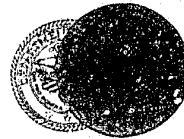
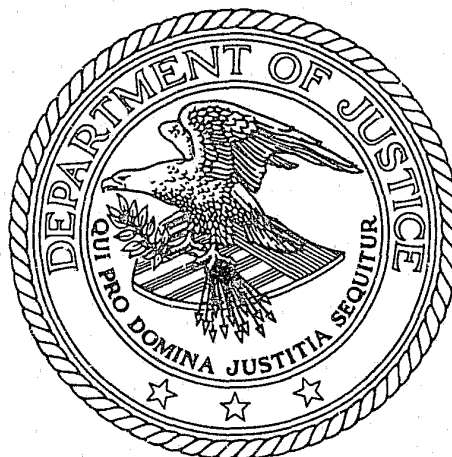


U.S. Department of Justice  
Office of Juvenile Justice and Delinquency Prevention



# Involving the Private Sector in Public Policy and Program Planning



113916

---

# Involving The Private Sector In Public Policy and Program Development

---

## A Resource Manual For Administrators Of Juvenile and Criminal Justice Agencies

113916

U.S. Department of Justice  
National Institute of Justice

This document has been reproduced exactly as received from the person or organization originating it. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the National Institute of Justice.

Permission to reproduce this ~~copyrighted~~ material has been granted by  
Public Domain/OJJDP  
U.S. Department of Justice

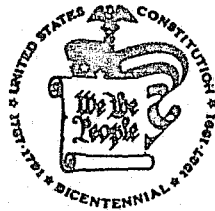
to the National Criminal Justice Reference Service (NCJRS).

Further reproduction outside of the NCJRS system requires permission of the ~~copyright~~ owner.

**NCJRS****OCT 31 1988****ACQUISITIONS**

This project was supported by Contract # OJP-86-C-001 awarded by the Office of Juvenile Justice and Delinquency Prevention. Points of view or opinions stated in this publication are those of the National Office For Social Responsibility and do not represent the official position of the United States Department of Justice.

**Office of Juvenile Justice and Delinquency Prevention**  
**Verne L. Speirs**  
*Administrator*



The Assistant Attorney General, Office of Justice Programs, coordinates the activities of the following program Offices and Bureaus: the Bureau of Justice Statistics, National Institute of Justice, Bureau of Justice Assistance, Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime.

## FOREWORD

---

Probation services are a critical component of any juvenile justice system. Research indicates that more than 80 percent of adjudicated juvenile offenders are placed on probation. However, shrinking budgets and growing caseloads are forcing policymakers to find new methods for operating probation departments. One idea being frequently discussed is contracting out selected probation functions to the private sector.

Three years ago, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) began an initiative to determine the feasibility of involving the private sector in the delivery of probation services currently provided by the public sector. As part of this project, OJJDP developed a sound, businesslike process to help probation departments establish their goals. This process involved using proven management techniques to analyze probation functions. It helped the six sites involved in this project move towards privatization with minimal risk.

This process, which is described in this manual, can be used as a map to guide other probation departments also considering a public/private partnership. Such partnerships prove to be workable and practical in a wide variety of environments and situations. They serve as bridges to the future and may play an even bigger role in the wake of shrinking public funds.

We hope this manual will help answer questions and provide useful information to probation departments interested in involving the private sector in their operations.

Verne L. Speirs  
Administrator

## CONTENTS

---

### Chapter 1

<i>Introduction</i> . . . . .	1-1
-------------------------------	-----

### Chapter 2

<i>The Private Sector As Partner</i> . . . . .	2-1
Preliminary Organizational Tasks . . . . .	2-2
Assembling The Partnership . . . . .	2-7
On-Going Partnership Activities . . . . .	2-15
Sample Forms . . . . .	2-17

### Chapter 3

<i>The Private Sector As Contractor</i> . . . . .	3-1
History of Privatization . . . . .	3-2
Privatization In Adult And Juvenile Justice . . . . .	3-3
Ten Questions Most Often Asked About Privatization . . . . .	3-6
Privatization: A Challenge to the Public Sector . . . . .	3-13

### Chapter 4

<i>Determining The Feasibility of Conversion</i> . . . . .	4-1
Collection and Analysis of Data for Sound Decision Making . . . . .	4-1
Knowing the Types of Data to Collect . . . . .	4-3
Cost Data . . . . .	4-3
Organizational/Services Data . . . . .	4-16

Procurement Data . . . . .	4-27
Legal Data . . . . .	4-33
Environmental Data . . . . .	4-40
Redesign of Functions to be Contracted . . . . .	4-46

## Chapter 5

### *Technical Aspects of Conversion:*

<i>The Request For Proposals And Proposal Review . . . . .</i>	5-1
Information and Data Usage . . . . .	5-1
Preparing a Request for Proposals . . . . .	5-3
Proposal Review . . . . .	5-17
Fictitious Request for Proposals . . . . .	5-33

## Chapter 6

### *Technical Aspects of Conversion:*

<i>Contract Development And Transfer . . . . .</i>	6-1
Contract Development . . . . .	6-1
Contract Development Checklist . . . . .	6-5
Fictitious Contract Document . . . . .	6-8
Transfer to the Private Sector . . . . .	6-36

## Chapter 7

### *Technical Aspects of Conversion:*

<i>Contract Monitoring . . . . .</i>	7-1
Responsibilities of the Contract Monitor . . . . .	7-2
Monitoring by Simple Verification . . . . .	7-3
Monitoring by Measurable Performance Indicators . . . . .	7-4
Final Note . . . . .	7-22

## Chapter 8

<i>Developing An Operational Plan . . . . .</i>	8-1
The Importance of Developing an Operational Plan . . . . .	8-1
Some Practical Planning Considerations . . . . .	8-3
Operational Plan . . . . .	8-5

## INTRODUCTION

America is at a crossroads. A new era is dawning. All aspects of the American social, political and cultural fabric will be affected. The driving force is economics. Public attention is focused on the massive federal deficit. Deficits, however, are also a growing reality in local and state governments. And, we are now only beginning to experience the pressures which these new economic times will force upon us.

The great question ahead for those interested in the provision of human services is, "how can we continue to maintain an adequate level of human services in an increasingly restrictive fiscal environment?" *Making do with less* need not be a negative experience. It can be turned into an advantage if public administrators are prepared to consider basic changes in traditional programs. Maintaining responsive juvenile justice services under the conditions noted above necessitates adherence to the following three principles:

- A willingness to *redesign* basic juvenile justice services to eliminate wasteful and unproductive tasks; and to devise methods to deliver critical services efficiently and cost effectively.
- The *reallocation of resources* to coincide with the redesigned services to ensure their effectiveness within appropriate fiscal constraints.
- The involvement of the *private business community* in the following two ways:

1. as a *partner*, whereby business representatives and public administrators are joined in a collaborative effort to consider alternative methods to deliver human services.
2. as a *contractor*, whereby the private sector is contracted to provide services currently provided by government, when it is deemed desirable and cost effective do do so.

The materials contained in this Resource Manual are designed to assist local and state government to achieve the above principles. The materials were developed and used in a national demonstration on Private Sector Probation, funded by the Federal Office of Juvenile Justice and Delinquency Prevention. Although the approach described in this Resource Manual specifically addresses juvenile probation services, the process and materials presented are generic and may be applied to other human services as well. It contains methods by which any probation department (and with very few changes, any public sector agency) can:

- Organize its own public/private partnership to enlist the expertise and assistance of the business community;
- Gather extensive, accurate data about itself, its functions, and its costs;
- Re-design any of its components to achieve a greater efficiency, productivity, and quality of service, and/or to lower costs;
- Examine alternatives to traditional methods of service delivery, such as by private sector contracting;
- Learn the basic techniques required to effect a public-to-private conversion of heretofore publicly operated services. This includes how to write a request for proposals, review proposals, structure contracts, transfer public sector employees and assets to private sector companies, and monitor contracts;
- Develop a system of using measurable performance indicators to strengthen its contract-monitoring capabilities.



- o Prepare a comprehensive operational plan to guide and control the many activities required to redesign services, reallocate resources, and contract for private providers.

Chapter Two looks at the private sector as a *partner* in insuring the continued existence of a high level of human services. From the earliest days of this country's history, a partnership between the public sector and the private sector -- between government and business -- has formed one of the essential building blocks of the American system. The chapter presents a step-by-step method to involve the business community in a collaborative public/private partnership. The established alliance unites the business community with a public agency to address local problems and issues which impact on a jurisdiction's ability to provide, and to maintain, effective human services.

Chapter Three discusses the private sector as a *contractor* for the performance of traditional government services. It traces the historical emergence of the concept of "privatization" and discusses some of its major issues.

Chapter Four provides the reader with a method by which a governmental agency or program can be self-analyzed, to emit information and data important to critical decision making in respect to the redesign of agency functions and to the reallocation of existing resources.

Chapters Five, Six, and Seven contain important information and materials to assist governmental agencies to effectively convert publicly operated services to the private sector, when they find it advantageous to do so. In Chapter Five, the reader is given information on how to develop a request for proposals and methods of proposal review. In Chapter Six the reader is instructed on proper contract development, and is given important detail and process for the actual transfer of various materials and functions to the private sector. In Chapter Seven the reader will discover the importance of contract monitoring and will learn a system for effective monitoring through the use of measurable performance indicators.

Finally, Chapter Eight discusses the value of operational planning. A well thought-out operational plan will insure that the tasks, activities, and steps necessary for effective private sector involvement are controlled and achieved.

## THE PRIVATE SECTOR AS PARTNER

This chapter identifies the essential steps to establish a public/private partnership. A partnership is an alliance of the private business community with a public agency. Business representatives and public administrators are joined in a collaborative effort to consider alternative methods of delivering human services. The private sector representatives involved on the partnership are usually not those interested in contracting with the government agency to provide human services. Businesses involved in providing such services are discussed in the next chapter entitled, *The Private Sector As Contractor*. Although this chapter looks at involving the business community as a concerned group whose skills, knowledge, and resources can help to improve the way we deliver juvenile justice services, partnerships may be organized around any critical issue.

An important characteristic of a partnership is its task-oriented and time-phased nature. The partnership should automatically disband once the issue is settled or resolved, unless the group decides to focus its attention on a new juvenile justice issue. This temporary nature of juvenile justice partnerships is a key element of their success, since individuals will be more receptive to a temporary rather than indefinite commitment. A dynamic public/private work group, addressing a specific concern, has a unique opportunity to make a significant contribution to the improvement of the local juvenile justice delivery system.

Comprised of leaders from juvenile justice and corrections agencies and from

private businesses, a local juvenile justice public/private partnership seeks to achieve the following goals:

- Develop alternative methods for delivery of juvenile justice services.
- Formulate education and communication programs to obtain pro-bono technical assistance from the private sector in such areas of expertise as strategic planning, information management systems, quality control, accounting and public relations.
- Establish a concerned and strong constituency interested in the needs of victims, offenders, and providers of juvenile justice services.

Three important steps need to be achieved in partnership development:

- Preliminary organizational tasks must be implemented.
- The partnership must be assembled.
- On-going partnership activities must be articulated and managed.

#### **STEP I: PRELIMINARY ORGANIZATIONAL TASKS**

Three basic tasks have been identified in these early stages of development:

##### **Task A: Establish A Core Group**

It is essential that five or six individuals of acknowledged community leadership ability be invited to participate as members of the core group. The core group is the nucleus of the partnership, because its members will be instrumental in eventually recruiting other appropriate local leaders to the formal partnership. Members of the core group must be key government and business leaders who *can* and *will* create change, and who are committed to forming a partnership which focuses on the development of a collaborative effort between the public and private sector around juvenile justice issues. Critical is the willingness of these individuals to invest their time and effort to plan, assemble and participate in the partnership. There are two important activities in successfully establishing a core group:

First identify and recruit key individuals from the public sector. If the partnership is being established to address issues in juvenile probation the public

sector individuals required for the core group might include:

- the presiding juvenile court judge;
- the court administrator;
- the chief probation officer;
- a representative of the county board of supervisors;
- the county financial officer; and,
- legislators, when appropriate.

Second identify and recruit key individuals from the private sector. Business involvement can bring the unique resources and abilities of the private sector to bear on the problems traditionally addressed by government alone. Corporate executives who are interested in improving corrections and probation services, and who are influential in the community, should be recruited. It is important to convey to them the benefits of participating in a juvenile justice partnership. Forming a public/private partnership to effect the improvement of juvenile justice service delivery is a new concept to most corporate executives. These executives should be reminded that business is directly affected by juvenile crime. It creates a financial burden as tax dollar expenditures are required to control and treat juvenile offenders; it effects the quality of life within communities where businesses operate; it has direct impact on corporate employee productivity; and it contributes to losses from theft and vandalism.

The corporate executives, and the government representatives, who have been recruited comprise the essential components of the core group. Commitments to participate in the core group should be obtained as soon as possible, since all subsequent partnership activities must wait until the core group is formed.

**Task B: Select A Staff Person**

Once the core group is formed, management of the partnership's activities will require coordination. To achieve this coordination and to ensure core group continuity a qualified individual to staff the local partnership should be found. The

staff person's responsibilities will be to assist the core group in conducting further preliminary tasks leading to the formal partnership, and to manage and coordinate the work of the partnership.

### **Task C: Conduct An Initial Core Group Meeting**

The final preliminary task is to conduct the initial core group meeting. The purpose of the meeting is to explore the level of commitment and effort required for assembling the formal partnership. It is important to have the full attendance of the core group at this meeting.

The initial core group meeting should be arranged at a time and location convenient to participants. The location of the meeting can be provided by either the public or private sector representatives; any member can offer available meeting space. Purchasing a meeting room should not be necessary; space for 5-6 persons should be easily obtained. A maximum of three hours is needed to conduct this meeting.

A member of the core group will chair the meeting with assistance from the staff person. A sample agenda containing the important items to be discussed at this initial meeting is presented on the following page. The staff person should take minutes of the meeting. There are four objectives to be achieved during the initial core group meeting. These are:

#### **1. Identify Short Term and Long Term Goals of the Partnership**

Short term and long term goals and objectives of the partnership should be discussed. The public agency representative may be able to speak for the agency and its needs. Private sector participants may have their own views and should be invited to state them. Also, private sector participants will have questions that need to be answered.

As the focus of the partnership is made clear core group members may offer suggestions of sources of community support. Such support may be in the form of leadership, influence, expertise, and in-kind contributions (materials, office space, phones, etc.), rather than money.

Sample

INITIAL MEETING OF CORE GROUP MEMBERS

PUBLIC/PRIVATE PARTNERSHIP

AGENDA

**TUESDAY, JANUARY 20**

8:30 - 9:00	Coffee and Danish
9:00 - 9:15	Welcome and Introductions
9:15 - 9:45	Purpose of Organizing the Partnership
9:45 - 10:15	Short Term Goals and Long Term Goals of a Partnership; Identification of Potential Resources
10:15 - 10:30	Break
10:30 - 11:30	Discussion of Potential Partnership Members
11:30 - 11:45	Plan Formal Organizational Meeting of the Partnership
11:45 - 12:00	Selection of Chairperson

ADJOURN

## **2. Identify potential partnership members**

A primary function of the core group is to identify and assist in the recruitment of potential members representing appropriate elements of the community. The group should anticipate critical questions which perspective members will have. Examples of such questions are:

- What are the parameters under which the partnership will work in terms of time frames, scope of activities, outcomes, etc?
- What level of commitment is being asked (i.e. time, resources, expertise)?
- What are the benefits from participating in such a partnership?

## **3. Plan the Formal Organizational Meeting of the Partnership**

General plans for the first organizational meeting of the partnership should be formulated. The core group should agree on a tentative date and location for the formal partnership's organizational meeting, allowing ample time for the staff person and individual core group members to identify and recruit additional partnership members, draft pertinent meeting materials and documents, and make all necessary preparations. An estimated 30-60 days should be sufficient preparatory time.

## **4. Select a Chairperson Pro-tem**

The core group should select a temporary chairperson who will be responsible for conducting the formal organizational meeting of the partnership. The chairperson may be a representative of either the public or private sector. Co-chairpersons rather than a single individual may be selected. If this is the case, a "public sector" co-chair and "private sector" co-chair should be considered.

The characteristics of an effective chairperson include desire and willingness to serve in the position and general knowledge of public and private community resources. In addition, the individual should possess strong leadership qualities, since he/she will be asked to:

- provide direction for the partnership;
- assign responsibilities to members;
- be a liaison between the partnership and its staff person;
- coordinate responsibilities and activities with the partnership staff person;
- manage partnership activities;
- facilitate the development of policies and procedures;
- be a motivator and an initiator.

The characteristics of an effective chairperson should also include the ability to identify and solve the many unique problems associated with a public/private partnership. A partnership, by its inherent nature as a group of both public and private sector representatives, can create problems or barriers to its own success. The chairperson should enable the partnership to appropriately address and resolve differences among its members. The chairperson must also be alert to group dynamics. If members of the partnership are strong, vocal and active, the chairperson may become more of an organizer and reflector of group consensus. If the partnership is passive, quiet and restrained, then the chairperson should motivate and "energize" its members. Finally, the chairperson must be able to lead the partnership in its purpose, goals and functions.

## **STEP II: ASSEMBLING THE PARTNERSHIP**

Four tasks must be accomplished to successfully assemble the partnership.

### **Task A: Identify Potential Partnership Members**

With the assistance of core group members, the staff person will identify and list potential partnership members. A sample *potential partnership members list* is presented on pages 2-17 and 2-18. The list should contain the names of key



executives of local businesses and key public administrators who have the ability and desire to contribute to the work of the partnership. Names, addresses and telephone numbers of each potential member should be included. Personal acquaintances and professional associates should be considered first as they will be the easiest to recruit. The list should also include a "referral source" (who suggested the potential members and a "recruiter" who will recruit the potential member). In some instances the recruiter and referral source may be the same.

Potential partnership members will have been discussed in general during the core group meeting. Core group members should be contacted individually if further discussion is needed in compiling the list.

Twenty to thirty individuals should be identified. Not everyone listed will agree to participate on the partnership. The list should be comprehensive, identifying enough individuals to allow for the number who will be unwilling to participate. Yet, the number of partnership members should be limited. If the partnership is too large it may become difficult to manage. A suggested estimate is 15-20 key decision-makers. Expansion of the partnership should be cautiously pursued, and always with agreement from the partnership.

#### **Task B: Enlist Partnership Members**

The staff person should coordinate with individual core group members the enlistment of potential members of the full partnership. Forethought and careful planning should be conducted prior to approaching each potential member. Items to consider are:

- Who should make the contact;
- Method of contact: formal (by letter or invitation), or informal (by telephone or personal visit);
- Familiarity of the potential member with the public agency's function; and,
- Availability of the potential member.

As previously suggested, the list of potential partnership members should also

include the name of an existing "referral source" and/or "recruiter." From these, the appropriate individual(s) should be designated to contact identified leaders.

Once key public and private sector leaders have agreed to participate the core group will be ready to develop the statement of purpose and to pursue the formal organizational meeting.

### **Task C: Draft Partnership's Statement Of Purpose**

The staff person will develop a draft Statement of Purpose for the partnership. This draft will be provided to each member for comment, revision and approval at the formal organizational meeting. The statement of purpose should be clear, concise, brief (at most, two typewritten pages), and should address the following:

- The rationale for establishing the partnership;
- The purpose of the partnership;
- The partnership's specific goals and objectives.

A sample "Statement of Purpose" for a local juvenile justice public/private partnership is portrayed on page 2-19.

### **Task D: Conduct Formal Organizational Meeting**

The following four activities must be addressed to successfully conduct the partnership's formal organizational meeting. They are preparation, agenda review, conduct of the meeting, and follow-up.

#### **Activity 1: Preparation**

The formal organizational meeting will set the tone for the partnership's level of performance. Thorough preparation is the key to the success of the meeting. The staff should be responsible for coordinating the meeting's preparations. Important elements for advance planning are:

- *Confirm the date and time of the meeting* - remember to allow ample time during which to make other necessary preparations.

◦ *Confirm the meeting's location* - the location of the first organizational meeting should reinforce the importance of the partnership to its participants. If possible, the location of the meeting should be provided by the partnership's highest ranking public official or executive of a major business or corporation. Careful consideration should be given to options and preferences in locating meeting space. Subsequent partnership meetings may also be hosted by representatives of either the public or private sectors. The meeting room should be adequate. A board room style meeting room, wherein the seats surround an oblong table, is suggested.

◦ *Draft a meeting agenda* - the agenda should begin with a 30 minute refreshment period (this should not be overlooked - it provides participants an opportunity to introduce, or re-acquaint themselves with each other on an informal basis). In developing the agenda, equal representation from both the public and private sectors should be maintained. A sample agenda appears on the following two pages. The agenda should allow the members to explore the following:

1. Review the philosophy, purpose and objectives of the partnership;
2. Review the goals of the community as a participant in the development of the partnership;
3. Review the activities required of its members throughout their participation on the partnership;
4. Affirm the intent to form a juvenile justice partnership and understand its role;
5. Obtain commitments from individuals to participate and contribute to the effort;
6. Confirm the selection of the chairperson (or co-chairpersons);
7. Obtain an agreement on a statement of purpose;
8. Delegate responsibilities to partnership members.

**SAMPLE**

**FORMAL ORGANIZATIONAL MEETING OF THE  
LOCAL JUVENILE JUSTICE PUBLIC/PRIVATE PARTNERSHIP**

**AGENDA**

**MONDAY, FEBRUARY 18**

**INTRODUCTIONS**

8:30 - 9:00	Coffee and danish	
9:00 - 9:30	Call to Order and Introductions	Staff Person
9:30 - 9:45	Opening Remarks and Welcome	Chairperson

**BACKGROUND**

9:45 - 10:15	Proposed purpose of the Juvenile Justice Public/Private Partnership	Core Group Member (Public Sector)
10:15 - 10:30	The relationship of the Partnership to the goals and objectives of the local Juvenile Justice System.	Core Group Member (Private Sector)
10:30 - 10:45	Break	

**STATEMENT OF PURPOSE**

10:45 - 11:30	Review and ratification of the Statement of Purpose	Staff Person
---------------	---	--------------

**ORGANIZATIONAL STRUCTURE**

11:30 - 11:45	Review of the organizational structure for managing partnership activities	Chairperson
---------------	--	-------------

**MEMBERSHIP**

11:45 - 12:00	The size and nature of the partnership. Who else should be invited to participate? How will the partnership work (i.e. committee structure)?	Chairperson
---------------	--	-------------

**FOLLOW UP**

12:00 - 12:15	Plan next steps	Staff Person
---------------	-----------------	--------------

**ADJOURN**

Chairperson

- *Draft letters of invitation* - the letter should provide the date, time, location of the meeting, its purpose and objectives, and offer thanks to each member for participating in the partnership. The invitation should be prepared by the staff person for the signature of the chairperson. Enclosed with the invitation should be the draft statement of purpose, an agenda, a list of members including addresses and telephone numbers, and any other pertinent information. The invitation should be mailed 3-4 weeks prior to the meeting.
- *Arrange for supplies, equipment and refreshments* - for example: paper, pencils, microphone, easel, blackboard, coffee, tea, etc.
- *Follow-up written invitations with a telephone call*. Each participant should be called to confirm his/her attendance. Another telephone call should be made, if necessary, two days prior to the meeting to remind each invitee of the meeting.

#### **Activity 2: Review Meeting Agenda**

Prior to the meeting the staff person and chairperson should make a final review of the meeting's agenda. The desirable outcomes of this meeting should include:

- Affirming the intent to form a juvenile justice public/private partnership and understanding its role;
- Review of the philosophy, purpose and objectives of the partnership.
- Review of the role of participants in the Partnership;
- Commitment from individuals to participate and contribute to the effort;
- Selection of a permanent chairperson (or co-chairpersons);
- Approval of the Statement of Purpose;

- Delegation of responsibilities to partnership members, and;
- Setting a tentative schedule for subsequent partnership meetings.

### **Activity 3: Conduct the Meeting**

The staff person should arrive an hour early to check:

- seating arrangements;
- room temperature and ventilation;
- refreshments and equipment;
- any other necessary preparations.

The staff person and core group members should greet the participants as they arrive. The meeting should be called to order by the staff person who will introduce the temporary chairperson. Attendees may then introduce themselves. The staff person should record minutes of the session. Participants should be allowed to raise questions freely, while deviation from the agenda should be avoided. Some additional suggestions include:

- Core group leaders should mingle with the new participants and avoid sitting together.
- Be alert to individuals who appear ill at ease; try to make them feel welcome and comfortable.
- Attempt to stimulate interest of those who appear bored or confused; determine if they are interested in contributing.
- Encourage those who are ready to commit to the partnership.
- Make sure that the meeting proceeds smoothly and is not allowed to drag on.

#### **Activity 4: Meeting follow-up**

Some individuals may wish to take a few days to think about whether to participate on the partnership, rather than make their decision during the meeting. The staff person should schedule follow-up contact with these individuals to answer lingering questions.

Within a week after the meeting, letters should be prepared by the staff person for the chairperson's signature to be sent to each participant. The letter should acknowledge appreciation, interest and commitment of the participant. It should restate the goals of the partnership and announce the time and place of the next meeting. A synopsis of the organizational meeting and a list of partnership members should be included. A sample letter is presented on page 2-20.

Those who have not made a commitment to serve should be thanked for their participation in the meeting and their continuing interest should be encouraged. The letter should state that, whether or not they decide to serve, their attendance at the meeting is appreciated and that, hopefully, they will decide to join the partnership. A sample letter is presented on page 2-21.

For those who decided not to participate, thanks should be extended for attending the first meeting, and interest may be expressed in securing their input on an informal basis. A sample letter is presented on page 2-22.

#### **STEP III: ON-GOING PARTNERSHIP ACTIVITIES**

Once the partnership has been formally assembled, its work has "only just begun." The partnership should continue to direct its efforts and resources toward achieving its objectives.

The staff person and chairperson should continue to coordinate tasks and activities toward preparing and conducting subsequent partnership meetings. Responsibilities must be clearly set forth, subcommittees created and members assigned. Partnership members should be permitted to join the subcommittee of their choice, and have flexibility in deciding meeting locations. However, the staff person and chairperson must ensure that each subcommittee is representative of the public and private sector, and that the levels of familiarity and interests of



subcommittee members are considered.

The development of products to achieve the partnership's objectives should be considered at the appropriate time. For example, private businesses have information, skills, areas of expertise and technical assistance capabilities which may be available to assist the partnership. The development of a resource guide will enable local partnerships to target the kinds of resources essential for resolving exact areas of need, and determine the appropriate individual to approach for assistance. A sample "Inventory Questionnaire" through which representatives can assist the partnership in collecting necessary information is presented on pages 2-23 and 2-24. As the partnership evolves, the development of other types of pertinent products should be considered.

Finally, the local partnership may wish to inform the community at-large about its activities. The effective use of the media, and the development and distribution of informational brochures and materials, are approaches to consider.

SAMPLE  
LOCAL JUVENILE JUSTICE PUBLIC/PRIVATE PARTNERSHIP

Potential Membership List

Each partnership should be representative of its community's key government and business leaders. The following is a sample list of potential partnership members for a county administered juvenile probation system. The list should be adapted to include the appropriate representatives of all types of juvenile justice agencies.

POTENTIAL MEMBERS (Name, title, phone)	REFERRAL SOURCE (Name, address phone)	RECRUITER (Name, address, phone)
---	---	--

1. Chairman, County Bd.  
of Supervisors
2. County Manager
3. Court Administrator
4. Presiding Juvenile  
Court Judge
5. Chief Probation  
Officer
6. Juvenile Justice  
Foundation
7. Juvenile Justice  
Foundation
8. Corporate or Business  
Executive

<b>POTENTIAL MEMBERS</b> (Name, title, phone)	<b>REFERRAL SOURCE</b> (Name, address phone)	<b>RECRUITER</b> (Name, address, phone)
--	--	---

9. Corporate or Business  
Executive

10. Corporate or Business  
Executive

11. Corporate or Business  
Executive

12. Corporate or Business  
Executive

13. Corporate of Business  
Executive

SAMPLE

LOCAL JUVENILE JUSTICE  
PUBLIC/PRIVATE PARTNERSHIP

STATEMENT OF PURPOSE

Juvenile crime, a phenomenon which affects the lives of many individuals in communities across the country, has always been a major concern of federal, state and local governments. American businesses are directly affected by such conditions as: the amount of tax dollar expenditures on the control and treatment of juvenile offenders; the quality of life within communities where businesses operate; the direct impact of crime on corporate employee productivity; and percentage of restitution retrieval.

Business involvement with public sector representatives at critical points of responsibility is essential to effective remediation of these problems. The corporate community brings to the partnership such skills as: information management methods, administrative tools and state-of-the-art technology.

The Partnership will concentrate its initial efforts on promoting efficient management and cost-effective juvenile probation services. Other juvenile justice areas of concentration will emerge as the Partnership develops. The goals of the Partnership are:

1. To evaluate existing juvenile probation services and procedures for areas of potential improvement.
2. To develop alternative methods for delivery of probation services. Competitive models for service delivery should be considered, along with contracting incentives which promote a system for attracting private sector vendors to provide private probation services.
3. To formulate education and communication programs to obtain pro-bono technical assistance from the private sector in such areas of expertise as strategic planning, contract review, information management systems, quality control, accounting, and public relations.

SAMPLE

November 16, 19\_\_

Mr. Alfred E. Smith  
Executive Director  
Technological Innovations  
Suite 800  
Main Street  
Pleasantville, USA 56789

Dear Mr. Smith:

Thank you for your participation at the November 15 organizational meeting of the Juvenile Justice Public/Private Partnership. We appreciate your commitment to participating in the Partnership, and look forward to working with you toward achieving improved management and delivery of juvenile justice services in our community.

A synopsis of the meeting is enclosed, as well as the revised Statement of Purpose and the meeting's list of attendees. The next meeting of the full Partnership has been tentatively scheduled for December 19 from 9:00 a.m. - 12:00 noon. The Partnership's staff person will contact you next week to confirm the date.

Thank you for your interest and cooperation.

Yours truly,

Jane Parker, Chairperson

JP/cd

Enclosures

SAMPLE

November 16, 19\_\_

Ms. Sally Clark-Hicks  
President  
PEP Insurance Company  
10 Lincoln Avenue, Suite 101  
Pleasantville, USA 56789

Dear Ms. Clark-Hicks:

Thank you for your participation at the November 15 organizational meeting of the Juvenile Justice Public/Private Partnership. We are pleased with the interest and commitment of community members to serve on the Partnership, and hope that you will seriously consider joining our endeavor. PEP's involvement will contribute greatly to the Partnership.

I have enclosed a synopsis of the meeting, the revised Statement of Purpose, and the meeting's list of attendees. Again, your attendance at the organizational meeting is appreciated. I look forward to hearing from you soon regarding your participation.

Yours truly,

Jane Parker, Chairperson

JP/cd

SAMPLE

November 16, 19\_\_

Mr. Jack Jones  
Executive Director  
Management Services, Inc.  
53 Wayne Avenue  
Pleasantville, USA 56789

Dear Mr. Jones:

Your attendance at the November 15 organizational meeting of the Juvenile Justice Public/Private Partnership is appreciated. We regret that you are unable to serve on the Partnership. However, your input concerning the Partnership's activities will continue to be welcome.

Best of luck to you and your company!

Yours truly,

Jane Parker, Chairperson

JP/cd

SAMPLE

INVENTORY QUESTIONNAIRE OF  
PRIVATE SECTOR IN-KIND RESOURCES  
FOR LOCAL COMMUNITIES

A. Name of Corporation: \_\_\_\_\_

B. Name of contact person: \_\_\_\_\_

Title and Division: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

C. Of the following areas of expertise indicate those in which pro-bono technical assistance can be made available through your corporation, and the method by which it would be provided:

AREAS OF EXPERTISE

CONSULTATION/WRITTEN MATERIAL/  
OTHER (Specify)

Management Skills

Personnel Management

Fiscal Analysis

Needs Assessment

Accounting

Communications

Management Information

Systems

Systems Analysis

Public Relations

Legal

Procurement

RFP Preparation

Proposal Review

Contract Preparation



Contract Negotiation  
Data Collection  
Marketing Skills  
Conversion Techniques  
Program Analysis

D. Identify other areas in which your corporation would be able to provide technical assistance.

AREA OF EXPERTISE

CONSULTATION/WRITTEN MATERIAL/  
OTHER (Specify)

## Chapter Three

---

### THE PRIVATE SECTOR AS CONTRACTOR

This Chapter explores the involvement of the private sector as providers of services heretofore administered by the public sector. The contracting out of various public services for performance by the private sector is receiving more and more attention at all levels of government. Popularly known as "Privatization", the intent is the shifting of publicly administered services to private sector management and operation. Three basic principles are important to understand:

- **The public sector exists to serve the needs of the private sector by undertaking tasks which society needs doing.** The private sector has *the right and the duty* to involve itself in public policy planning and program implementation. To the extent that it does not exercise that right, it encourages the public sector to make policy and carry out programs according to its own priorities.
- **The public sector does not have a monopoly on resources and expertise.** The private sector boasts immense resources of talent, creativity, and energy not always available in government service.
- **A competitive market place ensures maximum efficiency and effectiveness in the provision of services.** When a governmental agency perpetuates a monopolistic atmosphere for its services, there are few competitive pressures to increase efficiency or effectiveness. If that same public sector

agency must measure its delivery of services against several other potential providers of the same services, it will be far more attentive to matters of cost and effectiveness.

