44. 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.

**45. Termination for Convenience**.

This Contract may be terminated, in whole or in part, by the State, which shall include and is not limited to IDOA and the State Budget Agency 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. For the purposes of this paragraph, the parties stipulate and agree that IDOA shall be deemed to be a party to this Contract with authority to terminate the same for convenience when such termination is determined by the Commissioner of IDOA to be in the best interests of the State.

**46. 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; the time to correct or cure the breach may be extended beyond thirty (30) days if the State determines progress is being made and the extension is agreed to by the parties;

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.

E. The State reserves the right to allow or disallow the Contractors participation in future solicitation opportunities, as a prime or subcontractor, for a period of two (2) years from the date of the notice of Termination for Default. A letter from the Commissioner of the Indiana Department of Administration shall be required to participate on future solicitations within the two (2) year time frame.

**47. Travel**.

No expenses for travel will be reimbursed unless specifically authorized by this Contract. Permitted expenses will be reimbursed at the rate paid by the State and in accordance with the Budget Agency’s *Financial Management Circular – Travel Policies and Procedures* in effect at the time the expenditure is made. Out-of-state travel requests must be reviewed by the State for availability of funds and for conformance with *Circular* guidelines.

**48. 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. Neither the State’s review, approval or acceptance of, nor payment for, the services required under this Contract shall be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the Contractor shall be and remain liable to the State in accordance with applicable law for all damages to the State caused by the Contractor’s negligent performance of any of the services furnished under this Contract. This Section is subject to Section 51.

**49. 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.

**50. State Boilerplate Affirmation Clause**.

I swear or affirm under the penalties of perjury that I have not altered, modified, changed or deleted the State’s standard contract clauses (as contained in the *2019* OAG/ IDOA *Professional Services Contract Manual* orthe *2019 SCM Template*) in any way except as follows:

46. Termination for Default – Modified

**51. Liability**.

1. This Section 51 shall apply notwithstanding anything to the contrary in this Contract, except that Subsection C hereof shall not limit: (1) any liability of the Contractor for personal injury or death or (2) any liability of Contractor to the extent arising from the gross negligence or willful misconduct of Contractor or Contractor's employees and subcontractors; or (3) liabilities of the Contractor for infringement of a copyright or patent under Section 3.16 of the Terms and Conditions. The limitation of liability in this Section 15 shall survive the expiration or termination of this Contract.
2. The Contractor shall not be responsible hereunder for third party claims or suits, or other liabilities, to the extent arising from the proper performance of its obligations hereunder or from the act or omission of the State or any party other than the Contractor, its subcontractors, and their respective personnel.
3. CONTRACTOR'S TOTAL LIABILITY UNDER THIS CONTRACT, WHETHER FOR BREACH OF CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY IN TORT, OR OTHERWISE, SHALL NOT EXCEED FIVE MILLION AND 00/100 DOLLARS ($5,000,000.00).
4. ALTHOUGH THE PARTIES ACKNOWLEDGE THE POSSIBILITY OF SUCH LOSSES OR DAMAGES, THEY AGREE THAT NEITHER PARTY WILL BE LIABLE HEREUNDER FOR ANY SPECIAL, INCIDENTIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES IN ANY WAY RELATED TO OR ARISING FROM THIS CONTRACT.

**52. Changes**. This Section 52 applies notwithstanding anything to the contrary in this Agreement, but does not limit Section 10 (Compliance with Laws). If, following the date of execution of the Contract, there is a significant change to an existing State law, regulation or policy, or if new State laws, regulations or policies are enacted, that significantly affects the Services, the parties agree to negotiate an equitable adjustment to the Contractor’s compensation. Changes to State laws, regulations, or policies necessary to comply with CJIS requirements shall not be subject to this Section 52.

**53. Commercial Code**. All software, applications, and code utilized by the Contractor hereunder is commercial and is, or will be, used to serve other of the Contractor’s customers. As such, the parties acknowledge and agree that the software, applications, and code utilized by the Contractor hereunder are not Materials for the purposes of Section 36.

**Non-Collusion and Acceptance**

The undersigned attests, subject to the penalties for perjury, that the undersigned is the Contractor, or that the undersigned is the properly authorized representative, agent, member or officer of the Contractor.  Further, to the undersigned’s knowledge, neither the undersigned nor any other member, employee, representative, agent or officer of the Contractor, directly or indirectly, has entered into or been offered any sum of money or other consideration for the execution of this Contract other than that which appears upon the face hereof.    **Furthermore, if the undersigned has knowledge that a state officer, employee, or special state appointee, as those terms are defined in IC § 4-2-6-1, has a financial interest in the Contract, the Contractor attests to compliance with the disclosure requirements in IC § 4-2-6-10.5.**

**Agreement to Use Electronic Signatures**

**[Applicable only to contracts processed through SCM]**

**In Witness Whereof**, the 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 agree to the terms thereof.

[Contractor] [Indiana Agency]

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

Name and Title, Printed Name and Title, Printed

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

**Approved by: Approved by:**

Indiana Department of Administration State Budget Agency

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(for) By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (for)

Lesley A. Crane, Commissioner Zachary Q. Jackson, Director

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

**APPROVED as to Form and Legality:**

Office of the Attorney General

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(for)

Curtis T. Hill, Jr., Attorney General

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

**Approved by:**

Indiana Office of Technology

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (for)

Tracy Barnes, Chief Information Officer

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

**RFP ASA-21-66603**

**SAMPLE PROFESSIONAL SERVICES CONTRACT**

**Exhibit A – Performance Metrics**

This document is an exhibit to the Professional Services agreement and is deemed to be attached to and incorporated within the Professional Services Agreement by reference. Any inconsistency, conflict, or ambiguity between this exhibit and the Professional Services Agreement shall be resolved by giving precedence and effect to the Professional Services agreement.

