



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

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
Finance Division

DATE: October 6, 2003

**SUBJECT/PURPOSE
OF MEMO:** REQUEST FOR PROPOSALS
State-wide Master Agreements for Recycled Xerographic Copier and 3-Hole
Copier Paper

ACTION REQUIRED: You are invited to review and respond to the attached Request for Proposals
("RFP"):

Project Title: Master Agreements for Copier Paper and 3-Hole Copier Paper
RFP Number: FIN-0301

DEADLINE: **Proposals must be received by 3 p.m. on November 4, 2003**

**SUBMISSION OF
PROPOSAL:** Proposals should be sent to:
Judicial Council of California
Administrative Office of the Courts
Attn: Nadine McFadden
455 Golden Gate Avenue, 7th Floor
San Francisco, CA 94102

**CONTACT FOR
FURTHER
INFORMATION:** PAULA TEL: FAX: E-MAIL:
COOMBS: 916 263- 916 263- paula.coombs@jud.ca.gov
Project 1860 1342
Manager

1.0 GENERAL INFORMATION

1.1 Background

The Judicial Council of California (Council), 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 Need for Master Agreement for Copier Paper

The AOC has identified a need for one or more Master Agreements for the provisioning of copier paper to specific Judicial Branch Entities, including the California Appellate Courts, which includes the Supreme Court of California (“Appellate Courts”), the 58 Superior Courts of California (“Trial Courts”), the Habeas Corpus Resource Center (HCRC), and the Administrative Office of the Courts, (“AOC”). Currently each of the Trial Courts and most of the Appellate Courts purchase copier paper from a variety of suppliers under individual purchasing arrangements or in conjunction with the county. The Supreme Court and the AOC currently purchase paper under a combined agreement. The AOC would like to leverage the buying-power of the Judicial Branch Entities and consolidate efforts to procure copier paper.

2.0 PURPOSE OF THIS RFP

2.1 The AOC is soliciting proposals to award one or more Master Agreements for the calendar year of 2004 to a vendor or vendors that is able to supply substantially all of or a specific territory of the Appellate Courts, the Trial Courts, HCRC, and the AOC with an unknown quantity of recycled copier paper, as further described in this RFP.

2.2 The Appellate Courts, each of the Trial Courts, HCRC, and the AOC may individually, at their discretion, order copier paper under a Master Agreement(s) that may result from this RFP by placing an individual order via a Purchase Order. The term “Purchase Order” refers to an ordering document used by any one of the Judicial Branch Entities referred to above to place an order for paper under a Master Agreement that is awarded as a result of this RFP.

3.0 SCOPE OF SERVICES

3.1 Estimated Quantity

No minimum delivery estimate is stated in this RFP. The individual Judicial Branch Entities will not be required to use any Master Agreement that may result from this RFP. The individual Judicial Branch Entity will make its purchasing decision based on what is in its best interest.

3.2 Description of Paper Required

All products (including recycled) must be new, and must be delivered in the manufacturer's standard package. The Bidder must respond with pricing and be prepared to supply products of the respective brand name or equivalent as listed below.

3.2.1 ITEM 1:

XEROGRAPHIC COPIER PAPER, RECYCLED

Description: Paper, Recycled, 8 1/2" x 11,
SUB. 20# (+ or - 5%),
Brightness 84, Smoothness 190, or better,
Recycled Content: 50% Waster Paper with 30% Post Consumer Waste
Brand: Xerox Brand Recycle 3R5131 or equal

3.2.2 ITEM 2:

XEROGRAPHIC COPIER THREE HOLE PUNCH, RECYCLED

Description: Paper, Recycled, 8 1/2" x 11,
SUB. 20# (+ or - 5%),
Brightness 84, Smoothness 190, or better
Recycled Content: 50% Waste Paper with 30% Post Consumer Waste
Brand: Xerox Brand Recycle 3HD-3R5131 or equal
Three (3) Hole Punch

3.3 Replacement/Return Policy

There will be no restocking fee for returns of items shipped by the Contractor in error. The Contractor will not be expected to accept any items for return by the Judicial Branch Entity, unless those items are damaged or do not meet specifications.

