State of New Mexico  
General Services Department  
Purchasing Division  

Statewide Price Agreement Amendment  

<table>
<thead>
<tr>
<th>Awarded Vendor</th>
<th>Price Agreement Number: 30-000-12-00036AA</th>
</tr>
</thead>
<tbody>
<tr>
<td>0000079052</td>
<td>Price Agreement Amendment No.: Five</td>
</tr>
<tr>
<td>The Advantage Group</td>
<td>Term: March 1, 2013 – April 30, 2021</td>
</tr>
<tr>
<td>5310 Homestead Rd. NE</td>
<td>Procurement Specialist: Savannah Quintana</td>
</tr>
<tr>
<td>Albuquerque, NM 87110</td>
<td>Telephone No.: (505) 827-0483</td>
</tr>
<tr>
<td>Telephone No. (505) 254-4288</td>
<td>Email: <a href="mailto:Savannah.Quintana@state.nm.us">Savannah.Quintana@state.nm.us</a></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Ship To:</th>
<th>Invoice:</th>
</tr>
</thead>
<tbody>
<tr>
<td>All State of New Mexico agencies, commissions, institutions, political subdivisions and local public bodies allowed by law.</td>
<td>As Requested at time of order</td>
</tr>
</tbody>
</table>

Title: Collection Services

This Price Agreement Amendment is to be attached to the respective Price Agreement and become a part thereof.

In accordance with Price Agreement provisions, and by mutual agreement of all parties, this Price Agreement is extended from April 30, 2018 to April 30, 2021 at the same price, terms and conditions.

Except as modified by this amendment, the provisions of the Price Agreement shall remain in full force and effect.

Accepted for the State of New Mexico

[Signature]

New Mexico State Purchasing Agent  
Date: 10/26/18

Purchasing Division: 1100 St. Francis Drive, Room 2016, Santa Fe, 87505; PO Box 6850, Santa Fe, NM 87502 (505) 827-0472
State of New Mexico
General Services Department
Purchasing Division

Statewide Price Agreement Amendment

Awarded Vendor
0000079052
The Advantage Group
5310 Homestead Rd. NE
Albuquerque, NM 87110
Telephone No. 505-254-4288

Price Agreement Number: 30-000-12-00036AA
Price Agreement Amendment No.: Four
Term: March 1, 2013 – April 30, 2018

Procurement Specialist: Debra Saiz
Telephone No.: (505) 827-0521

Ship To:
All State of New Mexico agencies, commissions, institutions, political subdivisions and local public bodies allowed by law.

Invoice:
As Requested

Title: Collection Services

This Contract Amendment is to be attached to the respective Agreement and become a part thereof.

This amendment is issued to reflect the following effective modifications immediately.
In accordance with Price Agreement provisions, and by mutual agreement of all parties, this Price Agreement is extended from April 30, 2017 through April 30, 2018 at the same price, terms and conditions.

Except as modified by this amendment, the provisions of the Contract shall remain in full force and effect.

Accepted for the State of New Mexico

Date: 03/10/2017

New Mexico State Purchasing Agent

Purchasing Division, 1100 St. Francis Drive 87505, PO Box 6850, Santa Fe, NM 87502-6850 (505) 827-0472

DS
Awarded Vendor
0000079052
The Advantage Group
5310 Homestead Rd. NE
Albuquerque, NM 87110
Telephone No. 505-254-4288

Ship To:
All State of New Mexico agencies, commissions, institutions, political subdivisions and local public bodies allowed by law.

Invoice: As Requested

Price Agreement Number: 30-000-12-00036AA
Price Agreement Amendment No.: Three
Term: March 1, 2013 - April 30, 2017
Procurement Specialist: India Garcia
Telephone No.: (505) 827-0483

Title: Collection Services

This Price Agreement Amendment is to be attached to the respective Price Agreement and become a part thereof.

In accordance with Price Agreement provisions, and by mutual agreement of all parties, this Price Agreement is extended from May 1, 2016 to April 30, 2017 at the same price, terms and conditions.

