



Request for Proposals for Services for the Evaluation of Data Related to Child Protection Initiatives, Processes, and Outcomes for American Indian Families

I. REQUEST FOR PROPOSALS

- A. **Defined.** The State of Minnesota – State Court Administrator’s Office (SCAO) on behalf of the Minnesota Judicial Branch (MJB) is using a competitive selection process (referred to herein as the “Request for Proposals” or “RFP”) to select the vendor responsible for measuring and evaluating success of the State-Tribal Partnership initiatives on improving child welfare outcomes for American Indian families and Tribes in Minnesota, and providing recommendations and implementation services for data collection across existing information systems in this area. This is not a bid, but a Request for Proposals that could become the basis for negotiations leading to a contract with a vendor to provide the tool and services described in this document.
- B. **Right to Cancel.** The SCAO 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 SCAO 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 In the event the request for proposal is cancelled or withdrawn for any reason, the SCAO shall not have any liability to any proposer for any costs or expenses incurred in conjunction with this request for proposals or otherwise. The SCAO 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.

II. PROJECT OVERVIEW

- A. **Minnesota Judicial Branch.** The MJB has 10 judicial districts with 296 District Court judgeships, 19 Court of Appeals judges, and seven Supreme Court justices. The governing body of the MJB is the Judicial Council, which is chaired by Natalie E. Hudson, Chief Justice of the Minnesota Supreme Court. In 2024, there were more than 1 million cases filed in district courts in Minnesota. For more information visit www.mncourts.gov.
- B. **State Court Administrator’s Office.** SCAO provides leadership and direction for the effective operations of the MJB through support of the Judicial Council, oversight of all SCAO divisions, and coordination of legislative relations, ensuring the provision of sound legal advice, and monitoring branch financial practices through the use of regular internal audits.

The SCAO plans for statewide Judicial Branch needs, develops, and promotes statewide administrative practices and procedures, oversees the operation of statewide court programs and strategic initiatives, and serves as a liaison with other branches of government.

- C. **Background.** SCAO is the lead organization of the State-Tribal Partnership grant, award 90CW1153. This grant, funded by the Administration of Children and Families (ACF), funds multiple projects intended to strengthen the government-to-government partnership between tribes, state, courts, and state and county social services, to more fully carry out the requirements of the Indian Child Welfare Act (ICWA) and the Minnesota Indian Family Preservation Act (MIFPA) and improve outcomes for American Indian children and families in the child welfare system.

The vendor selected from this RFP will be responsible for assessing the implementation and effectiveness of State-Tribal Partnership (STP) initiatives and evaluating their success in improving child welfare outcomes for American Indian families and tribes in Minnesota.

The STP initiatives serve three goals: (1) developing authentic, trusting, and effective relationships among the State-Tribal Partnership Grant partners (including tribes, state courts, and state agencies); (2) preserving American Indian families by addressing safety without separating the children from their families; and (3) timely achieving safe reunification of the family, or alternative permanency, when a child is placed out of the home.

A key activity supporting these goals is to improve data collection and analysis across state and tribal court and agency information systems. There are outputs and outcomes that are measured slightly differently between the state court case management system (MNCIS), Department of Human Services Social Services Information System (SSIS), and Tribal systems. Benchmarks also differ between child welfare agencies, courts, and tribes. This creates difficulty reconciling performance measurements. Additionally, existing data systems tracking aspects of child-welfare cases currently have limited capabilities for reporting, which limits the extent to which existing data systems can inform the intended work of STP projects. As a result, the processes for reporting and aggregating child-protection data can be complex and time-consuming, which raises questions about data accuracy and completeness. Finally, while several data points pertaining to ICWA and MIFPA compliance are tracked in the MNCIS or SSIS systems, additional data points and qualitative analysis would be helpful to create a clear picture of statewide and county-specific compliance with ICWA and MIFPA.

During the course of the grant, the STP committee will implement new ICWA Courts in Minnesota and institute other supportive structures for new and previously existing ICWA courts, such as Best Practices guidelines for ICWA Courts in Minnesota.

To effectively analyze how well these STP projects are furthering the three STP goals above, the STP partners need to be able to carry out ongoing evaluation of the initiatives being implemented, based upon reliable and complete process data regarding ICWA and MIFPA compliance and child-protection outcomes involving American Indian children. By improving the data collection across existing information systems (or developing an alternative integrated data system), the STP partners will be able to measure the services implemented under STP projects, and evaluate when strategies are achieving STP goals and discern effective strategies for statewide replication.

III. PROJECT OBJECTIVES / RFP PROPOSAL

- A. The goal of this project is to ensure appropriate data is collected and aggregated to evaluate success of the State Tribal Partnership (STP) initiatives in improving child welfare outcomes

for American Indian families and tribes in Minnesota. In furtherance of this overall goal, sub-goals include:

1. In coordination with MN Department of Human Services (DHS) and MN Judicial Branch staff, carry out a comprehensive analysis and evaluation of current court and agency data-tracking practices, integrating data elements between systems. This analysis and evaluation should identify gaps in statewide data, inconsistencies in performance measurements, and barriers to correlating data held in these separate systems.
2. Recommend approaches to improve completeness and confidence in the child-welfare data available for analysis of statewide ICWA and MIFPA compliance. Such recommendations shall be based upon any gaps, inconsistencies, or barriers identified during analysis and evaluation of existing data systems and data-collection processes. Recommendations should include analysis of the viability and benefits of a potential new statewide data system as a single source for comprehensive outcome measures. Limitations on viability of a new system may include budget, time required to implement, and protection of Tribal data sovereignty. Recommendations should also ensure that any new services provided under STP projects can be measured throughout the STP grant period and beyond. Recommendations may include a mixed-methods approach that includes both quantitative data and qualitative insights from community engagement, such as focus groups or talking circles.
3. Implement any data-related solutions approved by STP leadership, to improve and integrate statewide child welfare and court data collection and analysis and enable measurement of STP initiatives. Any such implementation shall be accountable to Tribal partners' expectations for data storage and use, and shall include American Indian voices and cultural context in data analysis. Such data improvements may include monitoring additional data points specific to American Indian families or implementing new data-collection systems or other evaluative processes, as necessary to measure ICWA and MIFPA compliance.
4. Throughout the life of the grant (through September 2028), carry out data monitoring and other evaluative processes regarding ICWA and MIFPA compliance, and provide capacity-building support to the STP committee and staff that will enable STP partners to measure the implementation of STP initiatives and reliably evaluate the success of those initiatives at furthering the STP goals.

IV. DELIVERABLES TO BE ADDRESSED IN THE PROPOSAL

A. Vendor shall provide the following deliverables:

1. **Phase I, to be completed within 4 months of the contract date:** Initial report analyzing STP partners' data systems and data-tracking practices, and recommending solutions to ensure complete and reliable evaluation of outcomes for American Indian children and families relating to ICWA and MIFPA.

2. **Phase II, to be completed within 8 months of the contract date:** Project plan to implement any data-collection solutions recommended.
 - i. Such project plan should identify both process and outcome measures to be monitored and evaluated. Examples of process measures may include 1) percentage of ICWA cases with active efforts documented; 2) percentage of Tribal notifications completed within required timeframes; 3) percentage of ICWA cases with active Tribal participation. Examples of outcome measures may include 1) percentage of cases where reunification occurred; 2) placement stability; 3) days to permanency.
 - ii. Such plan should also identify milestones for implementation, communication plan, list of known issues or barriers, and schedule of status reports (determined in consultation with STP committee leadership).
 - iii. The plan should also identify measures the Vendor will take to consult with tribes regarding data storage and data use, to ensure tribal sovereignty over data collected and aggregated.
 - iv. For any new or modified data-collection systems or processes required to carry out the project goals, deliverables include:
 1. Requirements document establishing the breadth and depth of the new systems or processes.
 2. Written training materials and live training (either on-site or web-based) for content contributors.
 3. Development of service/maintenance agreement and description of what occurs after the service/maintenance agreement expires.
3. **Phase III, to be completed within 18 months of contract date:** Implementation of the project plan and an initial report of baseline performance data showing start-of-project compliance with ICWA and MIFPA. Data should be aggregated statewide and also available on a county-by-county basis, and should include cultural input from Tribes in the data analysis.
4. **Phase IV, to be completed throughout the remainder of the grant period:** Periodic data reports on a quarterly basis showing updated data regarding compliance with ICWA and MIFPA, using the same measures as the initial report of baseline data, and measuring projects implemented under STP initiatives. Baseline and periodic data reports should identify and address any data gaps, compare trends, show collaboration with Tribal representatives, and provide analysis. Periodic evaluation reports should enable STP committee to determine how effectively STP initiatives are being implemented and whether STP initiatives are improving child-welfare outcomes for American Indian children and families.

5. **Phase V, to be completed at the end of the grant period:** A culminating report that provides an overall review of the project, addresses sustainability of monitoring processes, and provides recommendations for ongoing monitoring and evaluation.
6. **Training for New or Updated Data-Collection Processes:** Create training materials and train on any new or modified data-collection or evaluation systems or processes required to carry out the STP project goals.
 - a. Training for technical staff supporting application or process
 - b. Training for business staff to use process
 - c. Training for content contributors and Webmaster
 - d. Create communication plan regarding new or modified data-collection or evaluation systems and processes, and communicating any changes with STP partners.

B. Digital Accessibility: All deliverables in written format shall be digitally accessible, complying with formatting requirements in Web Content Accessibility Guidelines (WCAG) 2.1, Levels A and AA (available at <https://www.w3.org/TR/WCAG/>).

