

PARTICIPANT'S MANUAL

181646


PRIVATE SECTOR OPTIONS FOR JUVENILE CORRECTIONS.

OJJDP

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Module I


Introduction



Module I Introduction

A. INSTRUCTOR AND PARTICIPANT INTRODUCTIONS

B. WORKSHOP GOALS

- To provide background information on juvenile privatization
 - To review issues which affect contracting
 - To discuss the major parts of the Request for Proposal, the Contract, and Monitoring Plans
 - To prepare selected parts of a Request for Proposal, Contract, and Monitoring Plan
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C. AGENDA

Day 1

Introductory Module	1 hour
Background on Juvenile Privatization	1 hour
Issues in Juvenile Privatization	2 hours
The RFP Part I	2 hours

Day 2

The RFP Part II	6 hours
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Day 3

The Contract	2 hours
The Monitoring Plan	2 hours
Summary of Course	2 hours

D. MANUAL ORGANIZATION

1. Copy of each overhead
2. Individual or group activities
3. References
 - Module II—Survey of Private Sector Involvement in Juvenile Justice page 17
 - Module III—Research Studies on Privatization page 45
 - Module IV—Sample RFP page 94
 - Module V—Sample Contract page 126
 - Module V—Sample Contract (Texas) page 151

E. INSTRUCTIONAL INPUT

#1

F. PRIVATIZATION TODAY

1-1


Privatization

- The transfer of government functions/services to the private sector.

1-2

Reasons for Privatization

1. Cost savings
2. Enhanced service quality
3. Flexibility and less red tape
4. Increased innovation
5. Speedy implementation
6. Politics
7. Follow the leader



My Agency Reasons for Privatization

My Ranking

- Cost savings
- Enhanced service quality
- Flexibility and less red tape
- Increased innovation
- Speedy implementation
- Politics
- Follow the leader

G. SUMMARY

Module II

Background on Privatization

Module II

Background on Juvenile Privatization

A. INTRODUCTION

2-1

What is Privatization?

- Privatization is the concept of involving the private sector as a provider of juvenile correctional services which were traditionally managed by the public sector.

B. HISTORY OF PRIVATIZATION FOR JUVENILE SERVICES

2-2

History of Privatization

- Contracting to the private sector for juvenile services is not new.
 - Church related programs
 - Jails
- Problems often arose when programs were operated by individuals for profit.
- Abuse = government management and/or operation of correctional facilities.

2-3

QUESTION

- Where is your agency in the process of privatization of secure juvenile facilities?

C. FEDERAL PRIVATIZATION

2-4

Federal Privatization

- Citing the need to reduce government spending and streamline operations, federal administrators advocated a greater role for the private sector in providing social services.
- Result—The Federal government became the leading force in privatization.

2-5

OMB Circular A-76

- *Point: Achieving Economy and Enhancing Productivity*
- The theory is that competition enhances quality, economy and productivity.
- According to the Circular: "...whenever privatization is practical, there should be a comparison of the cost of contracting and the cost of in-house performance to decide who will do the work."

2-6

QUESTION

- Why is it difficult to do a cost comparison between public agencies and private agencies?

2-7

OMB Circular A-76

Point: Retaining Government Functions in House

- The theory is that certain responsibilities are so intimately related to the public interest that they mandate federal operation.

2-8

QUESTION

- Identify government functions that should not be contracted for.
Why?

2-9

OMB Circular A-76

Point: Relying on the Commercial Sector

- According to Circular A-76: "...the government shall not provide a commercial product or service if the product or service can be procured more economically from a commercial source.

2-10

QUESTION

- Identify possible commercial products or services that the Federal Government should contract for.

D. STATE INITIATIVES

In addition to the federal government, most states are turning to the private sector.

2-11

State Privatization Initiatives

- 1998 Council of State Government (CSG) Survey showed that there are few comprehensive privatization initiatives like the Federal A-76 one.
- Individual state agencies usually privatize their activities as necessary and manage the projects on a case-by-case basis.

2-12

Typical Reasons for Privatization

- Cost savings
- Enhanced service quality
- Flexibility and less red tape
- Increased innovation
- Speedy implementation

2-13

CSG Survey Findings

- Most states privatize government activities without considering the experience of other states.
- More than 70% of state respondents said that their state had no comprehensive government privatization initiatives.
- 41.4% said that when designing and implementing their privatization programs they created their processes by trial and error.

2-14

CSG Survey Findings

- Only 19% modeled another state's privatization effort.
- Almost 75% said their states do not use a standardized decision-making process to determine which activities will be privatized.
- Almost 75% also reported that no standardized monitoring processes were used.

2-15

QUESTION

- How has your state responded to the privatization issue?

E. Privatization Debate

Shortcomings

- Contracting process too cumbersome
- High costs
- High turnover of vendors' staff
- Lack knowledge of DOC's procedures
- Monitoring/control problems
- Resist assessment/evaluation
- Resist taking difficult juveniles
- Unrealistic view of population
- Vendor's staff inexperience

Private Sector Involvement in Juvenile Justice

by
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The American Correctional Association (ACA), under a grant from the Office of Juvenile and Delinquency Prevention (OJJDP) conducted a survey regarding **Private Sector Involvement** in Juvenile Justice Systems. Results of this Survey are presented below, and compared with a similar study done in 1991 (Levinson and Taylor).

Survey Findings

Fifty-seven replies were received from 41 different jurisdictions—including Puerto Rico and the Federal Bureau of Prisons. Of the total number of jurisdictions, 46 (81%) indicated that they had at least one currently active Private Sector (PS) contract; the remainder of this report deal with the replies received from those individuals/jurisdictions. This group has been contracting with the Private Sector for an average of 14.2 years—maximum 40- minimum 2-years. California reported the longest experience with private service contracting—40+ years. The number of contracts *per jurisdiction* (see Table below) ranged from 1 to 373, averaging 58.1 PS contracts; Oregon reported having the most.

Type/Number of Private Sector Contracts

Type Agency (n):	Number	Average	Minimum	Maximum
(35) private NOT-FOR-PROFIT ¹	1197	34.2	1	123
(31) solely owned FOR-PROFIT	732	23.6	1	240
(20) NOT-FOR-PROFIT public	208	10.4	1	164
(11) FOR-PROFIT public	107	9.7	1	55
(8) Other	138	17.3	1	100
(41) Overall	2382	58.1	1	373

(n) = Number of jurisdictions

¹ = see End Note.

The largest percent of the respondents (85%) had contracts with *private, not-for-profit* agencies, followed by *solely owned, for-profit* (76%), *public, not-for-profit* (49%), and *public, for-profit* (20%). Nine jurisdictions indicated they had contracts with other type agencies/entities — the largest proportion of which were with professional individuals.

The following table display both the types of services these jurisdictions contracted for, and the percent of their budgets they spent on these activities. (Because of the widely differing sizes of the responding jurisdictions, the survey results are reported in percentages. It should also be noted that some jurisdictions did not break-down their expenditures into the different sub-categories—those are included in “Operations & Programs.”)

**Types of Services Contracted For
—% of budget spent**

Types of Contract Services:	Average % of Budget
Operations & Programs	24.4%
Community-based	20.9%
Specialized	10.3%
Maintenance	2.6%
Medical	2.4%
Clinical/Mental Health	2.2%
Education	1.6%
Food Services	1.2%

Overall, the largest proportion of jurisdictions that responded (66%), expended an average of 24.4% of their contract funds for Operations and Programs. This was followed by 56% of the respondents who spent an average of 20.9% of their contract funds for Community-based pro-

grams. The area for which the fewest respondents expended contract funds was Facility Maintenance, while the smallest proportion of funds were spent on PS contracts for Food—1.2%.

Forty-one percent of these jurisdictions spent an average of 10.3% of their PS funds for Specialized interventions. For the 41 jurisdictions that responded to this survey item, the average proportion of budget funds expended for private sector contracts was 10.7%.

Attitudes Toward PS Contracting

The main reason the survey respondents gave for contracting was that the private sector vendors could provide services and expertise that the jurisdiction lacked—mentioned by 33 (80%) of the respondents. Second most popular reason was that the private sector could offer services that were cheaper and more efficient—22 (54%) of the respondents. Provide flexibility/diversity of services was endorsed by 18 (44%) of those that replied; all together there were 29 different replies.

The following table displays the most frequently mentioned positive outcomes and shortcomings of contracting—from a total of 28 and 21 responses, respectively.

**Positive Outcomes/Shortcomings
of Private Sector Contracts (n)***

Positives	Shortcomings
(15) Responsive to jurisdiction's needs	(19) Monitoring/control problems
(9) Provide specific service	(12) Lack knowledge of DOC's procedures
(8) Increase program variety	(8) High costs
(8) Provide good services	(7) High turnover of vendors' staff
(8) Saves money	(6) Contracting process too cumbersome
(6) Participants show positive changes	(6) Resist assessment/evaluation
(5) Have expertise/specialized staff	(6) Unrealistic view of population
(5) More flexibility	(4) Resist taking difficult juveniles
	(4) Vendors' staff inexperience

(n) = Number of endorsements

According to the respondents, these shortcomings were due, primarily, to the vendors. Most often the difficulties were with PS contracts with solely-owned, for-profit agencies and with public, for-profits; the fewest difficulties were experienced with public, not-for-profits followed by the private, not-for-profits. In other words, entities which arranged for private sector contracts had the most difficulty with for-profit agencies and the least problems with not-for-profits.

Future Plans

Eight-five percent of the respondents listed service areas where new PS contracts were anticipated. Only one jurisdiction—Missouri—stated that it anticipated fewer such contracts in the future. However, more than half (54%) of those responding stated that their agency was moving toward more PS contracting—about two new contracts per agency; the rest expected to maintain about the same number of contracts. On the list of the 69 anticipated, new contractual services/programs, the most frequently mentioned (number in parenthesis) were:

- | | |
|-----------------------------------------|----------------------------------|
| (6) health/mental health programs | (4) community-based programs |
| (6) programs for special need juveniles | (4) substance abuse (in-patient) |
| (6) services for females | (3) more detention space |
| (5) residential (secure) programs | (3) non-residential services |

Six states—Kansas, Massachusetts, Nebraska, New Hampshire, Virginia, Wisconsin—indicated that there was existing or pending legislation in their jurisdiction that encouraged PS contracting; for the remaining 85% of the jurisdictions there was no such legislation. Additionally, 87% of those responding mentioned there was no legislation or rules that hampered such contracting. Further, 95% of the survey replies indicated the criteria used to accept/reject a PS contract—high frequency responses were: compliance with agency regulations; cost; selection by a panel; and the vendor's history and/or past performance.

The two most frequently mentioned methods for monitoring private sector contracts were by specifically designated staff and by conducting on-site reviews. Annual reviews of documenta-

tion/reports and financial reviews of billing accuracy also received many mentions. Forty-nine percent of the respondents use a formal written monitoring/evaluation plan.

Overall, 78% of those replying expressed a willingness to participate further in this ACA/OJJDP project.

Comparison With Prior Findings

The proportion of agencies that reported having at least one private sector contract decreased when 1991 figures (Levinson and Taylor) were compared with the present 1999 findings—98% then, 81% now. However, the average length of experience with private sector contracting increased—13.7 and 14.2 years, then and now, respectively. The jurisdiction with the largest number of PS contracts changed, from Georgia to Oregon, as did the number—385 then to 373 now; the average dropped from 81 to 58 per agency. The following table compares the types of private service contracts, then and now.

Type/Percent of Private Sector Contracts

Type Agency:	1991	1999
NOT-For-Profit	90%	89%
For-Profit	60%	80%
Other	8%	17%

From 1991 to 1999 the proportion of jurisdictions contracting with not-for-profits stayed the same while PS contracts with for-profit agencies increase as did the proportion of jurisdictions contracting with private individuals ("Other").

As displayed in the below table, the reasons given for signing private sector contracts in 1991 and 1999 were, essentially, the same. Despite the slight changes in rank, there was a higher level of consensus in the most recent survey data.

Reasons for Private Sector Contracting

Reason :	1991 [rank]	1999 [rank]
Cost efficiency	22% [1st]	57% [2nd]
Service unavailable within agency	17% [2nd]	78% [1st]
Increase diversity of services	13% [3rd]	42% [3rd]

A somewhat smaller proportion of the respondents in 1999 than in 1991 indicated that their agency anticipated more private sector contracts—54% compared with 60%; while only a slightly greater percentage reported that the number of PS contracts would remain about the same—39% now compared with 35% then.

The types of contracts that agencies are seeking are displayed in the following table:

Type of Anticipated Private Sector Contracts

Type :	1991 [rank]	1999 [rank]
Residential treatment	[1st]	[4th]
Day treatment	[2nd]	[5th]
Mental Health services	[3.5]	[2nd]
Programs for special need juveniles		[2nd]
Services for females		[2nd]

The type of PS contracts that were most frequently mentioned are listed in the left-hand column. In 1999, three areas received the highest (identical) number of endorsements; all three were assigned a rank of “2.” As can be seen, *Residential treatment*, which ranked first in 1991, eight years later received a rank of “4”; and, two of the areas (*Programs for special need juveniles*, and *Services for females*) were not among the top five listed in 1991.

The types of PS contracting that will be sought in the future have changed; and, the anticipated programs are more targeted now than in 1991.

Conclusion

Findings from the recent ACA/OJJDP survey reflects a strong continuing interest in contracting with the private sector for correctional programs and services for juveniles. Overall, in the eight years since the previous assessment, there has been an increase in the use of For-Profit Contractors—from 60% in 1991 to 80% in 1999. Further, it appears as if this trend will continue into the future.

End Notes:

1. Contracts fall into the following groupings:

FOR-profit	Private	A corporation or business whose objective is to gain a return of funds greater than those expended to deliver a specified service.
	Public	A government entity whose objective is to gain a return of funds in excess of those expended to deliver a specified service.
NOT-for-profit	Private	A privately owned business whose objective is to deliver a service.
	Public	A charity whose objective is to deliver a specified service.

References

- Levinson, R.B. and W.J. Taylor (1991) "ACA Studies Privatization in Juvenile Corrections,"
Corrections Today, August (5); pp. 242-248.

Module III

Issues in Privatization

Module III
Issues in Privatization

A. INTRODUCTION

B. LEGAL ISSUES

3-1

Legal Issues

- The legality of delegating correctional services.
-
- There was a good deal of controversy in the 1980's about how legal it is for governments to delegate the incarceration function to private companies.

3-2

LEGAL PRINCIPALS

- State agencies have no inherent authority—they are creatures of statute and may exercise only specific powers conferred upon them by law.
- If a specific duty or function is granted to an agency, the intent is for the agency to have whatever authority is necessary to perform said duties.

3-3

LEGAL PRINCIPALS

- Agencies may delegate *administrative* duties.
- Agencies cannot delegate *discretionary* duties.
- *Administrative* duties are duties performed with such precision and certainty as to leave nothing to the exercise of discretion or judgment.

3-4

LEGAL PRINCIPALS

- *Discretionary* duties are duties that generally deal with life, liberty, and due process decisions.
- Examples of *discretionary* duties are tasks related to rulemaking [offender discipline, good time, release] and adjudication [parole revocation] functions.

3-5

LEGAL PRINCIPALS

- Liability for private facility conditions.

Originally, it was thought that contracting for beds would:

- insulate a public entity from liability;
- shield contractors from juvenile offender civil rights suits alleging constitutional harms.

3-6

LIABILITY QUESTIONS

- Can the rights of juvenile offenders be adequately protected in a contract facility?
- Does contracting reduce the exposure for liability for government juvenile correctional authorities?
- Does contracting reduce the price tag for litigation for government juvenile correctional authorities?

3-7

LEGAL PRINCIPALS

- Generally, the statutory basis for most litigation involving juvenile offenders is a violation of their civil rights under 42 U.S.C. §1983.
- §1983 allows juvenile offenders to sue those who *act under color of any statute, ordinance, regulation, custom, or usage*, for any violations of constitutional and federal statutory rights.

3-8

LEGAL PRINCIPALS

- Typical allegations under 42 U.S.C. §1983 involve violations of the:
 - 8th Amendment *prohibiting cruel and unusual punishment* which usually involves “conditions of confinement.”
 - 6th Amendment - *Right to counsel*;
 - 14th Amendment - *Right to due process*.