## HISTORY OF PRIVATIZATION

While private performance of public functions is not new (Queen Isabel of Spain, for instance, engaged a private sector explorer, Christopher Columbus, to seek a new route to the East Indies which resulted in the discovery of America), not all public/private undertakings have been so dramatic. However, in recent years we have witnessed increasing, successful privatization of such services as: transit systems, public housing, solid waste collection, hospitals, waste water treatment, firefighting, air traffic control and, more recently, juvenile and adult correctional services. Some say that privatization is progress; others regard it as a *fox at the hen house door*.

The Federal Government began taking major steps toward the conversion of publicly operated functions to private sector performance during the Eisenhower Administration. Following the leadership of the earlier Hoover Commission, President Eisenhower stated in his budget message of 1954:

*This Budget marks the beginning of the movement to shift to state and local governments and to private enterprise Federal activities which can be more efficiently carried on that way.<sup>1</sup>*

Succeeding Republican and Democratic administrations continued to expand and improve on the involvement of the private sector in the provision of goods and services. The early policies and procedures of this evolution ultimately were placed in the hands of the newly created Office of Federal Procurement Policy in 1974; since then, that office has promulgated and maintained official national policy regarding the contracting out of government services in a document entitled "OMB Circular A-76".<sup>2</sup> Following the election of Ronald Reagan in 1980, there has been an even more intense federal effort directed to the privatization of government services. Federal policy, stated in OMB Circular A-76 is to:

- **Achieve Economy and Enhance Productivity.** Competition enhances quality, economy, and productivity. Whenever commercial sector performance of a government operated commercial activity is permissible, in

accordance with this Circular and its Supplement, comparison of the cost of contracting and the cost of in house performance shall be performed to determine who will do the work.

- **Retain Governmental Functions In House.** Certain functions are inherently governmental in nature, being so intimately related to the public interest as to mandate performance only by federal employees. These functions are not in competition with the commercial sector. Therefore, these functions shall be performed by government employees.

- **Rely on the Commercial Sector.** The Federal Government shall rely on commercially available sources to provide commercial products and services. In accordance with the provisions of this Circular, the Government shall not start or carry on any activity to provide a commercial product or service if the product or service can be procured more economically from a commercial source.<sup>3</sup>

State and local governments have more than kept pace with the federal government in contracting with private providers for goods and services. A pivotal event, affecting the course of privatization at the state level, occurred on June 6, 1978, with the passage of "Proposition 13" by California voters, an attempt to reverse the upward spiral of California state spending.<sup>4</sup> Since its passage county and city governments, especially those in the west and southwest, have moved faster than the Federal Government to contract out services. By the end of 1984, Los Angeles County alone had signed 434 contracts worth \$108 million for the performance of work which civil servants had previously done. The County estimated its savings at \$21 million a year in a budget of \$6 billion.<sup>5</sup>

### **Privatization in Adult and Juvenile Justice**

While the public has accepted increasing numbers of privately operated services which were previously managed and staffed by government employees, acceptance of privatization in corrections has been more tentative. Correctional agencies have, however, been using the private sector for the provision of *supportive* and *ancillary* services over the years with virtually no controversy. This is especially so in the field of juvenile justice where many supportive services are purchased from private sector providers. The National Institute of Corrections in 1984 identified 32 types of private services and programs which are contracted for by publicly operated

correctional agencies. Many more can be added to the list today. Some of the most frequently contracted services are: medical/health services, education/vocational training, halfway houses/aftercare programs, and staff training.

The controversy which has grown up in recent years regarding the privatization of corrections has little to do with the purchase of *supportive services* from the private sector. Rather, the debate is centered on the emergence of private sector management and operation of *core correctional functions* which have been traditionally managed and staffed by government employees. This is a critical point prompting major debate of both ideology and practice. Some see it as a threat of private "takeover." The issue of "Privatization" is discussed at virtually every major corrections conference. And major newspapers, magazines and television programs (such as 60 Minutes and the MacNeil-Lehrer Report) have brought "privatization of corrections" to the attention of the general public. Most of the discussion of "privatization of corrections" in the last few years has focused on correctional institutions, and new for-profit corporations have emerged to develop a perceived market of promise.

The private operation of correctional institutions is not new in American history. Early jails were operated by private individuals who ran them for profit. Those private sector jailers charged their inmates for food and clothing and were often-times abusive to them. Bribery and graft were common place. The entry of government into the direct operation of correctional facilities was, in part, responsive to those abuses. The lessons of history should be heeded: is there a risk of a return to such possible abuses? This question should not be ignored. The private sector today brings a great deal more to the table than during the days when inmate labor was exploited; and government now has the technical capabilities to establish standards and closely monitor performance to insure the adequate and humane treatment of offenders.

Unlike the abuses which had occurred in jails, the early experiences with private probation were positive. Due to the dedicated, successful work of early social pioneers, the concept of probation grew and was rapidly incorporated as a function of local and state government in criminal and juvenile justice systems. Probation officials who are aware of their professional heritage take pride in these early pioneers, particularly in John Augustus as the "father of probation." An unassuming shoe cobbler in Massachusetts, his unpaid service to juvenile and adult law offenders began a movement in 1841, which has grown into a wide array of

publicly provided probation services. John Augustus, and those who followed his lead, were private volunteers who desired to help criminals and young delinquents achieve more acceptable and worthy lives while safeguarding the community from further harm. Augustus was able to influence the court to place certain offenders under his supervision. Some he took into his own home, including them as part of his family; others he counseled, supervised, or assisted to find work. This was the start of probation springing from private endeavor.

The field of Probation--adult or juvenile--is receiving increased interest from county boards of supervisors and state legislators searching for efficiency-potentials in government operations. Also, there is a growing conviction that the introduction of competition may generate self-evaluation and improvement in a field not noted for innovation, regardless of whether government continues to operate probation or not.

A number of factors have encouraged a long look at correctional practices: (1) public anger at the rate of crime and delinquency; (2) the increasing attention being paid to the serious offenders; (3) correctional institution overcrowding which has caused pressure on probation and community resources; (4) increasing costs; (5) the public perception that the justice system is "too soft" (6) a growing "get tough" attitude; and, (7) disillusionment about the success of probation and correctional services.

This public frustration with delinquent and criminal behavior and disillusionment with our system of justice fits in with a larger disenchantment with government and public services generally. A major outcome has already resulted in a shift to firmer sanctions, conceived as "just deserts," regardless of other programmatic considerations. The critical public mood has been for change, including investigation of the merit of private provision of correctional services.

Although private performers are once again being considered for a central role, their motivation for involvement is quite different. The new pioneers may resemble Lee Iacocca more than John Augustus. They bring with them management skills, advanced technologies, and information management systems which, put to proper use, may have the potential to improve probation and correctional functions and reduce government's costs. For some time private enterprise has focused on criminal and juvenile justice agencies as markets for high technology instruments. It has made available advanced word processing

equipment, computers, and, more recently, innovative electronic monitoring devices such as Control Data Corporation's Home Escort System. Private entrepreneurs also have been studying the economic feasibility of contracting for the management of entire probation departments and correctional institutions.

## **TEN QUESTIONS MOST OFTEN ASKED ABOUT PRIVATIZATION**

Public Sector personnel may have a strong emotional-intellectual commitment to what they are doing and how they are doing it in their own "neck of the woods." Out of this understandable human reaction come many questions when there is a suggestion of change. It is essential that a jurisdiction contemplating the contracting to the private sector ponder the critical and complex issues posed in the following major questions:

### **1. Is There Statutory Authority To Contract Adult and Juvenile Justice Services?**

This question raises a basic issue which must be answered early. Penal codes, welfare and institution codes, and other state laws and local ordinances may impact on contracting considerations. A jurisdiction must determine if its legal and administrative fiat enable it to contract for correctional and probation services, or preclude it from doing so.

A thorough understanding of the statutory authority to contract for such services is essential. Most states and counties generally do not have laws specifically prohibiting the contracting of correctional and probation functions. Neither, however, are there many jurisdictions which have laws specifically authorizing the contracting of such functions to the private sector. Consequently, in most cases, the law will be open to interpretation as to whether or not a private enterprise is eligible to operate these specific functions. In a few states it will be impossible to contract for them without the existence of specific authority. At any rate, legislative accommodation may well be necessary. This may be accomplished quickly in some communities by securing a statutory waiver for the purposes of research and demonstration. In other communities a longer process, involving legislative changes of existing laws, may be required.

As a result of legal research and the advice of counsel, it is the opinion of NOSR that most corrections and probation functions--report preparation, supervision,

counseling, et al.,--are contractible, given permissive or enabling legislation. However, there are a few functions involved in probation which may not be appropriate areas for contracting. These include interrogation, decisions to detain or not to detain, in-chamber judicial functions, and establishment of public policy relative to the disposition and treatment of offenders.

## **2. Will Public Agencies Avoid Or Diminish Their Liability By Contracting Out Corrections and Probation Functions?**

There is no legal principle to support the premise that public agencies and officials will be able to avoid or diminish their liability because services have been delegated to a private vendor. Privatization actually spreads liability to a broader set of actors, causing what is known as a "deep pocket" situation. In other words, one who is so inclined has the opportunity to sue more groups and individuals, who, together, have a greater range of resources from which to collect damages. Private contractors, like public officials, can be sued for violation of an offender's rights under 42 U.S.C. 1983 (The Civil Rights Act) because their actions are to be considered to take place "under color of state law".<sup>6</sup> There is ample case law which supports this view.

Since privatization is unlikely to diminish the constitutional or statutory rights giving rise to liability law suits, every attempt must be made to apply risk management concepts by instituting a pro-active approach to liability avoidance. This includes identification of areas of potential liability and the establishment of policies to address them. Successful, for-profit firms are very aware of liability issues. When soundly managed, they apply a pro-active process by preparing a comprehensive and detailed manual of procedures and regulations requiring strict adherence by their employees in an effort to obviate potential law suits.

## **3. What About the Concerns Of Public Employee Labor Unions And Other Public Employee Groups About Job Security?**

It is a reality that correctional and probation services, as currently practiced, are labor intensive functions. Obviously, there can be savings if four or five workers are able to accomplish what six workers are currently doing, through the introduction of more efficient management and technology. The principal decision for policy makers and guardians of the public purse is whether more efficient and cost-effective correctional services can be achieved, thereby serving the public good.



There are practical ways of mitigating the threat felt by public employees. Experience has shown that where private corporations have replaced services which were previously performed by the federal government, their executives have been well versed in the "right of first refusal," which gives employees of a current operation the right to first choice--or refusal--of employment with the new provider. This "right" was proclaimed for federal conversions as a requirement of OMB circular A-76. It gives the "right of first refusal" to *federal* employees displaced as a result of conversion. Similar administrative provisions are also frequently employed at the state and local level. Experience from the field indicates that corporations do, in fact, routinely draw the majority of their project employees from displaced civil service workers. Regardless of what is done to help safeguard the jobs of current public employees, this issue is a difficult one to resolve, and organized labor can be expected to take a strong position on it.

NOSR's discussions with executives from major business corporations indicate that corporate leaders are keenly aware of the value of experience and expertise available to them from affected employees. As an illustration, when Computer Science Corporation (CSC) won a seven year contract to take over the entire data processing operation of California's Orange County, it offered jobs to all of the former county data processing employees, even though it was committed by the contract to cut costs by nearly one-third over a several year period. More than 98 percent of the employees accepted jobs with CSC, yet after two years, the staffing on the Orange County account was just 72 percent of the initial level. CSC had not laid anybody off. It had reduced staff redundancies by (a) not replacing those who retired or resigned, and (b) transferring some employees laterally or upward to other career paths in the company. In fact, the opening up of new career paths -- encouraged by company training programs and career guidance -- was a key factor in keeping employee morale high.

#### **4. Won't The Cost of Private Sector be Higher Than The Cost of Public Agency Performance?**

One could ask why any public service could be performed at less cost by the private sector. After all, aren't there two new costs (profits and contract monitoring) being added to the existing costs? These new costs exist--no question about it. But, offsetting them are other major elements, such as:

**Economies of Scale:** A single provider can serve several counties (or states), thus spreading its overhead among all of them, resulting in significant cost reductions. Overall costs of management and administration, data processing, fiscal activities, and a host of other bureaucratic functions can be centralized and costed out proportionately.

**Different Incentive Structures:** An obvious difference between the public and private sectors is their different incentive structures. The delivery of a service by a public agency is essentially a monopolistic activity. A public sector probation department, for instance, does not have to worry that another agency will come in and take away its "business." A private sector probation department, on the other hand, has no guaranteed revenues, and lives with the very real possibility that another business will come in and outbid it.

**Different Managerial Styles:** Another difference between the public and private sectors is the managerial style of its executives. An administrator in a public agency will perceive his priorities to be the performance of a particular range of services within a pre-set budget, while avoiding negative political fallout embarrassing to his political superiors and potentially threatening to his job security. He will often spend money just because it's there, knowing that if his department shows unspent money at the close of the fiscal year, cost-cutting legislatures or boards of supervisors will likely reduce his department's succeeding budget by at least that amount. In addition, a governmental executive will often measure his professional status by the size of his agency, measured both in size of budget and numbers of employees. The unspoken driving force of a public sector agency can often be to increase its budget and to add new employees.

An administrator in a private sector company will perceive his priorities to be the efficient performance of a particular range of services, with as few employees as possible, so as to generate as large a profit as possible for his company. He will relentlessly seek innovative ways to cut costs and increase employee productivity. The more unspent money (profits) his department can accrue at the end of a fiscal year, the more valuable he will be to his superiors. He is more likely to measure his professional status by the size of his profits, not the size of his corporation.

**5. Once The Private Vendor Gets Established, Is There A Danger That Private Sector Costs Will Escalate Unduly In Ensuing Years?**

Critics of privatization may argue that a private firm may offer a lower price the first time around in order to win a contract; then, during the ensuing years, the costs will rise, particularly if the community has created a point of no return by dismantling its own probation capability. This is a reasonable concern. There are safeguards which should be established. The first line of defense is the inclusion of reasonable cost increases and salary cap for insuing years of performance, possibly based on national inflation rates. Secondly, the jurisdiction must ensure truly competitive bidding conditions in subsequent times around so that other firms have a fair and reasonable chance to seek the contract. Finally, the community can retain local ownership of facilities and equipment, at least temporarily, in order to resume at a later date, if necessary, governmental capability to operate probation functions which have been contracted.

**6. Is It Proper To Shift The Provision Of Social Control To Private Providers?**

This question is closely linked to the issue in question 1, the existence of statutory authority. Here it is raised on the basis of the "propriety" of such action rather than with respect to "legality." It is an ideological question which evokes a measure of emotionalism on the part of some. Labor unions which represent correctional personnel may argue this issue against privatization. Mullen states that the issue is grounds for lively ideological debate.<sup>8</sup> There are those who argue that some functions are the "raison d'être" of government and cannot or should not be delegated; among these functions are all legislative and judicial activities involved in *all* stages of the juvenile and criminal justice process. With equal vigor, others argue that there is a legitimate and necessary role for private enterprise in the *management* of probation which in no way constitutes an abrogation of the essential role of government in formulating policy.

NOSR's position is that the majority of corrections and probation functions are contractible. Those which may not qualify are interrogation, decisions to detain or not to detain, in-chamber judicia<sup>l</sup> activities, and the development of public policy. Mullen states that, in the final analysis, the debate can be resolved only by carefully defining both private and public sector roles and by determining the limits, if any, which are to be placed on contracted functions.<sup>9</sup>

### **7. Are There Adequate, Reasonable Controls Which Will Safeguard Against Possible Abuses, Such As Cost Overruns And Political Manipulation?**

Kevin Krajick writes that corrections professionals are worried that some companies will attempt to manipulate state and local politics in order to secure contracts.<sup>10</sup> Proponents of this view fear that the private sector will politicize corrections. They argue that, unlike government officials, private managers have available to them skilled lobbyists who will do all they can to influence social legislation, appropriation, and procurement policies in order to expand the profit goals of business at the expense of sound corrections practices. Contracting-out, notes a representative of the American Federation of State, County, and Municipal Employees, leads to rip-offs, corruption, bribery, and kickbacks.<sup>11</sup>

This is a difficult issue which must be adequately addressed. It speaks to the fear of some that privatization leads us down the road to a corrupt system of government. The trap is to engage in an endless, "yes, it does--no, it doesn't" dialogue, which leads nowhere. The temptation to corrupt, to accept bribes and kickbacks, and to subvert the bidding process seem to go with the territory of human nature, regardless of whether the perpetrator is a private contractor or a government employee. The question to be asked is, "How can we guard against it?" The answer is to insist on well planned and open bidding procedures. The requirement of objective selection standards for all government contracts must be assured. Insisting that all such rules, procedures, and criteria be matters of public record, and the holding of bid openings and other important decision making sessions in public is basic.

### **8. Are Profit Making And Public Service Compatible Concepts?**

Some sincerely find it distasteful that anyone should profit by supplying the vital needs of others. The question is asked, "how can rehabilitation of offenders and the protection of society from criminal behavior be left in the hands of *greedy businessmen*?" This attitude often stems from the perception that for-profit companies are not "dedicated" or "idealistic" enough for this type of work, while non-profit agencies are.

Ultimately, these objections can be countered by pointing out that even non-profit agencies have expenses, budgets to balance, and payrolls to meet. Also,

dedicated, principled professionals exist everywhere, not just in government service. Often times, employees of for-profit companies formerly worked for a governmental or non-profit agency.

The competitive provider, working free of governmental, bureaucratic restrictions, is better able to alter staffing patterns and change programs to control performance. The private provider is freer to innovate and to react more rapidly to problems in management and in service delivery. There is a significant incentive to deliver high quality probation services in a competitive environment.

**9. Does The Contracting Out of Probation Functions Weaken Accountability To The Public?**

It is critical to note that, while a governmental unit relinquishes responsibility for *performing* a service by contracting it out, it in no way relinquishes responsibility for *monitoring* the private providers. A clear definition of public/private roles and responsibilities must be documented in the contract. Government remains accountable, through detailed monitoring procedures, for all contracted services. Experience shows that government can be an effective monitor of contracted services.

The shift of responsibilities from the operation of public services to the oversight of public services also requires a delineation of the capabilities of the public sector to adequately monitor and evaluate performance. The public entity responsible for monitoring the contract must be in a position to require and enforce high standards of quality control from its contractors. The incorporation of high, but achievable, performance standards within the contract is basic to proper public accountability and makes clear roles of public and private managers in the contract arrangement.

Public sector managers often feel threatened by a "loss of turf" or a loss of control when privatization is considered. If these managers retain a strong voice in policy development, setting of standards, and contract monitoring, their perceived loss of control will disappear. Performance standards for correctional and probation services have already been developed by the American Correctional Association, the American Bar Association, and the National Advisory Committee of Juvenile Justice and Delinquency Prevention. Such standards, and others which state or county governments perceive as important, are adaptable tools through

whose use effective governmental monitoring can assure continued public accountability for these services.

**10. Are There Private Sector Suppliers Who Are Experienced And Able To Perform Corrections and Probation Services?**

This is an important question. It would be tragic for a community to undergo the very real difficulties entailed in preparing to contract out corrections or probation services only to discover that there were insufficient or inadequate bidders. There are firms, some of them new, some of them old and well established, which have the interest and the capability to manage and operate corrections and probation services. Experience also shows that, within public correctional agencies there are now practitioners who have the initiative and creativity to make a move into the private corporate community where they can provide their skills as opportunity arises. This, too, is a part of the American tradition. Caution however should be exercised in that, although a number of responsible for-profit and not-for-profit firms are interested, a move to contracting for corrections and probation services should be carefully made on a most thoughtful basis.

**Privatization: A Challenge To The Public Sector**

Some believe that the adult and juvenile justice systems are presently doing very well; and suggestion to them of change in the system is unwelcome. Others in the field take the attitude that, whether or not they are performing well, they want no alterations which might pose a threat to their personal security. There are others who say that, while juvenile and adult justice programs perform a worthy purpose, they are often falling short as systems because of inefficiency and high cost. Thus improvement is needed.

Testing the applicability of *privatization* to juvenile and adult correctional services where they appear inefficient or overly costly is a desirable option.

For those jurisdictions in which there is a strong desire to seek improvement through carefully considered and planned change, privatization is an option worthy of trial. It represents a responsible search for a better mousetrap, not a greedy *fox at the henhouse door*.

1. U.S. President, Public Papers of the Presidents of the United State, Washington, D.C.: Office of the Federal Register, National Archives and Records Services (1954), Dwight D. Eisenhower, 1960, p. 14.
2. Office of Federal Procurement Policy Act of 1974, Statutes at Large, p. 88, Sec. 2, 796 (1974)
3. U.S. Office of Management and Budget, Circular, A-76, 4 August, 1983
4. Poole, Robert W., Cutting Back City Hall, Universal Books, New York, p. 17.
5. Main, Jeremy, When Public Services Go Private, Fortune Magazine, May 27, 1985.
6. National Institute of Corrections, Private Sector Involvement in Prison Services and Operations, February 1984.
7. Poole, Robert, Objections to Privatization, Policy Review, Spring 1983.
8. Mullen, Joan, The Privatization of Corrections, National Institute of Justice, February 1985, p. 72.
9. Mullen, Joan, Corrections and the Private Sector, NIJ Reports, May 1985.
10. Krajick, Kevin, Punishment for Profit, Across the Board, Vol. XXI, No. 3, March 1984, p.27.
11. Hanrahan, John D., Government for Sale: Contracting-Out The New Patronage, ASCME, 1977.

## DETERMINING THE FEASIBILITY OF CONVERSION TO THE PRIVATE SECTOR

The term "conversion", as used in this Manual, refers to the entire process required to successfully transition publically operated services to the private sector. The first task in the process is to carefully determine the feasibility of doing so.

The conscientious governmental manager is consistently faced with the need to improve the delivery of human services, while cutting costs wherever possible. Conversion of specific services to the private sector may be an effective option. But, how does the manager know? What types of data and information does he need to make a decision? This Chapter addresses these specific data needs. It presents a process and materials through which a government agency can be examined; its problems diagnosed; and hopefully a remedy prescribed which will allow it to perform better, and at a more favorable cost.

Although the remaining chapters in this Manual focus on contracting to the private sector, the process and the instruments presented here will be of value to the public administrator in improving public services regardless of their conversion to the private sector.

### **A. Collection and Analysis Of Data Is Necessary For Sound Decision-Making**

As every good manager knows, a decision is only as good as the data upon which it is based. One is reminded of the city slicker driving through the country pulling up to ask a farmer, "Quick, what is the shortest way to get to Centerville?" He



studied the nattily-attired man, then replied, "Take the first right. It's only 3 miles to Centerville from there." The driver sped off, without waiting to hear any more.

Twenty minutes later, the tourist angrily pulled back up in front of the farmer, who hadn't appeared to move since their last encounter.

"You stupid old man! The bridge is out on that road. Why didn't you give me directions on some other road?"

"You asked me for the *shortest* route to Centerville. If you had asked me for the *quickest* way to get there, I'd have directed you to take the *second* right."

This tale illustrates three basic principles about good data collection:

1. *Data gathering should never be done hurriedly and in a slipshod fashion:* It should be accomplished calmly and methodically by organizing a plan and time-lines for gathering the data. The city slicker got messed up in his attempt to get to Centerville because he was in a hurry. He failed to take the time to get *all* the information he needed to make a proper decision. Cutting corners, or only gathering data which is easy to find, will usually lead to flawed decision-making later. A common error is to set a firm date for making a decision, then neglecting to gather relevant data until the week of the deadline. The only choice a manager has at that point is to hurriedly assemble readily available data, and ignore any information requiring much "digging."
2. *It's important to ask the right questions:* If you want the *fastest* way to Centerville, don't ask your data-base operator to find you the *shortest* route! On a more serious note, if you want to know how much it costs your department to field a typical probation officer, don't just ask, "How much do we pay him?" A better question would be, "How much is his salary, and how much does it cost to fund his pension, FICA, unemployment taxes, health and life insurance, dental insurance, workman's compensation, etc.?" In addition, you will need to know what indirect costs are required to support the position.
3. *Make sure your data-gathering is complete:* Not knowing about the missing bridge led to a defective decision by the driver; he didn't have *all* the data. Not knowing that your state laws or county regulations *forbid* probation and corrections services to be provided by the private sector could lead to a very defective decision indeed!

A common error public sector managers often make is to gather incomplete cost data. Because of the way government budgets are often handled, many costs remain "hidden". These invisible costs may not surface until after the private sector is invited to submit proposals. For example, office rental, utilities, and liability insurance may not appear in a probation department's annual budget if the department is housed in a county's general services building. Yet those are real costs which must be considered if a private sector company begins providing probation services.

### **B. Knowing The Types of Data To Collect Is Important**

NOSR spent two years studying the data gathering experiences of several probation departments, as they wrestled with the possibility of contracting, due to shrinking budgets and demands for increased effectiveness of services. It gradually became clear that, while any data can have some value or use, the decision to convert probation service delivery to the private sector hinged primarily on five distinct types of data:

- Cost
- Organizational/Services
- Procurement
- Legal/Liability
- Environmental

What follows is a discussion of the importance of each type of data, and a presentation of NOSR's five data retrieval instruments developed for probation departments. With minimal adaptation these five instruments will yield the exact data needed to make a sound decision about conversion, of virtually any service, to the private sector. Most important, the data which the instrument will yield will assist in the redesign of service components, and in the reallocation of existing resources, to ensure more efficient and cost effective services, regardless of conversion.

#### **1. Cost Data**

This data tells you what all the costs are, relative to the functions you are considering for contracting. Should the final decision be not to contract, the cost

analysis will help you consider how current expenditure of funds can be changed to allow for savings and/or to realize greater productivity.

NOSR's Cost Analysis Instrument begins on page 4-6. Although the example presented is for a probation department, the instrument's applicability is generic, since the same types of data would need to be retrieved regardless of the agency involved.

Careful and thorough utilization of the Cost Instrument will yield *all* costs pertaining to the government agency. Since some of the data requires a detailed knowledge of fiscal terminology, public sector budgeting, and identification of specific cost centers, it is recommended that a fiscal specialist assist in data gathering.

#### **Suggested Uses Of The Cost Data**

◦ *Assists you in the preparation of a Request for Proposals:* The cost data will be valuable to you in development of your Request for Proposals. Whether you provide the potential contractor with information on the exact or approximate amount of funds available for the work to be performed, you will need to know exactly what resources are available to you. Some contract officers prefer to give potential contractors only estimates on the amount of person days required to complete the effort. The cost data will be helpful to you in projecting the number of person days.

Within a Request for Proposals you will also need to offer the potential contractor a format for how the budget is to be presented, and the requirements and procedures which you will want each bidder to use in calculating costs for various items. Armed with the cost data you have acquired, you will be able to offer quality guidance in this area. Such guidance will be valuable to you later when you are faced with evaluating budgets of competing contractors. Thus, your job will be a lot easier when evaluating proposals. It will give you the information you need to make a sound decision on choice of contractor. ◦ *Assists you In Conducting Cost Comparisons:* With the cost data you have put together you will be able to precisely compare what it costs to operate a specific function with what it will cost a private provider to operate the same function. The data also allows you to compare current costs with costs of a redesigned function.

Cost comparisons can also be made in respect to specific elements within a function considered for contracting. For example, if you are considering the function of detention, you will be able to isolate costs associated with such elements as food services and general maintenance. Consequently, it will help you to compare specific sub-categories of in-house costs with the costs of providing the same service via contract.

◉ *Assists You In Identifying Issues/Problems Relative to Cost:* The cost data will highlight problems you may have on how resources are currently allocated. For instance, you may find that the costs of your food services in the Detention Center are inordinately high. If so, you will need to determine why. Are you purchasing from high cost vendors? Are you buying small quantities of staples, when purchasing in bulk may be more cost effective? Are your educational support services too costly, in comparison to what you are getting? Or, should you be spending more on educational support?

◉ *Assists You in Identifying Location of Cost Centers:* Most functions you will be looking at probably draw resources from more than one cost center. Using detention again as an example, you may find that all maintenance activity for the detention center is provided by the general services agency of the county or state. Consequently, all costs associated with maintenance will appear in the general services budget. What do you do about this? You will need to determine if the general services agency will be willing to contract the maintenance services of the center. If so, you will need to determine if they are willing to transfer the resources to your agency or develop a separate Request for Proposals. In some cases it may be more cost effective for the county to continue to provide the maintenance services. The cost analysis will help you to determine this.

**Probation Department Cost Analysis Instrument**

This analysis is designed to obtain data on all costs associated with probation. It will also provide insight into a probation department's indirect cost expenditures. **WARNING!** The calculation and identification of these costs can be tricky. A major problem, for instance, is in the calculation of employee benefits. These costs can be both direct and indirect. Before proceeding, a "Chart of Accounts" for the probation department should be acquired. These are usually kept by the Budget and Finance Office. This listing will provide all direct costs and can prove valuable in determining indirect costs.

	<b>Sub-</b>		<b>Grand</b>
	<b>Totals</b>	<b>Totals</b>	<b>Totals</b>

**A. Payroll**

*Executive and Chief Administrative Personnel.*

\$ \_\_\_\_\_

**Comment:** This payroll item includes the Chief Probation Officer and all of his/her executive staff who support the operation of the Chief Administrative Office. Enter payroll only on this line. Payroll benefits such as pension, etc., are separately calculated. Payroll should include base pay, overtime, any budgeted special payroll allowances such as for educational activity (but not the tuition and books corollary to such a program), vacations, and sick leave.

*Professional Personnel, Field Services.*

\$ \_\_\_\_\_

**Comment:** This payroll item includes all full-time personnel engaged in probation functions, including line staff, supervisors and mid-level managers. Enter payroll only on this line. Payroll benefits such as pension, etc., are separately calculated. Payroll should include base pay, overtime, any budgeted special payroll, allowances such as for educational activity, (but not the tuition and books corollary to such a program), vacations, and sick leave.

**Sub-  
Totals**      **Totals**      **Grand  
Totals**

*Professional Personnel: Detention, Institutions and Camps.*

\$\_\_\_\_\_

**Comment:** This payroll item includes all full-time personnel engaged in the administration, custody, counseling and other professional activities within juvenile halls, institutions and camps operated by the probation department. Enter payroll only on this line. Payroll benefits such as pension, etc., are separately calculated. Payroll should include base pay, overtime, any budgeted special payroll allowances such as for educational activity, (but not the tuition and books corollary to such a program), vacations, and sick leave.

*Clerical and Support Staff*

\$\_\_\_\_\_

**Comment:** Duties of this staff most commonly include clerical functions such as typing and maintenance of files, but also include other support service, such as book-keeping, maintenance work, house-keeping, food services, transportation, etc.

*Part-Time Staff: Field Services*

\$\_\_\_\_\_

**Comment:** This payroll item includes the pay of professional probation field staff and clerical support staff who are not full-time or career employees.

*Part-Time Staff: Detention, Camps and Institutions.*

\$\_\_\_\_\_

**Comment:** Professional institutional staff and clerical support staff who are not full-time or career employees.

<b>Sub- Totals</b>	<b>Totals</b>	<b>Grand Totals</b>
------------------------	---------------	-------------------------

*Other Payroll (insert and describe)*

**GRAND TOTAL: ALL PAYROLL**

\$\_\_\_\_\_

**B. Payroll-Related Benefits**

**Comment:** WARNING! The calculation of payroll-related benefits can be tricky. A major problem, for instance, is frequently the cost of non-funded benefits. A number of items listed below may or may not be applicable to the department analyzing costs on this form -- F.I.C.A. (Social Security) costs, for instance, are more typically private sector payroll benefits than public sector benefits, but do exist in both. Where not applicable, of course, these items can be ignored and the cost entry zeroed out. Since benefits are frequently different for the different classifications of employees listed in Item 1 (Payroll), each payroll category is separately listed for purposes of the calculations below. Obviously portions of payroll deducted from gross pay calculations in Item 1 should not be included in the calculation below.

*Professional Personnel, Field Services*

- |  |         |
|--|---------|
| 1. Pension (current-budget cost)                 | \$_____ |
| 2. Pension (current value of unfunded liability) | \$_____ |

**Comment:** This may be the most difficult calculation involved in this form. If, of course, the pension plan of the department is fully and properly funded, the blank is inapplicable and need not be filled in. If the pension plan is not funded, the blank should be filled in only with the advice of the actuary who regularly analyzes the fund's condition. The item of unfunded liability inserted at this point should be only that portion attributable to the current year's operation.

