

May 2006

## SHELBY, MONTANA, CORRECTIONAL FACILITY INFORMATION

This memorandum provides information regarding the request for proposal (RFP) and related contracts for the design and development and operations and management of Crossroads Correctional Center--the Corrections Corporation of America-owned correctional facility in Shelby, Montana.

### REQUEST FOR PROPOSAL

Due to overcrowding in state-run facilities, the 55th Montana Legislature provided for the Montana Department of Corrections to issue an RFP during the 1997-99 biennium for the development and operation of a 500-bed adult male prison facility to house minimum security, medium security, and close custody male inmates. The RFP required that the facility be designed for a minimum of 500 beds with the infrastructure capable of expansion to accommodate an additional 1,000 beds for a total operating capacity of 1,500 beds.

Provisions were included in 1997 House Bill Nos. 2 and 83 to give the Montana Department of Corrections authority for regulating private correctional facilities, including rulemaking, licensing, contractor requirements, and contract monitoring and auditing.

It was the intent of the Legislature that the rules adopted by the Montana Department of Corrections involve public participation in the siting of the facility and that the management and operation of the private facility conform with recognized correctional standards such as the American Correctional Association standards and the National Commission on Correctional Health Care standards.

The development of the prison project was not considered a public works project and was not subject to the competitive bidding requirements applicable to public works projects in the state of Montana.

The RFP outlined site and building requirements, proposer qualifications for development and operations and management, cost proposal requirements, and evaluation and award criteria.

The anticipated schedule of events identified in the RFP is:

RFP issue date	December 1, 1997
Preproposal written comments due	December 9, 1997
Mandatory preproposal conference	December 15, 1997
Optional Montana State Prison site visit and tour	December 16, 1997
Deadline for submission of all written questions	December 19, 1997
Written responses distributed	January 12, 1998
Deadline for prospective proposers to notify the Montana Department of Corrections of intent to propose	January 16, 1998

Proposal submission deadline (amended)	February 18, 1998
Notice of intent to contract	May 1, 1998
Selection of contractor	June 1, 1998
Construction complete	On or before August 1, 1999
Facility operational	On or before October 1, 1999
Facility licensing obtained	October 1, 1999
American Correctional Association and National Commission on Correctional Health Care accreditation obtained	On or before October 1, 2002

The RFP required two proposals--Part I was for the design and construction of the facility and Part II was for the operation and management of the facility. Although contractors were to submit separate, stand-alone proposals for each part for evaluation and analysis purposes, it was the intent of the Montana Department of Corrections to award both parts of the project to the same contractor.

Each contractor was responsible for finding a site for the facility, obtaining the necessary zoning and utility easements for the proposed site from the county and/or city, and providing evidence of control and/or contract for purchase of the site. The RFP provided the following factors for consideration in site selection:

- Adequate size for a secure facility, including a buffer zone, with necessary support services and utilities.
- All-weather primary and secondary entrances providing ingress/egress from two directions to publicly maintained roads.
- Availability of full-time fire protection service and law enforcement assistance.
- Access to a state-licensed hospital having 24-hour emergency services and specialty providers of health care.
- Availability of public transportation.
- Access to an airport suitable for commercial and/or charter aircraft.
- Access to an interstate highway.

The RFP stated the contractor would be required to provide all furniture, fixtures, and equipment necessary to operate the facility for its intended use. The RFP further stated that the Montana Department of Corrections' Montana Correctional Enterprises manufactures the type of furniture, fixtures, and equipment needed by the contractors to equip the facility and provided that the Montana Correctional Enterprises would have right of first refusal to meet the quality, price, and delivery time required by the contractor.

The RFP also contained provisions for hiring Montana residents, using Montana-made goods, and licensing and accreditation requirements. The RFP is attached as Appendix A.

In 1998 after consideration of proposals, further clarification, and best and final offers, Corrections Corporation of America was selected from a pool of five contractors for the construction and management of the new facility. The contract awards were contingent on funding by the 56th and successive Montana Legislatures.

