

RFB Title: Court Records Destruction (Shredding)  
RFB Number: RFB 14-103

# REQUEST FOR BID

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**SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN MATEO**

**REGARDING:**

**REQUEST FOR BID 14-103**

**RECORDS DESTRUCTION (SHREDDING) SERVICES**

**BIDS DUE:**

June 20, 2014 no later than 3:00 p.m. Pacific time

### 1.0 BACKGROUND INFORMATION

The Superior Court of California, County of San Mateo seeks to procure the services of a vendor to provide off-site court records destruction and to provide the Court with a certificate of destruction for each shipment processed. The records shall be handled as confidential documents.

The Court has six court buildings throughout San Mateo County with four of the facilities requiring ongoing services and others requiring services on an as needed basis. We do large records purging during the year where large bins or palettes are needed. Details of our needs are found in Attachment A of this Request for Bid (RFB).

### 2.0 DESCRIPTION OF GOODS AND SERVICES

The Court seeks records pick up and destruction services and materials meeting the specifications as set forth in Attachment A.

### 3.0 TIMELINE FOR THIS RFB

The Court has developed the following list of key events related to this RFB. All dates are subject to change at the discretion of the Court.

EVENT	DATE
RFB issued:	<i>May 29, 2014</i>
Deadline for questions	<i>June 6, 2014</i>
Questions and answers posted	<i>June 9, 2014</i>
Latest date and time bids may be submitted	<i>June 13, 2014 at 3:00 PM (PST)</i>
Notice of Intent to Award ( <i>estimate only</i> )	<i>June 20, 2014</i>
Execution of contract ( <i>estimate only</i> )	<i>June 30, 2014</i>

### 4.0 RFB ATTACHMENTS

The following attachments are included as part of this RFB:

ATTACHMENT	DESCRIPTION
Attachment A: :	Statement of Services and Materials to be Provided. A description of the services required and the bins and other containers that will be needed for this service.
Attachment B: Court Standard Terms and Conditions	If selected, the person or entity submitting a bid (“Bidder”) must sign a Contract with the Court that will contain these terms and conditions (the “Terms and Conditions”).
Attachment C: Bidder’s Acceptance of Terms and Conditions	<p>On this form, the Bidder must indicate acceptance of the Terms and Conditions or identify exceptions to the Terms and Conditions.</p> <p><b>Note: A material exception to the Terms and Conditions (addition, deletion, or other modification) will render a bid non-responsive.</b></p>
Attachment D: Darfur Contracting Act Certification	Bidder must complete the Darfur Contracting Act Certification and submit the completed certification with its bid.
Attachment E Contractor Certification	Bidder must complete the Contractor Certification form and submit it with their bid.

**5.0 SUBMISSIONS OF BIDS**

- 5.1** Bids should provide straightforward, concise information that satisfies the requirements of the “Bid Contents” section below. Expensive bindings, color displays, and the like are not necessary or desired. Emphasis should be placed on conformity to the RFB’s instructions and requirements, and completeness and clarity of content.
- 5.2** The Bidder must submit its bid in two parts, the non-cost information and the cost information.
- A. The Bidder must submit **one (1) original and two (2) copies** of the non-cost information. The original must be signed by an authorized representative of the Bidder. The non-cost information (including all copies thereof) must be submitted to the Court in a single sealed envelope, separate from the cost information. The Bidder must write the RFB title and number on the outside of the sealed envelope.
  - B. The Bidder must submit one (1) original and two (2) copies of the cost information. The original must be signed by an authorized representative of the Bidder. The cost information (including all copies thereof) must be submitted to the Court in a single sealed envelope, separate from the non-cost information. The Bidder must write the RFB title and number on the outside of the sealed envelope.

- C. The Bidder must submit an electronic version of the entire bid on CD-ROM or thumb drive. The files contained on the CD-ROM should be in Word and/or Excel formats.

**5.3** Bids must be delivered by the date and time listed on the coversheet of this RFB to:

Submittal Contact: Timothy Gee (650) 261-5040

Written Proposals shall be sent to:

Superior Court of California, County of San Mateo

Attn: Timothy Gee, Court Contracts Analyst

Finance Division

400 County Center, 4th Floor

Redwood City, CA 94063

tgee@sanmateocourt.org

Project Manager: Jill Selvaggio, Court Services Manager

Contracting Officer: Timothy Gee, Contracts Analyst

Court Executive Officer: John C. Fitton (same address)

**5.4** Late bids will not be accepted.

**5.5** Only written bids will be accepted. Bids must be sent by registered or certified mail, courier service (e.g. FedEx), or delivered by hand. Bids may not be transmitted by fax or email.

**6.0 BID CONTENTS**

**6.1** Non-Cost Information. The following must be included in the non-cost information. A bid lacking any of the following may be deemed non-responsive.

- A. Bidder's name, address, telephone and fax numbers, and federal tax identification number. Note that if Bidder is a sole proprietor using his or her social security number, the social security number will be required before finalizing a contract.
- B. Model number(s), specifications, or other description of the goods Bidder proposes to supply to the Court, including warranty information.
- C. Names, addresses, telephone numbers and date service provided of a minimum of five (5) clients for whom the Bidder has provided similar goods with at least one of them a government agency or court. The Court may check references listed by Bidder.
- D. Number of years providing this service.
- E. Describe the ordering process and customer service for delivery of bins and arranging for services.