**Sub-Totals      Totals      Grand Totals**

- 3. F.I.C.A. (Social Security)      \$\_\_\_\_\_
- 4. Unemployment Taxes      \$\_\_\_\_\_
- 5. Health and Life Insurance      \$\_\_\_\_\_
- 6. Other Health Plans - dental,  
optical, major medical, and so forth.      \$\_\_\_\_\_
- 7. Industrial Accident  
(on-the-job-injury) costs      \$\_\_\_\_\_
- 8. Other      \$\_\_\_\_\_
  
- Total Benefits: Professional  
Personnel, Field Services      \$\_\_\_\_\_**

*Professional Personnel: Detention,  
Institutions and Camps*

- 1. Pension (current budget cost)      \$\_\_\_\_\_



	<b>Sub- Totals</b>	<b>Totals</b>	<b>Grand Totals</b>
2. Pension (current value of unfunded liability)	\$_____		
3. F.I.C.A. (Social Security)	\$_____		
4. Unemployment Taxes	\$_____		
5. Health and Life Insurance	\$_____		
6. Other Health Plans - dental, optical, major medical, and so forth.	\$_____		
7. Industrial Accident (on-the-job-injury) costs	\$_____		
8. Other	\$_____		
<b>Total Benefits: Professional Personnel, Institutions</b>		<b>\$_____</b>	

*Clerical and Support Staff*

1. Pension (current budget cost)	\$_____
2. Pension (current value of unfunded liability)	\$_____
3. F.I.C.A. (Social Security)	\$_____
4. Unemployment Taxes	\$_____
5. Health and Life Insurance	\$_____
6. Other Health Plans - dental, optical, major medical, and so forth.	\$_____

	<b>Sub- Totals</b>	<b>Totals</b>	<b>Grand Totals</b>
7. Industrial Accident (on-the-job-injury) costs	\$ _____		
8. Other	\$ _____		
<b>Total Benefits: Clerical and Support Personnel</b>		<b>\$ _____</b>	

*Part-time Staff, Field Services*

1. Pension (current budget cost)	\$ _____		
2. Pension (current value of unfunded liability)	\$ _____		
3. F.I.C.A. (Social Security)	\$ _____		
4. Unemployment Taxes	\$ _____		
5. Health and Life Insurance	\$ _____		
6. Other Health Plans - dental, optical, major medical, and so forth.	\$ _____		
7. Industrial Accident (on-the-job-injury) costs	\$ _____		
8. Other	\$ _____		
<b>Total Benefits: Part Time Staff, Field Services</b>		<b>\$ _____</b>	

	Sub- Totals	Totals	Grand Totals
<i>Part-Time Staff, Institutions</i>			
<b>Comment:</b> Professional institutional staff and clerical staff who are not full-time or career employees			
1. Pension (current budget cost)	\$ _____		
2. Pension (current value of unfunded liability)	\$ _____		
3. F.I.C.A. (Social Security)	\$ _____		
4. Unemployment Taxes	\$ _____		
5. Health and Life Insurance	\$ _____		
6. Other Health Plans - dental, optical, major medical, and so forth.	\$ _____		
7. Industrial Accident (on-the-job-injury) costs	\$ _____		
8. Other	\$ _____		
<b>Total Benefits: Part-Time Staff, Institutions</b>		\$ _____	

*Other Payroll*

1. Pension (current budget cost)	\$ _____
2. Pension (current value of unfunded liability)	\$ _____

	Sub- Totals	Totals	Grand Totals
3. F.I.C.A. (Social Security)	\$ _____		
4. Unemployment Taxes	\$ _____		
5. Health and Life Insurance	\$ _____		
6. Other Health Plans - dental, optical, major medical, and so forth.	\$ _____		
7. Industrial Accident (on-the-job-injury) costs	\$ _____		
8. Other	\$ _____		
<b>Total Benefits: Other Payroll</b>		\$ _____	
<b>GRAND TOTAL OF ALL PAYROLL RELATED BENEFITS</b>			\$ _____
<b>C. Other Direct Expenses</b>			
1. Staff Travel and Per Diem		\$ _____	
2. Detention, Camps, and Institution expenses, such as food services, uniforms, etc.		\$ _____	
3. Training Expenses/Professional Certification		\$ _____	
4. Other		\$ _____	
<b>GRAND TOTAL OF ALL OTHER DIRECT EXPENSES</b>			\$ _____

**Sub-  
Totals**      **Totals**      **Grand  
Totals**

**D. Indirect Expenses**

**Comment:** WARNING! The following expenses are usually incurred under an indirect cost arrangement. The identification of indirect costs falls into two primary categories. The first is the easiest to calculate. These are costs charged to the department by other governmental entities or private contractors not listed in the Chart of Accounts. The other is related to the section in the accounts usually entitled "operating expenses." These costs are commonly derived from sharing rented space, automobiles, insurance, supplies, and utilities with other departments. Such costs are typically allocated based upon a formula (e.g., percentage of square footage or percent of total occupancy of a building). The specific formula used by the agency in question must be obtained. In this connection the agency's budget office could provide valuable assistance.

- 1. Rent/leases on buildings      \$ \_\_\_\_\_
  
- 2. Utilities      \$ \_\_\_\_\_
  
- 3. Telephone      \$ \_\_\_\_\_

	<b>Sub- Totals</b>	<b>Total</b>	<b>Grand Totals</b>
<b>4. Vehicle Operation, Maintenance</b>			
(1) Fuel and lubricating oil		\$ _____	
(2) Maintenance, mechanical and other		\$ _____	
 <b>Comment:</b> Payroll considerations in maintenance should be covered in Section 1, Payroll items			
 <b>5. Office Expense -- supplies postage, printing, and so forth</b>			
		\$ _____	
 <b>6. Office equipment</b>			
		\$ _____	
 <b>7. Maintenance</b>			
		\$ _____	
 <b>8. Insurance costs</b>			
		\$ _____	
 <b>9. Educational expenses</b>			
		\$ _____	
 <b>10. Other indirect expenses</b>			
		\$ _____	
 <b>GRAND TOTAL INDIRECT EXPENSES</b>			 \$ _____
 <b>GRAND TOTAL OF ALL DIRECT AND INDIRECT EXPENSES</b>			 \$ _____

## **2. Organizational/Services Data**

Proper collection of organizational/services data should yield an accurate description of a given probation department's:

- Organizational structure and lines of authority;
- Employees and their roles;
- Clientele;
- Range and nature of services;
- Inter-relationship with other community agencies.

The areas listed above are so much a part of the daily routine of governmental agencies that they often tend to be taken for granted. The reasons for making a formal inquiry into such details are:

- To conduct a review of, and reacquaintance with the existing system which is basic to any consideration of its alteration (In planning to remodel a house one first assesses the characteristics and qualities of the present structure);
- To avail oneself of with the opportunity to acquire new insights into the working of an organization, and to illuminate old blind spots (why are we doing things this way?);
- To discover any inappropriateness of structure and procedures which may have been long taken for granted;
- To reaffirm those aspects of the system which are clearly strengths;
- To convey an in-depth portrait of an operation to other interested groups and agencies, or to your public/private partnership;
- To prepare a reasonable basis for rational consideration of design alteration;
- To obtain the necessary background information for the RFP's statement of work and for the development of standards of performance.

On the following pages appears the NOSR Organizational and Services Analysis instrument. Proper application of this Instrument will yield important information on how your organization is put together, and the complete scope of services it offers. Together with the cost data you will have painted a comprehensive organizational portrait.

To ensure that this instrument will provide adequate data, it should be assigned to an individual, or committee, with detailed familiarity of the organization, and with the time to carefully compile the necessary data.

### **Suggested Uses Of The Organizational/Services Data**

⊙ *Assists In Identifying Needs For Conversion:* The organizational data identifies those positions which will be specifically affected in the case of a conversion. The data will also identify those positions within the larger department which provide support or ancillary services. This information ties in with your cost data relative to these support positions. In many cases, such as with administrative support, the cost of the support services may not be appropriate for contracting. However, such support may still be required from the county/state, or you may have to require that it be factored into the response of the potential contractor.

⊙ *Organizational Data is Useful In Interfacing With Your Local Public/Private Partnership:* A juvenile justice public/private partnership will have a wealth of skills available to it from its involved corporate representatives. The private sector's help will be effective only if they become totally familiar with your operations. All of the data you have been collecting will help to get them acquainted. However, the organizational data will be the most pertinent and useful.

⊙ *Organizational Data Offers A Glimpse of the Strengths and Weaknesses of the Current System:* The organizational data will help you to deduce organizational and staff strengths and weaknesses in your department and, most importantly, in respect to the function(s) for contracting. This is important to you, whether or not you decide to contract. Together with other data, you can use this information to consider improvements in the services your agency provides.



### Organizational and Services Analysis Instrument

Gathering this information will almost certainly be more difficult with a large department than with a small one, but the basic purpose remains the same and essential for both. The instrument is to be used with judgment. Parts of it may simply not apply to some departments. *Remember, this is a generic instrument.* Make use of those sections which bear upon the services critical to the conversion contemplated by your jurisdiction. For example: consideration of the conversion of a one county section of a state wide system would not likely require an analysis of the whole state system.

This analysis is designed to obtain information on how the Probation Department is organized and administered; its goals, objectives and program purposes; its relationship to county and state government and to the courts; whether it is a centralized or decentralized operation; types of services it renders and the standards it adheres to in delivering those services.

#### A. Organization

1. Is Probation administered by the executive or judicial branch of government? \_\_\_\_\_

If by the executive, which department? \_\_\_\_\_

What level of government, or combination of levels:

State      County      City      Other

If by the judicial branch, what is the organizational pattern? \_\_\_\_\_

How is the Chief Judge selected? \_\_\_\_\_

How is the Court Clerk selected? \_\_\_\_\_

If policy making committees have an impact upon the appointment of the Chief Judge and Judge(s), what are these committees and what are their policy making functions?

---

---

---

2. What is the title of the principal probation officer? \_\_\_\_\_  
Who appoints this officer and for what length of time? \_\_\_\_\_  
To whom is the principal probation officer responsible? \_\_\_\_\_
3. Is probation a single entity, either juvenile or adult, or is it both? \_\_\_\_\_
4. Are the principal administrative activities of juvenile probation housed in the same building as the juvenile court? \_\_\_\_\_
5. What is the geographic area covered by the probation department? \_\_\_\_\_
6. What is the total population of the area? \_\_\_\_\_
7. What is the age of jurisdiction of the juvenile court? \_\_\_\_\_  
What is the population of that age group? \_\_\_\_\_  
What ethnic subgroups? \_\_\_\_\_
8. What are the total number of referrals per year for the past five years? \_\_\_\_\_
9. What is the number of adjudications per year for the past five years? \_\_\_\_\_
10. How many cases were transferred to criminal court in each of the last five years? \_\_\_\_\_
11. What is the current total number of cases for each of the following categories? List also the average percentage of a probation officer's time that is spent on supervision for each category.

OFFENSE OR CATEGORY	CURRENT TOTAL CASE LOAD	PERCENTAGE OF TIME SPENT ON SUPERVISION
------------------------	-------------------------------	---

---

1. Delinquent Offender
2. Serious Habitual Offender
3. Status-Offender
4. Dependent/Neglected
5. Other

12. List below the types of offenses that would warrant formal probation. What are the current total numbers of cases per offense and the average percentage of a probation officer's time spent on supervision?

FORMAL PROBATION TYPES OF OFFENSE	CURRENT TOTAL CASE LOAD	PERCENTAGE OF TIME SPENT ON SUPERVISION
--------------------------------------	----------------------------	---

---

13. Provide the following information regarding probation employees:

TYPE OF EMPLOYEE	NUMBER OF EMPLOYEES	SALARY RANGE	AVERAGE CURRENT SALARY
------------------	---------------------	--------------	------------------------

Management/Administrative \_\_\_\_\_  
 Supervisory \_\_\_\_\_  
 Probation Officers \_\_\_\_\_

By Specialty:

Intake \_\_\_\_\_  
 Court Services \_\_\_\_\_  
 Regular Caseloads \_\_\_\_\_  
 Special Caseloads \_\_\_\_\_  
 Detention \_\_\_\_\_  
 Clerical \_\_\_\_\_  
 Maintenance-Janitorial \_\_\_\_\_  
 Fiscal \_\_\_\_\_  
 Institutions \_\_\_\_\_  
 Other \_\_\_\_\_

Describe linkages with other services (i.e. health, education). \_\_\_\_\_  
 \_\_\_\_\_

14. If available, provide the manual(s) of operation governing the probation department. Who prepared the manual(s) of operation? \_\_\_\_\_  
 \_\_\_\_\_

15. What is the employee hiring process and grievance process: \_\_\_\_\_  
 \_\_\_\_\_

For civil servants: \_\_\_\_\_

For judicial appointees: \_\_\_\_\_

Other types: (identify employer) \_\_\_\_\_

16. Who prescribes employee qualifications?

State Civil Service Agency \_\_\_\_\_

County \_\_\_\_\_

City \_\_\_\_\_

Departmental rules \_\_\_\_\_

Judiciary \_\_\_\_\_

Other \_\_\_\_\_

Attach the qualifications and general job descriptions for each class of employee.

17. Who determines salary levels? \_\_\_\_\_

18. Who sets performance standards? \_\_\_\_\_

19. Are employees represented by unions or other associations? If so, which ones? \_\_\_\_\_  
\_\_\_\_\_

20. What is the size of the membership? How active is the union, association? \_  
\_\_\_\_\_

21. Into what administrative subdivisions is the probation department organized? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

22. Attach a complete table of organization. Include available flow charts of the probation process. Include other organizational charts that interface with probation.

23. Are there automated information in use in the department? \_\_\_\_\_  
If so, for what uses? \_\_\_\_\_

\_\_\_\_\_

24. Provide a brief overview of systems development. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

25. Describe hardware and software. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

26. What are the system's output functions? \_\_\_\_\_

\_\_\_\_\_

27. Location of main terminal(s). \_\_\_\_\_

28. Provide criticism and comment concerning the automated system by the administration and staff. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**B. Services**

1. What components of service are provided by the Probation Department?

NO. OF ASSIGNED PERSONNEL TO THIS ACTIVITY	% OF TIME SPENT ON THIS ACTIVITY	AVERAGE CASE LOAD SIZE
---	---	------------------------------

---

a. Investigation: \_\_\_\_\_

b. Intake:

Screening: \_\_\_\_\_

Diversion: \_\_\_\_\_

Referrals: \_\_\_\_\_

c. Detention: \_\_\_\_\_

d. Filing of Petition:

Prepare Report for Court: \_\_\_\_\_

Courtroom Presentation: \_\_\_\_\_

e. Status Offender Program: \_\_\_\_\_

f. Supervision:

Formal: \_\_\_\_\_

Informal: \_\_\_\_\_

Other: \_\_\_\_\_

g. Psychological Testing: \_\_\_\_\_

Psychiatric/Diagnostic Testing: \_\_\_\_\_

h. Vocational Testing: \_\_\_\_\_

i. Restitution/Community Service: \_\_\_\_\_

\_\_\_\_\_

j. Counseling

Group: \_\_\_\_\_

Individual: \_\_\_\_\_

Family: \_\_\_\_\_

Substance Abuse: \_\_\_\_\_

Other: \_\_\_\_\_

k. Statistics and Research: \_\_\_\_\_

l. Camps - Total No.: \_\_\_\_\_

m. Foster Care: \_\_\_\_\_

n. Group Homes: \_\_\_\_\_

o. Private Institutions: \_\_\_\_\_

p. Family Crisis Centers: \_\_\_\_\_

q. Prevention Programs: \_\_\_\_\_

r. Community Organization Activities: \_\_\_\_\_

\_\_\_\_\_



s. Transportation: \_\_\_\_\_

t. Volunteer Programs: \_\_\_\_\_

u. Private Institutions: \_\_\_\_\_

2. Which, if any, of the above services are now contracted for? \_\_\_\_\_

Which from the private, profit-making sector? \_\_\_\_\_

Which from the private non-profit sector? \_\_\_\_\_

Which from the public sector? \_\_\_\_\_

3. If some services are provided by contract, who prepares the RFP's? \_\_\_\_\_

4. Are any of the above services, or other services, "brokered" by the probation department without contract? \_\_\_\_\_

Describe: \_\_\_\_\_

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

### 3. Procurement Data

This data tells you how your procurement process works and identifies problems or barriers in the mechanisms of contracting for probation and correctional services.

The NOSR Procurement Analysis Instrument is presented on the next few pages. Properly used, it will lead to a clear understanding of the unique procurement practices of a governmental jurisdiction. Because it attempts to clarify technical procurement practices, its use should be assigned to a contract officer or purchasing agent.

#### Suggested Uses of the Procurement Data

- *Provides Assistance In The Process of Contracting:* The procurement data you have collected should identify critical time-lines for contracting. How long will it take you from the decision to contract to the actual execution of the contract? Who will be responsible for development of the Request For Proposals and its statement of work? Who is responsible for inclusion of standard boiler-plate information which your county/state requires in all RFP's? Who is responsible for advertising the solicitation and what procedures must be followed? These are the types of questions the procurement instrument is designed to get at. It represents important information you need as you plan the mechanism of contracting. Governmental contracting procedures are often complex and slow. You need to know what you are facing to make realistic timing decisions or if you plan to short-cut identified bottlenecks.
- *Helps Identification Of Barriers:* The procurement data will help to identify specific barriers to contracting for the provision of human services. A good example of such a barrier: your jurisdiction has a policy that the contract must be awarded to the lowest bidder. Such a policy may be acceptable when shopping for someone to provide janitorial services, for instance. However, in the provision of human services such a policy could be disastrous. Being able to identify such barriers early on will provide you with an opportunity to remedy the situation before it's too late.

### **Procurement Analysis Instrument**

This analysis is designed to determine the jurisdiction's current procurement policies and practices; how the procurement office is organized; if the county or state possesses the essential types of contracts; and if the jurisdiction has an adequate capability to monitor costs, program and legal performance.

1. Does the state/county have a procurement process? Describe its composition and location within that given structure. If available, provide a manual or written documentation of the procurement process.

2. Depict a graph showing the jurisdiction's process for procurement.

3. What is the Jurisdiction's historical preference relating to contracting?

4. Identify the chief procurement officer. Discuss his/her authority and responsibilities.

5. Identify the chief procurement officer within the probation department, if such a position exists. Discuss his/her authority and responsibilities.

6. Describe the jurisdiction's centralized procurement authority vs. its decentralized authority.

7. What authority has the chief procurement officer delegated to any other department, agency or official? Note problems and strengths associated with these delegations.

8. Describe the "Methods of Source Selection" currently in use. How are they advertised?

**9. List all types of contract arrangements used and the frequency of each.**

**10. How are contracts monitored?**

#### 4. Legal Data

Legal data to be retrieved will assist to identify existing laws, regulations, and policies which will hinder or facilitate the contracting of probation and correctional services. It will also help to answer questions pertaining to liability.

The skilled use of the NOSR Legal Analysis Instrument, presented on the next several pages, will provide an in-depth look at laws, policies, and regulations concerning the contracting of probation and correctional services. Closely adhered to, it offers the ability to acquire information on which to base a legal framework for decision making on matters pertaining to *conversion*.

#### Suggested Uses of the Legal Data

- *Assists In Identifying Barriers To Contracting:* Early identification of such barriers is important, so that something can be done about them before a decision to contract moves blindly ahead. Some barriers may be difficult to resolve, and resolution may require a great deal of time and energy. This is true, for example, if specific legislation prohibiting the contracting of probation or correctional services exists. On the other hand, policy and administrative barriers will be easier to resolve.
- *Assists In Identifying Legislative And Administrative Support For Contracting:* It is equally important to identify existing laws, regulations and policies which may facilitate contracting. Knowing what these are will be a big help in deciding whether to contract with the private sector.
- *Assists In Identifying Liability Issues:* What type of liability exists, according to existing law, which will impact on the services contemplated for contracting? This is an issue which needs to be addressed head-on. Knowing what the liability issues are will help to determine what should be asked of a contractor to reduce the possibility of law suits. It is important to do all you can to develop procedures which will best insulate government from liability concerns. The data will also help determine the nature and size of the bonding which will be required of a contractor.



## **Legal Analysis Instrument**

Jurisdictions vary widely. Welfare and institution codes, Penal codes, and other state and local laws and ordinances may impact on contracting considerations. When analyzing state/local statutes, consideration should be given to their legislative history and interpretation. A jurisdiction may misinterpret the intent of a statute, which could become a barrier to contracting. The objective of this analysis is to help identify potential legal obstacles which need to be addressed for contracting to succeed.

### **A. LAWS**

1. What are the basic state laws and statutes that guide or regulate probation? Describe and attach pertinent citations. (For example: criminal codes, structures of the court, general services for youth, child welfare, mental health, restitution program, etc.)

2. Are there existing state statutes and case law which permit or encourage the contracting of probation functions to the private sector? Describe and attach pertinent citations.

3. Are there existing state statutes and case law which prohibit contracting probation functions to the private sector? Describe and attach pertinent citations.

4. Are there local county ordinances, administrative directives, etc., which permit or encourage the contracting of probation functions to the private sector? Describe and attach pertinent citations.

5. Are there local county ordinances, administrative directives, etc., which prohibit the contracting of probation functions to the private sector? Describe and attach pertinent citations.

6. If impediments to contracting exist, what are the remedy procedures?

7. Are there examples of public services in the state or locality that are contracted to the private sector in the absence of rules and/or laws?

8. What are state and/or local standards and licensing requirements which would impact on contracting, if any?

**B. LIABILITY ISSUES**

1. What personal liability concerns exist in relation to contracted probation?

2. Is there existing policy to deal with personal liability?

3. What steps are taken to implement existing policy, and how is it audited?

4. What impact will privatization of probation have on the issues of personal liability?

5. What protection will a private contractor need to insulate his corporation and personnel from potential personal liability suits?

## 5. Environmental Data

As used here, the term "environment" means the nature of support or antipathy existing in the community concerning probation and correctional services. The term encompasses individuals as well as formal and informal groups.

Every community contains a wide variety of opinions on almost any topic. Private sector operation of probation and/or correctional services is no exception. When certain individuals or groups hold a specific opinion, that opinion may have a considerable amount of force in a community. Failure to identify and deal with these individuals and/or groups can either undermine a planned conversion, or result in an untapped source of assistance and support.

When attempting to gather environmental data, it is very important that care be exercised regarding *how* questions are asked, and *to whom* they are directed. Insensitive inquires about individual or group positions can create resistance where previously little or none existed.

Once information is gained on where an individual or group stands on a given issue, the support of those with favorable opinions should be enlisted, and plans should be laid for dealing with those with unfavorable opinions. It is important to thoroughly understand not only an individual's or group's point of view, but also how they are most likely to act upon their views. Keep in mind that an opinion about privatizing probation, or correctional services, may not be based upon issues inherent to it, but may very likely arise from such factors as:

- election pressures
- misinformation
- lack of information
- special interest groups

The NOSR Environmental Consideration Guide starts on page 4-42. Once completed, it will provide a comprehensive listing of those forces and pressures which can block progress, or help it along. The information gathered will reveal where support may be obtained, and it will indicate who needs more information or attention in order to neutralize or soften opposition. Only someone thoroughly familiar with the political and social "geography" of the area should be asked to utilize the Instrument.

### Suggested Uses of the Environmental Data

- *Prevents Administrators From Being Blindsided:* The data will help to identify those individuals and groups who are opposed to contracting. It is imperative to be aware of who they are and the nature of their opposition. In the majority of cases they will be responding from an emotional level. Hopefully, with proper communication and relevant information their concerns can be diffused. Thus, unwarranted and distracting opposition will be eliminated.
- *Identifies Centers of Support:* The environmental data should help to identify individuals and groups who are supportive of contracting correctional services. Their help may be needed. And, if a decision is made not to convert, they can still help to build increased support for the agency's services.
- *Anticipates Positive and Negative Fall-Out:* The environmental data should help determine the political and administrative ramifications of contracting. For instance, in a strong labor community conversion of a public function to contracting could have negative effects on members of the local board of supervisors, depending on the emotions evoked by the process. On the other hand, successful contracting can result in positive political benefits for elected and appointed officials. Knowing this will help toward a more successful experience.



## Environmental Consideration Guide

This guide is designed to assist communities in identifying the positions and concerns of key individuals and groups toward the contracting of probation functions. (What is the position of the chief probation officer; elected county officials; critical members of the state legislature; county manager and/or state administrator; labor unions and affected employee associations; the judiciary; the media; and the general public?) This will help to evaluate levels of support and resistance on contracting probation functions. This actually is an on-going process since levels of support and resistance on contracting probation functions may change. It is important to note that it may not be possible to know all the information in this Guide. Therefore, pursue only the information that is known, retrievable and relevant in your jurisdiction.

Some points to remember when reviewing and using this guide are:

- This is a guide, not a tool.
- Most of this information will be based on subjective judgment, not on objective data.
- The data will yield an understanding of how to present certain issues to various individuals and groups.
- It can serve as a way to identify members for the local public/private partnership.

1. Who are the elected state/county officials who will play a role in a decision to contract probation and how do they feel about contracting probation functions?

For each official list:

NAME

TITLE

LEVEL OF SUPPORT

DEGREE OF INFLUENCE

KEY STAFF

2. Who are the elected officials who are strongly predisposed to contracting probation to the private sector, and who are willing to introduce supportive legislative packages and/or resolutions necessary to accomplish the objective of privatizing probation. What are their reasons for and their degree of support? What is their influence on legislative initiatives and who do these individuals listen to?

For each official list:

NAME  
TITLE  
LEVEL OF SUPPORT  
DEGREE OF INFLUENCE  
KEY STAFF

3. Who are the elected officials who will be strongly opposed to contracting probation to the private sector? What are the reasons for their opposition and the degree to which they are opposed? What is their influence in stopping legislative initiatives in this area and who are these individuals inclined to listen to?

For each official list:

NAME  
TITLE  
LEVEL OF SUPPORT  
DEGREE OF INFLUENCE  
KEY STAFF

4. What are the legislative committees which will have an interest in a decision to contract probation? How do they feel about contracting probation functions? (s) supportive, (o) opposed, (n) neutral. For each committee list:

NAME OF COMMITTEE  
CHAIRPERSON  
COMMITTEE MEMBERS  
COMMITTEE STAFF (Pertinent)

5. What lobby groups and/or associations have an interest in probation? What is their position on the issue?

For each group list:

NAME OF GROUP  
ELECTED OFFICIAL  
EXECUTIVE  
DEGREE OF INTEREST  
LEVEL OF SUPPORT/OPPOSITION  
KEY STAFF

6. Who is the county administrator and/or the state administrative officer who will be most directly involved in contracting probation functions (other than the Chief Probation Officer or State Administrator of Probation Services?) What is the level of this individual's support/opposition and the reasons for the same?

7. If the probation department in the community is under the day-to-day administrative control of a juvenile court judge, name that individual and his/her level of support/opposition and reasons for the same?

8. Who are the other principal members of the judiciary who have a strong interest in the contracting of probation functions? What are their levels of support/opposition and the reasons for the same?

9. What are the names of the district attorney and public defender in the community? What is their level of support/opposition to contracting probation services?

10. Who is the sheriff of the community? What is his/her level of support/opposition to contracting probation services?

11. Who is the chief probation officer? What is his/her level of support/opposition to contracting functions and the reasons for the same?

12. What is the public's perception of the effectiveness of probation? What is the

role of the media in shaping the perception of the public in this community? (Recent editorials on television or in the newspaper may have addressed probation.)

13. What is the public's reaction, if any, to the contracting or probation functions?

14. Who are the influential members of the community prone to support the contracting of probation services? Who are those who may be opposed? What is the strength of their support/opposition and the role they might play in support of or in opposition to such a move?

For each individual list:

NAME

SUPPORT/OPPOSITION

DEGREE OF SUPPORT/OPPOSITION

ACTIVE ROLE

### C. Redesign Of Functions To Be Contracted

Once, all relevant data has been collected and analyzed a redesign of probation services should be undertaken, so as to cut costs and/or increase efficiency. It is important to remember that redesign can be a valuable management process, whether the services are contracted to the private sector, or kept in-house. Utilizing the expertise and perspective of the local public/partnership is especially helpful in this endeavor.

The key to successful redesign is planning. There are eight steps recommended in a redesign process: Each step is discussed below:

#### *Step One: Appoint A Redesign Committee*

The first step in the eventual redesign of specific services is the selection of a redesign committee. This committee should be selected from the full public/private partnership. It is important to select individuals who will be able to commit to three to six committee meetings, of one to two hours' duration, over a period of three to four months. In addition, it is essential that the group attend a one or two day redesign session. (This session is discussed fully in Step 3 below.)

#### *Step Two: Educate Redesign Committee*

The second step in the redesign process is to educate the redesign committee about the services under consideration. This step can be initiated through face to face contacts with staff and administrators providing the service; observation of the work performed; and during partnership meetings. However, certain information may need to be emphasized such as: What services are now provided and how does the offender come to the attention of the agency? One or more sessions may be needed to accomplish the educational objectives. Select the most competent presenters and allow ample time for committee members to ask questions so that they become conversant with all aspects of the services to be redesigned. Technical assistance from OJJDP or NOSR may be available for these sessions.

#### *Step Three: Conduct Redesign Session*

*The redesign session is the most critical event in the planning process. It provides an opportunity for the redesign committee and selected staff to meet together in a*

relaxed environment away from the office where they can think creatively. Two days should be allotted for this step. If it proves impossible to get the group away for an overnight meeting, it is essential that at the very least one full day be devoted to this step. Technical assistance can be requested to facilitate the meeting so the group is free to "brainstorm."

It is the responsibility of the staff to prepare for the meeting. Preparation includes: appropriate meeting space, convenient time, well planned agenda, clear goals and process, and attention to logistical detail. The session should be the culmination of all of the work accomplished so far. It must be well orchestrated so that the group adheres to its task and is allowed to be creative.

It is the responsibility of the redesign committee to honor their commitment to the session and provide the staff with creative ideas that can be formulated into a redesign format. They are there to generate ideas, not to make decisions. They are there to help the staff discover options, designs and plans that the staff will decide on at a later date. The possibilities are limitless.

**Step Four: *Prepare First Draft Report Of The Redesigned Services***

Basically, the staff will formalize what took place at the redesign session into the draft report. The draft report should accurately reflect the ideas generated at the redesign session.

The agency providing technical assistance should be available to answer questions as they may arise, and to review the draft and provide feedback to the staff.

**Step Five: *Conduct Redesign Committee Feedback Meeting***

The objective of this meeting is to allow feedback from the redesign committee on the draft report. The draft should be presented to the group in written form prior to the meeting so that the members have the opportunity to review it, digest it and make comments on it.

The redesign committee will need to read the information presented to them from the staff and be prepared to make comments and criticisms to the staff. The committee must be able to edit the formulated plans and ideas the staff presents to

them. This material should also be presented to the technical assistance providers for review.

**Step Six: *Prepare Second Draft Report Of The Redesigned Services***

As a result of Step five the staff will prepare a second draft of the report which reflects the comments and suggestions rendered by members of the redesign committee at the feedback session. The technical assistance providers should be asked to review the second draft of the document as requested and to offer whatever assistance is needed.

**Step Seven: *Present Redesign Ideas To Full Partnership For Review And Feedback***

In this meeting the entire partnership is convened for its review and feedback of the draft report. The staff will need to provide the full public/private partnership with the second draft of the redesign concepts developed by the subcommittee prior to the meeting. Once again, the purpose of the partnership meeting is not to make decisions but to generate ideas.

**Step Eight: *Prepare Final Draft Of Report***

The final draft is a description of the redesigned system which includes the comments from the full partnership. This final draft is the product of the entire redesign process. The redesigned services, together with all of the data collected with NOSR's instruments, forms the basis upon which a decision to contract can be logically made. If the decision is not to contract any of the redesigned services, plans will need to be developed for administering the services in-house, and for any necessary reallocation of existing resources. If the decision is to contract some or all of the redesigned services, the material presented in the next three chapters will be of great value.

The following criteria will assist in determining factors favorable to contracting of services:

- Contracting is permitted by law or ordinance or is not prohibited;
- Studies and complete data show contracting will result in a cost effective service system;

- ⊙ Improvement in efficiency in service will result from contracting;
- ⊙ Contracting is an appropriate method to secure desired redesign and innovation of services;
- ⊙ Contracting has major community, agency and business support;
- ⊙ Providers are available and their competition appears to provide good prospects for increased quality, economy, productivity and effectiveness for the functions to be contracted;
- ⊙ The function is not so inherently governmental in nature and so intimately related to public interest that it should only be performed by government employees;
- ⊙ It is possible to adequately monitor and evaluate performance of contractor to ensure proper public accountability;
- ⊙ The function is "ready" for carefully considered and planned change(s).



