



# Judicial Council of California

ADMINISTRATIVE OFFICE OF THE COURTS

FINANCE DIVISION

455 Golden Gate Avenue • San Francisco, California 94102-3688  
Telephone 415-865-7960 • Fax 415-865-4325 • TDD 415-865-4272

*Chief Deputy Director*

CHRISTINE M. HANSEN  
*i i i i i*

**TO:** POTENTIAL BIDDERS

**FROM:** Administrative Office of the Courts  
Education Division/CJER

**DATE:** January 27, 2005

**SUBJECT/PURPOSE OF MEMO:** REQUEST FOR PROPOSALS  
Professional development training for attorneys and education specialists in the area of instructional design.

**ACTION REQUIRED:** You are invited to review and respond to the attached Request for Proposals (“RFP”):  
Project Title: Instructional Design Training for CJER Staff  
RFP Number: CJER1215

**PROPOSAL DUE DATE:** **Proposals must be received by 5 p.m. on February 9, 2005**

**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**

**CONTACT FOR FURTHER INFORMATION:**

<b>NAME:</b>	<b>TEL:</b>	<b>FAX:</b>	<b>E-MAIL:</b>
Martha Kilbourn	415-865-7825	415-865-4335	martha.kilbourn@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 policy making 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 Education Division/Center for Judicial Education and Research**

The California Center for Judicial Education and Research (CJER) is the Education Division of the California Administrative Office of the Courts. Staff work with education committees and faculty to design and develop education programs for California's judges and court staff. CJER has been deeply involved in developing curriculum for each of its audiences for the last three years. This curriculum work is developed in three phases:

- Phase I gathers information about tasks, knowledge, skills, abilities, and beliefs needed to be successful in a position;
- Phase II lists participant learning objectives, educational content, and suggested teaching methods and activities; and
- Phase III is the actual lesson plan for a course.

The original intent was that staff and the education committees would develop phases I and II, and that our volunteer faculty—judges and court staff—would develop the phase III portion, but we are finding that faculty have neither the time nor the expertise needed to do this well. Staff is therefore expected to accomplish this task; the problem is the differing levels of ability among staff to do this. This training is essential to bring the skills of our staff to the level necessary to complete the curriculum work.

## **2.0 PURPOSE OF THIS RFP**

The AOC seeks the services of a consultant with expertise in teaching instructional design.

Our goal is to bring a three-day in-house workshop to CJER that will enhance the knowledge and skills of our attorneys and education specialists to (1) empower them to design phase III products for each of our education audiences and (2) equip them with the education design expertise needed to coach faculty to deliver effective and engaging education to our participants. Complementary goals of this request are to team build by giving the attorneys and education specialists an opportunity to work together toward a common goal, to enable them to share common approaches and terminology in the

future that will enhance the consistency and professionalism of our courses, and to reinforce the fact that their professional development is a value of CJER.

### **3.0 SCOPE OF SERVICES**

- 3.1. The AOC expects the consultant to provide five (5) days of consulting services prior to three (3) days of training, slated for March 28-30.
- 3.2. The consultant will be asked to:
  - 3.2.1 Conduct a three-day workshop in instructional design for twenty (20) of our staff members. The program must incorporate adult learning principles and a large variety of methods, materials, and designs. We would want the following topics to be included:
    - Working with subject-matter experts
    - Analyzing learners
    - Identifying constraints and restrictions affecting course design
    - Sequencing course content
    - Selecting instructional methods
    - Determining the best structure and flow for a course
    - Building in features to make a course motivating and fun
    - Developing course materials
    - Evaluating courses
  - 3.2.2 Supply each member of our staff with course materials that include performance checklists, decision tables, samples, worksheets, procedural guides, and glossaries that can be compiled into a manual to serve as a job aid for future use. Provide sample materials with your proposal.
  - 3.2.3 As part of the warranty, provide free follow-up service for up to one (1) year after training for participants to receive feedback and help with their work via telephone or e-mail.

### **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 social security number or federal tax identification number.
- 4.2 One (1) original and three (3) 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.
- 4.3 Resumes describing the background and experience of key staff, as well as each individual's ability and experience in conducting the proposed activities. Submit hardcopy of resume(s) in proposal as well as electronically on a CD Rom in MS Word format.