- F. If subcontractors are proposed for this RFB, describe the vendor's contract management process for subcontractors included in the vendor's bid and provide copies of signed formal contracts (e.g., teaming contracts or any other legally binding document), if any exist, between the vendor and each proposed subcontractor.
- G. Acceptance of the Terms and Conditions.
  - (1) On Attachment C, the Bidder must either indicate acceptance of the Terms and Conditions or clearly identify exceptions to the Terms and Conditions. An "exception" includes any addition, deletion, or other modification.
  - (2) If exceptions are identified, the Bidder must also submit a red-lined version of the Terms and Conditions that clearly tracks proposed changes, and a written explanation or rationale for each exception and/or proposed change.
  - (3) **Note: A material exception to the Terms and Conditions (addition, deletion, or other modification) will render a bid non-responsive.**
- H. Certifications, Attachments, and other requirements.  
Bidder must include the following certifications in its bid:

- (1) Bidder certifies that it has no interest that would constitute a conflict of interest under California Public Contract Code sections 10365.5, 10410 or 10411; Government Code sections 1090 et seq. or 87100 et seq.; or rule 10.103 or rule 10.104 of the California Rules of Court, which restrict employees and former employees from contracting with judicial branch entities.

Bidder certifies that either (i) it is not a scrutinized company as defined in PCC 10490(b), or (ii) the goods or services the Bidder would provide to the Court are not related to products or services that are the reason the Bidder must comply with Section 13(p) of the Securities Exchange Act of 1934. (Note: PCC 10490(b) defines a "scrutinized company" as "a person that has been found to be in violation of Section 13(p) of the Securities Exchange Act of 1934 by final judgment or settlement entered in a civil or administrative action brought by the Securities and Exchange Commission and the person has not remedied or cured the violation in a manner accepted by the commission on or before final judgment or settlement.")

- (2) Bidder must submit with its bid, for itself and each of its affiliates that make sales for delivery into California, a copy of either (a) a California seller's permit issued under Revenue and Taxation Code section 6066 et seq. or (b) a certificate of registration issued under Revenue and Taxation Code section 6226.

- (3) Bidder must complete the Darfur Contracting Act Certification (Attachment D) and submit the completed certification with its bid.
- (4) If (i) Bidder is a corporation, limited liability company, or limited partnership, and (ii) the agreement resulting from this RFB will be performed in California, proof that Bidder is in good standing and qualified to conduct business in California.
- (5) Proof of financial solvency or stability (e.g., balance sheets and income statements).

6.2 Cost Information. The following must be included in the cost information.

- (1) The cost per unit for the bins and other containers that may be used in the service described in the non-cost information and Attachment A.
- (2) Any other associate costs for the services to be provided, especially for specially requested services when the Court does a large purge of records.

**NOTE:** It is unlawful for any person engaged in business within this state to sell or use any article or product as a “loss leader” as defined in Section 17030 of the Business and Professions Code.

## 2.0 Contact with Court.

Vendors are specifically directed NOT to contact any Court personnel or consultants for meetings, conferences, or discussions that are specifically related to this RFP at any time prior to any award of a contract except for the Court’s Submittal Contact. Unauthorized contact with any Court personnel or consultants may be cause for rejection of the Vendor’s response.

Any communication with the Court can be sent to: [rfp@sanmateocourt.org](mailto:rfp@sanmateocourt.org), **Subject Line: Records Destruction RFB.**

## 3.0 OFFER PERIOD

A Bidder's bid is an irrevocable offer for ninety (90) days following the bid due date. In the event a final contract has not been awarded within this period, the Court reserves the right to negotiate extensions to this period.

## 4.0 EVALUATION OF BIDS

4.1 The Court will evaluate the bids as follows:

Criteria	Evaluation weight
Pricing	75%
Proposed service to be provided	20%
Experience, especially with other courts or government agencies	5%

- 4.2 Award, if made, will be to the lowest responsible bidder meeting specifications.
- 4.3 Quotes that contain false or misleading statements may be rejected if in the Court's opinion the information was intended to mislead the evaluation team regarding a requirement of the RFQ.
- 4.4 All figures entered on the cost information must be clearly legible.
- 4.5 The Court may conduct interviews with Bidders to clarify aspects of their bids. The interview process may require a demonstration of equivalence if a brand name is included in the specifications. The interviews may be conducted in person or by phone. If conducted in person, interviews will likely be held at the Court's offices. The Court will not reimburse Bidders for any costs incurred in traveling to or from the interview location. The Court will notify eligible Bidders regarding interview arrangements.
- 4.6 If a contract will be awarded, the Court will post an intent to award notice on its public website for this Procurement at <http://www.sanmateocourt.org> by Friday, June 20, 2014.

## **5.0 QUESTIONS REGARDING THE RFB**

- A. Vendor's question relates to a proprietary aspect of its bid and the question would expose proprietary information if disclosed to competitors, Vendor may submit the question via the RFB Contact, conspicuously marking it as "CONFIDENTIAL." With the question, Vendor must submit a statement explaining why the question is sensitive. If the Court 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 Court does not concur regarding the proprietary nature of the question, the question will not be answered in this manner and Vendor will be notified.
- B. Vendors interested in responding to the RFB may submit questions via the RFB Contact on procedural matters related to the RFB or requests for clarification or modification of the RFB no later than the Deadline for Submitting Questions listed on the RFB form. If Vendor is requesting a change, the request must set forth the recommended change and the Vendor's reasons for proposing the change. Questions or requests submitted after the Deadline for Submitting Questions will not be answered. Without disclosing the source of the question or request, a copy of the questions and the Court's responses will be made available.

## **6.0 ERRORS IN THE RFB**

- A. If, before the Bid Due Date and Time listed on the RFB form, Vendor discovers any ambiguity, conflict, discrepancy, omission, or error in the RFB, Vendor must immediately notify the Court via the RFB Contact and request modification or clarification of the RFB. Without disclosing the source of the request, the Court may modify the RFB before the Bid Due Date and Time by releasing an addendum to the RFB.

