

# REQUEST FOR QUALIFICATIONS

---

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF FRESNO**

**REGARDING:**

**Consultant for Patient/Court Participant Confidential  
Information  
RFQ 10-2016-HIPAA**

**PROPOSALS DUE:**

**October 12, 2016** NO LATER THAN 4:00 P.M. PACIFIC/DAYLIGHT SAVINGS  
TIME

RFQ: 10-2016-HIPAA  
Title: RRFP

**Date:**  
September 16, 2016

**To:**  
Interested HIPAA Consultants

**From:**  
Fresno Superior Court

**Project Title:**  
Recidivism Reduction Fund Program

**Send SOQs To:**  
Fresno Superior Court  
Attn: Ms. Carmen Lango,  
[solicitations@fresno.courts.ca.gov](mailto:solicitations@fresno.courts.ca.gov)  
(Indicate RFQ number and project name  
in subject line of email)

**Contact:**  
[solicitations@fresno.courts.ca.gov](mailto:solicitations@fresno.courts.ca.gov)

---

## INDEX

- 1.0 Introduction
- 2.0 Purpose of this RFQ
- 3.0 Scope of Services
- 4.0 Responding to the RFQ
- 5.0 Selection Process
- 6.0 Evaluation Process
- 7.0 Additional Requirements
- 8.0 Proposed Contract Terms
- 9.0 Disabled Veteran Business Enterprise (DVBE) Participation Goals
- 10.0 Administrative Rules Governing Requests For Qualifications

## Attachments

- A. Sample Agreement

Schedule of Events	
This Request for Qualifications and Cost Proposals is released	September 16, 2016
Pre-Bid Conference	10:00 AM September 28, 2016
Deadline for submittal of Proposer requests for clarifications, modifications or questions regarding the RFQ	4:00 PM September 30, 2016
Modifications and/or answers to questions will be posted on the Superior Court website: <a href="http://www.fresno.courts.ca.gov/procurement">www.fresno.courts.ca.gov/procurement</a>	12:00 PM, October 5, 2016
<b>Submittal Deadline for RFQ</b>	<b>4:00 PM October 12, 2016</b>
Notice of Award will be posted on the Superior Court's website at: <a href="http://www.fresno.courts.ca.gov/procurement">http://www.fresno.courts.ca.gov/procurement</a>	5:00 PM October 18, 2016

## **1.0 Introduction**

The Fresno Superior Court (Superior Court) seeks a service provider experienced and knowledgeable in confidential health record-keeping to provide the services described in this document. This Request for Qualification (RFQ) is the means for consultants to submit their Statements of Qualifications (SOQ) or Proposals to the Court. The consultant may be a private individual or an organization. The RFQ and all associated documents and addenda are available in electronic form at <http://www.fresno.courts.ca.gov/procurement>.

## **2.0 Purpose of this RFQ**

This RFQ is being issued to identify qualified consultants to guide the Superior Court on managing and storing electronic and paper treatment court records as well as communicating with or about treatment court participants in ways that meet Health Insurance Portability and Accountability Act and Substance Abuse Confidentiality Regulations (CFR 42). Treatment courts include the juvenile and adult mental health courts, the juvenile and adult drug courts, and the veteran's court.

The Superior Court does not guarantee the amount or duration of work that may be given to the consultant awarded this contract. Work assignments will be made based solely upon the Superior Court's needs.

All services completed as a result of this RFQ shall be in accordance with the requirements expressed in this document and with the Superior Court contract applicable to the services, including but not limited to compliance with all currently applicable local, state and federal codes and regulations.

