

Superior Courts of California



Request for Proposal for Facilities Management Services

**The Administrative Office of the Courts, Office of
Court Construction and Management, seeks qualified
service providers to perform facilities management
services for the Superior Courts of California**



**ADMINISTRATIVE OFFICE
OF THE COURTS**

OFFICE OF COURT CONSTRUCTION
AND MANAGEMENT

Facilities Management Services
RFP Number OCCM-FMS-092104

Date
September 21, 2004

To
Facilities Management Service Organizations

From
Administrative Office of the Courts (AOC)
Office of Court Construction and
Management

Subject
Request for Proposal,
Facilities Management Services

Action Requested
You are invited to review and respond to the
attached Request for Proposal (“RFP”)

Project Title: Facilities Management Services
RFP Number: OCCM – FMS – 092104

Proposal Deadline
October 4th, 2004, 5 p.m.

Submittal of Proposals are be sent to:
Judicial Council of California
Administrative Office of the Courts
Attention: Nadine McFadden
455 Golden Gate Avenue, 7th Floor
San Francisco, CA 94102

1.0 GENERAL INFORMATION

The Judicial Council of California, chaired by the Chief Justice of California, is the chief policy making agency of the California judicial system. The Administrative Office of the Courts (AOC) is the staff agency of the Judicial Council. The Office of Court Construction and Management (OCCM), is the division of the AOC responsible for the planning, design, construction, real estate and asset management of facilities for the Superior and Appellate Courts in California.

The mission of OCCM is to enhance the administration of justice by providing responsible and efficient professional stewardship of the court facilities of California; to promote excellence in the built environment in support of equal access to justice; and to provide leadership in the design and management of judicial architecture.

The AOC seeks service providers in the implementation of the Trial Court Facilities Act of 2002 (SB 1732 - Escutia). Under SB 1732, the Judicial Council and the AOC, on behalf of the State of California, have statutorily prescribed duties to take responsibility for existing Superior Court facilities located throughout all 58 counties in the State, encompassing as many as 451 buildings, containing approximately 10 million usable square feet.

2.0 PURPOSE OF THIS REQUEST FOR PROPOSAL (RFP)

This RFP is issued to identify one or more qualified organizations to provide facilities services and facilities management services for existing and new court buildings. Your firm (“Service Provider”) has been invited to submit information relative to its capabilities, costs and approach to furnishing management, labor, supervision, equipment, services, supplies, and material necessary for performing all of the services in the scope of this RFP.

The proposal submitted in response to this RFP should indicate which services your company proposes to perform and, if your proposal has geographic or other limitations on some or all of the services offered, these limitations should be clearly described. The AOC may select, based on the responses to this RFP, service providers qualified to provide specific portions or all of the scope of services described below. Service providers may be selected from different geographical areas of the State, in order to ensure efficient completion of assignments. At its discretion, and on a case by case basis, the AOC may select a Service Provider(s), or appoint the AOC’s own employees or those of the Superior Court and/or County, to provide management and administrative oversight of facility operations, including scheduling and coordination of the collective services required to operate and maintain a facility or multiple facilities.

The AOC may contract with service providers using a single agreement for a specific project or under a master agreement that sets out the overall scope of the services to be provided, the obligations of the parties, and the specific fees applicable to the agreement. If a master agreement is utilized, each assignment will be reflected in a separate work order under the master agreement. Each single agreement or work order will include details about the nature of the assignment the service provider will perform for the AOC, the timeline for completion of the assignment, a firm fixed or time and materials not-to-exceed price, reporting guidelines, and other information.

The AOC does not guarantee the amount or duration of work or number of assignments that may be given to a service provider. Work assignments will be given to particular service providers based upon the evaluation of the service provider’s qualifications, cost proposal for the assignment, and geographical considerations.

3.0 SCOPE OF SERVICES

- 3.1. Services may be provided to the AOC on a nonexclusive and as-needed basis, from the period of execution of the contract to the end of the fiscal year, which ends on June 30th. Agreements may have options for renewal for additional terms of one fiscal year each.
- 3.2. Service Provider, for and on behalf of the AOC, will implement, or cause to be implemented, the decisions and policies of the AOC and will conduct the ordinary and usual business affairs of AOC for the facilities as provided in the Agreement that may result from this solicitation.
- 3.3. General Scope of Services for Facilities. Following is the general scope of the services to be provided for some or all facilities, as appropriate.

- 3.3.1 Service Provider will comply with the policies and programs established by AOC.
- 3.3.2 Service Provider will coordinate and supervise the operation and maintenance of all building systems and components, including but not limited to, heating, ventilating and air conditioning systems ("HVAC") and other mechanical, electrical and plumbing ("MEP") and life safety and building security systems.
- 3.3.3 Service Provider will coordinate and supervise grounds maintenance and operations, including but not limited to, landscaping, irrigation, tree trimming, signage, parking areas, and turf mowing services to provide that levels of aesthetic appeal are maintained at a level acceptable to AOC.
- 3.3.4 Service Provider will supervise all direct staff and subcontractors, and oversee the work of contractors under separate contract with the AOC, engaged in providing routine or periodic services, including preventative maintenance, for the Facilities and all administration of all service contracts. Service Provider will (i) prepare work specifications and secure competitive bid proposals for Service Contracts, (ii) recommend, negotiate and enter into Service Contracts as required to operate the Facilities and (iii) provide direct supervision of all contracted services, evaluate compliance with contract specifications and administer payment.
- 3.3.5 Service Provider will keep the Facilities and all parts thereof in a clean and sightly condition and will make, or supervise the making, of all ordinary and extraordinary repairs, replacements and landscaping necessary for the proper operation of the Facilities, for the performance of AOC's obligations under any Possession and Use Agreement, Memorandum of Understanding, lease or other agreement respecting the Facilities and to comply with all applicable governmental or insurance requirements, subject to the limits of the Approved Budgets. Service Provider will report to AOC promptly any conditions concerning the Facilities that require the attention of AOC.
- 3.3.6 Service Provider will coordinate and supervise the maintenance of all physical areas within the Facilities and grounds appurtenant to ensure that levels of cleanliness, state of repair and aesthetic appeal are maintained at a level acceptable to AOC.
- 3.3.7 Service Provider will test emergency backup power and security systems as appropriate and report any known deficiencies in said systems' ability to support ongoing operations in an emergency situation.
- 3.3.8 Service Provider will administer all rules, regulations and restrictions necessary for the efficient operation of the Facilities and for the comfort and security of the occupants thereof.

