



Judicial Council of California
ADMINISTRATIVE OFFICE OF THE COURTS

FINANCE DIVISION

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REQUEST FOR PROPOSAL

**PROJECT TITLE: TECHNOLOGY CENTER REQUIREMENTS
ASSESSMENT**

RFP NUMBER: IS-101805B

NOVEMBER 8, 2005

**PROPOSALS DUE BY: 1:00 PM, DECEMBER 9, 2005
AS SET FORTH IN SECTION 2.1**

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1. INTRODUCTION – SUMMARY OF THE INTENDED PROCUREMENT

1.1 Issuing Body

This Request for Proposal (“RFP”) is being issued by the Judicial Council of California, Administrative Office of the Courts (“AOC”) for the support of the Administrative Office of the Courts and the Superior Courts of California (“Courts”) (collectively referred to as Judicial Branch Entity or “JBE”).

1.2 Project Overview

1.2.1 Background Information

A. The Judicial Council of California, chaired by the Chief Justice of California, is the chief policy making agency of the State’s 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 is the staff agency for the Council and assists both the council and its chair in performing their duties.

B. California Court Technology Center

The California Courts Technology Center (CCTC) is located in Newark, California, and is operated by Siemens Business Services (SBS). The state of the art CCTC facility is staffed 24/7 with experts in all aspects of application and Internet infrastructure management, including:

- Database Administration
- Production Control
- Network Management
- Data Security
- Non-disruptive Maintenance
- Availability and Performance Management
- Capacity Planning
- Automated Operations
- Systems Programming
- Storage, Backup, and Disaster Recovery
- Change Management
- Application Management including:
 - a. Appellate Court Case Management (ACCMS)
 - b. California Court Case Management (CCMS)
 - c. California Law Enforcement Telecommunication System (CLETS)
 - d. Computer Aided Facilities Management (CAFM)

- e. Court Accounting and Reporting Systems (CARS)
- f. Human Resources (CHRIS)
- g. Integration Services Backbone (ISB)
- h. MS-Exchange
- i. Sustain

C. Shared Services

The California Courts Technology Center provides application and infrastructure management services for the state's Trial Courts. The Shared Services Environment is a centralized platform for hosting specific Court applications as well as a suite of other services for the courts, including:

- Security/Disaster Recovery
- Helpdesk and Deskside Support
- Managed E-mail on Microsoft Exchange
- Remote User and Site-to-Site VPN Services
- LAN/WAN Design and Implementation Services
- Custom staging environment for court application development

Hosting court applications at the Technology Center enables courts to cost-effectively operate these applications without sacrificing the reliability, security, performance, and scalability that court business requires.

D. Security/Disaster Recovery

A wide range of security and disaster services to ensure the privacy, integrity, and availability of this data are part of the Shared Services suite. These services include service level agreements governing guaranteed availability, firewall and intrusion detection services, and best-of-breed backup and restore practices.

E. Managed Firewall and Intrusion Detection Services

Courts can resolve security requirements and resource constraints at the same time with the Shared Services security offering, including management and monitoring of firewalls and intrusion detection. The Managed Firewall Service provides the courts with expert management and monitoring of its firewalls, to ensure that the intended benefits of firewall protection are truly realized. The Intrusion Detection Service identifies internal and external threats as they occur. In addition to providing rapid notification of suspicious or malicious activity, this service offers a cost-effective way to keep pace with industry best practices as new threats emerge.

F. Backup and Restore Services

The Shared Services Environment Backup offerings are designed specifically for the courts' requirements. The offering provides the manageability, availability, scalability, and performance necessary to protect courts' data with one integrated solution. Service features include:

- 24x7 convenience
- Media procurement and library management
- Backups of operating system image, system files, databases, and logs
- Online and offline backups of all production databases
- On and off-site tape storage
- Rapid data restoration

G. HelpDesk

The support services offered by the Technology Center seamlessly extend the courts' IT staff, greatly extending their IT skill set while avoiding unnecessary hires. Further, centralized support services reduce problem response time and resolution time, improving system users' satisfaction. Court management and staff are freed up to focus on core-business needs and strategic projects rather than disruptive fire fighting.

Support for all Shared Services and specific applications is available through a single phone number. Various support options are available, ranging from basic support for specific applications during regular business hours (8am-5pm, Monday through Friday) to 24x7x365 support. Answers to "how to" questions for supported applications are included in both the basic and enhanced support packages. Support for AOC CMS applications is also available, provided by specially trained customer service engineers.

1.2.2 Project Scope and Approach

- A. The AOC is requesting proposals from highly qualified consultants with demonstrated expertise in the assessment of **outsourced technology centers** similar in size, scope, and functionality as the California Court Technology Center.
- B. Siemens Business Services (SBS) has operated the California Court Technology Center under contract with the AOC since 2003. The contract is scheduled to expire in March of 2006. The AOC seeks a highly qualified consultant that can 1) help it analyze its requirements, 2) assist in developing the strategy and criteria for renegotiating the contract, and 3) recommend methods and practices for effectively managing an outsourced technology center.

- C. The AOC intends to award a contract for the proposed consulting services, as further described in Section 5 of this RFP, that are expected to be performed for an initial term which shall be from the execution of the resultant contract through June 30, 2006, with two one-year option terms to extend the agreement.
- D. This RFP has very specific mandatory and minimum vendor qualification requirements. Proposals will only be accepted from firms that meet those requirements. See Section 2.5, Qualification, for more information.

2. PROCUREMENT AND EVALUATION PROCESS

2.1 Procurement Schedule and General Instructions

- A. The AOC has developed the following list of key events from RFP issuance through notice of contract award. All key dates are subject to change at the AOC's discretion.

EVENT	Key Dates
Issue RFP	Nov 8, 2005
Deadline for Proposer Requests for Clarifications or Modifications	1:00 PM, Nov 18, 2005
AOC Posts Clarification / Modification Response	Nov 23, 2005
Proposal Due Date and Time	1:00 PM, Dec 9, 2005
Preliminary Evaluation of Proposals (estimated)	Dec 12 – 22, 2005
Notification of Vendors Selected to Make Oral Presentations / Interviews (estimated)	Dec 23, 2005
Oral Presentations / Interviews (estimated)	Jan 5 – 6 2006
Final Evaluation (estimated)	Jan 9 – Jan 13, 2006
Negotiations (estimated)	Jan 16 – Feb 1, 2006
Notice of Intent to Award (estimated)	Feb 2, 2006
Execution of Contract (estimated)	Feb 17, 2006

- B. The RFP and any addenda that may be issued will be available on the following website:

<http://www.courtinfo.ca.gov/reference/rfp/> (“Courtinfo website”)

2.1.1 Proposal Submittal Address

Nadine McFadden
RFP# IS-101805B
Judicial Council of California
Administrative Office of the Courts
455 Golden Gate Avenue, 7th Floor
San Francisco, CA 94102-3660

2.1.2 Disposition of Material and Confidential or Proprietary Information

- A. All materials submitted in response to the solicitation document will become the property of the AOC 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 **SHALL 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.
- B. The AOC’s policy is to follow the intent of the California Public Records Act (PRA). If a vendor’s proposal contains material noted or marked as confidential and/or proprietary that, in the AOC’s sole opinion, meets the disclosure exemption requirements of the PRA, then that information will not be disclosed pursuant to a written request for public documents. If the AOC does not consider such material to be exempt from disclosure under the PRA, the material will be made available to the public, regardless of the notation or markings. If a vendor is unsure if its confidential and/or proprietary material meets the disclosure exemption requirements of the PRA, then it should not include such information in its proposal.
- C. All financial statements from privately owned companies, including profit and loss statements and balance sheets, required by this RFP will be kept confidential by the AOC.

2.1.3 Proposal Preparation Costs

Vendors submitting proposals do so entirely at their expense. There is no express or implied obligation by the AOC to reimburse a vendor for any costs incurred in preparing or submitting proposals, providing additional information when

requested by the AOC, participating in any selection interviews or product demonstrations, or participating in this procurement.

2.1.4 RFP Not a Contract

The RFP does not constitute a contract or an offer for employment. In addition, any contract awarded as a result of this RFP is subject to any additional restriction, limitation, or condition enacted by the Legislature or established by the Judicial Council of California that may affect the provisions, funding, or terms of the contract in any manner. The AOC reserves the right to make one award, multiple awards, or to reject all proposals, in whole or in part, submitted in response to this RFP. The AOC further reserves the right to make no award, and to modify or cancel, in whole or in part, this RFP.

2.2 Pre-Submittal Process

2.2.1 Request for Clarifications or Modifications

- A. Vendors interested in responding to the solicitation may submit questions by e-mail only on procedural matters related to the RFP or requests for clarification or modification of this solicitation document, including questions regarding the General Conditions in Section 6, to the Solicitations mailbox referenced below. If the vendor is requesting a change, the request must set forth the recommended change and the vendor's reasons for proposing the change.

Solicitations mailbox: solicitations@jud.ca.gov

- B. All questions and requests must be submitted by email to the Solicitations mailbox no later than the date specified in Section 2.1 A, Procurement Schedule and General Instructions. Questions or requests submitted after the due date will not be answered.
- C. All email submissions sent to the Solicitations mailbox **MUST** contain the RFP number and other appropriate identifying information in the email subject line. In the body of the e-mail, always include paragraph numbers whenever references are made to content of this RFP. Failure to include the RFP number as well as other sufficient identifying information in the email subject line may result in the AOC taking no action on a vendor's email submission.
- D. Without disclosing the source of the question or request, the AOC Contracting Officer will post a copy of the questions and the AOC's responses on the Courtinfo website.
- E. 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.

2.2.2 Ambiguity, Discrepancies, Omissions

- A. If a vendor submitting a proposal discovers any ambiguity, conflict, discrepancy, omission, or other error in this solicitation document, the vendor shall immediately provide written notice of the problem by email to the Solicitations mailbox 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.
- B. 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.
- C. Written notification of any ambiguity, conflict, discrepancy, omission, or other error in this solicitation document submitted after the Proposal Due Date will not be responded to by the AOC.

2.2.3 Contact with Judicial Branch Entities

Vendors are specifically directed NOT to contact any Judicial Branch Entity personnel, JBE-contracted contractors or JBE-contracted consultants for meetings, conferences, or discussions specifically related to this RFP at any time prior to any award and execution of a contract. Unauthorized contact with any Judicial Branch Entity personnel, JBE-contracted contractors or JBE-contracted consultants may be cause for rejection of the vendor's proposal.

2.2.4 RFP Addenda

- A. 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 the addendum

unnecessarily restricts its ability to propose, it must notify the Solicitations mailbox by email no later than three (3) business days following the date the addendum is posted on the AOC's website.

- B. Proposer's proposal, including prices/costs offered, shall reflect the requirements of the RFP including 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.

2.3 Submission of Proposals

2.3.1 Proposal Delivery

- A. Proposals must be delivered to the Proposal Submittal Address listed in Section 2.1 no later than the Proposal Due Date and Time specified therein (the "Proposal Closing Time").
- B. Proposal must be submitted as follows:
 - 1. Provide an original and four (4) copies of the technical proposal, as required by Section 3.B.1 of this RFP, signed by an authorized representative of the vendor, and including name, title, address, and telephone number of one individual who is the vendor's designated representative. The original and copies of the technical proposal must not include any pricing information and must be submitted in a separate sealed envelope marked "Technical Proposal Proposal," along with the RFP number and the proposer's name.
 - 2. Provide an original and four (4) copies of the cost/fee proposal, as required by Section 3.B.2. of this RFP, signed by an authorized representative of the vendor. The original and copies of the cost proposal, along with a completed and signed Attachment G, DVBE Compliance Form, in Section 8.7 must be submitted in a separate sealed envelope marked "Cost Proposal," along with the RFP number and the proposer's name.
 - 3. Provide one set of the proposal on two compact disks (CD): one CD shall contain the technical proposal (not copy protected) in MS Word or PDF format; and a second CD shall contain the cost/fee proposal in MS Word, MS Excel or PDF format (not copy protected). Each CD shall be in a separate sealed envelope labeled "Technical Proposal - CD" or "Cost Proposal - CD", as applicable, along with the RFP number and the proposer's name.
- C. All proposals must be delivered via U.S. Mail, common carrier, overnight delivery service (with proof of delivery), or hand delivery. A receipt

should be requested for hand delivered material. Proposals received prior to the Proposal Closing Time that are marked properly will be securely kept, unopened until the Proposal Closing Time. **PROPOSALS RECEIVED AFTER THE PROPOSAL CLOSING TIME WILL NOT BE CONSIDERED.**

- D. The proposer is solely responsible for ensuring that the full proposal is received by the AOC in accordance with the solicitation requirements, prior to the Proposal Closing Time, and at the place specified. The AOC shall not be responsible for any delays in mail or by common carriers or by delivery errors or delays or missed delivery.
- E. Submittal of proposals by facsimile or email transmission is not acceptable, and any proposal so transmitted will be rejected as non-responsive.
- F. Submittal of proposals to anyone other than the person named in Proposal Submittal Address may result in the rejection of proposal as being non-responsive.

2.3.2 Amendment or Withdrawal of Proposals

- A. A vendor may amend its proposal prior to the Proposal Closing Time. All amendments must be in writing and received by the AOC prior to the Proposal Closing Time. Amended proposals must comply with all proposal submission requirements set forth herein. In addition, both inner and outer sealed envelopes must be prominently marked "Amended Proposal." In the event a vendor submits an amended proposal prior to the Proposal Closing Time, the vendor's original proposal will be returned to the vendor unopened, and will not be considered for evaluation. **AMENDED PROPOSALS RECEIVED AFTER THE PROPOSAL CLOSING TIME WILL NOT BE CONSIDERED.**
- B. A vendor may withdraw its proposal at any time prior to the Proposal Closing Time by notifying the Proposal Submittal Address listed in Section 2.1.1 in writing of its withdrawal (email is not authorized). The withdrawal must be signed by a duly authorized officer of the vendor.
- C. Amendments or withdrawals offered in any other manner, oral or written, will not be considered. Proposals cannot be amended or withdrawn after the Proposal Closing Time.