Except as modified by this amendment, the provisions of the Price Agreement shall remain in full force and effect.

Accepted for the State of New Mexico

New Mexico State Purchasing Agent

Date: 04/06/2016

Purchasing Division, 1100 St. Francis Drive 87505, PO Box 6850, Santa Fe, NM 87502-6850 (505) 827-0472
State of New Mexico  
General Services Department  
Purchasing Division  

Statewide Price Agreement Amendment  

**Awarded Vendor**  
0000079052  
The Advantage Group  
5310 Homestead Rd. NE  
Albuquerque, NM 87110  
Telephone No. 505-254-4288  

**Ship To:**  
All State of New Mexico agencies, commissions, institutions, political subdivisions and local public bodies allowed by law.  

**Invoice:**  
As Requested  

Price Agreement Number: **30-000-12-00036AA**  

Price Agreement Amendment No.: **Two**  

Term: **March 1, 2013 – April 30, 2016**  

Procurement Specialist: **India Garcia**  
Telephone No.: **(505) 827-0483**  

---  

**Title:** Collection Services  

This Price Agreement Amendment is to be attached to the respective Price Agreement and become a part thereof.  

In accordance with Price Agreement provisions, and by mutual agreement of all parties, this Price Agreement is extended from May 1, 2015 to April 30, 2016 at the same price, terms and conditions.  

Except as modified by this amendment, the provisions of the Price Agreement shall remain in full force and effect.  

Accepted for the State of New Mexico  

Signature:  
New Mexico State Purchasing Agent  

Date: 04/10/2015  

Purchasing Division, 1100 St. Francis Drive 87505, PO Box 6850, Santa Fe, NM 87502-6850 (505) 827-0472
State of New Mexico
General Services Department
Purchasing Division

Statewide Price Agreement Amendment

Awarded Vendor
0000079052
The Advantage Group
5310 Homestead Rd. NE
Albuquerque, NM 87110
Telephone No. 505-254-4288

Price Agreement Number: 30-000-12-00036AA
Price Agreement Amendment No.: One
Term: March 1, 2013 - April 30, 2015

Ship To:
All State of New Mexico agencies, commissions, institutions, political subdivisions and local public bodies allowed by law.

Invoice: As Requested

Procurement Specialist: India Garcia
Telephone No.: (505) 827-0482

Title: Collection Services

This Price Agreement Amendment is to be attached to the respective Price Agreement and become a part thereof.

In accordance with Price Agreement provisions, and by mutual agreement of all parties, this Price Agreement is extended from May 1, 2014 to April 30, 2015 at the same price, terms and conditions.

Except as modified by this amendment, the provisions of the Price Agreement shall remain in full force and effect.

Accepted for the State of New Mexico

[Signature]
New Mexico State Purchasing Agent

Date: 04/07/2014

Purchasing Division, 1100 St. Francis Drive 87505, PO Box 6850, Santa Fe, NM 87502-6850 (505) 827-0472
State of New Mexico  
General Services Department  
Statewide Price Agreement

Awarded Vendor  
0000079052  
The Advantage Group  
5310 Homestead Rd. NE  
Albuquerque, NM 87110

Telephone No. 505-254-4288

Price Agreement Number: 30-000-12-00036AA
Payment Terms: See Contract  
F.O.B.: See Contract  
Delivery: See Contract

Ship To:  
All State of New Mexico agencies, commissions, institutions, political subdivisions and local public bodies allowed by law.

Invoice:  
As Requested

Procurement Specialist: India Garcia
Telephone No.: (505) 827-0483

Title: Collection Services

Term: March 1, 2013 thru April 30, 2014

This Price Agreement is made subject to the “terms and conditions” shown on the reverse side of this page, and as indicated in this Price Agreement.

