



Plumas, New Portola Courthouse



San Ana Court of Appeals

Revision 1 (03-10-10) to: Administrative Office of the Courts, Office of Court Construction and Management

Request for Owner Controlled Insurance Brokerage and Program Administration Qualifications

The Administrative Office of the Courts, Office of Court Construction and Management seeks to contract with an insurance brokerage firm qualified to provide services in all phases of the development, implementation and administration of an owner controlled insurance program for the construction of new courthouses for the Superior Courts of California.



**ADMINISTRATIVE OFFICE
OF THE COURTS**

OFFICE OF COURT CONSTRUCTION
AND MANAGEMENT



Judicial Council of California
ADMINISTRATIVE OFFICE OF THE COURTS

455 Golden Gate Avenue • San Francisco, California 94102-3688
Telephone 415-865-4200 • Fax 415-865-4205 • TDD 415-865-4272

REQUEST FOR QUALIFICATIONS

Date

February 24, 2010

Action Requested

You are invited to review and respond with a Proposal ("Proposal")

To

Qualified Insurance Brokerage Firms

Project Title:

RFP number: OCCM-2009-08-JMG

From

Administrative Office of the Courts,
Office of Court Construction and Management

Deadline

See Most Current Posted RFP Schedule

Subject

Request for Proposals for Owner Controlled
Insurance Program Development, Implementation
and Administration

Send Statements of Qualifications to:

Judicial Council of California
Administrative Office of the Courts
Attn: Ms. Nadine McFadden
455 Golden Gate Avenue, 7th Floor
San Francisco, CA 94102

*(Indicate RFP Number and Project Name on
lower left corner of envelope)*

Contact

OCCM_Solicitations@jud.ca.gov

1.0 BACKGROUND INFORMATION

The Judicial Council of California (Council), chaired by the Chief Justice of California, is the primary policy making body 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, and risk management of facilities for the Superior and Appellate Courts of California.

The mission of OCCM is to construct and maintain buildings that reflect the highest standards of excellence.

The Trial Court Facilities Act of 2002 (SB 1732, Escutia) as amended, among other requirements shifts the governance of California's Superior Court buildings from the counties to the state, commenced on July 1, 2004 and completed on December 31, 2009. Under SB1732, the Judicial Council has authority to "recommend to the Governor and the Legislature the projects [that] shall be funded from the State Court Facilities Construction Fund." In support of this responsibility the Council and OCCM have developed a Trial Courts Five-year Capital Outlay Plan. The Trial Courts Five-year Capital Outlay Plan, which has been approved by the Judicial Council, can be reviewed at:

<http://www.courtinfo.ca.gov/programs/occm/5year.htm>

The provisions of SB 1732 provide \$1.2 billion in funds for the construction of new courthouses for the Superior Courts of California. Included in this amount are new courthouse construction projects, as more fully described in Attachment D. Throughout the remainder of this document these projects shall be referred to as the "SB 1732 Projects".

In addition to the capital outlay projects funded under the provisions of SB1732; the provisions of Senate Bill 1407 (Perata), which was signed into law in October 2008, funds and finances up to \$5 billion in additional trial court construction throughout California. The Judicial Council has subsequently adopted a list of 41 trial court capital projects to be funded by the SB1407, which will be constructed in as many as 31 California cities as indicated in Attachment E.

2.0 PURPOSE OF THIS RFP

OCCM seeks to contract with an insurance brokerage firm, led by an experienced account manager **based in California** (the broker), with expertise in all phases of developing, implementing and administering an owner controlled insurance program (OCIP).

This RFP establishes the means for prospective brokers to submit their qualifications to administer an OCIP for the projects described in Attachment D and Attachment E for the services described in this document. The RFP and its Attachments and Exhibits will be posted at:

<http://www.courtinfo.ca.gov/reference//>.

Once the best qualified broker has been selected work will begin to negotiate a contract consistent with the terms of Attachment C, Sample Contract to provide the desired services set forth in section 3.0 Scope of Services for each of the projects indicated in Attachment D and Attachment E. Should the AOC be unable to agree with the most qualified prospective broker on contract terms within thirty (30) days after the AOC has offered a contract to the selected broker, the AOC reserves the right to begin contract negotiations with the next most qualified prospective broker.

3.0 SCOPE OF SERVICES

As used in this RFP an OCIP (program) involves the consolidated procurement of the policies of insurance necessary to insure the interests of the AOC and its contractors that have contracted for the construction of the construction projects listed in Attachment D and Attachment E.

The scope of services described in this RFP and its Attachment C, Sample Contract and Exhibit D, Work to Be Performed may include some or all of the following services (Services):

- 3.1 **Develop conceptual OCIP design:** The broker will participate in and/or perform detailed, and continuous, program design to include:
- Recommend each line of insurance coverage to be provided within the program
 - Forecast costs expressed as a percent of construction costs for each line of insurance coverage under consideration for inclusion within the program
 - Recommend levels of retained risk to be considered by the OCCM
 - Recommend means to fund the security requirements associated with deductibles or self-insured limits included within program design
 - Develop contract terms and conditions to be included in the contracts of architects and engineers, construction managers, and subcontractors of every tier
 - Prepare a comprehensive risk register for each project to include best methods to improve risk allocation through focused contract language and insurance policy terms and conditions
- 3.2 **Develop OCIP Implementation Plan:** The broker will prepare in consultation with AOC staff, a detailed program implementation plan to include:
- Develop specifications for terms and conditions of each line of insurance to be included in the program
 - Develop program manuals to be provided to contractors enrolled in the program
 - Develop communications to architects and engineers, construction managers and subcontractors as necessary to implement the program
 - Survey potential insurance underwriters to determine market receptivity to the program as designed
 - Prepare a final report concerning the feasibility, cost and administrative requirements of the program.
- 3.3 **OCIP Implementation:** Should the AOC decide to implement the program the broker will provide all of the services necessary to implement the program to include:

- Prepare final underwriting submissions and market insurance coverage for each line of insurance selected for inclusion in the program
- Obtain competitive proposals from qualified insurers
- Evaluate and make recommendations to the AOC on the best insurer(s) for each line of insurance coverage
- Upon direction from the AOC bind insurance coverage
- Finalize program manuals, communicate with architects and engineers, construction managers, and subcontractors as necessary to implement the program
- Attend pre-bid meetings to explain the requirements of the program to any potential responder to bids for construction services
- Assist contractors to enroll in the program and to understand the need to inform the contractor's existing insurer(s) of its enrollment in the program, and to be available to answer the contractor's questions and concerns in a timely manner.

3.4 **Program Administration:** The broker will provide ongoing OCIP administration to include:

- Receive and review all master insurance policies, and provide the AOC with comments concerning areas of concern, possible improvement, and alternative terms and conditions when the policies are forwarded to the AOC
- Provide insurance verification and copies of insurance policies to all enrolled contractors. Provide any additional information required by an enrolled contractor to ensure compliance with the program and to avoid any gaps in coverage
- Collect necessary payroll data and other information necessary to issue insurance invoices in a timely manner (monthly or quarterly)
- Schedule, plan, and maintain records for monthly program progress meetings, including minutes and an action item register, both to be published within 7 days following each scheduled meeting
- Maintain a program management information system that includes each of the following metrics:
 - web based functionality
 - insurance program coverage specifications and limits of liability
 - insurance policy register, including premium basis, and minimum premium requirements, if any
 - an estimate by project, by contractor, of insurance costs and expected deductions
 - exposure based reporting, e.g. review of costs associated with enrolled contractors by trade

- project specific and total program financial reporting
- register of certificates of insurance by project and total program
- program statistics by project, and by total program, for each project, contractor, subcontractor, change order etc.

3.5 Risk Control and Claims Services: The broker will provide, in coordination with the AOC, safety and claims management services to include:

- Participate in preliminary project hazard analysis to identify construction and operational hazards to be mitigated in the design and construction process for areas such as:
 - Site safety and security
 - Crane management
 - Fall protection
 - Mechanical exposures
 - Industrial hygiene exposures
 - Fire exposures
 - Environmental exposures
- Assign appropriate full time equivalent loss control staff to the project to work with the construction manager and enrolled contractors to ensure site safety and security
- Work with the construction manager and enrolled contractors to identify and cooperate with the designated safety representative for each contractor at each project
- Conduct routine project site safety inspections and incident investigations, and provide a report of findings within 7 days of the completed inspection or investigation
- Maintain a register of site safety violations, concerns and corrections, and provide a post project lessons learned report
- Assist in claims investigations, claims administration, litigation management, reserve analysis, and loss mitigation programs e.g. onsite medical clinics, medical bill reviews, and claim reserve analysis.

4.0 COMPENSATION

4.1 The AOC seeks Proposals from brokers that will provide the required Services in consideration for a fee based on a percentage of the OCIP insurance costs. The AOC recognizes that certain costs must be incurred by the broker in establishing the programs and processes necessary to deliver the Services that are not necessarily reoccurring costs as the program moves from a start up phase to maturity. Therefore, the AOC seeks to receive Proposals that recognize this reality. The projects identified in Attachment E and Attachment F are provided for the purpose for developing a fee proposal but may not represent the final schedule or cost of the projects ultimately completed.

A fee is to be quoted, as a percent of total OCIP insurance premiums for the work necessary to deliver the Services listed in Attachment D and Attachment E. The projects identified in Attachment D are to be considered the SB1732 Projects, and the projects listed in Attachment E are to be considered in 3 phases; SB1407 Phase 1, SB1407 Phase 2, and SB1407 Phase 3.

It is not certain as to which order these projects will ultimately be constructed, therefore the proposed fee must be separated by project groups and phases, as follows:

- For projects listed in Attachment D, SB 1732 Projects quote a fee based on percent of OCIP project insurance costs.
- For projects listed in Attachment E, SB 1407 projects quote a fee based on percent of OCIP project insurance costs for Phase 1 projects
- For projects listed in Attachment E, SB 1407 Projects quote a fee based on percent of OCIP project insurance costs for Phase 2 projects
- For projects listed in Attachment E, SB 1407 Projects quote a fee based on percent of OCIP project insurance costs for Phase 3 projects

In addition to the four phases of construction indicated above, there will also be major renovations projects undertaken by the AOC. These projects may be included in the program. If included the projects will be assigned to one of the four phases of construction indicated above at the sole discretion of the AOC, and any compensation paid to the broker would be payable at the percentage of OCIP insurance premium associated with the phase to which the renovation project is assigned.

- 4.2 There will be no additional fee payable to the broker for the run off of the program following completion of all construction work in progress. Fees earned during the course of construction on projects listed in Attachment D and Attachment E shall be the sole compensation paid to the broker. Any compensation due as a result of final audit premium statements, will be paid at the percent associated with SB1732 projects, or at the percent associated with SB1407 projects, which ever are applicable to the audit premium due.
- 4.3 As part of the insurance brokerage services required it may be necessary that from time to time the broker will receive commissions from insurance companies as part of the completion of the Services. The broker must disclose in writing to the AOC all fees and commissions the broker may receive from insurance and/or reinsurance companies related to insurance required for the successful operation of the OCIP. The broker will make such disclosure at the time the AOC authorizes in writing that the insurance can be bound. Any commission or fees received by the broker shall be credited by the broker against the fee payable by the AOC.

- 4.4 In the event that the fees or commissions are due as part of a transaction where insurance is purchased using the services of an excess and surplus lines insurance broker, or a managing general agent, then an amount of not less than 50% of the commission paid to the excess and surplus lines insurance broker or the managing general agent shall be credited by the broker against the fee payable by the AOC.
- 4.5 It is understood by the AOC that the broker may be affiliated as part of the same parent company, or by other arrangement, with a reinsurance broker. Should such reinsurance brokerage be used to place reinsurance in support of an insurer providing insurance necessary for the successful completion of the OCIP, any compensation paid by a reinsurer to the reinsurance broker shall not be required to be credited by the broker against the fee payable by the AOC, but shall be disclosed to the AOC.
- 4.6 For transactions where insurance is placed as part of the OCIP the broker shall provide to the AOC the original quotation statement, signed by a representative of the insurance company, that provides the quotation, including the total commissions paid, if any, to the broker, to any excess and surplus lines insurance broker, or to any managing general agent.
- 4.7 The fee quoted by a prospective broker shall be inclusive of all costs, benefits, and any expenses (including travel and living expenses), fees, and overhead incurred by the broker in the provision of the Services provided to the AOC under this Agreement.
- 4.8 In preparing its fee quotation each prospective broker should be mindful that no member of the AOC may accept gifts, gratuities, or any other type of client-related benefits related to the provision of the Services, therefore allowances for client-related maintenance costs should be factored on a minimal basis.
- 4.9 The following provides a definition of Project Insurance Costs, and clarifies the basis to be used for pricing the compensation requested in your proposal:
- 1) The minimum and deposit premium paid to insurers providing insurance for the OCIP, **plus**
 - 2) The earned premiums in addition to the minimum and deposit premiums paid to insurers providing insurance for the OCIP, **plus**
 - 3) The premiums paid to insurers to maintain claim payment accounts at predetermined levels, **plus**
 - 4) Any audit premiums paid to insurers providing insurance for the OCIP.

- 5) Fees will not be paid on amounts that the AOC must place into an designated account as security for deductibles or self-insured retentions.

