

**MINNESOTA JUDICIAL BRANCH**  
STATE COURT ADMINISTRATOR'S OFFICE  
Guardian ad Litem Program

**Summary of Request for Proposals**  
**(This page is NOT the actual RFP)**

**INDIAN CHILD WELFARE CULTURAL TRAINING**  
A REQUEST TO DEVELOP A CURRICULUM AND TRAINING DESIGN  
FOR GUARDIAN AD LITEM SERVICES

Guardians ad Litem are appointed in Minnesota's district and tribal courts to advocate for the best interests of children involved in child protection cases, including Indian Child Welfare Act (ICWA) cases, in accordance with state and federal law, Juvenile and Guardian ad Litem Rules, and relevant GAL program standards. To ensure that Guardians ad Litem have adequate knowledge of, and sensitivity to, the prevailing social and cultural standards of Minnesota's Indian communities, Lakota and Ojibwe, especially with respect to culturally specific child rearing practices, the State Guardian ad Litem Program is seeking a qualified individual or group to develop an American Indian Child Welfare Cultural Training Curriculum for Guardians ad Litem (GAL).

In general, the following proposal conditions are required:

- A. A proposal must include an outline and plan to develop the proposed training curriculum manual and training delivery design and a cost estimate and timeline for completion of each chapter as well as the entire curriculum. The plan and ultimately the curriculum must be written with the specific role of the GAL in mind and list specific modules concerning the subjects listed in paragraph B.
- B. The final work product (curriculum and training design) must detail the prevailing social and cultural standards of Minnesota's Indian tribes with respect to family organization and child rearing practices and how those practices should be properly considered by the Guardian ad Litem in making their recommendations to the Court regarding an Indian child's welfare. Consistent with the program's adult learning model, the curriculum should include an application of the learning to some case scenarios and/or real-life examples.
- C. The proposal and curriculum do not need to provide extensive orientation to the statutes, including the Indian Child Welfare Act (ICWA), except insofar as to how the law may be applied by the GAL in making culturally sensitive recommendations to the Court that incorporate the prevailing social and cultural standards of Minnesota's Indian tribes that are in the best interests of the Indian child. The focus of this plan and curriculum is primarily on the social and cultural and child rearing practices and standards of Minnesota's tribal communities.
- D. Contractor must include a resume or curriculum vitae that details the training, education and/or experience that qualifies them to author a curriculum of this nature. Contractor must also submit a complete listing of other educational or training materials they have developed as well as at least one sample work product that is relevant to this request for proposals. Indian cultural and tribal experts with a background in training or curriculum development are explicitly encouraged to apply.

- E. Submissions must meet all requirements of a proposal as set out in the Request for Proposals (RFP). Incomplete proposals or proposals sent anywhere other than the address indicated in the RFP will not be considered.
- F. Proposals must be postmarked no later than December 30, 2006, and if not sent by U.S. mail, must be received no later than 4:00 p.m. on December 31, 2006. No electronic or facsimile submissions will be accepted.

If you are viewing this on the website, the RFP follows this page. This page plus the RFP is approximately 19 pages long (depending on your printer). If this page was mailed to you, the RFP is included in this mailing.

Questions about the RFP or the selection process must be in writing and directed to Mark Toogood at 25 Rev. Dr. Martin Luther King Jr. Blvd., Suite 105, St. Paul, MN 55155 or by e-mail to [mark.toogood@courts.state.mn.us](mailto:mark.toogood@courts.state.mn.us)

**Request For Proposals (RFP)**  
**For A Plan to Develop An**  
**INDIAN CHILD WELFARE CULTURAL TRAINING**  
**CURRICULUM**

The Minnesota Judicial Branch conducts child protection hearings, primarily in its district courts. Many of Minnesota's tribal entities also conduct child protection hearings in Tribal Court. Guardians ad Litem are appointed by the court to advocate for the best interests of the child in those hearings, some of which, when they pertain to an Indian child, involve the application of specialized law, such as the Indian Child Welfare Act and the Minnesota Indian Family Preservation Act. These laws, as well as current Guardian ad Litem standards, contain specific language about the application of "the prevailing social and cultural standards and child rearing practices of the Indian community in which the parent or extended family member resides."

