

SOLICITATION, OFFER AND AWARD

1. CONTRACT NO. 696-IT-9-15-C0069	2. SOLICITATION NO. 696-IT-8-P022	3. TYPE OF SOLICITATION <input type="checkbox"/> SEALED BID (IFB) <input type="checkbox"/> NEGOTIATED (RFO) <input checked="" type="checkbox"/> NEGOTIATED (RFP)	4. DATE ISSUED February 25, 2008
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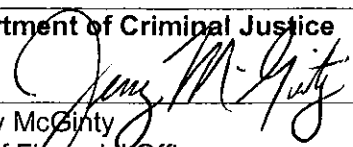
SOLICITATION

5. Sealed offers will be received by the Department until 3:00 p.m. local time on April 15, 2008 , and submitted to: Texas Department of Criminal Justice Contracts and Procurement Department Information Technology and Utilities Branch Two Financial Plaza, Suite 525 Huntsville, Texas 77340 Attention: 696-IT-8-P022	6. FOR INFORMATION CONTACT: Frank L. Williams, CTPM Contract Administrator PHONE: (936) 437-7118 FAX: (325) 023- 3210 E-MAIL: frank.williams@tdcj.state.tx.us
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OFFER (Must be fully completed by Offeror)

7. DISCOUNT FOR PROMPT PAYMENT:→ Not Applicable	10 CALENDAR DAYS %	20 CALENDAR DAYS %	30 CALENDAR DAYS %	CALENDAR DAYS %
8. ACKNOWLEDGMENT OF AMENDMENTS: <i>(The offeror acknowledges receipt of amendments to the SOLICITATION for offerors and related documents numbered and dated:</i>	AMENDMENT NO.	DATE	AMENDMENT NO.	DATE
	A-001	March 7, 2008	A-004	April 30, 2008
	A-002	April 16, 2008	A-005	May 2, 2008
	A-003	April 25, 2008		
9. NAME AND ADDRESS OF OFFEROR:→ Embarq Payphone Services, Inc 9300 Metcalf Ave Overland Park, KS 66212	10. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or Print) William, E. Cheek, President			
11. TELEPHONE NO. (Include area code) (913) 534-5351	12. SIGNATURE		13. OFFER DATE 5/12/08	

TO BE COMPLETED AT TIME OF AWARD

Document Type: 9 This award consummates the contract which consists of the following documents: (a) the State's solicitation, and solicitation amendments, such provisions, representations, certifications, specifications, and negotiated changes as hereby incorporated and attached to this award (b) the contractor's offer, points of clarification, responses to clarification request and/or best and final offer, and negotiated changes as hereby incorporated and attached to this award and (c) this award. In the event of a conflict between any terms and conditions of this contract document with Contractor's offer, points of clarification and/or best and final offer, the terms which are more favorable to TDCJ shall prevail.	
By:  Title: President Date: 8/27/08	By:  Title: Chief Financial Officer Date: 10-3-08

Contract Document Changes

The following items have been mutually agreed to by Embarras Payphone Services, Inc. and the Department, and are hereby incorporated into this Contract:

1. The solicitation number has been replaced with the contract number.
2. The appropriate signatories have been included on the signature lines of the Solicitation, Offer, and Award (SOA) document. The contract administrator's facsimile number has also been changed.
3. The definition for Continental United States has been inserted into Section A, Contract Definitions.
4. The first two paragraphs of Section B.1.2 Pricing Instructions have been deleted.
5. Section B.1.2 now reads as follows:

B.1.2 Pricing Instructions

Commission revenues shall be calculated as a fixed percentage based on the gross monthly call revenues for all calls completed by offenders. All commissions the State will realize from the OTS are to be described in detail in this item including the percentage of the commission. The Contractor shall pay the Department monthly, a commission of *not less than* forty percent (40%) of gross revenue billed.

Commission revenue begins to accrue when the first completed telephone call is made by an offender. Only completed telephone calls are to be billed from the time that the end user accepts the call and conversation begins. Incomplete calls are not billable.

Should any relevant regulatory entity (e.g. Federal Communications Commission (FCC), the Public Utilities Commission of Texas (PUCT)) or legislative entity modify, eliminate, or establish additional rates, fees or other charges that are allowed or required to be collected for the services provided by Contractor during the term of the contract; the Contractor must notify the Department in writing at least sixty (60) business days prior to implementation of any required or permitted rates, fees, or other charges. Notification must include documentation from the appropriate regulatory or legislative entity detailing the changes.

Should Federal or State statutes or regulations change in the future either reducing or eliminating commissions or reducing the rates, fees or other charges that are allowed or required to be collected by the Contractor for offender calling services provided under this Contract, the Department and Contractor agree to renegotiate such commissions and/or contract rates, fees or other charges in good faith to

preserve, to the greatest extent possible, the economic benefits of this Contract that were contemplated by both parties, including without limitation, the possibility of rebalancing any mandated rate reductions or commission reductions by adjusting rates for other types of calls.

Should a system failure prevent the accumulation of call data resulting in the loss of records reflecting revenue, commission revenue shall be derived based on historical data.

6. The Rate Structures under Section B.1.3 have been amended and now read as follows:

Rate Structures

Local Calls

The rate proposed and charged by the Contractor shall be a fully bundled single per minute rate inclusive of all fees, taxes, surcharges, connect charges or other costs unless such costs are taxes or charges that are directly passed-through to the consumer. Taxes and pass-through charges shall be excluded from the rate. Calls shall not exceed rates charged by county jails.

Intrastate Calls

The rate proposed and charged by the Contractor shall be a fully bundled single per minute rate inclusive of all fees, taxes, surcharges, connect charges or other costs unless such costs are taxes or charges that are directly passed-through to the consumer. Taxes and pass-through charges shall be excluded from the rate.

Interstate Calls

The rate proposed and charged by the Contractor shall be a fully bundled single per minute rate inclusive of all fees, taxes, surcharges, connect charges or other costs unless such costs are taxes or charges that are directly passed-through to the consumer. Taxes and pass-through charges shall be excluded from the rate.

7. The contracted rates have been incorporated into Section B.2.1 (Pricing Schedules) Standard Configuration. This Section now reads as below:

B.2.1 Standard Configuration

Gig-E Infrastructure Design

Base Period – (9/1/2008 through 8/31/2015)

	Interlata	Intralata	Interstate	Local
Prepaid Collect	\$0.260	\$0.260	\$0.430	\$0.260
Prepaid	\$0.234	\$0.234	\$0.387	\$0.234
Collect	\$0.260	\$0.260	\$0.430	\$0.260

Rates listed are per minute

8. Section B.2.2 (Pricing Schedules) Optional Surveillance Equipment Configuration has been deleted.
9. The first paragraph of Section C.3.1.1 (B) is amended to read as follows:

The Department shall provide initial PIN numbers for assignment to offenders. The Department shall also provide, by offender, the approved list of person(s) allowed to receive calls.

10. The fourth paragraph of Section C.3.1.1.B is amended to read that equipment and infrastructure comprising the OTS become property of the Department upon completion of the contract, excluding any proprietary software systems used under license from the owner(s) of such intellectual property.

11. The first paragraph of Section C.3.1.1 (C) is amended to read as follows:

The OTS shall have the same features and functionality at all designated Department locations and must allow Department staff the ability to securely conduct system administration functions.

12. The second paragraph of Section C.3.1.1 (C) is amended to read as follows:

The OTS shall be configured to ensure a ratio of not greater than thirty (30) eligible offenders per telephone device at each facility. Contractor shall install and activate additional lines and telephones within ten (10) business days from date of

written notification by Department dependent upon eligible offender/telephone ratio. A reasonable amount of additional time will be granted if special circuits are needed.

13. Section C.3.1.1 (C) is amended by adding the following as the second to last paragraph:

The OTS must provide the ability to establish schedules to initiate and suspend recording on channel/line groups at specific times on specific days of the week. This feature must allow for exceptions for certain days such as holidays and weekends so that schedules can be overridden.

14. The last paragraph of Section C.3.1.1 (C) is amended to read as follows (amended language in bold):

All OTS equipment shall be properly identified as "property of ("**Embargo Payphone Services, Inc.**") to include toll free number to place service/support calls by authorized Department staff. Offenders shall not have the capability to place service/support calls from the OTS telephones.

15. Section C.3.1.1 (E) is amended by adding the following paragraph:

Connectivity for remote users will be accomplished in a secure manner that does not require the interconnection of the TDCJ intranet and the Contractor's network.

16. Section C.3.1.1 (F) is amended by deleting the following paragraph:

The DRS must provide the capability to initiate functions globally, such as format, ready, record, stop record, or eject, on multiple media devices on the network simultaneously.

17. Section C.3.1.1 (F) is amended by deleting the following paragraph:

The DRS must provide the ability to establish schedules to initiate and suspend recording on channel/line groups at specific times on specific days of the week. This feature must allow for exceptions for certain days such as holidays and weekends so that schedules can be overridden.

18. Section C.3.1.1 (F) is amended by adding the following paragraph:

The Contractor will replace the OTS components in years 4 and 7 of the contract. The workstations and printers will be replaced in year 5.

19. Section C.3.1.2 (D) has been modified to read as follows:

The Department will work with the Contractor to provide room in existing facilities for OTS equipment that has a minimal size requirement and does not interfere with the Department's access, use, or potential use of the area where the equipment is located.

The Department reserves the right to make the final determination regarding equipment placement in any particular space. However, the parties acknowledge that Contractor relied on being able to place OTS equipment within existing Department space, with rare exception, in formulating the calling rates set forth in Section B.2.1. The Department will use commercial best efforts to work in good faith with Contractor to provide space within existing facilities.

In the event that suitable space is not available in the Department's existing facilities, the Contractor is responsible for providing a new or separate equipment room and terminal location adjacent to existing telephone/computer buildings where the equipment is to be installed. Contractor will be responsible for the construction of this building in a location outside of the perimeter fence. Upon expiration of the contract, the building will become property of the Department, will remain intact, and will not be removed from the premises.

Additionally, all OTS equipment located outside of a Contractor supplied building must be physically secured in a locked enclosure for security purposes. The enclosure must be designed in such a way as to not interfere with the normal equipment operation yet prevent access or damage to the equipment by unauthorized persons.

20. Section C.3.1.2 (F) has been added and reads as follows:

F. Call Quality

At no time will the Internet be used to transmit the OTS voice and data.

Each installed location requires Quality of Service (QOS) for voice prioritized packet/packets yielding a Mean Opinion Score (MOS) rating of 3.7 or better. If at any time this service falls under the jurisdiction of a regulatory agency and more stringent standards are required, the Contractor is responsible for meeting those standards.

21. Section C.3.2.2 Staffing has been amended by inserting the following as the second paragraph:

The Contractor is required to maintain a minimum of the below listed staffing plan unless a reduction in that plan is mutually agreed to by the Contractor and the Department.

	Staff	Dedicated	Shared Part Time	Term of the Contract
The Contractor Team will utilize the following dedicated staff to support the construction, implementation, and training of the OTS system:				
Customer Service Manager	1	✓		
Project Director	1	✓		
Project Managers	7	✓		
Installation Technicians	24	✓		
Construction General Manager	1	✓		
Construction Foreman	6	✓		
Electrical Contractors	64	✓		
Field Repair/Site Technicians	15	✓		
Service Representatives	18	✓		
Data Administrators/Technical Help Desk	7	✓		
Trainers	20	✓		
After successful installation of the OTS, the following dedicated staff will remain in place for the life of the contract:				
Customer Service Manager	1	✓		✓
Field Repair/Site Technicians	15	✓		✓
Service Representatives	18	✓		✓
Data Administrators/Technical Help Desk	7	✓		✓
Additional (Shared) Resources:				
Existing Field Service Technicians	10		✓	✓
Embarq Field Repair - Cable Specialists	25		✓	✓
Embarq Call Center Reps (ongoing quality assurance, special "hotline" situations)	10		✓	✓

22. Section C.3.4.1 has been amended by adding the following language:

Potential called parties must initiate a registration process in which the called party will be required to call into a Contractor supplied registration system (either automated or staffed), from the number that the offender calls will be going to.

The caller must supply both a credit card number and a driver's license or state identification card number. The credit card number and driver's license/state identification card number must both be validated by the vendor before the registration process will be completed. **This validation must be through the credit card company and the appropriate DMV/Public Safety Office.** Should either number fail to validate, the party should be directed to an alternative registration process form with which to provide required information and submit with a copy of his/her phone bill and driver's license/state identification card.

The registration must be recorded and include a positive affirmation that the caller is the registered owner of the phone from which the call is being made, will allow offender phone calls to that location, and will accept financial responsibility for offender phone calls to that location.

In regard to alternative identification documents in the event that a credit card is unavailable, the Department will not accept faxed copies of phone bills as proof of identity and insists that the Contractor verify that copies submitted are legible. The Department also expects that this documentation would be readily available to us in the event that it is needed for investigative or prosecutorial purposes.

The Department will furnish, in electronic format, the offender's visitation list. **The list may contain phone numbers of visitors but should not be considered a source of phone numbers.** The visitors will be required to register with the Contractor, and then the registered visitors will be validated against the visitation list, by the Contractor. The Department will not be responsible to supply or validate phone numbers at any time. The Contractor is required to validate all telephone numbers against the various victims databases and the appropriate state bar association if an attorney number is given.

The Department will furnish a daily electronic file with the names, TDCJ number, and location of offenders which are eligible to make phone calls. It will be the Contractor's responsibility to compare the list of eligible offenders against the list of enrolled offenders and locate, and subsequently enroll, within a reasonable time period, the offenders that have become eligible but are not enrolled. The Department will not be responsible for tracking individual offenders through the system.

Each eligible offender will be enrolled and verified, physically and in-person, by the Contractor's personnel. The Contractor's enrollment responsibilities include positive verification of the offender's identification, maintenance of a log detailing offender's information and person responsible for enrollment.

The Contractor will be responsible for all initial and ongoing enrollments (to include the intake facilities). The Department does not have personnel available to supervise enrollment activities, either initial or ongoing as previously ineligible offenders become eligible. The Contractor will be responsible for developing and

implementing a supervised enrollment plan that will assure that all eligible offenders are enrolled within a reasonable amount of time after becoming eligible. There will be no unsupervised enrollment method (self enrollment) allowed.

The Department realizes that it would not be prudent for the Contractor to keep sufficient resources to staff each facility every day. The Contractor is ultimately responsible for determining the staff necessary to meet the enrollment requirements of the Department.

All attorneys will be enrolled in the same method as called parties. The Contractor will be responsible for verifying all attorney numbers submitted against the relevant state bar attorney phone lists.

The Department will work with the Contractor during implementation to develop acceptable called party customer service metrics and performance measures. **Superior customer service is a priority to the Department.**

The Department expects to hold regular performance meetings with the Contractor in which performance issues, including customer service, will be discussed. These meetings will occur at least once quarterly. The Department requires the Contractor to be responsive to the Department's customer service needs, including needs of the called parties. Additionally, the Department expects the level of customer service outlined during the negotiation meetings presentations.

Offenders will be allowed to have a prepaid telephone account. The prepaid account **will not** be connected to the offender commissary account in any manner.

All ancillary fees and account policies (account maintenance fees, deposit fees, statement fees, etc.) will be disclosed to the parties establishing an account repeatedly and in a prominent manner. The Department requires that inactive accounts be refunded to the account holder, or reactivated at the request of the account holder (to be used and not left inactive), at no charge, provided the request for refund or reactivation is received by the Contractor no later than one (1) calendar year from the date of determination of inactive status. The request for refund must be allowed to be made in a convenient format, such as IVR, staff assisted call, mail or fax, or via website with reasonable security measures in place to verify the identity of the account holder. Any activity and amounts related to the Department's contract will be reportable to the Department. The Contractor will be responsible for proactively contacting parties whose account is nearing inactivation and notifying them of their options. The Department requires that credit card / check by phone (if allowed) fee be limited to \$5.00 per transaction. The minimum transaction must be \$25.00 and the maximum

transaction can only be \$100.00. Funds deposited by personal check or money order will be at no cost to the customer.

Statement fees for collect calls billed by the LEC will be limited to \$2.50. If a customer needs a copy of a statement mailed, the customer can be charged a cost recovery fee. Statements printed from the Internet should be available at no charge to the customer.

There will be no account initiation fees and no maintenance fees charged to the customers.

23. Section C.3.4.2 has been amended by adding the following as the seventh paragraph:

The Department expects that a soft or hard copy of each and every applicable code, regulation, or standard that was used to install the OTS to be provided to the Department's designee, free of charge, and updated as applicable. The Contractor may either directly provide the software license, or reimburse the Department for the cost of the license if assignment or transfer of the license is impractical.

24. Section C.3.4.3 has been amended by inserting the following section as the second paragraph:

All cabling will be placed in conduit. All exterior, exposed conduits will be rigid. Within buildings, EMT with compression fittings may be used, when placed above 12' in height. Conduit below 12' in height should be rigid conduit. Conduit will be used in the tunnel, spine and pipe chase areas. Conduit shall be sized as per NEC fill codes (minimum $\frac{3}{4}$ "). Conduit brackets and support should be per NEC standards. All OSP applications will be in Schedule 40 PVC conduit unless OSP, direct burial, PE-89, filled, gopher resistant cable is used. All direct burial cable will be at a minimum of 24" deep with a 3" marker tape installed at 12" above the cable.

25. Section C.3.5 Training has been amended by adding the following as the first paragraph:

The Department expects considerable, on site training of officers, administrators, and investigators utilizing the system. The on site training will be conducted initially as well as periodically afterwards. The training will be customized to meet the needs of different user levels (monitors, administrators, investigators, security threat group personnel). The Department expects that training materials (manuals, DVDs, videotapes) will be left at each site to facilitate training new personnel as needed. The Department expects these training materials to be refreshed as updated trainings are developed. The Department estimates that

the number of personnel per facility to be trained is somewhat proportional to the size of the facility. The Department submits the following facility training needs.

0-500 Capacity Unit	25 staff
500-1,200 Capacity Unit	30-40 staff
1,200+ Capacity Unit	40-60 staff

The training may not occur all at once. Training classes should be tailored to the need of the user. The Department will take reasonable steps to aggregate those who need similar training on a local level in order to optimize class size. The Department anticipates that training should be three to five days total length.

26. Section G.2.2 Contract Administrator has been modified by changing the contract administrator's facsimile number.
27. Section G.3.2 Late Remittance has been modified by changing the commission due date to the 20th calendar day of the following month.
28. Section H.1 has been amended by adding the following: "Such insurance may exclude coverage for any liability arising from or attributable to any gross negligence, malfeasance or willful misconduct of the Department or its employees or agents."
29. Section H.1.1 (B) has been amended to read as follows:

B.	Comprehensive General Liability	\$10,000,000 aggregate
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30. Section H.1.2 has been amended by adding the following: "Such insurance may exclude coverage for any liability arising from or attributable to any gross negligence, malfeasance or willful misconduct of the Department or its employees or agents."
31. The last sentence of Section H.2.2 has been deleted.
32. Section I.3.8 has been amended by adding the last paragraph as follows:

The Department has no authority to reimburse a Contractor for capital equipment costs in the event that the Contract is terminated by mutual agreement or for cause before the expiration of the base period.

33. Section I.3.8 has been amended by adding a new sentence in the last paragraph as follows: Notwithstanding the foregoing, if the Contract is terminated prior to the end of the base period, the Department shall require any new service provider to

compensate Contractor for the undepreciated or unamortized portion of any equipment installed by Contract which is used by the new service provider.

34. Section I.3.11 has been amended by appending the following sentence:

This provision shall not be construed to prohibit Contractor from seeking any other legal or equitable remedy to which it is entitled.

35. Section I.5, Indemnification of the Department has been amended by replacing the second paragraph with the following:

Any and all claims to the extent caused by the conduct, management or performance of the contract by Contractor, its agents, subcontractors or employees, including, without limitation, any and all claims to the extent caused by:

36. Section I.9, Assignments has been amended by replacing the first two lines as follows:

Contractor may not assign any interest in this Contract without the prior written consent of Department which consent Department shall not unreasonably withhold.

Assignments requiring prior written consent from the Department include any of the following:

37. Section I.13 Confidentiality has been amended and now reads as follows:

Any confidential information provided to or developed by the Contractor or the Department in the performance of the Contract shall be kept confidential unless otherwise provided by law and shall not be made available to any individual or organization by the Contractor or the Department without prior approval of the other party.

38. Exhibit J.2, HUB Subcontracting Plan has been deleted.

39. Exhibit J.3, Financial Information has been deleted.

40. Exhibit J.4, Contract Performance Measures now reads as follows:

The below listed Performance Measures have been identified as critical to the success of the Offender Telephone System. The Contractor shall ensure that the stated Outcomes are achieved at the required Standard. Performance shall be measured per facility location beginning at contract implementation and shall continue through the term of the Contract.