V. SUBMISSION REQUIREMENTS

- A. **General Requirements** – each response must include the following or it may be excluded from moving through to the next phase of response scoring:
 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 SCAO contract in Appendix III for details on additional insurance requirements that must be provided upon request of the SCAO.
 2. **Workforce and Equal Pay Declarations Page.** Vendor must complete the Workforce and Equal Pay Declarations page (Appendix I) include it with its RFP response. See also: [Workforce and Equal Pay Declarations Page](#)
 3. **Non-Collusion Affirmation.** Vendor must complete the Affidavit of Non-Collusion (Appendix II) and include it with its RFP response.
 4. **Contract Terms – acknowledgment of a and b.** The SCAO's proposed contract templates are set forth in Appendix III (sample contract) and Appendix IV (sample subcontractor participation agreement). No work can be started until a contract (and where necessary a subcontractor participation agreement and any other related

agreements), in the form approved by the SCAO's Legal Counsel Division, has been signed by all necessary parties in accordance with state court procurement and contract policies. The templates included in the appendices are sample forms and are not to be interpreted as offers.

- a. By submitting a response to this RFP, Vendor accepts the standard terms and conditions and contract set out in Appendices III and IV, respectively, and their related agreements. Much of the language included in the standard terms and conditions and contract reflects requirements of Minnesota law.
 - b. Vendors requesting additions or exceptions to the standard terms and conditions, or contract terms shall submit them with their response to the RFP. A request must be accompanied by an explanation why the exception is being sought and what specific effect it will have on the Vendor's ability to respond to the RFP or perform the contract. The SCAO reserves the right to address nonmaterial requests for exceptions to the standard terms and conditions and contract language with the highest scoring Vendor during contract negotiation.
 - c. The SCAO shall identify any revisions to the standard terms and conditions and contract language in a written addendum issued for this RFP. The addendum will apply to all Vendors submitting a response to this RFP. The SCAO will determine any changes to the standard terms and conditions and/or contract.
5. **Evidence of Security Measures.** Vendor's response must provide evidence of Vendor's security measures as an indicator of Vendor's ability to provide security for judicial branch records. A security questionnaire is included as *Appendix VI: Security Questionnaire*. MJB rules of public access permits vendors to submit evidence of security measures as trade secret information according to the following:
- a. The evidence-of-vendor's-security-measures must qualify as a trade secret under Minn. Statute § 325C.01 or as defined in the common law.
 - b. The vendor submits the evidence-of-vendor's-security-measures on a separate document (but as part of their complete submission) and marks the document(s) containing only the evidence-of-vendor's-financial-security measures as "confidential".
 - c. The evidence-of-vendor's-security-measures is not publicly available, already in the possession of the MJB, or known to or ascertainable by the MJB from third parties.

Except for security measures information submitted in accordance with this section and financial stability information submitted in accordance with the following section, do not place any information in your proposal that you do not want revealed to the public. The yes/no/N/A responses in the security questionnaire will be considered publicly accessible. Proposals, once opened, become accessible to the public except for financial stability information and security measures information submitted in accordance with the requirements in this document. Please also note that if a vendor's proposal leads to a contract, the following information will also be

accessible to the public: the existence of any resulting contract, the parties to the contract, and the material terms of the contract, including price, projected term and scope of work.

6. **Evidence of Financial Stability.** Vendor's response must provide evidence of Vendor's financial stability as an indicator of Vendor's ability to provide services irrespective of uneven cash flow. MJB rules of public access permit vendors to submit evidence of financial stability as trade secret information according to the following:
- a. The evidence-of-vendor's-financial-stability must qualify as a trade secret under Minn. Statute § 325C.01 or as defined in the common law;
 - b. The vendor submits the evidence-of-vendor's-financial-stability on a separate document (but as part of their complete submission) and marks the document(s) containing only the evidence-of-vendor's-financial-stability as "confidential;"
 - c. The evidence-of-vendor's-financial-stability is not publicly available, already in the possession of the MJB, or known to or ascertainable by the MJB from third parties.

Except for financial stability information submitted in accordance with this section and security measures information submitted in accordance with the previous section, do not place any information in your proposal that you do not want revealed to the public. Proposals, once opened, become accessible to the public except for financial stability information and security measures information submitted in accordance with the requirements in this document. Please also note that if a vendor's proposal leads to a contract, the following information will also be accessible to the public: the existence of any resulting contract, the parties to the contract, and the material terms of the contract, including price, projected term, and scope of work.

- B. **Project-Related Submission Requirements:** Each response must include the following or it may be excluded from moving through to the next phase of response scoring:
1. A cover sheet including vendors' contact information, email address, business address, and phone numbers. Cover sheet should include signature lines and must be signed, 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.
 2. An overview that reflects the vendors' understanding of the efforts described in this Request for Proposals and the project deliverables.
 3. A detailed explanation of how the Vendor proposes to meet the Project objectives and requirements set forth above, including descriptions of the methodology that will be used and examples of the deliverables that will be produced.
 4. If Vendor has no Minnesota based presence, a detailed explanation of how the Vendor proposes to complete in person meetings and deliverables.

5. A proposed timeline to complete and provide 1) the initial analysis of evaluation data and processes, 2) the project plan to implement any solutions, and 3) the initial evaluation report of baseline data.
6. Provide a not-to-exceed cost that identifies any the assumptions made in calculating the estimate and the rationale used to prepare the estimate.
7. A description of completed similar projects that demonstrate the Vendor's experience and area of expertise, including Vendor's ability to provide the stated Deliverables and Vendor's experience working with American Indian Tribes and incorporating Tribal data sovereignty into the Vendor's work.
8. Describe the experience of project personnel that you will assign to this effort, should your business be awarded a contract.
9. Include 3-5 client references attesting to the Vendor's ability to complete the work as stated.
 - a. 1-2 of the references shall be for work that occurred within the last three calendar years.
 - b. Include the following information for each reference: the legal name, and DBA, if applicable, of the company, the name of the company contacts and their title, service(s) provided, and as applicable to your proposal: the extent and scope of the services provided (e.g., whether the client was a countywide, regional, statewide, or national entity).
10. A written statement acknowledging either no conflict of interest or identifying any conflicts of interest as it relates to this project.
11. The Vendor must complete *Appendix VI: Security Questionnaire*. The section reflects the SCAO's security requirements. The requirements listed in *Appendix VI: Security Questionnaire* are not wholly inclusive of all of SCAO's requirements but are inclusive of SCAO's most important criteria. Additional security requirements may be discuss/required in more detail during vendor presentation and/or vendor conferences.
12. Completed Appendices I (*Workforce and Equal Pay Declaration Page*) and II (*Non-Collusion Affidavit*) located in the Appendix of this RFP document.

C. Pricing, Risk of Loss

1. All prices quoted must be firm and not subject to increase unless otherwise provided for in this RFP. Price reductions must immediately be passed on to the SCAO whenever they become effective. Prices must be quoted in United States currency.
2. Travel, administrative, overhead, and other related charges and expenses shall be included in the prices set forth in the proposal.

VI. PROPOSAL EVALUATION

- A. The SCAO will 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 or demonstration may be part of the evaluation process.
- B. The first part of the evaluation will be limited strictly to the applicable general and project specific Deliverables to be Addressed in the Proposal (section IV).
- C. The second part of the evaluation of all proposals shall be based upon deriving the “Best Value” for the SCAO and STP Committee. Best Value means achieving an appropriate balance between price and other factors that are critical to a particular procurement. A procurement that obtains a low price but does not include other necessary qualities and features of the desired product or service does not meet the Best Value criterion. Factors upon which the proposals will be judged include, but are not limited to, Deliverables to be Addressed in the Proposal (section IV) and the following:
 - 1. Vendor’s industry experience and previous experience in performing similar work, especially as relates to Vendor’s experience working with American Indian Tribes and with data related to American Indian Tribes;
 - 2. Thoroughness, quality, specificity, robustness, and flexibility of Vendor’s approach/methodology;
 - 3. Cost estimate;
 - 4. Vendor’s product and/or service delivery methodology;
 - 5. Reliability of product or service;
 - 6. Financial stability of the organization;
 - 7. Vendor’s past performance and client references; and
 - 8. Thoroughness, quality, specificity, and robustness of Vendor’s response.
- D. The SCAO reserves the right to determine, at its sole and absolute discretion, whether any aspect of a proposal satisfactorily meets the criteria established in this RFP.
- E. The SCAO reserves the right to request additional information from vendors during any phase of the proposal evaluation process. During the evaluation and selection process, the SCAO may require the presence of vendor’s representatives at a vendor conference. During a vendor conference, a vendor may be asked to provide a demonstration of the product and/or to answer specific questions. Vendors are required to travel at their own expense for the demonstration of the product and answer questions. Notification of any such requirements will be given as necessary.
- F. The SCAO may elect not to award a contract solely on the basis of this RFP and will not pay for the information solicited or obtained. The information obtained will be used in determining the alternative that best meets the needs of the SCAO and STP Committee.

VII. SUBMISSION OF PROPOSALS

A. **Proposal Timeline.**

1. Posting Date on MJB Website <http://www.mncourts.gov/>: **Wednesday, March 19, 2025**
2. Questions Due: **Sunday, April 6, 2025, 4:30 pm CST**
3. Answers Posted: **Friday, April 11, 2025, 4:30 pm CST**
4. Proposal Submission Deadline: **Tuesday, April 22, 2025, 4:30 pm CST**
5. Vendor conferences will be scheduled, if needed.
6. Subsequent selection as soon thereafter as possible.