In order to meet this standard, and to apply it in a constructive way to the individual ICWA case, the Guardians ad Litem need a thorough grounding in what those prevailing social and cultural standards are and how to advocate for the best interests of the individual child while taking the tribal community's standards into account. In addition, the State GAL Program aspires to be as culturally sensitive, aware, appreciative and competent as possible in its advocacy on behalf of Indian children and has made a significant commitment, financial and otherwise, in the last three years to that effort.

It is envisioned that, once the Cultural Training curriculum is developed, an additional RFP will be developed by the State GAL program to actually carry out the training on the new cultural curriculum around the state.

This Request for Proposals includes this memo and the attached documents identified as Appendices I, II, and III.

This is not a bid but a request for a proposal and a plan that could become the basis for negotiations leading to a contract for services for the development of an Indian Child Welfare Cultural Training Curriculum. The provider of services would act as an independent contractor and not as an employee of the State of Minnesota. A sample contract designed for use with an individual (as opposed to a designated employee of a firm) is attached as Appendix I. **Do not sign or return the sample contract as part of your proposal.**

The state is not obligated to respond to any proposal submitted nor is it legally bound in any manner whatsoever by the submission of a proposal. The state reserves the right to cancel or withdraw the Request for Proposals at any time if it is considered to be in its best interest. In the event the Request for Proposals is cancelled or withdrawn for any reason, the state shall have no liability to any proposer for any costs or expenses incurred in connection with this Request for Proposals or otherwise. The state also reserves the right to reject any or all proposals, or parts of proposals, to waive any informalities therein, and to extend proposal due dates.

- I. Scope Of Project. The purpose of the Indian Child Welfare Cultural Training Curriculum is to ensure that Guardians ad Litem in the State of Minnesota have sufficient knowledge and appreciation of the prevailing social and cultural standards of the tribal communities in Minnesota to be effective advocates for the best interests of Indian children.

II. Objectives. The immediate goal is to solicit a proposal for a plan to develop such a curriculum and training approach for the State GAL Program. The ultimate goal of this proposal is to enter into a contract with a vendor to develop a curriculum and training approach to instruct and educate Guardians ad Litem about the prevailing social and cultural standards and practices of Minnesota's Indian tribal communities, such that an individual Guardian ad Litem can appreciate and apply those standards with respect to the particular ICWA case on which they are appointed. The ultimate curriculum should provide concrete case scenario examples of how culture needs to be considered when the GAL is advocating for the best interests of an Indian child.

III. Project Tasks. The contractor will complete the following task:

- Submit an outline and a plan for the development of the proposed training curriculum and a cost estimate and timeline for completion of each chapter as well as the entire curriculum.

IV. Department Contact. Questions regarding this Request for Proposal must be submitted in writing and directed to:

Mark Toogood  
State Court Administrator's Office  
25 Rev. Dr. Martin Luther King Jr. Blvd., Suite 105  
St. Paul, MN 55155  
[mark.toogood@courts.state.mn.us](mailto:mark.toogood@courts.state.mn.us)

Please Note: Other judicial branch personnel are not allowed to discuss the project with responders before the deadline for submitting proposals.

V. Submission of Proposals. Your proposal must be submitted in writing in a sealed envelope addressed to:

Mark Toogood  
State Court Administrator's Office  
25 Rev. Dr. Martin Luther King Jr. Blvd., Suite 105  
St. Paul, MN 55155

The proposal must be signed, in the case of an individual, by that individual, or in the case of an individual employed by a firm, by the individual and an individual authorized to bind the firm.

The proposal must be postmarked on or before **December 30, 2006**, and if not sent by U.S. mail, must be received no later than 4:00 p.m. on **December 31, 2006**. No electronic or facsimile submissions will be accepted.

