

**SANTA FE COUNTY  
CORRECTIONS DEPARTMENT**

**REQUEST FOR PROPOSALS**



**COMMISSARY SERVICES FOR THE ADULT  
DETENTION FACILITY & YOUTH  
DEVELOPMENT PROGRAM**

**RFP #2015-0063-CORR/IC**

**SEPTEMBER 2014**

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**I. ADVERTISEMENT**

**REQUEST FOR PROPOSALS  
SANTA FE COUNTY CORRECTIONS DEPARTMENT  
COMMISSARY SERVICES FOR THE ADULT DETENTION FACILITY & YOUTH  
DEVELOPMENT PROGRAM**

**RFP #2015-0063-CORR/IC**

Santa Fe County is requesting proposals for the purpose of procuring commissary services for the Santa Fe County Adult Detention Facility and the Santa Fe County Youth Development Program. All proposals submitted shall be valid for ninety (90) days subject to action by the County. Santa Fe County reserves the right to reject any and all proposals in part or in whole. A complete proposal shall be submitted in a sealed container indicating the proposal title and number along with the offeror's name and address clearly marked on the outside of the container. **All proposals must be received by 2:00 PM (Mountain Daylight Time) on October 17, 2014, at the Santa Fe County Purchasing Division, 142 W. Palace, Second Floor, Santa Fe, New Mexico 87501.** By submitting a proposal for the requested services, each offeror is certifying that its proposal complies with requirements stated in the Request for Proposals.

**A MANDATORY Pre-Proposal Conference shall be held on October 3, 2014, at 10:00 AM at the Santa Fe County Adult Detention Facility, 28 Camino Justica, Santa Fe, NM 87508, for all interested offerors to review and discuss the proposal packet.**

EQUAL OPPORTUNITY EMPLOYMENT: All qualified offerors will receive consideration of contract(s) without regard to race, color, religion, sex or national origin.

Request for Proposals are available by contacting Iris Cordova, Procurement Specialist, Senior, 142 W. Palace Avenue, Second Floor, Santa Fe, New Mexico 87501, or by telephone at (505) 986-6337, or by email at [icordova@santafecountynm.gov](mailto:icordova@santafecountynm.gov) or on the county's website at [http://www.santafecounty.org/about\\_us/current\\_bid\\_soliciations.php](http://www.santafecounty.org/about_us/current_bid_soliciations.php).

**PROPOSALS RECEIVED AFTER THE DATE AND TIME SPECIFIED ABOVE WILL NOT BE CONSIDERED AND WILL BE REJECTED BY SANTA FE COUNTY.**

Santa Fe County  
Purchasing Division  
Publish September 21, 2014

## II. INTRODUCTION

### A. PURPOSE OF THIS REQUEST FOR PROPOSALS

Santa Fe County is requesting proposals to acquire the services of an experienced and qualified firm to operate and manage a comprehensive commissary program in an institutionalized setting using personnel with experience providing commissary services in detention facilities for the Adult Detention Facility (ADF) and the Youth Development Program (YDP) located in Santa Fe County.

The County of Santa Fe Corrections Department manages two facilities; the Santa Fe County Adult Detention Facility (ADF) located at 28 Camino Justica, Santa Fe, New Mexico, 87508 and houses a population of about 700 inmates and the Youth Development Program (YDP), which is located at 4250 Airport Road, Santa Fe, New Mexico 87505 and maintains up to 63 residents. All proposals shall be for operation and sale of commissary services and items necessary in a correctional facility.

### B. SCOPE OF WORK

#### 1. COMMISSARY SERVICE REQUIREMENTS

- a. The Contractor agrees to manage the Santa Fe County Detention Facilities' Commissary Operations in a professional manner.
- b. The Contractor will comply with all federal, state and local laws and regulations governing the management of a commissary.
- c. The Contractor shall hire the on-site Commissary Director necessary for the performance of this Agreement. The Contractor agrees that no employees of the County will be hired by the Contractor without permission of the County for a period of six months after the termination of their employment with the County. The Contractor, in performing work required by this agreement shall not discriminate against any employee or applicant for employment because of race, creed, sex, color, national origin or age, in violation of the federal state and local laws.
- d. Commissary orders will be delivered at least weekly to each unit. Contractor's personnel will deliver bagged orders to each inmate per an agreed upon schedule and in accordance with County's security requirements.
- e. Commissary products must be approved by the Facility Administrator or his designee. Products will include food items, supplies, personal care items, and pre-paid phone cards. Glass and/or metal containers are not permitted.
- f. Pre-paid phone cards shall be purchased by Contractor directly from the best available source with the approval of the Facility Administrator. Units are sold to inmates at face value plus an agreed upon handling fee.
- g. Commissary items will be available for purchase by inmates housed at both the ADF and the YDP. Orders for YDP residents will be placed by YDP administrative staff directly with Contractor. Contractor will process the order, enter it into the Juvenile Detention Commissary account in the SFC Jail

Management software and deliver it to YDP administrative staff. Contractor will provide YDP with the total dollar amount of the processed order. YDP staff will verify the accuracy of items received, and reconcile any discrepancies in the order with Contractor. Commissary items may be purchased for the benefit of ADF and YDP residents ONLY.

- h. Product prices (inmate prices) must be approved by the Facility Administrator or his designee, prior to the inclusion in the Jail Management (JM) inventory system. The Contractor will provide an initial price listing of the commissary items to be offered to inmates, to the Facility Administrator. The listing should detail the Contractor's cost of each item, inclusive of GRT, and the sales markup on each item. Inmate prices will be comparable with prices charged at other detention centers and correctional institutions operating in New Mexico. Any item additions, or changes to inmate prices, must also be approved, as above. Proposed price changes, or additions of new items to the initial inventory, shall be documented by the Contractor, per the Facility Administrator's specification, when submitted for approval. Documentation of the approved price change, or item addition, shall be forwarded to designated Santa Fe County Finance staff to be used for auditing purposes. Inmate price changes, and item additions, shall only be entered into the JM inventory software on the 1<sup>st</sup> of any month, prior to processing of any inmate orders on that day. If, for any reason, a change or addition is processed on a day other than the 1<sup>st</sup> of the month, SFC Finance staff must be notified.
- i. All food products must be properly labeled. Only fresh and legal products may be sold, inventory must be rotated so as not to have extended shelf life. Items found to be defective or not meeting specifications will be removed and replaced by the Contractor.
- j. The County provides the Contractor with the necessary space at the Adult Detention Facility for the operation of the Commissary and reasonable security for the Contractor's personnel.
- k. Inmate accounts, against which commissary purchases are charged, are maintained by the Facility in its Jail Management software. The Contractor will be required to use this computer software to record inmate commissary purchases. Contractor's staff will be trained in the proper use of the Jail Management software for entering of commissary orders. Contractor's staff will be given access to, and training in, the production of system reports related to commissary functions.
- l. All security policies and procedures established for the ADF will be strictly followed. The County reserves the right to enforce existing security policies or establish new policies as necessary to maintain the safe operation of the detention facility. Current security policies include a requirement that the Sheriff must conduct background checks on all commissary personnel prior to granting them access to the County's detention facilities.
- m. Offerors are encouraged to be creative with their proposals and to offer any options that may be of interest to the County, and could serve to streamline the commissary operation.
- n. Compensation and Invoicing:
  - Contractor will propose a "rebate percentage", based on total commissary

sales. This “rebate” will be disbursed from Inmate Trust funds to the SFC Inmate Welfare Fund where it may be used for the benefit of all inmates. The “rebate” will reduce the amount paid to the Contractor for services, and will be computed as follows:

- Gross Commissary Sales (per SFC JM software)  
LESS Phone Card Sales  
LESS Postage Sales  
LESS Gross Receipts Tax (currently 8.1875% within Santa Fe city limits and 6.8750% for the remainder of the county) on Non-consumable Sales

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- NET Commissary Sales to which “Rebate Percentage” is applied
- Contractor will submit an itemized invoice, on paper or electronically, to designated SFC staff (ADF and/or Finance), which clearly shows the computation of the SFC rebate and the net amount payable to the Contractor for commissary services. The invoice should be computed as follows:
  - Gross Commissary Sales (per SFC JM software)
  - LESS SFC Rebate (as computed above)
  - Amount Payable to Contractor (invoice amount)
- Contractor’s invoices will be audited for accuracy of sales information, and computations, by SFC Finance department staff. The audit will include a comparison between (a) total charges to inmate accounts for commissary purchases, and (b) total sales from inventory (by item) per reports generated from the JM software. Any adjustments made to the invoice as a result of this audit will be communicated to the Contractor’s designated staff by SFC Finance staff. In no case, will the total of (a) the invoice payment to the Contractor, and (b) the “rebate” to the SFC Inmate Welfare Fund, exceed total inmate account charges for commissary purchases.