3.4 Inventory

The Judicial Branch Entities have an ongoing requirement for the product(s) indicated in this RFP. The Contractor or Contractors awarded a Master Agreement, if any, shall maintain a reasonable stock on hand for delivery to the Judicial Branch Entities for which the Master Agreement is awarded for a one (1)

year period of time. Failure to maintain such a stock may result in termination of the Contractor's Master Agreement.

3.5 Packaging

3.5.1 Prices shall include all packing and/or crating charges. Cases shall be of durable construction, good condition, properly labeled and suitable in every respect for storage and handling of contents.

3.5.2 Packing Slip: Each shipment shall include a packing slip showing the Purchase Order number, the item number, product description and the quantity shipped.

3.5.3 Marking Shipping Carton: Each shipping carton shall be marked with the commodity, brand, quantity, item code number and the Judicial Branch Entity's Purchase Order number.

3.6 Delivery Requirements and Shipping Costs

3.6.1 All deliveries will be made F.O.B. Destination (freight prepaid). Bidders should assume that all deliveries will be Inside Deliveries as designated by a representative of the Judicial Branch Entity placing the order. Inside Delivery refers to a delivery to other than a loading dock, front lobby, or reception area. Specific delivery instructions will be noted on the Purchase Order. Any damage to building interior, scratched walls, damage to the freight elevator, etc., will be the responsibility of the Contractor.

3.6.2 Deliveries shall be made as requested on the individual Purchase Order (case or pallet). ***All pallets must be exchanged as deliveries are made.***

3.6.3 The Contractor's failure to meet delivery terms may result in termination of the Master Agreement.

3.6.4 Shipping and delivery costs, if applicable, are to be included in the unit price on the Pricing Sheets. At this time, the majority of the Judicial Branch Entities purchasing paper are not billed for shipping costs by their suppliers. However, if the Bidder intends to charge for shipping at any or all of the locations listed on the Pricing Sheet, the unit cost must include the shipping cost for each location where shipping costs may apply.

3.7 Ordering Process

After award of a Master Agreement or Master Agreements, requests for paper utilizing a Master Agreement will be made by issuance of a Purchase Order from the Judicial Branch Entity placing the order. The Purchase Order will reference the Master Agreement and the terms and conditions of the Master Agreement

shall take precedence over the terms and conditions of the Purchase Order, any other ordering document, or terms and conditions included on an invoice or like document.

3.8 Usage Reports

The Contractor will be required to submit to the AOC, a Quarterly Usage Report by Judicial Branch Entity that indicates the products received, quantity and the total cost of each order. The Quarterly Usage Report shall be provided to the AOC no later than thirty (30) days after the end of each quarter and shall include purchases that are invoiced or paid for with a credit card.

3.9 Telephone/Electronic Mail Support

Although orders will be placed via a Purchase Order, the Contractor shall maintain a toll-free number or an electronic mail address for inquiries regarding orders from the Judicial Branch Entity placing the order.

3.10 Recycled

A letter of verification from the manufacturer must be included with the proposal for recycled products. The letter must guarantee the waste content and the amount of post consumer material in the product.

4.0 SPECIFICS OF A RESPONSIVE PROPOSAL

Responsive proposals should provide straightforward, concise information that satisfies the requirements of the RFP. Expensive bindings, color displays, and the like are not necessary or desired. Emphasis should be placed on conformity to the AOC's instructions, requirements of this RFP, and completeness and clarity of content. The following information shall be included in the proposal:

- 4.1 Name of the Bidder, address, telephone and fax numbers, and federal tax identification number.
- 4.2 Four (4) 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 Bidder's designated representative.
- 4.3 A letter of verification from the manufacturer that guarantees the waste content and the amount of post consumer material in recycled products to be provided.
- 4.4 A description of the general territory covered by the proposal (i.e., state-wide, a specific county or counties, etc.).
- 4.5 Bidders must provide a quote for each item listed in section 3.2 above. All prices and notifications must be printed in ink or type written. No erasures are

permitted. Errors may be crossed out and corrections printed in ink or typewritten adjacent and must be initialed in ink by person signing the proposals.