- B. If Vendor fails to notify the Court of an error in the RFB known to Vendor, or an error that reasonably should have been known to Vendor, before the Bid Due Date and Time listed on the RFB form, Vendor submits its bid at its own risk. Furthermore, if Vendor is awarded the contract, Vendor shall not be entitled to additional compensation or time by reason of the error or its later correction.
- C. If Vendor has submitted a bid and discovers an error in the RFB after the Bid Due Date and Time listed on the RFB form but before the award of the contract, Vendor may be allowed to withdraw its bid if Vendor can demonstrate to the Court's satisfaction: (i) an error exists in the RFB, (ii) the error materially affected Vendor's bid, and (iii) Vendor did not discover the error prior to submission of its bid.

## **7.0 ADDENDA**

- A. The Court may modify the RFB before the Bid Due Date and Time listed on the RFB form by issuing an addendum and providing notice to prospective vendors. It is Vendor's responsibility to inform itself of any addendum prior to its submission of a bid.
- B. If Vendor determines that an addendum unnecessarily restricts its ability to submit a bid, Vendor shall immediately notify the Court via the RFB Contact no later than one day following issuance of the addendum.

## **8.0 WITHDRAWAL AND RESUBMISSION/MODIFICATION OF BIDS**

Vendor may withdraw its bid at any time before the Bid Due Date and Time by notifying the Court in writing of its withdrawal. The notice must be signed by Vendor. Vendor may thereafter submit a new or modified bid, provided that it is received at the Court no later than the Bid Due Date and Time listed on the RFB form. Modifications offered in any other manner, oral or written, will not be considered. Bids cannot be changed or withdrawn after the Bid Due Date and Time listed on the RFB form.

## **9.0 RIGHT TO REJECT BIDS**

- A. Before the Bid Due Date and Time listed on the RFB form, the Court may cancel the RFB for any or no reason. After the Bid Due Date and Time listed, the Court may reject all bids and cancel the RFB if the Court determines that: (i) the bids received are not really competitive; (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 Court.
- B. The Court may or may not waive an immaterial deviation or defect in a bid. The Court's waiver of an immaterial deviation or defect shall in no way modify the RFB or excuse Vendor from full compliance with the RFB requirements. Until a contract resulting from this RFB is awarded, the Court reserves the right to accept or reject any or all of the items in the bid, to award the contract in whole or in part and/or negotiate any or all items with individual vendors if it is deemed in the Court's best interest. A notice of intent to award does not constitute a contract, and confers no right of contract on any vendor.
- C. The Court reserves the right to issue similar RFBs in the future. The RFB is in no way an agreement, obligation, or contract and in no way is the Court or the State of California responsible for the cost of preparing the bid.

## **10.0 DISPOSITION OF MATERIALS**

All materials submitted in response to the RFQ will become the property of the Court and will be returned only at the Court's option and at the expense of the vendor submitting the quote.

## **11.0 CONFIDENTIAL OR PROPRIETARY INFORMATION**

One copy of each bid will be retained by the Court for official files and will become a public record. The Public Contract Code requires that bids be publicly opened and made available for public inspection. Accordingly, Bidder should not include confidential or proprietary information in its bid.

## **12.0 DISABLED VETERAN BUSINESS ENTERPRISE INCENTIVE**

Businesses with DGS Certified DVBE will be given considerations similar to Small Business as presented below.

## **13.0 SMALL BUSINESS PREFERENCE**

- A. Small business participation is not mandatory. Failure to qualify for the small business preference will not render a bid non-responsive.
- B. Eligibility for and application of the small business preference is governed by the Court's Small Business Preference Procedures for the Procurement of Information Technology Goods and Services. The Vendor will receive a small business preference if, in the Court's sole determination, the Vendor has met all applicable requirements. If the Vendor receives the small business preference, the score assigned to its bid will be increased by an amount equal to 5% of the points assigned to the highest scored bid. If a DVBE incentive is also offered in connection with this solicitation, additional rules regarding the interaction between the small business preference and the DVBE incentive apply.
- C. To receive the small business preference, the Vendor must be either (i) a Department of General Services ("DGS") certified small business or microbusiness performing a commercially useful function, or (ii) a DGS-certified small business nonprofit veteran service agency.
- D. If the Vendor wishes to seek the small business preference, the Vendor must complete and submit with its bid the Small Business Declaration form included with this RFB. The Vendor must submit with the Small Business Declaration all materials required in the Small Business Declaration.
- E. Failure to complete and submit the Small Business Declaration as required will result in the Vendor not receiving the small business preference. In addition, the Court may request additional written clarifying information. Failure to provide this information as requested will result in the Vendor not receiving the small business preference.

- F. If the Vendor receives the small business preference, (i) the Vendor will be required to complete a post-contract report; and (ii) failure to meet the small business commitment set forth in its bid will constitute a breach of contract.

**FRAUDULENT MISREPRETATION IN CONNECTION WITH THE SMALL BUSINESS PREFERNCE IS UNLAWFUL AND IS PUNISHABLE BY CIVIL PENALTIES. SEE GOVERNMENT CODE SECTION 14842.5.**

#### **14.0 AMERICANS WITH DISABILITIES ACT**

The Court complies with the Americans with Disabilities Act (ADA) and similar California statutes. Requests for accommodation of disabilities by Vendor should be directed to George Antrea by email: [gantrea@sanmateocourt.org](mailto:gantrea@sanmateocourt.org).

#### **15.0 PROTESTS**

Any protests will be handled in accordance with Chapter 7 of the Judicial Branch Contract Manual (see [www.courts.ca.gov/documents/jbcl-manual.pdf](http://www.courts.ca.gov/documents/jbcl-manual.pdf)). Failure of a Bidder to comply with the protest procedures set forth in that chapter will render a protest inadequate and non-responsive, and will result in rejection of the protest. The deadline for the Court to receive a solicitation specifications protest is June 9, 2014 by 3:00 PM. Protests should be sent to: [rfp@sanmateocourt.org](mailto:rfp@sanmateocourt.org), Subject Line: Records Destruction RFB.