## 2. OPTIONAL SERVICES:

The Contractor will provide a pricing option to install kiosk devices that are compatible, with or can interface with, the Jail Management software. The pricing option should contain the price of the contract with AND without the Kiosk so the Corrections director can make a decision based upon financial viability. The Kiosk should provide the following:

### a. Kiosk

Kiosks will be installed in the following locations at the Santa Fe County Adult Detention Center:

- Building A – all four units
- Building B – all four units
- Building C – all four units
- Building D – all four units
- Main lobby entrance

- Booking
- Medical

Kiosks must interface with the ADF's Jail Management software.

If additional cabling is required the installation and cost shall be the sole responsibility of the Contractor.

Kiosks must have the capability to display to the user all facility Inmate Rules and Regulations.

All hardware, software, maintenance and replacement of any and all parts of the Kiosk system will be the sole responsibility of the Contractor (at no cost to Santa Fe County).

Inmates must be able to place Commissary orders and check account balances on the Kiosk system.

Any damage to the kiosks, whether inmate or public caused, intentional or unintentional, will be repaired in a timely manner by the Contractor at no cost to Santa Fe County.

b. On-Line Commissary

Any web-based Commissary program shall be capable of selling all approved products for the Santa Fe County Detention Facility.

All items available for purchase through the on-line system must be approved by the Santa Fe County Facility Administrator.

Contractor will absorb **all** fees associated with on-line payment via credit or debit cards.

All on-line transactions are solely between the Contractor and the outside consumer. Neither Santa Fe County nor its Jail Management software will be involved in any on-line transactions. All proceeds from on-line sales are to be remitted directly to Contractor. On-line sales are **not** subject to the rebate and should not be included in commissary sales invoiced to Santa Fe County.

C. DEFAULT BY CONTRACTOR, AND LIQUIDATED DAMAGES

1. Default

An Event of Default on the part of the Contractor is defined as the Contractor's material failure to comply with any provision of this Agreement including the performance measures set out herein.



2. Notice of Default and Liquidated Damages

Upon the occurrence of an Event of Default on the part of the Contractor, SFCCD shall provide written notice to the Contractor of the default and shall specify a reasonable period of time in which the Contractor must cure the default, unless SFCCD notifies the Contractor of its intent to terminate pursuant to this RFP. If the Contractor fails to cure the default within the reasonable period of time specified, or if there have been several defaults or a series of defaults, SFCCD may pursue any remedy allowed by law or in equity. If said default is a failure to comply with any provision of this Agreement or the performance measures set out herein, the Contractor will pay SFCCD liquidated damages in the amounts specified, for each day or occurrence, as applicable and specified in the performance measures, that the Contractor is in default; and for each provision of this Agreement or performance measure that the Contractor has failed to cure. This provision shall not impair the right of SFCCD to reduce the daily service fee.

D. INSURANCE REQUIREMENTS

1. General Conditions. The Contractor shall submit evidence of insurance as is required herein. Policies of insurance shall be written by companies authorized to write such insurance in New Mexico.
2. General Liability Insurance, Including Automobile. The Contractor shall procure and maintain during the life of this Agreement a comprehensive general liability and automobile insurance policy with liability limits in amounts not less than \$1,050,000.00 combined single limits of liability for bodily injury, including death, and property damage for any one occurrence. Said policies of insurance shall include coverage for all operations performed for the County by the Contractor; coverage for the use of all owned, non-owned, hired automobiles, vehicles and other equipment, both on and off work; and contractual liability coverage under which this Agreement is an insured contract. The County of Santa Fe shall be a named additional insured on the policy.
3. Workers' Compensation Insurance. The Contractor shall comply with the provisions of the Workers' Compensation Act.

E. PROCUREMENT MANAGER

The County has designated a Procurement Manager who is responsible for the conduct of this procurement whose name, address and telephone number is listed below. All deliveries via express carrier should be addressed as follows:

Iris Cordova, Senior Procurement Specialist  
 Santa Fe County Purchasing Division  
 142 W. Palace Avenue, Second Floor

Santa Fe, NM 87501  
Phone: (505) 986-6337  
Fax: (505) 989-3243  
[icordova@santafecountynm.gov](mailto:icordova@santafecountynm.gov)

Any inquiries or requests regarding this procurement should be submitted to the Procurement Manager in writing. Offerors may contact ONLY the Procurement Manager regarding the procurement. Other County employees do not have the authority to respond on behalf of the County regarding this procurement.

F. DEFINITION OF TERMINOLOGY

This section contains definitions and abbreviations that are used throughout this procurement document.

“BCC” means the elected Board of County Commissioners for Santa Fe County.

“Close of Business” means 5:00 PM Mountain Standard or Mountain Daylight Time, whichever is in effect on the date given.

“Contract” or “Agreement” means a written agreement for the procurement of items of tangible personal property or services.

“Contractor” means a successful offeror who enters into a binding contract.

“County” means Santa Fe County.

“Determination” means the written documentation of a decision by the Procurement Manager including findings of fact supporting a decision. A determination becomes part of the procurement file.

“Desirable” The terms “may”, “can”, “should”, “preferably”, or “prefers” identify a desirable or discretionary item or factor (as opposed to “mandatory”).

“Evaluation Committee” means a body appointed by the County management to perform the evaluation of proposals.

“Finalist” is defined as an offeror who meets all the mandatory specifications of this Request for Proposals and whose score on evaluation factors is sufficiently high to merit further consideration by the Evaluation Committee.

“Mandatory” The terms “must”, “shall”, “will”, “is required”, or “are required”, identify a mandatory item or factor (as opposed to “desirable”). Failure to meet a mandatory item or factor will result in the rejection of the offeror’s proposal.

“Offeror” is any person, corporation, or partnership who submits a proposal.

“Procurement Manager” means the person or designee authorized by the County to manage or administer a procurement requiring the evaluation of competitive sealed proposals.

“Purchasing Division” means the Santa Fe County Purchasing Division, Administrative Services Department.

“Request for Proposals” or “RFP” means all documents, including those attached or incorporated by reference, used for soliciting proposals.

“Responsible Offeror” means an offeror who submits a responsive proposal and who has furnished, when required, information and data to prove that its financial resources, production or service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the services or items of tangible personal property described in the proposal.

“Responsive Offer” or “Responsive Proposal” means an offer or proposal that conforms in all material respects to the requirements set forth in the RFP. Material respects of a RFP include, but are not limited to, price, quality, quantity or delivery requirements.

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### III. CONDITIONS GOVERNING THE PROCUREMENT

This section of the RFP contains the schedule for the procurement, describes the major procurement events and the conditions governing the procurement.

#### A. SEQUENCE OF EVENTS

The Procurement Manager will make every effort to adhere the following schedule:

	<u>Action</u>	<u>Responsibility</u>	<u>Date</u>
1.	Issue of RFP	Purchasing Division	09/21/2014
2.	Pre-Proposal Conference	Owner/Purchasing Offerors	10/03/2014
3.	Acknowledgement Form Due	Offerors	10/03/2014
4.	Deadline to Submit Additional Questions	Offerors	10/07/2014
5.	Response to Written Questions	Purchasing Division	10/09/2014
6.	Submission of Proposal 2:00 PM MST	Offerors	10/17/2014
7.	Proposal Evaluation	Evaluation Committee	10/20/2014 thru 10/27/2014
8.	Selection of Finalists (If Applicable)	Evaluation Committee	10/27/2014
9.	Best and Final Offers from Finalists (If Applicable)	Offeror	10/30/2014
10.	Oral Presentation by Finalists (If Applicable)	Offeror	11/04/2014
12.	Finalize Contract	County, Offeror	11/12/2014
13.	Contract Award	Purchasing Division	11/25/2014

Note: If the Evaluation Committee makes a selection at the Selection of Finalists, events 8-10 will not apply.

B. EXPLANATION OF EVENTS

The following paragraphs describe the activities listed in the sequence of events shown in Section III, Paragraph A.

1. Issue RFP

This RFP is being issued by the Santa Fe County Corrections Department Adult Detention Facility and the Purchasing Division.

2. Pre-Proposal Conference

A Pre-Proposal Conference is scheduled for on the date indicated in the "Sequence of Events" at Section III.A. Questions may be submitted at the Pre-Proposal Conference and after up until the date indicated in the "Sequence of Events" at Section III.A. A public log will be kept of the names of potential offerors that attended the pre-proposal conference. **The pre-proposal conference is MANDATORY.**

3. Acknowledgement of Receipt Form Due

A potential Offeror should hand-deliver, return by facsimile or e-mail the "Acknowledgement of Receipt Form" provided as Appendix A to have its name and firm placed on the procurement distribution list. The form should be signed by an authorized representative of the organization, dated and returned by close of business on the date indicated in the "Sequence of Events" at Section III.A.