2.3.3 Mistake in Proposal

If after Proposal Closing Time but prior to a contract award, a proposer discovers a mistake in their proposal that renders the proposer unwilling to perform under any resulting contract, the proposer must immediately notify the Contracting

Officer in writing and request to withdraw the proposal. The notice shall be addressed to the Contracting Officer, signed by a duly authorized officer of the proposer and delivered to the Proposal Submittal Address listed in Section 2.1.1. It shall be solely within the AOC's discretion as to whether withdrawal will be permitted.

2.3.4 Error in Submitted Proposals

- A. If an error is discovered in a vendor's proposal, the AOC may at its sole option retain the proposal and allow the proposer to submit certain arithmetic corrections. The AOC may, at its sole option, allow the proposer to correct obvious clerical errors. In determining if a correction will be allowed, the AOC will consider the conformance of the proposal to the format and content required by the solicitation, the significance and magnitude of the correction, and any unusual complexity of the format and content required by the solicitation.
- B. If the proposer's intent is clearly established based on review of the complete proposal submitted, the AOC may, at its sole option, allow the proposer to correct an error based on that established intent.

2.3.5 Authorized Signatures, Validity Period of Proposals

- A. Proposals must include the vendor name, address, telephone and facsimile numbers, and federal tax identification number. The proposal must be signed by a duly authorized officer or employee of the vendor and include the name, title, address, telephone number, and email address of the individual who is the proposer's designated representative.
- B. Proposals will be valid for ninety (90) days after the Proposal Due Date specified in Section 2.1 ("Proposal Validity Date"). In the event a final contract has not been awarded by the date specified in Section 2.1, the AOC reserves the right to negotiate extensions to the Proposal Validity Date.

2.3.6 Knowledge of Requirements

- A. The vendor shall carefully review the solicitation documents, and all documents referenced and made a part of the solicitation document to ensure that all information required to properly respond has been submitted or made available and all requirements are priced in the proposal. Failure to examine any document, drawing, specification, or instruction will be at the proposer's sole risk.
- B. Proposers shall be responsible for knowledge of all items and conditions contained in their proposals and in this RFP, including any AOC issued clarifications, modifications, amendments, or addenda. The AOC will

post addenda and clarifications to the Courtinfo website; however, it is the proposer's responsibility to ascertain that its proposal includes all addenda issued prior to the Proposal Due Date.

2.3.7 Independence of Proposal and Joint Proposals

- A. Unless a proposer is submitting a joint proposal, the proposer represents and warrants that by submitting its proposal it did not conspire with any other vendor to set prices in violation of anti-trust laws.
- B. A proposal submitted by two or more vendors participating jointly in one proposal may be submitted, but one vendor must be identified as the prime contractor and the other as the subcontractor. The AOC assumes no responsibility or obligation for the division of payments, authorized expenses if allowed by the subsequent contract, or responsibilities among joint contractors.

2.3.8 Covenant Against Gratuities

Proposer warrants by signing its proposal that no gratuities, in the form of entertainment, gifts, or otherwise, were offered by the proposer or any agent, director, or representative of the proposer, to any officer, official, agent, or employee of any Judicial Branch Entity with a view toward securing award of or securing favorable treatment with respect to any determinations concerning the performance of any resulting contract. For breach or violation of this warranty, the AOC will have the right to terminate any resulting contract in whole or in part. The right 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 resulting contract.

2.4 Overview of Evaluation Process

2.4.1 Evaluation of Proposals

- A. The AOC will conduct a comprehensive, fair, and impartial evaluation of proposals received in response to this RFP. All proposals received from vendors will be reviewed and evaluated by a committee of qualified personnel ("Evaluation Committee"). The name, units, or experience of the individual members will not be made available to any vendor or requestor at any time prior to, during, or subsequent to this RFP..
- B. The proposer's "Company and Subcontractor Information," as specified in Section 4.2, and "Company Profile," as specified in Section 4.3, will be reviewed and screened to determine that mandatory qualifications set forth in Section 2.5.1 have been met. Only those proposals meeting the mandatory qualifications will be considered for further review and screening.

- C. Proposals meeting the mandatory qualifications will then be reviewed and screened for the minimum qualifications set forth in Section 2.5.2.
- D. Proposals received from vendors satisfying both the mandatory and minimum qualifications will then be evaluated in accordance with the evaluation criteria set forth in Section 2.6.
- E. The Evaluation Committee will first review and complete the evaluation of the technical proposals without the cost proposal. As set forth in Section 2.3, technical proposals must not contain any pricing information. Technical proposals that contain pricing information may be rejected as being non-responsive, and may not receive further consideration.
- F. Upon completion of the technical proposal's evaluation, cost proposals will be opened, reviewed, and evaluated to determine an overall evaluation score.

2.4.2 Reservation of Rights

- A. The AOC, in its complete discretion, will eliminate proposals that have not met the mandatory qualifications of Section 2.5.1.
- B. The AOC, in its complete discretion, may also eliminate proposals that have not met the minimum qualifications of Section 2.5.2, or have not scored adequately in relation to other proposals to warrant further consideration. The AOC reserves the right to reject any or all proposals, in whole or in part, and may or may not waive any immaterial deviation or defect in a proposal. 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.
- C. 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 the requirements of the solicitation document. Material deviations cannot be waived.
- D. The AOC reserves the right to negotiate with proposers who have presented, in the opinion of the Evaluation Committee, the best proposal in an attempt to reach an agreement. If no agreement is reached, the AOC can negotiate with other proposers or make no award under this RFP. At any time the Evaluation Committee can reject all proposals and make no award under this RFP. Moreover, the AOC reserves the right to reconsider any proposal submitted at any phase of the procurement. It also reserves the right to meet with vendors to gather additional information.

- E. 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.

2.4.3 Evaluation of Cost Proposal Sheets

Cost/fee proposals will be reviewed only if a proposal is determined to be otherwise qualified. All figures entered on the cost proposal sheets must be clearly legible and 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 the person signing the proposal. If the solicitation requires the proposer to provide an electronic copy of the cost/fee proposal and there is a discrepancy in the printed cost proposal sheets and the electronic copy, the pricing on the printed cost proposal sheets will be evaluated.

2.4.4 Requests for Additional Information

The AOC reserves the right to seek clarification or additional information from any proposer throughout the solicitation process. The AOC may require a proposer's representative to answer questions during the evaluation process with regard to the vendor's proposal. Failure of a proposer to demonstrate that the claims made in its proposal are in fact true may be sufficient cause for deeming a proposal non-responsive.

2.5 Qualifications

2.5.1 Mandatory Qualifications

- A. As set forth in Section 1, Introduction – Summary of the Intended Procurement, the AOC intends to award a contract to a highly qualified consultant experienced in analyzing the operations of outourced technology centers. The California Court Technology Center is presently operated by Siemens Business Services, Inc. for the AOC under a separate agreement. The terms of that agreement specifically preclude the AOC from using any third party to conduct an audit or other analysis of the CCTC if that third party is an excluded contractor, where, according to the contract between Siemens Business Services, Inc. and the AOC, excluded contractor ("Excluded Contractor") means firms or companies that are (i) primarily engaged in the business of providing information technology infrastructure support services, including deskside support, help desk, and (ii) have annual revenues exceeding ten million dollars.
- B. In order to be eligible to have a proposal for this RFP reviewed and evaluated, neither the proposer, nor any of proposer's proposed subcontractors may be classified as Excluded Contractors as that term is defined in the preceding SubSection 2.5.1A.

- C. The AOC will review and evaluate proposer's (i) Company Background Information (see Section 4.2.1), (ii) Subcontractor Background Information (see Section 4.2.2), and (iii) Company Profile (see Section 4.3) portions of proposals to determine that neither the proposer, nor any of proposer's proposed subcontractors are Excluded Contractors.
- D. Proposals from any proposer deemed by the AOC, in the AOC's complete discretion, to be an Excluded Contractor, will be considered non-responsive and ineligible for further evaluation by the AOC.

2.5.2 Minimum Qualifications

- A. After first meeting the mandatory requirements, proposers must then meet the threshold minimum qualification requirements listed below. Minimum requirements can be met by combining experience, expertise, and resources of vendor and any proposed subcontractors.
 - 1. Three (3) or more years experience working with government entities / public sector / judicial branch customers.
 - 2. Vendor has completed at least two (2) projects of similar size and scope anticipated by this RFP in the past two (2) years
 - 3. Neither vendor nor any of its proposed subcontractors are currently under suspension or debarment by any state or federal government agency and neither vendor nor any of its proposed subcontractors are tax delinquent with the State of California or Federal Government (reference Attachment C, Vendor Certification Form).
 - 4. Minimum insurance coverages as specified in Attachment A, Contract Terms and Conditions, on page 43 of this RFP.
- B. The proposer must state specifically in its Executive Summary (see Section 4.1) how it meets or complies with each minimum qualification specified in SubSection 2.5.2A., above. With respect to meeting the minimum insurance requirements, proposers must provide copies of current insurance certificates to show evidence of coverage. Subject to the AOC's right, in its sole and complete discretion, to waive minor deviations or defects, only those proposals that meet all of the foregoing minimum qualifications shall be considered for a full evaluation and a possible contract award.

2.6 Evaluation Criteria

Proposals will be evaluated to determine the proposal that offers the best value to the AOC and the Judicial Branch Entities. The evaluation will be based upon the

following criteria, listed in order of descending priority. Although some factors are weighted more than others, all are considered necessary, and a proposal must be technically acceptable in each area to be eligible for award.

- A. Experience on similar assignments and credentials of staff who would be assigned to project
- B. Credentials of the specific staff (Contractor's Key Personnel) to be assigned to the project.
- C. Quality of work plan submitted
- D. Reasonableness of fee proposal
- E. Ability to meet timing requirements to complete the project
- F. References

2.7 Interviews and Negotiations

2.7.1 Interviews

- A. Following the initial screening of proposals, the AOC reserves the right to require, and each proposer must be prepared to conduct, oral presentations and other discussions (written or verbal) on the content of its proposal. If the AOC determines that interviews or presentations are required, selected proposers will be notified in writing of the date, place, time and format of the interview or presentation. Proposers will be responsible for all costs related to the interview, which, at the AOC's sole discretion, may be in-person and/or by teleconference. If selected to participate in an interview or presentation, a proposer's failure to participate in such interviews or presentations shall result in a proposer's disqualification from further consideration.
- B. Interviews, if held, are designed to provide the AOC with clarification of submitted proposals only, and shall not be construed as a solicitation, invitation, or opportunity for vendors to alter, modify, or amend their previously submitted proposals. Any alterations, modifications or amendments so offered shall not be considered by the AOC; but will, however, be viewed as negatively impacting the interview evaluation.

2.7.2 Negotiations

If the AOC desires to enter into negotiations, they will do so with one or more proposers, at the AOC's sole discretion. If the AOC enters into negotiations and no agreement is reached, the AOC can negotiate with the other proposers or make

no award under this RFP. The AOC reserves the right to award a contract, if any, without negotiations.

2.8 Payment

Payment terms will be specified in any contract that may ensue as a result of this solicitation document. THE JUDICIAL COUNCIL DOES NOT MAKE ANY ADVANCE PAYMENT FOR GOODS OR SERVICES. Payment for the services anticipated by this RFP will be on cost reimbursement basis, up to a specified not to exceed amount, inclusive of all authorized expenses, and will be made based upon completion of tasks, or the acceptance of deliverables, as provided in the agreement between the AOC and any selected vendor.

2.9 Award of Contract

2.9.1 Notification of Intent to Award Contract

The Evaluation Committee will make a final recommendation for award of the contract to the Contracting Officer. The Contracting Officer will subsequently issue a Notice of Intent to Award to all proposers by posting the Notice of Intent to Award on the AOC's Courtinfo website. The AOC reserves the right to award, in whole or in part, to make multiple awards, or to make no award and to modify or cancel, in whole or in part, this RFP.

2.9.2 Execution of Non-Disclosure Agreement

- A. If not previously submitted with their proposal, the intended awardee shall execute and submit the Attachment E Non-Disclosure Agreement, duly executed without change or modification, by an authorized officer of the intended awardee, to the Proposal Submittal Address within ten (10) business days of the award.
- B. The AOC must be in receipt of the intended awardee's signed Non-Disclosure Agreement before discussions to finalize the scope of services can begin.
- C. Failure of the intended awardee to return the executed Non-Disclosure Agreement within the required timeframe, or submittal of a changed or modified Non-Disclosure Agreement, may provide cause for the AOC, at the AOC's sole and complete discretion, to rescind the Notice of Intent to Award without further discussion.
- D. Depending on the nature and extent of finalized scope of services, the vendor may be required to execute additional non-disclosure agreements prior to commencing services under the contract.

2.9.3 Execution of Contract

Upon award, the intended awardee will be required to 1) execute a standard state contract, and 2) provide certificates of insurance in conformance with Section 11, of Attachment A, Contract Terms and Conditions, on page 43 within ten (10) business days of award.

2.9.4 News Releases

News releases pertaining to the award of any contract resulting from this solicitation may not be made by a vendor without the prior written approval of the AOC Business Services Manager.

2.10 Protest Procedures

Failure of a vendor to comply with the protest procedures set forth in this Section 2.10, may render a protest inadequate and non-responsive, and may result in rejection of the protest.