3.3.9 Service Provider will develop procedures for emergency evacuation in the event of any occurrence that threatens the safety of the occupants of the Facilities and will coordinate and supervise the routine practice implementation thereof.

3.4 Building Operation and Maintenance for Facilities. Following are the building operation and maintenance procedures to be performed for some or all Facilities, as appropriate.

3.4.1 Service Provider will implement maintenance programs geared to the specific needs of the Facilities. Each program will require documentation to ensure routine preventative maintenance actions necessary to preserve the Facilities' plumbing, mechanical and electrical systems are undertaken so that all such systems are performing efficiently.

3.4.2 Operation and Maintenance of Electrical Systems

3.4.2.1 Service Provider will coordinate, supervise and maintain the proper operation of the normal and emergency distribution systems from service entrance to fixture. Service Provider will maintain all electrical equipment, fixtures and appliances and maintain the proper operation and safe condition of all occupant accessible electrical fixtures, controls and appliances.

3.4.2.2 Service Provider will be required to work in conjunction with various telephone, cable, and communications contractors that are not under the direct supervision of the AOC's facilities management and or IT departments.

3.4.2.3 Service Provider will coordinate and supervise the inspection, maintenance, and re-lamping of all lighting, as required.

3.4.2.4 Annually, Service Provider will (i) coordinate and supervise the inspection and infrared scanning of all feeders, switchboards, panels and branch circuits to verify load, phase balance and capacity and (ii) inspect and test all building electrical controls, interlocks and safeties, making repairs, as required.

3.4.3 Operation and Maintenance of Mechanical and Fire Protection Systems

3.4.3.1 Service Provider will develop and supervise a comprehensive and regularly scheduled preventive maintenance program, including equipment operating and maintenance logs.

3.4.4 Utilization of Computer Aided Facilities Management (CAFM) System

3.4.4.1 Service Provider will use the AOC's CAFM system to schedule and track service programs and orders and programs. This system will be used to track and plan work requests, schedule and maintain preventative maintenance records and accumulate equipment history.

3.4.5 Call Center Operation

3.4.5.1 Service Provider will operate a service desk and/or call center to receive calls for service from the Facilities (the "Call Center"). Service Provider will utilize AOC's CAFM system to maintain records regarding requests made, dispatch of resources and disposition of request and will generate a report, in form and substance acceptable to AOC, detailing this information as requested by AOC.

3.4.5.2 All such dispatches of service calls by Service Provider must be contemplated or allowed under the Approved Budgets for the particular Facilities involved.

3.4.5.3 Service Provider will develop, enhance and maintain written standard operating procedures for the Call Center, which are acceptable to AOC.

3.4.6 Emergency Management Systems

3.4.6.1 Service Provider will conduct full generator load tests and preventive maintenance consistent with Current Service Level at each Facility.

3.4.6.2 Service Provider will perform an exercise run of all emergency backup systems consistent with Current Service Level at each Facility.

3.4.7 Other Facilities Services

3.4.7.1 Describe any other specific Facilities Management Services your organization would like to include in its proposal.

3.5 Management of Facility Operations and Services

3.5.1 Service Provider will have personnel on staff able to provide management and administrative oversight, contract administration including scheduling and coordination of the collective services in Sections 3.1 through 3.4 of this RFP. Performance of on-site services may be performed under subcontract(s) to the Service Provider.

- 3.5.2 Service Provider will review and evaluate status reports to determine problem areas and plan improvements in the allocation and utilization of personnel, materials, time, and equipment.
- 3.5.3 Service Provider will develop, enhance and maintain written standard operating procedures for all Facilities.
- 3.5.4 Budget Reports – Annual “zero-based” budgets will be prepared and submitted to the AOC at the beginning of each fiscal year; e.g., July 1st.
- 3.5.5 Budget Variance Reports – Monthly reports will be prepared detailing all variances between actual and budget expenditures.
- 3.5.6 Service Provider will conduct routine inspections of the Facilities.

4.0 SPECIFICS OF A RESPONSIVE PROPOSAL

The following information will be included in the proposal:

- 4.1 Provide an overview of your company – include an organizational chart, areas of specialization, etc. Discuss range of services provided on a national, international, and local basis. Include qualifications of proposed subcontractor(s).
- 4.2 Describe how your organizational structure supports your ability to provide the services you are proposing.
- 4.3 Indicate clearly which services you are submitting for consideration to be provided by your organization. Clearly indicate which services will be provided through your subcontractor(s).
- 4.4 What uniquely qualifies your organization to provide services to the AOC for the benefit of the Superior Courts of California?
- 4.5 Provide the approximate total number of facilities management accounts you service within the State of California and nationally, including number of and types of buildings, square footage, etc.
- 4.6 Discuss how services provided to other customers in the State of California will benefit the AOC.
- 4.7 Describe how you will transition this assignment. Present a 30-day and 90-day transition plan for the assignment.
- 4.8 Briefly describe your company’s core capabilities and business approach in the following areas: facilities management, contract management, technology integration and other core competencies related to providing services covered in this RFP.

- 4.9 Describe your firm's standard emergency response procedures. Discuss your firm's philosophy regarding emergency preparedness, detail the specific programs and key strategies, and demonstrate how these procedures are implemented.
- 4.10 Describe your firm's approach to the management of critical operations sites. Include your experience, corporate support and procedures for managing critical environments.
- 4.11 How do you propose to manage service requests? Include a description of the call protocol; call center staffing and infrastructure, back-up systems, and technology capability. Explain how your firm measures performance, tracks and manages trends.
- 4.12 Describe your firm's approach to providing accurate accounting data in a timely manner. What types of analytical reports will be provided to the AOC? Please provide samples. Describe how your accounting system provides ownership with real time access to accounting records.
- 4.13 Describe cost containment strategies your firm has performed for clients with similar portfolios. What results have been achieved?
- 4.14 What type of benchmarking can your firm provide to assist in the management of AOC facilities?
- 4.15 Resumes describing the background and experience of key staff, as well as each individual's ability and experience in conducting the proposed activities. Describe key staff's knowledge of the requirements necessary to complete this project.
- 4.16 Firm's name, address, telephone and fax numbers, and federal tax identification number.