3-9

LEGAL PRINCIPALS

- Examples of *protections* for public entities are:
 - Sovereign Immunity - 11th Amendment;
 - Qualified Immunity - state employee *reasonably believes* that their *discretionary* actions are *lawful*;
 - No Respondeat Superior - *acts of employee are acts of the agent*;

3-10

LEGAL PRINCIPALS

- Judicial Deference To Juvenile Officials - the operation of facilities is peculiarly the province of the Legislative and Executive branches, not judicial, due to their expertise, comprehensive planning, and commitment of resources for administering juvenile facilities;

3-11

LEGAL PRINCIPALS

- Limited Monetary Damages - if the public entity is liable, the type of damages are limited and the amount of damages are capped.

3-12

ANSWER - LIABILITY

- A public entity's exposure to *liability* will generally be lower with a private provider.
- Contract provisions that help ensure this are:
 - Independent Contractor;
 - Indemnification & Hold Harmless;
 - Require Liability Insurance;
 - No Third Party Beneficiaries.

3-13

ANSWER - COST

- The cost factors for contract beds may be:
 - contract administration staff;
 - monitoring staff;
 - cost of being sued, even if not liable [e.g. OAG];
 - agency staff who perform nondelegable, discretionary duties.

3-14

LEGAL PRINCIPALS

- Contractor access to juvenile records.
- State statues generally allow a private service provider for an agency access to confidential records.

3-15

LEGAL PRINCIPALS

- Bankruptcy

3-16

LEGAL PRINCIPALS

- Terms of contract need to reflect:
 - access
 - retention
 - confidentiality
- Pro-active and reactive contract terms are:
 - audits and copies of audits;
 - monitoring of financial records and invoices;
 - no delinquent franchise taxes;
 - notification of unfair business practices;
 - notification of subcontracting;

3-17

LEGAL PRINCIPALS

- prohibiting assignment of contract without prior approval;
- notification and approval of a business entity, such as a merger;
- a bond or business interruption insurance coverage;
- a “no cause” termination clause.

3-18

LEGAL PRINCIPALS

- Use of force.
- For *use of force* by contract staff on youth in the program, the terms of the contract should require:
 - approval by the public entity of an industry approved restraint method;
 - the method is certifiable;
 - contract staff obtain and maintain all proper certification training required by the certification standards.

3-19

LEGAL SUGGESTIONS

- For *use of force* by contract staff on youth who escape, require approval by the public entity of a procedure which may include:
 - notification of law enforcement within a specified timeframe;
 - immediate oral notification to the public entity with a written report to follow within a specified timeframe;
 - consulting state statutes to determine who has authority to arrest or use force to apprehend.

C. COST ISSUES

A lot of the motivation behind correctional privatization is the belief that the private sector can provide high quality programs at a lower cost than is possible in the public sector. However, comparing public and private costs is not easy. Therefore, one cannot say with confidence that privatization is or is not less costly than the public operation of correctional programs.

3-20

Factors to Consider when Analyzing Costs

- Characteristics of the Young Offender Population

The characteristics of the young offender population affects costs, since programming, health care, and security needs will vary by the nature of the offenders.

3-20

Factors to Consider when Analyzing Costs

- Characteristics of Facility or Program

There are many factors relating to the physical plant which can have an impact on costs. The size, design, and capacity of the facility are three important ones.

3-20

Factors to Consider when Analyzing Costs

- Location of Facility or Program

The geographic location of a facility, whether rural, suburban, or urban, can affect wages, land and property values, rental costs, construction costs, as well as the costs of food, fuel, and utilities.

3-21

Factors to Consider when Analyzing Costs

- Personnel Requirements

The number and type of personnel needed for a program varies by the nature and purpose of the particular program.

3-21

Factors to Consider when Analyzing Costs

- Public Administrative Costs

3-21

Factors to Consider when Analyzing Costs

- Private Takeover of a Program or Facility

3-21

Factors to Consider when Analyzing Costs

- Start up Costs

3-22

Factors to Consider when Analyzing Costs

- Financing and Construction Costs

3-22

Factors to Consider when Analyzing Costs

- Liability and Insurance Costs

3-22

Factors to Consider when Analyzing Costs

- Tax Revenues

Any tax advantages given to a private company should be considered a cost to the government, and factored into the cost accounting.

3-22

Factors to Consider when Analyzing Costs

- Cost Savings Requirements

Another area of correctional privatization at the forefront of the privatization debate is the financing, ownership, and construction of correctional facilities.

D. FACILITY FINANCING, OWNERSHIP AND CONSTRUCTION ISSUES

3-23

**Facility Financing,
Ownership, and Construction
Issues**

- Facility Financing Through Government Bonds

Local and state government traditionally have paid for building publicly operated facilities with current operating revenues or by selling general obligation bonds.

3-24

**Facility Financing,
Ownership, and Construction
Issues**

- Difficulty in Floating Government Bonds

This difficulty in floating bonds was due to a number of factors. Numerous state and local jurisdictions had borrowed so much money as a result of poor economies, that their credit ratings decreased.

3-25

**Facility Financing,
Ownership, and Construction
Issues**

- The Straight Lease and Sale/Leaseback

3-26

**Facility Financing,
Ownership, and Construction
Issues**

- Combined Private Financing and Service Contracts

3-27

**Facility Financing,
Ownership, and Construction
Issues**

- Lease-Purchase Agreements

Lease-purchase agreements represent a particular popular method of privately financing correctional facilities, while avoiding the potential pitfalls of private ownership.

3-28

**Facility Financing,
Ownership, and Construction
Issues**

- Real Estate Investment Trusts—REITS

E. SUMMARY

**Studies of
Residential
Facility
Privatization**

National Institute of Corrections Study (1984)

In a National Institute of Corrections survey published in 1984, respondents generally reported privately operated services to be more cost-effective than could be achieved by the public provision of services. At that time, contracting most frequently occurred in juvenile corrections, and was "typically used to provide health services, educational and vocational training, aftercare services (including halfway house placements), and staff training." In particular, survey respondents appeared to favor privately as opposed to publicly provided medical services, believing that through the private sector the service quality and staff had improved.

Overall, the perceived advantages of service contracting outweighed the disadvantages, although the two most common problems mentioned by respondents were monitoring the performance of providers, followed closely by poor quality of service.

Reference: Mullen, Joan, "Corrections and the Private Sector," **Research in Brief**, National Institute of Justice, Washington, D.C. (October, 1984).

Cost Effectiveness Study of Private and Public Prisons in Louisiana (1996)

Recently, Archambeault and Deis conducted a study on adult prison privatization in Louisiana. This study represented the most sophisticated empirical research the writer found comparing public and private correctional institutions. In fact, the authors themselves note this: “. . . the research design is one of the most comprehensive and in-depth ever used in the study of public versus private prisons.”

The study focused on two issues—whether there were measurable significant cost-effectiveness differences between privately and publicly operated prisons, and whether there were such differences between the two private prisons studied. Effectiveness measures used included risk to staff, inmate safety, and performance and efficiency in providing services to inmates. In addition, direct costs, indirect costs, and augmentation costs to the State were measured.

A unique aspect of this research is that the state, in essence, established a field experiment to compare privately and publicly operated adult prisons. The state built three prisons that were of the same design and size. All three were to house the same types of inmates. The State Department of Public Safety and Corrections operated one, and the other two were privately operated.

The prisons studied were the Allen Correctional Center, operated by the Wackenhut Corrections Corporation, Avoyelles Correctional Center, publicly operated, and Winn Correctional Center, operated by Corrections Corporation of America.

The study found that all three prisons adequately protected the public by preventing escapes and protecting visitors to the facilities. However, the private prisons were significantly more cost-effective to operate, reported statistically fewer critical incidents, provided a safer work environment, and had proportionately more inmates completing basic education and vocational training courses.

On the other hand, the public prison did out-perform the private prisons in some areas (e.g., more effectively preventing escapes, more aggressively controlling substance abuse among inmates, and providing a broader range of treatment, recreation, social services, and rehabilitative services).

Neither privately operated prison tried to maximize profits by trying to hold onto inmates. In addition, neither private facility decreased their educational services to increase their profits.

Archambeault and Deis's general conclusion is that

the two private prisons . . . significantly out performed the public, state operated prison . . . on the vast majority of measures used to compare the three prisons.

Nelson provides a rather in-depth critique of the study's limitations. A number of concerns are raised, such as problems in the consistency and accuracy of the cost data and problems resulting from comparing data that are reported at different points in time. She concludes that the operational cost savings of privatization is less than 5 percent, as opposed to the researchers' estimate of 12 to 14 percent.

Gaes, Camp, and Saylor also critique the Louisiana study, raising a number of criticisms, such as the lack of information on the characteristics of the inmate populations at the compared facilities and an incorrect use of statistical measures.

Reference: Archambeault, William G. and Donald R. Deis, "Executive Summary, Cost Effectiveness Comparisons of Private Versus Public Prisons in Louisiana: A Comprehensive Analysis of Allen, Avoyelles, and Winn Correctional Centers, Phase I "Baton Rouge, Louisiana: Louisiana State University, December 10, 1996, from the following internet web page: Private Prisons: The Prison Privatization Research Site, Charles Thomas and Charles Logan, Webmasters, <http://www.ucc.uconn.edu/~wwwsoci/exsumla.html>.

State of Washington Adult Corrections Privatization Feasibility Study (1996)

In 1995, the Washington State Legislative Budget Committee conducted a cost comparison of privately and publicly operated multi-custody adult correctional institutions in Louisiana and Tennessee. In Louisiana, a state operated facility was compared with a Wackenhut Corrections Corporation and a Corrections Corporation of America (CCA) facility. In Tennessee, two state operated facilities were compared with a CCA operated facility. In addition to comparing costs, information was obtained on public safety (e.g., escapes and disturbances) and substantive differences in the operation of private and public facilities. The study suggests that there may be some cost savings advantage to the private facilities, that the private facilities were as safe and secure as the public ones, and that the private facilities provided the same quantity and quality of programs as did the public facilities.

However, based on the analysis of these data as well as additional analyses, the report concludes that privatizing adult correctional facilities in Washington would not necessarily result in a cost savings.

Much would depend on the care that was taken in estimating the state's costs, and in designing an RFP, choosing a contractor, and executing and monitoring the contract.

Reference: Archambeault, William G. and Donald R. Deis, "Executive Summary, Cost Effectiveness Comparisons of Private Versus Public Prisons in Louisiana: A Comprehensive Analysis of Allen, Avoyelles, and Winn Correctional Centers, Phase I "Baton Rouge, Louisiana: Louisiana State University, December 10, 1996, from the following internet web page: Private Prisons: The Prison Privatization Research Site, Charles Thomas and Charles Logan, Webmasters, <http://www.ucc.uconn.edu/~wwwsoci/exsumla.html>.

Comparisons of Facilities in Kentucky and Massachusetts (1989)

A 1987–1988 Urban Institute study compared state correctional facilities in Massachusetts and Kentucky that were privately operated with similar facilities operated by public employees.

In Kentucky, a privately operated adult minimum-security facility, the Marion Adjustment Center, was compared with a publicly operated state adult minimum-security facility, the Blackburn Correctional Complex. The Marion Adjustment Center was operated by U.S. Corrections Corporation. In Massachusetts, two matched pairs of juvenile secure treatment facilities were compared. One of each pair was privately operated and the other was publicly operated.

The per inmate-day costs of the publicly and privately operated facilities were found to be similar for all three pairs studied, that is within 10 percent of each other. The private facility in Kentucky had a per-inmate day cost that was 10 percent higher than the public facility.

Based on a visual inspection of the Kentucky facilities, no substantial differences were found in the physical plant, institutional climate, staff-inmate interaction, and quality of life. However, the study concluded that the private facility generally scored higher on program quality and in the provision of inmate services. There were some areas where the public facility scored higher (e.g., food services). The program quality of the two private Massachusetts facilities showed an even greater advantage over public operations, than did the Kentucky comparison.

Reference: Harty, Harry P., Paul J. Brounstein, and Robert B. Levenson, "Comparison of Privately and Publicly Operated Correctional Facilities in Kentucky and Massachusetts," **Privatizing Correctional Institutions**, Burnswick, New Jersey: Transactions Publishers, 1993.

Comparison of Public and Private Adult Correctional Facilities in Kentucky (1994)

In a 1994 report prepared for the Kentucky State Auditors' Office by Tewskbury, Wilson and Vito, two private minimum-security adult facilities were compared with the public minimum security Blackburn Correctional Complex. Problems in obtaining needed data hampered the researchers' ability to address all of the issues to be covered by the study. However, the researchers suggest that all three facilities provide the range of programs needed to meet the needs of the institutional population, the staff/inmate ratio is comparable among each facility, and the nature of the programs and services provided by all three appear adequate.

Reference: Tewskbury, Richard A., Deborah G. Wilson, and Gennaro F. Vito (June, 1994) "Correctional Program Effectiveness: Private Correctional Facilities in the Commonwealth of Kentucky," "Commonwealth of Kentucky: Auditor of Public Accounts Privatization Review of ICF/MR Institutions and Minimum Security Correctional Facilities," Frankfort, Kentucky: Auditor of Public Accounts.

Texas Auditor's Report on Two Privately Operated Prisons (1991)

A study included in a 1991 Texas State Auditor's report to the Texas Sunset Commission found that Corrections Corporation of America and the Wackenhut Corrections Corporation had operated 500-bed prisons, at 10 to 15 percent less cost than the State would have been able to operate them. While earlier State reports identified problems regarding the quality of these programs, these problems later were corrected.

References: Thomas, Charles W. and Charles H. Logan, "The Development, Present Status, and Future Potential of Correctional Privatization in America," G. Bowman, S. Hakim, and P. Seidenstat, eds. **Privatizing Correctional Institutions**, Brunswick, New Jersey: Transactions Publishers, 1993.
Lampkin, Linda M. "Does Crime Pay? AFSCME Reviews the Record on the Privatization of Prisons," **Journal of Contemporary Criminal Justice**, Vol. 7, No. 1 (March, 1991).
Shichor, David (1995) **Punishment for Profit**, Thousand Oaks: Sage Publications, Inc.

Logan and McGriff's Cost Analysis of the Hamilton County, Tennessee Penal Farm (Silverdale) (1989)

Logan and McGriff compared the Corrections Corporation of America's (CCA) management of the Hamilton County, Tennessee Penal Farm (a minimum- to medium-security county prison), with the cost were the county to re-operate the facility. The private facility operation showed annual savings in comparison to the estimated cost of county management. Also, the study suggests that services were better under private operation.

Brakel studied the quality of the CCA's program at Silverdale (i.e., the Hamilton County, Tennessee Penal Farm), primarily from the perspective of the inmates. Inmates were surveyed regarding such issues as the conditions of confinement, programs, and services. Some comparisons were made with inmate experiences during the prior public operation of the facility or at two other public facilities. The results were a mixed bag of favorable and unfavorable ratings for the private and public facilities, with the private facility generally being more favorably rated.

References: General Accounting Office (GAO) (February, 1991) **Private Prisons: Cost Savings and BOP's Statutory Authority Need to Be Resolved**, Report to the Chairman, Subcommittee on Regulation, Business Opportunities and Energy, Committee on Small Business, House of Representatives, Washington, D.C.: General Accounting Office.

Logan, Charles H. (1990) **Private Prisons: Cons & Pros**, New York: Oxford University Press, Inc.
Shichor, David (1995) **Punishment for Profit**, Thousand Oaks: Sage Publications, Inc.

Sellers Paired Study (1989)

Sellers conducted a comparison study of three pairs of public and private institutions. The three private facilities were the Weaversville Intensive Treatment Unit (a maximum security juvenile detention facility) in Northampton, Pennsylvania, which was operated by Radio Corporation of America; the Silverdale facility, operated by Corrections Corporation of America; and the Butler County Prison in Butler, Pennsylvania, operated by Buckingham Securities.

Among other information, the comparisons provided weighted per diem figures, with the weighting taking into account the number of services being provided. In the Weaversville comparison, the weighted per diem cost for the private facility was substantially lower and the quantity of services available was the same as in the public facility. In the Butler comparison, the private facility was found to be well-kept, while the public facility was poorly maintained, overcrowded, and had a higher weighted per diem cost. In the Silverdale comparison, Silverdale's weighted per diem was lower. Study problems are noted by Shichor, such as judging program quality based on the number of services provided.