The procurement distribution list will be used for the distribution of written responses to questions and any RFP addenda.

4. Deadline to Submit Additional Written Questions

Potential Offerors may submit written questions regarding this RFP until the close of business on the date indicated in the "Sequence of Events" at Section III.A. All written questions must be addressed to the Procurement Manager, listed in Section II, Paragraph E and sent via facsimile or e-mail. **Any contact with any other County staff member other than the Procurement Manager named in this solicitation will be grounds for rejection of a proposal.**

5. Response to Written Questions

Written responses to written questions and any RFP addenda will be distributed on the date indicated in the "Sequence of Events" at Section III.A, to all potential Offerors whose names appear on the procurement distribution list.

Additional written requests for clarification of distributed answers or addenda must be received by the Procurement Manager no later than one (1) day after the answers or addenda were issued.

6. Submission of Proposal

**ALL OFFEROR PROPOSALS MUST BE RECEIVED FOR REVIEW AND EVALUATION BY THE PROCUREMENT MANAGER OR DESIGNEE NO LATER THAN 2:00 P.M. (MOUNTAIN STANDARD TIME) ON October 17, 2014. Proposals received after this deadline will not be accepted.** The date and time of receipt will be recorded on each proposal. Proposals must be addressed and delivered to the Procurement Manager at the address listed in Section II, D. Proposals must be sealed and labeled on the outside of the package to clearly indicate that they are in response to the County's Request for Proposals for a Full Body Scanner and refer to the RFP number. Proposals submitted by facsimile or other electronic means will not be accepted.

Proposals must be delivered to:

Iris Cordova, Senior Procurement Specialist  
Santa Fe County Purchasing Division  
142 W. Palace Avenue (Second Floor)  
Santa Fe, New Mexico 87501

A public log will be kept of the names of all offeror organizations that submitted proposals. Pursuant to NMSA 1978, Section 13-1-116, the contents of any proposal shall not be disclosed to competing offerors prior to contract award.

7. Proposal Evaluation

The evaluation of proposals will be performed by an Evaluation Committee appointed by the Procurement Manager. This process will take place during the timeframe indicated in the "Sequence of Events" at III.A. During this time, the Procurement Manager may initiate discussions with Offerors who submit responsive or potentially responsive proposals for the purpose of clarifying aspects of the proposals, but proposals may be accepted and evaluated without such discussion. Discussions SHALL NOT be initiated by the Offerors.

8. Selection of Finalists (If Applicable)

The Evaluation Committee may select and the Procurement Manager may notify the Finalist Offerors on the date indicated in the "Sequence of Events" at Section III.A. Only Finalists will be invited to participate in the subsequent steps of the procurement if the Finalist process is used.

9. Best and Final Offers from Finalists (If Applicable)

Finalist Offerors may be asked to submit revisions to their proposals for the purpose of obtaining best and final offers by the date indicated in the "Sequence of Events" at Section III.A.

10. Oral Presentation by Finalists (If Applicable)

Finalist Offerors may be required to present their proposals to the Evaluation Committee. The Procurement Manager will schedule the time for each Offeror presentation. All Offeror presentations will be held at the Santa Fe County Purchasing Division, 142 W. Palace Avenue (Second Floor), Santa Fe, New Mexico. Each presentation will be limited to thirty (30) minutes in duration.

11. Finalize Contract

The contract will be finalized with the most advantageous Offeror during the timeframe indicated in the "Sequence of Events" at Section III.A. In the event that mutually agreeable terms cannot be reached within the time specified, the County reserves the right to finalize a contract with the next most advantageous Offeror without undertaking a new procurement process.

12. Contract Award

The County anticipates awarding the contract on the date in the "Sequence of Events" at Section III.A. These dates are subject to change at the discretion of the Santa Fe County Purchasing Manager.

The contract shall be awarded to the Offeror or Offerors whose proposal is most advantageous to the County, taking into consideration the evaluation factors set forth in the RFP. The most advantageous proposal may or may not have received the most points.

13. Right to Protest

Any protest by an Offeror must be timely and in conformance with NMSA 1978, Section 13-1-172 and applicable procurement regulations. Protests must be written and must include the name and address of the protestor and the request for proposals number. It must also contain a statement of grounds for protest including appropriate supporting exhibits. The protests must be delivered to the Santa Fe County Purchasing Division:

Santa Fe County  
Attn: Procurement Office  
P.O. Box 276  
Santa Fe, New Mexico 87504

Protests will not be accepted by facsimile or other electronic means. Protests received after the deadline will not be accepted.

C. GENERAL REQUIREMENTS

This procurement will be conducted in accordance with Chapter 13, NMSA 1978, NMAC 1.4.1 and the Santa Fe County Procurement Regulations.

1. Acceptance of Conditions Governing the Procurement

Offerors must indicate their acceptance of the Conditions Governing the Procurement section in the letter of transmittal. Submission of a proposal constitutes acceptance of the terms and conditions in the sample contract attached hereto as Appendix C.

2. Incurring Cost

Any cost incurred by the offeror in preparation, transmittal, presentation of any proposal or material submitted in response to this RFP shall be borne solely by the Offeror.

3. Prime Contractor Responsibility

Any contract that may result from this RFP shall specify that the prime contractor is solely responsible for fulfillment of the contract with the County. The County will make contract payments to only the prime contractor.

4. Subcontractors

Use of subcontractors must be clearly explained in the proposal, and major subcontractors must be identified by name. The prime contractor shall be wholly responsible for the entire performance whether or not subcontractors are used.

5. Amended Proposals

An Offeror may submit an amended proposal before the deadline for receipt of proposals. Such amended proposals must be complete replacements for a previously submitted proposal and must be clearly identified as such in the transmittal letter. County personnel will not merge, collate, or assemble proposal materials.

6. Offerors' Rights to Withdraw Proposal

Offerors will be allowed to withdraw their proposals at any time prior to the deadline for receipt of proposals. The Offeror must submit a written withdrawal request signed by the offeror's duly authorized representative addressed to the Procurement Manager. The approval or denial of withdrawal requests received after the deadline for receipt of the proposals is governed by the applicable procurement regulations.



7. Proposal Offer Firm

Responses to this RFP, including proposal prices, will be considered firm for ninety (90) days after the due date for receipt of proposals or ninety (90) days after receipt of a best and final offer if one is submitted.

8. Disclosure of Proposal Contents

The proposals will be kept confidential until a contract is awarded. At that time, all proposals and documents pertaining to the proposals will be open to the public, except for the material that is proprietary or confidential. The Procurement Manager will not disclose or make public any pages of a proposal on which the offeror has stamped or imprinted "proprietary" or "confidential" subject to the following requirements.

Proprietary or confidential data shall be readily separable from the proposal in order to facilitate eventual public inspection of the non-confidential portion of the proposal. Confidential data is normally restricted to confidential financial information concerning the offeror's organization and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, 57-3A-1 to 57-3A-7, NMSA 1978. The price of products offered or the cost of services proposed shall not be designated as proprietary or confidential information.

If a request is received for disclosure of data for which an offeror has made a written request for confidentiality, the Santa Fe County Procurement Manager shall examine the offeror's request and make a written determination that specifies which portions of the proposal should be disclosed. Unless the offeror takes legal action to prevent the disclosure, the proposal will be so disclosed. The proposal shall be open to public inspection subject to any continuing prohibition on the disclosure of confidential data.

9. No Obligation

This procurement in no manner obligates Santa Fe County or any of its departments to the use of any proposed professional services until a valid written contract is awarded and approved by the appropriate authorities.

10. Termination

This RFP may be canceled at any time and any and all proposals may be rejected in whole or in part when the County determines such action to be in the best interest of the County.

11. Sufficient Appropriation

Any contract awarded as a result of this RFP process may be terminated if sufficient appropriations or authorizations do not exist. Such termination will be effected by sending written notice to the contractor. The County's decision as to whether sufficient appropriations and authorizations are available will be accepted by the contractor as final.

12. Legal Review

The County requires that all offerors agree to be bound by the General Requirements contained in this RFP. Any offeror concerns must be promptly brought to the attention of the Procurement Manager.

13. Governing Law

This procurement and any agreement with offerors that may result shall be governed by the laws of the State of New Mexico.

14. Basis for Proposal

Only information supplied by the County in writing through the Procurement Manager or in this RFP should be used as the basis for the preparation of offeror proposals.

15. Contract Terms and Conditions

The contract between the County and the Contractor will follow the format specified by the County and contain the terms and conditions set forth in Appendix C. However, the County reserves the right to negotiate with a successful offeror provisions in addition to those contained in this RFP.

Should an offeror object to any of the County's terms and conditions, as contained in this Section or in Appendix C, that offeror must propose specific alternative language. The County may or may not accept the alternative language. General references to the offeror's terms and conditions or attempts at complete substitutions are not acceptable to the County and will result in disqualification of the offeror's proposal.