The following information must be included with your organization's proposal:

- 4.17 Five (5) "hard" copies and one (1) electronic version of the technical proposal signed by an authorized representative of the company, including name, title, address, and telephone number of one individual who is the responder's designated representative.
- 4.18 Names, addresses, and telephone numbers of a minimum of five (5) clients for whom the Service Provider's key staff have conducted similar services. The AOC may check references listed by the consultant Service Provider.
- 4.19 Responsive proposals should provide straightforward, concise information that satisfies the requirements noted above. Expensive bindings, color displays, and the like are not necessary or desired. Emphasis should be placed on conformity to the state's instructions, requirements of this RFP, and completeness and clarity of content.

- 4.20 List firms or consultants that the Service Provider intends to contract with to complete any part of the services.

5.0 COST PROPOSAL

Your proposal must include the service provider's proposed fee schedule for each category described in the Scope of Services section (3.0) of this RFP. It is expected that all service providers responding to this proposal will offer the service provider's government or comparable favorite rates. The fee schedule should include the following information:

- 5.1 The hourly and monthly rate for each Scope of Services category in Section 3.0 for which you propose to provide services;
- 5.2 The number of FTEs and shared employees by function/purpose providing services in Section 3.1 through 3.4, the applicable labor rate for each function/role, and the total labor expense;
- 5.3 The number of FTEs and/or shared employees providing those management services described in Section 3.5, the fee or salary cost for each, and the total corresponding management expense;
- 5.4 Other assumptions used to develop fee schedule;
- 5.5 In order to develop fee schedules in the absence of defined quantities, alternative calculation methods such as tiered pricing on the basis of ranges in size, age, location, number of facilities or other criteria, may be used;
- 5.6 A contract structure that would help achieve cost savings on a continual basis.

6.0 RIGHTS

- 6.1 The AOC reserves the right to reject any and all proposals, in whole or in part, as well as the right to issue similar RFPs in the future. This RFP is in no way an agreement, obligation, or contract and in no way is the AOC or the State of California responsible for the cost of preparing the proposal. One copy of a submitted proposal will be retained for official files and becomes a public record.
- 6.2 The AOC reserves the right to enter into a single agreement for a specific project or one or more master agreements that set out the overall scope of the services to be provided, the obligations of the parties, and the general fee agreement. If a master agreement is utilized, each assignment will be reflected in a separate work order under the master agreement.
- 6.4 Only written responses will be accepted. Proposals should be sent by registered or certified mail, overnight or hand delivery.

7.0 EVALUATION OF PROPOSALS

Proposals will be evaluated by the AOC using the following criteria:

- a. Experience and credentials of key staff and similar assignments on multiple buildings for large institutions or public entities
- b. Reasonableness of cost proposal
- c. Ability to meet timing requirements to complete the project
- d. Responses to reference inquiries

8.0 ADDITIONAL REQUIREMENTS

It may be necessary to interview prospective service providers to clarify aspects of their submittal. If conducted, interviews will likely be conducted by telephone conference call. The AOC will notify prospective service providers regarding the interview arrangements.

9.0 PROPOSED CONTRACT TERMS AND ADMINISTRATIVE RULES

Contracts with successful firms will be signed by the parties on a State of California Standard Agreement form and will include terms appropriate for this project. Terms and conditions typical for the requested services are attached as Attachment A.

Incorporated in this RFP, and attached as Attachment B, is a document entitled “Administrative Rules Governing Requests for Proposals. Service providers will follow these rules in preparation of their proposals.

10.0 DISABLED VETERAN BUSINESS ENTERPRISE PARTICIPATION GOALS

The State requires contract participation goals of three percent (3%) for disabled veteran business enterprises (DVBEs). Therefore, your response should demonstrate DVBE compliance; otherwise, if it is impossible for you firm to comply, please use the DVBE Participation Form attached as Attachment C to explain why, and demonstrate written evidence of a “good faith effort” to achieve participation. Your firm must complete the attached DVBE participation requirement form even if it is only to explain why your firm cannot achieve the participation goal. Completing the attached form to the extent feasible is mandatory to be responsive to this solicitation’s requirements. If your firm has any questions regarding the form, you should contact Nadine McFadden, 415-865-4253, the address listed on the cover letter to this RFP. For further information regarding DVBE resources, please contact the Office of Small Business and DVBE Certification, at 916-375-4940.

11.0 CONFIDENTIAL OR PROPRIETARY INFORMATION

The Administrative Office of the Courts policy is to follow the intent of the California Public Records Act (PRA). If a Service Provider’s proposal contains material noted or marked as confidential and/or proprietary that, in the AOC’s sole opinion, meets the disclosure exemption requirements of the PRA, then that information will not be disclosed pursuant to a request for public documents. If the AOC does not consider such material to be exempt from disclosure

under the PRA, the material will be made available to the public, regardless of the notation or markings. If a Service Provider is unsure if its confidential and/or proprietary material meets the disclosure exemption requirements of the PRA, then it should not include such information in its proposal.

STANDARD PROVISIONS

1. Indemnification

The Contractor will indemnify, defend (with counsel satisfactory to the State), and save harmless the State and its officers, agents, and employees from any and all claims and losses accruing or resulting to any and all other contractors, Subcontractors, suppliers, and laborers, and any other person, firm, or corporation furnishing or supplying Work, Materials, Data, or services in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by the Contractor or its agents or employees in the performance of this Agreement.

2. Relationship of Parties

The Contractor and the agents and employees of the Contractor, in the performance of this Agreement, will act in an independent capacity and not as officers or employees or agents of the State of California.

3. Termination for Cause

The State may terminate this Agreement and be relieved of the payment of any consideration to the Contractor if the Contractor fails to perform the provisions of this Agreement at the time and in the manner provided. If the Agreement is terminated, the State may proceed with the Work in any manner it deems proper. The cost to the State to perform this Agreement will be deducted from any sum due the Contractor under this Agreement or any other agreement, and the balance, if any, will be paid to the Contractor upon demand.