Reference: Shichor, David (1995) **Punishment for Profit**, Thousand Oaks: Sage Publications, Inc.

Tennessee Prison Study on Cost and Quality (1995)

The Tennessee legislature compared three multi custody (minimum- to maximum-security) prisons—a Corrections Corporation of America prison and two state operated prisons. This was a two-part study, with one part comparing costs and the other assessing program quality. The study found the costs of operating all three facilities to be almost the same. The results of a quality of service index indicated that all facilities operated at basically the same performance level. The General Accounting Office regarded this study as a good systematic attempt to assess both the costs and quality of service. While Nelson complements the study's attention to detail and how it addressed cost data, she also identifies various shortcomings of the research (e.g., it covers only a single year and does not directly address whether privatization saved money). Gaes, Camp, and Saylor raise methodological concerns regarding the program quality assessment part of the study (e.g., no performance measures were used to compare the facilities and multiple data sources, while available, were not used in making final comparisons).

Nelson re-analyzed the Tennessee data reported in the 1995 study, along with a Washington State Legislative Budget Committee analysis of the Tennessee data. Among her findings, she noted that the non-medical operating costs per inmate day were virtually the same among the three prisons. Also, labor costs were lower for the private facility, primarily because less was spent on security staff.

Reference: General Accounting Office, **Private and Public Prisons: Studies Comparing Operational Costs and/or Quality of Service**. Washington, D.C.: United States General Accounting Office, August, 1996.
Nelson, Julianne, Appendix, "Comparing Public and Private Prison Costs," in McDonald, Douglas, et al., **Private Prisons in the United States: An Assessment of Current Practices**, Cambridge, Massachusetts: Abt Associates, Inc., July 16, 1998.

Logan's Comparison of Three Women's Prisons (1991)

In a study funded by the National Institute of Justice, the National Institute of Corrections, and the Federal Bureau of Prisons, Logan compared the quality of incarceration in three multiple-security level women's prisons. Included in the analysis were a privately operated female prison in New Mexico (operated by Corrections Corporation of America), the same prison a year before when it was state operated, and a federal women's prison. Logan concluded that the quality of the private facility was better than that of the public facilities. However, in some quality dimensions the public facilities were rated better. Also, the per diem rate was lower for the private facility.

Reference: Shichor, David (1995) **Punishment for Profit**, Thousand Oaks: Sage Publications, Inc.

Study of California Community Corrections Facilities (1994)

Sechrest and Shichor conducted a comparison study of one privately-operated and two publicly-operated Community Corrections Facilities in California. These types of facilities handle parole violators, first prison commitments, and in the case of one facility, civil commitments. No major differences in cost or quality were found between the privately and publicly operated facilities.

References: Shichor, David (1995) **Punishment for Profit**, Thousand Oaks: Sage Publications, Inc.
Gaes, Gerald, G., Scott D. Camp, and William G. Saylor, Appendix 2: "The Performance of Privately Operated Prisons: A Review of Research," in McDonald, Douglas, et al., **Private Prisons in the United States: An Assessment of Current Practices**, Cambridge, Massachusetts: Abt Associates, Inc. July 16, 1998. Mullen,

American Correctional Association Study of the Okeechobee School for Boys in Florida (1985)

The American Correctional Association compared a previously publicly operated Florida training school that became privately operated, the Okeechobee School for Boys, with the state-run Arthur Dozier School for Boys training school. Okeechobee was taken over by the Eckerd Foundation. Staff morale was found to be lower and staff turnover higher at the private facility. A variety of negative and positive results of privatizing Okeechobee were identified for the private facility.

The report concluded that the privatization of Okeechobee neither substantially reduced costs nor significantly increased program quality.

Reference: Logan, Charles H. (1990) **Private Prisons: Cons & Pros**, New York: Oxford University Press, Inc.
Shichor, David (1995) **Punishment for Profit**, Thousand Oaks: Sage Publications, Inc.
Lampkin, Linda M. "Does Crime Pay? AFSCME Reviews the Record on the Privatization of Prisons," **Journal of Contemporary Criminal Justice**, Vol. 7, No. 1 (March, 1991).

Federal Bureau of Prisons Privatization Research (1998)

Recently, the U.S. Attorney General was Congressionally mandated to conduct two studies on prison privatization. The first is a summary report on the state of correctional privatization, and was completed in July, 1998. This research was conducted by Abt Associates Inc. It addresses such issues as legal considerations and contract monitoring. In addition, it includes a survey of states' degree of satisfaction with correctional privatization and a review of privatization research. Based on its review of existing research and its own analyses, the authors conclude that too little well designed, recent research exists to draw conclusions on the relative costs and quality of public and private prison operation.

Only a few of the more than a hundred privately operated facilities in existence have been studied, and these studies do not offer compelling evidence of superiority.

The survey of state corrections agencies found that most respondents (68 out of 80) believed that private prison contractors had met contractual requirements. A very few judged contractors as having exceeded requirements (three), and a somewhat larger number (ten) indicated that contractual requirements were not met. Similarly, about three-fourths were judged to perform at a comparable level to publicly operated facilities. Ten were assessed as performing at a higher level, and twelve at a lower level.

The second study will be an intensive evaluation of the private operation of the Bureau of Prisons' Taft prison. The research will take several years to complete. While the final report is to be finished in 2002, preliminary reports will be generated to provide interim feedback on the study findings. Initially, the study was to be conducted by the Bureau's Office of Research and Evaluation. Subsequently, the Bureau's director decided to contract with independent researchers to conduct the research.

The Bureau intends the Taft evaluation to address many of the limitations found in existing privatization research. The research will compare the Taft facility with three similar, recently constructed Bureau operated low-security prisons—Yazoo City, Mississippi, Elkton, Ohio, and Forrest City, Arkansas. The actual design of the study will be determined during the contracting process.

References: Gaes, Gerald, G., Scott D. Camp, and William G. Saylor, Appendix 2: "The Performance of Privately Operated Prisons: A Review of Research," in McDonald, Douglas, et al., **Private Prisons in the United States: An Assessment of Current Practices**, Cambridge, Massachusetts: Abt Associates, Inc. July 16, 1998.
National Institute of Justice, Solicitation: "Examination of Privatization in the Federal Bureau of Prisons," Washington, D.C.: National Institute of Justice, April, 1999.
McDonald, Douglas, et al., **Private Prisons in the United States: An Assessment of Current Practices**, Cambridge, Massachusetts: Abt Associates, Inc., July 16, 1998.
Camp, Scott, Social Science Research Analyst, Office of Research and Evaluation, Federal Bureau of Prisons, Washington, D.C., e-mail to Martin Schugam, January 27, 1999.

Recidivism Study of Private and Public Prisons in Florida (1998)

Prior to Lanza-Kaduce and Parker's recent study of prisons in Florida, there has been a dearth of rigorous research comparing the recidivism of adult privately- and publicly-operated correctional facilities. In their research, the recidivism rates of two 750-bed privately-operated facilities—the Bay Correctional Facility (managed by Corrections Corporation of America) and the Moore Haven Correctional Facility (operated by Wackenhut Corrections Corporation) were compared with the recidivism of public facilities.

A limitation of this study is that only a one-year follow up period was involved, due to the newness of the studied private facilities. The researchers recognized the need for recidivism research to cover longer follow up periods, and plan to conduct such research in the future.

A sample of inmates released from the private institutions were matched, case-to-case, with a sample of inmates released from public facilities. A number of variables were used to match the public and private inmates, such as offense, age, and so forth. Five measures of recidivism were used: "(1) rearrest, (2) technical violation of the terms of conditional release, (3) resentencing on a new offense, (4) reincarceration, and (5) an overall measure reflective of any of the previous four indicators of recidivism."

Private facility releasees were found to have a lower recidivism rate than their public counterparts for each of the recidivism measures, except technical violations.

Reference: Lanza-Kaduce, Lonn, and Karen F. Parker, "A Comparative Recidivism Analysis of Releasees from Private and Public Prisons in Florida," Gainesville, Florida: Private Corrections Project, University of Florida, January, 1998.

Cost and Performance Comparison of Public and Private Prisons in Arizona (1997)

In this research conducted by Charles Thomas, the aggregate operating costs and performance of fifteen Arizona Department of Corrections minimum security prisons were compared with the operational costs and performance of the privately-operated Marana Community Correctional Facility. The private facility was designed, constructed, financed, and managed by the Management and Training Corporation.

Thomas notes various limitations in the study design. For example, aggregated public costs and performance measures were used in the comparison because no comparable public facility existed. Marana is the only facility in Arizona housing both males and females. Also, the private facility has more substance abuse treatment resources than available in the state-operated prisons.

In general, the performance quality of the private facility was found to be superior to that of the publicly-operated facilities taken as a group. Also, the Marana facility cost less to operate, compared to the average operating cost for the state facilities. However, some of the individual public facilities had cost efficiencies and performance quality exceeding that of the private institution.

Reference: Thomas, Charles, Private Corrections Project, Center for Studies in Criminology and Law, University of Florida, "Immunities," January 5, 1997.

Studies of Non-Residential Programs and Services Public and Private Provision of Community Service Orders (1989)

In a study by Vass and Menzies, the public administration of community service orders in England and Wales, is compared with its provision by the private sector in Ontario, Canada. Community service orders require probationers to perform unpaid work for the community as a form of reparation. The study generally concludes that in practical terms the public and private handling of community service orders is similar.

Reference: Vass, Anthony A. and Ken Menzies, "The Community Service Order as a Public and Private Enterprise: A Comparative Account of Practices in England and Ontario, Canada," **British Journal of Criminology**, vol. 29, no. 3 (Summer, 1989).

Assessment of a Private Sector Juvenile Probation Initiative (1989)

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) has provided descriptive information on the progress in implementing its Private Sector Probation Initiative. The project's intent was to study the feasibility of the private sector providing selected juvenile probation services, and was initiated in five jurisdictions as demonstration efforts. OJJDP's overall conclusion is that public juvenile corrections agencies can improve some of their functions by having them privately provided.

Reference: Office of Juvenile Justice and Delinquency Prevention, "Privatizing Juvenile Probation Services: Five Local Experiences," **Juvenile Justice Bulletin**, Washington, D.C.: Office of Juvenile Justice and Delinquency, (November/December, 1989).

Private Presentence Reports for Juveniles (1993)

Greenwood and Turner conducted a study of the use of private presentence reports. The reports were prepared by the National Center on Institutions and Alternatives on serious Los Angeles juvenile offenders who otherwise would be committed to the California Youth Authority. A classic experimental design was used, with the experimental group receiving their presentence reports from the Center and the control group proceeding through normal sentencing procedures. The study found that offenders in the experimental group were less likely to be placed with the California Youth Authority, as hoped for, and many of the experimental group performed well in less restrictive settings.

Reference: Greenwood, Peter W. and Susan Turner, "Private Presentence Reports for Serious Juvenile Offenders: Implementation Issues and Impacts," **Justice Quarterly**, vol. 10, no. 2 (June, 1993), 229-243.

Module IV

The Request for Proposal

Module IV
The Request for Proposal

A. INTRODUCTION

4-1

REQUEST FOR PROPOSAL

Everything you ever wanted to know, but were afraid to ask!

B. BACKGROUND INFORMATION

4-2

**WHAT IS A REQUEST FOR
PROPOSAL?**

A Request for Proposal is the document that a contracting agency uses to launch the process of private sector contracting.

4-3

BEFORE YOU BEGIN WRITING

- Identify the authority of the agency to contract
- Determine the manner in which the procurement process must be structured
- Solicit competitive responses
- Know your agency's needs

4-4

AGENCY'S NEEDS

- **WHO**- Characteristics of juvenile population
- **WHAT** - Basics of the desired services
- **WHERE** - Location where services will be provided
- **WHEN** - Time period for services

C. THE RFP CHECKLIST

4-5

RFP Checklist

- ❶ The executive summary
- ❷ Background information
- ❸ The terms and conditions
- ❹ The statement of work
- ❺ The proposal requirements
- ❻ The evaluation criteria
- ❼ The proposal attachments

4-6

EXECUTIVE SUMMARY

- Agency Overview
- Enabling Legislation
- Goals
- Critical Dates
- Evaluation Process

4-7

CRITICAL DATES

- Issuance Date
- Bidder's Conference
- Deadline for Questions
- Commencement of Services
- Response Deadline
- Oral Responses
- On-site Visits
- Award Announcement

FACT SHEET

The State Juvenile Corrections Agency (SJCA) has received funding to implement a new program for juveniles in your state.

The SJCA has identified a need to separately house and provide programs and services for violent youth in the juvenile system. A limited number of juveniles who commit violent offenses in your state are tried as adults, and if convicted, sent to adult facilities. However, in the past two years, the SJCA has noticed an increase of violent offenders in the juvenile corrections population. Many of these youth have failed to meet the statutory requirements necessary to be tried as adults (the use of a firearm in the commission of a dangerous felony, etc.) and must be accounted for by the SJCA. These juveniles are often housed with juveniles committed for non-violent offenses and have placed a tremendous burden on SJCA's resources.

The Twin Oaks Juvenile Facility was chosen as the site for housing and providing programs and services for violent youth. The facility has been retrofitted in the past year to accommodate the needs of housing violent juveniles. Twin Oaks has the capacity to house 140 juveniles.

The SJCA has identified three distinct groups of juveniles who are to be housed at Twin Oaks.

1. Juveniles who have committed violent acts and are awaiting the prosecutorial decision of whether they will be tried as adults.
2. Juveniles who have committed violent acts against or other youth while in SJCA custody.
3. Juveniles who have committed violent acts that are not sufficient to bring adult charges.

The SJCA has decided that its resources would be best utilized by contracting with the private sector for the operation of Twin Oaks.

The SJCA has budgeted \$12 million for the next two fiscal years for the operation of Twin Oaks.

Portions of Article 50 of title 24 of the State Revised Statues read:

“24-50-501. Legislative declaration. It is hereby declared to be the policy of this state to encourage the use of private contractors for personal services to achieve increased efficiency in the delivery of governmental services.”

“24-50-506. Applicability of other laws.

(1) Personal service contracts entered into pursuant to this article are subject to all other applicable laws, which may include but are not necessarily limited to the following:

(a) State Procurement Law, including the following:

(I) The provisions of Part 14 of Article 30 of this title; and

(II) The “Procurement Code”, Articles 101 to 112 of this title.

★★★ GROUP ACTIVITY #1 ★★★

Write a paragraph describing the goals that the SJCA hopes to achieve by contracting out the Twin Oaks facility.

4-8

RFP CHECKLIST

- ❶ The executive summary
- ❷ **Background information**
- ❸ The terms and conditions
- ❹ The statement of work
- ❺ The proposal requirements
- ❻ The evaluation criteria
- ❼ The proposal attachments

4-9

BACKGROUND INFORMATION

- Proposal Title and Identifying Number
- Contracting Officer and Address
- Legal Authority
- Eligible Applicants
- Applicant Workshop/Bidder's Conference
- Withhold Award
- Public Documents

4-10

BACKGROUND INFORMATION

- Financial Parameters
- Cost of Preparing Responses
- Deadline for Receipt of Proposals
- Oral Presentations/On-site Visits
- Validation of Proposals
- Rejection of Proposals
- Multiple Contracts

4-11

BACKGROUND INFORMATION

- Commencement of Services
- Award Notifications
- Contract Period
- Legal Action
- Proposal Format
- Definition of Terms

4-12

RFP CHECKLIST

- ❶ The executive summary
- ❷ Background information
- ❸ The terms and conditions
- ❹ The statement of work
- ❺ The proposal requirements
- ❻ The evaluation criteria
- ❼ The proposal attachments

4-13

TERMS AND CONDITIONS

- Contract type
- Contract term and renewability provisions
- Method and basis of payment
- Subcontractors
- Insurance and indemnification

4-14

TERMS AND CONDITIONS

- Performance bonds
- Access to youth records
- Measures of Performance
- Quality of Services

4-15

MEASURES OF PERFORMANCE

- Service Provider's Evaluation of Success
- Performance Measures
 - Percent Positive Releases
 - Percent Negative Releases
 - Misdemeanor Arrests
 - Felony Arrests
 - Percent Early Movement
 - Number of Escapes
 - Percent of Students Escaping
 - Confirmed Mistreatments
- Financial Audit

4-16

QUALITY OF SERVICES

- Monitor, monitor, monitor
 - Complete a risk assessment
 - Determine number of visits per year
 - Define components of monitor
 - Develop forms
 - Determine who conducts monitoring
 - Schedule and track all visits
 - Conduct announced and unannounced visits
 - Track corrective action plans

4-17

RFP CHECKLIST

- ① The executive summary
- ② Background information
- ③ The terms and conditions
- ④ The statement of work
- ⑤ The proposal requirements
- ⑥ The evaluation criteria
- ⑦ The proposal attachments

4-18

STATEMENT OF WORK

- Focus of the RFP
- Brief description
- Client characteristics and eligibility requirements

★★★ GROUP ACTIVITY #2 ★★★
Client Characteristics

Your group's assignment is to draft the client characteristic and eligibility requirements section of the statement of work.