**TBD**

**RFP ASA-21-66603**

**SAMPLE PROFESSIONAL SERVICES CONTRACT**

**Exhibit B – Service Level Agreement**

This document is an exhibit to the Professional Services agreement and is deemed to be attached to and incorporated within the Professional Services Agreement by reference. Any inconsistency, conflict, or ambiguity between this exhibit and the Professional Services Agreement shall be resolved by giving precedence and effect to the Professional Services agreement.

**RFP ASA-21-66603 ATTACHMENT K**

**RFP ASA-21-66603**

**SAMPLE PROFESSIONAL SERVICES CONTRACT**

**Exhibit C – Service Pricing**

This document is an exhibit to the Professional Services agreement and is deemed to be attached to and incorporated within the Professional Services Agreement by reference. Any inconsistency, conflict, or ambiguity between this exhibit and the Professional Services Agreement shall be resolved by giving precedence and effect to the Professional Services agreement.

**TBD**

**RFP ASA-21-66603**

**SAMPLE PROFESSIONAL SERVICES CONTRACT**

**Exhibit D – User Access Levels**

This document is an exhibit to the Professional Services agreement and is deemed to be attached to and incorporated within the Professional Services Agreement by reference. Any inconsistency, conflict, or ambiguity between this exhibit and the Professional Services Agreement shall be resolved by giving precedence and effect to the Professional Services agreement.

**RFP ASA-21-66603 ATTACHMENT L**

**RFP ASA-21-66603**

**SAMPLE PROFESSIONAL SERVICES CONTRACT**

**Exhibit E – Urban-Rural Classification**

This document is an exhibit to the Professional Services agreement and is deemed to be attached to and incorporated within the Professional Services Agreement by reference. Any inconsistency, conflict, or ambiguity between this exhibit and the Professional Services Agreement shall be resolved by giving precedence and effect to the Professional Services agreement.

**RFP ASA-21-66603 ATTACHMENT M**

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**RFP ASA-21-66603**

**SAMPLE PROFESSIONAL SERVICES CONTRACT**

**Exhibit F – Indiana Authorization and Notification Form**

This document is an exhibit to the Professional Services agreement and is deemed to be attached to and incorporated within the Professional Services Agreement by reference. Any inconsistency, conflict, or ambiguity between this exhibit and the Professional Services Agreement shall be resolved by giving precedence and effect to the Professional Services agreement.

**RFP ASA-21-66603 ATTACHMENT N**

**RFP ASA-21-66603**

**SAMPLE PROFESSIONAL SERVICES CONTRACT**

**Exhibit G – Agency Privacy Requirements for NCJ Justice Applicants**

This document is an exhibit to the Professional Services agreement and is deemed to be attached to and incorporated within the Professional Services Agreement by reference. Any inconsistency, conflict, or ambiguity between this exhibit and the Professional Services Agreement shall be resolved by giving precedence and effect to the Professional Services agreement.

**RFP ASA-21-66603 ATTACHMENT O**

**RFP ASA-21-66603**

**SAMPLE PROFESSIONAL SERVICES CONTRACT**

**Exhibit H Noncriminal Justice Applicant’s Privacy Rights**

This document is an exhibit to the Professional Services agreement and is deemed to be attached to and incorporated within the Professional Services Agreement by reference. Any inconsistency, conflict, or ambiguity between this exhibit and the Professional Services Agreement shall be resolved by giving precedence and effect to the Professional Services agreement.

**RFP ASA-21-66603 ATTACHMENT P**

**RFP ASA-21-66603**

**SAMPLE PROFESSIONAL SERVICES CONTRACT**

**Exhibit I – Privacy Act Statement**

This document is an exhibit to the Professional Services agreement and is deemed to be attached to and incorporated within the Professional Services Agreement by reference. Any inconsistency, conflict, or ambiguity between this exhibit and the Professional Services Agreement shall be resolved by giving precedence and effect to the Professional Services agreement.

**RFP ASA-21-66603 ATTACHMENT Q**

**RFP ASA-21-66603**

**SAMPLE PROFESSIONAL SERVICES CONTRACT**

**Exhibit J – Indiana Disclosure NCPA/VCA Notice 2020**

This document is an exhibit to the Professional Services agreement and is deemed to be attached to and incorporated within the Professional Services Agreement by reference. Any inconsistency, conflict, or ambiguity between this exhibit and the Professional Services Agreement shall be resolved by giving precedence and effect to the Professional Services agreement.

**RFP ASA-21-66603 ATTACHMENT R**

**RFP ASA-21-66603**

**SAMPLE PROFESSIONAL SERVICES CONTRACT**

**Exhibit K Indiana Identity Verification**

This document is an exhibit to the Professional Services agreement and is deemed to be attached to and incorporated within the Professional Services Agreement by reference. Any inconsistency, conflict, or ambiguity between this exhibit and the Professional Services Agreement shall be resolved by giving precedence and effect to the Professional Services agreement.

**RFP ASA-21-66603 ATTACHMENT T**