B. **Amendments.** Any amendments to this RFP will be posted on the MJB website.

C. **Questions.** All questions about this RFP must be submitted in writing via email to the SCAO's sole point of contact identified in this paragraph no later than **Sunday, April 6, 2025 at 4:30 pm CST**. Other court personnel are not allowed to discuss the Request for Proposals with anyone, including responders, before the proposal submission deadline.

Miriam Friesen
Children's Justice Initiative, State-Tribal Partnership Coordinator
State Court Administrator's Office
25 Rev. Dr. Martin Luther King Jr. Blvd. Suite G75
St. Paul, Minnesota 55155
stpteam@courts.state.mn.us

D. **Answers to Questions.** Timely submitted questions and answers will be posted on the MJB website by the end of the day on **Friday, April 11, 2025, 4:30 pm CST** and will be accessible to the public and other proposers.

E. **Proposal and Submittal Address.** Your proposal must be in an electronic searchable PDF format via email by **Tuesday, April 22, 2025, 4:30pm CST** to:

Miriam Friesen
Children's Justice Initiative, State-Tribal Partnership Coordinator
State Court Administrator's Office
25 Rev. Dr. Martin Luther King Jr. Blvd. Suite G75
St. Paul, Minnesota 55155
stpteam@courts.state.mn.us

The submission must include one (1) electronic searchable PDF copy. No facsimile submissions will be accepted.

Subject line of email submission shall clearly indicate that it is a proposal in response to this RFP (e.g., "Proposal for State Tribal Partnership Evaluation").

- F. **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. This can be done on vendor informational cover sheet as stated in Project Related Submission Requirements.
- G. **Deadline; Opening; Public Access.** Proposals must be received no later than **Tuesday, April 22, 2025, 4:30pm CST**. Proposals will be opened the following business day and once opened become accessible to the public (except financial stability information and security measures information submitted as a trade secret in accordance with the instructions in Sections V(A)(5) and V(A)(6) of this RFP). With the exception of evidence-of-vendor's-financial-stability and security measures trade secret information submitted in accordance with the instructions in Sections V(A)(5) and V(A)(6) of this RFP, do not place any information in your proposal that you do not want revealed to the public. All documentation shipped with the proposal, including the proposal, will become the property of the SCAO.
- H. **Late Proposals.** Late proposals will not be accepted or considered.
- I. **Selection Timeline.** Vendor selection will be as soon as possible after the proposal submission deadline.

APPENDIX I

Workforce and Equal Pay Declaration Page

This form is **required for all businesses** executing government contracts under the following:

Select one:

- Businesses executing a contract with **State or Metropolitan agencies** in excess of \$100,000 ([Workforce Certificate \(https://mn.gov/mdhr/certificates/workforce-certificate/\)](https://mn.gov/mdhr/certificates/workforce-certificate/)) and if applicable \$500,000 ([Equal Pay Certificate \(https://mn.gov/mdhr/certificates/equalpay/\)](https://mn.gov/mdhr/certificates/equalpay/))
- Businesses executing a contract with **University of Minnesota** for general obligation bond funded capital projects in excess of \$100,000 ([Workforce Certificate \(https://mn.gov/mdhr/certificates/workforce-certificate/\)](https://mn.gov/mdhr/certificates/workforce-certificate/)) and if applicable \$500,000 ([Equal Pay Certificate \(https://mn.gov/mdhr/certificates/equalpay/\)](https://mn.gov/mdhr/certificates/equalpay/))
- Businesses executing a contract with **Political Subdivisions** for general obligation bond funded capital projects in excess of \$250,000 ([Workforce Certificate \(https://mn.gov/mdhr/certificates/workforce-certificate/\)](https://mn.gov/mdhr/certificates/workforce-certificate/)) and if applicable \$1,000,000 ([Equal Pay Certificate \(https://mn.gov/mdhr/certificates/equalpay/\)](https://mn.gov/mdhr/certificates/equalpay/))

Select all that apply:

We are a Certificate holder:

- Workforce Certificate under the name:
- Equal Pay Certificate under the name:

We are applying/have applied for the following certificate(s):

- Workforce Certificate Application date (MM/DD/YYYY):
- Equal Pay Certificate Application date (MM/DD/YYYY):

We have not applied for one or both certificates:

- Our Company does not yet have a Workforce Certificate or Equal Pay Certificate. We acknowledge that a Workforce and, if applicable, Equal Pay Certificate, or approved exemption by MDHR is required before a contract can be executed.

We are Exempt:

- We attest to MDHR that we have not employed 40 or more employees on a single day during the prior 12 months in Minnesota or the state in where we have our primary place of business. MDHR may request the names of our employees during the previous 12 months, the date of separation, if applicable, and the current employment status and count.

Business Information

- Vendor/Supplier ID:
- Business Name:
- Name of Contracting Agency:
- Authorized Signatory Name:
- Title:
- Date:
- Signature:
- Email:
- Phone:

For assistance with this form, email the Minnesota Department of Human Rights
Compliance.MDHR@state.mn.us

APPENDIX II
STATE OF MINNESOTA
AFFIDAVIT OF NON-COLLUSION

(Must be submitted with Response)

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

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);

That the attached proposal submitted in response to the Request for Proposals for Services for the Evaluation of Data Related to Child Protection Initiatives, Processes, and Outcomes for American Indian Families 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;

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

That I am fully informed regarding the accuracy of the statements made in this affidavit.

Proposer's Firm Name:

Authorized Signature:

Authorized Individual's Printed Name

Authorized Individual's Title:

Date:

APPENDIX III

STATE OF MINNESOTA PRODUCT AND SERVICES CONTRACT

SAMPLE ONLY; NOT AN OFFER

THIS CONTRACT, and amendments and supplements thereto, is between the State of Minnesota, acting through its State Court Administrator's Office, Information Technology Division, address 145 Minnesota Judicial Center, 25 Rev. Dr. Martin Luther King Jr. Boulevard, St. Paul, Minnesota 55155 (hereinafter "STATE") and [insert vendor full legal name and address] (hereinafter "CONTRACTOR").

Recitals

The STATE, pursuant to Minnesota Statutes 2011, Section 480.15, subdivision 10b, administers and maintains court information systems. The STATE desires [insert general description of services]. CONTRACTOR (and, where applicable, CONTRACTOR's STATE approved subcontractor) has experience with the desired services, and 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 provide professional [insert general description of services]. Services will be provided based on a [insert agreed upon hourly service arrangement] hour work week, with meetings and presentations held during core business hours of 8:00 a.m. to 4:30 p.m. Monday through Friday; provided that CONTRACTOR may perform duties outside of core business hours and off-site at CONTRACTOR'S expense (including all necessary off-site equipment, supplies and related costs). All professional services required hereunder shall be furnished exclusively by CONTRACTOR'S [employeeM[insert employee's full legal name]]/[subcontractor [insert subcontractor's full legal name], which must first sign a confidentiality, participation and assignment of rights agreement in a form acceptable to the STATE]. CONTRACTOR'S duties include:
 - A. [insert specific duties here];
 - B. [insert specific duties here].

II. CONSIDERATION AND TERMS OF PAYMENT.

- A. **Consideration.** As consideration for all services performed, transfer of rights, and goods or materials supplied by CONTRACTOR pursuant to this Contract, including all clerical support, phone support, and related expenses, the STATE shall pay to CONTRACTOR [insert agreed upon hourly rate here] dollars (US \$XXX.XX) per hour. The total obligation of the STATE for all compensation and reimbursements to CONTRACTOR shall not exceed [insert total cap amount here] dollars (US \$XXX.XX).

It is understood that no funds are being encumbered under this contract for travel and related expenses, and parking and copying. To the extent that travel or copying is necessary, the

STATE will reimburse CONTRACTOR through its regular non-state employee expense reimbursement process, or arrange to pay directly, for pre-approved airfare, lodging, meals, and ground transportation (“travel and subsistence expenses”) or pre-approved copying expenses; provided, that CONTRACTOR shall be reimbursed for travel and subsistence expenses in the same manner and in no greater amount than provided in the STATE’S current Administrative Policy on Travel and Reimbursement. CONTRACTOR shall not be reimbursed for travel and subsistence expenses or copying expenses unless it has received prior written approval for such expenses from the STATE, and the STATE will separately encumber the necessary funds. The STATE hereby designates Jason Betz as its agents for approval of such expenses.

- B. **Terms of Payment.** CONTRACTOR shall submit an invoice on the first and fifteenth day of each month for billable costs incurred by the CONTRACTOR during the immediately preceding one-half month. 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.
- C. **Acceptance.** Upon written notice from CONTRACTOR that the Deliverables are ready for STATE review, the STATE shall have ten (10) business days to review the Deliverables. If the STATE does not notify CONTRACTOR within such ten (10)-business day period that the Deliverables are not acceptable, the Deliverables shall be deemed accepted. If the STATE notifies CONTRACTOR within the ten (10)-business day period that the Deliverables are not accepted, CONTRACTOR shall have ten (10) business days to make corrections and resubmit the Deliverables to the STATE for review by written notice, and the STATE shall again have ten (10) business days to review the Deliverables, and this process shall repeat corresponding ten (10)-business day periods until acceptance has occurred, provided, however, that if through no fault of the STATE acceptance has not occurred by [insert final acceptance date here], the STATE may cancel this contract and return all draft Deliverables and shall not be obligated to CONTRACTOR for any amounts hereunder.