Proposals will be opened the following business day and once opened become accessible to the public. Do not place any information in your proposal that you do not want revealed to the public. **Late proposals will not be accepted.**

- VI. Project Payment Rate. The State Court Administrator's Office does not anticipate that the contract will exceed \$20,000, but will accept proposals for over that amount with appropriate justification in the proposal. The STATE may cancel this contract by the giving of thirty (30) days (if available) written notice if funding is unavailable. In the event of any such cancellation, no penalty in any form shall be levied against the State of Minnesota or any agencies or employee thereof as a result of such cancellation. Contractor will receive a pro rata payment for work completed prior to cancellation.
- VII. Project Completion Date. This contract will run for as long as is needed to develop the specified work product, but should be completed on or before July 1, 2007. The terms of the proposal as stated will be valid for the length of the project.
- VIII. Proposal Contents. The proposal must include the resume of the individual that would perform the services as outlined in this request for proposal. The resume must be up-to-date, include the names and telephone numbers of at least three references for the individual, and demonstrate the individual's knowledge of Minnesota's Indian cultures and background in developing educational or training materials.

The proposal must also indicate the total number of hours, per month, the individual would have available to provide services to the State.

- IX. Additional Proposal Contents.
- A. Certificate Of Insurance. Minnesota Statutes § 176.182 requires that the State shall not enter into any contract before receiving from all other contracting parties acceptable evidence of compliance with the workers' compensation coverage requirements of § 176.181, subd. 2. Your proposal 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 the contractor to self-insure the liability, or (3) an affidavit certifying that you do not have employees and therefore are exempt pursuant to Minn. Stat. §§ 176.011, subd. 10; 176.031; and 176.041.
- B. Affirmative Action Certification. If your proposal exceeds \$100,000.00, your proposal must include a completed Affirmative Action Data Page, which is attached as Appendix II.
- C. Noncollusion. You must complete the Affidavit of Noncollusion (Appendix III) and include it with your proposal.
- D. Certification Regarding Debarment, Suspension, And Voluntary Exclusion – Lower Tier Covered Transaction. The State cannot, at this time, determine whether or not any federal funds might be used to pay for any part of any proposed contract. Therefore, Contractors must certify the following, as required by the Compliance Supplement to OMB Circular A-133, Compliance Supplement:

1. Instructions for Certification.
  - a. By signing and submitting its proposal, the prospective lower tier participant is providing the certification set out below.
  - b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
  - c. The prospective lower tier participant shall provide immediate written notice to the person to which their proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
  - d. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverages sections of rules implementing Executive Order 12549.
  - e. The prospective lower tier participant agrees by submitting their response that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
  - f. The prospective lower tier participant further agrees by submitting their proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
  - g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.
  - h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good

faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

- i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 C.F.R. 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

2. Certification.

- a. The prospective lower tier participant certifies, by submission of their proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to their proposal.

X. Evaluation. The Guardian Ad Litem Program will convene a review panel, including tribal representatives, to evaluate all complete proposals received by the deadline. Incomplete proposals, late proposals, or proposals sent to any other address will not be considered. In some instances, an interview and/or a written test may be part of the evaluation process. Factors upon which the proposals will be judged include, but are not limited to, the following:

- A. Knowledge of Minnesota's various Indian Tribal Communities and their social and cultural standards and practices, especially with respect to child rearing and kinship.
- B. Sufficient knowledge of the Indian Child Welfare Act, the Minnesota Indian Family Preservation Act, and the role of the Guardian ad Litem, to develop a practical, skills-based training curriculum for Guardians ad Litem.

**APPENDIX I**

**STATE OF MINNESOTA  
CONTRACTUAL (nonstate employee) SERVICES**

THIS CONTRACT, and amendments and supplements thereto, is between the State of Minnesota, acting through its Judicial Districts (hereinafter "STATE") and an independent contractor, not an employee of the State of Minnesota, address \_\_\_\_\_ (hereinafter "CONTRACTOR"),

**Recitals**

1. The STATE, pursuant to M.S. 480.15, subd. 2 and 10, is empowered to examine the administrative procedures of the courts and make recommendations for improvement.
2. CONTRACTOR represents that it is duly qualified and willing to perform the services set forth herein.