- 4.4 Describe key staff's knowledge of the requirements necessary to complete this project and availability of resources necessary to complete the project.
- 4.5 Names, addresses, and telephone numbers of a minimum of three (3) clients for whom the consultant has conducted similar services. The AOC may check references listed by the consultant.
- 4.6 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.
- 4.7 Method to complete the Project:  
Indicate ways in which the consultant will confer with the Project Manager to assure the course meets the needs specified in section 3.2. Provide a sample course agenda with topics and method of presentation for each topic.
- 4.8 Statement that consultant builds its programs upon competencies recommended by the International Board of Standards for Training, Performance and Instruction.

## **5.0 COST [FEE] PROPOSAL**

The proposal should include the consultant's proposed fee schedule. We expect that all consultants responding to this RFP will offer their government rate or comparable favorable rates.

The AOC anticipates the method of payment to the consultant will be by lump sum payment. The total cost for the consultant's services will not exceed \$22,655, inclusive of all personnel, materials, travel, lodging, per diem, etc.

In the cost [fee] proposal, identify the proposed lump sum amount, which shall include all training as well as consulting services, and a break-down of the proposed cost components of the lump sum amount. In the event of a discrepancy between the lump sum amount and the break-down of cost components, the lump sum amount shall prevail.

## **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 by registered or certified mail or by hand delivery. The consultant may send the AOC an advance copy by facsimile to the Project Manager at the fax number listed in Section 7.0, below.

However, sending an advance copy by fax does not satisfy the submission requirements of paragraph 4.2.

## **7.0 PROJECT MANAGEMENT**

The Project Manager for this RFP process is:

Martha Kilbourn  
Education Division/CJER  
Administrative Office of the Courts  
455 Golden Gate Avenue  
San Francisco, CA 94102-3660  
(415) 865-7825 Phone  
(415) 865-4335 FAX  
martha.kilbourn@jud.ca.gov

## **8.0 EVALUATION OF PROPOSALS**

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

- a. Consultant's experience on similar assignments, using references provided per Section 4.5.
- b. Credentials of instructors to be assigned to the project, based on resumes submitted per Section 4.3.
- c. Reasonableness of cost proposal submitted per Section 5.0, based on competitive bidding and value of service, as determined by AOC Education Specialists.
- d. Compatibility of consultants design process with our curriculum planning per Section 4.7 (also see Section 1.2)
- e. Compliance with competencies recommended by the International Board of Standards for Training, Performance and Instruction, per Section 4.8
- f. Ability to provide resources necessary to complete the project, per Section 4.4, including providing free follow-up service under warranty provisions for up to one (1) year after training for participants to receive feedback and help with their work via telephone or e-mail.

## **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 PROPOSED CONTRACT TERMS AND ADMINISTRATIVE RULES**

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

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

## **11.0 CONFIDENTIAL OR PROPRIETARY INFORMATION**

The Administrative Office of the Courts policy is to follow the intent of the California Public Records Act (PRA). If a contractor’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 consultant 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.

**EXHIBIT \_\_\_\_, 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 Contractor, 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

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

4. No Assignment

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

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.

**EXHIBIT \_\_\_, 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: (i) a change in the Work; (ii) a change in Contract Amount; (iii) a change in time allotted for performance; and/or (iv) 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



Attachment A  
Contract Terms

“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.
- J. “**Force Majeure**” means a delay which impacts the timely performance of Work for 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. “**Grant**” means the funding of this Agreement, originating from the State Justice Institute.
- L. “**Key Personnel**” refers to the Contractor’s personnel, identified in Exhibit \_\_\_, Attachments, whom the State has identified and approved to perform the Work of the Contract.
- M. “**Material**” means all types of tangible personal property, including but not limited to goods, supplies, equipment, commodities, and information and telecommunication technology.