**ATTACHMENT "A"**  
**STATEMENT OF SERVICES AND MATERIALS TO BE PROVIDED**

In consideration for payment as specified in Exhibit B, Contractor shall provide documents destruction services for the Court as described below:

**1. Definition of Materials to be Destroyed**

Court records that are to be destroyed under this Agreement include all court materials in the form of paper documents, film, disks, tapes, etc.

**2. Pick up Sites**

Contractor pick up of court records to be destroyed on a scheduled and an on-call basis from several Court facilities.

Hall of Justice, 400 County Center, Redwood City, CA

Traffic and Small Claims Annex, 500 County Center, Redwood City, CA

Youth Services Center, Court Clerk's Office, 222 Paul Scannel Road, San Mateo, CA

San Mateo Courthouse, 800 N. Humboldt, San Mateo, CA

South San Francisco Courthouse, 1050 Mission Road, South San Francisco, CA

Records Center, 3345 Edison Way, Menlo Park, CA

**3. Service Frequency**

Contractor shall pick up materials as scheduled based on location as well as on a call-in basis with requests made either by telephone, e-mail or fax.

**4. Equipment to be Provided**

Contractor will supply to Court upon request the following equipment, the cost of which is included in the fee for services as stated herein:

- a) Blue 96 gallon lockable 2 wheel carts
- b) Pallets to be provided for multiple box destruction
- c) Other equipment as necessary to facilitate document destruction, including but not limited to:
  - 1) Gray lockable security console with interior nylon bag  
Approximate size – 20”(W) x 20” (L) x 37” (Height)
  - 2) Light gray Ply-trux with lockable top (6 wheels)  
Approximate size – 28 ½” (W) x 43 ½” (L) x 37 ½” (Height)
  - 3) Dumpsters (to be used for high volume documents destruction)

**5. Certificate of Destruction**

- a) Documents picked up from the court are to be properly destroyed such that the contents of documents are unreadable (either criss-cut shredding or pulped or other method of destruction as approved by the court). The method of destruction must be described in the vendor's proposal with samples).
- b) Documents must be destroyed within 48 hours of pick-up.
- c) Contractor will include with their monthly invoice a certification that the items picked up that month were destroyed including the date of destruction. (Please provide a sample of your Certificate of Destruction in your proposal).

**6. Materials for Shredding**

Materials provided by the Court for destruction by Contractor shall be placed in containers provide by Contractor or in palletized boxes (see Section 4 above).

**ATTACHMENT B: COURT STANDARD TERMS AND CONDITIONS**  
**GENERAL TERMS AND CONDITIONS**

**1. Contractor Certification Clauses**

**1.1 Representations and Warranties.** Contractor certifies that the following representations and warranties are true:

- (A) *Authority.* Contractor has authority to enter into and perform its obligations under this Agreement, and Contractor's signatory has authority to bind Contractor to this Agreement. This Agreement constitutes a valid and binding obligation of Contractor, enforceable in accordance with its terms. Contractor is qualified to do business and in good standing in the State of California.
- (B) *Not an Expatriate Corporation.* Contractor is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code section 10286.1, and is eligible to contract with the COURT.
- (C) *Sales and Use Tax Collection.* Contractor collects and remits sales and use taxes as and to the extent required under the Revenue and Taxation Code.
- (D) *No Gratuities.* Contractor has not directly or indirectly offered or given any gratuities (in the form of entertainment, gifts, or otherwise), to any Judicial Branch Personnel with a view toward securing this Agreement or securing favorable treatment with respect to any determinations concerning the performance of this Agreement.
- (E) *No Conflict of Interest.* Contractor has no interest that would constitute a conflict of interest under Public Contract Code sections 10365.5, 10410 or 10411; Government Code sections 1090 et seq. or 87100 et seq.; or California Rules of Court, rule 10.103 or 10.104, which restrict employees and former employees from contracting with Judicial Branch Entities.
- (F) *No Interference with Other Contracts.* To the best of Contractor's knowledge, this Agreement does not create a material conflict of interest or default under any of Contractor's other contracts.
- (G) *No Litigation.* No suit, action, arbitration, or legal, administrative, or other proceeding or governmental investigation is pending or, to Contractor's knowledge, threatened against or affecting Contractor or Contractor's business, financial condition, or ability to perform this Agreement, except any suit, action, arbitration, proceeding, or investigation that individually or in the aggregate with others will not or would not have a material adverse effect on Contractor's business, the validity or enforceability of this Agreement, or Contractor's ability to perform this Agreement.
- (H) *Compliance with Laws Generally.* Contractor complies in all material respects with all laws, rules, and regulations applicable to Contractor's business and services, and pays all undisputed debts when they come due.
- (I) *Work Eligibility.* All personnel assigned to perform this Agreement are able to work legally in the United States and possess valid proof of work eligibility.
- (J) *Drug Free Workplace.* Contractor provides a drug-free workplace as required by California Government Code sections 8355 through 8357.
- (K) *No Harassment.* 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, and Contractor takes all reasonable steps to prevent harassment from occurring.
- (L) *Non-discrimination.* Contractor complies with the federal Americans with Disabilities Act (42 U.S.C. 12101 et seq.), and California's Fair Employment and Housing Act (Government Code sections 12990 et seq.) and associated regulations (Code of Regulations, title 2, sections 7285 et seq.). Contractor does not unlawfully discriminate against any employee or applicant for employment because of age (40 and over), ancestry, color, creed, disability (mental or physical) including HIV and AIDS, marital or domestic partner status, medical condition (including cancer and genetic characteristics), national origin, race, religion, request for family and medical care leave, sex (including gender and gender identity), and sexual orientation. Contractor has notified in writing each labor organization with which Contractor has a collective bargaining or other agreement of Contractor's obligations of non-discrimination.
- (M) *Special Provisions regarding Domestic Partners, Spouses, and Gender Discrimination.* If this Agreement provides for total Compensation of more than \$100,000, Contractor is in compliance with Public Contract Code section 10295.3, which, subject to specified exceptions, generally prohibits discrimination in the provision of benefits between employees with spouses and employees with domestic partners, or discriminates between employees with spouses or domestic partners of a different sex and employees with spouses or domestic partners of the same sex, or discriminates between same-sex and different-sex domestic partners of employees

or between same-sex and different-sex spouses of employees.