## Chapter Five

---

### TECHNICAL ASPECTS OF CONVERSION TO THE PRIVATE SECTOR:

#### THE REQUEST FOR PROPOSALS AND PROPOSAL REVIEW

The Request for Proposals (RFP) is the instrument by which a governmental agency solicits private sector contractors with the capability to provide the services the agency seeks. The RFP is the initiating document which sets in motion a series of events in the contracting process. The ability to draft a comprehensive and understandable RFP is essential to successful contracting. Attracting capable bidders and ensuring the submission of highly responsive proposals is possible only with a competently drafted *Request for Proposals*.

This chapter begins with a discussion of how the information and data, gathered with the instruments presented in the previous chapter, is used to draft the RFP. This is followed by a discussion of the technical aspects of RFP development. Guidelines for the proposal review and selection process are also presented. Finally, a fictitious Request for Proposals is included which the reader can use as a model.

#### A. Information and Data Usage

There are five major types of data that have applications for contracting. They are cost data, procurement data, organizational data, legal data and environmental data. Each type was discussed in detail in Chapter Four. We now look briefly at

how each of these data groups relates to the development of an RFP.

Cost data tells you what costs are relative to the functions you are considering for contracting. In developing an RFP you need to know exactly what resources are available to you. This is needed whether you provide the potential contractor with information on the exact resources available or estimates on the amount of person days required to complete the effort.

The cost data you have acquired allows you to offer quality guidance to contractors on how the budget is to be presented and the procedures you want each bidder to use in calculating cost for various items. Such guidance will assist you later in evaluating budgets of competing contractors.

The cost data will permit you to precisely compare what it costs you to operate a specific function and what it will cost a private provider to operate the same function. The data also allows you to compare current costs with costs of a redesigned function. Cost comparisons can also be made in respect to specific elements within a function considered for contracting, such as food services in detention. The cost data will also highlight inordinately high or low costs which will need your attention.

Most functions you will be looking at probably draw resources from more than one cost center. For example, detention may receive all maintenance activity from the general services agency of the county or state. If these costs appear in the general services budget you need to determine if they are willing to contract the services, transfer the resources to your agency or develop a separate RFP. The cost analysis will help determine if it is more cost effective for the county or state to continue to provide the maintenance services.

Procurement data identifies problems or barriers in contracting for services. It also identifies the time it will take from the decision to contract to the actual execution of a contract, who is responsible for developing the RFP and who advertises the solicitation. The data helps to identify specific barriers to contracting. For example, a locality that has a policy that a contract must be awarded to the lowest bidder may be acceptable for contracting for janitorial services but could be disastrous when contracting for human services. Identifying such barriers provides an opportunity to remedy the situation.

Organizational data tells you how your department is organized and staffed, the programs the agency is authorized to administer and how the component(s) considered for contracting fit into the organization. This data identifies positions effected by transfer and positions within the department which provide support services. This information ties in with cost data and may have to be factored into the response of the potential contractor. Organizational data helps you deduce organizational and staff strengths and weaknesses and together with other data, can be used to consider improvements in your current program.

Legal data assists you to identify laws, regulations, and policies which will hinder or facilitate the contracting of correctional services. Some barriers require a great deal of time and energy to resolve, such as laws or ordinances prohibiting contracting of certain functions, while policy and administrative barriers are easier to resolve. Legal data also assists in identifying laws, regulations and policies which may facilitate contracting. Determining the type of liability which will exist on the services contemplated for contracting will determine what you will ask of the contractor to reduce the possibility of law suits. This data will help you determine the nature and size of required contractor bonding.

Environmental data is obtained informally and helps you identify individuals and groups who oppose or support contracting of government services. This data is used to improve communications and provide relevant information to diffuse concerns or to build support for contracting. It also helps determine political and administrative ramifications of contracting, which will be useful to plan ways to increase positive political benefits through successful contracting.

## **B. Preparing a Request for Proposals**

The Request for Proposals must clearly state the services which are sought and all of the contractual terms and conditions which apply to the procurement of the services. (A fictitious RFP is found at the end of this chapter. It provides the reader with an example that can serve as a guide for RFP development).

In the bidding/contracting process an RFP is a critical instrument because it assures that each potential provider of services has the same understanding of the nature and scope of the services desired and the information which he is required to furnish. The RFP also establishes the legal framework within which the contract must be fulfilled. A poorly written RFP casts an inferior image over the whole

contracting effort and is likely to elicit proposals that are, in turn, inferior.

There is a wide variety of formats used for RFPs. There is no singular "right" format. However, successful RFPs have common elements regardless of format. These common elements are essential and are generally organized into six areas: General Information, Terms and Conditions, Statement of Work and Minimum Requirements, Information Required from Bidders, Proposal Evaluation and Selection Criteria, and Attachments.

## SECTION I

### General Information

This section is designed to provide basic information which is necessary to respond to the solicitation. Generally, it should state the products or services the solicitor is seeking to obtain. It should indicate how the RFP is being made available and how it is being advertised. Specific topics to be covered are:

1. **Legal Basis.** In the case of correctional services this means stating the legal codes and their sub-sections which define and authorize the services which are being considered for contracting.
2. **Issuing Office.** The RFP should clearly indicate the name and address of the issuing office, as well as the name, address and telephone number of the technical staff person who will be responsible for the project. Note: Some procurement regulations require only that the contracting officer, who may or may not be the technical contact, be identified in the RFP.
3. **Commitment of Government Body.** The issuance of the RFP should in no way constitute any commitment by the government agency to award a contract, to pay any cost incurred in preparation of a response to the request, or other acts on the part of the respondents to procure or contract for services.
4. **Definitions.** This is optional, but it's wise to define any terms necessary for a clear understanding of the RFP.
5. **Response Deadline.** It is imperative that the RFP include the date and time, including Standard, Eastern or Central, etc., when the proposals are due; the place

due -- mailing address -- and the number of copies required. A notation that late proposals will not be considered should be added.

**6. Hold Harmless.** This section is set forth for the protection of the agency. It establishes the responsibility of the contractor to indemnify, defend, and hold harmless the government agency, its officers, agents and employees for claims or losses resulting from the acts of the contractor performing or supplying services, materials or supplies in connection with the performance of the contract, any claims or losses resulting from injury or damage due to erroneous or negligent acts of the contractor's publication, translation, reproduction, delivery, performance, use, or disposition of any data processed under the contract in a manner not authorized by the contract, the law, or governmental regulations; and any failure of the contractor to observe laws including, but not limited to, labor and minimum wage laws.

**7. Confidentiality.** The contractor shall be required to comply with the provisions of the Privacy Act of 1974. *Client related information must be regarded as highly confidential.* This does not apply to information which the jurisdiction has released in writing, or information which at the time of disclosure is in the public domain by having been printed and published and made available to the public.

**8. Disclosure of Proposal Contents.** Prior to the effective date of the contract, the contractor and the government agency must agree that all information communicated between them shall be received in strict confidence and shall not be disclosed by the receiving party, its agents or employees without prior written consent of the other party. Upon signing of the contract by all parties, terms of the contract become available to the public, in accordance with state law.

**9. Response Deadline.** Here is reiterated the hour and date by which proposals are due. It must be clearly stated that late proposals will not be considered. If further information is required, a name and phone number may be included in this section. It should also be specified that the RFP and the response received from the eventual contract holder shall be made a part of the contract. This requirement is necessary to assure that nothing gets intentionally or inadvertently left out or overlooked.

## SECTION II

### Terms and Conditions

This section on terms and conditions sets forth more specifically the details required in the proposal. This information is essential to a potential bidder for adequate preparation. It deals with a variety of topics.

1. **Contract Type.** There are a number of contract types, each designed to meet certain needs. The contract type to be used will likely be determined by the procurement officer, possibly with the advice of legal counsel.
2. **Contract Term.** For how long a time period is the contract expected to run? This must be determined and stated. Whether or not there are to be extension periods, and if so, the length of time and terms for the extension must be set forth. It is customary to set a time limit beyond which no extensions will be provided.
3. **Contract Funding.** Whether or not to state the amount of money available for the contract is a matter of some debate. If an amount is stated there is a tendency for the bids to come very close to that figure. On the other hand, if an amount is not given, bids may exceed the amount of funding available and the bidding process is thereby complicated. What you choose to do in your jurisdiction should be determined by your standing policy and upon the advice of the procurement officer and legal counsel.
4. **Contract Amendments.** Sometimes after a contract has been awarded valid reasons arise for modifying it. Such an occurrence should only result upon the mutual agreement of the contracting parties and should be contingent upon the fulfillment of all other terms in the RFP and the contractor's original response.
5. **Incurring Costs.** The RFP should make clear that the contracting agency will take no responsibility for any costs incurred by the contractor prior to the award of the contract. The preparation of a proposal can be time consuming and costly, but that is a risk which a potential contractor must bear.
6. **Method of Payment.** This section describes how payment shall be made to the contractor. Payments are predicated upon the successful completion of the work as

described in the RFP and as contracted. Generally, payments due under the contract are paid monthly, upon receipt of an itemized invoice detailing the costs.

7. **Insurance.** It is important that the contractor be covered by appropriate insurance. This usually includes public liability, property damage, workman's compensation, insuring the interest of all parties of the agreement against any and all claims which might arise out of contractor operations under the terms of this contract. In the event of cancellation of an insurance policy, the contractor must be required to report the cancellation immediately.

8. **Performance Bond.** To assure a contractor's faithful performance it is customary to require a performance bond for 70 percent of the first year contract value, renewable each year. The bond should be maintained until the completion of the work and its acceptance by the government. The costs of the performance bond shall be borne by the contractor and shall be included in the proposed total cost.

9. **Independent Price Determination.** Award of contract is conditional upon independent pricing. There must be no collusion, consultation, communication or agreement about any matter relating to prices with any other competitor. An offeror must certify that his price was arrived at without any such conflict of interest. Should such conflict of interest be subsequently detected the contract shall be voided and the contractor shall suffer such other penalties as may be stipulated such as assuming all costs of the project until such time as a new contractor is selected.

10. **Contract Termination.** Circumstances sometimes require that a contract be terminated. Both the reasons and provisions for termination should be thoughtfully spelled out. Established "boiler plate" in this regard may be used. In any case, this is an area of legal technicality and legal counsel should be involved. The most common reasons for contract termination are:

- **Default:** The agency may terminate a contract in whole, or in part, whenever the agency determines that the contractor has failed to satisfactorily perform its contracted duties and responsibilities, and is unable to cure such failure within a period of time specified by the agency, taking into consideration the gravity and nature of the default.
- **Bankruptcy:** In the event of the filing of a petition of bankruptcy by or

against the contractor, the agency shall have the right to terminate the contract upon the same terms and conditions as a *termination for default*.

◦ *Unavailability of Funds*: In the event that funds for the contract become unavailable, the agency shall have the right to terminate the contract without penalty and upon the same terms and conditions as a *termination for convenience*. Availability of funds will be determined at the sole discretion of the agency.

◦ *Convenience*: The agency may terminate performance of work under the contract in whole, or in part, whenever it determines that such termination is in the best interest of the agency. In the event of termination for convenience, the agency will likely incur some serious financial obligations to the contractor. These should be ascertained with the legal counsel and the procurement specialist. The procedure to be followed must then be carefully spelled out.

11. **Employment Practices.** Employment practices comprise a sensitive area to which careful attention must be given. Although it seems that everyone should by now be familiar with affirmative action planning, provisions to guard against discrimination must be taken. Accordingly, the RFP should contain the requirement that the contractor shall provide an affirmative action plan which shall include a grievance procedure. The plan shall apply, but not be limited to, employment, promotion, demotion, transfer, recruitment, lay off or termination, rates of pay or other forms of compensation and selection for training. The contractor in all solicitations for employees must state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, age (except as provided by law), marital status, political affiliation, or handicap except where it relates to a bona fide occupational qualification.

It is most important that the contractor be required to offer qualified employees, who are currently performing the functions expected of the contractor, the "right of first refusal" to fill similar positions with the inception of the contract. The RFP response must include a plan which reflects efforts to be expended to interview, screen and re-employ displaced governmental personnel.

12. **Subcontracts.** In some instances the contractor will arrange for the



provision of some services through a subcontract with a specialized provider. If subcontracts are planned to be used, the proposal must include specific designation of the tasks which the subcontractor is to perform. The proposal must include copies of any agreements to be executed between the prime contractor and any subcontractors in the event of contract award. The agency should retain the right to approve all subcontractors. No contract shall be made by the contractor with any other party for furnishing any of the work or services contracted for without the consent, guidance and approval of the agency. All references in the RFP to the contractor should be construed to encompass both the contractor and any subcontractors. This provision does not require the approval of contracts of employment between the contractor and personnel assigned for services thereunder.

**13. Validity Period.** The contractor will be held to the price and contents of its proposal for the length of time following the closing date listed in the RFP. The validity period should be reasonable and is intended to provide the issuing agency with sufficient planning time for proposal review and decisions on funding. Ordinarily sixty to ninety days is a sufficient Validity Period.

**14. Acceptance of Proposals.** The RFP should state that the issuing agency reserves the right to reject *all* proposals or *any* proposal that does not meet the mandatory requirements. Similarly, the agency reserves the right to cancel the RFP in accordance with its own best interests. By the same token the agency reserves the right to request amendments or to waive minor irregularities in proposals when such action is in the best interest of the agency. Such waivers in no way modify the RFP requirements or excuse the offeror from full compliance with the RFP specifications and other contract requirements if the offeror is awarded the contract.

**15. Acceptance of Proposal Content.** The potential contractor must agree that, should a contract ensue, the contents of the proposal shall become a part of the contract. This provision is included to make sure that nothing stated in the proposal is purposefully or inadvertently left out of the contract.

**16. News Releases.** The contractor is forbidden to copyright, publish or disseminate any information of whatever nature resulting from the work being performed under the contract except as approved in writing by the contracting officer.

17. **Pre-Proposal Conference.** How to deal with legitimate questions raised by potential bidders about the RFP is a reasonable concern. In responding to their questions care must be taken to avoid giving one respondent an advantage over others. One way to deal with this matter is to announce in the RFP a scheduled bidders' conference, clearly stating the time and location of such a meeting. The announcement should also stipulate the deadline for receiving written questions to be answered at the conference. (If a conference is scheduled and held it is the bidder's responsibility to decide on attending.)

An alternative to the conference is to accept written or telephonic questions and then to circulate the response to all potential bidders. This is a much more time consuming and difficult process than a conference.

18. **Oral Presentation.** Sometimes, especially where innovation is a factor, it is advantageous to the agency to discuss the proposals of finalists with them. Under this provision bidders may be required to make an oral presentation of their proposals at their own expense prior to award of contract. In his proposal, a bidder should include a statement of intended compliance with this requirement.

### SECTION III

#### Statement of Work and Minimum Qualifications

An RFP is an integrated document with inter-dependency among the various parts. Therefore it is difficult to say that one section is more important than another. However, the Statement of Work is surely the RFP's keystone. Many of the other inclusions are cut and dry, required for the legal and fiscal aspects of contracting, pretty much uniform from one contract to another. It is the statement of work which varies and invites creativity and innovation. *All* requirements specified in an RFP are minimum requirements to be met by the contractor. The major components of a statement of work and minimum requirements are generally the following:

1. **Purpose of the Request for Proposals:** The purpose of the RFP is to provide bidders with information to enable them to prepare and submit, for consideration by the issuing office, proposals to develop and provide services to be defined in this

section of the RFP.

**2. Background:** This paragraph should describe succinctly the general problem or need addressed by the RFP and the planning process which led to its development. The RFP and services solicited in it should be placed in historical perspective. Any peculiarities regarding the solicitation or funding should be stated in this section.

**3. Contract Objectives:** State the goals and objectives of the intended contract. Specify in some detail the objectives which the solicited services will help to achieve.

**4. Administration, Organization and Management:** Specific tasks required of the offeror must be spelled out. Bidders should be instructed to detail the methods and procedures which will be used to accomplish the tasks. However, care must be taken to avoid prompting bidders to reflect methodological biases of the originators of the RFP. A major judgment to be made in reviewing the proposals should be the comparative merit of innovation, creativity and methodology of the competitors. The tasks should be carefully inter-related by the contractor with the minimum requirements (performance standards) expected. Some important areas in which the RFP should offer guidance are:

- *Project Schedule:* The time in which various stages of the contracted work must be accomplished should be specified. The respondent should be directed to present a clear time table for the phase-in of the contracted services.

- *Operational Manual:* The potential contractor should be made aware that he will be required to prepare an operational manual which delineates the policies and procedures for operating the contracted function.

- *Reports:* The reports required of the contractor and their due dates must be clearly stated. The number of copies of each report and the report format should also be specified. There should be included a reporting requirement that the contractor notify the contracting officer of any problems which might necessitate a contract alteration. It is a good idea to specify again the confidential nature of offender information and the restrictions applied to its use.

- *Management Meetings:* Bidders should be made aware that they will be required to meet periodically with government officials to discuss progress and/or problems.

- *Minimum Requirements:* A series of subsections defining minimum requirements or standards for the performance of the function(s) to be contracted should be included here. This may be handled by referencing the established standards of the American Correctional Association etc. It is important that bidders be instructed to respond to each of the minimum requirements presented.

5. **Personnel:** The RFP should require the bidder to include in his response written personnel policies governing in compliance with federal and state requirements and specific items appropriate to the project, to be submitted to the agency for prior approval.

6. **Security Requirements:** Some aspects of correctional work are extremely sensitive to staff qualifications regarding security. Detention, for example, requires personnel who can be trusted to respect the integrity of the unit in order to prevent escapes, the introduction of contraband and special privilege. It is imperative that employees be of good moral character and be reliable in upholding the law and maintaining the standards of the operation. The bidder must be required to clearly state the requirements of employees in this respect and what measures will be taken in the way of background checks and employment history to assure that only qualified personnel are employed.

7. **Training.** To assure understanding of the work to be accomplished and to increase the effectiveness of staff, a well planned training program for all classifications of employees is necessary. The RFP should delineate the minimum expectation of the contractor in this regard along with a record keeping system to verify its performance. Both the curriculum and the record keeping system must be prepared by the contractor and approved by the agency.

8. **Records.** What records are to be kept by the contractor, in what form, for what time period, at what level of confidentiality, and what their disposition shall be must be set forth in the RFP. The bidder must be asked to respond with plans appropriate to the need as specified.

## SECTION IV

### Information Required from Bidders

The RFP must require certain basic information from all bidders. This is necessary to ascertain the fitness of a bidder to perform if awarded the contract. It also allows the proposal reviewers to make comparisons between bidders in evaluating the proposals. It is customary to require that proposals in response to an RFP be submitted in two separate volumes: 1. The Technical and Managerial Proposal, and, 2. The business proposal. The reason for requiring two separate volumes is that the business proposal, generally, will contain privileged information which should not be shared among competitors and which the agency should protect.

#### A. TECHNICAL AND MANAGERIAL PROPOSAL (Volume I)

The Technical and Managerial Proposal deals primarily with the Statement of Work. In the sample RFP at the end of this chapter there is a suggested format for this volume. Established formats vary from jurisdiction to jurisdiction. Whatever the format used, it should ensure that *in so far as possible it does not interfere with or limit innovation and creativity in the work being proposed*. The reason for requiring this uniformity among bidders is that it facilitates effective comparisons between competing proposals. The suggested format includes the following:

1. **Table of Contents.** A table of contents is required primarily to facilitate the location of subject areas in the document. Coincidentally, it gives a bare bones overview of the material of the document.
2. **Statement of Understanding of the Scope of Work.** In this section we are touching on the keystone of the project once again. In it the bidder gives the evaluator his first glimpse of the bidder's understanding of the problem being addressed, its background, his comprehension of the objectives of the program, the assumptions underlying the program, and a statement of problems anticipated in the implementation of the project.
3. **Proposed Approach.** Here the methods proposed by the bidder to provide the necessary services must be described in detail. It is here that the creativity of the

bidder is expressed. Innovative uses of personnel and technologies which insure optimal and cost effective performance are expressed. This section is a combination of two features: 1) a response to the statement of work in the RFP; and 2) the bidder's ability to draft a response which provides an innovative approach to service delivery. What the bidder must do is determined by the statement of work in the RFP. Sought are new ways of providing basic services with better results. The proposal must be very clear in its statement of all components to be performed.

**4. Management Plan.** The management plan details the bidder's plan for implementing his described approach. Here each task and the amount of time and professional man hours required for each must be set forth including time required to become operational after the award is made. A schedule of required reports and other records must be submitted. The management plan should indicate in a display, in weeks, each task and decision point in the proposal. These tasks will become contractual obligations to be fulfilled by the contractor and payment will be dependent upon their successful completion. Bidders may be asked to suggest an acceptable penalty for non-performance in accordance with the proposal time table.

**5. Contingency Plan.** It may be appropriate to require the bidder to present a contingency plan to be implemented in case normal functions are disrupted by labor problems, fire, power outages, natural disasters or other emergencies.

**6. Bidder Capabilities.** The bidder should include verifiable information which establishes his level of competence for performing the services sought. This should include a brief description of corporate experience which has relevance to this project.

## **B. BUSINESS PROPOSAL (Volume II)**

The Business Proposal must be in a separate volume because the data which it contains will be held in confidence and will not be revealed to, or discussed with, competitors. The information requested in this section is required to support the reasonableness of the bidder's quotation and is for internal use only. The agency system of costing may be used; if it is used it must be described for the bidder. The budget must be displayed in a standardized format such as the following:

**1. Direct Labor:** Labor costs should be itemized showing the following items:

- ⊙ Personnel (including type of positions)
- ⊙ Estimated hours
- ⊙ Salary rate per hour
- ⊙ Fringe
- ⊙ Subtotal cost for each personnel category and total for all manpower needs
- ⊙ Consultants (Indicate rate per day and estimated number of days, assuming an eight hour day unless otherwise specified)

**2. Other Direct Costs - Itemize:**

- ⊙ Equipment
- ⊙ Supplies and Materials
- ⊙ Computer costs, if any: indicate cost per hour and number of hours.

**3. Travel costs:** Should be separated between local and "out of town"; which personnel are involved in travel and probable destinations should be shown as well as the travel purpose; per diem cost should be shown apart from travel.

**4. Overhead and General & Administrative Expenses:** The base and percentage used for overhead and/or general administrative expense should be indicated. (A fixed overhead rate may be incorporated in the contract.)

**5. Total Direct and Indirect Costs:** Add all above costs

**6. Profit:** This will be dependent upon jurisdictional policy. In some instance a "cap" is prescribed.

**7. Total Price of the Proposal:**

Every bidder must include a statement assuring that the bid was independently prepared with no collusion with other bidders. A customary statement satisfying this requirement is, "this cost and price analysis is submitted in full compliance with the provision of the paragraph entitled 'Independent Price Determination,' of Section II of the RFP to which this proposal is a response."

**SECTION V**

**Proposal Evaluation and Selection Criteria**

All proposals received will be evaluated by the RFP issuing agency for the purpose of selecting the bidder with whom the contract will be signed to provide the desired service. This selection varies widely among jurisdictions. NOSR recommends the following selection criteria which has grown out of considerable experience in proposal evaluation:

- Understanding of the problem and need or the proposed scope of work. 15 points
- The adequacy of the proposed approach to accomplish the work, and demonstration of an understanding of the requirements of the work. 30 points
- The proposed management approach. 20 points
- Proposed staff and corporate resources. 15 points
- The Budget. Emphasis will be placed upon the fairness of the proposal price relative to the proposed tasks, and the adjudged competence of the bidder. 20 points



## SECTION VI

### Attachments

In this section the agency issuing the RFP should include any informational items which the agency wishes to place in the hands of potential bidders for supplemental purposes, but which are not actual parts of the foregoing sections of the RFP.

#### C. Proposal Review

State laws and local ordinances vary in their provisions concerning criteria to be used in evaluating a bidder's capability to provide contract services. The following are offered as guidelines for the proposal selection process to supplement state/local provisions where needed and to offer options when applicable.

Proposals for contracts should receive an objective and technical review. The principal administrator of the jurisdiction involved should establish policies and guidelines for the review of proposals and for monitoring and evaluating the review process. The two major principles for review of contract proposals are:

1. Merit is best determined by expert reviewers in relevant professions, disciplines and fields of activity.
2. Effective review procedures that ensure the integrity of the review process should be established.

These principles are made operational through close collaboration with the contract officer who is responsible for determining the conduct of the process and the award of the contract. The contract officer must have control of the review process including review comments from all involved in the process. Also, there needs to be an understanding of terms used in the review process. Ten of the most important terms are:

1. *Review Team* means a group of experts qualified to give advice on the merit of a proposal. A review team should generally have three to five voting members.

2. *Selection Authority* is the individual with authority to select the winning proposal for award of a contract.
3. *Contract Officer* is the official who has authority to award the contract.
4. *Chairperson* is the individual designated to chair and facilitate the meetings of a review team. The chairperson is usually a non-voting member appointed by the agency head or contract officer.
5. *Secretary* is the individual designated to record the proceedings of a proposal review and is a non-voting member of the team.
6. *Non-Review Proposal Staff* are agency personnel who developed the RFP and who are not eligible to participate on the review team.
7. *Proposal* refers to a written offer to enter into a contract submitted to a requesting agency by an individual or organization.
8. *Project Concept* refers to the basic idea or purpose, scope and objective(s) of the project.
9. *Project Approach* refers to the method to be followed and the resources needed to carry out the project.
10. *Objective Review* is a thorough, consistent and independent examination of the merits of the proposal by individuals qualified to conduct the review.

The review team is responsible for reviewing proposals received in response to an RFP, evaluating them in accordance with the announced selection criteria, and recommending the best offeror to receive the contract.

The review team and the non review program staff (NRPS) need a cooperative relationship to be fully effective. NRPS are responsible for determining program objectives, defining their requirements, and establishing the criteria for evaluation of proposals. NRPS may serve as a resource to the review team to add clarity to the objectives of the project.

It is the responsibility of the contract officer to determine the level of orientation

necessary for reviewers to adequately perform their function. This includes providing an orientation, in written or verbal form, on the context of the program and the policies and procedures to be followed when reviewing proposals. It is the responsibility of program staff to provide necessary materials such as a statement of the program goals and purposes of the contract to the contract officer.

Non-review proposal staff *shall not* conduct any dialogue with potential or actual offerers relative to an acquisition currently being planned or processed. Such dialogue may be conducted only by the contract officer, or his/her designee. The contract officer needs to assure that no information is provided to any organization that may put it in a preferential position. No questions clarifying the RFP may be answered to only one bidder. All bidders must receive the same clarifying information.

The review team should be appointed upon release of the RFP. The contract officer is responsible for establishing the team, but not always responsible for the choice of its members. Review team voting membership should usually be limited to three to five scoring members. It is wise to have at least one alternate reviewer in case a reviewer is disqualified or is unable to perform. Other members include a chairperson, a secretary, a representative of the office of legal counsel, and the contract officer or his/her designee. Members may be employees at the contracting jurisdiction, other governmental organizations or from outside government.

An effort should be made to avoid any actual, apparent or possible conflict of interest. Questions about conflict of interest should be discussed immediately with the chairperson and if it is determined that a conflict exists, the member will immediately disassociate himself/herself from the procurement process. Some examples of conflict of interest are:

- A review team member who is, or was previously, employed by the offeror; who plans to seek employment with the offeror; or who has a financial interest in one of the offeror's enterprises.
- A team member is a friend or relative of one of the bidders.
- A team member possesses strong sentiments regarding the area of contracting which may prejudice his/her evaluation.

The availability of team members must be confirmed prior to delivery of proposals. Members have six major responsibilities:

1. Aid in selecting an appropriate provider by reviewing and scoring all proposals.
2. Refrain from discussing the review process of specific proposals with anyone except other team members.
3. Perform an individual evaluation of each proposal using a rating sheet followed by a consensus evaluation and selection recommendation.
4. Submit a team report of findings with a ranked list by scores of the top three to five bidders. Notes should substantiate the decisions made since these notes, in the event of legal protest and appeal of the selection process, may be used as evidence in establishing the fairness and impartiality of the selection process.
5. Conduct face to face interviews with organizations submitting the best proposals, when *Oral Presentations* are requested.
6. Submit recommendations to the selection authority.

The orderly receipt and control of proposals along the selection path is a critical factor in the efficient management of procurement documents. RFPs need to allow a reasonable period of time for prospective offerors to develop adequate responses to the requirements specified in the solicitation. An ample period of time should be allowed between receipt of proposals and the intended date of award to allow for review, clarifications, orals, negotiations, best and final offers, and award.

All proposals should be received by the contract officer who will conduct a preliminary review to determine those offerors that meet basic requirements. The contract officer may reject a proposal if basic requirements are not met. Reasons for rejection include:

- RFP requires an offeror to be located within a specified geographic area and the offeror is in non-compliance;
- Offeror is debarred, suspended or on ineligible bidder's status;

- Proposal is not responsive to RFP; or
- Proposal was received after the closing time and date.

Cost proposals may or may not initially be made available to the reviewers depending on local procedures. If review team members do not review budgets the contract officer will separate the business and technical proposals and conduct a preliminary review of business proposals to assure that cost proposals are described in sufficient detail to allow complete cost analysis and meet other data required by the RFP if the technical proposal is determined to be acceptable.

Review meetings involve preparation and planning. Duplicate copies of the RFP and logged proposals should be delivered or mailed (return receipt requested) to reviewers as soon as possible in order to give reviewers sufficient time to study each proposal. Reviewers are to be provided with rating sheets structured to accommodate numerical scores and narrative comments on strengths and weaknesses on each evaluation criteria contained in the RFP. The reviewer's numerical score must be consistent with his/her narrative statement. Reviewers may be instructed to evaluate the proposals and complete the rating sheets prior to the review meeting. A reviewer may modify his/her rating sheet at the meeting to adjust for new information gained as a result of review discussions. All changes must be initialed by the reviewer.

It is appropriate to make tentative arrangements for the review meeting at the time the RFP is issued. Reviewers should be notified of the date, time and place and these arrangements should be confirmed as soon as possible.

RFPs should describe the criteria which will be used for their review. *Selection Criteria should be based upon the specifics of the RFP.* The criteria should encourage creativity and innovation as much as possible; protect the interests of the government and not unnecessarily restrict competition. From these criteria a rating sheet is formulated and may be published as part of the RFP. The rating sheet should be drafted to accurately reflect the unique qualities and expectations of the RFP. A rating sheet has the following characteristics:

- Focuses on those items which can be addressed differently by bidders;

- Provides evaluation criteria for every major element in the RFP;
- Assigns values to each of the evaluation criteria reflecting their relative importance;
- Establishes a minimum score for consideration of proposals.

Evaluation criteria may be separated into two sets: 1) "fatal" criteria which require responses to an RFP which can only be answered one way (usually screened for upon receipt of the proposal by the contract officer or designated representative), and 2) those criteria which evaluate RFP requirements that can be answered variously by bidders.

If the first set of criteria are not met in full, the proposal cannot be considered further. By means of a statement included in the RFP, bidders must understand that a "no" response to any of the "fatal" criteria will result in automatic rejection of the proposal. Examples of "fatal" criteria are:

1. The proposal was not received by the time and date required in the RFP;
2. The proposal does not indicate how and when it will establish a physical facility required by the RFP.

The second set of criteria are the focus of the review team's attention. They record the observations of the quality and completeness of a bidder's response to every segment of the RFP requiring a response from the bidder. These criteria must be stated as clearly as possible. They should be organized in the same order as the required responses to the RFP. Examples of these criteria are:

1. *Bidder's Understanding of The Field and Scope of Work.* Does the bidder's proposal reflect a general understanding and knowledge of the project and the services requested?
2. *Bidder's Response to RFP's Specifications.* Are the services which the bidder proposes to provide the same as the services specified in the RFP? Does the bidder demonstrate evidence of being able to provide the services and meet the implementation schedule as defined in the RFP?

3. *Bidder's Organizational Capability.* Does the bidder propose an adequate number of personnel with adequate qualifications to ensure quality level of service provision?

4. *Bidder's administrative and financial system.* Does the bidder possess the experience necessary to perform the requested services? Does the bidder have the necessary equipment and facilities or a plan for acquiring them?

All criteria included in the rating sheet are often not of equal importance. The rating sheet may be weighted so that the relative importance of each criterion will be reflected in the overall evaluation. The weights should be developed by the project staff who author the RFP. Three sample approaches to assigning weights are presented.

**Approach No. One:** *Straight forward approach.* Each category listed below is worth 20 points.

1. Understanding of the Problem and Scope of Work
2. Proposed Methodology
3. Proposed Management Approach
4. Proposed Staff Capabilities
5. Corporate Capabilities

**Approach No. Two:** *Criteria are listed and weighted without grouping them into categories.*

**Step One:** List all of the criteria that need to be included in the rating sheet. These criteria should be listed in the order they are addressed in the RFP.

**Step Two:** Establish a standard rating scale for all of the criteria in the list. A commonly used rating scale is 0-10 wherein a good response is 5 or above and a poor response is 4 and below.