2.10.1 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 Closing Time. The protestor shall have exhausted all administrative remedies, such as those specified in Section 2.2.1, Request for Clarification or Modifications; Section 2.2.2, Ambiguity, Discrepancies, Omissions; and Section 2.2.4, RFP Addenda, as applicable, prior to submitting the protest. Failure to do so may be grounds for denying the protest.

2.10.2 After Notice of Intent to Award

- A. 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:
1. The vendor has submitted a proposal that it believes to be responsive to the solicitation document;
 2. The vendor believes that its proposal meets the administrative and technical requirements of the solicitation, proposes services of proven quality and performance, and offers a competitive cost; and,

3. The vendor believes that the AOC has incorrectly selected another vendor submitting a proposal for an award.
- B. Protests must be received no later than five (5) business days after the Notice of Intent to Award is posted on the Courtinfo website.

2.10.3 Form of Protest

- A. A vendor who is qualified to protest should submit the protest to the attention of the Contracting Officer at the Proposal Submittal Address noted in Section 2.1.1.
1. The protest must be in writing, signed by a duly authorized officer of the protesting party, 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.
 2. The protest shall include the name, address, telephone and facsimile numbers, and email address of the party protesting or their representative.
 3. The title of the solicitation document under which the protest is submitted shall be included.
 4. A detailed description of the specific legal and factual grounds of protest and any supporting documentation shall be included.
 5. The specific ruling or relief requested must be stated.
- B. 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.

2.10.4 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 Closing Time. If required, the AOC may extend the Proposal Closing 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.

2.10.5 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.

2.10.6 Appeals Process

- A. 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 written request for appeal, signed by a duly authorized officer of the protesting party, with the AOC's Business Services Manager at the Proposal Submittal Address noted in Section 2.1.1 within five (5) calendar days of the issuance of the Contracting Officer's decision.
- B. The justification for appeal is specifically limited to:
 - 1. Facts and/or information related to the protest, as previously submitted, that were not available at the time the protest was originally submitted;
 - 2. 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
 - 3. The decision of the Contracting Officer was in error of law or regulation.
- C. The vendor's request for appeal shall include:
 - 1. The name, address telephone and facsimile numbers, and email address of the vendor filing the appeal or their representative;
 - 2. A copy of the Contracting Officer's decision;
 - 3. The legal and factual basis for the appeal; and

4. The ruling or relief requested. Issues that could have been raised earlier will not be considered on appeal.
- D. 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.

2.10.7 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.

3. SPECIFICS OF A RESPONSIVE PROPOSAL

- A. Responsive proposals should provide straightforward, concise information that satisfies the requirements of this solicitation. Expensive bindings, color displays, and the like are not necessary or desired. Emphasis must be placed on conformity to the AOC's instructions, requirements of this solicitation, and the completeness and clarity of content.
- B. Proposals shall be submitted in two parts, with each part in separate sealed envelope.
 1. Part I shall consist of the responses to Paragraphs 4.1 through 4.6.2, which shall be entitled "Part I – Technical Proposal". There shall be no cost/fee information submitted in the Technical Proposal, nor any DVBE Participation Forms.

2. Part II shall consist of the response to Paragraphs 4.7 through 4.7.4, which shall be entitled “Part II: Cost/Fee Proposal” and shall include the DVBE Participation Forms.
- C. All responses shall reference the paragraph number and be submitted in paragraph number sequence.
- D. A Table of Contents must be provided which identifies all sections and major subsections of the vendor’s proposal by page number. All exhibits and attachments must also be identified and referenced by page number.
- E. Failure of the proposer to comply with the requirements set forth in this Section 3 may result in the proposal being deemed non-responsive to the RFP and being rejected.

4. PROPOSAL FORMAT AND CONTENT

4.1 Executive Summary

The proposer must provide an Executive Summary of its proposal. The Executive Summary should be a “high-level”, general overview of how the vendor proposes to accomplish the requirements of this RFP. The Executive Summary should demonstrate the proposer’s understanding of the issues. The proposer must also address in this section how it meets the mandatory and minimum qualification requirements set forth in Section 2.5.

4.2 Company and Subcontractor Information

4.2.1 Company Background Information

- A. The AOC requires the vendor to be a reputable company of strong financial standing and demonstrated expertise in the evaluation and review of government/public sector projects and programs. The vendor’s proposal must provide the information requested below. If the proposer is a joint venture, or if any portion of the services will be provided by a subcontractor, information about the prime contractor and the subcontractor must be submitted separately. The information to be provided for the proposer/prime contractor is as follows:
 1. Complete name and address.
 2. Federal tax identification number.
 3. The type of legal business entity, and the state(s) where the business entity is authorized and licensed to do business. If incorporated, identify the state in which incorporated.

4. Name, title, and address (including email address) of vendor's single point of contact
5. A short narrative description of the vendor's organization, including organization charts and indication of company officers where applicable.
6. Principal type of business, including all major lines of business.
7. Total number of years in business.
8. Number of years providing services similar in size and scope to those requested in this RFP.
9. Significant transactional events in the past three (3) years such as: bankruptcies, mergers, acquisitions, initial public offerings (IPOs).
10. Annual contract value of the vendor's three (3) largest contracts for similar services in the past three (3) years.
11. If subcontractors are proposed for this RFP, describe the vendor's contract management process for subcontractors included in the vendor's proposal.
12. A profit and loss statement and balance sheet, reviewed in accordance with American Institute of Certified Public Accountants (AICPA) reporting standards for the vendor's last three (3) fiscal years. If a company is privately owned, this information will be kept confidential by the AOC as set forth in Section 2.1.2 C.

4.2.2 Subcontractors

- A. If subcontractors are proposed for this RFP, provide the following information for each subcontractor (Note: If any portion of the required services will be performed by a subsidiary, an affiliate, or a parent organization, those organizations must be considered subcontractors for the purpose of this RFP):
 1. Subcontractor name and address.
 2. Federal tax identification number.
 3. The type of legal business entity, and the state(s) where the business entity is authorized and licensed to do business. If incorporated, identify the state in which incorporated.

4. A short narrative of the subcontractor's organization, including organization charts and indication of company officers where applicable.
5. Principal type of business, including all major lines of business.
6. Total number of years in business.
7. Number of years providing services similar in size and scope to those requested in this RFP.
8. Number of times in the previous two (2) years this subcontractor has been used as a subcontractor for providing services similar in scope to those requested in this RFP. Describe subcontractor's role for each engagement listed.
9. A profit and loss statement and balance sheet, reviewed in accordance with AICPA reporting standards for the subcontractor's last three (3) fiscal years. If a subcontractor is privately owned, this information will be kept confidential by the AOC as set forth in Section 2.1.2 C.

4.3 Company Profile

Vendor shall provide a short description of its company, including core competencies, and key staff and their background.

4.4 Qualifications, Experience and References

4.4.1 Qualifications and Experience

- A. The AOC requires the vendor and any subcontractors to have prior experience in all aspects of the services relative to the size, complexity and scope of this RFP. Vendor shall:
 1. Provide a list of project staff the vendor proposes to use in providing the services, and the roles each of the staff will play.
 2. Provide resumes describing the background and experience of key staff, as well as each individual's ability and experience in conducting the proposed activities.
 3. Provide a list and description of projects completed during the past five (5) years that were similar in scope, complexity, content, and time frames to that identified in this RFP. Documentation of these projects must include:

- project title;
- description of work performed;
- dates for work performed;
- organization for which the work was performed; and,
- name, address (including email address), title and telephone number of each organization's project manager for the work performed.

4.4.2 References

Provide the client contact names, addresses (including email address), and telephone numbers for each of a minimum of five (5) clients for whom the vendor has provided similar consulting services. The vendor should include a brief description of the scope of the services provided to the customer and the date and duration of the contract. The AOC may contact some or all of the references provided in order to determine the vendor'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.

4.4.3 Subcontractors

If the vendor intends to subcontract, describe the vendor's experience with each of the proposed subcontractors. For each proposed subcontractor provide the names, addresses, and telephone numbers for a minimum of three (3) client references, for products and services similar to those described in this RFP. The vendor should include a brief description of the scope of services provided to the customer and the duration of the contract.

4.5 Required Proposal Forms

The vendor must include the following appropriately completed and signed forms with their proposal:

1. Statement of Acceptance of Terms or Exception to Terms and Conditions— Attachment B
2. Vendor Certification Form – Attachment C
3. Payee Data Record (State of California Form STD-204) - Attachment D
4. Non-Disclosure Agreement – Attachment E, or Non-Disclosure Certification Form – Attachment F

5. Statement of acknowledgement of Insurance Requirements including copies of current insurance certificates
6. DVBE Compliance Form Attachment G

4.5.1 Acceptance of Terms or Exception to Terms and Conditions

- A. The vendor's proposal must include a signed statement (Attachment B) as to whether the vendor accepts the General Conditions in Section 6 without changes or whether the vendor takes any exception to those terms. If exceptions are proposed, vendor must submit a "redlined" version of the term or condition showing all modifications (additions or deletions, or new provisions) proposed by the vendor. In addition, the vendor must provide an explanation as to why each individual modification is required. The significance of any proposed exception(s) to the General Conditions may be a factor in the evaluation of the vendor's proposal.
- B. Although the AOC will consider alternate language proposed by a vendor, the AOC will not be bound by proposed contract language received as part of a prospective vendor's response. If the proposer requires that the AOC be bound by some or all of the vendor's proposed contract language, the proposal may be considered non-responsive and may be rejected.
- C. In the event the AOC enters into negotiations with a proposer, the AOC may decide to only negotiate those items included as exceptions on the proposer's signed Attachment B. If during negotiations, the proposer raises issues that were not included in the proposer's Attachment B submittal, the AOC may at the AOC's sole discretion terminate the negotiations.

4.5.2 Vendor Certification Form

- A. As set forth in Section 2.5.2, Minimum Qualifications, neither the vendor nor any of its proposed subcontractors may currently be under suspension or debarment by any state or federal government agency, and neither may the vendor nor any of its proposed subcontractors be tax delinquent with the State of California or federal government as a minimum qualification to be considered for award of a contract for the services anticipated by this RFP. Therefore, the vendor's proposal must include the signed statement (Attachment C) certifying that neither the vendor nor any of its proposed subcontractors are currently under suspension or debarment by any state or federal government agency, and further, that neither the vendor nor any of its proposed subcontractors are tax delinquent with the State of California or federal government.

- B. Attachment C, Vendor Certification Form, also requires the vendor to provide a list of all contracts the vendor has had, or currently has, with state or federal government customers for two (2) years preceding vendor's submission of their proposal for this RFP. This listing shall also include a list of contracts each proposed subcontractor has had with state or federal government customers for the same period. Such list shall be broken-out between the vendor and each proposed subcontractor.

4.5.3 Payee Data Record (State of California Form STD-204)

The AOC is required to obtain and keep on file, a completed Payee Data Record (Attachment D) for each vendor prior to entering into a contract with that vendor. Therefore, vendor's proposal must include a completed and signed Payee Data Record.

4.5.4 Non-Disclosure Requirements

- A. Pursuant to the requirements set forth in Section 2.9.2, the vendor selected as intended awardee will be required to sign and return, without change or modification, the AOC's Non Disclosure Agreement (Attachment E) prior to commencing discussions with the AOC to finalize the scope of services of the resultant contract. Further, depending on the nature and extent of the finalized scope of services, the vendor may be required to execute additional non-disclosure agreements prior to commencing services under the resulting contract.
- B. It is understood by the AOC that some vendors may be reluctant to agree to the terms and conditions of the Attachment E Non-Disclosure Agreement unless they were awarded the contract for the services set forth herein. Recognizing that reluctance, the AOC has provided the following alternative for vendor's desiring to submit a proposal without prior execution of the Non-Disclosure Agreement.
- C. The vendor's proposal must include either (i) a signed Non-Disclosure Agreement (Attachment E) or, (ii) a signed statement (Attachment F) certifying that the vendor will sign and return the AOC's Non-Disclosure Agreement (Attachment E), without change or modification, within ten (10) business days of being selected as the intended awardee.
- D. Failure of the intended awardee to return the executed Non-Disclosure Agreement within the required timeframe, or submittal of a changed or modified Non-Disclosure Agreement, may provide cause for the AOC, at the AOC's sole and complete discretion, to rescind the Notice of Intent to Award without further discussion.

4.6 Technical Proposal

4.6.1 Work Plan and Methodology

- A. Vendor shall provide a detailed work plan that describes the methodologies the vendor intends use to complete the scope of services in Section 5.1 and each of the deliverables specified in Section 5.2. within the timeframe allowed for this project. Specifically, the vendor will break the project out into identifiable major tasks with component tasks and deliverables, and describe the technical approach and the methodology that will be used to address each task and provide the deliverables according to the work plan. The Work Plan shall include:
1. Time estimate, including a detailed project timeline that identifies key milestones for this project.
 2. Variables that could increase or decrease the scope of the project.
 3. Include the following details about the market analysis methodology:
 - Criteria for conducting market analysis
 - Description of the methodology used to identify peer groups
 4. The AOC and SBS resources required for project

4.6.2 Other Technical Requirements

1. Identify AOC and Siemens Business Systems resources required for project.
2. Provide access requirements, both onsite and remote.
3. Provide templates of required reports (Market Analysis, Technology Center Outsourcing Report, Managing An Outsourced Technology Center Report)

4.7 Cost/Fee Proposal

4.7.1 Cost/Fee Proposal Requirements

- A. Using the forms in Attachment H, Vendors shall submit a detailed line item cost/fee proposal showing total cost of services to be performed for

the initial term and all subsequent option terms. Vendor must submit their pricing in accordance with the requirements set forth in this Section 4.7.