## **DESIGN AND CONSTRUCTION CONTRACT**

In addition to specifications and terms outlined in the RFP, the design and construction contract also contained provisions allowing Montana to have unlimited rights to the drawings, design, and specifications developed during the design of the facility, including the right to use the same, without additional cost, for maintaining or altering the facility, or in construction of a like facility.

The contract provided that the contractor would pay up to \$100,000 for the cost of a full-time, independent state representative to be onsite during the construction phase to act as a contract monitor. The Montana Department of Corrections continues to employ a contract monitor whose office is located at the Shelby facility. The contract monitor ensures the operation of the facility is in compliance with the operations and management contract.

The contract required the facility to be operational and ready to accept inmates by September 1, 1999. The facility began accepting inmates on September 8, 1999. The design and construction contract is attached as Appendix B.

## **OPERATIONS AND MANAGEMENT CONTRACT**

As identified in the operations and management contract, the Corrections Corporation of America is responsible for providing:

- All medical, mental health, and dental services, including specialty clinics.
- All medically related transportation, both routine and emergency.
- Eyeglasses, hearing aids, dentures, and other prosthetics and limited use equipment.

The Corrections Corporation of America is also responsible for the first \$1,000 of all offsite health-related services per inmate per fiscal year. Counseling programs must be consistent with those offered by the department and required by the courts and the Montana Board of Pardons as a condition for parole. These include, at a minimum, chemical dependency, anger management, cognitive restructuring, substance abuse treatment, and sex offender treatment. In addition, academic and vocational programs must be comparable to courses offered at the Montana State Men's Prison.

The contract provided that the Montana Department of Corrections would advance the Corrections Corporation of America the first six months of the first year's operating per diem in the amount of \$3,622,500. The advance was deducted from the monthly invoices beginning December 1999 and ending May 2000.

An amendment to the contract introduced a new section which provides that the Corrections Corporation of America will pay for all transportation costs, including security, in transporting inmates to the facility.

The contract also addresses general administration requirements, conditions of termination, personnel, training, security and control, food services, classification of inmates, and communication between the Montana Department of Corrections and the Corrections Corporation of America.

The initial term for the operations and management contract was four years. The contract allows for eight 2-year renewals with a maximum contract life of 20 years. The operations and management contract is attached as Appendix C.

## **COMPARISON TO STATE-RUN FACILITIES**

Currently, the Shelby facility houses approximately 560 male inmates with a limited number of administrative segregation cells available. Of the 560 inmates, 50 are federal prisoners and the remaining are Montana state prisoners. The daily rate per inmate at the Shelby facility is \$44.47 for operational costs. In addition, the Montana Department of Corrections pays a \$9.14 exclusive use fee per inmate per day. The fee is to be credited toward facility construction costs. This results in a \$53.61 daily rate per inmate.

Montana owns and operates two prison facilities. The Montana State Men's Prison is located just outside Deer Lodge. It currently houses 1,471 inmates at a cost of approximately \$61 per inmate per day. The Montana Women's Prison is located in Billings. It currently houses 244 inmates at a cost of approximately \$80 per inmate per day. Montana also contracts with various county and regional facilities for housing state inmates.

## **BUY-BACK OPTION**

The RFP provides that in the event the contractor wishes to sell or lease the facility, the Montana Department of Corrections has right of first refusal to lease or purchase the facility. The Montana Department of Corrections may lease or purchase the facility for the fair market value, the lowest lease or purchase price offered to the contractor by a third party, or a negotiated price, whichever is less. If the contractor fails to comply with the Private Correctional Facility Act, American Correctional Association or National Commission on Correctional Health Care standards, Montana Department of Corrections rules, or contract requirements or in the event the contractor

or the Montana Department of Corrections fails to renew the contract, the Montana Department of Corrections may lease or purchase the facility for the fair market value or a negotiated price, whichever is less.

The construction contract provides that in the event the contract is terminated and the Montana Department of Corrections acts on its option to purchase the facility at fair market value, the then present value of all exclusive use fees paid by the Montana Department of Corrections or any other jurisdiction will be subtracted from the fair market value to arrive at the purchase price.

ATTACH:3