



# Judicial Council of California

ADMINISTRATIVE OFFICE OF THE COURTS

FINANCE DIVISION

455 Golden Gate Avenue • San Francisco, California 94102-3688  
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RONALD M. GEORGE  
*Chief Justice of California*  
*Chair of the Judicial Council*

WILLIAM C. VICKREY  
*Administrative Director of the Courts*

RONALD G. OVERHOLT  
*Chief Deputy Director*

CHRISTINE M. HANSEN  
*Director, Finance Division*

**TO:** POTENTIAL BIDDERS

**FROM:** Administrative Office of the Courts  
Human Resources Division

**DATE:** April 9, 2004

**SUBJECT/PURPOSE OF MEMO:** REQUEST FOR PROPOSALS  
TO PROVIDE AN EMPLOYEE ASSISTANCE PROGRAM FOR  
EMPLOYEES OF THE CALIFORNIA ADMINISTRATIVE OFFICE OF  
THE COURTS, SUPREME COURT, COURTS OF APPEAL, ASSIGNED  
JUSTICES, AND JUDGES AND SUBORDINATE JUDICIAL OFFICERS  
OF THE SUPERIOR COURTS.

**ACTION REQUIRED:** You are invited to review and respond to the attached Request for Proposals  
("RFP"):  
Project Title: Employee/Judicial Officers' Assistance Program  
RFP Number: HRD-401

**PROPOSAL DUE DATE:** **Proposals must be received by 5 p.m. on April 30, 2004**

**SUBMISSION OF PROPOSAL:** Proposals should be sent to:  
**Judicial Council of California**  
**Administrative Office of the Courts**  
**Attn: Nadine McFadden**  
**455 Golden Gate Avenue**  
**San Francisco, CA 94102-3688**

**CONTACT FOR FURTHER INFORMATION:** **NAME:** Andy Hauer **TEL:** 415-865-4256 **FAX:** 415-865-4328 **E-MAIL:** andy.hauer@jud.ca.gov

## **1.0 GENERAL INFORMATION**

### **1.1 Background**

The Judicial Council of California, chaired by the Chief Justice of California, is the chief policymaking agency of the California judicial system. The California Constitution directs the Council to improve the administration of justice by surveying judicial business, recommending improvements to the courts, and making recommendations annually to the Governor and the Legislature. The council also adopts rules for court administration, practice, and procedure, and performs other functions prescribed by law. The Administrative Office of the Courts (AOC) is the staff agency for the council and assists both the council and its chair in performing their duties.

### **1.2 Human Resources**

The Human Resources Division administers Employee Assistance Program benefits to a population of approximately 3,800 employees and judicial officers and their dependents. This population is divided into two groups (employees and judicial officers) for the purposes of employee assistance benefits. Employees of the California Supreme Court, the Courts of Appeal, the Administrative Office of the Courts, Habeas Corpus Resource Center and the Commission on Judicial Performance are included in the Employee Assistance Program. This group comprises approximately 1,500 employees plus dependents. Justices of the California Supreme Court or the Courts of Appeal, assigned justices, and judges and subordinate judicial officers of the California superior courts are included in the Judicial Officers' Assistance Program, which comprises the remaining 2,300 employees and their dependents. *Benefits are identical, but informational material should distinguish between the two groups.*

The AOC Human Resources Division provides direct and indirect support to the 58 California superior courts as they make the transition to their new role as employer. It is possible that, in the future, all 58 courts with approximately 19,000 employees could participate in this plan.

## **2.0 PURPOSE OF THIS RFP**

The AOC seeks to identify and retain a qualified service provider to deliver employee assistance benefits to the 3,800 judicial employees, judicial officers, and their dependents identified above. This RFP is the means for prospective service providers to submit their qualifications to the AOC and request selection as a service provider.

## **3.0 SCOPE OF SERVICES**

3.1. The Employee Assistance Program service provider will provide the services set forth below for a period of up to four years, consisting of an initial term of one-year beginning July 1, 2004 and ending June 30, 2005, and, at the sole discretion of the AOC, three consecutive, additional one-year periods commencing July 1st and ending June 30th for fiscal years 2005–2006, 2006–2007 and 2007–2008.

## Employee Judicial Officer's Assistance Program

Historically, the annual contract value for Employee Assistance Program services has been approximately \$120,000; however, there is no express or implied guarantee of a dollar value for any contract awarded as a result of this RFP.