- B. Vendors shall fully explain and justify all cost items in a narrative entitled “Cost Justification” which must include the following items at a minimum:
- (1) Total number of hours required to complete this project;
 - (2) Estimated total number of hours to be spent on each task/segment;
 - (3) Identify key staff that will work on each task/segment and provide their hourly rate for consulting fees;
 - (4) Identify non-key staff by labor category (i.e., that will work on each task/segment and provide the hourly rate for that labor category);
 - (5) Breakdown of cost (e.g., labor, tools, licenses, etc.);
 - (7) Estimated administrative and operating expenses, including all incidentals;
 - (8) Estimated travel expenses (non-local travel only) that include detailed travel costs for any trips that must be made to the AOC offices in San Francisco, and the CCTC in Newark, California, including airfare, car mileage, local transportation costs, lodging and meals; and,
 - (9) Impact of any variable identified in Section 4.6.1 may have on cost/fee.
- C. The AOC will only reimburse travel expenses determined to be allowable in accordance with in Section 4.7.4 A. Reimbursement will be at the limits set forth in Section 4.7.4 B. It is not anticipated that travel will be required or necessary to any location other than the AOC offices in San Francisco, California or the CCTC in Newark, California.
- D. The AOC may be willing to consider an alternative to the pricing model set forth in Section 4.7, above, but only if such proposed alternative is included after first meeting and fully complying with the requirements of Section 4.7, above. Vendors desiring to submit an alternative pricing model shall clearly label such submission as “ALTERNATIVE PRICING MODEL” and attach such alternative pricing proposal to the vendor’s cost/fee proposal submission. Submitting an alternative pricing model without fully complying with Section 4.7, above, or submitting an alternative pricing model in lieu of the required cost/fee proposal submission, may result in the proposal being deemed non-responsive to the RFP and may result in the proposal being rejected by the AOC. Examples of alternative pricing models that the AOC may be willing to consider are as follows:

- (1) firm-fixed rate for travel expenses that includes airfare, mileage, local transportation, lodging, meals, and incidentals for each specific destination, provided the vendor .
- (2) firm-fixed amount(s) for completion of specific tasks or the acceptance of defined deliverables, provided such firm-fixed amount(s) is/are inclusive of all costs, benefits, expenses, fees, overhead, and profits payable to the Vendor for services rendered to the AOC. .

E. DVBE Compliance Form – Attachment G (sealed in a separate envelope with Cost/Fee Proposal, pursuant to Section 3. B. 2.)

4.7.2 Payment of Consulting Fees

Payment for the services set forth in this RFP is anticipated to be on a cost reimbursement basis inclusive of all costs, benefits, expenses, fees, overhead, and profits payable to the Vendor for services rendered to the AOC, up to a specified not to exceed contract amount, and will be made based upon completion of tasks, or the acceptance of defined deliverables. The AOC may elect to utilize an alternative pricing model at the AOC's sole and complete discretion, should the AOC determine that it is in their best interest to do so.

4.7.3 Taxes

Payment for the services set forth in this RFP is anticipated to be on a cost reimbursement basis inclusive of all costs, benefits, expenses, fees, overhead, and profits payable to the Vendor for services rendered to the AOC, up to a specified not to exceed contract amount, and will be made based upon completion of tasks, or the acceptance of defined deliverables. The AOC may elect to utilize an alternative pricing model at the AOC's sole and complete discretion, should the AOC determine that it is in their best interest to do so.

4.7.4 Allowable Expenses

A. Travel Expenses. The AOC will reimburse a contractor for the actual expenses incurred for reasonable and necessary transportation, meals, lodging, and other travel-related expenses required to perform the services set forth in this RFP up to the maximums listed in Section 4.7.4 B, below. To be eligible for reimbursement of authorized travel expenses, a contractor will be required to submit a written travel plan to the Project Manager prior to incurring any travel expenses, including the reason for the trip, number of persons traveling, types of expenses the contractor expects to incur and the estimated costs. Prior approval of the travel plan by the Project Manager will be required.

- B. Reimbursement for Travel Expenses. The following constitutes the maximum limits the AOC will pay for authorized travel expenses:
1. For approved and necessary air transportation, the AOC will reimburse a contractor for the actual cost incurred, provided all air transportation is limited to coach fares and must be booked a minimum of fourteen (14) days prior to travel, unless the Project Manager agrees otherwise in writing.
 2. For overnight travel, in accordance with the California Victim Compensation and Government Claims Board (formerly State Board of Control) guidelines, the State will reimburse the Contractor for actual meal and lodging expenses not to exceed \$150.00 per day plus applicable taxes on lodging.
 3. For necessary private vehicle ground transportation (non-local travel only) usage, the State will reimburse the Contractor up to \$0.34 cents per mile.

5. **SCOPE OF SERVICES**

5.1 **Required Consulting Services.**

- A. The consultant shall begin providing services within two (2) weeks of contract signing.
- B. The consultant shall perform a market analysis to identify the model that best represents the AOC as a customer for outsourcing its technology infrastructure (see Section 5.2.1) which shall be due within three (3) weeks of start of contract. Other deliverables are due between December 13, 2005 and January 27, 2006.
- C. The consultant shall recommend the appropriate metrics and service levels for each of the following:
- Help desk
 - Contact center
 - Enterprise operations center
 - Enterprise storage management
 - Distributed computing
 - Voice network
 - Data network

- Total application development and support
 - Web hosting
- D. The consultant shall analyze the current contract to:
- Evaluate the competitiveness of the pricing for the service levels listed in Section 5.1 C above.
 - Identify ambiguities regarding scope of services and deliverable responsibilities.
 - Recommend remediation for ambiguities regarding scope of services and deliverable responsibilities.
- E. The consultant shall recommend industry-standard best practices that the AOC can adopt to help it more effectively manage the relationship with SBS.
- F. The consultant shall recommend on-going methods for evaluating services provided by and relationship with SBS.
- G. The consultant shall recommend ways that the AOC can integrate the knowledge and intelligence necessary for managing its technology infrastructure's service provider into its ongoing operations.
- H. The consultant shall recommend best practices and strategies in developing and negotiating revisions to the AOC contract with SBS.
- I. The consultant shall assist the AOC in drafting a Request for Proposal (RFP) for outsourcing the AOC's technology center; consulting services would include recommending evaluation criteria and a process for selecting the service provider.

5.2 Deliverables

5.2.1 Market Analysis

The market analysis should provide a model that the AOC can use as a benchmark for comparing pricing and service levels. It should include the enterprises identified as AOC's peer group.

5.2.2 Technology Center Outsourcing Report

This written document should include the following:

- A. Service level recommendations. This section should recommend appropriate service levels (based on Market Analysis) for each of the IT areas listed in Section 5.1 C above
- B. The AOC's Current Outsourcing Services with SBS vs Recommended Outsourcing Services Report. This written document shall:
 - 1. Summarize differences between the AOC's current SBS outsourcing contract and recommended changes
 - 2. Include cost comparison of the AOC's current SBS contract with a survey of industry-standard pricing and provide recommendations for contract negotiation. Include pricing strategies the AOC should consider for both short term, and long term.
 - 3. Identify contract language that is ambiguous about scope of service level, explain the impact of the ambiguity on the AOC and recommend modifications.
 - 4. Identify contract language that is ambiguous about deliverable responsibilities and recommend solutions
- C. Managing an Outsourced Technology Center Report. This written document shall comprise a methodology for managing an outsourced technology center and shall, at a minimum, include the following:
 - 1. Basis for methodology
 - 2. Methods for evaluating services
 - 3. Key issues that have an impact on the relationship between AOC and the service provider
 - 4. Recommendations for continuous improvement of the relationship.

6. GENERAL CONDITIONS

The General Conditions are included in this solicitation document as Attachment A, Contract Terms and Conditions.

7. DISABLED VETERAN BUSINESS ENTERPRISE PARTICIPATION GOALS

The State of California requires disabled veteran business enterprises (DVBEs) participation goals of a minimum of three percent (3%) for certain state contracts. The AOC is subject to this participation goal. The proposer must complete a DVBE Compliance Form (Attachment G) in which the proposer certifies that it

either 1) will commit to at least 3% DVBE participation or 2) has a made good faith effort to achieve such participation. Proposals that cannot make such certification shall be considered non-responsive and ineligible for award. Information about DVBE resources can be found on the Executive Branch's internal website at <http://www.dgs.ca.gov/default.htm> or by calling the Office of Small Business and DVBE Certification at 916-375-4940.

8. ATTACHMENTS

Attachment A	Contract Terms & Conditions
Attachment B	Vendor's Acceptance of Terms or Exceptions to Contract Terms and Conditions
Attachment C	Vendor Certification Form
Attachment D	Payee Data Record (State of California Form STD-204)
Attachment E	Non-Disclosure Agreement
Attachment F	Non-Disclosure Certification Form
Attachment G	DVBE Participation Form
Attachment H	Pricing Proposal Forms

8.1 Attachment A – Contract Terms and Conditions

Attachment A – Contract Terms and Conditions begin on this page 34 and continue through page 66 of this RFP.

EXHIBIT A STANDARD PROVISIONS

1. Indemnification

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

2. Relationship of Parties

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

3. Termination for Cause

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

for a period of thirty (30) Days to any proceeding under any statute of any State authority relating to insolvency or protection from the rights of creditors.

- B. In the event the State terminates this Agreement in whole or in part, due to the Contractor's failure to perform, the State may procure, upon such terms and in such manner as it may deem appropriate, supplies or services similar to those so terminated, and the Contractor shall be liable to the State for any excess costs for such similar supplies or services, subject to the limitations contained elsewhere herein; further, the Contractor shall continue the performance of this Agreement to the extent not terminated under this provision.
- C. The Contractor shall not be liable for any excess costs if the failure to perform the Agreement arises out of acts of Force Majeure; but in every case the failure to perform must be beyond the control and without the fault or negligence of the Contractor.
- D. If, after Notice of termination for default of this Agreement, it is determined for any reason that the Contractor was not in default under this provision, or that the default was excusable under this provision, the obligations of the State shall be to pay only for the services rendered at the rates set forth in the Agreement.
- E. The rights and remedies of either party provided in this provision shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

4. No Assignment

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

5. Time of Essence

Time is of the essence in this Agreement.

6. Validity of Alterations

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

7. Consideration

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

EXHIBIT B
SPECIAL PROVISIONS

1. Definitions

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

- A. "Acceptance" means the written acceptance issued to the Contractor by the State after the Contractor has completed a Deliverable, Submittal, or other Contract requirement, in compliance with the Contract Documents, including without limitation, Exhibit D, Work to Be Performed.
- B. "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.
- C. "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.
- D. "AOC Data" means all Data and information (i) stored within, routed through or accessed from the CCTC, (ii) stored within or accessed from the CCTC which is created for the AOC or the AOC Group in the course of the CCTC Operator providing services at the CCTC or (iii) that has been submitted to the CCTC Operator by or on behalf of the AOC Group, including all such Data and information relating to the AOC Group and their respective contractors, agents, employees, technology, operations, facilities, markets, products, capacities, systems, procedures, security practices, court records, court proceedings, research, development, business affairs and finances, ideas, concepts, innovations, inventions, designs, business methodologies, improvements, trade secrets, copyrightable subject matter, patents and other intellectual property and proprietary information.
- E. "AOC Group" means, collectively, (a) the AOC and (b) those Courts receiving services through the CCTC.

- F. “Applicable Law” means any federal, state and local laws or ordinances, codes, legislative acts, regulations, ordinances, rules, rules of court and orders, as applicable.
- G. “CCTC” refers to the California Court Technology Center located in Newark, California.
- H. “CCTC Operator” refers to the Third Party that operates the CCTC on behalf of the AOC and the AOC Group under a separate Third Party agreement with the AOC.
- I. “CCTC Operator Data” means all Data and information of the CCTC Operator, including all such Data and information relating to the CCTC Operator’s respective contractors, agents, employees, technology, operations, facilities, markets, products, capacities, systems, procedures, security practices, research, development, business affairs and finances, ideas, concepts, innovations, inventions, designs, business methodologies, improvements, trade secrets, copyrightable subject matter, patents and other intellectual property and proprietary information, made available to Contractor or discovered or observed by Contractor at the CCTC in the course of providing the services of this Agreement.
- J. “Confidential Information” has the meaning set forth in Section 12
- K. The “Contract” or “Contract Documents” constitute the entire integrated agreement between the State and the Contractor, as attached to and incorporated by a fully executed State Standard Agreement form. The terms “Contract” or “Contract Documents” may be used interchangeably with the term “Agreement.”
- L. “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.
- M. 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.
- N. “Data” means all types of raw data, articles, papers, charts, records, reports, studies, research, memoranda, computation sheets, questionnaires, surveys, and other documentation.
- O. “Day” means calendar day, unless otherwise specified.

- P. “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.
- Q. “Disabled Veteran’s Business Enterprise” or “DVBE” means a business entity that has complied with the requirements under California law to become certified by the California Office of Small Business Certification and Resources as a business owned and operated by a disabled veteran of the United States military, naval or air services.
- R. “Force Majeure” means a delay which impacts the timely performance of Work which neither the Contractor nor the State are liable for 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.
- S. “Key Personnel” refers to the Contractor’s personnel named in Exhibit E, Contractor’s Key Personnel and Project Staff, whom the State has identified and approved to perform the Work of the Contract. Key Personnel provide the lead roles of the Project Staff. Qualifications of Key Personnel are represented by the resumes set forth in Exhibit E. Roles of Key Personnel are set forth in Exhibit D, Work to be Performed.
- T. “Material” means all types of tangible personal property, including but not limited to goods, supplies, equipment, commodities, and information and telecommunication technology.
- U. “Milestone(s)” means one or more events or dates, if specified in the Contract Documents, by which Work, as identified, must be provided by the Contractor.
- V. “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.