Use the attached information which was compiled from various departments to aid you in your task.

Juvenile Mental Health reports the following system-wide results:

	<u>Male</u>	<u>Female</u>
<u>Mood Disorders</u>		
Depression	18%	22%
Bipolar	5%	1%
Dysthymia	12%	19%
<u>Anxiety Disorder</u>		
PTSD	6%	19%
Psychosis	1%	2%
<u>Disruptive Disorders</u>		
ADHD	16%	13%
Conduct Disorders	57%	35%
Learning Disorders	27%	23%
Suicidal Tendencies	5%	7%

Profile of incoming resident

75% between the age of 15 and 18

Overall 65% emotionally disturbed with a mental health treatment need.

7% sex offender treatment need

65% chemical/alcohol dependency

85% anger management need

6% homosexual

20% committed for violent offenses including murder

19% eligible for transfer to adult facility

30% have assaulted staff at least once

40% have assaulted other residents

85% have been committed to security at least once

25% have been committed to security 10 or more times

Diagnostic Testing

Average reading level at commitment	5th grade	1 month
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Average math level at commitment	5th grade	1 month
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15%	test functionally illiterate
11%	are high school graduates

1998 System-wide Statistics

Admission

8,653

Discharges

8,491

Sex

Male	73%
Female	27%

Race

White	27%
Black	34%
Hispanic	38%
Other	1%

Age on Census Data

Under age 14	12%
14 - 17	75%
Over 17	13%

Medical Analysis

	%	Trend
Asthma	5%	stable
Diabetes	2%	stable
T.B.	-1%	up
Venereal Disease	7%	stable
Hepatitis B	2%	up
Epileptic seizures	1%	stable
HIV positive	4%	down
Allergic reactions	5%	stable
AIDS	-1%	down
Other Chemical dependencies	65%	up

Profile of “Typical” Resident Development

Physical

Poor nutrition, hygiene, medical care
Lack of knowledge about health lifestyles
Drug abuse



Intellectual

Failure in school environment
Learning disabilities
Acts impulsively, recklessly, or violently

Emotional

Poor self-control
Low self-esteem
Wide mood swings

Social

Failure to act positively with adults
Failure to act positively with pro-social youths

4-19

STATEMENT OF WORK

- Service requirements

The service requirement section of the RFP is the most important and most difficult writing task. On the one hand, it's vital to communicate the nature of the services clearly to all potential providers. On the other hand, it's important that providers be given the opportunity to be creative in their description of how the agency's needs can be met most effectively and efficiently.

★★★ GROUP ACTIVITY #3 ★★★

Service Requirements

Your group has been assigned the task of organizing the service requirements section of the request for proposal for Twin Oaks. Given that Twin Oaks is going to be a completely privatized facility, formulate an outline organizing the major components that should comprise the service requirements section of the statement of work.

★★★ GROUP ACTIVITY #4 ★★★

Service Request

The SJCA has decided that an important part of Twin Oak's overall treatment plan for violent juveniles is the development and implementation of an anger management program.

Your group has been assigned the task of drafting the service requirements portion of the statement of work for the development and implementation of the anger management program.

Use the following information to aid you in your task:

- * The SJCA has determined that in order for the anger management program to be successful it should incorporate both group therapy and individual counseling.
- * Individual and group counseling for the anger management program is to be conducted only by Ph.D. psychologist and/or a Masters level clinical/administrative supervisor with oversight by a Ph.D. psychologist on contract.
- * The SJCA has determined that each juvenile in the anger management program should receive a minimum of 2 hours in group counseling and 1 hour in individual counseling per week. The maximum number of students in a group counseling session should be no greater than 8.
- * A sum of \$100 / per program participant has been budgeted for materials. These materials can include but are not limited to: workbooks, handbooks, slides, overhead projections, and videotapes.
- * A methodology for assessing the juveniles' progress is to be developed to ascertain both individual participants progress and the programs overall effectiveness.

* The SJCA has determined that the core components of the anger management program should focus on three topic areas:

1. Anger and Aggression
2. What Causes Anger
3. How to Manage Your Anger

Using the information provided by a consultant, how would you describe the anger management program of an overall treatment plan?

★★★ GROUP ACTIVITY #5 ★★★

The area of rules and discipline has caused several staff to prepare a preliminary list of items to be included in the RFP for Twin Oaks.

Review the list and modify or add items as you see fit.

“The offerer shall:

(A) Ensure that the program identifies and encourages the positive behavior of youth.

(B) Provide each youth and staff with a rule book containing acts prohibited by the program with accompanying disciplinary procedures.

(C) Provide a written policy and procedure that covers the use of room restriction for major rule violation, including the requirement that staff make visual and verbal contact with the youth at least every 15 minutes.

(D) Develop procedures regarding the use and preparation of a disciplinary report by employees when a youth has committed a major violation of facility rules.

(E) Develop policy and procedure for the investigation of alleged major rule violations.”

Changes:

Additions:

4-20

RFP Checklist

- ❶ The executive summary
- ❷ Background information
- ❸ The terms and conditions
- ❹ The statement of work
- ❺ The proposal requirements
- ❻ The evaluation criteria
- ❼ The proposal attachments

The proposal requirements should call for a budget that breaks down the cost projections into various areas so that they can be compared with the corresponding components of the proposal.

4-21

PROPOSAL REQUIREMENTS

Technical Proposal

- Statement of the scope of work
- Proposal approach
- Management plan
- Qualifications

4-22

PROPOSAL REQUIREMENTS

Cost Proposal

4-23

RFP Checklist

- ❶ The executive summary
- ❷ Background information
- ❸ The terms and conditions
- ❹ The statement of work
- ❺ The proposal requirements
- ❻ The evaluation criteria
- ❼ The proposal attachments

Agencies vary dramatically in the weights they assign to each element of the proposal.

★★★ GROUP ACTIVITY #6 ★★★

The following six evaluation criteria have been selected for this procurement—your first activity is to assign a point weight to each item with the total being 100 points.

Evaluation Criteria	Maximum Assigned Points
1. Potential provider's understanding of the background of, need for, and scope of the services being solicited.	_____
2. Evidence of potential provider's past experience with and performance of duties related to the present request for proposals.	_____
3. Adequacy of the proposal approach for service delivery.	_____
4. Adequacy of the proposal management approach.	_____
5. Qualifications and experience of key project personnel.	_____
6. Cost components	_____
Total	<u>100</u>

4-24

RFP Checklist

- ❶ The executive summary
- ❷ Background information
- ❸ The terms and conditions
- ❹ The statement of work
- ❺ The proposal requirements
- ❻ The evaluation criteria
- ❼ **The proposal attachments**

Information that would assist potential providers in understanding the needs of the agency should be attached to the RFP; for example, the attachments could include: applicable procurement statutes, enabling legislation, state licensing requirements and other program standards, needs assessment reports, plans for a prototype structure and statistical profiles of client characteristics.

4-25

Releasing the Request for Proposal

Whether expressed in state or local statutes or agency regulations, procurement requirements generally impose obligations on agencies issuing RFPs to assure:

- that information on the release of RFPs is available to a broad range of potential providers and
- that potential providers have a reasonable amount of time to draft their proposals.

4-26

Reviewing Submitted Proposals

STATE OF COLUMBIA
DEPARTMENT OF CORRECTIONS
REQUEST FOR PROPOSALS TO MANAGE AND OPERATE
THE SOUTH WASHINGTON
MINIMUM SECURITY FACILITY
IN SOUTH WASHINGTON, COLUMBIA

DOC RFP #99-101

Date of Issuance
February 1, 2000

Date of Response Required
July 1, 2000

EXECUTIVE SUMMARY

Funds appropriated for Fiscal Year 2000-01 by the Legislature of the State of Columbia to the Department of Youth Services ("Department") provided for the cost of design and construction of the South Washington Juvenile Residential Facility ("Facility"). This 200-bed facility received its first residents on January 2, 1999 and is currently being managed and operated by the Department. All aspects of the design and construction of the Facility were in full compliance with applicable standards of the American Correctional Association (ACA), but no effort has yet been made to date to obtain ACA accreditation.

Pursuant to the Cost Containment Act Legislation enacted by the Legislature of Columbia on February 15, 1992, CL Statute 39.1, that went into effect on July 1, 1992, the Department of Youth Services is obliged to solicit proposals for the private management and operation of the Facility and all other juvenile residential facilities now managed and operated by the Department from interested corporations, partnerships, or other legal entities ("Contractors") and to contract with the most highly evaluated potential provider if (a) the overall quality of the services proposed is equal to or better than those currently being provided by the Department and (b) the cost of the proposed services is less than the cost of the currently provided services. (In accordance with CL Statute 39.1 (2)(e), the full cost of the contract monitoring as provided for in this request for proposals shall be defined as a cost of contractor services.)

The Facility provides a broad range of programs, including counseling, drug awareness,

educational, recreational, and vocational training programs, that are provided for a maximum of 50 adjudicated male delinquents between the ages of 16 and 18. Support services required at the Facility include food, laundry, and maintenance services as well as limited dental and medical services. A profile of the present residents reveals them to have been drawn disproportionately from major metropolitan areas of Columbia, minority groups and dysfunctional families. Related data reveals that residents often have histories of substance abuse, prior commitments to juvenile residential facilities, educational achievement scores on accepted standardized tests that, on average, place them three to five years below those of typical males of similar age, and minimal work experience or vocational skills. The average length of stay for residents is approximately six months.

All proposals must provide for the delivery of a range of services equal to or more expansive than those currently being provided by the Department. All proposals must commit to the achievement of accreditation by the ACA within one year following the assumption of management and operational responsibilities.

Although the cost components of qualified proposals must be below the projected cost of services, \$92.55 per resident per day when the facility is operating at this maximum capacity of 50 residents, the dominant focus of the proposal evaluation process will be on the quality of services potential providers commit to provide and indicators of their ability to deliver those services.

The Department anticipates the award of a three-year contract for management and

operation of the facility. Subject only to annual appropriations and satisfactory contract performance, the contract may be renewed one time for two years subject to the same qualifications. For the first year of operation, the contract will be a fixed price contract the maximum value of which shall be the base per diem rate of \$92.55 times 50 residents times 365 days or \$1,689,037.50. Each year thereafter the maximum value of the fixed price contract shall increase or decrease in accordance with fluctuations, if any, in the Columbia Consumer Price Index (CR-CPI) as published by the Columbia Department of Economic Affairs on June 30 of each year.

Potential providers should note that there will be a pre-submission conference in Conference Room "A" of the Department of Youth Services Building, 1401 Capitol Street, River City, Columbia at 9:00 a.m. Eastern Standard Time on October 1, 1999. Although those attending will have an opportunity to raise questions that were not submitted in advance, staff will respond to all questions submitted in writing and received by Mr. George Washington, Department Contracting Officer, by or before 5:00 p.m. Eastern Standard Time on September 20, 1999. A formal transcript of the meeting, which will include an edited version of all written questions received on or before September 20, 1999, will be available to all interested parties as soon as is practical following the meeting.

Potential providers also should note the following important deadlines and requirements:

Official date of RFP issuance: February 1, 2000;

Pre-submission conference: 9:00 a.m. Eastern Standard Time on March 1, 2000;

Receipt by Contracting Officer of official written notice of intent to submit a proposal:
5:00 p.m. Eastern Standard Time on March 15, 2000;

Receipt by potential providers who comply with notice of intent requirement of transcript
of bidders' conference and other relevant information by or before 5:00 p.m. Eastern Standard
Time on March 25, 2000;

Deadline for receipt by potential providers who comply with notice of intent requirement
of any amendments to the request for proposals: June 1, 2000;

Deadline for receipt by Contracting Officer of one original and six copies of a full and
complete proposal: 5:00 p.m. Eastern Standard Time on July 1, 2000;

Anticipated announcement by Contracting Officer of results of proposal evaluation
process with contract negotiations to commence as soon as practical thereafter: 9:00 a.m. Eastern
Standard Time on August 1, 2000; and

Anticipated date for commencement of all management and operational services: October 1,
2000.

SECTION I: GENERAL INFORMATION AND REQUIREMENTS

1. The title and identifying number for this procurement shall be Request for Proposals to Manage and Operate the South Washington Juvenile Residential Facility, DYS RFP #93-101.
2. The Contracting Officer for this RFP shall be Mr. George Washington, Room 711, Department of Youth Services Building, 1401 Capitol Street, River City, Columbia 87711-0711 (704-392-1025; FAX 704-392-1026).
3. The legal authority for this procurement is CL Statutes 39.1 and the general statutory requirements as they pertain to procurement of contracts for professional services by request for proposals and as expressed in CL Statutes 401(1)-404(32).
4. Nothing in this request for proposals establishes an obligation on the Department to enter into a contract for services with any contractor. In the event no qualified proposals are received, the Department may terminate the procurement effort, amend the request for proposals in whole or in part, or extend the deadline for submission of proposals by a period of not more than 30 days. In the event that only a single qualified proposal is received, the Department, at its sole discretion, shall either (a) proceed with contract negotiations or (b) terminate the procurement effort, amend the request for proposals in whole or in part, or extend the deadline for submission of proposals by a period of not more than 30 days.

5. All questions regarding this request for proposals shall be submitted to the designated Contracting Officer in writing. All questions shall be in writing. All responses to such questions shall be in writing. All questions submitted and all responses provided shall be made available to all offerors who have complied with the notice of intent provision of this request for proposals. No responses to questions about this request for proposals shall be binding on the Department unless they are provided in written form and are signed by the Contracting Officer.

6. The Department reserves the right to amend any portion(s) of this request for proposals so long as written notification of any such amendment(s) reaches offerors who comply with the notice of intent provision of the request for proposals on or before 5:00 p.m. Eastern Standard Time on June 1, 2000.

7. The maximum funding for the first year of Contractor activities has been set at \$1,689,037.50. No proposal shall be construed to be responsible unless its total cost component is less than \$1,689,037.50.

8. Pursuant to the Public Records Act of 1975 CL Statute 948, all materials submitted in response to a request for proposals become public documents that are available for inspection immediately following the announcement of the identity of the most highly evaluated proposal. The Public Records Act of 1975 requires the public availability of all materials submitted by the providers in response to a request for proposals.

9. A pre-submission conference will be held in Conference Room "A" of the Department of Youth Services Building, 1401 Capitol Street, River City, Columbia at 9:00 a.m. Eastern Standard Time on March 1, 2000.

10. The deadline for receipt of proposals shall be no later than 5:00 p.m. Eastern Standard Time on July 1, 2000. One original and six copies of each proposal must be submitted to Mr. George Washington, Room 711, Department of Youth Service Building, 1401 Capitol Street, River City, Columbia 87711-0711.

11. Following the submission of proposals, the Department reserves the right to require oral presentations by some or by all potential providers whose proposals are deemed to be responsive to the requirements established by this request for proposals.

12. It is the intent of the Department to announce the results of the proposal evaluation process at 9:00 a.m. Eastern Standard Time on August 1, 2000.

13. Potential providers shall be bound by each commitment made by them in their proposal for a period that shall be no less than 90 days following such submission. This commitment shall be guaranteed by a proposal bond equal to 5 percent of the proposed fixed price contract cost for the first year of facility operations. The proposal bond, in the form of either a bond from an acceptable surety authorized to conduct business in the State of Columbia, or a certified check payable to the State of Columbia, shall accompany each proposal.

14. The date for the commencement of all services described in this request for proposals shall be no earlier than September 1, 2000 and no later than November 1, 2000.