- (N) *Special Provisions regarding Compliance with National Labor Relations Board Orders.* If this Agreement provides for making any purchase of goods or services from a private entity, except for a purchase of goods by credit card for an amount less than \$2,500 from any one Contractor (but not to exceed in the aggregate \$7,500 per year from the Contractor), no more than one, final unappealable 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. Contractor swears under penalty of perjury that this representation is true.
- (O) *Special Provisions regarding Compliance with the Child Support Compliance Act.* If Contractor is a private entity, and this Agreement provides for Compensation of \$100,000 or more:
- (1) Contractor recognizes the importance of child and family support obligations and fully complies with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and
  - (2) Contractor provides the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
- (P) *Electronic Waste Recycling Act.* If this Agreement provides for the purchase or lease of covered electronic devices under the Electronic Waste Recycling Act of 2003, Public Resources Code sections 42460 et seq., Contractor complies with the requirements of that Act, and Contractor maintains documentation and provides reasonable access to its records and documents that evidence compliance.
- (Q) *Jury Duty.* For actual jury service, Contractor's regular employees receive the amount of their regular pay and benefits for no fewer than five days annually, except to the extent Contractor's policies on jury service provide for that amount to be reduced (i) by any juror fees and costs actually reimbursed, and (ii) pro rata for employees who work less than on a full-time basis.

## 1.2 Covenant as to Representations and Warranties.

Contractor shall cause its representations and warranties to remain true during the Term. Contractor shall promptly notify the COURT if any representation and warranty becomes untrue.

## 2. Indemnity

Contractor shall indemnify and defend (with counsel satisfactory to the COURT's Office of the General Counsel) Judicial Branch Entities and Judicial Branch Personnel against all claims, damages, losses, and expenses, including attorney fees and costs, founded upon (i) Contractor's performance of, or failure to perform, the Services or Contractor's other duties under this Agreement, or (ii) any other breach by Contractor of this Agreement. Contractor's duties of indemnification exclude indemnifying a party for that portion of losses and expenses that are finally determined by a reviewing court to have arisen out of the sole negligence or willful misconduct of the indemnified party.

## 3. Insurance

**3.1 Basic Coverage.** Contractor shall provide and maintain at Contractor's expense the following insurance during the Term:

- A. *Workers Compensation and Employer's Liability.* The policy is required only if Contractor have employees. It must include workers' compensation to meet minimum requirements of the California Labor Code, and it must provide coverage for employer's liability bodily injury at minimum limits of \$1 million per accident or disease;
- B. *Commercial General Liability.* The policy must cover bodily injury and property damage liability, including coverage for the products – completed operations hazard and liability assumed in a contract, personal and advertising injury liability, and contractual liability, at minimum limits of \$1 million per occurrence, combined single limit; and
- C. *Professional Liability.* The policy must cover liability resulting from errors or omissions committed in Contractor's performance of Services under this Agreement, at minimum limits of \$1 million per claim.
- D. *Commercial Automobile Liability.* The policy must cover bodily injury and property damage liability and be applicable to all vehicles used in your performance of Services under this Agreement whether owned, non-owned, leased, or hired. The minimum liability limit must be \$1 million per occurrence, combined single limit.

- 3.2 “Claims Made” Coverage.** If any required insurance is written on a “claims made” form, Contractor shall maintain the coverage continuously throughout the Term, and, without lapse, for three years beyond the termination or expiration of this Agreement and the COURT’s acceptance of all Services provided under this Agreement. The retroactive date or “prior acts inclusion date” of any “claims made” policy must be no later than the date that Services commence under this Agreement.
- 3.3 Umbrella Policies.** Contractor may satisfy basic coverage limits through any combination of basic coverage and commercial umbrella liability insurance.
- 3.4 Aggregate Limits of Liability.** The basic coverage limits of liability may be subject to annual aggregate limits. If this is the case the annual aggregate limits of liability must be at least two times the limits required for each policy, or the aggregate may equal the limits required but must apply separately to this Agreement.
- 3.5 Deductibles and Self-Insured Retentions.** Contractor shall declare to the COURT all deductibles and self-insured retentions that exceed \$100,000 per occurrence. Any increases in deductibles or self-insured retentions that exceed \$100,000 per occurrence are subject to the COURT’s approval. Deductibles and self-insured retentions do not limit Contractor’s liability.
- 3.6 Additional Insured Status.** Contractor shall require Contractor’s commercial general liability insurer, Contractor’s commercial automobile liability insurer, and, if applicable, Contractor’s commercial umbrella liability insurer to name Judicial Branch Entities and Judicial Branch Personnel as additional insureds with respect to liability arising out of Contractor’s Services under this Agreement.
- 3.7 Certificates of Insurance.** Before Contractor begin performing Services, Contractor shall give the COURT certificates of insurance attesting to the existence of coverage, and stating that the policies will not be canceled, terminated, or amended to reduce coverage without 30 or more days’ prior written notice to the COURT. Any replacement certificates of insurance are subject to the approval of the COURT, and, without prejudice to the COURT, Contractor shall not perform work before the COURT approves the certificates.
- 3.8 Qualifying Insurers.** For insurance to satisfy the requirements of this section, all required insurance must be issued by an insurer with an A.M. Best rating of A - or better that is approved to do business in the State of California.
- 3.9 Required Policy Provisions.** Each policy must provide, as follows:

- A. *Insurance Primary; Waiver of Subrogation.* The basic coverage provided is primary and non-contributory with any insurance or self-insurance maintained by Judicial Branch Entities and Judicial Branch Personnel, and the basic coverage insurer waives any and all rights of subrogation against Judicial Branch Entities and Judicial Branch Personnel; and
- B. *Separation of Insureds.* The commercial general liability policy, or, if maintained in lieu of that policy, the commercial umbrella liability policy, applies separately to each insured against whom a claim is made and/or a lawsuit is brought, to the limits of the insurer’s liability.