- W. “Project” refers to all activity relative to this Agreement including activity of the Contractor, its Subcontractors, the State and the State’s representatives.
- X. “Project Staff” means the personnel of Contractor, including Key Personnel, and Contractor’s subcontractors (if any) who are designated to provide the services of this Agreement.
- Y. The “State” refers to the Judicial Council of California / Administrative Office of the Courts (“AOC”).
- Z. “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.”
- AA. “State Representative” shall mean those individuals and/or functions set forth in the Contract Documents or any Notice associated with this Contract. State Representatives shall also include those individuals designated to perform technical and/or administrative functions pursuant to this Contract. All communications with the State shall be through such individuals.
- BB. “Stop Work Order” means the written Notice, delivered in accordance with this Agreement, by which the State may require the Contractor to stop all, or any part, of the Work of this Agreement, for the period set forth in the Stop Work Order. The Stop Work Order shall be specifically identified as such and shall indicate that it is issued pursuant to the Stop Work provision in this Exhibit B.
- CC. “Subcontractor” shall mean an individual, firm, partnership, or corporation having a contract, purchase order, or agreement with the Contractor, or with any Subcontractor of any tier for the performance of any part of the Agreement. When the State refers to Subcontractor(s) in this document, for purposes of this Agreement and unless otherwise expressly stated, the term “Subcontractor” includes, at every level and/or tier, all subcontractors, sub-consultants, suppliers, and materialmen.
- DD. “Task(s)” means one or more functions, if specified in the Contract Documents, to be performed by the Contractor for the State.
- EE. “Third Party” refers to any individual, association, partnership, firm, company, corporation, consultant, Subcontractor, agency, entity or combination thereof, including joint ventures, other than the State or the Contractor, which is not a party to this Agreement.

- FF. "Third Party Data" means all Data and information of a Third Party, including all such Data and information relating to the Third Party and their respective contractors, agents, employees, technology, operations, facilities, markets, products, capacities, systems, procedures, security practices, court records, court proceedings, research, development, business affairs and finances, ideas, concepts, innovations, inventions, designs, business methodologies, improvements, trade secrets, copyrightable subject matter, patents and other intellectual property and proprietary information, (i) stored within or accessed from the CCTC, or (ii) stored within or accessed from the CCTC which is created for the Third Party in the course of the CCTC Operator providing services at the CCTC.
- GG. "Trial Court(s)" or "Court(s)" means one or more of the fifty-eight (58) superior courts in the California state trial court system.
- HH. "Work" or "Work to be Performed" or "Contract Work" may be used interchangeably to refer to the service, labor, Materials, Data, and other items necessary for the execution, completion and fulfillment of the Agreement by the Contractor to the satisfaction of the State. Work may be defined to include Tasks, Deliverables, and/or Submittals, as required by the Contract.

2. Manner of Performance of Work

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

3. Termination Other Than for Cause

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

4. State's Obligation Subject to Availability of Funds

- A. The State's obligation under this Agreement is subject to the availability of authorized funds. The State may terminate the Agreement or any part of the Contract Work, without prejudice to any right or remedy of the State, for lack of appropriation of funds. If expected or actual funding is withdrawn, reduced or

limited in any way prior to the expiration date set forth in this Agreement, or in any Amendment hereto, the State may terminate this Agreement in whole or in part, upon written Notice to the Contractor. Such termination shall be in addition to the State's rights to terminate for convenience or default.

- B. Payment shall not exceed the amount allowable for appropriation by Legislature. If the Agreement is terminated for non-appropriation:
 - i. The State will be liable only for payment in accordance with the terms of this Agreement for services rendered prior to the effective date of termination; and
 - ii. The Contractor shall be released from any obligation to provide further services pursuant to the Agreement as are affected by the termination.
- C. Funding for this Agreement beyond the current appropriation year is conditional upon appropriation by the Legislature of sufficient funds to support the activities described in this Agreement. Should such an appropriation not be approved, the Agreement may terminate at the close of the current appropriation year. The appropriation year ends on June 30 of each year.

5. Agreement Administration/Communication

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

[TBD], Project Manager
Judicial Council of California
Administrative Office of the Courts
455 Golden Gate Avenue
San Francisco, CA 94102-3688

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

[TBD]

6. Subcontracting

- A. 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.

- B. This Agreement is based upon the unique expertise of the Contractor. Therefore, in addition to the prohibition against assignment under Exhibit A, Standard Provisions paragraph 4, it is the policy of the State to withhold consent from proposed assignments, subcontracts, or novations when such transfer of responsibility would operate to decrease the State's likelihood of receiving performance under this Agreement. No performance of this Agreement or any portion thereof may be assigned or subcontracted by the Contractor without the express written consent of the State, and any attempt by the Contractor to assign or subcontract any performance of this Agreement without the express written consent of the State shall be void and shall constitute a breach of this Agreement. If the Contractor is authorized by the State to subcontract or assign, all the terms of this Agreement shall be included in such subcontract or assignment.
- C. Any substitution or prolonged absence of the personnel who were specifically identified in the original proposal, as accepted, must be approved. Failure to obtain acceptance shall constitute a major breach of this Agreement

7. 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.

8. Accounting System Requirement

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

9. 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 four (4) years. The retention period starts from the date of the submission of the final payment request. The Contractor is also obligated to protect Data adequately against fire or other damage.

10. Audit

The Contractor 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 four (4) years after final payment under this Agreement.

11. Insurance Requirements

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

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

- i. Workers' Compensation at statutory requirements of the State of residency.
- ii. Employers' Liability with limits not less than \$1,000,000.00 for each accident.
- iii. Commercial General Liability Insurance with limits not less than \$1,000,000.00 for each occurrence, Combined Single Limit Bodily Injury and Property Damage.
- iv. Business Automobile Liability Insurance with limits not less than \$1,000,000.00 for each occurrence, Combined Single Limit Bodily Injury and Property Damage, including owned and non-owned and hired automobile coverage, as applicable.
- v. Professional Liability: Errors and Omissions \$1,000,000.00..
- vi. The following Excess coverage, at the same limits specified for Comprehensive General Liability: Contractual Liability, Independent Contractor, Broadform Property Damage, Personal Injury, Product, and Completed Operation coverage.

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

12. Confidentiality

A. General Obligations

All financial, statistical, personal, technical and other data and information which are designated confidential by a party ("Disclosing Party"), or, if not so designated, is nonpublic information that under the circumstances surrounding disclosure ought to be treated as confidential, and made available to the other

party (“Receiving Party”) in order to carry out the Agreement, or which become available to the Receiving Party in carrying out the Agreement (“Confidential Information”) will remain the property of the Disclosing Party. All AOC Data, CCTC Operator Data or Third Party Data shall be deemed Confidential Information of the AOC, CCTC Operator or Third Party, as applicable. The Receiving Party shall protect the Confidential Information of the Disclosing Party from unauthorized use and disclosure and shall use at least the same degree of care, but no less than a reasonable degree of care, to safeguard the Confidential Information of the Disclosing Party as it employs with respect to its own information of a similar nature. The Receiving Party shall require that its employees, agents and subcontractors comply with the confidentiality restrictions of this Agreement. Subject to the provisions of this paragraph 31, the Contractor may disclose AOC, CCTC Operator or Third Party Confidential Information to its Subcontractors (if any) as reasonably necessary for the conduct of the AOC Group’s business, provided that such subcontractor has signed a reasonable nondisclosure agreement. In the event of unauthorized disclosure or loss of Confidential Information, the Receiving Party shall immediately notify the Disclosing Party in writing. The obligations in this paragraph shall not restrict any disclosure pursuant to any applicable law or by order of any court or government agency (provided that the Receiving Party shall give prompt notice to the Disclosing Party of such order in such time as to permit the Disclosing Party to participate in the response to any such order) and shall not apply with respect to information that (1) is independently developed by the Receiving Party without violating the Disclosing Party’s proprietary rights as shown by the Recipient’s written records, (2) is or becomes publicly known (other than through unauthorized disclosure), (3) is disclosed by the owner of such information to a third party free of any obligation of confidentiality, (4) is already known by the Receiving Party at the time of disclosure, as shown by the Recipient’s written records, and the Receiving Party has no obligation of confidentiality other than pursuant to this Agreement or any confidentiality agreements entered into before the effective date of this Agreement between the AOC and Contractor, (5) is rightfully received by the Receiving Party free of any obligation of confidentiality, or (6) with respect solely to a particular disclosure, such disclosure is approved in writing by the Disclosing Party.

B. Unauthorized Acts

Without limiting either party’s rights in respect of a breach of this paragraph, the Receiving Party shall:

- i. immediately notify the Disclosing Party of any unauthorized possession, use or knowledge, or attempt thereof, of the Confidential Information by any person or entity that may become known to the Receiving Party;
- ii. immediately furnish to the Disclosing Party the details of the unauthorized possession, use or knowledge, or attempt thereof, known by the Receiving

Party and assist the Disclosing Party in investigating or preventing the recurrence of any unauthorized possession, use or knowledge, or attempt thereof, of Confidential Information;

- iii. cooperate with the Disclosing Party in any litigation and investigation against Third Parties deemed necessary by the Disclosing Party to protect its proprietary rights; and
- iv. immediately use its commercially reasonable efforts to prevent a recurrence of any such unauthorized possession, use or knowledge, or attempt thereof, of Confidential Information.

C. Return of Confidential Information

- i. From time to time and upon the Disclosing Party's request, the Confidential Information of the Disclosing Party, including copies thereof, will be returned to the Disclosing Party, or if the Disclosing Party so elects, will be destroyed.
- ii. From time to time and upon the AOC's request, the AOC's, the CCTC Operator's or Third Party's Confidential Information, including copies thereof, will be returned to the AOC, or if the AOC so elects, will be destroyed.

13. Conflict of Interest

A. The Contractor and employees of the Contractor shall not participate in proceedings that involve the use of State funds or that are sponsored by the State if the person's partner, family, or organization has a financial interest in the outcome of the proceedings. The Contractor and employees of the Contractor shall also avoid actions resulting in or creating the appearance of (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.

14. 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.

15. 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.

16. 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.

17. 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.

18. 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.

19. California Law

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

20. 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.

21. 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.

22. Signature Authority

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

23. 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.

24. Agreement Term and Options to Renew

A. The initial term of the Agreement shall commence on [TBD] and shall expire on [TBD] (“Initial Term”). This Agreement is of no force and effect until signed by both parties and all approvals are secured. Any commencement of performance prior to Agreement approval shall be done so at the Contractor's own risk; notice to proceed shall not be official until this Agreement is fully executed. The State, in its sole discretion, has the option to extend the term of the Agreement, on the same terms and conditions applicable during the Initial Term, for up to two consecutive, additional one-year periods defined below:

First Option Term: [TBD] to [TBD]

Second Option Term: [TBD] to [TBD]

B. The State may exercise each of the options by written notice to the Contractor prior to expiration of the then-current term. In the event the State elects to exercise an option to extend the Agreement as set forth in this provision, the expiration date of the Agreement shall become the ending date of the option term exercised.

25. Entire Agreement

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

26. Disclaimer

Neither party shall be liable to the other for any delay in or failure of performance, nor shall any such delay in or failure of performance constitute default, if such delay or failure is caused by Force Majeure. Force Majeure, for purposes of this paragraph, is

defined as follows: acts of war and acts of god, such as earthquakes, floods, and other natural disasters, such that performance is impossible.

27. Evaluation of Contractor

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

28. Acceptance of the Work

- A. The Project Manager shall be responsible for the sign-off acceptance of all the Work required and submitted pursuant to this Agreement. Prior to approval of the Work and prior to approval for payment, the Project Manager will apply the acceptance criteria set forth in subparagraph B of this provision, as appropriate, to determine the acceptability of the Work provided by the Contractor. Unsatisfactory ratings will be resolved as set forth in this provision.
- B. Acceptance Criteria for Work (“Criteria”) provided by the Contractor pursuant to this Agreement:
- i. Timeliness: The Work was delivered on time;
 - ii. Completeness: The Work contained the Data, Materials, and features required in the Contract; and
 - iii. Technical accuracy: The Work is accurate as measured against commonly accepted standard (for instance, a statistical formula, an industry standard, or de facto marketplace standard).
- C. The Contractor shall provide the Work to the State, in accordance with direction from the Project Manager. The State shall accept the Work, provided the Contractor has delivered the Work in accordance with the Criteria. The State’s Project Manager shall use the Acceptance and Signoff Form, provided as Attachment 1 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 1, 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, as set forth in Exhibit A.

29. Project Staff

- A. Contractor shall utilize individuals with suitable training and skills to perform the services. At no time shall personnel of Contractor and Contractor's Subcontractor, if any, provide services on CCTC premises except for the services set forth in this Agreement. The CCTC Operator shall have the right at any time to request the AOC that Contractor remove any of its personnel from the CCTC, if in the CCTC Operator's good faith opinion, such individual is unsatisfactory with respect to conduct at the CCTC. If the CCTC Operator exercises this right, the AOC will promptly notify the Contractor and the Contractor shall promptly remove such individual from the CCTC. The Contractor shall then promptly meet with the AOC's Project Manager to discuss the replacement of such individual from the Project Staff. Contractor shall maintain backup procedures and conduct the replacement procedures for the Project Staff in such a manner so as to assure an orderly and prompt succession for any Project Staff member who is replaced. Upon the AOC's request, Contractor shall make such procedures available to the AOC.
- B. Conduct of Project Staff – While at the CCTC, Contractor shall, and shall cause Contractor's Project Staff, (1) to comply with the requests, standard rules and regulations and policies and procedures of the CCTC Operator regarding safety and health, security, personal and professional conduct (including the wearing of an identification badge and adhering to site regulations and general safety practices or procedures) generally applicable to CCTC Operator's own personnel, and (2) otherwise conduct themselves in a businesslike manner. Contractor shall enter into an agreement binding all Project Staff to non-use and non-disclosure requirements at least as protective as those on Contractor with respect to the

Client's Confidential Information in connection with Contractor's provision of the Services (to the extent that such agreements do not already exist).