15. All proposals must contain a suitable affirmative action policy to be adopted by potential providers. The policy must comply with all applicable Columbia and federal legal requirements.

16. Potential providers must submit a written notice of their intent to submit responses to this request for proposals. The written notice, which must clearly identify the request for proposals by name and number, must be received by the Contracting Officer no later than 5:00 p.m. Eastern Standard Time on March 15, 2000. Failure to comply with this notice requirement shall disallow the consideration of any proposals subsequently submitted by potential providers.

17. The costs of proposal preparation and submission are solely the responsibility of potential providers and the State of Columbia shall not provide reimbursement for any such costs.

18. Any contract resulting from this procurement shall be construed in accordance with the laws of the State of Columbia. Any legal proceedings against the state of Columbia or the Department regarding this request for proposals or any resulting contract shall be brought in the appropriate administrative or legal forum in the State of Columbia. Venue shall be in Potomac County, Columbia.

19. For the purposes of this request for proposals, the following definitions shall apply:

- (a) **ACA:** the American Correctional Association
- (b) **ACA Accreditation:** the successful completion of all requirements imposed by the American Correctional Association for the accreditation of juvenile facilities.
- (c) **ACA Standards:** the standards for juvenile residential facilities in existence at the time of a contract being entered into between the Department and the Contractor or as they may be amended subsequent to the execution of such a contract.
- (d) **Affirmative Action Policy:** a policy adopted by a contractor that is in full compliance with applicable provisions of federal law and the law of the State of Columbia and that ensures equal opportunity in the areas of employee selection, retention, rate of pay, demotion, transfer, layoff, termination, and promotion regardless of race, religion, age, sex or ethnic origin.
- (e) **Facility:** the South Washington Secure Residential Facility located in South Washington, Columbia.
- (f) **Juvenile Delinquent:** a person below the age of 18 who has been adjudicated delinquent by a court of competent jurisdiction on the basis of proof of an act or omission to act that would have constituted a crime had the person been 18 years of age or older at the time of the act or omission to act.
- (g) **Non-routine Maintenance and Repairs:** any act of maintenance of the Facility or repair to equipment within the Facility costing more than \$500 and which shall be the responsibility of the Department.
- (h) **Resident:** a juvenile delinquent who has been committed to a facility for which the Department is responsible.

- (i) **Routine Maintenance and Repairs:** any act of maintenance of the Facility or repair to equipment within the Facility costing less than \$500 and shall be the responsibility of the Contractor.
- (j) **Juvenile Residential Facility:** a rehabilitative facility for juvenile delinquents that is designed and operated to ensure that all entrances and exits are under the exclusive control of the facility staff and that disallows unsupervised or unauthorized departures from the facility.
- (k) **Unforeseen Circumstances:** those acts or occurrences beyond the reasonable contemplation of the Department and the Contractor at the time of the execution of a contract between them that materially alter the financial conditions upon which the contract is based.

SECTION II: TERMS AND CONDITIONS

1. The type of contract to be awarded shall be a fixed price contract.
2. The contract period shall be for three years with the possibility of one renewal for an additional two years. Contract renewal shall be contingent on satisfactory contract performance and annual legislative appropriations.
3. Payment to the Contractor shall be made by the Department of the first day of each month and the amount of the payment due shall be equal to 1/12 of the fixed price that is provided for in the contract between the Department and the Contractor.

4. The fixed price component of the contract shall be adjusted on an annual basis with the fixed price being increased or decreased, if appropriate, by a percentage equal to the percentage change in the Columbia Consumer Price Index as published by the Columbia Department of Economic Affairs on June 30 of each year. Other adjustments to the fixed price shall be possible should unforeseen circumstances so require.

5. During the term or any renewal of the contract, any provision of the contract shall be subject to adjustment should such an adjustment be proposed in writing by either the Department or the Contractor and should the adjustment be mutually agreed on by both the Department and the Contractor.

6. Any contract entered into between the Department and the Contractor shall be subject to termination if (a) funding for the contract is not appropriated by the Legislature of the State of Columbia, (b) there is a filing of a petition of bankruptcy by or against the Contractor under any provision of federal or state law, (c) it is deemed by the Department, on the basis that reasonable cause has been demonstrated, that the contractor has failed substantially to fulfill its obligations (i.e., a material breach), or (d) circumstances should arise such that the health, welfare, or safety of the facility residents, facility staff, or public at large are placed in jeopardy. However, no material breach exists when the conduct of the Contractor is excused by the Department, when the failure to fulfill one or more obligations is caused by unforeseen circumstances, or when the failure to fulfill one or more obligations is caused by the conduct of the Department. Further, no breach of any contract entered into between the Department and the Contractor shall constitute

grounds for the termination of the contract unless a written notice of breach is provided to the Contractor and he or she fails to cure the breach within 30 days following written notice of breach.

7. Any proposal that anticipates reliance on a subcontractor for one or more of the services required in this request for proposals must contain a clear notice of intent to subcontract, a description of the service for which a subcontract is deemed to be appropriate, a written commitment from the proposed subcontractor that the service described will be provided at a cost equal to the cost established in the proposal and proof of the qualifications and credentials of the subcontractor.

8. All proposals shall provide for suitable liability, property damage, and workmen's compensation insurance. Further, all proposals shall agree to indemnify, defend and hold harmless the State of Columbia, the Department of Youth Services, and the officers, agents and employees of the Department of Youth Services from any suit, action, claim or demand of any description whatsoever for losses or damages arising directly or indirectly from, or in connection with, the operation and maintenance of the Facility. This agreement to indemnify, defend and hold harmless shall not apply to any suit, action, claim or demand of any description whatsoever for losses or damages arising from any independent action or omission of any person or entity other than the Contractor.

SECTION III. STATEMENT OF WORK

1. Pursuant to the Cost Containment Act enacted by the Legislature of Columbia on February 15, 1999, CL Statute 39.1, and which went into effect on July 1, 1999, the Department is obliged to solicit proposals for the private management and operation of the Facility and all other secure and non-secure detention or residential facilities now managed and operated by the Department from interested corporations, partnerships, or other legal entities and to contract with the most highly evaluated provider if (a) the overall quality of the services proposed is equal to or better than those currently being provided by the Department and (b) the cost of the proposed services is less than the cost of the currently provided services. (In accordance with CL Statute 39.1(2)(e), the full cost of the contract monitoring as provided for in this request for proposals shall be defined as a cost of contractor services).

2. The Department anticipates contracting for the same services currently provided at the Facility or for a range of services capable of achieving the objectives that prompted the delivery of the current services.

3. A profile of the current residents reveals them to have been drawn disproportionately from major metropolitan areas of Columbia, minority groups and dysfunctional families. Related data reveal that residents often have histories of substance abuse, prior commitments to juvenile residential facilities, educational achievement scores on accepted standardized tests which on average place them three to five years below those of typical males of similar age, and minimal

work experience or vocational skills. Commitment offenses commonly involve both offenses against property and offenses against persons that could have resulted in the filing of serious felony charges had the cases been prosecuted in a criminal rather than a juvenile court. The average length of stay for residents is approximately five months.

4. The necessary services shall include but not necessarily be limited to the maintenance of a secure and sanitary environment on a 24-hour-a-day basis within which:

- (a) individualized needs assessment and treatment plans are prepared for each resident within no more than 15 days after the arrival of a new resident.;
- (b) appropriate individual and/or group therapy is provided on a regular basis by properly qualified professional staff;
- (c) all residents are actively involved in intensive educational and vocational training programs, including basic life skills training, drug education and sex education appropriate for their measured levels of attainment and skill;
- (d) appropriate programs providing for a combination of incentives and disincentives are consistently relied on to improve the attitudes, values, self esteem and behavior of residents;
- (e) appropriate recreational programs for the residents are provided;
- (f) the basic needs of all residents for a balanced diet, routine medical and dental services and other essentials (e.g., clothing, personal hygiene items and laundry services) are met;
- (h) full and complete records are maintained regarding all features of facility administration, expenditures, management, maintenance and staff training.

5. The special requirements for all proposals shall include the following:
- (a) that all features of facility management and operation shall meet or exceed the minimum requirements for ACA Accreditation;
 - (b) that all proposals shall contain a commitment that ACA accreditation will be achieved within one year following the commencement of the delivery of services;
 - (c) that the experience and training requirements established by The Juvenile Corrections Training and Certification Act of 1990, CL Statutes 39.20, shall be met by all employees to whom they would apply were those employees to be employees of the Department;
 - (d) that all proposals shall contain an employee selection plan that affords existing employees of the Facility, excepting only those employees currently serving the positions of Facility Administrator, Assistant Facility Administrator, and Facility Program Administrator, a right of first employment and shall describe in suitable detail any special conditions of employment those employees would enjoy regarding but not necessarily limited to their accumulated annual leave, accumulated sick leave and seniority; and
 - (e) that all proposals anticipate the selection, prior to the commencement of services, of an independent evaluator acceptable to both the Department and the Contractor whose fee, which shall not exceed 5 percent of the funding available pursuant to the terms of the fixed price contract, shall be the responsibility of the Contractor and whose obligation will be to evaluate all aspects of service delivery and whose evaluation report shall be submitted to the Department and to the Contractor within 30 days prior to the completion of each year of service delivery.

6. All proposals shall provide a time schedule that will be followed regarding movement toward ACA accreditation.

7. The Contractor shall meet with the Contracting Officer at the Facility on a quarterly basis to review contract performance and shall provide written reports to the Contracting Officer on a monthly basis that include documentation on all admissions, releases and employment decisions (including decisions to hire, promote or terminate). Additionally, the Contractor shall provide immediate notification to the Contracting Officer of any unusual incidents that include, but are not necessarily limited to physical assaults, escapes, accidents causing injury to staff or residents or any significant damage to the Facility caused by accidents, intentional acts or any other cause.

SECTION IV. PROPOSAL REQUIREMENTS

General Requirements:

Proposals should be prepared in as complete and concise a manner as possible.

Proposals must include a title page which identifies the request for proposals by title and by number and which provides the name, business address, and telephone number of the provider.

Proposals shall be printed on ordinary 20 pound, 8 1/2 by 11 inch white paper.

Proposals shall contain only materials that are directly relevant to the request for proposals.

Proposals shall be divided into two basic parts that are clearly designated as "The Technical Proposal" and "The Business Proposal."

Requirements for The Technical Proposal (85 Points of 100 Possible Points)

1. Statement of Work Required (5 Points of 100 Possible Points)

The statement of work portion of the technical proposal should demonstrate a clear understanding and grasp of the objectives the Department must pursue in its efforts to provide for the delivery of services to the residents of the Facility and the role of the potential provider would play in the achievement of those objectives. The statement of work portion of the technical proposal also should demonstrate the potential provider's specific awareness of the needs of the juveniles who are most likely to be facility residents.

2. The Proposed Approach (25 Points of 100 Possible Points)

The proposed approach portion of the technical proposal is of vital importance and provides potential providers with an opportunity to propose creative means of addressing the problem at hand. Separate attention must be given to each major area of facility operation and management. Attention also must be given to the approach proposed to assure the Contractor efforts will be subject to reliable and valid evaluation.

3. The Proposed Management Plan (25 Points of 100 Possible Points)

The proposed management plan portion of the technical proposal is also of vital importance.

Potential providers must explain how the proposed approach will be translated into an actual service delivery model. The management plan must include:

- a. a complete organization chart;
- b. an identification of each employee category;
- c. the minimum qualifications for, and job descriptions of each employee category;
- d. the number of employees who fall within each employee category, and
- e. a contingency plan which describes how foreseeable emergencies would be handled (including, but not necessarily limited to natural disasters, fires, employee strikes and escapes).

4. Provider Experience and Qualification (30 Points of Possible 100 Points)

The provider experience and qualifications portion of the technical proposal has two fairly separate component parts: (a) the potential provider's relevant past experience (10 of the 30 points allowable for this portion of the technical proposal) and (b) the qualifications and experience of key project personnel (20 of the 30 points allowable for this portion of the technical proposal).

Regarding part "a", potential providers shall include a complete list of all contracts and subcontracts the potential provider has received during the past five calendar years that imposed an obligation on the potential provider to provide services of any kind to juvenile delinquents in either a secure or a non-secure facility. The information provided shall include the effective dates of performance, the contracting entity, the name, address and telephone number of the responsible

contracting officer or contract monitor and a brief description of the service(s) provided.

Regarding part "b", potential providers shall provide a complete list of key project personnel, a resume for each person identified, and a narrative description of the role each person would have were the offeror to be selected.

Requirements for the Business Proposal (15 Points of 100 Possible Points)

The purpose served by the business proposal is two-fold: (a) to establish that total proposed costs fall below the benchmark amount of \$1,689,037.50 and (b) to establish that all features of the technical proposal and other requirements of this request for proposals can be handled effectively given the proposed use of financial resources provided in the business proposal. Thus, potential providers should be careful to establish the linkage between the business proposal and other features of both the basic requirements of this request for proposals and the material they provide in their technical proposals. Further, the basis for any computations that might be unclear to those who review the proposal should be established in a suitable manner.

1. Employee Labor and Fringe Benefit Cost

Labor and fringe benefits costs must be presented in a complete manner that forms the basis for this cost component and can be evaluated in terms relevant to the proposed approach and proposed management plan (e.g., labor and fringe benefits costs associated with facility administration and support personnel, with security personnel, with educational/vocational personnel, etc.)

2. **Consultant Costs**

Proposals calling for consultants, including the required independent evaluators, must provide a description of the anticipated consulting services and the anticipated cost of those services and the means of establishing the cost of those services (e.g., "X" number of dollars per consulting day for "Y" days plus "Z" dollars in related travel and per diem costs).

3. **Subcontracting Costs**

Proposals may anticipate subcontracting for one or more necessary service (e.g., dental, food, janitorial or medical services). In addition to requirements regarding subcontracting established elsewhere in the request for proposals, the cost component of any such subcontract shall be clearly identified and explained in the business proposal.

4. **Food Service Costs Other Than Labor and Fringe Costs**

5. **Utilities Costs Other Than Telecommunications Costs (itemize)**

6. **Telecommunications (itemize)**

7. **Equipment Costs (itemize)**

8. **Insurance Costs (itemize)**

9. Supplies and Materials (itemize)
10. Travel and Per Diem Costs (itemize and provide explanation)
11. Staff Training, including In-Service Training (itemize)
12. Other Direct Costs (itemize)
13. Overhead and Administrative (itemize and provide explanation)
14. Total Proposed Cost

SECTION V. PROPOSAL EVALUATION CRITERIA

All proposals received by the Contracting Officer by or before 5:00 p.m. Eastern Standard Time on July 1, 2000 shall be considered. No proposal submitted after that deadline will be accepted for review and evaluation. All timely submissions will be screened to verify that all essential information required in this request for proposals has been provided and that the total cost component of proposals falls below the mandated total cost ceiling.

All qualified proposals will be submitted to the Proposal Review Committee for review.

Each member of the Committee shall independently rely on the following proposal review method.

Potential provider's understanding of the background of, need for, and scope of the services being solicited (5 points)

Evidence of potential provider's past experience with and performance of duties (10 points)

Reasonableness and competitiveness of cost proposal (15 points)

Qualifications and experience of key personnel (20 points)

Adequacy of the proposed approach (25 points), and

Adequacy of the proposed management approach (25 points)

An average of evaluator ratings for each of these six evaluation criteria will be computed. The six averages will then be added together to obtain a total proposal "score." Subject to the qualifications established elsewhere in this request for proposals receives the highest total proposal score as soon as is practical after the announcement of the evaluation results, which is anticipated to be 9:00 a.m. Eastern Standard Time on August 1, 2000. Should successful contract negotiations not be completed, the Department reserves the right to begin negotiations with other qualified providers in an order established by the total proposal score attributed to their proposals.