4.10 In addition, the AOC is providing the following guidance to be used by each broker in developing its fee proposal. All percentages are to be applied to the “Construction Cost” indicated in Attachment D and Attachment E to the RFP, regardless of the actual basis for premium development by insurers providing insurance for the OCIP.

Coverage	Benchmark % of Construction Cost
Workers Compensation	1.50%
General Liability	0.25%
Pollution Liability	0.10%
Builders Risk	0.10%
Builders Risk Earthquake	0.25%
Total	2.20%

5.0 SPECIFICS OF A RESPONSIVE PROPOSAL

- 5.1 Each broker’s Proposal developed in response to this RFP should clearly and accurately demonstrate specialized knowledge and experience required for consideration. To be considered the broker must submit six (6) copies in paper form of the Proposal, which consists of a Cover Letter and a detailed response to Attachment B. Proposal shall be prepared in a bound 8.5” x 11” booklet format, preferably using tabs to divide sections of Attachment B. In addition to the Proposal, please submit one compact disk containing the complete Proposal in the form of a single PDF file. Please do not enclose any materials that are not present on the PDF file.
- 5.2 The cover letter must be signed by an authorized representative of the prospective broker and shall include the name, address, telephone, fax number, e-mail address, and federal tax identification number of the proposing broker (one page maximum).
- 5.3 Completion of the RFP Response Questions and Format (Response) provided as Attachment B:
 - 5.3.1 The response must address items included in Attachment B in a manner that is easy to follow and fully responsive

5.3.2 The response should not include information or attachments that are not responsive to the RFP.

5.4 A responsive Proposal should provide straightforward, concise information that satisfies the requirements of Attachment B. Expensive bindings, color displays, and the like are not necessary. Emphasis should be placed on brevity, conformity to instructions, requirements of this RFP, as well as the completeness and clarity of content.

6.0 SELECTION PROCESS

6.1 Following publication of the RFP, per the schedule in section 13.0 of this RFP, a teleconference will be held to review the RFP, after which questions may be submitted, and responses will be published. A second teleconference to review questions and responses may be held if needed.

6.2 As otherwise described, an evaluation panel of AOC staff and possibly other individuals selected by the OCCM, will review each Proposal. The submissions will be ranked according to the criteria listed in section 8.0 Evaluation of Proposals.

6.3 As part of the evaluation process OCCM staff may contact previous clients and owners listed in the Proposal to verify the experience and performance of the prospective Broker, their key personnel, and their key sub-contractors, as appropriate.

6.4 The evaluation panel may chose to schedule oral interviews with some or all of the firms submitting Proposals. The AOC will notify the prospective brokers that have been scheduled for oral interviews and the time and place of the interviews. Only the prospective broker's principal, project manager, key staff, and sub-contractors that are indicated in the Proposal should plan to participate in the interview.

6.5 Once the interviews, if any, have been completed the evaluation panel will rank the Proposals according to the criteria listed in this RFP and the selected firm will be informed by the AOC, and negotiation of the contract terms will commence.

6.6 If a satisfactory contractual agreement for services cannot be reached between the AOC and the first selected broker within 30 calendar days of notification of selection, the AOC reserves the right to remove the broker from its qualified list and contract with another qualified broker, according to the results of the ranking of firms.

- 6.7 A broker selected for the project assignment under this RFP will not be precluded from consideration nor given special status in any succeeding RFP's for insurance brokerage services issued by the AOC.
- 6.8 For each of the subject projects listed in Attachment D and Attachment E it is the intention of the AOC to contract with the selected firm to administer the OCIP for all projects listed. However, the AOC cannot guarantee the amount or duration of the work, nor which projects will be ultimately constructed. Project descriptions are subject to change at the sole discretion of AOC. The broker selected by the AOC for the projects listed in Attachment D and Attachment E will be retained for all projects listed, subject to the successful performance of services, appropriation of funds by the California Legislature, and pursuant to the AOC Standard Agreement for OCIP insurance brokerage and consulting services.

7.0 RIGHTS

- 7.1 The AOC reserves the right to reject any and all Proposals, in whole or in part, as well as the right to issue similar RFP's 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 associated Proposal. One copy of a submitted Proposal will be retained for official files.
- 7.2 The AOC reserves the right to request a substitution for any one or more of the broker's sub-contractors proposed for consideration. Upon selection of the broker, the AOC reserves the right to approve the selection of other brokers and/or sub-contractors.

8.0 EVALUATION OF PROPOSALS

The AOC evaluation panel will evaluate Proposals using the following criteria, each to be weighted as indicated:

POINTS	SELECTION CRITERIA
20	<p><u>OCIP Program Design Experience:</u></p> <ul style="list-style-type: none"> • Experience of the proposed team and its key individuals in the development of high quality OCIP insurance program for construction of court buildings or other similar program intensive public/institutional buildings during the past five years (10 pts); • Recent experience of proposed team and its key individuals in the completion of an OCIP for public/institutional projects of similar size, complexity, and construction cost to the projects described in Attachment D and Attachment E (10 pts);

30

Technical Expertise in Program Implementation and Administration:

- Prospective broker's record of developing insurance programs that support a public agency's realities in providing the OCIP including the need for financially secure insurers, flexible positions on financial security requirements, appropriate credits for retained loss, and ability to support a long term program. (15 points)
- Prospective brokers record of developing programs and systems for implementing and administering an OCIP insurance program for construction of court or other similar program intensive public/institutional buildings during the past five years (emphasis will be placed on completed or in-process programs where new projects at new locations are continually being added to the OCIP, e.g. "a rolling OCIP"). (15points);

10

Specialized Expertise:

- Demonstrated experience and expertise of the proposed team with developing and implementing project loss control plans that supplement those provided by contractors. (5 points)
- Demonstrated experience and expertise in developing claims administration and reserve analysis programs that work to ensure the success of an OCIP. (5 points)

20

Designated Project Team and Account Management:

- Demonstrated ability and authority of the designated Account Manager to provide internal control of the broker's project team in order to provide the AOC with a single point of contact concerning program management with specific emphasis on the Account Manager's ability to deliver the required services within time schedules (10 points);
- Ability of the broker to provide staff and resources necessary to develop and manage separate construction projects located in the geographical areas noted in Attachment D and Attachment E (10 pts).

20

Fee

- The amount of the fee proposed by the prospective broker.

9.0 ADDITIONAL REQUIREMENTS

- 9.1 Submittals should be sent by registered mail, certified mail or by hand delivery. Incomplete submittals and/or submittals received after the deadline will be rejected without review.

- 9.2 Registered prospective brokers may submit questions to the AOC via e-mail to OCCM_Solicitations@jud.ca.gov no later than 4 p.m. on Monday, March 8, 2010. The AOC will post clarifications and addenda to this RFP on the website for this solicitation.
- 9.3 After evaluations of the Proposals, a short-list of the top ranked brokers will be posted on the AOC website, and the individual firms will be notified of the selections, and the forthcoming interview schedules, if any. The AOC reserves the right to select the most qualified broker without further notice to all prospective brokers and without interviews of any the prospective brokers.
- 9.4 Contact to the AOC shall be made only through the email address noted above in 9.2; telephone calls will not be accepted.

10.0 PROPOSED CONTRACT TERMS AND ADMINISTRATIVE RULES

Contracts with the successful broker will be signed by the parties on an AOC Standard Agreement form and will include terms appropriate for the project. A typical AOC Standard Agreement for insurance brokerage services is published with this RFP as Attachment C, Sample Contract.

The AOC reserves the right to modify or update the Standard Agreement in the interest of the AOC, in whole or in part, at any time up to the negotiation of a specific contract for this solicitation. By submitting a proposal for this RFP, the prospective broker and their key sub-contractors acknowledge that a) the project team will provide the professional services required in the contract and b) it has no objection to the Standard Agreement.

If any of the terms and conditions of the Standard Contract are not acceptable to a prospective broker the broker must explicitly indicate its concerns as part of its response to the RFP. The AOC may, if in its best interest, modify its Standard Agreement to address the concerns indicated by prospective brokers. However, the AOC makes no representation that it will modify its Standard Agreement in any way to accommodate the concerns expressed by prospective brokers.

Incorporated in this RFP, and attached as Attachment A, is a document entitled “Administrative Rules Governing Statements of Qualifications.” Prospective brokers shall follow these rules in preparation and submittal of their Proposals.

11.0 CONFIDENTIAL OR PROPRIETARY INFORMATION

The AOC policy is to follow the intent of the California Public Records Act (PRA). If a prospective broker’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 prospective broker 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.

12.0 DISABLED VETERAN BUSINESS ENTERPRISE PARTICIPATION GOALS

The State of California requires contract participation goals of a minimum of three percent (3%) for disabled veteran business enterprises (DVBE's). The AOC is subject to this participation goal. Upon selection of a broker for the project assignment under this RFP, the AOC will require that the selected broker demonstrate DVBE compliance and complete a DVBE Compliance Form. If it would be impossible for the selected broker to comply, explanation of why and demonstration of written evidence of a “good faith effort” to achieve participation would be required. Information about DVBE resources can be found on the Executive Branch’s internal website at <http://www.dgs.ca.gov/default.htm>. or by calling the Office of Small Business and DVBE Certification at 916-375-4940.

13.0 Schedule

See the website publishing of this RFP for the Schedule and all updates.

ATTACHMENT A

JUDICIAL COUNCIL OF CALIFORNIA ADMINISTRATIVE OFFICE OF THE COURTS

ADMINISTRATIVE RULES GOVERNING REQUESTS FOR PROPOSALS

A. General

1. This solicitation (the “RFP”) (including, without limitation, any modification made thereto in the course of the solicitation), the evaluation of materials to be submitted in response to this solicitation (the “Proposal(s)”), the award of any contract, and any issues to be raised with regards to this solicitation or to these Administrative Rules Governing Requests for Proposals themselves (the “Administrative Rules”) shall be governed by these Administrative Rules. By the act of submission of a Proposal, prospective brokers agree to be bound by these Administrative Rules. If a prospective broker has objections to the Administrative Rules, they must be dealt with in accordance with the provisions of Section B.
2. In addition to explaining the Administrative Office of the Courts’ (AOC’s) requirements and needs for goods and/or services, the RFP includes instructions which prescribe the format, content, and the date and time due of Proposals that are being solicited. brokers must adhere to all instructions provided in the RFP when submitting Proposals.

B. Errors in the RFP or Administrative Rules

1. If a prospective broker who desires to submit a Proposal discovers any ambiguity, conflict, discrepancy, omission, or other error in the RFP; is of the opinion that the structure of the RFP does not provide a correct or optimal methodology for the solicitation of the goods and/or services sought; believes that one or more of the RFP’s requirements is onerous or unfair; believes that the RFP unnecessarily precludes less costly or alternative solutions; or has objections to these Administrative Rules, the prospective broker must, at least 2 full AOC business days before the due date of the Proposals, provide the AOC with written notice of the same. The written notice shall be accompanied by a written explanation of why the prospective broker is of the opinion that the RFP or the Administrative Rules should be changed, as well as a written description of the modification sought. Said written notice must be in the form of an e-mail submitted to the e-mail address established for the submission of questions in the RFP. Failure to provide the AOC with such written notice as specified above on or before the time specified above forfeits the prospective broker’s right to raise such issues later in the solicitation process.
2. Without disclosing the source of the request, the AOC will evaluate the request and will, prior to the date established for submission of the Proposals; at its sole discretion determine if it chooses to modify the RFP. Any modification is made it will be published by the AOC to the AOC’s website advertising the solicitation.

3. If a prospective broker submitting a Proposal knows of (or if it can be reasonably demonstrated should have known of) an error in the RFP but fails to notify the AOC of the error as prescribed above, the prospective broker is submitting a Proposal at its own risk, and, if awarded the work, shall not be entitled to additional compensation or time for performance by reason of such error later identified, or by reason of its later correction by the AOC.

C. Questions and Confidentiality

1. Prospective brokers are entitled to ask questions about the RFP and the nature of the goods and/or services being solicited in accordance with the procedure for the submission of such questions specified in the RFP. Except as otherwise specified below, the AOC's responses to questions submitted shall be published to the public website for the procurement.
2. Any material that a prospective broker considers to be confidential but that does not meet the disclosure exemption requirements of the California Public Records Act may in fact be made available to the public as a public record, and prospective brokers are hereby advised not to include such information in their Proposals.
3. If a prospective broker's question or a reasonably expected AOC response would reveal information that the prospective broker considers to be proprietary, the prospective broker should submit the question in writing, conspicuously marking it as "CONFIDENTIAL". Accompanying the question, the prospective broker must submit a written statement explaining how the publishing of said question or the reasonably expected AOC response would damage the prospective broker. If the AOC concurs that the disclosure of the question or the AOC's response would expose proprietary information, the question will be answered, but only to that prospective broker, and both the question and answer will otherwise be kept in confidence. If the AOC does not agree that such information or its response would reveal information of a proprietary nature, the question will not be answered and the prospective broker will be notified.

D. Addenda

1. In response to questions raised, or at its sole discretion, the AOC may modify the RFP website posting or any of any document(s) provided therein at any time prior to the date and time fixed for submission of Proposals. Such modification shall be made via a posting of such change(s) to the AOC's website.