Offerors must provide a brief discussion of the purpose and impact, if any, of each proposed change followed by the specific proposed alternate wording.

16. Offeror's Terms and Conditions

Offerors must submit with the proposal a complete set of any additional terms and conditions which they expect to have included in a contract negotiated with the County.

17. Contract Deviations

Any additional terms and conditions, which may be the subject of negotiation, will be discussed only between the County and the selected offeror and shall not be deemed an opportunity to amend the offeror's proposal.

18. Offeror Qualifications

The Evaluation Committee may make such investigations as necessary to determine the ability of the offeror to adhere to the requirements specified within this RFP. The Evaluation Committee will reject the proposal of any offeror who is not a responsible offeror or fails to submit a responsive offer as defined in Sections 13-1-83 and 13-1-85 NMSA, 1978, subject to Procurement Manager approval.

19. Right to Waive Minor Irregularities

The Evaluation Committee reserves the right to waive minor irregularities. The Evaluation Committee also reserves the right to waive mandatory requirements provided that all of the otherwise responsive proposals failed to meet the mandatory requirements and/or doing so does not otherwise materially affect the procurement. This right is at the sole discretion of the Evaluation Committee, subject to Procurement Manager approval.

20. Change in Contractor Representatives

The County reserves the right to require a change in contractor representatives if the assigned representatives are not, in the opinion of the County, meeting its needs adequately. Any change in contractor representative must receive prior County approval.

21. Notice

The Procurement Code, Sections 13-1-28 through 13-1-199, NMSA 1978, imposes civil and misdemeanor criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities and kick-backs.

22. County Rights

The County reserves the right to accept all or a portion of an offeror's proposal.

23. Right to Publish

Throughout the duration of this procurement process and contract term, potential offerors and contractors must secure from the County written approval prior to the release of any information that pertains to the potential work or activities covered by

this procurement or the subsequent contract. Failure to adhere to this requirement may result in disqualification of the offeror's proposal or termination of the contract.

24. Ownership of Proposals

All documents submitted in response to this Request for Proposals shall become the property of the County. However, any technical or user documentation submitted with the proposals of non-selected offerors shall be returned after the expiration of the protest period.

25. Electronic Mail Address Recommended

A large part of the communication regarding this procurement will be conducted by electronic mail (e-mail). It is recommended that Offeror should have a valid e-mail address to receive this correspondence.

26. Preferences in Procurement

A. *New Mexico In-state Preference.*

New Mexico law, Section 13-1-22 NMSA 1978, provides a preference in the award of a public works contract for an “**in-state resident contractor**”. Application of a resident contractor preference for any Offeror requires the Offeror to provide a copy of a valid and current certificate as a resident contractor. Certificates are issued by the state taxation and revenue department.

If an Offeror submits with its proposal a copy of a valid and current in-state resident contractor certificate, 5% of the total weight of all evaluation factors used in the evaluation of proposals may be awarded or added to the Offerors score.

Certification by the department of taxation and revenue for the resident contractor takes into consideration such activities as the business or contractor’s payment of property taxes or rent in the state and payment of unemployment insurance on employees who are residents of the state.

**OR**

*New Mexico Resident Veteran Preference.*

New Mexico law, Section 13-1-22 NMSA 1978, provides a preference in the award of a public works contract for a “**resident veteran contractor**”. Certification by the department of taxation and revenue for the resident veteran contractor requires the Offeror to provide evidence of annual revenue and other evidence of veteran status.

An Offeror who wants the veteran contractor preference to be applied to its proposal is required to submit with its proposal the certification from the department of taxation and revenue and the sworn affidavit attached hereto as Appendix D.

If an Offeror submits with its proposal a copy of a valid and current veteran resident contractor certificate, 10%, 8% or 7% of the total weight of all the evaluation factors used in the evaluation of proposals may be awarded or added to the Offeror's score, depending on the business' annual revenue.

**The resident contractor preference is not cumulative with the resident veteran contractor preference.**

**AND**

**B. *Santa Fe County Preference***

Santa Fe County Ordinance 2012-4 provides for a **County preference** for a "Santa Fe County business." Application of the County preference in procurement requires an Offeror to obtain and provide a Santa Fe County Business Certificate issued by the Santa Fe County Procurement Manager. Certification by the Procurement Manager takes into consideration the business' corporate standing in the state, business licensure or registration, the duration of the business' primary office location and the payment of taxes.

If an Offeror submits with its proposal a copy of its Santa Fe County Business Certificate issued by the Purchasing Manager, 5% of the total weight of all the evaluation factors used in the evaluation of proposals may be awarded to the Offerors score.

The in-state, veteran or County preferences do not apply to procurement of services or goods involving federal funds or federal grant funds.

Additional information about obtaining the certificate as a resident contractor and resident veteran contractor may be found at: <http://www.tax.newmexico.gov/Businesses/Pages/In-StatePreferenceCertification.aspx> and information about the Santa Fe County business Certificate at [www.santafecounty.org](http://www.santafecounty.org) (Quicklink Ordinances and Resolutions).

27. Living Wage Ordinance

Contractor shall comply with the requirements of Santa Fe County Ordinance No. 2014-1 (Establishing a Living Wage).

## IV. RESPONSE FORMAT AND ORGANIZATION

### A. NUMBER OF RESPONSES

Offerors shall submit only one proposal in response to this RFP.

### B. NUMBER OF COPIES

Offerors shall deliver one (1) original and five (5) identical copies of their proposal to the location specified in Section II, Paragraph E on or before the closing date and time for receipt of proposals.

### C. PROPOSAL FORMAT

All proposals shall be limited to thirty (30) pages, with exception to professional licenses and certifications, which shall be added as appendices. The document shall be typewritten on standard 8 1/2 x 11 paper, with a font no smaller than 12 pt. pitch, with nominal 1” margins and normal line spacing. Proposals shall be placed within a binder with tabs delineating each section.

#### 1. Proposal Organization

The proposal must be organized and indexed in the following format and must contain, as a minimum, all listed items in the sequence indicated.

- a) Letter of Transmittal
- b) Table of Contents
- c) Proposal Summary (optional)
- d) Response to Mandatory Specifications
- e) Response to County Terms and Conditions
- f) Specification Sheets for the scanner being proposed.

Within each section of their proposal, offerors should address the items in the order in which they appear in this RFP. All forms provided in the RFP must be thoroughly completed and included in the appropriate section of the proposal.

All submitted proposal documents must be double-sided, pursuant to Santa Fe County Resolution 2013-7, Adopting Sustainable Resource Management Principles, Section 2.a Waste Reduction and Reuse: ..., “all documents are to be double-sided, including those that are generated by outside entities using County funds and by consultants and contractors doing business with the County.”

Any proposal that does not adhere to these requirements may be deemed non-responsive and rejected on that basis.

Offerors may attach other materials that they feel may improve the quality of their responses. However, these materials should be included as items in a separate appendix.

2. Letter of Transmittal

Each proposal must be accompanied by a letter of transmittal. The letter of transmittal MUST:

- a) Identify the submitting organization;
- b) Identify the name and title of the person authorized by the organization to contractually obligate the organization;
- c) Identify the name, title, email address and telephone number of the person authorized to negotiate the contract on behalf of the organization;
- d) Identify the names, titles, email address and telephone numbers of persons to be contacted for clarification;
- e) Explicitly indicate Acceptance of the Conditions Governing the Procurement stated in Section III, Paragraph C.1;
- f) Be signed by the person authorized to contractually obligate the organization;
- g) Acknowledge receipt of any and all amendments to this RFP.

THIS SECTION LEFT INTENTIONALLY BLANK

**V. SPECIFICATIONS**

Offerors should respond in the form of a thorough narrative to each mandatory specification. The narratives along with required supporting materials will be evaluated and awarded points accordingly.

**A. Information**

Time Frame

The contract is scheduled to begin in or around December, 2014. Santa Fe County intends on awarding a contract with a term of two (2) years with the option to renew on an annual basis not exceed four (4) years in duration.

**VI. EVALUATION**

**A. EVALUATION POINT SUMMARY**

The following is a summary of evaluation factors with point value assigned to each. These, along with the general requirements, will be used in the evaluation of the proposals. Proposals will be scored based upon a comparison of the information submitted by the Offeror against the evaluation criteria outlined below.

Factor

1.	Experience of the Offeror in providing the Services sought	35
2.	Professional ability, skill, experience and technical expertise demonstrated	20
3.	Detention facility references	5
4.	Project plan	20
5.	Rebate Percentage	<u>20</u>
	TOTAL (before preferences are applied)	<b>100</b>

**PREFERENCES**

If a proposal contains an In-State Resident Business Certificate or Resident Veterans Business Certificate and/or Santa Fe County Business Certificate, the applicable preference will be applied.