30. Standard of Professionalism

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

31. 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. 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.

32. Warranty – Basic & Professional

- A. Unless otherwise specified, the warranties contained in this Agreement begin after Work has been approved and accepted by the State.
- B. The Contractor warrants that the Work furnished hereunder will conform to the requirements of this Agreement and such Work (if a product) will be merchantable, for its intended purposes, free from all defects in Materials and workmanship, and to the extent not manufactured pursuant to detailed designs furnished by the State, free from defects in design. The State's approval of designs or specifications furnished by the Contractor shall not relieve the Contractor of its obligations under this warranty.
- C. All warranties, including any special warranties specified elsewhere herein, shall inure to the State, its successors, assigns, customer agencies, and users of the Work provided hereunder.

33. 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.

34. 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.

35. 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.

36. Ownership of Results

- A. 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.
- B. The Contractor agrees not to assert any rights at common law, or in equity, or establish any claim to statutory copyright in such Data. The Contractor shall not publish or reproduce such Data in whole, or part, or any manner or form, or authorize others to do so without the written consent of the State.

37. Limitation on Publication

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

38. 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.

39. Contractor's Personnel--Replacement

- A. The Contractor shall provide a [position title] to perform the Tasks and provide the Deliverables set forth in this Agreement. The Contractor's [position title] shall:
- i. Serve as the primary contact with the State's personnel;
 - ii. Manage the day to day activities of the Contractor's personnel;
 - iii. Identify the appropriate resources needed;
 - iv. Plan and schedule the Work;
 - v. Meet budget and schedule commitments on this Project;
 - vi. Provide Progress Reports and Project Reviews in accordance with this Agreement; and
 - vii. Manage the overall quality of the Deliverables and the Work performed.
- B. The State reserves the right to disapprove the continuing assignment of any of the Contractor's personnel provided to the State under this Agreement if in the State's opinion, the performance of the Contractor's personnel is unsatisfactory. The State agrees to provide Notice to the Contractor in the event it makes such a determination. If the State exercises this right, the Contractor shall immediately assign replacement personnel, possessing equivalent or greater experience and skills.
- C. If any of the Contractor's Key Personnel become unavailable during the term of this Agreement, the Contractor shall immediately assign replacement personnel, possessing equivalent or greater experience and skills as that demonstrated in the resume set forth in Exhibit [TBD].
- D. The Contractor shall endeavor to retain the same individuals on the Project during the performance of the Work of this Agreement. However, the Contractor may, with approval of the State's Project Manager, introduce personnel to the Project with specific skill sets or release personnel from the Project whose skill set is not needed at the time, except for the Contractor's Project Contact.
- E. If any of the Contractor's Key Personnel identified within the Agreement become unavailable during the term of this Agreement, the Contractor will supply a substitute acceptable to the State's Project Manager.
- F. If any of the Contractor's Key Personnel become unavailable or are disapproved and the Contractor cannot furnish a replacement acceptable to the State, the State may terminate this Agreement for cause pursuant to Standard Provisions paragraph 3, as set forth in Exhibit A.

40. Prohibited Bids Concerning End Product of this Agreement

No person, firm, or subsidiary thereof, which has been awarded a consulting services agreement may submit a bid for, nor be awarded an agreement for, the provision of services, procurement of Materials or Data, or any other related action which is required, suggested, or otherwise deemed appropriate in the end product of this Agreement. This provision shall not apply to any person, firm, or subsidiary thereof, which is awarded a subcontract to this Agreement in amounts no more than ten percent (10%) of the total monetary value of this Agreement.

41. Progress Reports

The Contractor shall submit progress reports to the Project Manager, as required, describing work performed, work status, work progress difficulties encountered, remedial actions, and statement of activity anticipated subsequent to reporting period for approval prior to payment of invoices. Invoices shall include, in detail, all costs and charges applicable.

42. Stop Work

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

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

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

- i. The Stop Work Order results in an increase in the time required for, or in the Contractor's cost properly allocable to the performance of any part of this Agreement; and

- ii. The Contractor asserts its right to an equitable adjustment within thirty (30) Days after the end of the period of Work stoppage; however, if the State decides the facts justify the action, the State may receive and act upon a proposal submitted at any time before final payment under this Agreement.
- C. If a Stop Work Order is not canceled and the Work covered by the Stop Work Order is terminated in accordance with the Termination Other Than For Cause provision or the State's Obligation Subject to Availability of Funds provision, as set forth under Exhibit B, the State shall allow reasonable costs resulting from the Stop Work Order in arriving at the termination settlement.
- D. The State shall not be liable to the Contractor for loss of profits because of the Stop Work Order issued under this provision.

43. Disabled Veteran Business Participation Review

The Contractor agrees that the State or its designee shall have the right to review, obtain, and copy all Data pertaining to performance of this Agreement. The Contractor agrees to provide the State or its designee with any relevant information requested and shall permit the State or its designee access to its premises, upon reasonable Notice, during Working Hours for the purpose of interviewing employees and inspecting and copying such Data, books, records, and other accounts that may be relevant to a matter under investigation for the purpose of determining compliance with Public Contract Code Sections 10115 et seq. The Contractor further agrees to maintain such Data for a period of four (4) years after final payment under the Agreement.

44. Rights in Data and Deliverables

- A. All communications and Data originated or prepared by the Contractor pursuant to this Agreement including, but not including the Contractor's administrative communications and Data relating to this Agreement, shall be delivered to and shall become the exclusive property of the State and may be copyrighted by the State. Upon the State's written request, the Contractor shall provide the State with all this Data within thirty (30) Days.
- B. The ideas, concepts, know-how, or techniques relating to Data processing, developed during the course of this Agreement by the Contractor or jointly by the Contractor and the State can be used by either party in any way it may deem appropriate.
- C. All inventions, discoveries, or improvements of the computer programs developed pursuant to this Agreement shall be the property of the State. The State agrees to grant a nonexclusive royalty-free license for any such invention, discovery, or improvement to the Contractor, or any other such person, and further agrees that

the Contractor, or any other such person, may sublicense additional persons on the same royalty-free basis.

- D. This Agreement shall not preclude the Contractor from developing Data or Materials outside this Agreement that are competitive, irrespective of any similarity to Data or Materials which might be delivered to the State pursuant to this Agreement.

45. Ownership of Intellectual Property, Etc.

- A. Unless the Contractor and the State reach a written agreement to the contrary, the Contractor agrees for itself and its personnel that pursuant to the State's requirement (a) all documents, deliverables, software, systems designs, disks, tapes, and any other Data or Materials created in whole or in part by the Contractor in the course of or related to providing services to the State shall be treated as if it were "work for hire" for the State, and (b) the Contractor will immediately disclose to the State all discoveries, inventions, enhancements, improvements, and similar creations (collectively, "Creations") made, in whole or in part, by the Contractor in the course of or related to providing services to the State.
- B. All ownership and control of the above Data, Materials, and Creations, including any copyright, patent rights, and all other intellectual property rights therein, shall vest exclusively with the State, and the Contractor hereby assigns all right, title, and interest that the Contractor may have in such Data, Materials, and Creations to the State, without any additional compensation and free of all liens and encumbrances of any type. The Contractor affirms that the amount encumbered under this Agreement for the Work performed includes payment for assigning such rights to the State. The Contractor agrees to execute any documents required by the State to register its rights and to implement the provisions herein.

46. Trade Secret, Patent and Copyright Indemnification

- A. The Contractor shall hold the State, its 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, patented or un-patented invention, article, or appliance furnished or used in connection with the Agreement.
- B. The Contractor may be required to furnish a bond to the State against any and all loss, damage, costs, expenses, claims, and liability for patent, copyright, and trade secret infringement.
- C. The Contractor, at its own expense, shall defend any action brought against the State 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.
- D. 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 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.
- E. 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.

- F. 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.
- G. The foregoing states the entire liability of the Contractor to the State with respect to infringement of patents, copyrights, or trade secrets.

47. Copyrights, Patents, Royalties, and other Rights in Data

- A. The costs or fees relating to royalties, patents, copyrights, trademarks or similar property rights (including, but not limited to, misappropriation of trade secrets) or claims for any such rights pertaining to inventions, articles, processes or methods that may be used upon or in a manner connected with the Work under this Agreement or with the use of completed Work by the State shall be paid by the Contractor. The Contractor and any of its sureties shall protect and hold the State, and its officers, agents and employees, harmless against any and all demands made for such fees or claims brought or made by or on behalf of the holder of any invention, patent, copyright, trade mark or similar property right (including, but not limited to, misappropriation of trade secrets). Before final payment is made on the account of this Agreement, the Contractor shall, if requested by the State, furnish acceptable proof of a proper release from all such fees or claims.
- B. Should the Contractor, its agent, representatives or employees, or any of them, be enjoined from furnishing or using any invention, Data, Material, or appliances supplied or required to be supplied or used under the Agreement, the Contractor shall promptly notify the State of the Contractor's intent to substitute other Data, Materials, or appliances in lieu thereof which are of equal efficiency, quality, finish, suitability, and market value, and satisfactory in all respects to the State. In the event the State elects, in lieu of such substitution, to have supplied and to retain and use any such invention, Data, Material, or appliances as may be required to be supplied by the Agreement, the Contractor shall pay all royalties or fees and secure such valid licenses as may be requisite and necessary for the State, its officers, agents, representatives and employees, or any of them to use such invention, Data, Material, or appliance without being disturbed or in any way interfered with by any proceeding in law or equity on account thereof. Should the Contractor neglect or refuse to make the substitution promptly or to pay such royalties or fees and secure such licenses as may be necessary, then in that event the State shall have the right to make such substitution or the State may pay such royalties or fees and secure such licenses and charge the Contractor, even though Final Payment under the Agreement may have been made.

48. Data Security

Contractor shall establish and maintain safeguards against the destruction, loss or alteration of AOC Data, CCTC Operator Data or Third Party Data that Contractor may gain access to or be in possession of in providing the services of this Agreement (the "Data Safeguards"). Contractor shall not attempt to access, and shall not allow its personnel access to AOC Data, CCTC Operator Data or Third Party Data that is not required for the performance of the services of this Agreement by such personnel. In the event Contractor or a Contractor's Subcontractor (if any) discovers or is notified of a breach or potential breach of security relating to the AOC Data, CCTC Operator Data or Third Party Data, Contractor shall promptly (1) notify the AOC of such breach or potential breach and (2) if the applicable AOC Data, CCTC Operator Data or Third Party Data was in the possession of Contractor at the time of such breach or potential breach, Contractor shall investigate and cure the breach or potential breach.

49. Limitation of Liability

The State shall not be liable to the Contractor for any indirect, special, or consequential damages or loss of anticipated profits in connection with or arising out of the furnishing, functioning, or use of any item or service provided under this Agreement. The Contractor indemnifies and holds harmless the State from and against all liability for personal injury or property damage caused by the Contractor's negligence or willful misconduct while performing its obligations pursuant to this Agreement on the State's premises. Any expiration or termination of this Agreement shall not affect the continuing obligations of the parties described in this Agreement.

EXHIBIT C
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 actual costs not to exceed the total Contract Amount of \$[TBD] 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

- A. For performing the Work of this Agreement, the State shall compensate the Contractor at the firm fixed prices, as set forth in Table 1, below, for the completion and acceptance of each Deliverable, as set forth in Exhibit D, Work to be Performed, inclusive of all costs, benefits, expenses, fees, overhead, and profits payable to the Contractor for services rendered to the State.

Table 1: Total Amount by Deliverable for the Work

<i>Deliverable</i>	<i>Due Date</i>	<i>Total Not To Exceed Amount</i>
Deliverable #1	[TBD]	[TBD]
Deliverable #2	[TBD]	[TBD]
Deliverable #3	[TBD]	[TBD]

- B. The total not to exceed amount the State may pay the Contractor, pursuant to this provision, shall be \$[TBD].

3. Reimbursement for Allowable Expenses

The following constitutes the maximum limits the AOC will pay for authorized travel expenses:

- A. For approved and necessary air transportation, the AOC will reimburse a contractor for the actual cost incurred, provided all air transportation is limited to coach fares and must be booked a minimum of fourteen (14) days prior to travel, unless the Project Manager agrees otherwise in writing.
- B. For overnight travel, in accordance with the California Victim Compensation and Government Claims Board (formerly State Board of Control) guidelines, the State will reimburse the Contractor for actual meal and lodging expenses not to exceed \$150.00 per day plus applicable taxes on lodging.
- C. For necessary private vehicle ground transportation usage, the State will reimburse the Contractor up to \$0.34 cents per mile.

4. 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.

5. 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.

6. 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.

7. Method of Payment

A. The Contractor shall submit an invoice for Work provided upon completion of the Deliverables, as set forth in Exhibit D, Work to be Performed, or no 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 (the Contractor's federal employer identification number);
- v. Description of the completed Work, including services rendered, Task(s) performed, and/or Deliverable(s) made, as appropriate;
- vi. The DVBE dollars expended, if DVBE commitments were made;
- vii. The appropriate receipts for reimbursement of allowable expenses, if this Agreement provides for reimbursement;
- viii. The dates and hours worked;
- ix. The contractual charges, including the appropriate cost, price, rate, progress payment, or expenses, if allowable under this Contract; and,
- x. 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, 7th Floor
San Francisco, CA 94102-3688

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.