E. Withdrawal and Resubmission of Proposals

1. A prospective broker may withdraw its Proposal, but only in its entirety, at any time prior to the deadline for submitting Proposals by notifying the AOC in writing of its withdrawal. Any such notice of withdrawal must bear the signature of an individual and assert that that individual has the requisite authority from their organization to make such a withdrawal. Withdrawals must be made in writing, and must be submitted as a PDF document by e-mail to the e-mail address established for the submission of questions in the RFP document.

2. A prospective broker who has withdrawn a Proposal may thereafter submit a new Proposal, provided that it is received at the AOC no later than the Proposal due date and time specified in the RFP.
3. Withdrawals made in any other manner, regardless of whether oral or written, will not be considered, and, if received, will not be accepted as valid.
4. Proposals cannot be withdrawn after the Proposal due date and time specified in the RFP.

F. Evaluation Process

1. In accordance with the provisions of the RFP, an evaluation will be made of all Proposals rightfully received, to determine if they are complete with regard to the materials required for submission by the RFP and to determine if they otherwise comply with the requirements established in the RFP.
2. If a Proposal submitted is incomplete with regards to the materials required for submission or fails to meet any other material requirement of the RFP, the Proposal will be rejected. A requirement will be judged to be material to the extent that it is not responsive to or is not in substantial accord with requirements of the RFP. Material deviations cannot be waived.
3. The AOC, at its sole discretion shall have the right to waive immaterial deviations of Proposals with regards to the materials submitted as well as other immaterial deviations from the requirements of the RFP.
4. The AOC's waiver of an immaterial deviation for one prospective broker shall in no way act to excuse that prospective broker from material compliance with any other RFP requirement. The AOC's waiver of an immaterial deviation for one prospective broker shall in no way act to excuse other prospective broker(s) from material compliance with that same requirement.
5. Proposals that make false or misleading statements or contain false or misleading information may be rejected, if, in the AOC's sole opinion, the AOC concludes that said statements and/or information were intended to mislead the AOC.
6. During the evaluation of the Proposal's, the AOC has the right to require a prospective broker's representatives to answer questions with regard to the Proposal submitted. Failure of a prospective broker to demonstrate that the claims made in its Proposal are in fact true may be sufficient cause for deeming a Proposal to be materially in non-compliance with the requirements of the RFP.

G. Proposals: Rejection, Negotiation, Selection Rights

1. In accordance with the provisions of the RFP, the AOC may reject any or all Proposals.

2. The AOC reserves the right to negotiate the content of the Proposal proposed with individual prospective brokers if it is deemed in the AOC's best interest.
3. The AOC reserves the right to make no selection if Proposals are deemed to be outside the fiscal constraints of, 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 provisions of the RFP except to the degree that any immaterial deviation(s) have been waived by the AOC.
2. The actual execution of contracts is subject to availability of the funds necessary to pay for the good and services by the State of California through its budgeting and appropriations methods. The AOC makes no guarantee of funding through its solicitation for goods and/or services via an RFP.

I. Execution of contracts

1. The AOC will make a reasonable effort to execute a contract for the goods and/or services solicited in the RFP within the time specified in the RFP, or, if no time has been specified in the RFP, thirty (30) calendar days following the date of publication of award. Exceptions to the contract documents posted with the RFP that are raised by a prospective broker may delay the execution of contracts. If the negotiation of exceptions raised results in a delay of the planned time of execution past the time period allowed for as specified above (unless otherwise extended in writing by the AOC), the AOC, at its sole discretion, shall have the right disqualify the award made.
2. By submitting a Proposal, a prospective broker consents to the use of the form of contract posted with the RFP rather than its own contract form. Questions about and major exceptions to the contract form should be submitted as questions in accordance with the provisions for the raising and answering of questions as given in the RFP, and not following notification of an award. The AOC will make reasonable attempts to answer such questions, however, the contract will not be negotiated until after the award is made, and prospective vendors shall not construe the AOC's responses to questions as the AOC's final position on a question raised, nor rely on the AOC's answers as a guarantee of a later successful negotiation of terms.

J. Protest procedure

1. All protests are subject to, and shall follow, the process provided below.
2. Failure of a prospective broker to comply with any of the requirements of the protest procedures set forth in this Section J will render a protest inadequate and will result in rejection of the protest by the AOC. Such failure and subsequent rejection shall act to further forfeit the right of the prospective broker to continue the protest, and is not appealable under this protest procedure.

3. A protest may only be based upon allegedly restrictive requirement in the RFP or upon alleged improprieties in regard to the AOC's execution of its responsibilities with regard to receipt and evaluation of the Proposals, or grant of award(s) but only as such responsibilities are specified in the RFP document.

A. Protests Based On Allegedly Restrictive Requirements:

Protests alleging restrictive requirements in the RFP must be submitted and will be subject exclusively to the provisions of Section B of these Administrative Rules. Any protest alleging restrictive requirements in the RFP raised later than as specified in Section C will not be considered a valid protest, will be rejected by the AOC, and the prospective broker shall have no further recourse under this procedure, including no further right of appeal.

B. Protests Based on Alleged Improprieties in Regard to the AOC's Execution of its Responsibilities:

A prospective broker who has actually submitted a Proposal may protest the AOC's rejection of its RFP for failure to comply with the requirements of the RFP, or upon the basis of an allegation of improprieties with regard to the AOC's responsibility to fairly and impartially evaluate the RFPs and make awards, but only insofar as such responsibilities are specified in the RFP document. In order to be accepted as valid, such protests must meet at least one of the following conditions and must be submitted in writing with the required documentation specified below:

- i. If a Proposal is rejected because of an alleged failure to provide the Proposal to the AOC on or before the date and time due, and/or to the place required, and/or to otherwise properly provide the Proposal with regard to any other requirement necessary to make a correct submission as specified by the RFP, the prospective broker may file a protest. Said protest must provide verifiable documentation that it has submitted a Proposal in compliance with all the RFP's directives regarding timeliness, place of delivery and/or other required aspects necessary to make a submission. Such protests must be filed within (5) full AOC business days following the date of dispatch of the notice of rejection.
- ii. If a Proposal is rejected because the Proposal submitted is incomplete with regards to the materials required to make a submission, or fails to meet any other material requirement of the RFP, the prospective broker may file a protest. Said protest must provide a written explanation which alleges to reasonably demonstrate that the Proposal submitted was in fact complete and/or is in fact in compliance with the RFP requirement(s) in question. Such protests must be filed within (5) full AOC business days following the date of dispatch of the notice of rejection.
- iii. If a Proposal fails to win an award and the prospective broker alleges that said failure was due to a failure of the AOC to fairly and impartially execute its responsibilities with regard to evaluation and award of the work as such responsibilities were specified in the RFP, the prospective broker may file a protest. Said protest must provide a written explanation

which alleges to reasonably demonstrate in what manner the AOC has failed to fairly and impartially execute said responsibilities. Such protests must be filed within (5) full AOC business days following the date of posting of award notices to the AOC website for the RFP.

In order to be considered valid, all such protests to be submitted:

1. Must be submitted by e-mail to the e-mail address established for the submission of questions in the RFP document. PDF documents may accompany the e-mail as further detailed below.
2. Must include the name, address, telephone and facsimile numbers, and email address of the party protesting or their representative.
3. Must provide the title of the solicitation document under which the protest is submitted.
4. Must provide a detailed description of the specific legal and/or factual grounds for the protest and all supporting documentation and evidence available to the protesting party. PDF files of documents are acceptable, but the AOC reserves the right to require originals if it so deems necessary. If the protestor fails to include documentation or evidence which could have reasonably been provided at the time the protest is made, such failure shall act to restrict the introduction of such evidence at a later date.
5. Must provide a detailed description of the specific ruling or relief requested.
6. Must cite **all** protests that the prospective broker intends to make. Failure to raise a protest in the initial protest submittal shall act to disqualify the raising of that protest at a later date.

Any protest failing to meet or provide the appropriate requirements as noted above shall not be considered valid and will be rejected as non-compliant by the AOC and the prospective broker shall have no further recourse under this procedure, including any right of appeal.

If the course of investigation of a protest and when the AOC deems necessary, the AOC may request and protestor shall make best efforts to provide further evidence or documentation as requested by the AOC.

The existence of a protest will in no way act to restrict the right of the AOC to proceed with the procurement. The AOC, at its sole discretion, may elect to withhold the contract award(s) until the protest is resolved or denied or may proceed with the award as it deems in the best interests of the State of California.

K. Protest Decisions

The protest will be forwarded to the appropriate Contracting Officer at the AOC, who will assess the protest submission for compliance with the requirements of these Administrative Rules, and, if deemed a valid protest under said rules, shall examine the issues raised and materials provided. Invalid protests shall be returned accompanied with a statement detailing the aspects of the protest submitted that failed to comply with the Administrative Rules.

If the protest submission is deemed valid, the AOC will consider the relevant circumstances surrounding the procurement in its prescription of a fair and reasonable remedy.

The Contracting Officer will endeavor to provide the protesting prospective broker with a written judgment within ten (10) AOC business days following the day of receipt of the protest. The judgment shall include a description of any relief or remedy that shall be provided.

If awarding a remedy, the AOC shall, at its sole discretion, choose to employ any or a combination of the following remedies:

- Award the contract consistent with the RFP
- Extend an additional award to the protesting prospective broker
- Terminate the already existing contract that resulted from the RFP and award the contract to the protesting prospective broker
- Terminate the already existing contract that resulted from the RFP for convenience and re-solicit the RFP
- Refrain from exercising options to extend the term of the contract that resulted from the RFP and re-solicit sooner than originally planned
- Other such remedies as the AOC may deem necessary and appropriate.

While the AOC will endeavor to investigate the protest and provide a written response to the prospective broker within ten (10) AOC business days, if the AOC requires additional time to review the protest and is not able to provide a response within said period of time, the AOC will notify the prospective protesting broker of the expected time within which it shall provide a response.

L. Appeals Submission

The Contracting Officer's ruling and any relief specified in the ruling shall be considered the final judgment and adequate relief regarding the protest unless the protesting broker thereafter seeks an appeal of the ruling or relief prescribed.

All appeals are subject to, and shall follow, the process provided below.

The protestor may seek an appeal of the ruling and/or relief by filing a request for appeal addressed to the AOC's Senior Manager, Business Services, at the same address noted for the submission of questions in the RFP. In order to be accepted as valid, any such appeal must be

received by the AOC within five (5) AOC business days following the date of issuance of the AOC Contracting Officer's decision.

The justification for an appeal is specifically limited to the following.

- a. Facts and/or information related to the protest, as previously submitted, that were not reasonably available at the time the protest was originally submitted; or
- b. Allegation(s) that the Contracting Officer's decision regarding the protest contained errors of fact, and that such errors of fact were significant and material factors in the Contracting Officer's decision; or
- c. Allegation(s) that the decision of the Contracting Officer with regards to the protest was in error of law or regulation.

Appeals raising other justifications for appeal shall be rejected as non-compliant and the prospective broker shall have no further recourse under this procedure, including any further right of appeal.

In order to be considered valid, all requests for appeal must be:

- Submitted by e-mail to the e-mail address established for the submission of questions in the RFP document and addressed to the AOC's Senior Manager, Business Services. PDF documents may accompany the e-mail as further detailed below.
- Must include the name, address, telephone and facsimile numbers, and email address of the appealing party or their representative.
- Must provide the title of the solicitation document under which the appeal is submitted.
- Must provide a detailed description of the specific legal and/or factual grounds for the appeal and all supporting documentation and evidence available to the protesting party. PDF files of documents are acceptable, but the AOC reserves the right to require originals if it so deems necessary. If the appeal fails to include documentation or evidence which could have reasonably been provided at the time the appeal is made, such failure shall act to restrict the introduction of such evidence at a later date.
- Must provide a detailed description of the specific ruling or relief requested.
- Must cite **all** appeals that the protesting prospective broker intends to make. Failure to raise an appeal in the initial appeal submittal shall act to disqualify the raising of that appeal at a later date.

M. Appeals Decisions

The AOC's Senior Manager, Business Services will assess the appeal submission for compliance with the requirements of these Administrative Rules, and, if deemed a valid appeal under said rules, shall examine the issues raised and materials provided. Invalid appeals shall be returned accompanied with a statement detailing the aspects of the appeal submitted that failed to comply the Administrative Rules.

If the appeal submission is deemed valid, the AOC will consider the relevant circumstances surrounding the procurement in its prescription of fair and reasonable remedy,

The AOC Senior Manager Business Services will endeavor to provide the appealing prospective broker with a written judgment within ten (10) AOC business days following the day of receipt of the appeal. The judgment shall include a description of any relief or remedy that shall be provided.

While the AOC will endeavor to investigate the appeal and provide a written response to the prospective broker within ten (10) AOC business days, if the AOC requires additional time to review the appeal and is not able to provide a response within said period of time, the AOC will notify the appealing prospective broker of the expected time within which it shall provide a response.

The judgment of the AOC Senior Manager Business Services and any relief or remedy specified shall be final and are not subject to further appeal.

N. News Releases

News releases pertaining to the existence or disposition of a protest or appeal may not be made without prior written approval of the AOC Senior Manager, Business Services.

O. Disposition of Proposal Materials Submitted

All materials submitted in response to the RFP 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 prospective broker submitting the Proposal. One copy of a submitted Proposal will be retained for official files and become a public record.