Item No.	Identifier	Outcome	Standard	Revenue/Payment Adjustment
1	B.1.2and G.3.2	Commission revenues shall be calculated as a fixed percentage based on the gross monthly call revenues for all calls completed by offenders. All commissions the State will realize from the OTS are to be described in detail in this item including the percentage of the commission. The Offeror shall pay the Department monthly, a commission of not less than forty percent (40%) of gross revenue billed. Commission revenue begins to accrue when the first completed telephone call is made by an offender. Only completed telephone calls are to be billed from the time that the end user accepts the call and conversation begins. Incomplete calls are not billable.	100.00%	Any amount owed to the State more than one (1) business day beyond the date such amount is due shall accrue interest each day at the annualized rate of one percent (1%) plus the prime rate as published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday.
2	C.3.1.1, C	The OTS shall be configured to ensure a ratio of not greater than 30 eligible offenders per telephone device at each facility. Contractor shall install and activate additional lines and telephones within ten (10) business days from date of notification by Department dependent upon eligible offender/telephone ratio.	100.00%	Failure to provide the required ratio will result in the Contractor paying an additional 1% of total commission revenue owed to the Department for the period(s) of non-compliance for the facility in non-compliance.

3	C.3.1.1, C	<p>The OTS must be configured in prepaid and collect, outward calling mode, to landlines only. Each number dialed must be validated as a landline before a call attempt is completed. The Department acknowledges that local number portability to cell phones may result in lag time when a landline number is converted to a cell service, and this penalty will not be assessed if the Contractor can produce documented evidence that the number was validated as a landline number before the call was completed.</p> <p>Calling must be available for all locations within the continental United States. There is no intent at this time to allow calls to international locations.</p>	100.00%	Each call outside of the restrictions set by the Department shall be assessed at \$500.00/call.
4	C.3.1.1, C	The Contractor shall ensure that no confidential attorney-client communication is monitored or recorded by the Department or any person acting on the Department's behalf.	100.00%	Each call outside of the restrictions set by the Department shall be assessed at \$500.00/call.
5	C.3.1.1, J	When an offender dials a telephone number and enters his/her PB1 and PIN, the OTS must have the capability to compare the telephone number dialed with the list of allowed telephone numbers for that specific PIN. Allowed calls will be completed only after the validation. Calls that are not on the allowed telephone number list will not be completed. An announcement shall be provided stating that the call was to an unauthorized telephone number.	100.00%	Each call outside of the restrictions set by the Department shall be assessed at \$500.00/call.

6	C.3.1.2	The OTS shall be engineered to ensure that only a minimum amount (5% or less) of lines and/or trunks per facility will be out of service due to peripheral component failure.	100.00%	Outages that exceed the 5% minimum outage rate will result in the Contractor paying an additional 1% of total monthly commission revenue owed to the Department for the period(s) of non-compliance for the facility in non-compliance.
7	C.3.2.2	The Contractor is responsible for all resources necessary to provide the services included in this Contract. The Contractor shall provide an adequate level of staffing for provision of the services outlined herein and shall ensure that staff providing services is appropriately trained, qualified and licensed, if required.	98.00%	Contractor shall be assessed 100% of last incumbent's salary for term the position is vacant beyond an initial 30-day period to screen and hire applicant(s).
8	C3.5	The Contractor shall provide training on an as-needed basis throughout the term of the Contract.	100.00%	Contractor shall be assessed 100% of comparable Department trainer salary for each position reasonably needed to train the employees/offenders for each day training is late.
9	C.3.6	The Contractor shall acknowledge that the OTS is a revenue stream for the Department. Thus, any system failure affects the revenue stream and the Department requires that any system failure shall be restored to full capacity within acceptable time limits.	100.00%	A system failure which lasts beyond twenty-four hours after placement of service call will result in liquidated damages in the amount equal to estimated commission revenue owed to the Department that is lost for time beyond the twenty-four hour limit.

10	D.1	A variety and number of reports are required to be submitted by the Contractor during the term of the Contract. These reports may be revised or additional reports may be required at Department's sole discretion.	100.00%	For each report that is not received within five (5) calendar days of scheduled due date, Contractor shall pay an additional 1% of total commission revenue owed to the Department of the month in which the deficiency occurred, unless both parties mutually agree to a later date.
11	H.9	Contractor shall meet its obligations to commence services at the facility within the time frames defined by the Contract. In the event the Contractor fails to meet those time frames as defined by the Contract, absent force majeure events and/or extensions from the Department, the Department will have the right to calculate reasonable revenues that are lost and charge the Contractor for each day that the Facility is inoperable due to delays caused by the Contractor's nonperformance.	100.00%	Failure to comply with implementation schedule will result in lost commission revenue to the Department, and Contractor shall pay the negotiated rate of lost commission revenue owed to the Department per facility that fails to be operational as scheduled.
12		The Contractor shall design and manage the OTS in such a manner that traffic demand will never exceed capacity.	100.00%	The Department will be reimbursed for lost commission revenue at any time that the system capacity limits prohibit all or some outbound calls to the extent that such capacity limit is due to the design or operation of the OTS by the Contractor.

41. Section K, Representations, Certifications, and Other Statements of Contractors has been replaced with the signed copy submitted with the Contractor's proposal.
42. Section L, Instructions, Conditions, and Notices to Contractors has been deleted.
43. Section M, Evaluation Factors for Award has been deleted.
44. Total number of pages has changed from 83 to 75.

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CONTRACT DEFINITIONS

Whenever the following terms are used in these contract documents, the intent and meaning shall be interpreted as follows.

9x5 – 9 hours a day, 5 days a week.

24x7 - 24 hours a day, 7 days a week.

ADA – Americans with Disabilities Act.

Authorized Representative - The person designated in writing to act for and on behalf of a party of this Contract, which designation has been furnished to the other party hereto as described in Section G.2.1.

Biennium - Any of the two-year periods beginning on September 1 and ending on August 31 of odd numbered years, which periods are used for budgetary purposes by the State of Texas.

Business Hours - Defined here as 8:00 a.m. to 5:00 p.m., CDT, Monday through Friday, except State of Texas observed holidays. However, on holidays and days for which skeleton crews are required, services may be required.

Camp-on - A telecommunications system service feature that would enable complete access to each individual line without the user being aware of the access attempt, in spite of any type of call in progress.

CJIS – The Criminal Justice Information System.

Continental United States – The forty eight contiguous United States and Alaska.

Contract – This document of agreement between the Contractor and the Department, issued by the Department in response to the Solicitation.

Contract Administrator – Employee of the Department's Contracts and Procurement Department assigned to post the Solicitation, receive responses, facilitate the negotiations, award the Contract and provide post award administration of the Contract as described in Section G.2.2.

Contract Award Date – Contract signature date, duly authorized by both parties.

Contract Monitor – The Department employee responsible for conducting a comprehensive audit of this Contract as described in Section G.2.3.

Contractor – Embarq Payphone Services, Inc.

Days - Calendar days, unless otherwise specified as business days.

Department - The Texas Department of Criminal Justice (TDCJ).

Department Policies – All written policies, procedures, standards, guidelines, directives and manuals of the Department, which are in effect or as may be amended from time to time, which the Department has made available to the Contractor and with which the Contractor has an affirmative obligation to be and remain familiar.

DRS – Digital Recording System.

DTMF – Dual-Tone Multi-Frequency. The version of DTMF used for telephone tone dialing is known by the trademarked term Touch-Tone.

EFT – Electronic Funds Transfer, also known as direct deposit.

Fiscal Year – Any of the one year periods beginning September 1 and ending August 31, which periods are used for annual budgetary purposes by the State of Texas.

NCIC - National Crime Information Center operated under the authority of the Federal Bureau of Investigation.

OTS – Offender Telephone System also referred to as Inmate Pay Telephone Service.

PBI – Personal Biometric Identifier.

Performance Measures – Standards used by the Contractor and the Department to determine the quality and acceptability of services to be acquired.

Person - Any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, court or other tribunal, or government or any agency or political subdivision thereof.

PIN - Personal Identification Number.

Quarter - Unless specifically noted otherwise, references to quarters and quarterly activities related to the Department's Fiscal Year, with quarters beginning September 1, December 1, March 1 and June 1.

Reorder Tone – A fast, busy signal.

Resolution – Restore system to full repair and system functionality.

Services Commencement Date – Award date, or date agreed upon to begin the services. No services shall be provided prior to this date.

TCIC - Texas Crime Information Center operated under the authority of the Texas Department of Public Safety.

TDCJ - The Texas Department of Criminal Justice, an agency of the State of Texas.

TDD - Telecommunications Device for the Deaf. An electronic device for text communication via a telephone line and is used when one or more of the parties has hearing or speech difficulties.

Term - The duration of this Contract, as specified in Section F.1.

TPASS – Texas Procurement and Support Services, a Division of the Texas Comptroller of Public Accounts.

SECTION B - THE SCHEDULE

B.1 SERVICES AND PRICES/COSTS

B.1.1 Services Being Acquired

This is a Contract for a statewide turnkey Inmate Pay Telephone Service, hereinafter referred to as Offender Telephone System (OTS), for the Texas Department of Criminal Justice (TDCJ), hereinafter referred to as the Department. This is a revenue based Contract, as stipulated by Subchapter B, Chapter 495, Government Code, Section 495.025, INMATE PAY TELEPHONE SERVICE.

The services provided should be based on the information provided in this Contract and should represent the skills and expertise required for the successful completion of the project.

B.1.2 Pricing Instructions

Commission revenues shall be calculated as a fixed percentage based on the gross monthly call revenues for all calls completed by offenders. All commissions the State will realize from the OTS are to be described in detail in this item including the percentage of the commission. The Contractor shall pay the Department monthly, a commission of *not less than* forty percent (40%) of gross revenue billed.

Commission revenue begins to accrue when the first completed telephone call is made by an offender. Only completed telephone calls are to be billed from the time that the end user accepts the call and conversation begins. Incomplete calls are not billable.

Should any relevant regulatory entity (e.g. Federal Communications Commission (FCC), the Public Utilities Commission of Texas (PUCT)) or legislative entity modify, eliminate, or establish additional rates, fees or other charges that are allowed or required to be collected for the services provided by Contractor during the term of the contract; the Contractor must notify the Department in writing at least sixty (60) business days prior to implementation of any required or permitted rates, fees, or other charges. Notification must include documentation from the appropriate regulatory or legislative entity detailing the changes.

Should Federal or State statutes or regulations change in the future either reducing or eliminating commissions or reducing the rates, fees or other charges that are allowed or required to be collected by the Contractor for inmate calling services provided under this Contract, the Department and Contractor agree to renegotiate such commissions and/or contract rates, fees or other charges in good faith to preserve, to the greatest extent possible, the economic benefits of this Contract that were contemplated by both parties, including without limitation, the possibility of rebalancing any mandated rate reductions or commission reductions by adjusting rates for other types of calls.

Should a system failure prevent the accumulation of call data resulting in the loss of records reflecting revenue, commission revenue shall be derived based on historical data.

B.1.3 Rates, Fees and Costs

The Contractor is responsible for ensuring that all telephone services and rates comply with all applicable regulations including but not limited to the Public Utility Commission of Texas and the Federal Communications Commission.

Rate Structures

Local Calls

The rate proposed and charged by the Contractor shall be a fully bundled single per minute rate inclusive of all fees, taxes, surcharges, connect charges or other costs unless such costs are taxes or charges that are directly passed-through to the consumer. Taxes and pass-through charges shall be excluded from the rate. Calls shall not exceed rates charged by county jails.

Intrastate Calls

The rate proposed and charged by the Contractor shall be a fully bundled single per minute rate inclusive of all fees, taxes, surcharges, connect charges or other costs unless such costs are taxes or charges that are directly passed-through to the consumer. Taxes and pass-through charges shall be excluded from the rate.

Interstate Calls

The rate proposed and charged by the Contractor shall be a fully bundled single per minute rate inclusive of all fees, taxes, surcharges, connect charges or other costs unless such costs are taxes or charges that are directly passed-through to the consumer. Taxes and pass-through charges shall be excluded from the rate.

Rate Requirements

The Contractor shall provide rates based on three decimal places (e.g. \$0.000). Rates shall apply only from called party acceptance of a call until the call is terminated rounded to the **nearest** whole minute (calls lasting up to and including 29 seconds over a whole minute shall be rounded down, calls greater than or equal to 30 seconds over a whole minute shall be rounded up). There shall be no charge for the time for prompts, rate information or other functions. There shall be no additional charges or fees added to the cost of a call.

B.2 PRICING SCHEDULES

B.2.1 Standard Configuration

Gig-E Infrastructure Design

Base Period – (9/1/2008 through 8/31/2015)

	Interlata	Intralata	Interstate	Local
Prepaid Collect	\$0.260	\$0.260	\$0.430	\$0.260
Prepaid	\$0.234	\$0.234	\$0.387	\$0.234
Collect	\$0.260	\$0.260	\$0.430	\$0.260

Rates listed are per minute

SECTION C - DESCRIPTION/SPECIFICATIONS/WORK STATEMENT

C.1 BACKGROUND

The Department is responsible for the supervision of approximately 155,000 incarcerated offenders. The Department's mission is to provide public safety, promote positive change in offender behavior, reintegrate offenders into society, and assist victims of crime.

C.2 STATEMENT OF WORK

Pursuant to Texas Government Code, §495.025, the Texas Department of Criminal Justice, hereafter referred to as Department, requires a Contractor to install, operate and maintain an Offender Telephone System (OTS) for eligible offenders confined in facilities operated by the Department throughout the State of Texas. Such OTS shall be provided by the Contractor without cost to the State, in which the Contractor shall pay the Department a commission of not less than forty percent (40%) of the gross revenue received from the use of the system.

The Contractor shall deliver a turnkey solution, compatible at all designated facilities, to include all necessary personnel, supervision, infrastructure, hardware, software, equipment, installation, operation, maintenance, support, materials, supplies, transportation and services (except as may be furnished by the Department as specifically identified within this Contract) and all things necessary for or incidental to, a fully functional, administered and managed offender telephone system at no cost to the State.

The Contractor shall be responsible for at a minimum, the major requirements outlined. Specific deliverables associated with each major activity are identified where appropriate. A brief description of each major activity is included to ensure a common understanding of the services to be provided.

The specified requirements and standards will serve as the benchmark for monitoring the Contractor's performance.

C.3 SCOPE OF WORK TO BE PERFORMED

The Department will look solely to the Contractor for performance. The Contractor is responsible for all resources necessary to provide the services included in this Contract. Services shall be provided statewide, the locations of which are listed in Exhibit J.1, Site List. The terms, conditions and requirements of this Contract pertain to all Department locations unless otherwise stipulated. The Department reserves the right to add, delete or change site locations, and to increase/decrease the number of eligible offenders and/or telephones per location or make other business decisions as necessary for the operation of the Department at no cost or increase in rates.

C.3.1 Functional and Technical Specifications/Requirements

The OTS shall provide prepaid and collect telephone service to eligible offenders confined in designated TDCJ facilities.

At a minimum, the Contractor shall provide a system with the capacity and capability to:

- Compile approved offender call lists;
- Verify numbers to be called by offenders;
- Oversee entry of personal identification numbers (PIN's);
- Ensure that each eligible offender or person acting on behalf of an eligible offender may prepay for the service;
- Use a biometric identifier of the offender making the call;
- Generate reports to Department personnel on offender calling patterns;
- Network all individual facility systems together to allow the same investigative monitoring from Department headquarters that is available at each facility;
- Provide on-site monitoring of calling patterns and customize technology to provide adequate system security;
- Provide a fully automated system that does not require a Department operator;
- Provide for periodic review by the state auditor of documents maintained by the Contractor regarding billing procedures and statements, rate structures, computed commissions, and service metering;
- Ensure that a ratio of not greater than 30 eligible offenders per communication device is maintained at each facility. The Contractor shall provide and maintain a minimum of one (1) telephone per thirty (30) eligible offenders at all facilities; and
- Ensure that no charge will be assessed for an uncompleted call and that the charge for local calls will not be greater than the highest rate for local calls for offenders in county jails;

C.3.1.1 Functional Requirements

A. Contractor Requirements

The Contractor shall deliver a turnkey solution that provides a system with the capacity to use a biometric identifier of the offender making the call, compatible via secure network at all designated facilities. Contractor shall include all necessary personnel, supervision, infrastructure (including a new telephone equipment room, terminal location and inside wiring), hardware, software, equipment, installation, operation, maintenance, support, materials, supplies, transportation and services (except as may be furnished by the Department as specifically identified within this Contract) and all things necessary for or incidental to provide a fully functional, secure, administered and managed offender telephone system at no cost to the State.

System hardware shall include telephones, ADA devices, and TDD devices, mounting equipment, switching equipment, monitoring and recording equipment, and power supplies as required for the storage of all call records for a minimum of thirty-six (36) months. Certain 'flagged' records shall be stored and retrievable for the term of the contract. Portable offender telephone sets must be provided for use if TDCJ requires this service at any time. All equipment shall be new and unused.

The Contractor shall assure quality operational service, including any necessary interfaces with the regulated common carriers, as required for full system functionality.

Contractor shall repair or replace the OTS or any part of the OTS damaged or destroyed as soon as access is available to the system.

B. Department Requirements

The Department shall provide initial PIN numbers for assignment to offenders. The Department shall also provide, by offender, the approved list of person(s) allowed to receive calls.

The Department shall notify the Contractor when the population of a designated facility increases or changes to warrant additional telephones and associated lines.

The Department shall provide telephone usage parameters. The current Executive Directive Policy on Offender Access to Telephones provides that eligible offenders shall have an unlimited number of telephone calls up to one hundred twenty (120) minutes per month. Each telephone call shall be automatically terminated after fifteen (15) minutes; however, the Department may shorten the length of each telephone call to ensure all eligible offenders have the ability to access the telephone system. The Department reserves the right to revise the parameters of the OTS.

The Department reserves the right to approve, reject or request substitutions of equipment/component parts. Ownership and responsibility of the entire system to include software, hardware, all components and parts and maintenance support shall remain with the Contractor unless otherwise agreed to in this Contract. Upon completion of the contract, the equipment and infrastructure comprising the OTS (but excluding any proprietary software systems used under license from the owner(s) of such intellectual property) become property of the Department.

C. Offender Telephone System (OTS) Requirements

The OTS shall have the same features and functionality at all designated Department locations and must allow Department staff the ability to securely conduct system administration functions.

The OTS shall be configured to ensure a ratio of not greater than thirty (30) eligible offenders per telephone device at each facility. Contractor shall install and activate additional lines and telephones within ten (10) business days from date of written notification by Department

dependent upon eligible offender/telephone ratio. A reasonable amount of additional time will be granted if special circuits are needed.

The OTS must be configured in prepaid and collect, outward calling mode, to landlines only. Calling must be available for all locations within the continental United States. There is no intent at this time to allow calls to international locations.

The OTS must be capable of being expanded and upgraded. Manufacturer hardware, software and other system component and version upgrades released by the manufacturer after implementation and installation of the system shall be made available to the Department at no cost to the Department, or reduction in commission rates or increase in air time rates. Installation of manufacturer upgrades shall be made available to the Department promptly upon release. Upgrades or version releases that alter functionality of the system shall be made after the Department is advised of changes in functionality and only after the changes have been incorporated into training curriculum. The Department reserves the right to approve upgrades prior to installation. Installation of expansion or upgrade shall not disrupt service.

The OTS must allow the Department to assign globally allowed numbers such as Crime Stoppers that will override any programmed restrictions. Additionally, the OTS must allow the assignment of a list of specifically allowed numbers, such as attorney numbers, to be flagged to override programmed recording and monitoring features. The Contractor shall ensure that no confidential attorney-client communication is monitored or recorded by the Department or any person acting on the Department's behalf. The Contractor must obtain from the State Bar of Texas information regarding all attorneys in the State of Texas including telephone numbers. Such information shall be updated on a regularly scheduled basis.

The OTS must also allow the Department to block offenders from calling certain selected telephone numbers, area codes or exchanges including but not limited to the following: local direct, credit card, third number, 1+, sent paid, all 0, 700, 800, 888 (includes all toll free area codes) 900, 976, 950, 911, and 10xxx. The Contractor must have received Department's written approval prior to blocking other similar numbers. The Department must be able to block any other numbers at Department's sole discretion.

The system must be equipped for secure remote entry via the Internet or dial-up network, with password validation, to perform such functions as traffic management, system administration, maintenance diagnostics, real time monitoring of call and call records, or other functions as deemed necessary to fully manage the OTS.

The system must be configured to log and report all system access and changes for auditing purposes that provides the Department the capability to trace actions if necessary by unique login user ID and time/date stamp.

The OTS must allow all offender telephones to be in use simultaneously, (e.g. telephones to outgoing locations must be on a one-to-one basis).

The OTS must allow for Department personnel at facility and remote locations to immediately

shut-down and restart the system at individual facility sites or globally if required. The OTS shall automatically shut down upon the Digital Recording System (DRS) site failure as well as allow for Department personnel to shut down the system upon DRS failure to record. System restart shall occur upon DRS repair to full functionality.