## **3.0 Scope of Services**

The scope of services includes, but is not limited to, the following major tasks:

- A. Review and evaluate security practices for health information storage in treatment court participants' paper and electronic case files at the Superior Court. The majority of this review will be conducted in person at the Superior Court in Fresno, California. The anticipated period for review is November to December 2016. To the extent possible, the Superior Court will assist Proposer in organizing meetings to maximize time and efforts. The evaluation portion of this deliverable may be conducted offsite.
- B. Review and evaluate security practices for sharing and exchanging treatment court participants' health information between the Superior Court, Fresno County Department of Behavioral Health, Fresno County Probation Department, treatment providers, and other community service partners. While up to three in-person meetings may be required or advisable, the majority of this work may be conducted via videoconference, telephone, and email. The anticipated period for review is November to December 2016. The evaluation portion of this deliverable may be conducted offsite.
- C. Based on the findings from the review and evaluation above, identify best practices, guidance, and standards on storing participants' health information in electronic and paper case files and exchanging information among the collaborators noted above. Develop written recommendations for a secure confidential health record storage and exchange system for treatment court participants. Work for this deliverable may be conducted offsite.

- D. Work with judicial officers, Superior Court staff, and treatment court teams to update and enhance policies, procedures, and treatment court forms based on the recommendations noted above. While up to three in-person meetings may be required or advisable, the majority of this work may be conducted via videoconference, telephone, and email.
- E. Provide consultation and guidance on developing the processes and forms for a new electronic communication system to share information about appointments, assessments, and other health information with treatment court participants and treatment providers. While up to three in-person meetings may be required or advisable, the majority of this work may be conducted via videoconference, telephone, and email.

These activities shall commence with the execution of the resulting contract and be completed by April 30, 2017.

#### **4.0 Responding to this RFQ**

The Superior Court has developed the Schedule of Events (see page 2), a table showing key dates for this solicitation process. The RFQ and schedule are subject to change, and the Court does not send notifications of changes to this RFQ or the schedule to prospective Proposers and is not responsible for failure of any Proposer to receive notification of any change in a timely manner. Proposers are advised to visit the Superior Court website <http://www.fresno.courts.ca.gov/procurement> frequently to check for changes and updates to the RFQ, including the schedule.

#### **4.1 Submittal**

Prospective Proposers must take the following actions according to the specified timelines in order to participate in this process:

##### **A. Attend Mandatory Pre-Proposal Conference**

A pre-proposal conference to explain the RFQ and answer general questions will be held at the date and time specified in the Schedule of Events. Proposers who intend to respond to this RFQ must attend the conference to get a clear understanding of the Superior Court's need. Attendance at this conference is mandatory for those wishing to respond to this RFQ. For those out of town, a teleconference number may be set up for use. If needed, please contact the solicitations mailbox.

##### **B. Prepare Your Statement Of Qualifications**

Each Proposer's Statement of Qualification (SOQ) should clearly and accurately demonstrate the specialized knowledge and experience required for consideration. It should provide straightforward, concise information that satisfies the requirements noted in this RFQ. Emphasis should be placed on brevity, conformity to the Superior Court's instructions, selection criteria of this RFQ, and completeness and clarity of content.

Minimum qualifications include five years of consulting on or managing confidential health record systems (after 1996).

SOQs shall contain the information listed below. Please provide the information via electronic mail, as attachments. Supplemental materials are not necessary and will not be reviewed. The SOQ must be submitted in the following manner:

- i. **Cover letter.** A cover letter, signed by the Proposer or an authorized representative of the Proposer, shall include the name, address, telephone, fax number, email address, federal tax identification number, and website address, if applicable.
- ii. **Professional Experience.** Provide resume, including experience with similar services. Experience developing and/or managing confidential health records for a justice organization such as a court, probation department, or attorney is highly desirable.
- iii. **Cost:** Provide a broad budget that does not exceed **\$15,000** for the project. The budget must account for all travel costs and time to Fresno, California for in-person meetings as noted in the scope of work, section 3. The Superior Court videoconference system is available for use at no cost.
- iv. **Letters of Reference:** Please provide **three** letters of reference.

#### 4.2 Disclaimer

Responses to this RFQ will not be returned. Proposers are solely responsible for all expenses associated with responding to this RFQ.