**3.10 Partnerships.** If Contractor is an association, partnership, or other joint business venture, the basic coverage may be provided by either of the following methods:

- A. *Separate.* Separate insurance policies issued for each individual entity, with each entity included as a named insured or as an additional insured; or
- B. *Joint.* Joint insurance program with the association, partnership, or other joint business venture included as a named insured.

**3.11 Consequences of Lapse.** If required insurance lapses during the Term, the COURT is not required to process invoices after such lapse until Contractor provide evidence of reinstatement that is effective as of the lapse date.

#### **4. Default and Remedies**

**4.1 Default.** A default exists under this Agreement if:

- A. Contractor fails or is unable to meet or perform any of Contractor’s duties under this Agreement, and this failure is not cured within ten (10) days’ following notice of default or is not capable of being cured within this cure period;
- B. Contractor or Contractor’s creditors file a petition as to Contractor’s bankruptcy or insolvency, or Contractor is declared bankrupt, becomes insolvent, makes an assignment for the benefit of creditors, goes into liquidation or receivership, or otherwise loses legal control of its business;
- C. Contractor makes or has made under this Agreement any representation or warranty that is or was incorrect, inaccurate, or misleading;
- D. Any act, condition, or thing required to be fulfilled or performed by Contractor to (i) enable Contractor lawfully to enter into or perform its obligations under this Agreement, (ii) ensure that these obligations are legal, valid, and binding, or

(iii) make this Agreement admissible when required is not fulfilled or performed.

**4.2** Notice. Contractor shall notify the COURT immediately if Contractor defaults, or if a third party claim or dispute is brought or threatened that alleges facts that would constitute a default under this Agreement.

**4.3** Remedies.

A. *Available Remedies.* The COURT may do any of the following:

- (1) Withhold all or any portion of a payment otherwise due to Contractor, and exercise any other rights of setoff as may be provided in this Agreement or any other agreement between a Judicial Branch Entity and Contractor;
- (2) Require Contractor to enter into non-binding mediation;
- (3) Exercise, following notice, the COURT's right of early termination of this Agreement as provided below; and
- (4) Seek any other remedy available at law or in equity.

B. *Remedies Cumulative.* All remedies provided for in this Agreement may be exercised individually or in combination with any other available remedy.

**5. Termination and Cancellation; Effect of Expiration or Termination**

**5.1 Early Termination and Cancellation Rights.**

A. The COURT may terminate this entire Agreement immediately "for cause" if Contractor is in default;

B. The COURT may also cancel delivery immediately of all or any portion of unshipped Goods or limit Contractor's Services, and, proportionately, Contractor's compensation except to reimburse Contractor for its actual costs incurred before expenses arising out of early termination by the COURT, and any direct and indirect expenses incurred by cancellation of Goods in process that are custom made for the COURT), if:

- (1) the COURT determines that having Contractor provide the Services has become infeasible due to changes in applicable laws or regulations; or
- (2) expected or actual funding to compensate Contractor is withdrawn, reduced, or limited.

C. The COURT may terminate this entire Agreement, with or without cause, by giving Contractor 30 days' notice.

D. This entire Agreement will terminate immediately without further action of the parties upon the death, or temporary or permanent incapacity, of a natural person who is a party to this Agreement or a general partner of a partnership that is a party to this Agreement.

**5.2 Effect of Expiration and Early Termination; Survival.**

A. Upon the Termination Date:

- (1) The COURT shall be released from compensating Contractor for Services, other than those Contractor satisfactorily performed before the Termination Date, and for any indirect costs.
- (2) Without prejudice to the COURT, Contractor shall be released from performing Services.

B. All provisions of this Attachment "C" will survive the expiration or termination of this Agreement, except for section 1 and promises regarding the maintenance of insurance in section 3 (other than section 3.2, which will also survive).

**6. Assignment and Subcontracting; Successors**

**6.1 Permitted Assignments and Subcontracts.**

A. Neither party may assign or subcontract its rights or duties under this Agreement, except as follows:

- (1) The COURT may assign the COURT's rights and duties to any Judicial Branch Entity. The COURT shall notify Contractor in writing within 30 days following the assignment.
- (2) Either party may assign its rights and duties or subcontract portions of this Agreement to a third party if the non-assigning party gives advance written consent to the assigning party. Consent may be withheld for any reason or no reason. If a non-assigning party does consent, the consent will take effect only if there is a written agreement between the assigning or subcontracting party and all assignees and subcontractors, stating the assignees and subcontractors:
  - (a) are jointly and severally liable to the non-assigning party for performing the duties in this Agreement of the assigning/subcontracting party;
  - (b) affirm the rights granted in this Agreement to the non-assigning party;

- (c) make the representations and warranties made by the assigning/subcontracting party in this Agreement; and
- (d) appoint the non-assigning party an intended third party beneficiary under the written agreement with the assigning/subcontracting party.

B. No assignment or subcontract will release either party of its duties under this Agreement.

**6.2 Successors.** This Agreement binds the parties as well as their heirs, successors, and assignees.

## 7. Notices

Notices under this Agreement must be in writing. Notices may be delivered in person, via a reputable express carrier, or by registered or certified mail (postage pre-paid). Notice is effective on receipt; however, any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified will be treated as effective on the first day that the notice was refused, unclaimed, or deemed undeliverable. Notices must be addressed to the individuals as specified in Section 5 of the Contract for Services above.

