

# REQUEST FOR PROPOSALS

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***SUPERIOR COURT OF CALIFORNIA, COUNTY OF KERN***

**REGARDING:**

*Alternative Dispute Resolution Services  
RFP Number DRPA072015*

**PROPOSALS DUE:**

*July 6, 2015* NO LATER THAN 3:00 P.M. PACIFIC TIME

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## 1.0 BACKGROUND INFORMATION

- 1.1 The Superior Court of California, County of Kern (hereinafter referred to as “Court”) is soliciting proposals from one or more qualified vendors to provide Dispute Resolution Services as defined in the Dispute Resolution Programs Act (California Business and Professions Code §§465, et seq., (hereinafter referred to as “Act”) and its implementing regulations (Title 16 California Code of Regulations §§3600 et seq., hereinafter referred to as “Regulations”) whose services assist parties in resolving disputes without the necessity of formal judicial proceedings. The Act and Regulations provide for the establishment and funding, at county option, of local dispute resolution programs.
- 1.2 The Court has established and Alternative Dispute Resolution (“ADR”) Department, and ADR Administrative Coordinator, who coordinates and oversees programs funded by the Act in Kern County. Under the supervision of the Presiding Judge and Court Executive Officer (“CEO”), the ADR Coordinator also works with an ADR Oversight Committee consisting of local mediation providers, members of the judiciary, members of the bar and community representatives. All of these entities work together to provide direction and set priorities for Dispute Resolution Programs Act (“DRPA”) programs in Kern County.
- 1.3 The Court intends to award one or more contracts. The contract term will commence on October 1, 2015 through September 30, 2016 with one option for a six (6) month extension, through March 31, 2017.

## 2.0 TIMELINE FOR THIS RFP

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

EVENT	DATE
RFP issued	May 12, 2015
Deadline for questions	<b>May 26, 2015 AT 5:00 p.m.</b>
<b>MANDATORY</b> Pre-proposal Conference	<b>May 20, 2015 10:00 a.m.</b> at 1415 Truxtun Avenue, 2nd Floor, Judges Conference Room Bakersfield, CA
Questions and answers posted on line	May 28, 2015

EVENT	DATE
Latest date and time proposal may be submitted	<b>July 6, 2015 at 3:00 p.m.</b>
Anticipated interview dates ( <i>estimate only</i> )	Week of July 13, 2015
Evaluation of proposals ( <i>estimate only</i> )	<b>Week of July 20, 2015</b>
Notice of Intent to Award ( <i>estimate only</i> )	August 10, 2015
Negotiations and execution of contract ( <i>estimate only</i> )	September 1, 2015
Contract start date ( <i>estimate only</i> )	October 1, 2015
Contract end date ( <i>estimate only</i> )	Initial term ends 9/30/2016. The option terms end 3/31/2017.

### 3.0 DESCRIPTION OF SERVICES AND DELIVERABLES

The Court seeks the services of a person(s) or entity(s) with expertise in mediating court cases in the areas of civil law, family law, probate and juvenile cases. The successful vendor(s) will provide a Dispute Resolution Program that meets the Court's specific Goals, Objectives and Priorities as described in Attachment 2 of this RFP. Collaboration among service providers is encouraged, therefore joint or tiered proposals will be considered. Applicants may provide proposals for one or more or all of the primary case categories.

- 3.1 Civil (Metro): Provide sufficient mediators to mediate civil cases emanating from the Limited Civil courtrooms in the Metropolitan Division including Small Claims, Limited Civil, Unlawful Detainers and Harassments for an estimated total of 750 cases annually.
- 3.2 Family Law and Probate (Metro): Provide sufficient mediators to mediate in the Metropolitan Division Probate and Family Law Departments. The total mediated cases estimated for Probate and Family Law is 500 annually.
- 3.3 VORP: Located at Metro Juvenile, VORP, or the Victim Offenders Reconciliation Program, will provide mediation in Juvenile matters at the direction of the Court. It is estimated that there are 25 mediations annually.
- 3.4 Regional Civil: Provide Small Claims mediation services to mediate Small Claims and Unlawful Detainers in the Mojave, Delano, and Shafter branches total 150 cases annually.

- 3.5 The vendor(s) will provide the following deliverables, as directed by the Act, Regulations, and the Court:
- 3.5.1 Dispute resolution services as described above;
  - 3.5.2 General follow up survey information collected from disputants served by the program per California Code of Regulations, Title 16, Chapter 36; and
  - 3.5.3 Monthly activity reports per California Business and Professions Code §471.5.;
    - Annually provide statistical data regarding the operating budget;
    - Quarterly, provide the number of referrals, categories or types of cases referred to the program;;
    - Quarterly, provide the number of persons utilizing the process more than once;
    - Quarterly, provide the duration of and the estimated costs of the hearings conducted by the programs;
    - Quarterly, provide the nature of the disputes resolved; ;
    - Quarterly, provide the number of disputants served by the program;
    - Quarterly, provide the number of partial and/or complete agreements reached in mediation; and,
    - Quarterly, provide the rates of compliance;
  - 3.5.4 Quarterly evaluation meetings – review vendors’ adherence to and advancement of plans, (Act) goals, with the chair of the ADR Committee, ADR Administrator, and Administrative Coordinator.

**4.0 RFP ATTACHMENTS**

The following attachments are included as part of this RFP:

ATTACHMENT	DESCRIPTION
Attachment 1: Administrative Rules Governing RFPs (Non-IT Services)	These rules govern this solicitation.
Attachment 2:	Goals, Objectives and Priorities
Attachment 3: Dispute Resolution Programs Act	Business and Professions Code, Chapter 8, Dispute Resolution Programs (California law regarding Dispute Resolution Programs). (“Act”)

Attachment 4 California Code of Regulations	CCR, Division 36, Dispute Resolution Advisory Council “Regulations”
Attachment 5: Standard Terms and Conditions	If selected, the person or entity submitting a proposal (the “Proposer”) must sign an agreement substantially similar to the attached Standard Form agreement.  The minimum contract terms (“Minimum Terms”) are outlined in section 8.1.8 of this RFP.
Attachment 6: Proposer’s Acceptance of Terms and Conditions	On this form, the Proposer must indicate acceptance of the Terms and Conditions or identify exceptions to the Terms and Conditions.  <b>Note: A material exception to a Minimum Term will render a proposal non-responsive.</b>
Attachment 7: General Certifications Form	The Proposer must complete the General Certifications Form and submit the completed form with its proposal.
Attachment 8: Darfur Contracting Act Certification	The Proposer must complete the Darfur Contracting Act Certification and submit the completed certification with its proposal.
Attachment 9: Payee Data Record Form	This form contains information the Court requires in order to process payments and must be submitted with the proposal.
Attachment 10: Bidder DVBE Declaration Form	The Proposer must complete this form only if it wishes to claim the disabled veteran business enterprise incentive associated with this solicitation.
Attachment 11: DVBE Declaration	Each DVBE that will provide goods and/or services in connection with the contract must complete this form. If Proposer is itself a DVBE, it must also complete and sign the DVBE Declaration.

## 5.0 PAYMENT INFORMATION

Payment will be based on the terms and conditions of a fully executed agreement and all attachments and addenda thereto. The Court does not pre-pay for services.

## 6.0 Mandatory Pre-proposal Conference

The Court will hold a mandatory pre-proposal conference on the date identified in the timeline above. The pre-proposal conference will be held at the Court’s offices at 1415 Truxtun Avenue, Bakersfield, CA 93721; the conference will be in the Judges’ Conference Room.

Attendance at the pre-proposal conference is **MANDATORY**. Each Proposer must be certain to check in at the pre-proposal conference, as the attendance list will be used to

ascertain compliance with this requirement. The Court will reject a proposal from any Proposer who did not attend the pre-proposal conference.

## **7.0 SUBMISSIONS OF PROPOSALS**

- 7.1 Proposals should provide straightforward, concise information that satisfies the requirements of the “Proposal Contents” section below. Expensive bindings, color displays, and the like are not necessary or desired. Emphasis should be placed on conformity to the RFP’s instructions and requirements, and completeness and clarity of content.
- 7.2 The Proposer must submit its proposal in two parts, the technical proposal and the cost proposal.
- a. The Proposer must submit **one (1) original and five (5) copies** of the technical proposal. The original must be signed by an authorized representative of the Proposer. The original technical proposal (and the copies thereof) must be submitted to the Court in a single sealed envelope, separate from the cost proposal. The Proposer must write the RFP title and number on the outside of the sealed envelope.
  - b. The Proposer must submit **one (1) original** of the cost proposal. The original must be signed by an authorized representative of the Proposer. The original cost proposal (and the copies thereof) must be submitted to the Court in a single sealed envelope, separate from the technical proposal. The Proposer must write the RFP title and number on the outside of the sealed envelope.
  - c. The Proposer must submit an electronic version of the entire proposal on CD-ROM or USB memory stick/flash drive. The files must be in PDF, Word, or Excel formats only.
- 7.3 Proposals must be delivered by the date and time listed on the coversheet of this RFP to:
- Superior Court of Kern County  
1415 Truxtun Ave Room 212  
Bakersfield, CA 93301  
Attention: Debra C. Ostlund, CPA  
Deputy CEO - Finance
- 7.4 **Late proposals will not be accepted.**
- 7.5 Only written proposals will be accepted. Proposals must be sent by registered or certified mail, courier service (e.g. FedEx), or delivered by hand. Proposals may not be transmitted by fax or email.

## 8.0 PROPOSAL CONTENTS

- 8.1 Technical Proposal. The following information must be included in the technical proposal. A proposal lacking any of the following information may be deemed non-responsive.
- 8.1.1 Proposer Information. The Proposer's name, address, telephone and fax numbers, and federal tax identification number. Note that if the Proposer is a sole proprietor using his or her social security number, the social security number will be required before finalizing a contract.
  - 8.1.2 Designated Representative. Name, title, address, telephone number, and email address of the individual who will act as the Proposer's designated representative for purposes of this RFP.
  - 8.1.3 References. Names, addresses, and telephone numbers of a minimum of five (5) clients for whom the Proposer has conducted similar services. The Court may check references listed by the Proposer.
  - 8.1.4 Key Staff Members. For each key staff member: a resume describing the individual's background and experience, as well as the individual's ability and experience in conducting the proposed activities.
  - 8.1.5 Meeting the Minimum Qualifications. The bidder must state specifically in its Technical Proposal how it will comply with each minimum qualification specified in section 10.0 below. Subject to the Court's right in its complete discretion to waive minor deviations or defects, only those proposals that meet all of the foregoing minimum qualifications shall be considered for a full evaluation and a possible contract award.
  - 8.1.6 Proposed Program and Goals, Objectives and Priorities. Vendor will describe the organization's proposed program and how it will meet the county's Goals, Objectives, and Priorities as described in Attachment 2 for each of the five goals of this RFP.
  - 8.1.7 Project Accomplishments and Methods. Vendor will list the objectives in quantifiable, measurable, and verifiable terms, indicating specifically what the proposed project will strive to accomplish and the methods contemplated for accomplishing the objectives.
  - 8.1.8 Acceptance of the Terms and Conditions. On Attachment 6, the Proposer 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.

If exceptions are identified, the Proposer must also submit (i) a red-lined version of the Terms and Conditions that implements all proposed



changes, and (ii) a written explanation or rationale for each exception and/or proposed change.

Note: A material exception to a Minimum Term will render a proposal non-responsive. The following terms are designated as Minimum Terms:

- Invoicing and Payment (Appendix B, section 2)
- Contractor Certification Clauses (Appendix C, section 1)
- Indemnity (Appendix C, section 2)
- Termination and Cancellation (Appendix C, section 5)
- Assignment and Subcontracting (Appendix C, section 6)
- Special Provisions (Appendix C, sections 8.1 – 8.8)

8.1.9 Certifications, Attachments, and other requirements.

- i. The Proposer must certify that proposer has no interest that would constitute a conflict of interest under California Public Contract Code §§ 10365.5, 10410 or 10411; Government Code §§ 1090 et seq. or 87100 et seq.; or California Rule of Court 10.103 or 10.104, which restricts employees and former employees from contracting with judicial branch entities.
- ii. The Proposer must complete the General Certifications Form (Attachment 7) and submit the completed form with its proposal.
- iii. The Proposer must complete the Darfur Contracting Act Certification (Attachment 8) and submit the completed certification with its proposal.
- iv. If Contractor is a California corporation, limited liability company (“LLC”), limited partnership (“LP”), or limited liability partnership (“LLP”), Contractor must submit proof that Contractor is in good standing in California. If Contractor is a foreign corporation, LLC, LP, or LLP and Contractor conducts or will conduct (if awarded the contract) intrastate business in California, Contractor must submit proof that Contractor is qualified to do business and is in good standing in California. If Contractor is a foreign corporation, LLC, LP, or LLP, and Contractor does not (and will not if awarded the contract) conduct intrastate business in California, Contractor must submit proof that Contractor is in good standing in its home jurisdiction.
- v. The Proposer must complete and sign the Payee Data Record Form (Attachment 9) and submit the completed form with its proposal.