- 4.6 A hardcopy and an electronic copy of the completed RFP Pricing Sheets in Excel format as described in section 5.0, Cost Proposal.
- 4.7 A description of the support that will be provided to the Judicial Branch Entities ordering paper under a Master Agreement, including order processing, telephone support, and order tracking.
- 4.8 Names, addresses, and telephone numbers of a minimum of three (3) customers for whom the Bidder has provided similar products and service, including delivery service, telephone support and usage reports. The AOC may contact some or all of the references provided in order to determine the Bidder's performance record. The AOC reserves the right to contact references other than those provided in the proposal and to use the information gained from them in the evaluation process.
- 4.9 Bidder's response to the terms and conditions set forth in the Sample Master Agreement, included as Attachment B to this RFP, as required in Section 10.0 below.
- 4.10 Each proposal must be submitted to the address for submission of proposal no later than the deadline date and time set forth in this RFP. All proposals must be submitted in double envelopes that are sealed. The outside envelope must be clearly marked with the RFP Number, Project Title, the due date and Bidder's name.

5.0 COST PROPOSAL

- 5.1 The proposal shall be binding for forty-five (45) days from the submittal date.
- 5.2 The proposal must include a hardcopy and an electronic copy of the completed RFP Pricing Sheets in Excel format (see RFP Pricing Sheets posted at <http://www.courtinfo.ca.gov/reference/rfp>). The Pricing Sheets must indicate: (a) the specific locations that are covered by the Bid; (b) a unit price for a case and for a pallet; and (c) a minimum and maximum number of days required for delivery.
- 5.3 Price Adjustment: The Contractor may submit a fully documented request for a price increase to the AOC only after the Master Agreement has been in effect for ninety (90) days. The requested increase can only be based upon an increased cost of product from the paper mill to the Contractor that was clearly unpredictable at the time the Contractor's proposal was submitted. The Contractor's request must include documentation from the paper mill's Chief Financial Officer certifying the amount of the increase for the applicable product(s). The AOC shall determine whether the requested price increase or an

alternate option is in the best interest of the Judicial Branch Entities. The AOC reserves the right to reject any requested price increase and/or terminate the Master Agreement. Any subsequent price adjustment request shall not be reviewed or accepted until an additional ninety (90) days have passed. All price adjustment will be effective the first day of the month following approval by the AOC.

- 5.4 The cost of providing insurance requirements must be included in the Bidder's price. Sales tax shall not be included. Sales tax will be itemized separately on the Contractor's invoice.

6.0 RIGHTS

- 6.1 The AOC reserves the right to reject any and all proposals, in whole or in part, as well as the right to issue similar RFPs in the future. This RFP is in no way an agreement, obligation, or contract and in no way is the AOC, the Appellate Courts, the Trial Courts, HCRC or the State of California responsible for the cost of preparing the proposal. One copy of a submitted proposal will be retained for official files and becomes a public record.
- 6.2 Only written responses will be accepted. Proposals should be sent by registered or certified mail or by hand delivery to the address indicated in the RFP.

7.0 PROJECT MANAGEMENT

The Project Manager for this RFP process is:

Paula Coombs
Administrative Office of the Courts
2880 Gateway Oaks Drive, Suite 300
Sacramento, CA 95833-3509
Voice: 916 263-1860
Fax: 916 263-1342
paula.coombs@jud.ca.gov

8.0 EVALUATION OF PROPOSALS

- 8.1 The AOC will evaluate the proposals that comply with the requirements set forth in section 4.0, Requirements for a Responsive Proposal, based on best value and will consider proposals that are able to provide the requested products and services to all locations and/or locations within a limited territory if it is in the best interest of the Judicial Branch Entities in that territory.
- 8.2 The AOC will use the evaluation criteria set forth below for proposals that cover substantially all locations listed on the Pricing Sheets:
- a. Ability to provide products and services to the Judicial Branch Entities as a whole;

- b. Reasonableness of cost;
 - c. Ability to provide timely delivery; and
 - d. Experience in providing products and service to customers with similar needs.
- 8.3. The AOC will use the evaluation criteria set forth below for proposals that cover one or more remote locations listed on the Pricing Sheets:
- a. Ability to provide products and services to one or more niche territories that may not have ready access to a large supplier;
 - b. Reasonableness of cost;
 - c. Ability to provide timely delivery; and
 - d. Experience in providing products and service to customers with similar needs.