P. Payment and Withholding

1. Payment terms will be specified in the contract document that will be executed as a result of an award made under this RFP, however, prospective brokers are hereby advised that AOC payments are made by the State of California, and the State does not make any advance payment for services. Payment by the State is normally made based upon completion of tasks as provided for in the agreement between the AOC and the selected broker.
2. The AOC may withhold ten percent of each invoice until receipt and acceptance of the final good or service procured. The amount of the withheld fees, if any, may depend upon the length of the project and the payment schedule provided in the agreement between the AOC and the awarded broker.

End of Attachment

ATTACHMENT B

**RFP RESPONSE QUESTIONS AND FORMAT
QUESTIONNAIRE**

A. GENERAL

1. General
 - a. Name of Responding Company
 - b. Address
 - c. Telephone
 - d. Corporate Structure

2. Is your organization independently owned or affiliated either as a subsidiary or division of some other organization?

3. List each affiliated internal division or subsidiary corporation that you intend to provide services in response to this RFP and the nature of each service to be provided?

4. If the organization primarily responding to this RFP is a subsidiary of another organization provide the name and the primary business of the parent organization?

5. How long has your organization operated in the State of California?

6. List the names, title, role and number of years experience in the administration of OCIP programs for each person that will be assigned to this project. Designate a single person as the Account Manager, **who must be resident in California** responsible for the success of the services. (Provide detailed Project Team Organizational Chart and details of the experience of each team member applicable to this project in an appendix to your response)

Name	Title	Primary Role	Years OCIP Experience

7. If this project is awarded to your organization, do you intend to hire additional staff to provide the necessary services? If so, describe the number and type of staff, and clearly indicate these positions on the organization chart.

8. If the project is awarded to your organization, do you intend to retain sub-contractors to provide necessary services? If so, describe the work that will be done by the responding organization, and what will be done by sub-contractors, and clearly indicate these positions of the organization chart.

9. If necessary is your organization willing to place an appropriate staff person at a designated AOC office?
10. Does your organization maintain the following insurance policies with the limits of liability indicated?
 - 10.1 Workers Compensation and Employers Liability
 - Limit of Liability:
 - Workers compensation: Statutory
 - Employer's liability: \$1 million per person
\$1million per disease
\$1 million disease aggregate
 - 10.2 Commercial General Liability
 - Limit of Liability: \$5 million per occurrence
\$5 million annual aggregate
 - 10.3 Professional Liability
 - Limit of Liability: \$5 million annual aggregate
 - 10.4 Automobile Liability;
 - Limit of Liability: \$2 million per accident
11. Will your organization name the State of California, the Judicial Council of California, and the Administrative Office of the Courts and their respective elected and appointed officials, judges, subordinate judicial officers, directors, officers, employees and agents as additional insured on the commercial general liability and the automobile liability insurance policies?
12. Will your organization, and your insurers, waive any right of recovery either may have against the State of California, the Judicial Council of California, and the Administrative Office of the Courts for loss or damage arising out of the services performed?

B. OCIP SPECIFIC

1. What is the premium volume directly related to OCIP insurance programs administered by your organization?
 - a. Of this amount what is the OCIP premium volume associated with construction projects being built in California?
 - b. Of this amount what is the OCIP premium volume associated with construction projects for:
 - i. Public agencies nationwide?
 - ii. Public agencies in California?
2. Describe the primary service unit that administers OCIP insurance programs within your organization?

- a. Is the business unit dedicated to OCIP administration?
 - b. Where is the business unit located?
 - c. Who is responsible for the day-to-day operations of the business unit?
 - d. How does the business unit interface with the Account Manager in delivering the required services?
3. If the OCIP administration business unit is not based in California how does it interface with the organization's California based office(s) in providing the services necessary for a successful project?
 4. Describe how your organization will go about designing an OCIP program for the AOC to include the following:
 - Architect and engineer contract language
 - Construction Manager at Risk, Design Build , or Design/Bid/Build form of construction contract insurance language
 - Sub contract insurance language
 - Insurance program specifications
 - Insurance market identification and validation
 - Insurance marketing process
 - Insurance market financial security assessment
 - Contractor enrollment process
 - Ongoing program administration
 - Loss control and claims management program
 - Program close out
 5. List examples of projects (no more than 10 projects) that illustrate your organization's qualifications for developing and administering an OCIP of the scope and size indicated in this RFP. The projects should be relevant to the court or institutional buildings of similar complexity to those indicated in Attachment D and Attachment E that have been completed within the last 5 years, or are ongoing, and demonstrate the broker's ability and experience to successfully complete the subject OCIP. Special emphasis should be placed on programs where new construction projects at diverse locations are continually added to the OCIP.
 6. For each project listed in response to B.5 above provide as a reference the name of an owner's representative that can, and is willing to, respond to the efficacy of the OCIP developed for that owner.
 7. Provide a description of your organization's process to evaluate the efficacy of an operating OCIP, and to make recommendations for change in insurance policy and/or program terms and conditions during the course of the OCIP program.
 8. Describe how your OCIP team will communicate with the AOC. Include within your description, with as much specificity as possible, your organization's requirements for support from:
 - The AOC OCCM Risk Management Unit

- The AOC OCCM Design and Construction Unit
 - The architect/engineer
 - The construction manager/general contractor
 - Each subcontractor
9. Describe the metrics of the information system that your organization uses to administer an OCIP.
 10. Describe how your organization will work with the AOC to develop preconstruction project hazard assessments and detailed risk registers for each project enrolled in the OCIP.
 11. Describe how your organization will work to assist the AOC and its contractors to design and maintain a safe construction project, including commitment to staff the loss control service necessary for the success of the OCIP.
 12. Describe your organizations resources and process to provide claims management, and conduct claims reserve audits.
 13. Describe, in your opinion, the primary obstacles to a successful OCIP.
 14. Describe what factors in your experience has led you to believe are the most important to ensure the success of an OCIP.
 15. Describe how your project team will work to overcome the identified obstacles to a successful OCIP, to ensure the success of the OCIP, and to close the OCIP within a reasonable time after the completion of all construction work in progress.

C. COMPENSATION

The AOC is seeking a broker that will perform the services on a fee that is paid by the AOC, and that is based on a decreasing percent of OCIP insurance premiums earned by insurance companies providing the OCIP insurance policies.

The broker agrees to provide all of the Services required for the successful development, implementation and administration of the OCIP, at the fees indicated below:

1. Contract Amount

- A. The prospective broker agrees to provide all of the services set forth in this RFP in Section 3.0 Scope of Services:

A.1 The broker is proposing a fee that is equal to a percent of the fully earned project insurance premiums, including premiums paid into a claim payment fund from which unused premiums may ultimately be returned to the AOC, as follows:

1. _____ % of project insurance costs for Phase SB1732 Projects
2. _____ % of project insurance costs for Phase 1 Projects (SB 1407 Projects)
3. _____ % of project insurance costs for Phase 2 Projects (SB 1407 Projects)
4. _____ % of project insurance costs for Phase 3 Projects (SB 1407 Projects)

Indicate agreement with the above terms by signing and dating:

Signature: _____ Date: _____

A.2 In addition to the compensation paid by the AOC, the broker may also receive compensation as follows, but such compensation shall be an offset to the fee paid by the AOC as individual in section A.1 above:

- i. The broker may receive commission from insurance or reinsurance companies from which the AOC purchases project insurance. Any commission shall be calculated as a percentage of the premiums paid by the AOC to insurance or reinsurance companies for insurance contracts arranged on behalf of the AOC by the broker, and shall be credited by the broker against the fee paid by the AOC as indicated in Section A.1 above

Indicate agreement with the above terms by signing and dating:

Signature: _____ Date: _____

- ii. In the event that the commissions are due as part of a transaction where insurance is purchased using the services of an excess and surplus lines insurance broker, or a managing general agent, then an amount of not less than 50% of the commission paid to the excess and surplus lines insurance broker or the managing general agent shall be credited by the broker against the fee payable by the AOC as indicated in Section A.1 above.

Indicate agreement with the above terms by signing and dating:

Signature: _____ Date: _____

A.3 Broker must disclose to the AOC in writing all fees and commissions the broker may receive from insurance and reinsurance companies relating to this Agreement. The broker must make this disclosure at the time the insurance is bound. Such disclosure shall include the original quotation statement signed by a representative of the insurance company providing the quotation and must provide the details of the quotation, including the total commissions paid, if any, to the broker, or to an excess and surplus lines broker or managing general agent. If the AOC requires additional disclosures, the AOC will make its additional requirements known to the broker within ten (10) business days of the initial disclosure. The broker will make the requested additional disclosures within five (5) business days. If broker fails to make the requested additional disclosures within that period, the AOC may terminate the Agreement pursuant to the terms of Attachment C, Exhibit A, Standard Agreement Section 3(A)(i).

Indicate agreement with the above terms by signing and dating:

Signature: _____ Date: _____

A.4 The broker may not receive contingent or supplementary compensation related to profit sharing or contingent commission agreements with insurance companies, unless otherwise agreed to in writing in the form of written letter of agreement on the letterhead of the AOC, that references this contract and that provides details of the contingent or supplementary compensation as disclosed in writing by the broker. To the extent that the contingent or supplementary compensation, to be received by the broker, is a result of insurance premiums earned by insurance companies related to the OCIP then an amount of not less than 50% of the contingent or supplementary compensation received that is related to the OCIP shall be credited by the broker against the fee payable by the AOC as indicated in section A.1 above.

Indicate agreement with the above terms by signing and dating:

Signature: _____ Date: _____

A.5 It is understood by the AOC that the broker may be affiliated as part of the same parent company, or by other arrangement, with a reinsurance broker. Should such reinsurance brokerage be used to place reinsurance in support of an insurer providing insurance necessary for the successful completion of the OCIP any compensation paid by a reinsurer to the reinsurance broker shall not be required to be credited by the Contractor against the fee payable by the AOC, but such compensation shall be disclosed to the AOC.

Indicate agreement with the above terms by signing and dating:

Signature: _____ Date: _____

A.6 The compensation set forth above is inclusive of all costs, benefits, and any expenses (including all travel and living expenses), fees, overhead, incurred by broker in pursuit of the provision of all goods and services provided to the AOC under this Agreement.

Indicate agreement with the above terms by signing and dating:

Signature: _____ Date: _____

End of Attachment B

ATTACHMENT C SAMPLE CONTRACT

State of California

STANDARD AGREEMENT —
STD. 2 (REV.5-91)

Contract Number	Amendment Number
TAXPAYER'S FEDERAL EMPLOYER IDENTIFICATION NUMBER	

THIS AGREEMENT, made and entered into this 1st day of July, 2007 ("Effective Date"), in the State of California, by and between State of California, through its duly elected or appointed, qualified and acting

TITLE OF OFFICER ACTING FOR STATE Business Services Manager	AGENCY Judicial Council of California Administrative Office of the Courts 455 Golden Gate Ave. San Francisco, CA 94102 , hereafter called the State, and
CONTRACTOR'S NAME	, hereafter called the Contractor.

WITNESSETH: That the Contractor for and in consideration of the covenants, conditions, agreements, and stipulations of the State hereinafter expressed, does hereby agree to furnish to the State services and materials as follows:

Incorporated into this Agreement herewith, and attached hereto, are the following Contract Documents: (1) Exhibit A, Standard Provisions; (2) Exhibit B, Special Provisions; (3) Exhibit C, Payment Provisions; (4) Exhibit D, Work to be Performed; (5) Exhibit E, Contractor's Key Personnel; and (6) Exhibit F, Attachments, (including Attachment 1, Acceptance and Signoff Form). In the event of a conflict between the Contract Documents, the following descending order of precedence shall govern: Exhibit A, Exhibit B, Exhibit C, Exhibit D, Exhibit E, and Exhibit F. Any Amendments, starting with the most recent, shall take precedence over the existing Contract Documents.

As set forth further in Exhibit D, Work to be Performed, the Contractor will assist the AOC with risk evaluation, identify insurers, assist with negotiations, process the payment of premiums, assist with loss control services, and provide other insurance-related services.

As set forth further in Exhibit C, Payment Provisions, the total Contract Amount payable directly to the Contractor by the AOC shall not exceed \$50,000.00.

The Work of the Agreement shall commence _____ and the Agreement shall expire _____. Pursuant to Exhibit B, Terms and Conditions, paragraph 34, Agreement Term(s) and Options to Renew, the State may elect to extend this Agreement for up to two (2) consecutive, additional one-year periods for provision of the services set forth herein.

~~Except as expressly provided in the Agreement, no liability shall attach to the State by reason of entering into this Agreement.~~

IN WITNESS WHEREOF, this Agreement has been entered into by the parties hereto, effective upon the Effective Date.