- 3.2. The Employee Assistance provider will be asked to:
  - 3.2.1 Provide counseling to employees and their dependents, including domestic partners and their dependents, on a wide variety of interpersonal, lifestyle, and work-related issues
  - 3.2.2 Provide up to five sessions per family member per incident without additional cost
  - 3.2.3 Provide assistance to managers and supervisors in dealing with workplace and employee performance issues
  - 3.2.4 Provide educational and promotional material to publicize the services and availability of the programs
  - 3.2.5 Conduct orientation sessions to introduce the benefits of the programs to managers, supervisors, and employees as requested. The site could be in any of the 58 counties in any of the court facilities within the county.
  - 3.2.6 Provide forums for participants on topics of general interest
  - 3.2.7 Provide services to employees and guidance and feedback to supervisors when employees are mandated to participate in the Employee Assistance Program
  - 3.2.8 Assist in return to work and monitoring of compliance for employees participating in return-to-work agreements
  - 3.2.9 Provide referrals to appropriately credentialed staff conveniently located (within 5 miles of home or work in urban and suburban areas and within 25 miles in rural areas) throughout the state of California
  - 3.2.10 Meet urgent requests for service within 24 hours and non-urgent requests within seven days.
  - 3.2.11 On at least a quarterly basis, provide statistical reports showing number of requests for service and types of service provided
  - 3.2.12 On at least a quarterly basis provide customer satisfaction data
  - 3.2.13 Provide a transition plan for services that are in progress at the time of change-over from the existing employee assistance provider to the new service provider
  - 3.2.14 Provide plan for transitioning services that are in process at the expiration or termination of the agreement awarded as a result of this RFP
  - 3.2.15 Provide limited tax, legal, and financial counseling as well as referral for complex issues

## 4.0 SPECIFICS OF A RESPONSIVE PROPOSAL

The following information shall be included in the proposal:

- 4.1 Name, address, telephone and fax numbers, and federal tax identification number.
- 4.2 Five copies of the proposal signed by an authorized representative of the company, including name, title, address, and telephone number of one individual who is the responder's designated representative.

## Employee Judicial Officer's Assistance Program

- 4.3 A description of the credentialing process used to evaluate potential counselors for the program. Provide the number and percentage of counselors on staff whose highest credential is licensed clinical social worker (L.C.S.W.), marriage and family therapist (M.F.T.), psychologist, psychiatrist, certified public accountant (C.P.A.), attorney (J.D.) and any other pertinent license or educational experience.
- 4.2 Describe the method used to continually improve and update counselors' skill and knowledge.
- 4.3 Describe the account management staff that would be assigned to this account should your organization be the successful bidder.
- 4.4 Names, addresses, and telephone numbers of a minimum of five (5) clients for whom the company provides employee assistance services. The AOC may check the references listed.
- 4.5 Describe the services provided to employees and dependents.
- 4.6 Describe any additional services offered to departments or groups of employees such as critical incident debriefing, grief counseling, and conflict resolution. Address whether such services are included in the basic fee or, if additional, how fees are calculated.
- 4.7 Describe the communication program between the service provider and the employees. Describe what media would be used and how a budget would be developed.
- 4.8 Describe the options available to a member seeking an in-office consultation when a service provider is not available within a 20-mile radius of the employee's home or work address.
- 4.9 Responsive proposals should provide straightforward, concise information that satisfies the requirements noted above. Expensive bindings, color displays, and the like are not necessary or desired. Emphasis should be placed on conformity to the state's instructions, requirements of this RFP, and completeness and clarity of content.
- 4.10 Transition plan for taking over the services should be provided with time estimates for completion of all steps and samples of any communication material that will be utilized.
- 4.11 Describe the data needed to establish employees and dependents as eligible for services and method of data transfer.
- 4.12 Describe the ongoing method of keeping eligibility updated with data elements, frequency, and method of data transfer specified.
- 4.12 Provide samples of typical communication material used to educate members about the benefits and remind members of their benefits.

## Employee Judicial Officer's Assistance Program

- 4.13 Provide samples of periodic statistical reports including customer satisfaction data.
- 4.14 Provide copies of any license(s) or certification(s) your organization has been granted to operate as an Employee Assistance Program in the state of California.

