



REQUEST FOR PROPOSALS

Minnesota Judicial Branch

Temporary Staffing Services

The Minnesota Judicial Branch (MJB)

Minnesota Judicial Branch. The Minnesota Judicial Branch has 10 judicial districts with 289 district court judgeships, 19 Court of Appeals judges, and seven Supreme Court justices. The SCAO is governed by the Judicial Council, which is chaired by Lorie S. Gildea, Chief Justice of the Minnesota Supreme Court. The Minnesota Judicial Branch is mandated by the Minnesota Constitution to resolve disputes promptly and without delay. In 2012, there were more than 1.4 million cases filed in district courts in Minnesota. For more information please visit www.mncourts.gov

Project Overview

The Minnesota Judicial Branch requests proposals to provide temporary clerical staffing to assist the branch with administrative and project work to meet the needs of the court.

Goal

It is the goal of this proposal to meet intermittent staffing need to fulfill the work of the court.

Sample Tasks (the following are examples of tasks that temporary workers will need to perform.)

- Preparing documents;
- Executing meeting logistics, i.e., maintaining lists of attendees, ordering parking passes and refreshments, insuring timely delivery, preparing documents, setting up technology, preparing agendas and taking minutes;
- Performing receptionist duties;
- Photocopying and collating materials;
- Data entry;
- Clerical library duties;
- General clerical accounting duties;

I. TERMS AND CONDITIONS

Right to Change RFP and Process

The MJB reserves the right to reject any and all proposals, in whole or in part, to advertise for new proposals, to abandon the need for services, and to cancel or amend this RFP at any time prior the execution of the written contact. The MJB reserves the right to waive any formalities in the RFP process.

The MJB may respond to questions or provide information from Respondents, and is under no obligation to provide responses or information to all other Respondents.

II. GENERAL REQUIREMENTS

1. Certificate of Insurance. Each proposal shall contain acceptable evidence of compliance with the workers' compensation coverage requirements of Minnesota Statute § 176.181, subd. 2. Vendor's RFP response must include one of the following: (1) a certificate of insurance, or (2) a written order from the Commissioner of Insurance exempting you from insuring your liability for compensation and permitting him to self-insure the liability, or (3) an affidavit certifying that you do not have employees and therefore are exempt pursuant to Minnesota Statutes §§ 176.011, subd. 10; 176.031; and 176.041. *See* Section XV of the sample State contract in Appendix III for details on additional insurance requirements that must be provided upon request of the State.
2. Affirmative Action Certification. If the vendor's proposal exceeds \$100,000.00, the RFP response must include a completed Affirmative Action Statement and Certificate of Compliance, which are attached as Appendix I. *See* Appendix I.
3. Additional Terms

By submitting a proposal, the Respondent agrees that:

- A. The MJB may copy the proposal for purposes of facilitating the evaluation of the proposal and represents that the copying will not violate the rights of any third party.
- B. It will not bring any claim or have any cause of action against the MJB based on any misunderstanding concerning the information provided or concerning the State's failure, neglect or otherwise, to provide the Respondent with pertinent information as intended by this RFP.

- C. The proposal is predicated upon the acceptance of all terms and conditions stated in this RFP and the attached Affirmative Action Statement and Certification of Compliance (Appendix I), Appropriate Use of Data and Records Policy (Appendix II), and a draft MJB contract (Appendix III). If the Respondent objects to any terms or conditions, it shall make specific reference to the RFP page and section at issue. The MJB reserves the right to accept or reject any exception taken by Respondent to the terms and conditions of this RFP.
- D. The MJB will not be responsible for any costs incurred by the Respondent in preparing a response to this RFP.
- E. All responses, inquiries, or correspondence relating to or in reference to this RFP, and all other reports, charts, displays, schedules, exhibits, and other documentation submitted by the Respondent will become the property of the State.
- F. Any personnel provided by Contractor will be subject to a criminal background check, and must agree to adhere to MJB policies regarding Confidentiality (see Appendix IV) and Appropriate Use of Data (See Appendix III).

The term of this contract is anticipated to run from July 1, 2013 to June 30, 2015, with the option to extend an additional 2 years in increments as determined by the MJB.

This request for proposal does not obligate the MJB to award a contract or complete the project, and the MJB reserves the right to cancel the solicitation if it is considered to be in its best interest.

Prospective responders who have any questions regarding this request for proposal may contact:

Sara Kujawski, Human Resources Manager
Minnesota Judicial Branch
25 Rev. Dr. Martin Luther King Jr. Blvd. St. Paul, MN 55155
(651) 215-0344
Sara.Kujawski@courts.state.mn.us

Questions must be submitted May 28, 2013 and will be posted by May 31, 2013 along with responses on the MJB public website www.mncourts.gov.