STATE OF CALIFORNIA		CONTRACTOR				
AGENCY Judicial Council of California / Administrative Office of		CONTRACTOR (if other than an individual, state whether a corporation, partnership, etc.)				
BY (AUTHORIZED SIGNATURE) 		BY (AUTHORIZED SIGNATURE) 				
PRINTED NAME OF PERSON SIGNING Grant Walker		PRINTED NAME AND TITLE OF PERSON SIGNING				
TITLE Business Services Manager		ADDRESS				
AMOUNT ENCUMBERED BY THIS DOCUMENT	PROGRAM/CATEGORY (CODE AND TITLE) 30 Judicial Council	FUND TITLE State Court Facilities Construction Fund	<i>Department of General Services Use Only</i> EXEMPT FROM DEPARTMENT OF GENERAL SERVICES APPROVAL.			
PRIOR AMOUNT ENCUMBERED FOR THIS CONTRACT \$0.00	(OPTIONAL USE)					
TOTAL AMOUNT ENCUMBERED TO DATE	ITEM)	CHAPTER			STATUTE	FISCAL YEAR
OBJECT OF EXPENDITURE (CODE AND TITLE)						

I hereby certify upon my own personal knowledge that budgeted funds are available for the period of the expenditure stated above.		T.B.A. NO.	B.R. NO.
SIGNATURE OF ACCOUNTING OFFICER ▶		DATE	

CONTRACTOR
 STATE AGENCY
 DEPT. OF GEN. SER.
 CONTROLLER

End of Attachment C

EXHIBIT A
STANDARD PROVISIONS

1. Indemnification

The Contractor agrees, to the fullest extent permitted by law, to indemnify, defend (with counsel satisfactory to the AOC), and hold harmless (collectively, "Indemnify") the State, the Judicial Council of California, the Administrative Office of the Courts, and any and all of their judicial officers, officers, directors, agents, contractors, representatives, volunteers and employees (individually, an "Indemnified Party") from any and all claims, lawsuits, losses, costs (including attorney fees and costs), liabilities, and damages arising from, related to or in connection with, in whole or in part, any of the following: (a) the Contractor's or any of its employees' or subcontractors' negligent acts, omissions, or intentional misconduct; (b) the Contractor's breach of its obligations under this Agreement; (c) the Contractor's or any of its employees' or subcontractors' violation of any applicable law, rule, or regulation; and/or (d) any claim or lawsuit by a third party, contractor, subcontractor, supplier, worker, or any other person, firm, or corporation furnishing or supplying work, Services, materials, or supplies in connection with the performance of this Agreement who may be injured or damaged by the Contractor or any of its subcontractors or employees, when such claim arises from or is related to the Contractor's performance of this Agreement. This article does not require the Contractor to Indemnify an Indemnified Party for such portion of any loss, cost, liability, or damage that arises from the negligence or intentional misconduct of the Indemnified Party.

2. Relationship of Parties

The Contractor and the agents and employees of the Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State of California. The Contractor will not have, and will not represent to any third party that it has, any authority to bind the State or to act on behalf of the State.

3. Termination for Cause

- F. Pursuant to this provision, the State may terminate this Agreement in whole or in part under any one of the following circumstances, by issuing a written Notice of termination for default to the Contractor:
- i. If the Contractor (a) fails to perform the services within the time specified herein or any extension thereof, (b) fails to perform any requirements of this Agreement, or (c) so fails to make progress as to endanger performance of this Agreement in accordance with its terms, and, after receipt of a written Notice from the State specifying failure due to any of the preceding three (3) circumstances, the Contractor does not cure such failure within a period of five (5) business days or a longer period, if authorized in the Notice of failure; or,
 - ii. If the Contractor should cease conducting business in the normal course, become insolvent or bankrupt, make a general assignment for the benefit of creditors, admit in writing its inability to pay its debts as they mature, suffer or

permit the appointment of the receiver for its business or assets, merge with or be purchased by another entity, or avail itself of or become subject for a period of thirty (30) Days to any proceeding under any statute of any State authority relating to insolvency or protection from the rights of creditors.

- G. In the event the State terminates this Agreement in whole or in part, due to the Contractor's failure to perform, the State may procure, upon such terms and in such manner as it may deem appropriate, supplies or services similar to those so terminated, and the Contractor shall be liable to the State for any excess costs for such similar supplies or services, subject to the limitations contained elsewhere herein; further, the Contractor shall continue the performance of this Agreement to the extent not terminated under this provision.
- H. The Contractor shall not be liable for any excess costs if the failure to perform the Agreement arises out of acts of Force Majeure; but in every case the failure to perform must be beyond the control and without the fault or negligence of the Contractor.
- I. If, after Notice of termination for default of this Agreement, it is determined for any reason that the Contractor was not in default under this provision, or that the default was excusable under this provision, the obligations of the State shall be to pay only for the services rendered at the rates set forth in the Agreement.
- J. The rights and remedies of either party provided in this provision shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.
- K. In the event of termination or expiration of this Agreement, Contractor will assist the State in arranging a smooth transition process. However, Contractor's obligation and the obligation of its affiliates to provide services to the State will cease upon the effective date of termination, unless otherwise agreed in writing.

4. No Assignment

There shall be no assignment of this Agreement, whether in whole or in part, whether voluntary or by operations of law, without the express written consent of the State or as otherwise set forth herein

5. Time of Essence

Time is of the essence in the performance of Contractor's services pursuant to this Agreement.

6. Validity of Alterations

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

7. Consideration

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

END OF EXHIBIT A

EXHIBIT B
SPECIAL PROVISIONS

1. Definitions

Terms defined below and elsewhere throughout the Contract Documents shall 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. "**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 which at the time disclosed to or obtained by the receiving party is in the public domain; (ii) information that becomes part of the public domain 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 was received by the receiving party from a third party which the receiving party had no reason to believe had any confidentiality or fiduciary obligation to.
- D. 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.**"
- E. "**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.
- F. The "**Contractor**" means the individual, association, partnership, firm, company, insurance broker, 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.
- G. "**Court(s)**" means one or more of the fifty-eight (58) superior courts, the Supreme Court of California, and the California Courts of Appeal.
- H. "**Data**" means all types of raw data, articles, papers, charts, records, reports, studies, research, memoranda, computation sheets, questionnaires, surveys, and other documentation.

- I. **“Day”** means calendar day, unless otherwise specified.
- J. **“Deliverable(s)”** or **“Submittal(s)”** means one or more items, if specified in the Contract Documents, that the Contractor shall complete and deliver or submit to the State for acceptance.
- K. **“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.
- L. **“Judicial Branch Entity”** or **“JBE”** means the Judicial Council of California, the Administrative Office of the Courts, any of the Courts the Habeas Corpus Resource Center and the Commission on Judicial Performance of the State of California (collectively referred to as Judicial Branch Entities).
- M. **“Key Personnel”** means the Contractor’s personnel named in Exhibit E, Contractor’s Key Personnel, whom the State has identified and approved to perform the Work of the Contract. Roles of Key Personnel are set forth in Exhibit E, Contractor’s Key Personnel.
- N. **“Material”** means all types of tangible personal property, including but not limited to records, insurance policies, supplies, equipment, commodities, information technology developed for the project at the cost of the AOC.
- O. **“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 shall be effective upon date of receipt; or
 - ii. Hand-delivered to the other party’s authorized representative, which shall be effective on the date of service.
- P. **“OCIP”** means a consolidated program of property, liability and workers compensation insurance necessary to cover the interests of the State and its contractors, and subcontractors of every tier, that have been brought together for the construction of those court buildings listed in Exhibit G and Exhibit H to this Agreement.

- Q. “**Project**” refers to all activity relative to this Agreement including activity of the Contractor, its Subcontractors, the State and the State’s representatives.
- R. The “**State**” refers to the Judicial Council of California / Administrative Office of the Courts (“**AOC**”).
- S. “**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, shall each represent the Agreement as an individual “**Contract Counterpart**.”
- T. “**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 shall be specifically identified as such and shall indicate that it is issued pursuant to the Stop Work provision in this Exhibit B.
- U. “**Subcontractor**” shall 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-Brokers, suppliers, and material men.
- V. “**Task(s)**” means one or more functions, if specified in the Contract Documents, to be performed by the Contractor for the State.
- W. “**Term(s)**” means the period defined by a beginning date and an end date, in accordance with the terms and conditions set forth in the Agreement, during which the Contractor is authorized to provide the Contract Work. The possible Terms of the Agreement are described further in this Exhibit’s paragraph 34, Agreement Term(s) and Options to Renew.
- X. “**Third Party**” refers to any individual, association, partnership, firm, company, corporation, insurance broker, Subcontractor, or combination thereof, including joint ventures, other than the State or the Contractor, which is not a party to this Agreement.
- Y. “**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.

2. Manner of Performance of Work

The Contractor shall 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 shall 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 shall pay the Contractor for the fair value of satisfactory services rendered before the termination, not to exceed the total Contract Amount.
 - i. In determining the fair value of satisfactory services the contractor would be entitled to the fee based on the insurance premiums paid by the State, or for which an invoice has been sent to the State and had been approved by the State, prior to the date the Notice of termination was sent to the contractor.
 - ii. In addition, the State, may agree to pay the fee that would have been earned by the contractor for insurance premium invoiced to the AOC prior to the Notice of termination, but which had not been approved prior to the date of the Notice of termination was sent to the Contractor, so long as such premiums were invoiced in compliance with the terms of this contract.
 - iii. The contractor would not be entitled to any fee based on insurance premiums not yet invoiced to the AOC as of the date of the Notice of termination.

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 shall be in addition to the State's rights to terminate for convenience or default.
- B. Payment shall 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 shall 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, Mr. James Mullen, shall monitor and evaluate the Contractor's performance. All requests and communications about the Work to be Performed under this Agreement shall be made through the Project Manager. Any Notice from the Contractor to the State shall be in writing and shall be delivered the Project Manager as follows:

Mr. James Mullen, Senior Facilities Risk Manager
Judicial Council of California
Administrative Office of the Courts
455 Golden Gate Avenue, 8th Floor
San Francisco, CA 94102-3660

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

6. Assignments or Subcontracting

- A. This Agreement is based upon the unique expertise of the Contractor. Therefore, in addition to the prohibition against assignment under Exhibit A, Standard Provisions paragraph 4, it is the policy of the State to withhold consent from proposed assignments, subcontracts, or novations when such transfer of responsibility would operate to decrease the State's likelihood of receiving performance under this Agreement. No performance of this Agreement or any portion thereof may be assigned or subcontracted by the Contractor without the express written consent of the State, and any attempt by the Contractor to assign or subcontract any performance of this Agreement without the express written consent of the State shall be void and shall constitute a breach of this Agreement. If the Contractor is authorized by the State to subcontract or assign, all the terms of this Agreement shall be included in such subcontract or assignment.

7. Acceptance of the Work

- A. The Project Manager shall be responsible for the sign-off acceptance of all the Work required and submitted pursuant to this Agreement. Prior to approval of the Work and prior to approval for payment, the Project Manager will apply the acceptance criteria set forth in subparagraph B of this provision, as appropriate, to determine the acceptability of the Work provided by the Contractor. Unsatisfactory ratings will be resolved as set forth in this provision.
- B. Acceptance Criteria for Work (“**Criteria**”) provided by the Contractor pursuant to this Agreement:
- i. Timeliness: The Work was delivered on time;

- ii. Completeness: The Work contained the Data, Materials, and features required in the Contract; and
 - iii. Technical accuracy: The Work is accurate as measured against commonly accepted standard (for instance, a statistical formula, an industry standard, or de facto marketplace standard).
- C. The Contractor shall provide the Work to the State, in accordance with direction from the Project Manager. The State shall accept the Work, provided the Contractor has delivered the Work in accordance with the Criteria. The State's Project Manager shall use the Acceptance and Signoff Form to notify the Contractor of the Work's acceptability.
 - D. If the State rejects the Work provided, the State's Project Manager shall submit to the Contractor a written rejection describing in detail the failure of the Work as measured against the Criteria. If the State rejects the Work, then the Contractor shall have a period of ten (10) business days from receipt of the Notice of rejection to correct the stated failure(s) to conform to the Criteria.
 - E. If the Project Manager requests further change, the Contractor shall meet with the Project Manager, within three (3) business days of such request, to discuss changes for the final submission of the Work. The Contractor shall provide the Work within three (3) business days after this meeting, at which time the Work will be accepted or the question of its acceptability referred to the Administrative Director of the AOC and a principal of the Contractor, as set forth in subparagraph F below.
 - F. If agreement cannot be reached between the State's Project Manager and the Contractor on the Work's acceptability, a principal of the Contractor and the Administrative Director of the AOC, or its designee, shall meet to discuss the problem. If agreement cannot be reached, in the reasonable judgment of the Administrative Director of the AOC, or its designee, and/or the Contractor fails to cure such deficiencies that are perceived in the Work to the reasonable satisfaction of the Administrative Director, or its designee, in the reasonable time established by the Administrative Director, the State may reject the Work and will notify the Contractor in writing of such action and the reason(s) for so doing. Upon rejection of the Work, the State may terminate this Agreement pursuant to the terms of Standard Provisions paragraph 3, as set forth in Exhibit A.

8. Standard of Professionalism

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

9. 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 Stop Work Order is delivered to the Contractor, and for any further period to which the parties may agree. The Stop Work Order shall be specifically identified as such and shall indicate it is issued under this provision.

Upon receipt of the Stop Work Order, the Contractor shall 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 shall have agreed, the State shall 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 shall resume Work. The State shall make an equitable adjustment in the delivery schedule, the Contract Amount, or both, and the Agreement shall 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 shall allow reasonable costs resulting from the Stop Work Order in arriving at the termination settlement.
- D. The State shall not be liable to the Contractor for loss of profits because of the Stop Work Order issued under this provision.

10. 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 shall be provided to the Contractor. Amendments to the Agreement shall be authorized via bilateral execution of a State Standard Agreement.