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 not be effective until approved as to form and execution by the STATE’s Legal Counsel Division, and upon such approval the effective date shall be deemed to be [insert start date here]. This contract shall remain in effect until [insert termination date here], unless terminated or cancelled as provided herein.

VI. **CANCELLATION.**

- A. The STATE may cancel this contract at any time, with or without cause, upon thirty (30) days' written notice to the other party. If the contract is canceled under this clause,

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 Jason Betz, Director, Information Technology Division, or his successor in office. 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 AND BINDING EFFECT.** Except as expressly authorized in this contract, CONTRACTOR shall neither assign nor transfer any rights or obligations under this contract without the prior written consent of the STATE. This contract shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, including any corporation or other legal entity into, by or with which CONTRACTOR may be merged, acquired or consolidated or which may purchase all or substantially all of the business assets of CONTRACTOR.

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 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. Without limiting the foregoing, CONTRACTOR's liability includes liability for the direct and verifiable costs to recreate any lost or damaged STATE records that are capable of being recreated using commercially reasonable efforts.

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.**

- A. **General.** CONTRACTOR shall not disclose to any third party (except, where applicable, CONTRACTOR's STATE approved subcontractor [insert subcontractor's full legal name], which must first sign a confidentiality, participation and assignment of rights agreement in a form acceptable to the STATE) any information that is both: (1) 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 (2) 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. CONTRACTOR shall not use any information that is 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, for any purpose other than performance of this contract.
- B. **State Programs, Databases, Marks.** Without limiting paragraph A, above, CONTRACTOR agrees to the following:
1. **State Programs.** The computer application programs made available by the STATE to CONTRACTOR in order to permit CONTRACTOR to perform its obligations hereunder are referred to herein as "State Programs." The STATE is the copyright owner of the State Programs. The combination of ideas, procedures, processes, systems, logic, coherence and methods of operation embodied within the State Programs, and all analysis and design specifications, programming specifications, source code, algorithms, and information contained in technical reference manuals pertaining to the State Programs, are trade secret information of the STATE. The computer operating systems software programs and other third-party software licensed by the STATE, and related documentation, made available by the STATE to CONTRACTOR in order to permit CONTRACTOR to perform its obligations hereunder, are subject to claims of trade secret and copyright ownership by the respective licensors and will be treated by CONTRACTOR in the same manner as trade secret information of the STATE. In addition, CONTRACTOR will familiarize itself with and abide by the terms and conditions of the license agreements applicable to such third-party software. Without limiting the foregoing, CONTRACTOR may also be required to sign an appropriate confidentiality agreement with the STATE's software vendor if access to proprietary segments of the MNCIS application are necessary for CONTRACTOR's work hereunder (A sample of the confidentiality agreement is set forth in RFP Appendix VI Tyler Confidentiality Agreement)).
 2. **State Databases.** The computer databases made available by the STATE to CONTRACTOR in order to permit CONTRACTOR to perform its obligations hereunder are referred to herein as "State Databases." The STATE is the copyright owner of the State Databases and of all copyrightable aspects and components thereof. All specifications and information pertaining to the State Databases and to their structure, sequence and organization are trade secret information of the

STATE. All information contained within the State Databases is sensitive, confidential information and will be treated by CONTRACTOR in the same manner as trade secret information of the STATE. Without limiting any of the foregoing, CONTRACTOR understands and agrees that to the extent that any records made available by the STATE to CONTRACTOR hereunder are publicly-accessible, the STATE retains all rights it possesses in and to such records and CONTRACTOR has no title or ownership rights, including any right to sell, resell, disclose, redisclose, recombine, reconfigure or retain such records except: (i) as expressly required for CONTRACTOR's compliance with this contract; or (ii) to the extent that it has purchased or obtained the same from the State on the same terms and via the same means and to the same extent as other members of the public.

3. **Marks.** The STATE claims that the marks "MNCIS," "CrimNet," "SJIS," and "MARS" are trademarks and service marks of the STATE. CONTRACTOR shall neither have nor claim any right, title, or interest in or use of any trademark, service mark, or tradename owned or used by the STATE.
4. **Restrictions on Duplication, Disclosure and Use.** CONTRACTOR will not, except as required in the performance of its obligations hereunder, copy any part of the State Programs or State Databases, prepare any translations thereof or derivative works based thereon, use or disclose any information of the STATE including any trade secret information of the STATE, or use any trademark, service mark, or tradename of the STATE, in any way or for any purpose not specifically and expressly authorized by this contract. As used herein, "trade secret information of the STATE" means any information or compilation of information possessed by the STATE or developed by CONTRACTOR in the performance of its obligations hereunder, which derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use. "Trade secret information of the STATE" does not, however, include information which was known to CONTRACTOR prior to CONTRACTOR'S receipt thereof, either directly or indirectly, from the STATE, information which is independently developed by CONTRACTOR without reference to or use of information received from the STATE, or information which would not qualify as trade secret information under Minnesota law. It will not be a violation of this section for CONTRACTOR to disclose any information received from the STATE pursuant to the order of a court or governmental authority of competent jurisdiction if CONTRACTOR notifies the state immediately upon receipt by CONTRACTOR of notice of the issuance of such an order.
5. **Instruction and Affirmation.** CONTRACTOR will advise its employees and permitted subcontractors who are permitted access to any of the State Programs, State Databases, or trade secret information of the STATE of the restrictions upon duplication, disclosure and use contained in this contract. Without limiting the foregoing, prior to assigning any individual to perform services under this contract, CONTRACTOR shall require such individual to complete Part I of the Confidentiality and Disclosure of Interest form attached hereto as [Appendix V to

this RFP]. If the STATE believes that any such individual has violated the restrictions upon duplication, disclosure or use contained herein, CONTRACTOR acknowledges that the STATE may immediately disqualify such individual from performing services hereunder, and CONTRACTOR shall ensure that no such disqualified individual shall have any further access to the information of the STATE. CONTRACTOR shall bear the cost of orienting all personnel replacements of CONTRACTOR

6. **Proprietary Notices.** Without limiting the foregoing, CONTRACTOR shall include in and/or on any copy or translation of, or derivative work based upon, any of the State Programs, the State Databases, or trade secret information of the STATE, or any part thereof, and any documents pertaining thereto, the same copyright and other proprietary notices as appear on the copies made available to CONTRACTOR by the STATE, except that copyright notices shall be updated and other proprietary notices added as may be appropriate.
- C. **Inspection and Return of State Property.** All documents, encoded media, and other tangible items made available to CONTRACTOR by the STATE, or prepared, generated or created by CONTRACTOR in the performance of its obligations hereunder, are and will be exclusively the property of the STATE and will be available for inspection by the STATE upon request. Upon completion of CONTRACTOR'S performance of services hereunder, CONTRACTOR will, upon the STATE'S request, promptly deliver to the STATE any or all such documents, encoded media and other items in its possession, including all complete or partial copies, recordings, abstracts, notes or reproductions of any kind made from or about such documents, media, items, or information contained therein. CONTRACTOR and the STATE acknowledge that all computer operating systems software programs and other third-party software licensed by the STATE, and related documentation, made available by the STATE to CONTRACTOR in order to permit CONTRACTOR to perform its obligations hereunder, or any translations, compilations, or partial copies thereof are and remain the property of the respective licensors.
 - D. **Injunctive Relief.** 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.
 - E. **Nondisclosure Indemnity.** Without limiting section X, CONTRACTOR agrees to indemnify, defend and save harmless the STATE and its agents, officers and employees from and against any and all claims by Third Parties that are determined in a final, non-appealable judgment by a court of competent jurisdiction to have resulted directly and proximately from CONTRACTOR'S violation of the non-disclosure provisions hereof. The STATE shall provide CONTRACTOR with prompt notice of any claim for which

indemnification may be sought hereunder and shall cooperate in all reasonable respects with CONTRACTOR in connection with any such claim. CONTRACTOR shall be entitled to control the handling of any such claim and to defend or settle any such claim, in its sole discretion, with counsel of its own choosing.

- XIII. RIGHTS IN AND TO INFORMATION, INVENTIONS, AND MATERIALS.** In consideration of the facts that CONTRACTOR'S performance under this contract will involve access to and development of information which shall be trade secret information of the STATE and may involve the development by CONTRACTOR or CONTRACTOR'S participation in the development of copyrightable and/or patentable subject matter which the parties intend be owned by the STATE:
- A. All right, title, and interest in and to any trade secret information of the STATE (as defined in sections XII(B)(1),(2), and (4), above) developed by CONTRACTOR either individually or jointly with others, and which arises out of the performance of this contract, will be the property of the STATE and are by this contract irrevocably transferred, assigned, and conveyed to the STATE free and clear of any liens, claims, or other encumbrances.
 - B. All copyrightable material which CONTRACTOR shall conceive or originate, either individually or jointly with others, and which arises out of the performance of this contract, shall conclusively be deemed "works made for hire" within the meaning and purview of section 101 of the United States Copyright Act, 17 U.S.C. § 101, to the fullest extent possible, and the STATE shall be the copyright owner thereof and of all elements and components thereof in which copyright protection can subsist. To the extent that any of the foregoing does not qualify as a "work made for hire," CONTRACTOR hereby transfers, assigns and conveys the exclusive copyright ownership thereof to the STATE, free and clear of any liens, claims or other encumbrances.
 - C. All right, title, and interest in and to any invention which CONTRACTOR first conceives or first reduces to practice either individually or jointly, and which arises out of the performance of this contract, will be the property of the STATE and are by this contract irrevocably transferred, assigned, and conveyed to the STATE along with ownership of any and all patents on the inventions anywhere in the world, free and clear of any liens, claims or other encumbrances. CONTRACTOR agrees to disclose promptly any such invention to the STATE. This paragraph shall not apply to any invention for which no equipment, supplies, facility or trade secret information of the STATE (as defined in Sections XII(B)(1), (2), and (4), above) was used and which was developed entirely on CONTRACTOR own time, and (a) which does not relate (i) directly to the business of the STATE, or (ii) to the STATE'S actual or demonstrably anticipated research or development; or (b) which does not result from any work performed or materials provided by CONTRACTOR for the STATE.
 - D. CONTRACTOR will execute all documents and perform all other acts that the STATE may reasonably request in order to assist the STATE in perfecting its rights in and to the trade secret information of the STATE and the copyrightable and patentable subject matter identified herein, in any and all countries.