- vi. The Proposer must submit copies of the Proposer's (and any subcontractors') current business licenses, professional certifications, or other credentials as related to the services that will be provided.
- vii. The Proposer must submit proof of financial solvency or stability (e.g., balance sheets and income statements).
- h. Meet the CCR §3608 Grant Application Requirements.
  - “(a) In addition to the requirements of section 468.2 of the Act, all applicants shall also provide the following as part of the application for funding:
    - (1) A description of the applicant's organizational structure, including that of any sponsoring or parent organizations;
    - (2) A description of the proposed geographic area of service, the service population, and the number of persons the applicant will have the capacity to serve on an annual basis;
    - (3) A description of the types of disputes to be handled, the types of dispute resolution services to be offered, and any restrictions to be imposed by the program;
    - (4) A description of any fee schedule to be used;
    - (5) A list of civic groups, social services agencies, governmental entities, and justice system agencies available to accept and make referrals to the applicant;
    - (6) A description of the applicant's plans for publicizing its services to potential referral agencies, courts and justice system agencies, and the public;
    - (7) The applicant's organizational chart, personnel policies, duty statements, and resumes of all professional staff.
    - (8) A statement that in origin staff, recruiting volunteers, or rendering services, the applicant will not discriminate with regard to race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, sexual orientation or age.
  - (b) Pursuant to §470.2 of the California Business and Professions Code, each applicant that shall submit an estimated budget for the grant period. In-kind donations may be reported as anticipated revenue to be derived from sources other than the county revenues generated pursuant to the Act, so long as the

requirements of §3640 of these Regulations are satisfied.”  
[California Code of Regulations, Title 16, Chapter 36.]

**8.2 Cost Proposal.** The following information must be included in the cost proposal.

- i. A detailed line item budget showing total cost of the proposed services.
- ii. A full explanation of all budget line items in a narrative entitled “Budget Justification.”
- iii. A “not to exceed” total for all work and expenses payable under the contract, if awarded.

**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 §§465 et seq. (“B&P”) (Minimum requirements can be met by combining experience, expertise, and resources of vendor and any proposed subcontractors):

**9.0 OFFER PERIOD**

A Proposer's proposal is an irrevocable offer for ninety (90) days following the proposal 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.

**10.0 MINIMUM QUALIFICATIONS**

To be considered for full evaluation and possible award, bidders must first meet the threshold minimum qualification requirements listed in the following table, per California Business and Professions Code.

<b>No.</b>	<b>Minimum Qualifications</b>
1	Compliance with California B&P §§465 et seq., and the applicable rules and regulations of the advisory council (See B&P §467.2, Attachment 4, attached).
2	Demonstrate knowledge of ADR process and its progression in Kern County.
3	Demonstrate experience in providing ADR services within Kern County and cities therein.
4	Demonstrate that its primary purpose is the provision of dispute resolution services, as defined in DRPA and the DRPA Regulations by documenting that a minimum of fifty-one percent (51%) of its estimated annual operating budget is allocated to and expended for such services.
5	A statement verifying its status as required by DRPA as follows: <ul style="list-style-type: none"> <li>• An applicant administered and funded by a county or city must document:</li> </ul>

	<ul style="list-style-type: none"> <li>○ that it is a distinct, identifiable unit of that government; and</li> <li>○ that it has a separate and identifiable annual operating budget.</li> <li>● A non-governmental applicant must certify: <ul style="list-style-type: none"> <li>○ That it is non-partisan; and</li> <li>○ That it is a non-profit corporation or a component of such a corporation with a separate and identifiable annual operating budget; and,</li> <li>○ That it is exempt from federal taxation pursuant to Internal Revenue Code §501(c)(3) or that it has an application for §501©(3) status currently pending before the Internal Revenue Service.</li> </ul> </li> </ul>
6	An estimated annual operating budget reflecting that at least fifty percent (50%) of its anticipated revenue will be derived from sources other than those provided pursuant to DRPA. In-kind donations may be credited toward such other revenues.

## 11.0 EVALUATION OF PROPOSALS

At the time proposals are opened, each proposal will be checked for the presence or absence of the required proposal contents.

Per the Business & Professions Code, “A program shall not be eligible for funding under this chapter unless it meets all of the following requirements:

- (a) Compliance with this chapter and the applicable rules and regulations of the advisory council;
- (b) Provision of neutral persons adequately trained in conflict resolution techniques as required by the rules and regulations promulgated by the advisory council pursuant to Section 471.
- (c) Provision of dispute resolution, on a sliding scale basis, and without cost to indigents.
- (d) Provision that, upon consent of the parties, a written agreement or an award resolving dispute will be issued settling out a settlement of the issues involved in the dispute and the future responsibilities of each party.
- (e) Provision of neutral procedures applicable equally to all participants without any special benefit or consideration given to persons or entities providing funding for the programs.
- (f) Provision that participation in the program is voluntary and that the parties are not coerced to enter dispute resolution.
- (g) Provision of alternative dispute resolution is the primary purpose of the program.

(h) Programs operating by counties that receive funding under this chapter shall be operated primarily for the purposes of dispute resolution, consistent with the purposes of this chapter (B&P §467.2, see Attachment 4).

The proposals will be evaluated to determine the proposal(s) that offers the best value to the Court. The Court will evaluate the proposals on a 100 point scale using the criteria set forth in the table below. Award, if made, will be to the highest-scored proposal.

If a contract will be awarded, the Court will post the intent to award notice at <http://www.kern.courts.ca.gov/home.aspx> (see the Quick information, Procurement / Vendors section of the website).

Although some factors are weighted more than others, all are considered necessary, and a proposal must be technically acceptable in each area to be eligible for award.

With regards to cost, the Court reserves the right, in its sole discretion, to reject any proposal whose price is outside of the competitive range.

<b>CRITERION</b>	<b>MAXIMUM NUMBER OF POINTS</b>
General organizational ability and competence (including management effectiveness and financial soundness)	35
Ability to meet Court Goals, Objectives, and Priorities (including feasibility, creativity and scope of plan)	40
Cost	50
Ability to develop broad financial support (including likelihood of eventually lessening reliance on Court funding)	22
Disabled Veteran Enterprise Incentive	3

## 12.0 INTERVIEWS

The Court may conduct interviews with Proposers to clarify aspects set forth in their proposals or to assist in finalizing the ranking of top-ranked proposals. 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 Proposers for any costs incurred in traveling to or from the interview location. The Court will notify eligible Proposers regarding interview arrangements.

### **13.0 CONFIDENTIAL OR PROPRIETARY INFORMATION**

**PROPOSALS ARE SUBJECT TO DISCLOSURE PURSUANT TO APPLICABLE PROVISIONS OF THE CALIFORNIA PUBLIC CONTRACT CODE AND RULE 10.500 OF THE CALIFORNIA RULES OF COURT.** The Court will not disclose (i) social security numbers, or (ii) balance sheets or income statements submitted by a Proposer that is not a publicly-traded corporation. All other information in proposals will be disclosed in response to applicable public records requests. Such disclosure will be made regardless of whether the proposal (or portions thereof) is marked “confidential,” “proprietary,” or otherwise, and regardless of any statement in the proposal (a) purporting to limit the Court’s right to disclose information in the proposal, or (b) requiring the Court to inform or obtain the consent of the Proposer prior to the disclosure of the proposal (or portions thereof). Any proposal that is password protected, or contains portions that are password protected, may be rejected. Proposers are accordingly cautioned not to include confidential, proprietary, or privileged information in proposals.

### **14.0 DISABLED VETERAN BUSINESS ENTERPRISE (“DVBE”) INCENTIVE**

- 1.1 Qualification for the DVBE incentive is not mandatory. Failure to qualify for the DVBE incentive will not render a proposal non-responsive.
- 1.2 Eligibility for and application of the DVBE incentive is governed by the Court’s DVBE Rules and Procedures. Proposer will receive a DVBE incentive if, in the Court’s sole determination, Proposer has met all applicable requirements. If Proposer receives the DVBE incentive, a number of points will be added to the score assigned to Proposer’s proposal. The number of points that will be added is specified in Section 9 above.
- 1.3 To receive the DVBE incentive, at least 3% of the contract goods and/or services must be provided by a DVBE performing a commercially useful function. Or, for solicitations of non-IT goods and IT goods and services, Proposer may have an approved Business Utilization Plan (“BUP”) on file with the California Department of General Services (“DGS”).
- 1.4 If Proposer wishes to seek the DVBE incentive:
  - Proposer must complete and submit with its proposal the Bidder Declaration (Attachment 6). Proposer must submit with the Bidder Declaration all materials required in the Bidder Declaration.
  - Proposer must submit with its proposal a DVBE Declaration (Attachment 7) completed and signed by each DVBE that will provide goods and/or services in connection with the contract. If Proposer is itself a DVBE, it must also complete and sign the DVBE Declaration (Attachment 7). If Proposer will use DVBE subcontractors, each DVBE subcontractor must complete and sign a DVBE Declaration. **NOTE:** The DVBE Declaration is not required if Proposer will qualify for the DVBE incentive using a BUP on file with DGS.

- 1.5 Failure to complete and submit these forms as required will result in Proposer not receiving the DVBE incentive. In addition, the Court may request additional written clarifying information. Failure to provide this information as requested will result in Proposer not receiving the DVBE incentive.
- 1.6 If this solicitation is for IT goods and services, the application of the DVBE incentive may be affected by application of the small business preference. For additional information, see the Court's Small Business Preference Procedures for the Procurement of Information Technology Goods and Services.
- 1.7 If Proposer receives the DVBE incentive: (i) Proposer will be required to complete a post-contract DVBE certification if DVBE subcontractors are used; (ii) Proposer must use any DVBE subcontractor(s) identified in its proposal unless the JBE approves in writing the substitution of another DVBE; and (iii) failure to meet the DVBE commitment set forth in its proposal will constitute a breach of contract.

**FRAUDULENT MISREPRETATION IN CONNECTION WITH THE DVBE INCENTIVE IS A MISDEMEANOR AND IS PUNISHABLE BY IMPRISONMENT OR FINE, AND VIOLATORS ARE LIABLE FOR CIVIL PENALTIES. SEE MVC 999.9.**

## **15.0 PROTESTS**

Any protests will be handled in accordance with Chapter 7 of the Judicial Branch Contracting Manual (see [www.courts.ca.gov/documents/jbcl-manual.pdf](http://www.courts.ca.gov/documents/jbcl-manual.pdf)). Failure of a Proposer 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 the proposal due date. Protests must be sent to:

Superior Court of Kern County  
1415 Truxtun Ave. Room 212  
Bakersfield, CA 93301  
Attention: Deputy CEO – Finance

**ATTACHMENT 1**  
**ADMINISTRATIVE RULES GOVERNING RFPS**  
**(NON-IT GOODS AND SERVICES)**

**1. COMMUNICATIONS WITH THE JUDICIAL BRANCH ENTITY ( “JBE”) REGARDING THE RFP**

Except as specifically addressed elsewhere in the RFP, Proposers must send any communications regarding the RFP to [TCSolicitation@jud.ca.gov](mailto:TCSolicitation@jud.ca.gov) (the “Solicitations Mailbox”). Proposers must include the RFP Number in subject line of any communication.

**2. QUESTIONS REGARDING THE RFP**

Proposers interested in responding to the RFP may submit questions via email to the Solicitations Mailbox on procedural matters related to the RFP or requests for clarification or modification of the RFP no later than the deadline for questions listed in the timeline of the RFP. 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 Proposer’s 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 JBE’s responses will be made available prior to the proposal due date and time.

**3. ERRORS IN THE RFP**

- A. If, before the proposal due date and time listed in the timeline of the RFP, a Proposer discovers any ambiguity, conflict, discrepancy, omission, or error in the RFP, the Proposer must immediately notify the JBE via email to the Solicitations Mailbox and request modification or clarification of the RFP. Without disclosing the source of the request, the JBE may modify the RFP before the proposal due date and time by releasing an addendum to the solicitation.
- B. If a Proposer fails to notify the JBE of an error in the RFP 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 RFP, 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.

**4. ADDENDA**

- A. The JBE may modify the RFP before the proposal due date and time listed in the timeline of the RFP by issuing an addendum. If an addendum is issued, it will be posted at <http://www.kern.courts.ca.gov/home.aspx> (see the Quick information, Procurement / Vendors section of the website). It is each Proposer’s responsibility to inform itself of any addendum.
- B. If any Proposer determines that an addendum unnecessarily restricts its ability to propose, the Proposer shall immediately notify the JBE via email to the Solicitations Mailbox no later than one day following issuance of the addendum.



**5. WITHDRAWAL AND RESUBMISSION/MODIFICATION OF PROPOSALS**

A Proposer may withdraw its proposal at any time before the deadline for submitting proposals by notifying the JBE 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 JBE no later than the proposal due date and time listed in the timeline of the RFP. Modifications offered in any other manner, oral or written, will not be considered. Proposals cannot be changed or withdrawn after the proposal due date and time listed in the timeline of the RFP.

**6. ERRORS IN THE PROPOSAL**

If errors are found in a proposal, the JBE may reject the proposal; however, the JBE may, at its sole option, correct arithmetic or transposition errors or both. If these corrections result in significant changes in the amount of money to be paid to the Proposer (if selected for the award of the agreement), the Proposer will be informed of the errors and how they were corrected, and given the option to abide by the corrected amount or withdraw the proposal.