**Step Three:** Determine the relative value of each criterion on the list and assign a weighted value to each. That is, a criterion of least value would be weighted 1 and a more important criterion would be weighted 2, etc. The points on the rating scale will be multiplied by the value factor of each criterion to ascertain the weighted value of the response. For instance, in scoring a bidder's past experience in similar projects you would first determine where on your rating scale (0-10) you feel the

potential contractor falls. You would then multiply the number by the value factor which you have assigned this specific criteria.

**Approach No. Three:** *Criteria are organized into major categories with weighted values assigned to each category.* (Examples of major categories are: response to introduction, statement of work, organizational capability.)

**Step One:** Determine the criteria to be used within each of the major categories to evaluate the bidder's response to that category. For example, a criterion for the category "Understanding of the Scope of Work," might be: bidder's response to the statement of purpose reflects that the bidder understands why the project is being pursued.

**Step Two:** Determine a standard rating scale for each of the criteria within each category. As above, this scale may be 0-10.

**Step Three:** Determine the relative values of each of the major categories and assign each a weighted value.

**Step Four:** Calculate the score for each category by adding the rates determined for each criterion in the category and multiplying the total by the weighted value of the category.

The RFP Rating Sheet may stipulate a minimum score below which a proposal will not be considered. For example, if the total possible score is 100, the minimum score might be 60. If all of the proposals submitted receive a lower score than 60, the RFP may have to be reissued. The use of a minimum score protects the contract manager from having to defend a decision to reject all proposals if they were all deficient.

Care must be taken prior to proposal review to ensure that each member understands the selection criteria; understands how to interpret the rating scale; and is aware of the significance of weighted values as they relate to the total score.

Each member of the review team should evaluate each proposal independently, using the rating sheet. Each team member should then rank proposals in the order of ascending scores.



Example:

Rating Score

Proposal #	Proposal Score
1	10
2	300
3	200
4	50

Proposal Rank

Proposal #	Proposal Rank
2	1
3	2
4	3
1	4

Team members should meet as a group and compare proposal ranks. If there is common agreement of proposal rank (80% of the group or more) it is reasonably certain that team members had a common understanding of the rating sheet and the proposals were evaluated fairly. Sometimes 100% agreement is insisted upon. This decision should be made by the contract officer or selection authority. If there is little agreement on proposal ranking, it is likely that the selection criteria were not interpreted on the rating sheet the same way, or that there is disagreement on the adequacy of bidder response, or both. In this case it is usual for the review team to walk through each proposal, rating each criterion as a group. The result of this process would be a group score which would yield the group recommendation. In case the team is unable to reach agreement, the contract officer and the selection authority must determine subsequent procedure.

During the review process, but prior to scoring, the reviewers may request additional information or may have questions concerning the RFP or the proposals. Such requests and questions must be conveyed to the contract officer or his representative. Any need for additional information to be obtained from the offerors must, except during oral presentations, be handled by the contract officer.

If additional information is required of the non review program (NRP) staff, the

contract officer will be responsible for acquiring whatever information is needed and for communicating that information to the reviewers. This process will protect and preserve the role of NRP staff as observers at the review meeting.

Since proposals are confidential, they must be returned to the contracting officer upon conclusion of the evaluation process. Discussions with offerors relative to any aspect of the procurement shall be held only with the contracting officer or his authorized representative. The contract officer or the chairperson is responsible for reminding the reviewers, and any other attendees at the review meeting, that information concerning the proposals, reviewers' discussion, and the review group's recommendations on proposals, are to be treated confidentially.

Prior to the meeting, review team members will individually read each proposal, describe tentative strengths and weaknesses, and develop preliminary scores in relation to each evaluation criterion set forth in the solicitation. At the meeting, the reviewers shall discuss in detail the individual strengths and weaknesses of each proposal, compare scores and rankings and, if possible, arrive at a common understanding of each proposal's major strengths and weaknesses. The review team will collectively rank the proposals and will indicate whether each proposal is acceptable, conditionally acceptable, or unacceptable.

A recommendation of *acceptable* means that in the reviewers' judgment the offeror's proposal, in its present form, demonstrates the ability to carry out the project and provide the agency with the reports and services required by the RFP. Although a proposal can contain some weaknesses, it cannot contain a weakness which, if not rectified, would prevent the contractor from adequately carrying out the requirements of the RFP. Weaknesses cited in an acceptable proposal shall be recorded in the review summary to alert the contract and selection authority to be attentive to them in final negotiation or monitoring of actual performance.

If a generally good proposal lacks some clarifying information, it may be rated as *conditionally acceptable* pending addition of the requested data. In this instance, the reviewers must specify the areas of the proposal where additional information is needed.

A recommendation of *unacceptable* means that the review team has determined that the proposal contains critical weaknesses which would have to be corrected before they can determine that the offeror adequately demonstrated that he or she

is able to carry out what is required by the RFP. The magnitude of the weakness is such that a major revision to the proposal would be required to correct it.

The final reviewer's report shall reflect the technical ranking of the proposals and shall identify each proposal as acceptable, conditionally acceptable or unacceptable. This report, prepared by the secretary for review and approval by the chair, shall include a narrative specifying the strengths and weaknesses of each proposal and any reservations or qualifications that might bear on the selection authority's choice of offerors, or the contract officer's negotiation and award functions. -

The report should also include specific points and questions which the review committee feels the contracting officer should raise in final negotiations.

The record of the review meeting must include as a minimum: names of the reviewers and others present at the meeting; rating sheets completed and signed by the individual reviewers of each proposal, the technical ranking; and determinations on the acceptability or non-acceptability of each proposal. The original copy of the final record of the review, including individual reviewers' signed rating sheets, will be forwarded to the selection authority and to the contract officer. Where there is consensus and where it is not logistically feasible for the reviewers to sign the summary documents prepared subsequent to the review, reviewers' signatures on their individual rating sheets will suffice. The contracting officer has the final authority to determine the acceptability of the summary report and/or the individual reviewer's rating sheets. The log sheet, maintained by the contract officer, shall record the return of all proposals which have been distributed.

Upon receipt of the team's report and recommendations, the selection authority chooses the winning contractor and forwards the package and his/her decision to the contract officer, who will negotiate with the contractor.

The contract officer may request offerors to submit a "best and final offer." The request should include a cutoff date that allows a reasonable opportunity to submit a best and final offer. A closing date is important so that no offeror has an unfair advantage by virtue of his/her knowledge of last minute changes in prices, technology, or other relevant factors. At this final stage of the contracting process, offerors may submit revised business and/or technical proposals to respond to issues

developed or questions raised during earlier discussions.

The contract officer must determine if any new or additional information is substantial enough to be directed for additional review. If the revisions are minor they may be transmitted to the program sponsors for concurrent review and comment. If additional review by the review team is determined to be necessary, it should be handled expeditiously and, wherever possible by those who evaluated the original proposals. If it is not possible to assemble the group, written opinions from the evaluators may be used. However, when written opinions are used special care must be taken to preserve confidentiality. Whenever possible, documents should be hand-carried rather than mailed; envelopes should be marked "Confidential -To Be Opened By Addressee Only." This additional review must be documented by the contract officer.

As a final step before contract execution (signing), the selection authority decides which person or firm is to be awarded the contract. This choice is based on the selection team's recommendation, taking into consideration which offer is the most advantageous to the jurisdiction. If the highest-ranked bidder is not selected, the reason(s) for the selection of another bidder must be documented and put in the contract officer's file. Final negotiations and award is then conducted by the contract officer. As was mentioned earlier in some jurisdictions a review board must review the procurement process prior to the execution of the award. If the review team, the selection authority or the contract officer decides to reject all bids, the reason(s) for this must be stated in writing, and a copy of this statement must be placed in the contract officer's file. Other bidders and the public must also be notified. This statement may also indicate whether another RFP will be sent out at a later date.

Notification of an award should be made through those information outlets required by law and local regulations. When the review process has been fully completed, letters of appreciation should be sent to the reviewers for their work and to the unsuccessful offerors for their endeavor. These letters should be originated by the contract officer and/or the officials who solicited the proposals and who secured the review team members.

In many jurisdictions unsuccessful bidders have a right to a debriefing if requested within a specified period of time after the date of the award. The debriefing may be conducted by program staff, contracts office staff or preferably by

both. Discussions center on the reasons the bidder's agency was not selected. The reasons provided should be based on the strengths and weaknesses of the application as documented by the review team, the costs listed in comparison to services offered and the requirements of the RFP. In a debriefing the agency staff justify action taken in the procurement and assist the applicant in understanding how the review team viewed the strengths and weaknesses of the proposal. This can be of major assistance to the applicant in the future.

The successful bidder's proposal and evaluation ratings from the panel are usually made available to unsuccessful bidders to examine. Questions relating to the conduct of debriefings and the disclosure or release of information from the competitive review process should be referred to the contract officer or legal counsel.

On the following pages there are presented sample forms relating to the appointment of proposal selection teams. These forms may be adapted for use by local and state jurisdictions.

SAMPLE  
PROPOSAL REVIEW TEAM APPOINTMENT MEMORANDUM

To: Individuals Specified Below

From:

Subject: Proposal Selection Team for \_\_\_\_\_.

1. I hereby designate the following individuals to serve as members of the above Proposal Review Team.

Chairperson:

Other Scoring Members:

Recording Secretary:

(non-scoring)

Office of Legal Representative:

(non-scoring)

2. The Proposal Selection Team will conduct its business in accordance with the provisions of state law and jurisdictional regulations. It is the responsibility of the Chairperson to determine that each team member (both scoring and non-scoring) is fully conversant with these requirements.

3. The team Chairperson and all team members (scoring and non-scoring) shall refrain from the disclosure of information to anyone who is not also participating in the same evaluation proceedings. This includes refraining from any unauthorized meetings or discussions with offerors. The Chairperson of the team shall admonish all personnel involved to adhere to this restriction. After the opening of proposals, all information shall be kept privy by the members of the team.

4. It is emphasized that the findings and recommendations of the team shall be provided to the Selection Authority in sufficient detail so as to permit a realistic weighing of alternatives. All proposals shall be evaluated, ranked, and reported to the Selection Authority. The team's written findings will give no consideration to

elements which are extraneous to the technical and business capabilities of the contractor evaluated.

5. If the Contract Officer (or other Selection Authority appropriate to the jurisdiction) does not heed the recommendations of the team in making the final source selection decision, he/she shall prepare adequate justification for such a decision, based on the selection evaluation factors established in the RFP.

SAMPLE

CERTIFICATE OF NO CONFLICT OF INTEREST

I, \_\_\_\_\_ a [scoring member of the proposal review team] for RFP. No. \_\_\_\_\_ have reviewed the list of offerors furnished to the team Chairperson. I am familiar with and understand the instructions and requirements given by the team Chairperson and the Contract Officer regarding the safekeeping of proposals.

I certify that:

- a. I do not have any personal preference or bias for a particular offeror;
- b. I have not worked for any of the offerors submitting a proposal;
- c. I do not own any stock or have any financial interest in any of the organizations submitting proposals;
- d. I will not receive any financial rewards from any offerors submitting a proposal or being selected for contract award.

In the event I believe any of the above conditions may apply or if any of the offerors propose the use of other organizations as possible subcontractors, to which any of the above conditions may apply, I will immediately make an official notification to the Agency's Legal Council through the Chairperson, for an opinion regarding my qualifications to sit as an evaluator for that proposal.

---

Reviewer

---

Date



**FICTITIOUS REQUEST FOR PROPOSALS**

**Prepared As An Example To Be Used  
In Conjunction With The Guidelines  
For A Request For Proposals**

## SAMPLE REQUEST FOR PROPOSALS

Like an historical novel, the contents of the following document are factual, but the characters--Sunshine County, Gloryville City and the State of Antelope--are fictional. Similarly, many of the details of the work statement are contrived. All of the factual ingredients may not be applicable to all jurisdictions. The intent is to present an exhaustive array of topics which should be considered for inclusion in a jurisdiction's RFP. This presentation is not intended to supplant a proven RFP format and process which may exist in a given jurisdiction. Rather, what follows is offered as a checklist for assuring an adequate format for an RFP. In any case, it offers an educated start, but a jurisdiction's draft RFP should be carefully reviewed by its own legal counsel and procurement authority to assure that it complies with the established procurement process of the jurisdiction.

TABLE OF CONTENTS

	<u>Page</u>
Sample Cover Letter . . . . .	39
SECTION I GENERAL INFORMATION . . . . .	40
Legal Basis . . . . .	40
Issuing Office . . . . .	40
Commitment of Sunshine County . . . . .	40
Definition of Terms . . . . .	40
Hold Harmless . . . . .	41
Confidentiality . . . . .	42
Disclosure of Proposal Contents . . . . .	42
Response Deadline . . . . .	42
SECTION II TERMS AND CONDITIONS . . . . .	43
Contract Type . . . . .	43
Length of Contract . . . . .	43
Contract Funding . . . . .	43
Contract Amendments . . . . .	43
Incurring Costs . . . . .	44

Method of Payment . . . . .	44
Insurance . . . . .	44
Performance Bond . . . . .	44
Independent Price Determination . . . . .	44
Contract Termination . . . . .	45
Default . . . . .	45
Bankruptcy . . . . .	46
Unavailability of Funds . . . . .	46
Convenience . . . . .	46
Procedure on Termination . . . . .	46
Employment Practices . . . . .	48
Subcontracts . . . . .	49
Validity Period . . . . .	49
Rejection of Proposals . . . . .	49
Acceptance of Proposal Content . . . . .	50
News Releases . . . . .	50
Pre-Proposal Conference . . . . .	50
Oral Presentation . . . . .	50

<b>SECTION III STATEMENT OF WORK AND MINIMUM QUALIFICATIONS . . . . .</b>	<b>51</b>
Purpose of Request for Proposals . . . . .	51
Background . . . . .	51
Contract Objectives . . . . .	53
Administration, Organization and Management . . . . .	53
Personnel . . . . .	55
Security . . . . .	55
Training . . . . .	55
Records . . . . .	57
<b>SECTION IV INFORMATION REQUIRED FROM BIDDERS . . . . .</b>	<b>58</b>
<b>Volume I - TECHNICAL AND MANAGERIAL PROPOSAL . . . . .</b>	<b>58</b>
Table of Contents . . . . .	58
Statement of Understanding of the scope of Work . . . . .	58
Proposed Approach . . . . .	59
Management Plan . . . . .	59
Contingency Plan . . . . .	60
Bidder Capabilities . . . . .	60
<b>Volume II - BUSINESS PROPOSAL . . . . .</b>	<b>61</b>

Budget and Budget Narrative . . . . . 62

SECTION V PROPOSAL SELECTION CRITERIA . . . . . 63  
AND EVALUATION

SECTION VI ATTACHMENTS . . . . . 63

SAMPLE COVER LETTER FOR RFP  
(to be prepared on soliciting agency's letterhead)

Date of Issue: January 1, 1987

Subject: Request for Proposals to Provide Alternative Juvenile Probation Services in Sunshine County

R.F.P. #: 870CC-JC0012

The Juvenile Court of Sunshine County announces that a Request for Proposal (RFP) for the performance of certain juvenile probation functions to be funded by Sunshine County maybe obtained from the Sunshine County Juvenile Court, 715 South King Street, Suite 400, Gloryville, Antelope 74777. Your proposal in response to this request is solicited. A total amount of \$250,000.00 will be available on a performance based/fixed unit cost subcontract basis for programs which provide:

1.) probation supervision; 2.) case recording; 3.) community relations; 4.) "brokering" special services; and 5.) preparing termination reports.

The contract period is from January 1, 1988, to December 31, 1990, with possible contract extension through December, 1992.

Proposals must set forth full, accurate, and complete but concise information as required in the RFP. Elaborate presentation beyond that sufficient to comprise a complete and effective proposal is not desired.

A Bidder's Conference will be held on February 23, 1987, at the Sunshine County Juvenile Court from 2:30 pm to 4:30 pm.

Proposals are due at the Sunshine County Juvenile Court no later than 4:30 pm Pacific Standard Time on March 16, 1987. Late proposals will not be considered for funding.

Sincerely,

## FICTITIOUS RFP

### SECTION I

#### GENERAL INFORMATION

This Request for Proposals (RFP) is to provide interested parties with information necessary to prepare and submit to Sunshine County Juvenile Court proposals for the provision of the Juvenile Probation services presently performed in the Seaside District Office of the Sunshine County Probation Department. This RFP is being sent to all known providers and will be made available to any other party which requests it. This RFP shall also be made public via advertising in newspapers of general county wide circulation.

#### 1. Legal Basis

The basis for which the services are to be provided are contained in Antelope Revised Statutes (ARS) 74.44 (Juvenile Probation), and 478.22 (Procurement by Request for Proposal).

#### 2. Issuing Office

This document is being issued by the Sunshine County Procurement Office on behalf of the Sunshine County Juvenile Court. The only person who is authorized to sign contracts obligating Sunshine County is Ms. Gloria Babbcock, Chairperson, Sunshine County Board of Supervisors.

#### 3. Commitment of Sunshine County

The issuance of this RFP in no way constitutes any commitment by Sunshine County to award a contract, to pay any cost incurred in preparation of a response to the Request, or accept other acts on the part of the respondents to procure or contract for services.

#### 4. Definition of Terms

a. *Juvenile delinquent*: A child between the ages of 12 to 18 whom the juvenile court



has found to have violated State law or local ordinance in accordance with ARS 74.39

b. *Detention*: The restriction of a child's freedom for his/her protection, the protection of society or to assure the child's appearance in court as prescribed by ARS 74.46

c. *Supervision*: Unless otherwise specified, when used in this RFP, *supervision* refers to the monitoring of the specified juvenile probationer's activities by a duly authorized probation official in accordance with court procedure and special directive. Supervision can be informal (pre-adjudication) or formal (post adjudication.)

## 5. Hold Harmless

The Contractor agrees to indemnify, defend, and hold harmless the County of Sunshine, its officers, agents and employees from:

- claims or losses for service rendered by the Contractor, person, or firm performing or supplying services, materials, or supplies in connection with the performance of the contract;
- claims or losses to any person or firm injured or damaged by the erroneous or negligent acts of the Contractor, its officers or employees in the performance of the contract;
- claims or losses resulting to any person or firm injured or damaged by the Contractor, its officers or employees, by the publication, translation, reproduction, delivery, performance, use, or disposition of any data processed under the contract in a manner not authorized by the contract, or by federal, state or county regulations or statutes;
- failure of the contractor, its officers or employees to observe state/county laws, including, but not limited to, labor laws and minimum wage laws.

## **6. Confidentiality**

The Contractor shall comply with the provisions of the Privacy Act of 1974 and instruct its employees to use the same degree of care as it uses with its own data to keep confidential information concerning client data, the business of the County, its financial affairs, its relations with its citizens and its employees, as well as any other information which may be specifically classified as confidential by the County in writing to the Contractor. Probationer related information is highly confidential. All Federal and State regulations and statutes related to confidentiality shall be applicable to the Contractor. The Contractor shall have an appropriate agreement with its employees to that effect, however, the foregoing will not apply to:

- Information which the County has released in writing from being maintained in confidence;
- Information which at the time of disclosure is in the public domain by having been printed and published and available to the public in libraries or other public places where such data is usually collected; or
- Information which, after disclosure, becomes part of the public domain as defined above, through no act of the Contractor.

## **7. Disclosure of Proposal Contents**

The Contractor and the County agree that all information communicated between them before the effective date of the agreement shall be received in strict confidence, shall not be unnecessarily disclosed by the receiving party, its agents, or employees without prior written consent of the other party. Such material will be kept confidential subject to state and Federal disclosure laws.

Upon signing of the contract by all parties, terms of the contract become available to the public, pursuant to the provisions of the Statutes of the State of Antelope.

## **8. Response Deadline**

Proposals are due in the Sunshine Juvenile Court not later than 4:30 P.M. Pacific

Standard Time on March 16, 1987. Late proposals will not be considered. Please contact Mr. Napoleon McCallum at 716-325-2421 if further information is desired. This RFP and the response received from the eventual contract holder will be made a part of the contract.

## SECTION II

### TERMS AND CONDITIONS

#### 1. Contract Type

It is proposed that, if a contract is issued as a result of this RFP, it will be a Sunshine County Performance Based Fixed Price Contract.

#### 2. Length of Contract

It is proposed that the contract will be for a two-year period beginning on January 1, 1988, and ending December 31, 1990 with the option of two one-year extension periods after the end of the original term. Officials of the Sunshine County will evaluate the Contractor's performance prior to the completion of each of the first two years, and at its discretion will recommend the continuance of the agreement. The rate quoted under the terms of this RFP cannot be increased during the first 12 months from date of award. However, if both parties elect to continue the contract during any period and a rate increase request is received, said extension periods will only be granted with the approval of the Board of County Commissioners after a review of the factors documenting a rate increase. Under no condition will the contract exceed a four-year period.

#### 3. Contract Funding

A Total amount of \$250,000 will be available from the Sunshine County Board of Supervisors for each year of the contract based upon a performance based/fixed cost.

#### 4. Contract Amendments

Should a real need arise at any time during the contract period for contract modifications such an occurrence can only result with the mutual agreement of

both parties and should be contingent upon the fulfillment of all terms in the RFP and the contractor's original response.

**5. Incurring Costs**

Sunshine County, the contracting agency, will not be responsible for any costs incurred by the contractor prior to award of the contract.

**6. Method of Payment**

Payments are predicated upon the successful completion of work described herein and as contracted. Payments due under this contract shall be paid monthly, within 30 days after the receipt of an itemized invoice, detailing the names of the employees, their hours of work and related costs.

**7. Insurance**

The Contractor will provide public liability, property damage and workmen's compensation insurance, insuring as they may appear, the interest of all parties of agreement against any and all claims which may arise out of Contractor operations under the terms of this contract. It is agreed that in the event any carrier of such insurance exercises cancellation, notice of such cancellation will be made immediately by the Contractor to the County.

**8. Performance Bond**

A performance bond for the value of 70 percent of the first year contract value (to be renewed each year) will be required to assure the Contractor's faithful performance to the specifications and conditions of the contract. The successful offerer will be required to furnish the bond to the County Board. The bond will be maintained until the completion of the work and its acceptance by the County Board. All costs related to posting of a performance bond as a part of a response to the RFP shall be included in the proposed total cost.

**9. Independent Price Determination**

A proposal will not be considered for award if the price in the proposal was not arrived at independently without collusion, consultation, communication or

agreement as to any matter relating to such prices with any other offerer or with any competitor. The offerer must include in the proposal a certified statement that the price was arrived at without any conflict of interest, as described above. Should lack of independent price determination be detected any time during the contract, the contract shall be null and the Contractor shall assume all costs of this project until such time that a new Contractor is selected.

#### 10. Contract Termination

Contract(s) resulting from this RFP shall be subject to the following termination provisions:

- *Termination for Default:* The County may terminate this contract in whole, or in part, whenever the County determines that the Contractor has failed to satisfactorily perform its contract duties and responsibilities and is unable to cure such failure within a period of time specified by the County taking into consideration the gravity and nature of the default. Such termination shall be referred to herein as "Termination for Default."

If after Notice of Termination for Default, it is determined by the County or a court that the Contractor was not in default or that the Contractor's failure to perform or make progress in performance was due to causes beyond the control and without the error or negligence of the Contractor, the notice of termination shall be deemed to have been issued as a termination for the convenience of the County and the rights and obligations of the parties shall be governed accordingly.

In the event of Termination for Default, in full or in part as provided by this clause, the County may procure, upon such terms and in such manner as the County may deem appropriate, supplies or services similar to those terminated, and the Contractor shall be liable to the County for any excess costs for such similar supplies or services. In addition, the Contractor shall be liable to the County for administrative costs incurred by the County in procuring such similar supplies or services.

In the event of Termination for Default, the Contractor shall be paid for those deliverables which the Contractor has delivered to the County. Payment for partially completed deliverables, delivered to and accepted by

the County, shall be an amount determined by the County in accordance with the contract price. Such payments shall be in accordance with the settlement agreement determined by the Board of Commissioners.

The rights and remedies of the Commonwealth provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under the contract.

- ◉ *Termination for Contractor Bankruptcy:* In the event of the filing of a petition in bankruptcy by or against the Contractor, the County shall have the right to terminate the contract upon the same terms and conditions as a Termination for Default. The County shall receive a current copy of any proprietary source code should termination occur due to Contractor bankruptcy.
- ◉ *Termination for Unavailability of Funds:* In the event that County funds for the contract became unavailable, the County shall have the right to terminate the contract without penalty and upon the same terms and conditions as a Termination for Convenience. Availability of funds will be determined at the sole discretion of the County.
- ◉ *Termination for Convenience:* The County may terminate performance of work under the contract in whole or in part whenever for any reason the County shall determine that such termination is in the best interest of the County. Termination for Convenience shall be covered by ARS5:312. Note - (In the event of termination for convenience, the agency will likely incur some serious financial obligations to the contractor. These should be ascertained with agency legal counsel and procurement expertise.)

#### **Procedure on Termination**

Upon delivery by certified mail to the Contractor of a Notice of Termination specifying the nature of the termination, the extent to which performance of work under the contract is terminated, and the date upon which such termination becomes effective, the Contractor shall:

- ◉ Stop work under the contract on the date and to the extent specified in the Notice of Termination;

- Place no further orders for materials, services or facilities, except as may be necessary for completion of such portion of the work under the contract as is not terminated;
- Terminate all orders to the extent that they relate to the performance of work terminated by the Notice of Termination;
- Assign to the County in the manner and to the extent directed by the Contracting Officer all of the right, title, and interest of the Contractor under the orders so terminated, in which case the County shall have the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders;
- With the approval or ratification of the Contracting Officer, settle all outstanding liabilities and all claims arising out of such termination or orders, the cost of which would be reimbursable in whole or in part, in accordance with the provision of the contracts;
- Transfer title to the County (to the extent that title has not already been transferred) and deliver in the manner, at the times, and extent directed by the Contracting Officer all files, processing systems, data manuals, or documentation, in any form, that relate to work terminated by the Notice of Termination;
- Complete the performance of such part of the work as shall not have been terminated by the Notice of Termination; and
- Take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation of the property related to the contract which is in the possession of the Contractor and in which the County has or may acquire an interest.

The Contractor shall proceed immediately with the performance of the above obligations notwithstanding any delay in determining or adjusting the amount of any item of reimbursable price under this clause.

## **11. Employment Practices**

The Contractor shall provide his own Affirmative Action Plan, which shall include an employee grievance procedure that must be approved by the County in writing.

The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age (except as provided by law), marital status, political affiliations, or handicap (except where it relates to a bona fide occupational qualification.) The Contractor must take affirmative action to ensure that employees, as well as applicants for employment, are treated without discrimination because of their race, color, religion, sex, national origin, age, (except as provided by law), marital status, political affiliation, or handicap (except where it relates to a bona fide occupational qualification.) Such action shall include, but it is not limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this clause.

The Contractor is required to offer qualified County probation employees who are currently performing the functions required of the contractor the "right of first refusal" to fill similar positions with the inception of the contract. The RFP response must include a plan which reflects the efforts to be expended to interview, screen and re-employ displaced County Probation personnel.

The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, age, (except as provided by law), marital status, political affiliation, or handicap, except where it relates to a bona fide occupational qualification.

Sunshine County, as a matter of policy, encourages the participation of small, minority, and women- owned businesses.



## **12. Subcontracts**

Unless provided for in the contract, no contract shall be made by the contractor with any other party for furnishing any of the work or services herein contracted for without the consent, guidance and approval of the County. Any subcontract hereunder entered into, subsequent to the execution of the contract with the prime Contractor, must be annotated "approved" by the County. This provision will not be taken as requiring the approval of contracts of employment between the Contractor and personnel assigned for services thereunder. All references in this RFP to the Contractor should be construed to encompass both the Contractor and the subcontractor.

If subcontractors are planned to be used, the proposal must include specific designation of the tasks which the subcontractor is to perform. The proposal must also include copies of any agreements to be executed between prime Contractor and any subcontractors in the event of contract award. Under this RFP, the County retains the right to approve all subcontractors.

The Contractor shall be required to provide payment bond with a surety company licensed to do business in the County and acceptable to the County to insure the payment of all subcontractors, material, personnel and taxes, including but not limited to unemployment insurance taxes.

## **13. Validity Period**

To allow ample time for proper proposal review, the proposal shall state the number of days beyond the due date for which it shall be valid. No less than sixty days shall be acceptable to the County.

## **14. Rejection of Proposals**

Sunshine County reserves the right to request necessary amendments, reject all proposals, reject any proposal that does not meet the mandatory requirements, or cancel this RFP, according to the best interest of the Juvenile Court.

The County also reserves the right to waive minor irregularities in proposals providing such action is in the best interest of the County. Where the County may

waive minor irregularities such waiver shall in no way modify the RFP requirements or excuse the Offeror from full compliance with the RFP specifications and other contract requirements if the Offeror is awarded the contract.

**15. Acceptance of Proposal Content**

Should a contract ensue from the bidding process, the contents of the proposal of the successful bidder become a part of the contract. Failure of the potential contractor to agree to this provision shall result in rejection of the proposal.

**16. News Releases**

The Contractor shall agree that he will not copyright, publish, have published or otherwise disseminate any information of whatever nature resulting from the work being performed under this contract except as approved in writing by the contracting officer.

**17. Pre-proposal Conference**

A Bidder's Conference will be held at 2:30 p.m. Pacific Standard Time on January 20, 1987, at:

Sunshine County Juvenile Court  
711 Snowshoe Lane  
Gloryville, Antelope

Bidders requiring clarification of the intent or content of this RFP or on procedural matters regarding the competitive bidding process may request clarification by submitting questions, with envelope clearly marked "Questions Relating to Request for Proposals for Providing for Seaside District Office Probation Services," to the Juvenile Court. To insure response, questions must be received in writing by January 31, 1987. Inquiries will not be accepted prior to the Bidder's Conference.

**18. Oral Presentation**

Sunshine County reserves the right to discuss the advantages/disadvantages of a

proposal with the finalists among the bidders. Designated bidders may be required to make an oral presentation of their proposals at their own expense prior to the award of contract. The bidder should include a statement of intent to comply with this requirement in the proposal.

### SECTION III

#### STATEMENT OF WORK AND MINIMUM QUALIFICATIONS

All requirements specified within this Request for Proposal are minimum requirements which the Contractor shall meet in the operation of the Sunshine County Seaside District Probation Office. However, the County invites your innovation, creativity, your administrative and management skills in telling how you would propose to meet these goals in a cost-efficient manner.

##### **1. Purpose of the Request for Proposals**

This RFP seeks responses from bidders interested in contracting to perform all of the services now provided by probation employees in the Seaside District Office. The purpose of this competitive undertaking is to study the comparative merits of publicly performed juvenile probation services and similar services provided by an independent contractor.

##### **2. Background**

The Sunshine County Probation Department is an executive arm of the Sunshine County Juvenile Court. As such it is charged with the intake, detention, case history preparation, court presentations, and supervision of juvenile offenders placed on formal probation. The Central Office of the Department has the full responsibility for the first four of these functions (excepting the case of court presentations for revocation hearings for which preparations are made by the assigned probation counselor who is usually a member of a district office staff). Probation supervision is performed by probation counselors in each of five district offices.

The Seaside District Office is located at 2700 Federal Highway, Gloryville, Antelope. Its average monthly caseload of juveniles on formal probation over the past five years has been 550. The average monthly number of probation revocation

hearings has been 18. These services have been performed by one district supervisor, eight probation counselors, four secretaries, one receptionist and one half-time janitor. The average duration of probation status is twelve months.

The County will furnish the necessary office space and present equipment. The Contractor will furnish personnel and all services to provide for the supervision of the juvenile probationers of the district.

Under the supervision of the unit supervisor, the duties of probation counselors are to:

- *Supervise children* placed on probation to assure the fulfillment of the court ordered terms of probation; these terms generally stipulate place of residence, attitude toward parents, hours and activities, academic requirements and school attendance, and, in addition, may stipulate counseling, work, community service and restitution.
- *Maintain records* of contacts with probationers, their families, collateral contacts and the child's progress and adjustment;
- *Assist out-of-school probationers* in the location of employment;
- *Arrange appropriate community service* assignments such as family therapy;
- *Broker services* for family therapy, individual therapy; tutoring, medical/dental needs;
- *Counsel probationers* with regard to school, family problems, employment and behavior;
- *Prepare case summaries* for presentation of those probationers who are arrested on new offenses or fail to fulfill court stipulated terms of probation;
- *Prepare termination reports* for court use for discharging supervisees from probation;
- *Confer and consult* with the counselor's supervisor regarding case management and the counselor's performance;

- *Supervise probationers* from other states under the interstate compact.

The Seaside District Office has approximately 3500 square feet of usable space which is divided into one supervisor's office, eight probation counselors' offices, a reception office and two large areas for clerical personnel. There is one conference room with seating for twenty and there are four restrooms, two for males and two for females. The Unit is fully furnished and equipped. Sunshine County will continue to supply furnishings and equipment. Following selection of the contractor, a determination will be jointly made by the contractor and Sunshine County as to any new or replacement items needed. The County will purchase and retain ownership of such items.