- A. **CONFIDENTIAL OR PROPRIETARY INFORMATION.** The Superior Court's policy is to follow the intent of the California Public Records Act (PRA). If the information submitted contains material noted or marked as confidential and/or proprietary that, in the Superior Court'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 Superior Court does not consider such material to be exempt from disclosure under the PRA, the material may be made available to the public, regardless of the notation or markings. If a firm 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.

#### 4.3 Contact, Questions and Submittal Information

- A. **Court Contact.** The contact for this RFQ is Carmen Lango, Procurement and Contracting Officer. Contact with the Superior Court shall be made only through the solicitations mailbox ([Solicitations@fresno.courts.ca.gov](mailto:Solicitations@fresno.courts.ca.gov)); telephone calls will not be accepted.

Proposers are specifically directed NOT to contact any Superior Court personnel or consultants for meetings, conferences, or discussions that are related to the RFQ at any time between release of the RFQ and any award and execution of a contract. Unauthorized contact with any Superior Court personnel or consultants may be cause for rejection of the Proposer's SOQ.

- B. **Questions.** Proposers may submit questions via email to the solicitations mailbox no later than the date identified on page 2 of this RFQ. Please indicate the RFQ number and title in the subject line. Once submitted, questions become part of the procurement file and are subject to disclosure. Proposers are accordingly cautioned not to include any proprietary or confidential information in questions. If the Proposer is requesting a change, the request must set forth the recommended

change and the reasons for proposing the change. Questions or requests submitted after the deadline for questions will not be answered. Without disclosing the source of the question or request, a copy of the questions and the Superior Court’s responses will be made available prior to the RFQ due date and time.

- C. **Submittal Information.** All submissions shall be sent *via email* by **4:00 PM on October 12, 2016** to the solicitations mailbox, and **MUST** contain “**RFQ for Consultant for Patient/Court Participant Confidential Information**” in the email subject line.

**Printed materials will not be accepted.**

Incomplete proposals may be rejected without review. Proposals received after the deadline will be rejected without review.

**5.0 Selection Process**

- 5.1** An evaluation panel composed of Superior Court staff will review and score the proposals, based on the selection criteria.
- 5.2** At any time, the Superior Court may contact previous clients to verify the experience and performance of the prospective Proposer, and their key personnel.
- 5.3** The selected consultant will be posted on the Superior Court’s website which can be found at [www.fresnosuperiorcourts.ca.gov/procurement](http://www.fresnosuperiorcourts.ca.gov/procurement)

**6.0 Evaluation Process**

The Superior Court will evaluate SOQs using the following criteria:

Points	Criteria	Maximum of 100 points
45	Qualifications	
45	Professional experience providing services similar to those noted in the scope of work, section 3.	
10	Submission of letters of reference	

**7.0 Proposed Contract Terms**

- 7.1** Contracts with successful Proposers will be signed by the parties on a Superior Court Standard Agreement form. A typical Superior Court Standard Agreement is included as Attachment A to this RFQ.
- 7.2** The Superior Court reserves the right to modify or update the Standard Agreement in the interest of the Superior Court, in whole or in part at any time up to the negotiation of the agreement with the successful Proposer. By responding to this RFQ, the prospective Consultant and its key sub consultants acknowledge that a) the project team will provide the services required in the contract, and b) has no objection to the Standard Agreement.

## **8.0 Disabled Veteran Business Enterprise Participation Goals**

The State of California requires contract participation goals of a minimum of three percent (3%) for disabled veteran business enterprises (DVBEs). The Superior Court is subject to this participation goal; however, qualification for the DVBE incentive is not mandatory. Failure to qualify for the DVBE incentive will not render a proposal non-responsive.

If eligible, the Superior Court will require that the selected consultant demonstrate DVBE compliance and complete DVBE Compliance Forms. Please note that DVBE documentation is not submitted with the proposal, but is to be submitted only if the consultant is selected for service.

## **9.0 Administrative Rules Governing Request for Qualifications**

### **9.1 Knowledge of Requirements.**

The Proposer shall carefully review 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. Failure to examine any document, drawing, specification, or instruction will be at the Proposer's sole risk.