**7. RIGHT TO REJECT PROPOSALS**

- A. Before the proposal due date and time listed in the timeline of the RFP, the JBE may cancel the RFP for any or no reason. After the proposal due date and time listed in the timeline of the RFP, the JBE may reject all proposals and cancel the RFP if the JBE 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 JBE.
- B. The JBE may or may not waive an immaterial deviation or defect in a proposal. The JBE's waiver of an immaterial deviation or defect shall in no way modify the RFP or excuse a Proposer from full compliance with RFP specifications. Until a contract resulting from this RFP is signed, the JBE reserves the right to accept or reject any or all of the items in the proposal, to award the contract in whole or in part and/or negotiate any or all items with individual Proposers if it is deemed in the JBE's best interest. A notice of intent to award does not constitute a contract, and confers no right of contract on any Proposer.
- C. The JBE reserves the right to issue similar RFPs in the future. The RFP is in no way an agreement, obligation, or contract and in no way is the JBE or the State of California responsible for the cost of preparing the proposal.
- D. Proposers are specifically directed **NOT** to contact any JBE personnel or consultants for meetings, conferences, or discussions that are related to the RFP at any time between release of the RFP and any award and execution of a contract. Unauthorized contact with any JBE personnel or consultants may be cause for rejection of the Proposer's proposal.

**8. 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 RFP requirements.
- B. Proposals that contain false or misleading statements may be rejected if in the JBE's opinion the information was intended to mislead the evaluation team regarding a requirement of the RFP.
- C. During the evaluation process, the JBE 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.

- D. In the event of a tie, the contract will be awarded to the winner of a single coin toss. The coin toss will be witnessed by two JBE employees. The JBE will provide notice of the date and time of the coin toss to the affected Proposers, who may attend the coin toss at their own expense.

**9. DISPOSITION OF MATERIALS**

All materials submitted in response to the RFP will become the property of the JBE and will be returned only at the JBE's option and at the expense of the Proposer submitting the proposal.

**10. PAYMENT**

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

**11. AWARD AND EXECUTION OF AGREEMENT**

- A. Award of contract, if made, will be in accordance with the RFP to a responsible Proposer submitting a proposal compliant with all the requirements of the RFP and any addenda thereto (including any administrative or technical requirements), except for such immaterial defects as may be waived by the JBE.
- B. A Proposer submitting a proposal must be prepared to use a standard JBE contract form rather than its own contract form.
- C. Upon award of the agreement, the agreement shall be signed by the Proposer in two original contract counterparts and returned, along with the required attachments, to the JBE no later than ten (10) business days of receipt of agreement form or prior to the end of June if award is at fiscal year-end. 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.

**12. FAILURE TO EXECUTE THE AGREEMENT**

Failure to execute the agreement within the time frame required by the JBE 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 JBE may award the agreement to the next qualified Proposer.

**13. NEWS RELEASES**

News releases or other publicity pertaining to the award of a contract may not be issued without prior written approval of the Court Executive Officer.

**14. AMERICANS WITH DISABILITIES ACT**

The JBE 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.

## **ATTACHMENT 2: GOALS, OBJECTIVES AND PRIORITIES**

The Superior Court, County of Kern, has established a program of mediation to serve the Court and its constituents consistent with the requirements of the Dispute Resolution Programs Act of 1986 (hereafter DRPA) (California Business and Professions Code §§465, et seq.). The Act was passed by the Legislature to “provide for the local establishment and funding of informal dispute resolution programs.” The Superior Court will provide a continuum of mediation services through a DRPA funded program.

### Program Goals

- DRPA funding will be utilized to provide mediation services in the Superior Court to facilitate the early resolution of disputes;
- Mediation services will help local county residents and other litigants resolve their disputes in civil, family law, probate and juvenile matters;
- Mediation services help the Superior Court with the timely and efficient disposition of cases;
- DRPA resources will help with efforts to promote the use of and educate prospective litigants about mediation services available to assist them in the early resolution of their disputes.

### Program Objectives

- To build on the success of the Superior Court, County Kern mediation and dispute resolution programs initiated in 2006;
- To develop a cooperative dispute resolution program with local providers for the continued implementation of mediation services in the local courts;
- To coordinate and implement a mediation program that improves the effectiveness of the Superior Court in resolving disputes;
- To maximize the available DRPA funds to continue cost effective and efficient mediation programs for the early resolution of disputes in civil, probate, family law and juvenile matters in the County of Kern.

### Program Priorities

Utilization of DRPA funds and the mediation program priorities will be established by the Superior Court Alternative Dispute Resolution Committee appointed by the Presiding Judge of the Superior Court, County of Kern.

**ATTACHMENT 3:**  
**CALIFORNIA BUSINESS AND PROFESSIONS CODE SECTION 465 et seq**

465. The Legislature hereby finds and declares all of the following:

(a) The resolution of many disputes can be unnecessarily costly, time-consuming, and complex when achieved through formal court proceedings where the parties are adversaries and are subjected to formalized procedures.

(b) To achieve more effective and efficient dispute resolution in a complex society, greater use of alternatives to the courts, such as mediation, conciliation, and arbitration should be encouraged. Community dispute resolution programs and increased use of other alternatives to the formal judicial system may offer less threatening and more flexible forums for persons of all ethnic, racial, and socioeconomic backgrounds. These alternatives, among other things, can assist in the resolution of disputes between neighbors, some domestic disputes, consumer-merchant disputes, and other kinds of disputes in which the parties have continuing relationships. A noncoercive dispute resolution forum in the community may also provide a valuable prevention and early intervention problem-solving resource to the community.

(c) Local resources, including volunteers reflective of the diversity of the community and available public buildings should be utilized to achieve more accessible, cost-effective resolutions of disputes. Additional financial resources are needed to expand, stabilize, and improve existing programs and entities which sponsor alternative dispute resolution.

(d) Courts, prosecuting authorities, law enforcement agencies, and administrative agencies should encourage greater use of alternative dispute resolution techniques whenever the administration of justice will be improved.

(e) Counties should consider increasing the use of alternative dispute resolution in their operations as plans for court reform are developed and implemented.

(f) The Judicial Council should consider, in redrafting or updating any of the official pleading forms used in the trial courts of this state, the inclusion of information on options for alternative dispute resolution.

465.5. It is the intent of the Legislature to permit counties to accomplish all of the following:

(a) Encouragement and support of the development and use of alternative dispute resolution techniques.

(b) Encouragement and support of community participation in the development, administration, and oversight of local programs designed to facilitate the informal resolution of disputes among members of the community.

(c) Development of structures for dispute resolution that may serve as models for resolution programs in other communities.

(d) Education of communities with regard to the availability and benefits of alternative dispute resolution techniques.

(e) Encouragement of courts, prosecuting authorities, public defenders, law enforcement agencies, and administrative agencies to work in cooperation with, and to make referrals to, dispute resolution programs.

At the time that the state assumes the responsibility for the funding of California trial courts, consideration shall be given to the Dispute Resolution Advisory Council's evaluation of the effectiveness of alternative dispute resolution programs and the feasibility of the operation of a statewide program of grants, with the intention of funding alternative dispute resolution programs on a statewide basis.

466. As used in this chapter:

- (a) "Dispute resolution" includes, but is not limited to, mediation, conciliation, and arbitration.
- (b) "Program" means an entity that provides dispute resolution.
- (c) "Advisory Council" means the Dispute Resolution Advisory Council.

467. (a) There is in the Division of Consumer Services of the Department of Consumer Affairs a Dispute Resolution Advisory Council. The advisory council shall complete the duties required by this chapter no later than January 1, 1989.

(b) The advisory council shall consist of seven persons, five of whom shall be appointed by the Governor. One member shall be appointed by the Senate Rules Committee, and one member shall be appointed by the Speaker of the Assembly. At least four of the persons appointed to the advisory council shall be active members of the State Bar of California, and at least four persons appointed to the advisory council shall have a minimum of two years of direct experience in utilizing dispute resolution techniques. The members of the advisory council shall reflect the racial, ethnic, sexual, and geographic diversity of the State of California.

(c) The members of the advisory council shall not receive a salary for their services but shall be reimbursed for their actual and necessary travel and other expenses incurred in the performance of their duties.

467.1. (a) A program funded pursuant to this chapter shall be operated pursuant to contract with the county and shall comply with all of the requirements of this chapter and the rules and regulations of the advisory council.

(b) Counties may establish a program of grants to public entities and nonpartisan nonprofit corporations for the establishment and continuance of programs to be operated under the requirements of this chapter and the standards developed by the advisory council. The board of supervisors of a county in which, because of the county's size, the distribution authorized by Section 470.5 is insufficient to establish a county program may enter into an agreement with the board of supervisors of one or more other such counties to establish a program authorized by this chapter on a regional basis.

467.2. A program shall not be eligible for funding under this chapter unless it meets all of the following requirements:

- (a) Compliance with this chapter and the applicable rules and regulations of the advisory council.
- (b) Provision of neutral persons adequately trained in conflict resolution techniques as required by the rules and regulations promulgated by the advisory council pursuant to Section 471.
- (c) Provision of dispute resolution, on a sliding scale basis, and

without cost to indigents.

(d) Provision that, upon consent of the parties, a written agreement or an award resolving a dispute will be issued setting out a settlement of the issues involved in the dispute and the future responsibilities of each party.

(e) Provision of neutral procedures applicable equally to all participants without any special benefit or consideration given to persons or entities providing funding for the programs.

(f) Provision that participation in the program is voluntary and that the parties are not coerced to enter dispute resolution.

(g) Provision of alternative dispute resolution is the primary purpose of the program.

(h) Programs operated by counties that receive funding under this chapter shall be operated primarily for the purposes of dispute resolution, consistent with the purposes of this chapter.

467.3. Programs funded pursuant to this chapter shall provide persons indicating an intention to utilize the dispute resolution process with a written statement prior to the dispute resolution proceeding, in language easy to read and understand, stating all of the following:

(a) The nature of the dispute.

(b) The nature of the dispute resolution process.

(c) The rights and obligations of the parties, including, but not limited to, all of the following:

(1) The right to call and examine witnesses.

(2) The right of the parties to be accompanied by counsel, who may participate as permitted under the rules and procedures of the program.

(d) The procedures under which the dispute resolution will be conducted.

(e) If the parties enter into arbitration, whether the dispute resolution process will be binding.

467.4. (a) An agreement resolving a dispute entered into with the assistance of a program shall not be enforceable in a court nor shall it be admissible as evidence in any judicial or administrative proceeding, unless the consent of the parties or the agreement includes a provision that clearly states the intention of the parties that the agreement or any resulting award shall be so enforceable or admissible as evidence.

(b) The parties may agree in writing to toll the applicable statute of limitations during the pendency of the dispute resolution process.

467.5. Notwithstanding the express application of Chapter 2 (commencing with Section 1115) of Division 9 of the Evidence Code to mediations, all proceedings conducted by a program funded pursuant to this chapter, including, but not limited to, arbitrations and conciliations, are subject to Chapter 2 (commencing with Section 1115) of Division 9 of the Evidence Code.

467.6. Each program shall maintain those statistical records required by Section 471.5, and as may be required by the county. The records shall maintain the confidentiality and anonymity of the parties.

467.7. (a) Unless the parties have agreed to a binding award, nothing in this chapter shall be construed to prohibit any person who voluntarily enters the dispute resolution process from revoking his or her consent, withdrawing from dispute resolution, and seeking judicial or administrative redress.

(b) In cases in which a criminal complaint has been filed by a prosecutor, other than for an infraction, the advice of counsel shall be obtained before any dispute resolution process is initiated. Nothing in this subdivision shall be construed to preclude a defendant from knowingly and voluntarily waiving the right to counsel. A defendant who indicates a desire to waive the right to counsel shall be encouraged to consult with the public defender or private counsel before waiving that right.

468. All funds available to a county for the purposes of this chapter shall be utilized for projects proposed by eligible programs.

468.1. Programs shall be selected for funding by a county from the applications submitted therefor.

468.2. Applications submitted for funding shall include, but need not be limited to, all of the following information:

(a) Evidence of compliance with Sections 467.2, 467.3, and 467.4.

(b) A description of the proposed community area of service, cost of the principal components of operation, and any other characteristics, as determined by rules of the advisory council.

(c) A description of available dispute resolution services and facilities within the defined geographical area.

(d) A description of the applicant's proposed program, by type and purpose, including evidence of community support, the present availability of resources, and the applicant's administrative capability.

(e) A description of existing or planned cooperation between the applicant and local human service and justice system agencies.

(f) A demonstrated effort on the part of the applicant to show the manner in which funds that may be awarded under this program may be coordinated or consolidated with other local, state, or federal funds available for the activities described in Sections 467.2, 467.3, and 467.4.

(g) An explanation of the methods to be used for selecting and training mediators and other facilitators used in the dispute resolution process.

(h) Such additional information as may be required by the county.

468.3. Data supplied by each applicant shall be used to assign relative funding priority on the basis of criteria developed by the advisory council. The criteria may include, but shall not be limited to, all of the following, in addition to the criteria set forth in Section 468.2:

(a) Unit cost, according to the type and scope of the proposed program.

(b) Quality and validity of the program.

(c) Number of participants who may be served.

(d) Administrative capability.

(e) Community support factors.

469. Upon the approval of the county, funds available for the purposes of this chapter shall be used for the costs of operation of approved programs. Not more than 10 percent of funds available for the purposes of this chapter shall be used to finance the administration of the program by a county with a population of 500,000 or more persons, and no more than 20 percent may be so used if its population is less than that amount. All moneys allocated for the purposes of this chapter shall be apportioned and distributed to programs in the county, taking into account the relative population and needs of a community as well as the availability of existing dispute resolution facilities offering alternatives to the formal judicial system. If any program receives funding from any other county fee enhancements collected for the purpose of funding alternative dispute resolution services, the county shall consider that fact in determining the appropriate level of funding for a particular program. The methods of payment or reimbursement for dispute resolution costs shall be specified by the county and may vary among programs. All such arrangements shall conform to the regulations of the advisory council.