Following initial appraisal and refurnishing as mutually agreed to, the contractor and Sunshine County will, not less often than once a year, jointly determine the need for replacement of furnishings and equipment. Sunshine County will purchase items mutually agreed upon.

Damages beyond normal wear and tear of furnishing in less than the yearly review will be the responsibility of the Contractor. The Contractor will be responsible for providing all consumable supplies.

### 3. Contract Objectives

The intent of this contract is, without sacrificing public safety, to encourage and enable responsible *innovation* in probation practices of the Seaside District Offices. Specific objectives are to achieve more *cost effective* service delivery, and more *efficient* service delivery.

### 4. Administration, Organization and Management

It shall be the contractor's responsibility to assume adequate and appropriate management oversight for the implementation and successful conduct of this contract. The Contractor will prepare, submit to the Court Administrator for approval, and abide by the following materials, policies and related items:

- *Project schedule*, presenting a clear time-table for the phase-in of the contracted services starting on January 1, 1988.

- *Operational manual*, that delineates the policies and procedures for operating and maintaining the unit; the manual is to be made available to all employees. The manual shall comply with the standards of the American Correctional Association and Sunshine County for juvenile probation services. If the Contractor cannot fully comply with the complete provisions of either, he may choose to submit his own proposed operation standards on those sections with which he will not comply. These exceptions must be kept to a minimum and must be approved by the County in writing before the operations manual can be approved.
- *Monthly reports*, submitted to the agency containing a summary of the caseload by category, the new cases received, cases terminated, for what reason, roster of personnel, summary of personnel training, and a fiscal statement. Reports shall be presented in triplicate by the tenth day of the month. With these reports the contractor shall notify the contracting officer of any unusual problems, particularly problems which might necessitate a contract alteration. In these reports the confidentiality of client records must be respected.
- *Formal meetings*, with the agency at least once a month to discuss progress and/or problems.
- *Performance standards*, the Contractor shall delineate how the standards of the American Correctional Association and the agency shall be met. The contractor shall adhere to the requirements of the State of Antelope and Federal constitutions.
- *Organizational chart*, describing the structure of authority, responsibility and accountability of staff members within the office.
- *Organizational policy*, providing for an office administrator to whom all employees are responsible, and a Policy for providing ongoing liaison with the Juvenile Court's designee.

Note: The contractor is responsible for ensuring satisfaction of all requirements herein and the County reserves the right to approve all documents prepared in

response to these requirements and to mandate provisions or separate documents when necessary and appropriate to ensure their completeness and accuracy.

## 5. Personnel

Written personnel policies governing all personnel to include compliance with all Federal and State requirements specified elsewhere in this RFP and the following specific items, shall be prepared and submitted to the County for approval:

a. *Personnel:* The Contractor shall furnish personnel to carry out management, administration, and all other services required hereunder. The Contractor shall provide full time and or part time personnel to assure availability of service twenty-four hours a day, seven days a week. Contractor shall provide adequate supervision for personnel. In the absence of the unit administrator, a designated person shall be placed in charge.

b. *Bi-lingual capability:* Due to the national language capabilities of some of the probationers, it is essential that at least one employee proficient in the Spanish language shall be on duty during regular office hours.

c. *Standards of conduct:* Standards shall include, but are not to be limited to, the following:

- Contractor's staff shall not display favoritism or preferential treatment to one probationer over another.
- No contract employee may deal with any probationer except in a relationship that will support the approved goals of the court. Specifically, staff members must never directly or indirectly receive any remuneration, consideration or benefit or any personal (tangible or non-tangible) gift, favor or service, from, or on behalf of, any probationer, no matter how trivial, or his family or close associates. All staff are required to report any violation or attempted violation of these restrictions to the unit administrator.
- No employee shall enter into any business relationship with any probationer or his family (e.g. selling, buying or trading personal property).

- No employee shall have any contact outside his professional relationship (other than incidental contact) with any probationer, his family or close associates.
  
- Any violation or attempted violation of the restrictions referred to in this section or of law, will be closely scrutinized, reported to the County's Technical Representative and may result in employee dismissal by the Contractor or at the direction of the County. Failure on the part of the Contractor to report a known violation or to take appropriate disciplinary action against the offending employees shall subject the Contractor to appropriate action up to and including termination of the contract.
  
- The Contractor shall document by a signed receipt that each employee was provided with a copy of the standards of employee conduct.

## **6. Security Requirements**

The Contractor shall submit to the County's Technical Representative no less than ten days before the starting date of the contract, two (2) complete "fingerprint charts" and one background investigation report for each employee of the firm, who will perform the contract work. These forms shall be submitted for replacement employees before entrance on duty.

The Contractor shall be required to run background checks, and employment history for at least ten (10) years.

The County's Personnel Department may review all necessary background checks on all personnel which the Contractor has assigned to work at the unit.

The County shall have and exercise full and complete control over granting, denying, withholding or terminating clearances for employees. The County may as it deems appropriate, authorize and grant temporary clearance to employees of the Contractor.

## **7. Training**

The Contractor shall provide all new clerical/support employees who have minimal probation contact with twenty-four (24) hours of training prior to being



independently assigned to a particular job. All employees in this category shall be given an additional sixteen (16) hours of training each subsequent year of employment. The objectives of such training shall be approved by the agency prior to its implementation.

The Contractor shall provide all new probation officers who have regular contact with probationers with forty (40) hours of orientation and training during their first year of employment. Sixteen (16) of these hours shall be completed prior to being independently assigned to a particular job.

The Contractor shall provide the unit manager with a minimum of twenty-four (24) hours of management training each year of employment.

Contractor shall provide County's Technical Representative with documentation of training completed, including results of any tests, for each employee, immediately upon completion.

Note: For the purpose of this contract, training shall be defined as an organized, planned, and evaluated activity designed to achieve specific learning objectives through classroom or closely supervised on-the-job training.

## 8. Records

The Contractor shall maintain all logs and records required to operate and document the operation of the unit. All active logs and records shall be maintained at the facility. Inactive logs and records will be stored at the facility for a period of three (3) years. County officials have the right to inspect any and all records, upon demand, at any time during the term of the contract or thereafter as specified below. The Contractor shall retain all required logs and records during the contract period; upon the termination or expiration of this contract, the records shall be delivered to the agency in good condition. Further requirements are that:

- The contents of probation records shall be identified and separated according to an established format, which shall be approved by the County.
- There shall be written policies and procedures identifying those persons within the facility and other authorized persons who have direct access to probation records.

- The Contractor shall provide written policies and procedures governing record and report management including, but not limited to, the establishment, utilization, content, privacy, security and preservation of records and a schedule for the retirement or destruction of inactive case records which has been approved by the County.

## SECTION IV

### INFORMATION REQUIRED FROM BIDDERS

Proposals must be submitted in two separately bound volumes. They should be as brief as possible while meeting the requirements spelled out in this RFP.

#### VOLUME I TECHNICAL AND MANAGERIAL PROPOSAL

In Volume I response should be made completely but succinctly to the requirements made in Section III of this RFP, "Program Work Statement."

In order to permit effective comparisons of competing proposals, the following format should be followed as closely as possible.

1. **Table of Contents**
2. **Statement of Understanding of the Scope of the Work**

The vendor should state as succinctly as possible his understanding of the following:

- The problem addressed, i.e., the management and operation of the Seaside District probation office.
- The objectives of the contracting program.
- Assumptions underlying the contracting program.

- Problems anticipated with regard to implementing the proposed project.

### 3. Proposed Approach

The methods proposed to provide the necessary services must be spelled out in detail. Innovative uses of personnel and technologies which insure optimal and cost effective supervision of probationers are encouraged. At a minimum, the following subjects should be covered:

- The method of processing cases committed to probation by the Juvenile Court of Sunshine County and referral to the unit by the interstate compact administrator.
- The method of assigning cases to given probation offices.
- The method of determining the service needs of the assigned youth.
- The method for community relations and "brokerage" for services for specialized counseling, family therapy, education, employment, community service and restitution.
- The methods of case recording.
- The methods of supervision.
- The methods for termination of cases.
- The procedures to follow upon the occasion of probation violation/new arrest.
- The information, evaluation and monitoring methods.

### 4. Management Plan

Each task and the approximate amount of time (in weeks), and the professional man hours required for each must be described in detail, including the time

required for becoming operational after award is made. A schedule for a series of reports to be provided must be indicated in weeks.

This work plan must be indicated in a display, in weeks, for each task and decision point in your proposal. These tasks will become contractual obligations to be met by the contractor. Payment will be dependent upon their successful completion. Bidders should suggest an acceptable penalty for nonperformance in accordance with the proposed time table.

### **5. Contingency Plan**

The bidder shall present a contingency plan to be implemented in case the normal operations of the Sunshine District Office are disrupted by labor problems, fire, power outages, natural disasters or other emergencies.

### **6. Bidder Capabilities**

The bidder should include any other information that is believed to be pertinent but not specifically asked for elsewhere. The following items, where applicable, must be recorded within the proposal:

- A brief description of corporate experience as it relates to this project.
- The name, title, address, and telephone number of the person in your organization who has primary responsibility for this proposal and to whom technical questions may be addressed and the person who is authorized to negotiate the proposed contract.
- The number of executive and professional personnel, by skill and qualification, that will be employed in this work. Show the inclusive period each individual will devote to the work, and the total number of man-hours each individual will be involved in performing work under this contract. Identify key individuals by name, title, and salary rate. Their resumes must be included as an appendix to this volume. A job description and required qualifications must be provided for all job classifications. The responsibility of each individual must be specified. The response must include a plan which reflects the efforts to be expended to interview, screen and re-employ county probation personnel.

- A brief statement concerning the recent experience of key persons from your agency who will be actively engaged in the proposed effort. Do not include general agency background brochures. Do not include agency experience unless persons who will work on this program participated in that experience and such participation is indicated in either the previous section or the appended resumes. Emphasize recent experience in the following areas: (a) criminal justice or juvenile justice and service delivery systems; (b) programs for status offenders in a community-based setting; (c) other relevant experience. The name, title, address, and phone number of a contact person for each previous reference cited in this experience must be included. References will be checked for all bidders remaining under consideration after a preliminary screening effort.

## VOLUME II BUSINESS PROPOSAL

The information requested in this section is required to support the reasonableness of your quotation and is for internal use only. The data will be held in confidence and will not be revealed to or discussed with competitors. Your established method of costing may be used and must be described. This portion of the proposal must be bound and sealed separately from the remainder of the proposal.

### **Budget and Budget Narrative**

The budget must be displayed in accordance with the format indicated below. A BUDGET NARRATIVE must follow the display and shall describe and justify each budget category.

1. *Direct Labor*: Itemize so as to show the following for each category of personnel with a different salary rate per hour:

- Type of personnel; e.g., program manager, social service supervisor, etc., and how many of each type to be hired;
- Estimated hours;

- Salary rate per hour;
  - Fringe;
  - Subtotal cost for each category and total for all manpower needs.
2. Consultants: Indicate rate per day and estimated number of days, assuming an eight-hour day unless otherwise specified.
  3. Other Contractual (such as medical, dental, etc., Itemize)
  4. Equipment (Itemize)
  5. Supplies and Materials (Itemize)
  6. Computer Costs (if any): Indicate cost per hour and estimated number of hours.
  7. Travel: Show transportation costs and per diem separately. Indicate which personnel are involved in travel and the destination and purpose of anticipated travel.
  8. Other Direct Costs (Itemize)
  9. Overhead and General and Administrative Expenses: Indicate base and percentage used and the total for Overhead and/or General and Administrative Expense. A fixed overhead rate will be incorporated in the contract.
  10. Total Direct and Indirect Costs
  11. Profit: (Indicate how computed)
  12. Total Price of Proposal
  13. Independent Price Determination: Include a statement substantially as follows:

*This cost and price analysis is submitted in full compliance with the provision of the paragraph entitled 'Independent Price Determination,' of Section II of the RFP to which this proposal is a response.*

14. Summary: Indicate the total cost per professional man-hour and the personnel cost (including overhead and fringes if based on a percentage of salaries) per professional man-hour. A summary display must be included for the purpose of making accurate comparisons among competing organizations.

## SECTION V

### PROPOSAL SELECTION CRITERIA AND EVALUATION

All proposals received will be evaluated by the agency for the purpose of selecting the bidder with whom the contract will be signed to provide the desired services. The following will be considered in making this selection:

1. Understanding the problem, need or the proposed scope or work; 15 points
2. The proposed approach to accomplish the work, and demonstration of an understanding of the requirements of the work; 30 points
3. The proposed management approach; 20 points
4. Proposed staff and corporate resources; 15 points
5. The Budget. Emphasis will be placed upon the fairness of the proposed price related to the proposed tasks and the adjudged competence of the offeror. 20 points

## SECTION VI ATTACHMENTS

In this section should be included any informational items which the agency wishes to place in the hands of potential bidders for implemental purposes, but which are not actual parts of an foregoing sections of the RFP.

## Chapter Six

---

### TECHNICAL ASPECTS OF CONVERSION: CONTRACT DEVELOPMENT AND TRANSFER

A contract is a binding agreement between two or more parties. The contract document is a technically drawn and legal record to evidence the terms and conditions of the contract between the concerned parties. The ability to draft a thorough and comprehensive contract document is paramount to a successful *contracting* effort

This Chapter presents the important steps to be considered in the development of a contract document. The chapter also contains a fictitious model contract which may be used as a guide for the practitioner. In addition, the chapter discusses the process of *transfer* of heretofore publicly operated services to the private sector -- a process which is all-too-often neglected in the conversion of governmental services.

#### A. Contract Development

There are a number of steps that need to occur after selection of a contractor and culminating in the signing of a contract. They are:

**Step One: *Determine Negotiating Objectives.*** Before sitting down to write a contract, the contracting officer should obtain consensus on contract issues by setting up a series of meetings with these public sector officials:



a) *With program officials*

- Scope and definitions of services to be contracted
- Programmatic concerns, such as:
  - Maximum size of caseload
  - Issues of confidentiality
  - Professional qualifications of contractor's staff
- Proper reporting procedures
- Organizational structure
- Operational time-lines
- Contractor liaison with governmental staff
- Standards of employee conduct
- Desired employee training
- Description of contractor's duties and responsibilities
- Required record-keeping by contractor

b) *With fiscal officials*

- Outline of acceptable costs
- Methods of payment
- Fiscal controls and cost monitoring
- Insurance required

- Performance bond required
- Facilities and equipment
- c) *With personnel officials*
  - Affirmative action plan
  - Employee grievance procedure
  - Rights of present employees
  - Equal opportunity employer statement
  - Background investigations
- d) *With legal officials*
  - Legal basis by which the government provides these services
  - Legal basis for contracting these services with the private sector
  - Contract termination
  - Invalidity and severability of contract
  - Legal notices
  - Legal obligations to be imposed on the contractor
  - Legal requirements regarding record-keeping
  - Legal restrictions on contractor's use of county/ state owned buildings and other property

**Step Two:** *Conduct Negotiations With Contractor.*

**Step Three:** *Develop Contract language* (See Contract Services Checklist on following pages).

**Step Four:** *Prepare First Draft Of Contract.*

**Step Five:** *Obtain Departmental Sign-Off.* Ask each department consulted in Step #1 above to sign off in appropriate sections of contract, or to suggest revisions.

**Step Six:** *Prepare Second Draft of Contract.* Incorporate any revisions suggested by these departments.

**Step Seven:** *Legal Review by Attorney's Office.* The entire contract should now be reviewed by the appropriate legal department or officer. Make any necessary changes.

**Step Eight:** *Present Contract document to the Contractor.*

**Step Nine:** *Conduct Contract Revision Meeting.* If the contractor is not ready to sign the contract, determine the sections he is not comfortable with and the changes he desires. Relay these to the appropriate officials for their suggestions. Schedule a contract revision meeting with the contractor.

**Step Ten:** *Prepare Final Draft of Contract.* If any substantial changes are made after the contract revision meeting, they should be cleared with the legal office, and with other appropriate departments.

**Step Eleven:** *Contract Is Signed By Both Parties*

## **B. Contract Checklist**

The National Office For Social Responsibility has developed the following Contract Checklist as an aid to anyone who is contemplating the development of an official contract document. Following the checklist is a sample contract document.

## **CONTRACT DEVELOPMENT CHECKLIST**

### **I. GENERAL PROVISIONS**

- A. Contracting Parties
- B. Legal Basis for the Contract
- C. Definition of Key Terms Used in Contract
- D. Hold Harmless Clause
- E. Confidentiality

### **II. TERMS AND CONDITIONS**

- A. Type of Contract
- B. Term (length) of Contract
  - 1. Initial Length
  - 2. Extensions
- C. Amendments
- D. Documents Incorporated into the Contract by Reference
  - 1. State Laws
  - 2. RFP
  - 3. Proposal by Contractor
  - 4. Performance Standards
  - 5. Contract Performance Monitoring Indicators

- E. Method of Payment
- F. Insurance
- G. Performance Bond
- H. Termination
  - 1. Default
  - 2. Contractor Bankruptcy
  - 3. Unavailability of Funds
  - 4. Convenience
- I. Employment Practices
  - 1. Non-discrimination
  - 2. Right of First Refusal for present employees
- J. Subcontractors
- K. Acceptance of Proposal Content
- L. News Releases
- M. Operation Standards
  - 1. ACA Standards
  - 2. Contract Performance Monitoring Indicators
- N. Existing Contracts
- O. Invalidity and Severability

- P. Arbitration
- Q. Legal Notices
- R. Laws of Governance
- S. Legal Obligations of Contractor - Pay all applicable taxes

### **III. SCOPE OF WORK AND MINIMUM REQUIREMENTS**

- A. Contract Objectives
- B. Contractor Administration, Organization, and Management
- C. Personnel
- D. Security Requirements
  - 1. Fingerprints
  - 2. Background Checks
- E. Training
- F. Duties of Professional Staff
- G. Record-keeping Responsibilities
- H. Contingency Plan to Handle Emergencies and Natural Disasters
- I. Probation Facility (if one is involved)
  - 1. Size and location
  - 2. Use by Contractor
- J. Records and Equipment Provided

On the following pages is a fictitious *contract document* resulting from the fictitious *request for proposals* presented in the previous chapter. The contract, which was drawn from the checklist, may be used as a general model for contract development. However, one is cautioned that the specific contract language may or may not be appropriate to every jurisdiction. Final contract language should be cleared with appropriate legal counsel.

JUVENILE PROBATION  
MANAGEMENT AND SERVICES CONTRACT AND LEASE  
BETWEEN  
SUNSHINE COUNTY BOARD OF COMMISSIONERS  
AND  
LOMBROSO INSTITUTE OF PHRENOLOGY (LIP)

Note: This model contract is not intended to serve as a legal document. Furthermore, the language herein may or may not be appropriate for your particular county or state.



JUVENILE PROBATION  
MANAGEMENT AND SERVICES CONTRACT AND LEASE  
GLORYVILLE, ANTELOPE

SECTION I:  
GENERAL PROVISIONS

**A. Contracting Parties**

This agreement, made and entered into this fifth day of July, 1987, in the City of Gloryville, Antelope, between Sunshine County Board of Commissioners (hereinafter called "County"), whose offices are located at 715 King Street, Gloryville, Antelope 74777, and Lombroso Institute of Phrenology (hereinafter called "Contractor"), an Antelope Corporation, whose offices are located at 500 Covered Bridge Road, Gloryville, Antelope, 74778.

**WITNESSETH:**

Now, in consideration of the mutual promises and covenants contained herein, and in all appendices, the County and Contractor hereby agree as follows:

**B. Legal Basis**

1. The legal basis for which the services to be contracted are to be provided is contained in Antelope Revised Statutes (ARS) 74.44 (Juvenile Probation), and 478.22 (Procurement by Request for Proposal). (See Appendices A and B.)

2. The legal basis for awarding a contract for said services to a company or agency in no way affiliated with or controlled by a County, State, or Federal Governmental Agency is contained in Antelope Revised Statutes (ARS) 87.82 (Privatizing of Correctional Services). (See Appendix C.)

**C. Definition of Terms**

1. *Juvenile delinquent.* A child between the ages of 12 to 18 whom the juvenile court has found to have violated State law or local ordinance in accordance with ARS 74.39.

2. *Detention.* The restriction of a child's freedom for his/her protection, the protection of society or to assure the child's appearance in court as prescribed by ARS 74.46.

3. *Supervision.* Unless otherwise specified, when used in this contract, supervision refers to the monitoring of the specified juvenile probationer's activities by a duly authorized probation official in accordance with court procedure and special directive. Supervision can be informal (pre-adjudication) or formal (post-adjudication).

**D. Hold Harmless**

The Contractor agrees to indemnify, defend, and hold harmless the County of Sunshine, its officers, agents and employees from:

1. any claims or losses for service rendered by the Contractor performing or supplying services, materials, or supplies in connection with the performance of this contract;

2. any claims or losses to any person or firm injured or damaged by the erroneous or negligent acts of the Contractor, its officers or employees in the performance of this contract;

3. any claims or losses resulting to any person or firm injured or damaged by the Contractor, its officers or employees by the publication, translation, reproduction, delivery, performance, use, or disposition of any data processed under this contract in a manner not authorized by the contract, or by federal, state or county regulations or statutes;

4. any failure of the contractor, its officers or employees to observe state/county laws, including, but not limited to, labor laws and minimum wage laws.

**E. Confidentiality**

1. The Contractor shall comply with the provisions of the Privacy Act of 1974 and instruct its employees to use the same degree of care as it used with its own data to keep confidential information concerning client data, the

business of the County, its financial affairs, its relations with its citizen and its employees, as well as any other information which may be specifically classified as confidential by the County.

2. Probationer related information is highly confidential. All Federal and State regulations and statutes related to confidentiality shall be applicable to the Contractor. The Contractor shall have a written agreement with its employees to that effect. However, the foregoing will not apply to:

2.1. Information which the County has released in writing from being maintained in confidence;

2.2. Information which at the time of disclosure is in the public domain by having been printed and published and available to the public in libraries or other public places where such data is usually collected; or

2.3. Information which, after disclosure, becomes part of the public domain as defined above, through no act of the Contractor.

3. The Contractor shall provide to the County in writing a Statement of Compliance with all of the above requirements for confidentiality.

**SECTION II:  
TERMS AND CONDITIONS**

**A. Type of Contract**

1. This contract is a Sunshine County Performance-Based Fixed Price Contract.

**B. Term of Contract**

1. This contract will begin January 1, 1988 and end December 31, 1989.

1.1. The County will evaluate the Contractor's performance on a continuous basis and upon the completion of each year, especially as to:

1.1.1. Technical Monitoring

- a. Progress Reporting
- b. On-site observations
- c. Conversion of Personnel, Records/Files, Property, Resources
- d. Notification of and coordination with other Agencies and Organizations
- e. Notification and coordination with Client and Community

1.1.2. Cost Monitoring

- a. Payment Procedures
- b. Delivery Schedules
- c. Property and Facilities
- d. Labor Mix
- e. Wages
- f. Cost-of-living increases
- g. Payment of taxes and benefits

1.2. Compensation may not exceed \$250,000.00 per year during 1988 and 1989.

2. This contract may be extended on a no-bid basis for two one-year terms at the sole discretion of the County.

2.1. The County will evaluate the Contractor's performance prior to completion of each year of extension.

2.2. Compensation may be increased above \$250,000.00 per year, if approved by the Sunshine County Board of Commissioners.

2.3. Under no condition will this contract exceed a term of four years.

**C. Contract Amendments**

1. This contract can only be amended if both the County and the Contractor agree in writing.

**D. Documents Incorporated by Reference**

1. In addition to the provision of this Contract, the Contractor and the County shall adhere to all provisions contained in the following listed documents which are attached hereto and made a part of this contract, as if fully set forth herein:

1.1. Sunshine County RFP #87-CC-JC-0012 (see Appendix D)

1.2. Contractor's Proposal dated March 16, 1987 (see Appendix E)

1.3. Antelope Revised Statutes 74.44 and 478.22 (see Appendices A and B)

1.4. Antelope Revised Statutes 87.82 (see Appendix C)

1.5. Relevant American Correctional Association (ACA) national corrections standards (see Appendix F)

1.6. Contract Measurable Performance Indicators (see Appendix G)

**E. Method of Payment**

Payments are predicated upon the successful completion of work described herein and as contracted. Payments due under this contract shall be paid monthly, within 30 days after the receipt of an itemized invoice, detailing the names of the employees, their hours of work and related costs.

**F. Insurance**

1. A Contractor shall continuously maintain and pay for insurance against comprehensive general liability, (including personal injury and civil rights coverage), property damage, and workmen's compensation. Such coverage shall protect Contractor and County from all liability caused by or arising out of all aspects of the performance of this contract, including payment of plaintiff's attorney's fees when awarded and compensatory damages and costs of defense. Such insurance shall take the form of general liability insurance which must be approved by the Risk Management Division, General Services Department, State of Antelope. The County shall be named as co-insured on such insurance policies and the coverage shall extend to its officers, employees, servants and agents.

1.1. In the event any carrier of such insurance exercises cancellation, written notice must be made by the Contractor to County within five days of such notice of cancellation.

2. The County shall maintain and pay for fire and extended coverage insurance on the County Facility building and all County property located therein, in accordance with Antelope law.

3. Within ten (10) working days after any County agent, employer, or officer receives notice of the commencement of any legal action arising out of the contractor's performance of this Contract, or otherwise involving the Contractor, an officer of the County shall so notify the Contractor.

3.1. The Contractor shall assume the defense thereof, and shall select his own counsel. The County may participate in the defense, if it chooses to do so.

3.2. Failure to submit timely notice as set forth above shall not relieve the Contractor or its insurer of the duty to defend and otherwise cover the claim, pursuant to the Hold Harmless clause, unless this failure of timely notice substantially impairs the Contractor's or his insurer's ability to defend said claim.

4. The County shall remain solely responsible for any losses or costs resulting from claims or litigation pending at the time this Contract first becomes effective or arises thereafter from occurrences prior to January 1, 1988. The Contractor agrees to cooperate with the County in the defense of these suits.

**G. Performance Bond**

1. The Contractor shall furnish the County a performance bond for the value of 70 percent of the first year's contract value, to be renewed each year. This bond must be maintained by the Contractor until all work contracted for has been completed and formally accepted by the County.

2. Upon default by the Contractor, the performance bond shall be paid to the County in its face amount regardless of actual damage or expenses incurred as a result of said default. If the damages or costs to the County exceed the bond's face amount, the Contractor shall be liable to the County for all such amounts.

3. The Contractor as a condition precedent to the continuation of this Contract shall renew as necessary the irrevocable letter of credit or certificate of deposit which sustains the performance bond.

**H. Termination**

1. This contract is subject to the following termination procedures:

**1.1. Termination for Default**

The County may terminate this contract in whole, or it part, whenever the County determines that the Contractor has failed to

satisfactorily perform its contracted duties and responsibilities and is unable to cure such failure within a period of time specified by the County taking into consideration the gravity and nature of the default.

Such termination shall be referred to herein as "Termination for Default."

1.1.1. If after Notice of Termination for Default, it is determined by the County or a court that the Contractor was not in default or that the Contractor's failure to perform or make progress in performance was due to causes beyond the control and without the error or negligence of the Contractor, the notice of termination shall be deemed to have been issued as a termination for the convenience of the County and the rights and obligations of the parties shall be governed accordingly.

1.1.2. In the event of Termination for Default, in full or in part as provided by this clause, the County may procure, upon such terms and in such manner as the County may deem appropriate, supplies or services similar to those terminated, and the Contractor shall be liable to the County for any excess costs for such similar supplies or services. In addition, the Contractor shall be liable to the County for administrative costs incurred by the County in procuring such similar supplies or services.

1.1.3. In the event of Termination for Default, the Contractor shall be paid for those deliverables which the Contractor has delivered to the County. Payment for partially completed deliverables, delivered to and accepted by the County, shall be an amount determined by the County in accordance with the contract price. Such payments shall be in accordance with the settlement agreement determined by County Board of Commissioners.



**1.1.4.** The rights and remedies of the County provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under the contract.

**1.2. Termination for Contractor Bankruptcy**

In the event of the filing of a petition in bankruptcy by or against the Contractor, the County shall have the right to terminate the contract upon the same terms and conditions as a Termination for Default. The County shall receive a current copy of any proprietary source code should termination occur due to Contractor bankruptcy.

**1.3. Termination for Unavailability of Funds**

In the event that County funds for the contract become unavailable, the County shall have the right to terminate the contract without penalty and upon the same terms and conditions as a Termination for Convenience. Availability of funds will be determined at the sole discretion of the County.

**1.4. Termination for Convenience**

Upon giving 90 days written notice, the County may terminate performance of work under the contract in whole or in part whenever for any reason the County shall determine that such termination is in the best interest of the County. Termination for Convenience is covered by ARS 5:312. In the event of termination for convenience, the County will indemnify the Contractor fully for any losses incurred.

**2. Procedure on Termination**

Upon delivery of certified mail to the Contractor of a Notice of Termination specifying the nature of the termination, the extent to which performance of work under the contract is terminated, and the date upon which such termination becomes effective, the Contractor shall:

- 2.1. Stop work under the contract on the date and to the extent specified in the Notice of Termination;
- 2.2. Place no further orders for materials, services or facilities, except as may be necessary for completion of such portion of the work under the contract as is not terminated;
- 2.3. Terminate all orders to the extent that they relate to the performance of work terminated by the Notice of Termination;
- 2.4. Assign to the County in the manner and to the extent directed by the Contracting Officer all of the right, title, and interest of the Contractor under the orders so terminated, in which case the County shall have the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders;
- 2.5. With the approval or ratification of the Contracting Officer, settle all outstanding liabilities and all claims arising out of such termination of orders, the cost of which would be reimbursable in whole or in part, in accordance with the provision of the contract;
- 2.6. Transfer title to the County (to the extent that title has not already been transferred) and deliver in the manner, at the times, and extent directed by the Contracting Officer all files, processing systems, data manuals, or documentation, in any form, that relate to work terminated by the Notice of Termination;
- 2.7. Complete the performance of such part of the work as shall not have been terminated by the Notice of Termination; and
- 2.8. Take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation of the property related to the contract which is in the possession of the Contractor and in which the County has or may acquire an interest.
- 2.9. The Contractor shall proceed immediately with the performance of the above obligations notwithstanding any delay in

determining or adjusting the amount of any item of reimbursable price under this clause.

**I. Employment Practices**

1. The Contractor shall provide his own Affirmative Action Plan, which shall include an employee grievance procedure that must be approved by the County in writing.

1.1. The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age (except as provided by law), marital status, political affiliations, or handicap (except where it relates to a bona fide occupational qualification.) The Contractor must take affirmative action to ensure that employees, as well as applicants for employment, are treated without discrimination because of their race, color, religion, sex, national origin, age, (except as provided by law), marital status, political affiliation, or handicap (except where it relates to a bona fide occupational qualifications.) Such action shall include, but it is not limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provision of this clause.

2. The Contractor is required to offer qualified County probation employees who are currently performing the functions required of the contractor the "right of first refusal" to fill similar positions with the inception of the contract. The Contractor must submit to the County a plan which describes the efforts to be expended to interview, screen and hire qualified County Probation personnel.

2.1. The Contractor shall credit to all persons it retains who were employed by the County at the Facility immediately preceding the assumption of management of the Facility by the Contractor, only that amount of annual, compensatory and personal time as the

County certifies that it carried on its records on the day the Facility operation was transferred to the Contractor.

2.2. The time shall be utilized by the employees in the same manner as it would have been utilized if the employer remained a County employee, except that no later than July 1, 1988, each employee shall have reduced his cumulative time (County time and Contractor time) to no more than two hundred eight (208) hours. County rules applicable to such personal, annual and compensatory time shall apply to time carried over pursuant to this section.

2.3. During the first two years of this contract, all former County employees who have exercised their right of first refusal must receive compensation at least equal to the compensation they received from the County. Compensation here includes: wages and benefits, including health insurance, paid vacation and sick leave, maternity leave, and professional education subsidies.

2.4. During the first two years of this contract, all former county employees who have exercised their right of first refusal must be credited with a level and amount of seniority at least equal to their level and amount of seniority while employed by the County. This level and amount of seniority shall be identical to the highest seniority ranking achieved by that employee during 1987.

3. The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, age, (except as provided by law), marital status, political affiliation, or handicap, except where it relates to a bona fide occupational qualification.

3.1. Sunshine County, as a matter of policy, encourages the participation of small, minority, and women-owned businesses.

**J. Subcontracts**

1. Unless provided for in the contract, no contract shall be made by the

contractor with any other party for furnishing any of the work or services herein contracted for without the consent, guidance and written approval of the County. Any subcontract hereunder entered into, subsequent to the execution of the contract with the prime Contractor, must be annotated "approved" by the County. This provision will not be taken as requiring the approval of contracts of employment between the Contractor and personnel assigned for services thereunder.