Proposers shall be responsible for knowledge of all items and conditions contained in their SOQs and in this RFQ, including any Superior Court issued clarifications, modifications, amendments, or addenda. The Superior Court will provide notice to perspective proposers by posting addenda and clarifications to the Superior Court website; however, it is the Proposer's responsibility to ascertain that the proposal includes all addenda issued prior to the proposal due date.

### **9.2 Errors in the RFQ.**

- A. If, before the proposal due date and time listed in the timeline of the RFQ, a Proposer discovers any ambiguity, conflict, discrepancy, omission, or error in the RFQ, the Proposer must immediately notify the Superior Court via email to the solicitations mailbox and request modification or clarification of the RFQ. Without disclosing the source of the request, the Superior Court may modify the RFQ before the proposal due date and time by releasing an addendum to the solicitation.
- B. If a Proposer fails to notify the Superior Court of an error in the RFQ known to the Proposer, or an error that reasonably should have been known to the Proposer, before the proposal due date and time listed in the timeline of the RFQ, the Proposer shall propose at its own risk. Furthermore, if the Proposer is awarded the agreement, the Proposer shall not be entitled to additional compensation or time by reason of the error or its later correction.

### **9.3 Addenda**

- A. The Superior Court may modify the RFQ before the proposal due date and time listed in the timeline of the RFQ by issuing an addendum. It is each Proposer's responsibility to inform itself of any addendum prior to its submission of a proposal.

- B. If any Proposer determines that an addendum unnecessarily restricts its ability to respond, the Proposer shall immediately notify the Superior Court via email to the solicitations mailbox no later than one day following issuance of the addendum.

#### **9.4 Withdrawal and Resubmission/Modification of Proposals.**

A Proposer may withdraw its proposal at any time before the deadline for submitting proposals by notifying the Superior Court in writing of its withdrawal. The notice must be signed by the Proposer. The Proposer may thereafter submit a new or modified proposal, provided that it is received at the Superior Court no later than the proposal due date and time listed in the timeline of the RFQ. Modifications offered in any other manner, oral or written, will not be considered. Proposals cannot be changed or withdrawn after the proposal due date and time listed in the timeline of the RFQ.

#### **9.5 Right to Reject Proposals**

- A. Before the proposal due date and time listed in the timeline of the RFQ, the Superior Court may cancel the RFQ for any or no reason. After the proposal due date and time listed in the timeline of the RFQ, the Superior Court may reject all proposals and cancel the RFQ if the Superior Court determines that: (i) the proposals received do not reflect effective competition; (ii) the cost is not reasonable; (iii) the cost exceeds the amount expected; or (iv) awarding the contract is not in the best interest of the Superior Court.
- B. The Superior Court reserves the right to issue similar RFQs in the future. The RFQ is in no way an agreement, obligation, or contract and in no way is the Superior Court or the State of California responsible for the cost of preparing the proposal.

#### **9.6 Evaluation Process.**

- A. An evaluation team will review all proposals that are received by the appropriate deadline to determine the extent to which they comply with RFQ requirements.
- B. Proposals that contain false or misleading statements may be rejected if in the Superior Court's opinion the information was intended to mislead the evaluation team regarding a requirement of the RFQ.
- C. During the evaluation process, the Superior Court may require a Proposer's representative to answer questions with regard to the Proposer'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.

#### **9.7 Disposition of Materials**

All materials submitted in proposal to the RFQ will become the property of the Superior Court and will be returned only at the Superior Court's option and at the expense of the Proposer submitting the proposal.

### **9.8 Payment**

- A. Payment terms will be specified in any agreement that may ensue as a result of the RFQ.
- B. THE SUPERIOR COURT DOES NOT MAKE ADVANCE PAYMENT FOR SERVICES. Payment is normally made based upon completion of tasks as provided in the agreement between the Court and the selected Proposer.