## 8. Miscellaneous Provisions; Interpretation

**8.1 Independent Contractor.** Contractor is an independent contractor to the COURT. No employer-employee, partnership, joint venture, or agency relationship exists between Contractor and the COURT.

**8.2 Special Provisions regarding DVBE Participation Certification.** If Contractor made a commitment to achieve disabled veterans business enterprise participation, Contractor shall within 60 days of receiving final payment under this Agreement (or within such other time period as may be specified elsewhere in this Agreement) certify in a report to the COURT: (1) the total amount the prime Contractor received under the Agreement; (2) the name and address of any disabled veterans business enterprises (DVBE) that participated in the performance of this Agreement; (3) the amount each DVBE received from the Contractor; (4) that all payments under this Agreement have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation.

### 8.3 Audit and Records

- A. *Audit.* Contractor shall allow the COURT's designees and the COURT to review and audit Contractor's documents and records relating to this Agreement, subject only to a lawyer's duty of confidentiality owed to a represented party. Contractor shall correct errors and deficiencies by

the 20th day of the month following the review or audit.

B. *Ownership.* The COURT is the exclusive owner of all materials collected and produced in connection with the Services. Upon the Termination Date (subject to any mutually agreed period of continuation of Services), or upon the COURT's notice at any time, and subject only to the duty of confidentiality owed to a represented party, Contractor shall give original materials to the COURT or to another party at the COURT's direction. Contractor shall maintain all other materials in an accessible location and condition for a period of not less than four years after the later of:

- (1) Contractor's receipt of final payment under this Agreement; and
- (2) The COURT's resolution with Contractor of the findings of any final audit.

C. *Copies.* Contractor may retain copies of any original documents Contractor provides to the COURT.

### 8.4 Special Provisions regarding Ownership of Results.

A. *Special Provisions regarding Grant Funds.* If this Agreement provides Compensation to Contractor for a project funded through a grant, at the conclusion of the Project, title to all expendable and non-expendable personal property with a value of \$500 or more purchased with COURT funds shall vest, automatically and without further action of the parties, with the COURT. If Contractor provides written certification to the COURT that the property will continue to be used for grant-related purposes and the COURT approves such certification in writing, the COURT may permit title to all such property to remain with Contractor in accordance with the COURT's written instructions. Contractor must await specific written instructions from the Project Manager regarding any transfer of title or disposition.

B. *Special Provisions regarding Ownership of Certain Equipment.* If Compensation under this Agreement is not through grant funding and this Agreement provides for the provision of equipment purchased or built with COURT funds, title to any equipment purchased or built with COURT funds shall vest in the COURT immediately upon payment of the purchase price. Before delivery to the COURT, Contractor is responsible for loss or damage to the equipment to the extent it results from the negligent act or omission of Contractor or its directors, officers,

employees, or agents, and Contractor shall make all necessary or appropriate repairs and adjustments.

### 8.5 Confidential Information; Publicity.

- A. *Confidential Information.* Contractor agrees to hold in confidence the following confidential information Contractor receives in connection with this Agreement:
- (1) All written information that is marked confidential;
  - (2) All non-public information in electronic form to which Contractor has access; and
  - (3) All verbal information the COURT later confirms in writing is confidential.

The COURT owns the confidential information, and the COURT authorizes Contractor to use it only for purposes of performing this Agreement. For example, Contractor may give confidential information on a “need-to-know” basis to Contractor’s professional services providers, employees and subcontractors who have also executed confidentiality agreements that protect the COURT’s confidential information to the same extent as this section 3.8. Contractor may also disclose the COURT’s confidential information to the extent necessary to comply with law, provided Contractor gives the COURT advance notice.

- B. *Publicity.* Contractor shall not make any public announcement or press release about this Agreement without the prior written approval of the COURT’s Business Services Manager.
- C. *Specific Performance.* Contractor understands a default under this section 3.8(D) will result in irreparable damage for which no adequate remedy will be available. Accordingly, injunctive or other equitable relief is a remedy that the COURT will be entitled to seek.

### 8.6 Special Provisions Applicable to Competitively Bid Contracts; Antitrust Claims.

If Services or Goods under this Agreement were obtained by means of a competitive bid, Contractor shall comply with the requirements of Government Code sections set out below.

- A. 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 pursuant to the bid. Such assignment shall be made and become effective at the time the COURT tenders final payment to the Contractor. (GC 4552)

- B. If the COURT receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the 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 the 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. (GC 4553)
- C. Upon demand in writing by the Contractor, the COURT shall, within one year from such demand, reassign the cause of action assigned under this part if the Contractor has been or may have been injured by the violation of law for which the cause of action arose and (1) the COURT has not been injured thereby, or (2) the COURT declines to file a court action for the cause of action. (GC 4554)

- 8.7 **Choice of Law and Jurisdiction.** California law, without regard to its choice-of-law provisions, governs this Agreement. Jurisdiction for any legal action arising from this agreement shall exclusively reside in state or federal courts located in California, and the parties hereby consent to the jurisdiction of such courts.
- 8.8 **Negotiated Agreement.** This Agreement has been arrived at through negotiation between the parties. Neither party is the party that prepared this Agreement for purposes of construing this Agreement under California Civil Code §1654.
- 8.9 **Amendment and Waiver.** No amendment to this Agreement will be effective unless in writing. A party’s waiver of enforcement of any of this Agreement’s terms or conditions is effective only if in writing. A party’s specific waiver does not constitute a waiver by that party of any earlier, concurrent, or later breach or default.
- 8.10 **Authority and Binding Effect.** Each party warrants it has the authority to enter into this Agreement, it may perform the services provided for in this Agreement, and its representative who signs this Agreement has the authority to do so. Each party warrants this Agreement constitutes a valid and binding obligation of the party, enforceable in accordance with its terms.
- 8.11 **Severability.** If any part of this Agreement is held unenforceable, all other parts remain enforceable.