III. NECESSARY PROPOSAL CONTENT

Responders must submit the following information:

- A. Vendor's process for hiring employees to provide as temporary staff, including screening process, background checks, reference checking, etc.
- B. Typical background of temporary staff.
- C. Process and terms for rejection of candidates by MJB if dissatisfied with qualifications or performance.
- D. Hourly rates for typical candidates with the following skills:
 - a. General Clerical
 - b. Executive Assistant
 - c. General Basic Accounting
 - d. Information Technology Service Desk Support
- E. Percent of rate that goes to the employee and percent to the vendor.
- F. Cost reduction/break for increased hours.
- G. Turnaround time for candidate referral.
- H. Options for multiple candidate choices for long term temporary positions.
- I. An outline of the vendor's background and experience with examples of similar work done by the responder including personal contact information, please clearly indicate in the proposal that personal contact information is being provided.
- J. A list of vendor's clients and references.
- K. Contact Information with Signatures. Your proposal must be signed by, in the case of an individual, by that individual, and in the case of an individual employed by a firm, by the individual and an individual authorized to bind the firm.
- L. Terms of agreement of length of time the MJB must wait to directly hire a temporary employee provided by the vendor and fee for direct hire.
- M. Responder must provide a list of all entities with which it has relationships that create, or appear to create, a conflict of interest with the work that is contemplated in this request for proposals. The list should indicate the name of the entity, the relationship, and a discussion of the conflict.

IV. SELECTION PROCESS AND TIMELINE

- A. Interviews-Interviews will be conducted with representatives from selected responders.
- B. Vendor selection will be as soon as possible after the proposal submission deadline.

All proposals must be sent to:

Minnesota Judicial Branch
Sara Kujawski, HR Manager
25 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155

All proposals must be received not later than 5:00 p.m., Central Time, June 7, 2013.

Proposals delivered in person to the Minnesota Judicial Center should be presented to the First Floor receptionist.

Late proposals will not be considered.

V. EVALUATION AND AWARD PROCESS

- A. The MJB will review and evaluate all proposals using its sole judgment and discretion, and make take into account the content of the responses and any other factors in its judgment.
- B. Considerations will be given to pricing, quality of candidates, screening of candidates, turnaround time, cancellation/rejection of candidates process and criteria.
- C. Potential respondents should submit all questions or inquires relating to this Request for Proposal in writing to the designated representative, Sara Kujawski, by email at sara.kujawski@courts.state.mn.us or Minnesota Judicial Center 25 Rev. Martin Luther King Jr. Blvd. St. Paul, MN 55155. All questions and responses will be posted to the MN Judicial Branch public website.
- D. All final proposals must be submitted no later than 5:00 p.m. on June 7, 2013.
- E. By submission of a proposal, Responder warrants that the information provided is true, correct and reliable for purposes of evaluation for potential contract award. The submission of inaccurate or misleading information may be grounds for disqualification from the award as well as subject the responder to suspension or debarment proceedings as well as other remedies available by law.
- F. **E-Verify Certification (In accordance with Minn. Stat. §16C.075).** By submission of a proposal for services in excess of \$50,000, Contractor certifies that as of the date of services performed on behalf of the MJB, Contractor and all its subcontractors will have implemented or be in the process of implementing the federal E-Verify program for all newly hired employees in the United States who will perform work on behalf of the MJB. In the event of contract award, Contractor shall be responsible for collecting all subcontractor certifications and may do so utilizing the E-Verify Subcontractor Certification Form available at

<http://www.mmd.admin.state.mn.us/doc/VerifySubCertForm.doc>. All subcontractor certifications must be kept on file with Contractor and made available to the MJB upon request.

APPENDIX I

Affirmative Action Statement and Certification of Compliance (Must be submitted with Response)

STATE OF MINNESOTA - AFFIRMATIVE ACTION STATEMENT

If your response to the RFP is estimated to exceed \$100,000, you must complete the information requested:

BOX A:

1. Have you employed more than 40 full-time employees within Minnesota on a single working day during the previous 12 months?

YES NO

If your answer is “NO,” proceed to BOX B. If your answer is “YES,” **your response will be rejected unless your firm or business has a Certificate of Compliance issued by the State of Minnesota, Commissioner of Human Rights, or has submitted an affirmative action plan** to the Commissioner of Human Rights for approval **by the time the responses are due** for any proposal estimated to exceed \$100,000.

2. Please check one of the following statements:

- YES, we have a **current** Certificate of Compliance that has been issued by the State of Minnesota, Commissioner of Human Rights. (Include a copy of your certificate with your response.)
- NO, we **do not have** a Certificate of Compliance; however, **we submitted an affirmative Action plan** to the Commissioner of Human Rights for approval on _____. The plan must be approved by the Commissioner of Human Rights before any designation or agreement can be executed.
- NO, we **have not submitted** a plan. If your plan is not submitted by the time the responses are due, your response will be rejected.