- E. Without limiting section XII or parts A, B, C, and D of section XIII of this agreement, the STATE retains all rights it possesses in and to the State Databases and State Programs made available to CONTRACTOR for purposes of permitting CONTRACTOR to perform hereunder. CONTRACTOR has no title or ownership rights, including any right to sell, resell, disclose, redisclose, recombine, reconfigure or retain the State Databases or State Programs except as expressly permitted herein to permit CONTRACTOR to complete its duties hereunder. CONTRACTOR may, however, purchase a copy of publicly accessible versions of information contained in the State Databases and State Programs from the STATE on the same terms and to the same extent as other members of the public. Except to the extent that CONTRACTOR has purchased such copy, CONTRACTOR shall not sell, resell, disclose, redisclose, recombine, reconfigure or retain the State Databases or State Programs except as otherwise expressly provided herein.

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 principal 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, (also known as a “Workforce Certificate”), must certify that it is in compliance with federal affirmative action requirements by submitting to the Minnesota Department of Human Rights an affirmative action plan approved by the federal government or other governmental entity, and obtain a Workforce Certificate from the Minnesota Commissioner of Human Rights. If CONTRACTOR is exempt from obtaining a Workforce Certificate as required by Minn. Stat. § 363A.36, CONTRACTOR shall certify in writing to the Commissioner of Human Rights that it is exempt, and determination of exempt status shall be made by the Commissioner of Human Rights. CONTRACTOR understands that if during the term of this contract CONTRACTOR employs more than 40 full time employees in MN or another state, CONTRACTOR must comply as provided in this Affirmative Action section of this contract. CONTRACTOR shall submit to the Minnesota Department of Human rights within five (5) business days of final contract execution, the names of CONTRACTOR employees during the previous 12 months, date of separation if applicable, and the state in which the persons were employed. Documentation should be sent to “compliance.MDHR@state.mn.us.”
- 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:

1. 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 has obtained a valid Workforce Certificate of Compliance issued by the Minnesota Department of Human Rights and will maintain a valid certificate throughout the term of this contract. CONTRACTOR is aware of the consequences for non-compliance. CONTRACTOR understands and agrees that the Workforce Certificate of Compliance is separate and distinct from the Equal Pay Certificate required under section XVII.J. of this contract. CONTRACTOR understands and agrees that absence of either current, valid certificate can result in termination of this contract and inability of the STATE to process payments hereunder and will relieve the STATE from making any payments hereunder and paying any interest that might otherwise be owing hereunder unless and until such certificates have been obtained.

XV. INSURANCE.

- A. CONTRACTOR shall not commence work under the contract until they have obtained all the insurance described below and the STATE has approved such insurance. CONTRACTOR shall maintain such insurance in force and effect throughout the term of the contract.
- B. CONTRACTOR is required to maintain and furnish satisfactory evidence of the following insurance policies:
1. **Workers' Compensation Insurance:** Except as provided below, CONTRACTOR must provide Workers' Compensation insurance for all its employees and, in case any work is subcontracted, CONTRACTOR will require the subcontractor to provide Workers' Compensation insurance in accordance with the statutory requirements of the State of Minnesota, including Coverage B, Employer's Liability. Insurance **minimum** limits are as follows:
 - \$100,000 – Bodily Injury by Disease per employee
 - \$500,000 – Bodily Injury by Disease aggregate
 - \$100,000 – Bodily Injury by Accident

If Minnesota Statute 176.041 exempts CONTRACTOR from Workers' Compensation insurance or if the CONTRACTOR has no employees in the State of Minnesota, CONTRACTOR must provide a written statement, signed by an

authorized representative, indicating the qualifying exemption that excludes CONTRACTOR from the Minnesota Workers' Compensation requirements.

If during the course of the contract the CONTRACTOR becomes eligible for Workers' Compensation, the CONTRACTOR must comply with the Workers' Compensation Insurance requirements herein and provide the STATE with a certificate of insurance.

2. **Commercial General Liability Insurance:** CONTRACTOR is required to maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as from claims for property damage, including loss of use which may arise from operations under the Contract whether the operations are by the CONTRACTOR or by a subcontractor or by anyone directly or indirectly employed by the CONTRACTOR under the contract. Insurance **minimum** limits are as follows:

- \$2,000,000 – per occurrence
- \$2,000,000 – annual aggregate
- \$2,000,000 – annual aggregate – Products/Completed Operations

The following coverages shall be included:

Premises and Operations Bodily Injury and Property Damage

Personal and Advertising Injury

Blanket Contractual Liability

Products and Completed Operations Liability

Other; if applicable, please list _____

State of Minnesota named as an Additional Insured

3. **Commercial Automobile Liability Insurance:** CONTRACTOR is required to maintain insurance protecting it from claims for damages for bodily injury as well as from claims for property damage resulting from the ownership, operation, maintenance or use of all owned, hired, and non-owned autos which may arise from operations under this contract, and in case any work is subcontracted the CONTRACTOR will require the subcontractor to maintain Commercial Automobile Liability insurance. Insurance **minimum** limits are as follows:

- \$2,000,000 – per occurrence Combined Single limit for Bodily Injury and Property Damage

In addition, the following coverages should be included:

Owned, Hired, and Non-owned Automobile.

4. **Professional//Technical Liability Insurance**, Errors and Omissions, including Network Security and Privacy Liability Insurance (or equivalent Network Security and Privacy Liability coverage endorsed on another form of liability coverage or written on a standalone policy): This policy will provide coverage for all claims the contractor may become legally obligated to pay resulting from any actual or alleged negligent act, error, or omission related to Contractor's professional services required under the contract, including coverage for claims which may arise from failure of Contractor's security resulting in, but not limited to, computer attacks, unauthorized access, disclosure of not public data including but not limited to confidential or private information, transmission of a computer virus or denial of service.

CONTRACTOR is required to carry the following **minimum** limits:

- \$2,000,000 – per claim or event
- \$2,000,000 – annual aggregate

Any deductible will be the sole responsibility of the CONTRACTOR and may not exceed \$50,000 without the written approval of the STATE. If the CONTRACTOR desires authority from the STATE to have a deductible in a higher amount, the CONTRACTOR shall so request in writing, specifying the amount of the desired deductible and providing financial documentation by submitting the most current audited financial statements so that the STATE can ascertain the ability of the CONTRACTOR to cover the deductible from its own resources.

The retroactive or prior acts date of such coverage shall not be after the effective date of this Contract and CONTRACTOR shall maintain such insurance for a period of at least three (3) years, following completion of the work. If such insurance is discontinued, extended reporting period coverage must be obtained by CONTRACTOR to fulfill this requirement.

- 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 that 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 (without any license restrictions attached thereto), 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; Status; Conflicts of Interest.** CONTRACTOR represents and warrants to the STATE that all professional services required hereunder will be provided exclusively by CONTRACTOR's [employee [insert employee's full legal name]]/[subcontractor [insert subcontractor's full legal name], which must first sign a confidentiality, participation and assignment of rights agreement in a form acceptable to the STATE (a sample agreement is set forth in RFP Appendix IV – Confidentiality, Participation and Assignment of Rights Contract)] and that: (a) the [employee]/[subcontractor] has the proper training, skill and background so as to be able to perform all professional services required in this contract in a competent and professional manner, and all such work shall be of quality; (b) the [employees]/[subcontractor's employees] assigned to work on the Project have obtained lawful permanent residence in the United States of America with a right to live and work permanently in the United States of America; and (c) CONTRACTOR has taken reasonable steps to determine if [employees]/[subcontractor's employees] (or their immediate family members) have an interest in any pending or threatened litigation or proceedings in any Minnesota state court, including, without limitation, requiring each employee, before performing any services hereunder or accessing any STATE confidential or trade secret information, to sign a disclosure of interest and confidentiality form in the form set forth as RFP Appendix V –Confidentiality and Disclosure of Interest Form. If CONTRACTOR becomes aware of any [employee's]/[subcontractor's employee's] interest (or that of their 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, and CONTRACTOR acknowledges that the STATE may immediately disqualify such [employee]/[subcontractor employee] from performing services hereunder, and CONTRACTOR shall ensure that no such disqualified [employee]/[subcontractor employee] shall have any further access to the confidential information of the STATE. CONTRACTOR shall bear the cost of orienting all personnel replacements of CONTRACTOR.
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.
4. **Immediate Notice of Loss, Damage or Disclosure.** CONTRACTOR must notify STATE immediately upon any loss or damage to STATE records, including during any shipping of records provided by CONTRACTOR, and upon any disclosures of STATE records in violation of this Agreement. CONTRACTOR understands that immediate notice is crucial to recovery efforts, including but not limited to freeze drying of water damaged records and taking steps to minimize or prevent further improper disclosures.

