

**AGREEMENT
BETWEEN THE
OHIO ATTORNEY GENERAL
AND
NAME OF CONTRACTOR**

THIS AGREEMENT is between the Ohio Attorney General (hereinafter the "Attorney General"), 30 East Broad Street, 17th Floor, Columbus, Ohio 43215-3400, and **Name of Contractor** (hereinafter "Contractor"), **Street Address, City, State, Zip**.

The parties agree as follows:

I. NATURE OF AGREEMENT

A. Contractor shall be employed as an independent contractor, to fulfill the terms of this Agreement and to act as a Contractor to the Attorney General. It is specifically understood that the nature of the services to be rendered under this Agreement are of such a personal nature that the Attorney General is the sole judge of the adequacy of such services.

B. The Attorney General enters into this Agreement in reliance upon Contractor's representations that it has the necessary expertise and experience to perform its obligations hereunder, and Contractor warrants that it does possess the necessary expertise and experience.

C. Contractor shall perform the services to be rendered under this Agreement and the Attorney General shall not hire, supervise, or pay any assistants to Contractor in its performance of services under this Agreement. The Attorney General shall not be required to provide any training to Contractor to enable it to perform services required hereunder.

II. SCOPE OF WORK

Contractor shall perform the services (the "Work") set forth in Schedule A, Request for Proposals; Schedule B, Contractor Proposal; and Schedule C, Attachments to Contractor Proposal; attached hereto and made a part hereof (collectively hereafter referred to as "Contract Documents").

III. TIME OF PERFORMANCE

A. The Work shall be commenced on or after the date of an approved purchase order, and no earlier than March 1, 2012.

B. This Agreement shall terminate on the earlier to occur of: (i) the date on which the Work is completed to the satisfaction of the Attorney General or (ii) the date on which this Agreement is terminated as provided in Article VI, Termination of Contractor's Services.

C. Notwithstanding the foregoing, as the current General Assembly cannot commit a future General Assembly to expenditure, this Agreement shall in any event expire no later than June 30, 2013. The Attorney General may renew this Agreement on the same terms and conditions by giving written notice prior to expiration. Such renewal shall begin July 1, 2013 and shall terminate June 30, 2014, unless sooner terminated as set forth herein.

D. It is expressly agreed by the parties that none of the rights, duties, and obligations herein shall be binding on either party if award of this Agreement would be contrary to the terms of Ohio Revised Code (“R.C.”) 3517.13, 127.16 or Chapter 102.

IV. COMPENSATION

A. The Attorney General shall pay Contractor no more than \$_____ for the Work.

B. The total amount due shall be computed according to the following cost schedule:

1. Cost Schedule

C. Contractor shall not be reimbursed for travel, lodging or any other expenses incurred in the performance of the Work.

D. Contractor must receive a purchase order from the Attorney General prior to filling an order or performing any of the Work.

E. After Contractor receives a purchase order, Contractor shall submit an invoice for the Work performed consistent with this Article IV, Compensation. Each invoice shall contain an itemization of the Work performed, including dates the Work was performed **and total hours worked, if required by Paragraph B.1., above**, the location or address where the Work was performed, and the sum due at that time pursuant to this Agreement. All invoices shall contain Contractor's name and address and shall reference the Ohio Attorney General's Office and list the billing address as 30 E. Broad St., 15th Floor, Attn: Finance, Columbus, Ohio, 43215. After receipt and approval by the Attorney General of a proper invoice, as defined by Ohio Adm.Code 126-3-01(A)(5), payment will be made pursuant to Ohio Adm.Code 126-3-01. Unless otherwise directed by the Attorney General, invoices should be directed via email to: invoices@ohioattorneygeneral.gov.

F. In the event that any customer of Contractor negotiates a lower fee structure for the Work or comparable services, Contractor shall promptly notify the Attorney General and shall extend the lower negotiated rate to the Attorney General retroactively to the first date the lower rate was offered to another customer.