### **9.9 Award and Execution of Agreement**

- A. Award of contract, if made, will be in accordance with the RFQ to a responsible Proposer submitting a proposal compliant with all the requirements of the RFQ and any addenda thereto (including any administrative or technical requirements), except for such immaterial defects as may be waived by the Superior Court.
- B. A Proposer submitting a proposal must be prepared to use a standard Superior Court contract form rather than its own contract form.
- C. The Superior Court will make a reasonable effort to execute any contract based on the RFQ within 45 days of selecting a proposal that best meets its requirements. However, exceptions taken by a Proposer may delay execution of a contract.
- D. Upon award of the agreement, the agreement shall be signed by the Proposer in blue ink and scanned in color, then returned to the Superior Court no later than five business days of receipt of the agreement. The Superior Court will also sign in blue ink and scan to return the Proposers fully executed copy. Agreements are not effective until executed by both parties. Any work performed before receipt of a fully-executed agreement shall be at the Proposer's own risk.

### **9.10 Failure to Execute the Agreement**

The period for execution may only be changed by mutual agreement of the parties. Failure to execute the agreement within the time frame identified above constitutes sufficient cause for voiding the award. Failure to comply with other requirements within the set time constitutes failure to execute the agreement. If the successful Proposer refuses or fails to execute the agreement, the Superior Court may award the agreement to the next qualified Proposer.

### **9.11 News Releases**

News releases or other publicity pertaining to the award of a contract may not be issued without prior written approval of Court Public Services and Media Coordinator.

### **9.12 Anti-trust claims**

- A. In submitting a proposal to the Superior Court, the Proposer offers and agrees that if the proposal is accepted, the Proposer will assign to the Superior Court all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the

Cartwright Act Chapter 2, commencing with Section 16700, of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the Proposer for sale to the Superior Court pursuant to the proposal. Such assignment shall be made and become effective at the time the Superior Court tenders final payment to the Proposer. (See Government Code section 4552.)

- B. If the Superior Court receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this section, the Proposer shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the Superior Court any portion of the recovery, including treble damages, attributable to overcharges that were paid.
- C. Upon demand in writing by the Proposer, the Superior Court shall, within one year from such demand, reassign the cause of action assigned under this section if the Proposer has been or may have been injured by the violation of law for which the cause of action arose and (a) the Superior Court has not been injured thereby, or (b) the Superior Court declines to file a court action for the cause of action. (See Government Code section 4554.)

### **9.13 Americans with Disabilities Act**

The Superior Court complies with the Americans with Disabilities Act (ADA) and similar California statutes. Requests for accommodation of disabilities by Proposers should be directed to the solicitations mailbox with "RFQ 10-2016-HIPAA" in the subject line of the email.

ATTACHMENT A

SUPERIOR COURT OF CALIFORNIA, COUNTY OF FRESNO

**SERVICES—SHORT FORM AGREEMENT** rev 5-4-15

Agreement Number

10-2016-HIPAA-O

1. In this agreement (the "Agreement"), the term "Contractor" refers to **[Contractor name]**, and the term "Court" refers to the **Superior Court of California, County of Fresno**.

---

2. This Agreement becomes effective as of **11/1/16**, (the "Effective Date") and expires on **4/30/17**.

---

3. The maximum amount that the Court may pay Contractor under this Agreement is **\$15,000** (the "Maximum Amount").

---

4. This Agreement incorporates and the parties agree to the attached provisions labeled "Agreement Terms and Conditions." This Agreement represents the parties' entire understanding regarding its subject matter and supersedes all previous proposals, both oral and written, negotiations, representations, commitments, writing and all other communications between the parties.