Accepted for the State of New Mexico

New Mexico State Purchasing Agent

Date: 02/28/2013

Purchasing Division, 1100 St. Francis Drive, PO Box 6850, Santa Fe, NM  87502-6850 (505) 827-0472
CONTRACT NO. 30-000-12-00036-AA

STATE OF NEW MEXICO
FOR
Collection Services

THIS AGREEMENT is made and entered into by the State of New Mexico, herein after referred to as the "agency" acting through or by the State Purchasing Agent, and The Advantage Group, herein after referred to as the "contractor."

IT IS MUTUALLY AGREED BETWEEN THE PARTIES:

1. Definitions

   A. "Agreement Administrator" means the individual appointed by the SPA to administer the Price Agreement.

   B. "Procuring Agency" means an agency of the executive, legislative or judicial branches of New Mexico state government as well as local public bodies including cities, counties, public schools and institutions of higher education.

   C. "Products and Services Schedule" refers to the complete list of products and services offered under this agreement and the price for each. Product and service descriptions may be amended with the prior approval of the Agreement Administrator. New products and services shall not be added to the Products and Services Schedule.

   D. "Business Hours" means 8:00 a.m. to 5:00 p.m. Mountain Time.

   E. "Local public body" means every political subdivision of the state and the agencies, instrumentalities and institutions thereof.

   F. "New Mexico State Purchasing Agent" or "NMSPA" means the purchasing agent for the State of New Mexico or a designated representative. Maybe used interchangeably with "State Purchasing Agent" or "SPA".

   G. "Price Agreement" means a definite quantity contract or indefinite quantity contract which requires the contractor to furnish items of tangible personal property or service to the procuring agency which issues a purchase order, if the purchase order is within the quantity limitations of the contract, if any.

   H. "Procuring agency" means any state agency or local public body that chooses to procure products or services under this agreement. Other units of government, including cities, counties, school districts, institutions of higher education and other jurisdictions not subject to the procurement authority of the SPA, are authorized to buy from this agreement.
I. "Products and Services schedule" refers to the complete list of products and services offered to under this Agreement and the price for each. Product and service descriptions may be amended with the prior approval of the Agreement Administrator. New products and services shall not be added to the Products and Services Schedule.

J. "You" and "your" refers to The Advantage Group. "We," "us" or "our" refers to the State of New Mexico, Agencies, Commissions, Institutions, Political sub-divisions and Local Public Bodies allowed by law to participate in the Agreement and whose accounts are created under this Agreement.

2. **Scope of Work Outsourcing** of the collection of outstanding liabilities due to multiple state of New Mexico governmental agencies. Collection services are to include the recovery of money due, including penalty and interest if applicable, and civil litigation action when appropriate.

Procuring agencies will:

1. Provide to Contractors the most recent contact names, addresses, and phone numbers for debtors when available.

2. Ensure that any and all debtor accounts assigned to Contractor are in fact legitimate debts.

3. Verify disputed balances upon request of the Contractor or debtor.

4. When requested, provide an authorized witness to verify that all records pertaining to any legal action are bonafide records.

5. The procuring agency reserves the right to recall or pull any account in the event the debtor is found to be in bankruptcy, deceased, incarcerated for any length of time, an order has been entered by a court which quashes the debt or has the same effect, or other circumstance, such as a debt referred to the Contractor in error, which may make the debt uncollectable.

Note: no future collection fees will be due to the Contractor on any future payments paid on accounts pulled from the Contractor for the above reasons.

6. Authorize Contractor to endorse checks payable to the Procuring Agency for the purpose of deposit when debtors are attempting to pay monies due.

7. Notify the Contractor when a payment is returned by a debtor’s bank (NSF or returned check), for which the Contractor had previously retained a collection fee. The Contractor will include this debtor’s information as a payment and fee reversal on
8. Will provide a monthly report to the Contractor of payments paid directly to the Procuring Agency on accounts assigned to the Contractor. The collection fees due on such payments will be reflected on the following month's billing statement from the Contractor and deducted from money due to the Procuring Agency. If the Contractor has not collected enough payments to cover collection fees due to them in a particular month, then a debit due to the Contractor will roll over to the next month's billing statement and netted against money owed to the Procuring Agency.