Attachment A  
Contract Terms

- N. “**Notice**” means a written document initiated by the authorized representative of either party to this Agreement and given by:
- i. Depositing in the U. S. Mail (or approved commercial express carrier) prepaid to the address of the appropriate authorized representative of the other party, which 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.
- O. “**Project**” refers to all activity relative to this Agreement including activity of the Contractor, its Subcontractors, the State and the State’s representatives.
- P. The “**State**” refers to the Judicial Council of California / Administrative Office of the Courts (“**AOC**”). The State is one of the parties to this Agreement.
- Q. “**State Justice Institute**” or “**SJI**” is the state entity from which the Grant originated. SJI is a Third Party to this Agreement, but retains some rights pursuant to the terms and conditions set forth in the Grant # E-04-008.
- R. “**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**.”
- S. “**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.
- T. “**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, and suppliers.
- U. “**Task(s)**” means one or more functions, if specified in the Contract Documents, to be performed by the Contractor for the State.
- V. “**Third Party**” refers to any individual, association, partnership, firm, company, corporation, consultant, Subcontractor, or combination thereof,

Attachment A  
Contract Terms

including joint ventures, other than the State or the Contractor, which is not a party to this Agreement.

- W. **“Work”** or **“Work to be Performed”** or **“Contract Work”** may be used interchangeably to refer to the service, labor, Materials, Data, and other items necessary for the execution, completion and fulfillment of the Agreement by the Contractor to the satisfaction of the State. Work may be defined to include Tasks, Deliverables, and/or Submittals, as required by the Contract.

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.

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.

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.

Attachment A  
Contract Terms

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

5. 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 Notice 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 \_\_\_\_, the State shall allow reasonable costs resulting from the Stop Work Order in arriving at the termination settlement.

Attachment A  
Contract Terms

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

6. Agreement Administration/Communication

A. Under this Agreement, the Project Manager shall monitor and evaluate the Contractor's performance. The Project Manager for this Agreement is Martha Kilbourn. 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 as follows:

Judicial Council of California  
Administrative Office of the Courts  
Attn: Martha Kilbourn  
455 Golden Gate Avenue  
San Francisco, CA 94102-3660

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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 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).

Attachment A  
Contract Terms

- 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, provided as Attachment \_\_\_ to this Agreement, 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 using Attachment \_\_\_, the Acceptance and Signoff Form, 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.

8. Grant-Funded Agreement

The terms and conditions of the Grant, which may be amended from time to time, are incorporated herewith by reference into this Agreement.

9. Originally Developed Material

All products prepared as the result of the Project will be originally-developed Material unless otherwise specifically provided for in this Agreement, and that Material not originally developed that is included in this Project must be properly identified, whether the Material is in a verbatim or extensive paraphrase format.

10. Protection of Proprietary Software and Other Proprietary Data

- A. The State agrees that all Data and Materials appropriately marked or identified in writing as proprietary, and furnished hereunder, are provided for the State's exclusive use for the purposes of this Agreement only. The State agrees to take all reasonable steps to insure that such proprietary Data are not disclosed to others, without prior written consent of the Contractor.
- B. The State will use reasonable efforts to insure, prior to disposing of any media, that any licensed Data and Materials contained thereon have been erased or otherwise destroyed.
- C. The State agrees that it will take appropriate action by instruction, agreement, or otherwise, with its employees or other persons permitted access to licensed software and other proprietary Data, to satisfy its obligations under this Agreement with respect to use, copying, modification, protection, and security of proprietary software and other proprietary Data.

11. Trade Secret, Patent and Copyright Indemnification

- A. The Contractor shall hold the State, its officers, agents, and employees and SJI, harmless from liability of any nature or kind, including costs and expenses, for infringement or use of any copyrighted or un-copyrighted composition, secret process, patented or un-patented invention, article, or appliance furnished or used in connection with the Agreement.
- B. The Contractor, at its own expense, shall defend any action brought against the State and/or SJI to the extent that such action is based upon a claim that the Data or Materials supplied by the Contractor or the operation of such Data or Materials pursuant to a current version of Contractor-supplied operating software infringes a United States patent or copyright or violates a trade secret. The Contractor shall pay those costs and damages finally awarded against the State in any such action. Such defense and payment shall be conditioned on the following:
  - i. That the Contractor shall be notified within a reasonable time in writing by the State of any Notice of such claim; and,
  - ii. That the Contractor shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise, provided, however, that when principles of government or public law are involved, the State shall have the option to participate in such action at its own expense.
- C. Should the Data, Materials, or the operation thereof, become, or in the Contractor's opinion are likely to become, the subject of a claim of infringement of a United States patent or copyright or a trade secret, the State

Attachment A  
Contract Terms

shall permit the Contractor at its option and expense either to procure for the State the right to continue using the Data or Materials, or to replace or modify the same so that they become non-infringing. If none of these options can reasonably be taken, or if the use of such Data or Materials by the State shall be prevented by injunction, the Contractor agrees to take back such Data or Materials and make every reasonable effort to assist the State in procuring substitute Data or Materials. If, in the sole option of the State, the return of such infringing Data or Materials makes the retention of other Data or Materials acquired from the Contractor under this Agreement impractical, the State shall then have the option of terminating such contracts, or applicable portions thereof, without penalty or termination charge. The Contractor agrees to take back such Data or Materials and refund any sums that the State has paid the Contractor less any reasonable amount for use or damage.