### 5.0 FEE PROPOSAL

Please provide your organization's fees per employee per month for the initial term and each option term in the following table. It is expected that all service providers responding to this RFP will offer the service provider's government rate or comparable favorable rate.

| Number of employees covered | Initial Term<br>July 1, 2004 to<br>June 30, 2005 | First Option Term<br>July 1, 2005 to<br>June 30, 2006 | Second Option Term<br>July 1, 2006 to<br>June 30, 2007 | Third Option Term<br>July 1, 2007 to<br>June 30, 2008 |
|-----------------------------|--|---|--|---|
| Up to 4,000                 |  |   |  |   |
| 4,001 to 6,000              |  |   |  |   |
| 6,001 to 10,000             |  |   |  |   |
| 10,001+                     |  |   |  |   |

**Please detail any additional charges that will be imposed for any services considered out of the scope of the per-employee-per-month fee.**

### 6.0 RIGHTS

The AOC reserves the right to reject any and all proposals, in whole or in part, as well as the right to issue similar RFPs in the future. This RFP is in no way an agreement, obligation, or contract and in no way is the AOC or the State of California responsible for the cost of preparing the proposal. One copy of a submitted proposal will be retained for official files and becomes a public record.

Only written responses will be accepted. Responses should be sent in a sealed inner envelope, clearly marked with the RFP number, by registered or certified mail or by hand delivery to the name and address specified in the cover-letter to this RFP. Delivery to other than the name and address specified in the cover letter to this RFP may render Bidder's proposal non-responsive.

## **7.0 PROJECT MANAGEMENT**

The project manager for this RFP process is:

Andy Hauer  
Human Resources  
Administrative Office of the Courts  
455 Golden Gate Avenue  
San Francisco, CA 94102-3688  
415-865-4256  
415-865-4328  
andy.hauer@jud.ca.gov

## **8.0 EVALUATION OF PROPOSALS**

Proposals will be evaluated by the AOC using the following criteria, in order of descending priority:

- a. Scope of employee assistance services provided
- b. Credentials and availability of counseling staff in all 58 counties
- c. Proposed exceptions to Standard and Special provisions as set forth in Attachment A
- d. Competitiveness of fee proposal
- e. Experience with similar sized groups in multiple locations in California
- f. Ability to begin service on July 1, 2004.

## **9.0 ADDITIONAL REQUIREMENTS**

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

## **10.0 CONTRACT TERMS AND CONDITIONS**

10.1 The services requested will be provided pursuant to the appropriate terms and conditions set forth in a State of California Standard Agreement. Attachment A contains the Standard Provisions and Special Provisions applicable to the services anticipated in this RFP. If the Bidder is unable to agree to the terms and conditions set forth in Attachment A, its proposal must indicate the specific sections of the Agreement that are not acceptable and submit alternate language for the specific section that is not acceptable to the Bidder. In addition, the Bidder shall reference each specific language change and provide a narrative indicating Bidder's explanation of each proposed change. Although the AOC will consider alternate language proposed by a Bidder, the AOC will not be bound by contract language received as part of the Bidder's response. If the Bidder requires that the AOC be bound by some or all of the Bidder's proposed contract language, the proposal may be considered non-responsive and may be rejected.

## Employee Judicial Officer's Assistance Program

- 10.2 The AOC will make a reasonable effort to execute an agreement based on this solicitation document within thirty (30) days of selecting a proposal that provides the best value to the AOC. The Agreement shall be signed by the Contractor and returned within five (5) calendar days of receipt of the Agreement. The period for execution may be changed by mutual agreement of the parties. Agreements are not effective until signed by both parties.
- 10.3 Failure to execute the Agreement within the time frame identified above shall be sufficient cause for voiding the award of the Agreement. If a successful Bidder refuses or fails to execute the Agreement, the AOC may award the contract to the next qualified Bidder.

### **11.0 ADMINISTRATIVE RULES**

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

### **12.0 CONFIDENTIAL OR PROPRIETARY INFORMATION**

The Administrative Office of the Courts policy is to follow the intent of the California Public Records Act (PRA). If a vendor'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 vendor is unsure if its confidential and/or proprietary material meets the disclosure exemption requirements of the PRA, then it should not include such information in its proposal.

## STANDARD PROVISIONS

### 1. Indemnification

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

### 2. Relationship of Parties

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

### 3. Termination for Cause

A. 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.

B. 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



Attachment A  
Contract Terms

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.