470. A county may accept and disburse funds from any public or private source for the purposes of this chapter.

470.1. (a) A grant recipient may accept funds from any public or private source for the purposes of this chapter.

(b) A county and its representatives may inspect, examine, and audit the fiscal affairs of the programs and the projects funded under this chapter.

(c) Programs shall, whenever reasonably possible, make use of public facilities at free or nominal costs.

470.2. A county's share of the funding pursuant to this chapter shall not exceed 50 percent of the approved estimated cost of the program.

470.5. (a) On and after January 1, 2006, as described in Section 68085.1 of the Government Code, the Administrative Office of the Courts shall make monthly distributions from superior court filing fees for the support of dispute resolution programs under this chapter in each county that has acted to establish a program. The amount distributed in each county shall be equal to the following:

(1) From each first paper filing fee collected by the court as provided under Section 70611 or 70612, subdivision (a) of Section 70613, subdivision (a) of Section 70614, or Section 70670 of the Government Code, and each first paper or petition filing fee collected by the court in a probate matter as provided under Section 70650, 70651, 70652, 70653, or 70655 of the Government Code, the same amount as was required to be collected for the support of dispute resolution programs in that county as of December 31, 2005, when a fee was collected for the filing of a first paper in a civil action under Section 26820.4 of the Government Code.

(2) From each first paper filing fee in a limited civil case collected by the court as provided under subdivision (b) of Section 70613 or subdivision (b) of Section 70614 of the Government Code, and



each first paper or petition filing fee collected by the court in a probate matter as provided under Section 70654, 70656, or 70658 of the Government Code, the same amount as was required to be collected for the support of dispute resolution programs in that county as of December 31, 2005, when a fee was collected for the filing of a first paper in a civil action under Section 72055 of the Government Code where the amount demanded, excluding attorney's fees and costs, was ten thousand dollars (\$10,000) or less.

(b) Distributions under this section shall be used only for the support of dispute resolution programs authorized by this chapter. The county shall deposit the amounts distributed under this section in an account created and maintained for this purpose by the county. Records of these distributions shall be available for inspection by the public upon request.

(c) After January 1, 2006, a county that does not already have a distribution from superior court filing fees under this section and that establishes a dispute resolution program authorized by this chapter may approve a distribution under this section. A county that already has a distribution under this section may change the amount of the distribution. The total amount to be distributed for the support of dispute resolution programs under this section may not exceed eight dollars (\$8) per filing fee.

(d) The county may make changes under subdivision (c) to be effective January 1 or July 1 of any year, on and after January 1, 2006. The county shall provide the Administrative Office of the Courts with a copy of the action of the board of supervisors that establishes the change at least 15 days before the date that the change goes into effect.

470.6. A county may carry over moneys received from distributions under Section 470.5 and from the fees for the support of dispute resolution programs authorized by this chapter that were added to fees for filing a first paper in a civil action in superior court under the laws in effect before January 1, 2006.

471. (a) The advisory council shall adopt rules and regulations to effectuate the purposes of this chapter, including, but not limited to, guidelines to be used by the programs for the recruitment and training of persons conducting dispute resolution, and provisions for periodic monitoring and evaluation of the programs funded pursuant to this chapter. The advisory council shall establish guidelines to evaluate the performance of participating programs, which shall include analysis of court caseload reduction, cost savings to the state, the efficacy of the programs, and the feasibility of operation of a statewide program of grants at the time the state assumes the responsibility for the funding of trial courts.

(b) The advisory council shall adopt temporary guidelines within six months of its initial meeting. The adoption of these temporary guidelines shall not be subject to the procedures specified in Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code.

Upon the adoption of the temporary guidelines, counties may award grants pursuant to this chapter. Programs funded pursuant to this chapter shall comply with the temporary guidelines, the requirements of this chapter and, when adopted, the formal rules and regulations.

(c) Formal rules and regulations implementing this chapter shall

be adopted pursuant to Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code and, upon adoption, shall supersede the temporary guidelines adopted pursuant to subdivision (b).

(d) On and after January 1, 1989, or such earlier date as the advisory council completes its duties pursuant to this chapter, the Division of Consumer Services of the Department of Consumer Affairs shall periodically review the effectiveness of the rules and regulations adopted pursuant to this chapter and adopt changes thereto as necessary. It also shall monitor and evaluate the programs funded pursuant to this chapter as to their compliance with those rules and regulations.

(e) The Director of Consumer Affairs shall administer and enforce this chapter and the rules and regulations adopted pursuant to this chapter, and in so doing may exercise any power conferred under Chapter 4 (commencing with Section 300).

471.3. The rules and regulations adopted by the advisory council pursuant to Section 471 shall be formulated to promote statewide uniformity with the guidelines contained in those rules and regulations.

471.5. Each program funded pursuant to this chapter shall annually provide the county with statistical data regarding its operating budget; the number of referrals, categories, or types of cases referred to the program; the number of persons served by the program; the number of disputes resolved; the nature of the disputes resolved; rates of compliance; the number of persons utilizing the process more than once; the duration of and the estimated costs of the hearings conducted by the programs; and any other information that the county may require. The data shall maintain the confidentiality and anonymity of the persons employing the dispute resolution process.

**ATTACHMENT 4:  
CALIFORNIA CODE OF REGULATIONS  
TITLE 16, DIVISION 36**

**§ 3600. Terms and Definitions.**

As used in the chapter:

- (a) “Act” means the Dispute Resolution Programs Act of 1986, commencing with Section 465 of the California Business and Professions Code.
- (b) “Code” means the California Business and Professions Code.
- (c) “Department of Consumer Affairs” means the California State Department of Consumer Affairs, located at 1020 N Street, Room 504, Sacramento, California 95814.
- (d) “Regulations” refers to California Code of Regulations, Title 16, Chapter 36, commencing with Section 3600.

Note: Authority cited: Section 471, Business and Professions Code. Reference: Section 471.3, Business and Professions Code.

**§ 3601. Application of Regulations.**

These Regulations apply to dispute resolution services provided pursuant to the Act, to counties that fund dispute resolution programs pursuant to the Act, and to the dispute resolution programs that receive funding pursuant to the Act. These Regulations supplement the requirements of the Act, and must be read, interpreted and applied in conjunction with the Act.

Note: Authority cited: Section 471, Business and Professions Code. Reference: Sections 471 and 471.3, Business and Professions Code.

**§ 3602. Dispute Resolution Services.**

(a) Dispute resolution services refers to a variety of dispute resolution processes and techniques, both proven and experimental, which are designed to assist parties in resolving disputes without the necessity of formal judicial proceedings, and include:

(1) Conciliation, which means a process of independent communications between the disputants and a neutral person.

(2) Mediation, which means a process in which a neutral person(s) facilitates communication between the disputants to assist them in reaching a reconciliation, settlement, or other understanding.

(3) Arbitration, which means a voluntary adjudicative process in which a neutral person conducts a hearing, receives spoken and/or written evidence from the disputants and their witnesses, and renders a decision that may be binding or nonbinding depending on the consent of the disputants.

(b) “Collateral services,” refers to screening and intake of disputants, preparing for and conducting dispute resolution proceedings, drafting agreements and/or awards, providing information and/or referral services, and conducting follow-up surveys.

Note: Authority cited: Section 471, Business and Professions Code. Reference: Sections 467.2, 467.3, 467.7, 468.2(c) and (g), 471, 471.3 and 471.5, Business and Professions Code.

**§ 3605. Eligibility for Funding.**

Every applicant for funding shall comply with all relevant provisions of the Act and shall also meet the eligibility requirements described in this section. Evidence of compliance with each of

these requirements shall be submitted to the Board of Supervisors or its designee at the time of application.

(a) Organizational Status.

(1) Every applicant for funding must certify that its status is one of the following:

(A) A distinct, definitive unit of a governmental entity with a separate and identifiable annual budget;

(B) A nonpartisan, nonprofit corporation; or

(C) A distinct, definitive component or project of a nonpartisan, nonprofit corporation with a separate and identifiable annual budget.

(2) A nonpartisan, nonprofit corporation or component thereof must also provide evidence that it:

(A) is exempt from federal taxation under Internal Revenue Code Section 501(c)(3), or

(B) has an application for section 501(c)(3) status currently pending before the Internal Revenue Service.

(b) Primary Purpose.

To satisfy the primary purpose requirement of section 467.2(g) of the Act, a minimum of 51% of the estimated budget for the grant period of any program, project or entity shall be encumbered for the provision of dispute resolution services, as defined in Section 3602 of these Regulations.

(c) Community Support.

Each applicant for funding shall submit letters of support from community organizations, judicial and legal system representatives, administrative agencies, or other appropriate public service organizations in the proposed area of service. Such letters should, if appropriate, attest to the organization's willingness to make referrals to the applicant.

Note: Authority cited: Section 471, Business and Professions Code. Reference: Sections 467.2, 468, 468.2, 470.2, 471 and 471.3, Business and Professions Code.

### **§ 3608. Grant Application Requirements.**

(a) In addition to the requirements of Section 468.2 of the Act, all applicants shall also provide the following as part of their application for funding:

(1) A description of the applicant's organizational structure, including that of any sponsoring or parent organizations;

(2) A description of the proposed geographic area of service, the service population, and the number of persons the applicant will have the capacity to serve on an annual basis;

(3) A description of the types of disputes to be handled, the types of dispute resolution services to be offered, and any restrictions to be imposed by the program;

(4) A description of any fee schedule to be used;

(5) A list of civic groups, social services agencies, governmental entities, and justice system agencies available to accept and make referrals to the applicant;

(6) A description of the applicant's plans for publicizing its services to potential referral agencies, courts and justice system agencies, and the public;

(7) The applicant's organizational chart, personnel policies, duty statements, and resumes of all professional staff.

(8) A statement that in hiring staff, recruiting volunteers, or rendering services, the applicant will not discriminate with regard to race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, sexual orientation or age.

(b) Pursuant to Section 470.2 of the Code, each applicant shall submit an estimated budget for the grant period. In-kind donations may be reported as anticipated revenue to be derived from

sources other than the county revenues generated pursuant to the Act, so long as the requirements of Section 3640 of these Regulations are satisfied.

Note: Authority cited: Section 471, Business and Professions Code. Reference: Sections 467.1, 467.2, 468, 468.1, 468.2, 468.3, 470.2 and 471.3, Business and Professions Code.

**3609. Coordination with Department of Consumer Affairs.**

At the time of submission of the application to the Board of Supervisors or its designee, every applicant shall forward to the Department of Consumer Affairs a copy of the application and supporting documentation for its request for funding pursuant to the Act.

Note: Authority cited: Section 471, Business and Professions Code. Reference: Sections 471 and 471.3, Business and Professions Code.

**§ 3611. Voluntary Participation by Criminal Defendants.**

For the purposes of satisfying the eligibility requirements for funding, applicants who provide dispute resolution services to accused persons or defendants in pending criminal proceedings shall not be deemed to violate Section 467.2(f) of the Code so long as Section 467.7(b) of the Code is satisfied.

Note: Authority cited: Section 471, Business and Professions Code. Reference: Sections 467.2(f), 467.7(b) and 471.3, Business and Professions Code.

**§ 3615. Budgetary Allocations.**

For the duration of the grant period, a minimum of 51% of the Grantee's budget for the grant period must be allocated and expended for dispute resolution services, as defined in these Regulations, which may include collateral services, as defined in these Regulations.

Note: Authority cited: Section 471, Business and Professions Code. Reference: Sections 467.1, 468, 469, 470.1(b), 470.2 and 471.5, Business and Professions Code.

**§ 3618. Fees for Service.**

(a) Under the Act and these Regulations, a Grantee is not required to charge fees to disputants for dispute resolution services. However, if a Grantee charges fees for its dispute resolution services, such fees must be assessed on a sliding scale basis, according to income and financial need. The Grantee shall fully explain to all disputants, in advance of the services being furnished, the basis for and the amount of any fees and other costs that may be charged.

(b) A Grantee may not assess any fees upon disputants who are indigent. "Indigent" includes persons whose income and resources meet the financial qualifications for federal Supplemental Security Income benefits.

(c) A Grantee is prohibited from charging the following fees:

- (1) contingent fees;
- (2) fees calculated on the basis of the amount in controversy; or
- (3) fees based on the failure or success of the disputants to agree to resolution terms previously designated by one or more of the disputants.

Note: Authority cited: Section 471, Business and Professions Code. Reference: Sections 467.2(c), 470.1(a) and 471.3, Business and Professions Code.

**§ 3620. Services by Neutral Persons.**

(a) A Grantee shall ensure that its dispute resolution services are provided by neutral persons.

(b) An individual shall not function as the neutral person if he or she has any personal bias regarding any particular disputant or the subject matter of the dispute.

(c) An individual shall not function as the neutral person if he or she has a financial interest in the subject matter of the dispute of a financial relationship with any party to the dispute resolution proceeding. The existence of such interests or relationships shall be deemed a conflict of interest.

(d) If, before or during the provision of dispute resolution services, a neutral person has or acquires an actual or apparent conflict of interest, the neutral person shall so inform all of the disputants, and shall disqualify himself or herself as the neutral person unless all of the disputants consent in writing to continue. The Grantee shall replace a disqualified neutral person at no additional cost to any disputant.