NOTE: Minnesota designations must have a certificate issued by the Minnesota Department of Human Rights. Affirmative Action plans approved by the federal government, a county, or a municipality must still be reviewed and approved by the Minnesota Department of Human Rights for a certificate to be issued.

BOX B:

1. Have you employed more than 40 full-time employees on a single working day during the previous 12 months in a state in which you have your primary place of business and that primary place of business is outside of the State of Minnesota, but inside the United States?

YES NO

If your answer is “NO,” proceed to BOX C. If your answer is “YES,” **the state cannot execute a designation with your firm or business unless it is in compliance with the Minnesota Human Rights certification requirements. It is the sole responsibility of the firm or business to apply for and obtain a human rights certification prior to execution of a designation as applicable.** You may achieve compliance with the Human Rights Act by having either a current Certificate of Compliance issued by the State of Minnesota, Commissioner of Human Rights, or by certifying that you are in compliance with federal Affirmative Action requirements.

BOX B (continued):

2. Please check one of the following statements:

- YES**, we have a current Certificate of Compliance issued by the Minnesota Department of Human Rights. (Include a copy of your certificate with your response.)
- YES**, we are in compliance with federal Affirmative Action requirements.
- NO**, we do not have a current Certificate of Compliance and we cannot certify that we are in compliance with federal Affirmative Action requirements.

BOX C:

1. If your answers to BOX A (Question 1) and Box B (Question 1) were “NO,” you are not subject to the Minnesota Human Rights Act certification requirement. Please, however, check one of the following:

- NO**, we have not employed more than 40 full-time employees within Minnesota on a single working day during the previous 12 months and we have not employed more than 40 full-time employees on a single working day during the previous 12 months in the state in which our primary place of business is located.
- We are a business with our primary place of business outside of the United States that has not employed more than 40 full-time employees within Minnesota on a single working day during the previous 12 months.

For further information regarding Minnesota Human Rights requirements, contact the Department of Human Rights, Compliance Services, 190 East 5th Street, Suite 700, St. Paul, MN 55101; Voice: 651.296.5663; Toll Free: 800.657.3704; or TTY: 651.296.1283. For further information regarding federal Affirmative Action requirements, call 800.669.4000 or visit its web site at <http://www.eeoc.gov/>.

By signing this statement, the Proposer certifies that the information provided is accurate.

NAME OF FIRM: _____

AUTHORIZED SIGNATURE: _____

TITLE: _____

DATE: _____

STATE OF MINNESOTA - AFFIRMATIVE ACTION CERTIFICATION OF COMPLIANCE

The Minnesota Human Rights Act (Minn. Stat. § 363.073) divides the designation compliance program into two categories. Both categories apply to any designations for goods or services in excess of \$100,000.

The first category applies to businesses that have had more than 40 full-time employees within Minnesota on a single working day during the previous 12 months. The businesses in this category must have submitted an Affirmative Action plan to the Commissioner of the Department of Human Rights prior to the due date of the response and must have received a Certificate of Compliance prior to the execution of a designation.

The second category applies to businesses that have had more than 40 full-time employees on a single working day in the previous 12 months in the state in which they have their primary place of business. The businesses in this category must have either a current Certificate of Compliance previously issued by the Department of Human Rights or certify to the STATE that they are in compliance with federal Affirmative Action requirements before execution of a designation. For further information, contact the Department of Human Rights, 190 East 5th Street, Suite 700, St. Paul, MN 55101; Voice: 651-296-5663; Toll Free: 800-657-3704; or TTY: 651-296-1283.

Minnesota businesses must have a current Certificate of Compliance or submitted an affirmative action plan by the time proposals are due, or their proposal will be rejected.

The STATE is under no obligation to delay the execution of a designation until a business has completed the Human Rights certification process. It is the sole responsibility of the business to apply for and obtain a Human Rights certificate prior to execution of a designation, as applicable.

APPENDIX II

Minnesota Judicial Branch Policy

Policy Source: Judicial Council

Policy Number: 323

Category: Human Resources

Title: Appropriate Use of Data and Records

Effective Date: March 1, 2013

Revision Date(s):

Supersedes: State Court Administrator Policy 318(b)

Contact: Human Resources Director

I. POLICY STATEMENT

Minnesota Judicial Branch employees, volunteers, and independent contractors have access to data and records in various information systems and databases that may be used in connection with the performance of their work-related duties and responsibilities. These information systems include those operated by the Minnesota Judicial Branch, justice partner agencies and entities, and Executive Branch agencies. For those systems operated by an agency or entity other than the Minnesota Judicial Branch, access agreements are in place between the Minnesota Judicial Branch and the agency or entity with provisions outlining the appropriate use of the information systems.