9.0 ADDITIONAL REQUIREMENTS

- 9.1 It may be necessary to have discussions with prospective vendors to clarify aspects of their proposal. Discussions will be conducted by telephone conference call. The AOC will notify prospective vendors regarding arrangements for such discussions.
- 9.2 The AOC may request samples of paper stock from Bidders. The Bidder must furnish samples within five (5) days after notification. Failure to submit samples may result in rejection of the Bidder's proposal. Paper samples must be exact weight, color, and texture the Bidder intends to furnish. Samples shall be delivered to:

Judicial Council, Administrative Office of the Courts
Attention: Michael Quinones, Procurement Officer
455 Golden Gate Avenue, 7th Floor
San Francisco, CA 94102

10.0 CONTRACT TERMS AND CONDITIONS

- 10.1 The products and services requested will be provided pursuant to the terms and conditions set forth in Attachment B, Master Agreement for Copier Paper. If the Bidder is unable to agree to the terms and conditions, its proposal must indicate the specific sections of the Master Agreement that are not acceptable and submit alternate language for the specific section that is not acceptable to the Bidder. Although the AOC will consider alternate language proposed by a Bidder, the AOC will not be bound by contract language received as part of a prospective Contractor'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.
- 10.2 The AOC will make a reasonable effort to execute an agreement based on this solicitation document within forty-five (45) days of selecting a proposal or

proposals that provides the best value to the Judicial Branch Entities. The Master Agreement shall be signed by the Contractor and returned within ten (10) calendar days of receipt of the Master 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 Master Agreement within the time frame identified above shall be sufficient cause for voiding the award of the Master Agreement. If a successful proposer refuses or fails to execute the Master Agreement, the AOC may award the contract to the next qualified proposer.

11.0 ADMINISTRATIVE RULES

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

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 45 days following the deadline for its submission.
2. A nondiscrimination clause will be included in any contract that ensues from this solicitation document.
3. In addition to explaining the 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 Procurement Officer named below 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 or by posting the addendum on the AOC's procurement website at <http://www.courtinfo.ca.gov/reference/rfp>.

Michael Quinones, Procurement Officer
Judicial Council of California
Administrative Office of the Courts
455 Golden Gate Avenue, 7th Floor
San Francisco, CA 94102

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. The vendor may submit questions regarding section 3.0, Scope of Services, or section 10.0, Contract Terms and Conditions, to the Project Manager named in section 7.0, Project Management. All questions must be submitted in writing no later than **4:00 p.m. on October 20, 2003**. Without disclosing the source of the question, the Procurement Officer will post a copy of the questions and the AOC's responses on the AOC's procurement website at <http://www.courtinfo.ca.gov/reference/rfp> no later than **5:00 p.m. on October 24, 2003**. Questions submitted to the Project Manager after 4:00 p.m. on October 20, 2003 will not be answered.
2. If a vendor submitting a proposal has a question regarding clarity and intent of the solicitation *process* or 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 the Procurement Officer named above by **4:00 p.m. on October 20, 2003**. Without disclosing the source of the question or request, the Procurement Officer will post the AOC's response on the AOC's procurement website at <http://www.courtinfo.ca.gov/reference/rfp> no later than **5:00 p.m. on October 24, 2003**. Questions or requests submitted to the Procurement Officer after 4:00 p.m. on October 20, 2003 will not be answered.

D. Addenda

The AOC may modify the solicitation document prior to the date fixed for submission of proposals by posting an addendum on the AOC's procurement website at <http://www.courtinfo.ca.gov/reference/rfp>. Prospective Bidders are responsible to monitor the website for addenda to the RFP document. If any vendor determines that an addendum unnecessarily restricts its ability to bid, it must notify the Procurement Officer named above no later than three (3) business days following the date the addendum was posted.