V. CERTIFICATION OF FUNDS

A. It is expressly understood and agreed by the parties that none of the rights, duties, and obligations described in this Agreement shall be binding on either party until all relevant statutory provisions of the Ohio Revised Code, including, but not limited to, R.C. 126.07, have been complied with, and until such time as all necessary funds are available or encumbered and, when required, such expenditure of funds is approved by the Controlling Board of the State of Ohio, or in the event that grant funds are used, until such time that the Attorney General gives Contractor written notice that such funds have been made available to the Attorney General by the Attorney General's funding source.

VI. TERMINATION OF CONTRACTOR'S SERVICES

A. The Attorney General may, at any time prior to completion of the Work, suspend or terminate this Agreement with or without cause by giving written notice to Contractor.

B. In the event that the Work includes divisible services, the Attorney General may, at any time prior to completion of the Work, by giving written notice to Contractor, suspend or terminate any one or more such portions of the Work.

C. Contractor, upon receipt of notice of suspension or termination, shall cease work on the suspended or terminated activities under this Agreement, suspend or terminate all subcontracts relating to the suspended or terminated activities, take all necessary or appropriate steps to limit disbursements and minimize costs, and, if requested by the Attorney General, furnish a report, as of the date Contractor receives notice of suspension or termination, describing the status of all Work, including, without limitation, results, conclusions resulting there from, and any other matters the Attorney General requires.

D. Contractor shall be paid for services rendered up to the date Contractor received notice of suspension or termination, less any payments previously made, provided Contractor has supported such payments with detailed factual data containing Work performed and hours worked. In the event of suspension or termination, any payments made by the Attorney General for which Contractor has not rendered services shall be refunded.

E. In the event this Agreement is terminated prior to completion of the Work, Contractor shall deliver to the Attorney General all work products and documents which have been prepared by Contractor in the course of performing the Work. All such materials shall become, and remain the property of, the Attorney General, to be used in such manner and for such purpose as the Attorney General may choose.

F. Contractor agrees to waive any right to, and shall make no claim for, additional compensation against the Attorney General by reason of any suspension or termination.

G. Contractor may terminate this Agreement upon sixty (60) days' prior written notice to the Attorney General.

VII. RELATIONSHIP OF PARTIES

A. Contractor shall be responsible for all of its own business expenses, including, but not limited to, computers, email and internet access, software, phone service and office space. Contractor will also be responsible for all licenses, permits, employees' wages and salaries, insurance of every type and description, and all business and personal taxes, including income and Social Security taxes and contributions for Workers' Compensation and Unemployment Compensation coverage, if any.

B. While Contractor shall be required to render services described hereunder for the Attorney General during the term of this Agreement, nothing herein shall be construed to imply, by reason of Contractor's engagement hereunder as an independent contractor, that the Attorney General shall have or may exercise any right of control over Contractor with regard to the manner or method of Contractor's performance of services hereunder.

C. Except as expressly provided herein, neither party shall have the right to bind or obligate the other party in any manner without the other party's prior written consent.

D. It is fully understood and agreed that Contractor is an independent contractor and neither Contractor nor its personnel shall at any time, or for any purpose, be considered as agents, servants, or employees of the Attorney General or the State of Ohio.

VIII. RECORD KEEPING

A. During performance of this Agreement and for a period of three (3) years after its completion, Contractor shall maintain auditable records of all charges pertaining to this Agreement and shall make such records available to the Attorney General as the Attorney General may reasonably require.

IX. RELATED AGREEMENTS

A. All Work is to be performed by Contractor, who may subcontract without the Attorney General's approval for the purchase of articles, supplies, components, or special mechanical services that do not involve the type of work or services described in Exhibit 1 or Exhibit 2, but which are required for satisfactory completion of the Work.

1. Contractor shall not enter into subcontracts related to the Work without prior written approval by the Attorney General. All work subcontracted shall be at Contractor's expense.

2. Contractor shall furnish to the Attorney General a list of all subcontractors, their addresses, tax identification numbers, and the dollar amount of each subcontract.

B. Contractor shall bind its subcontractors to the terms of this Agreement, so far as applicable to the work of the subcontractor, and shall not agree to any provision which seeks to bind the Attorney General to terms inconsistent with, or at variance from, this Agreement.