It is the policy of Minnesota Judicial Branch that these information systems and databases shall only be used by employees, volunteers and independent contractors as a means to access, use and share data and records for work-related duties and responsibilities. Employees, volunteers and independent contractors shall only be provided access to information systems and databases necessary to the performance of their work-related duties and responsibilities. The information systems and databases shall not be used as a means to access public, confidential (non-public) or sealed data for personal, non-work-related purposes. Employees, volunteers and independent contractors must use publically accessible means to access public data for personal, non-work-related purposes, subject to Minnesota Judicial Branch Policy 317, [Internet-Electronic Communication Policy](#).

Reports of misuse shall be promptly investigated, and prompt and appropriate corrective action shall be taken when it is determined that inappropriate access, use or sharing of data or records has occurred. Violation of this

policy will result in disciplinary action, up to and including discharge, termination from a volunteer position, or severance of a contract, as applicable. Employees, volunteers and independent contractors may be subject to personal liability for damages arising from inappropriate access, use or sharing of data or records.

II. IMPLEMENTATION AUTHORITY

Implementation of this policy shall be the responsibility of the State Court Administrator.

III. EXECUTIVE LIMITATIONS

Not applicable.

IV. RELATED DOCUMENTS

- Minnesota Judicial Branch Policy 300(t), [Human Resources Procedures for Employee Misconduct Investigations](#)
- Minnesota Judicial Branch Policy 303, [Employee Confidentiality Policy](#)
- Minnesota Judicial Branch Policy 317, [Internet-Electronic Communication Policy](#)
- [Minnesota Judicial Branch Policy 318, Court Employee Code of Ethics](#)
- **Minnesota Judicial Branch Policy 322**, [Telecommuting Policy](#)
- **State Court Administrator Policy 322 (a) Teleworking Policy and Procedure**

APPENDIX III

DRAFT SAMPLE CONTRACT

CONTRACT FOR SERVICES (non technology related)

THIS CONTRACT, and amendments and supplements thereto, is between State of Minnesota, acting through its State Court Administrator, address 25 Rev. Dr. Martin Luther King Jr. Blvd., Saint Paul, MN. 55155 (hereinafter "STATE") and CONTRACTOR, an independent contractor, not an employee of the State of Minnesota, address hereinafter "CONTRACTOR"),

WHEREAS, the STATE, pursuant to Minnesota Statutes 2010, Section 480.14 is empowered to hire workers as necessary to accomplish the work of the office, and

WHEREAS, the STATE desires to complete intermittent projects in a timely manner, and WHEREAS, CONTRACTOR represents that it is duly qualified and

willing to perform the services set forth herein. NOW, THEREFORE, it is agreed:

I. DUTIES.

- A. CONTRACTOR, who is not a STATE employee, shall provide temporary staffing services including assigning temporary employees to perform the services set forth in this section, which will not include handling case or credit card information. In addition, it is understood that CONTRACTOR'S assigned personnel may be handling confidential records but will not be responsible for communicating the contents of such records to any third party and shall as further provided in section XII of this contract direct all inquiries for access to such confidential records to third parties to the STATE.

- (1) Preparing documents;
- (2) Executing meeting logistics, i.e. maintaining lists of attendees, ordering parking passes and refreshments, insuring timely delivery of ordered goods;
- (3) Answering phones and responding to general inquiries;
- (4) Photocopying and collating materials;
- (5) Data entry;
- (6) Clerical library duties;
- (7) Other clerical duties as assigned;
- (8) Maintaining confidentiality at all times and abiding by all rules and procedures of the court offices to which assigned.

- B. The STATE shall have the right to reject before or after starting the project, for any reason or for no reason, any personnel assigned by CONTRACTOR to perform service hereunder.
Upon such rejection, CONTRACTOR shall promptly assign another of its personnel.

- C. Prior to assigning any individual to perform services hereunder, CONTRACTOR shall take reasonable steps to determine whether the individual (or his or her immediate family members has an interest in any pending or threatened litigation or proceedings in any Minnesota state court. Such steps shall include, without limitation, requiring all individuals assigned to perform services here under to complete Part II of the Confidentiality and Disclosure of Interest Agreement set forth in Exhibit A which is attached to and made a part of this contract. CONTRACTOR acknowledges that, without limiting section I.B. above, the STATE may immediately disqualify any such individual from performing services hereunder, and CONTRACTOR shall ensure that no such disqualified individual shall have any further access to the confidential information of the STATE. If CONTRACTOR becomes aware of any individual's interest (or that of his or her immediate family members) in any threatened or pending litigation or proceeding in any Minnesota state court, CONTRACTOR shall immediately notify the STATE of such interest.