4. No Assignment

Without the written consent of the State, the Contractor will not assign this Agreement in whole or in part.

5. Time of Essence

Time is of the essence in this Agreement.

6. Validity of Alterations

Alteration or variation of the terms of this Agreement will not be valid unless made in writing and signed by the parties, and an oral understanding or agreement that is not incorporated will not be binding on any of the parties.

7. Consideration

The consideration to be paid to the Contractor under this Agreement will be compensation for all the Contractor's expenses incurred in the performance of this Agreement, including travel and per diem, unless otherwise expressly provided.

SPECIAL PROVISIONS

1. Definitions

Terms defined below and elsewhere throughout the Contract Documents will apply to the Agreement as defined.

- A. "**Administrative Director**" refers to that individual, or authorized designee, empowered by the State to make final and binding executive decisions on behalf of the State.
- B. "**Amendment**" means a written document issued by the State and signed by the Contractor which alters the Contract Documents and identifies the following: (1) a change in the Work; (2) a change in Contract Amount; (3) a change in time allotted for performance; and/or (4) an adjustment to the Agreement terms.
- C. "**Change Order**" means a written document issued by the State and signed by both parties which directs the Contractor to proceed promptly with specific Work and which does not, in and of itself, constitute the Contractor's entitlement to a change in time for performance, the Contract Amount, and/or Contract terms and conditions.
- D. "**Change Proposal**" means a document prepared by the Contractor at the request of the State, which proposes in detail changes to the Work and/or adjustments to the Contract Amount and/or time for performance.
- E. "**Confidential Information**" means trade secrets, financial, statistical, personnel, technical, and other Data and information relating to the State's business or the business of its constituents. Confidential Information does not include (i) information that is already known by the receiving party, free of obligation of confidentiality to the disclosing party; (ii) information that becomes generally available to the public, other than as a result of disclosure by the receiving party in breach of this Agreement; (iii) information that is independently developed by the receiving party without reference to the Confidential Information; and (iv) information that the receiving party rightfully obtains from a Third Party free of the obligation of confidentiality to the disclosing party.
- F. The "**Contract**" or "**Contract Documents**" constitute the entire integrated agreement between the State and the Contractor, as attached to and incorporated

by a fully executed State Standard Agreement form. The terms “Contract” or “Contract Documents” may be used interchangeably with the term “**Agreement.**”

- G. “**Contract Amount**” means the total amount encumbered under this Agreement for any payment by the State to the Contractor for performance of the Work, in accordance with the Contract Documents.
- H. The “**Contractor**” means the individual, association, partnership, firm, company, consultant, corporation, affiliates, or combination thereof, including joint ventures, contracting with the State to do the Contract Work. The Contractor is one of the parties to this Agreement.
- I. “**Data**” means all types of raw data, articles, papers, charts, records, reports, studies, research, memoranda, computation sheets, questionnaires, surveys, and other documentation.
- J. “**Day**” means calendar day, unless otherwise specified.
- K. “**Deliverable(s)**” or “**Submittal(s)**” means one or more items, if specified in the Contract Documents, that the Contractor will complete and deliver or submit to the State for acceptance.
- L. “**Force Majeure**” means a delay which impacts the timely performance of Work which neither the Contractor nor the State are liable because such delay or failure to perform was unforeseeable and beyond the control of the party. Acts of Force Majeure include, but are not limited to:
- i. Acts of God or the public enemy;
 - ii. Acts or omissions of any government entity;
 - iii. Fire or other casualty for which a party is not responsible;
 - iv. Quarantine or epidemic;
 - v. Strike or defensive lockout; and,
 - vi. Unusually severe weather conditions.
- M. “**Material**” means all types of tangible personal property, including but not limited to goods, supplies, equipment, commodities, and information and telecommunication technology.
- N. “**Notice**” means a written document initiated by the authorized representative of either party to this Agreement and given by:
- i. Depositing in the U. S. Mail (or approved commercial express carrier) prepaid to the address of the appropriate authorized representative of the other party, which will be effective upon date of receipt; or
 - ii. Hand-delivered to the other party’s authorized representative, which will be effective on the date of service.

- O. **“Project”** refers to all activity relative to this Agreement including activity of the Contractor, its Subcontractors, the State and the State’s representatives.
- P. The **“State”** refers to the Judicial Council of California / Administrative Office of the Courts (**“AOC”**). The State is one of the parties to this Agreement. The term **“State”** will also include any individual designated to perform technical and/or administrative functions, as set forth herein.
- Q. **“State Standard Agreement”** means the form used by the State to enter into agreements with other parties. Several originally signed, fully executed versions of the State Standard Agreement, together with the integrated Contract Documents, will each represent the Agreement as an individual **“Contract Counterpart.”**
- R. **“Stop Work Order”** means the written Notice, delivered in accordance with this Agreement, by which the State may require the Contractor to stop all, or any part, of the Work of this Agreement, for the period set forth in the Stop Work Order. The Stop Work Order will be specifically identified as such and will indicate that it is issued pursuant to the Stop Work provision in this Exhibit B.
- S. **“Subcontractor”** will mean an individual, firm, partnership, or corporation having a contract, purchase order, or agreement with the Contractor, or with any Subcontractor of any tier for the performance of any part of the Agreement. When the State refers to Subcontractor(s) in this document, for purposes of this Agreement and unless otherwise expressly stated, the term **“Subcontractor”** includes, at every level and/or tier, all subcontractors, sub-consultants, suppliers, and materialmen.
- T. **“Substantial Completion”** will be defined by the following conditions, at a minimum:
- i. All parts of the Work, as set forth in Exhibit D, Work to be Performed, are functional;
 - ii. The State has full use and benefit of the Work for the purpose intended; and
 - iii. Only minor incidental work or correction or repair remains to complete all Agreement requirements.
- U. **“Task(s)”** means one or more functions, if specified in the Contract Documents, to be performed by the Contractor for the State.
- V. **“Third Party”** refers to any individual, association, partnership, firm, company, corporation, consultant, Subcontractor, or combination thereof, including joint ventures, other than the State or the Contractor, which is not a party to this Agreement.