C. Contractor warrants that it has not entered into, nor shall it enter into, other agreements, without prior written approval of the Attorney General, to perform substantially identical work for the State of Ohio such that the Work duplicates the work called for by the other agreements.

X. RIGHTS IN DATA AND COPYRIGHTS/PUBLIC USE

A. The Attorney General shall have unrestricted authority to reproduce, distribute and use (in whole or in part) any reports, data or materials prepared by Contractor pursuant to this Agreement. No such documents or other materials produced (in whole or in part) with funds provided to Contractor by the Attorney General shall be subject to copyright by Contractor in the United States or any other country.

B. Contractor agrees that all original works created under this Agreement shall be made freely available to the general public to the extent permitted or required by law until and unless specified otherwise by the Attorney General. Any requests for distribution received by Contractor shall be promptly referred to the Attorney General.

XI. CONFIDENTIALITY

A. Contractor shall not discuss or disclose any information or material obtained pursuant to its obligations under this Agreement without the prior written consent of the Attorney General.

XII. LIABILITY

A. Contractor agrees to indemnify and to hold the Attorney General and the State of Ohio harmless and immune from any and all claims for injury or damages arising from this Agreement

which are attributable to Contractor's own actions or omissions or those of its trustees, officers, employees, subcontractors, suppliers, third party agents or joint venturers while acting under this Agreement. Such claims shall include any claims made under the Fair Labor Standards Act or under any other federal or state law involving wages, overtime or employment matters and any claims involving patents, copyrights and trademarks.

B. Contractor shall bear all costs associated with defending the Attorney General and the State of Ohio against any claims.

C. In no event shall either party be liable to the other party for indirect, consequential, incidental, special or punitive damages, or lost profits.

D. In conjunction herewith, Contractor agrees, at its own cost, to procure and continue in force at all times that this Agreement is in effect, in its name, general liability insurance against any and all claims for injuries to persons or damage to property occurring or arising out of Contractor's obligations set forth herein. Such insurance shall at all times be in an amount not less than Five Hundred Thousand Dollars (\$500,000) on account of bodily injury to or death of one (1) person, and One Million Dollars (\$1,000,000) on account of bodily injuries or death of more than one (1) person as a result of any one (1) accident or disaster, and Two Hundred Fifty Thousand Dollars (\$250,000) for property damage in any one (1) accident. Such insurance shall be written by a company or companies authorized to engage in the business of general liability insurance in the State of Ohio with an A.M. Best rating of at least "A" or be otherwise approved in writing by the Attorney General. Any insurance policy required hereunder shall include an endorsement naming the Attorney General and the State of Ohio as additional insureds. Prior to the effective date of this Agreement, Contractor shall provide the Attorney General with (i) a copy of such endorsement and (ii) a certificate reflecting the coverage of the policy, each in a form acceptable to the Attorney General in its sole discretion. Contractor shall provide written notice to the Attorney General no less than thirty (30) days prior to a cancellation, non-renewal, expiration or material alteration of the coverage contained in any policy required hereunder, and shall provide to the Attorney General evidence of continuing coverage of any required policy no less than thirty (30) days prior to its expiration.

XIII. ANTITRUST ASSIGNMENT

A. Contractor assigns to the Attorney General all State and Federal antitrust claims and causes of action that relate to all goods and services provided for in this Agreement.

XIV. CONTRACTOR'S REPRESENTATIONS AND WARRANTIES

A. **COMPLIANCE WITH LAWS.** Contractor, in the execution of its duties and obligations under this Agreement, agrees to comply with all applicable federal, state and local laws, rules, regulations and ordinances.

B. **DRUG FREE WORKPLACE.** Contractor agrees to comply with all applicable federal, state and local laws regarding smoke-free and drug-free work places and shall make a good faith effort to ensure that none of its employees or permitted subcontractors engaged in the Work purchase, transfer, use or possess illegal drugs or alcohol, or abuse prescription drugs in any way.