**Contract**

Based on the mutual agreements, promises, and covenants contained in this contract, it is agreed:

- I. **DUTIES.** CONTRACTOR, who is not a STATE employee, shall perform the following duties:
  - A. Develop a plan and outline for the development of a training curriculum for Guardians ad Litem on Indian Child Welfare Cultural Training to ensure that Guardians ad Litem are able to apply the prevailing social and cultural practices of Minnesota's Indian communities when advocating for the best interests of an Indian child.
  - B. Develop the actual curriculum and training program for Guardians ad litem, including case scenarios in which the GAL must apply cultural learning to an actual fact pattern on a hypothetical or real case.
  - C. Provide other content and instruction on the cultural and social practices of Minnesota's tribal communities; best and promising practices for working with those tribal communities and individual members on child welfare related matters; other methods to increase the cultural competency and sensitivity of the Guardian ad Litem with respect to Indian Child Welfare matters.
- 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: \_\_\_\_\_.
    2. The total obligation of the STATE for all compensation and reimbursements to CONTRACTOR shall not exceed \_\_\_\_ \$20,000\_\_\_\_\_.

**B. Terms of Payment.**

1. CONTRACTOR shall comply with all of the time requirements described in this contract, including any time requirements incorporated by reference.
2. 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 VI. Invoices shall be submitted periodically and in the format as directed by the State Court Administrator's Office (SCAO).
3. No more than ninety percent (90%) of the compensation due under this contract may be paid until the final product(s) of the contract have been reviewed by the STATE and it has been determined that the CONTRACTOR has satisfactorily fulfilled all the terms of the contract. Final payment shall be made by the STATE within thirty days after such determination has been made.
4. In the event that adequate funds are not so appropriated, the STATE may cancel this contract by the giving of thirty (30) days (if available) written notice. In the event of any such cancellation, no penalty in any form shall be levied against the State of Minnesota or any agencies or employee thereof as a result of such cancellation.

III. **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.

IV. **TERMS OF CONTRACT.** This contract shall not be effective until the signature of the STATE'S Legal Counsel is obtained and upon such execution the effective date shall be deemed to be \_\_\_\_\_. This contract shall remain in effect until July 1, 2007 or until all obligations set forth in this contract have been satisfactorily fulfilled, whichever occurs first. **Contractor understands that no work should begin under this contract until all required signatures have been obtained, and contractor is notified to begin work by the state's authorized representative .**

V. **CANCELLATION.**

- A. This contract may be cancelled by the STATE or CONTRACTOR at any time, with or without cause, upon thirty (30) days' written notice to the other party. 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.

- VI. **STATE'S AUTHORIZED REPRESENTATIVE.** The STATE'S Authorized Representative(s) for the purposes of administration of this contract is Mark Toogood, Guardian ad Litem Program Manager. Such representative(s) 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).
- VII. **ASSIGNMENT.** CONTRACTOR shall neither assign nor transfer any rights or obligations under this contract without the prior written consent of the STATE.
- VIII. **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.
- IX. **LIABILITY.** CONTRACTOR shall indemnify, save, and hold the STATE, its representatives and employees harmless from any and all claims or causes 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.
- X. **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 years from termination of this contract. Records shall be sufficient to reflect all costs incurred in performance of this Contract.
- XI. **CONFIDENTIALITY.** CONTRACTOR shall not disclose to any third party any information that is both: (a) made available by the STATE 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.
- XII. **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. To the extent that any of the MATERIALS created by CONTRACTOR, its employees or subcontractors, individually or jointly with others does not qualify as a "work made for hire" as defined by the United States Copyright Act, CONTRACTOR hereby transfers, assigns and conveys the exclusive copyright ownership thereof to the STATE, free and clear of any liens, claims or other encumbrances. 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 IX, 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.