- C. 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.
- D. 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.
- E. 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.

4. No Assignment

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

5. Time of Essence

Time is of the essence in this Agreement.

6. Validity of Alterations

Alteration or variation of the terms of this Agreement 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.

**SPECIAL PROVISIONS**

1. Definitions

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

Attachment A  
Contract Terms

- 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 that is already known by the receiving party, free of obligation of confidentiality to the disclosing party; (ii) information that becomes generally available to the public, other than as a result of disclosure by the receiving party in breach of this Agreement; (iii) information that is independently developed by the receiving party without reference to the Confidential Information; and (iv) information that the receiving party rightfully obtains from a Third Party free of the obligation of confidentiality to the disclosing party.
- 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, consultant, corporation, affiliates, or combination thereof, including joint ventures, contracting with the State to do the Contract Work. The Contractor is one of the parties to this Agreement.
- G. "**Data**" means all types of raw data, articles, papers, charts, records, reports, studies, research, memoranda, computation sheets, questionnaires, surveys, and other documentation.
- H. "**Day**" means calendar day, unless otherwise specified.
- I. "**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.

Attachment A  
Contract Terms

- J. **“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.
- K. **“Material”** means all types of tangible personal property, including but not limited to goods, supplies, equipment, commodities, and information and telecommunication technology.
- L. **“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.
- M. **“Project”** refers to all activity relative to this Agreement including activity of the Contractor, its Subcontractors, the State and the State’s representatives.
- N. The **“State”** refers to the Judicial Council of California / Administrative Office of the Courts (**“AOC”**). The State is one of the parties to this Agreement. The term **“State”** shall also include any individual designated to perform technical and/or administrative functions, as set forth herein.
- O. **“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.”**
- P. **“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.

Attachment A  
Contract Terms

- Q. **“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-consultants, suppliers, and materialmen.
- R. **“Task(s)”** means one or more functions, if specified in the Contract Documents, to be performed by the Contractor for the State.
- S. **“Third Party”** refers to any individual, association, partnership, firm, company, corporation, consultant, Subcontractor, or combination thereof, including joint ventures, other than the State or the Contractor, which is not a party to this Agreement.
- T. **“Transition Period”** means a period of time commencing (i) three months prior to the expiration of this Agreement or on an earlier date as the State may request and Contractor may agree, (ii) upon any notice of termination or non-renewal of this Agreement, or (iii) three months prior to any other ceasing of services under this Agreement, as applicable, and continuing through the effective date of expiration, termination or cessation, but for no less than three months.
- U. **“Transition Plan”** refers to the plan set forth in Exhibit \_\_ to this Agreement as necessary to allow the Work to continue without interruption or adverse effect and facilitate the orderly transfer of the Work to the State or the State’s designee.
- V. **“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

Attachment A  
Contract Terms

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.

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, Andy Hauer, 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:

Andy Hauer, Project Manager  
Judicial Council of California  
Administrative Office of the Courts

Attachment A  
Contract Terms

455 Golden Gate Avenue  
San Francisco, CA 94102-3660

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

Contractor's Name \_\_\_\_\_  
Attn: \_\_\_\_\_  
Address1  
Address2

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.
- B. Any substitution or prolonged absence of the personnel who were specifically identified in the original proposal, as accepted, must be approved. Failure to obtain acceptance shall constitute a major breach of this Agreement

7. 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.

8. 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

Attachment A  
Contract Terms

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.

9. 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.

10. Contractor's Personnel--Replacement

Attachment A  
Contract Terms

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, either 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 immediately assign replacement personnel, possessing equivalent or greater experience and skills.

11. Accounting System Requirement

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

12. 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 protect Data adequately against fire or other damage.

13. Audit

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

14. Transition Services

- A. During the Transition Period, the Contractor shall provide to the State or the State's designee, the services set forth in the Transition Plan, and any other services reasonably necessary to enable the State to obtain from another contractor, or to provide for itself, services to substitute for or replace the services provided by Contractor under this Agreement without interruption or adverse effect and to facilitate the orderly transfer of the Services to the State or the State's designee (collectively, "Transition Services"). Contractor shall provide Transition Services to the State or the State's designee regardless of the reason for termination or expiration.
- B. Transition Services shall be provided at no cost to the State or the State's designated successor except as otherwise provided for in Exhibit C, Payment Provisions.