The Advantage Group's responses to Section IV of the Collection Services RFP are considered a part of Contract No. 30-000-12-00036-AA. Section IV responses includes The Advantage Group's proposals to the Mandatory Business Specifications, Desirable Business Specifications, Mandatory Technical Specifications, and Desirable Technical Specifications, as outlined in the RFP. It is the Contractor's responsibility to provide this information as requested. No deviation from information provided in Contractor's response to this RFP is allowed. Unless approved by written amendment by the State Purchasing Agent, there shall be no deviation from information provided in Contractor's response to the RFP allowed.

The Advantage Group's Section IV responses included a Cost Proposal of 14.75% charged (collection fee) for each payment received on collection accounts assigned to them.


All payments under this agreement are subject to the following provisions.

A. Acceptance - In accordance with Section 13-1-158 NMSA 1978, the agency shall determine if the product or services provided meet specifications. No payment shall be made for any products or services until the products or services have been accepted in writing by the procuring agency. Unless otherwise agreed upon between the procuring agency and the contractor, within fifteen (15) days from the date the procuring agency receives written notice from the contractor that payment is requested for services or within thirty (30) days from the receipt of products, the procuring agency shall issue a written certification of complete or partial acceptance or rejection of the products or services. Unless the procuring agency gives notice of rejection within the specified time period, the products or services will be deemed to have been accepted.

B. Issuance of Orders - Only written signed orders are valid under this Price Agreement. A Purchase Order is the approved form for state agencies issuing Contract Orders under this Price Agreement. Other authorized government entities may utilize Purchase Orders or forms adapted by them.
4. Invoicing

A. Payment of Invoice: Upon acceptance that the products or services have been received and accepted, payment shall be tendered to the contractor within thirty (30) days after the date of invoice. After the thirtieth day from the date that written certification of acceptance is issued, late payment charges shall be paid on the unpaid balance due on the contract to the contractor at the rate of 1.5% per month. Contractor may submit invoices for payment no more frequently than monthly. Payment will be made to the contractor's designated mailing address. Payment on each invoice shall be due within 30 days from the date of the acceptance of the invoice. The Procuring Agencies and the State agree to pay in full the balance shown on each account's statement, by the due date shown on said statement.

B. Late Charges: If the State fails to pay as required above, the Contractor may assess a late fee on the unpaid balance of more than 60 days. Late fees will be assessed at a rate based upon the billing address of each State or Procuring Agency account; therefore, the periodic (monthly) late fee rate shall be 1.5% and the corresponding Annual Percentage Rate for the State of New Mexico will be 18%. No late fee on new purchases will be assessed during the billing cycle when the purchase was made.

5. Term

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED IN WRITING BY THE STATE PURCHASING AGENT. The term of the Contract shall be one (1) year from date of award with the option to extend for a period of seven (7) additional years, on a year-to-year basis, by mutual agreement of all parties and approved of the New Mexico State Purchasing Agent at the same price, terms and conditions. This Contract shall not exceed eight (8) years.

6. Default

The State reserves the right to cancel all or any part of any orders placed under this contract without cost to the State, if the Vendor fails to meet the provisions of this contract and, except as otherwise provided herein, to hold the Vendor liable for any excess cost occasioned by the State due to the Vendor's default. The Vendor shall not be liable for any excess costs if failure to perform the order arises out of causes beyond the control and without the fault or negligence of the Vendor; such causes include, but are not restricted to, acts of God or the public enemy, acts of the State or Federal Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and defaults of subcontractors due to any of the
above, unless the State shall determine that the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Vendor to meet the required delivery schedule. The rights and remedies of the State provided in this paragraph shall not be exclusive and are in addition to any other rights now being provided by law or under this contract.