E. Withdrawal and resubmission/modification of proposals

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 Administrative Office of the Courts no later than the deadline set in the RFP for submission of proposals. Modification offered in any other manner, oral or written, will not be considered. Proposals cannot be changed or withdrawn after the deadline set in the RFP for submission of proposals.

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 proposal 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 AOC 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 proposals

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 best interest of the Judicial Branch Entities. 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 government.

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

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 Project Manager named in section 7.0, Project Management.

J. Execution of contracts

1. The AOC will make a reasonable effort to execute any contract based on this solicitation document within forty-five (45) days of selecting a proposal that best meets its requirements.
2. A vendor submitting a proposal must be prepared to use the AOC's contract form rather than its own contract form.

K. Protest procedure

1. The Administrative Office of the Courts intends to be completely open and fair to all vendors in selecting the best possible proposal 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; 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 Procurement Officer at the Administrative Office of the Courts at the address given below or call him at 415-865-7988.

Michael Quinones, Procurement Officer
Administrative Office of the Courts
455 Golden Gate Avenue, 7th Floor
San Francisco, CA 94102-3660

4. If the Procurement Officer is unable to resolve the protest to the vendor's satisfaction, the vendor should file a written protest within three (3) business days of notification of intent to award. The written protest must include a detailed description of the specific legal and factual grounds of protest, any supporting documentation, and the specific ruling or relief requested must be stated. The protest must be sent by certified or registered mail or delivered personally to:

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

A receipt should be requested for hand-delivered material.

5. Failure to comply with the protest procedures will render a protest untimely and inadequate and may result in rejection thereof. In no event shall a protest be considered if all submittals are rejected or after a contract has been executed.

L. News releases

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

M. Disposition of materials

All materials submitted in response to this solicitation document will become the property of the Administrative Office of the Courts 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. However, any portion of the vendor's proposal that the vendor considers confidential and disclosure of that portion of the proposal would expose proprietary information must be conspicuously marked as "CONFIDENTIAL". The AOC may require the vendor to submit a statement explaining why the portion of the proposal is considered confidential.

If the AOC concurs that the disclosure would expose proprietary information, the AOC will treat that portion of the proposal as confidential and will redact the confidential sections from any public record that is retained. If the AOC does not agree that the disclosure would expose proprietary information, the proposer will have the option to withdraw its proposal or mark the information as non-proprietary.

N. Payment

1. Payment terms will be specified in any agreement that may ensue as a result of this solicitation document.
2. **THE STATE DOES NOT MAKE ANY ADVANCE PAYMENT FOR GOODS OR SERVICE.**

MASTER AGREEMENT FOR COPIER PAPER
TERMS AND CONDITIONS

This Master Agreement for Copier Paper ("Agreement") is made this 1st day of January 2004 by and between _____ with offices at _____ ("Contractor") and the Judicial Council of California Administrative Office of the Courts ("AOC").

In consideration of the mutual promises, covenants, terms and conditions hereinafter contained, the parties hereby agree as follows:

- 1. PURPOSE:** The purpose of this Agreement is to set forth the terms and conditions that apply to the Contractor's furnishing of specific goods described in RFP No. FIN-0301 ("RFP") to specific Judicial Branch Entities, including the 58 Superior Courts of California ("Trial Courts"), the California Appellate Courts, including the Supreme Court of California ("Appellate Courts"), the Habeas Corpus Resource Center ("HCRC") and the AOC.
- 2. TERM:** This Agreement shall commence on **January 1, 2004** and shall expire on **December 31, 2004**.
- 3. OBLIGATION:** This Agreement does not obligate the AOC or the individual Trial Courts or Appellate Courts or the HCRC to order goods from the Contractor. This Agreement does not guarantee that the Contractor will receive a specific volume of orders under this Agreement.
- 4. RELATIONSHIP OF PARTIES:** The AOC has the authority to enter into master agreements for goods and services on behalf of the Trial Courts, the Appellate Courts, and the HCRC. The HCRC, individual Trial Courts and/or Appellate Courts may elect to utilize this Agreement by placing orders, as set forth herein. Each Trial Court, Appellate Court, and the HCRC shall be an intended third party beneficiary of this Agreement and shall have the right to enforce all terms and conditions set forth herein that affect such court.
- 5. SCOPE OF SERVICE:** The scope of service set forth in the RFP is hereby incorporated as Exhibit 1, Description of Goods and Service.
- 6. ORDERING:** The AOC, the HCRC, the individual Trial Courts, and the individual Appellate Courts may request that the Contractor provide goods specified in the RFP. Individual orders will be placed for goods via a purchase order that references this Master Agreement No. _____ ("Purchase Order"). The form and format of the Purchase Orders may vary. The AOC, the HCRC, or the individual court placing the order will be responsible for receipt of goods and payment pursuant to the terms and conditions set forth in this Master Agreement.
- 7. LOCATIONS AND COST:** The specific locations where Contractor will provide goods and services and the cost for such goods and services ordered under this Agreement shall be set forth in Exhibit 2, Pricing Sheets.
- 8. PRICE ADJUSTMENTS:** Contractor may submit a fully documented request for a price increase to the AOC only after this Agreement has been in effect for ninety (90) days. The requested

increase can only be based upon an increased cost of product from the paper mill to the Contractor that was clearly unpredictable at the time the Contractor's proposal was submitted. The Contractor's request must include documentation from the paper mill's Chief Financial Officer certifying the amount of the increase for the applicable product(s). The AOC shall determine whether the requested price increase or an alternate option is in the best interest of the Judicial Branch Entities. The AOC reserves the right to reject any requested price increase and/or terminate this Agreement. Any subsequent price adjustment request shall not be reviewed or accepted until an additional ninety (90) days have passed. All price adjustment will be effective the first day of the month following approval by the AOC.

9. WARRANTIES: Contractor warrants that all goods delivered shall (i) be free from defects in workmanship, material, and manufacture (including, without limitation, defects which could create a hazard to life or property); (ii) be new, not refurbished or reconditioned, unless otherwise stated in the RFP; (iii) be of merchantable quality and shall be fit for the purposes intended by the AOC to the extent disclosed by Contractor; (iv) comply with the requirements of the RFP, (v) be in compliance with all applicable laws and regulations. Contractor further warrants that all services shall be rendered in a good and workmanlike manner by skilled personnel in compliance with all applicable laws and regulations.

10. CHANGES: No change or modification in terms or specifications may be made without express authorization in writing from the AOC. No change in quantities ordered may be made without express authorization in writing from the party placing the order.

11. DELIVERY AND PACKING SLIPS: Time is of the essence to delivery and any other performance required of Contractor. Delivery of goods is "F.O.B Delivery Point." No charge for delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, cost of bonds, or any other purpose will be paid unless it is expressly included on the face of the Purchase Order. Each container must be marked with the Purchase Order number, part number and quantity. Any itemized packing slip bearing the Purchase Order number as shown thereon must be left with the goods to insure their receipt.

12. RISK OF LOSS: Contractor shall bear the risk of loss or damage to the ordered goods until Contractor delivers the goods to the place of business indicated on the Purchase Order. Notwithstanding such delivery, Contractor shall bear the risk of loss or damage to the goods purchased hereunder in the event of and from the time the purchasing party gives notice of rejection or termination of the Purchase Order.

13. INSPECTION AND ACCEPTANCE: Notwithstanding any prior inspection or payments, all goods and services delivered hereunder shall be subject to final inspection and acceptance or rejection by the purchasing party at any time within thirty (30) days after delivery. All items which are not in compliance with the specifications hereof, which are not as warranted or which are shipped late, shipped in excess or insufficient quantities or substituted for items ordered hereunder may be rejected by the purchasing party and returned or held at Contractor's

expense and risk. Payment shall not constitute an acceptance of the material nor impair the purchasing party's right to inspect or any of its remedies.