The OTS must provide the ability to establish schedules to initiate and suspend recording on channel/line groups at specific times on specific days of the week. This feature must allow for exceptions for certain days such as holidays and weekends so that schedules can be overridden.

All OTS equipment shall be properly identified as "property of (Embarq Payphone Services, Inc.)" to include toll free number to place service/support calls by authorized Department staff. Offenders shall not have the capability to place service/support calls from the OTS telephones.

D. Database

The Contractor will be responsible for populating and maintaining accurate and up-to-date databases for the OTS. The Contractor shall provide all tools required for initial enrollment as well as subsequent enrollments through the term of the Contract to include but not be limited to staff, computers, software, documents, printers, scanners, forms, test equipment, training materials, etc. Contractor will be responsible for all data entry and programming related to initial and subsequent databases required for the term of the Contract. OTS shall provide backup and restore capability that will facilitate the prompt recovery of the database in the event of a system failure requiring database restoration.

Each offender shall have a Personal Biometric Identifier (PBI) which will be required to access the system as well as a unique Personal Identification Number (PIN) to verify the PBI and to provide the Department a means of controlling calls and capturing call record data. The PBI must consist of fingerprints, retina scan, voice imprint, or other equivalent method of personal identification. The PIN must consist of a minimum of eight (8) digits with the programmable capability to increase the number of digits to at least ten (10) digits. The system must be capable of accepting the designated offender identification numbers currently in use, and correlating the PBI, the TDCJ offender number and full name and the PIN. The Department reserves the right to discontinue use of the PBI requirement at its discretion.

The OTS must allow each offender to be assigned a set number of approved personal telephone numbers that the offender is allowed to call based on information contained in the offender's Visitor List as well as an attorney(s) as approved by the Department. The OTS must be programmable to allow for restriction of the number of approved telephone numbers (currently 10, not including attorney(s)).

E. Access Control

The OTS shall provide multiple layers of access control. Department staff shall have the ability to determine and assign security levels and access controls. A secure, validated password must be used to access the system regardless of the administrator access level.

Contractor shall specify password standards that will be utilized, e.g. length, special characters and reuse guidelines, etc. Access must also be controlled by unique user ID's which shall provide the capability to trace logged actions to the originator if needed.

Department staff shall have the ability to securely access the system via web browser or by dialing into the OTS from any designated location, remote or otherwise, to perform, at a minimum, the following tasks:

- Perform adds, moves, or changes;
- Generate, order or view reports, e.g. administrative, standard or ad hoc; and
- Monitor, record offender telephone conversations with the exception of attorney-client communications, and terminate offender telephone calls as deemed necessary by Department staff.

Adds, Moves, Changes

Contractor staff and/or Department staff shall be capable of performing adds, moves and changes. The Contractor shall have written procedures for performing such functions, as well as authorization and audit trail features.

Reports

The system shall have the capability to produce management reports on scheduled and on demand basis. Reports may be standard or ad hoc and available to be produced from all stored data, (e.g. management, station, offender data, status, etc.). Production of reports shall not negatively affect any portion of system operations. Report interface must be intuitive, well documented, and easy to use. Reports must be able to be generated at the individual facilities, regionally, at administrative locations, as well as via Contractor staff.

Record, Monitor Conversations, Terminate Calls

All call recordings and call records are considered evidence and become the exclusive property of the Department. The OTS must prevent the recording and monitoring of specifically identified categories of calls such as calls placed to legal counsel. *No confidential attorney-client communication shall be monitored or recorded by the Department or any person acting on the Department's behalf.* This exclusion must be accomplished by special routing of these calls or through system programming.

The OTS must provide live monitoring capability via a line indicator at each facility and other locations as designated by the Department (e.g. regionally, administrative locations, contract monitor location, etc.). Monitoring of offender calls must not be detectable by the calling or called parties and must not reduce the line volume that would warn the offender that the line is being monitored. All recorded call messages must be labeled indicating calls may be monitored and recorded.

The OTS must provide secure remote recording audio review to prevent unauthorized

interception of audio review sessions to be used by authorized Department staff to access the OTS and recorded information database from remote locations such as regional and administrative offices or remote computers/laptops assigned to Department personnel. Remote access must include significant, proven password protection to minimize unauthorized access to or tampering with the recording system.

Connectivity for remote users will be accomplished in a secure manner that does not require the interconnection of the TDCJ intranet and the Contractor's network.

F. Peripheral/Ancillary Equipment

The Contractor must provide PC workstations and all peripheral and ancillary equipment required to access one or many digital recording modules capable of recording thousands of channels simultaneously. At a minimum PC Workstations and peripheral and ancillary equipment shall be located at the facilities, regional offices, investigative offices, administrative and contract monitoring locations, and security threat group offices.

The Contractor will refresh the OTS components in years 4 and 7 of the contract. The workstations and printers will be refreshed in year 5.

The Contractor must promptly install all relevant security patches and anti-virus updates to remote workstations on the Contractor's network.

Digital Recording System (DRS)

The OTS must include a full-time digital recording system that will cover each facility for all OTS telephone lines with additional growth capacity to allow for expansion of the OTS. The system must provide evidence of quality recordings.

The OTS must include the capability to simultaneously record all telephone circuits while providing audio outputs for listening to selected circuits from facility, regional and administrative locations.

Recordings must be mirrored and backed-up. Recordings shall be backed-up to removable media and stored securely off-site to prevent loss. A recording, backed-up to a hard drive, must be provided to maintain a current thirty-six (36) months of all recorded conversations with full and immediate access to records from local and remote locations. At the transition of the contract, the Contractor must work with the new Contractor to transfer the recordings, intact, to the new Contractor's equipment.

Recordings to a removable media must be possible. One-touch downloading is preferred. Such recordings must be playable with any industry standard media player.

The archive media must provide for write protection such that data will not be accidentally overwritten. No intentional or accidental deletion of records can be allowed.

A library function is required in the system that will catalog and index every call transmission allowing for fast retrieval. Key fields used for retrieval must include the offender PBI or PIN, the date and time the call was made, name and number called, and other relevant data.

Playback from any drive or other recording media must not interrupt the recording process.

Simultaneous record and playback must be possible.

The system must be capable of Voice Operated Exchange (VOX) or continuous recording on a line by line or channel by channel basis.

The DRS must provide an indication as to the recording space remaining on any and all media.

The DRS must provide for an append function enabling the Department to reposition to the end of a previous recording.

The DRS must automatically make time and date or daylight savings time adjustments while continuing to record.

Uninterrupted Power Supply (UPS)

Contractor must provide an Uninterrupted Power Supply (UPS)/battery back-up for the OTS and other ancillary equipment that will provide an automatic restart capability to return the system to its previous operating state when power is restored (e.g. recording). The UPS must prevent potential problems in the OTS caused by power surges and spikes. The UPS must also ensure that there is no interruption of service due to loss of commercial power. A minimum of eight (8) hours backup at full load is required.

G. Announcements and Call Branding

All messages must be made available with English and Spanish options.

The OTS must ensure that the automated operator functions uses the offender's prerecorded name (recorded either in the Department's or Contractor's staff's voice, at the Department's option) to announce the call to a called party. This must be accomplished via the PIN assignment per offender.

All calls placed from any facility via the OTS must be identified to the called party as follows: This is a prepaid/collect (whichever is applicable) call from the following Texas Department of Criminal Justice offender (insert offender's pre-recorded name). Contractor may recommend additional recorded phrases and/or language; however, any changes must be approved by the Department.

When the call is accepted, the system must state so that all parties hear that the call may be monitored and recorded. The OTS must allow the called party's response via both voice input and DTMF (touchtone dial pad) input indicating if they are willing to accept the call.

If a call is not accepted by the called party, or if there is no answer, the OTS must inform the offender of the situation and not simply disconnect the call.

H. Call Detail Records

The OTS must provide full call detail records for administrative and investigative use as well as for traffic management reports. Stored call records shall be encrypted to prevent unauthorized access to vital records. All data becomes the property of the Department.

The OTS must buffer/store up to thirty-six (36) months of completed call records that can be accessed at any time, including real-time. All call detail records must be collected, stored and accessible real-time. Records shall not be stored in the individual telephones. The records must provide the following minimum information on all outgoing calls:

- Date and time call initiated and terminated;
- Disposition of the call, indicating termination type, complete, incomplete, etc.;
- Station number (or ID associated with home) originating call;
- Complete telephone number dialed;
- Trunk or station number used to place call;
- Duration of call in minutes and seconds;
- Total on messages, minutes and revenues;
- PIN of offender placing the call, and associated offender name and TDCJ number; and
- Calls placed from a specific telephone or bank of telephones

I. Call Length Control

The OTS must allow a system-wide duration default with the duration to be determined by the Department. The OTS must allow the Department to limit calls to a specific duration by PIN and by specific telephone numbers assigned to a PBI or PIN. This default may vary by PIN and/or facility. The OTS must allow Department administration to change the duration by PIN, telephone number and/or site. Department requirements will be provided, in writing, prior to implementation.

The OTS must have the capability of designating the length of the offender call and automatically terminating the call at the expiration of that designated call length. This feature must be programmable and the call length variable. The time limit must be set for each offender, a group of offenders, or for each facility. An announcement must be given to both parties one minute prior to the termination of the call.

Total flexibility must be provided to the Department for timing calls through the use of a mechanism for designating the length of calls placed by offenders based on the day of the week, the type of call, the offender's privilege level, or the Department facility.

The system must allow the Department system administrator the ability to designate different

privilege levels or levels of access to individual offenders, and individual telephones.

J. Call Validation

When an offender dials a telephone number and enters his/her PBI and PIN, the OTS must have the capability to compare the telephone number dialed with the list of allowed telephone numbers for that specific PIN. Allowed calls will be completed only after the validation.

Calls that are not on the allowed telephone number list will not be completed. An announcement shall be provided stating that the call was to an unauthorized telephone number.

The system must provide a report which identifies unauthorized telephone number dialed, as well as other pertinent information such as offender name, PIN number, date and time call placed, name and number called, duration, etc.

The OTS must allow specific telephone numbers to be flagged for monitoring and other investigative purposes. The system must be capable of downloading a list of specifically identified numbers so that if a flagged number is called from an offender pay telephone, the OTS will also call a designated cell phone or Department landline telephone number. This feature allows Department staff such as an investigator the ability to camp-on the call to monitor, disconnect, etc. at his/her discretion. The camp-on must be performed without a tone or other notification. The system must be capable of multiple camp-on calls.

The system must provide a report which identifies the flagged telephone number dialed, as well as other pertinent information such as offender name, PIN number, date and time call placed, name and number called, duration, etc.

K. Controlled Access

The OTS must give the Department the ability to control offender access to telephone facilities by providing a means to program individual telephones and groups of telephones in or out of service at pre-determined times, (e.g. telephones are active from 7:00 am to 10:00 pm CST, all offender telephones system-wide would automatically become inactive at 10:00 pm and remain inactive until 7:00 am).

Department staff must have the ability to immediately shut down the OTS and restrict all PBI and PIN access quickly system-wide and selectively from a remote location as well as at each facility. Department staff must be able to reset the system to working status after a shutdown.

Department staff must be able to restrict an individual PIN on an as needed basis or immediately disconnect service to an individual offender telephone. Department staff must be able to remove all restrictions, including call duration, on an individual PIN on an as needed basis. PIN access changes shall be tracked and logged by unique user ID and date/time stamped to provide an audit trail of record changes.

System must not allow offenders to access live operators. All calls shall be prepaid or collect, outward calling to landlines only. OTS shall block calls made to cell phones.

Dial tone must be presented immediately to all offender telephones in an off-hook position. The OTS must not provide a second dial tone to an offender telephone without the offender hanging up the telephone receiver after the first call is completed. The OTS must provide a call setup time of approximately six (6) seconds or less from completion of dialing to first ring.

The OTS must allow for a maximum number of rings before an offender call is automatically disconnected. The number of rings must be consistent with industry standards and approved by the Department.

The OTS must provide notification to the caller of the call status such as ringing, busy, etc. This notification may be in the form of ringing, busy tone, reorder tone, or appropriate recorded messages. The OTS must not charge for incomplete calls or calls that result in these status notifications.

L. Fraud Control

Within current technology available, fraudulent use of the OTS must be controlled. The Department will bear no responsibility for the loss of revenue as a result of fraudulent use of the telephone service. Fraudulent calls will be the sole responsibility of the Contractor. Logging shall be configured and enabled to record access to system in the event of fraud. Logs should record unique user ID access with date/time stamp and actions taken.

The OTS must provide at a minimum the following aids in preventing fraudulent use:

- Interference with secondary dial patterns;
- Termination of calls if a second dial tone is detected;
- Prohibition of switch hook dialing and call forwarding;
- A non-billed interval at the beginning of the call;
- Limitation on the number of times a telephone number may be redialed by the offender within a specific period of time (parameters to be set by the Department);
- Provide a three-way call detector as part of the OTS; and
- Information such as name, address, and billing information for the called number as well as name, address and phone number or other identifying information of the person(s) prepaying minutes.

M. Maintenance Diagnostics

A complete system test shall be done automatically at least once every twenty-four (24) hours. The system software must be designed to interrogate the system to perform self-test diagnostics and report back to the Contractor's help desk in real time. Detected errors must be stored in memory for at least seventy-two (72) hours and transferred to a digital storage medium that will save the information in a reportable format. System software must be

designed to enable the rapid detection of faults in both hardware and software. Diagnostic testing shall include the OTS and all components to include the DRS and UPS.

N. Service Area Requirements

The Contractor shall be responsible for negotiating all billing arrangements. The Contractor will complete calls into all domestic exchanges and be able to collect the appropriate revenue for terminating the call whether or not Contractor currently has an automatic billing arrangement.

O. System Administration

The Contractor must provide all hardware and software used in performing system administration, monitoring, and management functions. Management of the OTS must be password protected, allow for various levels of access and network with centralized system administration at all designated facilities and remote locations. Contractor shall detail password standards, provide unique user IDs, and ensure that changes are logged.

The system software must include the ability to change, modify, add, or delete database information for PBI, PIN assignments, offender's allowed telephone number lists, blocked telephone numbers lists, etc.

The OTS must support simultaneous access to all features and functions by Department personnel at each location (e.g., a system manager and an investigator). Number of access points required will be contingent upon number of eligible offenders per facility and will be determined by the Department.

Detailed and thorough training shall be provided to Department system administrator as detailed in Section C.3.5.

C.3.1.2 Technical Specifications Requirements

A. Federal Communications Commission (FCC) Registration

Contractor must provide FCC registration information to the Department.

B. Facility Type

Contractor shall detail by each designated site on the Site List (Exhibit J.1), the facility type being used to provide services, e.g. T1, Analog Central Office Trunk, ISDN T1, etc.

C. Critical Component Redundancy

The OTS shall be equipped with an automatic restart function that will engage after a power failure.

The OTS shall provide Critical Component Redundancy, back-up and mirrored data. Redundant call detail records collection must also be provided.

The OTS shall be engineered to ensure that only a minimum amount (5% or less) of lines and/or trunks per facility will be out of service due to peripheral component failure.

D. Equipment Room/Infrastructure

The Department will work with the Contractor to provide room in existing facilities for OTS equipment that has a minimal size requirement and does not interfere with the Department's access, use, or potential use of the area where the equipment is located.

The Department reserves the right to make the final determination regarding equipment placement in any particular space. However, the parties acknowledge that Contractor relied on being able to place OTS equipment within existing Department space, with rare exception, in formulating the calling rates set forth in Section B.2.1. The Department will use commercial best efforts to work in good faith with Contractor to provide space within existing facilities.

In the event that suitable space is not available in the Department's existing facilities, the Contractor is responsible for providing a new or separate equipment room and terminal location adjacent to existing telephone/computer buildings where the equipment is to be installed. Contractor will be responsible for the construction of this building in a location outside of the perimeter fence. Upon expiration of the contract, the building will become property of the Department, will remain intact, and will not be removed from the premises.

Additionally, all OTS equipment located outside of a Contractor supplied building must be physically secured in a locked enclosure for security purposes. The enclosure must be designed in such a way as to not interfere with the normal equipment operation yet prevent access or damage to the equipment by unauthorized persons.

E. Offender Telephones

All offender telephones shall be:

- Equipped with biometrics incorporated into instrument;
- Wall mounted;
- Stainless steel or equivalent;
- Tamper-resistant (anti-vandal and anti-drill);
- Of durable construction;
- Flame retardant and must not give off toxic gases when subjected to fire;
- DTMF compatible;
- Labeled on the body per Department requirements;
- FCC and UL approved with certification number;
- Compatible with TDD devices and meet all ADA requirements. All facilities must be supplied with a TDD device for use as needed;

- Equipped with hearing aid compatible handsets; and
- Equipped with cords from the receiver to the body of the telephone that is approximately two (2) feet and armored. The Contractor shall provide different cord lengths at the Department's request.

F. Call Quality

At no time will the Internet be used to transmit the OTS voice and data.

Each installed location requires Quality of Service (QOS) for voice prioritized packet/packets yielding a Mean Opinion Score (MOS) rating of 3.7 or better. If at any time this service falls under the jurisdiction of a regulatory agency and more stringent standards are required, the Contractor is responsible for meeting those standards.

C.3.2 Contractor Requirements, Responsibilities, and Staffing

C.3.2.1 Contractor Requirements and Responsibilities

The Contractor shall have direct oversight, be responsible for and monitor the performance of all Contractor staff performing services under the Contract. The Contractor shall be responsible for all expenses incurred on behalf of Contractor's staff positions including travel, lodging, transportation, and meals.

C.3.2.2 Staffing

The Contractor is responsible for all resources necessary to provide the services included in this Contract. The Contractor shall provide an adequate level of staffing for provision of the services outlined herein and shall ensure that staff providing services is appropriately trained, qualified and licensed, if required.

The Contractor is required to maintain a minimum of the below listed staffing plan unless a reduction in that plan is mutually agreed to by the Contractor and the Department.

	Staff	Dedicated	Shared Part Time	Term of the Contract
The Contractor Team will utilize the following dedicated staff to support the construction, implementation, and training of the OTS system:				
Customer Service Manager	1	✓		
Project Director	1	✓		
Project Managers	7	✓		

Installation Technicians	24	✓		
Construction General Manager	1	✓		
Construction Foreman	6	✓		
Electrical Contractors	64	✓		
Field Repair/Site Technicians	15	✓		
Service Representatives	18	✓		
Data Administrators/Technical Help Desk	7	✓		
Trainers	20	✓		
After successful installation of the OTS, the following dedicated staff will remain in place for the life of the contract:				
Customer Service Manager	1	✓		✓
Field Repair/Site Technicians	15	✓		✓
Service Representatives	18	✓		✓
Data Administrators/Technical Help Desk	7	✓		✓
Additional (Shared) Resources:				
Existing Field Service Technicians	10		✓	✓
Embarq Field Repair - Cable Specialists	25		✓	✓
Embarq Call Center Reps (ongoing quality assurance, special "hotline" situations)	10		✓	✓

Additionally, the Contractor's staff shall coordinate with and maintain a good working relationship with Department staff and other Contractors working with the Department.

The Department will provide security for the Contractor's employees and agents consistent with the security provided for Department staff at each facility.

The final selection of all staff assigned to provide services under this Contract shall be subject to approval by the Department. Contractor employees may be removed from the Contract at any time. The Department shall not employ criteria to approve or disapprove the selection of Contract employees that exposes the Contractor or the Department to civil or criminal liability under applicable federal or state civil rights laws, including, but not limited to, those laws establishing or protecting employee rights.

The Contractor's staff on-site shall adhere to the standards of conduct prescribed in law, and as prescribed in the Department's personnel policy and procedure guidelines, particularly rules of conduct, employee uniform and clothing requirements (as applicable), security procedures, and any other applicable rules, regulations, policies and procedures of the Department. The Contractor's staff shall be subject to and shall comply with all security regulations and procedures of the Department and the respective facility. Violation of regulations may result in the employee or individual being denied access to the facility. In this event, the Contractor shall provide alternate personnel to supply services described herein, subject to Department approval.

Throughout the term of the Contract, the Contractor shall at a minimum:

- Provide a Project Manager who will be the single point-of-contact assigned to the project from contract award to implementation, acceptance and go-live;
- Provide qualified personnel to perform the services required;
- Provide the Department prior written notice of placement and/or replacement of personnel, or any plan to place and/or replace personnel;
- Remove and replace personnel at the request of the Department;
- Assure personnel follow laws, rules, regulations, standards, policies and procedures; and
- Provide criminal history information and information for employee background checks.

A. Provide Project Manager

Contractor shall assign a Project Manager dedicated to this Contract full-time from contract award to implementation, acceptance and go-live. The Project Manager will be responsible for coordinating with Department staff the status of the entire project and be the single point-of-contact during project implementation.