- D. The Contractor shall have no liability to the State under any provision of this clause with respect to any claim of patent, copyright, or trade secret infringement which is based upon the following:
- i. The combination or utilization of Data and/or Materials furnished hereunder with equipment or devices not made or furnished by the Contractor; or,
  - ii. The operation of equipment furnished by the Contractor under the control of any operating software other than, or in addition to, the current version of Contractor-supplied operating software; or,
  - iii. The modification by the State of the equipment furnished hereunder or of the software; or,
  - iv. The combination or utilization of software furnished hereunder with non-Contractor supplied software.
- E. The Contractor certifies that it has appropriate systems and controls in place to ensure that State funds will not be used in the performance of this Agreement for the acquisition, operation, or maintenance of computer software in violation of copyright laws.
- F. The foregoing states the entire liability of the Contractor to the State with respect to infringement of patents, copyrights, or trade secrets.

12. Lobbying

In accordance with 42 U.S.C 10706(a), the Contractor will not use Grant funds, indirectly or directly, to influence the issuance, amendment, or revocation of any Executive orders or similar promulgation by Federal, State, or local agencies, or to influence the passage or defeat of any legislation by constitutional amendment by any Federal, State, or local legislative body.



13. Political Activities

- A. In accordance with 42 U.S.C. 10706(a) and 10707(c):
- i. The Contractor shall not contribute or make available Grant funds, Project personnel, or equipment awarded by the Grant to any political party or association, to the campaign of any candidate for public or party office, or to influence the passage or defeat of any ballot measure, initiative, or referendum.
  - ii. The Contractor and officers and employees of the Contractor shall not intentionally identify the State or SJI with any partisan or nonpartisan political activity or the campaign of any candidate for public or party office.
  - iii. The Contractor and officers and employees of the Contractor shall not engage in partisan political activity while engaged in Work supported in whole or in part this Grant.

14. Grant-Funded Expenditures

- A. In accordance with 42 U.S.C. 10706(b), the Contractor will not use Grant funds to support or conduct training programs for the purpose of advocating particular non-judicial public policies or encouraging non-judicial political activities.
- B. In accordance with 42 U.S.C. 10706(d), the Contractor will not use Grant funds to supplant State or local funds supporting a program or activity; to construct court facilities or structures, except to remodel existing facilities or to demonstrate new architectural or technological techniques, or to provide temporary facilities for new personnel or for personnel involved in a demonstration or experimental program; or to solely purchase equipment for a court system.
- C. The Contractor agrees that no ongoing or completed projects with the State or other funding sources duplicate or overlap any work contemplated or described in this Agreement proposal. Any pending or proposed request for other funds that would duplicate or overlap work under this Agreement will be revised to exclude any such duplication of Agreement fund expenditures. Any such duplication of expenditures subsequently determined by audit will be subject to recovery by the State.

15. Evaluation of Contractor

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

Attachment A  
Contract Terms

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 employees and Subcontractors of the Contractor performing services for the State, which 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 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. 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, including providing free follow-up service for up to one (1) year after training for participants to receive feedback and help with their work via telephone or e-mail. All warranties, including any special warranties specified elsewhere herein, shall inure to the State, its successors, assigns, customer agencies, and any other recipients of the services provided hereunder.

18. Contractor's Personnel—Replacement

- A. The State has the right to review resumes and interview the Contractor's proposed personnel provided to the State under this Agreement prior to commencement of the Work. If, in the State's reasonable opinion, any of the proposed personnel is unsatisfactory or does not meet the State's requirements, the Contractor shall submit a different candidate for consideration.