11. Contractor's Personnel--Replacement

- A. The State reserves the right to disapprove the continuing assignment of any of the Contractor's personnel provided to the State under this Agreement if in the State's opinion, the performance of the Contractor's personnel is unsatisfactory or continued assignment of any of Contractor's personnel is not in the best interest of the State. The State agrees to provide Notice to the Contractor in the event it makes such a determination. If the State exercises this right, the Contractor shall assign replacement personnel, possessing equivalent or greater experience and skills as quickly as possible.
- B. If any of the Contractor's Key Personnel become unavailable during the term of this Agreement, the Contractor shall promptly assign replacement personnel, possessing equivalent or greater experience and skills, who are acceptable to the State's project manager.
- C. The Contractor shall endeavor to retain the same individuals on the Project during the performance of the Work of this Agreement. However, the Contractor may, with approval of the State's Project Manager, introduce personnel to the Project with specific skill sets or release personnel from the Project whose skill set is not needed at the time, except for the Contractor's Project Contact.
- D. If any of the Contractor's Key Personnel identified within the Agreement become unavailable during the term of this Agreement, the Contractor will supply a substitute acceptable to the State's Project Manager.
- E. Any substitution or prolonged absence of the personnel who are specifically identified as Contractor's Key Personnel, as set forth in Exhibit E, Contractor's Key Personnel, must be approved by the AOC. Failure to obtain such approval shall constitute a major breach of this Agreement.

12. 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 shall 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. EXCEPT AS SET FORTH IN THIS AGREEMENT, THE CONTRACTOR DISCLAIMS ALL OTHER WARRANTIES EXPRESS OR IMPLIED.

13. Accounting System Requirement

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

14. Retention of Records

The Contractor shall 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 use reasonable measures to protect Data adequately against fire or other damage.

15. Audit

The Contractor shall permit the authorized representative of the State or its designee or both at any reasonable time, with three business days' prior written notice, 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.

16. Ownership of Results

- A. The Contractor shall retain all of its rights to all Materials prepared by Contractor, except that Materials prepared specifically and exclusively for the State pursuant to this Agreement shall be owned exclusively by the State and shall be deemed works made for hire. In the event any such Materials may not, by operation of law, be works made for hire, the Contractor hereby assigns to the State all of its rights in such Materials and copyrights therein.
- B. Any interest of the Contractor in Data in any form, or other documents and/or recordings prepared by the Contractor exclusively for performance of services under this Agreement shall become the property of the State, unless it is the property of other individuals, pursuant to applicable laws.
- C. The Contractor agrees not to assert any rights at common law, or in equity, or establish any claim to statutory copyright in such Data. The Contractor shall not publish or reproduce such Data in whole, or part, or any manner or form, or authorize others to do so without the written consent of the State or the individual owning such Data.
- D. Upon the State's written request, the Contractor shall provide the State with all of the State's Data within thirty (30) Days of the request. The Contractor shall return all the State's Data, including Confidential Information, to the State upon termination or expiration of the Agreement, at the Contractor's expense. Any Data owned by any individual other than the State shall be returned to such individual as well, in accordance with applicable laws.

17. Insurance Requirements

- A. Without limiting the Contractors indemnification obligation and in addition thereto, the Contractor shall secure and maintain in force throughout the term of this Contract the following types of insurance with limits as shown. By requiring such minimum insurance, the State shall not be deemed or construed to have assessed the risks that may be applicable to the Contractor under this Contract. The Contractor shall assess its own risks and if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage. Each policy, other than the Professional Liability policy, shall be written on an "occurrence" form. The Professional Liability policy may be written on a "claims made" form.
- (i) Workers' compensation—At statutory minimums, including employers' liability coverage with limits not less than \$1,000,000 for each accident, \$1,000,000 as the aggregate disease policy limit, and \$1,000,000 as the disease policy limit for each employee. This coverage shall not be required where the Contractor has no employees.
 - (ii) Commercial General Liability Insurance—Insuring liability arising from premises, operations, independent contractors, products and completed operations, personal injury and advertising injury, and liability assumed under contract. The policy shall provide limits of not less than \$5,000,000 per occurrence and \$5,000,000 annual aggregate. The insurance must apply separately to each insured against whom a claim is made or lawsuit is brought, subject only to the insurance policy's limit of liability
 - (iii) Commercial or Business Automobile Liability Insurance—Covering liability arising out of a motor vehicle, including owned, non-owned, leased, and hired vehicles assigned to or used in connection with the Project. The policy shall provide combined single limits of not less than \$2,000,000 per accident or loss.
 - (iv) Professional Liability Insurance; Errors and Omissions —Covering the Contractor's acts, errors or omissions committed or alleged to have been committed which arise out of rendering or failure to render the Services provided under the terms of this Agreement. The policy shall provide limits of not less than \$5,000,000 per claim or per occurrence and an annual aggregate in an amount at least equal to the per occurrence limit. If the policy is written on a "claims made" form, the Contractor shall continue such 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. The retroactive date or "prior acts inclusion date" of any such "claims made" policy must be no later than the date that activities commence pursuant to this Agreement.
- B. General Requirements
- (i) Contractor will maintain, or cause to be maintained, insurance issued by an insurance company or companies that are rated "A-VII" or higher by A. M.

Best's key rating guide, and are approved to do business in the State of California.

- (ii) For all insurance policies required by this Contract, Contractor will declare any deductible or self-insured retention (SIR). Contractor will be responsible for reimbursement of any deductible to its insurer. Contractor will administer any self-insurance program in a commercially reasonable manner that ensures sufficient funds are available to cover all losses Contractor must insure against under the terms of section.
- (iii) Before commencement of the Work, Contractor will provide the AOC with certificates of insurance, on forms acceptable to the AOC, as evidence that all required insurance is in full force and effect. The dollar amount of any SIR or deductible will be specified on the applicable certificate of insurance. The certificates of insurance will be accompanied by the following endorsements, as applicable:
 - (a) As required by section C.12.b(v) below, an endorsement evidencing that the State, Judicial Council, and the Administrative Office of the Courts, including their respective elected and appointed officials, judges, subordinate judicial officers, officers, employees, and agents, if any, have been added as additional insureds on the insurance policy being referenced; and
 - (b) An endorsement that the insurance will not be materially changed or cancelled without 30 days notice to the AOC, and
 - (c) An endorsement evidencing that the insurance is primary and non-contributing with any insurance, self-insurance, or other risk management program maintained by the State, Judicial Council, or the Administrative Office of the Courts including their respective elected and appointed officials, judges, subordinate judicial officers, officers, employees, and agents, if any.
- (iv) If any of the required insurance policies expire during the term of the Contract, Contractor will immediately renew or replace the required insurance and provide a new certificate of insurance to the AOC. Contractor will ensure that any renewal insurance certificates are tendered to the AOC at least 10 days following the expiration of the expiring insurance policy.
- (v) The insurance required by sections C.12.a.(ii) and C.12.a.(iii) as well as any excess liability or umbrella liability insurance that Contractor maintains in compliance with the terms of this section C.12 must include the State, Judicial Council, and the Administrative Office of the Courts, including their respective elected and appointed officials, judges, subordinate judicial officers, officers, employees, and agents, if any, as additional insured, but only with respect to liability assumed by Contractor under the terms of this Contract or liability arising out of the performance of the Services.
- (vi) Contractor waives any right of subrogation it may have against any of the

State, Judicial Council, or the Administrative Office of the Courts including their respective elected and appointed officials, judges, subordinate judicial officers, officers, employees, and agents for loss or damage arising out of the Services performed by Contractor under this Agreement, and the Contractor will require any insurer providing insurance required under section C.12 to do the same.

- (vii) Contractor is responsible for and may not recover from the State, Judicial Council, or the Administrative Office of the Courts including their respective elected and appointed officials, judges, subordinate judicial officers, officers, employees, and agents, if any, any deductible or self-insured retention that is connected to the insurance required under section C.12.
- (viii) If Contractor fails to keep in effect at all times the specified insurance coverage, the AOC may, in addition to any other remedies it may have, declare the Contract to be in breach and withhold all progress payments and retentions until the breach is cured, or terminate this Contract upon the occurrence of such event, subject to the provisions of this Contract.
- (ix) The AOC reserves the right to request certified copies of any of the insurance policies required under section C.12.
- (x) The Certificates of Insurance required under section C.12.b (iii) and any advance written notice of any change or cancellation, shall be mailed to the both the AOC's designated Project Manager at the address specified in the most current Exhibit B.

C. Joint Ventures. If the Contractor is an association, partnership, or other joint business venture, the insurance required in subsection this section C.12 shall be provided by any one of the following methods, any of which shall be subject to all of the requirements stated herein:

- (i) Separate insurance policies issued for each individual entity, with each entity included as a named insured or as an additional insured.
- (ii) Joint insurance program with the association, partnership, or other joint business venture included as a named insured.

18. 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. Neither Contractor nor any of its employees or agents directly or indirectly shall disclose to any third party or use any Confidential Information furnished by or on behalf of the State to Contractor for any purpose except in furtherance of insurance brokerage, risk consulting, risk financing, risk transfer, or other insurance-related services to be rendered by Contractor to the State, which may include in the normal course of business the release to insurers and other financial institutions of

Confidential Information relevant to the underwriting and/or evaluation of the State's risks and the processing of its claims, provided that such insurers and financial institutions are informed of the confidential nature of such information and have agreed to treat it as confidential. Contractor shall take all steps reasonably required to maintain the confidentiality of Confidential Information in Contractor's possession. The transmission of Confidential Information via electronic data transmission networks which provide for the security of users' data shall be deemed consistent with Contractor's obligations hereunder unless such use is contrary to the State's express instructions. Contractor will disclose the State's Confidential Information only to those of its employees and agents who (i) have a need to know such information in connection with the performance of Contractor's obligations under this Agreement and (ii) have been informed of the confidentiality obligations undertaken by Contractor pursuant to this Agreement. Contractor shall be liable to the State for any breach of those confidentiality obligations by Contractor's employees or agents.

- C. The Contractor shall 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. The Contractor may disclose Confidential Information which is required to be disclosed by law, including, without limitation, pursuant to the terms of a subpoena or other similar document; provided, however, Contractor shall give prior timely notice of such disclosure to the State to permit the State to seek a protective order, and, absent the entry of such protective order, Contractor shall disclose only such Confidential Information that Contractor is advised by its counsel must be disclosed by law. The terms of this Section 18 shall survive for the later of seven (7) years or as required by applicable law.
- D. As between the State and Contractor, Confidential Information shall be the sole and exclusive property of the State, and, upon termination of Contractor's engagement by the State or at any other time, if requested by the State, all documents and records in Contractor's possession containing Confidential Information shall be returned to the State; provided, however, that Contractor may retain an archival copy of documents that may contain Confidential Information which are necessary for the conduct and proper record keeping of the Contractor's business in according with its standard operating procedures or as required by applicable law to be retained by Contractor. In the event that the Contractor retains any archival copies of documents that contain Confidential Information, such Confidential Information shall remain subject to the terms of this Section 18.

19. Permits and Licenses

The Contractor shall observe and comply with all federal, state, city, and county laws, rules, and regulations affecting services under this Agreement. The Contractor shall 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.

20. Limitation on Publication

The Contractor shall not publish or submit for publication any article, press release, or other writing relating to the Contractor's services for the State without prior review and written permission by the State.

21. Conflict of Interest

A. The Contractor and employees of the Contractor shall 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 shall 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 shall 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.

22. 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, shall be borne and paid for by the Contractor. The rights and remedies of the State provided in this provision shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.

23. 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.

24. 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.

25. Nondiscrimination/No Harassment Clause

- A. During the performance of this Agreement, the Contractor and its Subcontractors shall 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 shall 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 shall 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 shall take all reasonable steps to prevent harassment from occurring.
- C. The Contractor shall 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 shall 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 shall include the nondiscrimination/no harassment and compliance provisions of this clause in any and all subcontracts issued to perform Work under the Agreement.

26. 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.

27. California Law/Jurisdiction

This Agreement shall be subject to and construed in accordance with the laws of the State of California. Contractor hereby irrevocably consents to personal jurisdiction in California

28. Severability

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

29. 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, shall not be a waiver of the default or right, nor shall it affect the right of the party to enforce those provisions later.

30. Signature Authority

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

31. Third Party Beneficiary

Judicial Branch Entities shall each be intended Third Party beneficiaries of this Agreement. Without limiting the foregoing, the State and the Contractor agree and acknowledge that each JBE shall have the right to enforce all terms and conditions set forth herein that affect such JBE. In the event a JBE gives conflicting instructions or makes conflicting determinations with respect to any matter, it shall be the State's responsibility to resolve any such conflict promptly.

32. Survival

The termination or expiration of the Agreement shall 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.

33. Evaluation of Contractor

The State shall evaluate the Contractor's performance under the Agreement.

34. Agreement Term(s) and Options to Renew

- A. The initial Term of the Agreement shall commence on [REDACTED] and expire upon the completion of the OCIP which shall be determined as the date on which legal liabilities and financial obligations associated with the administration of the OCIP are satisfied. Thereafter, the State, in its sole discretion, has the option to extend the Term of the Agreement, on the same terms and conditions applicable during the Initial Term, for up to two consecutive, additional one-year periods defined below:

First Option Term:

Second Option Term:

- B. The State may exercise each of the options by written notice to the Contractor prior to expiration of the then-current Term. In the event the State elects to exercise an option to extend the Agreement as set forth in this provision, the expiration date of the Agreement shall become the ending date of the option Term exercised.
- C. In the event an option Term is exercised under this Agreement, the fee applicable for such option Term shall be set forth in any subsequent Amendment to exercise an option to extend the Term this Agreement. The fee as incorporated in Exhibit C may be renegotiated by the parties for each subsequent consecutive Term, provided such fee does not increase more than three percent (3%) from the fee established for the Work of the previous Term.