7. Termination

A. For Cause - Either party may terminate this agreement for cause based upon material breach of this agreement by the other party, provided that the non-breaching party shall give the breaching party written notice specifying the breach and shall afford the breaching party a reasonable opportunity to correct the breach. If within thirty (30) days after receipt of a written notice the breaching party has not corrected the breach or, in the case of a breach which cannot be corrected in thirty (30) days, begun and proceeded in good faith to correct the breach, the non-breaching party may declare the breaching party in default and terminate the agreement effective immediately. The non-breaching party shall retain any and all other remedies available to it under the law.

8. Amendment

This Price Agreement may be amended by mutual agreement of the State Purchasing Agent and the contractor upon written notice by either party to the other. An amendment to this Price Agreement SHALL NOT AFFECT ANY OUTSTANDING ORDERS issued prior to the effective date of the amendment as mutually agreed upon, and as published by the State Purchasing Agent. Amendments affecting price adjustments and/or extension of contract expiration are not allowed unless specifically provided for in the bid and contract documents.

9. Status of Contractor

The contractor, and contractor's agents and employees, are independent contractors for the agency and are not employees of the State of New Mexico. The contractor, and contractor's agents and employees, shall not accrue leave, retirement, insurance, bonding, use of state vehicles, or any other benefits afforded to employees of the State of New Mexico as a result of this agreement. The contractor acknowledges that all sums received hereunder are personally reportable by it for income tax purposes as self-employment or business income and are reportable for self-employment tax.

10. Assignment

A. Neither this price agreement nor any orders placed under this price agreement, nor any interest therein, nor claim there under, shall be assigned or transferred by the Vendor, except
as set forth in subparagraph 10B below or as expressly authorized in writing by the state purchasing agent's office. No such assignment or transfer shall relieve the Vendor from the obligations and liabilities under this price agreement.

B. Vendor agrees that any and all claims for overcharge resulting from antitrust violations which are borne by the State as to goods, services, and materials purchased in connection with this bid are hereby assigned to the State.

11. Subcontracting

The contractor shall not subcontract any portion of any services to be performed under this agreement without written approval from the State Purchasing Agent and the procuring agency.

12. Non-Collusion

In signing this agreement, the Vendor certifies he/she has not, either directly or indirectly, entered into action in restraint of free competitive bidding in connection with this offer submitted to the State Purchasing Agent.

13. Inspection of Plant

The State Purchasing Agent may inspect, at any reasonable time, during Contractor's regular business hours and upon prior written notice the part of the contractor's, or any subcontractor's plant or place of business, which is related to the performance of this contract.

14. Commercial Warranty

The Vendor agrees that the tangible personal property or services furnished under this price agreement shall be covered by the most favorable commercial warranties the Vendor gives to any customer for such tangible personal property or services, and that the rights and remedies provided herein shall extend to the State and are in addition to and do not limit any rights afforded to the State by any other clause of this order. Vendor agrees not to disclaim warranties of fitness for a particular purpose of merchantability.

15. Condition of Proposed Items

All proposed items are to be NEW and of most current production, unless otherwise specified.

16. Records of Audit
During the term of this agreement and for three years thereafter, the contractor shall maintain
detailed records pertaining to the services rendered and products delivered. These records shall
be subject to inspection by the agency, the State Auditor and other appropriate state and federal
authorities. The agency shall have the right to audit billings both before and after payment.
Payment under this agreement shall not foreclose the right of the agency to recover excessive or
illegal payments.

17. Appropriations

The terms of this agreement, and any orders placed under it, are contingent upon sufficient
appropriations and authorization being made by the legislature of New Mexico for the
performance of this agreement. If sufficient appropriations and authorization are not made by
the legislature, this agreement, and any orders placed under it, shall terminate upon written
notice being given by the agency to the contractor. The agency's decision as to whether
sufficient appropriations are available shall be accepted by the contractor and shall be final.