- W. **“Work”** or **“Work to be Performed”** or **“Contract Work”** may be used interchangeably to refer to the service, labor, Materials, Data, and other items necessary for the execution, completion and fulfillment of the Agreement by the Contractor to the satisfaction of the State. Work may be defined to include Tasks, Deliverables, and/or Submittals, as required by the Contract.
- X. **“Working Hours”** refers to an average eight (8) hour work shift in a business day, falling between the hours of 6:00 a.m. and 6:00 p.m., Monday through Friday.

2. Manner of Performance of Work

The Contractor will complete all Work specified in these Contract Documents to the State's satisfaction and in compliance with the Nondiscrimination/No Harassment Clause, as set forth in this Exhibit B.

3. Termination Other Than for Cause

- A. In addition to termination for cause under Exhibit A, Standard Provisions paragraph 3, the State may terminate this Agreement at any time upon providing the Contractor written Notice at least ten (10) Days before the effective date of termination. Upon receipt of the termination Notice, the Contractor will promptly discontinue all services affected unless the Notice specifies otherwise.
- B. If the State terminates all or a portion of this Agreement other than for cause, the State will pay the Contractor for the fair value of satisfactory services rendered before the termination, not to exceed the total Contract Amount.

4. State's Obligation Subject to Availability of Funds

- A. The State's obligation under this Agreement is subject to the availability of authorized funds. The State may terminate the Agreement or any part of the Contract Work, without prejudice to any right or remedy of the State, for lack of appropriation of funds. If expected or actual funding is withdrawn, reduced or limited in any way prior to the expiration date set forth in this Agreement, or in any Amendment hereto, the State may terminate this Agreement in whole or in part, upon written Notice to the Contractor. Such termination will be in addition to the State's rights to terminate for convenience or default.
- B. Payment will not exceed the amount allowable for appropriation by Legislature. If the Agreement is terminated for non-appropriation:
 - i. The State will be liable only for payment in accordance with the terms of this Agreement for services rendered prior to the effective date of termination; and
 - ii. The Contractor will be released from any obligation to provide further services pursuant to the Agreement as are affected by the termination.

- C. Funding for this Agreement beyond the current appropriation year is conditional upon appropriation by the Legislature of sufficient funds to support the activities described in this Agreement. Should such an appropriation not be approved, the Agreement may terminate at the close of the current appropriation year. The appropriation year ends on June 30 of each year.

5. Agreement Administration/Communication

- A. Under this Agreement, the Project Manager, ____, will monitor and evaluate the Contractor's performance. All requests and communications about the Work to be Performed under this Agreement will be made through the Project Manager. Any Notice from the Contractor to the State will be in writing and will be delivered the Project Manager as follows:

____, Project Manager
Judicial Council of California
Administrative Office of the Courts
455 Golden Gate Avenue
San Francisco, CA 94102-3660

- B. Notice to the Contractor will be directed in writing to:

6. Subcontracting

The Contractor will not subcontract this Agreement or services provided under this Agreement, unless the State agrees to the subcontracting in writing. Any authorized subcontract(s) will be executed in the same manner as this Agreement. No party to this Agreement will in any way contract on behalf of or in the name of another party to this Agreement.

7. Changes and Amendments

Changes or Amendments to any component of the Contract Documents can be made only with prior written approval from the Project Manager. Requests for changes or Amendments must be submitted in writing and must be accompanied by a narrative description of the proposed change and the reasons for the change. Additional funds may not be encumbered under the Agreement due to an act of Force Majeure, although the performance period of the Agreement may be amended due to an act of Force Majeure. After the Project Manager reviews the request, a written decision will be provided to the Contractor. Amendments to the Agreement will be authorized via bilateral execution of a State Standard Agreement.

8. Accounting System Requirement

The Contractor will maintain an adequate system of accounting and internal controls that meets Generally Accepted Accounting Principles or GAAP.

9. Retention of Records

The Contractor will maintain all financial Data, supporting documents, and all other records relating to performance and billing under this Agreement for a period in accordance with State and Federal law, a minimum retention period being no less than three (3) years. The retention period starts from the date of the submission of the final payment request. The Contractor is also obligated to protect Data adequately against fire or other damage.

10. Audit

The Contractor will permit the authorized representative of the State or its designee or both at any reasonable time to inspect or audit all Data relating to performance and billing to the State under this Agreement. The Contractor further agrees to maintain such Data for a period of three (3) years after final payment under this Agreement.

11. Insurance Requirements

A. General. The Contractor will obtain and maintain the minimum insurance set forth in subparagraph B, below. By requiring such minimum insurance, the State will not be deemed or construed to have assessed the risks that may be applicable to the Contractor under this Agreement. The Contractor will assess its own risks and if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage. For full coverage, each insurance policy will be written on an "occurrence" form; excepting that insurance for professional liability, when required, may be acceptable on a "claims made" form. If coverage is approved and purchased on a "claims made" basis, the Contractor warrants continuation of coverage, either through policy renewals or the purchase of an extended discovery period, if such extended coverage is available, for not less than three (3) years from the date of completion of the Work which is the subject of this Agreement.

B. Minimum Scope and Limits of Insurance. The Contractor will maintain coverage and limits no less than the following:

- i. Workers' Compensation at statutory requirements of the State of residency.
- ii. Employers' Liability with limits not less than **\$1,000,000.00** for each accident.