35. 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 shall 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 shall be binding unless expressly agreed in writing by a duly authorized representative of the State.

END OF EXHIBIT B

EXHIBIT C
PAYMENT PROVISIONS

1. Contract Amount

- i. The total amount the State may pay to the Contractor under this Agreement for performing the Work set forth in Exhibit D, Work to be Performed, shall not exceed the Contract Amount as set forth in this Exhibit C.

2. Compensation for Contract Work

- A. The State shall compensate the Contractor as follows:

In the initial Term of the Agreement the State shall pay Contractor a fee that is equal to a percent of the project insurance costs for the as follows:

- i. ____% of project insurance costs for Phase SB1732 Projects
- ii. ____% of project insurance costs for Phase 1 SB1407 Projects
- iii. ____% of project insurance costs for Phase 2 SB1407 Projects
- iv. ____% of project insurance costs for Phase 3 SB 1407 Projects

- B. In addition to the compensation paid by the State, the Contractor may also receive compensation as follows, but such compensation shall be an offset to the compensation paid by the State as determined by Exhibit C, section 2.A above:

- i. The Contractor may receive commission from insurance or reinsurance companies from which the State purchases OCIP insurance. Any commission shall be calculated as a percentage of the premiums paid by the State to insurance or reinsurance companies for insurance contracts arranged on behalf of the State by the Contractor and shall be credited by the contractor against the fee payable by the State.
- ii. In the event that the commissions are due as part of a transaction where insurance is purchased using the services of an excess and surplus lines insurance broker, or a managing general agent, then an amount of not less than 50% of the commission paid to the excess and surplus lines insurance broker or the managing general agent shall be credited by the Contractor against the fee payable by the State.

- C. Contractor must disclose to the State in writing all fees and commissions the Contractor may receive from insurance and reinsurance companies relating to this Agreement. The Contractor must make this disclosure at the time the insurance is bound. Such disclosure shall include the original quotation statement signed by a representative of the insurance company that provides the details of the quotation, including the total commissions paid, if any, to the Contractor, or to an excess and surplus lines broker or managing general agent. If the State requires additional disclosures, the State will make its additional requirements known to the Contractor within ten (10) business days of the initial disclosure. The Contractor will make the

requested additional disclosures within five (5) business days. If the Contractor fails to make the requested additional disclosures within that period, the State may terminate the Agreement pursuant to the terms of Exhibit A, Standard Agreement Section 3(A)(i).

- D. The Contractor may not receive contingent or supplementary compensation related to profit sharing or contingent commission agreements with insurance companies, unless otherwise agreed to in writing in the form of written letter of agreement on the letterhead of the AOC that references this contract and that provides details of the contingent or supplementary compensation as disclosed in writing by the Contractor. To the extent that the contingent or supplementary compensation is to be received by the Contractor as a result of insurance premiums earned by insurance companies related to the OCIP then an amount of not less than 50% of the contingent or supplementary compensation received that is related to the project shall be credited by the Contractor against the fee payable by the AOC.
- E. It is understood by the AOC that the Contractor may be affiliated as part of the same parent company, or by other arrangement with a reinsurance broker. Should such reinsurance brokerage be used to place reinsurance in support of an insurer providing insurance necessary for the successful completion of the OCIP any compensation paid by a reinsurer to the reinsurance broker shall not be required to be credited by the Contractor against the fee payable by the AOC, but such compensation shall be disclosed in writing to the AOC.
- F. The compensation set forth above is inclusive of all costs, benefits, and any expenses (including all travel and living expenses), fees, overhead, incurred by Contractor in pursuit of the provision of all goods and services provided to the State under this Agreement.

3. Taxes

The State is exempt from federal excise taxes and no payment will be made for any taxes levied on the Contractor's or any Subcontractor's employees' wages. The State will pay for any applicable State of California or local sales or use taxes on the services rendered or equipment or parts supplied pursuant to this Agreement including any surplus or excess lines and similar taxes. If requested by the Contractor, the State shall provide the Contractor proof of its tax-exempt status.

4. Method of Payment of Fee

- A. The Contractor shall submit an invoice for Work provided within 30 business days following the approval of payment of invoices for project insurance costs by the AOC.
- B. The State will make payment in arrears within 30 days after receipt of and approval by the AOC of the Contractor's properly completed invoice. Invoices shall clearly indicate the following:
 - i. The Contract number, _____
 - ii. A unique invoice number;

- iii. The Contractor's name and address;
- iv. Taxpayer identification number (the Contractor's federal employer identification number);
- v. A description of the construction project for which the fees were earned.
- vi. Description of the OCIP insurance costs that are the basis for the request for payment;
- vii. Description of all credits for commissions earned that are to be offset against any request for payment of Contractor's fees;
- viii. Calculation of the amount due; and
- ix. Preferred remittance address, if different from the mailing address.

5. Method of Payment of Insurance Premiums

- A. The Contractor shall invoice the State for and remit insurance premiums to the insurance companies providing the project insurance. The Contractor will ensure that each insurance premium invoice reaches the State within ten (10) days of the inception of the relevant policy. The State will pay the amount of the invoice to the Contractor within thirty (30) days of the receipt of the invoice. Any cancellation penalty will be borne by the Contractor, unless the cancellation penalty results solely from the State's failure to pay the applicable insurance premiums to Contractor in accordance with this section.
- B. Each invoice shall include as a minimum the following information:
 - i. Invoice Number
 - ii. Date of Invoice;
 - iii. Name of Insurance Company;
 - iv. Line of insurance being provided;
 - v. Amount of insurance premium;
 - vi. Amount of commissions payable to Contractor;
 - vii. Date premiums must be received by the insurance company;
 - viii. Project(s) to which the premiums pertain.
- C. In no event will the Contractor use any portion of the amount paid by the State as insurance premiums for any other purpose.
- D. If the State disputes any portion of the insurance premium invoice, the State will pay the undisputed portion.

6. Invoice mailing address

For both the invoices required under Section 4 and 5 above the Contractor shall submit one (1) original and two (2) copies of invoices to:

Judicial Council of California
Administrative Office of the Courts
c/o OCCM Risk Management Unit
455 Golden Gate Avenue, 8th Floor
San Francisco, CA 94102-3660

Please note that invoices or vouchers not on printed bill heads shall be signed by the Contractor or the person furnishing the supplies or services.

7. Disallowance

If the Contractor claims or receives payment from the State for a service or reimbursement that is later rightfully disallowed by the State, the Contractor shall promptly refund the disallowed amount to the State upon the State's request. If the disallowed amount is for insurance premiums, then the Contractor shall also return to the State the fee associated with the disallowed insurance premium. At its option, the State may offset the amount disallowed from any payment due or that may become due to the Contractor under this Agreement or any other agreement.

8. Payment Does Not Imply Acceptance of Work

The granting of any progress payment by the State as provided in this Exhibit shall in no way lessen the liability of the Contractor to replace unsatisfactory Work, even if the unsatisfactory character of such Work may not have been apparent or detected at the time such payment was made. Materials, Data, components, or workmanship that do not conform to Exhibit D, Work to Be Performed, shall be rejected and shall be replaced by the Contractor without delay.

END OF EXHIBIT C

EXHIBIT D
WORK TO BE PERFORMED

1. BACKGROUND INFORMATION

To meet its risk management responsibilities the AOC has determined it is in its best interest to establish an owner controlled construction program (OCIP or program) that will require the Contractor to provide all of the following services to the satisfaction of the AOC:

- 1.1 **Develop conceptual OCIP design:** Participate in and/or perform detailed program design to include:
- Recommend each line of insurance coverage to be provided within the program
 - Forecast costs expressed as a percent of construction costs for each line of insurance coverage under consideration for inclusion within the program
Recommend levels of retained risk to be considered by the OCCM
 - Recommend means to fund the security requirements associated with deductibles or self-insured limits included within program design
 - Develop contract terms and conditions to be included in the contracts of architects and engineers, construction managers, and subcontractors of every tier.
 - Prepare a comprehensive risk register for each projects to include best methods to improve risk allocation through focused contract language and insurance policy term and conditions.
- 1.2 **Develop OCIP Implementation Plan:** Prepare in consultation with AOC staff a detailed program implementation plan to include:
- Develop specifications for terms and conditions of each line of insurance to be included in the program
 - Develop draft program manuals to be provided to contractors enrolled in the program
 - Develop communications with architects and engineers, construction managers, and subcontractors as necessary to implement the program
 - Survey potential insurance underwriters to determine market receptivity to the program as designed
 - Prepare a final report concerning the feasibility, cost and administrative requirements of the program.
- 1.3 **OCIP Implementation:** Should the AOC decide to implement the program the Contractor will provide all of the services necessary to implement the program to include:
- Prepare final underwriting submissions and market insurance coverage for each line of insurance selected for inclusion in the program
 - Obtain competitive proposals from qualified insurers for those lines of insurance that have been selected for inclusion in the program.
 - Evaluate and make recommendations to the AOC on the best insurer(s) for each line of insurance coverage

- Upon direction from the AOC bind insurance coverage
- Finalize program manuals, communicate with architects and engineers, and general contractors, and sub-contractors as necessary to implement the program
- Attend pre-bid meetings to explain the requirements of the program to any potential responder to bids for construction services
- Assist contractors to enroll in the program and to understand the need to inform the contractor's existing insurer(s) of its enrollment in the program, and to be available to answer the contractor's questions and concerns in a timely manner.

1.4 **Program Administration:** The Contractor will provide ongoing OCIP administration to include:

- Receive and review all master insurance policies, and provide to the AOC with comments concerning areas of concern, possible improvement, and alternative terms and conditions when policies are forwarded to the AOC
- Provide insurance verification and copies of insurance policies to all enrolled contractors. Provide any additional information required by an enrolled contractor to ensure compliance with the program and to avoid any gaps in coverage
- Collect necessary payroll data and other information necessary to issue insurance invoices in a timely manner (monthly, quarterly, or annually)
- Schedule, plan, and maintain records for monthly program progress meetings, including minutes, and an action item register, both to be published within 7 days of following each scheduled meeting
- Maintain a program management information system that includes each of the following metrics:
 - web based functionality
 - insurance program coverage specifications and limits of liability
 - insurance policy register, including premium basis, and minimum premium requirements, if any
 - an estimate by project, by contractor, of insurance costs and expected deductions
 - exposure based reporting, e.g. review of costs associated with enrolled contractors by trade
 - project specific and total program financial reporting
 - register of certificates of insurance by project and total program
 - program statistics by project and by total program for each contract, contractor, subcontractor, change order etc.

1.5 **Risk Control and Claims Services:** The Contractor will provide, in coordination with the AOC, safety and claims management services to include:

- Participate in preliminary project hazard analysis to identify construction and operational hazards to be mitigated in the design and construction process for areas such as:
 - Site safety and security

- Crane management
- Fall protection
- Mechanical exposures
- Industrial hygiene exposures
- Fire exposure
- Environmental exposures
- Assign appropriate full time equivalent loss control staff to each the project to work with the construction manager and enrolled contractors to ensure site safety and security
- Work with the construction manager and enrolled contractors to identify and cooperate with the designated safety representative for each contractor at each project
- Conduct routine project site safety inspections and incident investigations, and provide a report of findings within 7 days of the completed inspection or investigation
- Maintain a register of site safety violations, concerns and corrections, and a post project lessons learned report
- Assist in claims investigations, claims administration, litigation management, reserve analysis, and loss mitigation programs e.g. onsite medical clinics, medical bill reviews, and claim reserve analysis.

2.0 ACCURACY OF INFORMATION

The AOC shall be solely responsible for the accuracy and completeness of information and other documents furnished to Contractor and/or insurers by the AOC and the AOC shall sign any required application for insurance. The AOC recognizes and agrees that all insurance coverage placed in connection with this Agreement and all Services, evaluations, reports and recommendations provided by Contractor hereunder are based on data and information furnished by the AOC or its contractors. Contractor will be under no obligation to investigate or verify the completeness or accuracy of any such data or information, nor will Contractor have any liability for any errors, deficiencies or omissions in any Services, evaluations, reports or recommendations provided to, or any insurance coverage placed on behalf of, the AOC that are based on such inaccurate or incomplete data or information. The AOC understands that the failure to provide all necessary information to an insurer, whether intentional or by error, could result in the impairment or voiding of coverage.

3.0. LOSS CONTROL ADVISORY

Any loss control services and/or surveys performed by Contractor under this Agreement are advisory in nature. Such services are limited in scope and do not constitute a safety inspection as provided by a safety engineering service. Contractor does not claim to find or include every loss potential, hazard, statutory or code violation or violation of good practice. All surveys and reports are based upon conditions observed and information supplied by the AOC or its contractors. Contractor does not expressly or impliedly guarantee or warrant in any way the safety of any site or operation or that the AOC or any of its sites or operations is in compliance with federal, state or local laws, codes, statutes, ordinances or recommendations.