Module V

The Contract and Contract Negotiations

Module V
The Contract and Contract Negotiations

A. INTRODUCTION

B. THE RELATIONSHIP BETWEEN THE RFP AND THE CONTRACT

5-1

Agency requirements (RFP)-----
-----> Provider's response (Proposal)-----
-----> Terms and Conditions of Contract

5-2

**Time, Effort, and Attention to Detail
(RFP)**

= Dividends in Contract Negotiation

C. PRELIMINARY CONSIDERATIONS

5-3

Preliminary Considerations

- Group effort
- Flexibility in negotiation
- Willingness to fail

5-4

Key Concerns in Drafting and Negotiating Contracts for Services

- Specificity regarding administrative requirements

5-5

Key Concerns in Drafting and Negotiating Contracts for Services

- Preservation of Independent Contractor Status

D. CONTRACT DURATION

5-6

Contract Duration

5-7

Contract Duration

- The benefits of long-term contracts

5-8

Contract Duration

- The benefits of short-term contracts

5-9

Contract Duration

- In Search of the Ideal Contract term

E. TERMINATION CONDITIONS

5-10

Termination Conditions

- Must be broad in scope
- Avoid “all or nothing” scenarios

★★★ GROUP ACTIVITY #1 ★★★

Assume that an RFP established the per diem cost of a facility operated by your agency at \$75 and required all qualified providers to include cost proposals that committed them to providing the same services for the same number of juveniles at a cost at least 5 percent below the benchmark price of \$75. Thus, no provider submitting a cost proposal calling for a per diem above \$71.25 would meet the minimum requirement of the RFP (i.e., $\$75 \times .95 = \71.25). Also assume that XYZ Inc. was the most highly rated provider, that XYZ, Inc. committed to a per diem cost of \$71.25, and that during contract negotiations, XYZ, Inc. persuasively argued that the overall caliber of the services it could provide would be upgraded either if the per diem could be increased to \$78 or, if another 30 beds were added to its minimum. Given the persuasive argument advanced by XYZ, Inc., would it be reasonable for the agency to consider an increase in the per diem? Why or why not? What about an increase in the minimum capacity?

★★★ GROUP ACTIVITY #2 ★★★

ACTIVITY: Your agency has selected YouthFirst to provide programming and services to juvenile at the Twin Oaks Facility. Before signing the contract, there are a few items which need to be negotiated between your agency and YouthFirst.

The items which need to be negotiated are:

1. The length of the contract
2. The staffing
3. Security issues

Use the following information to aid you in your task:

- Money has been appropriated for Twin Oak's privatization for 2 years.
- State law dictates that whenever a state facility is privatized that displaced workers be given priority for job placement at the private facility.
- YouthFirst would like to hire some of the previous employees from Twin Oaks, but is concerned that there are not enough current employees who are fluent in Spanish. Since Twin Oaks has a marked increase in Hispanic juveniles over the last three years, YouthFirst would like to hire some new bilingual employees.
- A major concern of your agency is security in the surrounding communities. Your agency wants to negotiate an escape plan with YouthFirst which includes the following: developing a mechanism to inform the agency when an escape occurs; informing the public after an escape; and establishing liability for acts committed by an escaped youth.

STATE OF COLUMBIA
DEPARTMENT OF CORRECTIONS

CONTRACT TO MANAGE AND OPERATE
THE SOUTH WASHINGTON MINIMUM SECURITY FACILITY
IN SOUTH WASHINGTON, COLUMBIA

CONTRACT DOC #99-101

Date of Issuance
August 18, 2000

SECTION I

GENERAL PROVISIONS

A. Contracting Parties

This contract, made and entered into this first day of September, 2000, in River City, Columbia, between the State of Columbia Department of Youth Services ("Department"), whose offices are located at 1401 Capitol Street, River City, Columbia 27981, and the American Juvenile Corrections, Inc. ("Contractor"), a Columbia Corporation whose principal office is located at 101 Azalea Avenue, River City, Columbia 27901.

Witnesseth:

Now, in consideration of the mutual promises and covenants contained herein, the Department and the Contractor hereby agree as follow:

B. Legal Basis

The legal basis for contracting by the Department for management and operational services is provided by Chapter 39 of the Code of Columbia, which authorizes the Department to enter into contracts for the management and operation of juvenile residential facilities for juveniles with private non-profit and for-profit entities, and Chapter 401 of the Code of Columbia, which authorizes procurement of contract services by means of requests for proposals.

C. Definitions of Terms

1. ACA shall mean the American Correctional Association.

2. ACA Accreditation shall mean the satisfaction of all requirements imposed by the American Correctional Association for the accreditation of juvenile residential facilities.
3. ACA Standards shall mean the standards for juvenile residential facilities in existence at the time of a contract being entered into between the Department and the Contractor or as they may be amended subsequent to the execution of such a contract.
4. Additional Services shall mean any additional management and operation services required to be furnished by the Contractor beyond those otherwise provided for by this Contract which cause an increase in the cost of managing and operating the Facility and which are required by changes in ACA Standards, laws, government regulations, Department policies or court order applicable to the Department.
5. Affirmative Action Policy shall mean a policy adopted by the Contractor which is in full compliance with applicable provisions of federal law and the law of the State of Columbia that ensures equal opportunity in the areas of employee selection, retention, rate of pay, demotion, transfer, layoff, termination and promotion regardless of race, religion, age, sex or ethnic origin.
6. Facility shall mean the South Washington Juvenile Residential Facility located in South Washington, Columbia.
7. For Cause shall mean a failure by either party to meet provisions of the contract when such failure seriously affects the operation of the Facility or the failure of the Contractor to meet minimum standards of performance as specified in the contract.
8. Juvenile Delinquent shall mean a person below the age of 18 who has been adjudicated delinquent by a court or competent jurisdiction on the basis of proof of an act or omission to act that would have constituted a crime had the person been 18 years of age or older at the time of

the act or omission to act.

9. Non-routine Maintenance and Repairs shall mean any maintenance of the facility or repair to equipment within the Facility costing more than \$500 and which shall be the responsibility of the Department.

10. Non-routine Medical Services shall mean necessary dental and medical services, including necessary medical tests and prescription drugs, beyond those provided by medical professions working under contract with the Contractor, the costs of which shall be the responsibility of the Department.

11. Resident shall mean a juvenile delinquent who has been committed to the Facility by the Department.

12. Routine Maintenance and Repairs shall mean any act of maintenance of the Facility or repair to equipment within the Facility costing less than \$500 and shall be the responsibility of the Contractor.

13. Routine Medical Services shall mean necessary and routine dental and medical services, including necessary medical tests and prescription drugs, provided by medical professionals working under contract with the Contractor, the costs of which shall be the responsibility of the Contractor so long as the total cost of non-contractual services, including medical tests and prescription drugs, does not exceed \$250 for any one resident with any cost in excess of \$250 for any one resident being the responsibility of the Department.

14. Juvenile Residential Facility shall mean a facility for juvenile delinquents that is designed and operated to deliver services detailed in the RFP, proposal and contract.

15. Unforeseen Circumstances shall mean those acts or occurrences beyond the reasonable

contemplation of the Department and the Contractor at the time of the execution of a contract between them that materially alter the financial conditions upon which the Contract is based.

SECTION II

GENERAL TERMS AND CONDITIONS

A. Type of Contract

The Contract is a performance-based, fixed-price contract.

B. Term of Contract

The Contract will be in effect for the period of October 1, 2000 to September 30, 2002, subject to the availability of funds and unless the Contract is modified or sooner terminated as hereinafter provided.

C. Contract Renewal

The contract may be renewed by the Department on a no-bid basis and on like terms and conditions except with respect to compensation paid to the Contractor for two, two-year terms at the sole discretion of the Department.

D. Compensation, Compensation Adjustments and Method of Payment

1. Compensation to the Contractor for the period of October 1, 2000 to September 30, 2002 may not exceed \$7,000,000.
2. Compensation to the Contractor for the period of October 1, 2002 to September 30, 2004

may not exceed \$7,000,000 each year plus a percentage adjustment equal to the percentage increase, if any, in the Columbia Consumer Price Index as published by the Columbia Department of Economic Affairs on June 30, 1994.

3. Compensation to the Contractor for any extension or renewal of this Contract will be determined by negotiations between the Department and the Contractor with any such negotiations to begin at least 90 days prior to the effective date of any such extension or renewal.

4. Subject only to satisfactory performance by the Contractor and the timely receipt of an invoice submitted by the Contractor, compensation to the Contractor will be made on the first day of each month during the term of the contract with the amount of the compensation to be paid being equal to 1/12th of the total annual compensation due to the Contractor.

E. Unanticipated Compensation Adjustments

Notwithstanding other provisions of the Contract regarding compensation and compensation adjustments, the Department agrees to increase the total compensation of the Contractor upon submission of proof of either or both of two special circumstances.

1. The Contractor has entered into this Contract based on the requirements of law, court decisions, regulations and ACA Standards in effect as of the contract date. If one or more of these requirements change during the term of the Contract so as to increase the cost of managing and operating the Facility or of delivering the services contemplated in the Contract, the compensation to the Contractor will be increased by a sufficient amount to offset the cost of such increases.

2. Unforeseen circumstances may arise during the term of the Contract or extensions thereto.

Therefore, the parties agree that within 60 days after any unforeseen circumstance and upon submission to the Department of supporting documentation or information, the Department will adjust the total compensation in an amount sufficient to offset the increased cost to the Contractor in managing and operating the Facility because of unforeseen circumstances.

3. If the Department and the Contractor cannot agree on compensation increases caused by unanticipated changes in law, court decisions, regulations, ACA Standards, or unforeseen circumstances within 60 days following submission of a request for a compensation adjustment by the Contractor, the Department and the Contractor may initiate the dispute resolution procedures provided herein.

F. Contract Amendments

The Contract may be amended at any time if both the Department and the Contractor agree to any proposed amendment(s) in writing.

G. Documents Incorporated by Reference

In addition to the provisions of this Contract, the Department and the Contractor will adhere to all provisions contained in the following documents, which are attached to and are made a part of this contract:

1. Department of Youth Services Request for Proposals #00-101 (Appendix A);
2. Contractor's Proposal dated July 1, 2000 (Appendix B);
3. Chapter 39 of the Code of Columbia, which establishes the duties of the Department and of independent contractors who enter into contracts with the Department for the delivery of

correctional services to juvenile delinquents (Appendix C);

4. Title 39 of the Administrative Code of Columbia, which establishes the minimum standards adopted by the Department for the management and operation of juvenile residential facilities (Appendix D); and
5. Relevant standards established by the American Correctional Association (Appendix E).
6. Reimbursement/Invoice forms and required periodic programmatic reports (Appendix F).
7. Corporate Board Resolution Authorizing Officers to Enter into Contract (Appendix G).

If anything in the Department's Request for Proposals #00-1-1 or the Contractor's Proposal dated July 1, 2000 be different from the terms and conditions of this Contract, the language of the Contract will control.

H. Termination by Department for Cause

If the Contractor has unsatisfactorily performed its obligations under the Contract, the Department will have the right to terminate the Contract for cause upon giving written notice of termination. All obligations under this Contract will remain in full force and effect up to the effective date of termination. The notice of termination will specify the nature of the Contractor's failure(s) to perform. The Contractor will be allowed 30 calendar days to cure such failure(s) unless the Department agrees in writing to a time extension within which the Contractor will cure the failure(s). If the Department, exercising reasonable discretion, determines that the Contractor has cured the failure(s), the notice of termination will be rescinded and the Contract will not be terminated for the cause(s) stated in the notice of termination. If the necessary corrective action is not completed within the allowed 30 calendar days, the Department, if it has not granted an

extension of time during which the necessary corrective action is to be completed, may terminate the contract for the cause(s) stated in the notice of termination.

I. Termination by Department Due to Emergency Conditions

In the event of an incident or circumstance of any kind, including but not limited to fire or other casualty, the result of which poses a serious threat to the safety, health or security of residents of the Facility or to the general public, the Department, exercising reasonable discretion, may immediately terminate the Contract without penalty and on the same terms and conditions as a termination for cause.

J. Termination by Department for Contractor Bankruptcy

In the event of the filing of a petition of bankruptcy by or against the Contractor, the Department will have the right to terminate the Contract on the same terms and conditions as a termination for cause.

K. Termination by Department Due to Unavailability of Funds

In the event that sufficient appropriations by the Legislature of Columbia for the management and operation of the Facility are not available after September 30, 2000, the Department may terminate the Contract without penalty.

L. Termination for Convenience

This Contract may be terminated without cause or penalty by either the Department or the

Contractor by either party giving written notice to the other at least 120 days before the effective date of the termination. If a termination for convenience occurs, the Contractor shall be entitled to receive just and equitable compensation for management and operational expense under the terms of the Contract for any authorized work completed as of the termination date.

M. Waiver of Terms and Provision

No term or provision of this Contract will be deemed to be waived and no breach will be excused unless such waiver or consent is in writing and signed by the party claimed to have waived or consented.

N. Invalidity and Severability

In the event that any provision of this Contract is being held to be invalid, such provision will be null and void and the validity of the remaining provisions of the Contract will not in any way be affected thereby.

O. Sovereign Immunity

The sovereign immunity of the State of Columbia will not apply to the Contractor nor to any subcontractor, agent, employee, representative or insurer of the Contractor. Neither the Contractor nor any subcontractor, agency, employee, representative or insurer of the Contractor may plead the defense of sovereign immunity in any action arising out of the performance of, or failure to perform any responsibility or duty under this Contract.

P. Arbitration of Disputes

To the extent permitted by the law of the State of Columbia, any controversy arising out of this Contract which the parties are unable to resolve by mutual agreement may be submitted to arbitration in accordance with the rules of the American Arbitration Association. Issues under arbitration will be heard and decided by three arbitrators, one of whom will be designated by the Department, one of whom will be designated by the Contractor, and one of whom shall be designated by the American Correctional Association. The award, if any, of the arbitrators will be specifically enforceable as a judgment in any court of competent jurisdiction. Neither the Department nor the Contractor may designate an employee or agent as an arbitrator.

Q. Applicable Law and Venue

This contract will be construed in accordance with the laws of the State of Columbia and the District Court for South Washington, Columbia will be the venue in the event any action is filed by the Department or by the Contractor to enforce or to interpret provisions of this Contract.

R. Inclusiveness of the Contract

This contract contains all of the terms and conditions agreed on by the parties. No other understanding, oral or otherwise, regarding the subject matter of this Contract will be deemed to exist or to bind any of the parties to this Contract.

S. Independent Contractor Status

The Contractor will be an independent contractor and neither the Contractor nor its

employees, agents or representatives will be considered employees, agents or representatives of the Department.

T. Third Party Rights

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

U. Notices

All notices will be sent certified mail, return receipt requested, to, for the Department:

Mr. Phillip Lesh

Department of Youth Services Building, Room 711

1401 Capitol Street

River City, Columbia 97711-0711

and to, for the Contractor:

Mr. Robert Weir

President, American Corrections, Inc.

101 Azalea Avenue

River City, Columbia 27901

SECTION III

CONTRACTOR RESPONSIBILITIES

A. Acceptance of Referrals

The Contractor agrees to accept all juvenile delinquents assigned to the Facility by the Department.

B. General Liability Insurance

The Contractor agrees to obtain and to maintain general liability insurance sufficient to cover any and all claims that may arise out of the Contractor's management and operation of the Facility and to provide proof of such insurance to the Department prior to the commencement of the delivery of services. The Contractor further agrees to ensure that all dentists, nurses, physicians, psychiatrists, psychologists or other persons from whom the Contractor is authorized by the Department to obtain necessary services have suitable liability insurance.

C. Worker's Compensation and Unemployment Insurance Compensation

The Contractor agrees to provide unemployment compensation coverage and workers' compensation insurance in accordance with applicable federal and State laws and regulations.

D. Indemnification

The Contractor agrees to indemnify, defend and hold harmless the Department and the

Department's officers, agents and employees from any suit, action, claim or demand of any description whatsoever for losses or damages arising directly or indirectly from or in connection with the operation and maintenance of the Facility including, but not limited to claims against the Department, the Contractor, or any of their respective officers, agents and employees for alleged violations of civil and constitutional rights. However, nothing in this Contract is intended to deprive the Department, the Contractor or any of their respective officers, agents and employees of the benefits of any law limiting exposure to liability or setting a ceiling on damages or both or of any law establishing any defense to any claim asserted against any of them beyond limitations expressed in this Contract. The obligation of the Contractor to indemnify, defend, and hold harmless will not apply to any suit, action, claim or demand made by any person arising from any action or omission of any person or entity other than the Contractor, its employees or its agents.

E. Accreditation

The Contractor agrees to seek, to obtain and to maintain accreditation of the Facility by the American Correctional Association. The Contractor further agrees to obtain ACA Accreditation within 12 months following the commencement of the delivery of services.