Note: Authority cited: Section 471, Business and Professions Code. Reference: Sections 467.2(b) and (e) and 471.3, Business and Professions Code.

### **§ 3622. Orientation and Training of Neutral Persons.**

(a) Each Grantee shall require that all persons who provide dispute resolution services on its behalf complete a training program. The training must be completed prior to the provision of dispute resolution services by that person.

(b) For purposes of fulfilling the requirements of section 468.2(g) of the Act, each Grantee shall provide an orientation and training program for mediators and other facilitators. The program shall consist of a minimum of 25 hours of classroom and practical training.

(c) The classroom training shall consist of a minimum of 10 hours of lecture and discussion, and shall address the following topics:

(1) The history of dispute resolution as a problem solving technique and its relationship to the traditional justice system;

(2) The Act and these Regulations;

(3) An overview of the structure of the California justice system and the traditional methods of processing civil and criminal cases;

(4) The structure, design, practice, and theory of dispute resolution proceedings and services, as defined, including the varying roles, functions and responsibilities of neutral persons, and the distinction between binding and non binding processes;

(5) Communication skills and techniques, including developing opening statements, building trust, gathering facts, framing issues, taking notes, empowerment tactics, effective listening and clarifications skills. Face-to-face as well as over-the-telephone communication skills shall be addressed;

(6) Problem identification and disagreement management skills, including instruction in the establishment of priorities and areas of agreement and disagreement, and the management of special problems that threaten the process;

(7) Techniques for achieving agreement or settlement, including instruction in creating a climate conducive to resolution, identifying options, reaching consensus, and working toward agreement;

(8) General review of fact patterns present in typical disputes, including landlord-tenant, customer-merchant, and neighbor-neighbor cases;

(9) Administrative and intake skills related to dispute resolution services, including completion of paperwork involved in handling and tracking cases, administrative and reporting forms, correspondence with disputants and referral agencies, agreements to mediate or arbitrate, and the drafting of settlement agreements and awards;

- (10) The role and participation of attorneys and witnesses in dispute resolution proceedings;
  - (11) The organization and administration of dispute resolution programs, including intake procedures, follow-up procedures, and record-keeping; and
  - (12) The necessity of the voluntary and consensual nature of a disputant's participation in any dispute resolution proceedings.
- (d) The practical training shall consist of a minimum of 10 hours, which shall include role plays of simulated disputes and observations of actual dispute resolution services, including intake procedures as well as actual dispute resolution proceedings.
- (e) The training shall provide for personal assessment and evaluation of the trainee.
- (f) Grantees shall provide written verification of the dates and times at which the training was attended and completed to all trainees who satisfactorily complete the required orientation and training program.
- (g) Any neutral person who has received training which complies substantially with these Regulations, or who has had at least 25 hours of dispute resolution experience prior to his or her provision of dispute resolution services, shall be deemed to have met the orientation and training requirements mandated by these Regulations. Such prior training or experience shall be verified by the program or organization through which it was rendered.
- Note: Authority cited: Section 471, Business and Professions Code. Reference: Sections 467.2(b), 468.2(g), 468.3(b) and 471.3, Business and Professions Code.

### **§ 3626. Agreements by Disputants.**

(a) Oral or Written Agreements.

Agreements reached between disputants as a result of the dispute resolution services may be oral or written.

(b) Presumption of Non-Enforceability.

Under section 467.4 of the Code, such agreements are presumed not enforceable or admissible as evidence in judicial or administrative proceedings.

(c) Option to Make Agreements Enforceable.

Disputants may elect to make their agreements enforceable at law or admissible as evidence at judicial or administrative proceedings. This election may be made at any time. To be enforceable or admissible, an agreement must:

(1) Be in writing and signed by all disputants, and

(2) Contain an Enforcement of Agreement Statement that clearly expresses that each disputant intends that the agreement will be enforceable at law and/or admissible as evidence in any judicial or administrative proceeding.

Note: Authority cited: Section 471, Business and Professions Code. Reference: Sections 467.3(e), 467.4(a), 467.7(a) and 471.3, Business and Professions Code.

### **§ 3630. Attorney Participation.**

(a) Disputants are entitled to be accompanied by an attorney at any dispute resolution session.

(b) Participation by attorneys in dispute resolution proceedings may be restricted by the policy of the Grantee. Such policies shall be clearly explained in the Information Statement provided to disputants.

Note: Authority cited: Section 471, Business and Professions Code. Reference: Section 467.3(c)(2), Business and Professions Code.

**§ 3632. Information and Referral Services.**

When the Grantee deems it appropriate or when disputants request it, a Grantee may provide the disputants with information about the services of other agencies. However, no commissions, rebates, or any other form of payment shall be given or received by a Grantee, its staff, or its volunteers for referring disputants to other services or agencies.

Note: Authority cited: Section 471, Business and Professions Code. Reference: Section 465.5, Business and Professions Code.

**§ 3635. Follow-up Surveys.**

(a) Yearly or on a more frequent basis, Grantees shall conduct follow-up surveys of disputants who have used their services.

(b) The surveys shall request the disputants' evaluations of:

(1) the dispute resolution services provided by the Grantee;

(2) the fairness or adequacy of the settlement agreement or award;

(3) any particular difficulties experienced by the disputant in carrying out and obtaining compliance with the settlement agreement or award;

(4) the disputant's willingness to use the Grantee's services in the future;

(5) the disputant's willingness to recommend the Grantee's services to others who are involved in disputes.

(c) The survey results shall be submitted as part of the yearly statistical report to the Board of Supervisors or its designee in compliance with section 471.5 of the Act. Copies of the survey results shall also be forwarded by the Grantees to the Department of Consumer Affairs at the time of submission to the Board of Supervisors or its designee.

Note: Authority cited: Section 471, Business and Professions Code. Reference: Sections 471.3, 471.5(a) and (d), Business and Professions Code.

**§ 3640. In-Kind Donations.**

(a) In-kind donations, including services of volunteers and materials and/or property, may be reported or credited as revenue or expenditures, if such donations:

(1) Will be received during the proposed budgetary period;

(2) Represent necessary and ordinary expenses or services related to the operation and management of the Grantee; and

(3) Serve a purpose consistent in nature and cost with the Grantee's operation.

(b) In-kind donations must be clearly documented with descriptions of the services or materials donated, the dates received, and the names and addresses of the donors. Volunteer personnel services shall be documented by time sheets signed by the volunteer and verified by the Program Administrator.

(c) For uniform budgeting purposes, standardized values must be used in assessing value to the in-kind donations. The following assessments shall apply:

(1) Donations of personal property shall be reported at a fair market value, as determined by the Grantee.

(2) Volunteer personnel services shall be valued at no more than \$25.00 per hour.

(3) Donated facilities may be valued at no more than \$50.00 per dispute resolution proceeding.

(d) The following may not be included or credited as in-kind donations:

(1) Volunteer time provided by members of the Grantee's board of directors while serving in the capacity as members of the board.



(2) Fringe benefits associated with time donated by volunteers.

Note: Authority cited: Section 471, Business and Professions Code. Reference: Sections 468.2(b), (d) and (f), 468.3, 470.2 and 471.3, Business and Professions Code.

**§ 3642. Yearly Fiscal Reports.**

(a) The Grantee shall submit a yearly report prepared by an independent accountant that describes and assesses the Grantee's fiscal practices and status. The report shall be delivered to the Board of Supervisors or its designee and to the Department of Consumer Affairs no later than 90 days from the close of the grant period.

(b) Annually or within ninety days of the close of each grant period, the Grantee shall submit to the Board of Supervisors or its designee and to the Department of Consumer Affairs a final reconciliation of actual revenues and expenses compared to the estimated budget for the grant period.

Note: Authority cited: Section 471, Business and Professions Code. Reference: Sections 470.1(b), 471, 471.3 and 471.5, Business and Professions Code.

**§ 3644. Record-Keeping Practices.**

(a) All records and files maintained pursuant to section 471.5 of the Code shall be retained as follows:

(1) All financial records shall be retained for a minimum of four years after the expiration of the grant period.

(2) Signed personnel time sheets for volunteers and employees shall be maintained for a period of two years.

(3) All other statistical data shall be retained for a period of three years.

(b) All records described in this section shall be made available to the Board of Supervisors or its designee and to the Department of Consumer Affairs upon request.

Note: Authority cited: Section 471, Business and Professions Code. Reference: Sections 471, 471.3 and 471.5, Business and Professions Code.

**§ 3648. Personnel Policies.**

(a) Each Grantee shall have an employee designated as "Program Administrator." The Program Administrator shall be responsible for overall program management.

(b) Each Grantee shall maintain written job descriptions and job qualifications for all staff and volunteer classifications.

(c) Each Grantee shall maintain a current organizational chart that reflects its organizational structure.

Note: Authority cited: Section 471, Business and Professions Code. Reference: Sections 465, 465.5, 471, 471.3 and 471.5, Business and Professions Code.

**§ 3650. Public Education and Relations.**

Each Grantee shall maintain an ongoing public relations and information effort to promote its services and resources. These public relations efforts may include newspaper, radio, television and other public media contacts as well as written brochures and handouts.

Note: Authority cited: Section 471, Business and Professions Code. Reference: Sections 465, 465.5, 471 and 471.3, Business and Professions Code.

**§ 3660. Filing Fee Revenues.**

(a) A county shall create a separate interest-bearing account called the Dispute Resolution Program Account for the deposit of revenues generated pursuant to the Act.

(1) All filing fees collected by the county pursuant to the Act shall be deposited into the account.

(2) All interest which accrues to the account shall be deemed part of the account.

(b) Revenues generated pursuant to the Act shall not be used to replace any preexisting allocations of county funds for the provision of dispute resolution services.

(c) Only actual administrative costs may be deducted from the Account to finance a county's administration of the grant program.

(d) Funds generated under the Act shall be used only to fund services authorized by the Act and these Regulations. Such funds shall not be used by a county to fund:

(1) family conciliation court or conciliation and mediation services pursuant to section 4607 or 4351.5 of the Civil Code, or

(2) judicial arbitration pursuant to section 1141.10 et seq. of the Code of Civil Procedure or any other formal or mandatory judicial arbitration program, or

(3) any other programs or services not expressly authorized by the Act or these Regulations.

Note: Authority cited: Section 471, Business and Professions Code. Reference: Sections 467.1, 468, 469, 470, 470.2, 470.3, 471 and 471.3, Business and Professions Code.

**§ 3662. Public Information and Coordination.**

(a) Each Board of Supervisors or its designee shall appoint or designate a qualified person to function as the Dispute Resolution Program Coordinator.

(1) The Coordinator shall be the public's contact person and information resource regarding the county's grant solicitation and award procedures, the county's functions and responsibilities under the Act and these Regulations, and the dispute resolution programs and services provided by the county.

(2) The Board of Supervisors or its designee shall notify the Department of Consumer Affairs of the Coordinator's name, address, and telephone number.

(b) Each county shall maintain an ongoing public information and dispute resolution awareness program to disseminate information and materials on the purposes and benefits of dispute resolution services. Such public information shall publicize the availability of services within the county and include the name and telephone number of the Coordinator, the existence and availability of grant monies to fund local programs, and the names and services provided by Grantees in that county.

(c) To assure the neutrality and the absence of any conflict of interest, the Coordinator shall not be administratively, professionally, or financially affiliated with any applicant or Grantee.

Note: Authority cited: Section 471, Business and Professions Code. Reference: Sections 469, 470, 470.3(a), 471 and 471.3, Business and Professions Code.

**§ 3665. Competitive Grant Proposal Process.**

(a) A Board of Supervisors or its designee shall award grants to dispute resolution programs through a competitive proposal process. The process shall: provide reasonable public notice about the availability of dispute resolution program grants; actively solicit proposals from

potential applicants; provide a reasonable period of time in which to respond; and, explain the reasons for selection of each Grantee.

(b) The Board of Supervisors, or its designee, shall review the estimated budget for the grant period submitted by an applicant pursuant to section 3605(b) of these Regulations to assess its accuracy. Such assessment shall include the authority to determine whether the reported estimations are substantiated and justified. In making allocations, the county shall use the facts reported in the applicant's estimated budget as assessed and verified by the county.

(c) Qualified applicants shall be screened by the county according to the following criteria:

(1) The need for the applicant's services in the proposed geographical area and any duplication or overlap among dispute resolution programs in the proposed area of service.

(2) The structure and scope of the services to be provided by the applicant.

(3) The amount of the requested grant.

(4) The reliability of the applicant's other funding sources.

(5) The adequacy and cost of facilities and personnel.

Note: Authority cited: Section 471, Business and Professions Code. Reference: Sections 467.1, 467.2, 468, 468.3, 470, 470.2 and 471.3, Business and Professions Code.

### **§ 3670. Grant Award Timeframes.**

(a) A Board of Supervisors that increases its civil filing fees pursuant to the Act shall disperse the grant funds to eligible applicants within six months from the effective date of the increase or, if the balance in the account has not yet reached \$15,000, within 90 days after the date that the balance reaches \$15,000.

(b) The Board of Supervisors or its designee shall notify the Department of Consumer Affairs of its selection of any Grantee within 30 days after the selection is made. Notification shall include the name, address, and telephone number of each Grantee, the name of the each Grantees' Program Administrator, and the amount and terms of the grant award.

Note: Authority cited: Section 471, Business and Professions Code. Reference: Sections 467.1, 469, 470, 470.3 and 471.3, Business and Professions Code.