### XIII. **AFFIRMATIVE ACTION.**

- A. **Covered Contracts and Contractors.** If this contract exceeds \$100,000 and CONTRACTOR employed more than 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. § 363.073 and Minn. R. Parts 5000.3400-5000.3600. A contractor covered by Minn. Stat. § 363.073 because it employed more than 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. § 363.073.** Minn. Stat. § 363.073 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:**

1. **General.** Minn. R. Parts 5000.3400-5000.3600 implement Minn. Stat. § 363.073. 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. § 363.073, 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. § 363.073, of the Minnesota Human Rights Act and is committed to take affirmative action to employ and advance in employment physically and mentally disabled persons.
  
- C. **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.
  
- D. **Certification.** CONTRACTOR hereby certifies that it is in compliance with the requirements of Minn. Stat. § 363.073 and Minn. R. Parts 5000.3400-5000.3600 and is aware of the consequences for non-compliance.
  
- XIV. **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.
  
- XV. **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.
  
- XVI. **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. **Patent and Copyright Indemnity.** Without limiting section IX, CONTRACTOR shall indemnify the STATE and hold it harmless against any claim that the work performed or material provided hereunder infringes or violates the patent, copyright, or trade secret rights of any third party. CONTRACTOR shall pay any and all resulting costs, expenses (including attorney's fees), damages and/or liabilities associated with or resulting from any such claim.
- C. **Injunctive Relief.** Without limiting section IX, CONTRACTOR acknowledges that the STATE will be irreparably harmed if CONTRACTOR'S obligations under sections XII, XIII, and XVI.B. 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.
- D. **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 or 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.
- E. **Consent to Release of Certain Data.** Under Minn. Stat. § 270.66 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.
- F. **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.

- G. **Endorsement.** CONTRACTOR must not claim that the STATE endorses its products or services.
- H. **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, 145 Minnesota Judicial Center, 25 Rev. Dr. 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.
- I. **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.
- J. **Miscellaneous.**
1. The provisions of sections VII, X, XI, XII, XIII, XVI, and XVI shall survive any cancellation or termination of this contract.
  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.
  3. 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.
  4. 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.

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.

1. CONTRACTOR:

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)

By  
Title  
Date

By  
Title  
Date

(reserved)

(reserved)

2. STATE:

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

By: *Mark Toogood*  
Title: *State GAL Program Manager*  
Date

By  
Title  
Date

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

By  
Title  
Date  
Contract No.

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

By  
Title *Senior Legal Counsel*  
Date

APPENDIX II

**Affirmative Action Statement  
and  
Certification of Compliance**

**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 contract 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 contractors 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 contract 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 contract 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.

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:** \_\_\_\_\_

(See next page for notice to Proposers)

**NOTICE TO PROPOSERS**  
**AFFIRMATIVE ACTION CERTIFICATION OF COMPLIANCE**

The Minnesota Human Rights Act (Minn. Stat. § 363.073) divides the contract compliance program into two categories. Both categories apply to any contracts 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 contract.

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 contract. 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 contract 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 contract, as applicable.**

**APPENDIX III**

**STATE OF MINNESOTA  
AFFIDAVIT OF NONCOLLUSION**

I swear (or affirm) under the penalty of perjury:

1. That I am the Proposer (if the Proposer is an individual), a partner in the company (if the Proposer is a partnership), or an officer or employee of the responding corporation having authority to sign on its behalf (if the Proposer is a corporation);
2. That the attached proposal submitted in response to the \_\_\_\_\_ Request for Proposals has been arrived at by the Proposer independently and has been submitted without collusion with and without any agreement, understanding or planned common course of action with, any other Proposer of materials, supplies, equipment or services described in the Request for Proposal, designed to limit fair and open competition;
3. That the contents of the proposal have not been communicated by the Proposer or its employees or agents to any person not an employee or agent (including a partner) of the Proposer and will not be communicated to any such persons prior to the official opening of the proposals; and
4. That I am fully informed regarding the accuracy of the statements made in this affidavit.

Proposer's Firm Name: \_\_\_\_\_

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

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

Subscribed and sworn to me this \_\_\_\_\_ day of \_\_\_\_\_

**Notary Public**