B. Provide Qualified Personnel to Perform the Services Required

Contractor shall provide the number, job descriptions and locations of dedicated staff offered to support this Contract and Resumes of prospective contract staff for the Department's review and approval. Submitted Resumes shall include at a minimum, qualifications, years of experience and educational background related to this Contract. Contractor shall use only qualified and fully trained employees in the performance of the Contract and shall make available upon request training records of those employees.

In addition to the Project Manager, Contractor shall provide at a minimum the following positions or similar positions in support of this Contract:

Provide Customer Service Manager and Alternate, as Required:

Contractor shall assign a full-time Customer Service Manager exclusively to this Contract. An alternate representative shall be assigned in the absence of the assigned Manager. The Department shall review the Resume and qualifications and shall either approve or disapprove the Contractor's selection for the position. The Customer Service Manager shall have extensive management experience with emphasis in contract management of contracts of similar size and scope.

The duties of the Customer Service Manager shall include, at a minimum:

- Overall performance of the Contract and general project management duties;
- Account management;

- Resolution of billing problems;
- Resolution of technical issues;
- Training;
- Attendance at on-site meetings; and
- Promptly responding to Department and offender family requests, which shall include, but not be limited to e-mail, telephone and facsimile requests.

Field Repair/Site Technicians

The Department is requiring Field Repair/Site Technician positions dedicated to the Contract. Field Repair/Site Technician positions shall be strategically located in proximity to Department sites and shall be directly responsible for providing preventative maintenance, installation of cable and equipment, technical support and repairs as necessary, and provide on-site assistance to Department personnel to ensure customer satisfaction.

Service Representatives

The Department is requiring full-time Service Representative Positions dedicated to the Contract.

Service Representative positions shall be responsible for making data entry input and changes to the offender telephone access information including initial input and subsequent updates of approved offender PBI and PIN, authorized calling numbers, and shall provide general customer service to Department staff for the term of the contract.

Data Administrators

The Department is requiring full-time Data Administrator positions to provide OTS coverage and shall be located at the Contractor's monitoring center to support the OTS. Duties include monitoring the system network to detect any problems and remotely correct identified problems. If Data Administrators cannot remotely correct or repair system problems, they are responsible for dispatching the appropriate field repair/site technician to the facility to make repairs as necessary.

Trainers

The Department is requiring Trainer positions dedicated to the training requirements of the Department. These positions shall be available for travel to Department facilities throughout the State to provide training to Department staff and offenders as needed. This position shall also ensure that Department training material is updated and current.

C. Provide the Department Written Notice of Placement and/or Replacement of Personnel, or any Plan to Place and/or Replace Personnel

Placement and/or replacement by the Contractor of key personnel assigned to this Contract shall be allowed provided the Department gives prior written approval.

D. Remove and Replace Personnel at the Request of the Department

The Department shall have the right at any time to request the removal of any of the Contractor's employees/subcontractors. The Contractor shall use all reasonable efforts to promptly replace such employee/subcontractor with a team member possessing skills, experience and training that are equal to or exceed those of the position description.

E. Assure Personnel Follows Laws, Rules, Regulations, Standards, Policies and Procedures

It is the Contractor's responsibility to ensure that all contract employees are familiar with Department regulations. Contractor standards of conduct, notification of background checks, relevant policies and/or statutes are incorporated as reference.

Prior to Contract implementation, the Department representative shall be provided a list of all contractor employees involved in this Contract who at any time have ever been sentenced to any facility of the Department. Said list should include name, TDCJ offender number, and the nature of the offense and the sentence. Prior approval must be obtained before an ex-offender may enter any Department facility.

Any Contractor employee that has any relative, either blood or by marriage within the second degree of affinity or consanguinity, that is (or may become during the project) an offender at the facility where the work is to be performed must notify the Department representative in writing prior to starting work, or immediately upon learning of same.

Contractor shall make all its employees involved in the project aware that possession of guns, weapons, illegal drugs, alcoholic beverages and/or other items of contraband on property owned or leased by Department is a felony. Violators will be prosecuted. Additional contraband includes Personal Digital Assistants, cell phones, and cameras.

Contractor shall caution all employees involved in this Contract against becoming familiar with offenders and/or the offenders' families. Contractor employees shall not bring anything to any offender nor shall they carry anything out for any offender.

The Department reserves the right to ban any Contractor employee from entering the property of the Department who fails to comply with any regulations.

1. The Contractor is responsible for the conduct and behavior of all persons working at a Facility (including consultants, independent contractors and their employees and agents) and shall ensure the Department's policies are followed. Should a violation occur, the Contractor shall take corrective action acceptable to the Department.

2. Contractor shall provide services to the Department that are in compliance with all

applicable local, state, and federal laws, rules and regulations now in effect or that become effective during the term hereof including but not limited to, Civil Rights Act of 1964; Title VII of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; the Age of Discrimination in Employment Act; the Immigration Reform and Control Act of 1986; Code of Federal Regulations, Title 42, Part 2 (regarding information about drug and alcohol abuse offenders); Environmental Protection Department (EPA) Rules and Regulations; Texas Code of Criminal Procedure; Texas Health and Safety Code, Chapters 85, 595, 611; Texas Administrative Code, Title 25, Chapter 403, Subchapter K (regarding offender identifying information); the Americans with Disabilities Act of 1990; the, Civil Rights Act of 1991; Occupational Safety and Health Act (OSHA) of 1970; Section 231.006, Texas Family Code; - Texas Government Code, Chapters 492-508, 783, 2254, 2259, and 2260; Uniform Grant Management Standards (UGMS); and any and all relevant federal and state financial cost principles and audit requirements; and any and all rules, policies and procedures established from time to time by the Department and the Texas Board of Criminal Justice. When differences between applicable standards exist, the higher standard, as defined by Department, will prevail.

3. The Contractor's employees/subcontractors shall adhere to the following Department's Policies and Procedures (Reference: (<http://www.tdcj.state.tx.us/vacancy/hr-policy/index.htm>) and any subsequent revisions thereafter, as follows: PD-03, Employee ID Cards dated September 1, 2005 (Rev 5), PD-22, General Rules of Conduct and Disciplinary Action Guidelines for Employees dated August 1, 2006 (Rev 10), PD-28, Dress and Grooming Standards dated November 1, 2005 (Rev 4), PD-29 Sexual Misconduct with Offenders, dated October 1, 2007 (Rev. 2), and PD-75, Applicants with Pending Criminal Charges or Prior Criminal Convictions dated April 1, 2008 (Rev 6), which shall serve to guide employee behavior in relationship to other employees, offenders, and the public.

The Contractor, in its performance of the contract, shall comply with other Department policy statements contained in the Department Policies as they relate to this Contract (e.g. ED-03.32, Offender Access to Telephones), Contractor shall not deviate in any material respect from applicable Department policy statements in the provision of services without the prior written approval of Department, which approval shall not be unreasonably withheld by Department.

Contractor's written request for deviations from said policy statements as they relate to this Contract shall originate from the Authorized Representative of the Contractor and shall be made to the Contract Monitor. The Contractor's written requests for deviation shall contain language which details the specific deviation with reference to the policy number, section, paragraph, etc., as well as the justification for such deviation.

Breach of either physical security or information security by any employee/subcontractor shall require immediate removal of the employee/subcontractor from the Contract. Immediately upon discovery of the breach of security, Contractor shall notify the Department of the breach and provide a written report within twenty-four (24) consecutive hours to include, at a minimum, date and time of the breach, how the breach occurred, name of offending parties, if known, extent of damage or potential damage, name of Contractor management person conducting the investigation, and action(s) taken by Contractor for remedy.

Contractor shall notify Department within twenty-four (24) consecutive hours of an employee's arrest.

The Department shall provide the Contractor written notification, within twenty-four (24) consecutive hours, of a failure to adhere to PD-22. Violations of PD-22 that involve a breach of corrections management security require immediate removal of the employee/subcontractor from the property of the Department. The Contractor will be required to remove said employee/subcontractor from the project.

In the case of violations of PD-22 that do not involve a breach of correctional management security, the Department may require the employee/subcontractor to cease all activity and remove self from the property of the Department. At the Department's discretion, the Contractor may be required to remove said employee/subcontractor from the project.

Upon request by the Department, the Contractor shall provide for replacement of an employee/subcontractor found to be in violation of PD-22. The Contractor shall use all reasonable efforts to promptly replace such employee/subcontractor with a team member possessing skills and training that are equal to or exceed those of the individual being replaced.

F. Provide Criminal History Information and Information for Employee Background Checks

Contractor staff with access to confidential/security sensitive data shall be security cleared.

Contractor shall not employ any person working directly on this Contract with a misdemeanor or felony conviction without prior written approval of Department. This includes any employee with a criminal history who is employed by Contractor at the time of award. Contractor shall comply with PD-75 in determining eligibility for employment. Contractor shall provide Department with a current list of all employees including position title and whether or not the employee has/had a felony conviction, at the beginning of the contract year, and upon each occurrence.

Contractor agrees to provide a completed TDCJ Non-Employee Background Questionnaire for each of its current and future employees and subcontractors who work under this Contract in locations where the Department's data is stored and processed, in order that a Texas Crime Information Center/National Crime Information Center (TCIC/NCIC) criminal history check can be performed by the Department.

A background investigation, to include a NCIC and TCIC records check, shall be conducted by the Department for each employee (including consultants, independent contractors and their employees and agents who work on a routine basis on this Contract) prior to being assigned by Contractor to perform work at a Facility. Fingerprinting may be required as part of the investigation.

Contractor must receive a written notification from the Department indicating pass status on

the criminal history check prior to allowing the employee/subcontractor access to areas where the Department's data is stored or processed. Contractor also agrees to ensure that no persons working for Contractor or subcontractors whom have not received TCIC/NCIC criminal history clearance from the Department will be allowed in areas where the Department's data is stored or processed without an authorized Department escort.

Replacement by Contractor of an employee/subcontractor performing under this Contract shall be at the discretion of Contractor provided the replacement staff passes a TCIC/NCIC criminal history check by the Department.

C.3.3 Other Requirements

The Contractor will have complete end-to-end responsibility to assure operational and quality service, including but not limited to, any necessary interfaces with the regulated common carrier, etc., and the availability of the required central office facilities.

Contractor will be responsible for all cost associated with compliance with the Americans with Disabilities Act (ADA) as it relates to access to public telephones.

Contractor shall describe in detail any Disaster Recovery Plan in place that would provide for the recovery of data in the event of system failure, a catastrophic event, a natural disaster or other event that causes loss of the system or data. In the event of a database or central processor failure, all offender telephones must retain all capabilities, restrictions, validations, and system integrity. The plan shall provide proof that the OTS will be restored to the exact configuration and restrictions as prior to system failure, and that all records are restored. The Department accepts no liability for equipment or infrastructure, damaged or destroyed by accident, natural disaster, lightning strikes, intentional or accidental misuse of equipment, fire, social insurrections; etc. The Department shall have no responsibility or liability and shall be held harmless for all costs for any call billing, charges, payments, uncollectible charges, or fraud under this contract. The Department shall not be held liable for any potential revenue loss due to any decision on the part of the Department to disconnect third party call after detection or for any other limitation of services or access including but not limited to disciplinary actions and lockdowns.

All information and databases associated with the OTS are the property of the Department and shall not be given, sold, or used for any other purpose outside of the OTS without express written consent from the Department. Upon termination of the contract, data shall remain with or be transferred to the Department.

C.3.4 Implementation, Installation, System Initiation, Testing and Acceptance

C.3.4.1 Implementation

It is understood and acknowledged by the parties that the work cannot be efficiently completed without the use of a competent plan, updated frequently and utilized by the Contractor for the

planning, management, and coordination of the work. Therefore, the requirements of this Contract as to scheduling and reporting, as well as time limits for completion of the work, are of the essence.

The Department must provide written acceptance of an approved Implementation Plan prior to commencement of any work. Contractor shall provide a clearly tabbed and detailed Implementation Plan and Schedule to include all sites identified in the Site List. Synopsis of each deliverable must include staff requirements, length of time required per deliverable, and timeline.

The Contractor will use calendar days with the effective date of this Contract being day one. The Implementation Plan must include a schedule that includes a timeline in which all system components must be completely installed and fully functional by designated facilities on the Site List.

The Implementation Plan must include at a minimum the following deliverables or sections.

- Introductory 'kick-off' meeting;
- Planning (site plan by location);
- System Design (equipment/infrastructure);
- Security Plan Documentation (access/data);
- Project Schedule (Timeline);
- Staffing Plan - Number of staff dedicated to the project by job title and job description. Plan must include the Contractor's expectations of both Contractor and Department staff. A dedicated Project Manager (single-point-of-contact) must be assigned and included in the staffing plan through implementation and 'go-live';
- Infrastructure procurement and installation;
- Equipment specifications, procurement and installation;
- Training;
- Testing;
- Delivery and Acceptance;
- Database Management;
- Enrollment;
- Go-Live;
- Updating;
- Reporting;
- System Management;
- Documentation (System design, training manuals, etc.);
- System Maintenance and Support; and
- Transition plan.

Potential called parties must initiate a registration process in which the called party will be required to call into a Contractor supplied registration system (either automated or staffed), from the number that the offender calls will be going to. The caller must supply both a credit card number and a driver's license or state identification card number. The credit card

number and driver's license/state identification card number must both be validated by the vendor before the registration process will be completed. **This validation must be through the credit card company and the appropriate DMV/Public Safety Office.** Should either number fail to validate, the party should be directed to an alternative registration process form with which to provide required information and submit with a copy of his/her phone bill and driver's license/state identification card.

The registration must be recorded and include a positive affirmation that the caller is the registered owner of the phone from which the call is being made, will allow offender phone calls to that location, and will accept financial responsibility for offender phone calls to that location.

In regard to alternative identification documents in the event that a credit card is unavailable, the Department will not accept faxed copies of phone bills as proof of identity and insists that the Contractor verify that copies submitted are legible. The Department also expects that this documentation would be readily available to us in the event that it is needed for investigative or prosecutorial purposes.

The Department will furnish, in electronic format, the offender's visitation list. **The list may contain phone numbers of visitors but should not be considered a source of phone numbers.** The visitors will be required to register with the Contractor, and then the registered visitors will be validated against the visitation list, by the Contractor. The Department will not be responsible to supply or validate phone numbers at any time. The Contractor is required to validate all telephone numbers against the various victims databases and the appropriate state bar association if an attorney number is given.

The Department will furnish a daily electronic file with the names, TDCJ number, and location of offenders which are eligible to make phone calls. It will be the Contractor's responsibility to compare the list of eligible offenders against the list of enrolled offenders and locate, and subsequently enroll, within a reasonable time period, the offenders that have become eligible but are not enrolled. The Department will not be responsible for tracking individual offenders through the system.

Each eligible offender will be enrolled and verified, physically and in-person, by the Contractor's personnel. The Contractor's enrollment responsibilities include positive verification of the offender's identification, maintenance of a log detailing offender's information and person responsible for enrollment.

The Contractor will be responsible for all initial and ongoing enrollments (to include the intake facilities). The Department does not have personnel available to supervise enrollment activities, either initial or ongoing as previously ineligible offenders become eligible. The Contractor will be responsible for developing and implementing a supervised enrollment plan that will assure that all eligible offenders are enrolled within a reasonable amount of time after becoming eligible. There will be no unsupervised enrollment method (self enrollment) allowed.

The Department realizes that it would not be prudent for the Contractor to keep sufficient resources to staff each facility every day. The Contractor is ultimately responsible for determining the staff necessary to meet the enrollment requirements of the Department.

All attorneys will be enrolled in the same method as called parties. The Contractor will be responsible for verifying all attorney numbers submitted against the relevant state bar attorney phone lists.

The Department will work with the Contractor during implementation to develop acceptable called party customer service metrics and performance measures. **Superior customer service is a priority to the Department.**

The Department expects to hold regular performance meetings with the Contractor in which performance issues, including customer service, will be discussed. These meetings will occur at least once quarterly. The Department requires the Contractor to be responsive to the Department's customer service needs, including needs of the called parties. Additionally, the Department expects the level of customer service outlined during the negotiation meetings presentations.

Offenders will be allowed to have a prepaid telephone account. The prepaid account **will not** be connected to the offender commissary account in any manner.

All ancillary fees and account policies (account maintenance fees, deposit fees, statement fees, etc.) will be disclosed to the parties establishing an account repeatedly and in a prominent manner. The Department requires that inactive accounts be refunded to the account holder, or reactivated at the request of the account holder (to be used and not left inactive), at no charge, provided the request for refund or reactivation is received by the Contractor no later than one (1) calendar year from the date of determination of inactive status. The request for refund must be allowed to be made in a convenient format, such as IVR, staff assisted call, mail or fax, or via website with reasonable security measures in place to verify the identity of the account holder. Any activity and amounts related to the Department's contract will be reportable to the Department. The Contractor will be responsible for proactively contacting parties whose account is nearing inactivation and notifying them of their options. The Department requires that credit card / check by phone (if allowed) fee be limited to \$5.00 per transaction. The minimum transaction must be \$25.00 and the maximum transaction can only be \$100.00. Funds deposited by personal check or money order will be at no cost to the customer.

Statement fees for collect calls billed by the LEC will be limited to \$2.50. If a customer needs a copy of a statement mailed, the customer can be charged a cost recovery fee. Statements printed from the Internet should be available at no charge to the customer.

There will be no account initiation fees and no maintenance fees charged to the customers.

C.3.4.2 Installation

The Contractor will be responsible for the complete engineering and installation of the OTS, including all station and other miscellaneous hardware as called for in these specifications.

The Contractor shall install the system utilizing generally accepted telephone industry installation practices.

All mounting units, such as racks, terminal cabinets, distribution closets, and backboards, will be equipped with terminal connections to which all entering cables shall be wired. Terminal connections will be placed as near as possible consistent with accessibility to a point where cables would normally enter.

Any splices in the system wiring must meet current Electronic Institutional Association/ Telephone Institutional Association (EIA/TIA) specifications.

The Contractor shall comply with all city, county, state, and federal codes, rules, regulations, and/or agencies, regarding the installation of the system including furnishing the necessary labor and materials to meet the above codes. The Contractor shall furnish all licenses and permits, etc. required for the installation of the system. The Contractor will install the system utilizing the generally accepted latest American National Standards Institute / National Electrical Code (ANSI/NEC/EIA/TIA) installation practices.

The Contractor shall provide the Department with a complete record of the cable counts and station numbers. The Contractor shall provide the Department with "as-built" drawings for all infrastructure modifications, installation, and new equipment rooms/buildings. All cabling shall be labeled at each end per ANSI/TIA/EIA.

The Department expects that a soft or hard copy of each and every applicable code, regulation, or standard that was used to install the OTS to be provided to the Department's designee, free of charge, and updated as applicable. The Contractor may either directly provide the software license, or reimburse the Department for the cost of the license if assignment or transfer of the license is impractical.

The Contractor shall provide all labor to install all equipment as defined and engineer, prepare software database, test and cutover the system as specified.

C.3.4.3 System Cabling

The Contractor shall be responsible for providing, both inside and outside plant wiring to include all labor and materials required for proper system functioning.

All cabling will be placed in conduit. All exterior, exposed conduit will be rigid. Within buildings, EMT with compression fittings, may be used, when placed above 12' in height. Conduit below 12' in height should be rigid conduit. Conduit will be used in the tunnel, spine and pipe chase

areas. Conduit shall be sized as per NEC fill codes (minimum $\frac{3}{4}$ "). Conduit brackets and support should be per NEC standards. All OSP applications will be in Schedule 40 PVC conduit unless OSP, direct burial, PE-89, filled, gopher resistant cable is used. All direct burial cable will be at a minimum of 24" deep with a 3" marker tape installed at 12" above the cable.

All new inside wire provided from distribution closets to stations will be, at a minimum, category 3, 4 pair, 24 AWG plenum white inside wire for voice applications and category 5E, 4 pair, 24 AWG, plenum, blue for data applications.

All jacks will be RJ11 for voice applications and RJ45 for data applications.

The Contractor shall be responsible for providing all inside wiring for the OTS for new buildings added to each facility and any major changes in housing units.

The OTS will be responsible for providing all voice, data, and outside plant cabling required for a proper functioning system. Cabling and infrastructure shall be secured to prevent unauthorized access or abuse.

Outside plant cabling is to be PE-89 24-AWG filled direct burial type cable. These cables are to be terminated with lightning protectors and equipped with sheath bonds and grounds as per ANSI/TIA/EIA specifications.

The Contractor must provide the metallic conduit in new or existing buildings for cabling.

All cables, wires, and equipment will be firmly held in place. Fastenings and supports shall be adequate to support their loads with ample safety factors. All cables outside of equipment room shall be in metallic conduit.

The Contractor shall notify the Department before any excavations are started. This notice must be provided a minimum of forty-eight (48) hours prior to excavation. 1-800-DIG-TESS shall also be notified.

The Contractor shall be responsible for replacing, restoring, or bringing to at least original condition any damage to floors, ceilings, walls, furniture, grounds, pavements, sidewalks, etc., caused by Contractor's personnel and operations, subject to final approval of the Department. The repairing will be done only by technicians skilled in the various trades involved, using materials and workmanship to match those of the original construction in type and quality.