### **3675. Reporting to Department of Consumer Affairs.**

Within ninety days of each calendar year, the Board of Supervisors or its designee shall provide the Department of Consumer Affairs with a report of its activities pursuant to the Act during the previous calendar year. The report shall include the following:

(a) The amount of revenues that were collected from superior, municipal, and justice court filing fees during the year.

(b) The amount of revenues deposited in and interest accrued on the dispute resolution program account during the year.

(c) An accounting of all disbursements from the dispute resolution program account, including a listing of all grant amounts to Grantees, the dates of disbursements, and all deductions made pursuant to the county's administrative costs.

(d) Any problems encountered in implementing the Act or these Regulations, and any recommendations for rectifying the problems.

(e) Any evaluations or review processes instituted to monitor the services provided by Grantees.

(f) Any evidence of misuse or misappropriation of revenues by Grantees.

(g) Any rules or procedures in addition to the Act and these Regulations that have been invoked by the Board of Supervisors or its designee upon applicants for funding or Grantees.

Note: Authority cited: Section 471, Business and Professions Code. Reference: Sections 471 and 471.3, Business and Professions Code.

**§ 3680. Local Administrative Policies and Practices.**

The Board of Supervisors or its designee shall comply with all standards set forth in the Act and these Regulations. Neither the Board of Supervisors nor its designee shall institute any policies, practices, or procedures that conflict with the Act, these Regulations, or the policies and principles expressed in the Act's statement of legislative intent.

Note: Authority cited: Section 471, Business and Professions Code. Reference: Sections 471 and 471.3, Business and Professions Code.

# ATTACHMENT 2 – Standard Terms and Conditions

## RFP DRPA072015

STATE OF CALIFORNIA, JUDICIAL BRANCH  
**STANDARD AGREEMENT COVERSHEET**

AGREEMENT NUMBER

[REDACTED]

FEDERAL EMPLOYER ID NUMBER

[REDACTED]

1. In this Agreement, the terms "Contractor" refers to [REDACTED], and the term "JBE" refers to the Superior Court of California, County of Kern.
2. This Agreement is effective as of 10/1/2015 ("Effective Date") and expires 9/30/2016 ("Expiration Date").  
x If checked, this Agreement includes one or more options to extend through 3/31/2017
3. The maximum amount the JBE may pay Contractor under this Agreement is [REDACTED].
4. The purpose or title of this Agreement is: Alternative Dispute Resolution Services for Civil (Metro), Family Law and Probate (Metro), VORP, and Regional Civil cases as defined in the Dispute Resolution Programs Act.

The purpose or title listed above is for administrative reference only and does not define, limit, or construe the scope or extent of this Agreement.

5. The parties agree that this Agreement, made up of this Standard Agreement Coversheet, and the appendixes listed below and any attachments, contains the parties' entire understanding related to the subject matter of this Agreement and is mutually binding on the parties in accordance with its terms.

Appendix A: Statement of Work  
Appendix B: Payment Provisions  
Appendix C: General Provisions  
Appendix D: Defined Terms

## **Appendix A**

### **Statement of Work**

#### **1. Background and Purpose**

To be completed based on RFP and submitted proposal upon contract award.

#### **2. Contractor's Services**

**2.1** To be completed based on RFP and submitted proposal upon contract award.

**2.2** Contractor's Personnel.

- (A) Contractor shall assign to this project only persons who have sufficient training, education, which shall include but not be limited to successful completion of Contractor's Basic Mediation Training or equivalent, and experience to successfully perform Contractor's duties. If the JBE is dissatisfied with any of Contractor's personnel, for any reason or no reason, Contractor shall replace them with qualified personnel.
- (B) Contractor shall endeavor to minimize turnover of personnel Contractor has assigned to this project. Any additional personnel are subject to approval by the JBE.
- (C) Contractor shall cooperate with the JBE if the JBE wishes to perform any background checks on Contractor's personnel by obtaining, at no additional cost, all releases, waivers, and permissions the JBE may require. Contractor shall not assign personnel who refuse to undergo a background check. Contractor shall provide prompt notice to the JBE of (i) any person who refuses to undergo a background check, and (ii) the results of any background check requested by the JBE and performed by Contractor.
- (D) If this Agreement provides for the payment of \$5,000 or more for Consulting Services performed for the JBE, Contractor has attached to this Agreement resumes of each Contractor participant who will exercise a major administrative role or major policy or consultative role.

#### **3. Special Provisions for Agreements for Certain Services with Compensation over \$200,000**

If this is an Agreement for services, other than Consulting Services, with total compensation over \$200,000, Contractor shall give priority consideration in filling vacancies in positions funded by this Agreement to qualified recipients of aid under Welfare and Institutions Code section 11200 in accordance with Public Contract Code section 10353.

#### **4. Performance Bonds**

The JBE may, in its sole discretion, require Contractor to provide a performance bond (at no cost to the JBE) in the form of bonds executed by an admitted surety insurer and not deposits in lieu of bond, subject to the approval of the JBE. The performance bond shall guarantee the faithful performance of the contract by Contractor.

## **Appendix B Pricing and Payment**

### **1. General**

The Contractor may invoice the JBE, and the JBE shall compensate Contractor under this Agreement as set forth in this Appendix B.

### **2. Invoicing and Payment**

- 2.1 Invoicing.** Contractor shall submit invoices to the JBE in arrears no more frequently than monthly. Contractor's invoices must include information and supporting documentation regarding daily hours worked, including a workload report in the form the JBE specifies. Contractor shall adhere to reasonable billing guidelines issued by the JBE from time to time.
- 2.2 Acceptance; Payment.** All Goods, Services, and deliverables are subject to written acceptance by the JBE. The JBE may reject any Goods, Services or deliverables that (i) fail to meet applicable requirements or acceptance criteria, (ii) are not as warranted, or (iii) are performed or delivered late. Payment does not imply acceptance of Contractor's invoice, Goods, Services, or deliverables. Contractor shall immediately refund any payment made in error.
- 2.3 Availability of Funds.** The JBE's obligation to compensate Contractor is subject to the availability of funds. The JBE shall notify Contractor if funds become unavailable or limited during the Term.
- 2.4 Special Provisions for Agreements Providing for Compensation of \$50,000 or more; Union Activities Certification Requirement.** As required under Government Code sections 16645-16649, if this Agreement provides for total Compensation in excess of \$50,000 to Contractor, Contractor shall include with any request for cost reimbursement from the JBE's funds a certification that the Contractor is not seeking reimbursement for costs incurred to assist, promote, or deter union organizing.
- 2.5 Special Provisions for Federally-funded Agreements.** If this Agreement is funded in whole or in part by the federal government, then:
- (A) It is mutually understood between the parties that this Agreement may have been written for the mutual benefit of both parties before ascertaining the availability of congressional appropriation of funds, to avoid program and fiscal delays that would occur if the contract were executed after that determination was made.
  - (B) This contract is valid and enforceable only if sufficient funds are made available to the JBE by the United State Government for the fiscal year in which they are due and consistent with any stated programmatic purpose. In addition, this Agreement



is subject to any additional restrictions, limitations, or conditions enacted by the Congress or to any statute enacted by the Congress that may affect the provisions, terms, or funding of this contract in any manner.

- (C) The parties mutually agree that if the Congress does not appropriate sufficient funds for any program under which this Agreement is intended to be paid, this Agreement shall be deemed amended without any further action of the parties to reflect any reduction in funds.
- (D) The parties may invalidate this Agreement under the 30-day termination for convenience or cancellation clause or amend the contract to reflect any reduction in funds.
- (E) Exemptions from the above requirements may be granted if the JBE can certify in writing that federal funds are available for the Term.

## **Appendix C**

### **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 JBE.
- (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) Special Provisions regarding Discharge Violations. If Contractor is a private entity, Contractor is not in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; or subject to any cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions. Contractor has not been finally determined to be in violation of provisions of federal law relating to air or water pollution.
- (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 JBE if any representation and warranty becomes untrue.

## **2. Indemnity**

Contractor shall indemnify and defend (with counsel satisfactory to the JBE 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 has 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.
  - E. Commercial Crime Insurance. The policy must cover dishonest acts including loss due to theft of money, securities, and property; forgery, and alteration of documents; damage to our buildings, and property; and fraudulent transfer of money, securities, and property. The minimum liability limit must be \$1 million per occurrence.
- 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 JBE'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 JBE 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

JBE'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 JBE 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 JBE. Any replacement certificates of insurance are subject to the approval of the JBE, and, without prejudice to the JBE, Contractor shall not perform work before the JBE 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 JBE 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 20\_ 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 JBE 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 JBE 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 JBE'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 JBE may terminate this entire Agreement immediately "for cause" if Contractor is in default;
- B. The JBE 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 JBE, and any direct and indirect expenses incurred by cancellation of Goods in process that are custom made for the JBE), if:
  - (1) the JBE 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 JBE 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 JBE 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 JBE, Contractor shall be released from performing Services.
- B. All provisions of this Appendix 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 JBE may assign the JBE's rights and duties to any Judicial Branch Entity. The JBE 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 a party's project manager, if one is designated in Appendix A; otherwise, notices must be addressed to the individual(s) in the signature block of this Agreement. Either party may change its address for receipt of notice by entering a different recipient and address below or by giving notice at any time to the other party in the manner permitted by this paragraph.

If to the JBE:

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

If to Contractor:

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

**8. Miscellaneous Provisions; Interpretation**

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

**8.2 Special Provisions for Agreements Providing for Compensation of \$50,000 or more; Union Activities Restrictions.** As required under Government Code sections 16645-16649, if this Agreement provides for total Compensation of \$50,000 or more to Contractor, then the covenants in this section apply to Contractor's activities. Contractor shall not:

- A. Assist, promote, or deter union organizing by employees performing work under state or judicial branch contracts;
- B. Use the state's or JBE's funds received under this Agreement to assist, promote or deter union organizing; or
- C. For any business conducted under this Agreement, use any property of the state or JBE to hold meetings with employees or supervisors, if the purpose of such meetings is to assist, promote, or deter union organizing, unless the state or judicial branch property is equally available to the general public for holding meetings.

If Contractor incurs costs, or makes expenditures to assist, promote, or deter union organizing, Contractor shall maintain records sufficient to show that no reimbursement from the state's and JBE's funds has been sought for these costs, and provide those records to the Attorney General upon request.

**8.3 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 JBE: (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.

**8.4 Audit and Records**

- A. Audit. Contractor shall allow the JBE's designees and the JBE 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 JBE 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 JBE'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 JBE or to another party at the JBE'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 JBE'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 JBE.

**8.5 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 JBE funds shall vest, automatically and without further action of the parties, with the JBE. If Contractor provides written certification to the JBE that the property will continue to be used for grant-related purposes and the JBE approves such certification in writing, the JBE may permit title to all such property to remain with Contractor in accordance with the JBE'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 JBE funds, title to any equipment

purchased or built with JBE funds shall vest in the JBE immediately upon payment of the purchase price. Before delivery to the JBE, 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.

#### **8.6 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 JBE later confirms in writing is confidential.

The JBE owns the confidential information, and the JBE 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 JBE's confidential information to the same extent as this section 3.8. Contractor may also disclose the JBE's confidential information to the extent necessary to comply with law, provided Contractor gives the JBE advance notice.

B. Publicity. Contractor shall not make any public announcement or press release about this Agreement without the prior written approval of the JBE's Business Services Manager.

C. Specific Performance. Contractor understands a default under this section 8.6 will result in irreparable damage for which no adequate remedy will be available. Accordingly, injunctive or other equitable relief is a remedy that the JBE will be entitled to seek.

#### **8.7 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 JBE 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 JBE pursuant to the bid.

Such assignment shall be made and become effective at the time the JBE tenders final payment to the Contractor. (GC 4552)

- B. If the JBE 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 JBE any portion of the recovery, including treble damages, attributable to overcharges that were paid by the Contractor but were not paid by the JBE 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 JBE 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 JBE has not been injured thereby, or (2) the JBE declines to file a court action for the cause of action. (GC 4554)

**8.8 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.

**8.9 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.

**8.10 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.

**8.11 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.

**8.12 Severability.** If any part of this Agreement is held unenforceable, all other parts remain enforceable.

**8.13 Headings.** All headings are for reference purposes only and do not affect the interpretation of this Agreement.

**8.14 Time of the Essence.** Time is of the essence of the Contractor's performance of Services under this Agreement.

**8.15 Counterparts.** This Agreement may be executed in counterparts, each of which is considered an original.

## **Appendix D 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.

**"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.

**"JBE"** 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 6  
PROPOSER'S ACCEPTANCE OF TERMS AND CONDITIONS**

**Instructions:** Mark the appropriate choice below and sign this attachment.

- 1. Proposer accepts Attachment 2: JBE Standard Terms and Conditions ("Attachment 2") without exception.

***OR***

- 2. Proposer proposes exceptions or changes to Attachment 2. Proposer must also submit (i) a red-lined version of Attachment 2 that implements all proposed changes, and (ii) a written explanation or rationale for each exception or proposed change.

BY (Authorized Signature) 
PRINTED NAME OF PERSON SIGNING
TITLE OF PERSON SIGNING

**ATTACHMENT 7  
GENERAL CERTIFICATIONS FORM**

Check the box below, if agreed, and sign this attachment. Please note that the JBE will reject a proposal from a Proposer that does not indicate acceptance of these clauses.


**Conflict of Interest.** Proposer has no interest that would constitute a conflict of interest under California Public Contract Code (PCC) 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.