8. Disallowance

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

9. Payment Does Not Imply Acceptance of Work

The granting of any payment by the State as provided in Exhibit Title/Paragraph/Number, 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 D, Work to Be Performed, shall be rejected and shall be replaced by the Contractor without delay.

10. Most Favorable Price

The Contractor agrees that no other customer will receive better rates for substantially similar services offered under substantially similar terms and conditions when the volume of business from such other customers is equal to or less than the volume of business the State delivers under this Agreement.

EXHIBIT D
WORK TO BE PERFORMED

1. General Information

A. [To Be Developed]

2. Background

A. 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.

- B. [To Be Developed]
- 3. Objective or Purpose of the Agreement
 - A. [To Be Developed]
- 4. Contractor Responsibilities
 - A. The Contractor's Project Manager will have the following responsibilities under this Contract:

[To Be Developed]
- 5. AOC Responsibilities
 - A. The State's Project Manager will be responsible for managing, scheduling, and coordinating all Project activities, including Project plans, timelines, and resources, and escalating issues for resolution to AOC management.
- 6. Work Requirements
 - A. The Contractor shall provide the following Work...

Market Analysis,
Technology Center Outsourcing Report,
Managing An Outsourced Technology Center Report
- 7. Project Schedule
 - A. The Contractor shall complete and submit the Work pursuant to the following schedule...

Market Analysis,
Technology Center Outsourcing Report,
Managing An Outsourced Technology Center Report

EXHIBIT E
CONTRACTOR'S KEY PERSONNEL AND PROJECT STAFF

1. The Contractor's Project Staff shall be comprised of Key Personnel and other Project Staff designated to perform the Work of this Agreement.
2. The following individuals shall be the Key Personnel:

Name of Contractor's Key Personnel	Title
	Contractor's Project Manager

The resumes of the Contractor's Key Personnel are included in this exhibit.

3. The following individuals shall be the other Project Staff:

Name of Contractor's Other Project Staff	Functional Role

EXHIBIT F
ATTACHMENTS

This Exhibit includes the following form(s):

Attachment 1, Acceptance and Signoff Form

ATTACHMENT 1
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: _____

8.2 Attachment B – Vendor’s Acceptance of Terms or Exceptions To Contract Terms and Conditions

**VENDOR’S ACCEPTANCE OF TERMS OR
EXCEPTIONS TO CONTRACT TERMS AND CONDITIONS**

(Mark the Appropriate Choice)

_____ **Vendor accepts the General Conditions in Section 6 without exception.**

OR

_____ **Vendor proposes the following exceptions to the General Conditions:**

NOTE: If exceptions are proposed, vendor must submit a “redlined” version of the term or condition showing all modifications (additions or deletions, or new provisions) proposed by the vendor. The vendor must also provide an explanation/rationale as to why each individual modification is required.

(List all exceptions)

Signature

Printed Name

Title

Date

8.3 Attachment C – Vendor Certification Form

**ATTACHMENT C
VENDOR CERTIFICATION FORM**

I certify that neither _____ (Proposer) nor any of its proposed subcontractors are currently under suspension or debarment by any state or federal government agency, and that neither Proposer nor any of its proposed subcontractors are tax delinquent with the State of California. I have listed all contracts with state or federal government customers during the two years preceding submission of this Proposal.

I acknowledge that if Proposer or any of its subcontractors subsequently are placed under suspension or debarment by a local, state or federal government entity, or if Proposer or any of its subcontractors subsequently become delinquent in California taxes, our Proposal may be disqualified.

Signature

Printed Name

Title

Date

List of all Contracts with State or Federal Government Customers during the Two Years preceding Submission of this Proposal:

(List Contracts)

8.4 Attachment D – Payee Data Record (State of California Form STD-204)

STATE OF CALIFORNIA PAYEE DATA RECORD (Required in lieu of IRS W-9 when doing business with the State of California) STD. 204 (REV. 2-2000)			
NOTE: Governmental entities, federal, state, and local (including school districts) are not required to submit this form.			
SECTION 1 must be completed by the requesting state agency before forwarding to the payee			
1 PLEASE RETURN TO:	DEPARTMENT/OFFICE	PURPOSE: Information contained in this form will be used by state agencies to prepare information Returns (Form 1099) and for withholding on payments to nonresident payees. Prompt return of this fully completed form will prevent delays when processing payments. <i>(See Privacy Statement on reverse)</i>	
	STREET ADDRESS		
	CITY, STATE, ZIP CODE		
	TELEPHONE NUMBER		
2 PAYEE'S BUSINESS NAME <hr/> MAILING ADDRESS (Number and Street or P. O. Box Number) <hr/> (City, State and Zip Code)			
3 VENDOR ENTITY INFORMATION	CHECK ONE BOX ONLY		NOTE: State and local governmental entities, including school districts are not required to submit this form. NOTE: Payment will not be processed without an accompanying taxpayer I.D. number.
	<input type="checkbox"/> LEGAL CORPORATION <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> MEDICAL CORPORATION <input type="checkbox"/> ESTATE OR TRUST <input type="checkbox"/> EXEMPT CORPORATION <input type="checkbox"/> ALL OTHER CORPORATIONS FEDERAL EMPLOYERS IDENTIFICATION NUMBER (FEIN) _____		
4 PAYEE RESIDENCY STATUS	CHECK APPROPRIATE BOX(ES)		NOTE: a. An estate is a resident if decedent was a California resident at time of death. b. A trust is a resident if at least one trustee is a California resident. <i>(See reverse)</i>
	<input type="checkbox"/> California Resident - Qualified to do business in CA or a permanent place of business in CA <input type="checkbox"/> Nonresident (<i>See Reverse</i>) Payments to nonresidents for services may be subject to state withholding <input type="checkbox"/> WAIVER OF STATE WITHHOLDING FROM FRANCHISE TAX BOARD ATTACHED <input type="checkbox"/> SERVICES PERFORMED OUTSIDE OF CALIFORNIA/ GOODS ONLY SOLD TO CALIFORNIA		
5 CERTIFYING SIGNATURE	I hereby certify under penalty of perjury that the information provided on this document is true and correct. If my residency status should change, I will promptly inform you.		
	AUTHORIZED PAYEE REPRESENTATIVE'S NAME (<i>Type or Print</i>)		TITLE
	SIGNATURE /s/	DATE	TELEPHONE NUMBER

STATE OF CALIFORNIA
PAYEE DATA RECORD
STD. 204 (REV. 2-2000) (REVERSE)

ARE YOU A RESIDENT OR A NONRESIDENT?

Each corporation, individual/sole proprietor, partnership, estate or trust doing business with the State of California must indicate their residency status along with their taxpayer identification number.

A **corporation** will be considered a "resident" if it has a permanent place of business in California. The corporation has a permanent place of business in California if it is organized and existing under the laws of this state or, if a foreign corporation has qualified to transact intrastate business. A corporation that has not qualified to transact intrastate business (e.g., a corporation engaged exclusively in interstate commerce) will be considered as having a permanent place of business in this state only if it maintains a permanent office in this state that is permanently staffed by its employees.

For **individuals/sole proprietors**, the term "resident" includes every individual who is in California for other than a temporary or transitory purpose and any individual domiciled in California who is absent for a temporary or transitory purpose. Generally, an individual who comes to California for a purpose which will extend over a long or indefinite period will be considered a resident. However, an individual who comes to perform a particular contract of short duration will be considered a nonresident.

For withholding purposes, a **partnership** is considered a resident partnership if it has a permanent place of business in California. An estate is considered a California estate if the decedent was a California resident at the time of death and a trust is considered a California trust if at least one trustee is a California resident.

More information on residency status can be obtained by calling the Franchise Tax Board at the numbers listed below:

- From within the United States, call.....1-800-852-5711
- From outside the United States, call.....1-916-845-6500
- For hearing impaired with TDD, call....1-800-822-6268

PRIVACY STATEMENT

Section 7(b) of the Privacy Act of 1974 (Public Law 93-5791) requires that any federal, state, or local governmental agency which requests an individual to disclose his social security account number shall inform that individual whether that disclosure is mandatory or voluntary, by which statutory or other authority such number is solicited, and what uses will be made of it.

The State of California requires that all parties entering into business transactions that may lead to payment(s) from the State must provide their Taxpayer Identification Number (TIN) as required by the State Revenue and Taxation Code, Section 18646 to facilitate tax compliance enforcement activities and to facilitate the preparation of Form 1099 and other information returns as required by the Internal Revenue Code, Section 6109(a). The TIN for individual and sole proprietorships is the Social Security Number (SSN).

It is mandatory to furnish the information requested. Federal law requires that payments for which the requested information is not provided be subject to a 31% withholding and state law imposes noncompliance penalties of up to \$20,000.

You have the right to access records containing your personal information, such as your SSN. To exercise that right, please contact the business services unit or the accounts payable unit of the state agency(ies) with which you transact that business.

Please call the Department of Finance, Fiscal Systems and Consulting Unit at (916) 324-0385 if you have any questions regarding this Privacy Statement. Questions related to residency or withholding should be referred to the telephone numbers listed above. All other questions should be referred to the requesting agency listed in Section 1.

ARE YOU SUBJECT TO NONRESIDENT WITHHOLDING?

Payments made to nonresident payees, including corporations, individuals, partnerships, estates and trusts, are subject to withholding. Nonresident payees performing services in California or receiving rent, lease or royalty payments from property (real or personal) located in California will have 7% of their total payments withheld for state income taxes. However, no withholding is required if total payments to the payee are \$1500 or less for the calendar year.

A nonresident payee may request that income taxes be withheld at a lower rate or waived by sending a completed form FTB 588 to the address below. A waiver will generally be granted when a payee has a history of filing California returns and making timely estimated payments. If the payee activity is carried on outside of California or partially outside of California, a waiver or reduced withholding rate may be granted. For more information, contact:

Franchise Tax Board
Nonresident Withholding Section
Attention: State Agency Withholding Coordinator
P.O. Box 651 Sacramento, CA 95812-0651
Telephone: (916) 845-4900
FAX: (916) 845-4831

If a reduced rate of withholding or waiver has been authorized by the Franchise Tax Board, attach a copy to this form.

8.5 Attachment E – Non-Disclosure Agreement

Attachment E - Non Disclosure Agreement

CONFIDENTIALITY AGREEMENT

THIS CONFIDENTIALITY AGREEMENT (“Agreement”), effective as of _____ (“Effective Date”), is entered into by and between the Administrative Office of the Courts, with its principal address at 455 Golden Gate Avenue, San Francisco, CA 94102 (hereinafter “AOC”) and [company name/individual], a [] corporation, with its principal address at [complete address], (hereinafter the “Company”).

WHEREAS, the AOC is the owner of and/or has received from third parties (“Providers”) certain technical, financial and personnel information, software, inventions, research and development information, business plans, and/or other information which are not generally known to either the public or to the industry (collectively, the “Information”), which Information has been obtained and developed through substantial expenditures of time, effort and money, and which, if made available to the third parties, could seriously damage the business and activities of the AOC and/or Providers (all such Information, whether verbal or written and in whatever form, and whether or not such Information bears a legend indicating its confidential or proprietary nature are hereinafter called the “Secret Information”);

WHEREAS, the AOC and Company wish to discuss the possibility of entering into certain business transactions, and may enter into such transactions in the future (such future transactions referred to as “Future Agreements”);

WHEREAS, the AOC wishes to afford itself certain protections regarding the Secret Information which the AOC may disclose (i) during business discussions with Company and (ii) pursuant to Future Agreements; and

WHEREAS, the AOC is willing to disclose the Secret Information to Company only on the terms and conditions set forth below, and Company agrees to receive the Secret Information from the AOC only on said terms and conditions;

NOW THEREFORE, in consideration of the promises and of the mutual promises and agreements herein contained, it is agreed by and between the parties hereto as follows:

1. All Secret Information disclosed by the AOC to Company shall be received in confidence by Company. Company agrees that it shall undertake all necessary and appropriate steps to ensure that the secrecy of the Secret Information in its possession shall be maintained. Company also agrees that it shall treat the Secret Information with not less than the same degree of care and confidentiality with which it treats its own confidential information, but in no event less than reasonable care. Company agrees that access to the Secret Information shall be given by it only to those of its employees who have a need to know to engage in the business relationship contemplated by this Agreement and who have signed a non-use and non-disclosure agreement in content at least as protective of the Secret Information as the provisions hereof, prior to any disclosure of the Secret Information to such employees.

2. Company shall not (i) use any portion of the Secret Information for any purpose not contemplated by this Agreement or (ii) disclose the Secret Information or any part of it to any third party without the prior written consent of the AOC; provided, however, that Secret Information shall not include any information of the AOC that: (a) is already properly known to Company at the time of its disclosure as shown by the Company's files and records immediately prior to the time of disclosure by the AOC to Company; (b) is publicly known through no action or inaction of Company; (c) is received from a third party free to disclose it to Company; (d) is independently developed by the Company without use of or reference to the Secret Information, as shown by documents and other competent evidence in the Company's possession; or (e) is communicated to a third party with express written consent of the AOC. Nothing in this Agreement shall prevent the Company from disclosing Secret Information to the extent the Company is lawfully required to be disclosed to any governmental agency or is otherwise required to be disclosed by law, provided that Company gives the AOC prompt written notice of such requirement before making such disclosure and Company gives the AOC an adequate opportunity and assistance to interpose an objection or take action to assure confidential handling of such Secret Information.

3. Except as otherwise provided in any Future Agreement, at any time, Company agrees that it shall return to the AOC upon request all documents, records, notebooks, computer media or other stored information of any form or type whatsoever containing any Secret Information, including all copies thereof, then in its possession or control (directly or indirectly), whether prepared by it or others and it shall at such time immediately discontinue all use of the Secret Information.

4. Nothing in this Agreement is intended to grant any rights to either party under any patent or copyright rights, nor shall this Agreement grant to any rights in or to the Secret Information, except as expressly set forth herein.