The Contractor shall act as the agent of record to the local telephone company on behalf of the Department for offender telephone service for each site. This statement in no way conveys that the Contractor will act as the agent of record regarding any services other than for the offender telephone service.

C.3.4.4 Testing and Acceptance

Final system design and software database must be approved by the Department prior to system initiation. Contractor will test the software database, network facilities, switching systems, and all hardware and software components to ensure each and every system feature and service is functioning and operational to the Department specifications and requirements. Contractor shall provide test results to the Department prior to implementation as well as all system documentation and related manuals. The Department shall provide final approval in writing prior to 'go-live' operations.

The purpose and net result of the acceptance test is to determine that the OTS installed meets the technical and functional requirements outlined in this Contract. A system considered "acceptance test ready" is defined as a system that has completed a full system test with no known outstanding material defects.

Contractor shall conduct an operational system test of the proposed system and certify, in writing, that the system is ready for acceptance testing and will perform in accordance with the requirements stated in this Contract. The Contractor shall ensure that the system, in general, and each module of the system, in particular, operates according to specifications before turning the system over to the Department. Department personnel will not debug modifications for the Contractor.

The Department will have ten (10) business days to test all aspects of the system to ensure it is functioning as specified. If any aspect of the system fails to function as specified, the Contractor will be given five (5) business days to correct the malfunction. The Department will have another ten (10) business days to test and accept the system.

If the Contractor fails to correct defects after a second five (5) day period, the Department reserves the right to require replacement of the system.

Acceptance testing shall not in any way relieve the Contractor of its responsibilities to correct any defect during the term of the contract.

Prior to final acceptance by the Department, the Contractor must have satisfactorily completed the training program for system administrators and offenders as specified in Section C.3.5 Training.

C.3.5 Training

The Department expects considerable, on site training of officers, administrators, and investigators utilizing the system. The on site training will be conducted initially as well as periodically afterwards. The training will be customized to meet the needs of different user levels (monitors, administrators, investigators, security threat group personnel). The Department expects that training materials (manuals, dvds, videotapes) will be left at each site to facilitate training new personnel as needed. The Department expects these training

materials to be refreshed as updated trainings are developed. The Department estimates that the number of personnel per facility to be trained is somewhat proportional to the size of the facility. The Department submits the following facility training needs.

0-500 Capacity Unit	25 staff
500-1,200 Capacity Unit	30-40 staff
1,200+ Capacity Unit	40-60 staff

The training may not occur all at once. Training classes should be tailored to the need of the user. The Department will take reasonable steps to aggregate those who need similar training on a local level in order to optimize class size. The Department anticipates that training should be three to five days total length.

Training shall be provided initially and throughout the term of the Contract. The Contractor shall provide training on an as-needed basis throughout the term of the Contract. The Contractor shall provide training materials for each designated site that shall be kept current and updated throughout the term of the contract. Bi-lingual training shall be available when required.

In the case of a system upgrade that involves procedural changes in placing calls and/or administration of the system, the Contractor shall provide additional on-site training for systems administrators and offenders as needed.

C.3.5.1 System Administrator Training

Thorough live, hands-on instruction for all system administrators and other authorized Department staff shall be provided by the Contractor, with emphasis on all features and system design prior to system initiation. Operational manuals, either paper or electronic, shall be provided.

Contingent upon the number of eligible offenders per facility, the Contractor will conduct systems administrator training to approximately three (3) or more employees per facility, on the operation of the features, management, and utilization of the system, including the digital recording system. Training will also be provided to Department staff at other locations to include but not be limited to regional offices, administrative locations and contractor monitor site. Training will be complete within a reasonable time prior to system initiation and will be conducted on the premises of each site.

Training will include at a minimum, software programming as required for adding, deleting, or changing PBI's, PINs and offender's allowed call telephone number lists, blocking numbers from being called by offenders, proper record keeping, monitoring, reporting, revising system calling parameters, and trouble reporting procedures.

C.3.5.2 Offender and Approved Call List Training

The Contractor shall conduct offender training on how to place calls. Contractor may utilize a video presentation that can be shown to a controlled group of offenders or those unable to read or comprehend written literature. Training should occur within a reasonably short period of time prior to implementation of the system at each site. Bi-lingual training shall be available when required.

Instructions for placing a call must also be printed on each offender telephone in both English and Spanish. Additionally, all telephones must be labeled indicating calls may be monitored and recorded.

Training shall also be provided to the persons identified on the offender approved call list. Explanation of the telephone system usage and rates shall be provided as well as a customer service, 24x7 toll-free number. Training may be in the form of brochures or printed materials sent to the person at the address identified on the call list. Printed materials shall be available in both English and Spanish.

Billing and account management should be easy to use and understandable. The description shall include whether the Contractor direct bills the called party for collect calls or whether billing is performed by a third party or Local Exchange Carrier (LEC). If the LEC or third party is responsible for the billing of collect calls, the Contractor shall identify all such parties within the Department with which they have this agreement. A toll free customer service number must be provided for all billing entities. The Contractor is responsible for handling all customer complaints related to the OTS.

The Contractor shall not restrict the pre-paid account holder from receiving the full dollar amount of services up to the balance held by the Contractor. The Contractor shall describe the process for a customer to initiate a pre-paid account that shall include all policies, customer requirements and the minimum deposit required. Procedures to receive refunds must also be provided.

C.3.5.3 Post-System Initiation Training

During the first five (5) days after system initiation, the Contractor shall have available at least one (1) training person on-site for retraining and consultation for both system administrators and offenders to include equipment and procedures.

This employee must not be the service technician installing the system and must have experience in conducting training classes.

C.3.6 Maintenance and Support Requirements

The Contractor shall acknowledge that the OTS is a revenue stream for the Department. Thus, any system failure affects the revenue stream and the Department requires that any system failure shall be restored to full capacity within acceptable time limits. A system failure

which lasts beyond twenty-four hours after placement of service call will result in an unacceptable performance measures rating.

Maintenance and support requirements apply to the entire OTS system design to include but not be limited to all infrastructure, equipment, component parts, software and peripheral equipment such as the DRS and UPS. The Contractor shall be responsible for the immediate replacement of all inoperative, damaged or defective equipment regardless of cause of damage.

The Contractor will be solely responsible for troubleshooting problems and providing all service and maintenance with no technical assistance from Department personnel. Additionally, the system must be designed to constantly monitor itself and to immediately notify a repair center if a fault or failure is detected. Site OTS shall be programmed to shut-down upon site DRS failure.

To assure a satisfactory level of support, the Contractor shall provide dedicated, administrator/technicians for each site identified in the site list to include regional offices and administrative locations. The Contractor must supply a toll free dispatch telephone number, web access, and/or email address for placement of service calls twenty-four (24) hours a day, seven (7) days a week. Administrator/technicians shall be available during OTS operational hours as well as after hours to repair or replace equipment, whichever time is most convenient to the facility.

Service Call Procedures/Requirements

1. The Contractor Service Representative who has been assigned the trouble ticket must reply to non-emergency calls within two (2) hours and to emergency calls within one (1) hour from placement of call by Department personnel. This reply may be by telephone, email, or in person. Replies should be made to the Department staff that placed the service call.
2. For routine service requests (non-emergency), the Contractor Service Representative will provide best effort of on-site arrival time, within a maximum of four (4) consecutive hours from placement of service call by Department personnel. Resolution will be required within eight (8) consecutive hours from time trouble call is placed.
3. For emergency requests, the Contractor Service Representative will provide best effort of on-site arrival time, within a maximum of two (2) consecutive hours from placement of service call by Department personnel. Resolution will be required within four (4) consecutive hours from time trouble call is placed.

An emergency is defined as any problem or equipment failure that interferes with any facilities function or results in:

- Twenty percent (20%) or more of the facility's outgoing lines or trunks being inoperative;
- Twenty percent (20%) or more of the facility's telephones being inoperative;

- Any offender calls not being recorded as needed or as programmed due to a failure of the DRS;
- Failure of the OTS to retain system programming parameters

Service call procedures shall also be incorporated in the training curriculum.

C.3.7 Commission Requirements

Commission information will include all information necessary for auditing in accordance with the rate structure.

The commission cycle will be for a maximum of thirty (30) days from date of first completed call. The cycle length should be from the first to the last day of the month. Commission shall be pro-rated the first month of service.

Contractor shall provide commission revenue data in a dynamic format via a CD or from the system itself. The format will allow Department to find specific data and create reports by using a query method to retrieve the data. The procedure shall be uncomplicated and easy to use. The Contractor shall provide written instructions on how to use query and report functions.

Data required by Department shall include, but not be limited to, the following fields:

- Date, time and telephone numbers called;
- Duration of call;
- Person called;
- Gross revenue by location and total gross revenue;
- Offender identification information;
- Facility for originating telephone call; and
- Total number of minutes used.

C.3.8 Contractor Quality Control Plan

The Contractor shall submit to the Department a Quality Control Plan for monitoring and assessing the success of its services. The plan shall include criteria that define acceptable or unacceptable performance based on industry standards. The Contractor shall ensure that outcome measures indicate results achieved. The Contractor shall submit reports, in a format approved by the Department, which indicate the Contractor's performance.

Contractor will work with Department personnel to monitor performance. A quality assurance review of all assignments will be conducted before an assignment is considered complete.

C.3.9 Contractor Communication

The Contractor and the Department will maintain communications to ensure project success. Contractor shall be required to attend on-site meetings with Department staff. Meetings shall provide a management level review of the Contractor's operations, assessment of services, discussion and resolution of problems, and coordination of the activities of all parties concerned.

Such meetings may be scheduled regularly or as needed to discuss Contract issues and concerns and exchange information between Department staff and the Contractor, review quality control plans and performance measures. Communications between parties shall be achieved via:

- On-site meetings, regularly and specially scheduled;
- Conference and video calls;
- Email;
- Written status reports provided to the Department by Contractor; and/or
- Monthly Performance Outcome Measures reviews.

Meetings will be held in Austin and Huntsville or at any other designated site.

C.3.10 Added Value

During the term of this Contract, the Contractor may propose additional services/incentives that are **directly** related to the OTS and may have added value to this Contract.

SECTION D - REQUIRED REPORTS

D.1 REPORTS REQUIRED FROM CONTRACTOR

A variety and number of reports are required to be submitted by the Contractor during the term of the Contract. These reports may be revised or additional reports may be required at Department's sole discretion.

Contractor is required to provide standard, ad hoc, and special request reports at no cost to the Department. Standard reports will be used by the Department to monitor day-to-day performance. Contract progress will be monitored through review and analysis of status and management reports submitted to the Department's Contract Monitor. Contractor may be required to submit examples of standard reports which are accessible directly from the system databases.

Additionally, the Department reserves the right to request optional or additional reports that may be considered "ad hoc" reports or special request reports not specifically identified in this RFP. These reports shall be delivered no later than 3 business days from date of request. The Contractor must comply with ad hoc and special requests and required delivery dates and method.

The Department may also request revision of existing reports as deemed necessary throughout the term of this Contract. The Contractor shall adapt report/documentation formats and delivery to meet Department requirements.

Contractor must provide electronic and/or hard copy reports no later than an agreed on date (e.g. viewable format on-line or as batch print reports). Due to the large number of reports required by the Department, reports shall be made available to authorized Department staff and may be required to be sent to or accessed from several locations throughout the State. Due dates and Department staff receiving reports will vary dependent upon the type of report. Report titles and other field identifiers may be customizable by the authorized Department staff.

SECTION E - INSPECTION AND ACCEPTANCE

E.1 INSPECTION AND ACCEPTANCE OF SERVICES

TDCJ has the right to inspect and test all services called for by this Contract, to the extent practicable at all times and places during the Contract term. TDCJ shall perform inspections in a manner that will not unduly interfere with the Contractor's ability to perform the services required by the Contract. The Contractor shall furnish, and shall require subcontractors to furnish, at no charge, all reasonable materials, equipment, and assistance for the safe and convenient performance of these duties.

From time to time TDCJ shall, subject to limitations provided by law with respect to rights of privacy, have the right to reasonably prompt access and to examine all records of Contractor related to the Contract, including without limitation, all financial books and records, maintenance records, employee records, and Offender records generated by Contractor and its subcontractors in connection with performance of this Contract. If subject to the outcome of an audit, it is determined that the Contractor is in non-compliance with any provisions of this Contract and/or that money is owed to TDCJ by Contractor, then TDCJ may exercise its rights of recovery of money owed.

If any of the services are non-compliant with the Contract requirements, Contractor shall be notified describing specific areas of non-compliance. Contractor shall have a twenty (20) day period to file a written response to all such items of non-compliance. For all items of non-compliance satisfactorily resolved by agreement between the Contractor and TDCJ, no further action regarding such items shall be taken. If an item of non-compliance cannot be resolved between the Contractor and TDCJ, and such item remains uncorrected for a period of twenty (20) days or longer after written notification to Contractor, then such item may be declared to be an event of default.

E.2 MONITORING CRITERIA

TDCJ shall devise its own procedures for monitoring the quality of Contractor's performance under this Contract, all Court Orders and TDCJ Policies. Contractor shall cooperate fully with TDCJ in obtaining the requisite information needed to complete such audits and to assess the quality of Contractor's performance. Monitoring may include, but is not limited to, document reviews and on-site audits conducted by authorized representatives of TDCJ. Such monitoring by TDCJ shall not relieve Contractor of any of its obligations under this Contract.

The Contract Monitor and other TDCJ staff will provide written findings regarding non-compliant conditions, processes, procedures or operations, and observations that could, if not addressed by Contractor, become an Item of Non-compliance as described in Section E.1.

E.3 AUTHORITY TO AUDIT

Contractor understands that acceptance of funds under this Contract acts as acceptance of the authority of the State Auditor's Office, or any successor agency, to conduct an audit or investigation in connection with those funds. Contractor further agrees to cooperate fully with the State Auditor's Office or its successor in the conduct of the audit or investigation, including providing all records requested. Contractor will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Contractor and the requirement to cooperate is included in any subcontract it awards. Contractor will reimburse the State of Texas for all costs associated with enforcing this provision.

E.4 FRAUD, WASTE OR ABUSE

In accordance with Texas Government Code, Chapter 321, the State Auditor's Office (SAO) is authorized to investigate specific acts or allegations of impropriety, malfeasance, or nonfeasance in the obligation, expenditure, receipt or use of state funds. If there is a reasonable cause to believe that fraud, waste or abuse has occurred at this agency, it can be reported to the SAO by calling 1-800-892-8348 or at the SAO's website at www.sao.state.tx.us. It can also be reported to the TDCJ Office of the Inspector General at 1-866-372-8329, the TDCJ Internal Audit Division at 512-406-5935, or Crime Stoppers at 1-866-832-8477.

SECTION F - DELIVERIES OR PERFORMANCE

F.1 PERIOD AND PLACE OF PERFORMANCE

The term of the Contract will be from September 1, 2008 through August 31, 2015. The Contractor shall be required to perform services at the Department locations identified Site List, under the general supervision of assignment by the Department's authorized staff (Exhibit J.1). The Department may add, delete, or change site locations, and alter configurations of current offender populations at any at site location at any time. Where any work under this Contract requires access to secured facilities by the Contractor's employees/subcontractors, it shall be the responsibility of the Contractor to comply with all pertinent security requirements, which shall be supplied by the Department. It is the sole responsibility of the Department to guarantee necessary site access.

F.2 OPTION TO EXTEND

The Department reserves the right to extend this Contract for two (2) additional two (2) year terms. The Department shall notify Contractor as per Section I.15.

All work shall be completed within the Contract period, unless otherwise extended by written modification of the Contract upon agreement of the contracting parties. Contractor shall not begin performance until receipt of a written Notice to Proceed.

F.3 TRANSITION OF CONTRACT

In the event services end by either Contract expiration or termination, it shall be incumbent upon the Contractor to continue services, if requested by the Executive Director or designee, of the Department, until new services can be completely implemented and operational. The Contractor acknowledges its responsibility to cooperate fully with the replacement Contractor and the State to ensure a smooth and timely transition. Such transitional period shall not extend more than one hundred eighty (180) days beyond the expiration date of the Contract, or any extension thereof.

SECTION G - CONTRACT ADMINISTRATION

G.1 CLAUSES INCORPORATED BY REFERENCE

This Contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contract Administrator will make their full text available.

Texas Government Code, Chapter 495, Section 495.025, INMATE PAY TELEPHONE SERVICE, added by Acts 2007, 80th Leg., R.S., Ch. 100, Section 1, eff. May 15, 2007.

G.2 AUTHORITY – AUTHORIZED REPRESENTATIVE, CONTRACT ADMINISTRATOR AND CONTRACT MONITOR

G.2.1 Authorized Representative

In the case of Contractor, its President or any Vice President shall designate the Authorized Representative in writing. The designation of Contractor's initial Authorized Representative shall be delivered to TDCJ not later than the effective date of this Contract. Contractor's Authorized Representative may designate other persons to assist such Authorized Representative in the performance of certain obligations required by this Contract. In the case of TDCJ, the Executive Director is hereby designated as its Authorized Representative. The Executive Director has designated the Chief Financial Officer to act in his behalf on matters requiring signature approval of the Authorized Representative. The Director of the Information Technology Division has been designated to act on behalf of the Chief Financial Officer on all matters pertaining to the daily operations and compliance with this Contract. TDCJ's Authorized Representatives may designate other persons to assist such Authorized Representatives in the performance of certain obligations of this Contract. At any time, any party may designate any person as its Authorized Representative by delivering to the other party a written designation signed, if on behalf of Contractor by its President or any Vice President, or if on behalf of TDCJ by the Executive Director. Such designations shall remain effective until new written instruments are filed with or such notice is given to the other party that such designations have been revoked.

TDCJ's Authorized Representative (the Executive Director) or his/her designated representative (Chief Financial Officer) is the only person authorized to make or approve changes in any of the requirements of this Contract, and notwithstanding any clauses contained elsewhere in this Contract, the said authority remains solely with the Executive Director or his/her designated representative. In the event the Contractor makes any change at the direction of any person other than the Executive Director or his/her designated representative, the change will be considered to have been made without authority and no

adjustment will be made in the Contract as a result thereof.

G.2.2 Contract Administrator

The Contract Administrator for administration of this Contract is:

Frank L. Williams, CTPM

The telephone number for the Contract Administrator is (936) 437-7118. The facsimile number of the Contract Administrator is (325) 223-0310, and the e-mail is frank.williams@tdcj.state.tx.us.

The Contract Administrator is responsible for general administration of this Contract, negotiation of any changes and issuance of written changes/modifications to this Contract.

G.2.3 Contract Monitor

The Contract Monitor shall review all administrative and programmatic requirements of the operating Contract. The Contract Monitor will be a full time employee of Department and the Contractor will exercise no control over the monitor. The Contract Monitor will be responsible for review and approval of rates and commissions submitted by the Contractor.

The Contract Monitor represents the Department in the administration of technical details within the scope of this Contract. The Contract Monitor is also responsible for the final inspection and acceptance of all reports and such other responsibilities as may be specified in the Contract.

The Contract Monitor is not authorized to make any representations or commitments of any kind on behalf of the Executive Director of TDCJ or the State of Texas. The Contract Monitor does not have the authority to alter the Contractor's obligations or to change the Contract specifications, price, terms or conditions. If, as a result of technical discussions, it is desirable to modify Contract obligations, the statement of work or Work Plan, changes will be issued in writing and signed by the Executive Director of TDCJ or his/her authorized representative.

G.3 COMMISSION REMITTANCE

G.3.1 Commission Remittance by Direct Deposit

The Contractor shall submit payments to the Department via electronic funds transfer (EFT), also known as direct deposit. Questions regarding receipt of revenue shall be directed to:

Texas Department of Criminal Justice
Cashier's Office
Attn: Stacie Tatom
PO Box 4015
Huntsville, Texas 77342-4015

G.3.2 Late Remittance

Commission payment for any month is due by the 20th calendar day of the following month. Any amount owed to the State more than one (1) business day beyond the date such amount is due shall accrue interest each day at the rate of one percent (1%) plus the prime rate as published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday. In no event shall the amount charged be greater than the amount allowed by law.