Attachment A  
Contract Terms

- B. The responsibilities of the Key Personnel are set forth in Exhibit \_\_\_\_, Work to be Performed. The Contractor's Key Personnel will have the ability and authority to make decisions commensurate with his or her role and level of responsibility regarding the Work of this Contract.
- C. The individual(s) assigned as the Contractor's Key Personnel at the time of agreement, supported by their resumes, are included in Exhibit \_\_\_\_. Although an Amendment will not necessary, any revision to the individuals identified as Key Personnel must be approved in writing by the State's Project Manager.
- D. The Contractor shall endeavor to retain the same individuals during the performance of the Work of this Agreement. However, the Contractor may, with approval of the State's Project Manager, introduce personnel with specific skill sets or release personnel, from the Project whose skill set is not needed at the time. If any of the Contractor's personnel become unavailable during the term of this Agreement, the Contractor will supply a substitute acceptable to the State.
- E. The State reserves the right to disapprove the continuing assignment of the Contractor's personnel, including Key Personnel, provided to the State under this Agreement if in the State's opinion, the performance of the Contractor's personnel is unsatisfactory. If the State exercises this right and approves a replacement candidate, the Contractor shall immediately within a commercially reasonable time assign the replacement personnel, possessing equivalent or greater experience and skills.
- F. If any Contractor's Key Personnel become unavailable and the Contractor cannot furnish a substitute acceptable to the State, the State may terminate this Agreement for cause pursuant to Standard Provisions paragraph 3.

19. Subcontracting

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

20. 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.

Attachment A  
Contract Terms

21. Copyrights and Rights in Data

All copyrights and rights in the Data produced with funding from this Agreement that may presumptively vest in the Contractor shall be transferred to the State.

22. Ownership of Results

Any interest of the Contractor in Data in any form, or other documents and/or recordings prepared by the Contractor for performance of services under this Agreement shall become the property of the State. Upon the State's written request, the Contractor shall provide the State with all this Data within thirty (30) Days of the request.

23. Accounting System Requirement

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

24. 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.

25. 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.

26. Right to Audit

A. The Contractor shall permit all Data and records relating to performance, procedures, and billing to the State under this Agreement to be inspected and/or audited, at any reasonable time, by the authorized representative of any of the following or its designee:

- i. The State;
- ii. State Justice Institute;
- iii. The Bureau of State Audits; and/or
- iv. Any State or Federal government auditing agency.

Attachment A  
Contract Terms

- B. The right of each agency to inspect and/or audit this Agreement is independent of whether or not any other audit or inspection has been performed.

27. 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 or the Grant without prior review and written permission by the State and SJI. State without prior review and written permission by the State. The State review shall be completed within thirty (30) Days of submission to the Project Manager and, if permission is denied, the State shall provide its reasons for denial in writing.

28. Publications

- A. The following statement will be prominently displayed on all products prepared as a result of this Project:

This [document, film, videotape, etc] was developed under a Grant from the State Justice Institute and funding by the Administrative Office of the Courts. Points of view expressed herein are those of the [author(s), filmmakers(s), etc.] and do not necessarily represent the official position or policies of the State Justice Institute or the Administrative Office of the Courts.

- B. The “SJI” and “AOC” logos will appear on the front cover of a written product or in the opening frames of a video production produced with funding under this Agreement, unless another placement is approved in writing.

29. 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.

Attachment A  
Contract Terms

30. Insurance Requirements

- A. The Contractor shall maintain in full force during the full term of the Agreement, insurance in the following amounts and coverage:
  - i. Workers' Compensation/Employers' Liability that meet the statutory requirements of the state of residency.
  - ii. Comprehensive General Liability (GL) insurance coverage for projects covered by this Agreement with limits of liability not less than \$500,000.00 for each occurrence.
  - iii. Comprehensive Automobile Liability Insurance with limits not less than \$500,000.00 for each occurrence, Combined Single Limit Bodily Injury and Property Damage, including owned and non-owned and hired automobile coverage, as applicable.
- B. The Contractor's Comprehensive General Liability and Comprehensive Automobile Liability Insurance policies shall be endorsed to provide the following:
  - i. The State of California and its Officers, Agents, and Employees shall be named as additional insured.
  - ii. The policies shall be primary insurance to any other insurance available to the Additional Insureds with respect to any claims arising out of this Agreement, and the insurance shall apply separately to each insured against whom a claim is made or a suit is brought.
- C. 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., 5<sup>th</sup> Floor, San Francisco, CA 94104.
- D. Upon request, the Contractor shall provide the State certificates of insurance satisfactory to the State evidencing all required insurance coverage and complete copies of each policy.
- E. Approval of the insurance by the State shall not relieve or decrease the Contractor's liability under this Agreement.