- iii. Commercial General Liability Insurance with limits not less than **\$1,000,000.00** for each occurrence, Combined Single Limit Bodily Injury and Property Damage.
 - iv. Business Automobile Liability Insurance with limits not less than **\$1,000,000.00** for each occurrence, Combined Single Limit Bodily Injury and Property Damage, including owned and non-owned and hired automobile coverage, as applicable.
 - v. The following Excess coverage, at the same limits specified for Comprehensive General Liability: Contractual Liability, Independent Contractor, Broadform Property Damage, Personal Injury, Product, and Completed Operation coverage.
- C. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to, and approved by, the State. The deductible and/or self-insured retention of the policies will not limit or apply to the Contractor's liability to the State and will be the sole responsibility of the Contractor.
- D. Other Insurance Provisions. The General Liability policy required in this Agreement is to contain, or be endorsed to contain, the following provisions:
- i. The State, its officers, officials, employees and agents are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the Contractor in connection with this Agreement.
 - ii. To the extent of the Contractor's negligence, the Contractor's insurance coverage will be primary insurance as respects the State, its officers, officials, employees and agents. Any insurance and/or self-insurance maintained by the State, its officers, officials, employees or agents will not contribute with the insurance or benefit the Contractor in any way,
 - iii. The Contractor's insurance will apply separately to each insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.
- E. The Contractor will provide the State certificates of insurance satisfactory to the State evidencing all required coverages before Contractor begins any Work under this Agreement, and complete copies of each policy upon the State's request.
- F. If at any time the foregoing policies will be or become unsatisfactory to the State, as to form or substance, or if a company issuing any such policy will be or become unsatisfactory to the State, the Contractor will, upon Notice to that effect from the State, promptly obtain a new policy, and will submit the same to the State, with the appropriate certificates and endorsements, for approval.

- G. All of the Contractor's policies will be endorsed to provide advanced written Notice to the State of cancellation, nonrenewal, and reduction in coverage, within fifteen (15) Days, mailed to the following address: Judicial Council, Administrative Office of the Courts, Business Services Manager, 455 Golden Gate Ave., 7th Floor, San Francisco, CA 94104.

12. Confidentiality

- A. Both the State and the Contractor acknowledge and agree that in the course of performing the Work under this Agreement, the State may disclose Confidential Information to the Contractor.
- B. The Contractor agrees not to disclose the Confidential Information to any Third Party and to treat it with the same degree of care as it would its own confidential information. It is understood, however, that the Contractor may disclose the State's Confidential Information on a "need to know" basis to the Contractor's employees and Subcontractors and, as directed by the Project Manager, representatives of the State that are working on the Project. All such employees and Subcontractors of the Contractor will have executed a confidentiality agreement with the Contractor requiring a promise of confidentiality concerning the Contractor's clients and business.
- C. The Contractor will acquire no right or title to the Confidential Information. The Contractor agrees not to use the Confidential Information for any purpose except as contemplated pursuant to this Agreement. Notwithstanding the foregoing, the Contractor may disclose the Confidential Information (i) to the extent necessary to comply with any law, rule, regulation or ruling applicable to it; (ii) as appropriate to respond to any summons or subpoena applicable to it; or (iii) to the extent necessary to enforce its rights under this Agreement.

13. Standard of Professionalism

The Contractor will conduct all work consistent with professional standards for the industry and type of work being performed under the Agreement.

14. Services Warranty

The Contractor warrants and represents that each of its employees, independent contractors or agents assigned to perform any services or provide any technical assistance in planning, development, training, consulting or related services under the terms of this Agreement will have the skills, training, and background reasonably commensurate with his or her level of performance or responsibility, so as to be able to perform in a competent and professional manner. The Contractor further warrants that the services provided hereunder will conform to the requirements of this Agreement. All warranties, including any special warranties specified elsewhere herein, will inure to the State, its successors, assigns, customer agencies, and any other recipients of the services provided hereunder.

15. Permits and Licenses

The Contractor will observe and comply with all federal, state, city, and county laws, rules, and regulations affecting services under this Agreement. The Contractor will procure and keep in full force and effect during the term of this Agreement all permits and licenses necessary to accomplish the Work contemplated in this Agreement.

16. Stop Work

A. The State may, at any time, by written Notice to the Contractor, require the Contractor to stop all, or any part, of the Work of this Agreement, for a period up to ninety (90) Days after the Notice is delivered to the Contractor, and for any further period to which the parties may agree (“**Stop Work Order**”). The Stop Work Order will be specifically identified as such and will indicate it is issued under this provision. Upon receipt of the Stop Work Order, the Contractor will immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the Work covered by the Stop Work Order during the period of Work stoppage. Within a period of ninety (90) Days after a Stop Work Order is delivered to the Contractor, or within any extension of that period to which the parties will have agreed, the State will either:

- i. Cancel the Stop Work Order; or
- ii. Terminate the Work covered by the Stop Work Order as provided for in either of the termination provisions of this Agreement.

B. If a Stop Work Order issued under this provision is canceled or the period of the Stop Work Order or any extension thereof expires, the Contractor will resume Work. The State will make an equitable adjustment in the delivery schedule, the Contract Amount, or both, and the Agreement will be modified, in writing, accordingly, if:

- i. The Stop Work Order results in an increase in the time required for, or in the Contractor’s cost properly allocable to the performance of any part of this Agreement; and
- ii. The Contractor asserts its right to an equitable adjustment within thirty (30) Days after the end of the period of Work stoppage; however, if the State decides the facts justify the action, the State may receive and act upon a proposal submitted at any time before final payment under this Agreement.

C. If a Stop Work Order is not canceled and the Work covered by the Stop Work Order is terminated in accordance with the Termination Other Than For Cause provision or the State’s Obligation Subject to Availability of Funds provision, as set forth under Exhibit B, the State will allow reasonable costs resulting from the Stop Work Order in arriving at the termination settlement.

- D. The State will not be liable to the Contractor for loss of profits because of the Stop Work Order issued under this provision.

17. Safety

The Contractor will maintain the Work site and perform the Work in a manner that meets all legal requirements for the provision of a safe workplace. The Contractor will ensure that all Work is performed in a safe and satisfactory manner, and that all Work conforms to all regulatory and industry standards. Further, the Contractor will comply with safety standards and provisions of applicable laws, building and construction codes, and safety regulations issued by the California Department of Industrial Relations. The Contractor will be liable for damages arising out injury to the State's employees or its property during the installation of the equipment, provided that the injury or damage was caused by the fault or negligence of the Contractor, or by its equipment or tools.

18. Conflict of Interest

- A. The Contractor and employees of the Contractor will not participate in proceedings that involve the use of State funds or that are sponsored by the State if the person's partner, family, or organization has a financial interest in the outcome of the proceedings. The Contractor and employees of the Contractor will also avoid actions resulting in or creating the appearance of (1) use of an official position with the government for private gain; (2) preferential treatment to any particular person associated with this Agreement or the Work of this Agreement; (3) loss of independence or impartiality; (4) a decision made outside official channels; or (5) adverse effects on the confidence of the public in the integrity of the government or this Agreement.