RFB Title: Court Records Destruction (Shredding)

RFB Number: RFB 14-103

- 8.12** Headings. All headings are for reference purposes only and do not affect the interpretation of this Agreement.
- 8.13** Time of the Essence. Time is of the essence of the Contractor's performance of Services under this Agreement.
- 8.14** Counterparts. This Agreement may be executed in counterparts, each of which is considered an original.

# Defined Terms

As used in this Agreement, the following terms have the indicated meanings:

“**Agreement**” means this Standard Agreement as defined on the Coversheet.

“**Contractor**” means the person or entity defined on the Coversheet.

“**Compensation**” means all remuneration owed to Contractor in respect of Services, including Contractor’s professional fees, direct costs (including filing fees), indirect costs (including overhead expenses), profit, and taxes.

“**Consulting Services**” refers to the services performed under “Consulting Services Agreements,” which are defined in Public Contract Code section 10335.5, substantially, as contracts that:

- (1) Are of an advisory nature;
- (2) Provide a recommended course of action or personal expertise;
- (3) Have an end product that is basically a transmittal of information, either written or oral, that is related to the governmental functions of state agency administration and management and program management or innovation; and
- (4) Are obtained by awarding a contract, a grant, or any other payment of funds for services of the above type.

The end product may include anything from answers to specific questions to design of a system or plan, and includes workshops, seminars, retreats, and conferences for which paid expertise is retained by contract.

"Consulting Services Agreements" do not include:

- (1) Contracts between a state agency and the federal government; or
- (2) Contracts with local agencies, as defined in Revenue and Taxation Code, section 2211, to subvene federal funds for which no matching state funds are required.

“**Coversheet**” refers to the first sheet of this Agreement.

“**DVBE**” is an acronym for disabled veterans’ business enterprise.

“**Effective Date**” has the meaning defined on the coversheet of this Agreement.

“**Expiration Date**” is the last day of the Term, unless the Initial Term is extended by exercise of an option. In that event, the Expiration Date will instead refer to the date specified as the expiration date in the notice of exercise of the option.

“**Initial Term**” is the period commencing on the Effective Date and expiring on the Expiration Date set forth on the coversheet of this Agreement.

“**COURT**” has the meaning defined on the coversheet of this Agreement.

“**Judicial Branch Entity**” means any California superior or appellate court, the Judicial Council of California, the Administrative Office of Courts, and the Habeas Corpus Resource Center; these entities comprise the “Judicial Branch.”

“**Judicial Branch Personnel**” means members, justices, judges, judicial officers, subordinate judicial officers, employees, and agents of a Judicial Branch Entity.

“**Loss,**” as used in the indemnity provisions of this Agreement includes any actions, claims, demands, causes of action, fines, penalties, losses, liabilities, damages, costs, expenses, and attorneys’ fees.

“**Option Period**” means the period, if any, through which this Agreement may be extended by a party.

“**Services**” are Contractor’s duties as defined in Appendix A.

“**Term**” comprises the Initial Term and any Option Period.

“**Termination Date**” has the same meaning as “Expiration Date” unless this Agreement is validly terminated before the applicable Expiration Date, in which case Termination Date means the effective date this Agreement is validly terminated.

**ATTACHMENT C**  
**VENDOR'S ACCEPTANCE OF TERMS AND CONDITIONS**

Mark the Appropriate Choice, below:

\_\_\_\_\_ Proposer accepts *Attachment B – Proposed Contract Terms and Conditions*, without exception.

*or*

\_\_\_\_\_ Proposer proposes exceptions/modifications to *Attachment B – Proposed Contract Terms and Conditions*. Summarize any and all exceptions below. Enclose both a tracked changes “red-lined” version of *the proposed contract terms* which clearly shows each proposed exception/modification, and provide written documentation to substantiate each proposed exception/modification.

Signature: \_\_\_\_\_

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

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

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

**ATTACHMENT D  
DARFUR CONTRACTING ACT CERTIFICATION**

Pursuant to Public Contract Code (PCC) section 10478, if a bidder, proposer or contractor currently or within the previous three years has had business activities or other operations outside of the United States, it must either (i) certify that it is not a “scrutinized company” as defined in PCC 10476, or (ii) receive written permission from the Court to submit a bid or proposal.

To submit a bid or proposal to the Court, you must complete **ONLY ONE** of the following three paragraphs. To complete paragraph 1 or 2, simply check the corresponding box. To complete paragraph 3, check the corresponding box **and** complete the certification for paragraph 3.

1. We do not currently have, and we have not had within the previous three years, business activities or other operations outside of the United States.

**OR**

2. We are a “scrutinized company” as defined in PCC 10476, but we have received written permission from the [Court/HCRC/AOC] to submit a bid or proposal pursuant to PCC 10477(b). A copy of the written permission from the [Court/HCRC/AOC] is included with our bid or proposal.

**OR**

3. We currently have, or we have had within the previous three years, business activities or other operations outside of the United States, but we certify below that we are not a “scrutinized company” as defined in PCC 10476.

**CERTIFICATION FOR PARAGRAPH 3:**

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY, that I am duly authorized to legally bind the Vendor/bidder to the clause in paragraph 3. This certification is made under the laws of the State of California.

Company Name :	Federal ID Number:
By (Authorized Signature)	
Printed Name and Title of Person Signing:	
<i>Date Executed:</i>	<i>Executed in the County of _____ in the State of _____</i>

**ATTACHMENT E  
CONTRACTOR CERTIFICATION**

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

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

By (Authorized Signature)	<i>Date:</i>
Printed Name and Title of Person Signing:	

**Please list all contracts with courts or governments or other governmental agencies during the two years preceding submission of this proposal:**

- 1.
- 2.
- 3.