---

5. Contractor will perform the following services (the "Services"), and deliver the following work product (the "Work Product"):

**Services:**

Description of Services	<b>See Scope of Work.</b>
Completion Date	<b>4/30/17</b>
Acceptance Criteria	<b>[Insert acceptance criteria.]</b>

**Work Product:**

Description of Work Product	<b>Recommendations on policies and procedures for storing and sharing confidential health records; templates for forms.</b>
Delivery Date	<b>4/30/17</b>
Acceptance Criteria	<b>[Insert acceptance criteria.]</b>

6. The Court's project manager is: **Mary Calderon**, Director of Court Operations.

COURT'S SIGNATURE	CONTRACTOR'S SIGNATURE
<b>Superior Court of California, County of Fresno</b>	CONTRACTOR'S NAME <i>(if Contractor is not an individual person, state whether Contractor is a corporation, partnership, etc.)</i> <b>[Contractor name]</b>
BY <i>(Authorized Signature)</i> 	BY <i>(Authorized Signature)</i> 
PRINTED NAME AND TITLE OF PERSON SIGNING <b>Sheran L. Morton, Court Executive Officer</b>	PRINTED NAME AND TITLE OF PERSON SIGNING <b>[Name and title]</b>
DATE EXECUTED	DATE EXECUTED
ADDRESS <b>Accounts Payable 1100 Van Ness Avenue Fresno CA 93724-0002</b>	ADDRESS <b>[Address]</b>

ATTACHMENT A  
AGREEMENT TERMS AND CONDITIONS

**A. PERFORMANCE AND DELIVERY.** Contractor will perform the Services and deliver all Work Product as specified on the coversheet of this Agreement. Time is of the essence in Contractor's performance of the Services and delivery of Work Product. The Maximum Amount listed on the coversheet of this Agreement includes all amounts allowed for expenses, including those related to shipping, handling, traveling, bonding, licensing, maintaining insurance, and obtaining permits.

**B. ACCEPTANCE.** All Services and Work Product are subject to written acceptance by the Court. The Court may reject any Service or Work Product that (i) fails to meet applicable acceptance criteria, (ii) is not as warranted, or (iii) is performed or delivered late. Payment by the Court does not signify acceptance of the Services or Work Product.

**C. INTELLECTUAL PROPERTY.** Contractor irrevocably assigns to the Court all right, title and interest worldwide in and to the Work Product created under this Agreement, and all applicable intellectual property rights related to the Work Product created under this Agreement, including copyrights, trademarks, trade secrets, moral rights, and contract and licensing rights. Contractor grants to the Court a non-exclusive, transferable, sublicenseable (through multiple tiers), worldwide, perpetual, irrevocable, fully-paid and royalty-free license to use, reproduce, make derivative works of, perform, display, and distribute any portion of the Work Product delivered by Contractor but not created under this Agreement. The Court retains all intellectual property rights in any materials it provides to Contractor (the "Court Materials"). Contractor will hold the Court Materials in trust and confidence. Contractor will use the Court Materials solely for performing the Services and creating Work Product created under this Agreement.

**D. INVOICES, PAYMENT AND SETOFF.** After the Court has accepted Services and Work Product, Contractor will send one original correct, itemized invoice for the accepted Services and Work Product to "Accounts Payable" at [accounts\\_payable@fresno.courts.ca.gov](mailto:accounts_payable@fresno.courts.ca.gov) or to the address shown on the signature block of this Agreement. Contractor will print each invoice on Contractor's standard printed bill form, and each invoice will include at least (i) the Agreement number, (ii) a unique invoice number, (iii) Contractor's name and address, (iv) the nature of the invoiced charge, (v) the total invoiced amount, and (vi) all other details the Court considers reasonably necessary to permit the Court to evaluate the Services performed and the Work Product delivered, including the number of hours worked and the applicable hourly rate. If requested, Contractor will promptly correct any inaccuracy and resubmit the invoice. Payment will follow within 45 business days of receipt of proper invoice. If the Court rejects any Services or Work Product after payment to Contractor, the Court may exercise all contractual and other legal remedies, including (a) setting off the overpayment against future invoices payable by the Court, (b) setting off the overpayment against any other amount payable for the benefit of Contractor pursuant to this Agreement or otherwise, and (c) requiring Contractor to refund the overpayment within thirty (30) days of the Court's request. Unless Contractor is a governmental entity, the Court will take no action on invoices submitted before Contractor has completed the Court's standard payee data record form, which Contractor may obtain from the Court. Contractor must include with any request for reimbursement from the Court a certification that Contractor is not seeking reimbursement for costs incurred to assist, promote, or deter union organizing. If Contractor incurs costs, or makes expenditures to assist, promote or deter union organizing, Contractor will maintain records sufficient to show that no reimbursement from the Court was sought for these costs, and Contractor will provide those records to the Attorney General upon request.