F. Subcontracts and Assignments

The Contractor agrees not to assign this Contract or to enter into subcontracts to this Contract with additional parties without obtaining the prior written approval of the Department. The Contractor will be responsible for the performance of all assignees or subcontractors.

G. Affirmative Action Policy

The Contractor agrees to accept and to abide by the affirmative action policy detailed in the Contractor's Proposal (Appendix B).

H. Staffing of the Facility, Personnel Qualifications and Personnel Training

The Contractor agrees to provide the number and types of staff members necessary to meet all of the requirements of this Contract and that the numbers and types of staff members will be in full compliance with the staffing pattern detailed in the Contractor's Proposal (Appendix B). The Contractor further agrees that the qualifications and training, including in-service training, will be in compliance with ACA Standards, relevant requirements of Title 39 of the Administrative Code of Columbia, the personnel qualifications and training standards detailed in the Contractor's Proposal (Appendix B) and, should these sources of minimum personnel qualifications and training be different from one another, that the more demanding standards will control.

I. Development of Policies and Procedures Manual

The Contractor agrees, prior to the commencement of the delivery of services, to prepare and to submit to the Department a comprehensive policies and procedures manual and that the policies and procedures set forth therein will not be inconsistent with the relevant portions of the Contractor's Proposal (Appendix B). The Contractor further agrees that any amendments to the proposed policies and procedures manual required by the Department will be incorporated into the policies and procedures manual and reflected in the management and operation of the Facility

within no more than 30 days following receipt by the Contractor of the required amendments.

J. General Standards for Management and Operation of the Facility

The Contractor agrees to maintain and operate the facility in a manner that is at all times in full compliance with Chapter 39 of the Code of Columbia (Appendix C), Title 39 of the Administrative Code of Columbia (Appendix D), constitutional standards, all applicable federal laws, all applicable court orders, all local ordinances, all certification or licensing requirements that are effective or that become effective during the term of the Contract, and relevant ACA Standards (Appendix E). If any provision of Chapter 39 of the Code of Columbia, Title 39 of the Administrative Code of Columbia, or this Contract is more stringent than an otherwise similar ACA Standard, the more stringent standard will control. If any ACA Standard is more stringent than an otherwise similar provision of Chapter 39 of the Code of the Columbia, Title 39 of the Administrative Code of Columbia, or this Contract, the ACA Standard will control unless the ACA Standard is contrary to the relevant laws and regulations of the State of Columbia.

K. Delivery of Management and Operational Services

The Contractor agrees to provide all management and operational services detailed in the Department's RFP #00-101 (Appendix A) and the Contractor's Proposal (Appendix B), those services including but not limited to:

1. The involvement of all residents in an orientation program immediately following their commitment to the Facility;
2. The preparation of individualized needs assessments and treatment plans on each new

resident within no more than 15 days following his commitment to the Facility;

3. The involvement of each resident in a balanced program of education, vocational training, appropriate individualized or group therapy and recreation that is meaningfully related to the needs assessment and treatment plan prepared for him.

4. The delivery of food, hygiene, health, laundry and sanitation services that meet or exceed all relevant standards contained in Chapter 39 of the Administrative Code of Columbia and the ACA Standards;

5. Any and all other services necessary for the maintenance of a sanitary and secure facility within which the interests of the residents, the Department and the general public are protected; and

6. The development and implementation of a data collection system that systematically, reliably and objectively monitors the progress of each resident in all phases of his involvement in the programs being delivered by the Contractor.

I. Confidentiality of Resident Information

The Contractor agrees to abide by all State and federal laws and regulations concerning the confidentiality of information regarding residents provided to the Contractor by the Department and information regarding residents compiled by the Contractor during the course of the Contractor's delivery of services to those residents. The Contractor further agrees that all of its employees who work with or who have access to information regarding residents of the Facility will sign a written agreement that requires them to abide by the same confidentiality requirement and that the signed agreement will be available for inspection by the Department.

M. Research Involving Facility Records or Residents

The Contractor agrees that it will not authorize access to the Facility, its records or its residents without the prior authorization of the Department.

N. Reporting Requirements

The Contractor agrees to prepare and to submit to the Department monthly and quarterly reports containing a summary of Contractor activities that includes, but is not limited to a summary of information regarding admissions, releases, personnel changes, staffing adjustments and other relevant information about the management and operation of the Facility.

O. Special Incident Reports

The Contractor agrees to make immediate reports to the Department regarding events that fall within the meaning of special incidents (e.g., escapes, injuries other than minor injuries suffered by either residents or employees caused by accidents, assaults on residents or employees caused or believed to have been caused by either resident or employees, and significant damage to the Facility of whatever origin). The Contractor further agrees that special incident reports will be made within no more than 12 hours following the special incident.

P. Access to the Facility by the Department

The Contractor agrees that official representatives of the Department will have immediate access to the Facility for any official purpose at any time.

Q. Facility Maintenance

The Contractor agrees to develop and implement a maintenance program which includes the grounds, equipment and buildings of the Facility and which assures that the Facility will be maintained in a good state of repair and maintenance. The Contractor further agrees to assume liability for all routine maintenance costs and to not authorize any non-routine maintenance to be accomplished without a prior written authorization of the Department.

R. Medical Costs

The Contractor agrees to assume responsibility for routine medical costs for medical services provided to residents in accordance with the details of the plan for the delivery of medical services contained in the Contractor's Proposal (Appendix B).

S. Employment of Existing Department Employees

The Contractor agrees to accord all existing Department employees who are currently assigned on a full-time basis to the Facility equivalent employment by the Contractor in accordance with the employment program as detailed in the Contractor's Proposal (Appendix B).

T. Background Investigations of Contractor Personnel

The Contractor agrees that a thorough background investigation will be completed on all employees and agents of the Contractor who are assigned to responsibilities within the Facility on a routine basis prior to any such employees or agents being hired by the Contractor.

U. Selection of an Independent Program Evaluator

The Contractor agrees to retain, at no cost to the Department, an independent program evaluator who is fully qualified to conduct a qualitative and a quantitative evaluation of the quality of all services provided by the Contractor pursuant to the terms and conditions of this Contract, whose suitability for retention has the prior written authorization of the Department, and whose evaluation report must be submitted to the Contractor and to the Department no less than 30 days before the end of each 12-month period of service delivery by the Contractor.

SECTION IV

DEPARTMENT RESPONSIBILITIES

A. Existing Contracts

The Department agrees that there are no currently existing contracts between the Department and others relevant to the maintenance and operation of the Facility or, should any such contracts be in force, that they are not binding on the Contractor.

B. Transportation of Committed Juveniles

The Department agrees that all costs associated with the transportation of committed juveniles to and from the Facility will be the responsibility of the Department.

C. Facility Population

The Department agrees that the number of residents assigned to the Facility by the Department will not exceed 50 residents.

D. Resident Referral and Release Criteria

The Department agrees that all juvenile delinquents who are assigned to the Facility will be males between the ages of 16 and 18 whose backgrounds and needs, including their offense histories, psychological or psychiatric profiles and medical requirements, qualify them for assignment to the Facility. The Department further agrees that the Department, based on a review of case records, Contractor recommendations, and any other information it deems to be relevant, will have the exclusive power to determine release decisions for residents of the Facility.

E. Technical Assistance and Transfer of Information

The Department agrees to provide technical assistance to the Contractor on a timely basis when such assistance is requested by the Contractor and is necessary to assure the timely delivery of contractual services. The Department further agrees that all case file information will be transferred to the Contractor on or before the date of the transfer of any juvenile delinquent to the Facility.

F. Appointment of a Contract Monitor

The Department agrees to appoint a Contract Monitor who will serve as a liaison between the Department and the Contractor who will monitor contract compliance on the part of both the Contractor and the Department, who will submit a written evaluation of Contractor performance to the Department and to the Contractor on at least an annual basis, and who will be authorized to act on behalf of the Department regarding such issues as the release or transfer of residents.

G. Non-routine Maintenance Costs

The Department agrees to assume responsibility for all non-routine maintenance costs associated with the maintenance of the facility, including its paved walkways, parking lots, equipment and buildings if and only if the Department either arranged for the necessary maintenance or granted prior authorization to the Contractor to arrange for the necessary maintenance.

H. Medical Costs

The Department agrees to assume responsibility for the cost of non-routine medical services provided to residents.

I. Facility Improvements

The Department agrees that the Contractor may, at no cost to the Department, remodel or make improvements to the Facility subject only to the prior approval of the Department. The Department further agrees that Contractor requests to remodel or make improvements to the facility will not unreasonably be withheld.

J. Assistance with Background Investigations of Contractor Personnel

The Department agrees to assist the Contractor with the completion of background investigations of potential Contractor employees or agents at no cost to the Contractor. The Department further agrees that the scope of this assistance will include assisting the Contractor in the completion of criminal history reviews.

K. Assistance to the Independent Program Evaluator

The Department agrees to cooperate with and to provide technical assistance to the independent program evaluator selected by the Contractor and approved by the Department at no cost to the Contractor or to the independent program evaluator. The scope of this assistance will include be not be limited to authorizing access by the independent evaluator to secure detention facilities operated by the Department and the delivery to the independent evaluator of computerized data maintained by the Department on juvenile delinquents committed to the care and custody of the Department.

STATE OF COLUMBIA
DEPARTMENT OF YOUTH SERVICES
1401 CAPITOL STREET
RIVER CITY, COLUMBIA 27981

RESIDENTIAL SERVICES CONTRACT

This Contract is entered into between American Juvenile Corrections, Inc., hereinafter referred to as the Contractor and the Director of the Columbia Department of Corrections, hereinafter known as the Department.

This document, including in the General Provisions, Scope of Services, Special Provisions, attachments, including any amendments or modifications approved in accordance with the General Provisions, Shall constitute the entire Contract between the parties and supersedes all other understandings, oral or written.

IN WITNESS WHEREOF, the parties hereto agree to carry out the terms of this Contract.

Contractor

Columbia Department of Corrections

Signature of Authorized Individual

Signature of Authorized Individual

Typed Name

Typed Name

Typed Title

Typed Title

Address

Date

Additional Signatures as Applicable

Signature

Signature

Typed Name

Typed Name

Typed Title

Typed Title

Approved as to form this _____ day of _____, 2000

John Q. Smith, the Attorney General

By: _____

Assistant Attorney General

STATE OF TEXAS

COUNTY OF TRAVIS

§
§
§

CONTRACT FOR RESIDENTIAL SERVICES

This contract entered into on «BDate», by and between the Texas Youth Commission, hereinafter TYC, and «SPCorpNam», «SPCorpAdd», hereinafter Service Provider, for the provision of residential services, located at «SPProgNam», «SPProgAdd». This contract, NUMBER «Contract», will expire on «EDate».

This contract is entered into under the authority of §61.037, Human Resources Code, for the mutual considerations described in this contract.

I. SERVICE PROVIDER

For and in consideration of the payment of fees for residential services, Service Provider will:

- A. Obtain and maintain a license to operate a child-care facility as required by the Texas Department of Protective and Regulatory Services.
- B. Comply with the Applicant Response and all amendments to TYC RFP# _____ attached as Exhibit B. certification standards and TYC General Administrative Policies (GAP) take precedence over Service Provider's Response.
- C. Comply with applicable the TYC GAP, attached as Exhibit A, and incorporated into this contract as if set forth herein. Any amendments(s) made to the policies in Exhibit A during the term of this contract apply to the Service Provider as of the effective date of said amendment(s).
- D. Maintain an average or above average overall performance measure rating with the TYC Performance Measures, attached as Exhibit C.
- E. Obtain authorization and secure an encumbrance number from the TYC Quality Assurance Specialist prior to incurring medical and dental expenses. These requirements do not apply in the case of a bona fide emergency, in which case notification will be given no later than the next working day after the emergency. Private insurance and governmental assistance programs will be utilized for medical care when possible. Promptly send medical and dental bills to TYC District Office no later than five (5) days after receipt of the invoice. Costs incurred that do not meet these requirements are the responsibility of Service Provider.
- F. Notify the Director of Juvenile Corrections and Contract Care in writing of all revenue sources and reimbursements from third parties for any and all costs or

services associated exclusively with a youth served under this contract. Billing more than one revenue source for the same costs or services provided a single youth is prohibited and shall be recouped or administrative error sanctions shall be imposed as set forth herein. Neither a youth nor his/her parents or guardians will be required to pay for the support of the youth in the program, unless otherwise ordered.

- G. Submit claims to the TYC District Office on invoices bearing Service Provider's name and address no later than five (5) work days from the last day of the month for which payment is requested. Invoices must contain names of youth, TYC numbers and the dates present in the program. The youth is present for payment purposes when he/she is present until 12:01 a.m. or is authorized by the Quality Assurance Administrator to be away.
- H. Complete and submit annually to the TYC Director of Juvenile Corrections and Contract Care the TYC Cost Report for Residential Providers in accordance with the Rules and Overview, attached as Exhibit D. The TYC Cost Report for Residential Providers is due on or before June 30 of the year following the end of Service Provider's fiscal year.
- I. Afford TYC access to TYC youth and all records and/or information on TYC youth at all times.
- J. Forward copies of all audits, monitoring, and investigative reports completed by any entity to the Contract Specialist within five (5) work days of receipt.
- K. Allow TYC/designee to perform monitoring, performance evaluations, investigations, or audits.
 - 1. Provide access, inspection, and reproduction to all records related to services rendered under this contract which are necessary to facilitate monitoring, performance evaluations, investigations or audits.
 - 2. Records include, but are not limited to, contracts, notes, real property documents, accounting/financial records, written policies and procedures, correspondence, performance evaluation data and reports, and any other information pertinent to revenues, costs, expenses, and performance of services provided under this contract belonging to either the Service Provider, its subsidiaries, parent and/or affiliate(s), including subconsultants, subcontractors, employees, and any and all related parties to the contract. Related Party is defined below.
 - 3. Upon request by TYC and during reasonable business hours, provide facilities to TYC/designee to perform any of the functions listed in this subsection, as well as adequate and appropriate work space and copier.
- L. Maintain all financial records in accordance with generally accepted accounting principles promulgated by the American Institute of Certified Public Accountants;

and follow TYC fiscal management policies and procedures in submitting timely billing, and maintaining financial records, programmatic and supporting documents, statistical records or any other records required to be kept under this contract.

- M. Maintain and retain records for a minimum of three (3) years and 90 calendar days after the termination of the contract period, or for three (3) years after the end of the federal fiscal year in which services were provided, whichever is longer. If any litigation, claims, disputes, or audit involving these records begins before the three (3) years and 90 calendar days period expires, the Service Provider will keep the records and documents until all litigation, claims, disputes, or audit findings are resolved. Resolution is when a final order is issued in litigation, or a written agreement is entered into between TYC and the Service Provider. Contract period means the beginning date through the ending date specified in the original contract or any amendments.
- N. Disclose in writing to the Director of Juvenile Corrections and Contract Care any transactions with **related parties** providing goods or services to Service Provider for which Service Provider is reimbursed under the terms of this contract.
1. A **related party** always includes a family member by blood or marriage, (i.e., spouse, parents, grandparents, child(ren), grandchild(ren), aunt, uncle, niece, nephew, first cousins). In addition a **related party** is defined as any person or entity involved with Service Provider in any manner that would result in the ability of either party to significantly influence the management or operation of the other. Examples of **related parties** include, but are not limited to, parent companies, subsidiaries, as well as principal investors, owners, or managers and their relatives as listed above.
 2. Service Provider must report to TYC any transaction with a **related party** that could result in excessive profits from its relationship with the **related party**. If excessive profits are found to have occurred, administrative error sanctions maybe imposed.
 3. Any violation of this section can be considered a breach and could result in administrative error sanctions or termination.
- O. Provide a written Individualized Case Plan (ICP), with input from the TYC youth, and mutually agreed upon by the Service Provider's staff and the TYC Quality Assurance Specialist within thirty (30) days of placement. The plan will be written in a manner that the youth can understand and will include the following:
1. specified behavioral goals and objectives that reflect at minimum the following areas: ongoing work on offense, daily behavior, education, community reentry and identified needs; at least one must address underlying motivator for youth's delinquent behavior; and

2. the objectives must be specific and measurable and include expected outcomes with time frames and strategies for achieving them.