SECTION H - SPECIAL CONDITIONS

H.1 INSURANCE REQUIREMENTS

The Contractor shall provide a plan of insurance that provides: (1) coverage to protect the State against all claims, including claims based on violations of civil rights arising from the services performed by the Contractor; (2) coverage to protect the State from actions by a third party against the Contractor or any subcontractor of the Contractor as a result of the Contract, and (3) coverage to protect the State from actions by officers, employees, or agents of the Contractor or any subcontractor(s). Such insurance may exclude coverage for any liability arising from or attributable to any gross negligence, malfeasance or willful misconduct of the Department or its employees or agents. The Contractor shall maintain the following insurance coverage in full force and effect for the mutual protection and benefit of both the Department and the Contractor:

H.1.1 Insurance Requirements

Types of Coverage	Minimum Limits of Liability
A. Workers' Compensation	Statutory
B. Comprehensive General Liability	\$10,000,000 aggregate
C. Automobile Liability	\$1,000,000 per occurrence
D. Professional Liability (Only if professional services are needed)	\$3,000,000 aggregate \$1,000,000 per occurrence
E. Performance Bond	100% of project cost
F. Payment Bond	100% of supplier and subcontractor cost

H.1.2 Additional Insurance Requirements

Contractor shall maintain insurance coverage for the mutual protection of both the Department and the Contractor against claims that may arise out of or result from the Contractor's actions or operations hereunder, whether such actions or operations are by the Contractor or a subcontractor, or by anyone directly or indirectly employed by or acting on behalf of the Contractor or subcontractor where liability may arise for:

Claims under worker's compensation disability benefit, and other similar employee benefit acts;

Claims for damages because of bodily injury, occupational sickness or disease, or death of any Contractor employees;

Claims for damages because of bodily injury, sickness or disease or death of any person other than the Contractor's employees;

Claims for damages insured by usual personal liability coverage that are sustained by any person as a result of an act directly or indirectly related to the employment of such person by the Contractor, or by any other person;

Claims for damages because of injury to or destruction of tangible property, including loss of use resulting therefrom; and

Claims for damages arising from fire and lightning and other casualties.

The insurance required by this section shall be written for not less than any limits of liability specified by the Department or required by law, whichever is greater, and shall include contractual liability insurance as applicable to the Contractor's obligations hereunder. Such insurance may exclude coverage for any liability arising from or attributable to any gross negligence, malfeasance or willful misconduct of the Department or its employees or agents.

Certificates/policies of insurance shall be filed with the Department prior to execution of the Contract. These certificates/policies shall contain a provision that coverage afforded under the policies shall not be canceled, non-renewed or materially changed except after thirty (30) days written notice by Certified Mail to: Texas Department of Criminal Justice, Two Financial Plaza, Suite 525, Huntsville, Texas, 77340; Attn: Frank L. Williams, CTPM. Contractor shall provide proof of insurance coverage to Department upon renewal of such.

The Contractor shall name the Texas Department of Criminal Justice and its officers, employees, and elected representatives as additional insured on applicable coverage, i.e., General Liability and Automobile.

All insurance coverage is to be provided by insurance carriers licensed to conduct business in Texas. All insurance carriers shall be, at a minimum, rated "A-7" in Best's Key Rating Guide.

Compliance with the foregoing insurance requirements shall not relieve the Contractor from any liability under the indemnification clause at Section I.5.

The Contractor agrees to waive subrogation against the Texas Department of Criminal Justice and its officers, employees and elected representatives for bodily injury (including death), property damage or any other loss on applicable coverage, i.e., General Liability, Automobile and Workers' Compensation.

The Contractor agrees that the Contractor's insurance is primary insurance as respects to Texas Department of Criminal Justice, its officers, employees and elected representatives.

H.2 SUBCONTRACTORS

Contractor may subcontract for the performance of any of its responsibilities to provide services pursuant to this Contract. No subcontract may be entered into unless TDCJ provides prior written approval, which approval may not be unreasonably withheld. If a subcontractor is deemed to be needed for an event of an emergency nature, verbal approval may be obtained through an authorized TDCJ representative. Contractor shall submit a written request with supporting documentation for approval, by the TDCJ, as soon as possible. Contractor shall furnish to the TDCJ copies of all subcontracts, without regard to amount of annual payments. Any arrangement by Contractor with an affiliate or member company to provide services to the Facility shall be subject to the subcontractor provisions of this Section. No contractual relationship shall exist between TDCJ and any subcontractor and TDCJ shall accept no responsibility whatsoever for the conduct, actions, or omissions of any subcontractor selected by Contractor. Contractor shall be responsible for the management of the subcontractors in the performance of their work. A subcontractor may not work directly with TDCJ in any manner and shall not be included in contract negotiations, renewals, audit or any other discussions except at the request of TDCJ.

Unless waived in writing by TDCJ, the subcontract shall contain the following:

An acknowledgement that the subcontract is subject to the contract between TDCJ and Contractor (the "Master Contract").

The subcontractor shall agree to comply with the terms of the Master Contract to the extent applicable with respect to goods and services being provided under the subcontract. It is the intention of the parties of the subcontract that the subcontractor shall "stand in the shoes" of the Contractor with respect to fulfilling the duties and obligations of the Contractor to TDCJ under the Master Contract.

TDCJ's approval of a subcontract does not relieve the Contractor of its duty to perform under the Master Contract.

TDCJ shall be deemed a "third party beneficiary" to the subcontract.

H.2.1 Insurance

Contractor shall require all subcontractors to obtain, maintain, and keep in force insurance coverage in accordance with accepted industry standards and the contract during the time they are engaged hereunder.

H.2.2 Historically Underutilized Business

The Contractor is encouraged to make a good faith effort to award necessary subcontracts to HUBs in accordance with Texas Government Code, Sections 2161.181-182, 2161.252(b), and Texas Administrative Code (TAC), Section 20.11. Pursuant to the Comptroller of Public Accounts (CPA) HUB Rules, 1, TAC Section 20.13 and 20.14, the Contractor is strongly encouraged to submit a HUB Subcontracting Plan (HSP) as part of the proposal submission.

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H.4 ORGANIZATIONAL AND NAME CHANGE

Contractor shall submit written notification to Department of any changes in Contractor's name, address, and/or telephone number with an effective date of such change. Contractor shall submit to Department a copy of any registration "to do business as," "DBA," or "also known as," "AKA," and any legal corporate name change filed with the Secretary of State.

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H.8 BOOKS AND RECORDS

All records and documents pertinent to the services contracted hereunder shall be kept for a minimum four (4) years after the termination hereof. If any litigation, claim, or audit involving these records begins before the retention period expires, Contractor must continue to retain said records and documents until all litigation, claims, or audit findings are resolved, meaning that there is a final court order from which no further appeal may be made, or a written agreement is entered into between Department and Contractor for a period of an additional five (5) years.

H.9 DELAY OF SERVICES

Contractor shall meet its obligations to commence services at the facility within the time frames defined by the Contract. In the event the Contractor fails to meet those time frames as defined by the Contract, absent extensions from the Department, the Department will have the right to calculate reasonable revenues that are lost and charge the Contractor for each day that the

Facility is inoperable due to delays caused by the Contractor's nonperformance. Department will provide written notification to the Contractor by certified mail, return receipt requested, of the charges which will include the date of imposition and the amount that has accrued daily as of the date of the notification.

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H.12 UTILIZATION OF PRODUCTS AND MATERIALS PRODUCED IN TEXAS

Contractor shall comply with Texas Government Code, Section 2155.4441 relating to service contract use of products produced in the State of Texas. In performing services under this Contract, the Contractor shall purchase products and materials produced in the State of Texas when they are available at a price and time comparable to products and materials produced outside of Texas.

H.13 CRIMINAL JUSTICE INFORMATION SYSTEMS COMPLIANCE

The parties hereto acknowledge and agree that in order for Contractor to perform the services contemplated herein, TDCJ may have to provide Contractor with certain information regarding offenders and former offenders known as "criminal history information" which means information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, information and other formal criminal charges and their dispositions. The term does not include information as to convictions, finger print information, and driving records. In the event TDCJ provides Contractor with criminal history information, Contractor agrees to comply with the confidentiality requirements of 28 CFR 20, Part 20, Subpart B, Section 20.21; Section 524 (a) of the Omnibus Crime Control and Safe Streets Act, 42 U.S.C. 3701, et seq., as amended (the "Act"), and with Government Code Chapter 411, Section 411.083. More specifically, Contractor agrees and acknowledges as follows:

TDCJ hereby specifically authorizes that Contractor may have access to criminal justice history to the extent such access is necessary or appropriate to enable Contractor to perform the services contemplated herein.

Contractor agrees to limit the use of such criminal justice information for the purposes set forth herein.

Contractor agrees to maintain the confidentiality and security of the criminal justice history information in compliance with federal and state statutes, rules and regulations, and return or destroy such information when it is no longer needed to perform the

services contemplated herein.

The Contractor agrees to comply with and execute a CJIS SECURITY ADDENDUM (The "ADDENDUM"). The Contractor agrees to execute a revised addendum, from time to time, in the event that federal or state statutes, rules and regulations require such revision so that at all times during the term of their contract, to include extensions hereof, the addendum executed by the Contractor is in compliance with all such statutes, rules and regulations.

SECTION I - GENERAL CONDITIONS

I.1 SEVERABILITY CLAUSE

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

I.2 ADVERTISING OF AWARD

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

I.3 DEFAULT AND TERMINATION

I.3.1 Default by Contractor

A material failure to keep, observe, perform, meet or comply with any covenant, agreement, term or provision of this Contract to be kept, observed, met, performed or complied with by the Contractor hereunder, which such failure continues for a period of twenty (20) days after the Contractor's receipt of written notice thereof.

I.3.2 Further Opportunity to Cure

If an Event of Default of the type specified in Section I.3.1 occurs and the Contractor reasonably believes that such Event of Default cannot be cured within the twenty (20) days allowed in Section I.3.1 but that such Event of Default can be cured through a diligent, ongoing and conscientious effort on the part of Contractor within a reasonable period not to exceed three (3) months, then the Contractor may, within the twenty (20) day cure period, submit a detailed plan for curing the Event of Default to the Department. Upon receipt of any such plan for curing an Event of Default, the Department will promptly review such plan and at its discretion, may allow or not allow the Contractor to pursue such cure. The Department's decision will be communicated in writing to the Contractor. The Department agrees that it will not exercise its remedies thereunder with respect to such Event of Default for so long as the Contractor diligently, conscientiously and timely undertakes to cure the Event of Default in accordance with the approved plan. If the Department does not allow the Contractor an extension of the cure period, the twenty (20) day time period will be tolled during the period of

time the request is pending before the Department.

I.3.3 Remedy of the Department

When an Event of Default by the Contractor has been determined to exist, the Department's Authorized Representative will notify the Contractor of such Event of Default, and subject to the provisions of Section I.3.2 hereof, the Department will have the right to pursue any remedy it may have by law or in equity including, but not limited to:

Reducing its claim to a judgment;

Taking action to cure the Event of Default, in which case the Department may recover from the Contractor all reasonable costs incurred by the Department in connection with its efforts to cure such Event of Default; and

Exercising a Termination for Default. In the event of Termination for Default the Department is entitled to reimbursement from Contractor any reasonable amounts expended by the Department to cure the Event of Default. The Department will have no further obligations to the Contractor after such termination. The Department may also acquire, in the manner Department considers appropriate, services similar to those terminated and the Contractor will be liable to the Department for any excess costs for those services.

The Department can enforce specific performance against the contract.

The Contractor shall not be liable for any lost commissions by the Department even if the failure to perform the Contract arises from and without the fault and negligence of the Contractor as follows: (1) Acts of God or of the public enemy, (2) acts of the State in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather.

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I.3.7 Termination by Mutual Agreement

The parties may terminate this Contract by mutual agreement, the terms of which shall be set

forth in writing.

I.3.8 Termination Procedures

Upon Termination for Default, or Termination by Mutual Agreement as heretofore mentioned, the following procedures will be adhered to:

The Department will immediately notify the Contractor in writing specifying the effective termination date.

After receipt of the Notice of Termination, the Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due at that point in the contract:

- Place no further subcontracts or orders in support of this Contract.
- Terminate all subcontracts.
- Cancel all orders as applicable.

Upon termination, the Department shall be entitled to receive from the Contractor payment of all revenue owed under this Contract up to and including the date of termination.

The Department has no authority to reimburse a Contractor for capital equipment costs in the event that the Contract is terminated by mutual agreement or for cause before the expiration of the base period. Notwithstanding the foregoing, if the Contract is terminated prior to the end of the base period, the Department shall require any new service provider to compensate Contractor for the undepreciated or unamortized portion of any equipment installed by Contract which is used by the new service provider.

I.3.9 Default by the Department

The following shall constitute an Event of Default on the part of the Department: failure by the Department to observe and perform any material covenant, condition, or agreement on its part to be observed or performed, or its failure or refusal to substantially fulfill any of its material obligations hereunder, unless caused by the default of the Contractor, and unless cured by the Department within twenty (20) days after receiving written notice thereof.

I.3.10 Remedy of Contractor

Upon an Event of Default by the Department, the Contractor's sole remedy shall be to follow the Dispute Resolution Process in Section I.3.11 below.

I.3.11 Dispute Resolution

Any dispute arising under this Contract, which is not disposed of by mutual agreement

between TDCJ and Contractor shall be resolved as follows:

The dispute resolution process provided for in Chapter 2260 of the Government Code shall be used, as further described herein, by TDCJ and the Contractor to attempt to resolve any claim for breach of contract made by the Contractor.

A Contractor'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 Contractor shall submit written notice, as required by Subchapter B, to the Director for Contracts and Procurement, or designee, at Two Financial Plaza, Suite 525, Huntsville, Texas 77340. Said notice shall specifically state the provisions of Chapter 2260, Subchapter B are being invoked, and shall also be given to all other representatives of TDCJ and the Contractor otherwise entitled to notice under the parties' contract. Compliance by the Contractor with Subchapter B is a condition precedent to the filing of a contested case proceeding under Chapter 2260, Subchapter C, of the Government Code.

The contested case process provided in Chapter 2260, Subchapter C, of the Government Code is the Contractor's sole and exclusive process for seeking a remedy for an alleged breach of contract by TDCJ if the parties are unable to resolve their disputes under subparagraph (A) of this paragraph.

Compliance with the contested case process provided in Subchapter C is a condition precedent to sue from the Legislature under Chapter 107 of the Civil Practices and Remedies Code. Neither the execution of this Contract by TDCJ nor any other conduct of any representative of TDCJ related to the contract shall be considered a waiver of sovereign immunity to suit.

In addition to complying with Chapter 2260 of the Government Code, TDCJ and the Contractor shall comply with the rule published in the Texas Administrative Code, Title 37, Public Safety and Corrections, Part VI, Texas Department of Criminal Justice, Chapter 155, Reports and Information Gathering, Subchapter C, Procedures for Resolving Claims and Disputes.

At all times during the course of the dispute resolution process, the Contractor shall continue with providing services as directed, in a diligent manner and without delay, shall conform to the TDCJ's directive, decision or order, and shall be governed by all applicable provisions of this Contract. Records of the services performed shall be kept in sufficient detail to enable payment in accordance with applicable provisions of this Contract, if this should become necessary.

This provision shall not be construed to prohibit Contractor from seeking any other legal or equitable remedy to which it is entitled.

I.4 NO WAIVER OF RIGHTS

No failure on the part of any party to exercise, and no delay in exercising, and no course of dealing with respect to any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or in the exercise of any other right. The remedies provided in this Contract are cumulative and non-exclusive of any remedies provided by law or in equity, except as expressly set forth herein.

I.5 INDEMNIFICATION OF THE DEPARTMENT

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

Any and all claims to the extent caused by the conduct, management or performance of the contract by Contractor, its agents, subcontractors or employees, including, without limitation, any and all claims to the extent caused by:

Any breach or default on the part of the Contractor in the performance of any covenant or agreement on its part to be performed, pursuant to the terms of this contract;

Any act or negligence of the Contractor or any of its agents, subcontractors, servants, employees or licensees;

Any accident, injury or damage whatsoever caused to any person, firm or corporation.

All costs, reasonable attorney's fees, expenses and liabilities incurred in or about any such claim, action or proceeding brought thereon.

Nothing herein is intended to deprive the State or Contractor of the benefits of any law limiting exposure to liability and/or setting a ceiling on damages, or any laws establishing defenses for them. By entering into this Contract, the State does not waive its right of sovereign immunity, nor does the Contractor waive any immunity that may extend to it by operation of law. The aforementioned indemnification shall not be affected by a claim that negligence of the State or its respective agents, contractors, employees or licensees contributed in part to the loss or damage indemnified against.

I.6 NO WAIVER OF DEFENSES

Neither the Department nor the Contractor shall waive, release or otherwise forfeit any possible defense the Department or Contractor may have regarding claims arising from or made in connection with the services performed by the Contractor without the consent of the other party. The Department and Contractor shall reserve all such available defenses and

cooperate with each other to make such defenses available for each other's benefit to the maximum extent allowed by law, including any defenses the Department may have regarding litigation, losses and costs resulting from claims or litigation pending at the time the Contract becomes effective, or arising thereafter from occurrences prior to the effective date hereof.

I.7 INDEPENDENT CONTRACTOR

The Contractor is associated with Department only for the purposes and to the extent set forth herein, and with respect to the performance of Services hereunder, the Contractor is and shall be an independent Contractor and shall have the sole right to supervise, manage, operate, control, and direct the performance of the details incident to its duties hereunder. Nothing contained herein shall be deemed or construed to create a partnership or joint venture, to create the relationships of an employer-employee or principal-agent, or to otherwise create any liability for Department whatsoever with respect to the indebtedness, liabilities, and obligations of Contractor or any other party. Contractor shall be solely responsible for (and Department shall have no obligation with respect to) payment of all Federal Income, FICA, and other taxes owed or claimed to be owed by Contractor, arising out of the Contractor's association with the Department pursuant hereto, and the Contractor shall indemnify and hold the Department harmless from and against any and all liability from all losses, damages, claims, costs, penalties, liabilities, and expenses howsoever arising or incurred because of, incident to, or otherwise with respect to any such taxes.

I.8 LAWS OF TEXAS

Contract shall be governed by and construed in accordance with the laws of the State of Texas and shall be enforced in the County of Travis. It is the intent of the parties to comply with the law. In the event of a conflict between the Contract and the laws of Texas, the laws will prevail. If there is no conflict between the laws and the Contract, and the Contract has more stringent requirements, it will be enforced.

I.9 ASSIGNMENTS

Contractor may not assign any interest in this Contract without the prior written consent of Department which consent Department shall not unreasonably withhold.

Assignments requiring prior written consent from the Department include any of the following:

- More than 50% of the assets of Contractor are sold;
- Contractor is merged into, acquired by, or consolidated with another corporation or business entity; or is otherwise the subject of reorganization; or
- Any shareholder or owner of Contractor who owns at least 10% beneficial ownership of Contractor fails to continue to own at least 10%.

In the event that any sale, transfer, or assignment, as referenced above, is consented to by Department, the transferee or its legal representative shall agree in writing with Department to assume, perform and be bound by the covenants, obligations and agreements contained herein.

I.10 MAINTENANCE OF CORPORATE EXISTENCE AND BUSINESS

The Contractor, if incorporated, shall at all times maintain its corporate existence and authority to transact business and be in good standing in its jurisdiction of incorporation and the State of Texas. The Contractor shall maintain all licenses, permits and franchises necessary for its businesses where the failure to so maintain might have a material adverse effect on its ability to perform its obligations under this Contract.

I.11 APPROVAL OF CONTRACT

This Contract is subject to written approval of the Executive Director of TDCJ or the Director's designated representative and the Texas Board of Criminal Justice and shall not be binding until so approved. For contracts valued over one million dollars in the initial term, the Executive Director's approval shall be given only on the approval of the Texas Board of Criminal Justice.

I.12 NON-DISCRIMINATION

In the performance of this Contract, the Contractor warrants that it shall not discriminate against any employee, subcontractor or offender on account of race, color, handicap, religion, sex (gender), national origin, age, or genetic information and in accordance with the following:

The Contractor shall not discriminate against employees, subcontractors, or offenders who have or are perceived to have a handicap because of AIDS or HIV infection, antibodies to HIV, or infection with any other probable causative agent of AIDS. The Contractor shall post notices setting forth the provisions of this non-discrimination clause in conspicuous places, available to employees and applicants for employment.

In all solicitations or advertisements for employees and/or the purchase of services, the Contractor shall state that it is an equal opportunity employer; provided, however, that notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting this requirement.

The Contractor shall include the provisions of the foregoing paragraphs in every subcontract so that such provisions shall be binding upon each subcontractor or vendor.

I.13 CONFIDENTIALITY

Any confidential information provided to or developed by the Contractor or the Department in the performance of the Contract shall be kept confidential unless otherwise provided by law and shall not be made available to any individual or organization by the Contractor or the Department without prior approval of the other party.

I.14 CONTRACT CHANGES

Changes/modifications to this Contract (except Contract extensions in accordance with Sections I.15.) administrative changes such as changing the Contract Administrator designation or correcting typographical errors or other unilateral changes discussed elsewhere in this Contract) shall be mutually agreed to by the parties and executed in writing with the authorized signatures.

I.15 OPTION TO EXTEND THE TERM OF THE CONTRACT

The Department may, at its sole discretion, extend the term of this Contract by written notice to the Contractor within ten (10) calendar days of Contract expiration, provided that the Department shall give the Contractor a preliminary written notice of its intent to extend at least sixty (60) calendar days before the Contract expires. The preliminary notice does not commit the Department to an extension.