**E. WARRANTIES.** Contractor will perform all Services using skilled personnel only, in a good and workmanlike manner, in accordance with industry standards, and in compliance with all applicable laws, rules, and regulations. Contractor warrants that, upon delivery, all Work Product will (i) be free from defects in workmanship, (ii) not infringe any third party's rights, including intellectual property rights, (iii) be fit for the purposes intended by the Court, (iv) comply with the

ATTACHMENT A  
AGREEMENT TERMS AND CONDITIONS

requirements of this Agreement, and (v) be in compliance with all applicable laws, rules, and regulations.

**F. CHANGES.** Contractor may not alter, add to, or otherwise modify this Agreement. Contractor's additional or different terms and conditions are expressly excluded from this Agreement. This Agreement may be amended, supplemented, or otherwise modified only in writing and signed by the Court's authorized representative.

**G. AUDIT RIGHTS.** Contractor agrees to maintain records relating to performance and billing by Contractor under this Agreement for a period of four years after final payment. During the time that Contractor is required to retain these records, Contractor will make them available to the Court, the State Auditor, or their representatives during normal business hours for inspection and copying.

**H. INDEMNITY.** CONTRACTOR WILL INDEMNIFY AND HOLD HARMLESS THE COURT, OTHER CALIFORNIA JUDICIAL BRANCH ENTITIES, AND THEIR OFFICERS, AGENTS, AND EMPLOYEES FROM AND AGAINST ALL CLAIMS, LOSSES, AND EXPENSES, INCLUDING ATTORNEYS' FEES AND COSTS, THAT ARISE OUT OF (I) A DEFECT, WHETHER LATENT OR PATENT, IN THE WORK PRODUCT, (II) AN ACT OR OMISSION OF CONTRACTOR, ITS AGENTS, EMPLOYEES, INDEPENDENT CONTRACTORS, OR SUBCONTRACTORS IN THE PERFORMANCE OF THIS AGREEMENT, AND (III) A BREACH OF A REPRESENTATION, WARRANTY, OR OTHER PROVISION OF THIS AGREEMENT. THIS INDEMNITY APPLIES REGARDLESS OF THE THEORY OF LIABILITY ON WHICH A CLAIM IS MADE OR A LOSS OCCURS. THIS INDEMNITY WILL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT, ACCEPTANCE OF SERVICES, AND DELIVERY AND ACCEPTANCE OF WORK PRODUCT. THIS INDEMNITY DOES NOT COVER CLAIMS, LOSSES OR EXPENSES TO THE EXTENT THEY ARISE OUT OF THE GROSS NEGLIGENCE OF THE COURT.

**I. TERMINATION.** The Court may terminate all or part of this Agreement for convenience at any time by giving written notice to Contractor. If the Court terminates this Agreement for convenience, the Court's liability will be the reasonable price for the Services rendered prior to termination, not to exceed the Maximum Amount. If an hourly or other time-based rate for Services is specified on the coversheet of this Agreement, that rate will be used in determining the reasonable price. Upon receipt of a termination notice, Contractor will, unless otherwise directed, cease work. Contractor will follow the Court's directions as to work in progress and the delivery of completed or partially-completed Work Product.

**J. INSURANCE.** Contractor will maintain insurance that is sufficient in scope and amount to permit Contractor to pay in the ordinary course of business insurable claims, losses and expenses, including insurable claims, losses and expenses that arise out of Contractor's performance of this Agreement. Contractor will maintain employer's liability and workers' compensation coverage at statutory levels covering all employees performing work under this Agreement.