18. Release

The contractor, upon final payment of the amount due under this agreement, releases the agency,
its officers and employees, and the State of New Mexico from all liabilities, claims and
obligations whatsoever arising from or under this agreement. The contractor agrees not to
purport to bind the State of New Mexico, unless the contractor has express written authority to
do so, and then only within the strict limits of that authority.

19. Confidentiality

Any confidential information provided to or developed by the contractor in the performance of
this agreement shall be kept confidential and shall not be made available to any individual or
organization by the contractor without prior written approval by the procuring agency.

20. Conflict of Interest

The contractor warrants that he presently has no interest and shall not acquire any interest, direct
or indirect, which would conflict in any manner or degree with any performance required under
this agreement. The contractor shall comply with any applicable provisions of the New Mexico
Governmental Conduct Act and the New Mexico Financial Disclosures Act.

21. Approval of Contractor Representatives

The agency reserves the right to require a change in contractor representatives if the assigned
representatives are not, in the opinion of the agency, serving the needs of the State of New Mexico adequately.

22. Scope of Agreement

This agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this written agreement. No prior agreement or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this agreement.

23. Notice

The Procurement Code, Sections 13-1-28 through 13-1-199 NMSA 1978, imposes civil and misdemeanor criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities and kickbacks.

24. Equal Opportunity Compliance

The contractor agrees to abide by all federal and state laws, rules and regulations, and executive orders of the governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws, rules, and regulations, and executive orders of the governor of the State of New Mexico, the contractor agrees to assure that no person in the United States shall on the grounds of race, color, religion, national origin, sex, sexual preference, age or handicap, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under, any program or activity performed under this agreement. If contractor is found to be not in compliance with these requirements during the life of this agreement, contractor agrees to take appropriate steps to correct these deficiencies.

25. Indemnification

The contractor shall hold the state and its agencies and employees harmless and shall indemnify the state and its agencies and employees against any and all claims, suits, actions, liabilities and costs of any kind, including attorney's fees for personal injury or damage to property arising from the acts or omissions of the contractor, its agents, officers, employees or subcontractors. The contractor shall not be liable for any injury or damage as a result of any negligent act or omission committed by the agency, its officers or employees.

A. If Contractor has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Contractor certifies, by signing this agreement, to:

(1) have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2008 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed one million dollars or;
(2) have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2009 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed $500,000 dollars or;
(3) have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2010 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed $250,000 dollars.

B. Contractor agrees to maintain a record of the number of employees who have (a) accepted health insurance; (b) declined health insurance due to other health insurance coverage already in place; or (c) declined health insurance for other reasons. These records are subject to review and audit by a representative of the state.

C. Contractor agrees to advise all employees of the availability of State publicly financed health care coverage programs by providing each employee with, as a minimum, the following web site link to additional information: http://insurenewmexico.state.nm.us/.

D. For Indefinite Quantity, Indefinite Delivery contracts (price agreements without specific limitations on quantity and providing for an indeterminate number of orders to be placed against it), Contractor agrees these requirements shall apply the first day of the second month after the Offeror reports combined sales (from state and, if applicable, from local public bodies if from a state price agreement) of $250,000, $500,000 or $1,000,000, depending on the dollar value threshold in effect at that time.

27. Applicable Law

This agreement shall be governed by the laws of the State of New Mexico.
28. Limitation of Liability

The contractor’s liability to the agency, or any procuring agency, for any cause whatsoever shall be limited to the purchase price paid to the contractor for the products and services that are the subject of the agency’s, or the procuring agency’s, claim. The foregoing limitation does not apply to paragraph 27 of this agreement or to damages resulting from personal injury caused by the contractor’s negligence.

29. Binding Arbitration

Any controversy or claim arising between the parties shall be settled by binding arbitration pursuant to the Commercial Arbitration Rules of the American Arbitration Association and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

30. Incorporation by Reference and Precedence

This agreement is derived from (1) the request for proposal, (including any written clarifications to the request for proposals and any agency response to questions); (2) the contractor’s best and final offer; and (3) the contractor’s response to the request for proposals.