**Suspension or Debarment.** Proposer certifies that neither Proposer nor any of Proposer’s intended subcontractors is on the California Department of General Services’ list of firms and persons that have been suspended or debarred from contracting with the state because of a violation of PCC 10115.10, regarding disabled veteran business enterprises.

**Tax Delinquency.** Proposer certifies that it is not on either (i) the California Franchise Tax Board’s list of 500 largest state income tax delinquencies, or (ii) the California Board of Equalization’s list of 500 largest delinquent sales and use tax accounts.

**Conflict Minerals.** Proposer certifies that either (i) it is not a scrutinized company as defined in PCC 10490(b), or (ii) the goods or services the Proposer would provide to the JBE are not related to products or services that are the reason the Proposer 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.”)

Check box to indicate acceptance of the clauses above.

BY (Authorized Signature) 
PRINTED NAME OF PERSON SIGNING
TITLE OF PERSON SIGNING





**PAYEE DATA RECORD (in lieu of IRS W-9)**

Required in lieu of IRS W-9 form when receiving payments from  
the Judicial Council of California (JCC) on behalf of the Superior Courts of California

<b>1 Instructions</b>	See page two for additional instructional information and Privacy Statement. Complete all information on this form, sign, date, and return the form. Prompt return of this fully completed form will prevent delays when processing payments. Information provided in this form will be used to prepare Information Returns (1099). If this form was provided to you by one of the Superior Courts of California, return the form to the court. If this form was provided to you by the Judicial Council of California, submit the completed form to <a href="mailto:TCAFS.VendorRequest@jud.ca.gov">TCAFS.VendorRequest@jud.ca.gov</a> or mail the form to the following address: Judicial Council of California Trial Court Administrative Services - Vendor Maintenance Unit P.O. Box 981268 West Sacramento, CA 95798
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**SECTIONS 2 THRU 5 TO BE COMPLETED BY VENDOR**

<b>2 Legal Name</b>	PAYEE'S LEGAL NAME - AS SHOWN ON FEDERAL INCOME TAX RETURN		
	BUSINESS NAME - IF DIFFERENT FROM ABOVE		E-MAIL ADDRESS
	REMITTANCE MAILING ADDRESS		BUSINESS ADDRESS (if different from remittance mailing address)
	CITY, STATE, ZIP CODE		CITY, STATE, ZIP CODE
	PHONE NUMBER		FACSIMILE NUMBER

<b>3 Payee Entity Type Complete One Box Only</b>	<b>ENTER FEDERAL EMPLOYER IDENTIFICATION NUMBER (FEIN)</b> _ _ - _ - _ _ _ _ _		
	<input type="checkbox"/> PARTNERSHIP	<input type="checkbox"/> CORPORATION	<input type="checkbox"/> EXEMPT (NON-PROFIT)
NOTE A taxpayer identification number is required	<input type="checkbox"/> LIMITED LIABILITY COMPANY	<input type="checkbox"/> CORPORATION - LEGAL	<input type="checkbox"/> GOVERNMENT
	<input type="checkbox"/> CORPORATION - MEDICAL	<input type="checkbox"/> OTHER - _____	<input type="checkbox"/> ESTATE OR TRUST
	<input type="checkbox"/> INDIVIDUAL/SOLE PROPRIETOR		
	<b>ENTER SOCIAL SECURITY NUMBER (SSN)</b> _ _ - _ - _ _ _ _ _		
<i>If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN; however, the IRS prefers that you use your SSN. An employee vendor is not required to provide a SSN.</i>			

<b>4 Resident Status check the appropriate box</b>	<input type="checkbox"/> California Resident - Qualified to do business in California or maintains place of business
	<input type="checkbox"/> California Nonresident (see reverse side) - Payments to non-resident for services may be subject to State Income Tax withholding. <ul style="list-style-type: none"> <li><input type="checkbox"/> No services performed in California</li> <li><input type="checkbox"/> Copy of Franchise Tax Board waiver of State Withholding attached</li> </ul>

<b>5 Certification NOTE See instructions on page 2 Vendor Contact Information and signature</b>	Under penalties of perjury, I certify that:		
	1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and		
	2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and		
	3. I am a U.S. citizen or other U.S. person, as defined by the IRS.		
<b>I hereby certify under the penalty of perjury that the information provided on this document is true and correct. Should my information change, I will promptly notify the JCC at the address listed in Section 1.</b>			
	VENDOR REPRESENTATIVE'S NAME (Type or Print)	TITLE	E-MAIL
	AUTHORIZED VENDOR SIGNATURE	DATE	TELEPHONE

**SECTION 6 TO BE COMPLETED BY COURT**

<b>6 Vendor Category</b>	<b>Please choose from the JCC Vendor category below to help us expedite payment</b>		
	<input type="checkbox"/> ARBITRATOR	<input type="checkbox"/> VOLUNTEER	<input type="checkbox"/> OTHER (description required)
<b>Court Contact</b>	<input type="checkbox"/> CONTRACTOR	<input type="checkbox"/> GRAND JURY	<input type="checkbox"/> RENT
	<input type="checkbox"/> COURT APPT. COUNSEL	<input type="checkbox"/> INTEREST PAYMENTS ONLY	<input type="checkbox"/> DECEASED FINAL PAYMENT
	<input type="checkbox"/> COURT REPORTER	<input type="checkbox"/> COURT INTERPRETER: (indicate language)	
	<input type="checkbox"/> EMPLOYEE	<input type="checkbox"/> MEDIATOR	<input type="checkbox"/> GARNISHMENT TRUSTEE
	<b>PAYMENT TERMS</b>		
	COURT CONTACT NAME	PHONE NUMBER	EMAIL

Assigned Vendor Number	Assigned By:
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**Requirement to Complete Payee Data Record**

*A completed Payee Data Record (in lieu of the IRS W-9) is required for payments and will be kept on file at the Judicial Council of California, Trial Court Administrative Services Office. Since each state agency with which you do business must have a separate Payee Data Record on file, it is possible for a payee to receive a similar form from various state agencies.*

**SECTIONS 2 THRU 5 TO BE FILLED OUT BY VENDOR**

<b>2</b>	<p>Enter the payee's legal name. Sole proprietorships must also include the owner's full name.</p> <p>An individual must list his/her legal name as it appears on his/her Federal Income tax return. If a different name is used, that name should also be entered, beneath the legal name.</p> <p>The mailing address should be the address at which the payee chooses to receive correspondence. The business address is the physical location of business, if different than mailing address. The phone number, e-mail address, and facsimile number should also be provided.</p>
<b>3</b>	<p>Check the box that corresponds to the payee business type. Check only one box. Corporations must check the box that identifies the type of corporation.</p> <p>The State of California requires that all parties entering into business transactions that may lead to payment(s) from the State provide their Taxpayer Identification Number (TIN). The TIN is required by the California Revenue and Taxation Code Section 18646 to facilitate tax compliance enforcement activities and the preparation of Form 1099 and other information returns as required by the Internal Revenue Code Section 6109(a).</p> <p>The TIN for individuals is their Social Security Number (SSN). A sole proprietor may have both a Federal Employer Identification Number (FEIN) and a SSN, the IRS prefers that sole proprietors use their SSN. Only partnerships, estates, trusts, and corporations will enter their FEIN.</p>
<b>4</b>	<p><b>Are you a California resident or non-resident?</b></p> <p>A corporation will be defined as a "resident" if it has a permanent place of business in California or is qualified through the Secretary of State to do business in California.</p> <p>A partnership is considered a resident partnership if it has a permanent place of business in California.</p> <p>An estate is a resident if the decedent was a California resident at the time of death.</p> <p>A trust is a resident if at least one trustee is a California resident.</p> <p>For individuals and sole proprietors, the term "resident" includes every individual who is in California for other than a temporary or transitory purpose and any individual domiciled in California who is absent for a temporary or transitory purpose. Generally, an individual who comes to California for a purpose that will extend over a long or indefinite period will be considered a resident. However, an individual who comes to perform a particular contract of short duration will be considered a non-resident.</p> <p>Payments to all non-residents may be subject to withholding. Non-resident payees performing services in California or receiving rent, lease, or royalty payments from property (real or personal) located in California will have 7% of their total payments withheld for State income taxes. However, no withholding is required if total payments to the payee are \$1,500 or less for the calendar year.</p> <p>For information on Non-resident Withholding, contact the Franchise Tax Board at the numbers listed below:          Withholding Services and Compliance Section: 1-888-792-4900 E-mail address: <a href="mailto:wscs.gen@ftb.ca.gov">wscs.gen@ftb.ca.gov</a>          For hearing impaired with TDD, call: 1-800-822-6268 Website: <a href="http://www.ftb.ca.gov">www.ftb.ca.gov</a></p>
<b>5</b>	<p><u>This form must be signed.</u> Provide the name, title, e-mail, and telephone number of the individual completing this form. Also, provide the date the form was completed.</p> <p><u>Certification Instructions:</u> You must cross out item 2 if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. If you are not a U.S. Citizen or U.S. person, as defined by the Internal Revenue Service, a different form may be required and tax withholdings may apply. See IRS website <a href="http://www.irs.gov/businesses/international/index.html">http://www.irs.gov/businesses/international/index.html</a> for additional information.</p>

**SECTION 6 TO BE FILLED OUT BY COURT**

<b>6</b>	<p>Please check the box that best describes the type of business/work the vendor provides. This will assist us in processing payment and tax withholdings. If the court is sending the request, please include contact information to assist with processing your request. <b>Not including court contact information may delay processing the request.</b></p>
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**Privacy Statement:** Section 7(b) of the Privacy Act of 1974 (Public Law 93-579) requires that any federal, State, or local governmental agency, which requests an individual to disclose their social security account number, shall inform that individual whether that disclosure is mandatory or voluntary, by which statutory or other authority such number is solicited, and what uses will be made of it. It is mandatory to furnish the information requested. Federal law requires that payment for which the requested information is not provided is subject to federal backup withholding and State law imposes non-compliance penalties of up to \$20,000. You have the right to access records containing your personal information, such as your SSN. To exercise the right, please contact the business services unit or the accounts payable unit of the state agency(ies) with which you transact that business.

### BIDDER DECLARATION

Complete this form only if Bidder wishes to claim the DVBE incentive associated with this solicitation. Please review the “Bidder Declaration Instructions” prior to completing this form. If Bidder submits incomplete or inaccurate information, it will not receive the DVBE incentive.

#### SECTION I. COMPLETE IF BIDDER IS A DVBE

*If Bidder is not a DVBE, skip this section.*

1. DGS Supplier ID number: \_\_\_\_\_
2. DVBE Certification active from \_\_\_\_\_ to \_\_\_\_\_
3. Will Bidder subcontract any portion of the contract work to subcontractors? \_\_\_\_\_

If yes:

- A. State the percentage of the contract work Bidder will subcontract: \_\_\_\_\_
- B. Describe the goods and/or services to be provided by Bidder itself in connection with the contract: \_\_\_\_\_

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- C. Explain how Bidder is performing a “commercially useful function” for purposes of this contract. (Please see the instructions for the definition of “commercially useful function.”) \_\_\_\_\_

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4. The disabled veteran owners and managers of Bidder must complete and sign the **DVBE Declaration** (a separate document). Bidder must submit the completed DVBE Declaration along with this Bidder Declaration.
5. Bidder must submit a copy of its DVBE certification approval letter along with this Bidder Declaration.

#### SECTION II. COMPLETE IF BIDDER HAS A DVBE BUSINESS UTILIZATION PLAN

*Skip this section if (i) Bidder does not have an approved DVBE Business Utilization Plan (BUP) on file with DGS, or (ii) this solicitation is for non-IT services.*

1. Date BUP was approved by DGS: \_\_\_\_\_
2. Date through which BUP is valid: \_\_\_\_\_
3. Bidder must submit a copy of its “Notice of Approved DVBE Business Utilization Plan” issued by DGS along with this Bidder Declaration.

### SECTION III. COMPLETE IF BIDDER WILL USE DVBE SUBCONTRACTORS

Enter the total number of DVBE subcontractors (DVBE Subcontractors) that Bidder will use for this contract: \_\_\_\_\_

*If the total number of DVBE Subcontractors Bidder will use is zero, skip this section.*

Provide the following information or materials for **each** DVBE Subcontractor that Bidder will use for this contract. Attach additional sheets if necessary.

1. DVBE Subcontractor name: \_\_\_\_\_
2. DVBE Subcontractor contact person: \_\_\_\_\_
3. DVBE Subcontractor address: \_\_\_\_\_
4. DVBE Subcontractor phone number: \_\_\_\_\_
5. DVBE Subcontractor email: \_\_\_\_\_
6. DVBE Subcontractor's DGS Supplier ID number: \_\_\_\_\_
7. DVBE Subcontractor DVBE Certification active from \_\_\_\_\_ to \_\_\_\_\_.
8. Bidder must submit a copy of the DVBE Subcontractor's DVBE certification approval letter along with this Bidder Declaration.
9. Describe the goods and/or services to be provided by the DVBE Subcontractor in connection with the contract:

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10. Explain how the DVBE Subcontractor is performing a "commercially useful function" for purposes of this contract. (Please see the instructions for the definition of "commercially useful function.")

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11. Enter the percentage of the total bid price for the goods and/or services to be provided by the DVBE Subcontractor: \_\_\_\_\_%
12. Provide written confirmation from the DVBE Subcontractor that it will provide the goods and/or services identified above if Bidder is awarded the contract.
13. The disabled veteran owners and managers of the DVBE Subcontractor must complete and sign the **DVBE Declaration** (a separate document). Bidder must submit the completed DVBE Declaration along with this Bidder Declaration.