1.1. All references in this contract to the "Contractor" should be construed to encompass both the Contractor and the subcontractor.

1.2. If subcontractors are used, the subcontract must include specific designation of the tasks which the subcontractor is to perform.

2. The Contractor shall be required to provide payment bond with a surety company licensed to do business in the County, and acceptable to the County to insure the payment of all subcontractors, material, labor and taxes, including but not limited to unemployment insurance taxes.

3. The Contractor shall be responsible for all insurance requirements in Section II.F above, even when utilizing subcontractors.

**K. Acceptance of Proposal Content**

1. As stated in Section I-D, the Contractor's proposal to the County dated March 16, 1987 (see Appendix E) shall be considered a part of this Contract. Unless specifically waived in this Contract, all deliverables and procedures proposed therein by the Contractor must be accomplished to the satisfaction of the County.

**L. News Releases**

1. The Contractor will not copyright, publish, have published or otherwise disseminate any information of whatever nature resulting from the work being performed under this contract except as approved in writing by the county.

**M. Operation Standards**

1. The Contractor will meet all American Correctional Association (ACA) Standards necessary for accreditation. (See Appendix F.)

1.1. If any applicable local, state or federal law is inconsistent with the ACA Standards, the more stringent shall govern.

1.2. If the Contractor is not in compliance with these standards, this non-compliance shall be deemed a breach of contract.

2. The contractor will also meet all Contract Measurable Performance Indicators. (See Appendix G.)

2.1. If any applicable local, state or federal law is inconsistent with the Contract Measurable Performance Indicators, the more stringent shall govern.

2.2. If the Contractor remains persistently out of compliance with these indicators, this persistent non-compliance shall be deemed a breach of contract.

**N. Existing Contracts**

1. The County expressly states that presently existing contracts between the County and other contractors relative to the operation of the County Probation Facility are not binding on the Contractor unless the Contractor chooses to assume the responsibilities.

**O. Invalidity and Severability**

1. In the event that any provision of this Contract shall be held by a court of law or arbitrator shall be null and void, the validity of the remaining provisions of the Contract shall not in any way be affected thereby.

1.1. In the event this Contract's purpose is substantially impaired (to be determined at the sole discretion of the County) by such holding of invalidity or by legislative action, the contract shall be

deemed as being terminated for the convenience of both parties. However, in such an event the Contract may be terminated by the County immediately, and the 90 day clause shall not be binding upon the County.

**P. Arbitration**

1. Any controversy arising out of this Contract which the parties are unable to resolve by mutual Agreement may be submitted to binding arbitration in Gloryville, in accordance with the rules of the American Arbitration Association.

1.1. Any decision of the arbitrator shall be conclusive as to the matter submitted and may be enforced in any court of competent jurisdiction in the State of Antelope. Issues under arbitration shall be heard and decided by three arbitrators: one of whom shall be designated by the County, one of whom shall be designated by the Contractor, and the third shall be designated by the American Arbitration Association. Any factual decision on an issue being arbitrated, including the sharing of costs of arbitration, made by at least two of the arbitrators shall be the decision of the arbitrators and such decision shall be final, non-appealable and binding upon both parties.

2. **The following terms are binding upon the parties:**

2.1. The appointee of the American Arbitration Association shall be a lawyer and act as chairman of the arbitrators.

2.2. Either party may require that the hearing be recorded.

2.3. After it is determined by either party that a dispute cannot be resolved without arbitration, it shall be submitted for arbitration within 15 working days. "Working days" shall mean Monday through Friday excluding holidays. After submission, a decision shall be rendered within (30) days unless an extension is agreed to by both parties.

2.4. Neither party shall appoint an employee or agent as a arbitrator.

2.5. Each party reserves the right to appeal any question of law.

**Q. Notices**

1. All notices shall be sent certified mail, return receipt requested to:

County:

Ms. Gloria Babcock (or her successor)  
Chairperson  
Sunshine County Board of Supervisors  
County Building  
715 South King Street, Suite 700  
Gloryville, Antelope 74777

Contractor:

Mr. Richard Crane (or his successor)  
Vice President for Legal Affairs  
Lombroso Institute of Phrenology (LIP)  
500 Covered Bridge Road, Suite 501  
Gloryville, Antelope 74778

**R. Laws of Governance**

1. This contract is governed by the laws of the State of Antelope and by the regulations and policies of Sunshine County.



**SECTION III:  
SCOPE OF WORK AND MINIMUM REQUIREMENTS**

**A. Contract Objectives**

1. The Contractor shall provide the County with the following probation services:

**1.1. Probation supervision:**

Court-ordered monitoring of probation sanctions, services, and probationers activities by a duly authorized probation officer.

**1.2. Case Recording:**

Documentation of relevant data and occurrences of instances of probation supervision.

**1.3. Community Relations:**

Actions undertaken to promote cooperative relationships among the Probation Department, related agencies, and the community at large.

**1.4. Brokering of Special Services:**

Establishment of cooperative agreements, liaisons, and procedures for accessing supportive services for probationers.

**1.5. Preparation of Termination Reports:**

Formulation of a summary of all relevant probation information on a particular case at the termination of the probation sentence for submission to the Court.

2. The Contractor shall carry out the above - mentioned services in such a way as to protect public safety at all times.

3. The Contractor and the County shall seek to promote innovation in probation delivery practices, so as to achieve:

3.1. More cost - effectiveness, and

3.2. More efficient service delivery.

**B. Administration, Organization and Management**

1. It shall be the contractor's responsibility to assume adequate and appropriate management oversight for the implementation and successful conduct of this contract. The Contractor will prepare, submit to the County for approval, and abide by the following materials, policies and related items:

1.1. A project schedule presenting a clear time-table for:

1.1.1. The phase-in of the contracted services starting on January 1, 1988, the effective date of the contract.

1.1.2. All contract activities to be carried out after January 1, 1988.

1.2. An operational manual that delineates the policies and procedures for operating and maintaining the unit. The manual is to be made available to all employees. The manual shall comply with the relevant standards of the American Correctional Association and Sunshine County for juvenile probation services. Any exceptions must be approved by the County in writing before the operations manual can be approved.

1.3. The Contractor shall submit monthly, quarterly, and annual progress reports to the county containing a summary of the caseload by category, the new cases received, cases terminated and for what reason, roster of personnel, summary of personnel training, and a fiscal statement. Reports shall be submitted in triplicate (copies for technical/cost monitors and project officer) by the tenth day of each

month. With these reports the contractor shall notify the county of any unusual problems, particularly problems which might necessitate a contract alteration. In these reports the confidentiality of client records must be respected.

1.4. The Contractor shall make provision to meet formally and regularly with the county at least once a month to discuss progress and/or problems. A post-award conference will be held by November 5, 1987 to formally review operational schedules.

1.5. As noted above, the Contractor shall delineate how the standards of the American Correctional Association and the county shall be met. The Contractor shall also adhere to the requirements of the State of Antelope and Federal Constitution.

1.6. The contractor shall develop a system to review and update as necessary all policies and procedures at least annually.

1.7. The contractor shall prepare an organizational chart describing the structure of authority, responsibility and accountability of staff members within the office.

1.8. The contractor shall employ an office administrator to whom all employees are responsible.

1.9. The contractor shall provide an on-going liaison with the Juvenile Court's designee.

2. The contractor is responsible for ensuring satisfaction of all requirements herein and the County reserves the right to approve all documents.

### C. Personnel

1. The Contractor shall furnish personnel to carry out management, administration, and all other services required hereunder.

1.1. The Contractor shall provide full time and/or part time

personnel to assure availability of service twenty-four hours a day, seven days a week.

1.2. Contractor shall provide adequate supervision for personnel. In the absence of the unit administrator, a designated person shall be placed in charge.

2. The Contractor must provide at least one employee proficient in the Spanish language to be on duty during regular office hours.

3. Standards of employee conduct shall include, but are not to be limited to, the following:

3.1. Contractor's staff shall not display favoritism or preferential treatment to one probationer over another.

3.2. No contract employee may associate with any probationer except in a relationship that will support the approved goals of the court. Specifically, staff members must never directly or indirectly receive any remuneration, consideration or benefit or any personal (tangible or non-tangible) gift, favor or service, from, or on behalf of, any probationer, or his family or close associates. All staff are required to report any violation or attempted violation of these restrictions to the unit administrator.

3.3. No employee shall enter into any business relationship with any probationer or his family (example - selling, buying or trading personal property).

3.4. No employee shall have any intentional contact outside his professional relationship with any probationer, his family or close associates.

3.5. Any violation or attempted violation of the restrictions referred to in this section or of any law, will be reported to the County's Contract Officer by the Monitor(s) and may result in employee dismissal by the Contractor or at the direction of the County. Failure on the part of the Contractor to report a known

violation or to take appropriate disciplinary action against the offending employees shall subject the Contractor to appropriate action up to and including termination of the contract.

3.6. Written personnel policies governing all personnel to include compliance with all Federal and State requirements specified in Section II-D and the above-listed specific items, shall be prepared and submitted to the County for approval. The Contractor shall document by a signed receipt that each employee was provided with a copy of the standards of employee conduct.

**D. Security Requirements**

1. The Contractor shall submit to the County's Technical Representative no less than ten days before the starting date of the contract, two (2) complete "fingerprint charts" and one background investigation report for each employee of the firm, who will perform the contract work. These forms shall be submitted for replacement employees before entrance on duty.

1.1. The above requirement is waived for any current County employee exercising his/her right of first refusal, provided the County already possesses two finger print charts and one background investigation of that employee.

2. The Contractor shall be required to initiate background checks, and verify employment history for at least ten (10) years on each employee.

2.1. The County's Personnel Department may review all necessary background checks on all personnel which the Contractor has assigned to work at the unit.

2.2. The above requirement is waived for any current County employee exercising his/her right of first refusal, provided the County already possesses two finger print charts and one background investigation of that employee.

3. The County shall have and exercise full and complete control over granting, denying, withholding or terminating clearances for employees.

The County may as it deems appropriate, authorize and grant temporary clearance to employees of the Contractor.

**E. Training**

1. The Contractor shall provide all new clerical/support employees who have minimal probation contact with twenty-four (24) hours of training prior to being independently assigned to a particular job.

1.1. All employees in this category shall be given an additional sixteen (16) hours of training each subsequent year of employment. The objectives of such training shall be approved by the county prior to its implementation.

2. The Contractor shall provide all new probation officers who have regular contact with probationers with forty (40) hours of orientation and training during their first year of employment. Sixteen (16) of these hours shall be completed prior to being independently assigned to a particular job.

2.1. All employees in this category shall be given an additional 24 hours of training each subsequent year of employment. The objective of such training shall be approved by the County prior to its implementation.

3. The Contractor shall provide the unit manager with a minimum of twenty-four (24) hours of management training each year of employment.

4. Contractor shall provide County's Monitor(s) with documentation of training completed, including results of any tests, for each employee, immediately upon completion.

5. For the purpose of this contract, "training" shall be defined as an organized, planned, and evaluated activity designed to achieve specific learning objectives through classroom or closely supervised on-the-job training.

**F. Duties of Probation Officers**

Under the direction of the Contractor's unit manager, the duties of probation officers are to:

1. Supervise juveniles placed on probation to assure the fulfillment of the court-ordered terms of probation; these terms generally stipulate place of residence, attitude toward parent(s), hours and activities, academic requirements and school attendance, and, in addition, may stipulate counseling, work, community service and restitution.
2. Maintain detailed records of contacts with probationers, their families, collateral contacts and the child's progress and adjustment.
3. Assist out-of-school probationers in the location of employment.
4. Arrange appropriate community agency referrals such as family therapy.
5. "Broker" necessary special services for family therapy, individual therapy, tutoring, medical/dental needs.
6. Offer supplementary counseling to probationers with regard to school, family problems, employment and behavior.
7. Prepare detailed case summaries on those probationers who are arrested on new offenses or who fail to fulfill court stipulated terms of probation.
8. Formally report in writing to the designated Court official any violation of probation conditions by a probationer.
9. Prepare termination reports for court use for discharging supervisees from probation.
10. Regularly confer and consult with the counselor's supervisor regarding case management and the counselor's performance.

11. Supervise assigned probationers from other states under the interstate compact.

**G. Records**

1. The Contractor shall maintain all logs and records required to operate and document the operation of the unit.

1.1. All active logs and records shall be maintained at the facility.

1.2. Inactive logs and records will be stored at the facility for a period of three (3) years.

2. County officials have the right to inspect any and all records, upon demand, at any time during the term of the contract or there after as specified below.

3. The Contractor shall retain all required logs and records during the contract period; upon the termination or expiration of this contract, the records shall be delivered to the agency in good condition.

4. The contents of probation records shall be identified and separated according to an established format, which shall be approved by the County.

5. The Contractor, with county approval, shall develop written policies and procedures identifying those persons within the facility and other authorized persons who have direct access to probation records.

6. The Contractor shall provide written policies and procedures governing:

6.1. Record and report management including, but not limited to, the establishment, utilization, content, privacy, security and presentation of records;

6.2. A schedule for the retirement or destruction of inactive case records which has been approved by the County.



**H. Contingency Plan**

1. The contractor shall present a contingency plan to be implemented in case the normal operations of the Sunshine District Office are disrupted by labor problems, fire, power outages, natural disasters or other emergencies.

**I. Probation Facility**

1. The County will lease its Seaside District Office, located at 2700 Federal Highway, Gloryville, Antelope, to the Contractor for one dollar per year. The County will provide at least 3500 square feet of usable space which is divided into one manager's office, eight probation staff offices, a reception office, two large areas for clerical personnel, one conference room with seating for twenty, and four restrooms, two for males and two for females.

2. Sunshine County will supply all furnishings and equipment. A determination will be made by the contractor and Sunshine County as to any new or replacement items needed. The County will purchase and retain ownership of such items.

3. Following initial appraisal and refurbishing as mutually agreed to, the contractor and Sunshine County will, not less often than once a year, jointly determine the need for replacement of furnishings and equipment. Sunshine County will purchase items mutually agreed upon.

4. Damages of furnishings, equipment, or building beyond normal wear and tear will be the responsibility the Contractor.

5. The Contractor will be responsible for providing all consumable supplies.

Gloria Babcock

---

Chairperson, Sunshine County  
Board of Commissioners

Date \_\_\_\_\_

Richard Crane

---

Vice President for Legal Affairs  
Lombroso Institute of Phrenology

Date \_\_\_\_\_

### C. Transfer to the Private Sector

Transfer of responsibility, resources and service performance from the public sector to the private sector involves a unique process, and the key to success is planning. Eight tasks have been identified for planning the transfer process. The tasks are:

1. Management transfer decisions
2. Personnel notification
3. Client notification
4. Intra/Inter agency notification
5. Public notification
6. Transfer of client information
7. Transfer of government property
8. Staff training

Each governmental agency has its own unique traits, therefore, the steps used in planning the transfer will differ from agency to agency. An explanation of the tasks that follow may require additional steps to be followed in some jurisdictions, in order to plan a successful transfer.

**Task One:** *Management transfer decisions.* Such decisions begin in concert with the contractor during contract negotiations. These decisions result in procedures that become part of the contractual obligations. The issues include dates, personnel, property distribution, phase in of private sector management, staff and training.

Management needs to select an early, but realistic date, when the public sector agency will transfer its responsibilities, resources and services to the private sector. A number of other relevant dates will be planned around this date.

Decisions on personnel need to be made before signing the contract to ensure

both parties are comfortable with the understandings. The first decision is how current governmental personnel will be affected. Will they be offered a *right of first refusal*, early retirement or transfer within the government? Will government require that employees hired by the contractor continue to receive present salaries? Some of these issues may have been addressed in the RFP or in the proposal, but the final agreement must be made prior to the contract being signed.

The next decision by management is the hiring of new employees. The government needs to determine when the new management may begin hiring and when employees may begin work. Other issues include salary, benefits and job qualifications required by the government agency or the contractors.

Government agencies often have purchase of services contracts with other governmental agencies. Management needs to identify such agencies and examine the functions they provide. It must be determined if those functions will continue to be provided by those agencies or transferred to the contractor.

Property decisions must also be made about government property prior to a contract. For example, will the private sector lease, purchase or rent property, will ownership be transferred or will property be purchased. The private sector may want to purchase new property from another source. If property is to be transferred to another site is this the responsibility of government or the private sector and how will the move occur. A decision needs to be made on which agency is liable for any damage that occurs during the transfer. Finally, management needs to decide what guarantees or warranties will be made with the property.

**Task Two: *Personnel Notification.*** Government employees affected by the change need to be informed of exactly what will take place, when it will take place, and how it will affect them. The productivity and success of any organization depends on employee performance. Employees positive/negative feelings could have a powerful affect on the project.

The following steps can be taken to ensure successful notification of employees:

1. Identify a staff person who will be responsible for making certain all affected personnel are notified;
2. Identify all categories of employees what will be affected by the change

and list the names of all employees under each category;

3. Notify all staff of the transfer through a general memorandum;
4. Review each employee's status and determine what, if any, changes will occur with respect to that employee by the transfer.
5. Determine what the employee will be offered:
  - position/employment with the contractor
  - right of first refusal
  - early retirement
  - transfer within government
  - other
6. Notify affected employees as early as possible. This may be done when the decision to convert is made or when the RFP is developed.
7. Notify each employee affected of the decision and how he or she is affected. This can be done by the person responsible for notification or the employees supervisor. The individual meetings should provide management support to the employee and address how the employee will be affected, answer employee questions, and notify him/her of options.
8. Throughout the process general information memos should be sent to all employees as new information is known on the decision to convert, name of new provider, date of change, notice that more information will follow and a contact person to answer questions.

**Task Three: Client Notification.** Task Three: Clients need to be made aware of the change in service provider. The following steps will aid in a smooth notification of clients:

1. Identify staff responsible for notification of clients;
2. Notify clients of the name, address, phone number and office hours of the new service provider.
3. Notify clients of any new procedures or policies.
4. Notification may be by registered letter, telephone or personal contact. The important point is care must be taken to assure that all clients are notified. Verification should be required that clients have been contacted.

**Task Four: Intra/Inter Agency Notification.** The transfer of a specific service from public to private will affect other service centers within the governmental agency. Also, other allied agencies need to be notified of the changes. The following steps address the process necessary in notifying affected agencies:

1. Identify staff responsible for assuring that all agencies are notified.
2. Identify all intra and inter agency elements that need to be notified.
3. Determine what information the individual agencies need to know. Intra-agency components may require more in-depth information than outside agencies who may need only general information.
4. Identify when the agencies need to be notified. The date will depend on the relationship and the need to develop procedures and training.
5. Determine the most appropriate method of notifying each agency and how it affects them. Documentation of this occurrence should be obtained.

**Task Five: Public Notification.** The following tasks address the process necessary in public notification:

1. Identify staff capable of presenting the right information to the public in the proper manner;
2. Determine what information needs to be disseminated;
3. Determine the appropriate data for dissemination;
4. Determine the method of notification.
5. Provide the necessary notification.

**Task Six: *Transfer of Client Information*** The contractor will need much of this information to operate. The following steps address transfer of client information:

1. Select a person responsible for assuring all client information is transferred in a legal and orderly manner;
2. Identify the client information that needs to be transferred and client information that does not require transfer. Examples of client information include:
  - o client files (active/non-active)
  - o medical records
  - o police records
  - o family history
  - o court records
  - o other
3. Prepare legal work on the transfer of records. Research the legal issues surrounding each type of information being transferred and prepare any legal documents necessary for the transfer.

what to do with other client information.

5. Determine how the information will be transferred.
6. Determine the date and procedure of transfer.

**Task Seven: *Transfer of Government Property.*** The following steps address the transfer of government property:

1. Identify staff responsible for the transfer;
2. Identify all government property and determine the disposition of each item.
3. Determine from the contract what "status" the property will have when it is transferred. Will the government lease the property, sell it outright or otherwise dispose of it?
4. Establish a date of transfer after which the private sector is responsible for the property;
5. Determine a method of transfer and who is responsible for the property during transfer.

**Task Eight: *Staff Training.*** Inherent in the contracting are changes in policies and procedures that require training. The following steps provide a format for planning the training:

1. Identify two responsible staff persons, the first from government and the second from the private sector, to determine what training is necessary and which staff need what training.
2. Determine dates of training and who will be responsible.
3. Develop training curriculum.
4. Train staff.



## TECHNICAL ASPECTS OF CONVERSION TO THE PRIVATE SECTOR:

### CONTRACT MONITORING

The final phase in the conversion process is monitoring contract performance. Immediately upon contract award, government assumes its role as monitor and remains as such throughout the duration of the contract. Active, continuous and coordinated oversight of contract performance is critical to ensure that the work is being conducted as planned.

*When correctional services are contracted, the government's role is altered, it does not disappear. What is changed is only one part of the job--the doing. Conceiving, planning, implementing, evaluating and correcting remain public sector responsibilities. Unless they are competently performed, contracting will not be effective.*

*Only government can best monitor the performance of the contractor and enforce the requirements set forth in the contract. Public officials must establish realistic performance standards for the contract, and must resist the pressures to be timid or superficial in enforcement. On the other hand, unnecessarily strict enforcement can create tension between the public and private sectors. Consequently, the role of the contract monitor assumes major importance*

Skill is required to effectively monitor a private sector company without imposing too much bureaucratic red tape. They must inspect without irritating, and become fully informed while maintaining an arm's-length relationship. Monitoring problems are minimized if work requirements are clearly stated, a

capable contractor is selected, and the contract is properly developed and negotiated.

### **Responsibilities of the Contract Monitor**

The contract monitor performs an important and essential function in the contracting process. Effective contract monitoring assures that the contractor is actually providing the goods or services called for in the contract.

Because of its importance, contract monitoring should never be "tacked on" to someone's job description, as though it were a peripheral, low priority task to be carried out whenever that person has the time. Rather, it should be a staff person's central focus, whose responsibilities include:

- Thorough familiarization with the terms and conditions of the contract and related materials;
- Establishment of a helpful, productive working relationship with the contractor;
- Maintaining a *team effort* between monitor(s) and contractor;
- Verifying adherence to contract requirements and scheduling;
- Alerting the contractor to deficiencies, and planning appropriate action;
- Informing appropriate government administrators of major contract problems, anticipated problems and delays in scheduling;
- Maintaining coordination with the cost monitor (if applicable) to evaluate technical performance in respect to allowable costs;
- Measuring contract progress by making objective judgments based on the data and information provided by the contractor;
- Negotiating an agreed upon schedule for all contract activities, and for delivery of contract products;

- Conducting periodic on-site observations;
- Maintaining complete records;
- Responding to requests for assistance from the contractor;
- Reviewing and commenting on reports and products in a timely manner.

### Monitoring By Simple Verification

One of the vehicles which government uses to verify performance is the contractor's regular written progress report. The contractor needs to know the kinds of information and data which is required in the monthly or quarterly progress reports. At a minimum the progress reports should indicate *how* the work is going; *what* activities are being conducted; *what* activities are planned; and *who* is performing the work. In addition, the report should indicate if the work is on schedule; whether major problems are anticipated or being experienced, as well as proposed solutions. The following is a suggested format for written progress reports:

- List activities completed during report period;
- Identify activities in progress;
- Forecast contract activities which are planned for the next report period;
- Discuss technical problems experienced and their planned solutions;
- Discuss anticipated problems;
- Include relevant materials;
- Include financial reports (actual costs for report period; cumulative costs to date; and projected costs for upcoming report period).

A second vehicle for verification is the use of independent examination of documents and files. For instance:

- If a contract requires a contractor to carry a \$10 million liability insurance policy, a monitor could request written evidence of such coverage from the contractor, and then independently confirm such coverage directly from the insurer.
- If a contract requires that the contractor open a facility where specific types of activities are to be performed, it is a simple matter for the monitor to confirm the existence of the facility through a site visit.
- If a contract requires the permission of the parent, guardian, or the court be obtained before the contractor can involve a juvenile probationer in any research project, the monitor could simply verify that a signed permission form existed in the probationer's file.

The aforementioned examples are simple to monitor, and result in definite yes/no outcomes. They require only a minimum of decision-making and judgment on the part of the monitor. In most cases, the contractor would have very little room to dispute the monitor's finding.

### **Monitoring By Measurable Performance Indicators(MPIs)**

A monitor's job, however, entails a great deal more than simply verifying contract compliance through the various reports and on-site inspections discussed above. The monitor must also measure on-going program activities. The problem is: how to do so in an objective, measurable fashion, in order to avoid subjective, arbitrary judgments?

Let's look at a couple of real life examples:

- a. The contract requires that the contractor "devote adequate resources to assist juveniles required to make restitution in finding suitable employment."

An *ineffective* monitor might observe that the contractor maintains an

Employment Counselor on staff, and conclude that this contract provision is being met.

An *effective* monitor would devise "measurable performance indicators (MPIs)," through which (s)he could arrive at an objective documented evaluation of the contractor's performance.

b. The contract requires that "a release plan should be developed for each juvenile before release."

An *ineffective* monitor might observe that the contractor's operations manual directs the staff to prepare such a plan before a juvenile is released, and therefore conclude that the contractor is meeting this requirement.

An *effective* monitor would set up "measurable performance indicators (MPIs)," through which (s)he could develop an objective, documented judgment about the contractor's performance.

### What is a Measurable Performance Indicator?

A measurable performance indicator is an expected level of performance written in measurable terms. The purpose of an MPI is to allow for the objective determination of a contractor's level of performance, and to assist in determining which areas of a contractor's performance require attention.

NOSR has developed a highly effective method of contract monitoring which utilizes measurable performance indicators. NOSR's unique approach for monitoring performance allows for the objective, systematic determination of a contractor's actual progress in relation to target expectations. MPIS serve as the vehicle for government to determine the accomplishments and/or critical problem areas of the private provision of services. For purposes of monitoring, performance indicators must be written so that they are:

*Measurable*- that they lend themselves to quantifiable measurements;

*Reasonable*- that they are achievable;

*Flexible*- that they can be changed when they prove to be unreasonable;

*Objective-* that they form the basis of a verifiable judgment.

A measurable performance indicator is important because it:

- Enables effective monitoring;
- Offers a system of accountability;
- Establishes expectations;
- Encourages excellence;
- Alerts managers to problem areas;
- Enhances responsiveness of managers;
- Provides documentation of a program's accomplishments.

The following six elements must be used to define performance indicators in order to make them measurable:

- Desired outcome - what you seek to accomplish;
- Specific category - who will be affected by the outcome;
- Target rate of performance - the level of success expected;
- Volume - estimated number of occurrences, or the number in the target group;
- Time frame - the length of time during which measuring will take place, or the deadlines by which certain tasks must be accomplished;
- Allowable range of variance - the amount of variation from the target rate of performance that the monitor will permit without reaction.

## Developing Measurable Performance Indicators

Let's use a specific, easily understood example to illustrate how to develop a measurable performance indicator. Suppose your department decided that the contractor providing probation supervision should verify each month the status of all probationers who are currently enrolled in school, in a job training program, or who are working.

Here is what a measurable performance indicator would look like for this activity: *every month the contractor will verify the status of all probationers currently in school, in a job training program, or who are working, at a target rate of 100% verification.* You will need to gather or establish the following information about the contractor's success at verifying the status of its total caseload:

- Total number of probationers for which the contractor is responsible
- Actual number of probationers whose status was verified
- Target (or acceptable) rate of performance (in this case: verification)
- Actual rate of performance (percent of verification which was achieved)
- Variance from target rate of performance

Let's take a look at three monitoring situations:

### *Example A:*

The contractor is responsible for 1,000 probationers. He verified the status of all of them. The *actual* rate of performance is  $1000/1000$  (or 1.00 or 100%), which is identical to the *target* rate of performance (100%). The *variance* from the target rate of performance was *zero*.

### *Example B:*

The contractor is responsible for 750 probationers. She was able to verify the

status of 715 of them. The *actual* rate of performance is 715/750 (or .95 or 95%), which is 5% *less* than the *target* rate of performance (100%). The *variance* from the target rate of performance was  $-.05$  (.95 - 1.00) or - 5% (95% - 100%).

*Example C:*

The contractor is responsible for 1250 probationers. He was able to verify the status of only 850 of them. The *actual* rate of performance is 850/1250 (or .68 or 68%), which is 32% *less* than the *target* rate of performance of 100%. The *variance* from the target rate of performance was  $-.32$  (.68 - 1.00) or -32% (68% - 100%).

If you are the contract monitor, you would pay particular attention to contractor C who is falling well below what the contract called for. You may have some concern for Contractor B since she was .05 below the target rate of performance. However, you need not concern yourself with contractor A who is fulfilling his contract requirements in this instance.

Now let's carry this example one step further. If you are a contract monitor responsible for monitoring numerous performance indicators demanded of the contractor, you may not have time to react to the contractor's performance on each indicator every month, nor should you have to.

What you will want to do is set up an allowable range of variance (discussed in the next Section): if a contractor's variance on a performance indicator falls *within* that range, you will not need to react to his or her performance.

After considering the matter, you decide that the allowable range of variance in the previous example will be  $-.05$  to  $.00$ . In other words, you will only react to a performance with a variance of *more than 5%* below the target rate of 100%. Therefore, any performance with a variance of  $-.06$  or lower will be singled out for attention. In the example noted above, Contractor B performed .05 below the target level. Although she failed to meet her target, the allowable range of variance was such that the monitor need not be overly concerned at this time.

It is important to point out that measurable performance indicators should not be applied blindly or automatically. Contractor C's large negative variance may be the result of low performance, but it may also be the result of factors not entirely within the contractor's control. Wise monitors use measurable performance



indicators and the resulting individual variances as a selection device, indicating where they should direct their immediate attention. In most of these instances, the contract monitor would merely note the situation and refrain from reaching any negative conclusions until more information is gathered and the cause(s) for the large variance is determined.

### **How To Measure Rate of Performance**

The examples above demonstrate the useful application of measuring performance. Five steps are involved in the process:

#### *Determine The Indicator*

Decide on an area of performance to be measured. This will usually take the form of a requirement or task description.

#### *Determine The Target Rate of Performance*

If this task is required by law, by the court, or by regulation, then the target rate of performance will usually be set at 100%. The target rates for other tasks, however, may be set lower, in recognition of their lower priority, or greater difficulty in being accomplished. This figure will come from your experience, or from some set of data at hand. This percentage will represent the *target* rate of performance, the rate of performance you would accept from the contractor.

#### *Determine the Actual Rate of Performance*

This figure will come from determining the *actual* number of successful performances of this task, then dividing it by the total number of opportunities to perform the task. This percentage will represent the contractor's *actual* rate of performance.

The formula is:

Actual Rate of Performance = actual number of successful performances divided by the total number of times the task is attempted.

$$\text{Actual Rate of Performance} = \frac{\text{Number of Successful Performances}}{\text{Total times task is attempted}}$$

*Determine the Amount of Variance*

This figure represents the difference between the *actual* rate of performance and the *target* rate of performance.

The formula is:

$$\text{Variance} = \text{Actual Rate of Performance} \textit{ minus} \text{Target Rate of Performance}$$

$$\begin{array}{r} \text{Actual Rate of Performance} \\ - \text{Target Rate of Performance} \\ \hline \text{Variance} \end{array}$$

*Determine the Allowable Range of Variance*

This figure is actually two figures: the lowest *negative* variance you will tolerate on any given performance indicator without singling out the contractor for special attention and the highest *positive* variance you will accept without singling out the contractor for special attention.

It is obvious why a contract monitor would direct his attention to a contractor's performance which has large *negative* variances. Such performance falls well short of the acceptable target rate and indicates low productivity on the part of the contractor. In such cases, the contractor's staff may need motivation, more training, or a warning to improve performance.

It is less obvious why a monitor would direct his attention to a contractor's performance which indicates large *positive* variances. Large positive variances may indicate that the contractor is shortcutting in some *other* area of performance; that the target rate of performance is set too low; or that there may be flawed or fictitious data. If none of the above are true, the contractor may have found an innovative way of performing this task, enabling him to exceed the target, or the contractor has simply worked extra hard, and deserves a pat on the back in either case.

An effective contract monitor will initially set the target rate of performance at a level which, if achieved, will ensure accomplishment of the desired outcome. It should be set at 100% (1.00) if the requirement being quantified is a law, a court order, or involves an absolutely essential requirement. It could be set lower for less important contract tasks. At the same time, the allowable range of variance should *initially* be set so that any contract performance rate which demands the monitor's immediate attention will be revealed.

Obviously, as the monitor achieves greater familiarity with the ongoing performance of the contractor, the target rates of performance and/or the allowable ranges of variance may be modified to more closely fit actual experience and expectations.

Unless absolutely necessary, the allowable ranges of variance need not be shared with contractors. These are management tools of evaluation and control; if shared, they may become the new goals of the contractor. For example, if a contractor knows that the target rate of performance on a particular performance indicator is .80 and that your allowable range of variance is  $-.05$  to  $+.05$ , his/her goal could be a 75% rate of performance, and not an 85% or 100% rate of performance (rates which would normally indicate greater productivity and effectiveness).