II. CONSIDERATION AND TERMS OF PAYMENT.

A. Consideration for all services performed and goods or materials supplied by CONTRACTOR pursuant to this contract shall be paid by the STATE as follows:

1. Compensation: not to exceed the hourly rates indicated for the following individuals

(a) The Contractor may provide the services of additional individuals and the STATE may accept and pay for the services of additional individuals at an hourly rate commensurate with job skills and requirements at an hourly rate not to exceed \$26.00 per hour.

2. Contractor will be reimbursed for travel expenses required by Minnesota Judicial Branch supervisor at rates approved pursuant to judicial branch policy.

3. The total obligation of the STATE for all compensation and reimbursements to CONTRACTOR shall not exceed XXX dollars.

B. Terms of Payment. Payments shall be made by the STATE promptly after CONTRACTOR'S presentation of invoices for services performed and acceptance of such services by the STATE'S authorized agent pursuant to Section VII. An invoice shall be submitted for tollable costs incurred by the CONTRACTOR during the immediately preceding week .

III. TIME REQUIREMENTS. CONTRACTOR shall comply with all of the time requirements described in this contract.

IV. CONDITIONS OF PAYMENT. All services provided by CONTRACTOR pursuant to this contract shall be performed to the satisfaction of the STATE, as determined at the sole discretion of its authorized representative, and in accord with the CONTRACTOR'S duties set forth in section I of this contract and all applicable federal, state, and local laws, ordinances, rules and regulations. CONTRACTOR shall not receive payment for work found by the STATE to be unsatisfactory, or performed in violation of federal, state or local law, ordinance, rule or regulation.

V. TERMS OF CONTRACT. This contract shall be effective on July 1, 2013 and shall remain in effect until June 30, 2015 or until all obligations set forth in this contract have been satisfactorily fulfilled, whichever occurs first.

VI. CANCELLATION.

A. This contract may be cancelled by the STATE at any time, with or without cause. In the event of such a cancellation, CONTRACTOR shall be entitled to payment, determined on a pro rata basis, for work or services satisfactorily performed.

B. The STATE may immediately cancel this contract if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Cancellation must be by written or facsimile transmission notice to CONTRACTOR. The STATE is not obligated to pay for any services that are provided after notice and effective date of termination. However, CONTRACTOR will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. The STATE will not be assessed any penalty if the contract is cancelled because of a decision of the Minnesota Legislature, or other funding source, not to appropriate funds. The STATE must provide CONTRACTOR notice of the lack of funding within a reasonable time of the STATE'S receiving that notice.

VII. STATE'S AUTHORIZED REPRESENTATIVE. The STATE'S Authorized Representative for the purposes of administration of this contract is Sara Kuiawski, Human Resources Manager . Such representative shall have final authority for acceptance of CONTRACTOR'S services and if such services are accepted as satisfactory, shall so certify on each invoice submitted pursuant to Section II (B).

VIII. ASSIGNMENT. CONTRACTOR shall neither assign nor transfer any rights or obligations under this contract without the prior written consent of the STATE.

IX. AMENDMENTS. Any amendments to this contract shall be in writing and shall be executed by the same parties who executed the original contract, or their successors in office.

X. LIABILITY. CONTRACTOR shall indemnify, save, and hold the STATE, its representatives and employees harmless from any and all claims or cases of action, including all attorney's fees incurred by the STATE, arising from the performance of this contract by CONTRACTOR or CONTRACTOR'S agents or employees. This clause shall not be construed to bar any legal remedies CONTRACTOR may have for the STATE'S failure to fulfill its obligations pursuant to this contract.

XI. STATE AUDITS. The books, records, documents, and accounting procedures and practices of the CONTRACTOR relevant to this contract shall be subject to

examination by the contracting department and the Legislative Auditor for a minimum period of six (6) years from the termination of this contract. Records shall

be sufficient to reflect all costs incurred in performance of this Contract.

XII. CONFIDENTIALITY, DISCLOSURE AND USE. CONTRACTOR shall not disclose to any third party any information that is both: (A) made available by the STATE or its agents to CONTRACTOR in order to permit CONTRACTOR to perform hereunder or is created, gathered, generated or acquired in accordance with this contract; and (B) inaccessible to the public pursuant to the Rules of Public Access to Records of the Judicial Branch promulgated by the Minnesota Supreme Court, as the same may be amended from time to time. If the CONTRACTOR receives a request to release the information referred to in this Clause, the CONTRACTOR must immediately notify the STATE. The STATE will give the CONTRACTOR instructions concerning the release of the information to the requesting party before the information is released.