If the Department exercises this option, the extended Contract shall be considered to include this option provision.

SECTION J - LIST OF ATTACHMENTS

- J.1 SITE LIST (4 PAGES)**
- J.2 DELETED**
- J.3 DELETED**
- J.4 CONTRACT PERFORMANCE MEASURES (3 PAGES)**
- J.5 TEXAS GOVERNMENT CODE, CHAPTER 495, SECTION 495.025, INMATE
PAY TELEPHONE SERVICE, ADDED BY ACTS 2007, 80TH LEG., R.S., CH.
100, SECTION 1, EFF. MAY 15, 2007. (2 PAGES)**
- J.6 EXECUTIVE DIRECTIVE, ED-03.32, OFFENDER ACCESS TO TELEPHONES
(7 PAGES)**

SECTION K - REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF OFFERORS

K.1 HISTORICALLY UNDERUTILIZED BUSINESS (HUB) REPRESENTATION

K.1.1 Definition

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

A corporation formed for the purpose of making a profit in which 51 percent or more of all classes of the shares of stock or other equitable securities are owned by one or more economically disadvantaged persons who have a proportionate interest and actively participate in the corporation's control, operation and management;

A sole proprietorship created for the purpose of making a profit that is completely owned, operated and controlled by an economically disadvantaged person;

A partnership formed for the purpose of making a profit in which 51 percent or more of the assets and interest in the partnership are owned by one or more economically disadvantaged persons who have a proportionate interest and actively participate in the partnership's control, operation, and management;

A joint venture in which each entity in the venture is a historically underutilized business, as determined under another paragraph of this subdivision; or

A supplier contract between a historically underutilized business as determined under another paragraph of this subdivision and a prime Offeror under which the historically underutilized business is directly involved in the manufacture or distribution of the goods or otherwise warehouses and ships the goods.

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

K.1.2 Representation

The Offeror represents and certifies as part of its offer that it ☐ is, or ☒ is not, a HUB certified by the Texas Procurement and Support Services.

K.2 CHILD SUPPORT REPRESENTATION

Under Section 231.006 of the Texas Family Code a child support obligor who is more than 30 days delinquent in paying child support and a business entity in which the obligor is a sole proprietor, partner, shareholder or owner with an ownership interest of at least 25% is not eligible to receive payments from State funds under a contract to provide property, materials or services.

Governmental entities and any business entity, including a non-profit corporation, that does not have a majority shareholder who is a natural person capable of being a child support obligor, are not subject to Section 231.006.

Check ONE:

Offeror DOES NOT [X] have a sole proprietor, majority stockholder or substantial owner who is a natural person capable of being a child support obligor therefore IS NOT subject to Section 231.006.

Offeror DOES have a sole proprietor, majority stockholder or substantial owner who is a natural person capable of being a child support obligor therefore IS subject to Section 231.006.

If subject to Section 231.006, an offer must include names and social security numbers of each person with at least a 25% ownership of the business entity submitting bid.

_____	_____-_____-_____	_____	_____-_____-_____
(Print Name)	SSN	(Print Name)	SSN

_____	_____-_____-_____	_____	_____-_____-_____
(Print Name)	SSN	(Print Name)	SSN

Offeror certifies that the individual or business entity named in this bid is not ineligible to receive the specified payments and acknowledges that any resultant contract may be terminated and payment may be withheld if this certification is inaccurate.

K.3 FRANCHISE TAX REPRESENTATION

The Offeror represents and certifies as part of its offer that it is not currently delinquent in the payment of any franchise tax owed the State of Texas.

K.4 TYPE OF BUSINESS ORGANIZATION

The Offeror, by checking the applicable box, represents that:

- A. It operates as ☒ a corporation incorporated under the laws of the State of Florida, ☐ an individual, ☐ a partnership, ☐ a nonprofit organization or ☐ a joint venture; or
- B. If the Offeror is a foreign entity, it operates as ☐ an individual, ☐ a partnership, ☐ a nonprofit organization, ☐ a joint venture, or ☐ a corporation, registered for business in _____ (country).

K.5 PREFERENCE CLAIM

In accordance with Texas Administrative Code Title 34, Part 1, Chapter 20, Subchapter C, Rule 20.38, the Offeror shall check below if claiming a preference. If the appropriate line is not marked, a preference will not be granted unless other documents included in the bid show a right to the preference.

K.5.1 Source and Specification Preferences

- ☐ Products of persons with mental or physical disabilities
- ☐ Products made of recycled, remanufactured, or environmental sensitive materials including recycled steel
- ☐ Energy efficient products
- ☐ Rubberized asphalt paving material
- ☐ Recycled motor oil and lubricants

K.5.2 Tie-Bid Preferences

- ☐ Supplies, materials, equipment or services offered by or produced in Texas by a TX bidder that is owned by a service-disabled veteran*
- ☐ Supplies, materials, equipment or services offered by or produced in Texas by a Texas Bidder*
- ☐ Agricultural products produced or grown in Texas
- ☐ Agricultural products and services offered by Texas Bidders*
- ☐ USA produced supplies, materials, equipment or agricultural products

K.5.3 Additional Preferences

- ☐ Products produced at facilities located on formerly contaminated property
- ☐ Products and services from economically depressed or blighted areas

- ☐ Vendors that meet or exceed air quality standards
- ☐ Recycled or Reused Computer Equipment of Other Manufacturers
- ☐ Foods of Higher Nutritional Value (for consumption in a public cafeteria only)
- ☐ Use of vegetation native to Texas

*By signing this offer, Offeror certifies that if a Texas address is shown as the address of the Offeror, Offeror qualifies as a Texas Bidder as defined in Texas Administrative Code Title 34, Part 1, Part 1, Chapter 20, Subchapter C, Rule 20.32.(68).

K.6 REPRESENTATIONS OF OFFEROR

The Offeror represents and warrants to and for the benefit of the Department, with the intent that the Department will rely thereon for purposes of entering into this Contract, as follows:

K.6.1 Organization and Qualification

If the Offeror operates as a corporation incorporated under the laws of any state outside Texas, it is duly qualified to do business as a foreign corporation in good standing in Texas.

K.6.2 Authorization

This Contract has been duly authorized, executed and delivered by the Offeror and, assuming due execution and delivery by the Department, constitutes a legal, valid and binding agreement enforceable against the Offeror in accordance with its terms.

K.6.3 No Violation of Agreements, Articles of Incorporation or Bylaws

The consummation of the transactions contemplated by this Contract and the fulfillment of the terms hereof will not conflict with, or result in a breach of any of the terms and provisions of, or constitute a default under any indenture, mortgage, deed of trust, lease, loan agreement, license, security agreement, contract, governmental license or permit or other agreement or instrument to which the Offeror is a party or by which its properties are bound, or any order, rule or regulation of any court or any regulatory body, administrative agency or other governmental body applicable to the Offeror or any of its properties, except any such conflict, breach, or default which would not materially and adversely affect the Offeror's ability to perform its obligations under this Contract, and will not conflict with, or result in a breach of any of the terms and provisions of, or constitute a default under, the Articles of Incorporation (or other corresponding charter document) or Bylaws of the Offeror.

K.6.4 No Defaults Under Agreements

The Offeror is not in default, nor is there any event in existence which, with notice or the passage of time or both, would constitute a default by the Offeror under any indenture, mortgage, deed of trust, lease, loan agreement, license, security agreement, contract, governmental license or permit or other agreement or instrument to which it is a party or by which any of its properties are bound and which default would materially and adversely affect the Offeror's ability to perform its obligations under this Contract.

K.6.5 Compliance With Laws

Neither the Offeror nor its officers and directors purporting to act on its behalf have been advised or have reason to believe that the Offeror or such officers and directors have not been conducting business in compliance with all applicable laws, rules and regulations of the jurisdictions in which the Offeror is conducting business, including all safety laws and laws with respect to discrimination in hiring, promotion or pay of employees or other laws affecting employees generally, except where failure to be in compliance would not materially and adversely affect the Offeror's ability to perform its obligations under this Contract.

K.6.6 No Litigation

Offeror certifies that there is not now pending, or to its knowledge threatened, any action, suit or proceeding to which Offeror, or any of its employees, are a party, before or by any court or governmental agency or body, which may result in any material adverse change in Offeror's ability to perform its obligations under this Contract, or any such action, suit or proceeding related to environmental or civil rights matters; Offeror further certifies that no labor disturbance by the employees of Offeror exists or is imminent which may be expected to materially and adversely affect Offeror's ability to perform its obligations under this Contract. Prior to Department making an award of this Contract, Department may require Offerors being considered for the award to recertify the representations set forth above. Department, in its sole discretion, may disqualify any Offeror that in the opinion of Department is a party, or who has any employees that are a party, to any action, suit or proceeding that may result in any material adverse change in Offeror's ability to perform its obligations under this Contract. During the term of this Contract, to include extensions hereof, Offeror shall notify Department in writing within five days of Offeror having received knowledge of any actions, suits or proceedings filed against Offeror, or any of its employees, or to which Offeror, or any of its employees, are a party, before or by any court or governmental agency or body, which (1) may result in any material adverse change in Offeror's ability to perform its obligations under this Contract; or, (2) filed in any federal court, state court, or federal or state administrative hearing within the state of Texas regardless as to any anticipated material adverse change in Offeror's ability to perform its obligations under this Contract; or, (3) is brought by or on behalf of a state of Texas offender regardless as to any anticipated material adverse change in Offeror's ability to perform its obligations under this Contract.

K.6.7 Taxes

Offeror has filed all necessary federal, state and foreign income and franchise tax returns and has paid all taxes as shown to be due thereon. The Offeror has no knowledge of any tax deficiency which has been or might be asserted against it and which would materially and adversely affect the Offeror's ability to perform its obligations under this Contract.

K.6.8 Financial Statements

The Offeror has delivered to the Department a copy of its most recent audited financial report. This report must include, as a minimum the following financial information:

- A. Audited balance sheet;
- B. Statement of income; and
- C. Any changes in financial position of the company.

This statement fairly presents the financial position of the Offeror at the date shown and the results of its operations for the period covered, and have been prepared in conformity with generally accepted accounting principles applied on a consistent basis, except as discussed in the notes to the financial statement.

K.6.9 No Adverse Change

Since the date of the Offeror's most recent balance sheet provided to the Department, there has not been any material adverse change in its business or condition nor has there been any change in the assets or liabilities or financial condition of the Offeror from that reflected in such balance sheet which is material to the Offeror's ability to perform its obligations under this Contract.

K.6.10 Disclosure

There is no material fact which materially and adversely affects or in the future will (so far as Offeror can now reasonably foresee) materially and adversely affect its ability to perform its obligations under this Contract which has not been accurately set forth in this Contract or otherwise accurately disclosed in writing to the Department by the Offeror prior to the date hereof.

K.6.11 No Collusion

Offeror represents and certifies its employees, agents and representatives have not and shall

not discuss or disclose the terms of their proposal and its submission or response thereto with any third party other than persons or entities which Offeror engaged to assist it with respect to such response or submission.

Neither the Offeror nor the firm, corporation, partnership or institution represented by the Offeror or anyone acting for such firm, corporation or institution has violated the antitrust laws of the State of the Federal Antitrust Laws, nor communicated directly or indirectly the proposal submitted to any competitor or any other person engaged in such line of business.

K.6.12 Ethics

Conflict of Interest – Any individual who interacts with public purchasers in any capacity is required to adhere to the guidelines established in the Texas Administrative Code, Title 34, Part 5, Chapter 111, Rule 111.4. The Rule outlines the ethical standards required of public purchasers, employees, and vendors who interact with public purchasers in the conduct of state business.

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

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

The Offeror has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted proposal.

K.6.13 No Compensation

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

K.6.14 Contracting with Executive Head of State Agency

Offeror represents and certifies that they are in compliance with Texas Government Code, Section 669.003 relating to contracting with the executive head of a state agency.

If Section 669.003 applies, Offeror shall complete the following information in order for the bid to be evaluated:

Name of Former Executive: _____

Name of State Agency: _____

Date of Separation from State Agency: _____

Date of Employment with Offeror: _____

K.6.15 Notification

If any of the information provided in the above representations changes during the term of this Contract, the Contractor shall submit an updated representation as soon as is reasonably possible.

K.6.16 Suspension, Debarment and Terrorism

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

<http://www.whitehouse.gov/news/orders/>.

K.6.17 Violation of Federal Law Relating To Reconstruction Efforts As A Result Of Hurricanes Rita, Katrina or Any Other Disaster After September 24, 2005

Pursuant to Section 2261.053, Government Code a state agency may not accept a proposal or

award a contract that includes proposed financial participation by a person who, during the five-year period preceding the date of the bid or award, has been convicted of violating a federal law or accessed a penalty in a federal civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, Katrina, or any other disaster occurring after September 24, 2005. Under Section 2261.053, Government Code, the Contractor certifies that the individual or business entity named in this proposal or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated if this certification is inaccurate.

K.6.18 Deceptive Trade Practices; Unfair Business Practices

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

K.7 REPRESENTATIONS OF THE DEPARTMENT

The Department represents and warrants to and for the benefit of the Offeror with the intent that the Offeror will rely thereon for purposes of entering into this Contract.

K.7.1 Authorization

The Department has the requisite power to enter into this Contract and perform its obligations hereunder and by proper action has duly authorized the execution, delivery and performance hereof.

K.7.2 No Violation of Agreements

The consummation of the transactions contemplated by this Contract and the fulfillment of the terms hereof will not conflict with, or result in a breach of any of the terms and provisions of, or constitute a default under any indenture, mortgage, deed of trust, lease, loan agreement, security agreement, contract or other agreement or instrument to which the Department is a party or by which its properties are bound, or any order, rule or regulation of any court or any regulatory body, administrative agency or other governmental body applicable to the Offeror or any of its properties, except any such conflict, breach or default which would not materially and adversely affect the Department's ability to perform its obligations under this Contract.

K.7.3 Disclosure

There is no material fact which materially and adversely affects or in the future will (so far as the Department can now reasonably foresee) materially and adversely affect its ability to perform its obligations under this Contract or which might require changes in or additions to the services required under this Contract that would increase the cost to the Offeror of providing such services, which has not been accurately set forth in this Contract or otherwise accurately disclosed in writing to the Offeror by the Department prior to the date hereof.

K.8 AUTHORIZED NEGOTIATORS

The Offeror represents that the following persons are authorized to negotiate on its behalf with the Department in connection with this Request for Proposals: (list names, titles and telephone numbers of the authorized negotiators).

NAME	TITLE	TELEPHONE NUMBER
William (Bill) E. Cheek	President	913-534-5699
Paul N. Cooper	Director and General Manager	913-534-5351
Victoria L. Johnson	Senior Account Manager	850-893-1821

K.9 PAYEE IDENTIFICATION NUMBER

The Payee ID number is the taxpayer number assigned and used by the Comptroller of Public Accounts of Texas. The Offeror shall provide its payee identification number in the space provided below. If this number is not known, the Offeror shall provide the Federal Taxpayer Identification number.

Payee Identification Number: _____

or

Federal Taxpayer Identification Number: 59-3268090



K.10 - POINT OF CONTACT

The Offeror shall provide the name, address and telephone number of a point-of-contact for questions concerning the submitted Offer.

Name: Victoria L. Johnson Title: Senior Account Manager

Telephone Number: 850-893-1821 Fax Number: 850-893-2531

Street Address: 1871 Newman Lane

City: Tallahassee State: Florida Zip Code: 32312

☒ EMBARQ has read, understands and complied.


K.11 - CERTIFICATION

To be completed by the Offeror: (The Offeror must check or complete all appropriate boxes or blanks in the Representations and Certifications, on the preceding pages). The Representations and Certifications must be executed below by an individual authorized to bind the Offeror.

The Offeror makes the foregoing Representations and Certifications as part of its proposal.

Embarq Payphone Services, Inc
Name of Offeror

696-IT-8-P022
Solicitation No.



5/12/08

Signature of Authorized
Individual

Date

Typed Name of Authorized Individual: William E. Cheek, President

Note: The penalty for making false statements shall void the submitted offer or any resulting contracts, and the Offeror shall be removed from all bid lists.

EXHIBIT J.1
SITE LIST

Additional Information regarding Facilities may be accessed by going to
<http://www.tdcj.state.tx.us/stat/unitdirectory/all.htm>

NOTE: Please be aware that Offender population is an approximate due to daily changes.

No.	Location Name	Approx. Total No. Offenders	Approx. Total No. Eligible	Approx. No. of Phones Req. at Current Eligible Ratio
1	Allred	3,636	2,135	72
2	B. Moore-Private	497	485	17
3	Bartlett State Jail-Private **	1,046	962	33
4	Beto ** (Trusty Camp)	3,310	2,902	97
5	Bill Clements	3,618	2,462	83
6	Boyd	1,323	1,197	40
7	Bradshaw ** (Existing OTS)	1,956	1,623	55
8	Bridgeport-Private	519	503	17
9	Briscoe	1,322	1,159	39
10	Byrd **	1,118	232	8
11	C. Moore-Transfer	1,205	1,101	37
12	Central (Trusty Camp)	991	886	30
13	Chasefield (Garza) (Trusty Camp)	206	206	7
14	Clemens (Trusty Camp)	1,060	791	27
15	Cleveland-Private ** (Existing OTS)	518	515	18
16	Coffield ** (Trusty Camp)	4,088	3,077	103
17	Cole State Jail	811	711	24
18	Connally	2,832	1,902	64
19	Cotulla-Transfer	580	535	18
20	Dalhart	1,023	934	32
21	Daniel	1,301	1,195	40
22	Darrington (Trusty Camp)	1,858	1,204	41
23	Dawson State Jail-Private **	2,192	2,026	68
24	Diboll Private **	516	490	17
25	Dominguez State Jail	2,065	1,827	61
26	Duncan-Transfer	586	558	19
27	Eastham ** (Trusty Camp)	2,444	1,793	60
28	Ellis ** (Trusty Camp)	2,329	1,991	67
29	Estelle	3,172	2,182	73
30	Estes-Private	1,036	977	33
31	Ferguson (Trusty Camp)	2,389	1,615	54
32	Formby State Jail	964	853	29
33	Fort Stockton-Transfer	594	522	18

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No.	Location Name	Approx. Total No. Offenders	Approx. Total No. Eligible	Approx. No. of Phones Req. at Current Eligible Ratio
34	Garza East-Transfer	1,926	1,852	62
35	Garza West-Transfer	2,180	1,406	47
36	Gatesville (Trusty Camp) (Crain Unit)	1,959	1,772	60
37	Gib Lewis **	2,151	1,095	37
38	Gist State Jail	2,175	1,977	66
39	Glossbrenner-Substance Abuse FPF	596	596	20
40	Goodman-Transfer	600	554	18
41	Goree ** (Trusty Camp)	1,041	686	23
42	Gurney-Transfer **	2,038	1,471	50
43	Halbert-Substance Abuse FPF	580	579	20
44	Hamilton	1,017	1,003	34
45	Havins State Jail	573	572	20
46	Henley State Jail	548	547	19
47	Hightower	1,302	1,154	39
48	Hilltop (Trusty Camp)	490	465	16
49	Hobby	1,306	1,088	37
50	Hodge (Trusty Camp)	952	893	30
51	Holliday-Transfer **	2,014	962	33
52	Hospital - Galveston (Trusty Camp) *	186	30	2
53	Hughes	2,857	2,090	70
54	Huntsville **	1,693	1,250	42
55	Hutchins State Jail	2,096	1,738	58
56	Jester I	319	319	11
57	Jester III (Trusty Camp)	1,045	983	33
58	Jester IV*	498	27	1
59	Johnston-Substance Abuse FPF	561	559	19
60	Jordan	986	894	30
61	Kegans State Jail**	580	532	18
62	Kyle-Private (Existing OTS)	519	512	18
63	LeBlanc	1,142	1,129	38
64	Lindsey State Jail-Private **	1,013	937	32
65	Lockhart Private Prison **(Existing OTS)	500	475	16
66	Lockhart Work Facility-Private	498	0	0
67	Lopez State Jail	1,000	927	31

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<http://www.tdcj.state.tx.us/stat/unitdirectory/all.htm>

No.	Location Name	Approx. Total No. Offenders	Approx. Total No. Eligible	Approx. No. of Phones Req. at Current Eligible Ratio
68	Luther (Trusty Camp)	1,279	1,113	38
69	Lychner State Jail-Private**	2,098	1,684	57
70	Lynaugh	1,370	1,286	43
71	Marlin-Transfer	33	33	2
72	McConnell	2,839	1,996	67
73	Michael (Trusty Camp)	3,146	2,275	76
74	Middleton-Transfer	2,068	1,579	53
75	Montford (Trusty Camp) *	820	400	16
76	Mountain View	597	486	17
77	Murray	1,253	1,066	36
78	Neal	1,684	1,567	53
79	Ney State Jail	557	544	19
80	Pack I (Trusty Camp)	1,451	1,396	47
81	Plane State Jail	2,142	1,713	58
82	Polunsky **	2,890	2,050	69
83	Powledge ** (Trusty Camp)	1,071	1,017	34
84	Ramsey (Trusty Camp)	1,688	1,487	50
85	Roach	1,335	1,179	40
86	Roach BT Camp	56	52	2
87	Roach Work Camp (Trusty Camp)	72	72	3
88	Robertson	2,819	1,833	62
89	Rudd-Transfer	596	536	18
90	San Saba-Transfer	45	44	2
91	Sanchez State Jail	1,058	947	32
92	Sayle-Substance Abuse FPF	610	606	21
93	Segovia	1,200	1,158	39
94	Skyview*	524	372	13
95	Smith	2,095	1,141	39
96	Stevenson	1,331	1,274	43
97	Stiles	2,881	2,039	68
98	Stringfellow (Trusty Camp)	1,128	1,037	35
99	Telford	2,807	1,890	63
100	Terrell (Trusty Camp)	1,563	1,465	49
101	Torres	1,328	1,163	39

EXHIBIT J.1
SITE LIST

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<http://www.tdcj.state.tx.us/stat/unitdirectory/all.htm>

No.	Location Name	Approx. Total No. Offenders	Approx. Total No. Eligible	Approx. No. of Phones Req. at Current Eligible Ratio
102	Travis County State Jail	1,086	975	33
103	Tulia-Transfer	597	532	18
104	Vance	302	302	11
105	Wallace	1,337	1,089	37
106	Ware Transfer	903	803	27
107	Wayne Scott Unit (Trusty Camp)	1,053	963	33
108	West Texas Hospital	109	95	4
109	Wheeler State Jail	546	534	18
110	Wilderness 3 (San Angelo Work Camp)	40	40	2
111	Willacy County State Jail-Private **	1,066	1,035	35
112	Woodman State Jail	869	723	25
113	Wynne ** (Trusty Camp)	2,601	2,095	70
114	Young Complex* (Dorms only)	392	381	20
Grand Totals		151,381	120,692	4,087

* Unique Locations-May adhere to a lower phone to offender ratio due to medical, security or other programs.