14. INVOICES, PAYMENT AND SETOFF: The purchasing party shall have no obligation to pay for any item until one original and two copies of a correct invoice for the item is received at the address shown on the face of the Purchase Order. Payment is due as specified on each Purchase Order. Each invoice shall be printed on Contractor's standard printed bill form, and shall include at a minimum (i) the Purchase Order number, (ii) Contractor's name and address, (iii) the nature of the invoiced charge, (iv) the quantity of goods provided; (v) the per unit amount charged; and (vi) the extended price, including all applicable taxes itemized separately. Amounts owed to the purchasing party due to rejections of goods or services or discrepancies in said invoices will be, at the purchasing party's option, fully credited against future invoices payable by the purchasing party, or paid by Contractor within thirty (30) days from Contractor's receipt of a debit memo or other written request for payment by the purchasing party. The purchasing party shall have the right at any time to set off any amount owing from Contractor to the purchasing party against any amount payable by the purchasing party pursuant to any purchase order or any other transaction or occurrence.

15. AUDIT RIGHTS: Contractor agrees to maintain records relating to performance and billing by Contractor under this Master Agreement for a period of three (3) years after final payment of any Purchase Order issued under this Master Agreement. During the period of time that Contractor is required to retain such records, the AOC or its representative may, during normal business hours, inspect and make extracts or copies of such records and other materials for purposes of confirming the accuracy of invoices submitted hereunder.

16. TERMINATION: The AOC may terminate this Master Agreement, in whole or in part, for any or no reason at any time by giving notice to Contractor. Additionally, there will be no restocking fee or returns of items shipped by the Contractor in error. The Contractor will not be expected to accept any items for return unless those items are damaged or do not meet specifications.

17. INDEMNITY: CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS THE AOC, THE HCRC, THE TRIAL COURTS, THE APPELLATE COURTS AND THEIR OFFICERS, AGENTS AND EMPLOYEES FROM AND AGAINST ALL CLAIMS, DAMAGES, LOSSES, LIABILITIES, COSTS AND EXPENSES ARISING OUT OF OR RESULTING IN ANY WAY FROM ANY DEFECT, WHETHER LATENT OR PATENT, IN THE GOODS OR SERVICES PURCHASED HEREUNDER OR FROM ANY ACT OR OMISSION OF CONTRACTOR, ITS AGENTS OR EMPLOYEES, INDEPENDENT CONTRACTORS OR SUBCONTRACTORS. THIS INDEMNIFICATION SHALL BE IN ADDITION TO THE WARRANTY OR OTHER OBLIGATIONS OF CONTRACTOR AND SHALL APPLY WITHOUT REGARD TO WHETHER THE CLAIM, DAMAGE, LOSS, LIABILITY, COST OR EXPENSES IS BASED ON BREACH OF WARRANTY,

NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER LEGAL OR EQUITABLE THEORY. THE INDEMNITY SHALL SURVIVE DELIVERY AND ACCEPTANCE OF GOODS OR SERVICES.

18. INFRINGEMENT PROTECTION: Contractor shall hold the AOC, the HCRC, the Trial Courts, the Appellate Courts and their officers, agents, and employees 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, or patented or un-patented invention, article, or appliance furnished or used in connection with this Master Agreement and any subsequent Purchase Order.

19. INSURANCE: Contractor agrees, warrants and represents to the AOC, the HCRC, the Trial Courts, and the Appellate Courts that Contractor will maintain adequate insurance to cover any liabilities described in this Master Agreement. Contractor further warrants and represents to the AOC, the HCRC, the Trial Courts, and the Appellate Courts that Contractor will maintain adequate insurance to cover any public liability, property damage and/or automobile liability for any damage incurred with Contractor's performance of any work on or about the AOC, the HCRC's, the Trial Courts', or the Appellate Courts' premises or third-party premises to which the goods and services are to be delivered as indicated on the face of the Purchase Order. Contractor shall maintain proper Workers' Compensation Insurance covering all employees performing under this Master Agreement.