In the event of a dispute under this agreement, applicable documents will be referred to for the purpose of clarification or for additional detail in the following order of precedence: (1) amendments to the agreement in reverse chronological order; (2) the agreement, including the scope of work; (3) the request for proposals, including attachments thereto and written responses to questions and written clarifications; (4) the contractor’s best and final offer; and (5) the contractors response to the request for proposals.

31. Workers’ Compensation

The contractor agrees to comply with state laws and rules applicable to workers’ compensation benefits for its employees. If the contractor fails to comply with the Workers’ Compensation Act and applicable rules when required to do so, this agreement may be terminated by the agency.

32. Impracticality of Performance

A party shall be excused from performance under this agreement for any period that the party is prevented from performing as a result of an act of God, strike, war, civil disturbance,
epidemic, or court order, provided that the party has prudently and promptly acted to take any and all steps that are within the party's control to ensure performance. Subject to this provision, such non-performance shall not be deemed a default or a ground for termination.

33. Invalid Term or Condition

If any term or condition of this agreement shall be held invalid or unenforceable, the remainder of this agreement shall not be affected and shall be valid and enforceable.

34. Enforcement of Agreement

A party's failure to require strict performance of any provision of this agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

35. Patent, Copyright and Trade Secret Indemnification

The contractor shall defend, at its own expense, the state and its agencies against any claim that any product or service provided under this agreement infringes any patent, copyright to trademark in the United States or Puerto Rico, and shall pay all costs, damages and attorneys' fees that a court finally awards as a result of any such claim. In addition, if any third party obtains a judgment against the agency based upon contractor's trade secret infringement relating to any product or services provided under this agreement, the contractor agrees to reimburse the state for all costs, attorneys' fees and amount of the judgment. To qualify for such defense and or payment, the agency shall:

i. give the contractor prompt written notice within 48 hours of any claim;

ii. allow the contractor to control the defense of settlement of the claim; and

iii. cooperate with the contractor in a reasonable way to facilitate the defense or settlement of the claim.

If any product or service becomes, or in the contractor's opinion is likely to become the subject of a claim of infringement, the contractor shall at its option and expense:

i. provide the agency the right to continue using the product or service and fully indemnify the agency against all claims that may arise out of the agency's use of the product or service;
ii. replace or modify the product or service so that it becomes non-infringing; or,
   ii. accept the return of the product or service and refund an amount equal to the value
       of the returned product or service, less the unpaid portion of the purchase price and
       any other amounts, which are due to the contractor. The contractor's obligation will
       be void as to any product or service modified by the agency to the extent such
       modification is the cause of the claim.

36. Survival

   The agreement paragraph titled “patent, copyright, trademark, and trade secret
   indemnification; indemnification; and limit of liability” shall survive the expiration of this
   agreement. Software licenses, leases, maintenance and any other unexpired agreements that were
   entered into under the terms and conditions of this agreement shall survive this agreement.

37. Disclosure Regarding Responsibility

   Any prospective Bidder/ Offeror (hereafter Offeror) and/or any of its Principals who seek to
   enter into a contract greater than twenty thousand dollars ($20,000.00) with any state agency or
   local public body for professional services, tangible personal property, services or construction
   agree to disclose whether they, or any principal of their company:

   Are presently debarred, suspended, proposed for debarment, or declared ineligible for award of
   contract by any federal entity, state agency or local public body.

   Have within a three-year period preceding this offer, been convicted of or had civil judgment
   rendered against them for: commission of fraud or a criminal offense in connection with
   obtaining, attempting to obtain, or performing a public ( federal, state or local) contract or
   subcontract; violation of Federal or state antitrust statutes related to the submission of offers; or
   commission in any federal or state jurisdiction of embezzlement, theft, forgery, bribery,
   falsification or destruction of records, making false statements, tax evasion, violation of Federal
   criminal tax law, or receiving stolen property.