- P. Hold a monthly ICP review and notify the Quality Assurance Specialist and Parole Officer five (5) work days in advance of the review. The progress review documents the youth's progress in meeting ICP objectives, the behavior, progress in program, and any other relevant information. The Quality Assurance Specialist must participate in these reviews either in person or by phone. The Parole Officer is provided a written copy of the progress review within five (5) work days after the meeting.
- Q. Hold a formal ICP review every ninety (90) days to assess the youth's progress in the program, to modify the Individual Case Plan where necessary to meet the best interests of the youth, to identify aftercare needs, and to review continued need for the placement based on treatment needs and assigned length of stay. The Quality Assurance Specialist must attend these reviews. Families and Parole Officer must be invited by written notice to attend and participate in the ninety (90) day reviews. A follow-up phone call is preferred.
- R. Begin aftercare planning with the youth's first ICP in placement and include specific referrals and services identified for youth with input from family and Parole Officer. A final aftercare plan must be ready no less than thirty (30) days prior to the youth's release from the program and should include documented input from the family and Parole Officer.
- S. Require any of Service Provider's employees or employees of subcontractors to cooperate with or testify in judicial proceedings, legislative and administrative hearings or investigations, at the request of TYC.
- T. Obtain an independent audit of the Service Provider's financial statements in accordance with the following requirements:
1. If the Service Provider receives more than \$400,000 in payments under this contract, an annual independent audit must be obtained; otherwise the Service Provider must obtain a biannual independent audit.
 2. The audited financial statements, notes, opinions, and the report of material weaknesses and reportable conditions must be submitted to the TYC Director of Juvenile Corrections and Contract Care by June 1 of the year following the period covered by the independent audit.
 3. If the Service Provider is a nonprofit entity and receives more than \$300,000 in federal funds, the independent audit must comply with the Single Audit Act of 1984.

4. The independent audit must be performed by a licensed CPA or a practice unit registered in the state in which the audit is conducted.
 5. Independent audits must be performed in accordance with Generally Accepted Auditing Standards and Government Auditing Standards.
 6. In the audit report, an opinion must be expressed on whether the Service Provider's internal controls are designed and function effectively and provide reasonable assurance that:
 - Resources are safeguarded,
 - Laws and regulations are followed, and
 - Information reported to management and to outside parties is reliable and fairly disclosed.
- U. Ensure all direct care staff obtain and maintain certification in a restraint method that is TYC approved. Submit copies of certifications to the Contract Specialist upon request:

V. TYC

For and in consideration of the services provided to TYC youth in placement by Service Provider, TYC will:

- A. Determine which youth are eligible for referral to Service Provider's program and make appropriate referrals.
- B. Pay for services rendered by Service Provider at the rate of «CostDay» Dollars per day per youth, including up to five (5) days that youth may be authorized to be away from the program. This authorization may be granted and the limit can be extended for unusual circumstances by the TYC Quality Assurance Administrator.
- C. Pay for a placement for a youth for up to three (3) days following an escape, only if the youth is returned to the program.
- D. Terms of payment shall be in accordance with Chapter 2251, Texas Government Code.
- E. Pay medical and dental bills authorized by the TYC Quality Assurance Specialist. Encourage the use of vendors who use the current Maximum Affordable Payment Schedule (MAPS) established by the Texas Rehabilitation Commission.
- F. Complete monitoring of Service Provider's program according to the formal monitoring schedule developed by Central Office Contract Administration.

- G. Remove youth from the program within ten (10) days when Service Provider determines that the youth can no longer remain in the program due to treatment or behavioral issues.
- H. Remove TYC youth from Service Provider's program when conditions exist that threaten the health, safety and welfare of TYC youth in the program.
- I. - Provide a complete and updated Common Application for Placement of Children in Residential Care for each youth.
- J. Assign a Quality Assurance Specialist for TYC youth in program and a Quality Assurance staff will make at least one on-site visit per month. If no youth are in program, visit is not required.
- K. Coordinate the formal 90 day Individual Case Plan Review.
- L. Provide amended General Administrative Policies to the Service Provider in a timely manner.

III. CERTIFICATIONS

Article 1: Equal Opportunity

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

Article 2: Unfair Business Practices

Service Provider certifies that it has not been found guilty in a judicial or state administrative agency proceeding of unfair business practices within the year preceding the effective date of this contract. Service Provider further certifies that no officer of Service Provider has served, within the past year, as an officer of another company which has been found guilty in a judicial or state administrative agency proceeding of unfair business practices. If the above certifications are false, this contract is void.

Article 3: Franchise Taxes

Section 1: Service Provider certifies that should Service Provider be subject to payment of Texas franchise taxes, all franchise taxes are current.

Section 2:

If such certification is false this contract may be terminated at the option of TYC or other administrative error sanctions may be taken. If Service Provider is exempt from payment of Texas franchise taxes, Service Provider shall so indicate by attachment to this contract.

Section 3:

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

Article 4: Asbestos Regulation Compliance

Service Provider certifies compliance with the Asbestos Hazard Emergency Response Act of 1986 (AHERA) by having on file with the Texas Department of Health (TDH) a copy of Service Provider's AHERA Management Plan for each facility the Service Provider owns, leases, or otherwise uses as a school or is part of a school, grades kindergarten through 12, inclusive where applicable. Prior to the initiation of services under this contract, Service Provider shall provide to TYC a certification of an asbestos-free environment or a copy of the TDH acceptance and approval for the Service Provider's AHERA Asbestos Management Plan(s).

Article 5: Human Immunodeficiency Virus Services Act Compliance

Section 1:

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

Section 2:

Service Provider further certifies that workplace guidelines are developed and implemented. Service Provider may elect to use workplace guidelines developed and implemented by TYC.

Section 3:

In the absence of confidentiality guidelines, Service Provider is not eligible to receive state funds.

Article 6: Communicable Disease Prevention & Control Act Compliance

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

Article 7: Federal Confidentiality Compliance

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

Article 8: Educational Requirement

Service Provider is responsible for implementing and ensuring that youth placed in their program are provided with the appropriate educational services as required by state and federal law.

Article 9: Possession of Weapons

Service Provider agrees that weapons, as defined in the Texas Penal Code, §46.02, may not be possessed by anyone on the premises of Service Providers' program. No person shall carry or possess any type of firearm while providing services to a TYC youth. Premises is defined as a building or any portion of a building. This prohibition includes the carrying of a concealed handgun licensed under the authority of Texas Civil Statutes, Art. 4413(29ee).

Article 10: Required Disclosure of Lobbyist Activity

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

Article 11: Notification to TYC of Subconsultants & Subcontractors

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

Section 2: No contractual relationship will exist between Service Provider's subconsultants or subcontractors and TYC. TYC shall have no responsibility whatsoever for the conduct, actions, or commissions

(active or passive) of any subconsultants or subcontractors in the performance of their duties under this contract.

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

Article 12: Compliance with Child Support, §231.006, Family Code

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

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

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

«ANameSSNPercent»

Name, Social Security Number, Percent (%)

«BNameSSNPercent»

Name, Social Security Number, Percent (%)

«CNameSSNPercent»

Name, Social Security Number, Percent (%)

«DNameSNPercent»

Name, Social Security Number, Percent (%)

Article 13: Compliance with §572.054, Texas Government Code

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

Article 14: Signatory Authority

The undersigned signatory certifies by his/her signature, that he/she has the authority to bind the Service Provider to the contract provisions stated herein.

IV. GENERAL PROVISIONS

Article 1: Relationship of Parties

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

Article 2: Indemnity

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

Article 3: Liability Insurance

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

Article 4: Confidentiality and Security

- Section 1:** Service Provider agrees that all its employees will comply with state and federal law and with TYC policies regarding the confidentiality of student records and identifying information.
- Section 2:** Service Provider agrees that all information regarding TYC and/or its youth that is gathered, produced, or otherwise derived from this contract shall remain confidential subject to release only by permission of TYC.
- Section 3:** All Service Providers employees who visit any TYC facility will comply with that facility's security regulations.

Article 5: Administrative Error Sanctions

- Section 1:** TYC, based on information from monitoring or other verifiable sources, may terminate this contract for the reasons set forth in the article dealing with termination below, or take other actions including, but not limited to:
- a. requiring the Service Provider to take specific corrective actions in order to remain in compliance with TYC policy and/or any contractual term; and/or
 - b. recoup payment made to Service Provider; and/or
 - c. impose recommendations from audit or investigative findings, or sanctions under GAP.83.35; and/or
 - d. suspend, place into abeyance, or remove any contractual rights including, but not limited to, withholding payment, cessation of placement and/or removal of all youth presently in the program.
- Section 2:** Service Provider shall cooperate fully with TYC and its authorized representative in carrying out corrective action plans.

Article 6: Termination

- Section 1:** Service Provider may terminate its obligations under this contract by giving thirty (30) days notice and assisting in relocating youth in the program to other placements.
- Section 2:** TYC may terminate its obligations under this contract by giving thirty (30) days notice, or immediately in the event youth are removed from the program when conditions exist that threaten the health, safety or welfare of TYC youth in the program, or in the event of breach of contract by Service Provider.
- Section 3:** TYC may terminate its obligations under this contract according to GAP.83.35, regarding Quality Assurance.
- Section 4:** TYC shall terminate this contract in the event that TYC is not granted funding to pay for the herein described services or in the event that funding is lost due to either a reduction in the budget or a reallocation of budgeted funds.

Article 7: Waiver

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

Article 8: Severability

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

Article 9: Contract Amendment

No other agreements, oral or written, shall constitute a part of this contract unless such be made in writing, executed by the parties hereto or their successors, and expressly made a part thereof.

Article 10: Contract Renewal

The contract will not be automatically renewed. The contract may be renewed and the rate and services may be renegotiated based on performance and service delivery and the mutual agreement of both parties.

Article 11: Notice of Changes

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

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

Article 12: Notice

Required notices will be provided to the Director of Juvenile Corrections and Contract Care at the TYC Central Office at 4900 North Lamar, Post Office Box 4260, Austin, Texas 78765; to the TYC District Office at «DistOffAdd», to the Contract Specialist at «ConSpecAdd»; to the Quality Assurance Specialist at «QAAdd»; and to the Service Provider at «SPNotAdd».

Article 13: Venue

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

Article 14: Dispute Resolution

1. The dispute resolution process provided for in Chapter 2260 of the Texas Government Code must be used, as further described herein, by the Texas Youth Commission and Service Provider to attempt to resolve any claim for breach of contract made by the Service Provider.
 - A. Service Provider's claim for breach of this contract that the parties cannot resolve in the ordinary course of business shall be submitted to the negotiation process provided in Chapter 2260, Subchapter B, of the Government Code. To initiate the process, the Service Provider shall submit written notice, as required by Subchapter B, to the Executive Director. Said notice shall specifically state that the provisions of Chapter 2260, Subchapter B, are being invoked. A copy of the notice shall also be given to all other representatives of the Texas Youth Commission and the Service Provider otherwise entitled to notice under the parties' contract. Compliance by the Service Provider with Subchapter B is a condition precedent to the filing of a contested case proceeding under Chapter 2260, Subchapter C, of the Government Code.
 - B. The contested case process provided in Chapter 2260, Subchapter C, of the Government Code is the Service Provider's sole and exclusive process for seeking a remedy for any and all alleged breaches of contract by the Texas Youth Commission if the parties are unable to resolve their disputes under subparagraph A. of this paragraph.
 - C. Compliance with the contested case process provided in subchapter C is a condition precedent to seeking consent to sue from the Legislature under Chapter 107 of the Civil Practices and Remedies Code. Neither the execution of this contract by the Texas Youth Commission nor any other conduct of any representative of the Texas Youth Commission relating to the contract shall be considered a waiver of sovereign immunity to suite.
2. The submission, processing and resolution of the Service Provider's claim is governed by the published rules adopted by the Texas Youth Commission pursuant to Chapter 2260, as currently effective, hereafter enacted or subsequently amended.
3. Neither the occurrence of an even nor the pendency of a claim constitute grounds for the suspension of performance by the Service Provider, in whole or in part.

Article 15: No Third Party Beneficiaries

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

For the Texas Youth Commission:

Director of Juvenile Corrections and Contract Care

Date

For the Service Provider:

Service Provider

Date

Approved as to form:

TYC Attorney

Date

Contract Number: «Contract»

Module VI

Monitoring

Module VI Monitoring

A. INTRODUCTION

Both the public and private sectors must work together in order to make privatization work. Successful contract management and monitoring requires a mutual commitment to achieving the goals of the contract.

B. CHARACTERISTICS OF THE EFFECTIVE CONTRACT MONITOR

Effective contract monitors understand the operational and philosophical principles of juvenile corrections in their jurisdictions.

6-1

Who is Responsible for Monitoring

- Agency who signed contract
- Licensing agency
- Separate monitoring agency
- State standards monitor
- Local monitor of codes
- National standards monitor
- Court consent decree monitor
- Child abuse investigator

6-2

Types of Monitoring Activity

- Permanently on-site
- Weekly and monthly visits
- Yearly visits
- Single or team monitors
- Announced or unannounced visits

C. DEVELOPING A MONITORING PLAN

A specific monitoring schedule should be mutually determined by the agency and the contractor prior to contract implementation.

6-3 Monitoring Plan

- Time as an issue
- Scheduled activities
- Surprise visits
- Use of documents
- Outcome indicators

D. OUTCOME INDICATORS

One part of the monitoring plan is a listing of the expectations the agency has.

★★★ GROUP ACTIVITY #1 ★★★

Your group has been assigned the task of establishing a monitoring plan with outcome indicators for the major program areas at Twin Oaks. The program areas that require monitoring activities are:

1. Education
2. Anger Management Program
3. Security
4. Medical
5. Staffing
6. Overall Program Success

E. CORRECTIVE PLANS

The most effective approach to addressing problems with contract performance is to give the provider the responsibility of recommending a corrective action plan.

6-4

Corrective Plans

★★★ GROUP ACTIVITY #2 ★★★

Your agency's contract monitor has just returned for visiting Twin Oaks. While the facility was doing well overall, the educational program was below the minimum standards set forth in the monitoring plan.

The monitor, after inspecting records from standardized tests and interviewing juveniles at the facility, feels that educational program can be improved by drafting a corrective action plan.

Your group has been assigned the task of developing a corrective action plan to address the problems in the educational program.

Use the following information to aid your in your task:

* Your agency uses the following format for corrective action plans:

1. Identify the problem to be addressed
2. Identify the individual sub-components of the problem
3. List the necessary corrective action at each step
4. Set realistic time frames for completing the corrective actions.

* The following information is found in the contract monitoring plan:

Educational Programming

All youth are required by state law to receive educational programming.

Youth will be tested every 3 months to ascertain reading and math skills.

The outcome indicators for educational program performance are:

50% of all students will be able to read at the grade level corresponding to their age as determined by diagnostic testing.

50% of all students will demonstrate math skills at the grade level corresponding to their age as determined by diagnostic testing.

* Results from the last standardized tests given two weeks ago reveal that:

32% of juveniles tested read at the grade level which corresponds to their age.

28% of juveniles tested performed math skills at the grade level which corresponds to their age.

* The monitor reported the following additional information:

“After interviewing several students there appears to be a problem with the educational materials. Reading books were back-ordered and many students had to share both textbooks and workbooks.”

“Discipline in class appears to be a problem. Teachers spend much of their time addressing these issues rather than focusing on academic concerns.”

“One of the math teachers left Twin Oaks over two months ago and has not yet been replaced leaving the math program understaffed.”

Module VII

Summary

Module VII

Summary

A. INTRODUCTION

7-1

- Define privatization
- List the most common reasons for privatization

B. BACKGROUND ON JUVENILE PRIVATIZATION

7-2

- Briefly describe the history of juvenile privatization.
- Discuss the recent activity of both federal and state government regarding privatization.
- List and discuss at least five pro's and con's of juvenile privatization.

C. ISSUES IN PRIVATIZATION

7-3

- List and discuss at least three legal issues effecting privatization in juvenile facilities.
- List and discuss the impact of five cost factors involved in juvenile privatization.
- Select the financing method that best suits the needs of the participants agency.

D. THE REQUEST FOR PROPOSALS

E. THE CONTRACT

F. MONITORING SYSTEMS