1. Proposal contains a valid N.M. Resident Business Certificate .....**5 points**

**OR**



- 2. Proposal contains a valid Resident Veteran Business Certificate ..... **7, 8 or 10 points**

**AND**

- 3. Proposal contains a valid Santa Fe County Business Certificate ..... **5 points**

**TOTAL POINTS POSSIBLE.....120 points**

**B. EVALUATION FACTORS**

A brief explanation of each evaluation factor is listed below. Information for one evaluation factor may overlap information for a different evaluation factor. Offerors are encouraged to fully address each factor as points are given for an Offeror’s narrative response to each evaluation factor. Responses shall include information and past experience specific to the Offeror or Offeror’s team submitting the proposal. An Offeror’s discussion of each evaluation factor should be sufficiently detailed to inform and educate the Evolution Committee members.

- 1. Experience of the Offeror in providing the Services sought (35 points)

The Offeror shall provide an overview of current and prior experience in work comparable to the scope of services required in this RFP. Provide proof of insurance coverage. Provide an in-depth response to the requested scope of services with an itemized description of services to be offered and an indication of capabilities to provide these services. Any services that cannot be provided as required should be noted.

- 2. Professional ability, skill, experience and technical expertise demonstrated (20 points)

Offeror shall include background, qualifications, education, training and years of experience of principal personnel. Indication of special skills, or strengths should also be submitted, if applicable. All information shall be included for any subcontractor the Offeror has indicated to be part of the project team. Include all areas of work that is to be performed by the subcontractor(s).

- 3. Detention facility references (5 points)

Offeror shall include a list of the three (3) most recent clients for which similar services have been performed, currently or in recent past, include firm name, contact name and telephone number. Contact information and references provided by the Offeror will very likely be pursued to verify the strength of the Offeror’s proposed staff experience and references.

4. Project plan (20 points)

Offeror shall provide an in-depth response to the requested Scope of Services with and include a sample price list of itemized goods to be offered and a project implementation plan for the start of the contract. Any services the Offeror will require of Santa Fe County in order to implement the contract. Include in the response whether the Offeror has the ability to use/work with the required Jail Management system (JM system). The Offeror is particularly encouraged to address all points that will be evaluated as described herein in each point of the evaluation criteria.

5. Rebate (20 points)

Contractor will propose a “rebate percentage”, based on total commissary sales. This “rebate” will be disbursed from Inmate Trust funds to the SFC Inmate Welfare Fund where it may be used for the benefit of all inmates. The “rebate” will reduce the amount paid to the Contractor for services, and will be computed as follows:

- o Gross Commissary Sales (per SFC JM software)  
 LESS Phone Card Sales  
 LESS Postage Sales  
 LESS Gross Receipts Tax (currently 8.1875% within Santa Fe city limits and 6.8750% for the remainder of the county) on Non-consumable Sales  


---

NET Commissary Sales to which “Rebate Percentage” is applied

Points will be awarded based on the following scale:

<b>REBATE PROPOSED</b>	<b>POINTS AWARDED</b>
16%-20%	20
11%-15%	15
6%-10%	10
1%-5%	5
0%	0

C. EVALUATION PROCESS

The evaluation process will follow the steps listed below:

1. All Offeror proposals will be reviewed for compliance with the mandatory specifications stated within the RFP. Proposals deemed non-responsive will be eliminated from further consideration.

2. The Procurement Manager may contact the Offeror for clarification of the response as specified in Section III, Paragraph B.7.
3. The Evaluation Committee may use other sources of information to perform the evaluation as specified in Section III, Paragraph C.18.
4. Responsive proposals will be evaluated on the factors in Section V that have been assigned a point value. The responsible Offerors with the highest scores will be selected as finalist Offerors based upon the proposals submitted. Finalist Offerors who are asked or choose to submit revised proposals for the purpose of obtaining best and final offers will have their points recalculated accordingly. Points awarded from the oral presentations will be added to the previously assigned points to attain final scores. The responsible Offeror whose proposal is most advantageous to the County, taking into consideration the evaluation factors in Section VI, will be recommended for contract award as specified in Section III, Paragraph B.12. Please note, however, that a serious deficiency in the response to any one factor may be grounds for rejection regardless of overall score.

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**APPENDIX A**

**ACKNOWLEDGEMENT OF RECEIPT FORM**

**RFP #2015-0063-CORR/IC  
COMMISSARY SERVICES FOR THE ADULT DETENTION FACILITY & YOUTH  
DEVELOPMENT PROGRAM  
FOR SANTA FE COUNTY CORRECTIONS DEPARTMENT**

In acknowledgement of receipt of this Request for Proposal the undersigned agrees that he/she has received a complete copy, beginning with the title page and table of contents, and ending with “Appendix C”.

The acknowledgement of receipt should be signed and returned to the Procurement Manager no later than close of business on October 3, 2014. Potential Offerors who elect to return this form completed with the indicated intention of submitting a proposal will receive copies of all Offeror written questions and the County's written responses to those questions as well as RFP amendments, if any are issued.

OFFEROR: \_\_\_\_\_

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

TITLE: \_\_\_\_\_ PHONE NO.: \_\_\_\_\_

E-MAIL: \_\_\_\_\_ FAX NO.: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

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

This name and address will be used for all correspondence related to the Request for Proposal.

Offeror does/does not (**circle one**) intend to respond to this Request for Proposals.

Iris Cordova  
Santa Fe County Purchasing Division  
142 W. Palace Ave (2<sup>nd</sup> Floor)  
Santa Fe, NM 87501  
Phone: (505) 986-6337  
Fax: (505) 989-3243  
[icordova@santafecountynm.gov](mailto:icordova@santafecountynm.gov)

## APPENDIX B

### CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Pursuant to NMSA 1978, § 13-1-191.1 (2006), any person seeking to enter into a contract with any state agency or local public body must file this form with that state agency or local public body. This form must be filed even if the contract qualifies as a small purchase or a sole source contract. The prospective contractor must disclose whether they, a family member or a representative of the prospective contractor has made a campaign contribution to an applicable public official of the state or a local public body during the two years prior to the date on which the contractor submits a proposal or, in the case of a sole source or small purchase contract, the two years prior to the date the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor, a family member or a representative of the prospective contractor to the public official exceeds two hundred and fifty dollars (\$250) over the two year period.

Furthermore, the state agency or local public body shall void an executed contract or cancel a solicitation or proposed award for a proposed contract if: 1) a prospective contractor, a family member of the prospective contractor, or a representative of the prospective contractor gives a campaign contribution or other thing of value to an applicable public official or the applicable public official's employees during the pendency of the procurement process or 2) a prospective contractor fails to submit a fully completed disclosure statement pursuant to the law.

**THIS FORM MUST BE FILED BY ANY PROSPECTIVE CONTRACTOR WHETHER OR NOT THEY, THEIR FAMILY MEMBER, OR THEIR REPRESENTATIVE HAS MADE ANY CONTRIBUTIONS SUBJECT TO DISCLOSURE.**

The following definitions apply:

**“Applicable public official”** means a person elected to an office or a person appointed to complete a term of an elected office, who has the authority to award or influence the award of the contract for which the prospective contractor is submitting a competitive sealed proposal or who has the authority to negotiate a sole source or small purchase contract that may be awarded without submission of a sealed competitive proposal.

**“Campaign Contribution”** means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made to or received by an applicable public official or any person authorized to raise, collect or expend contributions on that official's behalf for the purpose of electing the official to either statewide or local office. “Campaign Contribution” includes the payment of a debt incurred in an election campaign, but does not include the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate or political committee, nor does it include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee.

**“Family member”** means spouse, father, mother, child, father-in-law, mother-in-law, daughter-in-law or son-in-law.

**“Pendency of the procurement process”** means the time period commencing with the public notice of the request for proposals and ending with the award of the contract or the cancellation of the request for proposals.

**“Person”** means any corporation, partnership, individual, joint venture, association or any other private legal entity.

“**Prospective contractor**” means a person who is subject to the competitive sealed proposal process set forth in the Procurement Code or is not required to submit a competitive sealed proposal because that person qualifies for a sole source or a small purchase contract.

“**Representative of a prospective contractor**” means an officer or director of a corporation, a member or manager of a limited liability corporation, a partner of a partnership or a trustee of a trust of the prospective contractor.

**DISCLOSURE OF CONTRIBUTIONS:**

Contribution Made By: \_\_\_\_\_

Relation to Prospective Contractor: \_\_\_\_\_

Name of Applicable Public Official: \_\_\_\_\_

Date Contribution(s) Made: \_\_\_\_\_  
\_\_\_\_\_

Amount(s) of Contribution(s) \_\_\_\_\_  
\_\_\_\_\_

Nature of Contribution(s) \_\_\_\_\_  
\_\_\_\_\_

Purpose of Contribution(s) \_\_\_\_\_  
\_\_\_\_\_

(Attach extra pages if necessary)

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Title (position)

**--OR--**

**NO CONTRIBUTIONS IN THE AGGREGATE TOTAL OVER TWO HUNDRED FIFTY DOLLARS (\$250) WERE MADE** to an applicable public official by me, a family member or representative.