   Are presently indicted for, or otherwise criminally or civilly charged by any (federal state or
   local) government entity with, commission of any of the offenses enumerated in paragraph B of
   this disclosure.

   Have preceding this offer, been notified of any delinquent Federal or state taxes in an amount
   that exceeds $3,000.00 of which the liability remains unsatisfied.

   1. Taxes are considered delinquent if both of the following criteria apply:
       a. The tax liability is finally determined. The liability is finally
determined if it has been assessed. A liability is not finally
determined if there is a pending administrative or judicial
challenge. In the case of a judicial challenge of the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.

b. The taxpayer is delinquent in making payment. A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.

c. Have within a three year period preceding this offer, had one or more contracts terminated for default by any federal or state agency or local public body.

Principal, for the purpose of this disclosure, means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity or related entities.

The Offeror shall provide immediate written notice to the Procurement Manager or Buyer if, at any time prior to contract award, the Offeror learns that its disclosure was erroneous when submitting or became erroneous by reason of changed circumstances.

A disclosure that any of the items in this requirement exist will not necessarily result in withholding an award under this solicitation. However, the disclosure will be considered in the determination of the Offeror's responsibility. Failure of the Offeror to furnish a disclosure or provide additional information as requested will render the Offeror nonresponsive.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the disclosure required by this document. The knowledge and information of an Offeror is not required to exceed that which is the normally possessed by a prudent person in the ordinary course of business dealings.

The disclosure requirement provided is a material representation of fact upon which reliance was placed when making an award and is a continuing material representation of the facts. If during the performance of the contract, the contractor is indicted for or otherwise criminally or civilly charged by any government entity (federal, state or local) with commission of any offenses named in this document the contractor must provide immediate written notice to the Procurement Manager or Buyer. If it is later determined that the Offeror knowingly rendered an erroneous disclosure, in addition to other remedies available to the Government, the State Purchasing Agent or Central Purchasing
Officer may terminate the involved contract for cause. Still further the State Purchasing Agent or Central Purchasing Officer may suspend or debar the contractor from eligibility for future solicitations until such time as the matter is resolved to the satisfaction of the State Purchasing Agent or Central Purchasing Officer.

38. Notification

Either party may give written notice to the other party in accordance with the terms of this paragraph 38. Any written notice required or permitted to be given hereunder shall be deemed to have been given on the date of delivery if delivered by personal service or hand delivery or three (3) business days after being mailed.

To agency: Lawrence O. Maxwell, State Purchasing Agent
Office address: 1100 South St. Francis Drive
(for express carrier and hand deliveries)
Joseph M. Montoya Building, Rm. 2016
Santa Fe, New Mexico 87505-4108
(505) 827-0472 (voice)
(505) 827-2484 (fax)
Lawrence.maxwell@state.nm.us

For all US Mail use: P. O. Box 6850
Santa Fe, New Mexico 87505

To contractor: The Advantage Group
5310 Homestead Rd NE, Bldg 1-B
Albuquerque, NM 87110

Contractor contact information:
Teri Plunkett
CEO/President
tplunkett@advantagesys.com
(505) 254-4288

Either party may change its representative or address above by written notice to the other in accordance with the terms of this paragraph 38. The carrier for mail delivery and notices shall be the agent of the sender.
39. Amendments

This agreement shall only be amended by written instrument executed by the parties.

40. Succession

This agreement shall extend to and be binding upon the successors and assigns of the parties.

IN WITNESS WHEREOF, the parties have executed this agreement as of the date of execution by:

STATE OF NEW MEXICO                                     The Advantage Group
General Services Department                                
BY:                                                       BY:  
on 2/18/13                                               

TITLE: 39TH DIST

TITLE: CEO/President

The records of the Taxation and Revenue Department reflect that the contractor is registered with the Taxation and Revenue Department of the State of New Mexico to pay gross receipts and compensating taxes.

TAXATION AND REVENUE DEPARTMENT:

ID NO.: 02-313368-00-00

BY:  

DATE: 2/18/2013 2/20/13