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**SECTION IV. CERTIFICATION**

I, the official named below, certify that the information provided in this form is true and correct. I am duly authorized to legally bind Bidder to this certification. This certification is made under the laws of the State of California.

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

## BIDDER DECLARATION INSTRUCTIONS

### General Instructions

In this form, (i) “DGS” refers to the Department of General Services; (ii) “Bidder” refers to a person or entity that submits a response to a competitive solicitation issued by the JBE, including both IFBs and RFPs; and (iii) “bid” refers to a response to a competitive solicitation issued by the JBE, including both IFBs and RFPs. Pursuant to Military and Veterans Code section 999, a person or an entity is deemed to perform a “commercially useful function” if a person or entity does all of the following: (a) is responsible for the execution of a distinct element of the work of the contract; (b) carries out the obligation by actually performing, managing, or supervising the work involved; (c) performs work that is normal for its business services and functions; (d) is responsible, with respect to products, inventories, materials, and supplies required for the contract, for negotiating price, determining quality and quantity, ordering, installing, if applicable, and making payment; and (e) is not further subcontracting a portion of the work that is greater than that expected to be subcontracted by normal industry practices. Note: a person or entity will not be considered to perform a “commercially useful function” if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DVBE participation.

If Bidder wishes to claim the DVBE incentive in a solicitation where a DVBE incentive is offered, it must complete the Bidder Declaration. If no DVBE incentive is offered, or Bidder does not wish to claim the DVBE incentive, Bidder should not complete the Bidder Declaration.

The JBE will determine whether Bidder is eligible to receive the DVBE incentive based on information provided in the Bidder Declaration. The JBE may, but is not obligated to, verify or seek clarification of any information set forth in the Bidder Declaration. If Bidder submits incomplete or inaccurate information, it will not receive the DVBE incentive.

### Instructions for Section I

*Skip this section if Bidder is not itself a DVBE.*

1. Provide Bidder’s DGS Supplier ID number. This number is in Bidder’s DGS Supplier Profile, accessible at [www.bidsync.com/DPXBisCASB](http://www.bidsync.com/DPXBisCASB).
2. Provide the applicable dates. These dates are listed in Bidder’s DGS Supplier Profile, accessible at [www.bidsync.com/DPXBisCASB](http://www.bidsync.com/DPXBisCASB).
3. If Bidder will subcontract any portion of the contract work, answer “yes” and complete subparts A-C. If Bidder will not subcontract any portion of the contract work, answer “no” and skip subparts A-C.  
**Subpart A:** This percentage is equal to the amount to be paid by Bidder to all subcontractors divided by Bidder’s total bid price, multiplied by 100. Enter a percentage; do not enter a dollar amount. For example, if the amount to be paid by Bidder to subcontractors is \$35,000 and Bidder’s total bid price is \$125,000, enter “28%” ( $35,000 \div 125,000 = 0.28$ ;  $0.28 \times 100 = 28$ ).  
**Subpart B:** Provide a detailed description of the goods and/or services the Bidder itself will provide for the contract. In other words, provide a detailed description of the goods and/or services that will not be subcontracted. Attach additional sheets if necessary.  
**Subpart C:** Provide an explanation of how the Bidder’s goods and/or services constitute a “commercially useful function” for purposes of the contract. Attach additional sheets if necessary.
4. The DVBE Declaration is separate from the Bidder Declaration. Bidder must submit along with the Bidder Declaration a DVBE Declaration completed and signed by the disabled veteran owners and managers of Bidder.
5. Each entity certified as a DVBE by DGS will have received a DVBE certification approval letter. Bidder must submit a copy of its DVBE certification approval letter.

### Instructions for Section II

*Skip this section if (i) Bidder does not have an approved Business Utilization Plan (BUP) on file with DGS, or (ii) this solicitation is for non-IT services.*

1. Provide the date on which DGS approved Bidder's BUP.
2. Provide the date through which the BUP is valid.
3. Bidder must provide a copy of its "Notice of Approved DVBE Business Utilization Plan" issued by DGS. This copy must be provided along with the Bidder Declaration.

### Instructions for Section III

A DVBE Subcontractor is any certified DVBE (whether a person, firm, corporation, or organization) contracting to perform part of Bidder's contract.

Enter the total number of DVBE Subcontractors that Bidder will use for the contract. If the number is zero, skip to Section IV. Otherwise, provide complete information (items 1-13 of Section III) for **each** DVBE Subcontractor.

1. Provide the full legal name of the DVBE Subcontractor.
2. Provide the name of a contact person at the DVBE Subcontractor. The contact person must be able to verify the information provided in the Bidder Declaration regarding that DVBE Subcontractor.
3. Provide the full address of the DVBE Subcontractor.
4. Provide the DVBE Subcontractor's phone number, including area code.
5. Provide the DVBE Subcontractor's email address. If the DVBE Subcontractor does not have an email address, insert "N/A."
6. Provide the DVBE Subcontractor's DGS Supplier ID number. This number is in the DVBE Subcontractor's DGS Supplier Profile, accessible at [www.bidsync.com/DPXBisCASB](http://www.bidsync.com/DPXBisCASB).
7. Provide the applicable dates. These dates are in the DVBE Subcontractor's DGS Supplier Profile, accessible at [www.bidsync.com/DPXBisCASB](http://www.bidsync.com/DPXBisCASB).
8. Each entity certified as a DVBE by DGS will have received a DVBE certification approval letter. Bidder must submit a copy of the DVBE Subcontractor's DVBE certification approval letter.
9. Provide a detailed description of the goods and/or services the DVBE Subcontractor will provide for the contract. Attach additional sheets if necessary.
10. Provide an explanation of how the DVBE Subcontractor's goods and/or services constitute a "commercially useful function" for purposes of the contract. Attach additional sheets if necessary.
11. This percentage is equal to the amount to be paid by Bidder to the DVBE Subcontractor divided by Bidder's total bid price, multiplied by 100. Enter a percentage; do not enter a dollar amount. For example, if the amount to be paid by Bidder to the DVBE Subcontractor is \$6,600 and Bidder's total bid price is \$75,000, enter "8.8%" ( $6600 \div 75000 = 0.088$ ;  $0.088 \times 100 = 8.8$ ).
12. Bidder must submit a written confirmation from the DVBE Subcontractor indicating that, if Bidder is awarded the contract, the DVBE Subcontractor will provide the required goods and/or services.
13. The DVBE Declaration is a separate form from the Bidder Declaration. Bidder must submit along with the Bidder Declaration a DVBE Declaration completed and signed by the disabled veteran owners and managers of the DVBE Subcontractor.

### Instructions for Section IV

Provide Bidder's full legal name, tax ID number, address, and telephone number in the appropriate boxes. The certification must be signed by an authorized Bidder representative in the box labeled "By (*Authorized Signature*)."  
Provide the name and title of the authorized Bidder representative, and the date, county and state where that person signed the certification, in the appropriate boxes.



### DVBE DECLARATION

#### SECTION 1. MUST BE COMPLETED BY ALL DVBEs

Disabled Veteran Business Enterprise (DVBE) name: \_\_\_\_\_  
DGS Supplier ID number: \_\_\_\_\_

#### SECTION 2. MUST BE COMPLETED BY ALL DVBEs

Check only one box in Section 2 and provide original signatures of all disabled veteran (DV) owners and managers of the DVBE.

- I (we) declare that the DVBE is not a broker or agent, as defined in Military and Veterans Code (MVC) section 999.2(b), of the goods and/or services provided by the DVBE in connection with the solicitation identified above.
  
- Pursuant to MVC 999.2(f), I (we) declare that the DVBE is a broker or agent for the following principal. (*attach additional sheets if more than one principal*)  
Principal Name: \_\_\_\_\_ Principal Phone: \_\_\_\_\_  
Principal Address: \_\_\_\_\_

**Disabled veteran owners and managers of the DVBE:** (*attach additional sheets if necessary*)

<i>Printed Name of DV owner/manager</i>	<i>Date signed</i>
<i>Signature of DV owner/manager</i>	

<i>Printed Name of DV owner/manager</i>	<i>Date signed</i>
<i>Signature of DV owner/manager</i>	

<i>Printed Name of DV owner/manager</i>	<i>Date signed</i>
<i>Signature of DV owner/manager</i>	

**SECTION 3. MUST BE COMPLETED BY DVBEs THAT PROVIDE RENTAL EQUIPMENT AND ARE NOT BROKERS/AGENTS**

*Skip this section if (i) the DVBE is not providing rental equipment or (ii) the DVBE indicated in Section 2 that it is a broker or agent.*

Check applicable boxes below 3 and provide original signatures of all DV owners and managers of the DVBE.

- Pursuant to MVC 999.2 (c), (d) and (g), I am (we are) the DV(s) with at least 51% ownership of the DVBE, or DV manager(s) of the DVBE. The DVBE maintains certification requirements in accordance with MVC 999 et seq.
- The undersigned owner(s) own(s) at least 51% of the quantity and value of each piece of equipment that will be rented in connection with this solicitation. I (we), the DV owner(s) of the equipment, have submitted to DGS my (our) personal federal tax return(s) at time of certification and annually thereafter as defined in MVC 999.2 (c) and (g).

**Disabled veteran owners of the DVBE: (attach additional sheets if necessary)**

<i>Printed Name of DV owner</i>	<i>Tax ID Number of DV owner</i>
<i>Address of DV owner</i>	<i>DV owner Telephone Number</i>
<i>Signature of DV owner</i>	<i>Date signed</i>

<i>Printed Name of DV owner</i>	<i>Tax ID Number of DV owner</i>
<i>Address of DV owner</i>	<i>Telephone # of DV owner</i>
<i>Signature of DV owner</i>	<i>Date signed</i>

**Disabled veteran managers of the DVBE: (attach additional sheets if necessary)**

<i>Printed Name of DV manager</i>	<i>Date signed</i>
<i>Signature of DV manager</i>	

<i>Printed Name of DV manager</i>	<i>Date signed</i>
<i>Signature of DV manager</i>	

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## DVBE DECLARATION INSTRUCTIONS

### General Instructions

In this form, (i) “DGS” refers to the Department of General Services; (ii) “Bidder” refers to a person or entity that submits a response to a competitive solicitation issued by the JBE, including both IFBs and RFPs; and (iii) “bid” refers to a response to a competitive solicitation issued by the JBE, including both IFBs and RFPs.

If Bidder wishes to claim the DVBE incentive in a solicitation where a DVBE incentive is offered, it must submit a DVBE Declaration completed by each DVBE that will provide goods and/or services in connection with its bid. If Bidder is itself a DVBE, it must complete the DVBE Declaration itself. If Bidder will use one or more DVBE subcontractors, each DVBE subcontractor must complete a DVBE Declaration.

If no DVBE incentive is offered, or Bidder does not wish to claim the DVBE incentive, Bidder should not submit a DVBE Declaration. In addition, if Bidder wishes to claim the DVBE incentive using a DVBE Business Utilization Plan (BUP) on file with DGS, Bidder should not submit a DVBE Declaration. Note that a BUP cannot be used to qualify for the DVBE incentive in a non-IT services solicitation.

The JBE will determine whether Bidder is eligible to receive the DVBE incentive based on information provided in the DVBE Declaration. The JBE may, but is not obligated to, verify or seek clarification of any information set forth in the DVBE Declaration. If Bidder submits incomplete or inaccurate information, it will not receive the DVBE incentive.

### Instructions for Section 1

Provide the full legal name of the DVBE, and its DGS Supplier ID number. This number is in the DVBE’s DGS Supplier Profile, accessible at [www.bidsync.com/DPXBisCASB](http://www.bidsync.com/DPXBisCASB).

### Instructions for Section 2

Check only one box. If the DVBE is not a broker or agent, check the first box. If the DVBE is a broker or agent, check the second box and provide the name, address, and phone number of the principal for which the DVBE is an agent or broker. Military and Veterans Code section 999.2(b) defines “broker” or “agent” as an individual or entity that does not have title, possession, control, and risk of loss of materials, supplies, services, or equipment provided to [a JBE], unless one or more of the disabled veteran owners has at least 51-percent ownership of the quantity and value of the materials, supplies, services, and of each piece of equipment provided under the contract.

All disabled veteran owners and managers of the DVBE must sign and date Section 2. If there are insufficient signature blocks for all disabled veteran owners and managers to sign, attach additional sheets.

### Instructions for Section 3

*The DVBE must complete Section 3 only if both of the following are true (i) the DVBE will provide rental equipment in connection with the contract, and (ii) the DVBE checked the first box in Section 2, indicating that it is not a broker or agent.*

*If (i) the DVBE will not provide rental equipment in connection with the contract, or (ii) the DVBE checked the second box in Section 2, indicating that it is a broker or agent, the DVBE should not check a box in Section 3 or provide the signatures in Section 3.*

Check each box in Section 3 if the corresponding statement is true.

All disabled veteran owners of the DVBE must sign and date Section 3, in the signature blocks designated for disabled veteran owners. Each disabled veteran owner of the DVBE must also provide his or her tax ID number,

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address, and telephone number in the signature block. If there are insufficient signature blocks for all disabled veteran owners, attach additional sheets.

All disabled veteran managers of the DVBE must sign and date Section 3, in the signature blocks designated for disabled veteran managers. If there are insufficient signature blocks for all disabled veteran managers, attach additional sheets.