- B. **Patent and Copyright Indemnity.** Without limiting section X, 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. **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. **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 computer consulting and programming services or other services of any kind to any person or entity as CONTRACTOR in its sole discretion deems appropriate.

- 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) if to CONTRACTOR, at the CONTRACTOR'S address set forth in the opening paragraph of the contract; (2) if to the STATE, at the STATE'S address set forth in the opening paragraph of the contract, with a copy to Legal Counsel Division, 125 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.
- I. **Facilities and Use Conditions.** Without limiting CONTRACTOR's responsibilities under any other section of this contract, to the extent that CONTRACTOR utilizes STATE provided on-site facilities (including, but not limited to, computers, desks, Internet connections, etc.) to perform CONTRACTOR's duties under this contract, CONTRACTOR must comply with all policies of the STATE and the Minnesota Judicial Branch as they relate to the acceptable use or operation of STATE facilities, including, without limitation, the Minnesota State Court System Policies on the Use of the Internet and Other Electronic Communication Tools and Drug Free Workplace as the same may be amended and replaced from time to time.
- J. **Equal Pay Certificate.** CONTRACTOR certifies that it is in compliance with Minnesota Statutes section 363A.44 and is aware of the consequences for non-compliance. CONTRACTOR represents and warrants that as of the effective date of this contract CONTRACTOR has obtained a valid equal pay certificate issued by the Minnesota Department of Human Rights and will maintain a valid certificate throughout the term of this contract. CONTRACTOR understands and agrees that the equal pay certificate is separate and distinct from the Workforce Certificate of Compliance required under section XIV.E. of this contract. CONTRACTOR understands and agrees that absence of either current, valid certificate can result in termination of this contract and inability of the STATE to process payments hereunder and will relieve the STATE from making any payments hereunder and paying any interest that might otherwise be owing hereunder unless and until such certificates have been obtained.
- K. **Miscellaneous.**
1. The provisions of sections VIII, 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. Captions are for convenient reference and do not constitute a part of this contract.
 3. 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.

4. 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.
5. 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.
6. 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.

[Continued on next page with signature blocks.]

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: SAMPLE ONLY, NOT INTENDED AS AN OFFER

Title:

Date:

By: SAMPLE ONLY, NOT INTENDED AS AN OFFER

Title:

Date:

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

By:

Title:

Date:

1. STATE

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:

4. Chief Justice of the Minnesota Supreme Court (Per policy for procurement exceeding \$500,000)

By:

Title:

Date:

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

By:

Title:

Date:

APPENDIX IV

STATE OF MINNESOTA CONFIDENTIALITY, PARTICIPATION AND ASSIGNMENT OF RIGHTS CONTRACT

SAMPLE ONLY; NOT AN OFFER

THIS CONTRACT, and amendments and supplements thereto, is between State of Minnesota, acting through its State Court Administrator's Office (hereinafter "STATE") and [insert subcontractor full legal name and address] (hereinafter "SUBCONTRACTOR").

Recitals

The STATE has entered in to STATE contract with [enter general contractor full legal name], for [insert general description of services] services ("the Project"), to be provided by [SUBCONTRACTOR]/[SUBCONTRACTOR's employee [insert employee's full legal name]]. SUBCONTRACTOR'S participation in the Project requires, among other things, disclosure to CONTRACTOR of confidential STATE information and authorship by SUBCONTRACTOR of copyrightable subject matter which the STATE and SUBCONTRACTOR intend to be owned by the STATE. The STATE is willing to permit SUBCONTRACTOR to participate in the Project as an independent contractor under contract with [enter general contractor full legal name] pursuant to the terms and conditions set forth in this contract.

Contract

In consideration of the foregoing, of being permitted to participate in the Project under contract with [enter general contractor full legal name], SUBCONTRACTOR agrees as follows:

- I. **SCOPE OF, AND PAYMENT FOR, PARTICIPATION.** [enter general contractor full legal name] and SUBCONTRACTOR will determine the scope of SUBCONTRACTOR's engagement and the terms of their relationship with one another, and SUBCONTRACTOR will look solely to [enter general contractor full legal name] for payment under its contract with [enter general contractor full legal name].
- F. **TERM AND TERMINATION.** This contract shall not be effective until approved as to form and execution by the STATE's Legal Counsel Division, and upon such approval the effective date shall be deemed to be [insert start date here]. This contract shall continue in force and effect according to its terms. The STATE may terminate this contract at any time without penalty by giving five (5) working days written notice of termination to SUBCONTRACTOR. Unless otherwise terminated as herein provided, this contract shall terminate as of midnight, [insert termination date here].
- G. **INDEPENDENT OBLIGATIONS.** The obligations of SUBCONTRACTOR under this contract are unconditional and do not depend upon the performance of any agreements, duties, obligations or terms outside this contract.

- H. **ASSIGNMENT AND BINDING EFFECT.** Except as expressly authorized in this contract, SUBCONTRACTOR shall neither assign nor transfer any rights or obligations under this contract without the prior written consent of the STATE. This contract shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, including any corporation or other legal entity into, by or with which SUBCONTRACTOR may be merged, acquired or consolidated or which may purchase all or substantially all of the business assets of SUBCONTRACTOR.
- I. **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.
- J. **LIABILITY.** SUBCONTRACTOR 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 participation in the Project by SUBCONTRACTOR or SUBCONTRACTOR'S agents or employees. If SUBCONTRACTOR is an entity, SUBCONTRACTOR covenants and agrees that it shall obtain and maintain liability insurance with minimum limits of one million dollars (\$1,000,000) per claim, accident or occurrence, whichever is greater, covering injuries or damages caused by the acts or omissions of its employees. This clause shall not be construed to bar any legal remedies SUBCONTRACTOR may have for the STATE'S failure to fulfill its obligations pursuant to this contract.
- K. **STATE AUDITS.** The books, records, documents, and accounting procedures and practices of the SUBCONTRACTOR 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.
- L. **CONFIDENTIALITY; DISCLOSURE AND USE.**
- A. **General.** SUBCONTRACTOR shall not disclose to any third party any information that is both: (1) made available by the STATE to SUBCONTRACTOR in order to permit SUBCONTRACTOR to participate in the Project or is created, gathered, generated or acquired in accordance with the Project; and (2) 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 SUBCONTRACTOR receives a request to release the information referred to in this Clause, SUBCONTRACTOR must immediately notify the STATE. The STATE will give SUBCONTRACTOR instructions concerning the release of the information to the requesting party before the information is released. CONTRACTOR shall not use any information that is 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, for any purpose other than performance of this contract.
- B. **State Programs, Databases, Marks.** Without limiting paragraph A, above, SUBCONTRACTOR agrees to the following:

1. **State Programs.** The computer application programs made available by the STATE to SUBCONTRACTOR in order to permit SUBCONTRACTOR to participate in the Project are referred to herein as "State Programs." The STATE is the copyright owner of the State Programs. The combination of ideas, procedures, processes, systems, logic, coherence and methods of operation embodied within the State Programs, and all analysis and design specifications, programming specifications, source code, algorithms, and information contained in technical reference manuals pertaining to the State Programs, are trade secret information of the STATE. The computer operating systems software programs and other third-party software licensed by the STATE, and related documentation, made available by the STATE to SUBCONTRACTOR in order to permit CONTRACTOR to participate in the Project, are subject to claims of trade secret and copyright ownership by the respective licensors and will be treated by SUBCONTRACTOR in the same manner as trade secret information of the STATE. In addition, SUBCONTRACTOR will familiarize itself with and abide by the terms and conditions of the license agreements applicable to such third-party software. Without limiting the foregoing, SUBCONTRACTOR may also be required to sign an appropriate confidentiality agreement with the STATE's software vendor if access to proprietary segments of the MNCIS application are necessary for SUBCONTRACTOR's work hereunder.
2. **State Databases.** The computer databases made available by the STATE to SUBCONTRACTOR in order to permit SUBCONTRACTOR to participate in the Project are referred to herein as "State Databases." The STATE is the copyright owner of the State Databases and of all copyrightable aspects and components thereof. All specifications and information pertaining to the State Databases and to their structure, sequence and organization are trade secret information of the STATE. All information contained within the State Databases is sensitive, confidential information and will be treated by SUBCONTRACTOR in the same manner as trade secret information of the STATE. Without limiting any of the foregoing, SUBCONTRACTOR understands and agrees that to the extent that any records made available by the STATE or CONTRACTOR to SUBCONTRACTOR hereunder are publicly-accessible, the STATE retains all rights it possesses in and to such records and SUBCONTRACTOR has no title or ownership rights, including any right to sell, resell, disclose, redisclose, recombine, reconfigure or retain such records except: (i) as expressly required for SUBCONTRACTOR's compliance with this contract; or (ii) to the extent that it has purchased or obtained the same from the STATE on the same terms and via the same means and to the same extent as other members of the public.
3. **Marks.** The STATE claims that the marks "MNCIS," "CriMNet," "SJIS," and "MARS" are trademarks and service marks of the STATE or of other agencies of the state of Minnesota. SUBCONTRACTOR shall neither have nor claim any right, title, or interest in or use of any trademark, service mark, or tradename owned or used by the STATE or other agencies of the state of Minnesota.
4. **Restrictions on Duplication, Disclosure and Use.** SUBCONTRACTOR will not, except as required for SUBCONTRACTOR'S participation in the Project, copy any

part of the State Programs or State Databases, prepare any translations thereof or derivative works based thereon, use or disclose any trade secret information of the STATE, or use any trademark, service mark, or tradename of the STATE, in any way or for any purpose not specifically and expressly authorized by this contract. As used herein, "trade secret information of the STATE" means any information or compilation of information possessed by the STATE, or developed by SUBCONTRACTOR in the performance of its obligations hereunder, which derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use. "Trade secret information of the STATE" does not, however, include information which was known to SUBCONTRACTOR prior to SUBCONTRACTOR'S receipt thereof, either directly or indirectly, from the STATE, information which is independently developed by SUBCONTRACTOR without reference to or use of information received from the STATE, or information which would not qualify as trade secret information under Minnesota law. It will not be a violation of this section for SUBCONTRACTOR to disclose any information received from the STATE pursuant to the order of a court or governmental authority of competent jurisdiction if SUBCONTRACTOR notifies the state immediately upon receipt by SUBCONTRACTOR of notice of the issuance of such an order.