31. 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

Attachment A  
Contract Terms

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 (i) use of an official position with the government for private gain; (ii) preferential treatment to any particular person associated with this Agreement or the Work of this Agreement; (iii) loss of independence or impartiality; (iv) a decision made outside official channels; or (v) 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.

32. 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.

33. 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.

34. Drug-Free Workplace

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

35. 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.

36. 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.



Attachment A  
Contract Terms

37. California Law

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

38. Public Contract Code References

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

39. Limitation on State's Liability

The State shall not be responsible for loss of or damage to any non-State equipment arising from causes beyond the State's control.

40. 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.

41. 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.

42. Signature Authority

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

43. 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.

44. 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 officer of the State.

**EXHIBIT \_\_\_, PAYMENT PROVISIONS**

1. Contract Amount

- A. 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 be the lump sum Contract Amount of \$\_\_\_\_\_, as set forth in this Exhibit.
- B. The Contractor has estimated the costs and expenses necessary to complete the Work. The State's acceptance of the Contractor's proposal and price does not (1) imply that the State approves of or adopts the Contractor's plan, means, methods, techniques, or procedures required to perform the Work, nor (2) relieve the Contractor from the sole responsibility for the accuracy of its estimate and timely completion of the Work of this Agreement within the total amount for compensation set forth herein.

2. Payment for Contract Work

For performing the Work of this Agreement, as set forth in Exhibit \_\_\_, Work to be Performed, the State shall pay the Contractor the firm fixed amount, set forth under this Exhibit's provision 1, Contract Amount, inclusive of all costs, benefits, expenses, fees, overhead, and profits payable to the Contractor for services rendered to the State.

3. Direct Expenses

All fees and charges noted in this Agreement are inclusive of any and all anticipated travel, lodging, transportation, clerical support, Materials, fees, overhead, profits, and other costs and/or expenses incidental to the performance of the specified requirements under this Agreement.

Attachment A  
Contract Terms

4. Other Expenses

The State shall not consider reimbursement for costs not defined as allowable in this Agreement, including but not limited to any administrative, operating, travel, meals, and lodging expenses incurred during the performance of this Agreement.

5. 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.

6. Method of Payment

A. The Contractor shall submit an invoice for Work provided, as set forth in Exhibit \_\_\_, Work to be Performed. In no event shall the Contractor bill the State more often than once a month. After receipt of invoice, the State will either approve the invoice for payment or give the Contractor specific written reasons why part or all of the payment is being withheld and what remedial actions the Contractor must take to receive the withheld amount.

B. The State will make payment in arrears after receipt 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;
- v) Description of the completed Work, including services rendered, Task(s) performed, and/or Deliverable(s) made, as appropriate;
- vi) The dates and hours worked;
- vii) The appropriate contractual billing rate, as set forth herein; and
- viii) Preferred remittance address, if different from the mailing address.

C. 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 Finance Division, Accounts Payable  
455 Golden Gate Avenue  
San Francisco, CA 94102-3660

D. 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.

Attachment A  
Contract Terms

7. Payment Does Not Imply Acceptance of Work

The granting of any payment by the State as provided in this Exhibit shall in no way lessen the liability of the Contractor to replace unsatisfactory Work or Material, even if the unsatisfactory character of such Work or Material 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 \_\_\_\_, Work to Be Performed, shall be rejected and shall be replaced by the Contractor without delay.

*[remainder of page left blank intentionally]*

**ATTACHMENT \_\_\_\_\_**  
**ACCEPTANCE AND SIGNOFF FORM**

Description of Work provided by Contractor:

---

---

Date submitted: \_\_\_\_\_

Work is:

1) Submitted on time:  yes  no. If no, please note length of delay and reasons.

---

---

---

2) Complete:  yes  no. If no, please identify incomplete aspects of the Work.

---

---

---

3) Technically accurate:  yes  no. If no, please note corrections required.