5. Any software and other technical information disclosed under this Agreement may be subject to restrictions and controls imposed by the Export Administration Act, Export Administration Regulations and other laws and regulations of the United States and any other applicable government or jurisdiction, as enacted from time to time (the "Acts"). Each party agrees to comply with all restrictions and controls imposed by the Acts.

6. ALL SECRET INFORMATION IS PROVIDED "AS IS". EACH PARTY MAKES NO WARRANTIES, EXPRESS, IMPLIED OR OTHERWISE, REGARDING ITS ACCURACY, COMPLETENESS OR PERFORMANCE.

7. The parties acknowledge and agree that the Secret Information and rights related thereto being protected by the AOC hereunder are of a special, unique, unusual and extraordinary character, which gives them a peculiar value, the loss of which may not be adequately or reasonably compensated for in damages in an action at law, and further agree that the breach by Company of any of the provisions of this Agreement shall cause the other party irreparable injury and damage. In such event, the party alleging breach of this Agreement shall be entitled, as a matter of right, without further notice, to require of the other party specific performance of all of the acts and undertakings required of the other party hereunder and to obtain injunctive and other equitable relief in any competent court to prevent the violation or threatened violation of any of the provisions of this Agreement by the other party. Neither this provision nor any exercise by either party of its rights to equitable relief or specific performance herein granted shall constitute a waiver by either party of any other rights which it may have to, damages

or otherwise. If either party brings suit to enforce the terms hereof, the successful party in such suit shall be entitled to receive all of its reasonable costs of litigation, including attorneys' fees.

8. If any provision of this Agreement is declared void, or otherwise unenforceable, to any extent, the parties shall endeavor in good faith to agree to such amendments that shall preserve, as far as possible, the intentions expressed in this Agreement. If the parties fail to agree on such an amendment, such provision shall be deemed to have been severed from this Agreement, which shall otherwise remain in full force and effect.

9. This Agreement contains the sole and entire agreement between the parties relating to the subject hereof and any representation, promise or condition not contained herein, or any amendment hereto or waiver hereunder shall not be binding on either party unless in writing and signed by an authorized representative of the party to be bound thereby.

10. This Agreement and all rights and obligations hereunder shall inure to and be binding upon the parties hereto and their respective successors, affiliates, agents, employees and assigns. Neither party may assign any of its rights or obligations hereunder without the prior written consent of the other party. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California without regard to choice of law principles.

11. This Agreement shall survive until such time as all Secret Information disclosed hereunder becomes publicly known and made generally available through no action or inaction of Company. Except as otherwise provided in any Future Agreement, either party may terminate this Agreement by written notice to the other. Notwithstanding any such termination, all rights and obligations hereunder shall survive with respect to Secret Information disclosed prior to such termination.

12. The State of California, acting through the Judicial Council of California, Administrative Office of the Courts, is an intended third party beneficiary of this Agreement and shall have the right to enforce provisions of this Agreement directly against Company.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

Administrative Office of the Courts

[Company]

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

8.6 Attachment F – Non-Disclosure Certification Form

**ATTACHMENT F
NON-DISCLOSURE CERTIFICATION FORM**

I certify that _____ (Proposer’s company name) (the “Proposer”) will submit to the AOC the Non-Disclosure Agreement, contained in this Request for Proposals # IS-102805 as Attachment E, duly executed by an authorized officer of the Proposer without change or modification, within five (5) business days of being notified by the AOC of the AOC’s Notice of Intent to Award a contract to the Proposer.

I acknowledge that if Proposer fails to return the executed Non-Disclosure Agreement within the required timeframe, or if the Proposer submits a changed or modified Non-Disclosure Agreement, the AOC, at the AOC’s sole and complete discretion, may rescind the Notice of Intent to Award and disqualify the Proposer from any further consideration for contract award.

Signature

Printed Name

Title

Date

8.7 Attachment G – DVBE Compliance Form

This Attachment G is comprised of pages 75 through 81

**ATTACHMENT G
DVBE COMPLIANCE FORM**

Proposer Name:

RFP Project Title:

RFP Number:

1. The AOC's goal of awarding at least three percent (3%) of the total contract amount to Disabled Veterans Business Enterprises (individually, a "DVBE") has been achieved for this Project.

(Check one)

Yes_____ (Complete Parts A & C only)

No_____ (Complete Parts B & C only)

DVBE COMPLIANCE FORM
PART A: AT LEAST 3% DVBE PARTICIPATION ACHIEVED

FILL OUT PART A **ONLY** IF DVBE 3% PARTICIPATION GOAL HAS BEEN MET; OTHERWISE FILL OUT PART B. INCOMPLETE DOCUMENTATION MAY RESULT IN DISQUALIFICATION FROM FURTHER PARTICIPATION IN SELECTION PROCESS FOR THIS RFP

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

Firm Name of Proposer:	
Indicate if Proposer is a DVBE	Yes: _____ No: _____
Signature of Person Signing for Proposer:	
Name (printed) and Title of Person Signing for Proposer:	
Date:	

SUBCONTRACTORS / SUPPLIERS (Attach additional sheets if necessary)

1. Company Name and Address: _____

Nature of Work: _____

Tier (1 = Subcontractor to Prime Contractor; 2 = Subcontractor to Tier 1 Subcontractor): _____

Estimated Dollar Amount: \$ _____

Estimated Percentage of Total Contract Amount: _____ %

2. Company Name and Address: _____

Nature of Work: _____

Tier (1 = Subcontractor to Prime Contractor; 2 = Subcontractor to Tier 1 Subcontractor): _____

Estimated Dollar Amount: \$ _____

Estimated Percentage of Total Contract Amount: _____ %

ESTIMATED TOTAL DVBE PARTICIPATION: _____%

**DVBE COMPLIANCE FORM
PART B – ESTABLISHMENT OF GOOD FAITH EFFORT**

FILL OUT PART B ONLY IF 3% PARTICIPATION GOAL WILL NOT BE MET AND A GOOD FAITH EFFORT HAS BEEN ATTEMPTED. INCOMPLETE DOCUMENTATION MAY RESULT IN DISQUALIFICATION FROM FURTHER PARTICIPATION IN SELECTION PROCESS FOR THIS RFP

(Attach additional sheets if necessary)

Contact, and document below, the AOC (the contracting official, unless another contact is specified) to identify potential DVBEs:

Person Contacted	Date	Telephone Number	Describe Result

Contact, and document below, state or federal agencies and local DVBE organizations to identify potential DVBEs:

Organization Name	Person Contacted	Telephone Number or Internet Address	Date

**DVBE COMPLIANCE FORM
PART B – CONTINUED**

Contact, and document below, DVBEs identified from contacts made with the parties listed above:

DVBE Contacted	Person Contacted	Telephone Number	Date

The AOC hereby waives the advertisement requirement of Section 10115.2(b)(3) of the California Public Contract Code.

If an advertisement was published in trade papers and/or papers focusing on DVBEs, provide information requested below and attach proof of publication:

Publication	Date(s) Advertised

**DVBE COMPLIANCE FORM
 PART B – CONTINUED**

Solicit, and document below, DVBEs who can provide goods and/or services relevant to this RFP. Solicitation must be job specific to plan and/or contract:

DVBE Name and Address	Person Contacted	Date Sent

Consider, and document below, all responding DVBEs as Sub-Contractors or suppliers or both.

Company Name and Address:	
Contact Name & Title:	
Telephone Number:	
Nature of Work:	
If proposer will subcontract with the listed DVBE, estimated \$ and/or % and Tier:	
If proposer is not subcontracting with the listed DVBE, reason why not:	

**DVBE COMPLIANCE FORM
PART B – CONTINUED**

Company Name and Address:	
Contact Name & Title:	
Telephone Number:	
Nature of Work:	
If proposer will subcontract with the listed DVBE, estimated \$ and/or % and Tier:	
If proposer is not subcontracting with the listed DVBE, reason why not:	

Company Name and Address:	
Contact Name & Title:	
Telephone Number:	
Nature of Work:	
If proposer will subcontract with the listed DVBE, estimated \$ and/or % and Tier:	
If proposer is not subcontracting with the listed DVBE, reason why not:	

ESTIMATED TOTAL DVBE PARTICIPATION, IF ANY: _____%

**DVBE COMPLIANCE FORM
PART C – CERTIFICATION**

TO BE COMPLETED BY ALL PROPOSERS.

I hereby certify that I have made a diligent effort to ascertain the facts with regard to the representations made herein and, to the best of my knowledge and belief, each firm set forth in this bid as a Disabled Veterans Business Enterprise complies with the relevant definitions set forth in California Public Contract Code, Section 10115 et seq., California Military and Veterans Code, Section 999 et seq. and California Code of Regulations, Title 2, Section 1896.60 et seq..

I understand that the information provided in this certification is subject to verification by the AOC. Prior to contract award I may be required to submit proof of the information provided herein. Such proof shall include, but is not limited to, copies of correspondences or written agreements with DVBEs, proofs of mailings, delivery confirmations, etc. Failure to provide adequate verification may constitute grounds for rejection of the proposal.

In making this certification, I am aware that the penalties for violating California Public Contract Code, Section 10115 et seq. and California Military and Veterans Code, Section 999 et seq. include a misdemeanor, civil penalties up to \$50,000, and suspension from participating in future state contracts or projects.

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

Firm Name of Proposer:	
Signature of Person Signing for Proposer	
Name (printed) and Title of Person Signing for Proposer:	
Date:	

8.8 Attachment H – Pricing Proposal Forms

Pricing Form #1, Pricing Recap - Proposal

Transfer the totals from Pricing Form #s 2, 4, and 5 to the table below.

Description	Not To Exceed Amount
Labor (from Pricing Form #2)	
Administrative, Operating, and Incidental Expenses (from Pricing Form #4)	
Travel (from Pricing Form #5)	
Total	

Pricing Form #2, Pricing Recap - Labor

For each of the following tasks, transfer the total number of billable hours and the not to exceed amounts from Pricing Form #3.

Task Item	Task Description	Deliverable Due Date / Completion Date	Total Hours	Not To Exceed Amount
A	The consultant shall perform a market analysis to identify the model that best represents the AOC as a customer for outsourcing its technology infrastructure (see Section 5.2.1)	Within three 3 weeks of start of contract.		
The consultant shall recommend the appropriate metrics and service levels for each of the following components B1 through B9				
B1	Help desk	* To Be Determined		
B2	Contact center	* To Be Determined		

Task Item	Task Description	Deliverable Due Date / Completion Date	Total Hours	Not To Exceed Amount
B3	Enterprise operations center	* To Be Determined		
B4	Enterprise storage management	* To Be Determined		
B5	Distributed computing	* To Be Determined		
B6	Voice network	* To Be Determined		
B7	Data network	* To Be Determined		
B8	Total application development and support	* To Be Determined		
B9	Web hosting	* To Be Determined		
The consultant shall analyze the current contract to as required in tasks C1 through C3.				
C1	Evaluate the competitiveness of the pricing for the service levels listed in tasks B1 through B9 above.	* To Be Determined		
C2	Identify ambiguities regarding scope of services and deliverable responsibilities.	* To Be Determined		
C3	Recommend remediation for ambiguities regarding scope of services and deliverable responsibilities.	* To Be Determined		
D	The consultant shall recommend industry-standard best practices that the AOC can adopt to help it more effectively manage the relationship with SBS.	* To Be Determined		

Task Item	Task Description	Deliverable Due Date / Completion Date	Total Hours	Not To Exceed Amount
E	The consultant shall recommend on-going methods for evaluating services provided by and relationship with SBS.	* To Be Determined		
F	The consultant shall recommend ways that the AOC can integrate the knowledge and intelligence necessary for managing its technology infrastructure's service provider into its ongoing operations.	* To Be Determined		
G	The consultant shall recommend best practices and strategies in developing and negotiating revisions to the AOC contract with SBS.	* To Be Determined		
H	The consultant shall assist the AOC in drafting a Request for Proposal (RFP) for outsourcing the AOC's technology center; consulting services would include recommending evaluation criteria and a process for selecting the service provider.	* To Be Determined		
Total – All Tasks				

* To Be Determined. Deliverables are due between [TBD] and no later than [TBD], 2006.

Pricing Form #3, Pricing Details - Labor

Instructions: 1) Use the format below for each task item that corresponds with the task items and descriptions in Pricing Form #2 above. 2) Provide the name(s) of the person(s) providing the work, number of hours each person will work on the task, each person's hourly rate, the maximum amount for each person. 3) Transfer the Total Hours and Total Amount from each task item to Pricing Form #2 above.

Task Item	Names	Hourly Rates	Estimated Maximum Number of Hours	Not To Exceed Maximum Amount
A	<i>Name</i>	<i>Rate</i>	<i>Hours</i>	<i>Amount</i>
	<i>Name</i>	<i>Rate</i>	<i>Hours</i>	<i>Amount</i>
	<i>Name (Add more lines if necessary)</i>	<i>Rate</i>	<i>Hours</i>	<i>Amount</i>
Totals Task Item A			<i>Total Hours</i>	<i>Total Amount</i>

Pricing Form #4, Pricing Details – Administrative, Operating, and Incidental Expenses

List estimated maximum administrative, operating, and incidental expenses and provide assumptions for each expense. Transfer the total amount to Pricing Form #1.

Expense	Assumptions	Amount
Total Administrative, Operating, and Incidental Expenses		<i>Total Amount</i>

Pricing Form #5, Pricing Details – Travel Expenses

List estimated maximum travel expenses and provide assumptions for each expense. Transfer the total amount to Pricing Form #1.

Expense	Assumptions	Amount
Total Administrative, Operating, and Incidental Expenses		<i>Total Amount</i>