\_\_\_\_\_  
Signature Date

\_\_\_\_\_

## APPENDIX C

### SECURITY REQUIREMENTS

#### A. **SECURITY**

All employees of the Contractor shall be obligated to adhere to the policies and procedures of the Santa Fe County Adult Detention Facility and Youth Development Program. The Contractor shall provide to the facility Chief of Security a complete copy of the Contractor's policies and procedures regarding SFCADF and SFCYDP and general operation. These policies and procedures shall be submitted within thirty (30) days from assuming commissary operations.

##### 1. **Search of the Contractor's Vehicles and Staff**

The Contractor will be performing work in a detention facility and shall therefore be subject to the rules, regulations, directives and bulletins of the facility. Under certain circumstances, the Contractor's staff and vehicles may be subject to search while on the premises. The Contractor shall be responsible for informing the Contractor's staff on the possibility of such searches, and shall inform staff of the consequences of trafficking in contraband, drugs or other illegal activities while on the premises.

##### 2. **Access To and From Facility, Inmate/Resident Contact**

The Contractor and staff shall utilize designated exits and entries into any part of the premises and shall be required to sign in and out and shall be required to wear such identification badges and uniforms as Santa Fe County deems necessary while on the premises.

The Contractor's employees may not bring visitors into the premises. No visitors will be allowed without the permission from the Facility Administrator of the premises or the County Corrections Department Director.

Santa Fe County reserves the right to restrict access to the premises or require immediate removal of any person(s) without prior notification.

The Contractor's employees shall restrict social contact with inmate/residents or inmates'/residents' families while on the premises or in the community.

#### B. **ACCESS TO KEYS**

##### 1. **Key Control**

The Contractor is responsible for control of keys obtained from Santa Fe County and its facility. The Contractor is also responsible for the security of those areas for which and when the Contractor's representatives use keys.

The Contractor shall be responsible for immediately reporting to the Facility Administrator of the premises all the facts relating to losses incurred as a result of

break-ins, vandalism, for any other similar occurrences to areas of the Santa Fe County facility that Contractor has been given access to.

A full set of all keys used by Contractor for any keyed lock installed in the Santa Fe County facility by the Contractor will be provided to the Facility Administrator of the premises or the Corrections Department Director.

## **2. Replacement of Keys and Lock Cylinders**

The Contractor shall be responsible for replacement of lost keys and the cost of re-keying and replacement of lock cylinders required as a result of loss of keys by the Contractor or its employees.

## **C. RESIDENT LABOR**

### **1. In General**

Each facility shall provide resident laborers to assist in commissary sales service, and other activities. The Contractor shall determine what can be appropriately handled by resident laborers, except during lockdown, strikes or other emergencies or situations deemed inappropriate by the Administrator of the premises. All inmates utilized by the Contractor shall receive a minimum of two (2) hours training and certification in food handling prior to being assigned any work in the commissary. Additionally, at no time will resident labor be allowed to have sole responsibility in the preparation of meals, however, resident labor can assist in its preparation. The Contractor shall be responsible for documenting on specified forms and notifying security personnel of any rule violations by residents working in the food service facility. The security personnel shall be responsible for taking the necessary steps for disciplinary action, where appropriate. The Contractor shall have the right to request the facility's shift supervisor to remove resident laborers from assignment to food service for reasonable cause. The number of resident laborers utilized shall be reasonable and mutually agreed upon by Santa Fe County and the Contractor.

The Contractor agrees that in the event it is unsuccessful in using resident labor, the Contractor may not assert any inability to perform the contract on the basis, nor may the Contractor allege breach against Santa Fe County for Contractor's failure in that regard. The County makes no guarantee concerning the qualifications and/or abilities or the number of residents to be provided to the Contractor.

### **2. Training and Orientation of Employees**

The Contractor shall ensure that all Contractor staff is trained regarding the policies and procedures, rules and regulations of the premises of Santa Fe County.



## APPENDIX D

### SAMPLE PROFESSIONAL SERVICES AGREEMENT

WITH (Name)

### FOR COMMISSARY SERVICES FOR THE ADULT DETENTION FACILITY AND YOUTH DEVELOPMENT PROGRAM

THIS AGREEMENT is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2013, by and between Santa Fe County, hereinafter referred to as “County”, a political subdivision of the State of New Mexico and (Insert Name and Address) hereinafter referred to as “Contractor”.

**WHEREAS**, Santa Fe County’s Corrections Department requires the services of an experienced and qualified firm to operate and manage a comprehensive commissary service program in an institutionalized setting, using personnel with experience providing commissary services in detention facilities for the Adult Detention Facility (ADF) and the Youth Development Program (YDP), located in Santa Fe County;

**WHEREAS**, pursuant to NMSA 1978, Sections 13-1-112 and 13-1-117, the County issued Request of Proposal No. 2015-0063-CORR/IC, for these services;

**WHEREAS**, based on the evaluation criteria established within the request for proposals for determining the most qualified Offeror, the County has determined Contractor as the most responsive and highest rated Offeror;

**WHEREAS**, the County desires to engage the Contractor to provide commissary services for Santa Fe County’s ADF and YDP facilities, and the Contractor is willing to provide such services;

**NOW THEREFORE**, in consideration of the premises and mutual obligations herein, the parties hereto do mutually agree as follows:

#### 1. SCOPE OF WORK

- o. The Contractor agrees to manage the Santa Fe County Detention Center’s Commissary Operations in a professional manner.
- p. The Contractor will comply with all federal, state and local laws and regulations governing the management of a commissary.
- q. The Contractor shall hire the on-site Commissary Director necessary for the performance of this Agreement. The Contractor agrees that no employees of the County will be hired by the Contractor without permission of the County for a period of six months after the termination of their employment with the County. The Contractor, in performing work required by this agreement shall not discriminate against any employee or applicant for employment because of race, creed, sex, color, national origin or age, in violation of the federal state and local laws.

- r. Commissary orders will be delivered at least once per week. Contractor's personnel will deliver bagged orders to each inmate per an agreed upon schedule and in accordance with County's security requirements.
- s. Commissary products must be approved by the Facility Administrator or his designee. Products will include small food items, supplies, personal care items, and pre-paid phone cards. Glass and/or metal containers are not permitted.
- t. Pre-paid phone cards shall be purchased by Contractor directly from the best available source with the approval of the Facility Administrator. Units are sold to inmates at face value plus an agreed upon handling fee.
- u. Commissary items will be available for purchase by inmates housed at both the ADF and the YDP. Orders for YDP residents will be placed by YDP administrative staff directly with Contractor. Contractor will process the order, enter it into the Juvenile Detention Commissary account in the SFC Jail Management software and deliver it to YDP administrative staff. Contractor will provide YDP with the total dollar amount of the processed order. YDP staff will verify the accuracy of items received, and reconcile any discrepancies in the order with Contractor. Commissary items may be purchased for the benefit of ADF and YDP residents only.
- v. Product prices (inmate prices) must be approved by the Facility Administrator or his designee, prior to the inclusion in the Jail Management (JM) inventory system. The Contractor will provide an initial price listing of the commissary items to be offered to inmates, to the Facility Administrator. The listing should detail the Contractor's cost of each item, inclusive of GRT, and the sales markup on each item. Inmate prices will be comparable with prices charged at other detention centers and correctional institutions operating in New Mexico. Any item additions, or changes to inmate prices, must also be approved, as above. Proposed price changes, or additions of new items to the initial inventory, shall be documented by the Contractor, per the Facility Administrator's specification, when submitted for approval. Documentation of the approved price change, or item addition, shall be forwarded to designated Santa Fe County Finance staff to be used for auditing purposes. Inmate price changes, and item additions, shall only be entered into the JM inventory software on the 1<sup>st</sup> of any month, prior to processing of any inmate orders on that day. If, for any reason, a change or addition is processed on a day other than the 1<sup>st</sup> of the month, SFC Finance staff will be notified.
- w. All food products must be properly labeled. Only fresh and legal products may be sold. Items found to be defective or not meeting specifications will be picked up and replaced by the Contractor.
- x. The County provides the Contractor with the necessary space at the Adult Detention Facility for the operation of the Commissary and reasonable security for the Contractor's personnel.
- y. Inmate accounts, against which commissary purchases are charged, are maintained by the Facility in its Jail Management software. The Contractor will be required to use this computer software to record inmate commissary purchases. Contractor's staff will be

trained in the proper use of the Jail Management software for entering of commissary orders. Contractor's staff will be given access to, and training in, the production of system reports related to commissary functions.