** Designated as Recommended Site Facility Visit

NOTE: Additional Site Visits Must Be Scheduled Through the Department (Reference L.9.2)

Due to housing scheme changes, the Department reserves the right to request select units be wired for phone access in all offender living areas.

Regional and Administrative Departments Monitoring Sites				
No.	Additional information regarding Regional Sites may be accessed by going to http://www.tdcj.state.tx.us/stat/unitdirectory/map.htm			
1	Region I - Huntsville			
2	Region II - Palestine			
3	Region III - Rosharon			
4	Region IV - Beeville			
5	Region V - Plainview			
6	Region VI - Austin			
7	Huntsville Administrative *			
8	Austin Administrative *			
9	Private Facilities Contract Oversight / Monitoring Division			
10	Security Threat Group (STG)			

* May include more than one location.

**J.4 Contract Performance
Measures**

The below listed Performance Measures have been identified as critical to the success of the Offender Telephone System. The Contractor shall ensure that the stated Outcomes are achieved at the required Standard. Performance shall be measured per facility location beginning at contract implementation and shall continue through the term of the Contract.

Item No.	Identifier	Outcome	Standard	Revenue/Payment Adjustment
1	B.1.2and G.3.2	Commission revenues shall be calculated as a fixed percentage based on the gross monthly call revenues for all calls completed by offenders. All commissions the State will realize from the OTS are to be described in detail in this item including the percentage of the commission. The Offeror shall pay the Department monthly, a commission of not less than forty percent (40%) of gross revenue billed. Commission revenue begins to accrue when the first completed telephone call is made by an offender. Only completed telephone calls are to be billed from the time that the end user accepts the call and conversation begins. Incomplete calls are not billable.	100.00%	Any amount owed to the State more than one (1) business day beyond the date such amount is due shall accrue interest each day at the annualized rate of one percent (1%) plus the prime rate as published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday.
2	C.3.1.1, C	The OTS shall be configured to ensure a ratio of not greater than 30 eligible offenders per telephone device at each facility. Contractor shall install and activate additional lines and telephones within ten (10) business days from date of notification by Department dependent upon eligible offender/telephone ratio.	100.00%	Failure to provide the required ratio will result in the Contractor paying an additional 1% of total commission revenue owed to the Department for the period(s) of non-compliance for the facility in non-compliance.

Offender Telephone System

3	C.3.1.1, C	<p>The OTS must be configured in prepaid and collect, outward calling mode, to landlines only. Each number dialed must be validated as a landline before a call attempt is completed. The Department acknowledges that local number portability to cell phones may result in lag time when a landline number is converted to a cell service, and this penalty will not be assessed if the Contractor can produce documented evidence that the number was validated as a landline number before the call was completed.</p> <p>Calling must be available for all locations within the continental United States. There is no intent at this time to allow calls to international locations.</p>	100.00%	Each call outside of the restrictions set by the Department shall be assessed at \$500.00/call.
4	C.3.1.1, C	The Contractor shall ensure that no confidential attorney-client communication is monitored or recorded by the Department or any person acting on the Department's behalf.	100.00%	Each call outside of the restrictions set by the Department shall be assessed at \$500.00/call.
5	C.3.1.1, J	When an offender dials a telephone number and enters his/her PB1 and PIN, the OTS must have the capability to compare the telephone number dialed with the list of allowed telephone numbers for that specific PIN. Allowed calls will be completed only after the validation. Calls that are not on the allowed telephone number list will not be completed. An announcement shall be provided stating that the call was to an unauthorized telephone number.	100.00%	Each call outside of the restrictions set by the Department shall be assessed at \$500.00/call.
6	C.3.1.2	The OTS shall be engineered to ensure that only a minimum amount (5% or less) of lines and/or trunks per facility will be out of service due to peripheral component failure.	100.00%	Outages that exceed the 5% minimum outage rate will result in the Contractor paying an additional 1% of total monthly commission revenue owed to the Department for the period(s) of non-compliance for the facility in non-compliance.

Offender Telephone System

7	C.3.2.2	The Contractor is responsible for all resources necessary to provide the services included in this Contract. The Contractor shall provide an adequate level of staffing for provision of the services outlined herein and shall ensure that staff providing services is appropriately trained, qualified and licensed, if required.	98.00%	Contractor shall be assessed 100% of last incumbent's salary for term the position is vacant beyond an initial 30-day period to screen and hire applicant(s).
8	C3.5	The Contractor shall provide training on an as-needed basis throughout the term of the Contract.	100.00%	Contractor shall be assessed 100% of comparable Department trainer salary for each position reasonably needed to train the employees/offenders for each day training is late.
9	C.3.6	The Contractor shall acknowledge that the OTS is a revenue stream for the Department. Thus, any system failure affects the revenue stream and the Department requires that any system failure shall be restored to full capacity within acceptable time limits.	100.00%	A system failure which lasts beyond twenty-four hours after placement of service call will result in liquidated damages in the amount equal to estimated commission revenue owed to the Department that is lost for time beyond the twenty-four hour limit.
10	D.1	A variety and number of reports are required to be submitted by the Contractor during the term of the Contract. These reports may be revised or additional reports may be required at Department's sole discretion.	100.00%	For each report that is not received within five (5) calendar days of scheduled due date, Contractor shall pay an additional 1% of total commission revenue owed to the Department of the month in which the deficiency occurred, unless both parties mutually agree to a later date.
11	H.9	Contractor shall meet its obligations to commence services at the facility within the time frames defined by the Contract. In the event the Contractor fails to meet those time frames as defined by the Contract, absent force majeure events and/or extensions from the Department, the Department will have the right to calculate reasonable revenues that are lost and charge the Contractor for each day that the Facility is inoperable due to delays caused by the Contractor's nonperformance.	100.00%	Failure to comply with implementation schedule will result in lost commission revenue to the Department, and Contractor shall pay the negotiated rate of lost commission revenue owed to the Department per facility that fails to be operational as scheduled.
12		The Contractor shall design and manage the OTS in such a manner that traffic demand will never exceed capacity.	100.00%	The Department will be reimbursed for lost commission revenue at any time that the system capacity limits prohibit all or some outbound calls to the extent that such capacity limit is due to the design or operation of the OTS by the Contractor.

Exhibit J.5

GOVERNMENT CODE

CHAPTER 495. CONTRACTS FOR CORRECTIONAL FACILITIES AND SERVICES

SUBCHAPTER B. MISCELLANEOUS CONTRACTS FOR CORRECTIONAL FACILITIES AND SERVICES

§ 495.025. INMATE PAY TELEPHONE SERVICE. (a) The board shall request proposals from private vendors for a contract to provide pay telephone service to eligible inmates confined in facilities operated by the department. The board may not consider a proposal or award a contract to provide the service unless under the contract the vendor:

- (1) provides for installation, operation, and maintenance of the service without any cost to the state;
 - (2) pays the department a commission of not less than 40 percent of the gross revenue received from the use of any service provided;
 - (3) provides a system with the capacity to:
 - (A) compile approved inmate call lists;
 - (B) verify numbers to be called by inmates, if necessary;
 - (C) oversee entry of personal identification numbers;
 - (D) use a biometric identifier of the inmate making the call;
 - (E) generate reports to department personnel on inmate calling patterns; and
 - (F) network all individual facility systems together to allow the same investigative monitoring from department headquarters that is available at each facility;
 - (4) provides on-site monitoring of calling patterns and customizes technology to provide adequate system security;
 - (5) provides a fully automated system that does not require a department operator;
 - (6) provides for periodic review by the state auditor of documents maintained by the vendor regarding billing procedures and statements, rate structures, computed commissions, and service metering;
 - (7) ensures that a ratio of not greater than 30 eligible inmates per communication device is maintained at each facility;
 - (8) ensures that no charge will be assessed for an uncompleted call and that the charge for local calls will not be greater than the highest rate for local calls for inmates in county jails; and
 - (9) ensures that each eligible inmate or person acting on behalf of an eligible inmate may prepay for the service.
- (b) The board shall award a contract to a single private vendor to install, operate, and maintain the inmate pay telephone service. The initial term of the contract may not be less than

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seven years. The contract must provide the board with the option of renewing the contract for additional two-year terms.

(c) The department shall transfer 50 percent of all commissions paid to the department by a vendor under this section to the compensation to victims of crime fund established by Subchapter B, Chapter 56, Code of Criminal Procedure, and the other 50 percent to the credit of the undedicated portion of the general revenue fund, except that the department shall transfer the first \$10 million of the commissions collected in any given year under a contract awarded under this section to the compensation to victims of crime fund established by Subchapter B, Chapter 56, Code of Criminal Procedure. This section does not reduce any appropriation to the department.

(d) Subject to board approval, the department shall adopt policies governing the use of the pay telephone service by an inmate confined in a facility operated by the department, including a policy governing the eligibility of an inmate to use the service. The policies adopted under this subsection may not unduly restrict calling patterns or volume and must allow for an average monthly call usage rate of eight calls, with each call having an average duration of not less than 10 minutes, per eligible inmate.

(e) The department shall ensure that the inmate is allowed to communicate only with persons who are on a call list that is preapproved by the department. Except as provided by Subsection (f), the department shall ensure that all communications under this section are recorded and preserved for a reasonable period of time for law enforcement and security purposes. A recording under this subsection is excepted from disclosure under Chapter 552.

(f) The department shall ensure that no confidential attorney-client communication is monitored or recorded by the department or any person acting on the department's behalf and shall provide to the vendor the name and telephone number of each attorney who represents an inmate to ensure that communication between the inmate and the attorney is not monitored or recorded.

Added by Acts 2007, 80th Leg., R.S., Ch. 100, § 1, eff. May 15, 2007.

Text of section as added by Acts 2007, 80th Leg., R.S., Ch. 1308,
§ 20



**TEXAS DEPARTMENT
OF
CRIMINAL JUSTICE**

NUMBER: ED-03.32

DATE: January 23, 2008

PAGE: 1 of 6

SUPERSEDES: SM-01.30 (rev.1)
April 30, 2005

EXECUTIVE DIRECTIVE

SUBJECT: OFFENDER ACCESS TO TELEPHONES

AUTHORITY: Sections 493.006(b), 494.002(a), 495.025 and 2170.009, Texas Government Code; Article 42.12 and Chapter 62, Texas Code of Criminal Procedure (TCCP)

Reference: American Correctional Association (ACA) Standards 4-4271, 4-4272, 4-4280 and 4-4497.

APPLICABILITY: Texas Department of Criminal Justice (TDCJ or Agency). Excludes privately operated Intermediate Sanction Facilities (ISF), pre-parole transfer (PPT) facilities and leased beds.

POLICY:

The TDCJ shall establish guidelines for offender access to outgoing telephone calls. Telephone calls between offenders and attorneys shall be confidential and are addressed in BP-03.81, "Offender Access to Courts, Counsel and Public Officials Rules."

DEFINITIONS:

"Personal Biometric Identifier" (PBI) is a method of identification based on the use of biological properties (e.g., fingerprints, retina scans, voice recognition) to identify a specific individual.

PROCEDURES:

- I. Three (3) methods, based on eligibility criteria, shall be available for an offender to place outgoing telephone calls:
 - A. A call placed through a telecommunications contractor provided telephone. The telephone system shall be available upon completion of the contract award process and installation.
 - B. A collect call placed from a state owned unit telephone, which is requested through the Warden or designee.

- C. Other telephone calls an offender has a right to make due to a statute or Agency policy, which shall be placed collect on a state owned unit telephone through the unit Law Library.
- II. Offenders shall conduct telephone conversations in an acceptable manner. Loud, boisterous conversations shall not be permitted. Offenders are prohibited from speaking in code, passing gang related information, planning criminal activity or using the telephone in furtherance of any criminal conduct. Threats, obscenities and other types of abusive language shall result in immediate termination of the telephone call, suspension of future telephone privileges and disciplinary action.
- III. Foreign national offenders shall be permitted to call the General Consulate of the offender's country. The following procedures shall apply to all calls placed to the General Consulate:
 - A. Arrangement for these calls shall be made as soon as practical after receiving a request from a foreign national offender;
 - B. The call shall be a collect call and shall not be subject to monitoring; and
 - C. The call to the General Consulate shall be placed through the unit Law Library.
- IV. Offenders are prohibited from dialing or answering any telephone calls on state owned unit telephones. In limited circumstances, the Warden may designate locations where telephones at a work location are available to call directly to central control. When answering a telephone, the offender shall clearly state, "Offender (*name*), (*department name*)."
- When an offender has sole access to a telephone, the telephone shall be disabled so it cannot make outgoing telephone calls.
- V. Eligibility Criteria and Procedures for the Telephone System
 - A. The telephone system shall be installed and maintained by a telecommunications provider (Provider), which has been awarded the service contract with the State of Texas. Access to the telephone system shall be validated and initiated by the Provider based on specific eligibility requirements as follows:
 - 1. Offenders classified as Level 1, 2, 3 and 4 (to include Protective Custody and Safekeeping) shall be authorized to access the telephones.
 - 2. Offenders in a psychiatric inpatient program or Mentally Retarded Offender Program shall be allowed access to the telephone system in accordance with the offender's treatment plan.
 - 3. Offenders in Transient Status, Pre-Hearing Detention, Solitary, Cell Restriction and Special Cell Restriction shall not be permitted access to telephones regardless of custody designation.

4. Prior to initial approval, an offender shall not have been found guilty of any major disciplinary violations within the last 90 days (30 days for state jail offenders) and shall be engaged in full-time work, school or treatment programs. Offenders whose medical condition precludes work and who meet all other requirements shall be eligible to participate in this program.
 5. Access to the telephone system may be interrupted as a result of telephone restriction assessed through the *Offender Disciplinary Rules and Procedures*.
 6. Telephone access shall not be interrupted due to a unit transfer.
- B. Eligible offenders shall have an unlimited number of telephone calls up to 120 minutes per month. Each telephone call shall be automatically terminated after 15 minutes; however, the Agency may shorten the length of each telephone call to ensure all eligible offenders have the ability to access the telephone system.
- C. Each eligible offender shall have a PBI which shall be used to access the telephone system and a unique Personal Identification Number (PIN) to verify the PBI.
- D. Each eligible offender may call any person on the offender's approved Visitors List. In addition, an offender shall be permitted to place their attorneys' phone numbers on the Call List.
1. An offender's family and friends shall have the ability to purchase telephone minutes for use by an eligible offender directly from the Provider. These individuals are not required to be on the offender's approved Visitors List to purchase minutes.
 2. Offenders shall have the ability to place calls to Crime Stoppers and similar organizations as designated by the Correctional Institutions Division (CID) Director or designee. These calls shall be at no charge to the offender and shall have no impact on the offender's prepaid minutes.
 3. All changes shall be provided by the TDCJ to the Provider.
- E. Offenders shall be permitted to call only landline telephone numbers within the continental United States.
- F. The telephones shall be located within the dayrooms/living areas of the cellblock/dormitories and other locations as designated by the TDCJ.
- G. The telephone system shall be operational between the hours of 7:00 a.m. and 10:00 p.m. seven (7) days per week with the exception of count time and other times as designated by the Warden due to unit activity.

- H. All telephone calls shall be subject to monitoring and recording, except calls to an attorney providing legal services to the offender. An attorney listed on the offender's approved Visitors List who is not providing legal services to the offender has no expectation of privacy during a telephone conversation placed using the telephone system.
- I. All complaints and concerns, other than eligibility criteria, regarding the telephone system shall be addressed by the Provider.

VI. Calls Placed on State Owned Unit Telephone Equipment

- A. Any offender in Administrative Segregation, disciplinary detention, another custody category or other special circumstances, who is not eligible under Section V.A may request and receive authorization for a telephone call at the Warden's discretion.
- B. All outgoing telephone calls shall be placed collect, unless the call is a local number.
- C. Calls placed on state owned unit telephones shall be scheduled at the discretion of the Warden or designee. Offenders shall be limited to one (1) telephone call every 90 days (30 days for state jail offenders).
- D. Calls placed on state owned unit telephones shall be limited to five (5) minutes in duration. Should the offender not reach the desired party, the offender may try one (1) additional number. Calls may be further restricted during high traffic periods (e.g., Christmas holidays where a three [3] minute limit would allow more calls to be made).
- E. Offenders shall be allowed to call only those persons who appear on the offender's approved Visitors List. Requests for an exception submitted on an I-60, Offender Request to Official shall be reviewed and approved at the discretion of the Warden or designee.
- F. Calls placed on state owned unit telephones shall be dialed and monitored by an authorized security staff member appointed by the Warden or designee. An interpreter shall be available to monitor calls for those offenders who speak only Spanish or for those offenders who are bilingual but whose family members are not. An interpreter may monitor calls for those offenders who speak foreign languages other than Spanish or those offenders who are bilingual but whose family members are not.
- G. Calls placed on state owned unit telephones, including those made through the Chaplain, shall be logged on the Telephone Log for Approved Offender Calls (Attachment A), which shall be located in an area designated by the Warden.
- H. Wardens shall establish unit specific procedures for offender access to state owned unit telephones, which shall be reviewed by the appropriate Regional

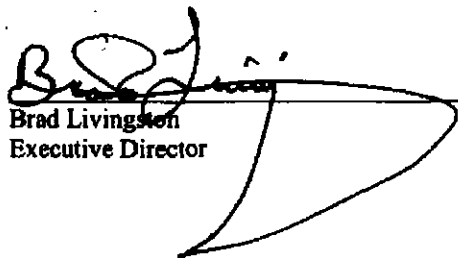
Director. The procedures shall indicate the location of the phones available for offender use and the times telephone calls are permitted.

- VII. All requests from law enforcement agencies for records or recordings from the telephone system shall be forwarded to the OIG.
- VIII. Any information regarding criminal activity that is acquired via any telephone shall be forwarded to the OIG by the Warden or designee. If there is an immediate threat to public safety, notification shall take place as soon as practical and shall be reported as appropriate.
- IX. All telephone records shall be maintained in accordance with the TDCJ *Records Retention Schedule*.

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TELEPHONE LOG FOR APPROVED OFFENDER CALLS

UNIT: _____ MONTH: _____ YEAR: _____

DATE MM/DD/YY	TIME AM/PM	OFFICER PLACING CALL (Print First and Last Name)	APPROVED BY (Print Name and Title)	COMMENTS
CALL ACCEPTED / REJECTED		OFFENDER NAME AND TDCJ NUMBER	CALL PLACED TO (Print Name and Relationship to Offender)	TELEPHONE NUMBER DIALED (Area Code) ###-###
DATE MM/DD/YY	TIME AM/PM	OFFICER PLACING CALL (Print First and Last Name)	APPROVED BY (Print Name and Title)	COMMENTS
CALL ACCEPTED / REJECTED		OFFENDER NAME AND TDCJ NUMBER	CALL PLACED TO (Print Name and Relationship to Offender)	TELEPHONE NUMBER DIALED (Area Code) ###-###
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