XIII. RIGHTS IN AND TO INFORMATION, INVENTIONS, AND MATERIALS.

A. The STATE shall own all rights, title and interest in all of the materials conceived or created by the CONTRACTOR, or its employees or subcontractors either individually or jointly with others and which arise out of the performance of this contract, including any report, study, computer software, database, model, invention, photograph, negative, audio or video recording, or other item or documents (hereafter "MATERIALS"). CONTRACTOR hereby assigns to the STATE all rights, title and interest to the MATERIALS. CONTRACTOR shall, upon request of the STATE, execute all papers and perform all other acts necessary to assist the STATE to obtain and register copyrights, patents or other forms of protection provided by law for the MATERIALS. The MATERIALS created by CONTRACTOR, its employees or subcontractors, individually or jointly with others shall be considered "works made for hire" as defined by the United States Copyright Act. CONTRACTOR shall remit all of the MATERIALS to the STATE upon completion, termination or cancellation of this contract. CONTRACTOR, its employees and subcontractors shall not copy, reproduce, allow or cause to have the MATERIALS copied or reproduced or used for any purpose other than the performance of the CONTRACTOR'S obligations under this contract without the written permission of the STATE'S authorized representative. Nothing in this Article shall be construed to limit the CONTRACTOR'S obligation to comply with Article XI of this contract.

B. CONTRACTOR represents and warrants that MATERIALS produced or used under this contract do not and will not infringe upon any intellectual property rights of another, including but not limited to patents, copyrights, trade secrets, trade names, and service marks and names. Without limiting section X, CONTRACTOR shall indemnify and defend the STATE at CONTRACTOR'S expense from any action or claim brought against the STATE to the extent that it is based on a claim that all or part of the MATERIALS infringe upon the intellectual property rights of another. CONTRACTOR shall be responsible for payment of any and all such claims, demands, obligations, liabilities, costs, and damages, including, but not limited to, reasonable attorney fees arising out of this contract, amendments and supplements thereto, which are attributable to such claims or actions. If such a claim or action arises, or in CONTRACTOR'S or the STATE'S opinion is likely to arise, CONTRACTOR shall, at the STATE'S discretion, either procure for the STATE the right or license to continue using the MATERIALS at issue or replace or modify the allegedly infringing MATERIALS. This remedy shall be in addition to and shall not be exclusive to other remedies provided by law.

XIV AFFIRMATIVE ACTION.

A. Covered Contracts and Contractors. If this contract exceeds \$100,000 and CONTRACTOR employed more than forty (40) full-time employees on a single working day during the previous twelve months in Minnesota or in the state where it has its principle place of business, then CONTRACTOR must comply with the requirements of Minn. Stat. § 363A.36 and Minn. R. Parts 5000.3400-5000.3600. A contractor covered by Minn. Stat. § 363A.36 because it employed more than forty (40) full-time employees in another state that does not have a certificate of compliance must certify that it is in compliance with federal affirmative action requirements.

B. Minn. Stat. § 363A.36. Minn. Stat. § 363A.36 requires the contractor to have an affirmative action plan for the employment of minority persons, women, and qualified disabled individuals approved by the Minnesota Commissioner of Human Rights ("Commissioner") as indicated by a certificate of compliance. The law addresses suspension or revocation of a certificate of compliance and contract consequences in that event. A contract awarded without a certificate of compliance may be voided.

C. Minn. R. Parts 5000.3400-5000.3600 provide:

I. General. Minn. R. Parts 5000.3400-5000.3600 implement Minn. Stat. § 363A.36. These rules include, but are not limited to, criteria for contents, approval, and implementation of affirmative action plans; procedures for issuing certificates of compliance and criteria for determining a contractor's compliance status; procedures for addressing deficiencies, sanctions, and notice and hearing; annual compliance reports; procedures for compliance review; and contract consequences for non-compliance. The specific criteria for approval or rejection of an affirmative action plan are contained in various provisions of Minn. R. Parts 5000.3400-5000.3600 including, but not limited to, parts 5000.3420-5000.3500 and 5000.3552-5000.3559.

2. Disabled Workers. The contractor must comply with the following affirmative action requirements for disabled workers;
 - a. The contractor must not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled persons without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
 - b. The contractor agrees to comply with the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.
 - c. In the event of the contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with Minn. Stat. § 363A.36, and the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.
 - d. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the commissioner of the Minnesota Department of Human Rights. Such notices must state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment, and the rights of applicants and employees.
 - e. The contractor must notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of Minn. Stat. § 363A.36, of the Minnesota Human Rights Act and is committed to take affirmative action to employ and advance in employment physically and mentally disabled persons.