C. **NONDISCRIMINATION OF EMPLOYMENT.** Pursuant to R.C. 125.111 and the Attorney General's policy, Contractor agrees that Contractor, any subcontractor, and any person acting on behalf of Contractor or a subcontractor, shall not discriminate, by reason of race, color, religion,

sex, sexual orientation, age, disability, military status, national origin, or ancestry against any citizen of this state in the employment of any person qualified and available to perform the Work. Contractor further agrees that Contractor, any subcontractor, and any person acting on behalf of Contractor or a subcontractor shall not, in any manner, discriminate against, intimidate, or retaliate against any employee hired for the performance of the Work on account of race, color, religion, sex, sexual orientation, age, disability, military status, national origin, or ancestry.

D. AFFIRMATIVE ACTION PROGRAM. Contractor represents that it has a written affirmative action program for the employment and effective utilization of economically disadvantaged persons pursuant to R.C. 125.111(B) and has filed an Affirmative Action Program Verification form with the Equal Employment Opportunity and Affirmative Action Unit of the Department of Administrative Services.

E. CONFLICTS OF INTEREST. No personnel of Contractor who exercise any functions or responsibilities in connection with the review or approval of this Agreement or carrying out of any of the Work shall, prior to the completion of the Work, voluntarily acquire any personal interest, direct or indirect, which is incompatible or in conflict with the discharge and fulfillment of his or her functions and responsibilities with respect to the carrying out of the Work. Any such person who acquires an incompatible or conflicting personal interest on or after the effective date of this Agreement, or who involuntarily acquires any such incompatible or conflicting personal interest, shall immediately disclose his or her interest to the Attorney General in writing. Thereafter, he or she shall not participate in any action affecting the Work, unless the Attorney General shall determine in its sole discretion that, in light of the personal interest disclosed, his or her participation in any such action would not be contrary to the public interest.

F. ETHICS COMPLIANCE. Contractor represents, warrants and certifies that it and its employees engaged in the administration or performance of this Agreement are knowledgeable of and understand the Ohio Ethics and Conflict of Interest laws. Contractor further represents, warrants, and certifies that neither Contractor nor any of its employees will do any act that is inconsistent with such laws.

G. QUALIFICATIONS TO DO BUSINESS. Contractor affirms that it has all of the approvals, licenses, or other qualifications needed to conduct business in Ohio and that all are current. If at any time during the term of this Agreement Contractor, for any reason, becomes disqualified from conducting business in the State of Ohio, Contractor will immediately notify the Attorney General in writing and will immediately cease performance of the Work.

H. CAMPAIGN CONTRIBUTIONS. Contractor hereby certifies that neither Contractor nor any of Contractor's partners, officers, directors or shareholders, nor the spouse of any such person, has made contributions in excess of the limitations specified in R.C. 3517.13.

I. FINDINGS FOR RECOVERY. Contractor warrants that it is not subject to an "unresolved" finding for recovery under R.C. 9.24.

J. DEBARMENT. Contractor represents and warrants that it is not debarred from consideration for contract awards by the Director of the Department of Administrative Services, pursuant to either R.C. 153.02 or R.C. 125.25.

K. DECLARATION REGARDING MATERIAL ASSISTANCE/NONASSISTANCE TO A TERRORIST ORGANIZATION. If Contractor has received, or will receive as a result of this Agreement, an aggregate amount greater than \$100,000.00 in business or funding, excluding

personal benefits, from the state, its instrumentalities or political subdivisions during the state's current fiscal year, Contractor hereby represents and warrants to the Attorney General that:

1. It has not provided any material assistance, as that term is defined in R.C. 2909.33(C), to any organization identified by, and included on, the United States Department of State Terrorist Exclusion List; and
2. It has truthfully answered "no" to every question on the "Declaration Regarding Material Assistance/Non-assistance to a Terrorist Organization," available at <http://homelandsecurity.ohio.gov/dma/dma.asp>, and has provided a copy of such to the Attorney General, or has precertified as permitted by R.C. 2909.33(A)(3)(a).