5. **Proprietary Notices.** SUBCONTRACTOR will advise its employees and permitted subcontractors who are permitted access to any of the State Programs, State Databases, or trade secret information of the STATE of the restrictions upon duplication, disclosure and use contained in this contract. Without limiting the foregoing, SUBCONTRACTOR shall include in and/or on any copy or translation of, or derivative work based upon, any of the State Programs, the State Databases, or trade secret information of the STATE, or any part thereof, and any documents pertaining thereto, the same copyright and other proprietary notices as appear on the copies made available to SUBCONTRACTOR by the STATE, except that copyright notices shall be updated and other proprietary notices added as may be appropriate.

- C. **Inspection and Return of State Property.** All documents, encoded media, and other tangible items made available to CONTRACTOR by the STATE, or prepared, generated or created by SUBCONTRACTOR in SUBCONTRACTOR'S participation in the Project, are and will be exclusively the property of the STATE and will be available for inspection by the STATE upon request. Upon completion of SUBCONTRACTOR'S participation in the Project, SUBCONTRACTOR will, upon the STATE'S request, promptly deliver to the STATE any or all such documents, encoded media and other items in its possession, including all complete or partial copies, recordings, abstracts, notes or reproductions of any kind made from or about such documents, media, items, or information contained therein. SUBCONTRACTOR and the STATE acknowledge that all computer operating systems software programs and other third-party software licensed by the STATE, and related documentation, made available by the STATE to SUBCONTRACTOR in order to permit SUBCONTRACTOR to perform its obligations hereunder, or any translations, compilations, or partial copies thereof are and remain the property of the respective licensors.

- D. **Injunctive Relief.** SUBCONTRACTOR acknowledges that the STATE will be irreparably harmed if SUBCONTRACTOR'S obligations under sections VIII and IX 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 SUBCONTRACTOR of its obligations. Therefore, SUBCONTRACTOR 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 SUBCONTRACTOR without the necessity of the STATE showing actual damages or that monetary damages would not afford an adequate remedy. SUBCONTRACTOR shall be liable to the State for reasonable attorney's fees incurred by the STATE in obtaining any relief pursuant to this section.
- E. **Nondisclosure Indemnity.** Without limiting section VI, SUBCONTRACTOR agrees to indemnify, defend and save harmless the STATE and its agents, officers and employees from and against any and all claims by Third Parties that are determined in a final, non-appealable judgment by a court of competent jurisdiction to have resulted directly and proximately from SUBCONTRACTOR'S violation of the non-disclosure provisions hereof. The STATE shall provide SUBCONTRACTOR with prompt notice of any claim for which indemnification may be sought hereunder and shall cooperate in all reasonable respects with SUBCONTRACTOR in connection with any such claim. SUBCONTRACTOR shall be entitled to control the handling of any such claim and to defend or settle any such claim, in its sole discretion, with counsel of its own choosing.
- M. **RIGHTS IN AND TO INFORMATION, INVENTIONS, AND MATERIALS.** In consideration of the facts that SUBCONTRACTOR'S participation in the Project will involve access to and development of information which shall be trade secret information of the STATE and may involve the development by SUBCONTRACTOR or SUBCONTRACTOR'S participation in the development of copyrightable and/or patentable subject matter which the parties intend be owned by the STATE:
- A. All right, title, and interest in and to any trade secret information of the STATE (as defined in sections VIII(B)(1), (2), and (4) above) developed by SUBCONTRACTOR either individually or jointly with others, and which arises out of SUBCONTRACTOR'S participation in the Project, will be the property of the STATE and are by this contract irrevocably transferred, assigned, and conveyed to the STATE free and clear of any liens, claims, or other encumbrances.
- B. The STATE shall be the copyright owner of all copyrightable material that SUBCONTRACTOR shall conceive or originate, either individually or jointly with others, and which arises out of the performance of this contract, and of all elements and components thereof in which copyright protection can subsist. To the extent that any of the foregoing does not qualify as a "work made for hire" within the meaning and purview of section 101 of the United States Copyright Act, 17 U.S.C. § 101, SUBCONTRACTOR hereby transfers, assigns and conveys the exclusive copyright ownership thereof to the STATE, free and clear of any liens, claims or other encumbrances.

- C. All right, title, and interest in and to any invention which SUBCONTRACTOR first conceives or first reduces to practice either individually or jointly, and which arises out of SUBCONTRACTOR'S participation in the Project, will be the property of the STATE and are by this contract irrevocably transferred, assigned, and conveyed to the STATE along with ownership of any and all patents on the inventions anywhere in the world, free and clear of any liens, claims or other encumbrances. SUBCONTRACTOR agrees to disclose promptly any such invention to the STATE. This paragraph shall not apply to any invention for which no equipment, supplies, facility or trade secret information of the STATE (as defined in Sections VIII(B)(1), (2), and (4), above) was used and which was developed entirely on SUBCONTRACTOR'S own time, and (a) which does not relate (i) directly to the business of the STATE or (ii) to the STATE'S actual or demonstrably anticipated research or development, or (b) which does not result from any work performed or materials provided by SUBCONTRACTOR for the STATE.
- D. SUBCONTRACTOR will execute all documents and perform all other acts that the STATE may reasonably request in order to assist the STATE in perfecting its rights in and to the trade secret information of the STATE and the copyrightable and patentable subject matter identified herein, in any and all countries.
- E. Without limiting section VIII or parts A, B, C, and D of section IX of this agreement, the STATE retains all rights it possesses in and to the State Databases and State Programs made available to SUBCONTRACTOR for purposes of permitting SUBCONTRACTOR to perform hereunder. SUBCONTRACTOR has no title or ownership rights, including any right to sell, resell, disclose, redisclose, recombine, reconfigure or retain the State Databases or State Programs except as expressly permitted herein to permit SUBCONTRACTOR to complete its duties hereunder. SUBCONTRACTOR may, however, purchase a copy of publicly accessible versions of information contained in the State Databases and State Programs from the STATE on the same terms and to the same extent as other members of the public. Except to the extent that SUBCONTRACTOR has purchased such copy, SUBCONTRACTOR shall not sell, resell, disclose, redisclose, recombine, reconfigure or retain the State Databases or State Programs except as otherwise expressly provided herein.
- N. [RESERVED FOR FUTURE USE]
- O. [RESERVED FOR FUTURE USE]
- P. **ANTITRUST.** SUBCONTRACTOR hereby assigns to the State of Minnesota any and all claims for overcharges as to goods and/or services provided in connection with the Project resulting from antitrust violations that arise under the antitrust laws of the United States and the antitrust laws of the State of Minnesota.
- Q. **OTHER PROVISIONS.**
- A. **Warranties.**

1. **Original Works.** In participating in the Project, SUBCONTRACTOR will not use or incorporate any trade secret information or copyrighted works of authorship of SUBCONTRACTOR or of any third party, and except for components already in the public domain (without any license restrictions attached thereto), all software, documentation, information and other materials provided or furnished by SUBCONTRACTOR 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; Status; Conflicts of Interest.** SUBCONTRACTOR represents and warrants to the STATE that [SUBCONTRACTOR]/[all services related to the Project will be performed exclusively by SUBCONTRACTOR's employee [insert employee's full legal name] who is and will be acting as an employee of SUBCONTRACTOR within the meaning and purview of the "works made for hire" provision of the Copyright Laws of the United States of America and who:]:
 - a. Has the proper training, skill and background so as to be able to perform all professional integration services required for the Project in a competent and professional manner, and all such work shall be of quality;
 2. Has obtained lawful permanent residence in the United States of America with a right to live and work permanently in the United States of America; and
 3. Has no interest in any pending or threatened litigation or proceedings in any Minnesota state court and has no immediate family members who have any such interests.

If SUBCONTRACTOR becomes aware of any [SUBCONTRACTOR]/[SUBCONTRACTOR employee] interest (or that of [SUBCONTRACTOR's]/[SUBCONTRACTOR's employee's] immediate family members) in any threatened or pending litigation or proceeding in any Minnesota state court, SUBCONTRACTOR shall immediately notify the STATE of such interest, and SUBCONTRACTOR acknowledges that the STATE may immediately disqualify [SUBCONTRACTOR] / [SUBCONTRACTOR's employee] from performing services related to the Project, and [SUBCONTRACTOR]/[SUBCONTRACTOR's employee] shall have no further access to the confidential information of the STATE.