D. Consequences. The consequences for a contractor's failure to implement its affirmative action plan or make a good faith effort to do so include, but are not limited to, suspension or revocation of a certificate of compliance by the Commissioner, refusal by the Commissioner to approve subsequent plans, and termination of all or part of this contract by the Commissioner or the STATE.

E. Certification. CONTRACTOR hereby certifies that it is in compliance with the requirements of Minn. Stat. § 363A.36 and Minn. R. Parts 5000.3400-5000.3600 and is aware of the consequences for non-compliance.

XV. WORKERS' COMPENSATION. In accordance with the provisions of Minnesota Statutes, Section 176.182, as enacted, the CONTRACTOR shall provide acceptable evidence of compliance with the workers' compensation insurance coverage requirement of Minnesota Statutes, Section 176.181, subdivision 2, as enacted, prior to commencement of any duties to be performed under this contract.

XVI. ANTITRUST. CONTRACTOR hereby assigns to the State of Minnesota any and all claims for overcharges as to goods and/or services provided in connection with this contract resulting from antitrust violations which arise under the antitrust laws of the United States and the antitrust laws of the State of Minnesota.

XVII. OTHER PROVISIONS.

A. Warranties.

1. Original Works. In performing its obligations hereunder, CONTRACTOR will not use or incorporate any trade secret information or copyrighted works of authorship of CONTRACTOR or of any third party, and except for components already in the public domain, all software, documentation, information and other materials provided or furnished by CONTRACTOR in performing the duties under this contract will be original and will not violate or infringe upon the rights of any third party.
2. Professional Services. CONTRACTOR represents and warrants to the STATE that it has the proper training, skill and background so as to be able to perform all services required of CONTRACTOR pursuant to this contract in a competent and professional manner, and all such work shall be of professional quality.
3. Mutual Representations **and** Warranties. CONTRACTOR and the STATE each represent and warrant to the other that: a) it has the full right, power and authority to enter into this contract and to perform fully all of its obligations hereunder; b) it is free of any

obligation

or restriction that would prevent it from entering into this contract or from performing **fully** any of its obligations hereunder; and c) it has not entered into and will not enter into any contract which would impede the full performance of its obligations hereunder or would in any way limit or restrict the rights of the other under this contract.

- B. **Injunctive Relief.** Without limiting section X, CONTRACTOR acknowledges that the STATE will be irreparably harmed if CONTRACTOR'S obligations under sections XII and XIII of this contract are not specifically enforced and that the STATE would not have an adequate remedy at law in the event of an actual or threatened violation by CONTRACTOR of its obligations. Therefore, CONTRACTOR agrees that the STATE shall be entitled to an injunction or any appropriate decree of specific performance for any actual or threatened violation or breach by CONTRACTOR without the necessity of the STATE showing actual damages or that monetary damages would not afford an adequate remedy. CONTRACTOR shall be liable to the STATE for reasonable attorney's fees incurred by the STATE in obtaining any relief pursuant to this section.
- C. **Relationship of the Parties.** CONTRACTOR is an independent contractor and shall not be deemed for any purpose to be an employee of the STATE. CONTRACTOR understands and agrees that the STATE is not withholding any taxes from the fees paid to CONTRACTOR pursuant to this contract and that CONTRACTOR is solely responsible for any taxes and other amounts to be paid as a result of the fees paid to CONTRACTOR pursuant to this contract. Neither CONTRACTOR nor the STATE shall have the right nor the authority to assume, create or incur any liability or obligation of any kind, express or implied, against or in the name of or on behalf of the other.
- D. **Consent to Release of Certain Data.** Under Minn. Stat. § 270C.65 and other applicable law, CONTRACTOR consents to disclosure of its social security number, federal employer tax identification number, and/or Minnesota tax identification number, already provided to the STATE, to federal and state tax agencies and state personnel involved in the payment of state obligations. These identification numbers may be used in the enforcement of federal and state tax laws which could result in action requiring CONTRACTOR to file state tax returns and pay delinquent state tax liabilities, if any.
- E. **Publicity.** Any publicity regarding the subject matter of this contract must identify the STATE as the sponsoring agency and must not be released without the prior written approval from the STATE'S Authorized Representative. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for CONTRACTOR individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this contract. Notwithstanding anything in this contract to the contrary, either party may disclose to the public the existence of this contract, the parties to the contract, and the material terms of the contract, including price, projected term, and scope of work.
- F. **Endorsement.** CONTRACTOR must not claim that the STATE endorses its products or services.
- G. **Notices.** Any written notice hereunder shall be deemed to have been received when: (A) personally delivered; (B) sent by confirmed facsimile transmission or telegram; (C) sent by commercial overnight courier with written verification of receipt; or (D) seventy-two (72) hours after it has been deposited in the United States mail, first class, proper postage prepaid, addressed to the party to whom it is intended at: (1) the address first set forth herein, if to CONTRACTOR; (2) at the address first set forth herein, if to the STATE, with a copy to Legal Counsel Division, 140 Minnesota Judicial Center, 25 Rev. Martin Luther King, Jr. Blvd, St. Paul, MN 55155; or (3) at such other address of which written notice has been given in accordance herewith.
- H. **Non-Exclusivity.** This contract shall not preclude CONTRACTOR from developing materials outside this contract that are competitive, irrespective of their similarity to materials delivered to the STATE under this contract; provided, however, that such materials prepared by CONTRACTOR shall not violate the nondisclosure and intellectual property provisions of this contract. Nothing in this contract shall be construed as precluding or limiting in any way the right of CONTRACTOR to provide services of any kind to any person or entity as CONTRACTOR in its sole discretion deems appropriate.
- I. **Miscellaneous.**
1. The provisions of sections VII, X, XI, XII, XIII, XVI, and XVII shall survive any cancellation or termination of this contract as shall any other provisions which by their nature would be intended or expected to survive such cancellation or termination.
 2. The failure by either Party at any time to enforce any of the provisions of this contract or any right or remedy available hereunder or at