**K. REPRESENTATIONS.** Contractor represents and warrants the following: (i) Contractor complies with all federal, state, city, and local laws, rules, and regulations, including the federal Americans with Disabilities Act of 1990, California's Fair Employment and Housing Act, and Government Code 16645-49; (ii) Contractor does not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, disability (mental or physical, including HIV or AIDS), medical condition (including cancer or genetic characteristics), request for family and medical care leave, marital or domestic partner status, age (over 40), sex (including gender identity) or sexual orientation; (iii) Contractor does not engage in unlawful harassment, including sexual harassment, with respect to any persons with whom Contractor may interact in the performance of this Agreement; (iv) Contractor will take all reasonable steps to prevent unlawful harassment from occurring; (v) no more than one, final un-appealable finding of contempt of court by a federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a federal court requiring Contractor to comply with an order of the National Labor Relations Board (this representation is made under penalty of perjury); (vi)

ATTACHMENT A  
AGREEMENT TERMS AND CONDITIONS

Contractor has authority to enter into and perform its obligations under this Agreement; (vii) if Contractor is a corporation, limited liability company, or limited partnership and this Agreement will be performed in California, Contractor is qualified to do business and in good standing in California; and (viii) Contractor is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code ("PCC") section 10286.1, and is eligible to contract with the Court. Contractor will take all action necessary to ensure that the representations in this section remain true during the performance of this Agreement through final payment by the Court. Contractor must give written notice of its nondiscrimination obligations under this section to labor organizations with which it has a collective bargaining or other agreement.

**L. ANTITRUST.** Contractor shall assign to the Court all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by Contractor for sale to the Court. Such assignment shall be made and become effective at the time the Court tenders final payment to Contractor. If the Court receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this section, Contractor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the Court any portion of the recovery, including treble damages, attributable to overcharges that were paid by Contractor but were not paid by the Court as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Upon demand in writing by Contractor, the Court shall, within one year from such demand, reassign the cause of action assigned under this part if Contractor has been or may have been injured by the violation of law for which the cause of action arose and (a) the Court has not been injured thereby, or (b) the Court declines to file a court action for the cause of action.

**M. MISCELLANEOUS.** Contractor will maintain a system of accounting and internal controls that is sufficient to adhere to Generally Accepted Accounting Principles. Contractor is an independent contractor and Contractor will take all action available to Contractor to prevent Contractor, and its agents and employees, from being treated under the law as agents or employees of the Court. Contractor will not assign, subcontract or delegate its obligations under this Agreement without the prior written consent of the Court, and any attempted assignment, subcontract, or delegation is void. The terms and conditions of this Agreement apply to any assignee, subcontractor, trustee, successor, delegate or heir. California law, without regard to its choice-of-law provisions, governs this Agreement. In this Agreement, "including" means "including but not limited to." The parties shall attempt in good faith to resolve informally and promptly any dispute that arises under this Agreement. Contractor irrevocably consents to personal jurisdiction in the courts of the State of California, and any legal action filed by Contractor in connection with a dispute under this Agreement must be filed in Fresno County, California, which will be the sole venue for any such action. If any part of this Agreement is held unenforceable, all other parts remain enforceable. All headings are for reference purposes only and do not affect the interpretation of this Agreement. A party's waiver of enforcement of any of this Agreement's terms or conditions will be effective only if it is in writing. A party's specific waiver will not constitute a waiver by that party of any earlier, concurrent, or later breach or default. Contractor may not make a public announcement, or issue any press release or other writing, related to this Agreement, the Services, or Work Product without first obtaining the Court's prior written approval, which may be denied for any or no reason.

**N. BADGES.** Court shall be responsible for badge issuance and background checks of all Contractor employees. Court will invoice the Contractor and the Contractor shall reimburse the Court for all costs associated with badge issuances and background checks. All badges issued to the Contractor will expire according to the terms of this Agreement.

ATTACHMENT A  
AGREEMENT TERMS AND CONDITIONS

**O. COUNTERPARTS.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all such separate counterparts shall together constitute but one and the same Agreement.