3. **Mutual Representations and Warranties.** SUBCONTRACTOR 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 VI, SUBCONTRACTOR shall indemnify the STATE and hold it harmless against any claim that the work performed or material provided by SUBCONTRACTOR'S participation in the Project infringes or violates the patent, copyright, or trade secret rights of any third party. SUBCONTRACTOR 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. Relationship of the Parties.** SUBCONTRACTOR is an independent contractor. SUBCONTRACTOR and CONTRACTOR'S employees and agents shall not be deemed for any purpose to be an employee of the STATE. Neither SUBCONTRACTOR 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.
- D. 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 SUBCONTRACTOR 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.
- E. Endorsement.** SUBCONTRACTOR must not claim that the STATE endorses its products or services.
- F. Non-Exclusivity.** This contract shall not preclude SUBCONTRACTOR from developing materials outside this contract that are competitive, irrespective of their similarity to materials delivered to the STATE under SUBCONTRACTOR'S participation in the Project; provided, however, that such materials prepared by SUBCONTRACTOR 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 SUBCONTRACTOR to provide computer consulting and programming services or other services of any kind to any person or entity as SUBCONTRACTOR in its sole discretion deems appropriate.
- 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 SUBCONTRACTOR; (2) at 145 Minnesota Judicial Center, St. Paul, MN 55155, if to the STATE, with a copy to Legal Counsel Division, 125 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. Facilities and Use Conditions. Without limiting SUBCONTRACTOR's responsibilities under any other section of this contract, to the extent that SUBCONTRACTOR utilizes STATE provided on-site facilities (including, but not limited to, computers, desks, Internet connections, etc.) to perform SUBCONTRACTOR's duties under this contract, SUBCONTRACTOR must comply with all policies of the STATE and the Minnesota Judicial Branch as they relate to the acceptable use or operation of STATE facilities, including, without limitation, the Minnesota State Court System Policies on the Use of the Internet and Other Electronic Communication Tools and Drug Free Workplace as the same may be amended and replaced from time to time.

I. Miscellaneous.

1. The provisions of sections III, IV, VI, VII, VIII, IX, XII, and XIII 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. Captions are for convenient reference and do not constitute a part of this contract.
3. 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.
4. 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. SUBCONTRACTOR hereby irrevocably consents and submits itself to the personal jurisdiction of said courts for that purpose.
5. 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.
6. 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. SUBCONTRACTOR

2. STATE

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

By:
Title:
Date:

By: SAMPLE ONLY, NOT INTENDED AS AN OFFER

Title:

Date:

By: SAMPLE ONLY, NOT INTENDED AS AN OFFER

Title:

Date:

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

By:
Title:
Date:

ACKNOWLEDGMENT

[enter general contractor full legal name] hereby acknowledges and approves the foregoing and agrees that the same shall supersede any inconsistent provisions of any agreement between [enter general contractor full legal name] and [insert subcontractor full legal name].

[enter general contractor full legal name]

By: SAMPLE ONLY, NOT INTENDED AS AN OFFER

Title:

Date:

APPENDIX V

CONFIDENTIALITY AND DISCLOSURE OF INTEREST FORM

SAMPLE ONLY; NOT AN OFFER

I. CONFIDENTIALITY.

I, _____, an employee of CONTRACTOR (“CONTRATOR”), acknowledge that CONTRACTOR has been granted certain access to both public and non-public data and records of the State of Minnesota (the “STATE”) pursuant to a [CONTRACT] (“Contract”) between CONTRACTOR and the STATE. I further acknowledge that such information has tangible value, contains valuable trade secrets, copyrights and confidential information of the STATE and other parties.

Although I may use general, publicly accessible means (e.g. STATE’s public website or public access terminals at courthouses) to access public data of the STATE for personal, non-work-related purposes, I acknowledge and agree that I will not otherwise access and use public and non-public data and records of the STATE for any purpose other than performing my responsibilities and duties under the CONTRACT and that if the STATE believes that I have violated this requirement my participation under the CONTRACT may be revoked by the STATE.

To the extent that I come into possession of any non-public data or records (including, without limitation, non-public data or records as defined in 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) or any proprietary or confidential information of the STATE or any third party, I will not use any such information for any purpose other than performance of the Contract and will not disclose any such information to any third party without the STATE’s consent, except: (a) as may be required by law, regulation, judicial or administrative process; or (b) as required in litigation pertaining to this Agreement, provided the STATE is given advance notice of such intended disclosure in order to permit the STATE the opportunity to seek a protective order; or (c) to the extent such information (i) becomes publicly available (including, without limitation, any information filed with any governmental agency and available to the public) other than as a result of a disclosure by CONTRACTOR in breach of its obligations under the Contract or disclosure by me in breach of this Agreement, (ii) becomes available to CONTRACTOR or to me on a non-confidential basis from a source other than the STATE, which is not prohibited from disclosing such information to CONTRACTOR or to me by obligation to the STATE, (iii) is known by CONTRACTOR or to me prior to its receipt from the STATE without any obligation of confidentiality with respect thereto; or (iv) is developed by CONTRACTOR or by me independently of any disclosures made by the STATE to CONTRACTOR or to me of such information.

In addition, I understand and agree that to the extent that any records made available by the STATE to me are publicly-accessible, the STATE retains all rights it possesses in and to such records, and I have no title or ownership rights, including any right to sell, resell, disclose, redisclose, recombine, reconfigure or retain such records except: (i) as expressly required for CONTRACTOR’s compliance with the Agreement; or (ii) to the extent that I have purchased or obtained the same from the State on the same terms and via the same means and to the same extent as other members of the public.

In addition, I shall not sell, resell, disclose, redisclose, recombine, reconfigure or retain the Data, Records, Documents, Information, or Information Databases, or Original Documents transmitted to or from the STATE under the Contract except as otherwise expressly provided in the Contract, subject to the exceptions set forth in items (a), (b) and (c) in the preceding paragraph. I agree that my obligations with respect to the confidentiality and security of all information disclosed to me shall survive the termination of any agreement or relationship between the STATE and CONTRACTOR and/or me.

I acknowledge and agree that a breach by me of any of the covenants set forth in this Agreement will cause irreparable injury to the STATE or others for which damages, even if available, will not constitute an adequate remedy. Accordingly, I agree that the STATE, in addition to any other remedy available at law or in equity, shall be entitled to the issuance of injunctive relief (including, without limitation, specific performance) in order to enforce the covenants and agreements contained herein.

If attorneys' fees or other costs are incurred by the STATE to secure performance of any obligations under this Agreement, or to establish damages for the breach thereof or to obtain any other appropriate relief, whether by way of prosecution or defense, and the STATE is the prevailing party, the STATE will be entitled to recover from me reasonable attorneys' fees and costs incurred in connection therewith.

This Agreement shall be interpreted in accordance with the laws of the state of Minnesota. Any action arising out of or relating to this Agreement, its performance, enforcement or breach, will be venued in a state court situated within Ramsey County, Minnesota.

ACKNOWLEDGED AND ACCEPTED:

Employee Signature: _____
Name (please print): _____
Date: _____
Title: _____
Date: _____

CONTRACTOR:

Employee Signature: _____
Name (please print): _____
Date: _____
Title: _____
Date: _____

a. DISCLOSURE OF INTEREST.

I, _____ (Print Name), hereby certify that neither I, nor any member of my immediate family, is a party to any pending or threatened lawsuit or proceeding in any Minnesota state court.

Employee Signature: _____ Date: _____
Name (please print): _____

APPENDIX VI
STATE OF MINNESOTA
SECURITY QUESTIONNAIRE

CONFIDENTIAL

Company Information

Name of Company:

Company Website:

Contact Person Completing the Questionnaire:

Email Address:

Phone Number:

Date of Completed Questionnaire:

Questionnaire Completion Instructions

For each statement below, state 'Yes,' 'No,' or 'n/a' and provide additional details and supporting material to describe/justify each response. **If the answer is 'No' or 'n/a' a justification must be provided.**

1. An information security awareness and training program has been established and provides general awareness and role-specific security training to all employees (Yes, No, or n/a).

2. Background screenings of employees, contractors, and individuals working on behalf of the organization are performed (Yes, No, or n/a).

3. Policies with respect to conflict of interest are in place and all assurance are made to avoid this risk (Yes, No, or n/a).

4. Access requirements will include, at a minimum, the following: restricted to least privilege associated with job function and multi-factor authentication (Yes, No, or n/a).
5. No data of any kind shall be transmitted, exchanged, or accessed by a fourth party (Yes, No, or n/a).
6. All data used in the analysis process will be stored, processed, and maintained solely on designated servers on US soil. Data at rest and in transit will be encrypted (Yes, No, or n/a).
7. The analysis work performed will not capture any highly sensitive data (e.g., PCI, PHI, PII, SSN) into unprotected log storage (Yes, No, or n/a).
8. The analysis work performed will comply with the requirements of the Minnesota Judicial Branch Rules of Public Access to Records of the Judicial Branch and applicable state and federal laws/regulations (e.g., HIPAA, FERPA, IRS Publication 1075, FBI/CJIS, and PCI DSS) (Yes, No, or n/a).
9. Any Minnesota Judicial Branch data used in the analysis work will remain solely owned by the Minnesota Judicial Branch (Yes, No, or n/a).
10. Upon completion of the analysis work, Minnesota Judicial Branch data will be destroyed or deleted (Yes, No, or n/a).
11. An incident notification process is in place and incidents shall not be disclosed to third parties without explicit management authorization (Yes, No, or n/a).