---

---

---

Please note level of satisfaction:

Poor  Fair  Good  Very Good  Excellent

Comments, if any:

---

---

---

Work is accepted.

Work is unacceptable as noted above.

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

*END OF ATTACHMENT*

**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 four months following the deadline for its submission. In addition to explaining the Administrative Office of the Courts' (AOC's) requirements, the solicitation document includes instructions which prescribe the format and content of proposals.

**B. Errors in the solicitation document**

1. If a 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. Request for Clarifications or Modifications**

1. Vendors interested in responding to the solicitation may submit questions on procedural matters related to the RFP or requests for clarification or modification of this solicitation document, including questions regarding Attachment A, to the Contracting Officer, as identified in this Attachment's section K, Decision. If the vendor is requesting a change, the request must set forth the recommended change and the vendor's reasons for proposing the change. All questions and requests must be submitted in writing (email is authorized) to the Contracting Officer no later than **February 1, 2005**. Questions or requests submitted after the due date will not be answered.

Attachment B  
Administrative Rules Governing Requests for Proposals

2. Without disclosing the source of the question or request, a copy of the questions and the AOC's responses will be posted on the Courtinfo website.
3. 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 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.

**D. Ambiguity, Discrepancies, Omissions**

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 Contracting Officer, as identified in this Attachment's section K, Decision, 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 posting the addendum on the Courtinfo website.
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 propose at its own risk, and if the vendor is awarded the contract, the vendor shall not be entitled to additional compensation or time by reason of the error or its later correction.
3. Written notification of any ambiguity, conflict, discrepancy, omission, or other error in this solicitation document submitted after the proposal due date and time, as set forth on the cover letter of this RFP, will not be responded to by the AOC.

**E. Contact with Judicial Branch Entities**

1. Vendors are specifically directed NOT to contact any Judicial Branch entity personnel or consultants for meetings, conferences, or discussions that are specifically related to this RFP at any time prior to any award and execution of a contract. Unauthorized contact with any Judicial

Attachment B  
Administrative Rules Governing Requests for Proposals

Branch entity personnel consultants may be cause for rejection of the vendor's proposal.

**F. RFP Addenda**

1. The AOC may modify the solicitation document prior to the date fixed for submission of proposals by posting an addendum on the Courtinfo website. If any potential vendor determines that an addendum unnecessarily restricts its ability to propose, it must notify the Contracting Officer, as identified in this Attachment's section K, Decision, no later than three (3) business days following the date the addendum posted on the AOC's website.
2. Proposer's proposal, including prices/fee rates offered, shall reflect all addenda issued by the AOC. Failure to do so will permit the AOC to interpret the proposal to include all addenda issued in any resulting contract.

**G. 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.

**H. Evaluation process**

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



Attachment B  
Administrative Rules Governing Requests for Proposals

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.

**I. 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.

**J. 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.

**K. 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 the Contracting Officer, as follows:

Attachment B  
Administrative Rules Governing Requests for Proposals

Stephen Saddler  
Contracting Officer  
Administrative Office of the Courts  
455 Golden Gate Avenue, 7<sup>th</sup> Floor  
San Francisco, CA 94102-3660

**L. Execution of contracts**

1. The AOC will make a reasonable effort to execute any contract based on this solicitation document within four months 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.

**M. Protest procedure**

Failure of a vendor to comply with the protest procedures set forth in this section will render a protest inadequate and non-responsive, and will result in rejection of the protest.

**1. Prior to Submission of Proposal**

An interested party that is an actual or prospective proposer with a direct economic interest in the procurement may file a protest based on allegedly restrictive or defective specifications or other improprieties in the solicitation process that are apparent, or should have been reasonably discovered prior to the submission of a proposal. Such protest must be received prior to the proposal due date and time. The protestor shall have exhausted all administrative remedies, such as those specified in Section C, Request for Clarification or Modifications; Section D, Ambiguity, Discrepancies, Omissions; and Section F, RFP Addenda, as applicable, prior to submitting the protest. Failure to do so may be grounds for denying the protest.

**2. After Award**

A vendor submitting a proposal may protest the award based on allegations of improprieties occurring during the proposal evaluation or award period if it meets all of 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 administrative and technical requirements of the

Attachment B  
Administrative Rules Governing Requests for Proposals

- solicitation, proposes services of proven quality and performance, and offers a competitive cost; and,
- c. The vendor believes that the AOC has incorrectly selected another vendor submitting a proposal for an award.