- B. The Contractor certifies and will require any Subcontractor to certify to the following:

Former State employees will not be awarded a contract for two (2) years from the date of separation if that employee had any part of the decision making process relevant to the contract, or for one (1) year from the date of separation if that employee was in a policy making position in the same general subject area as the proposed contract within the twelve (12) month period of his or her separation from state service.

19. Public Contract Code References

References to the Public Contract Code are provided for Contract's convenience only and will not imply that the Public Contract Code applies to the AOC, but rather will be used to define the Contractor's obligations under the particular contract provision in which such code section is referenced.

20. Covenant Against Gratuities

The Contractor warrants by signing this Agreement that no gratuities, in the form of entertainment, gifts, or otherwise, were offered by the Contractor or any agent, director, or representative of the Contractor, to any officer, official, agent, or employee of the State with a view toward securing the Contract or securing favorable treatment with respect to any determinations concerning the performance of the Contract. For breach or violation of this warranty, the State will have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by the State in procuring, on the open market, any items which the Contractor agreed to supply, will be borne and paid for by the Contractor. The rights and remedies of the State provided in this provision will not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.

21. National Labor Relations Board

By executing this Agreement, the Contractor certifies under penalty of perjury under the laws of the State of California that no more than one (1) final, unappealable finding of contempt of court by a federal court has been issued against the Contractor within the immediately preceding two (2) year period because of the Contractor's failure to comply with an order of the National Labor Relations Board.

22. Drug-Free Workplace

The Contractor certifies that it will provide a drug-free workplace as required by California Government Code, Sections 8355 through Section 8357.

23. Nondiscrimination/No Harassment Clause

- A. During the performance of this Agreement, the Contractor and its Subcontractors will not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical or mental disability, medical condition, marital status, age (over 40), sex, or sexual orientation. The Contractor will ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination.
- B. During the performance of this Agreement, the Contractor and its Subcontractors will not engage in unlawful harassment, including sexual harassment, with respect to any persons with whom the Contractor or its Subcontractors interact in

the performance of this Agreement. The Contractor and its Subcontractors will take all reasonable steps to prevent harassment from occurring.

- C. The Contractor will comply with applicable provisions of the Fair Employment and Housing Act, California Government Code, Sections 12990 *et seq.*, and the applicable regulations promulgated under California Code of Regulations, title 2, Sections 7285 *et seq.* The applicable regulations of the Fair Employment and Housing Commission implementing California Government Code, Section 12990, set forth in chapter 5 of division 4 of title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part of it as if set forth in full.
- D. The Contractor and any of its Subcontractors will give written Notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- E. The Contractor will include the nondiscrimination/no harassment and compliance provisions of this clause in any and all subcontracts issued to perform Work under the Agreement.

24. Americans with Disabilities Act

By signing this Agreement, Contractor assures the State that it complies with applicable provisions of the Americans with Disabilities Act (“**ADA**”) of 1990 (42 U.S.C. Sections 012101 *et seq.*), which prohibits discrimination on the basis of disability, as well as with all applicable regulations and guidelines issued pursuant to the ADA.

25. California Law

This Agreement will be subject to and construed in accordance with the laws of the State of California.

26. Severability

If any term or provision of this Agreement is found to be illegal or unenforceable, this Agreement will remain in full force and effect and that term or provision will be deemed stricken.

27. Waiver

The omission by either party at any time to enforce any default or right, or to require performance of any of this Agreement's terms, covenants, or provisions by the other party at the time designated, will not be a waiver of the default or right, nor will it affect the right of the party to enforce those provisions later.

28. Signature Authority

The parties signing this Agreement certify that they have proper authorization to do so.

29. Survival

The termination or expiration of the Agreement will not relieve either party of any obligation or liability accrued hereunder prior to or subsequent to such termination or expiration, nor affect or impair the rights of either party arising under the Agreement prior to or subsequent to such termination or expiration, except as expressly provided herein.

30. Entire Agreement

This Agreement, consisting of all documents as defined herein, constitutes the entire agreement between the parties with respect to the subject matter hereof and will supersede all previous proposals, both oral and written, negotiations, representations, commitments, writing and all other communications between the parties. No waiver, alteration, modification of, or addition to the terms and conditions contained herein will be binding unless expressly agreed in writing by a duly authorized representative of the State.

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

ADMINISTRATIVE RULES GOVERNING REQUESTS FOR PROPOSALS

A. General

1. This solicitation document, the evaluation of proposals, and the award of any contract will conform with current competitive bidding procedures as they relate to the procurement of goods and services. A Service Provider's proposal is an irrevocable offer for 30 days following the deadline for its submission.
2. In addition to explaining the Administrative Office of the Courts' (AOC's) requirements, the solicitation document includes instructions, which prescribe the format and content of proposals.

B. Errors in the solicitation document

1. If a Service Provider submitting a proposal discovers any ambiguity, conflict, discrepancy, omission, or other error in this solicitation document, the Service Provider will immediately provide the AOC with written notice of the problem and request that the solicitation document be clarified or modified. Without disclosing the source of the request, the AOC may modify the solicitation document prior to the date fixed for submission of proposals by issuing an addendum to all Service Providers to whom the solicitation document was sent.
2. If prior to the date fixed for submission of proposals a Service Provider submitting a proposal knows of or should have known of an error in the solicitation document but fails to notify the AOC of the error, the Service Provider will bid at its own risk, and if the Service Provider is awarded the contract, it will not be entitled to additional compensation or time by reason of the error or its later correction.

C. Questions regarding the solicitation document

1. If a Service Provider's question relates to a proprietary aspect of its proposal and the question would expose proprietary information if disclosed to competitors, the Service Provider may submit the question in writing, conspicuously marking it as "CONFIDENTIAL." With the question, the Service Provider must submit a statement explaining why the question is sensitive. If the AOC concurs that the disclosure of the question or answer would expose proprietary information, the question will be answered, and both the question and answer will be kept in confidence. If the AOC does not concur regarding the proprietary nature of the question, the question will not be answered in this manner and the Service Provider will be notified.