Measurable performance indicators, especially target rates of performance and allowable ranges of variances, should be reviewed regularly and adjusted based on actual experience and data.

The following pages illustrate how six different contract requirements can be monitored by means of MPis:

**EXAMPLE 1**

**Requirement:** Contractor will devote adequate resources to assist employable juveniles in finding suitable employment.

**MPI:** Each month, employable juveniles, total volume estimated at 25, will be provided a list of the community's employers and will receive guidance in obtaining suitable employment at a 100% target rate of performance. Allowable range of variance: -.10 to .00.

**Desired Outcome:** A list of potential employers and guidance in obtaining suitable employment will be provided to employable juveniles.

**Specific Category:** Employable juveniles

**Target Rate of Performance:** 100% (1.00)

**Total:** 25 (estimated)

**Time-Frame:** Monthly

**Allowable Range of Variance:** -.10 to .00

**Measure:**

**(Time-Frame)**

	<b>April</b>	<b>May</b>	<b>June</b>	<b>July</b>
Actual Number of Employable Juveniles Who Received List and Guidance	25	19	18	22
Number of Employable Juveniles	25	20	20	25
Target Rate of Performance	1.00	1.00	1.00	1.00
Actual Rate of Performance	1.00	.95	.90	.88
Variance	.00	-.05	-.10	-.12

## EXAMPLE 2

**Requirement:** All new full-time employees will receive adequate orientation prior to job assignment.

**MPI:** All new full-time employees (about 5 per month) will receive 40 hours of orientation, prior to job assignment. Target rate of performance is 100%. Allowable range of variance: -.05 to +.10

**Desired Outcome:** All new full-time employees will receive 40 hours of orientation.

**Specific Category:** All new full-time employees

**Target Rate of Performance:** 100% (1.00)

**Volume:** 5 (estimated)

**Time-Frame:** Monthly

**Allowable Range of Variance:** -.05 to +.10

**Measure:**

(Time-Frame)

	April	May	June	July
Actual Number Of Person - Hours Of Orientation Divided By Number of New Full-Time Employees, By Month	41	40	38	36
Number Of Targeted Hours Of Orientation Per New Full-Time Employee	40	40	40	40
Target Rate of Performance	1.00	1.00	1.00	1.00
Actual Rate of performance	1.03	1.00	.95	.90
Variance	+.03	.00	-.05	-.10

**EXAMPLE 3**

**Requirement:** Contractor will initiate and carry out monthly a minimum of one face-to-face contact between field staff and juveniles in placement other than their own homes.

**MPI:** Each month, field staff will visit on a face-to-face basis each juvenile under their supervision who is placed in community-based, residential programs (estimated number - 30 juveniles) at an anticipated 100% rate of performance. Allowable range of variance: -.05 to .00.

**Desired Outcome:** Face-to-face contact with juveniles placed outside their homes.

**Specific Category:** Juveniles in placement

**Target Rate of Performance:** 100% (1.00)

**Total:** 30 juveniles (estimated)

**Time-Frame:** Monthly

**Allowable Range of Variance:** -.05 to .00

**Measure:**

**(Time-Frame)**

	<b>April</b>	<b>May</b>	<b>June</b>	<b>July</b>
Actual Number of Juveniles Visited	26	28	34	32
Total Number of Juveniles to Visit	29	30	36	33
Target Rate Of Performance	1.00	1.00	1.00	1.00
Actual Rate Of Performance	.90	.93	.94	.97
Variance	-.10	-.07	-.06	-.03

**EXAMPLE 4**

**Requirement:** A plan will be developed for each juvenile before release.

**MPI:** Probation officer will develop a written plan for each juvenile (about 500 per month) prior to release. The target rate of performance is 100%. The allowable range of variance: -.02 to +.00

**Desired Outcome:** Adequate written release plans for each juvenile

**Specific Category:** Juveniles about to be released

**Target Rate of Performance:** 100% (1.00)

**Total:** 500 (estimated)

**Time-Frame:** Monthly

**Allowable Range of Variance:** -.02 to .00

**Measure:**

**(Time-Frame)**

	<b>April</b>	<b>May</b>	<b>June</b>	<b>July</b>
Number of juveniles released with a documented plan	490	391	456	438
Total Number of Juveniles Released	500	450	475	515
Target Rate of Performance	1.00	1.00	1.00	1.00
Actual Rate of Performance	.98	.87	.96	.85
Variance	-.02	-.13	-.04	-.15

### EXAMPLE 5

**Requirement:** Contractor will conduct a face-to-face interview with the probationer and his/her guardians no later than seven days after being placed on probation.

**MPI:** Within the first seven days after a juvenile is placed on probation (about 40 per month), his or her probation officer will conduct a face-to-face interview with the juvenile, and at least one adult guardian with whom he or she currently lives. The target rate of performance is 100%. The allowable range of variance: -.03 to .00.

**Desired Outcome:** Juvenile probationers and their families are interviewed during the first week of probation.

**Specific Category:** Juveniles entering probation

**Target Rate of Performance:** 100% (1.00)

**Total:** 40 (estimated)

**Time-Frame:** First seven days after being placed on probation

**Allowable Range of Variance:** -.03 to .00

**Measure:**

**(Time-Frame)**

	April	May	June	July
Number of juveniles and their guardians interviewed face-to-face within 7 days after probation begins	38	35	35	41
Total number of juveniles entering probation this month	40	35	38	42
Target rate of performance	1.00	1.00	1.00	1.00
Actual rate of performance	.95	1.00	.92	.98
Variance	-.05	.00	-.08	-.02



## EXAMPLE 6

**Requirement:** Contractor will initiate at least two collateral contacts per juvenile probationer each month.

**MPI:** Contractor will initiate an average of at least two collateral contacts monthly per juvenile probationer (estimated number of probationers: 100 per month per probation officer). The target rate of performance is 95%. The allowable range of variance is -.05 to +.10

**Desired Outcome:** Each month, probation officers will confer, on the average, with at least two significant adults involved in the probationer's life, e.g. parents/guardians, school personnel, clergymen, employers, social workers, employment counselors, doctors, etc.

**Specific Category:** All juvenile probationers

**Target Rate of Performance:** 95% (.95)

**Total:** 100 per month per probation officer (estimated)

**Time-Frame:** Monthly

**Allowable Range of Variance:** -.05 to +.10

**Measure:**

**(Time-Frame)**

	April	May	June	July
Actual Number of Collateral Contacts Actually Initiated Per Juvenile Probationer	2.0	2.2	2.4	2.6
Required Number of Collateral Contacts to be Initiated Per Juvenile Probationer	2.0	2.0	2.0	2.0
Target Rate of Performance	.95	.95	.95	.95
Actual Rate of performance	1.00	1.10	1.20	1.30
Variance	+.05	+.15	+.25	+.35

## Tracking and Analyzing Measurable Performance indicators

Once you have determined which measurable performance indicators you want to develop and enforce, NOSR recommends setting up a Performance Indicators Worksheet similar to the one on the next page.

Under "performance indicators" list the name of each one, and the allowable range of variance. Fill in the appropriate months across the top. With slight alteration, you could devise a form showing twelve or twenty four months' performance on one page.

Notice that this Performance Indicators Worksheet has been filled in. It illustrates six sample measurable performance indicators for the months of April through July. The examples discussed earlier in this Chapter are used. Notice how easy it is as a contract monitor to track performance trends and achievement of contract requirements.

This form will allow you to track all measurable performance indicators month-by-month. The advantages of this system are that it will serve as a ready reminder of *what* to monitor, and it will show you the long-range trends in each category.

For example, suppose in a particular category, the previous six months' variances were:

-0.20, -0.15, -0.12, -0.10, -0.08, -0.05

Even though this category is showing all negative variances, the overall trend is *toward* the target rate of performance. Therefore, whatever steps you have taken are working, and should be continued.

Another example: suppose in a particular category, the previous six months' variances were:

+0.10, +0.07, +0.02, 0.00, -0.01, -0.03

PERFORMANCE INDICATORS WORKSHEET

1988

Performance Indicators	Measure	APR	MAY	JUN	JUL
1. LIST OF EMPLOYERS, EMPLOYMENT GUIDANCE Allowable Variance = -.10 TO .00	Actual Number	25	19	18	22
	Total Number	25	20	20	25
	Target Rate of Performance	1.00	1.00	1.00	1.00
	Actual Rate of Performance	1.00	.95	.90	.88
	Variance	.00	-.05	-.10	-.12
2. NEW FULL-TIME EMPLOYEE ORIENTATION Allowable Variance = -.05 TO +.10	Actual Number	41	40	38	36
	Total Number	40	40	40	40
	Target Rate of Performance	1.00	1.00	1.00	1.00
	Actual Rate of Performance	1.03	1.00	.95	.90
	Variance	+.03	.00	-.05	-.10
3. FACE-TO-FACE CONTACT WITH JUVENILES IN PLACEMENT Allowable Variance = -.05 TO .00	Actual Number	26	28	34	32
	Total Number	29	30	36	33
	Target Rate of Performance	1.00	1.00	1.00	1.00
	Actual Rate of Performance	.90	.93	.94	.97
	Variance	-.10	-.07	-.06	-.03
4. PLACEMENT PROGRAM CERTIFIED Allowable Variance = -.02 TO .00	Actual Number	490	391	456	438
	Total Number	500	450	475	515
	Target Rate of Performance	1.00	1.00	1.00	1.00
	Actual Rate of Performance	.98	.87	.96	.85
	Variance	-.02	-.13	-.04	-.15
5. FACE-TO-FACE INTERVIEW WITH PROBATIONER AND FAMILY Allowable Variance = -.03 TO .00	Actual Number	38	35	35	41
	Total Number	40	35	38	42
	Target Rate of Performance	1.00	1.00	1.00	1.00
	Actual Rate of Performance	.95	1.00	.92	.98
	Variance	-.05	.00	-.08	-.02
6. NUMBER OF COLLATERAL CONTACTS PER PROBATIONER Allowable Variance = -.05/+1.0	Actual Number	2.0	2.2	2.4	2.6
	Total Number	2.0	2.0	2.0	2.0
	Target Rate of Performance	.95	.95	.95	.95
	Actual Rate of Performance	1.00	1.10	1.20	1.30
	Variance	+.05	+.15	+.25	+.35

Even though four of the six variances meet or exceed the target rate of performance, and the other two are very small, their figures indicate an overall slide in performance, and immediate attention is called for.

One final example: suppose in another category, the six month variance trend was:

+ .02, -.08, +.05, -.02, +.07, -.06

Even though half the variances are positive, the overall trend indicates erratic performance. The contract monitor may want to investigate why this fish-tailing is occurring, and enforce more consistency.

After filling in the Performance Indicators Worksheet each month, and after analyzing the data, you are ready to select the areas which need "immediate attention" or need "some improvement." To make this task easier, NOSR recommends setting up a Summary Assessment of Performance Worksheet similar to the one on the next page, which is filled in based on the July Performance Indicators Worksheet shown earlier in this Chapter. In the left hand column the title of each measurable performance standard is listed. Based on the criteria described below, check the appropriate column on the right: "Immediate Attention," "Needs Improvement" or "Satisfactory." Use of this form will give you an instant list of those areas you need to watch most closely.

An area needs *immediate attention* whenever the variance falls outside the allowable variance range you have pre-determined. It also needs immediate attention if the long-term trend in variances is toward the negative, or if there is a large fluctuation back and forth in variances.

An area needs *some improvement* when a variance hovers at the low end of the allowable range of variances month after month.

### **In House Application of MPIs**

The system of Measurable Performance Indicators described above is equally applicable to in-house management of a public sector agency as well as to monitoring a contract with a private sector company.

SUMMARY ASSESSMENT OF PERFORMANCE

JULY  
1988

Title of Measurable Performance Indicator	Immediate Attention	Needs Improvement	Satisfactory
1. LIST OF EMPLOYERS/ EMPLOYMENT GUIDANCE	X		
2. NEW FULL-TIME EMPLOYEE ORIENTATION	X		
3. FACE-TO-FACE CONTACT W/JUVENILES IN PLCMT.			X
4. PLACEMENT PROGRAM CERTIFIED	X		
5. FACE-TO-FACE INTERVIEW W/PROBATIONER + FAMILY		X	
6. COLLATERAL CONTACTS PER PROBATIONER	X		
7.			
8.			
9.			
10.			
11.			
12.			

The key to successful supervision and to successful monitoring is to be current, accurate, and consistent in gathering data on performance. Once you've determined areas that need your attention, be sure to give the employee or contractor a chance to explain any circumstances which might have affected their performance adversely. Automatically assuming that a large negative variance equals poor performance can lead to counter-productive relationships between you and those you are supervising or monitoring.

### **A Final Note**

Effective contract monitoring offers the public sector the opportunity to ensure that its programmatic goals are achieved, within budgetary limits. Creating and maintaining a system of MPIS will permit objective measurement of the contractor's performance, and lead to appropriate prioritization of the monitor's time and energy.

NOSR strongly recommends that the role of contract monitor be sharply upgraded in public sector agencies. As more and more public sector programs are converted to private sector operation, the contract monitor's importance will steadily increase.

## DEVELOPING AN OPERATIONAL PLAN

The preceding chapters have detailed everything that is necessary to convert a publicly provided service to private sector management and operation. In this final chapter, NOSR presents the concept of *operational planning*, as the vehicle by which all of the parts of the *conversion* process are integrated into a workable mechanism.

This plan has two phases: The first phase involves the private sector as partners in an agency's planning, policy-making, and program implementation. The second phase involves the private sector as providers of services currently operated by the public sector. The first phase is a *definite* plan. The second phase is a *contingency* plan, dependent on decisions to be made following collection of data and the redesign of the service contemplated for contracting.

### A. The Importance Of Developing An Operational Plan

The importance of an operational plan cannot be over-emphasized. NOSR has found that public sector agencies which have created thorough operational plans report that they are better able to:

1. **Provide Direction:** A good plan tells everyone involved where they are going. Another way of stating this idea is that a good plan tells everyone involved what the end-product of the project will look like. It defines what a successful outcome will be.

**2. Create a Unifying Framework for Decision-Making:** A written, detailed plan lists a series of orderly steps leading up to and including a decision-making phase. Everyone involved will know which steps come in what order, and who will be doing what. Most important, the plan will identify exactly who will participate in the actual decision-making, and exactly what types of data and other information will be used to support the decision.

**3. Reveal Opportunities For And/Or Barriers to Improvement:** A comprehensive operational plan forces one to touch all bases, opening up communication with heretofore ignored sources of information or support. The same process leads to interaction with sources of opposition or criticism. Without a plan, most management teams will take the easy way out by only communicating with familiar sources. Good planning also leads to strong "reality - checks," causing management to redesign programs to fit real conditions and needs, rather than just perpetuating tired, old routines.

**4. Facilitate Control:** An operational plan gives the public sector manager a readymade tool for control. It will specify who does what by what deadline. It allows the manager to know exactly where the project is (or ought to be) at any given time. At the same time, in the hands of those carrying out various phases of the plan, it serves as a prod to get their piece of the puzzle done on time, so as to contribute to the project, and not impede its progress.

A well - defined plan can take on an authority of its own. It creates a sense of momentum and anticipation which leads staff to intensify their energy for successfully concluding their work. A good plan also quiets criticism and resistance, and demonstrates to subordinates that their agency has a sense of direction and a set of goals.

**5. Prevent Piecemeal Decisions:** A strong operational plan creates organic, intrinsic connections among all its steps and phases. Each small decision is based on an appropriate set of data; each major decision is prepared for by all interested persons and groups.

Without a plan, decisions get made without adequate collection of data, or they get made by the wrong people. Worse yet, only a *partial* decision will be made, necessitating additional decision-making steps.



**6. Institutionalize A Project:** If a project is a manager's "pet," it becomes dependent on his or her presence and leadership to succeed. Should that manager leave the agency, or take on new responsibilities, a project can easily bog down or die.

An operational plan, on the other hand, sets up an objective process independent of specific personalities. Instead of assuming that a certain task will be done by "John Doe" whenever he can find time in his busy schedule this month, a plan will specify that a certain task will be done by "the deputy chief of probation, no later than March 31, 1989." It also locks a project into an agency's agenda, even if John Doe should leave.

#### **B. Some Practical Planning Considerations**

*Planning is not a separate job from doing; rather, planning and doing are parts of the same job.* Mediocre planning will rarely yield quality doing. It stands to reason that you should plan with the same level of attention and thoroughness that you put into doing.

*A good plan is simple, not complex.* Any goal, objective, activity or step which appears complex should be further broken down, until every unit in the plan is simple, containing one task to be completed by a firm date.

*Planning involves people.* And people aren't robots. They need to be involved as much as possible in helping to formulate the plan they will be charged with carrying out. At the same time, people get sick, take vacations, experience crises, work at uneven paces, undergo stress, get confused or distracted, and on and on. The point is that a plan must consider such human unpredictability in its time-lines; it should not be drawn so tightly that the slightest problem, let down, or absence of a key person, throws it off the track. Planners should attempt to develop realistic time-lines so as to set an unhurried pace which will encourage thorough, careful execution, rather than a hectic, frantic pace leading to sloppy, mediocre work.

*Operational Plans are like living organisms.* They not only involve orderly, logical, methodical mental work; but must also draw upon a manager's intuition, and the plan must be capable of constant adjustment. Rigid and uncompromising plans are doomed to failure.

*An Operational Plan is a servant, not a master.* Its only reason for existence is to serve the user. It is a map or a blue print, to help one stay on course, to direct all actions toward accomplishing the goal. Anytime staff find themselves doing irrelevant things merely "because the operational plan calls for it," or find themselves racing frantically to complete a task "on time," they should step back and ask themselves, "Is the plan realistic and relevant? Does it need revision or adjustment?"

*The original plan should be adhered to, unless strong reasons exist not to.* This may sound like a direct contradiction of the points above, but it is not. Presumably, the original plan involved large amounts of thinking and creativity. This hard-earned wisdom should not be thrown away at the first hint of difficulty. Rather, resourceful ways should be found of staying on target and on time. This effort will encourage toughness and discipline to emerge, and it will result in increased respect for the operational plan. A good manager will instinctively know when to insist that his/her subordinates adhere to the original plan despite problems and when to relent and permit adjustment to the original plan.

*The planning phase is an opportune time to call in technical assistance.* Very few do-it-yourself home builders or even contractors draw their own blueprints. They usually hire an architect to draw them, with large amounts of input from the builders. Calling in NOSR, or some other provider of technical assistance, as the operational plan is developed can prevent one from making major mistakes, or from drawing up an unrealistic plan. Experience can make a big difference, since most of the pitfalls and traps which can befall a public sector agency attempting to contract services have already been encountered.

On the following pages is a sample illustration of an operational plan. It is "Sunshine County Probation Department's Operational Plan" to redesign and to contract to the private sector its juvenile intake services. The same format may be used by any agency wishing to develop its own operational plan.

## OPERATIONAL PLAN

### SUNSHINE COUNTY PROBATION DEPARTMENT

#### GOAL

To gather data on, redesign (if necessary), and contract to the private sector (if feasible) Sunshine County's publicly administered Juvenile Intake Services by October 31, 1989.

#### OBJECTIVES

**Objective 1:** To have an approved operational plan by November 28, 1988.

**Objective 2:** To have organized Sunshine County's Juvenile Justice Public/Private Partnership by January 31, 1989.

**Objective 3:** To meet with NOSR staff to receive technical assistance:

- October 28 - 30, 1988
- December 15, 1988
- April 30, 1989
- July 15, 1989

**Objective 4:** To complete all data collection and data analyses (cost, organizational, procurement, legal, environmental) by May 31, 1989.

**Objective 5:** To complete all activities necessary to assess and redesign Sunshine County's Juvenile Intake Services in preparation for contracting by August 31, 1989.

**Objective 6:** (Objectives 6 and 7 are optional, based on feasibility.) To construct a Request for Proposals based on the data acquired under objective four and the redesign of Juvenile Intake Services under objective five, by October 31, 1989; and to successfully award the contract by January 30, 1990.

**Objective 7:** To develop comprehensive policies and procedures required to facilitate the conversion of management and operational responsibilities of Juvenile

Intake Services to the private contractor by February 15, 1990.

## **ACTIVITIES AND STEPS FOR ACCOMPLISHING EACH OBJECTIVE**

### **OBJECTIVE 1: DEVELOP OPERATIONAL PLAN BY NOVEMBER 28, 1988**

**Activity One:** Meet with NOSR staff on October 28, 1988 to begin the development of Sunshine County's operational plan.

**Step a:** list key decision makers from Sunshine County whose involvement is necessary for the development of the operational plan;

**Step b:** incorporate into the operational plan Sunshine County's proposed activities and steps to achieve objectives #2 through #7;

**Step c:** establish realistic dates for completion of activities necessary to accomplish each of the objectives;

**Step d:** list desired products and determine dates for completion of each.

**Activity Two:** Complete development of the draft operational plan for Sunshine County by November 13, 1988.

**Step a:** review the work done with NOSR staff with other key personnel in the county;

**Step b:** begin to provide in-depth detail on the proposed activities and steps to achieve Objectives #2 through #7;

**Step c:** revise, if necessary, or include dates for completion of activities for each of the objectives.

**Activity Three:** Meet with staff by November 14, 1988 to jointly review draft operational plan and revise as necessary.

**Step a:** local county personnel meet to review and revise draft operational plan as necessary.

**Activity Four:** Complete Sunshine County's operational plan by November 28, 1988.

**OBJECTIVE 2: ESTABLISH JUVENILE JUSTICE PUBLIC/PRIVATE PARTNERSHIP BY JANUARY 31, 1989**

**Activity One:** Meet with NOSR Staff on October 30, 1988 to receive technical assistance on formation of local juvenile justice public/private partnership.

**Activity Two:** By December 1, 1988 establish a "core group" of 5-6 Sunshine County key government and business representatives to assemble the Partnership.

**Step a:** review NOSR's Resource Book (Chapter 2) on local Juvenile Justice Partnership development;

**Step b:** select appropriate government representatives to assist in forming the Partnership;

**Step c:** identify and recruit leaders of Sunshine County's business community to assist in forming the Partnership;

**Step d:** assign staff support for Partnership development.

**Activity Three:** By December 15, 1988 core group members will conduct an initial meeting to plan for the organization of the partnership.

**Step a:** select a chairperson (pro tem) to conduct the organizational meeting of the partnership;

**Step b:** identify potential partnership members from both private and public sectors;

**Step c:** formulate general plans for the partnership's organizational meeting.

**Activity Four:** Preparations for Sunshine County's organizational partnership meeting will be completed by January 20, 1989.

**Step a:** obtain participation of potential partnership members;

**Step b:** prepare an agenda and a draft statement of purpose for the partnership's organizational meeting;

**Step c:** obtain meeting site and arrange for all logistical matters;

**Step d:** notify NOSR staff of date of meeting.

**Activity Five:** The organizational meeting of Sunshine County's partnership will be conducted by January 3 , 1989.

**Step a:** confirm selection of chairperson pro-tem by the participants at the organizational meeting;

**Step b:** review, revise and approve the partnership's Statement of Purpose;

**Step c:** establish sub-committees and delegate responsibilities and activities;

**Step d:** formulate and approve tentative schedule of subsequent meetings.

### **OBJECTIVE 3: MEET WITH NOSR STAFF**

Set up technical assistance meetings with NOSR staff; make sure key planning and decision-making personnel are present, and free from other assignments, so as to concentrate on these meetings.

### **OBJECTIVE 4: COMPLETE DATA COLLECTION AND ANALYSES BY MAY 31, 1989.**

**Activity One:** Meet with NOSR staff on October 29, 1988 to receive technical assistance on data retrieval techniques.

**Activity Two:** Obtain pertinent cost data on Sunshine County's Juvenile Intake Services by December 15, 1988.

**Step a:** review NOSR's Cost Instrument (See Chapter 4) to determine if modifications are needed with respect to Sunshine County's peculiarities;

**Step b:** identify individuals, sources, documents from whom data is to be retrieved;

**Step c:** conduct data collection procedures;

**Step d:** submit data to NOSR for analysis and technical assistance.

**Activity Three:** Obtain pertinent organizational/services data by January 1, 1989.

**Step a:** review NOSR's Organizational/Services Data Instrument (See Chapter 4) to determine if modifications are needed with respect to Sunshine County's administrative structure;

**Step b:** identify individuals, sources, and documents from whom data is to be retrieved;

**Step c:** conduct data collection procedures;

**Step d:** submit data to NOSR for analysis and technical assistance.

**Activity Four:** Obtain pertinent data on Sunshine County's procurement policies and procedures by January 30, 1989.

**Step a:** review NOSR's Procurement Instrument (See Chapter 4) to determine if modifications are needed with respect to Sunshine County's administrative structure;

**Step b:** identify individuals, sources, and documents from whom data is to be retrieved;

**Step c:** conduct data collection procedures;

**Step d:** submit data to NOSR for analysis and technical assistance.

**Activity Five:** Obtain pertinent data relative to legal and liability issues which may impact on contracting, by February 28, 1989.

**Step a:** review NOSR's Legal and Liability Instrument (See Chapter 4) to determine if modifications are needed with respect to Sunshine County's administrative structure;

**Step b:** identify individuals, sources, and documents from whom data is to be retrieved;

**Step c:** conduct data collection procedures;

**Step d:** conduct internal analysis of data;

**Step e:** plan remedial actions (with NOSR technical assistance, if needed) to resolve any legal/liability issues identified.

**Activity Six:** Be cognizant of pertinent environmental conditions which may hinder/support eventual contracting of Intake Services by March 31, 1989.

**Step a:** review NOSR's guide for Environmental Considerations (See Chapter 4) and revise as needed to meet local peculiarities;

**Step b:** notice individuals and sources from whom environmental observations should be solicited;

**Step c:** notice pertinent environmental observations;

**Step d:** determine level of negative/positive impact;

**Step e:** submit information to NOSR for analysis and technical assistance;

**Step f:** plan remedial actions to overcome or neutralize negative positions.

**Activity Seven:** Analyze all data and decide whether the collected data supports or negates continuing the conversion effort by May 31, 1989



**Step a:** convene a meeting of the principal decision makers by May 15, 1989;

**Step b:** review recommendations of decision makers by May 31, 1989.

**OBJECTIVE 5: REDESIGN FUNCTION TO BE PLANNED BY AUGUST 31, 1989**

**Activity One:** Formulate a sub-committee of the Juvenile Justice Public/Private Partnership by June 15, 1989 to assess and redesign Sunshine County's Juvenile Intake Services

**Step a:** designate a leader and sub-committee members;

**Step b:** develop a schedule of sub-committee meetings.

**Activity Two:** Assess the existing Juvenile Intake Services of Sunshine County by July 15, 1989.

**Step a:** review evaluations, studies and other available information which address the operation and performance of the proposed function;

**Step b:** conduct interviews with direct service providers and other relevant staff concerning the function's operation and performance;

**Step c:** identify critical problems areas and strengths of the function as it is currently performed;

**Step d:** determine areas in which the function does not adhere to available performance standards (national and local);

**Step e:** identify critical gaps between the services performed and the needs of Sunshine County.

**Activity Three:** Develop and prepare a written report on the conceptual consensus for model juvenile intake services in Sunshine County by August 31, 1989.

**Step a:** analyze the data and information gathered from Activity Two;

**Step b:** determine the specific components of Juvenile Intake Services which should be redesigned;

**Step c:** consult with NOSR staff on April 30, 1989 for technical assistance on redesign;

**Step d:** revise Sunshine County's Juvenile Intake mission, goals, objectives.

**OBJECTIVE 6: PREPARE DRAFT REQUEST FOR PROPOSALS BY OCTOBER 31, 1989 AND AWARD CONTRACT BY JANUARY 30, 1990.**

**Activity One:** Draft preliminary RFP based upon information and data realized from activity two of objective five above by September 30, 1989.

**Step a:** designate person to be in charge of drafting and editing;

**Step b:** set schedule for developing the RFP;

**Step c:** review the outline and discussion of an RFP format and content in Chapter 5;

**Step d:** review all data collected and analyzed and the plan for redesigning Juvenile Intake Services;

**Step e:** assign portions of RFP to be rough drafted by designated individuals;

**Step f:** arrange for and schedule technical assistance from NOSR if needed;

**Step g:** secure critical input and review from Sunshine County legal advisor and procurement officer;

**Step h:** establish proposal due date.

**Activity Two:** Draft measurable performance indicators for Sunshine County

Juvenile Intake Services by September 15, 1989.

**Step a:** review existing juvenile intake regulations and standards (e.g., American Correctional Association, or American Bar Association);

**Step b:** decide which regulations and standards are applicable to this contract and re-write as necessary;

**Step c:** develop appropriate measurable performance indicators.

**Activity Three:** Distribute draft RFP to key decision makers of Sunshine County (District Judge, Board of Commissioners, Chief Probation Officer and the Public/Private Partnership) for review and feedback by October 15, 1989.

**Step a:** list the necessary reviewers;

**Step b:** deliver drafts with instructions and deadlines for return;

**Step c:** revise/rewrite RFP and measurable performance indicators as necessary;

**Step d:** consult with NOSR staff on July 15, 1989 for technical assistance on RFP, performance indicators, and contract development and monitoring;

**Step e:** revise and put into final form.

**Activity Four:** Advertise the Request for Proposals and the intention to contract by February, 1990.

**Step a:** prepare list of advertising outlets;

**Step b:** determine dates of advertising;

**Step c:** prepare advertising;

**Step d:** deliver advertising copy to advertising agents.

**Activity Five:** Review proposals submitted in response to the RFP and make a selection of contractor by December 1, 1989.

**Step a:** designate individual in charge of the review;

**Step b:** designate members of the review panel;

**Step c:** establish review guidelines;

**Step d:** brief the review panel regarding the guidelines and the review procedures;

**Step e:** review proposals;

**Step f:** make final selection of the contractor.

**Activity Six:** Prepare final contract by December 10, 1989.

**Step a:** Sunshine County procurement officer in consultation with the legal counsel drafts contract by January 15, 1990;

**Step b:** put contract in final form;

**Step c:** contract is signed by contracting parties by January 30, 1990.

**OBJECTIVE 7: ESTABLISH COMPREHENSIVE POLICIES AND PROCEDURES FOR TRANSFER TO PRIVATE SECTOR BY FEBRUARY 15, 1990**

**Activity One:** Develop detailed plan for transfer of affected employees to private contractor and/or to alternative civil service positions by December 15, 1989.

**Step a:** identify and notify all affected employees;

**Step b:** conduct interviews with each affected employee to ascertain his/her plans and desires relative to employment;

**Step c:** develop personnel action procedures for each individual;

**Step d:** notify individual employees and the contractor in reference to personnel changes/assignments;

**Step e:** implement transfer and other agreed upon personnel alternatives.

**Activity Two:** Transfer all relevant materials and equipment to the contractor by February 15, 1990.

**Step a:** with the contractor, jointly inventory all affected equipment and materials;

**Step b:** prepare necessary vouchers for transfer of each piece of equipment/material involved;

**Step c:** implement transfers and obtain signed receipts for each transferred piece of equipment/material.

**Activity Three:** Transfer all relevant files to the contractor by February 15, 1990.

**Step a:** determine the degree of confidentiality of the various categories of files to be transferred and establish appropriate procedures for files of confidential nature;

**Step b:** jointly conduct inventory of files with the contractor;

**Step c:** prepare necessary vouchers for file transfer;

**Step d:** implement transfer and obtain appropriate receipts.

**Activity Four:** Prepare plan for notification of all individual on probation.

**Step a:** update list of all probationers;

**Step b:** by certified mail notify all probationers of the new provider's name, address, phone numbers, relevant procedures and conversion date;

**Step c:** monitor returns from certified mail to make sure all notifications executed.

**Activity Five:** Inform agencies of the juvenile justice system (such as law enforcement) as well as schools, welfare department and other related community agencies of the contracted system by February 15, 1990.

**Step a:** prepare list of individuals and agencies to be notified;

**Step b:** draft letter/telephone announcement of the conversion;

**Step c:** carry out the notification.

**Activity Six:** Prepare plan for interfacing juvenile intake with intra-agency probation components not affected by the contract by February 15, 1990.

**Step a:** determine and list appropriate intra-agency components;

**Step b:** conduct briefings with component supervisors;

**Step c:** prepare and deliver follow up memoranda outlining procedures for the inter-facing of the contracted and non-contracted components.

**Activity Seven:** Make notification to the general public of the change by February 15, 1990.

**Step a:** develop news release announcing the contract and giving the background of the change;

**Step b:** mail news release to community media;

**Step c:** respond to media inquiries.

U.S. Department of Justice

Office of Juvenile Justice and Delinquency Prevention

*Washington, D.C. 20531*

---

Official Business

Penalty for Private Use \$300

---

BULK RATE  
POSTAGE & FEES PAID  
DOJ/OJJDP  
Permit No. G-91

---