Protests must be received no later than five (5) business days after the protesting party receives a non-award letter.

### 3. Form of Protest

A vendor who is qualified to protest should submit the protest to the Contracting Officer, as identified in this Attachment's section K, Decision.

- a. The protest must be in writing and sent by certified, or registered mail, or **overnight delivery service (with proof of delivery)**, or delivered personally to the address noted above. If the protest is hand-delivered, a receipt must be requested.
- b. The protest shall include the name, address, telephone and facsimile numbers, and email address of the party protesting or their representative.
- c. The title of the solicitation document under which the protest is submitted shall be included.
- d. A detailed description of the specific legal and factual grounds of protest and any supporting documentation shall be included.
- e. The specific ruling or relief requested must be stated.

The AOC, at its discretion, may make a decision regarding the protest without requesting further information or documents from the protestor. Therefore, the initial protest submittal must include all grounds for the protest and all evidence available at the time the protest is submitted. If the protestor later raises new grounds or evidence that was not included in the initial protest but which could have been raised at that time, the AOC will not consider such new grounds or new evidence.

### 4. Determination of Protest Submitted Prior to Submission of Proposal

Upon receipt of a timely and proper protest based on allegedly restrictive or defective specifications or other improprieties in the solicitation process that are apparent, or should have been reasonably discovered prior to the submission of a proposal, the AOC will provide a written determination to the protestor prior to the Proposal due date and time. If required, the AOC may

Attachment B  
Administrative Rules Governing Requests for Proposals

extend the proposal due date and time to allow for a reasonable time to review the protest. If the protesting party elects to appeal the decision, the protesting party will follow the appeals process outlined below and the AOC, at its sole discretion, may elect to withhold the contract award until the protest is resolved or denied or proceed with the award and implementation of the contract.

**5. Determination of Protest Submitted After Submission of Proposal**

Upon receipt of a timely and proper protest, the AOC will investigate the protest and will provide a written response to the vendor within a reasonable time. If the AOC requires additional time to review the protest and is not able to provide a response within ten (10) business days, the AOC will notify the vendor. If the protesting party elects to appeal the decision, the protesting party will follow the appeals process outlined below. The AOC, at its sole discretion, may elect to withhold the contract award until the protest is resolved or denied or proceed with the award and implementation of the agreement.

**6. Appeals Process**

The Contracting Officer's decision shall be considered the final action by the AOC unless the protesting party thereafter seeks an appeal of the decision by filing a request for appeal within five (5) calendar days of the issuance of the Contracting Officer's decision with the AOC's Business Services Manager, as set forth below.

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

The justification for appeal is specifically limited to:

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

Attachment B  
Administrative Rules Governing Requests for Proposals

The vendor's request for appeal shall include:

- a. The name, address telephone and facsimile numbers, and email address of the vendor filing the appeal or their representative;
- b. A copy of the Contracting Officer's decision;
- c. The legal and factual basis for the appeal; and
- d. The ruling or relief requested. Issues that could have been raised earlier will not be considered on appeal.

Upon receipt of a request for appeal, the AOC's Business Services Manager will review the request and the decision of the Contracting Officer and shall issue a final determination. The decision of the AOC's Business Services Manager shall constitute the final action of the AOC.

#### **7. Protest Remedies**

If the protest is upheld, the AOC will consider all circumstances surrounding the procurement in its decision for a fair and reasonable remedy, including the seriousness of the procurement deficiency, the degree of prejudice to the protesting party or to the integrity of the competitive procurement system, the good faith efforts of the parties, the extent of performance, the cost to the AOC and the Judicial Branch entities, the urgency of the procurement, and the impact of the recommendation(s) on the AOC and the Judicial Branch entities. The AOC may recommend any combination of the following remedies:

- a. Terminate the contract for convenience;
- b. Re-solicit the requirement;
- c. Issue a new solicitation;
- d. Refrain from exercising options to extend the term under the contract, if applicable;
- e. Award a contract consistent with statute or regulation; or
- f. Other such remedies as may be required to promote compliance.

#### **N. 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.

Attachment B  
Administrative Rules Governing Requests for Proposals

**O. 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 as 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.

**P. Payment**

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