- z. All security policies and procedures established for the ADF will be strictly followed. The County reserves the right to enforce existing security policies or establish new policies as necessary to maintain the safe operation of the detention facility. Current security policies include a requirement that the County Sheriff's Office must conduct background checks on all commissary personnel prior to granting them access to the County's detention facilities.

aa. **OPTIONAL SERVICES**

The Contractor will provide a pricing option to install kiosk devices that are compatible or can interface with the Jail Management software. The pricing option should contain the price of the contract with and without the Kiosk so the Corrections director can make a decision based upon financial viability. The Kiosk should provide the following:

Kiosks will be installed in the following locations at the Santa Fe County Adult Detention Center:

- Building A – all four units
- Building B – all four units
- Building C – all four units
- Building D – all four units
- Main lobby entrance
- Booking
- Medical

Kiosks must interface with the Jail Management software.

If additional cabling is required the installation and cost shall be the sole responsibility of the Contractor.

Kiosks must have the capability to display to the user all facility Inmate Rules and Regulations.

All hardware, software, maintenance and replacement of any and all parts of the Kiosk system will be the sole responsibility of the Contractor (at no cost to Santa Fe County).

Inmates must be able to place Commissary orders and check account balances on the Kiosk system.

Any damage to the kiosks, whether inmate or public caused, intentional or unintentional, will be repaired in a timely manner by the Contractor at no cost to Santa Fe County.

On-Line Commissary

Any web-based Commissary program shall be capable of selling all approved products for the Santa Fe County Detention Center.

All items available for purchase through the on-line system must be approved by the Santa Fe County Facility Administrator.

Contractor will absorb all fees associated with on-line payment via credit or debit cards.

All on-line transactions are solely between the Contractor and the outside consumer. Santa Fe County, nor its Jail Management software will be involved in any on-line transactions. All proceeds from on-line sales are to be remitted directly to Contractor. On-line sales are not subject to the rebate of and should not be included in commissary sales invoiced to Santa Fe County.

#### bb. SECURITY REQUIREMENTS

The Contractor shall abide by all security requirements as specified in the SECURITY REQUIREMENTS attached hereto as Exhibit "A".

### 2. EFFECTIVE DATE; DATE OF COMMENCEMENT AND COMPLETION; TERM

The effective date of this Agreement is the date indicated above unless earlier terminated pursuant to Section 5 (Termination) or Section 6 (Appropriations and Authorizations). The term of this Agreement is two years (2) not exceed a total of four (4) years.

### 3. COMPENSATION; INVOICING AND PAYMENT

- A. In no event shall the total compensation paid to Contractor by County under this Agreement exceed (insert dollar amount in words) Dollars and (insert amount in words) cents (\$ insert amount) exclusive of New Mexico gross receipts tax.
- B. Contractor will propose a "rebate percentage", based on total commissary sales. This "rebate" will be disbursed from Inmate Trust funds to the SFC Inmate Welfare Fund where it may be used for the benefit of inmates. The "rebate" will reduce the amount paid to the Contractor for services, and will be computed as follows:
- 1) Gross Commissary Sales (per SFC JM software)
    - LESS Phone Card Sales
    - LESS Postage Sales
    - LESS Gross Receipts Tax (currently 8.1875% within Santa Fe city limits and 6.8750% for the remainder of the county) on Non-consumable Sales
    - NET Commissary Sales to which "Rebate Percentage" is applied
- C. Contractor will submit an itemized invoice, on paper or electronically, to designated SFC staff (ADF or Finance), which clearly shows the computation of the SFC rebate and the net amount payable to the Contractor for commissary services. The invoice should be computed as follows:
- 1) Gross Commissary Sales (per SFC JM software)

- 2) LESS SFC Rebate (as computed above)
  - 3) Amount Payable to Contractor (invoice amount)
- D. Contractor's invoices will be audited for accuracy of sales information, and computations, by SFC Finance department staff. The audit will include a comparison between (a) total charges to inmate accounts for commissary purchases, and (b) total sales from inventory (by item) per reports generated from the JM software. Any adjustments made to the invoice as a result of this audit will be communicated to the Contractor's designated staff by SFC Finance staff. In no case, will the total of (a) the invoice payment to the Contractor, and (b) the "rebate" to the SFC Inmate Welfare Fund, exceed total inmate account charges for commissary purchases.
- E. The Contractor shall submit a written request for payment to the County when payment is due under this Agreement. Upon the County's receipt of the written request, the County shall issue a written certification of complete or partial acceptance or rejection of the contractual items or services for which payment is sought.
- F. Contractor acknowledges and agrees that the County may not make any payment hereunder unless and until it has issued a written certification accepting the contractual items or services. The County shall issue payment of all undisputed amounts within twenty-one (21) days after the County receives an undisputed request for payment from the Contractor. In the event the County fails to tender payment within twenty (21) days after receipt of an undisputed request for payment, the County shall pay interest to the Contractor beginning on the twenty-second day after payment was due, computed at one and one-half percent (1.5%) of the undisputed amount per month or fraction of a month until the payment is issued.
- G. Payment under this Agreement shall not foreclose the right of the County to recover excessive or illegal payment.

#### 4. ADDITIONAL SERVICES

- A. The parties agree that all work and services set forth in Section 1 (Scope of Work) of this Agreement, shall be completed in full, to the satisfaction of the County
- B. The County may from time-to-time request changes in the Scope of Work to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contractor's compensation, which are mutually agreed upon by and between the County and the Contractor, shall be incorporated in a written amendment to this Agreement.

#### 5. TERMINATION

- A. Termination of Agreement for Cause. Either party may terminate the Agreement based upon any material breach of this Agreement by the other party. The non-breaching party shall give the breaching party written notice of termination specifying the grounds for the termination. The termination shall be effective twenty (20) days from the breaching party's receipt of the notice of termination, during which time the breaching party shall have the right to cure the breach. If, however, the breach cannot with due diligence be cured within twenty (20) days, the breaching party shall have a reasonable time to cure the

breach, provided that, within ten (10) days of its receipt of the written notice of termination, the breaching party began to cure the breach and advised the non-breaching party in writing that it intended to cure.

- B. Termination for Convenience of the County. The County may, in its discretion, terminate this Agreement at any time for any reason by giving the Contractor written notice of termination. The notice shall specify the effective date of termination, which shall not be less than ten (10) days from the Contractor's receipt of the notice.

## **6. APPROPRIATIONS AND AUTHORIZATIONS**

This Agreement is contingent upon sufficient appropriations and authorizations being made for performance of this Agreement by the Board of County Commissioners of the County and/or, if state funds are involved, the Legislature of the State of New Mexico. If sufficient appropriations and authorizations are not made in this or future fiscal years, this Agreement shall terminate upon written notice by the County to the Contractor. Such termination shall be without penalty to the County, and the County shall have no duty to reimburse the Contractor for expenditures made in the performance of this Agreement. The County is expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered and approved for expenditure by the County. The County's decision as to whether sufficient appropriations and authorizations have been made for the fulfillment of this Agreement shall be final and not subject to challenge by the Contractor in any way or forum, including a lawsuit.

## **7. INDEPENDENT CONTRACTOR**

The Contractor and its agents are independent contractors and not employees or agents of the County. Accordingly, the Contractor and its agents and employees shall not accrue leave, participate in retirement plans, insurance plans, or liability bonding, use County vehicles, or participate in any other benefits afforded to employees of the County. Except as may be expressly authorized elsewhere in this Agreement, the Contractor has no authority to bind, represent, or otherwise act on behalf of the County and agrees not to purport to do so.

## **8. ASSIGNMENT**

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the advance written approval of the County. Any attempted assignment or transfer without the County's advance written approval shall be null and void and without any legal effect.

## **9. SUBCONTRACTING**

- A. Contractor shall be wholly responsible for the entire performance of the work whether or not subcontractors are used. The County will make payments directly to the Contractor. Contractor is wholly responsible for making any and all payments to its subcontractors in conformity with the Prompt Payment Act, NMSA 1978, § 57-28-5.
- B. Contractor shall not subcontract or delegate any portion of the services to be performed under this Agreement without the advance written approval of the County. Any attempted

subcontracting or delegating without the County's advance written approval shall be null and void and without any legal effect.

## **10. CONTRACTOR AND CONTRACTOR'S PERSONNEL OR SUBCONTRACTORS**

- A. All work performed under this Agreement shall be performed by the Contractor or under its supervision.
- B. The Contractor represents that it has, or will secure at its own expense, all personnel required to discharge its obligations under this Agreement. Such personnel (i) shall not be employees of or have any contractual relationships with the County and (ii) shall be fully licensed and qualified to perform such work or services.
- C. Contractor shall not employ any employees, personnel, or subcontractors who have not completed a County-approved security clearance or background check for the completion of the work under this Agreement. Any such employees, personnel or subcontractors that Contractor may employ after the effective date of this Agreement shall not begin any work until the County provides clearance or a background check is completed for that employee or subcontractor.