15. Insurance Requirements



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- A. General. The Contractor shall obtain and maintain the minimum insurance set forth in subparagraph B, below. 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 Agreement. The Contractor shall assess its own risks and if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage. For full coverage, each insurance policy shall be written on an “occurrence” form; excepting that insurance for professional liability, when required, may be acceptable on a “claims made” form. If coverage is approved and purchased on a “claims made” basis, the Contractor warrants continuation of coverage, either through policy renewals or the purchase of an extended discovery period, if such extended coverage is available, for not less than three (3) years from the date of completion of the Work which is the subject of this Agreement.
- B. Minimum Scope and Limits of Insurance. The Contractor shall maintain coverage and limits no less than the following:
- i. Workers' Compensation at statutory requirements of the State of residency.
  - ii. Employers' Liability with limits not less than **\$1,000,000.00** for each accident.
  - iii. Commercial General Liability Insurance with limits not less than **\$1,000,000.00** for each occurrence, Combined Single Limit Bodily Injury and Property Damage.
  - iv. Business Automobile Liability Insurance with limits not less than **\$1,000,000.00** for each occurrence, Combined Single Limit Bodily Injury and Property Damage, including owned and non-owned and hired automobile coverage, as applicable.
  - v. Professional Liability: **\$1,000,000.00** per occurrence.
- C. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to, and approved by, the State. The deductible and/or self-insured retention of the policies shall not limit or apply to the Contractor’s liability to the State and shall be the sole responsibility of the Contractor.
- D. Other Insurance Provisions. The General Liability policy required in this Agreement is to contain, or be endorsed to contain, the following provisions:
- i. The State, its officers, officials, employees and agents are to be covered as additional insureds as respects liability arising out of activities

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- performed by or on behalf of the Contractor in connection with this Agreement.
- ii. To the extent of the Contractor's negligence, the Contractor's insurance coverage shall be primary insurance as respects the State, its officers, officials, employees and agents. Any insurance and/or self-insurance maintained by the State, its officers, officials, employees or agents shall not contribute with the insurance or benefit the Contractor in any way,
  - iii. The Contractor's insurance shall apply separately to each insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.
- E. The Contractor shall provide the State certificates of insurance satisfactory to the State evidencing all required coverages before Contractor begins any Work under this Agreement, and complete copies of each policy upon the State's request.
- F. If at any time the foregoing policies shall be or become unsatisfactory to the State, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the State, the Contractor shall, upon Notice to that effect from the State, promptly obtain a new policy, and shall submit the same to the State, with the appropriate certificates and endorsements, for approval.
- G. All of the Contractor's policies shall be endorsed to provide advanced written Notice to the State of cancellation, nonrenewal, and reduction in coverage, within fifteen (15) Days, mailed to the following address: Judicial Council, Administrative Office of the Courts, Business Services Manager, 455 Golden Gate Ave., 7<sup>th</sup> Floor, San Francisco, CA 94104.

16. Confidentiality

- A. Both the State and the Contractor acknowledge and agree that in the course of performing the Work under this Agreement, the State may disclose Confidential Information to the Contractor.
- B. The Contractor agrees not to disclose the Confidential Information to any Third Party and to treat it with the same degree of care as it would its own confidential information. It is understood, however, that the Contractor may disclose the State's Confidential Information on a "need to know" basis to the Contractor's employees and Subcontractors and, as directed by the Project Manager, representatives of the State that are working on the Project. All such employees and Subcontractors of the Contractor shall have executed a confidentiality agreement with the Contractor requiring a promise of confidentiality concerning the Contractor's clients and business.
- 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

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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.

17. 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.

18. 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.

19. 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.

20. Covenant Against Gratuities

The Contractor warrants by signing this Agreement that no gratuities, in the form of entertainment, gifts, or otherwise, were offered by the Contractor or any agent, director, or representative of the Contractor, to any officer, official, agent, or employee

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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.

21. National Labor Relations Board

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

22. Drug-Free Workplace

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

23. Nondiscrimination/No Harassment Clause

- A. During the performance of this Agreement, the Contractor and its Subcontractors 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

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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.