2. If a Service Provider submitting a proposal believes that one or more of the solicitation document's requirements is onerous or unfair, or that it unnecessarily precludes less costly or alternative solutions, the Service Provider may submit a written request that the solicitation document be changed. The request must set forth the recommended change and Service Provider's reasons for proposing the change. Any such request must be submitted to Dennis Leung at the AOC.

D. Addenda

1. The AOC may modify the solicitation document prior to the date fixed for submission of proposals by faxing an addendum to the Service Providers to whom the solicitation document was sent. If any Service Provider determines that an addendum unnecessarily restricts its ability to bid, it must notify Dennis Leung at the AOC no later than one day following the receipt of the addendum.

E. Withdrawal and resubmission/modification of proposals

1. A Service Provider may withdraw its proposal at any time prior to the deadline for submitting proposals by notifying the AOC in writing of its withdrawal. The notice must be signed by the Service Provider. The Service Provider may thereafter submit a new or modified proposal, provided that it is received at the AOC no later than the proposal due date and time listed on the cover letter of this RFP. Modifications offered in any other manner, oral or written, will not be considered. Proposals cannot be changed or withdrawn after the proposal due date and time listed on the cover letter of this RFP.

F. Evaluation process

1. An evaluation team will review in detail all proposals that are received to determine the extent to which they comply with solicitation document requirements.
2. If a proposal fails to meet a material solicitation document requirement, the proposal may be rejected. A deviation is material to the extent that a response is not in substantial accord with solicitation document requirements. Material deviations cannot be waived. Immaterial deviations may cause a bid to be rejected.
3. Proposals that contain false or misleading statements may be rejected if in the AOC's opinion the information was intended to mislead the state regarding a requirement of the solicitation document.
4. Cost sheets will be checked only if a proposal is determined to be otherwise qualified. All figures entered on the cost sheets must be clearly legible.

5. During the evaluation process, the AOC may require a Service Provider's representative to answer questions with regard to the Service Provider's proposal. Failure of a Service Provider to demonstrate that the claims made in its proposal are in fact true may be sufficient cause for deeming a proposal nonresponsive.

G. Rejection of bids

1. The AOC may reject any or all proposals and may or may not waive an immaterial deviation or defect in a bid. The AOC's waiver of an immaterial deviation or defect will in no way modify the solicitation document or excuse a Service Provider from full compliance with solicitation document specifications. The AOC reserves the right to accept or reject any or all of the items in the proposal, to award the contract in whole or in part and/or negotiate any or all items with individual Service Providers if it is deemed in the AOC's best interest. Moreover, the AOC reserves the right to make no selection if proposals are deemed to be outside the fiscal constraint or against the best interest of the State of California.

H. Award of contract

1. Award of contract, if made, will be in accordance with the solicitation document to a responsible Service Provider submitting a proposal compliant with all the requirements of the solicitation document and any addenda thereto, except for such immaterial defects as may be waived by the AOC.
2. The AOC reserves the right to determine the suitability of proposals for contracts on the basis of a proposal's meeting administrative requirements, technical requirements, its assessment of the quality of service and performance of items proposed, and cost.

I. Decision

1. Questions regarding the AOC's award of any business on the basis of proposals submitted in response to this solicitation document, or on any related matter, should be addressed to Nadine McFadden (see address in Section K), who will forward the questions to a Contracting Officer.

J. Execution of contracts

1. The AOC will make a reasonable effort to execute any contract based on this solicitation document within 30 days of selecting a proposal that best meets its requirements. However, exceptions taken by a Service Provider may delay execution of a contract

2. A Service Provider submitting a proposal must be prepared to use a standard state contract form rather than its own contract form.

K. Protest procedure

1. The AOC intends to be completely open and fair to all Service Providers in selecting the best possible system within budgetary and other constraints described in the solicitation document. In applying evaluation criteria and making the selection, members of the evaluation team will exercise their best judgment.
2. A Service Provider submitting a proposal may protest the award if it meets all the following conditions:
 - a. the Service Provider has submitted a proposal, which it believes to be responsive to the solicitation document;
 - b. the Service Provider believes that its proposal meets the AOC's administrative requirements and technical requirements, proposes items of proven quality and performance, and offers a competitive cost to the State of California; and
 - c. the Service Provider believes that the AOC has incorrectly selected another Service Provider submitting a proposal for an award.
3. A Service Provider submitting a proposal who is qualified to protest should contact Nadine McFadden at the AOC at the address given below who will forward the protest to a Contracting Officer.

Nadine McFadden
Administrative Office of the Courts
455 Golden Gate Avenue, 7th Floor
San Francisco, CA 94102-3660
415-865-4253

4. If the Contracting Officer is unable to resolve the protest to the Service Provider's satisfaction, the Service Provider should file a written protest within five working days of the contract award notification. The written protest must state the facts surrounding the issue and the reasons the Service Provider believes the award to be invalid. The protest must be sent by certified or registered mail or delivered personally to:

Grant Walker
Business Services Manager
Administrative Office of the Courts
455 Golden Gate Avenue, 7th Floor
San Francisco, CA 94102-3660

A receipt should be requested for hand-delivered material.

L. News releases

1. News releases pertaining to the award of a contract may not be made without prior written approval of the Business Services Manager of the AOC.

M. Disposition of materials

1. All materials submitted in response to this solicitation document will become the property of the State of California and will be returned only at the AOC's option and at the expense of the Service Provider submitting the proposal. One copy of a submitted proposal will be retained for official files and become a public record. Any material that a Service Provider considers as confidential but does not meet the disclosure exemption requirements of the California Public Records Act should not be included in the Service Provider's proposal as it may be made available to the public.

N. Payment

1. Payment terms will be specified in any agreement that may ensue as a result of this solicitation document.
2. **THE STATE DOES NOT MAKE ANY ADVANCE PAYMENT FOR SERVICES.** Payment is normally made based upon completion of tasks as provide in the agreement between the AOC and the selected Service Provider. The AOC may withhold ten percent of each invoice until receipt and acceptance of the final product. The amount of the withhold may depend upon the length of the project and the payment schedule provide in the agreement between the AOC and the selected Service Provider.