20. LEGAL COMPLIANCE

- (a) Contractor shall observe and comply with all federal, state, and city laws, rules, and regulations affecting goods and services under this Master Agreement.
- (b) Contractor and its subcontractors, if any, shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age (over 40), sex or sexual orientation. Contractor shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination. Contractor and its subcontractors, if any, shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- (c) Contractor shall comply with the Americans with Disabilities Act (ADA) of 1990 (42 USC Sec. 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.
- (d) Contractor represents by signing this Agreement that no gratuities, in the form of entertainment, gifts, or otherwise, were offered by Contractor or any agent, director, or representative of the Contractor, to any officer, official, agent, or employee of the AOC with a view toward securing this Master Agreement or securing favorable treatment with respect to any determinations concerning the performance of this Master Agreement. For breach or

violation of this representation, the AOC has the right to terminate this Master Agreement for cause, either in whole or in part, and any loss or damage sustained by the AOC, the Trial Courts, Appellate Courts or HCRC in procuring, on the open market, any items which Contractor agreed to supply, shall be borne and paid for by Contractor. The rights and remedies of the AOC provided in this provision shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Agreement.

21. STATUS AS INDEPENDENT CONTRACTOR AND SUBCONTRACTS:

Contractor is an independent contractor and while performing work on or off the AOC, HCRC's, Trial Courts', or the Appellate Courts' premises neither it nor any of its agents or employees shall be considered agents or employees of the AOC, the HCRC, the Trial Courts or the Appellate Courts. Contractor shall not subcontract or delegate its obligations under this Master Agreement without the prior written consent of the AOC.

22. AGREEMENT ADMINISTRATION/COMMUNICATION

(a) Under this Master Agreement, the AOC Project Manager shall monitor and evaluate the Contractor's performance. The AOC Project Manager for this Agreement is Paula Coombs. All requests and communications concerning this Agreement shall be made through the AOC Project Manager. Any notice from the Contractor to the AOC shall be in writing and shall be delivered as follows:

Paula Coombs, Project Manager
Judicial Council of California
Administrative Office of the Courts
2880 Gateway Oaks Drive, Suite 300
Sacramento, CA 95833-3509

(b) Purchasing Party Contact: Each Purchase Order will include a contact for the party placing the order. Contractor shall contact the individual named on the Purchase Order regarding questions on the order or payment status.

(c) Notice to Contractor shall be directed in writing to:

[Name of Vendor].
Attention: _____

23. Assignment: Contractor shall not assign this Agreement, either in whole or in part, without the prior consent of the AOC in the form of a written amendment signed by the AOC and Contractor. This Agreement shall be binding upon and inure to the benefit of successors and assigns of the parties.

24. Agreement Made in California; Venue: The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California without regard to its conflict of laws provision. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in San Francisco County.

25. Contract Construction: Headings or captions to the provisions of this Agreement are solely for the convenience of the parties, are not part of the Agreement, and shall not be used to interpret or determine the validity of this Agreement. Any ambiguity in this Agreement shall not be construed against the drafter, but rather the terms and provisions hereof shall be given a reasonable interpretation as if both parties had in fact drafted this Agreement.

26. Survival: Terms which shall survive any termination or expiration of this Agreement include, but are not limited to, Indemnity, Warranties, , Infringement Protection, Audit Rights, and Assignment.

27. Signature Authority: The parties signing this Agreement certify that they have proper authorization to do so.

28. Entire Agreement: This Agreement constitutes the entire agreement and final understanding of the parties with respect to the subject matter hereof and supersedes and terminates any and all prior and/or contemporaneous negotiations, representations, understandings, discussions, offers, proposals, or agreements between the parties, whether written or oral, express or implied, relating in any way to the subject matter hereof.

END OF MASTER AGREEMENT TERMS AND CONDIITONS

EXHIBIT 1
DESCRIPTION OF GOODS AND SERVICE

[ATTACH DESCRIPTION OF GOODS AND SERVICES TO BE PROVIDED]

END OF EXHIBIT 1

Attachment B
To RFP No. FIN-0301
Sample Master Agreement

EXHIBIT 2
PRICING SHEETS

[ATTACH VENDOR PRICING SHEETS]

END OF EXHIBIT 2