24. Americans with Disabilities Act

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

25. California Law

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

26. Severability

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

27. Waiver

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

28. Signature Authority

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

29. Survival

The termination or expiration of the Agreement 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

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prior to or subsequent to such termination or expiration, except as expressly provided herein.

30. Evaluation of Contractor

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

31. Agreement Term and Options to Renew

- A. The initial term of the Agreement shall commence on July 1, 2004 and expire on June 30, 2005 ("Initial Term"). 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 three consecutive, additional one-year periods defined below:

**First Option Term:** July 1, 2005 – June 30, 2006

**Second Option Term:** July 1, 2006 – June 30, 2007

**Third Option Term:** July 1, 2007 – June 30, 2008

- 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.

32. 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.

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

**ADMINISTRATIVE RULES GOVERNING REQUESTS FOR PROPOSALS**

**A. General**

1. This solicitation document, the evaluation of proposals, and the award of any contract shall conform with current competitive bidding procedures as they relate to the procurement of goods and services. A vendor's proposal is an irrevocable offer for 60 days following the deadline for its submission.
2. In addition to explaining the Administrative Office of the Courts' (AOC's) requirements, the solicitation document includes instructions that prescribe the format and content of proposals.

**B. Errors in the solicitation document**

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

**C. Questions regarding the solicitation document**

1. If a vendor's question relates to a proprietary aspect of its proposal and the question would expose proprietary information if disclosed to competitors, the vendor may submit the question in writing, conspicuously marking it as "CONFIDENTIAL." With the question, the vendor must submit a statement explaining why the question is sensitive. If the AOC concurs that the disclosure of the question or answer would expose proprietary information, the question will be answered, and both

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the question and answer will be kept in confidence. If the AOC does not concur regarding the proprietary nature of the question, the question will not be answered in this manner and the vendor will be notified.

2. If a vendor submitting a proposal believes that one or more of the solicitation document's requirements is onerous or unfair, or that it unnecessarily precludes less costly or alternative solutions, the vendor may submit a written request that the solicitation document be changed. The request must set forth the recommended change and vendor's reasons for proposing the change. Any such request must be submitted to Andy Hauer at the AOC by the proposal due date and time listed on the cover letter of this RFP.

### **D. Addenda**

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

### **E. Withdrawal and resubmission/modification of proposals**

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

### **F. Evaluation process**

1. An evaluation team will review in detail all proposals that are received to determine the extent to which they comply with solicitation document requirements.
2. If a proposal fails to meet a material solicitation document requirement, the proposal may be rejected. A deviation is material to the extent that a response is not in substantial accord with solicitation document requirements. Material deviations cannot be waived. Immaterial deviations may cause a bid to be rejected.



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3. Proposals that contain false or misleading statements may be rejected if in the AOC's opinion the information was intended to mislead the state regarding a requirement of the solicitation document.
4. Cost sheets will be checked only if a proposal is determined to be otherwise qualified. All figures entered on the cost sheets must be clearly legible.
5. During the evaluation process, the AOC may require a vendor's representative to answer questions with regard to the vendor's proposal. Failure of a vendor to demonstrate that the claims made in its proposal are in fact true may be sufficient cause for deeming a proposal nonresponsive.

### **G. Rejection of bids**

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

### **H. Award of contract**

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

**I. Decision**

1. Questions regarding the AOC's award of any business on the basis of proposals submitted in response to this solicitation document, or on any related matter, should be addressed to Charles Turner, Contracts Officer.

**J. Execution of contracts**

1. The AOC will make a reasonable effort to execute any contract based on this solicitation document within 30 days of selecting a proposal that best meets its requirements. However, exceptions taken by a vendor may delay execution of a contract.
2. A vendor submitting a proposal must be prepared to use a standard state contract form rather than its own contract form.

**K. Protest procedure**

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

Charles Turner, Contract Specialist  
Contracts Officer  
Administrative Office of the Courts  
455 Golden Gate Avenue, 7<sup>th</sup> Floor  
San Francisco, CA 94102-3688

415-865-7845

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

Grant Walker  
Business Services Manager  
Administrative Office of the Courts  
455 Golden Gate Avenue, 7<sup>th</sup> Floor  
San Francisco, CA 94102-3688

A receipt should be requested for hand-delivered material.

**L. News releases**

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

**M. Disposition of materials**

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

**N. Payment**

Payment terms will be specified in any agreement that may ensue as a result of this solicitation document.