## **11. RELEASE**

Upon the County's issuance of the final payment to Contractor or any termination that may occur earlier than the termination date of this Agreement, the Contractor releases the County, its elected officials, officers, agents and employees from all liabilities, claims, and obligations whatsoever arising from or under or relating to this Agreement.

## **12. CONFIDENTIALITY**

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the County.

## **13. CONFLICT OF INTEREST**

The Contractor represents that it has no and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of its obligations under this Agreement.

## **14. NO ORAL MODIFICATIONS; WRITTEN AMENDMENTS REQUIRED**

This Agreement may not be modified, altered, changed, or amended orally but, rather, only by an instrument in writing executed by the parties hereto. The Contractor specifically acknowledges and agrees that the County shall not be responsible for any changes to Section 1 (Scope of work), of this Agreement unless such changes are set forth in a duly executed written amendment to this Agreement.

## **15. ENTIRE AGREEMENT; INTEGRATION**

This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such agreements, covenants and understandings

have been merged into this written Agreement. No prior or contemporaneous agreement, covenant or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

## **16. NOTICE OF PENALTIES**

The Procurement Code, NMSA 1978, Sections 13-1-28 through 13-1-199, imposes civil and criminal penalties for its violation. In addition, New Mexico criminal statutes impose felony penalties for bribes, gratuities, and kickbacks.

## **17. EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE**

- A. The Contractor agrees to abide by all federal, state, and local laws, ordinances, and rules and regulations pertaining to equal employment opportunity and unlawful discrimination. Without in any way limiting the foregoing general obligation, the Contractor specifically agrees not to discriminate against any person with regard to employment with the Contractor or participation in any activity offered pursuant to this Agreement on the grounds of race, age, religion, color, national origin, ancestry, sex, physical or mental handicap, serious medical condition, spousal affiliation, sexual orientation, or gender identity.
- B. The Contractor acknowledges and agrees that failure to comply with this Section shall constitute a material breach of this Agreement.

## **18. COMPLIANCE WITH APPLICABLE LAW; CHOICE OF LAW**

- A. In performing its obligations hereunder, the Contractor shall comply with all applicable laws, ordinances, and regulations.
- B. Contractor shall comply with the requirements of Santa Fe County Ordinance No. 2014-1 (Establishing a Living Wage).
- C. This Agreement shall be construed in accordance with the substantive laws of the State of New Mexico, without regard to its choice of law rules. Contractor and the County agree that the exclusive forum for any litigation between them arising out of or related to this Agreement shall be the state district court of New Mexico, located in Santa Fe County.

## **19. RECORDS AND INSPECTIONS**

- A. To the extent its books and records relate to (i) its performance of this Agreement or any subcontract entered into pursuant to it or (ii) cost or pricing data (if any) set forth in this Agreement or that was required to be submitted to the County as part of the procurement process, the Contractor agrees to (i) maintain such books and records during the term of this Agreement and for a period of three (3) years from the date of final payment under this Agreement; (ii) allow the County or its designee to audit such books and records at reasonable times and upon reasonable notice; and (iii) to keep such books and records in accordance with generally accepted accounting principles (GAAP).



- B. To the extent its books and records relate to (i) its performance of this Agreement or any subcontract entered into pursuant to it or (ii) cost or pricing data (if any) set forth in this Agreement or that was required to be submitted to County as part of the procurement process, the Contractor also agrees to require any subcontractor it may hire to perform its obligations under this Agreement to (i) maintain such books and records during the term of this Agreement and for a period of three (3) years from the date of final payment under the subcontract; (ii) to allow the County or its designee to audit such books and records at reasonable times and upon reasonable notice; and (iii) to keep such books and records in accordance with GAAP.

## 20. INDEMNIFICATION

- A. The Contractor shall defend, indemnify, and hold harmless the County and its elected officials, agents, and employees from any losses, liabilities, damages, demands, suits, causes of action, judgments, costs or expenses (including but not limited to court costs and attorneys' fees) resulting from or directly or indirectly arising out of the Contractor's performance or non-performance of its obligations under this Agreement, including but not limited to the Contractor's breach of any representation or warranty made herein.
- B. The Contractor agrees that the County shall have the right to control and participate in the defense of any such demand, suit, or cause of action concerning matters that relate to the County and that such suit will not be settled without the County's consent, such consent not to be unreasonably withheld. If a conflict exists between the interests of the County and the Contractor in such demand, suit, or cause of action, the County may retain its own counsel to represent the County's interest.
- C. The Contractor's obligations under this section shall not be limited by the provisions of any insurance policy the Contractor is required to maintain under this Agreement.

## 21. SEVERABILITY

If any term or condition of this Agreement shall be held invalid or non-enforceable by any court of competent jurisdiction, the remainder of this Agreement shall not be affected and shall be valid and enforceable to the fullest extent of the law.

## 22. NOTICES

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To the County: Santa Fe County Manager  
102 Grant Ave.  
Santa Fe, NM 87504

To the Contractor: (Insert Name and Address)

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### **23. CONTRACTOR'S REPRESENTATIONS AND WARRANTIES**

The Contractor hereby represents and warrants that:

- A. This Agreement has been duly authorized by the Contractor, the person executing this Agreement has authority to do so, and, once executed by the Contractor, this Agreement shall constitute a binding obligation of the Contractor.
- B. This Agreement and Contractor's obligations hereunder do not conflict with Contractor's corporate agreement or any statement filed with the Public Regulation Commission on Contractor's behalf.
- C. Contractor is legally registered and licensed to operate as a business in New Mexico to do the work anticipated by this Agreement and shall maintain such registration and licensure in good standing throughout the duration of the Agreement.

### **24. FACSIMILE SIGNATURES**

The parties hereto agree that a facsimile signature has the same force and effect as an original for all purposes.

### **25. LIMITATION OF LIABILITY**

In no event shall the County be liable to the Contractor for special or consequential damages, even if the County was advised of the possibility of such damages prior to entering into this Agreement.

### **26. NO THIRD-PARTY BENEFICIARIES**

This Agreement was not intended to and does not create any rights in any persons not a party hereto.

### **27. INSURANCE**

4. General Conditions. The Contractor shall submit evidence of insurance as is required herein. Policies of insurance shall be written by companies authorized to write such insurance in New Mexico.
5. General Liability Insurance, Including Automobile. The Contractor shall procure and maintain during the life of this Agreement a comprehensive general liability and automobile insurance policy with liability limits in amounts not less than \$1,050,000.00 combined single limits of liability for bodily injury, including death, and property damage for any one occurrence. Said policies of insurance shall include coverage for all operations performed for the County by the Contractor; coverage for the use of all owned, non-owned, hired automobiles, vehicles and other equipment, both on and off work; and contractual liability

coverage under which this Agreement is an insured contract. The County of Santa Fe shall be a named additional insured on the policy.

- C. Workers' Compensation Insurance. The Contractor shall comply with the provisions of the Workers' Compensation Act.

**28. PERMITS, FEES, AND LICENSES**

Contractor shall procure all permits and licenses, pay all charges and fees and give all notices necessary and incidental to the due and lawful performance of its obligations hereunder.

**29. NEW MEXICO TORT CLAIMS ACT**

No provision of this Agreement modifies or waives any sovereign immunity or limitation of liability enjoyed by County or its "public employees" at common law or under the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, et seq.

**30. CAMPAIGN CONTRIBUTION DISCLOSURE FORM**

The Contractor agrees to compute and submit simultaneous with execution of this Agreement a Campaign Contribution Disclosure Form approved by the County.

**31. SURVIVAL**

The provisions of following Sections shall survive termination of this Contract; INDEMNIFICATION; RECORDS AND INSPECTION; RELEASE, CONFIDENTIALITY; COMPLIANCE WITH APPLICABLE LAW; CHOICE OF LAW; LIMITATION OF LIABILITY; NEW MEXICO TORT CLAIMS ACT; NO THIRD-PARTY BENEFICIARIES; AND SURVIVAL.

**IN WITNESS WHEREOF**, the parties have duly executed this Agreement as of the date first written above.

**SANTA FE COUNTY:**

\_\_\_\_\_  
Katherine Miller  
County Manager

\_\_\_\_\_  
Date

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Greg Shaffer  
Santa Fe County Attorney

\_\_\_\_\_  
Date

**FINANCE DEPARTMENT APPROVAL:**

\_\_\_\_\_

Teresa C. Martinez  
Santa Fe County Finance Director

Date

**CONTRACTOR:**

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
Date

By:

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

Its: \_\_\_\_\_  
(Title)

**FEDERAL TAX I.D. NUMBER:**

\_\_\_\_\_