law or in equity, or to exercise any option herein provided, shall not constitute a waiver of such provision, right, remedy or option or in any way affect the validity of this contract. The waiver of any default by either Party shall not be deemed a continuing waiver, but shall apply solely to the instance to which such waiver is directed. This contract shall in all respects be governed by and interpreted, construed and enforced in accordance with the laws of the United

States of America and of the State of Minnesota, without regard to Minnesota's choice of law provisions. Any action arising out of or relating to this contract, its performance, enforcement or breach will be venued in a state or federal court situated within the State of Minnesota. CONTRACTOR hereby irrevocably consents and submits itself to the personal jurisdiction of said courts for that purpose. Every provision of this contract shall be construed, to the extent possible, so as to be valid and enforceable. If any provision of this contract so construed is held by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, such provision shall be deemed severed from this contract, and all other provisions shall remain in full force and effect.

3. This contract sets forth the entire agreement and understanding between the Parties regarding the subject matter hereof and supersedes any prior representations, statements, proposals, negotiations, discussions, understandings, or agreements regarding the same subject matter; provided that all terms and conditions of all preexisting contracts or agreements between the parties shall continue in full force and effect except as supplemented or modified by this contract. In the event of any inconsistency or conflict between the terms of this contract and any other agreement between the parties, the terms of this contract shall govern.

IN WITNESS WHEREOF, the parties have caused this contract to be duly executed intending to be bound thereby.

(The rest of this page intentionally left blank)

1. CONTRACTOR

2. STATE

CONTRACTOR certifies that the appropriate persons have executed the contract on behalf of CONTRACTOR as required by applicable articles, by-laws, resolutions or ordinances. (If a corporation with more than one individual serving as corporate officer, two corporate officers must execute)

Person signing certifies that applicable procurement policies have been followed. Where contract and amendments exceed \$50,000, signature of State Court Administrator or her/his Deputy is also required.

By:
Title:
Date:

By:
Title:
Date:

By:
Title:
Date:

By:
Title:
Date:

3. Funds have been encumbered as required by State Court Finance Policy by:

(reserved)

By:

Title:
Date:

4. Approved as to form and execution for STATE by::

(reserved)

By:
Title:
Date:

APPENDIX IV

Minnesota Judicial Branch Policy

Policy Source: Minnesota Judicial Council

Policy Number: 303

Category: Human Resources

Title: Employee Confidentiality

Effective Date: November 18, 2005

Revision Date(s):

Supersedes:

Employee Confidentiality

V. POLICY STATEMENT

It is the policy of the Minnesota Judicial Branch that court employees may disclose to any person any recorded information that is collected, created, received, maintained, or disseminated by the court or its various boards, departments, and offices where:

1. Disclosure of the information is required or permitted by the Rules on Access to Public Records of the Judicial Branch or by any applicable statutes or other applicable court rules;
2. Disclosure is to the Court; or
3. Disclosure is reasonably necessary to the performance of the employee's duties.

Discussions between a judge, justice, and court staff regarding the adjudication of an individual case or proceeding, including delineation of issues, status of research and preliminary views shall not be disclosed to any person unless: (1) authorized by the judge, or (2) authorized by the Chief Judge or the court. This limitation shall not apply to administrative issues regarding the scheduling or processing of a case unless the judge or court specifically established restrictive guidelines, which are communicated to the employee(s).

VI. IMPLEMENTATION AUTHORITY

Implementation of this policy shall be the responsibility of the chief judges of the respective judicial districts and appellate courts.

VII. EXECUTIVE LIMITATIONS

Not applicable.