L. OHIO RETIREMENT SYSTEM RETIRANT. If Contractor is a PERS retirant, as such term is defined by R.C. 145.38, Contractor shall notify the Attorney General of such status in writing prior to the commencement of Work. Notices pursuant to this Paragraph L shall be sent to the Attorney General's Director of Human Resources by mail at 30 E. Broad Street, 16th Floor, Columbus, Ohio 43215, by fax at (614) 728-7582, or by email at HR@OhioAttorneyGeneral.gov. The Attorney General shall not be responsible for any changes to Contractor's retirement benefits that may result from entering into this Agreement.

M. REPAYMENT. If the representations and warranties in Paragraphs I, J or K of this Article XIV are found to be false, this Agreement is void ab initio and Contractor shall immediately repay to the Attorney General any funds paid under this Agreement.

XV. MISCELLANEOUS

A. CONTROLLING LAW. This Agreement and the rights of the parties hereunder shall be governed, construed, and interpreted in accordance with the laws of the State of Ohio. Contractor consents to jurisdiction in a court of proper jurisdiction in Franklin County, Ohio.

B. WAIVER. A waiver by any party of any breach or default by the other party under this Agreement shall not constitute a continuing waiver by such party of any subsequent act in breach of or in default hereunder.

C. SURVIVAL. The provisions of Articles IV, VI, VIII, X, XI, XII, XIII and XIV(M) hereof shall survive the termination or expiration of this Agreement.

D. SUCCESSORS AND ASSIGNS. Neither this Agreement nor any rights, duties or obligations hereunder may be assigned or transferred in whole or in part by Contractor, without the prior written consent of the Attorney General.

E. NOTICES. Except to the extent expressly provided otherwise herein, all notices, consents and communications required hereunder (each, a "Notice") shall be in writing and shall be deemed to have been properly given when: 1) hand delivered with delivery acknowledged in writing; 2) sent by U.S. Certified mail, return receipt requested, postage prepaid; 3) sent by overnight delivery service (Fed Ex, UPS, etc.) with receipt; or 4) sent by fax or email. Notices shall be deemed given upon receipt thereof, and shall be sent to the addresses first set forth above. Notwithstanding the foregoing, notices sent by fax or email shall be effectively given only upon acknowledgement of receipt by the receiving party. Any party may change its address for receipt of Notices upon notice to the other party. If delivery cannot be made at any address designated

for Notices, a Notice shall be deemed given on the date on which delivery at such address is attempted.

F. CONFLICT. If there is a conflict between this Agreement and any of the Contract Documents incorporated herein, the following shall be the order of control:

1. This Agreement
2. Schedule A: Attorney General RFP (w/attachments)
3. Schedule B: Contractor's Proposal
4. Schedule C: Attachments to Contractor's Proposal

G. HEADINGS. The headings in this Agreement have been inserted for convenient reference only and shall not be considered in any questions of interpretation or construction of this Agreement.

H. SEVERABILITY. The provisions of this Agreement are severable and independent, and if any such provision shall be determined to be unenforceable in whole or in part, the remaining provisions and any partially enforceable provision shall, to the extent enforceable in any jurisdiction, nevertheless be binding and enforceable.

I. ENTIRE AGREEMENT. This Agreement contains the entire agreement between the parties hereto and shall not be modified, amended or supplemented, or any rights herein waived, unless specifically agreed upon in writing by the parties hereto. This Agreement supersedes any and all previous agreements, whether written or oral, between the parties.

J. EXECUTION. This Agreement is not binding upon the Attorney General unless executed in full, and is effective as of the last date of signature by the Attorney General.

K. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

L. FACSIMILE SIGNATURES. Any party hereto may deliver a copy of its counterpart signature page to this Agreement via fax or e-mail. Each party hereto shall be entitled to rely upon a facsimile signature of any other party delivered in such a manner as if such signature were an original.

(remainder of page intentionally left blank)

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives.

CONTRACTOR

By: _____

Name: _____

Title: _____

Date: _____

OHIO ATTORNEY GENERAL

By: _____

Name: _____

Title: _____

Date: _____

By: _____

Name: _____

Title: _____

Date: _____

Approval as to form:

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT 1

**Ohio Attorney General's Office
Request for Proposals**

New Collections System

EXHIBIT 2

Contractor's Proposal