END OF EXHIBIT D

EXHIBIT E
CONTRACTOR'S KEY PERSONNEL

The following individual shall be the Key Personnel designated to perform the Work of this Agreement:

Name of Contractor's Key Personnel	Title	Role

END OF EXHIBIT E

EXHIBIT F

DVBE PARTICIPATION FORM

Proposer Name: _____

RFP Project Title: _____

RFP Number: _____

The State of California Judicial Branch’s goal of awarding of at least three percent (3%) of the total dollar contract amount to Disabled Veterans Business Enterprise (DVBE) has been achieved for this Project. *Check one:*

Yes____(*Complete Parts A & C only*)

No____(*Complete Parts B & C only*)

“Contractor’s Tier” is referred to several times below; use the following definitions for tier:

0 = Prime or Joint Contractor;

1 = Prime subcontractor/supplier;

2 = Subcontractor/supplier of level 1 subcontractor/supplier

PART A – COMPLIANCE WITH DVBE GOALS

Fill out this Part ONLY if DVBE goal has been met; otherwise fill out Part B.

INCOMPLETE DOCUMENTATION MAY RESULT IN DISQUALIFICATION FROM FURTHER PARTICIPATION IN SELECTION PROCESS FOR THIS SOLICITATION

PRIME CONTRACTOR

Company Name: _____

Nature of Work: _____ Tier: _____

Claimed Value: DVBE: \$ _____

Percentage of Total Contract Cost: DVBE _____ %

SUBCONTACTORS/SUBCONTRACTOR/PROPOSERS/SUPPLIERS

1. Company Name: _____
 Nature of Work: _____
 Tier: _____
 Claimed Value: _____ DVBE \$ _____

 Percentage of Total Contract Cost: DVBE _____ %

2. Company Name: _____
 Nature of Work: _____
 Tier: _____
 Claimed Value: _____ DVBE \$ _____

 Percentage of Total Contract Cost: DVBE _____ %

3. Company Name: _____
 Nature of Work: _____
 Tier: _____
 Claimed Value: _____ DVBE \$ _____

 Percentage of Total Contract Cost: DVBE _____ %

GRAND TOTAL: DVBE _____ %

I hereby certify that the “ Contract Amount,” as defined herein, is the amount of \$_____. I understand that the “ Contract Amount” is the total dollar figure against which the DVBE participation requirements will be evaluated.

<i>Firm Name of Proposer</i>	
<i>Signature of Person Signing for Proposer</i>	
<i>Name (printed) of Person Signing for Proposer</i>	
<i>Title of Above-Named Person</i>	
<i>Date</i>	

PART B – ESTABLISHMENT OF GOOD FAITH EFFORT

Fill out this Part ONLY if DVBE goal will not be met but you have made a good faith effort to meet such goal.

INCOMPLETE DOCUMENTATION MAY RESULT IN DISQUALIFICATION FROM FURTHER PARTICIPATION IN SELECTION PROCESS FOR THIS SOLICITATION

1. List contacts made with personnel from state or federal agencies, and with personnel from DVBEs to identify DVBEs.

<i>Source</i>	<i>Person Contacted</i>	<i>Date</i>

2. List the names of DVBEs identified from contacts made with other state, federal, and local agencies.

<i>Source</i>	<i>Person Contacted</i>	<i>Date</i>

3. If an advertisement was published in trade papers and/ or papers focusing on DVBEs, attach proof of publication.

<i>Publication</i>	<i>Date(s) Advertised</i>

4. Solicitations were submitted to potential DVBE contractors (list the company name, person contacted, and date) to be subcontractors. Solicitation must be job specific to plan and/ or contract.

<i>Company</i>	<i>Person Contacted</i>	<i>Date Sent</i>

5. List the available DVBEs that were considered as subcontractors or suppliers or both.
(Complete each subject line.)

<i>Company Name:</i>	
<i>Contact Name & Title:</i>	
<i>Telephone Number:</i>	
<i>Nature of Work:</i>	
<i>Reason Why Rejected:</i>	

<i>Company Name:</i>	
<i>Contact Name & Title:</i>	
<i>Telephone Number:</i>	
<i>Nature of Work:</i>	
<i>Reason Why Rejected:</i>	

<i>Company Name:</i>	
<i>Contact Name & Title:</i>	
<i>Telephone Number:</i>	
<i>Nature of Work:</i>	
<i>Reason Why Rejected:</i>	

PART C – CERTIFICATION (to be completed by **ALL Proposers**)

I hereby certify that I have made a diligent effort to ascertain the facts with regard to the representations made herein and, to the best of my knowledge and belief, each firm set forth in this bid as a Disabled Veterans Business Enterprise complies with the relevant definition set forth in section 1896.61 of Title 2, and section 999 of the Military and Veterans Code, California Code of Regulations. In making this certification, I am aware of section 10115 *et seq.* of the Public Contract Code that establishes the following penalties for State Contracts:

Penalties for a person guilty of a first offense are a misdemeanor, civil penalty of \$5,000, and suspension from contracting with the State for a period of not less than thirty (30) days nor more than one (1) year. Penalties for second and subsequent offenses are a misdemeanor, a civil penalty of \$20,000 and suspension from contracting with the State for up to three (3) years.

IT IS MANDATORY THAT THE FOLLOWING BE COMPLETED ENTIRELY;
FAILURE TO DO SO WILL RESULT IN IMMEDIATE REJECTION.

<i>Firm Name of Proposer:</i>	
<i>Signature of Person Signing for Proposer</i>	
<i>Name (printed) of Person Signing for Proposer</i>	
<i>Title of Above-Named Person</i>	
<i>Date</i>	

END OF EXHIBIT

ATTACHMENT D

**SCHEDULE FOR PROJECTS
SB1732 FUNDS**

PROJECT	Total New Courtrooms	Building Height (Stories)	Bldg Sq Ft	Total Project Cost	Construction Cost	Delivery Method	Bid Packages	Start Construction	Completion
Calaveras - New San Andreas	4	2	39,878	43,579,000.00	38,644,000.00	CM at Risk	Jul-2010	Oct-2010	May-2012
Madera - New Madera	10	4	99,879	107,947,000.00	95,987,000.00	CM at Risk	Jun-2011	Aug-2011	May-2013
Riverside - New Mid County	6	2	60,725	63,507,000.00	54,792,000.00	CM at Risk	Jul-2010	Nov-2010	Sep-2012
San Benito - New Hollister	3	1	36,478	36,156,000.00	32,286,000.00	CM at Risk	Nov-2010	Feb-2011	Sep-2012
San Bernardino - New San Bernardino	36	11	390,000	341,905,000.00	306,765,000.00	CM at Risk	Jul-2010	Dec-2010	Dec-2012
San Joaquin - New Stockton	30	10	282,763	261,979,000.00	232,306,000.00	CM at Risk	May-2010	Oct-2010	Aug-2013
Tulare - New Porterville	9	2	90,000	94,122,000.00	81,813,000.00	CM at Risk	Jul-2011	Aug-2011	Feb-2013
				Total	\$ 842,593,000.00				

**ATTACHMENT E
SCHEDULE OF PROJECTS
SB1407 FUNDS**

PROJECT	Total New Courtrooms	Building Height (Stories)	Bldg Sq Ft	Total Project Cost	Construction Cost	Delivery Method	Bid Packages sent to Sub Contractors	Start Construction	Completion
Phase 1									
Santa Clara - New Family Justice	20	6 to 10	193,343	184,080,000.00	167,752,000.00	CM at Risk	Jul-2011	Jul-2010	Aug-2013
Sutter - New Yuba	7	3	78,701	100,626,000.00	91,712,000.00	CM at Risk	Apr-2012	Jun-2012	Nov-2013
Sonoma - New Santa Rosa	15	6	173,500	240,125,000.00	211,890,000.00	CM at Risk	Jun-2012	Sep-2012	Sep-2014
Imperial - New El Centro	4	2	53,983	77,288,000.00	69,215,000.00	CM at Risk	Jan-2013	Feb-2013	Jul-2014
Lake - New Lakeport	4	2	50,158	71,744,000.00	63,679,000.00	CM at Risk	Jan-2013	May-2013	Jan-2015
Monterey - New South County	2	2	47,223	65,220,000.00	59,103,000.00	CM at Risk	Jan-2013	May-2013	Jan-2015
Shasta - New Redding	14	4	173,351	211,779,000.00	192,518,000.00	CM at Risk	Jan-2013	Mar-2013	Feb-2015
Butte - New North County	5	2	67,391	83,367,000.00	63,025,000.00	DBB	Apr-2013	Jun-2013	Nov-2014
Riverside - New Indio	5	2	67,933	84,415,000.00	73,685,000.00	CM at Risk	Apr-2013	May-2013	Oct-2014
Los Angeles - New Southeast County	9	3	90,000	129,027,000.00	97,444,000.00	CM at Risk	Jul-2013	Aug-2013	Feb-2015
Tehema - New Red Bluff	5	2	67,704	78,131,000.00	56,699,000.00	CM at Risk	Jul-2013	Aug-2013	Feb-2013
Yolo - New Woodland	14	4	163,006	172,940,000.00	151,398,000.00	CM at Risk	Jul-2013	Aug-2013	Apr-2015
				Total	\$ 1,298,120,000.00				
Phase 2									
Merced - New Los Banos	2	1	29,511	32,597,000.00	27,422,000.00	CM at Risk	Nov-2012	Feb-2013	Feb-2014
Toulumne - New Sonora	5	2	66,724	70,076,000.00	60,368,000.00	CM at Risk	Nov-2012	Apr-2013	Nov-2014
Inyo - New Independence	2	2	28,774	32,266,000.00	27,415,000.00	CM at Risk	Feb-2013	Apr-2013	Jul-2014
Kern - New Delano	3	2	39,780	41,924,000.00	33,316,292.00	CM at Risk	Feb-2013	Apr-2013	Jul-2014
Los Angeles - New Santa Clarita	4	2	54,750	58,131,000.00	49,521,000.00	CM at Risk	Feb-2013	Apr-2013	Jul-2014
San Diego - New San Diego Central	71	17	703925	660,134,000.00	572,967,000.00	CM at Risk	Feb-2013	Jul-2013	Feb-2016
Sisuyou - New Yreka	6	2	86,163	96,501,000.00	83,719,000.00	CM at Risk	Feb-2013	Jul-2013	Feb-2015
Kings - New Hanford	12	3	144,460	142,449,000.00	121,616,000.00	CM at Risk	Jul-2013	Oct-2013	Jul-2015
Los Angeles - New Glendale	8	3	99,552	123,948,000.00	95,644,000.00	CM at Risk	Jul-2013	Oct-2013	Apr-2015
Mendocino - New Ukiah	9	3	113,757	119,914,000.00	101,941,000.00	CM at Risk	Jul-2013	Nov-2013	Apr-2015
				Total	\$ 1,173,929,292.00				
Phase 3									
Sacramento - New Sacramento	35	12	396,609	509,230,000.00	476,884,000.00	CM at Risk	Jan-2013	Feb-2013	Apr-2015
Alpine - New Markleeville			12,000	13,515,000.00	11,487,750.00	CM at Risk	Feb-2013	Jul-2013	Nov-2014
Nevada - New Nevada City			76,520	81,091,000.00	68,927,350.00	CM at Risk	Feb-2013	Jul-2013	Nov-2015
Placer - New Tahoe Area			12,000	12,570,000.00	10,684,500.00	CM at Risk	Feb-2013	Jul-2013	Dec-2014
Plumas - New Quincy			24,000	25,140,000.00	21,369,000.00	CM at Risk	Feb-2013	Jul-2013	Jan-2015
Sierra - New Downieville			12,000	13,515,000.00	11,487,750.00	CM at Risk	Feb-2013	Jul-2013	Feb-2015
Kern - New Mohave			24,000	25,140,000.00	21,369,000.00	CM at Risk	Jul-2013	Nov-2013	Apr-2015
Los Angeles - New Eastlake			73,275	67,576,000.00	57,439,600.00	CM at Risk	Jul-2013	Nov-2013	Jul-2015
Los Angeles - New Mental Health			36,000	40,545,000.00	34,463,250.00	CM at Risk	Jul-2013	Nov-2013	Apr-2015
El Dorado - New Placerville	6	2	87,642	89,426,000.00	77,190,000.00	CM at Risk	Feb-2013	Jul-2013	Feb-2015
Santa Barbara - New Santa Barbara			84,470	126,624,000.00	107,630,400.00	CM at Risk	Nov-2013	Feb-2014	Nov-2015
Stanislaus - New Modesto	8		101,964	113,897,000.00	96,812,450.00	CM at Risk	Nov-2013	Feb-2014	Nov-2015
				Total	995,745,050.00				
Major Renovation Projects									
Some or all may be included in the OCIP									
Fresno - County Court Renovation				107,365,000.00		CM at Risk	Oct-2011	Feb-2012	Feb-2014
Glenn - Willows Renovation				32,686,000.00		CM at Risk	Feb-2013	Jul-2013	Jul-2014
Los Angeles - Renovate Lancaster				8,431,000.00		CM at Risk	Feb-2011	Apr-2011	Jul-2012
Santa Barbara - Renovate Figueroa				-		CM at Risk			
Riverside - Hemet Renovation				51,224,000.00		CM at Risk	Apr-2011	Nov-2011	Feb-2013
San Joaquin - Juvenile Renovation				6,252,000.00		CM at Risk	Jul-2011	Nov-2011	Jul-2013

ATTACHMENT F
Form for Submission of Questions

#	RFQ Reference	Question	Answers
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